

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: September 16, 2024

Agenda Item: 6B	Prepared by: Chris Noury, City Attorney	
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: August 21, 2024	
Subject: Amendment to Chapter 4, Animals and Fowl, regarding definitions and dangerous animals	Division: Administration	
<u>Background:</u> Attached for Council’s review are several amendments to Chapter 4, Animals and Fowl, of the North Myrtle Beach Code of Ordinances. Generally, the amendments were requested by the Police Department to provide a framework regarding dangerous animals including seizure and impoundment of a dangerous animal and penalties for owners of dangerous animals that attack and injure a human being or domestic animal. The “Definitions” Section of Chapter 4, Section 4-1, also requires an amendment to accommodate the new portions of the code related to dangerous animals. <u>Recommended Actions:</u> Approve or deny the proposed ordinance on second reading		
Reviewed by Department Head	Reviewed by City Manager	Reviewed by City Attorney
Council Action: Motion By _____ 2nd By _____ To _____		

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, BE AMENDED BY REVISING CHAPTER 4, ANIMALS AND FOWL, AND ADDING SECTIONS 4-13 TO 4-19 OF SAID CODE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NORTH MYRTLE, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:

Section 4-1. – Code adopted by reference, be amended to read as follows (new matter underlined, deleted matter struck-through):

Sections 4-13 to 4-19. Be added to read as follows (new matter underlined, deleted matter struck-through):

Sec. 4-1. Definitions.

For the purpose of this chapter, the following terms shall have meanings respectively ascribed to them:

Adequate food: The provision at suitable intervals, not to exceed twenty-four (24) hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition for the animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

Adequate shelter: That shelter which will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun and at a temperature level that is healthful for the animal. The containment area for the animal shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with waste or debris. A suitable method of drainage shall be provided to rapidly eliminate any excess water or moisture. Aquatic and semi-aquatic animals shall have an adequate amount of clean water in which to move. For dogs left outside and unattended, adequate shelter shall meet the following minimum standards:

- a) The shelter shall be a waterproof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, waterproof floor raised at least three (3) inches from the ground and the roof should extend eight (8) inches over the doorway to keep out rain. ~~A doghouse shall not be constructed of metal or any material that readily conducts heat or cold.~~
- b) The structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable, clean bedding material to provide insulation and protection against cold, ~~and dampness,~~ and promote retention of body heat.
- c) All dogs must be afforded one (1) or more separate areas of shade large enough to accommodate the entire body of the dog at one (1) time to ensure protection from the direct rays of the sun.

Adequate water: A constant access to a supply of clean, fresh water provided for in a sanitary manner.

Animal: Any mammal, fowl, ~~or~~ other domestic or wild animal of any kind or nature.

Animal control officer: Any person appointed by the City Manager ~~city manager~~ or his or her designee to carry out the requirements of this chapter.

Animal rescue organization: Any not-for-profit organization having tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and which does not breed animals. Animal rescue organizations do not include any entity which: (1) is located on the same premises as a person or entity that breeds dogs or cats; (2) has any personnel in common with such a person or entity, including but not limited to, any employee, manager, or board member; (3) obtains any dogs or cats from such a person; or (4) facilitates the sale of dogs or cats that were obtained from such a person.

Cat: A member of the species of domestic cat, *Felis catus*.

Commercial establishment: An establishment involving an activity with goods, merchandise, or services for sale or involving a rental fee.

Dangerous animal: Means an animal of the canine or feline family:

- a) Which the owner knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals;
- b) Which:
 - 1. Makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined as required by Section 4-13; or
 - 2. Commits unprovoked acts in a place other than the place where the animal is confined as required by Section 4-13 and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being; or
- c) Which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting.

Dangerous animal: Does not include:

- a) An animal used exclusively for agricultural purposes; or
- b) An animal which attacks a person who is trespassing or who appears to be trespassing. A trespasser is a person who is not lawfully upon the premises of the owner, as set forth in Section 4-18(a); or
- c) An animal used for police purposes during police operations, activities, or training.

An animal is not a “dangerous animal” solely by virtue of its breed or species.

Dog: A member of the species of domestic dog, *Canis familiaris*.

Domestic animal: Any dog, cat, or domesticated ferret not defined as wildlife or livestock.

Extreme weather: Any period in which a severe weather advisory or warning has been issued for the area by the National Weather Service.

Injury or bodily injury: Means (1) broken bones, (2) lacerations, (3) punctures of the skin, or (4) any physical injury resulting in death.

Nuisance animal: Any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property.

Offer for sale: To sell, exchange for consideration, offer for adoption, advertise for the sale of, barter, auction, give away, or otherwise dispose of animals.

Outside and unattended: Any dog who is exposed to the elements for a duration of longer than fifteen (15) minutes and not in visual range and physical presence of the owner. This expressly includes, but is not limited to, a dog in a securely fenced-in yard, a dog in a kennel, or a dog that is tethered. For purposes of this Section ~~section~~, a dog shall be considered "outside" regardless of access to an outdoor doghouse or similar structure.

Owner or keeper: Any person who keeps, harbors, maintains an animal; or has on an animal within care, custody and control; or acts as custodian of any length of time; or permits an animal to remain on or about the premises occupied, owned, leased, rented or lawfully accessed by the person, within the city limits.

Pet shop: An establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the public.

Vicious animal: Any animal that attacks, bites or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite or injure human beings or domesticated animals.

(Code 1970, § 5-1; Ord. of 3-19-80; Ord. No. 88-29, 7-19-88; Ord. No. 02-45, § 1, 10-21-02; Ord. No. 19-36, 8-19-19)

State law reference(s)—Definition of "animal," S.C. Code 1976, § 47-1-10; definition of "dog" and "vicious dog," § 47-3-10; definition of "pet," "owner," "inoculation," etc., § 47-5-20; definition of estray, § 47-7-10; definition of "livestock" and "owner," § 47-9-210.

~~Sees. 4-13—4-19. Reserved.~~

Sec. 4-13. Dangerous animal not to go unconfined on premises; “unconfined” definition; exceptions.

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 used in this Section if the animal is not confined securely indoors or confined in a securely enclosed fence or securely enclosed and locked pen or run area upon the person’s premises. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal. However, this Section does not apply to an animal owned by a licensed security company and on patrol in a confined area.

Sec. 4-14. Dangerous animal not permitted beyond premises unless safely restrained.

No person owning or harboring or having the care of a dangerous animal may permit the animal to go beyond his premises unless the animal is safely restrained, and the requirements of Section 4-17(d) are met.

Sec. 4-15. Owning or harboring an animal for fighting or attacking humans or domestic animals prohibited; selling, breeding, buying or attempting to buy, or intent to do same, prohibited; exceptions.

- a) No person may own or harbor an animal for the purpose of fighting or training, torment, badger, bait, or use an animal for the purpose of causing or encouraging the animal to unprovoked attacks upon human beings or domestic animals.
- b) No person may possess with intent to sell, offer for sale, breed, or attempt to buy a known dangerous animal; however, this subsection does not apply to a person who is licensed to possess and breed an animal under the classifications or specified and regulated by the United States Department of Agriculture under the Animal Welfare Act as codified in Title 7 of the United States Code.

Sec. 4-16. Seizure and impoundment of dangerous animals.

If a law enforcement agent or animal control officer has probable cause to believe that a dangerous animal is being harbored or housed in violation of Section 4-14, the agent or officer may petition the court having jurisdiction to order the seizure and impoundment of the dangerous animal.

Sec. 4-17. Penalties; registration of dangerous animals.

- a) A person who violates Section 4-13, 4-14, or 4-15 or Subsection (e) of this Section or who is the owner of a dangerous animal which attacks and injures a human being or a domestic animal is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.
- b) A dangerous animal which attacks a human being or domestic animal may be ordered destroyed when in the court's judgment the dangerous animal represents a continuing threat of serious harm to human beings or domestic animals.
- c) A person found guilty of violating this Article shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by the seizure of an animal for the protection of the public, medical expenses incurred by a victim from an attack by a dangerous animal, and other expenses required for the destruction of the animal.
- d) A person owning a dangerous animal shall register the animal with the North Myrtle Beach Police Department. The requirements of the registration must be determined by the Chief of Police or his or her designee. However, the registration application must be accompanied by proof of liability insurance or surety bond of at least fifty thousand dollars (\$50,000) insuring or securing the owner for personal injuries inflicted by the dangerous animal.
- e) Nothing in this Chapter is designed to abrogate any civil remedies available under statutory or common law.

Sec. 4-18. When person is lawfully on premises; authority to use force to repel attack by dangerous animal when lawfully on premises; no liability for action taken to repel or restrain unprovoked attack of dangerous animal.

- a) A person lawfully is upon the premises of the owner within the meaning of this Chapter when he is on the premises in the performance of a duty imposed upon him by the laws of this State, by the laws or postal regulations of the United States or the laws/ordinances of this City, when he is on the premises upon invitation, expressed or implied, of the owner, or when he is in the performance of a duty relative to public safety, which includes policemen, firemen, or other authorized personnel. A person may ingress to and egress from the premises for a purpose connected with the performance of the public safety duty.

- b) A person who lawfully is on the owner's premises and who is attacked by a dangerous animal or witnesses the attack may use reasonable force to repel the attack. A person is not liable for damages or otherwise for action to repel or action taken to restrain or control an animal from an unprovoked attack.

Sec. 4-19. The Presiding Judge for the North Myrtle Beach Municipal Court shall have jurisdiction over all matters regarding this Chapter.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2024

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 8.19.2024

SECOND READING: 9.16.2024

REVIEWED:

City Manager

ORDINANCE: 24-34