

STATE OF MISSISSIPPI

COUNTY OF OKTIBBEHA

**ORDINANCE PROVIDING FOR THE CONTROL OF VICIOUS DOGS
AND OTHER VICIOUS ANIMALS WITHIN OKTIBBEHA COUNTY, MISSISSIPPI**

(Revised November 2, 2020)

SECTION 1. DEFINITIONS

That for the purpose of this Ordinance, the following definitions shall apply when used herein:

1. The word "Dog" shall include both the male and female sex of the canine species.
 2. For the purposes of this section, the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.
- b) The word "Owner" shall include any person, partnership, firm or corporation owning, keeping or harboring one or more dogs.
- c) The words "Vicious Dog" shall mean that a dog without provocation, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite, or has bitten, maimed, killed, or otherwise endangered any person, dog, or other animal.
- d) The words "Without Provocation" shall mean that the dog was not teased, tormented, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.
- e) The words "Menacing Fashion" shall mean that the dog would cause a reasonable person being chased or approached to believe that the dog would attempt to cause physical injury to that person.
- f) The words "Humanely Destroyed" shall generally mean to be destroyed by euthanasia under the supervision of a licensed veterinarian.
- h) Secure enclosure means a securely fenced enclosure or building, of appropriate dimensions for the breed and size of the dog. The enclosure must be sufficiently ventilated and insulated to protect the dog from exposure to the elements, be constructed no closer than 10 feet to the boundary lines of the owners property, suitable to prevent the entry of small children, and be covered and constructed in such a manner to prevent the dog from escaping over, under, or through the structure. Confinement inside a residence will qualify as a proper enclosure.
- i) The words "Oktibbeha County" shall mean the unincorporated areas of Oktibbeha County, Mississippi.
- j) The word "Board" shall mean the Board of Supervisors of Oktibbeha County, Mississippi.
- k) The word "Law Officer" shall mean the Oktibbeha County Sheriff or any of his lawfully authorized deputies.
- l) The word "County" shall mean Oktibbeha County, Mississippi, its departments and employees.

SECTION 2. VICIOUS ANIMALS

Provision 1. The following animals are hereby found and determined to be dangerous animals and as such are subject to all requirements and provisions of this article:

a) Any animals, other than domestic dogs, which in a wild state are carnivorous or poisonous or which, due to their physical makeup or capabilities, are capable of inflicting serious physical harm or death to human beings. This includes, but is not limited to, animals belonging to the cat or snake family, including all constrictors, bears, wolverines, badgers, lions, tigers and such other animals as the Board may from time to time determine by Order or Resolution to be vicious animals. The Sheriff of Oktibbeha County is authorized to compile and maintain a list of said animals as may be determined to be regulated by this Article.

b) Any domestic dog or any other animal that exhibits any of the following characteristics:

1. Without provocation approaches, in a threatening or terrorizing manner, any person in any apparent attitude of attack or exhibits any behavior that constitutes a physical threat of bodily harm to a person upon the streets, sidewalks, any public or common grounds or places, or in any place where such person is conducting himself peaceably and lawfully. For the purposes of this Article, a person shall be considered to be peaceably and lawfully upon the private property of any owner of an animal when he is on such property in the performance of any duty imposed upon him by any laws or postal regulations of the United States or any political subdivision thereof or when he is on such property upon invitation, expressed or implied.

2. Without provocation bites, inflicts injury, assaults or otherwise attacks a person, in any place where such person is conducting himself peaceably and lawfully, or when such animal is not on the property of the owner of the attacking animal, or bites, inflicts injury, assaults or otherwise attacks other domestic dogs, livestock or poultry,

3. A known propensity, tendency or disposition to attack without provocation, to cause injury, or to otherwise endanger the safety of human beings or other domestic animals, livestock or poultry.

4. Owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.

Provision 2. For the purposes of this Article, a person shall be considered to be peaceably and lawfully upon the private property of any owner of an animal when he is on such property in the performance of any duty imposed upon him by any laws or postal regulations of the United States or any political subdivision thereof or when he is on such property upon invitation expressed or implied.

Provision 3. The provision of this section notwithstanding, no animal may be determined to be dangerous due to the facts that it:

a) Inflicts injury or damage on a person who is committing a willful trespass or other tort upon the

premises occupied by the person owning or in possession of the animal or who is teasing, tormenting, abusing or assaulting the animal or who is committing or attempting to commit a crime.

b) Inflicts injury or damage on another domestic animal that is or was teasing, tormenting, abusing or assaulting the animal.

c) Takes any action to defend or protect a human being within the immediate vicinity of the animal from any unjustified attack or assault

Provision 4. Unless specifically stated to the contrary, the following are exempt from the requirements of this article:

a) Any duly authorized and lawfully operating dealers in animals within Oktibbeha County.

b) Any lawfully operated circus, carnival, performing act or similar functions and events of a temporary nature as may be authorized by the County.

c) Dogs or other animals lawfully used to guard private property.

d) Dogs or other animals assisting a law officer engaged in law enforcement duties.

e) Animals in a licensed veterinary, animal or small animal hospital for treatment or kept in a bona fide educational, medical or other research institution or in zoos, museums or similar places where such animals are kept as live exhibits or for study

SECTION 3. ENFORCEMENT

Provision 1. The Oktibbeha County Sheriff's Department and any designated representative of the County shall have the primary duty and responsibility of investigating and enforcing the provisions of this Ordinance and any such law officer or designated representative is fully authorized and empowered to enforce any and all of the provisions hereof.

Provision 2. Any Deputy Sheriff or designated representative of the County, may upon finding probable cause enter upon private premises to enforce this Ordinance.

Provision 3. The Sheriff, his Deputies, or other designee of the County, shall have the power and authority to issue summons and citations returnable to Oktibbeha County Justice Court for a violation or suspected violation of this Ordinance.

Provision 4. It shall be a violation of this Ordinance to interfere with a law enforcement officer in the performance of his/her duty.

SECTION 4. SEIZURE AND DISPOSITION OF VICIOUS ANIMALS

1. Lawful seizure of animals.

All courts in the state may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is vicious. Such probable cause may be established upon sworn testimony of any person who has witnessed the

condition and actions of said animal. If, after the initial investigation, the Sheriff or sworn Deputies shall make an initial determination of whether there is sufficient cause to classify the animal as vicious and shall present their findings to a Justice Court Judge upon application for seizure of the animal through a sworn statement of the underlying facts and circumstances of the case. The Justice Court Judge shall then make the determination to seize the animal, issue a Notice of Seizure, and appoint a temporary guardian for the animal. If no temporary guardian is appointed, and the court allows the owner to maintain custody pending the outcome of a hearing, the dog must be confined in a proper enclosure for a dangerous dog pending resolution of the investigation. If the animal cannot be confined in a proper enclosure, the animal must be surrendered to the Sheriff or his designee for immediate impoundment, where it will be held in a separate enclosure.

2. Appointment of temporary custody of seized animals.

The court may appoint the city animal shelter, a veterinarian, the Oktibbeha County Humane Society, or other person as temporary custodian for the animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary.

3. Serving notice upon the owner of a seized animal.

Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized.

4. Seizure notice content.

Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall be signed by the court issuing the order.

5. Request for appeal of seizure and return of custody.

Within five days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal.

- a. The court shall hold such hearing within 14 days of receiving such request.
- b. The hearing shall be concluded and the court order entered thereon within 21 days after the hearing is commenced.
- c. Upon requesting a hearing, the owner shall have three business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. If any dog is caught and/or impounded by any law officer, the County or its designee, in compliance with this Section, then said dog shall not be released to the Owner until such time as the owner provides proof of a current rabies vaccination or provides the vaccination by a licensed veterinarian. Said owner shall have a period of five (5) days to produce said proof of vaccination or have the

- dog vaccinated by a licensed veterinarian. If after the five (5) day period said dog remains in violation of this Section then said dog may be vaccinated by the Temporary Custodian and the cost of vaccination applied to the owner.
- d. Failure to post such bond within three days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.
 - e. In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:
 1. Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.
 2. Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.
 3. Expert testimony as to the proper and reasonable care of the same type of animal.
 4. Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.
 5. Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.
 6. Any other evidence the court considers to be material or relevant.
 - f. Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to animal medical and boarding costs, the court may order that the animal's owner reimburse the temporary custodian for such costs.. The Court may also order that the animal's owner pay restitution for medical bills or loss of property to any and all victims, not to exceed statutory limits. A lien for all authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.
 - g. If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is vicious and cannot be rehomed, the court may order that the animal be permanently forfeited and released to city animal shelter, Oktibbeha County Humane Society, or other appropriate entity to be euthanized or rehomed as deemed necessary.
 - h. Upon notice and hearing as provided in this section, or as a part of any proceeding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.
 - i. If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven days after the date of the order. Any secure enclosures required as a matter of compliance with this ordinance must be inspected by the Sheriff or his designee prior to the return of the animal. All costs incurred must be paid by the owner prior to the return of the animal.
6. Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the

taking into custody and making proper disposition of animals as authorized in MCA 1972, §§ 21-19-9 and 41-53-11.

SECTION 5. PENALTIES

Provision 1. The failure or refusal of any person to comply with any of the provisions of this Ordinance, and the violation of any provision of this Ordinance by any person shall constitute a misdemeanor, and any person guilty of any violation or any provision of this Ordinance shall, on conviction thereof, be fined for the first offense in a sum not to exceed one hundred (\$100.00); and the second offense in a sum not to exceed Two Hundred Fifty Dollars (\$250.00); and for the third offense a sum not to exceed One thousand Dollars (\$1000.00) and/or six (6) months in jail.

Provision 2. Cost and expenses incurred. Any person or persons violating any provision of this section, shall bear full costs and expenses incurred by the Oktibbeha County Humane Society , the Oktibbeha County Sheriff's Department, or designee in the care, medical treatment, impoundment cost, and disposal of said animals, including removal from a vehicle or structure.

SECTION 6. SEVERABILITY

Provision 1. This Ordinance has been considered section by section, provision by provision, and as a whole, and if any section or provision hereof should be held unconstitutional or invalid for any reason, the remaining sections and provisions hereof shall be valid, it being hereby declared that all constitutional and valid provisions hereof would have been enacted after the exclusion of any section or provision which might be found to be unconstitutional or invalid.

SECTION 7. EFFECTIVE DATE

This Chancery Clerk shall cause this Ordinance to be published as soon as possible after the passage hereof and this Ordinance shall become effective thirty (30) days after the date of its adoption.

ADOPTED BY THE OKTIBBEHA COUNTY BOARD OF SUPERVISORS November 2, 2020.