

Chapter 18 - ANIMALS<sup>[1]</sup>

## Footnotes:

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**Cross reference**— Businesses, ch. 30; environment, ch. 54; nuisances, § 54-51 et seq.; health and sanitation, ch. 66; assemblies, parades and processions, § 82-51 et seq.; streets, sidewalks and other public places, ch. 98; traffic and vehicles, ch. 106; zoning, app. A.

**State Law reference**— Municipal suppression or regulation of hog pens, slaughterhouses and stockyards, MCA 1972, § 21-19-1; animals at large, city pounds, cooperative agreements, MCA 1972, § 21-19-9; rabies control, MCA 1972, § 41-53-1 et seq.; protection of certain wild birds, MCA 1972, § 49-5-7; cruelty to animals, MCA 1972, § 97-41-1 et seq.

## ARTICLE I. - IN GENERAL

## Sec. 18-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

At large means off the premises, not controlled by the owner or his immediate family by leash, cord, chain or otherwise.

Domesticated animals means animals which are kept as pets, such as dogs and cats.

Owner means any person owning, keeping or harboring any animal or fowl.

Undomesticated animals means horses, mules, cattle, goats, swine and other animals which are not domesticated.

(Code 1977, § 6-1)

**Cross reference**— Definitions generally, § 1-2.

## Sec. 18-2. - Running at large.

No person shall allow any animal, whether domesticated or undomesticated, or fowl to roam, run or be at large or on the premises of another within this city.

(Code 1977, § 6-2)

## Sec. 18-3. - Cruelty.

It shall be unlawful for any person to willfully abuse, cruelly treat, injure or neglect any animal or fowl within the city.

(Code 1977, § 6-3)

**State Law reference**— Cruelty to animals, MCA 1972, § 97-41-1 et seq.

## Sec. 18-4. - Destruction of dangerous, fierce domesticated animals.

Any dangerous, vicious or fierce domesticated animal or any domesticated animal having dangerous, vicious or fierce propensities and tendencies found at large after the owner thereof has previous knowledge or notice that such domesticated animal is dangerous, vicious or fierce or has dangerous, vicious or fierce propensities and tendencies may be killed by any police officer of the city without such officer having to catch or impound such domesticated animal.

(Code 1977, § 6-4)

Sec. 18-5. - Keeping livestock.

- (a) It shall be unlawful for any person to keep or permit to be kept cows or horses within the city which constitute a nuisance.
- (b) It shall be unlawful for any person to keep or permit to be kept cows or horses within the city where any such animal is kept on lands having less than one acre of open land per each such animal so kept.

(Code 1977, § 6-5)

Secs. 18-6—18-25. - Reserved.

## ARTICLE II. - REGULATING THE CONTROL OF ANIMALS<sup>[2]</sup>

Footnotes:

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**Editor's note**—Ord. No. 2007-3, §§ 1—10, adopted March 6, 2007, repealed the former Art. II, §§ 18-26—18-35, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 1986-2, §§ 1—3, 3-4-86; Ord. No. 2005-1, §§ 1—10, 4-5-05.

**Cross reference**— Molesting police dogs, § 70-1.

**State Law reference**— Dogs, MCA 1972, § 41-53-1 et seq.

## DIVISION 1. - GENERALLY<sup>[3]</sup>

Footnotes:

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**Editor's note**—Ordinance No. 2008-7, §§ 1—10, adopted August 8, 2008, did not specifically amend the Code. Therefore, at the editor's discretion, such ordinance has amended §§ 18-26—18-35 to read as herein set out. Formerly, such sections pertained to similar subject matter and derived from Ord. No. 2007-3, §§ 1—10, 3-6-07; Ord. No. 2008-4, §§ 1—10, 4-15-08.

Sec. 18-26. - Definitions.

Abused animal means any animal which is any of the following whether such abuse is attributable to intentional cruelty or neglect:

- (1) Mistreated, beaten, tormented or teased whether resulting in death or not.
- (2) Deprived of water, food or shelter.
- (3) Kept under unsanitary conditions.
- (4) Abandoned.
- (5) Trained, bred, or sold for fighting other animals.
- (6) Transported unrestrained in open air vehicles.
- (7) Transported in the trunk of any vehicle.
- (8) Left unattended in a vehicle in extreme heat without proper ventilation.
- (9) Is overcrowded in its habitat such as, but not limited to, too many dogs in one yard.
- (10) Has its movements unreasonably restricted by a collar that is the pinch-type, prong-type, or choke-type that is not properly fitted to the dog.
- (11) A domesticated animal is held outside in extreme weather conditions, including conditions in which:
  - a. A cold or winter weather advisory has been issued by the National Weather Service or the local or state authority with jurisdiction and the animal is not provided access to any climate controlled area, warming equipment or devices/products/methods capable of mitigating the extreme cold;
  - b. A heat advisory has been issued by the National Weather Service or the local or state authority or jurisdiction and the animal is not provided access to any climate controlled area, cooling equipment or devices/products/methods capable of mitigating the extreme heat;
  - c. A hurricane, tropical storm or tornado warning has been issued for the jurisdiction by the National Weather Service.
- (12) A domesticated animal is held chained, tethered or has its movements unreasonably restricted for more than three hours within a 24-hour period; provided, however, that a domesticated animal may be held chained, tethered or have its movements restricted for a reasonable period of time to allow the responsible owner or custodian to perform necessary tasks so long as the chain is ten feet or longer, or shorter than ten feet but attached to a running line that provides adequate movement.

[Animal.] The term "animal" whenever used in this division shall be held to apply to both male and female animals and without regard to age or size. Animal shall be inclusive of all domesticated and/or feral creatures or animals to include i.e. cats, dogs, ferrets, potbellied pigs, snakes, etc.

Dangerous animals. The following animals are hereby found and determined to be dangerous animals and as such are subject to all requirements and provisions of this division and more particular restraints on dangerous animals:

- (1) Any animals, other than domestic dogs and cats, which in a wild state are carnivorous or poisonous or which, due to their physical makeup or capabilities, are capable of inflicting serious physical harm or death to human beings. This includes, but is not limited to, animals belonging to the cat or snake family including all constrictors, bears, wolverines, bobcats, badgers, lions, tigers and such other animals as the mayor and board of aldermen may from time to time determine by resolution to be vicious animals.
- (2) Any domestic dog or cat or any other animal that exhibits any of the following characteristics:
  - a. Without provocation, approaches in a threatening or terrorizing manner any person in an apparent attitude of attack or exhibits any behavior that constitutes a physical threat of bodily

- harm to a person upon the streets, sidewalks, any public or common grounds or places or in any other place where such person is conducting himself or herself peaceably and lawfully;
- b. Without provocation, bites, inflicts injury, assaults or otherwise attacks a person in any place where such person is conducting himself or herself peaceably and lawfully whether on public or private property, or attacks another animal when such animal is not on the property of the owner, possessor, or custodian of the attacking animal;
  - c. A known propensity, tendency or disposition to attack without provocation, to cause injury to or otherwise endanger the safety of human beings or their domestic animals;
  - d. Owned or harbored primarily, or in part, for the purpose of fighting or any animal trained for fighting or being sold, bred, or maintained as a fighting animal.
- (3) For the purposes of this division, a person shall be considered to be peaceably and lawfully upon the private property of an owner, possessor, or custodian of an animal when he or she is on such property in the performance of any duty imposed upon him or her by any laws or postal regulations of the United States, or the State of Mississippi, or any political subdivision thereof or when he or she is on such property upon invitation, expressed or implied, by law or by the owner, possessor, or custodian of said animal or of said premises.
- (4) The provisions of this division notwithstanding, no animal may be determined to be dangerous due to the fact that it:
- a. Inflicts injury or damage on a person committing a trespass or other tort upon the person or premises occupied by the person owning, or in possession, or in custody of the animal, or teasing, tormenting, abusing or assaulting the animal, or committing or attempting to commit a crime or ordinance violation.
  - b. Inflicts injury or damage on another domestic animal that is or was teasing, tormenting, abusing or assaulting the animal or its young.
  - c. Takes any action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.
- (5) Unless specifically stated to the contrary, the following are exempt from the definition of "dangerous animals":
- a. Dogs or other animals assisting a peace officer or other law enforcement officer engaged in law enforcement duties; and
  - b. Animals in a licensed veterinary, animal or small animal hospital for treatment, or kept in a bona fide educational, medical or other research institution, or in zoos, museums or similar places where such animals are kept as live exhibits or for study.

Electronic animal confinement system shall mean a commercially produced and professionally installed electronic fence which requires an electrically generated perimeter which is not readily visible, and that the animal within the perimeter shall wear an electronic collar which produces an electric shock to the animal when the perimeter is approached too closely.

[Owner, possessor or custodian.] Any person over the age of 18 years who shall harbor or permit an animal for ten days or more or let the same habitually remain to be fed for a period of ten days or more in or about his/her house, store, or other location shall be deemed the "owner, possessor, or custodian" of said animal, and shall be liable under this division. Any person under age 18 years in possession of an animal shall have his or her guardian, parent, or custodian stand fully responsible for his or her compliance with this division as the "owner, possessor or custodian" of said animals and any penalties for noncompliance.

[Running at large.] Any animal shall be deemed to be "running at large" if it is at any time off the premises of the owner, possessor, or custodian, and it shall not be sufficient that said animal is trained to obey the commands of its owner, possessor, or custodian or that it is momentarily or accidentally off the premises of the owner, possessor, or custodian, or that said owner, possessor, or custodian is not aware

that said animal was off his or her premises or that said animal is very young or known to be harmless except that said animal shall not be deemed "running at large" if it be controlled as follows at all times while off the premises of the owner, possessor, or custodian as follows:

- (1) If enclosed in an adequately ventilated cage, pen, vehicle, trailer, or other enclosure suitable to prevent escape of said animal and of sufficient size as not to be overcrowded or cramped.
- (2) If chained or tied to a leash not to exceed six feet in length and having sufficient strength to restrain said animal with said leash being securely affixed to an object of sufficient rigidity that it cannot be moved by said animal, or leash being securely held by a person who is capable of controlling and restraining said animal.
- (3) If said animal is bodily carried by a person who is capable of controlling and restraining said animal.
- (4) An animal is not "running at large" if under voice control as direct control when the animal is actually participating in organized group training or is in an official showing, obedience, or field event.
- (5) An animal is not "running at large" if the animal is contained in an enclosed area at a city park subject to prescribed rules and regulations as put forth by the park commission and approved by the mayor and the board of aldermen.

(Ord. No. 2008-7, § 1, 8-8-08; Ord. No. 2010-5, § 1, 3-2-10)

Sec. 18-27. - Restrictions on owning, harboring or keeping any animal.

It shall be unlawful for any person to own, harbor, possess or keep any animal within the corporate limits of the City of Starkville, Mississippi, except in compliance with the provisions of this division and the following specific provisions:

- (a) All dogs and cats within the city above three months of age shall be vaccinated for rabies. An additional vaccination is to be administered at 15 months of age and subsequently thereafter in compliance with Mississippi state law. Dogs and cats shall wear, at all times, a tag provided by the vaccinating veterinarian indicating such vaccination. All animals shall be vaccinated as required by the Mississippi State Board of Health and this division shall automatically conform with and to any changes in required vaccinations of all animals by said state department of health and/or state law as may subsequently change from time to time.
- (b) It shall be the duty of every owner of any animal, or anyone having possession or custody of any animal, to ensure that the animal is kept under restraint and that reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the property limits of its owner, possessor or custodian, and to ensure that:
  - (1) The animal is securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump or otherwise escape on its own. Such enclosure must be securely locked at any time the animal is left unattended;
  - (2) The animal is on a leash, as defined in section 18-26, and under the control of a competent person, and that person is present with the animal any time it is not restrained while on the owner's property.
  - (3) No animal shall be tethered in public areas and must be on a leash in public areas even when with owner.
- (c) All dogs shall be licensed (registered) annually with the city. This is in addition to a current rabies tag. At the time of registration, a uniquely numbered tag will be given to the owner, possessor, or custodian and the tag must be affixed, along with the rabies vaccination tag, to the collar of the animal at all times. If the owner, possessor or custodian moves, the city must be notified in writing of the new address within ten days of the move. If the dog dies, the city should be notified. If the

dog is given away, exchanged, or sold, then the city shall be notified by the old and by the new owner who must register the dog anew, including paying any fees. An initial registration of \$10.00 shall be paid to cover administrative expenses, including production of forms and tags and other administrative and educational materials. This fee will also cover the production of pamphlets/leaflets to be used as educational materials and distributed to animal owners and purchasers to make them aware of the ordinance and the fee may be used for the advocacy and expenses associated with the spay and neuter program. The fee may change from time to time based on resolution of the board of aldermen.

In order to encourage people to have their animals spayed or neutered, city registration fees are one-half price for animals with a veterinary certification that they have been spayed or neutered. Registration will be administered for the city by the Oktibbeha County Humane Society and applicants should go to the animal shelter to register.

- (d) An electronic animal confinement system shall be considered an acceptable enclosure when:
  - (1) The equipment is maintained and in continuous working order, and the animal to be contained within wears the appropriate electronic collar when within the fence perimeters;
  - (2) The equipment must include a battery backup to ensure an electric current to the underground wiring in the event of a power failure; and
  - (3) On each side of the property, permanent and prominently displayed signs are posted on the outer perimeter of the electronic animal confinement system. The signs shall be no smaller than 18 inches square, one on every side of the property, and shall read: "Animal(s) on this property are contained by an electronic animal confinement system."
- (e) In cases where an animal has been deemed dangerous by the city through court or enforcement officials, or has been trained to be a guard dog, then an electronic animal confinement system may not be used as either the primary or secondary fence or enclosure.
- (f) Individuals who contain their animal(s) by means of an electronic animal confinement system and are found in violation of the ordinance must contain thereafter the animal(s) in manners elsewhere in this division.

(Ord. No. 2008-7, § 2, 8-8-08; Ord. No. 2010-5, § 2, 3-2-10)

Sec. 18-28. - Health and safety; noisy and nuisance animals prohibited.

- (a) It shall be unlawful for any person to intentionally administer or cause to be administered poison of any sort to any animal on, in any manner intentionally injure, maim or destroy any animal, or place any poison where it may be accessible to any animal; provided, however, any police, law enforcement, or humane officer, in the performance of his or her duties may, if necessary, in order to catch an animal for the purpose of impounding it or subdue such animal, use such force and means as are necessary at the time in the sole and exclusive judgment of the described enforcement officer or officers. Necessary or common practices including, but not limited to, cropping of ears and docking of tails, are not considered maiming when performed by a licensed veterinarian.
- (b) Any owner, possessor, or harbinger of an animal within the city which is kept in a pen, structure, building or other enclosure is hereby required to keep such enclosure in a sanitary and clean condition so as to prevent disagreeable odors from arising therefrom, and to prevent the presence or breeding of flies, mosquitoes and other pests therein and for the health of said animal. The animal shall, at all times, be provided with adequate shelter and protection from the elements including harsh sunlight. The enclosure shall provide the animal adequate exercise room, light, and ventilation and will not be overcrowded. The animal shall be provided a diet adequate in quantity and nutrition and at all times have free access to clean drinking water.

- (c) It shall be unlawful for any owner, possessor, or keeper of any animal to permit such animal or animals, by loud and persistent habitual barking, howling, yelping, or other loud sounds to disturb any person or neighborhood, and the same is hereby declared to be a public nuisance. It shall not be necessary, for the purposes of this section, to identify and describe the particular animal which is barking, howling, yelping, or making other loud sounds, provided only that it shall be shown who has possession, care, custody or control of said animal or the premises where said animal is located or found be identified.
- (d) It shall be unlawful for anyone to knowingly abandon or abuse any domesticated animal within the city. Each person who knowingly abandons or abuses, or willingly permits such abandonment or abuse, or aids in the abandonment or abuse of any domesticated animal shall be guilty of an offense.
- (e) It is illegal to command or signal an animal or dangerous animal to attack a person or another animal. If this is done, the animal will immediately be declared dangerous if it has not been before. A verbal declaration by the enforcing officer will be all that is necessary to complete the declaration of dangerous animal. Impoundment will be immediate.
- (f) It is a violation for the owner, possessor, or other person having control or custody of any animal to allow such animal to frequently or habitually snarl at, growl at, jump upon, or threaten persons upon public sidewalks, roads, streets, alley, or public places or upon private property adjacent to that where the animal is contained. Such animals shall be declared a nuisance and its owner, possessor, or custodian shall be held responsible. The animal may be impounded and may thereafter be dealt with under the dangerous animal provisions.
- (g) No person shall allow a dog or other domesticated animal in his/her custody to defecate on any property other than that of the owner or person having control of the animal. It shall be the duty of all persons having control of a dog or other domesticated animal to curb such animal and to immediately remove any feces to a proper receptacle. Disabled persons while relying on a Seeing Eye, hearing, or service dog/animal shall be exempt from this section.

(Ord. No. 2008-7, § 3, 8-8-08; Ord. No. 2010-5, § 3, 3-2-10)

Sec. 18-29. - Enforcement responsibility.

- (a) The police department, law enforcement officers, and any other lawfully designated official or representative of the city shall have the primary duty and responsibility of enforcing the provisions of this article. Any officer of the police department, all other law enforcement officers, and any such designated official or representative is fully authorized and empowered to enforce any and all of the provisions hereof.
- (b) Any official or representative of the city, lawfully designated to enforce the provisions of this article, shall have the power and authority to issue summons and citations returnable to the municipal court or to any other proper authority for violations of this article. Such summons and citations shall have the same full force and effect as is issued by the police department of the city for other law enforcement purposes. The section on penalties also applies for purposes of enforcement responsibility.
- (c) The police department or other designated official or representative of the city may develop and utilize such forms as may be required and necessary to implement this division, exercise the police power of the city in ordinance enforcement, and actively enforce this division.

(Ord. No. 2008-7, § 4, 8-8-08; Ord. No. 2010-5, § 4, 3-2-10)

Sec. 18-30. - Posting of premises.

- (a) All premises upon which a dangerous animal is kept, possessed or harbored shall be posted with signs that are conspicuously visible to the public and legible from property, public or private, adjacent to such premises. Such signs or notices shall contain letters of not less than two inches in height and a message sufficient to warn the general public of the presence of the dangerous animal. Such signs shall be placed at all locations where entry to the owner's property is common and expected and upon

all enclosures within which dangerous animals are confined, including residences and other structures. A "Beware of Dog (Animal) sign" is not a sufficient warning for the presence of a dangerous animal.

- (b) The absence of any required signs shall be considered prima facie evidence of a violation of this section. Signs shall be constructed and maintained in a manner to withstand the elements.
- (c) Notwithstanding any exemptions granted elsewhere in this ordinance, the requirements of this section shall apply to all duly authorized and lawfully operated dealers in animals within the city, any lawfully operated circus, carnival, performing act or similar functions and events of a temporary nature, and to any premises utilizing dogs or other animals lawfully for guard or other purposes.

(Ord. No. 2008-7, § 5, 8-8-08; Ord. No. 2010-5, § 5, 3-2-10)

Sec. 18-31. - Confinement of dangerous animals.

- (a) All dangerous animals shall be kept confined within the residence or other permanent building or structure on the premises of the owner or other person in possession or control of such animals or within an enclosure as herein defined.
- (b) All dangerous animals kept on the premises of the owner or person having possession or control of such animals, and not within the residence or other permanent building or structure, shall be confined within a fence or structure area of at least four feet in height (or taller, as necessary to humanely or adequately contain the animal) forming a confined area sufficient to prevent the entry of young children and, effective in containing a dangerous animal. Such enclosure shall be securely closed and locked and equipped with secure sides as well as a top covering and bottom which shall be designed to prevent the animal from escaping the enclosure. The bottom of such enclosure shall be concrete and the sides and top shall be constructed of steel wire or other materials sufficient to prevent the animal from escaping the enclosure. The city reserves the exclusive unilateral right to issue more specific confinement requirements in specific instances where enclosures prove to be or are likely to be, in the exclusive decision of the city, insufficient to prevent the escape of such animals or to prevent such animals from coming into contact with people adjacent to such enclosures.
- (c) Such enclosure, fence or structure must be at least five feet from a fenced property line of the owner or person in control or possession of such animals, provided that such enclosure, fence or structure is within a separately and totally enclosed fenced area.
- (d) No dangerous animal shall be allowed outside of the residence or required enclosure, unless it is securely muzzled and restrained, with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and under the direct control and supervision of the owner, possessor, or custodian unless the owner, possessor, or custodian is a minor and then the dangerous animal shall not be allowed outside unless under the direct control and supervision of an owner, possessor, or custodian who is at least 18 years of age and sufficiently able to restrain said animal.
- (e) In lieu of the requirement that the fence or structure area have a concrete bottom, the fence and sides of each structure area must be embedded in the ground to a depth of two feet, provided such animal to be confined is not a burrowing animal, and if it is a burrowing animal, the concrete bottom is required.
- (f) No dangerous animals will be allowed to be kept within 100 yards of a school, daycare, or other facility which provides services to children.

(Ord. No. 2008-7, § 6, 8-8-08; Ord. No. 2010-5, § 6, 3-2-10)

Sec. 18-32. - Determination of status; impoundment; redemption or disposition of dangerous and other animals.

- (a) Determination of dangerous animals is primarily a complaint-driven process and citizens are encouraged to contact the City of Starkville Police Department or other enforcement officers concerning possible violations of the law. Any police officer or any other lawfully designated official or

representative of the city shall have the right to enter any private property in the city for the purpose of inspecting said property for the presence of dangerous animals or for performance of other duties in the enforcement of this article. Any police officer or other lawfully designated official or member of law enforcement or representative of the city, having cause to believe that an animal is dangerous or abused, shall conduct or cause to be conducted an investigation of the animal and the owner, possessor, or custodian shall have the opportunity to present evidence as to why the animal should not be determined to be dangerous or abused. The results of any investigation with respect to a particular animal shall not bar the city from investigating any subsequent actions of the animal.

- (b) Should any police officer, member of law enforcement, or other designated official or representative of the city have reason to believe that an animal is vicious or dangerous and may pose a threat of imminent or serious harm to persons or other domestic animals or is abused, said officer or official may immediately seize and impound the animal pending an investigation as described herein. The decision of the enforcement official in seizing an animal prior to investigation shall be in the sole and exclusive judgment of the enforcing official subject to the then prompt post-seizure investigation and hearing.
- (c) Any police officer or other lawfully designated official, member of law enforcement, or representative of the city, upon complaint by any citizen or person, on his or her own initiative, may make inquiries to determine compliance with this ordinance and may seize and impound any animal found in apparent violation of any of its provisions. The first offense is sufficient for impoundment and the animals will remain impounded until the situation resulting in charges is remedied. The animals may be returned upon correcting the deficiency and upon order of the municipal court. The offending party shall reimburse the city the costs of care while impounded.
- (d) If any animal is caused or permitted, or is found to be within the corporate limits of the city and in violation of the provisions of this ordinance, then such animal may be apprehended and impounded by any police officer or other designated official(s) of the city or members of law enforcement, to be held or disposed of as herein provided for dangerous animals.
- (e) If any such animal is so impounded, the same shall be released to the documented owner, possessor, or custodian but only if payment is made, within five working days to the city or as otherwise set by court order, of such sums as may be designated from time to time by the mayor and board of aldermen or the court for compensation for catching or otherwise apprehending such animal and the expenses for harboring and caring for such animal on a daily basis during the time of impoundment. These expenses are due whether the owner elects to reclaim the animal or not.
- (f) In addition to or in lieu of impounding an animal found in violation of this article, any police officer or designated official(s) of the city or member of law enforcement may issue a citation for any violations of this ordinance to the person known to be the owner or be in possession or control of such animal. Any fines imposed, as set from time to time by the mayor and board of aldermen or otherwise by state law, shall be paid within three working days of such citation or as set by the court. If such fine is not paid within the time prescribed, a criminal warrant may be issued for such person, who may, upon conviction of such offense before the municipal court, be punished as allowed by law for violation of city ordinances.
- (g) All fees and fines imposed pursuant to this section shall be paid by any violator, and all other requirements of this article with respect to a dangerous animal shall be met before an animal impounded pursuant to this article shall be released. If such fees and fines are not paid within five working days or as set by the court, then any such animal so impounded may be destroyed or otherwise disposed of.
- (h) Appeals from orders of the municipal court shall be the same as other appeals from municipal court.

(Ord. No. 2008-7, § 7, 8-8-08; Ord. No. 2010-5, § 7, 3-2-10)

Sec. 18-33. - Killing of dangerous animals; when authorized.

When any dangerous animal, in the judgment of any police officer, member of law enforcement, or other designated official or representative of the city, poses a serious and immediate threat of serious harm or injury to human life, then it shall be the lawful duty of such officer to kill such animal, without requiring such officer or official to catch, restrain or impound such animal or give any notice whatsoever in the sole and exclusive judgment of said officer.

(Ord. No. 2008-7, § 8, 8-8-08; Ord. No. 2010-5, § 8, 3-2-10)

Sec. 18-34. - Penalties.

- (a) The failure or refusal of any person to comply with any of the provisions of this ordinance and the violation of any provision of this article by any person shall constitute a misdemeanor under state statute or an administrative offense subject to the administrative hearing process. Any person deemed guilty of any violation of any provision of this article shall, on conviction or administrative adjudication thereof, be subject to punishment allowed by law. The municipal court or other empowered adjudicatory body is hereby authorized to establish a schedule of penalties for various offenses or, in the absence of same, according to state law or other administrative order issued by the city.
- (b) Issuance of a citation by the city which carries a fine due shall comply with the same time frames used by the municipal court for other violations or as determined appropriate by the municipal court and/or the administrative hearing process. Officers are encouraged to make suggestions as to how problems with fences or other containment can be remedied.
- (c) If a particular animal or owner, possessor, or custodian is cited for violations more than three times, the animal containment must be brought to conform with the dangerous animal containment requirement. Second and third citations should carry incrementally larger fines as set by order of the city or by the court.
- (d) If the nonconforming situation cannot be satisfactorily remedied immediately, then enforcement officers may impound the animal without prior notice. If this occurs, the animal will not be released to the owner, possessor, or custodian until proof is provided that the situation causing the citation has been satisfactorily remedied. The decision of whether the remedy is satisfactory will rest with enforcement officers and with the municipal court or other adjudicatory body.

(Ord. No. 2008-7, § 9, 8-8-08; Ord. No. 2010-5, § 9, 3-2-10)

Sec. 18-35. - Additional city remedies for violations.

- (a) Should any dangerous animal, when unprovoked, kill or wound or assist in killing or wounding any livestock, fowl or other domestic animal belonging to or in possession of any person, or attack, bite or otherwise assault or injure any human being or assist in doing so, whether out of or within any required enclosure of the owner or person in possession or control or whether on or off the property of the owner, possessor, or custodian, whether or not such animal is leashed or muzzled and whether or not such animal escaped without the fault of the owner, possessor, or custodian, then the owner, possessor, or custodian of the animal shall be liable to the person injured or aggrieved for all damages sustained to be recovered in a civil action together with costs of suit, attorney fees, and payment of medical expenses. It is rebuttably presumed that, as a matter of law, that the owning, keeping, possessing or harboring of a dangerous animal in violation of this ordinance is a nuisance and a danger. It shall not be necessary, in order to sustain such action, to prove that the owner, possessor, or custodian of such dangerous animal knew that the animal possessed the propensity to cause such damage or that the animal had a dangerous nature.
- (b) In addition to any damages awarded pursuant to this article, a civil penalty of \$5,000.00 per incident or attack may be imposed by any court of competent and authorized jurisdiction.

- (c) Nothing in this article shall be construed so as to restrict any other remedies at law available to persons aggrieved by any attack of a vicious or dangerous animal, nor so as to prohibit criminal prosecution of persons owning or in possession of such animals as may be allowed by law.
- (d) Should any employee of or person carrying out responsibilities for the City of Starkville be attacked by any dangerous animal or any other animal while engaged in the lawful performance of his or her official duties, any rights, privileges or services enjoyed by the residents of property on which the attack occurs or by the owner or possessor of such animal, at the sole and exclusive discretion of the city, may be immediately terminated without further notice. This includes, but is not limited to, termination of water, sewer and electrical service, termination of garbage pickup service, revocation of building permits or privilege licenses.
- (e) Any additional expenses incurred by the city in the implementation and enforcement of this ordinance for the care and handling of the animal (including but not limited to veterinary care, transportation, supplies, etc.) as reasonably determined by the animal control officer shall be borne by the owner and shall be paid at the same time and in addition to the fine adjudicated and the administrative fee as imposed by the administrative hearing officer.

(Ord. No. 2008-7, § 10, 8-8-08; Ord. No. 2010-5, § 10, 3-2-10)

Secs. 18-36—18-45. - Reserved.

#### DIVISION 2. - LICENSE

Secs. 18-46—18-51. - Reserved.

**Editor's note**— Per the city's request, §§ 18-46—18-51 have been repealed. Formerly, such sections pertained to required; exception; fee; certificate of vaccination; when due, delinquent; issuance; tag—issuance; to be worn at all times and derived from §§ 6-29—6-34 of the 1977 Code. Ord. No. 2008-7, adopted August 8, 2008, amended similar provisions in Art. II, Div. 1.

Sec. 18-52. - Tag—Transfer.

It shall be unlawful for the owner or person having control over or custody of any dog to transfer a vaccination tag from the animal for which such tag was issued to any other animal.

(Code 1977, § 6-35)

Sec. 18-53. - Reserved.

**Editor's note**— Per the city's request, §§ 18-53 has been repealed. Formerly, such section pertained to tag—duplicate and derived from § 6-36 of the 1977 Code. Ord. No. 2008-7, adopted August 8, 2008, amended similar provisions in Art. II, Div. 1.

Secs. 18-54—18-75. - Reserved.

#### ARTICLE III. - IMPOUNDMENT

Sec. 18-76. - Authority.

- (a) It shall be the duty of the animal control officer to seize and impound, subject to the provisions of this article, all animals, whether domesticated or undomesticated, found in violation of the provisions of this chapter within this city, whether such animal shall be in the immediate presence of its owner or custodian or otherwise.
- (b) With respect to the impoundment of dogs, article II of this chapter shall take precedence over this article.

(Code 1977, § 6-46)

Sec. 18-77. - Right of entry.

The animal control officer is hereby authorized to enter upon any unfenced lot, tract or parcel of land for the purpose of seizing and impounding any animal found thereon in violation of this chapter.

(Code 1977, § 6-47)

Sec. 18-78. - Right to redeem.

The owner of any animal which has been impounded under the provisions of this article shall have the right to redeem such animal upon the payment of any and all fees which may be due and payable for the impoundment of such animal; provided, however, that the payment of such impoundment fees shall not bar the imposition of any fine which may be imposed for the violation of this chapter.

(Code 1977, § 6-48)

Sec. 18-79. - Time for redemption.

All impounded animals shall be redeemed within five days after the animal was impounded. Any such animal not redeemed within such time may be sold, destroyed or otherwise disposed of.

(Code 1977, § 6-49)

Secs. 18-80, 18-81. - Reserved.

**Editor's note**— Per the city's request, §§ 18-80, 18-81 have been repealed. Formerly, such sections pertained to fees; redemption of unvaccinated animal and derived from §§ 6-50, 6-51 of the 1977 Code. Ord. No. 2008-7, adopted August 8, 2008 amended similar provisions in Art. II, Div. 1.

Sec. 18-82. - Redemption by person other than owner.

If the owner of any animal impounded under this article shall fail to redeem his animal within the time allowed for redemption, any other person may, upon complying with all provisions of this article, redeem the animal from the pound and be the lawful owner of the animal thereafter.

(Code 1977, § 6-52)

Sec. 18-83. - Reserved.

**Editor's note**— Per the city's request, § 18-83 has been repealed. Formerly, such section pertained to disposition of funds and derived from § 6-53 of the 1977 Code. Ord. No. 2008-7, adopted August 8, 2008, amended similar provisions in Art. II, Div. 1.

Secs. 18-84—18-105. - Reserved.

## ARTICLE IV. - RABIES CONTROL

## Sec. 18-106. - Quarantine of suspected animal.

- (a) Any animal which bites or scratches a person or which otherwise gives symptoms of having rabies shall be immediately reported to the county animal control officer and shall thereupon be securely quarantined at the direction of the animal control officer for a period of ten days, and shall not be released from such quarantine except by written permission of the animal control officer or under his direction. At the discretion of the animal control officer, such quarantine may be on the premises of the owner, at the shelter designated as the city pound, or, at the owner's option and expense, in a veterinary hospital of the owner's choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city pound.
- (b) With respect to dogs, article II of this chapter shall take precedence over this article.

(Code 1977, § 6-79; amended by Board Order 4-21-09)

## Sec. 18-107. - Duty of owner to surrender animal; redemption.

The owner, upon demand by the animal control officer, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner. Such animal may be reclaimed by the owner if it is adjudged free of rabies, upon payment of fees determined therefor by the mayor and board of aldermen from time to time.

(Code 1977, § 6-80; amended by Board Order 4-21-09)

## Sec. 18-108. - Disposition of dead rabid animal.

When rabies has been diagnosed in an animal under quarantine or rabies is suspected by a licensed veterinarian, and the animal dies while under such observation, the animal control officer shall immediately send the head of such animal to the state health department for pathological examination and shall notify the proper public health authorities of reports of human contacts and the diagnosis.

(Code 1977, § 6-81; amended by Board Order 4-21-09)

## Sec. 18-109. - Areawide quarantine—When imposed.

When the report of the animal control officer under this article indicates a positive diagnosis of rabies, the mayor may order an areawide quarantine for a period of 60 days, and upon the invoking of such quarantine, no pet animal shall be taken into the streets, or permitted to be in the streets, during such period of quarantine. During such quarantine, no animal may be taken or shipped from the city without permission of the mayor.

(Code 1977, § 6-82; amended by Board Order 4-21-09)

## Sec. 18-110. - Same—Vaccinations.

During the areawide quarantine period and as long thereafter as he decides it is necessary to prevent the spread of rabies, the animal control officer may require that all animals subject to rabies, three months of age or older, shall be vaccinated against rabies. All vaccinated animals shall be restricted, by leashing or confinement on enclosed premises, for 30 days after vaccination. During the quarantine period, the animal control officer is hereby empowered to provide for a program of mass immunization by the establishment of

temporary emergency canine rabies vaccination clinics strategically located throughout the area of the health jurisdiction.

(Code 1977, § 6-83; amended by Board Order 4-21-09)

Sec. 18-111. - Same—Redemption of strays restricted.

No animal which has been impounded by reason of its being a stray, and unclaimed by its owner, shall be allowed to be adopted from any animal shelter during the period of rabies emergency quarantine, except by special authorization of the animal control officer.

(Code 1977, § 6-84; amended by Board Order 4-21-09)

Sec. 18-112. - Same—Extension.

If there are additional cases of rabies occurring during the period of areawide quarantine, such period of quarantine may be extended for an additional period of time.

(Code 1977, § 6-86)

Sec. 18-113. - Destruction, isolation of bitten animals.

Animals bitten by a known rabid animal shall be immediately destroyed, or if the owner is unwilling to destroy the exposed animal, strict isolation of the animal in a kennel, designated by the county health department, for six months shall be enforced. If the animal has been previously vaccinated within time limits established by the public health service based on the kind of vaccination used, revaccination and restraint, by leashing and confinement, for 30 days shall be carried out.

(Code 1977, § 6-85)

Sec. 18-114. - Destruction, removal of rabid animals.

No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as provided in this article, nor remove such animal from the city limits without written permission from the animal control officer.

(Code 1977, § 6-87; amended by Board Order 4-21-09)

Sec. 18-115. - Surrender of carcass.

The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the animal control officer.

(Code 1977, § 6-88; amended by Board Order 4-21-09)

Sec. 18-116. - Report of bite cases.

It shall be the duty of every physician or other medical practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

(Code 1977, § 6-89; amended by Board Order 4-21-09)

Sec. 18-117. - Failure to surrender animal upon demand.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required in this article when demand is made therefor by the animal control officer.

(Code 1977, § 6-90; amended by Board Order 4-21-09)

Sec. 18-118. - Report of suspected cases.

It shall be the duty of every licensed veterinarian to report to the animal control officer any animal considered by him to be a rabies suspect.

(Code 1977, § 6-91; amended by Board Order 4-21-09)

Sec. 18-119. - Exemptions from article.

Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except where expressly stated.

(Code 1977, § 6-92)

Secs. 18-120—18-140. - Reserved.

ARTICLE V. - BIRD SANCTUARY

Sec. 18-141. - Area designated.

The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.

(Code 1977, § 6-65)

Sec. 18-142. - Protection of birds.

It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl, or to rob bird nests or wild fowl nests.

(Code 1977, § 6-66)

Sec. 18-143. - Birds causing nuisance.

If starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, then in such event the health authorities shall meet with representatives of the Audubon Society, bird club, garden club or humane society, or as many of such clubs as are found to exist in the city, after having given at least three days' actual notice of the time and place of such meeting to the representatives of such clubs. If as a result of such meeting no satisfactory alternative is found to abate such nuisance, then such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of the chief of police.

(Code 1977, § 6-67)

**Cross reference**— Nuisances, § 54-51 et seq.