

## **Chapter 3 ANIMALS AND FOWL**

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## **ARTICLE III. DOG AND CAT REGULATIONS**

### **ARTICLE I. BIRD SANCTUARY**

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#### **§ 3-1. Established.**

The entire area embraced within the corporate limits of the City of Fayette, Alabama, be and the same is hereby designated as a bird sanctuary.

(Ord. of 2-19-68, § 1)

#### **§ 3-2 Bird Sanctuary - Restrictions, Exception**

It shall be unlawful to trap shoot, hunt or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests; provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the health authorities of the City of Fayette, Alabama, then in such event, such health authorities shall meet with the representatives of the Fayette Garden Club, after having given at least three (3) days' actual notice of the time and place of said meeting to the representatives of said club.

(Ord. of Feb. 19, 1968, § 2.)

#### **§ 3-3 Bird Sanctuary - Destruction of Nuisance**

If, as a result of said meeting, no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under the supervision of the chief of police of the City of Fayette, Alabama. (Ord. of Feb. 19, 1968, § 3.)

### **§ 3-4 Penalty for Violation**

Anyone violating the provisions of this article shall be punished by a fine of not less than one (\$1.00) dollar and not more than two hundred (\$200.00) dollars or imprisoned for a term not exceeding thirty (30) days.

(Ord. of Feb. 19, 1968, § 4.)

## **ARTICLE II - ANIMALS - PROHIBITED ACTS**

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### **§ 3-5 Cruelty to Animals Prohibited**

Any person who overrides, overdrives, overloads, tortures, torments, mutilates, deprives of necessary sustenance, or cruelly kills, beats, bruises, wounds, causes or procures to be overridden, overdriven, overloaded, driven while overloaded, cruelly beaten, mutilated or cruelly killed, any domestic animal whether belonging to himself or another, or any person, either as owner or otherwise, who inflicts unnecessary cruelty upon the same, or upon any living creature, or who uses, works, rides, or employs, in any manner, any bruised, maimed, sick or lame beast of burden or working animal, or who fails to provide any domestic animal with proper food, drink or protection from the weather, must, on conviction, be fined not less than one (\$1.00) dollar nor more than five hundred (\$500.00) dollars. (Code of Fayette, 1919, § 414; for similar state law, see: Code of Alabama, § 3-1-12.)

### **§ 3-6 Maliciously Killing or Injuring Animals or Property of Another Prohibited; Penalty**

Any person, within the corporate limits of the City of Fayette, who unlawfully and maliciously kills, disables, disfigures, destroys or injures any animal, or article, or commodity of value, the property of another, must, on conviction, be fined not more than five hundred (\$500.00) dollars; and so much of the fine as may be necessary to repair the injury or loss shall go to the party damaged.

(Code of Fayette, 1919, § 433.)

### **§ 3-7 Malicious Killing or Maiming Animals of Another Prohibited; Penalty**

Any person, within the corporate limits of the City of Fayette, who unlawfully or wantonly kills, disables, disfigures, destroys or injures any horse, mare, gelding, colt, filly, mule, jack, jenny, bull, ox, cow, calf, heifer, hog, goat, or sheep, the property of another, must, on conviction, be fined not less than twice the value of the injury to the animal killed, disabled, disfigured, destroyed or injured, nor more than five hundred (\$500.00) dollars; and one half (1/2) of the fine imposed shall go to the owner of the property. (Code of Fayette, 1919, § 434; for similar state law, see: Code of Alabama, § 3-1-10.)

**§ 3-8. Bringing in animals afflicted with contagious diseases prohibited; penalty.**

Any person who knowingly brings into the city any horse or mule having glanders, nasal gleet, or other infectious or contagious diseases whereby the health or life of any other horse or mule shall be endangered must, on conviction, be fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00).

(Code of Fayette, 1919, § 415)

**§ 3-9. Disposing of dead animals; penalty.**

Any person who throws or otherwise conveys any offal, or dead animal or fowl on any lot, house, street, or alley within the city, thereby creating an offensive odor, shall be guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one dollar (\$ 1.00), and not more than fifty dollars (\$50.00).

(Code of Fayette, 1919, § 370)

**§ 3-9.1. Keeping of swine; penalty.**

- (a) *Unlawful.* It shall be unlawful for any person to keep swine, pigs, hogs, shoalts or animals of like kind within the corporate limits of the city. This section, however, shall not prevent the temporary presence of such animals within the city in connection with fairs, exhibits, festivals and similar purposes.
- (b) *Penalty.* A violation of any of the provisions of this section by any person constitutes a misdemeanor. Any person who shall violate any of the provisions of this section shall be fined not less than one dollar (\$1.00) and not more than five hundred dollars (\$500.00) and may be imprisoned or sentenced to jail or hard labor for a period not exceeding six (6) months, or both, at the discretion of the court.

(Ord. No. 1988-04, §§ 1, 2, 12-19-88)

**Editor's note—**

Ord. No. 1988-04, §§ 1, 2, adopted Dec. 19, 1988, did not specifically amend the Code, hence inclusion herein as [§ 3-9.1](#) was at the discretion of the editor.

**ARTICLE III. DOG AND CAT REGULATIONS <sup>11</sup>**

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### **§ 3-10. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal:* Any animal including, but not limited to, any cow, horse, sheep, hog, goat, dog, cat, reptile or fowl, unless otherwise specifically excluded.

*Animal shelter:* The place designated or used as such by the city for the maintenance and operation of a pound.

*At large:* Any animal which is off the property of its owner and not carried by such person, or any animal not kept in an effective enclosure or under control by such person by means of a leash in such a way as to prevent its free movement, and so as to prevent the animal from freely charging or attacking persons or animals.

*Cat:* All members of the domestic feline family.

*Dog:* All members of the domestic canine family.

*Owner:* Any person owning, harboring, keeping or having charge, custody, control or possession of an animal within the city, and all the adult members of the household where an animal is regularly kept or allowed or suffered to remain on or about the premises.

(Ord. No. 1986-03, § 1, 4-7-86; Ord. No. 1988-03, § 1, 10-3-88; Ord. No. 2001-07, § 2, 5-3-01; Ord. No. 2009-02, § 1, 6-9-09)

### **§ 3-11. Inoculation and inoculation tag required generally,**

- (a) It shall be unlawful for any person to own, possess, keep or harbor a dog or cat three (3) months of age or older within the city without having such dog or cat inoculated annually against rabies, as required by § 3-7A-1 et seq., Code of Alabama, 1975.
- (b) Every dog or cat over the age of three (3) months shall wear a substantial, durable collar or harness, to which the inoculation tag shall be attached. It shall be unlawful to attach such tag by wire, rope or other inhumane means. No person shall remove the collar or harness or inoculation tag, or either from any dog or cat without the consent of its owner.
- (c) It shall be unlawful for any person to permit or allow any dog or cat in his charge or control to wear a dog or cat inoculation tag issued for a different dog or cat.

(Ord. No. 1986-03, § 2, 4-7-86; Ord. No. 2001-07, § 3, 5-3-01)

**§ 3-12. Inoculation tag required on dogs and cats at large.**

It shall be unlawful for any person to permit to run or be upon a street, alley, sidewalk, thoroughfare or public place within the city, unless secured by a suitable leash, any dog or cat which does not have attached to it a dog or cat inoculation tag, as required by [section 3-11](#). Nothing contained in this section shall be construed as permitting any such dog or cat, whether tagged or untagged, to become a nuisance or to run at large upon the premises of any person other than the owner thereof.

(Ord. No. 1986-03, § 3, 4-7-86; Ord. No. 2001-07, § 4, 5-3-01)

**§ 3-13. Impounding of dogs and cats generally.**

Any dog or cat found at large on any street, alley, sidewalk, thoroughfare or public place in the city which does not have attached to it an inoculation tag duly issued for it for the then current year, is hereby declared to be a public nuisance, and it shall be the duty of the animal control officer, to take up and impound every such dog and cat. Any such dog or cat, so impounded, may be redeemed from the pound by the owner thereof within seven (7) days from impoundment thereof, by paying to the pound the costs of keeping such dog or cat in the pound, at the rate of seven dollars (\$7.00) per day. Every such dog or cat which has remained in a pound for seven (7) days and which has not been redeemed or retaken by the owner within such time may be placed with or adopted by a third person. No notice of the impounding of any dog or cat shall be required to be given to any owner of any such dog or cat or to the person having control thereof unless such owner or person having charge or control is known or unless such dog or cat bears an identification tag, and in either event immediate notice shall be given to the owner of such dog or cat if he or she may be found, which notice shall be given before such dog or cat may be destroyed in a humane way. No such dog or cat shall be released from a pound, either to the owner or to the adoptee, unless and until the same shall have been inoculated, as prescribed by [section 3-11](#) of this article. Dogs or cats not redeemed, placed or adopted as herein provided shall be destroyed by the animal control officer in a humane manner. Diseased or injured dogs or cats impounded under this section shall be destroyed by the animal control officer in a humane manner without delay.

(Ord. No. 1986-03, § 4, 4-7-86; Ord. No. 2001-07, § 5, 5-3-01)

**§ 3-14. Appointment of animal control officer and assistants.**

The city council shall appoint an animal control officer. The city council, in its discretion, may appoint as animal control officer the chief of police or some other person already in the employ of the city or it may contract with a private individual or corporation to provide the services of animal control officer and to provide a facility in which to impound dogs and cats. The city council may appoint such additional persons as his assistants as may be required.

(Ord. No. 1986-03, § 5, 4-7-86; Ord. No. 2001-07, § 6, 5-3-01)

**§ 3-15. Dog or cat on premises other than own.**

Any dog or cat whether wearing a tag or not, which is found upon the premises of a person other than the owner or keeper thereof, shall, at the request of the owner of such premises, being impounded by the animal control officer or his assistants, and the owner thereof, if known, shall be notified of such impoundment. Such dog or cat may be redeemed upon payment of cost of keeping the dog or cat. If not redeemed by the owner thereof within seven (7) days, the dog or cat shall be subject to disposition as provided for in [section 3-13](#) of this article.

(Ord. No. 1986-03, § 6, 4-7-86; Ord. No. 2001-07, § 7, 5-3-01)

**§ 3-16. Officers authorized to go on premises.**

The animal control officer, his assistants or any police officer of the city shall have the right for the public health, welfare and safety, to enter upon any property within the city for the purposes of capturing any dog or cat running at large or capturing any dog or cat upon written complaint that such dog or cat has bitten a human being, or capturing any vicious dog, or capturing any rabid dog or cat. It shall be unlawful for any person to hinder, molest or interfere with any such officer who is authorized or empowered to perform any duty under this article.

(Ord. No. 1986-03, § 7, 4-7-86; Ord. No. 2001-07, § 8, 5-3-01)

**§ 3-17. Rabid dogs or cats.**

When any dog or cat is apparently suffering from rabies, the animal control officer or any police officer may lawfully destroy such dog or cat in a humane manner wherever such dog or cat is apprehended, without the necessity of impounding the same.

(Ord. No. 1986-03, § 8, 4-7-86; Ord. No. 2001-07, § 9, 5-3-01)

**§ 3-17.1. Impoundment of dog or cat which has bitten a person.**

Whenever the police department, animal control officer, his assistants or rabies inspector shall receive information that any person has been bitten by a dog or cat, the police department, rabies inspector or animal control officer or his assistants shall have the said dog or cat confined under the direct care, custody and control and supervision of a licensed veterinarian for a period of ten (10) days. It shall be unlawful for any person having knowledge that any person has been bitten by any such dog or cat to refuse to notify promptly one (1) or more of the officers mentioned in this section. It shall be unlawful for the owner of any such dog or cat to refuse or fail to comply with any said recommendation made by the animal control officer, rabies inspector or police department in any particular case. It shall be unlawful for the owner of such dog or cat to refuse to deliver possession of any such dog or cat to any of said officers demanding possession of said dog or cat, and the police department, rabies inspector or animal control officer shall have the right to go upon the premises of the owner of the dog or cat and forcibly take said dog or cat and place said dog or cat with a licensed veterinarian. Any expenses incurred in the handling of any such dog or cat, including the fees of the licensed veterinarian and board of said dog or cat, shall be borne by the owner, and said dog or cat shall not be returned to the owner until said fees are paid to said licensed veterinarian; if the owner refused to pay said fees to the licensed veterinarian and said dog or cat is determined not to be rabid by the licensed veterinarian, the said veterinarian shall deliver said dog or cat to the pound pen and said dog or cat shall not be delivered or returned to the owner until all fees and expenses have been collected. If the owner neglects, fails or refuses to pay said fees, the said dog or cat shall be disposed of as provided for in [section 3-13](#) of this article. The veterinarian under whose care a dog or cat has been committed shall report the results of his observations of said dog or cat to the person bitten or his physician or, in the case of a minor, to the parent or physician of the minor, or custodian or guardian of the minor.

(Ord. No. 1986-03, § 9, 4-7-86; Ord. No. 2001-07, § 10, 5-3-01)

**§ 3-17.2. Reserved.**

**Editor's note—**

Section 2 of Ord. No. 2009-02, adopted June 9, 2009, deleted [§ 3-17.2](#), which pertained to vicious or dangerous dogs generally and derived from Ord. No. 1986-03, adopted Apr. 7, 1986; and Ord. No. 1988-03, adopted Oct. 3, 1988. See [§ 3-44](#) for similar provisions.

**§ 3-17.3. Reserved.**

**Editor's note—**

Section 3 of Ord. No. 2009-02, adopted June 9, 2009, deleted [§ 3-17.3](#), which pertained to enclosures for vicious or dangerous dogs—posting of premises, and derived from Ord. No. 1986-03, adopted Apr. 7, 1986; and Ord. No. 1988-03, adopted Oct. 3, 1988. See [§ 3-44](#) for similar provisions.

**§ 3-17.4. Reserved.**

**Editor's note—**

Section 4 of Ord. No. 2009-02, adopted June 9, 2009, deleted [§ 3-17.4](#), which pertained to enclosure for vicious or dangerous dogs—authority of police chief and police officers when enclosures are determined to be inadequate, and derived from Ord. No. 1986-03, adopted Apr. 7, 1986; Ord. No. 1988-03, adopted Oct. 3, 1988; and Ord. No. 2001-07, adopted May 3, 2001. See [§ 3-44](#) for similar provisions.

**§ 3-17.5. Keeping of more than three dogs.**

It shall be unlawful for a person, firm or corporation to keep more than three (3) dogs within a pen or enclosure within any R-1, R-2 or R-3 Residential District, or R-4 Mobile Home Subdivision District or a RMH-1 Mobile Home Park District as zoned by the planning commission of the City of Fayette, except that they may be kept in any zoning district in a pen or enclosure which is at least three hundred (300) feet from any residence or private home other than owner or keeper.

(Ord. No. 1986-03, § 13, 4-7-86)

**§ 3-17.6. Abandonment of dog or cat.**

It shall be unlawful for any person to abandon or set loose any dog or cat within the City of Fayette with the intention of avoiding the responsibility of the custody or care of such animal.

(Ord. No. 1986-03, § 14, 4-7-86; Ord. No. 2001-07, § 12, 5-3-01)

**§ 3-17.7. Penalties; fines and payment of expenses.**

- (a) A violation of any of the provisions of this article by any person shall constitute a misdemeanor. Any person who shall violate any of the provisions of this article shall be fined not less than one dollar (\$1.00) and not more than five hundred dollars (\$500.00) and may be imprisoned or sentenced to jail or hard labor for a period not exceeding six (6) months, or both, at the discretion of the court.
- (b) Any person found guilty of violating this article shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal, or boarding and veterinary expenses necessitated by the seizure of any dog or cat for the protection of the public, and such other expenses as may be required for the destruction of any such dog or cat.
- (c) The provision of this article shall not have applicability to dogs while engaged in police service training at a recognized and duly licensed facility and under supervision of professional instructors.

(Ord. No. 1986-03, § 15, 4-7-86; Ord. No. 1988-03, § 5, 10-3-88; Ord. No. 2001-07, § 13, 5-3-01)

**§ 3-17.8. Severability.**

If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court, such a decision shall not affect the validity of the remaining portions of this article.

(Ord. No. 1988-03, § 6, 10-3-88)

**§ 3-17.9. Tethering near property line.**

It shall be unlawful for the owner of any dog to tie, chain or tether such dog that it has access to public property or the property of another without the consent of the owner or person in charge of such property.

(Ord. No. 2000-07, § 1, 6-21-00)

**§ 3-17.10. Barking or howling dogs.**

It shall be unlawful for the owner of any dog kept within the city to allow the loud and frequent, or continued, barking, howling or yelping of such dog to continue for any interval of ten (10) minutes or more between the hours of 6:00 p.m. and 6:00 a.m., or to allow such barking, howling or yelping to repeatedly awaken any neighbor from sleep at any time, or to allow such barking, howling or yelping to repeatedly interfere with the lawful right of any neighbor to enjoy the use of such neighbor's premises for social, recreational or business purposes.

(Ord. No. 2000-07, § 2, 6-21-00)

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 1986-03, §§ 1—15, adopted April 7, 1986, did not specifically amend the Code, but has been included herein as superseding Ch. 3, Art. III, at the discretion of the editor. Prior to codification of Ord. No. 1986-03, Ch. 3, Art. III derived from Code of Fayette, 1919, §§ 230—232, 424, 435; Ord. of 9-2-57, amd. 4-17-67, § 1 and Ord. of 9-2-57, § 2. ([Back](#))

**ARTICLE IV. ANIMALS AND FOWL RUNNING AT LARGE**

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**DIVISION 1. ANIMALS RUNNING AT LARGE**

[§ 3-18. Unlawful to allow diseased stock to run at large; penalty.](#)

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[§ 3-20. Unlawful to stake, tie or picket stock on public property or property of another.](#)

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**§ 3-18. Unlawful to allow diseased stock to run at large; penalty.**

Any person being the owner of, or having in his control, any animal diseased with glanders, distemper or other contagious disease, who allows such animal to go at large in the city shall be guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one dollar (\$1.00) and not more than fifty dollars (\$50.00).

(Code of Fayette, 1919, § 367)

**§ 3-19. Unlawful for stock to run at large.**

It shall be unlawful for horses, mules, jacks, jennets, mares, colts, cows, calves, bulls, yearlings, sheep, oxen, goats, kids, or hogs to go at large within the corporate limits of the city.

(Code of Fayette, 1919, § 377)

**State law reference**— Similar provisions, Code of Alabama, § 3-5-2.

**§ 3-20. Unlawful to stake, tie or picket stock on public property or property of another.**

It shall be unlawful to stake, tie, or picket any horse, mule, jack, jennet, mare, colt, cow, calf, bull, yearling, sheep, ox, goat, kid, or hog, on any street, sidewalk, public property, or property owned by another within the corporate limits of the city for the purpose of grazing such animals, and any animal so tied, staked, or picketed shall be deemed to be at large.

(Code of Fayette, 1919, § 378)

**§ 3-21. Stock running at large—To be sold to highest bidder.**

It shall be the duty of the chief of police to take possession of any such stock running at large and to immediately notify the owner or person, if known, having control of same, who may reclaim the same any time before a sale thereof by paying the fees and costs hereinafter provided for. The chief of police shall immediately advertise and sell any such stock so taken possession of, and such advertisement shall be by posting notices in three (3) public places in the city for at least three (3) days before the sale, and all sales hereunder shall be to the highest bidder for cash.

(Code of Fayette, 1919, § 379)

**§ 3-22. Same—Fees to be paid.**

The chief of police shall be entitled to a fee as provided by the council for each such animal so taken by him and for each day he retains such animal in his possession, which shall be paid by the owner when reclaimed; otherwise, out of the proceeds of the sale thereof. The proceeds of the sale of such stock over and above the aforementioned fees shall be turned over to the owner, if known; otherwise, it shall be turned over to the city treasurer, and after the lapse of six (6) months, if not demanded by the owner, shall become the absolute property of the city.

(Code of Fayette, 1919, § 380)

**§ 3-23. Penalty for violation.**

Any person being the owner or having under his control any stock mentioned in the preceding sections hereof, who knowingly permits any such stock to go at large within the corporate limits of the city, shall be fined not less than one dollar (\$1.00), and not more than ten dollars (\$10.00).

(Code of Fayette, 1919, § 381)

**Division 2 - Fowl Running at Large**

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**§ 3-24 Unlawful to Allow Fowl to Run at Large**

It shall be unlawful for the owner of any chicken, guinea, turkey, goose or duck, to knowingly, voluntarily, negligently, or willfully permit any such fowls to go at large on the premises of another, within the corporate limits of the City of Fayette, Alabama. The owner of such fowls so permitted to run at large shall be liable to any person injured thereby for all damages done to crops, gardens, vegetables, shade or fruit trees, grass, flowers or ornamental shrubs of another, to be recovered before the Recorder of the City of Fayette, Alabama, and the judgment of the Recorder against the owner of such fowl so depredating shall be a lien superior to all liens on the fowls causing the injury, in addition to other execution and judgment liens prescribed by law or ordinance.

(Code of Fayette, 1919, § 315.)

**§ 3-25 Fowl - Defined**

The term "fowl" or "fowls" where it appears in this Code shall be held to include chicken, geese, turkeys, ducks and guineas. The terms, "chicken, turkey, geese, ducks and guineas," shall be held to include male and female and to include all ages of said chicken, geese, turkeys, guineas and ducks.

(Code of Fayette, 1919, § 321.)

**§ 3-26 Procedure for Taking Up Fowl Found at Large**

Any person who is the owner of or in lawful possession of any land, or his agent, shall have the right to take possession of any chicken, guinea, turkey, goose or duck found at large and uncontrolled on his premises, or premises of which he has charge, and when so taken up, he shall notify personally the owner of such fowls, when known, or by leaving a written notice at the usual place of residence of such owner, within twelve (12) hours after taking up such fowls. If the owner is unknown, the person taking up

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the fowl or fowls shall, within twenty (24) four hours after so taking up the fowl or fowls, file a statement in writing with the Recorder of the City of Fayette setting forth:

- a. The name of the person taking up the fowl or fowls;
- b. A description of the fowls as to kind, sex, color and apparent age and where taken up; and
- c. The amount of charges claimed for taking up and caring for the fowls.

(Code of Fayette, 1919, § 316.)

### **§ 3-27 Ascertaining Damages of Fowl at Large**

The Recorder shall thereupon immediately proceed to inquire and ascertain the amount of such damages and charges, and if he shall ascertain and determine that such fowls were unlawfully at large on the premises of another, he shall make and enter on his docket an order in substance as follows:

It appears on the complaint of A. B. that a chicken (guinea, turkey, goose or duck as the case may be) was unlawfully on the premises or land of A. B. (or C. S. as the case may be), and that the owner thereof is unknown and that such fowl has damaged the crop (garden, vegetables, shade trees, or fruit trees, grass, flowers, or ornamental shrubbery) of A. B. (or C. D.) to the amount of ..... dollars, and that the said A. B. is entitled to ..... dollars for taking up and caring for said fowl, and that the said fowl be sold for the satisfaction thereof.

(Code of Fayette, 1919, § 317.)

### **§ 3-28 When Judgment is Against Complainant**

If, upon the trial of any suit or proceeding brought hereunder, it is ascertained and adjudged by the Recorder that the fowl taken up by the party complaining was not unlawfully at large upon the premises of another, he shall render a judgement directing that such fowl or fowls be discharged, and tax the party complaining with all the costs.

(Code of Fayette, 1919, § 318.)

### **§ 3-29 Rights of Person Taking Up Fowl at Large**

The person taking up such fowl or fowls shall be entitled to the possession thereof until the judgment which may be recovered as herein provided is paid, together with the costs of the same, and the cost of keeping and caring for after such judgment, or until the same is sold under execution to satisfy said judgment, or until the damage, which may be ascertained as hereinafter provided, be paid.

(Code of Fayette, 1919, § 319.)

### **§ 3-30 Settlement; Trial; Appeal**

The owner of any fowl or fowls which have been seized, as provided herein, shall have the right to the possession of the same by paying such judgment and cost thereof, or by paying the damages, fees, costs and expenses due on account of such seizure to the person so seizing such fowl or fowls; but should the parties be unable to agree upon the amount of damages, fees, costs and expenses due, either party shall have the right to go before the Recorder of the City of Fayette, Alabama, where such fowl or fowls are taken up, and have the issue tried instantly, or as soon as practicable, on a written statement or complaint setting forth in substance the facts of such seizure, first giving the opposite party six (6) hours notice thereof, and said issue shall involve the validity of such seizure, and the amount of damages, fees, costs and expenses, under the provisions of this article. The judgment of said Recorder shall have all the force and effect of a judgment in any other case at law, and be executed in the same manner as judgments of justice courts is enforced under the laws of the State of Alabama. The owner of such

property so taken up may give bond in double the value of the same, payable to the person so taking up said property, to be approved by the Recorder before whom the proceedings are pending, conditioned to deliver the property to the chief of police or other legal officer having the writ of execution or order of sale issued on such judgment to satisfy such judgment rendered in said cause, within five (5) days after such judgment to satisfy such judgment as to damages and costs.

If, upon the trial, it is shown that the owner of said fowl or fowls tendered to the plaintiff a full and fair compensation for the damages before the suit, and pays the same to the court, then the suit shall be dismissed at the costs of the plaintiff. On the trial of such issues, the party taking up such fowls shall be the plaintiff in the action. In case the owner is unknown, the Recorder shall determine the validity of the seizure and the amount of the damages, fees, costs and expenses, under the provisions of this article, from such evidence as shall be adduced before him. The fees and costs of the Recorder and policeman shall be the same as the fees and costs in courts of the State of Alabama, under the general laws for like services. From any judgment rendered by the Recorder, under the provisions of this article, an appeal may be taken to the circuit court within Fayette County, Alabama, within five (5) days from the rendition of such judgments.

(Code of Fayette, 1919, § 320.)

### **§ 3-31 Fowl Found at Large - When to be Sold**

If the owner or his agent shall not, under the provisions of this article, when he has made no bond as above provided, reclaim his fowl or fowls in twelve (12) hours after the Recorder shall have ascertained such damages, then the Recorder shall order the same sold by the policeman of the city, or by some one appointed to act as such, and the policeman or person appointed to act as such, upon the making of such order shall sell the same upon giving one day's notice of such sale by posting a written or printed notice at three (3) public places in the City of Fayette, one of which places shall be the post office, and, out of the proceeds, pay the expenses of such sale and of taking up and of the fees and damages due the plaintiff and of making the order of sale and the keeping and caring for, and the order of condemnation, and the balance must be paid to the owner of such fowl or fowls, if known, and if not known then into the city treasury.

(Code of Fayette, 1919, § 321.)

### **§§ 3-32—3-39. Reserved.**

## **ARTICLE V. DANGEROUS ANIMALS AND PROHIBITED ANIMALS**

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#### **DIVISION 1. DANGEROUS ANIMALS**

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### **§ 3-40. Definition of dangerous animal.**

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

- (1) Any dog or cat which has a disposition, propensity or tendency to attack or bite any person or domesticated animal without provocation; or cause injury or otherwise endanger the safety of any person or other domesticated animal as evidenced by its repeated chasing or snapping. Any dog that has been trained for fighting or is kept primarily for the purpose of fighting. For the purposes of this article, where the dog or cat has bitten any person, it shall be prima facie evidence that the dog or cat is a dangerous animal. Any dog which is known by the owner 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.
- (2) Any domesticated dog that has in its known genetic history and/or formal pedigree crossbreeding with the wolf species to include, but not be limited to, animals referred to as a wolf-hybrid, wolf-mix breeds or the breed known as Tundra Shepherd.
- (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.
- (4) Any pit bull dog, which shall be defined to mean:
  - a. The bull terrier breed of dog;
  - b. Staffordshire bull terrier breed of dog;
  - c. American pit bull terrier breed of dog;
  - d. American Staffordshire terrier breed of dog;
  - e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers;
  - f. Any dog which has the appearance and characteristics of being predominantly of the breeds bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of those breeds.

*Note:* As of July 3, 2009, a pit bull dog is a prohibited animal and is subject to the provisions of [§ 3-70](#) et seq.

(Ord. No. 2009-02, § 5, 6-9-09)

### **§ 3-41. Prohibition on dangerous animals.**

Except as provided in sections [3-42](#), [3-43](#), and [3-44](#), it shall be unlawful to own, harbor, keep or have charge, custody, control or possession of any dangerous animal in the city.

(Ord. No. 2009-02, § 5, 6-9-09)

### **§ 3-42. Exceptions.**

- (a) Any person who falls into one (1) of the following subsections shall be permitted to own, harbor, keep or have charge, custody, control, or possession of a dangerous animal, provided the person has first secured a permit in accordance with the provisions of this article.
  - (1) A circus, carnival or other exhibit, training, competition or show by which the animals are kept for exhibition to the public.
  - (2) A bona fide, licensed veterinary clinic where the animals are kept for treatment.
  - (3) Private individuals who have registered a dangerous animal and complied with all applicable requirements of this article.
  - (4) The humane society, except that the agency is only exempt from the permit requirements of this article.
  - (5) A law enforcement agency which maintains an animal trained and certified to assist in law enforcement. Such an agency is also exempt from the permit requirements of this article.
- (b) The provisions of this article shall not apply to the transportation of a dangerous animal through the 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.

(Ord. No. 2009-02, § 5, 6-9-09)

### **§ 3-43. Exceptions for dangerous animal.**

An animal 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 of the animal or was teasing, tormenting, abusing or assaulting the animal 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 animal alleged to be dangerous.
- (3) When the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault.
- (4) When an injury to a domestic animal was sustained while a dog was working as a hunting dog, herding dog or predator control dog on the property or under the control of its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
- (5) When the animal 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 animal such as sleeping or eating.

(Ord. No. 2009-02, § 5, 6-9-09)

### § 3-44. Permit and registration requirements for dangerous animals.

The keeping of a dangerous animal shall be subject to the following mandatory requirements:

- (1) *Confinement.* A dangerous animal 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 two (2) feet. All structures used to confine a dangerous animal must be locked with a key or combination lock when such animals are within the structure. All structures erected to house a dangerous animal must comply with all zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (2) *At large.* No person shall permit a dangerous animal to be at large. It shall be no defense in any prosecution that such animal was at large or improperly confined, leashed or muzzled without the knowledge, consent or permission of the person charged with the violation.
- (3) *Leash and muzzle or crate.* No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than three (3) feet in length and under the control of a competent adult. As an alternative, the animal may be confined in a locked crate 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 animal 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 animal 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 animals may not be leashed to inanimate objects such as trees, posts or buildings. In addition, a dangerous animal on a leash outside of the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animals from biting persons or other animals.
- (4) *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal 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 animal from exiting the structure.
- (5) *Signs.* All owners of a dangerous animal 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.
- (6) *Insurance.* All owners of a dangerous animal must have liability insurance in a single incident amount of at least one hundred thousand dollars (\$100,000.00) specifically covering any damage or injury which may result from the ownership, keeping or maintenance of such animal. The policy shall contain a provision requiring the city to be named as an additional insured for the sole purpose of being notified by the insurer of any cancellation, termination or expiration of the liability insurance policy. At the time of the initial registration the owner must present proof to the police chief of the required insurance. At the time of subsequent registration the owner must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year. In the event the liability insurance

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is canceled, lapsed, or for any other reason becomes nonenforceable, the owner shall be in violation of the provisions of this article and subject to the penalties provided herein.

- (7) *Identification photographs.* All owners of a dangerous animal must provide to the police chief two (2) color photographs of the animal clearly showing the color and approximate size of the animal.
- (8) *Reporting requirements.* All owners of a dangerous animal must within ten (10) 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 animal;
  - b. The birth of offspring of the animal;
  - 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 animal is transferred.
- (9) *Sale or transfer of ownership prohibited.* No person shall sell, barter or in any other way dispose of a dangerous animal registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such animal; provided that the owner of a dangerous animal may sell or otherwise dispose of a registered animal or its offspring to persons who do not reside within the city.
- (10) *Animals born of registered animal.* All offspring born of a dangerous animal registered with the city must be removed from the city within six (6) weeks of birth.

(Ord. No. 2009-02, § 5, 6-9-09)

### **§ 3-45. 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 article, the police chief 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 of a dangerous animal, the police chief shall send written notice to such person requiring such person to either obtain a permit for such animal or remove the animal from the city within five (5) days of the date of notice. Such notice shall not be required where the dangerous animal has previously caused physical harm to any person or has escaped and is at large; in those instances the police chief shall cause the animal to be immediately seized and impounded, according to the provisions of [section 3-46](#), or killed if seizure and impoundment are not possible without risk of serious physical harm to any person.

(Ord. No. 2009-02, § 5, 6-9-09)

### **§ 3-46. Seizure and impounding of dangerous animals.**

The police chief shall cause to be seized and impounded any dangerous animal, where the owner has failed to comply with the notice sent pursuant to [section 3-45](#). Upon a seizure and impoundment, the animal shall be delivered to a place of confinement. If, during the course of seizing and impounding any such animal, it poses a risk of serious physical harm or death to any person, then the animal may be killed.

(Ord. No. 2009-02, § 5, 6-9-09)

### **§ 3-47. Impoundment.**

Any animal seized under this article shall be confined at the animal shelter for a period of not less than seven (7) calendar days. The period shall be extended to end on a day which is not a Saturday,



Sunday or municipal holiday. The animal shall be held at the animal shelter until the expiration of the detention period.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-48. Redemption of impounded animals by owner.**

The owner of any animal confined under the provisions of this article may recover the possession of such animal upon payment of the charges set forth in [section 3-49](#), provided that evidence is presented that the animal has been inoculated for rabies in the past twelve (12) months and also evidence that all required permit fees have been paid to the city for the current year. If the owner is unable to produce a certificate or satisfactory evidence of inoculation and of permitting, then such animal shall not be released.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-49. Fees and charges.**

The animal shelter shall be entitled to and shall receive a fee for confining and keeping each and every animal, plus the cost of any veterinary services deemed necessary to the well-being of the animal.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-50. Destruction of animals authorized.**

After an animal has been confined for the period of time provided by [section 3-47](#), and if the owner fails to recover possession of such animal as provided in this article, or fails to pay the charges as provided in this article, or if satisfactory evidence as required by [section 3-48](#) was not provided, then such animal shall be destroyed.

Any police officer who is assisting in impounding any animal shall have the authority to shoot and kill such animal if in attempting to capture the animal it shall become an immediate hazard to the safety of such person or to the safety of persons or animals in the vicinity.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-51. Permit required.**

- (a) No owner 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 police chief shall be adequate grounds for seizing and impounding the animal to allow the owner to obtain a permit. The owner shall be responsible for paying all fees and costs of the impoundment. If no permit is obtained within seven (7) days, the animal will be subject to summary destruction.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-52. 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.

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(Ord. No. 2009-02, § 5, 6-9-09)

### § 3-53. Application for permit.

- (a) An application for any permit required pursuant to this article 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 the structure, locks and fencing.
  - (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) Proof of required inoculations.
  - (12) Any additional information required by the police chief at the time of filing such application.
- (b) The application shall be accompanied by payment of a fee of twenty-five dollars (\$25.00), or fifty dollars (\$50.00) in the case of a dog which has not been spayed or neutered.

(Ord. No. 2009-02, § 5, 6-9-09)

### § 3-54. 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 forty-five (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 forty-five (45) days prior to the expiration of the existing permit, then a late fee of five dollars (\$5.00) per day after the deadline shall be added to the fee.

(Ord. No. 2009-02, § 5, 6-9-09)

### § 3-55. Revocation and suspension of permits.

The police chief 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 and seizure of the animal. If the seized animal is not redeemed within seven (7) days, then the animal may be summarily destroyed.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-56. Costs paid by owner.**

Any cost incurred by the police chief or animal control officer in seizing, impounding, confining or disposing of any dangerous animal, pursuant to the provisions of this article shall be charged against the owner of such animal and shall be collected by the police chief.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-57. Failure to comply.**

It shall be unlawful for the owner of a dangerous animal to fail to comply with the requirements and conditions set forth in this article. Any animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition failure to comply will result in the revocation of the permit providing for the keeping of such animal. The city police officers are hereby authorized and empowered, in lieu of placing persons under custodial arrest, to issue a summons and complaint to any person charged with violating this article with the Uniform Non-Traffic Citation and Complaint (UNTCC) serving as the charging instrument.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-58. Violations and penalties.**

Any person violating or permitting the violating of any provision of this division shall, upon conviction in the municipal court, be fined a sum of not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00). In addition to the fine imposed, the court may sentence the defendant to imprisonment for a period not to exceed six (6) months. In addition, the court may order the registration of the animal revoked and the animal removed from the city. Should the defendant refuse to remove the animal from the city, the municipal judge may find the defendant in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-59. Severability.**

If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court, such decision shall not affect the validity of the remaining portions of this article.

(Ord. No. 2009-02, § 5, 6-9-09)

**§§ 3-60—3-69. Reserved.**

**DIVISION 2. PROHIBITED ANIMALS**

[§ 3-70. Prohibited animals.](#)

[§ 3-71. Prohibition.](#)

[§ 3-72. Exception.](#)

[§ 3-73. Failure to comply.](#)

[§ 3-74. Violations and penalties.](#)

**§ 3-70. Prohibited animals.**

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

- (1) Any pit bull dog. "Pit bull dog" is defined to mean:
  - a. The bull terrier breed of dog;
  - b. Staffordshire bull terrier breed of dog;
  - c. American pit bull terrier breed of dog;
  - d. American Staffordshire terrier breed of dog;
  - e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers;
  - f. Any dog which has the appearance and characteristics of being predominantly of the breeds: bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of those breeds.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-71. Prohibition.**

As of July 3, 2009, it shall be unlawful to keep, harbor, own or have charge, custody, control or possession of a prohibited animal within the corporate limits of the city.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-72. Exception.**

The provisions of [section 3-71](#) are not applicable to owners of a prohibited animal registered with the city on the effective date of this section. The keeping of such prohibited animal, however, shall be subject to the same conditions, standards and restrictions as a dangerous animal.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-73. Failure to comply.**

It shall be unlawful for the owner of a prohibited animal to fail to comply with the requirements and conditions set forth in this division. Any prohibited animal found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment. The city police officers are hereby authorized and empowered, in lieu of placing persons under custodial arrest, to issue a summons and complaint to any person charged with violating this article with the Uniform Non-Traffic Citation and Complaint (UNTCC) serving as the charging instrument.

(Ord. No. 2009-02, § 5, 6-9-09)

**§ 3-74. Violations and penalties.**

Any person violating or permitting the violating of any provision of this division shall, upon conviction in the municipal court, be fined a sum of not less than two hundred dollars (\$200.00) and not more than

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five hundred dollars (\$500.00). In addition to the fine imposed, the court may sentence the defendant to imprisonment for a period not to exceed six (6) months. In addition, the court may order the animal removed from the city. Should the defendant refuse to remove the animal from the city, the municipal judge may find the defendant in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

(Ord. No. 2009-02, § 5, 6-9-09)