

STATE OF SOUTH CAROLINA)
)
COUNTY OF MCCORMICK)

ORDINANCE 18-09

AN ORDINANCE ESTABLISHING AND PROVIDING FOR THE REGULATION OF DOGS AND OTHER DOMESTICATED ANIMALS, ADOPTING REGULATIONS REGARDING LITTER AND PROVIDING FOR THE APPOINTMENT OF AN ANIMAL/LITTER CONTROL OFFICER TO ENFORCE THE PROVISIONS OF THIS ORDINANCE 18-09.

WHEREAS, South Carolina Code Section 47-3-20 provides that the governing body of each county or municipality in this State may enact ordinances and promulgate regulations for the care and control of dogs, cats, and other animals and to prescribe penalties for violations; and

WHEREAS, McCormick County desires to enact regulations for the care and control of dogs and other domesticated animals and adopts this Ordinance 18-09 for that purpose; and

WHEREAS, litter is a problem throughout the State of South Carolina and McCormick County; and

WHEREAS, South Carolina Code 16-11-700 and 16-11-710 contain provisions related to litter and McCormick County, by this Ordinance 18-09, adopts the provisions of South Carolina Code Section 16-11-700 and 16-11-710; and

WHEREAS, in order to properly enforce these regulations concerning animal control and litter, and with the cooperation of the McCormick County Sheriff's Office, McCormick County hereby authorizes the creation of the position of Animal/Litter Control Officer within the McCormick County Sheriff's Office.

NOW, THEREFORE, BE IT ORDAINED by the County Council of McCormick County, South Carolina, as follows:

SECTION I – ANIMALS

1. Nuisance activities by dogs.

(a) No owner of a dog shall allow his dog to engage in activity constituting a nuisance on public property or on property of another. As used in this section, the term "nuisance" means that which endangers life or health, gives offense to the senses, violates the law of decency, or obstructs reasonable and comfortable use of property or public ways.

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CLERK OF COURT
MCCORMICK COUNTY, SC

(b) Any person who observes a dog engaging in activity constituting a nuisance may institute a civil action against the owner of such dog to obtain injunctive relief prohibiting the owner of such dog from allowing his dog to engage in such nuisance activity. Such injunctive relief may include but is not limited to an order requiring the owner to restrain his dog from leaving the property of the owner. If any owner violates an order granting injunctive relief, such violation shall be regarded as contempt of court, for which the owner shall be punished as provided by general law. In addition, any person who suffers damage as a result of the nuisance activity of a dog may institute a civil action for damages against the owner of such dog in a court of competent jurisdiction and may recover damages upon a showing that the owner of such dog was negligent in allowing his dog to engage in such nuisance activity.

2. **Dogs running at large.**

(a) *Findings.*

- (1) McCormick County Council takes note of the fact that throughout history dogs have been the favorite pets of mankind. Dogs have been loved for their loyalty, courage, nobility, beauty and devotion since the dawn of civilization. Dogs have been and still are a protection to children, the aged and those who live alone. The ownership of a dog is a valuable means of teaching children love, kindness, unselfishness and duty. An obedient, trained and supervised dog, cared for by its owners, is an asset to its owners and neighbors. Dog owners who assume the responsibility of ownership enjoy many advantages of having a dog as a pet, without disturbing or encroaching upon the rights of others.
- (2) On the other hand, dogs whose owners make no provisions for proper restraint roam properties of neighbors, destroy personal property of others, litter property of others, endanger children and adults, pose hazards to motorists and constitute nuisances.

(b) *Intent.* McCormick County Council intends by this section to take effective action to control and remedy the problems described in subsection (a)(2) of this section while at the same time protecting the values of dog ownership described in subsection (a)(1) of this section.

(c) *Purpose; statutory authority.* This section was enacted to promote the general health, safety and welfare of the citizens of McCormick County and to protect their property rights. This section was enacted pursuant to S.C. Code 1976, § 47-3-20, which empowers the governing body of each county to enact ordinances and promulgate regulations for the control of dogs and other domesticated animals and to prescribe penalties for violations thereof.

(d) *"Owner" defined.* For the purposes of this section, the word "owner" includes any person who claims a right of property in a dog, keeps a dog or has it in care or acts as its custodian, or permits a dog to sleep and eat regularly on premises owned or leased by that person. In this definition, the term "regularly" shall mean at least four consecutive days and nights immediately previous to any offense under this section.

(e) *Prohibited acts; enforcement.* It shall be unlawful for any owner to:

- (1) Allow his dog to run at large off of property owned, rented or controlled by him where such dog causes or poses a threat of damage to property or injury to other persons.
- (2) Keep a vicious or unruly dog unless under restraint by a fence, chain or other means so that such dog cannot reach persons not on land owned, leased or controlled by him.
- (3) Release or take out of quarantine without proper authority any dog, or resist county personnel engaging in the capture and quarantine of a dog. Upon personal observation, any law enforcement officer of the county, including the animal control officer, may issue to the owner of a dog a courtesy summons giving notice of an ordinance violation. Upon personal observation, any citizen may sign a warrant charging the owner of a dog with a violation of this section.

(f) *Quarantine and disposition of dogs found running at large.* The animal control officer shall pick up and quarantine any dog running at large. To obtain release of his dog, an owner must satisfy the animal control officer that the dog is currently inoculated against rabies, and also pay a quarantine fee in the amount established by the county from time to time. Payment of this fee shall be in lieu of any further penalties under this section. All fees so collected shall be delivered to the county treasurer for deposit in the general fund of the county. After any dog has been quarantined for 21 days and is unclaimed by its owner, the animal control officer may dispose of such dog by a humane form of destruction or such dog may be turned over to any organization established for the purpose of caring for animals. Complete records shall be kept by the animal control officer as to the disposition of all animals impounded.

(g) *Humane animal care.* No person shall fail to provide any animal under his care with sufficient food and water, proper shelter and protection from the weather, humane care and treatment. No person shall abandon or set at large to roam free any animal without providing for its humane care as required by this chapter. Doing so shall be a violation of this chapter and each animal shall constitute a separate violation.

(h) *Jurisdiction.* This section shall apply to all owners who keep dogs on property within the unincorporated areas of the county.

(i) *Penalty.* Any person failing to comply with the provisions of this section shall be guilty of a misdemeanor and may be punished by a fine not to exceed \$50.00. Each day of violation shall constitute a separate offense.

SECTION 2 – LITTER CONTROL

McCormick County hereby incorporates and adopts the provisions of South Carolina Code Sections 16-11-700 and 16-11-710 in this Ordinance 18-09 which provide as follows:

SECTION 16-11-700. Dumping litter on private or public property prohibited; exceptions; responsibility for removal; penalties.

(A) A person, from a vehicle or otherwise, may not dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste, as defined by Section 44-96-40(2), (6), (32), (33), (43), (46), (73), and (74), and including cigarette butts and cigarette component litter, upon waters or public or private property in the State for which he is not the legal owner or a person otherwise granted permission by the legal owner including, but not limited to, a highway, park, beach, campground, forest land, recreational area, trailer park, road, street, or alley except:

(1) on property designated by the State for the disposal of litter and other solid waste and the person is authorized to use the property for that purpose; or

(2) into a litter receptacle in a manner that the litter is prevented from being carried away or deposited by the elements upon a part of the private or public property or waters.

(B) Responsibility for the removal of litter from property or receptacles is upon the person convicted pursuant to this section of littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.

(C) A person who violates the provisions of this section in an amount not more than fifteen pounds, including cigarette butts and cigarette components, is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars and not more than one hundred dollars or imprisoned for not more than thirty days. In addition to the fine or term of imprisonment, the court also must impose eight hours of litter-gathering labor or other form of community service.

(D) The fine for a deposit of a collection of litter or garbage in an amount not more than fifteen pounds in an area or facility not intended for public deposit of litter or garbage is not less than fifty dollars and not more than one hundred and fifty dollars. The provisions of this subsection apply to a deposit of litter or solid waste, as defined by Section 44-96-40(2), (6), (32), (33), (43), (46), (73), and (74), including cigarette butts and cigarette components, in an area or facility not intended for public deposit of litter or garbage. This subsection does not prohibit a private property owner from depositing litter or garbage as a property enhancement if the depositing does not violate applicable local or state health and safety regulations. In addition to a fine and for each offense pursuant to the provisions of this subsection, the court also shall impose a minimum of sixteen hours of litter-gathering labor or other form of community service.

(1) The court, instead of payment of the monetary fine imposed for a violation of this section, may direct the substitution of additional litter-gathering labor or other form of community service.

(2) In addition to other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner of the property upon which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by any person before the date of execution of sentence.

(E) A person who violates the provisions of this section in an amount exceeding fifteen pounds, but not exceeding five hundred pounds on any public or private property, any portion of the road right of way, fresh-water lake, river, canal or stream, or tidal or coastal waters of the State must be charged with illegal dumping of litter and is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete sixteen hours of litter-gathering labor or perform other community service. For a second conviction, the person must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete twenty-four hours of litter-gathering labor or other community service. For a third or subsequent conviction, the person must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete thirty-two hours of litter-gathering labor or other community service.

(F)(1) A person who violates the provisions of this section in an amount exceeding five hundred pounds is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned not more than one year, or both. In addition, the court may order the violator to:

(a) remove or render harmless the litter that he dumped in violation of this subsection;

(b) repair or restore property damaged by, or pay damages for damage arising out of, his dumping of litter in violation of this subsection; or

(c) perform community service relating to the removal of litter dumped in violation of this subsection or relating to the restoration of an area polluted by litter dumped in violation of this subsection.

(2) A court may enjoin a violation of this subsection.

(3) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than five hundred pounds of litter in violation of this subsection is declared contraband and is subject to seizure and summary forfeiture to the State.

(4) If a person sustains damages in connection with a violation of this subsection that gives rise to a felony against the person or his property, a court, in a civil action for those damages, shall order the wrongdoer to pay the injured party threefold the actual damages or two hundred dollars, whichever amount is greater. In addition, the court shall order the wrongdoer to pay the injured party's court costs and attorney's fees.

(5) A fine imposed pursuant to this subsection must not be suspended, in whole or in part.

(G)(1) When the penalty for a violation of this section includes litter-gathering labor in addition to a fine or imprisonment, the litter-gathering portion of the penalty is mandatory and must not be suspended; however, the court, upon the request of a person convicted of violating this section, may direct that the person pay an additional monetary penalty instead of the litter-gathering portion of the penalty that must be equal to the amount of fifteen dollars an hour of litter-gathering labor. Probation must not be granted instead of the litter-gathering requirement, except for a person's physical or other incapacities.

(2) Funds collected pursuant to this subsection instead of the mandatory litter-gathering labor must be remitted to the county or municipality where the littering violation took place. The money collected may be used for the litter-gathering supervision.

(H) A prior violation within the meaning of this section means only a violation of this section which occurred within a period of five years including and immediately preceding the date of the last violation.

(I) Magistrates and municipal courts have jurisdiction to try violations of subsections (A), (B), (C), (D), (E), and (F).

(J)(1) This section shall not apply to the discarding of deceased fish, game, or wildlife, or the parts or remains thereof, taken as a result of legal hunting or fishing pursuant to Title 50. The exception provided for by this subsection does not apply to deceased animals, animal parts, or remains thereof that are deposited or discarded onto the private lands or waters of another without the owner's permission.

(2) For the purposes of subsections (E) and (F), illegal dumping is defined as disposing of more than fifteen pounds of any collection of solid waste, litter, or other materials defined in subsection (A), including discarded, deceased animals or deceased animal parts which create a hazard to the public health and welfare, but not defined as a careless, scattered littering of smaller items.

(K)(1) Nothing in this section shall prohibit the authority of a local government to enforce ordinances relating to the upkeep of property pursuant to Section 4-9-25 and Section 5-7-80.

(2) If a conflict occurs between this section and the Solid Waste Policy and Management Act as contained in Chapter 96, Title 44, the latter controls.

(L) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(M) Nothing in this section shall be construed as granting any cause of action against the State, any political subdivision, or any employee thereof acting in their official capacity to an individual performing community service under this section who is completing litter pickup without direct oversight, including any claim under Workers' Compensation. Routine follow up to ensure completion of litter pickup by a county, municipality, or state employee is not considered oversight.

SECTION 16-11-710. Acceptance of cash bond in lieu of immediate court appearance in litter control prosecutions.

When any person is charged with a violation of 16-11-700 or any county ordinance relating to litter control, any officer authorized to enforce such law or ordinance may accept a cash bond in lieu of requiring an immediate court appearance. Such bond shall not exceed the maximum fine provided for a conviction of the offense charged and may be forfeited to the court by the enforcement officer if the person charged fails to appear in court.

SECTION 3 – ANIMAL/LITTER CONTROL OFFICER

In order to enforce the provisions of this Ordinance 18-09, and with the approval and cooperation of the McCormick County Sheriff's Office, there is hereby created within the McCormick County Sheriff's Office the position of Animal/Litter Control Officer. The Animal/Litter Control Officer shall be a certified law enforcement officer with the authority of arrest and shall be trained in animal and litter control. The McCormick County Sheriff's Office shall ensure the Animal/Litter Control Officer is properly certified and trained for this position and shall be responsible for hiring and supervising the Animal/Litter Control Officer. At the discretion of the McCormick County Sheriff, the Animal/Litter Control Officer may be assigned to perform other law enforcement duties.

SECTION 4. This Ordinance shall become effective upon adoption after three (3) readings and any required public hearing.

APPROVED AND ADOPTED this 16th day of July, 2019.

MCCORMICK COUNTY COUNCIL

By: 
Charles Jennings, Chairman

ATTEST:


Crystal B. Barnes, Clerk to Council

1st Reading:	May 21, 2019
2nd Reading:	June 18, 2019
3rd Reading:	July 16, 2019
Public Hearing:	July 16, 2019