

ORDINANCE NO. 2010-957

AN ORDINANCE TO REGULATE THE CONTROL OF VICIOUS OR DANGEROUS ANIMALS

Sec. 1. Definition of dangerous animal.

For the purposes of this article "dangerous animal" means and includes:

(1) Any mammal, amphibian, fish, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys, foxes, elephants, alligators, crocodiles, and snakes which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup including, but not limited to, boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length.

(2) Any dog or cat which has a disposition or propensity to attack or bite any person or domesticated animal without provocation, has been trained for fighting or is kept primarily for the purpose of fighting. For the purposes of this article, where the official records of the animal control officer or police chief indicate a dog or cat has bitten any person or persons, it shall be prima facie evidence that the dog or cat is a dangerous animal. Any dog which is known by the owner or person in charge to habitually charge at persons on the public streets and other public ways shall be presumed to be dangerous, whether or not such dog has actually bitten or attacked a person or other animal.

(3) Any animal which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property.

Sec. 2. Prohibition.

Except as provided in sections 3, 4, 5 and 6, it shall be unlawful to own, keep, or harbor any dangerous animal in the city.

Sec. 3. Exceptions.

(a) Any person who falls into one of the following subsections shall be permitted to own, harbor or have charge, custody, control, or possession of a dangerous animal, provided the person has first secured a permit under section 9; and provided further that owners, keepers or harborers of dangerous dogs shall also be required to register their animals in accordance with the provisions of this article:

- (1) Zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study.
- (2) A circus, carnival or other exhibit, training, competition or show by which the animals are kept for exhibition to the public.
- (3) A bona fide, licensed veterinary hospital or clinic where the animals are kept for treatment.
- (4) Commercial establishments possessing such animals for the purpose of sale or display.
- (5) Private individuals who have registered a dangerous dog and complied with all applicable requirements of this Ordinance.
- (6) The humane society, except that the agency is also exempt from the registration requirements of this Ordinance.
- (7) A law enforcement agency which maintains an animal trained and certified to assist in law enforcement. Such an agency is also exempt from the registration requirements of this Ordinance.

(b) The provisions of this Ordinance shall not apply to the transportation of a dangerous animal through this city, when such transporter has taken adequate safeguards to protect the public and has notified the police department of the proposed route of transportation and the time thereof.

Sec. 4. Exceptions for dangerous dog.

A dog may not be declared a dangerous animal in any of the following circumstances:

- (1) When an injury or damage was sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner or harbinger of the dog or

was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

(2) When an injury or damage was sustained by another animal which, at the time such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog alleged to be dangerous.

(3) When the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(4) When an injury to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property or under the control of its owner or harborer, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

(5) When the dog was responding to pain or injury or protecting itself, its kennel or its offspring.

(6) When a person or domestic animal was disturbing the natural functions of the dog such as sleeping or eating.

Sec. 5. Permit and registration requirements for dangerous dogs.

The keeping of a dangerous dog shall be subject to the following mandatory requirements.

(1) *Confinement.* A dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled or in a crate as provided below. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than one foot. All structures used to confine a dangerous dog must be locked with a key or combination lock when such animals are within the structure. All structures erected to house a dangerous dog must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(2) *Leash and muzzle or crate.* No person shall permit a dangerous dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than three feet in length and under the control of a competent adult. (As an alternative, the animal may be confined in a locked create which is constructed of material of sufficient strength to prevent escape, posted with

a sign saying "dangerous animal" and constructed so that a child cannot penetrate the crate with his hand.) When a dangerous dog is in a vehicle or being transported in an open truck bed or other conveyance, it shall be confined in a locked crate or cage which is constructed of material of sufficient strength to prevent escape and posted with a sign saying "dangerous animal" and constructed so that a child cannot penetrate the crate or cage with his hand. No person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, a dangerous dog on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(3) *Confinement indoors.* No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(4) *Signs.* All owners, keepers or harborers of a dangerous dog shall display immediately to the left of the front door of the residence or business where the animal is located a sign which shall be easily readable by the public using the words "Dangerous Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(5) *Identification photographs.* All owners, keepers or harborers of a dangerous dog must provide to the police chief two color photographs of the animal clearly showing the color and approximate size of the animal.

(6) *Reporting requirements.* All owners, keepers or harborers of a dangerous dog must within ten days of the incident, report the following information in writing to the police chief as required hereinafter:

- a. The removal from the city or death of the dog;
- b. The birth of offspring of the dog;
- c. The new address of the owner if the owner moves within the city limits;
- d. The name and address of any person to whom ownership or possession of the dog is transferred.

(7) *Animals born of registered dogs.* All offspring born of a dangerous dog registered with the city must be registered with the city within six weeks of the birth of such animal.

(8) *Failure to comply.* It shall be unlawful for the owner, keeper or harbinger of a dangerous dog to fail to comply with the requirements and conditions set forth in this Ordinance. Any dog found to be the subject of a violation of this Ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal and the permit providing for the keeping of such animal resulting in the immediate removal of the animal from the city.

Sec. 6. Requirements for dangerous snakes.

The keeping of any snakes of the species boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length shall be kept under the following mandatory conditions.

(1) In consideration of the right of the public not to be unexpectedly exposed to snakes, these animals will not be openly displayed in a public setting outside of established forums for such practices to include herpetological shows, educational displays, pet stores and other special displays whereby members of the public are forewarned that a snake may be displayed in the open.

(2) Snakes shall be transported in a manner that precludes escape. At a minimum, snakes shall be placed in a sturdy cloth bag free of holes or tears and the bag placed in a box or similar container. The box or container must be locked or sealed during transportation.

(3) Snakes shall be housed in secure cages with hinged tops or doors or a sliding glass front which includes a locking mechanism. The cage shall be kept in a room modified to prevent snake escapes and which has a door which shall be kept shut or locked when not occupied by the owner.

(4) Snakes requiring permits shall not be sold to minors.

(5) Pet stores or other vendors or sellers of snakes requiring permits are required to provide a copy of this Ordinance to all prospective purchasers of such snakes.

(6) Snakes will not be fed or in any fashion provided any live or living creature while observable by any member of the public or in any manner which may otherwise violate the humane laws of the city.

(7) It shall be unlawful and a violation of this subsection for any person to not comply with the standards set forth herein.

Sec. 7. Notice of keeping dangerous animals.

Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal in violation of this Ordinance, the animal control officer shall forthwith cause the matter to be investigated. If, after investigation, the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring a dangerous animal, the animal control officer shall forthwith send written notice to such person requiring such person to safely remove the animal from the city within five days of the date of the notice. Such notice shall not be required where the dangerous animal has previously caused serious physical harm or death to any person or has escaped and is at large; in those instances the animal control officer shall cause the animal to be immediately seized and impounded, according to the provisions of section 8, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

Sec. 8. Seizure and impounding of dangerous animals.

The animal control officer shall forthwith cause to be seized and impounded any dangerous animal, where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to section 7. Upon a seizure and impoundment, the animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the animal control officer may render the animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then the animal may be killed.

Sec. 9. Permit Required.

(a) No person owning, harboring,, or having charge, custody, control or possession of any dangerous animal shall allow such animal to remain within the city unless the person has first secured a permit to do so and complies with all terms and conditions of such permit; and, in addition thereto, such animal shall at all times be so confined, controlled and restrained in such manner that the life, limb or property of any person lawfully entering such premises shall not be endangered.

(b) Failure to obtain a permit when required by subsection (a) after written notification by the animal control officer shall be adequate grounds for the officer to impound the animal until a permit is obtained, all requirements for confinement of the animal are met, and all fees and costs of the impoundment have been paid. If no permit is obtained within ten days, the animal will be subject to summary destruction.

Sec. 10. Issuance of permit.

Except as hereinafter provided, no person shall have, keep, maintain, or have in his possession or under his control within the city any dangerous animal without first applying to and receiving a permit from the police chief; provided, no permit shall be granted except with such conditions attached as shall, in the opinion of the police chief, reasonably insure the public health, safety and general welfare. No permit shall be granted for any animal at any particular location except upon an explicit finding that the issuance thereof will not be contrary to the public health, safety and general welfare.

Sec. 11. Application for permit.

(a) An application for any permit required pursuant to this Ordinance shall be made to the police chief in writing and upon a form furnished by the police chief. The application shall be verified by the person who desires to have, keep, maintain or have in his possession or under his control the animal for which a permit is required, and shall set forth the following:

- (1) Name, address and telephone number of the applicant.
- (2) The applicant's interest in such animal.
- (3) The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any.
- (4) The number and general description of all animals for which the permit is sought.
- (5) Any information known to the applicant concerning vicious or dangerous propensities of all such animals.
- (6) The housing arrangements for all such animals with particular details as to safety of structure, locks, fencing, etc.
- (7) Safety precautions proposed to be taken.
- (8) Noises or odors anticipated in the keeping of such animals.

(9) Prior history of incidents involving the public health or safety involving any of the animals.

(10) Proof of insurance to cover those who may be injured or killed by the animal.

(11) Any additional information required by the animal control officer at the time of filing such application.

(b) The application shall be accompanied by payment of a fee of \$25.00. The fee shall cover the cost of processing the application.

Section 12. Term and renewal of permits.

A permit issued in accordance with this chapter shall be valid until December 31 of the year in which it is issued. An application for renewal of any permit shall be made not less than 45 days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application. If the application is submitted later than 45 days prior to the expiration of the existing permit, then a late fee of \$5.00 per day after the deadline shall be added to the fee.

Sec. 13. Inspections, investigations, and issuance of renewal permits.

Prior to the annual renewal of any permit issued hereunder and at least once not more than six months after the issuance of any such permit or after its renewal, the animal control officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this article. In addition, the animal control officer shall investigate the past history of the permit holder to determine whether during the past permit period the permit holder was in compliance with all of the conditions specified in this chapter. The investigation may include a review of department records and interviews with the permit holder and neighbors. If the animal control officer determines during any such inspection and investigation that any of the conditions therein specified are being violated the officer shall issue a citation to the responsible person and shall take the animal into custody pending a hearing on the citation. The officer shall also recommend that the permit be revoked or not renewed in the event that any violation is not corrected. Upon completion of the investigation and review process provided herein, the animal control officer shall recommend to the police chief that the dangerous animal permit be renewed or that the renewal application be denied. If the recommendation is to deny the permit, the basis for the denial shall be included in the report.

Sec. 14. Revocation and suspension of permits.

The police chief, upon recommendation of the animal control officer may, for good cause, revoke any permit or modify any terms or provisions thereof and may, in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof. Failure to comply with any of the provisions of this article shall be considered good cause for revocation or suspension of a permit, seizure of the animal, and issuance of a court citation. The ruling of the municipal court on the citation will determine whether the permit is renewed or reinstated and whether the animal is returned or permanently surrendered to the closest humane society.

Sec. 15. Commercial establishments.

(a) Commercial establishments possessing a dangerous animal for the purpose of sale or display may replace the same with others of the same kind, but the number of each shall not be in excess of the number thereof allowed by the terms of such permit. Such establishments may, in the discretion of the animal control officer, be granted a permit for such numbers of each kind of animal as do not exceed the maximum number such establishment estimates will be maintained by it in this city at any one time during the period of the permit. Such permit shall require the immediate notification of the animal control officer upon the acquisition of any animal having a prior history of any incident involving the public health or safety, or resulting in any bodily injury or property damage.

(b) Upon the sale of any dangerous animal, the commercial establishment shall immediately send notification of the sale along with the name and address of the buyer, the method of transporting the animal, the path of travel of such transportation, and the destination to the animal control officer.

Sec. 16. Costs to be paid by responsible persons.

Any reasonable costs incurred by the animal control officer in seizing, impounding, confining, or disposing of any dangerous or wild animal, pursuant to the provisions of sections 7, 8, 9 or 12 shall be charged against the owner, keeper, or harbinger of such animal and shall be collected by the police chief.

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Sec. 17. Violations declared misdemeanor.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, unless otherwise provided herein, shall, upon conviction or adjudication of guilt, be punished by a fine of not more than \$500.00 and in addition may be punished by imprisonment or hard labor for the city or a combination thereof, for a period not exceeding six (6) months.

Sec. 18. Severability.

The provisions of this ordinance are severable so that if any provision hereof is declared unconstitutional, void, or invalid by a court of competent jurisdiction, all other provisions hereof shall not be affected by such declaration and shall remain in full force and effect as though the unconstitutional, void or invalid provision had not been included in the ordinance as originally adopted.

Sec. 19. Conflicts with state statutes and municipal ordinances.

(A) This ordinance shall be deemed cumulative with and supplemental to any and all statutes of the State of Alabama regarding the subject matter hereof and to be subordinate to same and in no manner intended to supersede any such statutes of the State of Alabama. Any provision hereof in conflict with any provision of any state statute shall be construed so as to be in harmony with the same where possible and otherwise to be subordinate to and superseded by the provisions of such state statute.

(B) This Ordinance shall be deemed cumulative with and supplemental to Chapter 6, Article I and II, Sections 6-1 through 6-44 inclusive of the Code of Ordinances of the City of Boaz.

Sec. 20 Effective date.

This ordinance shall become effective on the first day of the month following adoption by the City Council and after posting and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BOAZ,
ALABAMA ON THE 22ND DAY OF MARCH, 2010.**

ATTEST:

Tim Walker, Mayor

Jill Bright, City Clerk/Treasurer