

TOWN OF MONTICELLO**STATE OF MISSISSIPPI****ORDINANCE #2012-002****ANIMAL REGULATION ORDINANCE****AN ORDINANCE REGULATING THE RUNNING OF ANIMALS, OWNERSHIP OF DANGEROUS ANIMALS, AND RELATED MATTER; ESTABLISHING PENALTIES FOR VIOLATION OF THIS ORDINANCE; AND FOR RELATED MATTERS.**

WHEREAS, Mayor and Board of Aldermen of the Town of Monticello, Mississippi deem it necessary, in order to provide for the health, safety and well-being of the citizens of Monticello, Mississippi, and further, in order to reduce threats and injury from dangerous animals and animals running at large within the corporate limits of Monticello, Mississippi, in accordance with the statutory laws of the State of Mississippi;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF MONTICELLO:

ARTICLE I. TITLE AND PURPOSE**SECTION 1. AUTHORITY**

The provisions of the Ordinance are adopted pursuant to the statutory authority set forth in Title 21, Chapter 19 of the General Laws of the State Of Mississippi, 1972, as amended, being § 21-19-1, et seq., of the Mississippi Code, 1972, as amended, and in particular MCA §21-19-15; and MCA §21-19-9.

SECTION 2. TITLE

This Ordinance shall be known as the ANIMAL REGULATION ORDINANCE OF MONTICELLO, MISSISSIPPI, and may be so cited. For purposes of this Ordinance, it may be referred to hereinafter as "This Ordinance."

SECTION 3. INTERPRETATION

In interpreting and applying this Order, its provisions, purposes, duties, penalties, authorities and responsibilities are intended to comply with all regulations and requirements of the State of Mississippi and all State and Federal Agencies as well as all statutory laws of the State of Mississippi and the United States of America. This Ordinance is particularly intended to comply with all laws and regulations governing animals and ownership thereof.

ARTICLE II. DEFINITIONS

Under this section, phrases, words and their derivations shall have the meanings given herein. When inconsistent with the context, words used in the present tense include the future, words in the plural

number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Town means the Town of Monticello, Mississippi, with administrative offices at City Hall, 202 Jefferson Street, P.O. Box 822, Monticello, Mississippi 39654, or such other place or address as may be subsequently established by the governing authority.

Governing Authority means the Board of Alderman and Mayor of the Town of Monticello, Mississippi.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, abutting sidewalks, rights of way, parking lots, and the common areas of hospitals, apartment houses, housing projects or condominiums, office buildings, transport facilities, parks, shops, and business establishments.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Street means a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel.

Animal means every nonhuman species of animal, both domestic and wild.

Animal-at-large means any animal not under the restraint of a person capable of controlling the animal and/or off the premises of the owner.

Animal control officer means any person designated by the State of Mississippi, a municipal government, or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.

Owner means any person, partnership, or corporation owning, keeping, or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

Pet or Companion Animal means any animal kept for pleasure rather than utility, an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Public nuisance means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to the enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal.

1. Is found at large;
2. Damages the property of anyone other than its owner;
3. An unrestrained animal that molests or intimidates pedestrians or passersby;
4. Chases vehicles;
5. howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

6. Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
7. Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
8. Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or , types of animals maintained;
9. Attacks other domestic animals; or
10. Has been found by the mayor and board of aldermen, after notice to its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, welfare and safety.

Neighbor means an individual residing in a residential structure that is within three hundred (300) feet of the property on which the animal is kept or harbored and who does in writing state that he will testify under oath to such animal making excessive noise.

Restraint means any animal, except a vicious animal, secured by a leash or lead under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

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

Vicious animal means an animal that attacks, bites or injures human beings, or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals. These animals cannot run at large and must be leashed, penned or tethered by a secure means.

Wild Animal means any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves; coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild and captive-bred species of common cage birds. These animals cannot run at large and must be leashed, penned or tethered by a secure means.

Dangerous animal means any animal that is a vicious animal, to include all dogs that are Pit Bull, Doberman Pincher, Rottweiler, German Shepherd, Malinois, or Chow breed, regardless of the percentage of said breed actually present in the applicable animal, and/or any other breed or type of dog or other animal that poses an immediate threat to the safety and well-being of any person.

Pit Bull means any dog which exhibits those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club for American Staffordshire Terriers or Staffordshire Bull Terriers, or which substantially conform to the standards established by the United Kennel Club for American Pit Bull Terrier. Technical deficiencies in a dog's conformance to standards described herein shall not be considered to indicate that the subject dog is not a pit bull dog. Testimony by a veterinarian or an animal behaviorist that a particular dog exhibits distinguishing physical characteristics of a pit bull shall establish a rebuttable presumption that the dog is a pit bull.

SECTION ONE. IDENTIFICATION.

Every Animal in the Town of Monticello which is an Animal at Large shall be fitted with a collar and/or tag which identifies the name, address and telephone number of its owner.

SECTION TWO. PROHIBITION.

It shall be a violation of this Ordinance for any owner to allow any animal he, she or it owns to be an Animal at Large, or either (a) fail to have on its neck the identifying collar and/or tag as required by this Ordinance or be able to show proof of such at residence; or (b) to be a public nuisance as defined herein.

SECTION THREE. LIABILITY.

Every owner who allows his, her or its animals to be an Animal at Large shall have personal liability for any damage caused by said animal and it shall be a rebuttable presumption that the owner of any such animal was negligent in not securing said animal.

ARTICLE IV. DANGEROUS ANIMALS.

SECTION ONE. PROHIBITION AGAINST OWNERSHIP

It shall be a violation of this Ordinance for any owner to possess a Dangerous Animal unless that owner shall first obtain a permit from the Town Clerk for possession and ownership of a dangerous animal.

SECTION TWO. REGISTRATION.

Prior to applying for a dangerous animal permit, each owner shall comply with the requirements of this Ordinance and provide proof of such compliance to the Town Clerk. Upon satisfactory proof of compliance and payment of fees, the Clerk shall issue up to two dangerous animal permits to an owner.

SECTION THREE. PEN OR ENCLOSURE.

Each owner of a dangerous animal shall provide a secure fence or pen for such animal which fence or pen shall be not less than six feet in height, have a solid floor and ceiling that is permanently attached to the side fencing, and of sufficient strength to contain the animal(s). All four sides of the pen, or fenced area shall have signs posted warning of a dangerous dog or other animal.

SECTION FOUR. LIABILITY INSURANCE.

Each owner of a dangerous animal shall maintain a policy of liability insurance with a carrier licensed and admitted with a minimum best rating of A that is recognized by the State of Mississippi which policy shall expressly provide that it will cover claims arising out of animal bites from either all breeds of animals or the specific breed owned by the owner. The minimum limits of liability coverage under any such policy shall be \$300,000.00 per occurrence.

SECTION FIVE. FEES.

The annual fee for a dangerous animal permit shall be \$50.00 per animal.

SECTION SIX. RESTRAINT.

Every dangerous animal which is out of its pen or enclosure at any time shall be restrained with a sufficiently strong leash or other restraint and shall be muzzled.

SECTION SEVEN. PERMIT.

The dangerous animal permit issued by the Town Clerk shall be maintained by each owner and shall be made available to any animal control officer or other law enforcement officer upon request. Each permit shall expire twelve months after issue. Prior to the expiration of any permit, an owner shall timely apply for a new annual permit.

ARTICLE V. RABIES CONTROL

It shall be the duty of the owner of every dog within the city, five (5) months of age or over, to have such dog vaccinated against rabies annually with an approved dosage of an approved antirabic vaccine properly administered by one legally authorized to administer the same. The owner shall either keep safely at home or attach to the dog's collar a metal tag approved by the state board of health with the serial number of the vaccination and the year in which the dog was inoculated stamped thereon. The collar with the tag attached thereto shall be worn by the dog at all times or, in the event that the owner keeps the tags in his home, the tags shall be presented to any police officer or other appropriate official upon request.

ARTICLE VI. KILLING OF DANGEROUS ANIMALS

When any dangerous animal, in the judgment of any police officer, animal control officer, or other designated official or representative of the city, poses a serious and immediate threat of serious harm or injury to human life, it shall be the lawful duty of such officer or official they may kill such animal, without requiring such officer or official to catch, restrain or impound such animal.

ARTICLE VII. NEGLIGENCE AND CRUELTY TO ANIMALS**SECTION ONE. NEGLIGENCE.**

No owner shall fail to provide his animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter, shade and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

SECTION TWO. CRUELTY.

No person shall cruelly ill-treat, torment, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

ARTICLE VIII. PENALTIES

Each day of violation shall be a separate offense under this Ordinance. Every owner or other person found to be in violation of this Ordinance shall be charged in Municipal court and, if convicted, punished as follows:

1. First Offense: A fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00).
2. Second Offense: A fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and not more than thirty days in the County Jail.
3. Third Offense: A fine of not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00) and no more than six months in the County Jail.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY.

Severability is intended through and within the provisions of this section. If any provision, including inter alia any exception, part, phrase or term of or the application thereof to any person or circumstances, is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this section in any and all other respects shall not be affected thereby. It is not intended under this Section for a result to occur that is absurd, impossible to execute or unreasonable. It is intended that this section or part hereof be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given.

ARTICLE X. CONTINUING EVALUATION

After one (1) year, but not longer than eighteen (18) months after the implementation of this ordinance, the Chief of Police shall provide the governing authority with a report concerning the effect of this ordinance on dog bites and other animal attacks, including statistical data pertaining to citations issued and prosecutions hereunder, and such other information as the Board may request.

After receipt of the police chief's report by the Board of Aldermen, the town clerk shall place the matter on the town agenda for discussion, review, and continuing evaluation, and the Mayor and Board shall consider the following:

1. The practicality of enforcing this ordinance and any problems with enforcement identified by the police department;

2. The impact of this ordinance on dog bites and animal attacks and the need, if any, for amending this ordinance to accomplish the purposes herein recited of repealing this ordinance if are such action is deemed warranted by the governing authority.

ARTICLE XI. EFFECTIVE DATE OF ORDINANCE

SECTION 1. NOTICE.

This Ordinance shall be certified by the Town Clerk, signed by the Mayor and a majority of all members of the Board of Aldermen, recorded in the Ordinance book, and published at least one (1) time in the Lawrence County Press; a newspaper within Lawrence County, Mississippi, having general circulation in the Town Monticello.

SECTION 2. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall become effective one (1) month after its passage and upon publication in the time and manner prescribed by law.

SECTION 3.

The above Ordinance having been first reduced to writing, was read and considered, and then voted upon, Section by Section, and then as a whole.