

ORDINANCE NO. 243

**AN ORDINANCE AMENDING SECTION 14.5 CODE OF ORDINANCES, CITY OF PORT ST. JOE, FLORIDA, WHICH DEALS WITH VICIOUS ANIMAL, FOWL OR BIRD OR ONE CAUSING A NUISANCE AND SUBSTITUTING THEREFOR A NEW SECTION 14.5 ENTITLED VICIOUS ANIMAL, FOWL OR BIRD OR ONE CAUSING A NUISANCE AND DANGEROUS DOGS, PROVIDING FOR PENALTIES, REPEAL, EFFECTIVE DATE AND PROVIDING FOR A SEVERABILITY CLAUSE.**

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

**Section 14.5 as it currently exists be and the same is hereby repealed. A new Section 14.5 is hereby created as follows:**

Sec. 14.5. Vicious animal, fowl or bird or One causing a nuisance and dangerous dogs

A. It shall be unlawful for any person to own or keep any vicious animal, fowl or bird or any animal, fowl or bird that becomes a nuisance in the community by barking, howling, screeching, whining, crowing, raising any disturbance, or kept in violation of section 14.4. Upon filing with the chief of police of written statements under oath by three or more persons residing in separate households in the city within 500 feet of the place where such animal, fowl or bird is kept or harbored, that the barking, howling, screeching, whining, crowing or raising any disturbance by such animal, fowl or bird constitutes a nuisance, or that the same is kept in violation of section 14.4, it shall be the duty of the chief of police to deliver to such person keeping or harboring such animal, fowl or bird a written statement of the fact that such complaints have been made, and that the keeping or harboring of such animal, fowl or bird is deemed a nuisance, and that the nuisance must be abated within ten days from the date of notification. If the nuisance is not abated within ten days, it shall be the duty of the chief of police to make an affidavit charging the person keeping or harboring such animal, fowl or bird with maintaining a nuisance.

B. The city commission finds that dangerous dogs are an increasingly serious and widespread threat to the safety and

welfare of the people of Port St. Joe because of unprovoked attacks which cause injury to persons and domestic animals and that such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs. As chapter 767 sections .10-.15, Florida statutes, provide a mandated framework of definitions and requirements so that local governments will deal uniformly with the problem of classifying certain dogs as dangerous and regulating their ownership, the Commission's intent in enacting this part is to implement said Chapter 767 Sections .10-.15, Florida Statutes.

C. Definitions. As used in this part, unless the context clearly requires otherwise:

(1) Dangerous dog means any dog 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 more than once severely injured or killed a domestic animal while off its owner's property;

(c) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting; or

(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.

(2) Unprovoked means that the victim who has been conducting himself peacefully and lawfully has been bitten, chased or approached in a menacing fashion or attacked by a dog.

(3) Severe injury means any physical injury that results in broken bones, multiple punctures, or disfiguring lacerations requiring sutures or cosmetic surgery.

(4) Proper enclosure of a dangerous dog means while on the owner's property a dangerous dog is securely confined indoors or, in a securely-fenced yard, in a securely enclosed and locked pen or structure not less than three feet from the yard's fence,

suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides, a secure top, and a secure hard bottom, all designed to prevent the dog from escaping over, or under, or through the structure and shall also provide a humane existence and protection from the elements and have dimensions sufficient to allow the dog to stand, turn around, and break into a run.

(5) Superintendent means the chief of police or animal control officer.

(6) Animal control authority means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city, county or state.

(7) Owner means any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or if the animal is owned by a person under the age of eighteen, that person's parent or guardian.

D. Investigation, classification, tagging, tattooing, certificate of registration, conditions of ownership, transfer of ownership, certain exemptions, inspection, penalty.

(a) The animal control authority or superintendent shall investigate reported incidents involving dogs that may be dangerous and shall require a sworn affidavit from any person, including any Animal Care and Control Officer or other authorized enforcement officer, desiring to have a dog classified as dangerous. After the investigation the animal control authority or superintendent shall determine if a dog is to be classified as dangerous and shall immediately provide written notification by registered mail or certified hand delivery to the owner of a dog that has been classified as dangerous. Promptly after classification, the dog shall be seized and impounded by the animal control authority or superintendent at the owner's sole expense pending final resolution of the case. Ownership of any dog which the superintendent or animal control authority has classified as dangerous shall not be transferred before final resolution of the case. A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time was unlawfully on the property, or while lawfully on the property was tormenting, abusing, or assaulting the dog or its owner.

(b) Upon a dog's release from impoundment after its classification as dangerous, the owner shall purchase from the animal control authority or City Clerk, a transferable special "dangerous dog" tag bearing a transferable special registration number and to be revalidated annually. The tag shall be dispensed and subsequently revalidated, at a fee which the City Commission shall determine and then file with the City Clerk. Beginning promptly after its having been obtained, a dog's special "dangerous dog" tag shall at all times be affixed to a collar worn by the dog except when removed by a veterinarian to facilitate treatment.

(c) Within thirty days after a dog has been classified as dangerous, the owner of the dog must obtain a special nontransferable certificate of registration for the dog from the animal control authority and the certificate, to include such information as prescribed by the superintendent or the animal control authority, shall be renewed annually at the time of prescribed revalidation of the dog's special "dangerous dog" tag as described above. The certificate shall be dispensed and subsequently revalidated at a fee to be determined by the superintendent and filed with the City Clerk. The certificate shall bear the number of the dog's special "dangerous dog" tag as the dog's dangerous-dog registration number. The animal control authority shall issue and renew such a certificate only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:

(1) Issuance of a current "dangerous dog" tag for the dog.

(2) A current certificate of rabies inoculation for the dog.

(3) A proper enclosure to confine the dangerous dog and the posting of the premises at the owner's sole expense with a clearly-visible permanently displayed warning sign the design for which shall be determined by and obtained from the animal control authority and which shall bear the expressions "Dangerous Dog" and "Bad Dog" and an appropriate illustration at all entry points to inform both adults and children of the presence of a dangerous dog on the property.

(4) The tattooing by the animal control authority or by a licensed veterinarian and on the dog's right inside thigh of the number on the dog's special "dangerous dog" tag.

(5) The surgical sterilization of the dog.

(d) The owner shall immediately notify the animal control authority when a dog that has been classified as dangerous:

- (1) Is loose or unconfined.
- (2) Has bitten a human being or attacked another animal.
- (3) Is sold or given away or dies.
- (4) Is moved to another address.

Prior to a dangerous dog being sold, traded 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 shall, upon transfer of possession, take possession of the dog's special transferable "dangerous dog" tag, as described in subsection (b) above, begin complying immediately, except as otherwise specified in this part, with each of this part's conditions attaching to the ownership of a dog classified as dangerous and, within three full city business days after transfer of ownership, obtain from the animal control authority nontransferable special certificate of registration pursuant to subsection (c) above. The new owner must comply with all of the requirements of Chapter 767 ss.10-.15, Florida Statutes, and implementing local ordinances, even if the animal is moved from one local jurisdiction to another within the state. The animal control authority in the second jurisdiction must be notified by the owner of a dog classified as dangerous that the dog is so classified and is in that jurisdiction.

(e) It is unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash no longer than six feet and under control of a competent person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal. When being transported, such dogs shall be safely and securely restrained within a vehicle.

(f) A dog classified as dangerous shall not be used as a guard dog.

(g) Hunting dogs are exempt from the provisions of this part when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials,

hunting/retrieving trials, and herding trials are exempt from the provisions of this part when engaged in any legal procedures. However, such dogs at all other times in all other respects shall be subject to this part and all other applicable laws. Dogs that have been classified as dangerous shall not be used, or trained for use, for hunting purposes.

(h) This section does not apply to dogs used by law enforcement officials when such dogs are being used by such officials for law enforcement work.

(i) The animal control authority shall have the authority to make whatever reasonable inspections it deems necessary to certify compliance with this section.

(j) At the discretion of the superintendent, the animal control authority may confiscate immediately and impound at the owner's sole expense any dog classified as dangerous the owner of which has been found by the animal control authority not to be in compliance with any one or more provisions of this part. Its owner may redeem a dog so impounded on payment of any and all fees and/or fines after demonstration to the animal control authority that he or she has met all of this part's conditions attaching to the ownership of a dog classified as dangerous.

(k) The first violation of any given provision of this part shall constitute a noncriminal infraction punishable by a fine of one hundred dollars, the second failure to comply with that provision shall constitute a noncriminal infraction punishable by a fine or two hundred fifty dollars, and any subsequent failure to comply with that provision shall constitute a noncriminal infraction punishable by a fine of five hundred dollars.

E. Certain convictions and penalties, confiscation, euthanasia, appeal.

(a) If a dog that has previously been declared dangerous under Chapter 767, ss.10-.15, Florida Statutes, or under this part or any other local ordinance or other law within the state of Florida deriving from said section, attacks or bites a person or domestic animal without provocation, the owner of the dog, upon conviction, is, as prescribed by said section, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. In addition, the dangerous dog shall be immediately confiscated by the animal

control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for ten full city business days, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to apply to a court of competent jurisdiction for any remedies that may be available. The owner shall be responsible for payment of all boarding costs, and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(b) If a dog that has not been declared dangerous under Chapter 767, ss.10-.15, Florida Statutes, or under this part or any other local ordinance or other law within the state of Florida deriving from said section, aggressively attacks and causes severe injury to or death of any human, the owner of the dog is, as prescribed by said section, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. In addition, the dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time or held for ten full city business days, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to apply to a court of competent jurisdiction for any remedies that may be available. The owner shall be responsible for the payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(c) If a dog that has previously been declared dangerous under Chapter 767, ss.10-.15, Florida Statutes, or under this part or any other local ordinance or other law within the state of Florida deriving from said section, aggressively attacks and causes severe injury to or death of any human, the owner of the dog, upon conviction is, as prescribed by said section, guilty of a felony of the third degree, punishable as provided in s. 775.802, s. 775.083, or s. 775.084, Florida Statutes. In addition, the dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time or held for ten full city business days, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to apply to a court of competent jurisdiction for any remedies that may be available. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

F. **Liability.** Nothing in this part shall supersede Chapter

767, Florida Statutes.

**REPEAL:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**EFFECTIVE DATE:** This ordinance shall become effective as provided by law.

**SEVERABILITY:** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

THIS ORDINANCE ADOPTED this 18<sup>th</sup> day of November, 1997.

CITY COMMISSION OF THE CITY  
OF PORT ST. JOE, FLORIDA

By: \_\_\_\_\_  
Mayor-Commissioner

Attest: \_\_\_\_\_  
Auditor/Clerk

The following commissioners voted yea:

The following commissioners voted nay: