

Chapter 5 - ANIMAL CONTROL

FOOTNOTE(S):

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Editor's note— Ord. No. 2011-07, §§ 1—14, adopted May 3, 2011, amended Ch. 5 in its entirety to read as herein set out. Former Ch. 5, §§ 5-1—5-14, was named "Animals and Fowl," and derived from Ord. No. 112, 4-4-1899; Ord. No. 3-1946, § 1, 6-4-46; Ord. No. 6-1954, §§ 1, 2, 11-19-54; Ord. No. 2-1966, §§ 1—4, 3-8-66; Ord. of 12-8-70; Ord. No. 11-1977, § 1, 4-19-77; 5-3-77, § 1; Ord. No. 6-1981, § 1, 11-10-81; Ord. No. 5-1987, §§ 1—7, 4-21-87; Ord. No. 1-2004, § 1, 1-6-04; Ord. No. 10-2004, § 1, 6-15-04.

Cross reference— Allowing dogs in cemeteries, § 7½-3(4); health and sanitation generally, Ch. 11; parking vehicles carrying animal manure, etc., § 11-1; traffic regulations relative to animal-drawn vehicles, § 14-1; depositing body of dead animal in parks, § 16-1. ([Back](#))

State Law reference— Power of city to prohibit running at large of dogs and require their vaccination, § 21-19-9, MCA, 1972; cruelty to animals generally, § 97-41-1 et seq. MCA, 1972. ([Back](#))

Sec. 5-1. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them:

Animal means any live vertebrate creature, domestic or wild, except human beings.

Animal control officer means any person designated by the city to enforce the provisions of this chapter.

Animal shelter means the facilities operated by or for Ocean Springs, Mississippi, for the purpose of caring for animals and/or impounding animals under the authority of state law or this chapter.

At large means any animal off the premises of the owner or custodian and not under the control of the owner, custodian or other person by leash, lead, cord, rope, chain, crate, bridle, cage or other physical means of restraint sufficient in strength to control the animal.

Breed-specific legislation. No part of this chapter shall be used to target dogs by specific breed or mix.

Charge means entrusted with the duty and/or responsibility of care and control of an animal.

Cruelty means an overt act committed with the intent to harm or needlessly kill an animal or committed out of depraved indifference for the animal's well-being, including but not limited to torture, maiming, beating, or otherwise committing violence that causes injury or death.

Custodian means a person who has been given charge over an animal.

Feral animal means any domestic animal which has escaped for a substantial period of time from the care of an owner or custodian and is existing in a wild state.

Humane manner means the method in which an animal is required to be cared for, including, but not limited to, adequate ventilation, heat, sanitary shelter that provides protection from the weather, food and clean water, veterinary care consistent with generally accepted practices considering the animal's size, species, and breed.

Injury means the breaking of skin, which results in bleeding, caused by an animal bite or bites.

Law enforcement officer means the officers of the Ocean Springs Police Department, including but not limited to animal control officers.

Neglect means an overt act involving failure to provide for animal health or safety, including but not limited to failure to provide adequate food, water, shelter, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age, and condition.

Neutered means rendered permanently incapable of reproduction.

Nuisance animal means any animal which:

- (1) Damages property of a person other than the owner;
- (2) Barks, whines, squeals, bleats, or howls in an excessive, lengthy, or untimely manner; or
- (3) Frequently defecates or urinates on property of one other than the owner.

Owner means:

- (1) Any person having a property right in an animal;
- (2) The custodian of an animal;
- (3) Any person who keeps or harbors an animal; and/or
- (4) Any person who knowingly permits an animal to remain on any premises occupied by said person over which said person has substantial control.

Excepted from the definition of owner in the immediately preceding subsections (2), (3), and (4) are veterinarians, veterinary hospitals, commercial animal boarding businesses, commercial animal grooming businesses and the animal shelter.

Owner's real property means any real property owned or leased by the owner or owners of the animal.

Performing animal exhibition means any authorized display, act, or event, other than a circus, in which performing animals are used.

Person means any human being, corporation, partnership, association, organization, or institution.

Provocation means the act of teasing, irritating, abusing, assaulting, exciting, stimulating, or tormenting an animal to the point of aggression.

Restraint means the condition of having an animal under control by securing said animal by leash, lead, cord, rope, chain, bridle, crate, or cage.

Severe injury means any physical injury that results in a broken bone(s) or disfiguring lacerations or which require surgery that were caused by an animal bite or bites.

Veterinary hospital means any establishment operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

Vicious animal means any animal, except dogs, that constitutes a physical threat to human beings or other animals.

Vicious dog means:

- (1) A dog that without provocation has:
 - a. Inflicted injury on a human being;
 - b. Killed or inflicted severe injury upon a domestic animal or livestock, when not on the offending dog owner's real property;
 - c. Approached a human being when not on the offending dog owner's real property in a menacing and/or terrorizing manner and/or an apparent attitude of attack; or
- (2) A dog owned or harbored, primarily or in part, for the purpose of dog fighting, or other fighting or any dog trained for fighting; or

- (3) A dog which has shown a propensity, tendency, or disposition to attack, unprovoked, a human being.

Notwithstanding the provisions of the foregoing definition of a vicious dog, no dog may be considered a vicious dog if:

- (1) An injury or severe injury is sustained by a human being and at the time of such injury the dog was being provoked;
- (2) An injury or severe injury is sustained by a human being who at the time of such injury was committing a willful trespass, or other tort, upon the premises owned or leased by the owner of the dog;
- (3) The dog was protecting a human being within the immediate vicinity of the dog from an unjustified attack; or
- (4) The dog is a police dog which was engaged in the performance of its duties at the time of the act complained of.

(Ord. No. 2011-07, § 1, 5-3-11)

Sec. 5-2. - Application.

This chapter shall apply to all areas within the city limits of Ocean Springs, Mississippi.

(Ord. No. 2011-07, § 2, 5-3-11)

Sec. 5-3. - Inoculating dogs and cats for rabies.

Every person in the city who owns or has in his or her possession, any dog and/or cat of the age of three (3) months or over shall have and keep such dog and/or cat inoculated against rabies, pursuant to Title 41, Chapter 53, Section 1 of the Mississippi Code of 1972, as amended, and the rules and regulations promulgated by the Mississippi State Board of Health. All inoculations must be done by either a licensed veterinarian or other competent person granted a permit to administer a rabies vaccine by the state board of health, pursuant to Title 41, Chapter 53, Section 5 of the Mississippi Code of 1972, as amended. It shall be unlawful for any person to own, possess, keep or harbor any dog or cat unless such dog or cat has been so inoculated against rabies. A violation of section 5-3 of this chapter shall be punished in accordance with the penalties set out in Title 41, Chapter 53, Section 13 of the Mississippi Code of 1972, as amended.

(Ord. No. 2011-07, § 3, 5-3-11)

Sec. 5-4. - Tags for dogs and cats.

Dog and cat owners shall ensure that their dog or cat carries identification at all times in the form of microchip, tag, or other means to allow easy determination of the owners. It is the duty of the owner of any dog or cat to require said dog and/or cat to wear at all times a metal tag that is stamped with the serial number of its rabies vaccination, and also stamped with the year in which the dog and/or cat was inoculated. A violation of this section shall be punished in accordance with the penalties set out in Title 41, Chapter 53, Section 13 of the Mississippi Code of 1972, as amended.

(Ord. No. 2011-07, § 4, 5-3-11)

Sec. 5-5. - Confinement to premises.

- (a) An owner of an animal shall confine said animal to his/her real property, unless said animal is under restraint or participating in a licensed performing animal exhibition. It shall further be the duty of all owners and custodians to keep such animals under control so as to prevent such animal from:
 - (1) Trespassing on another's property;

- (2) Being a nuisance animal;
 - (3) Being a danger to persons; and/or
 - (4) Being a danger to property.
- (b) An owner of a vicious dog or vicious animal shall confine such animal in accordance with section 5-11 of this chapter.
- (c) Every female dog or cat in heat shall be confined in such a manner as to prevent from coming in contact with a male dog or cat, respectively, except for intentional breeding purposes.
- (d) Underground fences are not sufficient to contain unsupervised dogs.
- (e) Dogs shall not be tethered as a primary method of confinement.
- (f) Dogs traveling in vehicles must be confined to prevent escape.
- (Ord. No. 2011-07, § 5, 5-3-11)

Sec. 5-6. - Overcrowded, unsanitary conditions and offensive odors.

It shall be a violation of this chapter for any person to keep or harbor an animal in a manner that:

- (1) Is overcrowded;
 - (2) Is unsanitary; and/or
 - (3) Produces offensive odors which move off the owner's premises.
- (Ord. No. 2011-07, § 6, 5-3-11)

Sec. 5-7. - Running at large.

It shall be unlawful for any owner and/or custodian of any animal to allow such animal to run at large upon the streets, sidewalks, alleys, or other public property, or property of another. An animal running at large may be impounded in accordance with section 5-8 of this chapter.

(Ord. No. 2011-07, § 7, 5-3-11)

Sec. 5-8. - Impoundment authorized.

(a) *Impoundment for "at large" animals.*

- (1) Animals running at large may be pursued, caught and impounded by animal control officers and law enforcement officers. Said animals shall be held for a minimum of five (5) days, unless the animal is so diseased or seriously injured that it should be immediately, humanely destroyed, or unless the owner of the animal redeems the animal within the five (5) days by paying all fees which have accrued and receiving custody of the animal. Said fees are not in lieu of any fine or penalty provided by law.
- (2) The fees for redemption of an impounded animal include:
 - a. Feeding per day: \$5.00
plus,
 - b. Impoundment fee:
 - 1. First occurrence: \$15.00
 - 2. Second occurrence: \$25.00
 - 3. Third and any subsequent occurrences: \$50.00

- (3) Owners of dogs and cats redeemed from impoundment shall provide proof of rabies inoculation prior to release of the animal from impoundment. In the event proof of inoculation cannot be produced, the owner shall produce a receipt for prepayment of a rabies vaccination from a licensed veterinarian or person certified by the state board of health before said animal is released.
 - (4) If the owner does not redeem such animal within five (5) days, the animal shall be either put up for adoption or humanely destroyed. In the event the animal is adopted, the person who adopts the animal is then the legal owner of the animal.
- (b) *Impoundment for animal bite and impoundment of animals suspected of rabies.*
- (1) Anyone being the owner and/or custodian of any animal which has bitten a person or who has an animal suspected of having been exposed to rabies, or has an animal suspected of having rabies, by the county health officer or animal control officer, shall immediately surrender such animal to the Jackson County Animal Shelter to be kept for the period of time in which symptoms of rabies will or will not become evident; provided, however, that the owner of said animal may, upon permission of the animal control officer or his/her designee, place said animal within a licensed veterinarian's clinic or hospital in Jackson County, Mississippi, for the specified period of time. The owner and/or custodian shall also be responsible for the costs of the confinement in such clinic or hospital.
 - (2) If any animal has bitten a person, and/or is suspected of having been exposed to rabies and/or is suspected of having rabies by the county health officer or animal control officer, said animal shall be safely quarantined for a period of ten (10) days by the Jackson County Animal Shelter or with permission of the animal control officer or his/her designee, by a licensed veterinarian in Jackson County, Mississippi, at the owner's expense. In the event the owner elects to destroy the animal, all costs for rabies tests shall be paid by the owner.
- (c) *Other impoundments.* Any animal which is being kept or held in a manner that is in violation of the provisions of this chapter, other than those specified in this section, may be caught and impounded by animal control officers and/or law enforcement officers. These animals may be impounded in the same manner and conditions as set out in subsection (a) of this section, except that if the animals are not being kept in a humane manner, they are not to be returned to the owner unless said owner can provide satisfactory evidence to the animal control officer that the animals will be humanely kept.

(Ord. No. 2011-07, § 8, 5-3-11)

Sec. 5-9. - Destruction of rabid animals.

In the event an animal is suffering from rabies or reasonably suspected of having rabies, and is allowed to run at large, such animal may be killed by any law enforcement officer without such officer being required to catch or impound such animal.

(Ord. No. 2011-07, § 9, 5-3-11)

Sec. 5-10. - Prohibited treatment.

It shall be unlawful and a violation of this chapter for any person to:

- (1) Confine an animal inside a motor vehicle without adequate ventilation. The animal control officer has the authority to remove a dog or cat from a vehicle if the animal's health is endangered by such confinement in hot weather.
- (2) Fail to provide proper food, drink, protection from the weather, and veterinary care for any animal which they own or any animal in their custody.
- (3) Abandon any animal which they own or any animal in their custody.

- (4) Intentionally poison any animal, excepting moles, mice, and rats.
- (5) Keep his/her animal in unsanitary conditions.
- (6) Keep or confine an animal in other than a humane manner. Dogs shall not be tethered as a primary method of confinement.
- (7) Intentionally allow or promote any fight between animals, on his/her real property or on property under his/her possession or control.

(Ord. No. 2011-07, § 10, 5-3-11)

Sec. 5-11. - Keeping of vicious dogs and vicious animals.

- (a) While on the owner's real property, a vicious dog or animal shall be securely confined indoors or in a securely locked pen or structure situated behind the front building line of the primary residence, suitable to prevent the entry of children and designed to prevent the dog or other animal from escaping. Such enclosure must assure the safety of the public as well as confinement of the dog or animal in a humane, sanitary, and healthful environment. The animal control officer, or his/her designee, after reviewing the circumstances associated with each situation and inspection, shall make a determination as to whether the enclosure meets the requirements. Minimum enclosure requirements shall include: a concrete base/floor or other material with similar durability and strength characteristics as compared to concrete, walls six (6) feet in height to be chain link or other material with similar durability and strength characteristics as compared to chain link, and a roof or "cap" to be chain link or other material with similar durability and strength characteristics as compared to chain link. The enclosure access point latch/locking mechanism shall be a minimum of five (5) feet above the enclosure base/floor similar to those requirements of pool enclosures as to prevent opening by a child.
- (b) No owner of a vicious dog or animal shall permit such dog or animal to go beyond the owner's real property unless such dog or animal is securely leashed and muzzled, with the muzzle being sufficient to prevent such dog or animal from biting human beings and animals, except that:
 - (1) A vicious dog shall not be required to be muzzled when being shown in a dog show sanctioned by a national kennel club; or
 - (2) A vicious dog or animal shall not be required to be leashed and muzzled when securely caged or otherwise securely contained inside a commercial establishment in the business of boarding and/or medically treating dogs or animals.
- (c) No vicious dog or animal may be kept on a porch, patio, or in any part of a house or structure that would allow the dog or animal to exit such area on its own volition.
- (d) When an animal or dog is reasonably determined to be vicious by the animal control officer or law enforcement officer, the dog may be destroyed providing each of the following requirements are met:
 - (1) The animal is at large;
 - (2) Attempts to peacefully capture and impound the animal have been made and proved unsuccessful; and
 - (3) The animal poses a serious and immediate threat of serious harm or injury to human life.
- (e) Before filing a complaint/affidavit for a violation under this section in the municipal court, the animal control officer or his/her designee shall give written summons to appear in municipal court to the person suspected of a violation that his/her dog or animal is deemed a vicious dog or animal or potentially vicious dog or animal and may be subject to the requirements of this section.
- (f) Once the owner is notified that his/her dog or animal has been deemed vicious, the owner shall have forty-five (45) days from said ruling to comply with the confinement requirements for vicious dogs and

animals under this chapter. During this forty-five-day period, the dog or animal should be confined in accordance with section 5-5(a) of this chapter.

- (g) No vicious dog or animal may be owned, kept, possessed or harbored within the city without the owner or custodian of such animal first obtaining proof of registration from the city. An application for such registration shall include the name and address of the owner, the address at which the animal will be located or confined, a description of measures to be taken to secure the animal, a complete description of the animal, including type of animal, sex, color and other distinguishing marks, and, at the city's discretion, a photograph of the animal.
- (1) Owners of vicious animals are hereby required to maintain liability insurance, such as homeowner's or renter's insurance, that covers injuries inflicted by dogs or animals, as the case may be, in an amount of not less than one hundred thousand dollars (\$100,000.00), and said policy shall require notification of cancellation of said policy to the Animal Control Officer, P.O. Box 1800, Ocean Springs, MS 39566-1800. Proof of said liability insurance shall be provided to the animal control officer or his/her designee upon his/her request.
 - (2) Owners or custodians of vicious dogs or animals shall, upon the birth, death or transfer of such animals, report such fact to the city. A separate registration shall be issued for each vicious dog or animal. Upon the transfer of any vicious dog or animal, a statement shall be filed with the city stating the name and address of the person to whom the animal is sold or transferred and the address at which the vicious dog or animal is to be located, if known.
 - (3) The application for such registration must be signed and dated by the owner or custodian of the vicious dog or animal. The owner or custodian must sign a statement attesting to the fact that all provisions of this chapter have been and will be complied with in their entirety, and that the city shall be notified immediately of any attack or other violation of this chapter by vicious dog or animal in his possession or control.
 - (4) A one-time fifty-dollar (\$50.00) fee per vicious dog or animal shall be required for the issuance of a registration. The fee amount may be adjusted from time to time by the City of Ocean Springs Board of Aldermen.
 - (5) Any owner or custodian of a vicious dog or animal who fails to obtain a registration from the city shall be fined one hundred fifty dollars (\$150.00) per vicious dog or animal. The owner or custodian shall have ten (10) days from the date the city provides written notice of such failure to obtain a registration. Failure to obtain a registration with the ten-day time period shall subject the owner to an additional fine of one hundred fifty dollars (\$150.00) per day for each unpermitted or unlicensed vicious dog or animal until such permit or license is obtained.
 - (6) Any registration issued pursuant to this section shall be revocable upon any noncompliance with any of the terms of this chapter by any person owning or in possession or control of any vicious dog or animal.
- (h) The animal control officer shall keep for ten (10) years a record of all dogs or animals determined to be vicious.
- (i) All owners of vicious dogs or animals shall within ten (10) days from the effective date of the ordinance from which this chapter was derived display in prominent, conspicuous places, legible signs no larger than one square foot, which can be easily read on all sides of their real property where the vicious dog or animal is kept, using such words as "Beware of Dog" or "Dangerous Animal" and in addition a similar sign shall be posted on the kennel, pen, or enclosure for such dog or animal.
- (1) Signs shall be constructed and maintained in a manner to withstand the elements.
 - (2) The absence of any required signs shall be prima facie evidence of a violation of this section.
- (j) An animal control officer or law enforcement officer may enter the premises where a vicious dog is kept for the purpose of inspection of the premises to ascertain whether such complies with the provisions of

this chapter. Such inspection shall be made only after reasonable notice to the occupant of the premises. If the owner shall refuse the inspection, the assistance of a court may be requested.

(Ord. No. 2011-07, § 11, 5-3-11)

Sec. 5-12. - Feral cats.

Feral cats may be licensed under a city-approved volunteer or other sanctioned program that provides health checks and spay and neuter services for these animals. Cats in such a colony should be microchipped when they are captured for health checks.

(Ord. No. 2011-07, § 12, 5-3-11)

Sec. 5-13. - Violations; penalties.

Unless another penalty is set forth herein for a specific violation in this chapter, any person who shall violate any provision of this animal control ordinance, or fail to comply with any of the requirements thereof, shall be guilty of a misdemeanor and any person found guilty of such violation shall, upon conviction, be fined for each violation not more than one thousand dollars (\$1,000.00), or imprisoned for not more than six (6) months, or both, plus all court costs.

(Ord. No. 2011-07, § 13, 5-3-11)

Sec. 5-14. - Enforcement.

- (a) It shall be the duty of animal control officers and/or law enforcement officers to enforce the provisions of this chapter.
- (b) It shall be a violation of this chapter for any person to interfere with or hinder an animal control officer and/or law enforcement officer in the performance of their duties, or to release or attempt to release any animal in said officers' custody.
- (c) Animal control officers and/or law enforcement officers having probable cause to believe a person has violated this chapter may file a complaint or affidavit in municipal court or other court of competent jurisdiction against said person. Said officers may issue citations in the enforcement of this chapter to any person the officer(s) have probable cause to believe has violated this chapter, with the citation designating the offense(s) charged and requiring the person so charged to appear before such courts on a specified date to answer the charges contained therein.

(Ord. No. 2011-07, § 14, 5-3-11)