

**AN ORDINANCE AMENDING ALL PRIOR ORDINANCES OF THE TOWN OF ORESTES PERTAINING TO ANIMAL CONTROL**

WHEREAS, the Town Council of the Town of Orestes has previously adopted Ordinances Numbered 127,1471 and 2-2000 providing for the matter of animal control within the town; and

WHEREAS, Section 15-2.1-1-1 of said Code of Laws provides for local units to provide animal control within the limits of the unit; and

WHEREAS, Town Council now deems it in the interests of the town to review such ordinances and to provide for a comprehensive ordinance on such matters, and therefore to repeal the prior ordinances on the matter and the following be substituted in place of such prior ordinances:

ANIMAL CONTROL

15-2.1-1-1 Animal Control:

(A) Definition of Terms. For the purposes of this Section, the following terms shall be defined as follows:

(1) ANIMAL: Any live, non-human vertebrate creature, domestic or wild. For the purposes of this ordinance, the term shall include both domestic and farm animals.

(2) ANIMAL CONTROL OFFICER: The person authorized to enforce the terms of this Ordinance. **In the absence of any other person being named, the Town Marshall shall enforce the provisions of this ordinance.**

(3) ANIMAL SHELTER: The premises operated by the Town or for which the Town has entered into an agreement for the care of animals which are at large, lost or otherwise homeless or otherwise in the control of the Town.

(4) AT LARGE: Any animal not under restraint.

(5) DOMESTIC ANIMAL: Any cat or dog.

(6) EXOTIC ANIMAL: **Any animal other than a domestic animal or farm animal, animals of an untamable disposition; animals in a state of nature;**

**also commonly referred to as wild animals, with the exception of small, non-poisonous aquatic or amphibious animals and small caged birds.**

(7) FARM ANIMAL: Any animal commonly found upon, raised or used for agricultural purposes whether or not such animal is actually used in such a fashion, and includes, but is not limited to cows, swine, horses, donkeys, mules, chickens, ducks, geese, turkeys, pigeons, other fowl, and goats, **and includes a miniature variety of such animals.**

(8) HARBORING: Permitting any animal to remaining, lodge or to be fed within a person's home, store, enclosure, yard, and place of business or any premises on which any person resides or controls for three (3) or more consecutive days.

(9) KENNEL: An establishment wherein any person engages in boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling dogs and/or cats. Any person keeping more than a total of four (4) dogs and/or cats each at least four (4) months of age at one location shall be deemed a kennel operator. Groups of cats, all of which are altered and all of which are confined to the owner's premises shall not render those premises a kennel.

(10) OWNER: Any person owning, keeping or harboring one (1) or more animals.

(11) PERSON: Any individual, firm, association, joint stock company, syndicate, partnership or corporation.

(12) PET: Any animal kept for pleasure rather than utility.

(13) PUBLIC NUISANCE: Any animal which

- (a) Attacks or threatens to attack any persons or passing vehicle;
- (b) Attacks other animals;
- (c) Is repeatedly at large;
- (d) Damages public or private property; or
- (e) Barks, whines, howls, **or makes any other noise** in an excessive or continuous fashion.

(14) RESTRAINT: Any animal secured by a leash or lead or within the real property limits of its owner is assumed to be under restraint.

(15) STRAY: Any animal which does not appear, following reasonable inquiry, to have an owner.

(16) VETERINARY HOSPITAL: Any establishment maintained and operated by a veterinarian for surgery, diagnosis and treatment or diseases and injuries of animals.

(17) VICIOUS ANIMAL: Any animal that, by its behavior, constitutes an immediate and serious threat to human beings or animals.

(B) Licensing. Any person owning, keeping, harboring or having custody of any dog or cat six (6) months or older within the Town shall obtain a license as provided in this section.

(C) Obtaining a License. Applications for a license shall be made to the Clerk-Treasurer. One application shall be obtained for each animal to be licensed and shall include the name and address of the applicant(s), a physical description of the animal, the appropriate fee, and a rabies certificate issued by a veterinarian. Application for a license must be made when the animal reaches the age of six (6) months. If a person obtains an animal older than six (6) months, a license must be applied for within twenty (20) days of acquisition. If not revoked, licenses for the keeping of all animals shall be valid for one (1) year and must be purchased on or before May 30<sup>th</sup> annually.

(D) Tags. Upon receipt of the license application and fee, the Clerk-Treasurer shall issue a durable tag or identification collar, stamped with an identifying number. Animals must wear such tags at all times when off the premises of the owner. The Clerk-Treasurer shall maintain a record of the identifying number of all tags issued.

(E) License Fees. A license shall be issued only after payment of the applicable fees and the receipt of all application materials. Fees shall be as follows:

- (1) For each unneutered male dog.....\$5.00
- (2) For each unneutered male cat.....\$3.00
- (3) For each unspayed female dog.....\$5.00
- (4) For each unspayed female cat.....\$3.00
- (5) For each neutered male dog.....\$1.00
- (6) For each neutered male cat.....\$1.00
- (7) For each spayed female dog.....\$1.00
- (8) For each spayed female cat.....\$1.00
- (9) For keeping of exotic animal.....\$25.00**

A duplicate license may be obtained for a fee of One Dollar (\$1.00). If an animal is neutered or spayed after the license has been paid, a refund of seventy-five percent (75%) of the original license fee shall be made by the Clerk-Treasurer upon presentation of veterinarian's written statement that the animal has been neutered or spayed. The owner of any animal deemed by a veterinarian to be unfit to undergo a spaying or neutering operation shall, upon presentation of a written statement to that effect by that veterinarian, be charged the applicable fee for spayed or neutered animals. No person shall use any license for any animal other than the animal for which it was issued.



(F) Revocation of License. The Clerk-Treasurer may revoke any license if the person holding a license refuses or fails to comply with any provision of this Section. The Clerk-Treasurer shall provide ten (10) days written notice to the owner prior to revoking the license, after which time the license shall be revoked and the animal(s) owned, kept or harbored by that person shall be humanely disposed of by either that person or the Animal Control Officer shall do so and the cost of such disposal shall be borne by the person in offense. If the applicant has withheld or falsified any information on the application, the Clerk-Treasurer shall refuse to issue a license. No person who has been convicted of cruelty to animals shall be issued a license without review by the Clerk-Treasurer and approval by the Board.

(G) Restraint and Care of Animals: All animals shall be kept under restraint. No owner shall fail to exercise due care and control of his or her animals to prevent them from becoming a public nuisance. Every female animal in estrus (heat) shall be confined in a building or secure enclosure so that the female animal cannot come into contact with another animal of the same species except for planned breeding. Every animal deemed vicious by the Clerk-Treasurer or Animal Control Officer shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of the owner.

(H) Keeping of Farm Animals and Exotic Animals: No person shall maintain, keep or allow a farm animal on public or private premises or to run at large within the town limits. **Exotic animals may be allowed to be kept only within a fully enclosed structure, located upon a private or public premises, and only upon application to and approval of the Town Council. Such approval may be granted only upon a showing that the keeping of the exotic animal will not be contrary to the public health, safety and welfare of the town. In determining whether to grant or deny such an application the Town Council shall consider the means of securing such an animal within the structure, the inherent danger posed to the community shall the person fail to confine such animal, and any other factor the town believes relevant. The town may conduct such inspections as necessary in carrying out the provisions of this subsection. Any permit to keep such an animal shall be valid for one year only, and subject to review and renewal by the Town Council in the manner set forth herein. No exotic animal shall be allowed to be kept outside of an enclosed structure or to run at large within the town limits.**

(I) Apprehension, Reclaiming and Disposition: Unrestrained, unlicensed and nuisance animals shall be impounded by the Animal Control Officer in a humane manner. If by license, tag or other means, the owner of an impounded animal can be identified, the Animal Control Officer shall, upon impoundment, immediately notify the owner by telephone or U.S. Mail. An owner reclaiming an impounded dog or cat shall pay a \$10.00 service fee plus \$3.00 per day for each day or any part thereof for the confinement within the Town or Orestes, and if said animal is then transported to the animal shelter, the expense incurred by the Town **in transporting, impoundment and disposal** of the animal to the shelter shall be paid by the owner. If the animal is unlicensed, an owner reclaiming an impounded dog or cat shall pay \$25.00 plus a service fee of \$3.00 per day for each day

or any part thereof for the confinement within the Town of Orestes, and if said animal is then transported to the animal shelter, the expense incurred by the Town **in transporting, impoundment and disposal** of the animal to the shelter shall be paid by the owner. In addition thereto, in the event said animal is unlicensed, the owner shall be required to purchase a license at which time the Clerk-Treasurer shall issue a release form. Provided, further, in the event an unlicensed dog is not vaccinated for rabies, the Clerk-Treasurer shall issue a provisional license and the owner shall have ten (10) days to present a rabies certificate to the Clerk-Treasurer. If said rabies is not so presented, the provisional license shall be revoked and the animal subject to further impoundment. Any animal not reclaimed by its owner within three (3) working days, shall become the property of the Town and shall be placed for adoption in a suitable home or humanely euthanized.

(J) Animals Biting Persons. If an animal has bitten a person, such animal shall be impounded at the expense of the owner for a period determined by the Clerk-Treasurer in order to determine whether or not said animal has rabies. If the animal dies during impoundment, it shall, at the owner's expense, be sent to the proper Health Officers to determine if it was rabid.

(K) Disposition of Exposed Animals: Any animal which has been bitten by an animal known to have rabies shall be confined for a period of six (6) months at the expense of the owner or be destroyed.

(L) Duties of the Owner of a Suspect Animal. No owner knowing or suspecting an animal to have rabies or leptospirosis shall allow that animal to leave his or her premises. Every Owner, upon suspecting an animal to be rabid, shall immediately notify the Clerk-Treasurer.

(M) Kennel Permits. No person shall operate a kennel or animal shelter without first obtaining a permit in compliance with this section. Every facility regulated by this section shall be considered a separate enterprise and shall require an individual permit.

(N) Obtaining a Kennel Permit. The Clerk-Treasurer may issue a kennel permit upon filing of the application and payment of the applicable fee, **and approval of the Town Council**. If there is a change in ownership of the commercial animal establishment, the new owner may have the current permit transferred to his or her name upon payment of a Ten Dollar (\$10.00) transfer fee. The permit period shall begin on January 1<sup>st</sup> and shall run for one year. Establishments seeking a permit during the year shall apply as provided previously and pay a pro-rated fee for the remaining portion of the year. Yearly applications must be made before January 31<sup>st</sup> or within ten (10) days of the creation of such an establishment.

(O) Permit Fees.

- (a) For each kennel authorized to house less than  
Fifteen (15) dogs and/or cats..... \$ 125.00



- (b) For each kennel authorized to house fifteen (15) To fifty (50) dogs and/or cats..... \$ 150.00
- (c) For each kennel authorized to house more than Fifty (50) dogs and/or cats..... \$ 200.00

No fee shall be required for any veterinary hospital, animal shelter, government-operated zoological park or laboratory.

(P) Disposition of Funds. All fees or monies collected shall be paid to the Clerk-Treasurer. Money so paid shall be placed in a special fund and shall be used in carrying out the provisions of this section.

(Q) Enforcement. This section shall be enforced by the Clerk-Treasurer, the Animal Control Officer and the appropriate law enforcement agencies.

(R) Penalties. Any person who violates any provision of this **ordinance may** be fined not less than Ten Dollars (\$10.00) or more than Three Hundred Dollars (\$300.00) for each violation. Every day a violation continues constitutes a separate offense.

(S) Prior Ordinances Repealed. Ordinances 127, 1471 and 2-2000 and all other ordinances which are in conflict herewith are hereby repealed.

(T) This ordinance shall be in full force and effect following its passage by the Town Board and publication as by law provided.

SO ORDAINED THIS 24<sup>th</sup> day of April, 2012.

TOWN COUNCIL OF TOWN OF ORESTES

BY John T. Shettle  
President

Debra J. Atwood  
Member

Frank M. Walsh  
Member

ATTEST:

*Erin A. Ottwood*

Clerk/Treasurer

Prepared by:

Timothy S. Lanane

Attorney at Law