

ORDINANCE NO. 576

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AMENDING ORDINANCE NO. 488, ENTITLED, "THE CITY OF LONG BEACH ANIMAL CONTROL ORDINANCE", as previously amended, PROVIDING THE APPLICABLE COURT TO BE THE CITY OF LONG BEACH MUNICIPAL COURT, ELIMINATE PROVISIONS PROHIBITING CRUELTY TO ANIMALS AND RABIES VACCINATIONS WHICH ARE PRE-EMPTED BY STATE STATUTE, ADDING PROHIBITION OF NOXIOUS ODORS, TO PROHIBIT MISTREATMENT OF ANIMALS AND PROVIDE PENALTIES THEREFORE, TO REQUIRE OWNERS OF ANIMALS RUNNING AT LARGE TO PAY IMPOUNDMENT COSTS, TO INCREASE THE PENALTY FOR DANGEROUS ANIMALS RUNNING AT LARGE, TO ALLOW FOR REDUCTION OF PENALTIES FOR NEUTERED NON-DANGEROUS ANIMALS RUNNING AT LARGE IF SAME ARE NEUTERED, TO LIMIT THE NUMBER OF ADULT DOGS AND CATS AND KEPT ON ANY ONE RESIDENTIAL PREMISES, TO PROVIDE FOR PROCEDURE TO IDENTIFY AND CLASSIFY DOG AS DANGEROUS DOG, TO DECLARE UNLAWFUL AND ESTABLISH PENALTY TO OWNER OF DANGEROUS ANIMAL WHICH ATTACKS OR INJURES PERSON OR ANIMAL, AND, AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and Board of Aldermen (the "Governing Body") of the City of Long Beach, Mississippi, (the "Municipality") having made due investigation therefore, do now find, determined, adjudicate and declare as follows:

That Ordinance No. 488, "The City of Long Beach Animal Control Ordinance" contains provisions which are pre-empted by state statute, which provisions should be eliminated from said ordinance, and the public health and safety of the community requires that said Ordinance No. 488 should be amended as follows:

SECTION 2. That Section 2, entitled "CRUELTY TO ANIMALS" of Ordinance No. 488 of the City of Long Beach, Mississippi, is hereby amended to read as follows:

"Section 2. MISTREATMENT OF ANIMALS

The purpose of this section is to prevent mistreatment of animals. In implementing the section, enforcement officers are encouraged to educate the public on requirements of this section and, when appropriate, to seek voluntary resolution of violations.

A person commits the crime of mistreatment of animals if the person:

- a) administers poison to an animal, exposes an animal to poison with the intent that it be consumed, mutilates, including, but not limited to the docking of tails or cropping of ears of an animal by other than a licensed veterinarian;

- b) owns, possesses, uses, trains, buys, sells, offers to buy or sell, import, or export an animal for fighting or baiting or as a target to be shot at as a test of skill in marksmanship;
 - 1) acts as a judge or spectator at events of animal fighting;
 - 2) permits any such acts of fighting to be done on a premises under his or her care or control;
- c) intentionally harasses an animal owned or engaged by a police department or public agency of the state of Mississippi or any of its political subdivisions;
- d) intentionally harasses a guide or leader dog;
- e) fails to provide adequate sanitary shelter and conditions, clean water, sufficient food, exercise and necessary medical attention as is required in order to maintain an animal in a state of good health;
- f) abandons an animal or causes an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal. A person is not deemed to have abandoned an animal if he processes it into an animal shelter during the shelter's normal working hours.
- g) willfully or negligently allows any animal, including one which is aged, diseased, maimed, hopelessly sick, disabled, or non-ambulatory, to suffer unnecessary neglect, torture or pain;
- h) houses a live animal as bait or lure in a race, game or contest;
- i) strikes an animal with a motor vehicle and makes no reasonable attempt to notify an animal control officer of the accident;
- j) tethers a dog to a stationary object while the dog is on the owners property, on the property of the dog owner's landlord, or on the property of the person having possession, charge, custody or control of such dog. All dogs must either be:
 - 1. Kept in a fenced yard with adequate space to exercise of at least 100 square feet per dog; or
 - 2. Kept in a residence. If the dog is kept in a residence, the owner of such dog or the person having possession, charge, custody or control of such dog shall be required to make arrangements for the daily exercise of the dog; or
 - 3. Placed on a tether provided that it is at least ten feet in length and is attached to a pulley or trolley mounted on a cable which is at least ten feet in length and mounted no more than seven feet above ground level and which

shall weigh no more than 10% of the dog's body weight. Tethers shall be located so that they cannot become entangled with other objects. Collars used to attach a dog to a tether shall not be of the choke type.

- k) Tethers a dog at an unoccupied house, barn or property;
- l) Leaves an animal unattended in a motor vehicle, when such action is harmful or potentially harmful to such animal. In the event the owner of such vehicle is not available and cannot be found or refuses to prevent or said harm or reasonably potential harm from continuing, the animal control officer, or police officer shall be authorized to remove said animal from such vehicle by utilizing any reasonable method of removal. Any animal so removed from a vehicle may be impounded at the animal shelter once notice has been prominently posted on said vehicle notifying the owner or custodian that said animal has been seized. Upon such seizure of such animal, the owner of the seized animal shall be personally served with notice of such seizure, if possible. The owner of every animal so impounded shall pay all costs of impoundment before release of such owner's impounded animal."
- m) It shall be unlawful for any owner or person having possession, charge, custody, or control of any animal to have such animal confined or restricted in its movement so as to allow less than two (2) square foot of area for every pound of body weight of the animal, unless the confinement is temporary while the animal is being transported, and such confinement shall not exceed twenty-four (24) hours at one time and the animal shall be allowed to move about and exercise at least every tow (2) hours during that twenty-four (24) hour period. The Humane Society of South Mississippi, Inc., veterinary hospitals, boarding kennels, and pet shops are exempt from complying with the provision of this section but must follow all state federal guidelines for its operation.

SECTION 2. That Section 5, entitled "CONTROL OF ANIMALS" of Ordinance No. 488 of the City of Long Beach, Mississippi, is hereby amended to read as follows:

"Section 5. CONTROL OF ANIMALS

- a) It shall be unlawful for any person to permit any animal to run at large within the city limits of Long Beach, Mississippi.
 - 1) An animal is deemed to be running at large when not on a leash, lead, cord or chain or behind a fence or enclosure, or under the control of a competent person.
 - 2) An animal is deemed to be running at large if it enters upon the property of a person or entity other than that of the animal's owner without the permission of the owner of that property.
 - 3) A dog that is participating in a hunt with the owner or custodian in attendance, has an owner identification tag, is currently vaccinated for rabies, and is wearing a rabies tag is not to be considered as an animal running at large.

- b) An animal control officer may seize or cause to have seized any animal whose owner is found to be in violation of subsection a) of this section and impound or cause to have impounded such animal in a designated animal shelter. Upon seizure of an animal, the Long Beach Police Department shall serve notice upon the owner of the animal, if possible, and shall post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such notice shall contain a description of the animal seized, the date seized, the name of the Long Beach Police Department as the law enforcement agency seizing the animal, and the name and address of the animal shelter where the animal is impounded. The owner of such animal may, within five days (holding period) from the date that the animal was impounded, claim his animal from the shelter upon paying all costs of such sheltering and medical treatment to such animal incident to such sheltering, or may, within such five day time period, request a hearing before the Long Beach Municipal Court to determine whether or not such animal was lawfully seized. If the animal is not reclaimed by the owner by the end of the holding period, and if no hearing is requested within the aforesaid five day time period, the animal may be humanely disposed of by sale, adoption, or euthanasia.
- c) Before any animal is released to its owner, all citations shall be paid to the City of Long Beach, together with all impoundment costs incurred for the impoundment of such animal, including but not limited to veterinarian care, housing and feeding provided by or at the instance of the animal shelter.
- d) Proof of current rabies vaccination shall be provided before release of any seized animal from the animal shelter. If no proof of current rabies vaccination is produced, the animal shall be vaccinated for rabies at the expense of its owner before the animal is released.
- e) The penalties for an animal running at large are:
- 1) for animals other than "dangerous dogs" as described in Section 8, hereafter:
 - a. First offense, rabies tag on the animal - \$25.00 fine
 - b. Subsequent offenses, rabies tag on the animal - \$50.00 fine
 - 2) for dogs determined prior to being found to be running at large to be "dangerous dogs" as described in Section 8, hereafter, the penalty shall be as follows:
 - a. First offense - \$500.00 fine
 - b. Second or subsequent offense - animal shall be confiscated by the Court, and after notice and hearing as provided in Section 5(b), above, such animal shall be euthanized as provided in Section 14 of this Ordinance.
- f) The penalties provided in sub-section e), above, shall be levied and paid in addition to those costs described in subsection 5(c), above.
- g) All penalties for animals other than "dangerous dogs" found to be running at

large and which have not been neutered shall be suspended if the owner chooses to have the animal neutered at a reduced charge at the animal shelter. There shall be no such suspension of fine for any animal found to be running at large which is neutered at the time of seizure, or for any animal determined to be a "dangerous dog" prior to its seizure."

h) Sale of Animals; prohibitions, exemptions and enforcement

It shall be unlawful to sell, trade, barter, lease, auction, give away or display a live animal on a roadside, public right-of-way, sidewalk, street, parkway or any other public property or any property dedicated to public use, a commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale or similar event. This section shall not apply to the Humane Society of South Mississippi, animal welfare organizations designated as a 501(c)(3) by the Internal Revenue Service, established businesses whose sole purpose is related to the care and maintenance of pets or entities who have both a valid business license issued by the City of Long Beach provided that prior to release of the animal it has been administered all necessary vaccinations as required by law and has been spayed or neutered. A violation of this section shall be considered a misdemeanor. Any person or entity authorized to enforce the provisions of this chapter shall have the authority to impound any animal found in violation of this section. The impounded animal may be reclaimed within five (5) days of impoundment upon payment of the costs incurred in confining and keeping of such animal during impoundment.

SECTION 3. That Section 7, entitled "IMPOUNDMENT AND RECOVERY OF ANIMALS" of Ordinance No. 488 of the City of Long Beach, Mississippi, is hereby amended to read as follows:

"Section 7. IMPOUNDMENT AND RECOVERY OF ANIMALS

- a) Any dog, cat, other animal or fowl caught, picked up or impounded while running at large by an animal control officer shall be forthwith turned over to a designated animal shelter. Notice shall be posted and served upon the owner as provided in Section 5(b), above, and the owner shall be entitled to request and be granted a hearing as provided in said Section 5(b). Any impounded animal may be reclaimed by its owner within 5 days of impoundment upon the payment of the costs incurred in its seizure, impoundment, keeping and medical treatment during impoundment, the payment of any fine, and upon showing proof of current rabies vaccination. Additionally, the police officer, animal control officer, or any other person designated by the city to enforce these provisions shall scan impounded animals for presence of a microchip and shall make reasonable efforts to notify the owner of any animal with a microchip or with any other form of identification that the animal has been impounded and inform such owner of the procedure and condition for redeeming the animal. The police officer, animal officer, or other person as may be designated by the city council may seize or cause to be seized any animal whose owner, keeper, or harbinger is found to be in violation of any part of this ordinance, and shall impound or cause to be impounded such animal in a designated shelter. Such animal shall be held for a period not to exceed five (5) days, and if reasonable corrections are not made by the owner, keeper, or harbinger, of the animal so that the owner, keeper, or harbinger is no longer in violation of this ordinance, then the

animal shall be released to the local animal shelter. The animal officer shall designate to the owner, keeper, or harbinger of the animal what corrective action is required to be in compliance with this ordinance. Thereupon, the impounded animal may be reclaimed within five (5) days of impoundment, upon payment of the cost of inserting a microchip in the animal and where applicable; payment of the cost of spaying or neutering the animal; payment of a One Hundred Twenty Dollar (\$120.00) fine for restitution and recovery in caring for the animal; and upon showing proof of current rabies vaccination. All animals shall be microchipped prior to being returned to an owner or released for adoption. Animals impounded for a second or subsequent time shall be spayed or neutered prior being returned to an owner or released for adoption. The cost of inserting a microchip and the cost of spaying or neutering shall not exceed the actual reasonable cost incurred by the Humane Society of South Mississippi, its authorized agents, or any other agency authorize by law to perform these procedures.

- b) The animal control officer, in the course of his duties of investigation of cases in which animals have bitten persons or other animals shall, if possible, notify the owner of such event. In the event that the owner of the animal has proof of current rabies vaccination, the animal control officer may:
- 1) Require that the animal be surrendered to the animal control officer to be placed in the animal shelter in a separate kennel for a period of not less than 10 days; or
 - 2) Require that the animal be surrendered to the animal control officer to be placed with the owner's veterinarian for observation for a period of not less than 10 days

In the event the owner of the animal has no proof that the animal has been vaccinated for rabies within the prior 12 months, or within the period required by the Mississippi Department of Health, to the bite incident, the animal must be surrendered to the animal control officer and must be impounded at the animal control shelter for a period of not less than 10 days.

- c) Any animal suspected by the animal control officer of having rabies shall be subject to impoundment and observation at the animal shelter for a period of not less than 10 days.
- d) Any animal found to be infected with rabies shall be forthwith destroyed in as humane a manner as possible, under the circumstances, but neither it, nor any animal suspected to be infected with rabies shall be destroyed in such a manner that damages the head of the animal.
- e) All costs associated with any impoundment as detailed in this section shall be paid by the owner before the animal may be released."

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance, or the

application thereof, be held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not affect the remaining portions of this ordinance.

SECTION 5. Effective Date

This Ordinance shall take effect and be in force thirty (30) days from and after publication of notice given as provided by law, and this Ordinance shall be enrolled in the Ordinance Book of the City as by law provided.

The above and foregoing Ordinance No. 576 was introduced in writing by Alderman Anderson who moved its adoption. Alderman Parker seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

The question being put to a roll call vote by the Mayor Pro-Tempore, the result was as follows:

Alderman Bernie Parker	voted	Aye
Alderman Gary J. Ponthieux	voted	Aye
Alderman Kaye H. Couvillon	voted	Aye
Alderman Carolyn Anderson	voted	Aye
Alderman Leonard G. Carrubba, Sr.	voted	Present, Not Voting
Alderman Mark E. Lishen	voted	Absent, Not Voting
Alderman Ronnie Hammons, Jr.	voted	Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and said Ordinance 576 adopted and approved this the 20th day of July, 2010.

APPROVED:

BILLY SKELLIE, JR., MAYOR

ATTEST:

REBECCA E. SCHRUFF, CITY CLERK

C E R T I F I C A T E

**STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH**

I, the undersigned, Rebecca E. Schruff, City Clerk within and for the City of Long Beach, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of that certain Ordinance #576 of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on the 20th day of July, 2010, as the same appears of record in Ordinance Book #7, pages 483-490, inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 30th day of July, 2010.

(SEAL)

Rebecca E. Schruff, City Clerk