

ORDINANCE NO. 310.2017

**AN AMENDED AND RESTATED ORDINANCE REVISING CHAPTER 3 ANIMALS
SECTION 3-18 PENALTIES OF THE KERSHAW COUNTY CODE BY REMOVING
THE PENALY OF IMPRISONMENT FOR VIOLATION OF THE PROVISIONS OF
CHAPTER 3 ANIMALS**

State law reference(s)--Cruelty to animals, S.C. Code 1976, § 47-1-10 et seq.; sheep-killing dogs, § 47-3-210 et seq.; rabies control, § 47-5-10 et seq.; uninoculated pets, § 47-5-130; ordinances and regulations for the control of dogs and other domestic pets, § 47-3-20 et seq.

Chapter 3 Animals

Sec. 3-1. Definitions.

Whenever used in this chapter, unless a contrary intention is clearly evidenced, the following terms shall be interpreted as herein defined.

Abandon shall mean to desert, forsake, or intend to give up absolutely an animal without securing another owner.

Animal shall mean, in addition to dog and cat, any organism of the kingdom of Animalia, other than a human being.

Animal control officer shall mean any person employed by the county to enforce the animal control program.

Animal shelter shall mean any premises designated by the county for the purpose of impounding, care, adoption, or euthanasia of dogs and cats held under authority of this chapter.

At large shall mean a pet running off the premises of the owner or keeper and not under the physical control of the owner or keeper by means of a leash or other similar restraining device.

Kershaw County Animal Control shall mean Kershaw County, the Kershaw County Animal Control Director, and Kershaw County Animal Control officers.

Nuisance shall mean an animal that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property.

Owner shall mean any person who:

- (1) Has a property right in an animal;
- (2) Keeps or harbors an animal or who has it in his or her care or acts as its custodian; or
- (3) Permits an animal to remain on or about any premises occupied by him or her for ten (10) days.

Pet shall mean a domestic dog (*canis familiaris*) and/or a domestic cat (*felis catus domesticus*).

Under restraint shall mean a pet that is on the premise of its owner or keeper by means of a leash, fence or other similar restraining device, or is on the premises of its owner or keeper and accompanied by the owner/keeper, or a pet that is off the premises of its owner or keeper but is accompanied by its owner or keeper and is under the physical control of such owner or keeper by means of a leash or other similar restraining device. Any constraint hereunder must be in compliance with S.C. Code Section 47-1-45.

Sec. 3-2. Dangerous or vicious animals.

- (a) No person owning or harboring or having the care or the custody of a dangerous animal may permit the animal to go unconfined on his premises. A dangerous animal is unconfined as the

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JAMES G. EASTMAN
CLERK OF COURTS
KERSHAW COUNTY, S.C.

term is used in this section if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or "run" area upon the person's premises. The pen or run area also must have either: 1) sides six (6) feet high, or 2) a secure top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded into the ground at a depth of no less than one (1) foot. However, the provisions of this section shall not apply to any animal that is owned by a licensed security company and is on patrol in a confined area.

(b) For the purposes of this section a dangerous or vicious animal shall be defined to be any one of the following:

(1) Any animal with a propensity, tendency or disposition to attack, to cause injury to, or to otherwise endanger the safety of human beings or other domestic animals; or

(2) Any animal which attacks a human being or other domestic animal one or more times without provocation whether or not such attack occurs on the premises of the animal's owner; or

(3) An animal owned or harbored primarily or in part for the purpose of animal fighting or an animal trained for animal fighting.

(c) Any animal that has been determined to be a dangerous or vicious animal may be impounded by Kershaw County Animal Control. Such animals shall not be euthanized unless the owner has surrendered the animal to the animal shelter and has completed and signed a surrender form or until a hearing is held before an appropriate magistrate and the magistrate has determined that the animal should be euthanized. However, if the magistrate has determined that the owner may redeem the animal, the Kershaw County Animal Control shall release the animal upon receipt of all redemption fees as described in Section 3-15, below. If the owner does not pay the redemption fees within five (5) days of the magistrate's order, the animal shall become the property of the animal shelter and may be euthanized.

Sec. 3-3. Running at large – restraint.

(a) All dogs must be kept under restraint or confinement. Any dog not so restrained will be deemed unlawfully running at large in the unincorporated area of the county.

(b) Dog(s) that are participating in hunting under the supervision or control of the owner(s), obedience trials, conformation shows, tracking tests, herding trials, or lure courses shall not be considered "at large."

Sec. 3-4. Rabies control.

In the event a vicious animal bites a human and the owners cannot provide proof of rabies vaccination, at the discretion of Animal Control, with cooperation from DHEC, an order shall be issued to euthanize the animal and immediately ship the head to the DHEC lab for scientific determination with regard to whether the animal is rabid.

Sec. 3-5. Collar and identification required.

Any person owning, keeping, harboring or having custody of a dog or cat over four months of age within the unincorporated areas of the county must see that every dog or cat owned wears a collar bearing an identification plate which states the name, address and phone number of the owner.

Sec. 3-6. Removal of excrement.

The owner of every pet shall be responsible for the removal of any excretions deposited by his or her pet on public walks and ways, recreation areas, or private property other than that of the owner.

Sec. 3-7. Injured or diseased pets.

Anyone striking a pet with a motor vehicle or bicycle shall notify the Kershaw County Animal Control who will then take action necessary to make proper disposition of the pet. Any pet received by the animal shelter in critical condition from wounds, injuries, or disease may receive sustaining treatment by a licensed veterinarian until such time as the owner of the pet is contacted. Any such pet in critical condition, as described in this section, may be humanely destroyed if the owner cannot be contacted within five (5) hours. If the pet is in severe pain it may be destroyed immediately. Any veterinarian fees incurred must be paid by the owner(s) prior to redemption.

Sec. 3-8. Nuisance animals.

(a) The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(b) It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner so as to constitute a public nuisance. By way of example, and not of limitation, the following acts or actions by an owner or possessor of any animal are hereby declared to be a public nuisance and are, therefore, unlawful:

(1) Failure to exercise sufficient restraint necessary to control an animal as required by Section 3-3.

(2) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers, or vegetables.

(3) Failure to maintain a dangerous animal in a manner other than that which is described in Section 3-2.

(4) Maintaining animals in an environment of unsanitary conditions which results in offensive odors or is dangerous to the animal or to the public health, welfare or safety.

(5) Maintaining his or her property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of the animals on the property.

(6) Allowing or permitting an animal to bark, whine, or howl in an excessive, unwarranted, and continuous or untimely fashion, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

(7) Maintaining an animal that is diseased and dangerous to the public health.

(8) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicycles, or vehicles.

(c) An animal that has been determined to be a habitual nuisance by the Kershaw County Animal Control may be impounded and may not be returned to the owner until said owner can produce evidence to demonstrate that the situation creating the nuisance has been abated.

(d) Every female animal in heat shall be kept confined in a building or secure enclosure in such manner as will not create a nuisance by attracting other animals.

Sec. 3-9. Animal care, generally.

(a) It shall be unlawful for an owner to fail to provide his or her animal(s) with sufficient food and water, proper shelter and protection from the weather as necessary, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) It shall be unlawful for a person to beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight or other combat between animals or between animals and humans.

(c) It shall be unlawful for a person to dye or color artificially any animal or fowl, including but not limited to rabbits, baby chickens, and ducklings, or to bring any dyed or colored animal or fowl into the County.

(d) It shall be unlawful for any owner to abandon an animal in the unincorporated area of the county.

(e) No person shall expose any known poisonous substance, so that the same shall be liable to be eaten by any domestic animal.

Sec. 3-10. Care of animals during transport.

During transportation, an animal must be provided adequate space and ventilation, and in addition, must not be confined in one area for more than thirty-six consecutive hours without being adequately exercised, rested, fed, and watered.

Sec. 3-11. Seizure and right of entry to protect abandoned, neglected, or cruelly treated animals.

(a) If the owner does not give permission, the animal control officer may obtain a search warrant to enter any premises upon which it is suspected a violation of this chapter exists. Once upon the premises, the officer may examine such animal and may take immediate custody of the animal when, in his or her opinion, it requires removal from the premises. The animal control officer shall thereafter petition the appropriate magistrate for a hearing, which shall be a civil proceeding. The hearing shall be set not more than ten days from the date of the seizure of the animal to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal. The animal control officer shall cause to be served upon the owner, if known and residing within the jurisdiction wherein the animal is found, written notice at least five (5) days prior to the hearing of the time and place of the hearing. If the owner is not known or cannot be found within the jurisdiction wherein the animal was found, the animal control officer shall post a copy of the notice at the property where the animal was seized. The pet or animal shall remain in the custody and care of the animal shelter until such matter is heard before the magistrate. The magistrate shall make the final determination as to whether the animal is returned to the owner or whether title is transferred to the animal shelter whereby the animal may be put up for adoption or humanely destroyed. If the magistrate orders the return of the animal to its owner, the animal control officer shall release the animal upon receipt from the owner of all redemption fees as described in Section 3-15, below. If the owner does not pay the redemption fees within five (5) days of the magistrate's order, the animal shall become the property of the animal control shelter and may be placed for adoption or euthanized. The court, in determining

whether the owner is able to adequately provide for the animal or is a fit person to own the animal, may take into consideration, among other things, the owner's past record of convictions under this chapter, or one similar thereto, and the owner's mental and physical condition.

(b) Nothing in this section shall be construed to prohibit the euthanization of a critically injured or ill animal for humane purposes.

Sec. 3-12. Performing animal exhibitions.

(a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

(b) All equipment used on a performing animal shall fit properly and be in good working condition.

Sec. 3-13. Keeping of wild animals

(a) No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

(b) No person shall keep or permit to be kept any wild animal as a pet except as allowed under state law.

(c) The following animals are deemed to be wild per se:

1. All nondomestic members of the family felidae;
2. Wolves, wolf-dog hybrids containing any percentage of wolf, coyotes and foxes;
3. Bears;
4. Alligators, crocodiles and caimans;
5. Scorpions; or
6. Venomous reptile.

Sec. 3-14. Impounding.

(a) Any animal found within the unincorporated area of the county in violation of the provisions of this chapter may be caught and impounded by county authorities. If an animal cannot be caught in a safe, efficient manner, animal control officer(s) may tranquilize the animal by use of a tranquilizer gun. The Kershaw County Animal Control may, thereafter, make available for adoption or humanely destroy impounded animals not redeemed within five (5) days. Kershaw County is not responsible for the death of an animal due to the use of a tranquilizer gun for animals in violation of this ordinance.

(b) When a person arrested is, at the time of the arrest, in charge of an animal, the Kershaw County Animal Control may take charge of the animal and deposit the animal in a safe place of custody or impound the animal at its animal shelter.

(c) All animals held at its animal shelter after the legal detention period has expired and its owner has not claimed the animal shall be the property of the animal shelter and subject to being euthanized.

(d) Immediately after impounding a pet that is wearing a rabies tag, or another identification tag, or a pet that has an implanted identification microchip or an obvious identification tattoo, a reasonable effort will be made to locate the owner and to inform him or her of the circumstances under which he or she may regain custody of the pet impounded by the Kershaw County Animal Control reflecting its disposition.

(e) Any animal found "at large" may be impounded by the animal control officer and may not be redeemed by its owner unless such redemption is authorized by the Kershaw County Animal Control, with assurance from the owner that proper care and custody will be maintained.

(f) Any animal surrendered to the animal shelter may be adopted or euthanized at any time provided there is a completed and signed surrender form on file for the animal concerned.

Sec. 3-15. Redemption.

(a) The owner or keeper of any pet that has been impounded under the provisions of this chapter, and which has not been found to be dangerous or vicious, shall have the right to redeem such pet at any time within five (5) days upon payment of all actual costs expended for the care and treatment of the pet, including the actual cost of: (1) all required inoculations and medical care and (2) the spay or neuter procedure which shall be required prior to redemption if the pet is not spayed or neutered, as well as a daily fee as determined from time to time by the Kershaw County Council.

(b) Any animal determined by an appropriate magistrate, as provided for in Section 3-2 above, to be a dangerous or vicious animal but eligible for redemption may be redeemed, with five (5) days of the order of the magistrate, upon the following conditions:

(1) The owner or person harboring or having the care or the custody of the redeemed animal shall not permit the animal to go unconfined on his premises as provided in Section 3-2, above;

(2) The owner or person harboring or having the care or the custody of the redeemed animal shall pay all actual costs expended for the care and treatment of the pet, including the actual cost of: (1) all required inoculations and medical care and (2) the spay or neuter procedure if the pet is not spayed or neutered, as well as a daily fee as determined from time to time by the Kershaw County Council.

(c) An owner of animal that is redeemed pursuant to provisions Section 3-15(a) or (b) above will not be required to spay or neuter the animal if any of the following conditions apply:

(1) Any owner of a pet who can furnish a statement from a licensed veterinarian that the pet, due to health reasons, could not with stand the spay/neuter surgery; or

(2) Any owner of one or more purebred pets who can furnish proof of participation in nationally recognized conformation or performance events; or

(3) Any owner of a dog that is currently being used for hunting purposes and is properly registered with the South Carolina Department of Natural Resources and whose owner has a valid South Carolina hunting license (provided, however, that if such dog is not properly registered with the South Carolina Department of Natural Resources then the owner has three (3) days if necessary to register such dog and the failure to do so within three (3) days will result in the dog becoming the property of Kershaw County Animal Control shelter); or

(4) Any individual who is handicapped and who owns a dog which is used for seeing, hearing, or other such assistance purposes.

Sec. 3-16. Interference with Animal Control officers.

It shall be unlawful for any person to interfere with, hinder, or molest an animal control officer in the performance of his or her duty or seek to release any pet in his/her custody without his/her consent.

Sec. 3-17. Complainant's identification to remain confidential.

The identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation of this chapter, shall remain confidential to the agency receiving the report unless the complainant authorizes the release of his or her identity. Provided, however, the Freedom of Information Act is complied with.

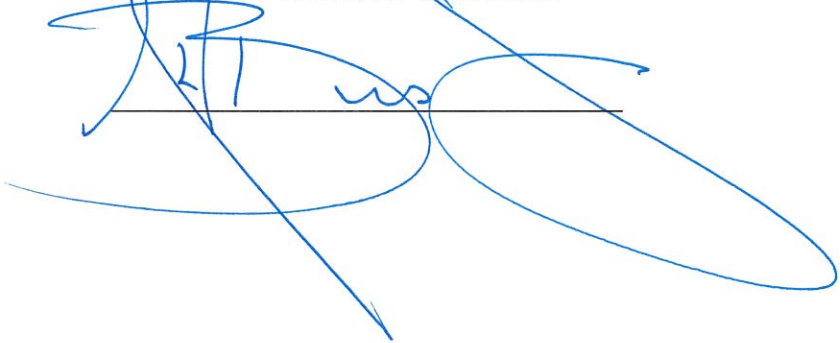
Sec. 3-18. Penalties.

(a) Any person who violates the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding five hundred dollars (\$500.00). Each day's continuing violation shall constitute a separate and distinct offense.

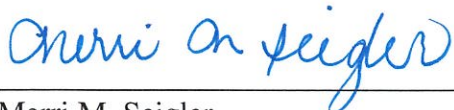
(b) The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter must be ordered to pay costs incurred to care for the animal and related expenses.

ADOPTED BY KERSHAW COUNTY COUNCIL THIS 12th DAY OF SEPTEMBER, 2017.

KERSHAW COUNTY COUNCIL



ATTEST:



Merri M. Seigler
Clerk to County Council

First Reading: August 8, 2017
Second Reading: August 22, 2017
Third Reading: September 12, 2017