

## ORDINANCE 2023-8

### AN ORDINANCE TO REPLACE AND REPEAL CHAPTER FOUR, ARTICLE II, DOGS WITH AN ORDINANCE PROVIDING FOR ANIMAL CONTROL AND CARE AS HEREINAFTER SET FORTH.

#### ARTICLE II- ANIMAL CONTROL AND CARE

##### **Section 4-16. Interpretation.**

(A) The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

(B) The word "person" includes an individual, a firm, association, partnership, trust, company, corporation or any other legal entity.

(C) The word "shall" is mandatory; the word "may" is permissive.

##### **Section 4-17. Definitions.**

(A) Abandon: Deserting or intending to give up absolutely any animal without providing adequate food, adequate water or adequate sanitary shelter for twenty-four (24) hours or longer.

(B) Adequate Food: Wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight.

(C) Adequate Shelter: Shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather. The minimum requirements shall be an enclosed, weatherproof dwelling accessible to an animal that is of sufficient size and nature so as to provide that animal with sufficient protection from the extremes of weather (sun, heat, cold, rain etc.) and allow it to remain comfortable in outside conditions.

(E) Adequate Water: A constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species.

(F) Animal: Any live, vertebrate creature, whether domestic or wild.

(G) Animal Control Officer: Any person designated by the City of Barnwell Police Department to enforce the city's animal control program and the provisions of this article.

(H) Animal Rescue Group: Any nonprofit organization existing for the purpose of prevention of cruelty to animals and whose purpose is to rescue and find homes for dogs and cats that cannot be adopted by the animal shelter due to medical, behavioral, holding time limits or other reasons.

(I) Animal Services Personnel: Any person designated by the City of Barnwell Police Department to aid in the enforcement of the city's animal control program and the provisions of this article.

(J) Animal Shelter: Any facility or premises designated by the city/county for the purpose of impounding, care, adoption or euthanasia of animals pursuant to this article.

(K) Baiting: means to provoke or to harass an animal with one or more animals with the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals or between animals and humans.

(L) Fighting: means an attack with violence by an animal against another animal or human.

(M) Nuisance: Any animal that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(N) Owner: Any person temporarily or permanently owning, keeping, possessing, caring for or harboring an animal or acting as custodian of an animal. This shall include any person who permits an animal to remain on or about any premises occupied by him or her.

(O) Owner's Premises: The lands and buildings owned, leased or regularly occupied by the owner of an animal.

(P) Restraint: An animal controlled by means of leash, chain or other like device, or secured inside a vehicle while being driven or parked, or within a secure enclosure. (Voice command, using audible signals or hand signals are not viable means of restraint.)

(Q) Vicious Animals: Any animal evidencing an abnormal inclination to attack persons or animals, without provocation or any animal predetermined by a court to be vicious. An animal shall not be deemed vicious if it bites, attacks or menaces anyone assaulting the owner, or a trespasser on the property of the owner, or any person or other animal who has tormented or abused it, or an animal which is otherwise acting in defense of an attack from a person or other animal upon the owner or is protecting or defending its young or other animal.

#### **Section 4-18. Control of animals by owners.**

(A) It shall be unlawful for any owner or custodian of any animal to:

(1) Allow any animal to run at-large off of property owned, rented, used with permission, or controlled by him;

(2) Fail to exercise proper care and control of any animal to prevent them from becoming a nuisance.

(3) Keep a vicious or unruly dog unless under restraint or otherwise controlled by a fence, chain, or other means so that the dog cannot reach persons not on land owned, leased, or controlled by him.

(4) Fail to keep every female dog or cat in heat confined in a building or secure enclosure in such manner that the female dog or cat cannot come into contact with another animal except for planned breeding unless the female dog or cat is under restraint by its owner.

#### **Section 4-19. Impoundment of animals.**

(A) If a violation of the provisions of Section 4-18 occurs, the animal may be seized by an animal control officer and transported to the county animal shelter and there be confined in a humane manner.

(B) When a violation of the provisions of Section 4-18 occurs and the animal is seized and the ownership of the animal is known to the animal control officer, such animal need not be impounded but the officer may cite the owner of such animal to appear before an appropriate court to answer to charges of infraction of this article. If the animal must be impounded due to an unreachable owner, the Barnwell Animal Control officer will post a notice at the owner's property.

(C) If the animal shelter accepts or comes into possession of a dog or cat, the shelter immediately and thoroughly shall scan the dog or cat for a tattoo, any implanted microchip or similar device, which proves evidence of ownership and, upon finding it, immediately must make a good faith effort to contact the identified owner as required by Section 4-19 (D), below.

(D) Animal control officers or animal shelter staff shall not destroy any positively identifiable dog or cat until they have notified the owner and such animals shall be held in the impoundment area for a minimum of fourteen (14) calendar days unless released earlier to the owner. If the owner cannot be contacted in person or by telephone within twenty-four (24) hours of impoundment, then the owner shall be notified at his last known address by mail that they have the dog or cat in their possession. The owner must notify the animal control officer within two (2) weeks that he will pick up his dog or cat. The owner must pick up his dog or cat within two (2) weeks of notification. Reasonable costs associated with the above extended holding period, including cost of mailing the required notice, must be paid before the dog or cat is returned to its owner, or the owner's designee, in addition to satisfying any other established costs, penalties, fees, charges or other requirements.

(E) Any diseased animal presented to the Barnwell County Animal Shelter whose condition endangers the health of other animals in the shelter or any severely injured animal may be euthanized immediately, notwithstanding any holding periods specified above, except that in the case of an identifiable animal an attempt at notification of the owner shall first be made. Any such identifiable animal in critical condition may be humanely euthanized if the owner cannot be contacted within five (5) hours; however, if the animal is in severe pain, it may be euthanized immediately.

**Section 4-20. Cruel treatment of animals.**

(A) No owner or any other person shall willfully injure or kill any animal by any means causing it unnecessary fright or pain. No owner or any other person, by neglect or otherwise, shall cause or allow any animal to endure pain, suffering, or injury. Acts constituting violations of this section include, but are not limited to, the following:

- (1) Failure to provide adequate shelter from inclement weather.
- (2) Failure to provide adequate food for a period of more than twenty-four (24) hours and/or adequate water or other necessary care for more than twelve (12) hours.
- (3) Leaving an animal unattended in, or tethered to, a standing or parked motor vehicle in a manner that endangers the health and/or safety of the animal or the safety of any person.
- (4) Abandoning any animal on private or public property.
- (5) Leaving or exposing any poisonous substance, food, or drink, for animal, or fowl, or aiding or abetting any person in so doing, except insect or rodent poison when used in compliance with the product directions for control of insects or rodents.
- (6) Baiting, attacking with violence, provoking, or harassing an animal or causing an animal to engage in fights with or among other animals or between animals and humans. Nothing in the foregoing sentence, however, shall prohibit the lawful training of guard or law enforcement dogs or other animals, provided it does not violate other provisions of this article, the city code, or the laws of this state.
- (7) Riding animals beyond their endurance limits, requiring animals to pull or operate any carriage or other animal powered vehicles beyond these animals' endurance limits, overloading animals, making animals carry loads or operate animal powered vehicles when they, or the animals, are overloaded, torturing, tormenting, depriving of necessary sustenance, cruelly beating, mutilating or cruelly killing animals, or causing or procuring these actions to be done.

(B) If an animal control officer finds a violation of this section, the officer shall seize and impound the animal and leave written notice of impoundment in a conspicuous location about the premise or vehicle. If an animal control officer finds the animal in an unattended vehicle, the officer may remove the animal by reasonable methods under the circumstances if the animal is reasonably believed to be in distress. The animal will remain as evidence at the animal shelter pending the court's decision. If an owner or keeper is not found, the animal will irrevocably become the property of the animal shelter after a five (5) day impound period.

**Section 4-21. Cruel confinement or restraint of animals.**

(A) No owner or other person shall knowingly or intentionally confine or restrain an animal in a cruel manner or knowingly or intentionally cause such cruel confinement or restraining of an animal.

(B) For the purposes of this section:

(1) 'Confine an animal in a cruel manner' or 'cruel confinement of an animal' means confining an animal by means of a pen or similar confinement under circumstances in which the person intends to endanger the animal's health or safety, or the person reasonably should have known would endanger the animal's health or safety. 'Confine an animal in a cruel manner' or 'cruel confinement of an animal' includes, but is not limited to, a confinement that:

(a) confines an animal for such an unreasonable period of time that the animal's health or safety is endangered;

(b) does not permit an animal to stand, turn around, sit, and lie down in a normal position;

(c) causes bodily injury to an animal;

(d) does not permit an animal access to sustenance;

(e) does not permit proper ventilation for an animal; or

(f) is not kept in a sanitary condition.

(2) 'Restrain an animal in a cruel manner' or 'cruel restraining of an animal' means tethering, fastening, chaining, tying, attaching, or otherwise restraining an animal to a tree, fence, post, or other stationary object or a running line, pulley, cable trolley system, or similar system by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances in which the person intends to endanger the animal's health or safety, or the person reasonably should have known would endanger the animal's health or safety. 'Restrain an animal in a cruel manner' or 'cruel restraining of an animal' includes, but is not limited to, restraint that:

(a) restricts an animal's movement for such an unreasonable period of time that the animal's health or safety is endangered;

(b) is of a weight that excessively burdens an animal;

(c) causes an animal to choke or causes bodily injury to an animal;

(d) is too short for an animal to move around or for an animal to urinate or defecate in a separate area from the area where the animal must eat, drink, or lie down;

- (e) is situated such that an animal will likely become entangled;
- (f) does not permit an animal access to sustenance and shelter;
- (g) does not permit an animal to escape reasonably foreseen harm;
- (h) is attached to an animal by means of a collar, harness, or similar device that is not properly fitted for the age and size of the animal such that the collar, harness, or similar device causes trauma or injury to the animal; or
- (i) is attached to an unsupervised animal by means of a choke-type or pronged collar.

(C) If an animal control officer finds a violation of this section, the officer shall seize and impound the animal and leave written notice of impoundment in a conspicuous location about the premise. The animal will remain as evidence at the animal shelter pending the court's decision. If an owner or keeper is not found, the animal will irrevocably become the property of the animal shelter after a five (5) day impound period.

(D) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, animal exhibitions or shows, pet shops, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, and to activities, exhibitions, transportation, and other events related to activities authorized by Title 50 of the South Carolina Code of Laws.

#### **Section 4-22. Animal fighting and baiting.**

(A) No person shall:

- (1) own an animal for the purpose of fighting or baiting;
- (2) be a party to, cause, conduct, be employed at or promote any fighting or baiting of an animal;
- (3) purchase, rent, lease, or otherwise acquire or obtain the use of any structure, facility, or location for the purpose of fighting or baiting any animal; or
- (4) knowingly allow or permit or make available any structure, facility, or location to be used for the purpose of fighting or baiting any animal.

(B) No person shall:

- (1) be present at any structure, facility or location where preparations are being made for the purpose of fighting or baiting any animal with knowledge that those preparations are being made; or

(2) be present at any structure, facility or location with knowledge that fighting or baiting of any animal is taking place or is about to take place.

(C) The provisions of Section 4-22 do not apply to any person:

(1) using any animal to pursue or take wildlife or to participate in hunting in accordance with the game and wildlife laws of the State and regulations of the South Carolina Department of Natural Resources;

(2) using any animal to work livestock for agricultural purposes;

(3) properly training or using dogs for law enforcement purposes or protection of persons and private property.

(4) The provisions of this article do not apply to game fowl.

(D) This article does not apply to dogs used for the purpose of hunting, including, but not limited to, hunting on shooting preserves or wildlife management areas authorized pursuant to Title 50, or to dogs used in field trials, including events more commonly known as "water races", "treeing contests", "coon-on-a-log", "bear-baying", or "fox-pen-trials". Such "fox-pen-trials" must be approved by permit for field trials by the South Carolina Department of Natural Resources.

(E) Except as otherwise provided in Section (C) above, this article includes events more commonly known as "hog-dog fights", "hog-dog rodeos", or "hog-dogging" in which bets are placed, or cash, points, titles, trophies, or other awards are given based primarily on the ability of the dog to catch a hog using physical contact in the controlled environment of an enclosure.

#### **Section 4-23 Striking animals with vehicles.**

Any person striking a domesticated animal with a motor vehicle or bicycle shall stop and render any assistance as may be possible and immediately report the injury or death to the animal control officer or other law enforcement agency who will then take action necessary to make proper disposition of the pet. Any pet received by the animal shelter in critical condition from wounds, injuries, or disease may receive sustaining treatment by a licensed veterinarian until such time as the owner of the pet is contacted. Any pet received by the animal control shelter in critical condition from wounds, injuries or disease may be destroyed if the owner cannot be located within five (5) hours. If the animal is in severe pain, it may be destroyed immediately.

#### **Section 4-24. Performing animal exhibits.**

(A) It shall be unlawful for any animal exhibit or circus to induce or encourage animals to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or likely cause harm to the animal.

(B) All equipment used on performing animals shall fit properly and be in good working order.

(C) Animal service officers may inspect any animal exhibit or circus to ensure compliance to this ordinance.

(D) Failure to comply with this ordinance may result in the impoundment of the animal(s) and/or the issuance of citations.

#### **Section 4-25. Enforcement.**

(A) The animal control officer shall patrol on a regular basis the highways, roads and streets of the City of Barnwell and shall have the authority to enforce all sections of this ordinance and any other applicable state law and may exercise their powers on all private and public property within the city limits of the City of Barnwell.

(B) The animal control officer will investigate all complaints with regards to dogs.

(C) The animal service officer or personnel shall have the authority and are empowered to issue written warnings or uniform ordinance summons to enforce any section of this ordinance in the city limits of the City of Barnwell.

(D) It shall be unlawful for any person to interfere with, hinder, or molest the animal control officer or animal service personnel in the performance of his/her duties or to seek to release any animal in his custody without his/her consent or to attempt to assist the animal control officer or animal service personnel without his/her consent, or to not provide the animal control officer or animal service personnel with proper identification, false identification or false information or to fail to comply with the animal control officer's or animal service personnel's directions or orders.

(E) It shall be unlawful for any person to interfere, damage, molest, move or remove any traps or restraining devices used by animal services or any contracted agency that may be used from time to time or to release any animals from any such traps or restraining devices.

(F) Nothing in this ordinance shall be construed to prevent the Barnwell Police Department or law enforcement officers of any kind from enforcing any of the sections of this ordinance or from exercising their authority under State criminal law as law enforcement officers.

#### **Section 4-26. Rabies Control.**

(A) The South Carolina Code of Laws, Section 47-5-10 et seq. (Rabies Control Act) and amendments thereto are adopted by this article.

(B) All dogs and cats four (4) months of age or more are required to be inoculated against rabies within the preceding twelve (12) months.



(C) The owners of all dogs and cats shall have a valid certificate of rabies immunization readily available for inspection by competent authority.

(D) It shall be unlawful for any person to buy, sell, trade, capture, feed or transport any wild animal for purposes of domestication.

(E) It shall be the duty of every physician or other practitioner to report to the county public health department or an authorized agent the names and addresses of persons treated for bites inflicted by animals together with such information as will be helpful in rabies control. Any person bitten by an animal must report the bite to the county health department within twenty-four (24) hours of the incident.

(F) It shall be the duty of the Police Department to forward a copy of each report involving an animal bite to the county health department within twenty-four (24) hours of receipt of such report.

(G) When a licensed dog or cat that has been inoculated against rabies is involved in an accident where a person is bitten, the owner of the animal must take the animal to a licensed veterinarian for examination. The owner must also notify the county health department within twenty-four (24) hours of the incident. The county health department will direct the owner to quarantine the animal for ten (10) days at the owner's residence or a veterinary clinic as the department may determine. Subsequent to the ten (10) day quarantine, the animal will again be examined by a licensed veterinarian and the results of the examination furnished by the owner to the county health department.

(H) No dog or cat that has not been inoculated against rabies shall be held to be property in any of the courts of Barnwell County. Any owner of a dog or cat who is unable to present a valid certificate of rabies immunization may be required to surrender the dog or cat to the animal control officer or other law enforcement officers to be processed for determination of rabies contamination as prescribed by the health department and/or South Carolina Law.

(I) No person shall kill, or cause to be killed, any dog, cat or other animal, that is suspected of having been exposed to rabies or which has bitten a person, nor remove the animal from the jurisdiction of the county without written permission of the health department. An exception to the preceding requirement is in any circumstance in which there exists the possibility of the animal escaping or being involved in an additional biting incident in which case the animal is to be killed and the health department notified immediately.

#### **Section 4-27. Redemption/adoption of impounded animals.**

(A) The owner of an impounded animal shall be entitled to resume possession of the impounded animal upon providing proof of a current valid certificate of rabies immunization and the payment of all fees established for the operation of the animal shelter.

#### **Section 4-28. Trap, Neuter, Vaccinate, and Return (TNVR) Program / Community Cats**

(A) Trap, Neuter, Vaccinate, and Return Program (TNVR)

The program's purpose is to control the cat population and to reduce the feline euthanasia rate at the county shelter. The Barnwell County Animal Shelter Foundation shall be the primary organization tasked with operating and sustaining the program, including educating the community. The implementation and operation of the TNVR Program will not be the responsibility of City of Barnwell Police Department staff.

- (1) Community cat: a cat without an identifiable owner which freely roams outdoors, and which may or may not be cared for by a person. A cat with a tipped ear indicates the cat has been sterilized and vaccinated at least one time against rabies. Community cats are exempt from abandonment, nuisance, and at large sections of this ordinance. If an ear-tipped cat is captured as a result of a nuisance call, it will be addressed on a case-by-case basis.
- (2) Community cat caregiver: a person who provides care to a community cat, including, but not limited to, a person who provides food, water, veterinary care, or indoor or outdoor protection from the weather. A community cat caregiver shall not be considered the owner, custodian, or keeper of the cat for purposes of criminal liability in this Title.
- (3) Healthy ear-tipped cats shall be returned to their original location. Community cats not yet sterilized, vaccinated, and ear-tipped shall not be impounded, rather processed through the Community Cat Program.

**Section 4-28. Cumulative Nature of Article**

The provisions of this article are cumulative and not in lieu of any other provisions of law including but not limited to the South Carolina Code of Laws.

**Section 4-29. Severability**

If any section, paragraph, subdivision, clause, or provision of this article shall be declared invalid, unenforceable or unconstitutional by the final decision of a court of competent jurisdiction, such adjudication shall apply only to such section, paragraph, subdivision, or provision and shall not affect the remaining provisions of this code, which shall be deemed severable, valid, enforceable and effective.

**Section 4-30. Violation**

A violation of any provisions of this Ordinance shall constitute a misdemeanor. See Section 1-7 for General Penalty, continuing violations.

**Effective Date and Repeal.** NOW, THEREFORE, be it ordained by the Mayor and the Council of the City of Barnwell during a meeting at which a quorum was present, as follows:

DONE IN COUNCIL, this 5 day of JUNE 2023.

  
\_\_\_\_\_  
Marcus Rivera, Mayor

  
\_\_\_\_\_  
Jimbo Moody, Council Member

\_\_\_\_\_  
Ryan Bragg, Council Member

  
\_\_\_\_\_  
Louis Claytor, Council Member

  
\_\_\_\_\_  
Peggy Kinlaw, Mayor Pro Tem

  
\_\_\_\_\_  
Alicia Davis, Council Member

  
\_\_\_\_\_  
Ron Still, Council Member

ATTEST:

  
\_\_\_\_\_  
Kim M. Vargo, City Clerk

First Reading: 5-1-23

Second & Final Reading: 6-5-23