

ORDINANCE ESTABLISHING GUIDELINES AND REGULATIONS
FOR ANIMAL CONTROL WITHIN MADISON COUNTY, MISSISSIPPI

WHEREAS, Section 19-3-40 of the Mississippi Code of 1972, as amended, authorizes the board of supervisors of any county to adopt any order, resolution, or ordinance with respect to county affairs, property, and finances, for which no specific provision has been made by general law and which is not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, as amended, or any other statute or law of the State of Mississippi; and

WHEREAS, the Board of Supervisors (the Board) for Madison County, Mississippi, finds it necessary to strictly regulate the keeping of animals, including dangerous and nuisance animals, in order to protect and promote the health, safety, and welfare of the public; and

WHEREAS, the Board finds that the regulations, prohibitions, and standards set forth herein are in the best interest of the citizens of Madison County, Mississippi, and the public at large; and

WHEREAS, all prior ordinances establishing guidelines and regulations for the enforcement of animal control within Madison County, Mississippi, are hereby repealed by approval of this Ordinance Establishing Guidelines and Regulations for Animal Control.

THEREFORE, be it enacted by the Board as follows:

SECTION 1
SHORT TITLE

This ordinance shall be known as the Animal Control Ordinance but sometimes referenced herein as “this ordinance.”

SECTION 2
APPLICABILITY

This ordinance shall apply to and be enforced within the unincorporated boundaries of the County.

SECTION 3
DEFINITIONS

As used in this ordinance, the following terms shall have the following meanings:

Abandon or Abandoned. Leaving an Animal unattended for a period in excess of 48 hours without providing Adequate Care and, as necessary, checking on the Animal’s condition.

Adequate Care. Care of an Animal to include, but not be limited to: providing good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

Animal. Any live, vertebrate creature, warm or cold blooded, domestic or wild.

Animal Control Officer. Any person employed by Madison County and assigned to carry out or enforce the provisions set forth in this Ordinance.

Animal Shelter. Any facility operated by a humane society, municipal or county agency or its authorized agent, or other private entity for the purpose of impounding or caring for Animals held under the authority of this ordinance or state law.

County. Any unincorporated portion of Madison County, Mississippi.

Dangerous Animal. Any Animal that constitutes a physical threat to human beings or to other Animals including, but not limited to:

- (1) Any Animal which causes Severe Injury to a human or otherwise attacks a human while unprovoked.
- (2) Any Animal which is owned, bred, trained, or harbored with the intent, in whole or part, to be willfully entered into a fighting match with another Animal.
- (3) Any Animal which inflicts Severe Injury upon a Domestic Animal, Livestock, or Pet without provocation while off the Owner's or Harborer's property.

EXCEPTIONS Notwithstanding the above, (i) no Animal may be considered a Dangerous Animal if it injures a person who, at the time of such injury or damage was: committing a willful trespass or other tort upon the premises occupied by the Harborer of the Animal; or was teasing, tormenting, abusing or assaulting the Animal; or was committing or attempting to commit a crime; (ii) no Animal may be considered a Dangerous Animal if it injures a Domestic Animal or Pet, which at the time of such injury was teasing, tormenting, abusing or assaulting the Animal; (iii) no Animal may be considered a Dangerous Animal if the Animal was protecting or defending a human within the immediate vicinity of the Animal from an unjustified attack or assault; (iv) no Animal may be considered a Dangerous Animal for inflicting injury upon a Domestic Animal or Livestock while it was working as a hunting animal, herding animal or predator control animal while on the property of, or under the control of its Owner or Harborer, and the injury was to a species or type of Domestic Animal or Livestock which is specific to the work of the Animal.

Deputy. A sworn deputy of the Madison County Sheriff's Department or a member of the County Patrol.

Exotic Animal. A species of animal not indigenous to the United States or to North America and typically a rare or unusual animal kept within human households which is generally thought of as a wild species and not typically kept as a pet. .

Feral Animal. An animal that has escaped from domestication and become wild, dangerous, or untamed.

Harborer. Any person, partnership, corporation or other entity which feeds or shelters an Animal for a period of fifteen (15) days or longer or knowingly permits it to remain on or about any premises occupied by or under its control for a period of thirty (30) days or longer.

Inhumane Treatment. Any treatment to any Animal which deprives the Animal of necessary sustenance, including food, water and protection from weather, or any treatment of any Animal such as overloading, overworking, tormenting, beating, mutilating, teasing or poisoning or other abnormal

treatment as may be determined by any authorized law enforcement officer.

Kennel. Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, cats or other domesticated Animals.

Owner. Any person, partnership, corporation or other entity owning, or having the legal right to possess or have control over an Animal.

Public Nuisance. Any Animal which:

- (1) Molests pedestrians or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds or in any County parks;
- (4) Is repeatedly Running atLarge in a platted subdivision or on public property;
- (5) Damages private or public property;
- (6) Barks, whines or howls in an excessive, continuous at people or other animals; or
- (7) Is allowed by its caretaker to become a nuisance to people or other animals.

Restraint. When an animal is secured by a leash or lead of less than six (6) feet, or is within the fenced real property limits of its caretaker, or is tethered in such a way that the animal is within the real property limits of its caretaker.

Run at Large or Running at Large. Any Animal off the property of the Owner or Harboree while not under Restraint. Notwithstanding the foregoing, no dog may be considered to be Running at Large while it is:

- (1) Working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its Owner;
- (2) Bodily carried by a person who is capable of controlling and restraining the Animal; or
- (3) Under voice control and is actively participating in organized group training or is in an official showing, obedience or field event.

Veterinary Hospital. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of Animals.

Wild Animal. A live monkey, raccoon, bear, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other warm and /or cold-blooded animal or reptile which can normally be found in the wild state and is not ordinarily domesticated by man, whether raised in captivity or in the wild.

Wildlife. Native Animals living in their natural habitat and not within the possession or control of humans.

SECTION 4
RABIES VACCINATIONS

A. The Owner of any dog or cat over three (3) months of age shall, upon request of the Animal Control Officer or Deputy, provide proof that the Animal has been properly inoculated with a rabies vaccine pursuant to Miss. Code Ann. § 41-53-1.

B. The failure to comply with this Section shall constitute a misdemeanor, and the offender shall, on conviction thereof, be subject to the penalties as described in Miss. Code Ann. § 41-53-13. Any fine imposed pursuant to Miss. Code Ann. § 41-53-1 shall be paid to the Justice Court within five (5) days of the imposition of such fine and related citation. In the event that such fine is not paid within the prescribed time, a misdemeanor warrant may be issued for contempt.

SECTION 5
IDENTIFICATION AND DESTRUCTION OF RABID ANIMALS

In case of an attack by an Animal resulting in injury to any person or other Animal, all efforts should be used to capture the “attacking” Animal alive. If successful, that Animal shall be impounded by the County for observation for a period of ten (10) days, or the County may have such Animal impounded for ten (10) days with a private Veterinarian Hospital to determine if the Animal is rabid. All costs of impoundment and any related Veterinarian Hospital fees shall be paid by the Owner. If at the end of above periods of time, or any time prior thereto, it is determined that said Animal has rabies, such Animal shall be immediately destroyed without the necessity of notice to the Owner.

SECTION 6
ABANDONMENT

It shall be unlawful for anyone to knowingly abandon or to aid in the abandonment of any Animal. An Animal relinquished through written agreement with a licensed rescue group, a licensed shelter, a licensed veterinarian, another responsible individual, or other entity shall not be deemed abandoned but shall be considered relinquished to the receiving entity.

SECTION 7
WILDLIFE

All complaints and matters concerning wild and/or exotic animals/reptiles or, complaints involving game animals or protected species and/or hunting, shall be forwarded to the Mississippi Fish and Game, Wildlife Rehab or a private pest control service.

SECTION 8
PUBLIC NUISANCE

A. It shall be unlawful for any Owner or Harboree to permit an Animal to Run at Large in a platted subdivision or on public property within the County.

- B. It shall be unlawful for the Owner of any Animal to permit such Animal to become or continue to be a Public Nuisance as defined herein.
- C. Animals that are a Public Nuisance or Animals that are Running at Large in a platted subdivision or on public property may be seized and impounded as provided in Section 11 below.
- D. No Animal shall be allowed within the grounds of any County park unless it is kept under Restraint at all times.
- E. Whenever the Animal Control Officer or Deputy receives complaints that any Animal is a Public Nuisance, the Animal Control Officer or Deputy may investigate to determine if facts exist to demonstrate a Public Nuisance.

SECTION 9
DESIGNATION OF DANGEROUS ANIMALS

A. An Animal Control Officer or Deputy shall, as deemed necessary, conduct an investigation into reported incidents involving Animals that may fall within the definition of Dangerous Animal. If possible, the Animal Control Officer or Deputy will interview the Harboring and/or Owner of the Animal in question and obtain sworn affidavits from individuals desiring to have the Animal classified as a Dangerous Animal.

B. After the investigation, the Animal Control Officer shall make an initial determination as to whether there is sufficient cause to classify the Animal in question as a Dangerous Animal. Written notification of the findings of the Animal Control Officer will be sent to the Owner and, if different, the Harboring of the Animal. The Owner, and if different, the Harboring, may file a written request, within ten (15) days from the date of receipt of the notification of the findings, for a hearing on the issue of the Animal's classification as a Dangerous Animal. Upon receipt of the written request of the Owner or, if different, the Harboring, for a hearing, the Animal Control Officer or a Deputy will schedule a hearing in the Madison County Justice Court to review the classification determination (the "Determination Hearing,") and provide notice to the Owner/Harboring of the hearing date. The Determination Hearing shall be held as soon as possible, but not more than twenty one (21), nor less than seven (7) days after receipt of the request for said hearing. If a request for a Determination Hearing is not made within the ten (10) day time period the right to appeal the decision of the Animal Control Officer shall be waived.

C. During the period of investigation and Determination Hearing process set forth above, the Animal in question must be confined in a Secure Enclosure or surrendered to the Animal Control Officer for impoundment. If surrendered for impoundment, all costs of housing the Animal will be paid by the Harboring prior to the Animal being released.

D. No Animal that is subject to an ongoing investigation or Determination Hearing under this section may be relocated nor ownership transferred unless the relocation or change in ownership is for the purpose of placing the Animal in a Secure Enclosure. In the event of the Animal's relocation or change in ownership the Animal Service Department must be notified immediately and provided with all requested information.

E. Decisions of the Madison County Justice Court may be appealed pursuant to Rule 1.25 of the Uniform Rules of Procedure for Justice Court.

SECTION 10
KEEPING OF DANGEROUS AND EXOTIC ANIMALS

A. It is unlawful for any person to keep, possess, harbor, maintain, or own a Dangerous Animal except as otherwise provided for herein. All Dangerous Animals shall be securely confined indoors or confined in a Secure Enclosure except as otherwise permitted by subparagraph B.

B. No Owner or Harboring of a Dangerous, Exotic, or Wild Animal shall permit the animal to go beyond the premises of his property unless the Dangerous, Exotic, or Wild Animal is securely Restrained and under the direct control of a person who is at least eighteen (18) years of age and sufficiently able to restrain the animal. Further, Dangerous Animals must be Muzzled at all times, provided that the Animal is capable of being fitted with a Muzzle. As used herein, Muzzle is defined as any device designed to prevent the Animal from biting a person or other Animal. This regulation is intended to provide flexibility of design appropriate to the specific Dangerous Animal to be muzzled.

C. No Dangerous, Exotic, or Wild Animal may be kept on a porch or patio, or within any part of a house or other structure, in such a manner that would allow the Dangerous, Exotic, or Wild Animal to exit on its own. In addition, no Dangerous, Exotic, or Wild Animal may be kept in a house, or other structure, when the windows are open, or when screen windows or doors are the only obstacles preventing the animal from exiting and the screens are not sufficiently able to restrain the animal.

D. All Harborers of Dangerous Animals shall display at all points of entry to their property a sign, easily readable by the public, warning of the existence of such animals such as "Beware of Dangerous Dog." In addition, a similar sign shall be posted on the Secure Enclosure where the Dangerous Animal is kept.

E. No Dangerous Animal will be allowed to be kept within one hundred (100) yards of a school, daycare facility or other facility designed primarily to provide services to children.

H. Any Animal Control Officer or Deputy may request an on-site inspection of the location where the Dangerous, Exotic, or Wild Animal is kept upon twenty-four (24) hours-notice. Failure of the occupant of the premises where the Dangerous, Exotic, or Wild Animal is kept to allow the requested inspection constitutes a violation of this ordinance. Further, any Animal Control Officer or Deputy may seek a warrant, from a court of proper jurisdiction, for the authority to immediately inspect the premises of the Dangerous, Exotic, or Wild Animal.

I. This Section shall not apply to Animals kept by: law enforcement agencies; public zoos; fully accredited educational or medical institutions; exhibitions to the public by traveling circus, carnival, exhibit or show; or if kept in a licensed veterinary hospital for treatment.

J. The Owner or Harboring of a Dangerous, Exotic, or Wild Animal shall immediately notify the Animal Control Officer if such animal is loose, unconfined, has attacked another Animal or human, or is otherwise missing.

SECTION 11
SEIZURE, IMPOUNDMENT, AND ELIMINATION GENERALLY

A. Authority to Seize and Confine. An Animal that is a Dangerous Animal or a Public Nuisance or any animal that is Animal Running at Large in a platted subdivision or on public property shall be taken by any Animal Control Officer or Deputy and impounded in an enclosure or Animal Shelter designated by the County for that purpose, and there confined in a humane manner.

B. Notice to Owner; Reclaiming of Animal. If the Owner of an impounded Animal can be identified by a tag or by other means, the Owner shall be notified, immediately upon impoundment, by telephone and by mail that such Animal has been impounded by the County at an Animal Shelter designated by the County. Within thirty (30) days of being seized by the County, and provided the Animal is properly vaccinated, licensed and tagged, the rightful Owner of any Animal held under this Section may reclaim the Animal upon payment of an impoundment fee to the County or to its designee sufficient to pay for all costs associated with the Animal's impoundment. If an unvaccinated Animal is reclaimed by its Owner, the Owner must make arrangements for, and pay for, the vaccination of said Animal prior to it being released from impoundment.

C. Disposition if Not Reclaimed by Owner; Waiver of Waiting Period. Any Animal not reclaimed by its Owner within thirty (30) days shall become the property of the County and shall be placed for adoption in a suitable home for the fee of Ten Dollars (\$10.00), or humanely euthanized with an injection of sodium pentobarbital. If an unclaimed Animal is adopted, the adoptive Owner must make arrangements for, and pay for, the vaccination of said Animal prior to its release from impoundment.

D. Additional Proceedings Against Owner Authorized. The Owner of an impounded animal may also be proceeded against by the County for violation of this ordinance.

E. When an Animal is determined to be a Feral Animal, such animal may be destroyed by a Deputy provided each of the following requirements are met:

- (1) The animal is running at-large;
- (2) There is no vaccination tag or collar around the animal's neck; and
- (3) Attempts to humanely capture the animal have been made and proven to be unsuccessful.

F. In the event an Animal attacks a human or another Animal and capturing the attacking Animal alive proves to endanger the safety of the officer, that Officer shall be allowed to discharge his/her firearm in order to end the threat of danger.

SECTION 12
ANIMAL CARE

- A. No Owner shall fail to provide his or her Animal(s) with Adequate Care.
- B. No person shall beat, cruelly treat, torment, overload, over-work, or otherwise abuse an Animal, or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between Animals or between Animals and humans.
- C. No Owner of an Animal shall abandon such Animal.
- D. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same is likely to be eaten by any Animal, provided that it shall not be unlawful for a person to expose on his or her own property common pest-control poison mixed only with vegetable substances.
- E. No Owner shall fail to exercise proper care and control of his or her Animal(s) to prevent it/them from becoming a Public Nuisance.
- G. No person shall leave an Animal unattended inside a motor vehicle when such action is harmful or potentially harmful to said Animal. In the event the Owner of said vehicle is not available and cannot be found or refuses to prevent said harm or reasonable potential harm from continuing, any law enforcement officer shall be authorized to remove said Animal from such vehicle and to utilize any reasonable method to effect said removal. Said law enforcement officer shall not be liable for any damages incurred to the vehicle as a result of such rescue efforts.

SECTION 13
PET SHOPS, AVIARIES AND KENNELS

Any law enforcement officer of the County is hereby authorized at any reasonable time, upon receipt of any public complaints or requests to inspect any store or business located within the County which buys, sells, gives away or trades live Animals or which operates a Kennel.

SECTION 14
SEVERABILITY

If any provision of this ordinance is ruled illegal, unconstitutional or otherwise unenforceable by a Court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

SECTION 15
CONFLICT

Any other ordinances of Madison County, Mississippi, which are conflicting or inconsistent with this ordinance, are hereby repealed to the extent of any inconsistencies or conflicts.

SECTION 16
REPEALER

All ordinances and amendments prior hereto establishing guidelines and regulations for the enforcement of animal control within Madison County, Mississippi, are repealed by the enacting of this ordinance.

SECTION 17
EFFECTIVE DATE

This ordinance shall become effective immediately upon passage by the Madison County Board.

SECTION 18
ENFORCEMENT

A. The civil and criminal provisions of this ordinance shall be enforced by the any law enforcement officer in the County.

B. The County may, at its option, contract with any private entity for the purpose of carrying out the County's duties set forth hereunder related to the seizure of Animals, the impoundment of Animals, and certain other duties which the County may deem appropriate and for which the County may legally contract.

C. If any Deputy observes any violation of this ordinance, or finds probable cause exists that a violation of this ordinance has occurred, or that any Animal(s) is a Public Nuisance, he may issue a citation to the Owner or Harboring of the Animal noting the offending conditions and charging him/her with a violation of this ordinance and setting a date and time certain for a hearing in the Madison County Justice Court. Any Animal Control Officer or Deputy may rely upon the sworn affidavit of any person he finds to be reliable as sufficient probable cause to proceed under this provision. Any Animal Control Officer or Deputy may, in lieu of issuing a citation, file an affidavit in the Madison County Justice Court, specifically noting the offending conditions and charging the Owner or Harboring of the Animal with a violation of this ordinance. It shall be a violation of this chapter to interfere with the Deputy or Animal Control Officer in the performance of his/her duties.

D. Any member of the public may swear out an affidavit with the Madison County Justice Court setting forth the sufficient facts and details of the offending conditions and charging the Owner or Harboring of the Animal with a violation of this ordinance.

SECTION 19
PENALTIES

A. Any Owner whose Animal attacks, injures or harms any human or other animal as a result of the Owner or Harboring's violation or noncompliance of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) or imprisonment in the county jail not to exceed ninety (90) days, or by both such fine and imprisonment. Each violation shall be deemed a separate offense.

B. Any person violating any provision of this ordinance, for which no penalty is otherwise specifically provided for by this ordinance or by state or federal law, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for a first offense. For any second offense occurring within a two (2) year period of time, a fine in the amount of not less than two hundred-fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), and/or a period of incarceration not to exceed thirty (30) days shall be imposed. For any third or subsequent offense occurring within a two (2) year period of time there shall be assessed a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and/or a period of incarceration not to exceed one hundred and eighty (180) days. No portion of any fines assessed may be suspended. Each violation of any provision of this ordinance shall be deemed a separate offense.

C. The Court, in addition to the penalties provided herein, may order the person violating this ordinance to pay restitution to any person suffering damages resulting from the violation.

SO ORDAINED and adopted by the Board of Madison County, Mississippi, on this the _____ day of _____, 2018.

SHEILA JONES, President
MADISON COUNTY BOARD OF SUPERVISORS

I, hereby, certify that the foregoing is a true copy of the Ordinance Establishing Guidelines and Regulations for Animal Control within Madison County, Mississippi adopted in the regular meeting of the Madison County Board of Supervisors on the _____ day of _____, 2018.

ATTEST:

RONNY LOTT
CHANCERY CLERK