

**DANGEROUS ANIMAL CONTROL ORDINANCE**

WHEREAS, Hancock County, by and through the Hancock County Board of Supervisors, has deemed it to be in the best interest of its citizenry to adopt the following ordinance for the protection of the health, safety and welfare of the citizens of Hancock County and also. of all of the animals therein.

NOW, THEREFORE, Hancock County, by and through the Hancock County Board of Supervisors, hereby adopts the following ordinance:

**SHORT TITLE**

This ordinance shall be known and may be cited as the "Dangerous Animal Control Ordinance."

**DEFINITIONS**

As used in this Ordinance, the term:

- a) "Dangerous Animal" means any animal that, according to the records of the appropriate authorities:
  1. Has without, provocation inflicted an unprovoked severe injury upon a human being or another domestic animal on public or private property; or
  2. Aggressively bites, attacks, or endangers the safety of humans or other domestic animals without provocation after the animal has *been* classified as a potentially dangerous animal and after the owner has been notified of such classification.
- b) "Animal control officer" means an individual or individuals selected by the governing authority of Hancock County to aid in the administration and enforcement of the provisions of this ordinance.
- c) "Governing authority" means the governing body or official in which the legislative powers of Hancock County is vested.
- d) "Owner" means any natural person or any legal entity, including but not limited to, a corporation, partnership, firm or trust owning, possessing, harboring, keeping, or having custody or control of a dangerous animal or potentially dangerous animal within this county.
- e) "Potentially dangerous animal" means any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or any other domestic animal that when unprovoked:
  1. Inflicts bites upon a human being on public or private property; or
  2. Chases or approaches a human being upon the street, sidewalks, or any public grounds in a vicious or terrorizing manner in an apparent attitude of attack,
- f) "Proper enclosure" means an enclosure for keeping a dangerous animal or potentially dangerous animal while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Any such pen or structure shall *have* secure sides and a secure top, and, if the animal is enclosed within a fence, all sides of the fence shall be of sufficient height, and the bottom of the fence shall be constructed or secured in such a manner as to prevent the animals escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the animal.

- g) "Records of an appropriate authority" means records of any state, county, or municipal law enforcement agency; records of any county board of health; records of any federal, state or local court; or records of an animal control officer provided for in this ordinance.
- h) "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.
- i) "Breeder for hire" means any person or entity that holds or breeds animals for sale to the general public.
- j) An animal that inflicts an injury upon a person when the animal is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be considered a dangerous animal or potentially dangerous animal within the meaning of this ordinance. An animal shall not be a dangerous animal or a potentially dangerous animal within the meaning of this ordinance if the injury inflicted by the animal was sustained by a person or other animal who, at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the animal or had in the past been observed or reported to have tormented, abused or assaulted the animal or was committing or attempting to commit a crime.

#### JURISDICTION

The jurisdiction for the enforcement of this ordinance shall be within the boundaries of Hancock County.

#### APPOINTMENT OF ANIMAL CONTROL OFFICER

The governing authority of Hancock County shall designate an individual or individuals to carry out the duties of an animal control officer as provided for in this ordinance. The governing authority may further assign the additional duties of animal control officer to any officer or employee of Hancock County who is subject to the jurisdiction of the governing authority. The governing authority may designate the duties of animal control officer to the Hancock County Sheriff's Department. Upon appointment of an animal control officer, the governing authority of Hancock County shall cause the name of the appointee to appear in the official minutes of Hancock County.

#### DUTIES OF THE JUSTICE COURT JUDGE

When a Justice Court Judge receives a request for a hearing as provided for in this ordinance, he or she shall schedule such hearing within twenty-one (21) days after receiving the request. The animal control officer shall notify the animal owner in writing by certified mail of the date, time and place of the hearing, and such notice shall be mailed to the animal owner at least ten (10) days prior to the date of the hearing. At the hearing, the Owner of the animal shall be given the opportunity to testify and present evidence, and in addition thereto, the Justice Court Judge shall receive such other evidence and hear such other testimony as the governing authority may find reasonably necessary to make a determination either to sustain, modify, or overrule the animal control officer's classification of the animal as provided for within this ordinance.

Within ten (10) days after the date of the hearing, the Justice Court Judge shall notify the animal owner in writing by certified mail of its determination of the matter. If such determination is that the animal is a dangerous animal or a potentially dangerous animal, the notice shall specify the date upon which that determination is effective.

## DUTIES OF THE ANIMAL CONTROL OFFICER.

Each animal control officer shall make such investigations and inquires as may be necessary to identify dangerous animals and dangerous animal owners within the animal control officer's jurisdiction.

When an animal control officer classifies an animal as a dangerous animal or reclassifies a potentially dangerous animal as a dangerous animal, the animal control officer shall notify the animal's owner in writing by certified mail to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

### 1. PROCEDURES FOR SUCH DETERMINATIONS:

- A. As applied to the owners of potentially dangerous animals, the procedure as provided for in this ordinance, must be carried out as a necessary condition for the enforcement of the provisions of this ordinance against such owners.
- B. When a dangerous animal or a potentially dangerous animal is classified as such, the animal control officer shall notify the animal owners of such classification. Likewise, when an animal is determined to be neglected, abused, and/or abused, the animal control officer shall notify the owner of such animal of the determination.
- C. The notice to the owner shall make the following requirements:
  - a) The notice shall be in writing and mailed by certified mail to the owner's last known address;
  - b) The notice shall include a summary of the animal control officer's findings that formed the basis for the animal's classification as a dangerous or potentially dangerous animal;
  - c) The notice shall be dated and shall state that the owner, within fifteen (15) days after the date shown on the notice, has a right to request a hearing of the animal control officer's determination that the animal is a dangerous animal or potentially dangerous animal;
  - d) The notice shall state that the hearing, if requested, shall be held before and conducted by the Hancock County Justice Court;
  - e) The notice shall state that if a hearing is not requested, the animal control officer's determination that the animal is a dangerous animal or a potentially dangerous animal will become effective for all purposes under this ordinance on the date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing;
  - f) The notice shall include a form to request a hearing before the Hancock County Justice Court and shall provide specific instructions on mailing or delivering such request to the Hancock County Sheriff.
- D. When it has been determined that an owner possesses a dangerous or potentially dangerous animal, the animal control officer shall issue a certificate of registration to the owner of such animal, if the owner presents to the animal control officer or the animal control officer otherwise finds sufficient evidence of compliance with the duties prescribed for the owner within this ordinance.
- E. An animal control officer is authorized to make whatever inquiry is deemed necessary to insure compliance with the provisions of this ordinance.
- F. The Hancock County Sheriff's Department shall cooperate with the animal control officer in enforcing the provisions of this ordinance.

### ANIMALS CREATING A NUISANCE

It shall be unlawful for the owner or person having possession, control or custody of any domestic animal to permit or allow the animal to create a disturbance in Hancock County or to become a nuisance in any manner by reason of excessive and prolonged noise making.

Any person or entity determined by the animal control officer to be in violation of subsection 7(1) above shall have its animal confiscated and held pending a hearing on the issue before the Hancock County Justice Court Judge. All notice and procedural requirements set forth in this ordinance applicable to hearing regarding dangerous or potentially dangerous animals shall be applicable to hearings requested pursuant to this section of the ordinance.

A conviction by the Hancock County Justice Court Judge of violating subsection 7(a) of this ordinance shall carry a \$250.00 fine for a first offense and \$500.00 for any subsequent convictions of the same offense. Upon conviction the Hancock County Justice Court Judge shall assess all costs and expenses incurred by Hancock County in confiscating, housing and coxing for the animal in question, Additionally, the Hancock County Justice Court Judge shall, in his discretion, impose measures necessary to prohibit the recurrence of such nuisance.

### 8. ABUSED OR NEGLECTED ANIMALS

It shall be unlawful for any person to torture, torment, unjustifiably injure, abandon, deprive of necessary sustenance (shelter, food, or drink), or to allow such acts-to *be* done to any domestic animal. Any domestic animal being subjected to such acts shall be confiscated by the animal control officer until such time as a hearing on the matter, if requested, may be held by the Hancock County Justice Court Judge. All notice and procedural requirements set forth in this ordinance applicable to hearing regarding dangerous or potentially dangerous animals shall be applicable to hearings requested pursuant to this section of this Ordinance.

A conviction by the Hancock County Justice Court Judge of violating subsection 8(a) of this Ordinance shall carry a \$250.00 fine for a first offense and \$500.00 for any subsequent convictions of the same offense. Upon conviction the Hancock County Justice Court Judge shall assess all costs and expenses incurred by Hancock County in confiscating, housing and caring for the animal in question. Additionally, the Hancock County Justice Court Judge shall, in his discretion, impose measures necessary to prohibit the recurrence of such violation, including the permanent removal of such animal from its owner.

### 9. SELLING OR GIVING AWAY OF DOMESTIC ANIMALS.

It shall be unlawful for any person or entity to sell or give away any animals on the streets and/or rights of way of Hancock County. This provision shall not apply, however, to duly licensed breeders.

All breeders of animals located within or doing business in Hancock County must be registered with the animal control officer and must comply with all Federal, State, and local ordinances, laws and regulations applicable to the operation of a business. Additionally, all breeders shall pay a license fee to Hancock County in the amount of twenty-five (\$25.00) per year.

#### 10. RESPONSIBILITY OF OWNER OF CLASSIFIED ANIMAL.

1. The owner of an animal which has been classified as a dangerous animal or a potentially dangerous animal shall meet the following requirements;
  - a) A proper enclosure to confine the dangerous animal or potentially dangerous animal shall be provided; and
  - b) The posting of the premises *where* the dangerous animal or potentially dangerous animal is located with a clearly visible sign warning that there is a dangerous animal on the property and containing a symbol designed to inform children of the presence of a dangerous animal.
2. In addition to the requirements set out above, the owner of a dangerous animal shall present to the animal control officer evidence of;
  - a) A policy of insurance in the amount of at least \$15,000.00, issued by an insurer authorized to transact business in this state, insuring the owner of the dangerous animal against liability for any personal injuries inflicted by the dangerous animal; or
  - b) A surety bond in the amount of \$15,000.00 or more, issued by a surety company authorized to transact business in this state, payable to any person or persons injured by the dangerous animal.
3. The owner of a dangerous animal or potentially dangerous animal shall notify the animal control officer within 24 hours if the animal is on the loose, is unconfined, has attacked a human, had died, or had been sold or donated. If the animal has been sold or donated, the owner shall also provide the animal control officer with the name, address, and telephone number of the new owner of the animal.

#### CONFISCATION OF CLASSIFIED ANIMAL.

1. An animal deemed to be a dangerous animal shall be immediately confiscated by the animal control officer or by a law enforcement officer and other person authorized by the animal control officer if:
  - a. The owner of the animal does not secure the liability insurance or bond required by this ordinance;
  - b. The animal is not validly registered as required by this ordinance;
  - c. The animal is not maintained in a proper enclosure in violation of this ordinance; or
  - d. The animal is outside a proper enclosure in violation of this ordinance.
2. A potentially dangerous animal shall be confiscated in the same manner as a danger animal if the animal is:
  - a. Not validly registered as required by this ordinance;
  - b. Not maintained in a proper enclosure provided by this ordinance; or
  - c. Is outside a proper enclosure in violation of this ordinance.
3. Any animal that has been confiscated under the provisions of this section shall be returned to its owner after a hearing on the matter is concluded by the Hancock County Justice Court Judge or upon the owner's compliance with the provisions of this ordinance and upon the payment of reasonable confiscation costs, which costs shall be determined and set by the animal control officer and approved by the Hancock County Sheriff. In the event the owner has not complied with the provisions of this article within 15 days of the date the animal was confiscated, said animal will be destroyed in an expeditious and humane manner.

## OFFENSES

It shall be unlawful for an owner to have or possess within this state a dangerous animal or a potentially dangerous animal without authority for the animal control officer issued in accordance with the provisions of this ordinance.

## VIOLATIONS; PENALTIES.

The owner of a dangerous animal who violates the applicable provisions of This ordinance, or whose *dangerous* animal is subject to confiscation under this ordinance shall *be* guilty of a misdemeanor and fined \$100.00 for a first offense. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$250.00 shall be imposed, and for a third or subsequent conviction a fine of not less than \$500.00 shall be imposed.

The owner of a potentially dangerous animal who violates the applicable provisions of this ordinance, or whose potentially dangerous animal is subject to confiscation under this ordinance, shall be guilty of a misdemeanor and fined \$100.00 for a first offense. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$250.00 shall *be* imposed, and for a third or subsequent conviction a fine of not less than \$500.00 shall be imposed.

## PARTICIPATION BY LOCAL MUNICIPALITIES.

Nothing contained in this ordinance shall prevent the governing authority of Hancock County from contracting with local municipalities or other counties to establish joint animal control boards, and/or joint animal control officers.

## FEES.

The governing authority of Hancock County may establish an annual *fee*, in addition to regular animal licensing fees, to register dangerous animals and potentially dangerous animals as required by this ordinance.

## SUPPLEMENTARY NATURE OF ORDINANCE.

The provisions of this ordinance are in addition to and supplementary of any previously existing ordinance of Hancock County, or law of this state, and shall not be construed to repeal or supersede such previously existing ordinances or laws. The provisions of this ordinance shall not be construed to repeal or supersede any previously existing ordinances, except to the extent that such previously existing ordinance is in conflict or is inconsistent with provisions of this ordinance.

The motion having received the unanimous affirmative vote of all members of the Board, the President declared the motion carried this the 1st day of November, 2004.