

**ORDINANCE NUMBER 212****AN ORDINANCE PROVIDING FOR THE CONTROL AND/OR PROTECTION OF DOMESTICATED ANIMALS WITHIN THE MUNICIPAL LIMITS OF THE TOWN OF DEKALB, MISSISSIPPI, FOR CONTROL OF VICIOUS AND/OR DANGEROUS ANIMALS WITHIN THE AFORESAID MUNICIPAL LIMITS, FOR PENALTIES FOR NONCOMPLIANCE WITH THE TERMS HEREOF, AND FOR RELATED PURPOSES**

BE IT ORDAINED by the Mayor and the Board of Aldermen of the Town of DeKalb, Mississippi;

**SECTION ONE: CONTROL OR PROTECTION OF DOMESTICATED ANIMALS**

It shall be unlawful for a person to:

1. permit to run at large in the said Town his/her/its domesticated animal, which animal has been alleged to be a nuisance, and
  - i. against which a written complaint has been filed with the Police Department of the Town, and after notice of the filing of any such complaint has been provided to the owner of such animal, if the owner is known, and his/her/its address reasonably determined; or,
  - ii. against which a written complaint has been made by an appropriate official of the Town, and after notice of the filing of any such complaint has been provided to the owner of such animal, if the owner is known, and his/her/its address reasonably determined;
2. inflict inhumane treatment against a domesticated animal;
3. keep or harbor an animal which, by loud, frequent, and/or habitual barking, howling, yelping, or other such noise or action, reasonably disturbs any person within the said Town;
4. allow a pen or enclosure used for the keeping of domesticated Animals to become unsanitary, offensive by odor or unclear condition, or in any other manner which may cause injury to the public health of any person residing in the vicinity of such pen or enclosure;
5. keep or harbor a domesticated animal in such a manner as to become offensive, by reason of odor or unclear condition, or in such manner as to annoy reasonably any person residing in the vicinity thereof;
6. fail to provide his/her/its animal with sufficient wholesome food and water, proper shelter and protection from the weather, such veterinary care when needed to prevent or alleviate suffering, or otherwise to deny humane care and treatment to any such animal;
7. leave his/her/its animal unattended inside a motor vehicle when such action is harmful or reasonably potentially harmful to any such animal;
8. expose any known poisonous substance, whether mixed or unmixed with food and/or water, in such a manner as to be ingested by any animal, with the intent to purposely harm, injure, damage, and/or kill such animal; or,
9. comply with any requirements for vaccinations, as provided by statute adopted by the Legislature of the State of Mississippi for uniform application in the State of Mississippi.

**SECTION TWO: MAINTAINING VICIOUS/DANGEROUS ANIMALS**

1. It shall be unlawful for a person to permit his/her/its animal, alleged to be a vicious and/or dangerous animal, as defined in this Ordinance, to run at large in the said Town, and:

- i. against which a written complaint has been filed with the Police Department of the Town, and after notice of the filing of any such complaint has been provided to the owner of such animal, if the owner is known, and his/her/its address reasonably determined; or,
  - ii. against which a written complaint has been made by an appropriate official of the Town, and after notice of the filing of any such complaint has been provided to the owner of such animal, if the owner is known, and his/her/its address reasonably determined; or,
  - iii. against which such animal has been found by an appropriate official of the Town to have engaged in such acts or conduct as defined in the Ordinance as to determine such animal to be vicious and/or dangerous, or upon proper affidavit filed in the manner prescribed by statute, to have been found to have engaged in such acts or conduct as defined in the Ordinance as to determine such animal to be vicious and/or dangerous, upon hearing by the appropriate officials and/or the Municipal Court.
2. It shall be unlawful for any animal previously determined to be vicious and/or dangerous to be kept on a chain, to be tied, and/or to be otherwise tethered outside a pen or enclosure, as defined in this Ordinance.

### SECTION THREE: DEFINITIONS

The following words and terms, whenever used in this Ordinance, shall have the meaning ascribed to them herein, unless a different meaning clearly appears from the context of such usage, as set forth below:

- a) "domesticated animal" means an animal habituated to live in or about the habitations of humans, or such as to contribute to the support of a family or to the wealth of the community;
- b) "person" means any individual human, family, firm, association, syndicate, partnership, corporation, and/or any other entity or organization entitled to, or capable of, the ownership of property under the laws of the State of Mississippi;
- c) "owner" means any person, as defined herein, which owns, keeps, harbors, and/or otherwise claims to possess a domesticated animal;
- d) "at large" means any domesticated animal not on a leash, chain, rope, and/or other means of tethering such animal, and/or any such animal not contained by a fence, pen, and/or other enclosure, and/or not otherwise maintained upon the property or the residence of the owner thereof;
- e) "vaccination" means an injection of rabies vaccine, as approved by the United States Department of Agriculture, as administered every twelve (12) calendar months, and/or any other vaccine required by statute adopted by the Legislature of the State of Mississippi for general application with said State;
- f) "inhumane treatment" means any treatment of any animal which deprives such animal of necessary sustenance, including food, water, and/or protection from weather, and/or any treatment of any domesticated animal, such as overloading, overcrowding, overworking, tormenting, beating, mutilating, teasing, poisoning, training for fighting and/or combat with other animals, and/or any other abnormal treatment of such animal;
- g) "feral animal" means an animal that has, escaped from domestication and has become wild, dangerous, vicious, and/or untamed, and is not living subject to human habitation;
- h) "dangerous animal" means an animal that constitutes a physical threat to human beings and/or to other animals;

- i) "vicious animal" means an animal that constitutes a physical threat to human beings and/or to other animals, and has shown a propensity to initiate such a threat, or has previously initiated such a threat;
- j) "wild animal" means an animal normally found in the wild state and which is not ordinarily domesticated by humans, whether such animal has been raised in captivity or in the wild, and including, but not by way of limitation, lions, tigers, bears, wolves, apes, monkeys, chimpanzees, foxes, baboons, skunks, raccoons, opossums, and/or squirrels;
- k) "large canine breed" means dogs that weigh in excess of sixty (60) pounds at present, and/or such dogs which, when grown, would weigh a minimum of sixty (60) pounds;
- l) "Town" means the Town of DeKalb, Mississippi, the elected and employed officers of said Town, and the municipal limits of said Town; and,
- m) "official" and "appropriate official" means the Chief of Police, the Public Works Director, and employees of the Police Department and Public Works Department of the Town.

#### SECTION FOUR: CONDITIONS AND MISCELLANEOUS PROVISIONS

- a) An animal may be declared to be vicious or dangerous by any law enforcement officer of the said Town, if the animal, when unprovoked, chases and/or approaches, in a menacing fashion and/or any apparent attitude of attack, any person and/or other animal upon the streets, sidewalks, and/or other public or private property in the Town, such property not being the property or residence of the owner of such animal.
- b) An animal shall be declared by any law enforcement officer of the said Town to be vicious or dangerous if that animal has a known propensity, tendency, or disposition to attack unprovoked, to cause injury, and/or otherwise to threaten the safety of any human being and/or domesticated animal.
- c) Any dog, owned or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting, shall be deemed to be vicious or dangerous. Any such animal must be securely confined on the property of the owner thereof by being confined indoors or in a securely-enclosed and locked pen or structure. Any such pen or structure shall be at least six (6) feet in height, suitable to prevent the entry therein of young children and designed to prevent the animal from escaping therefrom. Any such pen or structure must have a minimum dimension of ten (10) feet by ten (10) feet and must have secure sides and a secure top. If such pen or structure has no bottom secured to the sides thereof, the sides thereof must be embedded into the ground not less than two feet in depth. The enclosure gate must be secured by a lock, and the enclosure must also provide protection from the elements for the animal.
- d) Exemptions for animals that are provoked are as follows:
  - i. No animal may be declared vicious or dangerous if the threat, injury, or damage to a person was sustained by such person while engaged in a willful trespass, a criminal act, or other tort or crime upon the premises of the owner or keeper of such animal;
  - ii. No animal may be declared vicious or dangerous if the threat, injury, or damage to a person was sustained by such person while engaged in teasing, tormenting, torturing, abusing, and/or assaulting such animal; or
  - iii. No animal may be declared vicious or dangerous if the threat, injury, or damage to a person was sustained by such person while such animal was protecting or defending a

human being within the immediate vicinity of the animal from an unjustified attack or assault, or from other criminal act or from any tortious act.

#### SECTION FIVE: PENALTIES

- a) Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor. Each day the violation continues shall constitute a separate and distinct offense. Further, each and every such violation shall constitute a separate and distinct- offense. The penalty for each such violation shall be:
  - i. First Offense Fine of \$100.00
  - ii. Second Offense Fine of \$250.00
  - iii. Third Offense Fine of \$500.00 and/or no more than ninety (90) days in the county jail, or both
- b) For any third or subsequent offense, the court shall make its determination as to the disposition, if any, of the animal or animals at issue, including the storage, euthanizing, and/or placement thereof in an appropriate shelter. The cost of any such disposition shall be assessed to the person found guilty of such offense.
- c) If the court determines that any animal subject hereto has caused injury, damage, and/or other cost to another person and/or the property of another person, the court shall make a finding as to the amount of such damage, injury, and/or other cost, including, but not by way of limitation, any costs of medical treatment, and shall assess to the person found guilty of such offense such amount as the court finds to be appropriate, based upon the findings of the court.

#### SECTION SIX: CONSTITUTIONALITY AND EFFECT

Should any section, subsection, paragraph, and/or other provision hereof be determined, for whatever reason, to be void, unconstitutional, and/or invalid, such determination shall not affect the validity of any other section, subsection, paragraph, and/or other provision of this Ordinance not otherwise previously determined to be void, unconstitutional, and/or invalid., This Ordinance ' shall otherwise remain in effect until further amendment, revision, and/or repeal by the Board of Alderman of the Town of DeKalb, Mississippi.

#### SECTION SEVEN: CONSTRUCTION

Nothing in this Ordinance shall be construed as to limit or contravene the application of any statute adopted by the Legislature of the State of Mississippi, nor shall this Ordinance be construed as to limit any civil liability for any act, malfeasance, misfeasance, negligence, and/or any offense as defined by this Ordinance.

#### SECTION EIGHT: NOTICE

Pursuant to Mississippi Code Annotated '521-17-19 (1972), as amended and revised, notice of the adoption of this Ordinance shall be provided to the public by the publication of a summary hereof in the *Kemper County Messenger*, a newspaper of general circulation in the Town of DeKalb, Mississippi. The full text hereof shall be available for the public in the Town Hall of the Town of DeKalb, Mississippi, in the public library in said Town, and in the Kemper County Courthouse in said Town. A copy hereof shall be provided upon request to any resident of said Town.

SECTION NINE; EFFECTIVE DATE

This Ordinance shall take effect, and shall become effective one (1) month from the adoption and passage hereof.

SO ORDAINED on this, the 2<sup>nd</sup> day of November, 2010.