MEMORANDUM

DATE: June 10, 2013
TO: Samantha D. Abell, City Manager
THRU: Eric Meyer, Planning and Economic Development Director
Patty Huffman, Grants and Projects Manager
FROM: Joseph E. Belles, Code Enforcement Officer
SUBJECT: Revised Animal Control Ordinance

ISSUE:
Pursuant to the Mississippi Codes Annotated, 1972 § Title 21, Chapter 13 Ordinances and Chapter 19 Health, Safety and Welfare, Staff requests the Mayor and City Council set a public hearing date for July 16, 2013, to receive public comment regarding the revision of the City's Animal Control Ordinance.

BACKGROUND:
The Economic Development and Planning Department finds that it has been over a decade since the City's Animal Control Ordinance was last amended. There have been significant changes since the last revision and an increase in the number of animals in the city, the number of people in the city, and the number of unfavorable encounters between people and animals. Staff recommends that it would be in the best interest of the City to adopt a revised animal control ordinance in order to appropriately address existing animal control issues and to aid in protecting the public health, safety, and welfare of our citizens. Staff has reviewed numerous local ordinances with special emphasis on Jackson County, Ocean Springs, and Pascagoula Animal Control Ordinances. The proposed ordinance closely mirrors both the Jackson County and the Ocean Springs Animal Control Ordinances. Although Pascagoula and Ocean Springs have established a maximum number of dogs and cats allowed, the proposed ordinance for the City of Gautier does not set a limit on the number of cats and dogs allowed per household.

APPLICABLE LAW:
Mississippi Statutes establish and allow municipal governments the authority to pass local ordinances as expressed in:

21-13-1 Authority to pass: penalties
21-13-9 Ordinances shall not contain more than one subject; amendments
21-19-19 Controlling running of animals at large; establishment of city pounds; cooperative agreements.

RECOMMENDATION:
Staff recommends Mayor and City Council hold a public hearing on July 16, 2013 to consider adoption of the attached revised City of Gautier Animal Control Ordinance.

ATTACHMENTS:
City of Gautier Animal Control Ordinance (Revised)

Chapter 4 - ANIMAL CONTROL

Sec. 4-1. - Definitions.

Sec. 4-2. - Application.

Sec. 4-3. - Inoculating dogs and cats for rabies.

Sec. 4-4. - Tags for dogs and cats.

Sec. 4-5. - Confinement to premises.

Sec. 4-6. - Overcrowded, unsanitary conditions and offensive odors.

Sec. 4-7. - Running at large.

Sec. 4-8. - Impoundment authorized.

Sec. 4-9. - Destruction of rabid animals.

Sec. 4-10. - Prohibited treatment.

Sec. 4-11. – Animal control officer determination of vicious animals.

Sec. 4-12. - Keeping of vicious dogs and vicious animals.

Sec. 4-13. - Feral cats.

Sec. 4-14. - Violations; penalties.

Sec. 4-15. - Enforcement.

Sec. 4-16. – Livestock and fowl only kept for pets or personal use

Sec. 4-17. - Keeping of livestock.

Sec 4-18. - Keeping of small livestock.

Sec. 4-19. - Keeping of fowl.

Sec. 4-20. - Variances allowed on space requirements.

Sec. 4-21. - Permit required.

Sec. 4-1. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them:

Animal means any live vertebrate creature, domestic or wild, except human beings.

Animal control officer means any person designated by the city to enforce the provisions of this chapter.

Animal shelter means the facilities operated by Jackson County, Mississippi, for the purpose of caring for animals and/or impounding animals under the authority of state law or ordinances.

At large means any animal off the premises of the owner or custodian and not under the control of the owner, custodian or other person by leash, lead, cord, rope, chain, crate, bridle, cage or other physical means of restraint sufficient in strength to control the animal.

Breed-specific legislation. No part of this chapter shall be used to target dogs by specific breed or mix.

Charge means entrusted with the duty and/or responsibility of care and control of an animal.

Cruelty means an overt act committed with the intent to harm or needlessly kill an animal or committed out of depraved indifference for the animal's well-being, including but not limited to torture, maiming, beating, or otherwise committing violence that causes injury or death.

Custodian means a person who has been given charge over an animal.

Feral animal means any domestic animal which has escaped for a substantial period of time from the care of an owner or custodian and is existing in a wild state.

Humane manner means the method in which an animal is required to be cared for, including, but not limited to, adequate ventilation, heat, sanitary shelter that provides protection from the weather, food and clean water, veterinary care

consistent with generally accepted practices considering the animal's size, species, and breed.

Injury means the breaking of skin, which results in bleeding, caused by an animal bite or bites.

Law enforcement officer means the officers of the Gautier Police Department, including but not limited to animal control officers.

Neglect means an overt act involving failure to provide for animal health or safety, including but not limited to failure to provide adequate food, water, shelter, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age, and condition.

Neutered means rendered permanently incapable of reproduction.

Nuisance animal means any animal which:

(1) Damages property of a person other than the owner;

(2) Barks, whines, squeals, bleats, or howls in an excessive, lengthy, or untimely manner; or

(3) Frequently defecates or urinates on property of one other than the owner.

Owner means:

(1) Any person having a property right in an animal;

(2) The custodian of an animal;

(3) Any person who keeps or harbors an animal; and/or

(4) Any person who knowingly permits an animal to remain on any premises occupied by said person over which said person has substantial control.

Excepted from the definition of owner in the immediately preceding subsections (2), (3), and (4) are veterinarians, veterinary hospitals, commercial animal boarding businesses, commercial animal grooming businesses and the animal shelter.

Owner's real property means any real property owned or leased by the owner or owners of the animal.

Performing animal exhibition means any authorized display, act, or event, other than a circus, in which performing animals are used.

Person means any human being, corporation, partnership, association, organization, or institution.

Provocation means the act of teasing, irritating, abusing, assaulting, exciting, stimulating, or tormenting an animal to the point of aggression.

Restraint means the condition of having an animal under control by securing said animal by leash, lead, cord, rope, chain, bridle, crate, or cage.

Severe injury means any physical injury that results in a broken bone(s), multiple sutures, disfiguring lacerations, or which require surgery that were caused by an animal bite or bites.

Veterinary hospital means any establishment operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

Vicious animal means any animal, except dogs, that constitutes a physical threat to human beings or other animals.

Vicious dog means:

(1) A dog that without provocation has:

a. Inflicted injury on a human being;

b. Killed or inflicted severe injury upon a domestic animal or livestock, when not on the offending dog owner's real property;

c. Approached a human being when not on the offending dog owner's real property in a menacing and/or terrorizing manner and/or an apparent attitude of attack; or

(2) A dog owned or harbored, primarily or in part, for the purpose of dog fighting, or other fighting or any dog trained for fighting; or

(3) A dog which has shown a propensity, tendency, or disposition to attack, unprovoked, a human being.

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;

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

(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.

Sec. 4-2. - Application.

This chapter shall apply to all areas within the city limits of Gautier, Mississippi.

Sec. 4-3. - Inoculating dogs and cats for rabies.

Every person in the city who owns or has in his or her possession, any dog and/or cat of the age of three (3) months or over shall have and keep such dog and/or cat inoculated against rabies, pursuant to Title 41, Chapter 53, Section 1 of the Mississippi Code of 1972, as amended, and the rules and regulations promulgated by the Mississippi State Board of Health. All inoculations must be done by either a licensed veterinarian or other competent person granted a permit to administer a rabies vaccine by the state board of health, pursuant to Title 41, Chapter 53, Section 5 of the Mississippi Code of 1972, as amended. It shall be unlawful for any person to own, possess, keep or harbor any dog or cat unless such dog or cat has been so inoculated against rabies. A violation of section 4-3 of this chapter shall be punished in accordance with the penalties set out in Title 41, Chapter 53, Section 13 of the Mississippi Code of 1972, as amended.

Sec. 4-4. - Tags for dogs and cats.

Dog and cat owners shall ensure that their dog or cat carries identification at all times in the form of microchip, tag, or other means to allow easy determination of the owners. It is the duty of the owner of any dog or cat to require said dog and/or cat to wear at all times a metal tag that is stamped with the serial number of its rabies vaccination, and also stamped with the year in which the dog and/or cat was inoculated. A violation of this section shall be punished in accordance with the penalties set out in Title 41, Chapter 53, Section 13 of the Mississippi Code of 1972, as amended.

Sec. 4-5. - Confinement to premises.

(a) An owner of an animal shall confine said animal to his/her real property, unless said animal is under restraint or participating in a licensed performing animal exhibition. It shall further be the duty of all owners and custodians to keep such animals under control so as to prevent such animal from:

(1) Trespassing on another's property;

(2) Being a nuisance animal;

(3) Being a danger to persons; and/or

(4) Being a danger to property.

(b) An owner of a vicious dog or vicious animal shall confine such animal in accordance with section 4-12 of this chapter.

(c) Every female dog or cat in heat shall be confined in such a manner as to prevent from coming in contact with a male dog or cat, respectively, except for intentional breeding purposes.

(d) Underground fences are not sufficient to contain unsupervised dogs.

(e) No person shall, at any time, fasten, chain, tether, or tie any dog or cause such dog to be fastened, chained, tethered, or tied to a stationary object while such dog is on the dog owner's property, on the property of the dog owner's landlord, or on the property of the person having possession, charge, custody, or control of such dog unless such restraint consists of a chain, leash, wire cable, or similar restraint attached to a swivel or pulley which shall be located as to keep the dog exclusively on the secured premises. Tieouts shall be so located as to keep the dog secure and shall not be able to become entangled with other objects, and shall be of sufficient length to allow free and full time access to water, food and shelter. Collars used to attach a dog to a tieout shall not be of a choke type. No tieout shall employ a restraint which is less than ten (10) feet in length.

(f) Dogs traveling in vehicles must be confined to prevent escape.

Sec. 4-6. - Overcrowded, unsanitary conditions and offensive odors.

It shall be a violation of this chapter for any person to keep or harbor an animal in a manner that:

(1) Is overcrowded;

(2) Is unsanitary; and/or

(3) Produces offensive odors which move off the owner's premises.

Sec. 4-7. - Running at large.

It shall be unlawful for any owner and/or custodian of any animal to allow such animal to run at large upon the streets, sidewalks, alleys, or other public property, or property of another. An animal running at large may be impounded in accordance with section 4-8 of this chapter.

Sec. 4-8. - 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: $8.00

plus,

b. Impoundment fee:

1. First occurrence: $20.00
2. Second occurrence: $25.00
3. Third and any subsequent occurrences: $50.00

(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.

(b) *Impoundment for animal bite and impoundment of animals suspected of rabies.*

(1) Anyone being the owner and/or custodian of any animal which has bitten a person or who has an animal suspected of having been exposed to rabies, or has an animal suspected of having rabies, by the county health officer or animal control officer, shall immediately surrender such animal to the Jackson County Animal Shelter to be kept for the period of time in which symptoms of rabies will or will not become evident; provided, however, that the owner of said animal may, upon permission of the animal control officer or his/her designee, place said animal within a licensed veterinarian's clinic or hospital in Jackson County, Mississippi, for the specified period of time. The owner and/or custodian shall also be responsible for the costs of the confinement in such clinic or hospital.

(2) If any animal has bitten a person, and/or is suspected of having been exposed to rabies and/or is suspected of having rabies by the county health officer or animal control officer, said animal shall be safely quarantined for a period of ten (10) days by the Jackson County Animal Shelter or with permission of the animal control officer or his/her designee, by a licensed