

**ORDINANCE REGULATING ANIMALS AND FOWL****BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN****OF THE CITY OF BROOKHAVEN, MS**

## SECTION 1. Definitions.

(The following words, whenever used in this chapter, shall have the meaning ascribed to them in this section unless a different meaning clearly appears from the context:)

- a) Person: Shall mean any individual, firm, association, syndicate, partnership or corporation.
- b) At Large: Any animal, dog, cat, or fowl shall be deemed to be at large when he is not on a leash, behind a fence or enclosure, or under the control of a competent person.
- c) Owner: Shall mean any person, firm or corporation owning, keeping or harboring any animal or fowl
- d) Vaccination: Shall mean an infection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) calendar months by a licensed veterinarian.
- e) Animal control officer Shall mean the person designated by the City of Brookhaven to represent and act for the City of Brookhaven, in the impoundment of animals, controlling of animals running at large and as otherwise required in this chapter.
- f) Inhumane treatment: Shall mean any treatment of any animal which deprives the animal of necessary sustenance, including food, water and protection from weather, or any treatment of any animal, such as overloading, tormenting, beating, mutilating, teasing or poisoning or other abnormal treatments as may be determined by
  - 1. The health officer: or
  - 2. An authorized law enforcement officer.
- g) Health officer: Shall mean a licensed physician or veterinarian appointed by the mayor and board of aldermen to have charge and control of the work of protecting and preserving the public health.
- h) Livestock Shall mean all domesticated animals, including but not limited to, horses, cows, mules, goats, sheep and pigs.
- i) Wild animals: Shall mean all undomesticated animals, including but not limited to; lions, tigers, bears, wolves, apes, monkeys, foxes, baboons, skunks, raccoons and opossums.
- j) Feral dog: A dog that has escaped from domestication and become wild, dangerous, or untamed.
- k) Vicious animal: An animal that has shown itself to be dangerous to humans. Loosely, one belonging to a breed or species that is known or reputed to be dangerous or exhibit a vicious propensity. A vicious animal may be domestic, feral (untamed), or wild
- l) Vicious Propensity: An animal's tendency to endanger the safety of persons or property.
- m) Domestic Animal: An animal that is customarily devoted to the service of humankind at the time and in the place where it is helped

SECTION 2: Control and protection of animals in general.

- A. It shall be unlawful for any person to:
1. Permit any animal to run at large within the corporate limits of the City of Brookhaven;
  2. Carry out any inhumane treatment against any animal;
  3. Interfere or molest a dog used by the police department of the city in the performance of the functions or duties of such department
  4. Keep or harbor any animal(s) which by loud, frequent, or habitual barking, howling, yelping, or other noise or action disturbs any person or neighborhood within the corporate limits of the city,
  5. Keep or harbor more than four (4) domesticated animals of the same species, over the age of three (3) months, in any residential area within the corporate limits of the city;
  6. Keep or maintain on their premises any pen(s), enclosure(s) or keeping of animals or fowl so as to become a public nuisance to persons residing in the vicinity thereof, nor shall they be maintained or kept in any manner as to cause bodily injury to any person residing in the vicinity of the pen, enclosure, etc.,
  7. Keep or harbor any animals) or fowl in such a manner as to constitute a public nuisance by reason of odor or unsanitary conditions to persons residing in the vicinity thereof;
  8. Fail to provide animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment
  9. Leave an animal unattended inside a motor vehicle when such action is harmful or reasonable potentially harmful to said animal; in the event the owner of said vehicle is not available and cannot be found or refuses to prevent said harm or reasonable potential harm from mutilating, the animal control officer of the City of Brookhaven Police Department shall be authorized to remove said animal, from such vehicle and to utilize any reasonable method to effect said removal;
  10. Expose any known poisonous substance, whether mixed with food or not in such a manner as to be ingested by any animal to purposely harm said animal.
- B. The duly sworn and authorized animal control officer(s) or police officer(s) of the city, may seize or cause to have seized any animal whose owner is found to be in violation of any part of subsection (A) and impound or cause to be impounded such animal in a designated shelter. Such animal shall be held for a period not to exceed ten (10) days, and if reasonable corrections are not made by the owner of the animal so that the owner will not be in further violation of said subsection (A) if such animal is returned to him the animal shall be released to the City of Brookhaven. The animal control officer shall designate to the owner what corrections are necessary to bring said owner into compliance with subsection (A) during said ten (10) day period. The owner shall be responsible for impounded expenses as set out in Section 12 (D) of this Order.
- C. Violation of this Section shall constitute a misdemeanor punishable pursuant to Section 20 of this Ordinance.

SECTION 3: Vaccination of dogs and cats required; issuance of certificate and metal tag,

- A. On or before August first of each year every owner or keeper of a dog or cat six (6) months or older in the City of Brookhaven shall cause such dog or cat to be vaccinated against rabies by a veterinarian licensed to practice in the State of Mississippi
- B. Evidence of vaccination shall consist of a metal tag and certificate issued and signed by the veterinarian administering the vaccination and containing pertinent date for identification of the dog or cat which data must consist of the owner's name, address and telephone number. The metal tag must be worn at all times by the dog or cat.

SECTION 4: Keeping of livestock.

- A. No persons shall keep livestock closer than one hundred fifty (150) feet to a property line adjoining that of which the livestock is kept; provided that each animal herein defined as livestock shall be kept on a lot or tract of three (3) acres or greater.
- B. At the request of the animal control officer each livestock owner shall notify the animal control officer of the type, number and location of any and all livestock kept within the corporate city limits. Said owner shall further furnish the name, address and telephone number to the animal control authority and to the City of Brookhaven Police Department at the request of either.

SECTION 5: Keeping fowl regulated.

- A. No person shall keep more than two (2) fowl, such as chickens, ducks, turkeys, geese, pigeons or guineas, except when located one hundred fifty (150) feet from any property line adjoining that on which the fowl are kept, or except by special permit issued by the city.
- B. It shall be unlawful for the owner of said fowl to allow such fowl to roam outside the property of said owner, except carrier pigeons on training or racing flights.

SECTION 6: Limitation on applicability of Sections 4 and 5.

- A. The provisions relating to the keeping of livestock and fowl shall not apply to any area in the city not subdivided or platted or on tracts of three (3) acres or more.

SECTION 7: Ferocious, Vicious or dangerous animals prohibited.

- A. It shall be unlawful for any person to keep or maintain within the City of Brookhaven, any vicious, ferocious or dangerous animal or fowl. Any such animal or fowl may be impounded or destroyed.
- B. The violation of this section shall constitute a misdemeanor punishable under Section 20 of this Ordinance.

SECTION 8: Keeping wild animals and reptiles prohibited.

- A. No person shall keep any wild animal(s) or reptile (s) within the corporate limits of the City of Brookhaven.
- B. No person shall keep or cause to be kept on his premises or in any roadside zoo or pet store, any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee.
- C. The animal control officer is hereby granted the authority to seize any wild animal(s) or reptile(s) kept in violation of this section, federal law, or state statutes, upon conviction of the owner for

such offenses, and it seized, shall deliver said wild animal(s) or reptile(s) to the Department of Wildlife Conservation. In his discretion of the Animal Control Officer may grant the owner of such animals twenty-four (24) hours to remove them from the boundaries of the city to a lawful place if the public safety and welfare will not be jeopardized thereby.

SECTION 9: Performing animal exhibits or circuses; regulations.

- A. No performing animal exhibit or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which is likely to cause physical suffering or injury to the animals.
- B. All equipment used on or by a performing animal shall fit properly and be in good working conditions.
- C. The owners, managers, and caretakers of animals used as performing animals shall provide them with good and sufficient food and water, and shelter from extremes of weather, and shall at no time hobble, tether, tie, or stake them alongside city streets, state highways, public rights-of-way, or any thoroughfare within the corporate limits of the city.
- D. The animal control officer is hereby authorized to inspect the conditions and premises of such operations at any given time to determine compliance with this section.

SECTION 10: Pet Shops, aviaries and kennels; investigation of complaints.

- A. The animal control officer of the city is hereby authorized at any reasonable time upon written request or demand of any citizen of the city to inspect any store or business which buys, sells, gives away, or trades live animals, birds, or operated kennels.

SECTION 11: Impoundment of animals or fowl.

- A. Any dog, animal or fowl caught, picked up or impounded by the animal control officer of the City of Brookhaven shall be forthwith turned over to the to the City Pound at 463 County Farm Lane NE, Brookhaven, Mississippi (or to such other animal shelter as may be designated from time to time by the city), to be held, impounded or disposed of in accordance with the rules and regulations of said animal shelter.

SECTION 12: Procedure on retention, observation, and disposition of animals which have bitten persons or other animals, or those suspected of having disease.

- A. The animal control officer, in the course of his duties of investigation of cases in which animals have bitten persons or other animals, shall immediately notify the owner of such animal which has bitten any person or animal to surrender the animal to the animal control officer immediately or otherwise arrange for the animal control officer to pick up and retain such animal in a separate kennel at the designated animal shelter for a period of not less than ten (10) days after the biting of such person or other animal, during which period it shall be determined by the city health officer or designated official whether or not such animal is suffering from any disease. If no disease is found, the city health officer shall signify to the animal control officer that such animal may be released to the owner, provided further, that the animal control officer may authorize keeping of any such animal on the owner's premises provided that the owner produces a certificate of rabies vaccination performed by a veterinarian showing that such animal has been vaccinated for rabies not longer than twelve (12) months

previous thereto or vaccination period recognized by the United States Department of Agriculture and provided further, that the animal control office; may authorize any such animal to be retained for a period of not less than ten (10) days after biting such person or animal in quarters supervised by a veterinarian; provided further, that the city health officer may authorize the keeping of certain animals confined on the owner's premises because of veterinary medical reasons, such as small rodents, monkeys or other animals difficult to maintain or susceptible to diseases which might occur with changes of environment of female dogs with pups, provided the owner secures a written statement of such consideration from a veterinarian if required by the city health officer.

- B. Any animal suspected of having disease shall be subject to the impoundment and observation provisions set out in subsection (a) of this section.
- C. Any animal found to be infected with rabies shall be forthwith destroyed by the animal control officer, by the city police of the City of Brookhaven, or by another designated officer.
- D. Any currently vaccinated animal may be reclaimed by its owner upon the payment of a boarding fee of \$10.00 per day for each animal and any veterinary fees and expenses incurred by the City in caring for and treating the animal together with a cash bond in an amount adequate to secure the payment of any fines for violations of this Ordinance.
- E. Any unvaccinated animal which is required by this Ordinance to be vaccinated may be reclaimed by its owners upon payment of the amounts set forth in D above and must make arrangements satisfactory to the Animal Control Officer to have the animal vaccinated
- F. All impounded unclaimed animals not redeemed within ten (10) calendar days shall be destroyed in a humane manner, or sold by the Animal Control Officer. The Chief of Police may extend said ten (10) day period as he may deem necessary provided that the owner of the animal pay any additional costs incurred by the City in connection therewith.

#### SECTION 13: Authorization for quarantine.

- A. In the event a potential outbreak of rabies is suspected, and the danger of the public safety from rabid animals is reasonably imminent, the city health officer is hereby authorized and it shall be his duty to issue a quarantine proclamation ordering persons owning, keeping or harboring any dog or cat to muzzle the same or confine it as herein provided for such times as may be specified in such quarantine proclamation. Under the publication of such proclamation by the health officer, the person keeping or harboring a dog, cat or other animal shall follow the procedure as prescribed in the definition for "at large", except that any such animal under the control of an adult person, on a leash — or under control by voice command may do so only if the animal is effectively muzzled. All dogs, cats or other animals found at large during the time specified by the city health officer in a quarantine proclamation, without being properly confined or muzzled if under the control of an adult person, may be destroyed by any officer of the city if said officer is unable, with reasonable effort, to apprehend the animal for impoundment.

#### SECTION 14: Animal control officers — training and certification.

- A. Animal control officer(s) shall be required to be familiar with the City of Brookhaven, Mississippi, Ordinances pertaining to "Animals and Fowls", and applicable federal and state statutes pertaining thereof.

SECTION 15: Same-Police powers and enforcement responsibility.

- A. Any animal officer may utilize any equipment reasonable and necessary to enforce the provisions of this Code, including without limitation, humane wire box traps; and the animal control officer(s) may lend such traps or other equipment to private persons for the purpose of preventing nuisances resulting from animal running at large.
- B. Any animal control officer appointed by the city shall be vested with police powers and shall be authorized to issue tickets, summons or other process in the same manner as other police officers of the city.

SECTION 16: Reporting vehicle accident involving animal.

- A. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall at once report the accident to the police department and/or the animal control officer or to the local humane society within a reasonable time.

SECTION 17: Vicious or diseased animals.

- A. Vicious animals or feral dogs. When an animal is determined by the animal control officer to be a vicious animal or a feral dog that animal may be destroyed by the animal control officer or his designee providing each of the following requirements is met:
  - 1. The animal is running at large.
  - 2. There is no vaccination tag around the animal's neck
  - 3. Attempts to peacefully capture the animal have been made and proved unsuccessful.
- B. Incurably injured or diseased animals, etc. It shall be the duty of the police and duly authorized animal control officer to discharge a firearm in order to mercifully end the life of an animal suffering from an incurable injury or disease or as the sole effective means of controlling a public nuisance or health hazard, including, but not limited to pigeons, rabbits, squirrels, snakes and feral dogs.

SECTION 18: Personnel using firearms pursuant to chapter.

- A. Personnel empowered by this chapter or section to discharge firearms within the city limits shall qualify with the police chief once every six (6) months and may not discharge any firearms within the scope of their employment unless and until the chief of police has issued or renewed the appropriate certification. Said certification is to be issued based on the following considerations:
  - 1. Through inspection in operation of the type of firearms issued to the animal control officer.
  - 2. Through knowledge of all appropriate safety procedures.
  - 3. Competent performance on the firing range.
  - 4. Such other tests or qualifications as the Chief of Police in his discretion, deems appropriate.
- B. In issuing the requirements certification, the chief of police is to take into consideration all the requirements in keeping with good police practice, and will at all time bear in mind the safety of the citizens of the city, and shall require the same degree of competency from authorized personnel as is required of police officers discharging firearms within the city limits.

SECTION 19: Humane euthanization.

- A. An Injured or neglected animal may be humanely euthanized by the animal control officer or his designee immediately.

SECTION 20: Penalties:

- A. Upon the first conviction of a violation of any of the provisions of this Ordinance, by a fine of not less than \$125.00 and not more than \$1,000.00 or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.
- B. Upon a second conviction of a violation of any of the provisions of this Ordinance other than Section 12, by a fine of not less than \$250.00 and not more than \$1,000.00 or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.
- C. Upon the third or subsequent conviction of a violation of any of the provisions of this Ordinance other than Section 12, by a fine of not less than \$500.00 and not more than \$1,000.00 or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

SECTION 21: Severability.

- A. Should any section or provision of this Ordinance be declared by the courts be unconstitutional or invalid such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid

SECTION 22: Repeal of Conflicting Ordinance

- B. All Ordinances or parts of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and affect.

SECTION 23: This ordinance is given in lieu of and takes the place of the prior ordinance of the City of Brookhaven, Chapter 4, Animal and Fowls, Articles 1,2, and 3. (Ord No. 1321995)

SECTION 24: This ordinance is hereby established to take effect thirty (30) days from the passage of the ordinance.

SECTION 25: PASSED, APPROVED AND ADOPTED this the 3<sup>rd</sup> day of October 2006.