

AN ORDINANCE REGULATING THE KEEPING OF ANIMALS WITHIN THE CITY OF CLEVELAND; PROVIDING THAT ALL DOGS AND CATS IN THE CITY LIMITS SHALL BE VACCINATED AGAINST RABIES; PROHIBITING THE RUNNING AT LARGE OF ANIMALS AND PROVIDING FOR IMPOUNDING AND DESTROYING THE SAME; CREATING AND PROVIDING FOR AN ENFORCEMENT OFFICER; REQUIRING OWNER OR KEEPERS OF ANIMALS TO KEEP THEIR PREMISES AND PENS SANITARY AND CLEAN; REQUIRING OWNERS TO PREVENT ANIMALS FROM CREATING A NUISANCE; PROHIBITING CRUEL AND INHUMAN TREATMENT OF ANIMALS; AND FIXING THE PENALTIES FOR VIOLATION OF THIS ORDINANCE

WHEREAS, it is necessary for the health, safety and welfare of the residents of the City of Cleveland to regulate the keeping of animals within the City of Cleveland,

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, MISSISSIPPI THAT:

Section 1-1: Definitions

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

Animal control officer means the person or organization designated by the board of aldermen to represent and act for the city in the impoundment of animals, controlling of animals running at large, and in enforcing all aspects of this chapter and the state law concerning animals. The animal control officer is not a law enforcement officer. For actions under this chapter or under state law which must be performed by a law enforcement officer, the animal control officer shall accompany the law enforcement officer.

At large means any animal that is not on a leash, behind a fence or enclosure, on the property of the animal's keeper or owner, within a public area specifically designated by the city for use by persons with unrestrained animals, or otherwise under the direct, physical control of the animal's keeper or owner.

Feral means a domesticated animal that has escaped from domestication or been abandoned and has become wild, dangerous or untamed.

Inhumane treatment means treatment of any animal that deprives the animal of necessary sustenance, including food, water and protection from the weather, or ill treatment of any animal, such as overloading, overworking, tormenting, beating, mutilating, teasing or poisoning, or other abnormal treatment as may be determined by the animal control officer.

Livestock means all domesticated animals, including but not limited to horses, cows, mules, goats, sheep and pigs.

Owner means any person, firm or corporation owning, keeping or harboring any animal or fowl. Additionally, any individual who provides sustenance to a stray animal for a period of two or more consecutive weeks may be deemed to be the owner of the animal for the purpose of releasing the animal to the city animal shelter. Such a person shall have the authority to transfer ownership of the animal to the city animal shelter, at which time the shelter may immediately dispose of the animal at the discretion of the shelter. However, even after an animal becomes the property of the city animal shelter, an individual presenting himself as the owner of the animal may redeem the animal from the shelter by following the requirements of Section 18-47.

Cleveland animal shelter means any animal shelter either operated by the city or designated by the city as the shelter for the city and any humane organization responsible for managing such a shelter.

Person means any individual, firm, association, syndicate, partnership or corporation.

Rabies vaccination means an injection of antirabies vaccine as required by MCA 1972, § 41-53-1.

Vicious animal means any animal that constitutes a physical threat to humans or to other animals.

Wild animals means all undomesticated animals, including but not limited to lions, tigers, bears, wolves, apes, monkeys, foxes, baboons, skunks, raccoons and opossums.

Section 1-2. Rabies Vaccination.

IT SHALL BE THE DUTY of the owner of each dog or cat owner whose animal has reached the age of six months or over within the City of Cleveland, Mississippi, to have said dog or cat vaccinated against rabies with an approved antirabic vaccine properly administered by one legally authorized to administer said vaccine and to see that the said dog or cat, when so vaccinated, wears about its neck a collar having attached thereto a metal tag approved by the Mississippi State Board of Health, attesting to the said vaccination. Said tag shall bear the serial number of the vaccination, the year in which the dog or cat was inoculated, and the words "Mississippi Rabies Vaccinated". The said dog or cat shall wear said tag at all times or be subject to impounding. The owner of said dog or cat shall retain in his or her possession the vaccination certificate issued at the time of vaccination for proof of same.

IT SHALL BE THE FURTHER DUTY OF THE OWNER OF EACH DOG OR CAT TO HAVE THE SAID VACCINATION repeated annually, on or before January 1st of each year, or at such intervals of time as may be prescribed by the Mississippi State Board of Health. It shall be unlawful for the owner of any dog or cat to fail to have the same vaccinated and tagged as hereinafter set forth.

Section 1-3. Unlawful to permit dogs to run at large.

(a) IT SHALL BE UNLAWFUL for the owner of any dog to permit the same to run at large in

said City of Cleveland

(b) A dog shall be deemed to be running at large when;

(1) It is not on the premises of the owner, possessor or keeper thereof and not controlled through use of a leash, cord or chain held by the dog's owner, possessor or keeper or an agent, servant or member of the immediate family thereof; or

(2) It is on the premises of the owner, possessor or keeper, but confined in such a way as to allow the dog to have access to the public right-of-way.

(c) Any dog so found running at large shall first be impounded in the Cleveland Bolivar County Animal Shelter, or other suitable, humane confinement if such is not available; and

(d) If such dog has an owner identification tag or rabies inoculation tag from which the owner can be ascertained, then the owner shall be notified, either orally or in writing that said dog has been so impounded and that he should claim said dog within 5 days and pay the fee for such impounding as hereinafter, set forth; and

(e) If such dog does not have the collar or tag required by Title 41, Chapter 53 of the Mississippi Code 1972, then it shall be the duty of such officer to first keep said dog for a period of five days and notify the sheriff of Bolivar County that he has such dog, giving the sheriff a description of same and if anyone proves himself to be owner of same, then he shall pay to said officer the fee for such impounding as hereinafter, set forth and such dog shall not be released until such owner has had such dog vaccinated rabies; and

(f) If after the periods prescribed above, no one has claimed said dogs, then they shall become the property of said City and may be either disposed of or sold to defray the cost of the impounding and enforcement of this ordinance.

(g) Before any dog so impounded may be reclaimed by the owner thereof, said owner, shall pay a fee of \$25.00.

(h) In addition to the \$25.00 fee to re-claim a dog found running at large, any person who violates the provisions of this section shall be fined the sum of \$50.00, plus all lawful costs for the first offense. Any person who violates the provisions of this section shall be fined the sum of \$75.00, plus all lawful costs for the second offense. Any person who violates the provisions of this section shall be fined the sum of \$100.00, plus all lawful costs for the third and subsequent offenses. In addition, in the discretion of the court, the owner of the animal may be required to:

- (1) Confine the animal in a prescribed manner;
- (2) Provide the animal with training;
- (3) Spay or neuter the animal;
- (4) Make any other reasonable effort to resolve the problem; or

- (5) Surrender custody of the animal to the city animal shelter. If the owner is required to surrender custody of the animal, the court may prohibit the owner from owning another dog for a period of time specified by the court. **If the Owner surrenders custody after impoundment or at any time, such surrender shall be final and the animal shall become the property of the City immediately upon the surrender.**

(i) Cats may run at large; however, all cats must be vaccinated against rabies pursuant to MCA 1972, § 41-53-1. Failure to vaccinate any cat shall be a misdemeanor and shall be punishable by a fine of \$100.00. Persons administering the vaccine in accordance with this chapter shall maintain records of each animal vaccinated, indicating the owner of each animal vaccinated, the type of animal vaccinated, the breed of each animal vaccinated, the sex of each animal vaccinated, and the markings and serial number of the tag furnished to the owner of each. Any cat found running at large in circumstances suggesting that said animal is feral, has been abandoned, or is otherwise ownerless, may be impounded in the city animal shelter. The owner shall be required to provide proof of rabies vaccination in order to reclaim the cat. If no owner claims the animal within five days, the animal shall become the property of the city animal shelter and may be adopted to a new home or euthanized. Disposition of the animal shall be at the discretion of the city animal shelter.

(j) In strictly emergency situations and as a last resort when any dog cannot be caught and is constituting a nuisance or a hazard, then any enforcement officer may destroy such dog and have the body removed, immediately, both in as discreet and humane manner as possible.

Section 1-4. Animal Control Officer

(a) The civil and criminal provisions of this article shall be enforced by those persons or agencies designated by the board of aldermen. It shall be a violation of this article to interfere with an animal control officer in the performance of his duty. Any designated animal control officer may utilize any equipment reasonable and necessary to enforce the provisions of this article, **provided they are licensed and trained to utilize such procedures and apparatus**, including but not limited to humane wire box traps, chemical capture weapons, and other animal control equipment.

(b) When authorized by a court of competent jurisdiction, a law enforcement officer, accompanied by the animal control officer, may enter private premises to enforce local animal control chapters or state animal control statutes. When entering private property, the animal control officer's enforcement activity shall be limited to the activity specified by the authorizing court.

(c) It shall be unlawful for the owner of any animal to make a false or misleading statement or representation regarding the ownership or control of the animal, or regarding the licensing of a dog, or regarding the ownership of an animal claimed from, surrendered to, or impounded by the city animal shelter or the animal control officer.

Section 1-5. Animal neglect and cruelty.

(a) *Unlawful*. It shall be unlawful for any person to:

(1) Willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object; mutilate, burn or scald with any substance or otherwise cruelly set upon any animal.

(2) Knowingly, intentionally or recklessly cause any animal to endure unreasonable or unjustifiable pain, suffering or injury.

(3) Fail, refuse or neglect to provide his animal with proper food, drink, shade, shelter or veterinary care as may be necessary for diseased or injured animals. Any animal habitually kept outside or repeatedly left unattended outside when no adult persons are present on the property shall be provided with a structurally sound, moisture-proof and wind-proof shelter large enough to accommodate and keep the animal reasonably clean, dry and comfortable.

(4) Proper food, drink, shade, shelter and care shall require:

- a. That each animal, at suitable intervals, and at least once every 24 hours, receive a quantity of wholesome foodstuff suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal;
- b. That each animal, at suitable intervals, and at least once every 24 hours, receive an adequate supply of clean, fresh, potable water for the species' physical condition and age, and such water shall be provided either free-flowing or in a receptacle. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping;
- c. That each animal, have convenient access to shelter throughout the year. Any artificial shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around and lie down in a natural manner. Any shelter that does not protect the animal from temperature extremes or precipitation, or that does not provide adequate ventilation or drainage, shall not comply with this section. The shelter and any other spaces accessible to the animal and all bedding for the animal shall be maintained in a manner that minimizes the risk of the animal contracting disease, being injured or becoming infested with parasites;
- d. That each animal, receive care and medical treatment for debilitating injuries, parasites and disease, sufficient to maintain the animal in good health and to minimize suffering;
- e. **That the living area for each animal being kept confined or restrained, have adequate drainage such that the animal shall be free to walk or lie down without coming into contact with standing water and that, if shared, the animal's enclosure should provide at least 10x10 or 5x15 feet of space per animal for the animal to roam about;**
- f. That if any animal is restrained by a chain, leash, wire cable, or similar restraint, such restraint, be designed and placed to prevent choking, strangulation or entanglement with other objects. Such restraint, not be less than ten feet in length and shall not impair the animal's ability to access food, water or shelter **and that each animal have their own**

individual restraint;

- g. That for any animal is kept in an enclosure, the enclosure be constructed of material, and in a manner to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition which shall not be less than 10x10 or 5x15 feet per animal.**

(5) Confine, or cause to be confined, in any stable, lot or other place, any living creature, without supplying the same during such confinement with a sufficient quantity of good, wholesome food and water.

(6) Leave an animal unattended inside a motor vehicle when such action is harmful or reasonably potentially harmful to the animal. In the event that the owner of the vehicle is not available and cannot be found or refuses to prevent said harm or reasonably potential harm from continuing, the city police department along with the animal control officer shall be authorized to remove said animal from such vehicle and to utilize any reasonable method to effect said removal.

(7) Expose any known poisonous substance, whether mixed with food or not, in such a manner as to be ingested by any domesticated animal with the intent to harm such an animal.

(8) Keep or maintain their premises or on their premises any pens, enclosures, or other structures for 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. Owners of animals shall be required to keep their premises sanitary and clean so as to prevent disagreeable odors arising therefrom and prevent the presence or breeding of flies, mosquitoes or other pests.

(9) Sell chickens, ducklings or rabbits younger than eight weeks of age in quantities of fewer than 25 to a single purchaser

(10) Give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition; as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(11) Sell, raffle, offer or give as a prize, premium, or advertising device, or display in any store, shop, carnival or other public place, an animal or fowl that has been dyed or otherwise colored artificially.

(12) Violate any section of state law with regard to animals.

(b) *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 being cruelly treated, neglected or abandoned. Such probable cause may be established

upon sworn testimony of any person who has witnessed the condition of said animal.

(c) *Appointment of temporary custody of seized animals.* The court may appoint the city animal shelter, a veterinarian, 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.

(d) *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.

(e) *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.

(f) *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.

(1) The court shall hold such hearing within 14 days of receiving such request.

(2) The hearing shall be concluded and the court order entered thereon within 21 days after the hearing is commenced.

(3) 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.

(4) 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.

(5) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

- a. 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.
- b. Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.
- c. Expert testimony as to the proper and reasonable care of the same type of animal.
- d. Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.
- e. Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.
- f. Any other evidence the court considers to be material or relevant.

(6) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to city animal shelter, or other appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.

(7) 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.

(8) 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.

(9) 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.

(g) *Cost and expenses incurred.* Any person or persons violating any provision of this section, shall bear full costs and expenses incurred by the any temporary custodian of said animal, city animal shelter, the animal control officer, or the city police department in the care, medical treatment, impoundment cost, and disposal of said animals, including removal from a vehicle or structure.

(h) *Definition for purpose of this section.* For the purposes of this section, the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

(i) In addition to seizing the animal(s) under this section, violators will also be charged and fined according to Section 1-11 of this ordinance.

Section 1-6. Stealing animal prohibited.

It shall be a misdemeanor for any person within the city, without the consent of the owner or his agent, to take and carry away any domesticated animal where such taking and carrying away does not amount to larceny. Any animal found at large shall be surrendered to the city animal shelter within 48 hours of being found so that the owner may have an opportunity to reclaim the animal. If the owner does not reclaim the animal within five days, the animal shall become the property of the city animal shelter and may be adopted to a new home or may be euthanized. Disposition of the animal shall be at the discretion of the city animal shelter.

Section 1-7. Diseased or injured animals.

- (a) *Unlawful to withhold treatment.* It shall be unlawful for any person to knowingly keep:
- (1) An injured animal without providing proper treatment for such injury; or
 - (2) Any animal infected with a disease that may contaminate other animals or humans or that may be a health hazard.

A person acts “knowingly” when he is aware that such circumstances exist.

(b) *Misdemeanor violation.* Violation of this section shall constitute a misdemeanor. Any such animal may be seized in accordance with the provisions of section 18-2 (b). In addition to the usual penalties, a person convicted of violating this provision may, in the court's discretion, be required to surrender his animals to the city animal shelter and may be banned from owning animals for a period of time to be determined by the court.

(c) *Impoundment of untreated animals.* Any such untreated injured or diseased animal, once seized, may be impounded at the city animal shelter and immediately treated by a licensed veterinarian. However, if, in the opinion of three respectable citizens, the animal is injured or diseased beyond recovery, the animal may be destroyed to prevent unwarranted suffering.

(d) *Reimbursement by owner for treatment of seized animals.* An owner who reclaims or redeems an animal that has been treated under the provisions of this section shall, prior to the release of the animal to the owner, reimburse the city animal shelter or the treating veterinarian for any expenses incurred in such treatment. If the owner makes direct payment to the veterinarian for such treatment, the owner must provide the city animal shelter with a receipt of such payment before the animal is released to the owner. The payment for the expense incurred in the treatment of such animal is in addition to the redemption fees and/or licensing fees assessed under sections 18-47, 18-48, 18-72 and 18-74.

Section 1-8. Reporting vehicle accident involving animal.

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 and to the city animal shelter within a reasonable time.

Section 1-9. Animals temporarily located within city limits, including performing animals in exhibits or circuses.

Any animals temporarily located inside city limits shall be afforded the full protection of this article. Owners of animals located in the city limits may be found liable under the provisions of this article, even though the animals and/or the owners are found in the city only temporarily.

Section 1-10. Animals in pet shops, aviaries, kennels and other commercial establishments.

Any animals temporarily located in pet shops, aviaries, kennel and other commercial establishments shall be afforded the full protections of this article. Owners of animals located in these commercial establishments may be found liable under the provisions of this article. However, this article shall not apply to any kennel or other commercial establishment which is already regulated by the state board of veterinary medical examiners and the state Veterinary Practice Act.

Section 1-11. Penalties, disposition of fines charged under this chapter.

- (a) **Any person convicted of violating a provision of this chapter that does not include a specific penalty shall be deemed guilty of a misdemeanor, and upon conviction thereof, may be punished by imprisonment for a period not to exceeds six months, or a fine not to exceed \$500.00, or both, and all lawful costs, except that any person so convicted shall be fined a sum of not less than \$100.00 for the first offense, not less than \$200.00 for a second offense, and not less than \$300.00 for the third offense and all subsequent offenses. Offenses will accrue for each day the ordinance is violated. In addition, the court may require up to 100 hours of community service. However, if state law provides penalties for a particular offense that exceeds the penalties listed herein, the court may choose to apply the penalty allowed by state law.**
- (b) All fines charged for any violation of any section of this chapter shall be remitted to the city general fund.
- So RESOLVED, ADOPTED, AND APPROVED this the 1st day of May, 2018.

s/Billy Nowell
BILLY NOWELL, Mayor

Attest:

s/Dominique Green
Dominique Green, City Clerk

It is hereby certified that the foregoing resolution was offered and introduced in writing and its adoption was moved by Alderman Janoush and seconded by Alderman Sanders and the vote was taken on final passage by both "Yeas" and "Nays" as follows:

Alderman Maurice Smith voted "Yea"
Alderman Robert Sanders voted "Yea"
Alderman Danny Abraham voted "Yea"
Alderman Kirkham Povall voted "Yea"
Alderman J. Paul Janoush voted "Yea"
Alderman Theodore R. "Ted" Campbell voted "Yea"
Alderman Gary Gainspoletti voted "Yea"

WHEREUPON, the mayor declared said resolution duly, legally, and unanimously adopted, and he signed the same in open session at this meeting on this the 1st day of May, 2018.

s/Billy Nowell
BILLY NOWELL, Mayor

Attest:

Dominique Green
DOMINIQUE GREEN, City Clerk

