

**AN ORDINANCE AMENDING THE EXISTING ORDINANCE
REGULATING THE KEEPING OF ANIMALS WITHIN
THE CITY OF MORTON AND RELATED PURPOSES**

WHEREAS, in order to preserve the health, safety and welfare of the citizens of the City of Morton, the governing authorities of the City of Morton, in consideration of all relevant factors, statistics and related information finds that the City of Morton's existing Ordinance Regulating the Keeping of Animals within the City of Morton adopted February 4, 1997, as amended, September 6, 2005, should be amended and that, among other things, further regulation of certain breed specific dogs and dangerous dogs is required.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Morton, Mississippi, that the Ordinance of the City of Morton Regulating the Keeping of Animals within the City of Morton is amended as follows:

ARTICLE I. IN GENERAL

Sec. 1-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means a live, vertebrate creature, domestic or wild.

Animal control officer means a person designated by the city as a law enforcement officer or the animal control officer, who is qualified to perform such duties under the state law.

Animal shelter means a facility operated by an Animal Rescue League or municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Feral dog means a dog that has escaped from domestication and has become wild, dangerous or untamed.

Harbored, when applied to an animal, means fed or sheltered.

Owner means a person, partnership or corporation owning, keeping or harboring one or more animals.

Pet means an animal kept for pleasure rather than utility.

Public nuisance means an animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds or in city parks;
- (4) Is repeatedly at-large;
- (5) Damages private or public property;
- (6) Barks, whines or howls in an excessive, continuous or untimely fashion;
- (7) Is allowed by its owner to become a nuisance to people or other animals; or
- (8) Is kept under conditions which are malodorous.

Restraint means when an animal is secured by a leash or lead of less than six feet, within the fenced real property limits of its owner, or tethered in such a way that the animal is within the real property limits of its owner.

Running at-large means an animal not under restraint.

Veterinary hospital means an 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 constitutes a physical threat to human beings or other animals.

Wild animal means a live monkey (nonhuman primate), raccoon, bear, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other warm-blooded animal which can normally be found in the wild state and is not ordinarily domesticated by man, whether raised in captivity or in the wild.

Sec. 1-2. Exemptions.

Except where otherwise provided in this chapter, the provisions of this chapter shall not apply to any federal, state or city law enforcement agency.

Sec. 1-3. Enforcement; interference.

(a) Authorized officers of the police department, veterinarians, the animal control officer, the ordinance enforcement officer, and any person designated by the animal control officer shall be empowered to enforce the provisions of this chapter or any rule or regulation promulgated under this chapter.

(b) It shall be a violation of this chapter to interfere with the animal control officer

or other authorized officer in the performance of his duties.

Sec. 1-4. Construction.

The provisions of this chapter shall not be construed to prohibit the American Society for the Prevention of Cruelty to Animals or any law enforcement officer from enforcing any other law, rule or regulation regarding the humane treatment of animals.

Sec. 1-5. Cruelty to animals.

It shall be unlawful for any person to overload, overwork, torture, torment, unjustifiably injure, deprive of necessary sustenance, food or drink, or cruelly beat or ill-treat or needlessly mutilate or otherwise abuse any animal within the corporate limits of the city, or to cause or permit such abuse to be done, or to cause, instigate or permit any bullfight or other combat between animals or between animals and humans.

Sec. 1-6. Exposing to poisons.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the poisonous substance shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose, on his own property, common pest control poison mixed only with vegetable substances.

Sec. 1-7. Leaving unattended inside motor vehicle; authority to remove from vehicle.

It shall be unlawful for any person to leave an animal unattended inside a motor vehicle within the city when such action is reasonably potentially harmful to the animal. The division of animal control shall have the authority to remove an animal from such unattended vehicle.

Sec. 1-8. Operator of vehicle striking animal to report accident.

Any person, as the operator of a motor vehicle, who strikes a domestic animal within the city shall report the accident at once to the police department and/or the division of animal control or the local Animal Rescue League within a reasonable period of time.

Sec. 1-9. Pet stores.

Stores that deal in live pets shall be subject to inspection at reasonable times, on demand, by the animal control officer.

Sec. 1-10. Elimination of animals.

(a) *Vicious animals or feral dogs.* When an animal is determined by the animal control officer, Chief of Police or his designee, and/or a police officer to be a vicious animal or feral dog, such animal may be destroyed by the animal control officer, Chief of Police or his designee, provided 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 proven to be unsuccessful.

(b) *Incurably injured or diseased animals, etc.* It shall be the duty of the police 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.

Sec. 1-11. Certification of personnel authorized to discharge firearms.

Personnel empowered by this chapter to discharge firearms within the city limits shall qualify with the Chief of Police, 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. Such certification shall be issued based on the following considerations:

- (1) Thorough instruction in operation of the type of firearms issued to the division of animal control
- (2) Thorough 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.

In issuing the required certification, the Chief of Police shall take into consideration all of the requirements in keeping with good police practice, and shall at all times bear in mind the safety of the citizens of the city, and shall require the same degree of competence from personnel authorized under this section as is required of police officers discharging firearms within the city limits.

ARTICLE II. KEEPING ANIMALS

Sec. 2-1 Wild animals.

(a) No person within the city shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any wild animal for display or exhibition purposes, whether gratuitously or for a fee. This subsection shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

(b) No person within the city shall keep or permit to be kept any wild animal as a pet.

(c) The animal control officer shall have the power to release or seize any wild animal being kept in violation of this chapter, federal law or state statute.

Sec. 2-2. Responsibility of owner.

No owner of an animal within the city shall fail to exercise proper care and control of his animal in order to prevent such animals from becoming a public nuisance.

Sec. 2-3. Care and treatment.

No owner of an animal within the city shall fail to provide his animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

Sec. 2-4. Removal of wastes.

The owner of an animal shall be responsible for the removal of any excreta deposited by such animal on the public walks, recreation areas or private property within the city. It shall be unlawful for the owner of any property to allow unsanitary, unsightly or malodorous conditions to develop on his property due to the keeping, maintaining, owning or harboring of animals.

Sec. 2-5. Abandonment.

No owner of an animal within the city shall abandon such animal

ARTICLE III. DOGS

Sec. 3-1. Number permissible.

(a) No more than six dogs above the age of six weeks shall be kept at a residential dwelling or lot in any residential area within the city, except upon permit to do so issued by the mayor and board of aldermen upon a showing that the keeping of such dogs is possible without creating a health problem or nuisance within the neighborhood. The owner of the lot, head of the household or owner of the dogs shall be presumed to be the person in violation of this provision when more than ~~three~~ ⁶ dogs above the age of six weeks are found to be kept at a residential dwelling or lot in any residential area within the city.

(b) All pens or structures designed or used for the purpose of housing or enclosing dogs shall, after the effective date hereof, be constructed and placed at least ten feet from the property line of a lot in any residential area of the city. Pens or structures in place on the effective date hereof shall be allowed to continue to exist unless the adjoining property or lot owner registers written objection to such pens or structures within 30 days following the effective date hereof. If written objection to such pens or structures is filed with the city clerk by the adjoining property owner within 30 days following the effective date hereof, then such existing pens or structures must be placed to comply with the ten-foot setback provision set forth in this subsection within 30 days after notice is given by the city clerk that objection to the pens or structures has been filed by the adjoining property owner.

(c) It shall be the duty of the animal control officer, or such other person as may be

designated by the mayor and board of aldermen, to enforce the provisions of this section upon receipt by such person of a complaint from an adjoining landowner or residential occupant within the neighborhood, and such person shall have the authority to enter upon the premises and to inform any adult occupant of the premises of the complaint and to visually examine the premises for the purpose of determining the number of dogs above the age of six weeks kept on such premises, and of determining the setback distances of pens and structures designed or used for the purpose of housing or enclosing dogs.

- X (d) Any person desiring to keep more than ~~three~~⁶ dogs above the age of six weeks on a lot in a residential area within the city may petition the mayor and board in writing for a permit to do so; and the mayor and board may grant such permit upon a showing by such person that adequate provision can and will be made, and will continue in existence to prevent the creation of any situation which will result in a health hazard, offensive odors or nuisance in the form of excessive noise or otherwise.

Sec. 3-2. Cropping dogs' ears, other surgical procedures.

No person within the city, except a licensed veterinarian, shall crop a dog's ears, or perform any other major or minor surgical procedures upon a dog.

Section 3-3. Banned Dogs

(a) *Banning of Specific Breeds of Dogs.* "Banned Breeds of Dogs" are banned entirely and may not be owned, harbored or kept within the City of Morton, Mississippi, from and after the effective date of this ordinance.

(b) *Definitions.* "Banned Breeds of Dogs" are defined as any of the following:

- (1) American Pit Bull Terrier;
- (2) Staffordshire Bull Terrier;
- (3) American Staffordshire Terrier;
- (4) Wolf-dog hybrid;
- (5) Any dog whose sire or dam is a dog of a breed which is defined as a banned breed of dog under this Section;
- (6) Any dog whose owner registers, defines, admits, or otherwise identified said dog as being of a banned breed;
- (7) Any dog conforming, or substantially conforming, to the breed of American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier or Wolf-dog hybrid as defined by the United Kennel Club or American Kennel Club. Technical deficiencies in the dog's conformance to these standards shall not be construed to indicate

that the subject dog is not a Banned Breed of Dog under this ordinance. The testimony by a veterinarian or animal control officer that a particular dog exhibits distinguishing physical characteristics of a banned breed of dog shall establish a rebuttable presumption that the dog is a banned breed of dog;

(8) Any dog which is of the breed commonly referred to as "pit bull", "wolf" or "wolf hybrid" and commonly recognizable and identifiable as such; or,

(9) Any vicious animal as defined by this Chapter.

c. *Enforcement.* From and after the effective date of these Amendments, all Banned Breeds of Dogs shall be removed from the corporate limits of the City of Morton, Mississippi. Thereafter, any person found to keep or harbor a Banned Breed of Dog on their property, house or motor vehicle located within the corporate limits of the City of Morton, Mississippi, shall be charged with violation of this Ordinance.

Sec. 3-4. Dangerous dogs.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous dog means any dog:

- (1) When unprovoked, approaches, in a dangerous or terrorizing manner, any person in an apparent attitude of attack, upon the streets, sidewalks or any public grounds or places within the city;
- (2) With a known propensity, tendency or disposition to attack, when unprovoked, to cause injury or otherwise endanger the safety of human beings or domestic animals;
- (3) Which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal, without provocation, on public or private property; or
- (4) Owned or harbored primarily or in part for the purpose of a dog fight, or any dog trained for dog fighting.

Menacing means the display by a dog of a disposition, determination or intent to attack or inflict injury or harm to human beings or another domestic animal.

Owner means a person possessing, harboring, keeping, having an interest in or having control or custody of a dog.

Severe injury means a physical injury that results in broken bones or disfiguring lacerations requiring either multiple stitches or cosmetic surgery.

Unprovoked means that a dog was not hit, kicked or struck by a person with an object or part of a person's body, nor was any part of the dog's body pulled, pinched or squeezed by a person.

(b) *Acquisition.*

- (1) No person within the city shall train, torment, badger, bait or use any dog for the purpose of causing or encouraging such dog to attack human beings or domestic animals when not provoked.
- (2) No person shall sell, offer for sale, breed, buy or attempt to buy any dangerous dog within the city.

(c) *Humane destruction.* The Chief of Police, or his designee and/or animal control officer may order the humane destruction of any dog that kills or causes severe injury to a human being.

(d) *Determination of a dangerous dog.* The Chief of Police, or his designated appointee, shall have the authority to make a determination that a dog is dangerous, as defined in subsection (a) of this section, upon the written complaint of any person, in a form approved by the Chief of Police. The Chief of Police, or his designated appointee, shall make such determination after a hearing, written notice of which shall be given to the complainant and the owner of the dog, where the owner's address can be reasonably ascertained by the Chief of Police or his designated appointee. The hearing shall be held not less than ten days, nor more than 20 days, after such notice is mailed to the owner of the dog. At such hearing, all interested persons shall have the opportunity to present evidence on the issue of the dog's dangerousness. If the dog in question has caused severe injury to any person, the Chief of Police, or his designee, and/or the animal control officer may impound the dog, at the owner's expense, pending the hearing and determination of the complaint. If, after the hearing, the animal control officer determines that the dog is dangerous, he may proceed under Section (c) above or he may order the owner of such dog to comply with one or more of the following requirements:

- (1) *Registration.* The Chief of Police, or his designee, and/or the animal control officer may order the owner of a dangerous dog to register such dog with the police department. The application for such registration shall contain the name and address of the owner, the breed, age, sex, color and any other identifying marks of the dog, the location where the dog is to be kept if not at the address of the owner, and any other information which the animal control officer may require. The application for registration pursuant to this subsection shall be accompanied by a registration fee of \$25.00. Each dog registered pursuant to this subsection shall be assigned an official registration number by the police department. Such registration number shall be inscribed on a metal tag which shall be attached to the dog's collar at all times. The tag and a certificate

of registration shall be of such form and design, and shall contain such information, as the Chief of Police, or his designee, and/or the animal control officer shall prescribe, and shall be issued to the owner upon payment of the registration fee and the presentation of sufficient evidence that the owner has complied with all of the orders of the animal control officer as prescribed at the determination hearing.

- (2) *Confinement.* The Chief of Police, or his designee, and/or the animal control officer may order the owner of a dangerous dog to confine the dog at all times indoors, or in a proper enclosure for a dangerous dog, which shall consist of a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, or any part of their bodies or other foreign objects, and designed to prevent the animal from escaping, and shall also provide the dog with protection from the elements. The owner of such dog shall conspicuously display on the pen or structure, and on or near the entrance to the residence where the dog is kept, a sign designed with a warning symbol approved by the animal control officer which indicates to both children and adults the presence of a dangerous dog. At any time that the dog is not confined as required in this subsection, the dog shall be muzzled in a manner so as to prevent the dog from biting or injuring any person, and such dog shall be kept on a leash which is no longer than six feet, with the owner or some other responsible person attending such dog.
- (3) *Liability insurance.* The Chief of Police, or his designee, and/or the animal control officer may order the owner of a dangerous dog to maintain, in full force and effect, a liability insurance policy of \$300,000.00 for personal injury or death of any person resulting from an attack of such dangerous dog. If the owner or keeper of the dangerous dog is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by such dangerous dog.

(e) *Confiscation and/or confinement.*

- (1) If the owner of a dangerous dog violates any order of the Chief of Police, or his designee, and/or the animal control officer as prescribed at the determination hearing, such owner's dog may be confiscated and impounded by the proper authorities upon the order of the Chief of Police, or his designee, and/or the animal control officer. In addition, any dog determined to be dangerous shall be immediately confiscated by the proper authorities if the dog bites or attacks a human being and causes injury, or if the dog, at the sufferance of its owner, is engaged in or apparently engaged in a dog fight contest or is proximately near the area in which such a contest is being conducted.
- (2) The owner of a dog determined to be dangerous by the Chief of Police, or his designee, and/or the animal control officer, which has been confiscated pursuant to subsection (e)(1) of this section, may request the Chief of Police, or his designee, and/or the animal control officer to conduct a hearing to determine if the dog should be returned to the owner. Upon such request, the animal control officer shall provide for a hearing within five days.

(f) *Excused behavior.* No dog shall be declared dangerous pursuant to subsection (d) of this section if the threat, injury or damage caused by such dog was sustained by a person who, at the time of such threat, injury or damage, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or was committing or attempting to commit a crime. Nor shall any dog be declared dangerous if such dog was responding to pain or injury, or was protecting itself, its kennels or its offspring.

(g) *Regulations.* The animal control officer, with the advice of the chief of police, shall promulgate such regulations as are necessary to further carry out the provisions of this section, and to promote the health, safety and well-being of the public.

ARTICLE IV. RUNNING AT-LARGE; IMPOUNDMENT

Sec. 4-1. Running at-large.

(a) *Prohibited.* It shall be unlawful for the owner of any animal to permit such animal to run at-large within the corporate limits of the city.

(b) *Violation.* In addition to any other penalty, if the owner is found guilty of a fourth offense of his dog found to be running at-large in the city, the animal shall be impounded and may be delivered to a local Animal Rescue League or, upon order of the Municipal Court, may be humanely destroyed.

Sec. 4-2. Impoundment generally.

(a) *Authority to seize; confinement period.* In addition to authority granted elsewhere in this Ordinance, an unrestrained animal or an animal that is a public nuisance shall be taken by the police or animal control officer and impounded in an enclosure or animal shelter kept for such purpose, which shall be provided and maintained by the city, and such animal shall be confined in a humane manner. Such animal shall be kept for at least seven days, unless such animal is claimed sooner by the owner of such animal. Impounded dogs and cats not suffering from an incurable injury or disease shall be kept for not less than seven working days.

(b) *Notice to owner; redemption.* Subject to the provisions of Article III hereof, within seven days, the rightful owner of any animal held under this section may, provided the animal is properly vaccinated, licensed and tagged, obtain the animal upon payment of a pound fee as set forth in this subsection; provided, however, that if an unvaccinated animal is claimed by the owner, the owner must make arrangements for the vaccination of such animal, satisfactory to the animal control officer. An owner reclaiming an impounded animal shall pay a fee of \$50.00 plus \$5.00 for each day or fraction thereof of impoundment for feeding or caring of such animal.

(c) *Disposition if not reclaimed by owner; waiver of waiting period.* Any impounded animal which is not reclaimed by its owner within seven working days shall become the

property of the city, and shall be delivered to Animal Rescue League. The seven-day waiting period shall be waived for a vicious or feral animal, or for any animal suffering from an incurable disease. Pursuant to MCA 1972, § 97-41-3, any sheriff, constable, police officer or agent of a society for the prevention of cruelty to animals may kill, or cause to be killed, any animal found to be neglected or abandoned, if, in the opinion of three respectable citizens, such animal is found to be injured or diseased past recovery, or by age has become useless.

(d) *Additional proceedings against owner authorized.* The owner of an impounded animal may be proceeded against for violation of this Article.

Sec. 4-3. Penalties for owners.

In addition to, or in lieu of, impounding an animal found to be running at-large, the animal control officer, police officer, or ordinance enforcement officer may issue to the known owner of such animal a notice of ordinance violation. Such notice shall impose upon the owner a penalty of \$10.00, which may, at the discretion of the owner of such animal, be paid to the division of animal control within 72 hours, in full satisfaction of the assessed penalty. If such penalty is not paid within such 72-hour time period, a criminal warrant shall be initiated, and, upon conviction of a violation of this section, the owner shall be punished as provided in Article V.

Sec. 4-4. Impoundment of animals attacking, injuring persons; destruction of rabid animals.

In case of an attack by an animal resulting in injury to a person, such animal shall be impounded by the division of animal control for observation for a period of seven (7) days, or the owner of such animal may, upon notification to the division of animal control, have such animal impounded for seven (7) days with a private veterinarian licensed to practice veterinary medicine within the state. If, at the end of such seven (7) days, or any time prior to such time, it is determined that such animal has rabies, such animal shall be immediately destroyed.

ARTICLE V. VIOLATION, PENALTY

Sec. 5.1. Violation, Penalty. Any person violating the provisions of this Ordinance or any part thereof shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$1,000.00, or imprisoned not exceeding 90 days or both. Each day such violation continues shall be considered a separate offense and shall be enforced as such. Nothing in this Article shall prevent the City from taking such other lawful action as deemed necessary to prevent or remedy any violation of this Article.

Sec. 5.2. Additional Penalty. In addition to the penalties prescribed in Section 5.1 above, violation of any provision of Section 3.3 or 3.4 of this Ordinance shall result in seizure of the animal and humane destruction of the animal may result by order of the Municipal Court.