

**ORDINANCE AMENDING CHAPTER 6 - ANIMALS AND FOWL,
ARTICLE I - IN GENERAL, AND ARTICLE IV - DOGS, OF THE CODE
OF ORDINANCES OF THE CITY OF TUPELO, MISSISSIPPI**

WHEREAS, Chapter 6 of the Code of Ordinances of the City of Tupelo provides the ordinances and regulations pertaining to animals and fowl within the municipal limits; and

WHEREAS, Article I addresses general provisions; and

WHEREAS, Article IV addresses domesticated dogs; and

WHEREAS, Miss. Code Anno. § 21-19-9 authorizes municipalities to promulgate ordinances and regulations regulating animals and fowl, including domesticated dogs; and

WHEREAS, municipal police departments are authorized to enforce criminal violations of state law, including the crimes of animal cruelty set forth in Miss. Code Anno. §§ 97-41-1 and 97-41-16 (1972 as amended); and

WHEREAS, the contemplated amendments to certain provisions of the Code of Ordinances are a proper exercise of the city's police power, necessary to protect the public health, safety, morals and general welfare, and the provisions below are necessary, fair, reasonable and in the best interests of the citizens of the city of Tupelo.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TUPELO, MISSISSIPPI, as follows:

SECTION 1. The prefatory statements are hereby incorporated herein as the findings of the City Council.

SECTION 2. Chapter 6 - Animals and Fowl - Article I - In General Sec. 6-4 is amended to read as follows:

Sec. 6-4. - Penalties.

Except for Sec. 6-71, the failure or refusal of any person to comply with any of the provisions of this chapter and the violation of any provision of this chapter by any person shall constitute a violation of city ordinance and be classified as a misdemeanor. Violation of Sec. 6-71 shall be classified as a felony under Miss. Code Anno. §97-41-16. Any person guilty of any violation of any provision of this chapter shall, on conviction thereof, be subject to punishment allowed by

law. The municipal court is hereby authorized to establish a schedule of penalties for various offenses, subject to review by the City Council.

SECTION 3. Chapter 6 - Animals and Fowl - Article I - In General Sec. 6-8 is amended to read as follows:

Sec. 6-8. - Cruelty to animals.

Except as otherwise provided in Sec. 6-70 and Sec. 6-71 for a domesticated dog or cat, if any person shall intentionally or with criminal negligence override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

SECTION 4. Chapter 6 - Animals and Fowl - Article IV - Dogs Sec. 6-69 is amended to read as follows:

Sec. 6-69. - Same—Impoundment, redemption or disposition of dogs.

(a) If any dog is caused or permitted or is found to be at large within the corporate limits of the city in violation of the provisions of this article, such dog may be apprehended and impounded by any police officer or other designated official of the city, to be held or disposed of as herein provided.

(b) If any such dog is so impounded, the same shall be released to the owner thereof only if payment is made within five (5) working days to the city or its designee such sums as may be designated from time to time by the City Council for compensation for catching or otherwise apprehending such dog and for harboring and caring for such dog on a daily basis during the time of impoundment.

(c) In addition to or in lieu of impounding a dog found at large, any police officer or designated official of the city may issue to the person known to own or be in possession or control of such dog a citation for any violation of this article. Any fines imposed, as set from time to time by the City Council, shall be paid within three (3) working days of such citation. If such fine is not paid within the time prescribed, a criminal warrant shall be issued for such person who may, upon conviction of such offense before city court, be punished as provided in section 1-8 of this Code.

(d) All fees and fines imposed pursuant to this section shall be paid by any violator before a dog impounded pursuant to this article shall be released. If such fees and fines are not paid within five (5) working days, then any such dog so impounded may be destroyed or otherwise disposed of.

SECTION 5. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-70 to read as follows:

Sec. 6-70. Simple cruelty to domesticated dog or cat.

If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a domesticated dog or cat. A person who is convicted of the offense of simple cruelty to a domesticated dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both. Each act of simple cruelty that is committed against more than one (1) domesticated dog or cat constitutes a separate offense.

SECTION 6. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-71 to read as follows:

Sec. 6-71. Aggravated cruelty to domesticated dog or cat.

(1) If a person with malice shall *intentionally torture, mutilate, maim, burn, starve* to death, crush, *disfigure*, drown, suffocate or impale any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a domesticated dog or cat. Each act of aggravated cruelty that is committed against more than one (1) domesticated dog or cat shall constitute a separate offense.

(2) A person who is convicted of a first offense of aggravated cruelty to a domesticated dog or cat shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the Department of Corrections for not more than three (3) years, or both.

(3) A person who is convicted of a second or subsequent offense of aggravated cruelty to a domesticated dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Ten Thousand Dollars (\$10,000.00) and imprisoned in the custody of the Department of Corrections for not less than one (1) year nor more than ten (10) years.

For purposes of calculating previous offenses of aggravated cruelty under this subparagraph (3), commission of one or more acts of aggravated cruelty against one or more domesticated dogs or cats within a twenty-four-hour period shall be considered one (1) offense.

SECTION 7. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-72 to read as follows:

Sec. 6-72. Running at large prohibited.

It shall be unlawful for the owner or the person having possession, charge, custody or control of any dog or dogs to cause, permit or allow same to run at large within the corporate limits of the city. The running at large of any dog or dogs shall be prima facie evidence of the violation of this section by the owner or the person having possession, charge, custody or control of such dog. The term "at large" shall mean on or off the premises of the owner; the premises of a member of the owner's family; or premises of the person or persons having the possession, charge, custody

or control of any such dog or dogs, and in each of the foregoing instances when such dog or dogs are not under control, either by leash or confined in the manners authorized in this Sec. 6-74 and Sec. 6-75 (3). Nothing in this section shall be construed to prohibit walking a dog with the use of a hand-held leash.

SECTION 8. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-73 to read as follows:

Sec. 6-73. General conditions of places of confinement.

- (1) No dog shall be kept or confined in a place or condition that is not large enough to provide reasonable freedom of movement to the dog(s) contained therein.
- (2) No dog shall be kept or confined in a place or condition that is an overcrowded habitat, such as, but not limited to, too many dogs in one yard.
- (3) No dog shall be kept or confined in any place or condition where the water, shelter, ventilation, and food are not sufficient for the good health of such dog. Places of confinement shall be maintained in a clean and sanitary condition at all times.
- (4) No dog shall be kept or confined in a place or condition which becomes a nuisance, either because of noise, odor, filth, or contagion of disease.
- (5) No dog shall be kept or confined in a place or condition without adequate drainage. The dog shall be free to walk or lie down without coming into contact with standing water.
- (6) No dog shall be kept or confined outside in extreme weather conditions, for example, a winter weather advisory, heat advisory or storm or tornado warning, without adequate food, water, shelter, ventilation, shade and heating.
- (7) No dog shall be kept or confined in a place or condition that does not prevent the dog from escaping or injuring itself while attempting to escape by digging under the place. Fencing and enclosures shall be of sufficient height to prevent the dog from escaping.

SECTION 9. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-74 to read as follows:

Sec. 6-74. Allowed places of confinement.

Dogs within the city limits and while on the property of their owner, custodian or temporary caretaker, shall be restrained and confined only in the manners authorized in this section, subject to the general conditions of 6-73.

- (1) Within a residence. If the dog is to be confined within a residence, the owner of such dog or the person having possession, charge, custody or control of such dog will be required to make

arrangements for the daily exercise of the dog in accordance with the other provisions of this article.

(2) Within a fenced yard. If the dog is to be confined within a fenced yard, which may include a yard enclosed by electronic fencing, fencing shall provide adequate space for exercise based on a dimension of at least 100 square feet per dog and sufficient height to prevent the dog from escaping from the fenced area.

(3) Within a kennel, run or similar enclosure. If the dog is to be confined within an enclosure, the enclosure shall provide adequate space for exercise based on a dimension of at least 100 square feet per dog, shall be constructed of chain link or similar type materials with all four sides enclosed, shall be of sufficient height to prevent the dog from escaping from such enclosure, and the top of such enclosure shall be covered with materials to provide the dog with shade and protection from the elements.

SECTION 10. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-75 to read as follows:

Sec. 6-75. Tethering prohibited unless certain conditions met.

(1) 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 fixed or 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.

(2) No person shall, at any time, fasten, chain, tether or tie any dog or cause such dog to be fastened, chained or tethered at an unoccupied house, barn or property.

(3) A dog may be tethered as a means of confinement only under the following limited conditions:

(a) on a tethering device provided that it is at least ten feet in length and attached to a pulley, trolley or other moveable device mounted on a cable which is at least ten feet in length and mounted no more than seven feet above ground level; and

(b) on a tethering device which shall weigh no more than $\frac{1}{8}$ of the dog's body weight; and

(c) on a tethering device which shall be attached to the dog in such a manner as to prevent injury or strangulation to the dog and entanglement with other objects; and

(d) on a tethering device which shall not be attached to the dog by means of a pinch-type, prong-type, or choke-type collar or harness, or by means other than a properly fitted collar, harness or other device made expressly for such purpose; and

(e) Dogs tethered or confined under the provisions of this sub-section must be allowed access to fresh water and food sufficient for the good health of such dog. Adequate ventilation

must be provided as well as shelter and shade (artificial or natural) when prevailing weather conditions, including but not limited to, extreme heat and sunlight, extreme cold, rain or other extreme weather so require.

(f) Dogs tethered or confined under the provisions of this sub-section must be tethered so that the dog does not extend beyond the property of the owner, custodian or caretaker onto either public property or property owned by another.

(g) Dogs tethered or confined under the provisions of this sub-section shall not become a nuisance, either because of noise, odor, filth, or contagion of disease.

SECTION 11. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-76 to read as follows:

Sec. 6-76. Confinement of dangerous dogs.

Confinement of dangerous dogs is governed by Sec. 6-102 of this Chapter.

SECTION 12. Chapter 6 - Animals and Fowl - Article IV - Dogs is amended to add Sec. 6-77 to read as follows:

Sec. 6-77. Violations of Article IV. – Dogs.

Violations of Article IV., Dogs., Division 1, Sections 6-66 through 6-76 can be used as a basis for citations or evidence used in the prosecution of simple or aggravated cruelty to domestic dogs under Miss. Code Anno. Sec. 97-41-16 (1972 as amended.)

SECTION 13. This amendatory ordinance has been articulated to be consistent with the constitution and laws of the State of Mississippi. The City Council finds that this amendatory ordinance does not violate any provision of the United States Constitution and laws. In the event that any court of competent jurisdiction finds that any provision of this amendatory ordinance is unconstitutional or invalid, the remainder shall stay in full force and effect.

SECTION 14. All ordinances, resolutions or orders in conflict herewith are repealed, effective thirty (30) days after passage of this amendment.

SECTION 15. This ordinance shall become effective on the thirtieth (30th) day following the adoption hereof. The City Council Clerk shall cause the ordinance to be published one (1) time in a local newspaper with a general circulation.

The foregoing ordinance was proposed in a motion by Council Member _____, seconded by Council Member _____, and after discussion, no council member having called for a reading, was brought to a vote as follows:

Council Member Chad Mims	_____
Council Member Lynn Bryan	_____
Council Member Travis Beard	_____
Council Member Nettie Davis	_____
Council Member Buddy Palmer	_____
Council Member Janet Gaston	_____
Council Member Rosie Jones	_____

Whereupon, the motion having received a majority of affirmative votes, the President of the Council declared that the Ordinance had been passed and adopted on this the 18th day of July, 2023.

CITY OF TUPELO, MISSISSIPPI

BY: _____
TRAVIS BEARD, President

ATTEST:

MISSY SHELTON, Clerk of the Council

APPROVED:

TODD JORDAN, Mayor

DATE: