

## ORDINANCE # 414

### AN ORDINANCE OF THE TOWN OF MOUNT OLIVE, MISSISSIPPI TO ENFORCE ANIMAL CONTROL

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF MOUNT OLIVE, MISSISSIPPI AS FOLLOWS:

WHEREAS Section 21-19-9 of the Mississippi Code of 1972 authorizes the governing authorities of municipalities to prevent or regulate the running at large of animals and related matters. Therefore, the Mayor and Board of Aldermen of the Town of Mount Olive, Mississippi, hereby adopt the following ordinance.

#### Section 1-1. Definitions.

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

A. "Animal Control Officer" shall mean the person(s) designated by the Town of Mount Olive to represent and act for the Town of Mount Olive, in the impoundment of domesticated animals, controlling of domesticated animals running at large and as otherwise required in this Ordinance.

B. "At Large" shall mean any domesticated animal shall be deemed to be at large when not on a leash, behind a fence or enclosure.

C. "Domesticated Animal" shall mean any non-wild animal ordinarily domesticated by man and kept as a pet or used as livestock. This shall include but not be limited to dogs, cats, birds, rabbits, cattle, horses, sheep, goats, swine and other animals normally kept for these purposes.

D. "Feral Animal" shall mean an animal that has escaped from domestication and has become wild, dangerous or untamed.

E. "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.

F. "Inhumane Treatment" shall mean any treatment of any animal which deprives the animal of necessary sustenance, including food, water and protection from weather, and any harsh or harmful treatment of any animal, such as overloading, overworking, tormenting, beating, mutilating, teasing, poisoning, long term tethering or staking or other abnormal treatments as may be determined by: (1) An authorized Health Officer; or (2) An authorized law enforcement officer.

G. "Large Canine Breed" shall mean dogs equivalent to or greater than the average size Labrador Retriever of approximately 60-65 pounds.

H. "Domesticated Feline Cat" shall mean a cat (*Felis catus*) is a domestic species of small carnivorous mammal. It is the only domesticated species in the family Felidae and is often referred to as the domestic cat to distinguish it from the wild members of the family. A cat can either be a house cat, a farm cat or a feral cat; the latter ranges freely and avoids human contact. Domestic cats are valued by humans for companionship and their ability to kill rodents. About 60 cat breeds are recognized by various cat registries.

I. "Owner" shall mean any natural or legal person, firm, association, syndicate, partnership or corporation.

J. "Person" shall mean any natural or legal individual, firm, association, syndicate, partnership or corporation.

K. "Vaccination" shall mean an injection of the United States Department of Agriculture approved rabies vaccine administered every twelve (12) calendar months by a licensed veterinarian.

L. "Vicious Animal" shall mean:

(1) An animal may be declared "vicious" or "dangerous" by an animal control officer or law enforcement officer if the animal, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack.

(2) An animal may be considered vicious or dangerous if that animal has a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten safety of human beings or domestic animals.

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting will be considered vicious or dangerous.

M. "Wild Animals" shall mean all animals which can normally be found in the wild state and are not ordinarily domesticated by man, whether raised in captivity or - the wild, including but not limited to reptiles, lions, tigers, bears, wolves, apes, monkeys, foxes, baboons, skunks, raccoons, opossums and squirrels. Also, any animal considered a menace to the public.

### **Section 1-2. The Control or Protection of Domesticated and Wild Animals.**

A. It shall be unlawful for any person to:

(1) Permit any domesticated and/or wild animal(s), owned by or under the control of a person, to run at large within the Town of Mount Olive.

(2) Commit any inhumane treatment against any domesticated and/or wild animal(s).

(3) Interfere with or molest any domesticated and/or wild animal(s) used by law enforcement in the performance of the functions or the duties of such department.

(4) Have an animal on a leash at any parade, festival and/or athletic event in the Town of Mount Olive with the exception of a domesticated dog.

(5) Keep or harbor any animal(s), which by loud, repeated and frequent or habitual barking, howling, yelping or other noise or action, disturbs any resident of the Town of Mount Olive.

(6) Allow any pens, kennels or other enclosures, for the keeping of domesticated and/or wild animal(s) to become unsanitary, offensive or disagreeable to persons residing in the vicinity of a platted and recorded subdivision nor shall they be maintained or kept as to breed flies or in any manner to cause any injury to the public health of any person residing in the vicinity of the pen, enclosure, cage, etc.

(7) Keep or harbor any domesticated and/or wild animal(s) in such a manner as to become offensive by reason of odor or unclean condition or in such a manner as to annoy any person 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, proper enclosure, veterinary care when needed to prevent suffering and humane care and treatment. (i) Proper enclosure and proper shelter is defined as secure confinement indoors or secure confinement in a locked pen or fenced yard containing a properly constructed dog house with secure sides and top, and fence to be chain link, dog wire or wood, capped if dog can climb fence, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property. (ii) Dogs shall not be tethered as a primary method of confinement.

(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 reasonably potential harm from continuing, the animal control officer or the Town police shall be authorized to remove said animal from such vehicle and to utilize any reasonable method to effectuate said removal.

(10) Expose any known poisonous substance, whether mixed with food or not, in such a manner as to be ingested or inhaled by any animal to purposely or negligently harm said animal.

(11) Keep any wild animals within the Town of Mount Olive.

(i) A variance to this provision may be requested by obtaining a special permit from the Town of Mount Olive. All permits issued to own a wild animal will be maintained by the Town of Mount Olive.

B. The duly sworn and authorized animal control officer(s) of the Town of Mount Olive may seize or cause to have seized any animal whose owner is found to be in violation of any part of Section 1-2(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 five (5) 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 Sub-Section (a). If such animal is not returned to the animal's owner pursuant to this Section 1-2(b), the animal shall be released to the Southern Pines Animal Shelter or other designated government facility. The animal control officer shall designate to the

owner what corrections are necessary to bring said owner into compliance with Subsection 1-2(a) during said five-day period.

### **Section 1-3. Vicious Animals.**

It shall be unlawful for:

(1) Any animal that has been declared or is considered vicious or dangerous as defined herein to be kept in or allowed to enter the Town of Mount Olive.

(2) Any animal that has been declared vicious or dangerous to be kept on a chain or in any other manner kept tethered or to tie out.

(3) Any person who has been convicted of a felony offense to possess, harbor, control, own or reside on the same premises as a vicious or dangerous animal.

### **Section 1-4. The Control or Protection of Animals.**

A. It shall be unlawful for a person to tether, fasten, chain, tie or restrain an animal, either pet or livestock, to any stationary object in a manner that is inhumane or is detrimental to its welfare. A person may temporarily tether an animal no longer than is necessary to complete a temporary task.

B. It shall be unlawful to allow any animal to be unrestrained or unconfined while being transported in the open bed of a pickup or flatbed truck or trailer. If the animal is restrained by a tether, lead, chain or other such restraint, such tether, lead, chain, or other such restraint must be short enough to prevent the animal from jumping from, or falling out of, the pick-up truck bed, or flatbed truck or trailer.

C. It shall be unlawful for any person, firm or corporation, to attempt to sell, exchange, trade, barter, donate or display any animal on any roadside, public right-of-way, parkway, median, park, playground, other recreational areas or any private parking lot that is generally accessible by the public, regardless of whether such access is authorized. Non-profit organizations founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals shall have rights to interior parking areas associated with commercial/retail stores with written permission from the property owner.

### **Section 1-5. Impoundment of Vicious Animals.**

A. An animal control officer or law enforcement officer may seize or cause to have seized any animal declared vicious or dangerous or whose owner has violated any part of this ordinance and have said animal impounded at any Animal Shelter or other designated government facility authorized to impound vicious animals.

(1) The owner of any vicious or dangerous animal shall be held liable for costs and damages incurred by the injured party and/or the Animal Shelter or other designated government facility authorized to impound such vicious animal, regardless of whether the animal is returned to the owner.

B. When an animal is determined by the animal control officer or law enforcement officer to be a vicious or dangerous animal that the animal control officer shall euthanize animal, or his designee provided all of the following requirements are met:

(1) The animal is at large without restraint;

(2) There is no vaccination tag or other identification around the animal's neck or implanted identification microchip; and

(3) Attempts to capture the animal peacefully have been made and have proved unsuccessful.

C. Notwithstanding the provisions of the foregoing definition of a vicious dog, no dog may be considered a vicious dog if:

(1) An injury or severe injury is sustained by a human being, and at the time of such injury the dog was being provoked, tormented, abused or assaulted; or

(2) An injury or severe injury is sustained by a human being who at the time of such injury was committing a willful or negligent trespass, or other tort, upon the premises owned or leased by the owner of the dog; or

(3) The dog was protecting a human being within the immediate vicinity of the dog from an unjustified attack; or

(4) The dog is a police dog, which was engaged in the performance of its duties at the time of the act complained of.

**Section 1-6. 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 or the person designated by the Town of Mount Olive in the course of his or her 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 otherwise arrange for the authorized officer to pick up and retain such animal in a separate kennel at the **Southern Pines Animal Shelter** or other designated government facility 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 Covington County Health Officer or designated official whether or not such animal is suffering from any disease. If no disease is found, the Covington County Health Officer is to signify to the authorized animal officer that such animal may be released to the owner, provided that the authorized officer may authorize keeping of any such animal in the owner's premises, and provided further that the owner produces a certificate of rabies vaccination performed by a veterinarian shown that such animal has been vaccinated for rabies not longer than twelve (12) months previous thereto or vaccination period recognized by the U. S. Department of Agriculture, and provided further that the authorized officer 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, and provided further that Covington County Health officer may authorize the keeping of certain animals confined on the owner's premises because of veterinary medical reasons, such as animals which are difficult to maintain or susceptible to diseases which might occur with changes of environment or female dogs with pups, provided the owner secures a written statement of such consideration from a veterinarian if required by the Covington County Health Officer.
- B. Any animal suspected of having disease shall be subject to the impoundment and observation provisions set out in Section 1-4.
- C. Any animal found to be infected with rabies shall be forthwith euthanized by the Town of Mount Olive officer or any other designated officer in a humane manner.

**Section 1-7. Authorization for Quarantine.**

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

**Section 1-8. Animal Control Officers - Training and Certification.**

- A. Any animal control officer appointed by the Town of Mount Olive may utilize any equipment reasonable and necessary to enforce the provision of this Ordinance, 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 animals running at large.
- B. Any animal control officer appointed by the Town of Mount Olive shall be vested with police powers and shall be authorized to issue tickets, summons or other process in the same manner as other law officers of the Town, subject to proper certification.

**Section 1-9. Impoundment Authorized.**

- A. Impoundment for "At Large" Animals.
  - (1) Animals running at large may be pursued, caught and impounded by animal control officers and law enforcement officers. Said animals shall be held for a minimum of five (5) days, unless the animal is so diseased or seriously injured that it should be immediately, humanely destroyed, or unless the owner of the animal redeems the animal

within the five (5) days by paying all fees which have accrued and receiving custody of the animal. Said fees are not in lieu of any fine or penalty provided by law.

(2) The Fees for redemption of an impounded animal include:

a) Feeding per day for a dog or cat \$5.00

b) Impoundment fee's cats

i. First occurrence \$15.00

ii. Second occurrence \$25.00

iii. Third and subsequent occurrences \$50.00

iv. Fourth or subsequent offenses \$75.00

c) Impoundment fee's dogs

i. First occurrence \$15.00

ii. Second occurrence \$25.00

iii. Third and subsequent occurrences \$50.00

iv. Fourth or subsequent offenses \$75.00

d) Impoundment fee's livestock

i. First occurrence \$ 75.00

ii. Second occurrence \$150.00

iii. Third and subsequent occurrences \$275.00

iv. Fourth or subsequent offenses \$300.00

(3) Owners of dogs and cats redeemed from impoundment shall provide proof of rabies inoculation prior to release of the animal from impoundment. In the event proof of inoculation cannot be produced, the owner shall produce a receipt for prepayment of a rabies vaccination from a licensed veterinarian or person certified by the State Board of Health before said animal is released.

(4) If the owner does not redeem such animal within five (5) days, the animal shall be either put up for adoption or humanely destroyed. In the event the animal is adopted, the person who adopts the animal is then the legal owner of the animal.

#### **Section 1-10. Penalties.**

A. Any person who violates any of the provisions of Sections 1-2 and 1-4 pertaining to domesticated and/or wild animals shall be guilty of a misdemeanor. Each and every day the same shall continue shall constitute a separate and distinct offense. Each and every violation shall constitute a separate and distinct offense.

(1) First Offense – one (1) warning only per violation excluding costs and damages incurred by the injured and/or the Animal Shelter or other designated government facility authorized to impound such vicious animal.

(2) Second Offense - a fine of not less than \$150.00 per violation, plus costs and damages incurred by the injured and/or the Animal Shelter or other designated government facility authorized to impound such vicious animal.

(3) Third Offense - a fine of not less than \$300.00 per violation plus costs and damages incurred by the injured party and/or the Animal Shelter or other designated government facility authorized to impound such vicious animal.

(4) Forth (and subsequent) Offense - a fine of \$1,000.00 per violation or by imprisonment minimum of ninety - (90) days or by both such fine and imprisonment.

B. Any person who violates any of the provisions of Section 1-3 pertaining to vicious or dangerous animals shall be guilty of a misdemeanor. Each and every day the same shall continue shall

constitute a separate and distinct offense. Each and every violation shall constitute a separate and distinct offense.

(1) First Offense - a fine of not less than \$250.00 per violation or by imprisonment for sixty (60) days or by both such fine and imprisonment, plus costs and damages incurred by the injured and/or the Southern Pines Animal Shelter or other designated government facility authorized to impound such vicious animal.

(2) Second Offense - a fine of not less than \$500.00 per violation and imprisonment for a minimum of ninety (90) day or by both such fine and imprisonment, plus costs and damages incurred by the injured party and/or the Southern Pines Animal Shelter or other designated government facility authorized to impound such vicious animal.

(3) Third Offense - a fine of not less than \$1,000.00 per violation or by imprisonment of a minimum of ninety (90) days of by both such fine and imprisonment.

Furthermore, any attack by an animal which has been deemed vicious or dangerous which results in injury requiring hospital treatment (e.g., an emergency room visit), surgery and/or ongoing medical care, regardless of whether the animal has a history of harassing, attacking or biting, may result in that animal being euthanized.

**Section 1-11. Inspection of animals and premises.**

Animals and premises whereon animals are kept or maintained shall be subject to inspection by the County Health Officer or his/her authorized representative or employees, or an animal control officer, at any reasonable hour, or at any hour, in cases of emergency.

**Section 1-12.** All other Ordinances in conflict with this Ordinance, be and the same, are hereby repealed to the extent of such conflict and all Ordinances not in conflict with this ordinance to remain in full force and effect as written.

**Section 1-13.** Constitutionality.

Should any section or provision of this ordinance for any reason be held void, unconstitutional or invalid, it shall not affect the validity of any other section or provision hereof which is in itself not void, unconstitutional or invalid.

**Section 1-14. Effective date.**

This ordinance will become effective thirty - (30) days after adoption.

The above Ordinance was reduced to writing, read and considered paragraph by paragraph, and section by section and then as a whole at this regular meeting of the Mayor and Board of Aldermen on July 7, 2022, whereupon, **Alderman Marcia Hull** made a motion which was seconded by **Alderman Willie P. McCullum** to adopt the Ordinance, was submitted for a vote of all Aldermen present and voting and the following vote was recorded, to-wit:

VOTING AYE: Alderman Marcia Hull  
Alderman Willie P. McCullum  
Alderman Mary P. Norman

VOTING NAY:None

NOT PRESENT: Alderman John Larry Sullivan  
Alderman Terry Barron

**WHEREUPON**, the motion was duly carried by majority vote and declared duly adopted and enacted on this the 7<sup>TH</sup> day of **July**, 2022.

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James C. Kelly, III  
MAYOR

ATTEST:

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Breyon Magee  
CITY CLERK

STATE OF MISSISSIPPI  
COUNTY OF COVINGTON

CERTIFICATE

I, Breyon Magee, City Clerk in and for the Town of Mt. Olive, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of ORDINANCE NUMBER 414 ADOPTED BY THE Mayor and Board of Aldermen at its Recessed Meeting of July 7, 2022, and is duly of record in the office of the City Clerk, City Hall, 501 Main Street, Mt. Olive, Mississippi, in Minute book #30.

WITNESS MY SIGNATURE AND OFFICIAL SEAL OF OFFICE ON THIS THE 7<sup>th</sup> DAY OF July, 2022.

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BREYON MAGEE, CITY CLERK  
TOWN OF MT. OLIVE, MISSISSIPPI

Published One Time: July 20, 2022