

ORDINANCE NO. 418

AN ORDINANCE OF THE CITY OF PORT ST. JOE, FLORIDA AMENDING CHAPTER 14 OF THE CITY OF PORT ST. JOE CODE OF ORDINANCES RELATING TO THE REGULATION, LICENSING, VACCINATION, CONFINEMENT, CLASSIFICATION AND DISPOSAL OF CATS AND DOGS IN THE CITY OF PORT ST. JOE, FLORIDA, PROVIDING FOR DEFINITIONS, CITATIONS, ENFORCEMENT AND PENALTIES FOR VIOLATIONS, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PORT ST. JOE:

Chapter 14 of the City of Port St. Joe Code of Ordinances as set forth in Exhibit A attached hereto is hereby amended as follows:

SECTION 1. DEFINITIONS

As used in this Ordinance the following terms mean:

ANIMAL: For the purpose of this Ordinance animal shall mean dog, cat, or other domestic animal or fowl of any nature.

ANIMAL CONTROL OFFICER: The Gulf County animal control officers and the Sheriff of Gulf County and his designees and deputies, or such person or persons designated by the Board of City Commissioners of Port St. Joe to enforce this Ordinance.

ANIMAL CONTROL AUTHORITY: That certain Board designated by the Gulf County and/or the City and having the authority and power to enforce the Gulf County Animal Control Ordinance.

ANIMAL ESTABLISHMENT: Any pet shop, grooming shop, animal auction, performing animal exhibition, kennel, or animal shelter, except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provisions of U.S. Public Laws 89544 and 91579.

ANIMAL NUISANCE: Excessive barking, whining, howling, or other such noises, creating obnoxious smell, health hazard, etc.

ANIMAL SHELTER: Facility designated or recognized by the Gulf County Commission and/or the City for the purpose of impounding and caring for animals.

AT LARGE: An animal shall be deemed as being At Large when off the property of the owner and not under restraint.

CITATION SURCHARGE: Requires civil penalty to be doubled if the same infraction occurs within one year of the first offense.

CITY: The City of Port St. Joe

**CONFINED:** An animal will be considered confined if it is within a building, pen, fenced yard, vehicle, or on a leash or chain.

**DANGEROUS ANIMAL:** Any animal that according to the records of the appropriate authority:

a. Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property.

b. Has severely injured or killed a domestic animal while off the owners property.

c. Has been used primarily or in part for the purpose of fighting or is an animal trained for fighting.

d. Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

**HUMANE MANNER:** Care of an animal to include, but not be limited to, adequate heat, ventilation, and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

**KENNEL:** An establishment kept for the purpose of breeding, selling, or boarding animals or engaged in training animals. Additionally, any single parcel of land occupied by more than 7 dogs is hereby deemed to be a kennel and shall be required to meet the requirements of a kennel as set forth by law and as established by the Gulf County Humane Society regarding the size of cage, construction of pins, cleaning and sanitization.

**LICENSING AUTHORITY:** The agency or department of the Gulf County Commission and/or the City or any designated representative thereof charged with the issuance and/or revocation of permits and licenses under the authority of this Ordinance.

**NEUTERED:** Rendered permanently incapable of reproduction.

**PUBLIC NUISANCE OR NUISANCE ANIMAL:** An animal shall be considered a nuisance if it damages, soils, defiles, or defecated on private property other than the owner's or on public works recreation areas unless such waste is immediately removed and properly disposed of by the owner; or molests, attacks, or interferes with persons or other domestic animals on public property, causes an annoyance in the neighborhood by acts such as creating a noxious or offensive odor or health hazard which substantially affects persons beyond the owner's property boundaries or offensive excessive noise which substantially affects persons beyond the owner's property boundaries.

**OWNER:** A person having the right of property or custody of an animal or knowingly permits an animal to remain on or about the premises occupied by that person.

**PERSON:** Any individual, corporation, partnership, or institution commonly recognized by the law as a unit.

**RESTRAINT:** An animal shall be considered under restraint if it is confined within the real property limits of its owner or secured by a leash or lead.

**UNPROVOKED:** Unprovoked means that the victim who has been conducting himself or herself peacefully and lawfully and has been bitten or chased in a menacing fashion or attacked by an animal.

**SEVERE INJURY:** Any physical injury that results in broken bones, multiple bites, or disfiguring

lacerations requiring sutures or reconstructive surgery.

## SECTION 2: LICENSING AND RABIES VACCINATION

a. No person shall own or harbor any animal over the age of four (4) months of age within the City unless it is vaccinated. The provisions of this Section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter.

b. All animals shall be vaccinated against rabies by a licensed veterinarian, in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunization" published by the National Association of State Public Health Veterinarians.

c. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also receive a durable vaccination tag indicating the year in which it was issued.

## SECTION 3: OWNER RESPONSIBILITY

a. It shall be unlawful for animals to run at large in the City.

b. No animal shall be allowed to cause a public nuisance or be a nuisance animal. The owner of every animal shall be held responsible for every behavior of such animal under the provisions of this Ordinance.

c. All animal owners will provide adequate food, water, shelter, medical care if needed, and a sanitary environment.

d. Failure to comply with the provisions of this Section shall, for the first and second infraction be deemed a civil infraction. The owner shall pay a fine for a first infraction in the amount of \$50.00. The owner shall pay a fine for a second infraction in the amount of \$100.00. A third or subsequent violation of this Ordinance within twelve months of the occurrence of any other violation of this Ordinance shall constitute a criminal infraction and shall be deemed a second degree misdemeanor pursuant to Florida law. A Notice to Appear in Criminal Court shall issue as a result of a third or subsequent infraction occurring within a twelve month period. Each continuing day of the violation shall constitute a new infraction.

## SECTION 4: RUNNING AT LARGE

a. Any animal found running at large may be impounded by the Gulf County Animal Control Authority in an animal shelter and confined in a humane manner. Immediately upon impounding a dog, the Animal Control Authority shall make every reasonable effort to identify and notify the owner and inform such owner of the conditions under which the animal may be regained. Dogs not claimed within a period of five (5) full days in which the shelter is open to the public shall become the property of Gulf County. Animals becoming the property of Gulf County shall be disposed of in the following manner:

1. When a dog is found running at large and its ownership is verified by the Animal Control Officer who may exercise the option of serving the owner with a Notice of Violation in lieu of impounding the animal.

2. Released to the Humane Society for adoption or disposal.

3. Disposal of any animal by any method specified herein does not relieve the owner of liability of violation of this Ordinance and any accrued charges resulting therefrom.

## SECTION 5. REDEMPTION

a. Any animal impounded may be redeemed by the owner thereof within five (5) days upon payment of an impoundment fee of thirty dollars (\$30.00) and five dollars (\$5.00) per diem, provided that if the animal has previously been impounded, the impoundment fee shall be sixty dollars (\$60.00) plus five dollars (\$5.00) per day. For the fourth or subsequent impoundment of the same animal within a period of eighteen months, the impoundment fee shall be increased to \$250.00 plus \$5.00 per day per diem. Payment of impoundment fees is not considered to be in lieu of any fine or penalty. No animal shall be released unless proof of payment of any and all fines owed to the County is presented for redemption of the animal.

b. A refundable vaccination deposit of fifteen dollars (\$15.00) will be paid for an unvaccinated animal, to be refunded upon proof of vaccination as outlined in Section 2.

c. All funds collected or generated pursuant to this ordinance shall be placed in the City budget under the Animal Control line item unless authorized by Interlocal agreement to be retained by Gulf County.

## SECTION 6. DANGEROUS ANIMALS

1. The Animal Control Officer shall investigate reported incidents involving any animal that may be dangerous. The Animal Control Officer shall require any person desiring to have an animal classified as dangerous to provide a sworn affidavit.

2. During the investigation of the report the animal may be impounded at the animal shelter. Any animal that is the subject of a dangerous animal investigation that is not impounded by the Animal Control Officer shall be humanly and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings related to the dangerous animal classification. The address of where the animal resides shall be provided to the Animal Control Officer. No animal that is the subject of a dangerous animal investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous animal classification. In the event that an animal is determined to be dangerous, the animal shall not be relocated or ownership transferred.

3. After the investigation, the Animal Control Officer shall make an initial determination as to whether there is sufficient cause to classify the animal as dangerous.

4. The Animal Control Officer shall provide written notification of the sufficient cause findings to the owner by registered mail, certified hand delivery, or service in conformance with the provisions of Chapter 48 relating to service of process.

5. The owner may file a request for a hearing within seven (7) calendar days from the date of receipt of the notification of the sufficient cause finding and, if requested, the hearing shall be held as soon as possible, but not more than twenty-one (21) calendar days and no sooner than five (5) days after receipt of the request from the owner. The hearing shall be brought before the Gulf County Animal Control Authority.

6. In the event that an animal is classified as a "dangerous animal" the Animal Control Authority shall provide written notification to the owner by registered mail, certified hand delivery, or service as described above, and the owner may file a written request for a hearing in the County Court to appeal the classification within ten (10) business days after receipt of a written determination of a dangerous animal classification, and, if the animal is in the owner's custody, the owner must confine the animal in a securely fenced or enclosed area pending a resolution of the appeal. The procedure for initiating an appeal to the County Court is as follows:

The owner must file a written request titled "NOTICE OF APPEAL" with the Clerk of Court with the County Court in and for Gulf County, Florida, setting forth the following information:

- a. The name of the owner of the animal or petitioner,
- b. The name, address, and telephone number of the owner or petitioner,
- c. The name and brief description of the animal,
- d. A short and plain statement of the issue on appeal,
- e. Notice of Appeal shall also be provided to the Animal Control Authority by certified mail, return receipt requested at:

Animal Control Authority  
1000 Fifth Street  
Port St. Joe, FL 32456

7. Within fourteen (14) days after an animal has been classified as dangerous by the Animal Control Authority, or a dangerous animal classification is upheld by the Court on appeal, the owner of the animal must obtain a Certificate of Registration for the animal from the Animal Control Authority serving the area in which he or she resides and the certificate shall be renewed annually. Such Certificates of Registration and renewals thereof shall be issued only to persons who are at least eighteen (18) years of age and who present to the Animal Control Authority sufficient evidence of:

- a. A current certificate of rabies vaccination for the animal.
- b. A proper enclosure to confine a dangerous animal and the posting on the premises of a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous animal on the property.
- c. Permanent identification of the animal such as a tattoo on the inside thigh or electric implantation. The annual fee for the issuance of Certificates of Registration required by this Section shall be fifty dollars (\$50.00).

8. The owner shall immediately notify the appropriate animal control authority when an animal that has been classified as dangerous is:

- a. Loose or unconfined.
- b. Has bitten a human being or attacked another animal.
- c. Is sold, given away, or dies.
- d. Is removed to another address.

9. Prior to a dangerous animal being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the Animal Control Authority. The new owner must comply with all terms and requirements of this Ordinance.

10. It is unlawful for the owner of a dangerous animal to permit the animal to be outside a proper enclosure unless the animal is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the animal or interfere with his vision or respiration, but will prevent it from biting any person or animal.

11. Any person who violates any provision of this Section is guilty of a non-criminal infraction, punishable by a fine in the amount of \$500.00 for each infraction.

#### SECTION 7. ADOPTION

After an animal has been impounded for a full five (5) days, Gulf County will release such animal to the St. Joseph Bay Humane Society with the understanding that suitable homes will be sought. Any animal adopted out shall be vaccinated and neutered. It is the responsibility of the St. Joseph Bay Humane Society to set adoption fees.

#### SECTION 8. RIGHT OF ENTRY

The Animal Control Office shall have the right to enter upon any private or public property, except a building, mobile home, or other structure designated for, and used for residential purposes, for the purpose of enforcing this Ordinance. If any person refuses entrance to premises, including a residence, in his possession or control, the Animal Control Officer attempting to enforce this Ordinance, such officer shall contact a law enforcement office and proceed on such premises with a warrant or other document of authority as necessary to lawfully enter such premises for the purpose of enforcing this Ordinance.

#### SECTION 9. INTERFERENCE

No person shall interfere with, hinder, or molest any Animal Control Officer in the performance of any duty as herein provided. Any person violating this Section shall be deemed guilty of a misdemeanor of the second degree, and shall be subject to imprisonment or a fine as set forth in Sections 775.082 and 775.084 of the Florida Statutes.

#### SECTION 10. CITATIONS ON VIOLATIONS

The Animal Control Officer or any law enforcement office shall, upon determination that a violation of this Ordinance has occurred, issue a citation on the person owning, keeping, or harboring the animal. The citation shall state the date and time of issuance, name and address of the person in violation, description of the animal involved, and a demand that the accused pay the following penalties:

Animal Roaming At Large	Civil Penalty \$50.00
Animal Roaming At Large 2 <sup>nd</sup> Offense	Civil Penalty \$100.00
Animal Unvaccinated Against Rabies	Civil Penalty \$25.00
Tag Not on Animal	Civil Penalty \$25.00
Female in Season Not Properly Confined	Civil Penalty \$50.00
Animal Nuisance Other Than Noise	Civil Penalty \$50.00
Citation Surcharge	Civil Penalty Doubles Penalty per Section I.

for the first offense within one (1) year, and double that penalty for any and all subsequent offenses within one (1) year. If a person should fail to pay or appeal such penalty. If a person should fail to file or pay or appeal such penalty, such matter shall be turned over to a qualified collections bureau for further collection attempts.

On each and all Civil violations a five dollar (\$5.00) surcharge is hereby imposed for the purposes of funding training for the Animal Control Officer. All funds derived from such fees shall placed in a separate account for Animal Control Officer training.

Any violation of this Ordinance resulting from excessive noise from a nuisance animal or an animal constituting a public nuisance due to noise shall be punished as follows:

First Offense (within 12 months) \$50.00 fine  
Second Offense (within 12 months) \$150.00 fine  
Third Offense \$250.00 fine

Fourth and Subsequent Offense within 12 months is a criminal citation with the person guilty of misdemeanor of the second degree.

Appeals of such citations shall be filed with the Gulf County Clerk of Court within 10 days of issuance in the format set forth in Section 6 above to thereafter be heard before the County Judge. If such an appeal is upheld by the Judge after a hearing, the violator shall pay the fine plus any court costs.

#### SECTION 11. DUTY TO REPORT ANIMAL BITES

It shall be the duty of every person licensed to practice medicine, osteopathic medicine, veterinary medicine, or any other person knowing of or in attendance on an animal bite case to promptly report to the Gulf County Health Department every instance in which a person is bitten by a dog or other domestic or wild animal.

#### SECTION 12. REMOVAL OF DEAD ANIMALS FROM PUBLIC RIGHT OF WAY

When an animal is found dead on the public right of way it shall be part of the Animal Control Officer's responsibilities to remove and properly dispose of the carcass.

#### SECTION 13. REPEALS (CONFLICTING ORDINANCES)

All other ordinances of the City, conflicting with this Ordinance are hereby repealed only to the extent of such conflict.

#### SECTION 14. SEVERABILITY

If any part of this Ordinance shall be held invalid, such part shall not affect the remaining parts of this Ordinance.

#### SECTION 15. EFFECTIVE DATE

The Ordinance shall become effective as provided by law.

#### SECTION 16. PURPOSES

The City Commission hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the inhabitants of the City.

#### SECTION 17. EXEMPTIONS

Dogs engaged in training or exhibiting in legal sports such as obedience trials, confirmation shows, field trials, hunting retrieving trials, and herding trials are exempt from the provisions of this Act when engaged in any such legal procedures. However, such dogs at all other times and in all other respects shall be subject to this Act.

This ordinance does not apply to dogs used by law enforcement officials for law enforcement work.

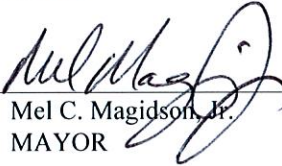
#### SECTION 18. INTERLOCAL AGREEMENT

The City may enter into Interlocal Agreements with other local governments at any time that the Board of City Commissioners of the City deems it appropriate to delegate or consolidate the enforcement of the requirements of this Ordinance.

**This Ordinance adopted in open regular meeting this 19 day of May, 2009.**

PORT ST. JOE CITY  
COMMISSION

BY: \_\_\_\_\_

  
Mel C. Magidson, Jr.  
MAYOR

ATTEST:

  
PAULINE PENDARVIS, CLERK