

## MEMORANDUM

**TO:** Samantha D. Abell, City Manager  
**THRU:** Chandra Nicholson, Economic Development & Planning Director  
**FROM:** Patty Huffman, Grants and Projects Manager  
**DATE:** March 27, 2014  
**SUBJECT:** Proposed Animal Control Ordinance

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### **REQUEST:**

The Economic Development and Planning Department requests City Council review and approval of the proposed Animal and Fowl Ordinance which was presented at the City Council Workshop March 11, 2014. The attached ordinance is unchanged from the March 11<sup>th</sup> City Council Workshop.

### **BACKGROUND:**

The Economic Development and Planning Department found that it has been over a decade since the City's Animal Control Ordinances were last amended. 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.

### **DISCUSSION:**

The City has held open public comment periods, held several public hearings, and held a City Council Workshop to ensure that the public was aware of the changes to the ordinance and had an opportunity to provide input.

### **RECOMMENDATION:**

Based on the public comments from the March 11<sup>th</sup> City Council workshop, City Council may consider, but is not limited to, the following changes to the proposed ordinance that was presented at the March 11, 2014 City Council Workshop:

1. Add the following to the end of Section 4-3, "*See the City of Gautier Comprehensive Fee Schedule for a list of current fines and fees.*"
2. Add the following to the end of Section 4-5(a) "*When it is necessary to make an inspection of a structure or premises to enforce the provisions of this ordinance, or whenever the animal control officer and/or law enforcement officer has reasonable cause to believe that there exists within the structure or upon the premises a condition in violation of this ordinance, the officer is authorized to enter the structure or premises at reasonable times to inspect or perform duties imposed by the animal control ordinance, provided that if such structure or premises is occupied, the officer shall present credentials to the occupant and request entry. If the structure or premises are unoccupied, the officer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the officer shall have recourse to the remedies provided by law to secure entry.*"

3. Remove Section 4-16(a)(2) in its entirety and replace with the following: *“(2) The fees for redemption of an impounded animal include: a. Feeding fees per day b. Impoundment fees based on the number of occurrences.”*
4. Add the following at the end of Section 4-16(a)(3): *“The dog or cat must receive the rabies inoculation within seven (7) days of redeeming the animal from impoundment.”*
5. In Section 4-18, Destruction of rabid animals, change the word “killed” to “*destroyed*”.
6. Remove the contents of Section 4-31, Violations; penalties, and replace with the following: *“The owner of a vicious animal/dog who violates the applicable provisions of this article, or whose vicious animal/dog is subject to confiscation under this article, shall be in violation of this ordinance and if found guilty of a misdemeanor in municipal court shall be fined as set forth in the City of Gautier Comprehensive Fee Schedule.”*
7. Add the following at the end of Section 4-36: *“Agricultural (AG) districts where the area is intended to provide low density residential development and small scale agricultural uses such as farms are not limited by this article and do not require a permit.”*
8. Remove the contents of Section 4-41, Permit Required, and replace with the following: *“All individuals residing in districts (except in AG Districts) desiring to keep livestock or fowl in the city shall first apply to the city clerk's office to obtain the required free permit.”*
9. Remove the content of Section 4-42, Violations; penalties, and replace with the following: *“The owner of livestock or fowl who violates the applicable provisions of this article is subject to revocation of his/her permit to keep livestock or fowl. In addition, if the owner is in violation of this ordinance and found guilty in municipal court, he or she shall be guilty of a misdemeanor and fined in accordance with the City of Gautier, Comprehensive Fee Schedule.”*
10. Renumber Sections 4-37 through 4-42 to make the Order easier for the reader to find the appropriate information.

The City Council may:

1. Approve the Adoption of the Proposed Animal Control Ordinance with the staff recommended changes 1 through 10, with any combination of the recommended changes thereof, and/or with any additional changes; or
2. Deny the Adoption of the Proposed Animal Control Ordinance.

**ATTACHMENTS:**

Animal and Fowl Ordinance and Summary of Proposed Changes presented at 03/11/14 Workshop

**PROPOSED ANIMAL AND FOWL ORDINANCE**  
**SUMMARY OF CHANGES**

1  
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5 - The proposed animal control ordinance was placed on the city website from July 22,  
6 2013 through August 2, 2013, and public comments were solicited from the citizens of  
7 Gautier. In addition, public comments were allowed at the Planning Commission  
8 meeting on September 5, 2013. Only one written comment was received, and no other  
9 public comments were made at the Planning Commission meeting.

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11 - This revised ordinance reflects the recommendations made by the Planning Commission  
12 at meetings held on September 5, October 3, and November 7, 2013.

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14 **ARTICLE I In General (Previously not utilized)**

15 Sec 4-1. Previously Sec. 4-63.

16 Sec 4-2. Previously Sec. 4-62, and added numerous other applicable definitions.

17 Sec 4-3. Added maximum fines allowed by municipal judge.

18 Sec 4-4. Previously Sec. 4-64.

19 Sec 4-5. Previously Sec. 4-66.

20 Sec 4-6. Added general owner responsibilities.

21 Sec 4-7. – 4-10. Reserved.

22  
23 **ARTICLE II Dogs, Cats and Other Animals**

24 Sec 4-11. Previously Sec. 4-21, reduced age of dog/cat for initial vaccination and  
25 changed rabies vaccination from annual to every three year requirement. (State  
26 Statute and Animal Health Regulation).

27 Sec 4-12. Previously Sec 4.21, added means of identification to determine ownership.

28 Sec 4-13. Previously sections 4-25 and 4-28.

29 Sec 4-14. Added limited number of dogs and cats without prior approval.

30 Sec 4-15. Previously Sec. 4-22.

31 Sec 4-16. Previously Sec. 4-22, added impoundment procedures and new fees.

32 Sec 4-17. Added not previously addressed.

33 Sec 4-18. Added State Statute requirement.

34 Sec 4-19. Previously Sec. 4-24.

35 Sec 4-20. – 4-25. Reserved.

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37 **ARTICLE III Vicious Animals/Dogs (Changed name from Dangerous Dog**  
38 **and Potentially Dangerous Dog to Vicious Animal/Dog (same as County and**  
39 **Ocean Springs)**

40 Sec 4-26. Previously Sec. 4-61.

41 Sec 4-27. Previously Sec. 4-66.

42 Sec 4-28. Previously Sec. 4-67, added stronger requirements.

43 Sec 4-29. Previously Sec. 4-68.

44 Sec 4-30. Previously Sec. 4-69.

45 Sec 4-31. Previously Sec. 4-70.

46 Sec 4-32. - 4-35. Reserved.

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**ARTICLE IV    Livestock and Fowl**

- Sec 4-36. Previously Sec. 4-31.
- Sec 4-37. Previously Sec. 4-36.
- Sec 4-38. Previously Sec. 4-37.
- Sec 4-39. Previously Sec. 4-38, changed per Planning Commission recommendation to only allow a total of ten fowl and strengthened requirements for fowl to be fenced.
- Sec 4-40. Previously Sec. 4-39.
- Sec 4-41. Previously 4-40.
- Sec 4-42. Added permit may be revoked or violation referred to municipal court.
- Sec 4-43. – 4-45. Reserved

1  
2 Chapter 4  
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4 ANIMAL CONTROL

- 5 Article I. In General, §§ 4-1 – 4-10  
6 Article II. Dogs, Cats, and Other Animals, §§ 4-11 – 4-25  
7 Article III. Vicious Animal/Dog Control, §§ 4-26 – 4-35  
8 Article IV. Livestock and Fowl, §§ 4-36 – 4-45  
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13 ARTICLE I. IN GENERAL  
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15 Sec. 4-1. - Application.

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

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19 Sec. 4-2. - Definitions.

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

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

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

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

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

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

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

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

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

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

11           *Humane manner* means the method in which an animal is required to be  
12 cared for, including, but not limited to, adequate ventilation, heat, sanitary shelter that  
13 provides protection from the weather, food and clean water, veterinary care  
14 consistent with generally accepted practices considering the animal's size, species,  
15 and breed.

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

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

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

24           *Neutered* means rendered permanently incapable of reproduction.

25           *Nuisance animal* means any animal which:

- 26           (1) Damages property of a person other than the owner.  
27           (2) Barks, whines, squeals, bleats, or howls in an excessive, lengthy, or  
28 untimely manner; or  
29           (3) Frequently defecates or urinates on property of one other than the  
30 owner.

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32           *Owner* means:

- 1 (1) Any person having a property right in an animal;  
2 (2) The custodian of an animal;  
3 (3) Any person who keeps or harbors an animal; and/or  
4 (4) Any person who knowingly permits an animal to remain on any  
5 premises occupied by said person over which said person has substantial  
6 control.

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

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

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

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

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

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

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

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

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

28 *Vicious dog* means:

- 29 (1) A dog that without provocation has:  
30 a. Inflicted injury on a human being.  
31 b. Killed or inflicted severe injury upon a domestic animal or  
32 livestock, when not on the offending dog owner's real property;

- 1 c. Approached a human being when not on the offending dog  
2 owner's real property in a menacing and/or terrorizing manner and/or  
3 an apparent attitude of attack.  
4 (2) A dog owned or harbored, primarily or in part, for the purpose of dog  
5 fighting, or other fighting or any dog trained for fighting; or  
6 (3) A dog that has shown a propensity, tendency, or disposition to attack,  
7 unprovoked, a human being.  
8

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

- 11 (1) An injury or severe injury is sustained by a human being and at the  
12 time of such injury, the dog was being provoked.  
13 (2) An injury or severe injury is sustained by a human being who at the  
14 time of such injury was committing a willful trespass, or other tort, upon the  
15 premises owned or leased by the owner of the dog.  
16 (3) The dog was protecting a human being within the immediate vicinity  
17 of the dog from an unjustified attack.  
18 (4) The dog is a police dog that was engaged in the performance of its  
19 duties at the time of the act.  
20

21 Sec. 4-3. - Violations; penalties.

22 Unless another penalty is set forth herein for a specific violation in this  
23 chapter, any person who shall violate any provision of this animal control ordinance,  
24 or fail to comply with any of the requirements thereof, shall be guilty of a  
25 misdemeanor and any person found guilty of such violation shall, upon conviction, be  
26 fined for each violation not more than one thousand dollars (\$1,000.00), or  
27 imprisoned for not more than three (3) months, or both, plus all court costs.

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29 Sec. 4-4. - Appointment of animal control officer.

30 The city manager shall designate an individual or individuals to carry out the  
31 duties of an animal control officer as provided for in this article. The city manager  
32 may further assign the additional duties of animal control officer to any officer or  
33 employee of the city who is subject to the jurisdiction of the governing authority.

34

35 Sec. 4-5. - Enforcement.

1 (a) It shall be the duty of animal control officers and/or law enforcement officers  
2 to enforce the provisions of this chapter.

3 (b) It shall be a violation of this chapter for any person to interfere with or hinder  
4 an animal control officer and/or law enforcement officer in the performance of their  
5 duties, or to release or attempt to release any animal in said officers' custody.

6 (c) Animal control officers and/or law enforcement officers having probable  
7 cause to believe a person has violated this chapter may file a complaint or affidavit in  
8 municipal court or other court of competent jurisdiction against said person. Said  
9 officers may issue citations in the enforcement of this chapter to any person the  
10 officer(s) have probable cause to believe has violated this chapter, with the citation  
11 designating the offense(s) charged and requiring the person so charged to appear  
12 before such courts on a specified date to answer the charges contained therein.  
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14 Sec. 4-6. – General Responsibilities of Owner(s).

15 (a) The owner of every domesticated animal including, but not limited to, cats  
16 and dogs, shall;

17 (1) Comply with the standards set out next in this section and all other  
18 provisions of this chapter.

19 (2) Provide their animals with proper food, water, shelter and protection  
20 from the weather.

21 (3) Exercise proper care and control of their animal(s).

22 (4) Prevent animal(s) from becoming a public nuisance as defined in  
23 [section 4-2](#),

24 (b) It shall be unlawful for animal pens or enclosures where animals are kept to  
25 be in an unclean, filthy, or unsanitary condition. All animal pens or enclosures and  
26 other places where dogs, cats or other animals are kept shall be cleaned daily by  
27 removal of all feces and offensive matter and by suitable cleansing and disinfecting  
28 as often as may be necessary. Reasonable efforts shall be made to keep yards,  
29 pens, premises, and animals free of insect infestation.

30 (c) Owner(s) shall remove any fecal matter deposited by such animals on public  
31 property, walks, streets, or private property of another.

32 (d) Food supplies shall be stored in rodent-proof containers. Food and water  
33 containers shall be kept clean, and litter and bedding materials shall be changed as  
34 often as necessary to prevent an odor nuisance.

35 (e) No owner of an animal shall abandon the animal or fail to provide appropriate  
36 veterinary treatment, if ill.

37 (f) No owner shall intentionally poison any animal, except vermin.

38 (g) No owner shall intentionally allow or promote any fight between animals, on  
39 his/her real property or on property under his/her possession or control.  
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(h) No owner shall leave an animal unattended inside a motor vehicle when such action is harmful or potentially harmful to such animal. If the owner of such vehicle is not available and cannot be found or refuses to prevent such harm or potential harm, an animal control officer or a police officer shall be authorized to remove such animal from the vehicle and to utilize any reasonable method to effect such removal.

(i) No one shall be allowed to bring a dog of any type within 150 feet of any parade route or other permitted public event regardless of whether or not the dog is leashed and muzzled. This restriction shall not apply to properly certified service animals, or dogs that are actually in the parade or featured in the public event, or dogs located on fenced real property immediately adjacent to parade routes, or the venue of the public event.

Sec. 4-7. – 4-10 Reserved.

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ARTICLE II. Dogs, Cats and Other Animals

Sec. 4-11. - 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. The Mississippi State Department of Health Regulations further requires that all dogs and cats shall be vaccinated against rabies at three months of age, re-vaccinated one year later and every three years thereafter, using a rabies vaccine approved as providing a 3-year immunity. A violation of section 4-11 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. 4-12. - 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. 4-13. - Confinement to premises.

(a) No animal shall be kept or confined in any place where food, water, shelter and protection from the weather are not sufficient for the good health of such animal. No animal shall be kept in such place or condition as to become a nuisance, because of noise, odor, filth, or contagion of disease.

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

- 5  
6 (1) Trespassing on another's property.  
7 (2) Being a nuisance animal.  
8 (3) Being a danger to persons.  
9 (4) Being a danger to property.

10 (c) An owner of a vicious dog or vicious animal shall confine such animal in  
11 accordance with [section 4-28](#) of this chapter.

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

15 (e) Underground fences are not sufficient to contain unsupervised dogs in the  
16 area designated as the front yard. Property owners will maintain a clear path to the  
17 home's main entrance to accommodate deliveries and authorized workers.

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

29 (g) Failure to comply with the terms of this section of the article shall require the  
30 dog owner or the person having possession, charge, custody, or control of such dog  
31 to:

32 (1) Provide a fenced yard, of sufficient height to prevent the dog from  
33 escaping from the enclosure for the dog with adequate space for exercise of  
34 at least one hundred (100) square feet, or

35 (2) Provide an enclosure for such dog of at least one (1) square foot of  
36 area for every pound of body weight of the dog. Such enclosure shall be  
37 constructed of chain link or similar type material with all four (4) sides  
38 enclosed. The enclosure shall be of sufficient height to prevent the dog from  
39 escaping from the enclosure. A portion of the enclosure shall be covered with  
40 material sufficient to provide the dog with shade and protection from the  
41 weather.

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Sec. 4-14 - Overcrowded, unsanitary conditions and offensive odors.

It shall be unlawful for any person to keep more than five dogs or five cats or an aggregate of five dogs and cats at a single location within the city, with the exception that kittens or puppies born to a cat or dog kept at any such location may be kept for not more than five months from birth. A request for more than five (5) dogs, over the age of six (6) months, must be approved by the City Council through the Conditional Use-Major process.

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

- (a) Is overcrowded.
- (b) Is unsanitary; and/or
- (c) Produces offensive odors, which move off the owner's premises.

Sec. 4-15. - 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 4-16](#) of this chapter.

Sec. 4-16. - 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 and humanely destroyed, or unless the owner of the animal redeems the animal within the five (5) days by paying all fees that 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

Fees subject to change as determined by Jackson County Animal Shelter

(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 or having rabies. 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, place said animal within a licensed veterinarian clinic or hospital in Jackson County, Mississippi, at the owner's expense. In the event the owner elects to destroy the animal, all costs for rabies tests shall be paid by the owner.

(c) Other impoundments. Any animal which is being kept or held in a manner that is in violation of the provisions of this chapter, other than those specified in this section, may be caught and impounded by animal control officers and/or law enforcement officers. These animals may be impounded in the same manner and conditions as set out in subsection (a) of this section, except that if the animals are not being kept in a humane manner, they are not to be returned to the owner unless said owner can provide satisfactory evidence to the animal control officer that the animals will be humanely kept.

#### Sec. 4-17. - Feral cats.

Feral cats may be managed under a city-approved volunteer or other sanctioned program that provides health checks and spay and neuter services for these animals at no cost to the City. Cats in such a colony may be ear tipped or micro chipped for identification purposes.

#### Sec.4-18. - Destruction of rabid animals.

1                   In the event an animal is suffering from rabies or reasonably suspected of  
2                   having rabies, and is allowed to run at large, such animal may be killed by any law  
3                   enforcement officer or animal control officer without such officer being required to  
4                   catch or impound such animal.

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6                   Sec. 4-19. - Cruel and inhumane treatment.

7                   It shall be unlawful for any person to torture, torment, unjustifiably injure,  
8                   deprive of necessary sustenance, food, or drink, or cruelly beat or needlessly  
9                   mutilate any domesticated animal within the corporate limits of the city or to cause or  
10                  permit same to be done.

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12                  Sec. 4-20. – 4-25 Reserved.

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### ARTICLE III. VICIOUS ANIMAL/DOG CONTROL

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18                  Sec. 4-26. – Short Title

19                  This article shall be known and may be cited as the “Vicious Animal/Dog  
20                  Control Ordinance.”

21

22                  Sec. 4-27. - Animal control officer’s determination of vicious animals/dogs.

23                  (a)       The animal control officer shall make such investigations and inquiries as  
24                  may be necessary to identify vicious animal(s) and vicious dog(s) within the animal  
25                  control officer's jurisdiction.

26                  (b)       When an animal control officer classifies an animal or dog as a vicious  
27                  animal or vicious dog, the animal control officer shall notify the animal's owner in  
28                  writing by delivering a letter in person or by mail to the owner's last known address of  
29                  such classification. Such notice shall be complete upon its delivery or mailing.

30                  (1)       Procedures for classification:

31                          a.       As applied to the owners of vicious animals or vicious dogs,  
32                          the procedure as provided for in this article must be carried out as a  
33                          necessary condition for the enforcement of the provisions of this  
34                          article against such owners.

1 b. When a vicious animal or vicious dog is classified as such,  
2 the animal control officer shall notify the animal owners of such  
3 classification.

4 c. The notice to the owner shall make the following  
5 requirements:

6 1. The notice shall be in writing and delivered or mailed  
7 to the owner's last known address.

8 2. The notice shall include a summary of the animal  
9 control officer's findings that formed the basis for the animal's  
10 classification as a vicious animal or dog.

11 3. The notice shall be dated and shall state that the  
12 owner, within fifteen (15) days after the date shown on the  
13 notice, has a right to request a hearing of the animal control  
14 officer's determination that the animal is a vicious animal or  
15 vicious dog;

16 4. The notice shall state that the hearing, if requested,  
17 shall be held before and conducted by the municipal court.

18 5. The notice shall state that if a hearing is not  
19 requested, the animal control officer's determination that the  
20 animal is a vicious animal or vicious dog will become effective  
21 for all purposes under this article on the date specified in the  
22 notice, which shall be after the last day on which the owner  
23 has a right to request a hearing;

24 6. The notice shall include a form to request a hearing  
25 before the municipal court.

26 (2). When it has been determined that an owner possesses a vicious  
27 animal or vicious dog, the animal control officer shall issue a certificate of  
28 registration to the owner when the animal control officer finds sufficient  
29 evidence of compliance with the duties prescribed for the owner within this  
30 article.

31 (3). An animal control officer is authorized to make whatever inquiry is  
32 deemed necessary to insure compliance with the provisions of this article.

33 (4). The police department shall cooperate with the animal control officer  
34 in enforcing the provisions of this article.

35  
36 Sec. 4-28. - Keeping of vicious animals and vicious dogs.

37 (a) While on the owner's real property, a vicious animal or vicious dog shall be  
38 securely confined indoors or in a securely locked pen or structure situated behind the  
39 front building line of the primary residence, suitable to prevent the entry of children  
40 and designed to prevent the dog or other animal from escaping. Such enclosure

1 must assure the safety of the public as well as confinement of the dog or animal in a  
2 humane, sanitary, and healthful environment. The animal control officer, or his/her  
3 designee, after reviewing the circumstances associated with each situation and  
4 inspection, shall make a determination as to whether the enclosure meets the  
5 requirements. Minimum enclosure requirements shall include:

6 (1) At least one (1) square foot of area for every pound of body weight of  
7 the dog with a portion of the enclosure covered with material sufficient to  
8 provide the dog with shade and protection from the weather.

9 (2) A concrete base/floor or other material with similar durability and  
10 strength characteristics as compared to concrete,

11 (3) walls six (6) feet in height to be chain link or other material with similar  
12 durability and strength characteristics as compared to chain link, and a roof  
13 or "cap" to be chain link or other material with similar durability and strength  
14 characteristics as compared to chain link.

15 (4) The enclosure access point latch/locking mechanism shall be a  
16 minimum of five (5) feet above the enclosure base/floor similar to those  
17 requirements of pool enclosures as to prevent opening by a child.

18 (b) No owner of a vicious animal or vicious dog shall permit such animal or dog  
19 to go beyond the owner's real property unless such animal or dog is securely leashed  
20 and muzzled, with the muzzle being sufficient to prevent such dog or animal from  
21 biting human beings and animals, except that:

22 (1) A vicious dog shall not be required to be muzzled when being shown  
23 in a dog show sanctioned by a national kennel club; or

24 (2) A vicious animal or vicious dog shall not be required to be leashed  
25 and muzzled when securely caged or otherwise securely contained inside a  
26 commercial establishment in the business of boarding and/or medically  
27 treating animals or dogs.

28 (c) No vicious animal or vicious dog may be kept on a porch, patio, or in any part  
29 of a house or structure that would allow the animal or dog to exit such area on its  
30 own volition.

31 (d) When an animal or dog is reasonably determined to be vicious by the animal  
32 control officer or law enforcement officer, the dog may be destroyed providing each  
33 of the following requirements is met:

34 (1) The animal is at large.

35 (2) Attempts to peacefully capture and impound the animal have been  
36 made and proved unsuccessful; and

37 (3) The animal poses a serious and immediate threat of serious harm or  
38 injury to human life.

39 (e) Before filing a complaint/affidavit for a violation under this section in the  
40 municipal court, the animal control officer or his/her designee shall give written  
41 summons to appear in municipal court to the person suspected of a violation that

1 their animal or dog is deemed a vicious animal or dog and may be subject to the  
2 requirements of this section.

3 (f) Once the owner is notified that his/her animal or dog has been deemed  
4 vicious, the owner shall have forty-five (45) days from said ruling to comply with the  
5 confinement requirements for vicious animals and dogs under this chapter. During  
6 this forty-five-day period, the animal or dog should be confined in accordance with  
7 [section 4-13\(a\)](#) of this chapter.

8 (g) No vicious animal or dog may be owned, kept, possessed or harbored within  
9 the city without the owner or custodian of such animal first obtaining proof of  
10 registration from the city. An application for such registration shall include the name  
11 and address of the owner, the address at which the animal will be located or  
12 confined, a description of measures to be taken to secure the animal, a complete  
13 description of the animal, including type of animal, sex, color and other distinguishing  
14 marks, and, at the city's discretion, a photograph of the animal.

15 (1) Owners of vicious animals or vicious dogs are hereby required to  
16 maintain liability insurance, such as homeowner's or renter's insurance, that  
17 covers injuries inflicted by animals or dogs, as the case may be, in an  
18 amount of not less than one hundred thousand dollars (\$100,000.00), and  
19 said policy shall require notification of cancellation of said policy to the  
20 Animal Control Officer, 3330 Highway 90, Gautier, Mississippi 39553. Proof  
21 of said liability insurance shall be provided to the animal control officer or  
22 his/her designee upon his/her request.

23 (2) Owners or custodians of vicious animals or dogs shall, upon the loss,  
24 death or transfer of such animals, report such fact to the animal control  
25 officer. A separate registration shall be issued for each vicious animal or dog.  
26 Upon the transfer of any vicious dog or animal, a statement shall be filed with  
27 the city stating the name and address of the person to whom the animal is  
28 sold or transferred and the address at which the vicious animal or dog is to  
29 be located, if known.

30 (3) The application for such registration must be signed and dated by the  
31 owner or custodian of the vicious animal or dog. The owner or custodian  
32 must sign a statement attesting to the fact that all provisions of this chapter  
33 have been and will be complied with in their entirety, and that the city shall be  
34 notified immediately of any attack or other violation of this chapter by vicious  
35 animal or dog in his possession or control.

36 (4) A one-time fifty-dollar (\$50.00) fee per vicious animal or dog shall be  
37 required for the issuance of a registration. The fee amount may be adjusted  
38 from time to time by the City of Gautier Mayor and City Council.

39 (5) Any owner or custodian of a vicious animal or dog who fails to obtain  
40 a registration from the city shall be fined one hundred fifty dollars (\$150.00)  
41 per vicious dog or animal. The owner or custodian shall have ten (10) days

1 from the date the city provides written notice of such failure to obtain a  
2 registration. Failure to obtain a registration with the ten-day time period shall  
3 subject the owner to an additional fine of one hundred fifty dollars (\$150.00)  
4 per day for each unpermitted or unlicensed vicious animal or dog until such  
5 permit or license is obtained.

6 (6) Any registration issued pursuant to this section shall be revocable  
7 upon any noncompliance with any of the terms of this chapter by any person  
8 owning or in possession or control of any vicious animal or dog.

9 (h) The animal control officer shall keep for ten (10) years a record of all dogs or  
10 animals determined to be vicious.

11 (i) All owners of vicious animals or dogs shall within ten (10) days from the  
12 effective date of the ordinance from which this chapter was derived display in  
13 prominent, conspicuous places, legible signs no larger than one square foot, which  
14 can be easily read on all sides of their real property where the vicious animal or dog  
15 is kept, using such words as "Beware of Dog" or "Dangerous Animal" and in addition  
16 a similar sign shall be posted on the kennel, pen, or enclosure for such dog or  
17 animal.

18 (1) Signs shall be constructed and maintained in a manner to withstand  
19 the elements.

20 (2) The absence of any required signs shall be prima facie evidence of  
21 a violation of this section.

22 (j) An animal control officer or law enforcement officer may enter the premises  
23 where a vicious dog is kept for the purpose of inspection of the premises to ascertain  
24 whether such complies with the provisions of this chapter. Such inspection shall be  
25 made only after reasonable notice to the occupant of the premises. If the owner shall  
26 refuse the inspection, the assistance of a court may be requested.

27  
28 **Sec. 4-29. - Confiscation of vicious animal/dog.**

29 (a) An animal deemed to be a vicious animal/dog shall be immediately  
30 confiscated by the animal control officer or by a law enforcement officer and other  
31 person authorized by the animal control officer if:

32 (1) The owner of the animal does not secure the liability insurance or bond  
33 required by this article, or

34 (2) The animal is not validly registered as required by this article, or

35 (3) The animal is not maintained in a proper enclosure in violation of this  
36 article; or

37 (4) The animal is outside a proper enclosure in violation of this article.

38 (b) Any animal that has been confiscated under the provisions of this section  
39 shall be returned to its owner after a hearing on the matter is concluded by the  
40 municipal court judge or upon the owner's compliance with the provisions of this

1 article. In the event the owner has not complied with the provisions of this article  
2 within fifteen (15) days of the date the animal was confiscated, said animal will be  
3 destroyed in an expeditious and humane manner.

4  
5

6 Sec. 4-30. - Offenses.

7 It shall be unlawful for an owner to have or possess within this city a vicious  
8 animal/dog without authority from the animal control officer issued in accordance with  
9 the provisions of this article.

10

11 Sec. 4-31. - Violations; penalties.

12 The owner of a vicious animal/dog who violates the applicable provisions of this  
13 article, or whose vicious animal/dog is subject to confiscation under this article, shall  
14 be guilty of a misdemeanor and fined two hundred and fifty dollars (\$250.00) for a  
15 first offense. In addition to any confinement that might be imposed for a conviction  
16 under this subsection, for the second conviction a fine of not less than five hundred  
17 dollars (\$500.00) shall be imposed, and for a third or subsequent conviction, a fine of  
18 not less than seven hundred and fifty dollars (\$750.00) shall be imposed.

19

20 Sec. 4-32. – 4-35 Reserved.

21  
22

23 ARTICLE IV. LIVESTOCK and FOWL

24

25 Sec. 4-36. - Livestock and fowl only kept for pets or personal use.

26 The keeping of livestock and fowl is hereby restricted to their use only as  
27 pets or for personal use of the family residing on the premises, and the keeping of  
28 livestock or fowl for commercial purposes is hereby declared unlawful.

29

30 Sec. 4-37. - Keeping of livestock.

31 Livestock shall only be allowed to be kept on any property in the city under  
32 the following conditions:

33 (1) *Required area.* No large livestock shall be kept on any property  
34 having less than twenty thousand (20,000) square feet (excluding living area

1 and family dwelling), and one such animal shall be allowed for each  
2 additional five thousand (5,000) square feet.

3 (2) *Livestock to be fenced.* All large livestock shall be properly fenced to  
4 prohibit their running at large.

5 (3) *Proximity to opening of dwelling.* No large livestock shall be kept in  
6 such a manner to allow their being closer than thirty-five (35) feet from the  
7 nearest door, window, or other opening of a neighbor's dwelling.

8 (4) *Livestock to be kept in safe and sanitary environment.* All large  
9 livestock shall be kept in a safe and sanitary environment that is not  
10 detrimental to the health and well-being of said livestock.

11 (5) *Prohibition of nuisances to neighborhood.* All large livestock shall be  
12 kept in such a manner to prohibit the creation of a nuisance as to the abutting  
13 or adjoining property owner or the general neighborhood in which they are  
14 kept. Said nuisances shall include, but not be limited to noise, odor, attraction  
15 of or breeding grounds for flies, mosquitoes, and other insects.  
16

17 Sec. 4-38. - Keeping of small livestock.

18 Small livestock is defined as rabbits, chinchillas, and other small caged  
19 animals and shall only be allowed to be kept on any property in the city under the  
20 following conditions:

21 (1) *Required area.* No small livestock shall be kept on any property  
22 having less than seven thousand (7,000) square feet. Closed sheds or  
23 garages (as for raising chinchillas) are not restricted except as pertains to  
24 zoning ordinance.

25 (2) *Small livestock to be caged.* All small livestock shall be properly  
26 caged to prohibit their running at large.

27 (3) *Proximity to opening of dwelling.* No small livestock in outside cages  
28 shall be kept in such a manner to allow their being closer than thirty-five (35)  
29 feet from the nearest door, window, or other opening of a neighbor's dwelling.  
30

31 Sec. 4-39. - Keeping of fowl.

32 Fowl shall only be allowed to be kept on any property in the city under the  
33 following conditions:

34 (1) *Required area.* No fowl shall be allowed on any premises of less  
35 than twenty thousand (20,000) square feet, and ten (10) fowl shall be allowed  
36 to be kept on premises of twenty thousand (20,000) square feet.

37 (2) *Fowl to be fenced.* Fowl must be kept in a coop or run enclosure at  
38 all times. Coops and runs must be completely enclosed with wire, aviary

1 netting or solid roofing and shall be impermeable to predators. Any structure  
2 used to keep fowl must be maintained to avoid causing a blight to  
3 neighboring properties or depreciation of property values. It shall be unlawful  
4 for any person to permit fowl to run at large on the streets, sidewalks or any  
5 other public place.

6 (3) *Proximity to opening of dwelling.* No fowl shall be kept in such a  
7 manner so as to allow their being closer than thirty-five (35) feet from the  
8 nearest door, window, or other opening of a neighbor's dwelling.

9 (4) Fowl to be kept in safe and sanitary environment. All fowl shall be  
10 kept in a safe and sanitary environment that is not detrimental to the health  
11 and well-being of said fowl.

12 (5) *Prohibition of nuisances to neighborhood.* All fowl shall be kept in  
13 such a manner so as to prohibit the creation of a nuisance as to the abutting  
14 or adjoining property owner or the immediate neighborhood in which they are  
15 kept. Said nuisances shall include, but not be limited to noise, odor, attraction  
16 of or breeding grounds for flies, mosquitoes and other insects.

17  
18 Sec. 4-40. - Variances allowed on space requirements.

19 (a) *Amount of variance.* Variances may be allowed on space requirements  
20 provided, however, that a variance not to exceed twenty (20) percent of the square  
21 footage requirements of this article, as above set out in [section 4-37\(1\)](#) and [section](#)  
22 [4-39\(1\)](#) may be allowed on petition properly presented to the Gautier Planning  
23 Commission and approved by the planning commission and the mayor and city  
24 council of the city upon just cause or reason being shown as to why said variance  
25 should be granted.

26 (b) *How variance obtained.* A petition for variance as set out in the preceding  
27 paragraph should be accompanied by an affidavit from the petitioner, giving the  
28 names and addresses of the adjoining property owners, within five hundred (500)  
29 feet which should be presented to the planning commission of the city together with  
30 the filing fee as established by said planning commission, and notice thereof and  
31 hearing thereon shall be conducted insofar as practical along the same lines as a  
32 request for rezoning.

33  
34 Sec. 4-41. - Permit required.

35 All persons desiring to keep livestock or fowl in the city shall first apply to the  
36 city clerk's office. Provided, however, that all owners of livestock or fowl at this time  
37 are hereby granted one hundred twenty (120) days after the effective date of this  
38 article to apply for said permit.

39

1

2 Sec. 4-42. - Violations; penalties.

3           The owner of livestock or fowl who violates the applicable provisions of this  
4 article is subject to revocation of their permit to keep livestock or fowl. In addition  
5 they shall be guilty of a misdemeanor and any person found guilty of such violation  
6 shall, upon conviction, be fined for each violation not more than one thousand dollars  
7 (\$1,000.00), or imprisoned for not more than three (3) months, or both, plus all court  
8 costs.

9

10 Sec. 4-43 – 4-45 Reserved