

DANGEROUS ANIMAL CONTROL ORDINANCE
FOR THE CITY OF
DIAMONDHEAD, MISSISSIPPI

WHEREAS, the Mayor and City Council of the City of Diamondhead, Mississippi, find that a need exists to establish rules and regulations regarding dangerous animals that may be found within the municipal boundaries of the City;

WHEREAS, the Mayor and City Council are authorized to establish said rules and regulations pursuant to Mississippi Code Ann. Section 21-19-1, et seq.;

AND WHEREAS, that authority granted by statute to the Mayor and City Council is for the purpose to secure the general health and welfare of the community,

BE IT, THEREFORE, ORDAINED BY THE MAYOR AND CITY COUNCIL
as follows:

1. SHORT TITLE

This ordinance shall be known and may be cited as the "Dangerous Animal Control Ordinance."

2. DEFINITIONS

A. As used in this Ordinance, the term:

- (1) *Animal control officer* means an individual or individuals selected by the city manager to aid in the administration and enforcement of the provisions of this ordinance.
- (2) *Governing authority* means the governing body or official in which the legislative powers of the city are vested.
- (3) *Dangerous animal* means any animal that, according to the records of the appropriate authorities:
 - (a) Has without provocation inflicted an unprovoked severe injury upon a human being or another domestic animal on public or private property; or
 - (b) Aggressively bites, attacks, or endangers the safety of humans or other domestic animals without provocation after the animal has been classified as a potentially dangerous animal and after the owner has been notified of such classification.
- (4) *Owner* means any natural person or any legal entity, including but not limited to, a corporation, partnership, firm or trust owning, possessing, harboring, keeping, or having custody or control of a dangerous animal or potentially dangerous animal within this municipality.

- (5) *Potentially dangerous animal* means any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or any other domestic animal that when unprovoked or provoked:
 - (a) Inflicts bites upon a human being on public or private property; or
 - (b) Chases or approaches a human being in a vicious or terrorizing manner in an apparent attitude of attack while the victim is: upon the street, sidewalks, any public grounds; an invited guest on the animal owner's property, or the victim's private property.
 - (c) Any dog which is entirely or partially comprised of the following breeds: Pit Bull and Rottweiler.
 - (d) Any dog, regardless of breed may be classified as potentially dangerous by the animal control officer based on actions described in subparagraphs (a) and (b) above.
- (6) *Proper enclosure* means an enclosure for keeping a dangerous animal or potentially dangerous animal while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure located to the rear of the housing structure suitable to prevent entry of young children and designed to prevent the animal from escaping. Any such pen or structure shall have secure sides and a secure top, and, if the animal is enclosed within a fence, all sides of the fence shall be to prevent the animal from jumping over, and the bottom of the fence shall be constructed or secured in such a manner as to prevent the animal's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the animal.
- (7) *Records of an appropriate authority* means records of any state, county, or municipal law enforcement agency; records of any county or municipal animal control agency; records of any county board of health; records of any federal, state, or local court; or records of an animal control officer provided for in this ordinance.
- (8) *Severe injury* means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.
- (9) *Dangerous Animal Sign* means a sign posted at all entrances to areas where dangerous animals are or may be residing.
- B. An animal that inflicts an injury upon a person when the animal is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be considered a dangerous animal or potentially dangerous animal within the meaning of this ordinance.
- C. An animal shall not be a dangerous animal or a potentially dangerous animal within the meaning of this ordinance if the injury inflicted by the animal was sustained by a person or other animal who, at the time, was

committing a willful trespass or other tort or was tormenting, abusing, or assaulting the animal or had in the past been observed or reported to have tormented, abused or assaulted the animal or was committing or attempting to commit a crime.

3. JURISDICTION

The jurisdiction for the enforcement of this ordinance shall be within the boundaries of the City of Diamondhead.

4. APPOINTMENT OF ANIMAL CONTROL OFFICER

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

5. DUTIES OF THE MUNICIPAL COURT

When the municipal court receives a request for a hearing as provided for in this ordinance, it shall schedule such hearing within twenty-one (21) days after receiving the request. The animal control officer or city clerk shall notify the animal owner in writing by certified mail of the date, time and place of the hearing, and such notice shall be mailed to the animal owner at least ten (10) days prior to the date of the hearing. At the hearing, the owner of the animal shall be given the opportunity to testify and present evidence, and in addition thereto, the municipal court shall receive such other evidence and hear such other testimony as the governing authority may find reasonably necessary to make a determination either to sustain, modify, or overrule the animal control officer's classification of the animal as provided for within this ordinance.

Within ten (10) days after the date of the hearing, the municipal court shall notify the animal owner in writing by certified mail of its determination of the matter. If such determination is that the animal is a dangerous animal or a potentially dangerous animal, the notice shall specify the date upon which that determination is effective.

If the animal is determined to be a dangerous animal, the court shall require the posting of Dangerous Animal Sign(s) as specified in paragraph 2. A. (9).

6. DUTIES OF THE ANIMAL CONTROL OFFICER

A. Each animal control officer shall make such investigations and inquiries as may be necessary to identify dangerous animals and dangerous animal owners within the animal control officer's jurisdiction.

B. When an animal control officer classifies an animal as a dangerous animal or reclassifies a potentially dangerous animal as a dangerous animal, the animal control officer shall notify the animal's owner in writing by certified mail to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

Procedures for classification:

(1) As applied to the owners of potentially dangerous animals, the procedure as provided for in this ordinance must be carried out as a

necessary condition for the enforcement of the provisions of this ordinance against such owners.

- (2) When a dangerous animal or a potentially dangerous animal is classified as such, the animal control officer shall notify the animal owners of such classification. Likewise, when an animal is determined to be neglected and/or abused, the animal control officer shall notify the owner of such determination using the provisions of c. below as a guide.
- (3) The notice to the owner shall make the following requirements:
 - (a) The notice shall be in writing and mailed by certified mail to the owner's last known address;
 - (b) The notice shall include a summary of the animal control officer's findings that formed the basis for the animal's classification as a dangerous or potentially dangerous animal;
 - (c) The notice shall be dated and shall state that the owner, within fifteen (15) days after the date shown on the notice, has a right to request a hearing of the animal control officer's determination that the animal is a dangerous animal or potentially dangerous animal;
 - (d) The notice shall state that the hearing, if requested, shall be held before and conducted by the municipal court;
 - (e) The notice shall state that if a hearing is not requested, the animal control officer's determination that the animal is a dangerous animal or a potentially dangerous animal will become effective for all purposes under this ordinance on the date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing;
 - (f) The notice shall include a form to request a hearing before the municipal court.
- (4) When it has been determined that an owner possesses a dangerous or potentially dangerous animal, the animal control officer shall issue a certificate of registration to the owner of such animal, when the owner presents to the animal control officer or the animal control officer otherwise finds sufficient evidence of compliance with the duties prescribed for the owner within this ordinance.
- (5) An animal control officer is authorized to make whatever inquiry is deemed necessary to insure compliance with the provisions of this ordinance.
- (6) The police department shall cooperate with the animal control officer in enforcing the provisions of this ordinance.

7. RESPONSIBILITY OF OWNER OF CLASSIFIED ANIMAL

- A. The owner of an animal which has been classified as a dangerous animal or a potentially dangerous animal shall meet the following requirements:
- (1) A proper enclosure to confine the dangerous animal or potentially dangerous animal shall be provided; and
 - (2) The posting of the premises where the dangerous animal or potentially dangerous animal is located with a clearly visible sign(s) warning that there is a dangerous animal on the property and containing a symbol designed to inform children of the presence of a dangerous animal.
- B. In addition to the requirements set out above, the owner of a dangerous animal shall present to the animal control officer evidence of:
- (1) A policy of insurance in the amount of at least fifty thousand dollars (\$50,000.00), issued by an insurer authorized to transact business in this state, insuring the owner of the dangerous animal against liability for any personal injuries inflicted by the dangerous animal; or
 - (2) A surety bond in the amount of fifty thousand dollars (\$50,000.00) or more, issued by a surety company authorized to transact business in this state, payable to any person or persons injured by the dangerous animal.
- C. The owner of a dangerous animal or potentially dangerous animal shall notify the animal control officer or police department within four (4) hours if the animal is on the loose, is unconfined or has attacked a human; within twenty-four (24) hours if the animal has died, or has been sold or donated. If the animal has been sold or donated, the owner shall also provide the animal control officer with the name, address, and telephone number of the new owner of the animal. If the animal has died, physical evidence or a veterinarian certificate is required.

8. CONFISCATION OF CLASSIFIED ANIMAL

- A. An animal deemed to be a dangerous animal shall be immediately confiscated by the animal control officer or by a law enforcement officer and other person authorized by the animal control officer if:
- (1) The owner of the animal does not secure the liability insurance or bond required by this ordinance, or
 - (2) The animal is not validly registered as required by this ordinance, or
 - (3) The animal is not maintained in a proper enclosure in violation of this ordinance; or
 - (4) The animal is outside a proper enclosure in violation of this ordinance.
- B. A potentially dangerous animal shall be confiscated in the same manner as a dangerous animal if the animal is:
- (1) Not validly registered as required by this ordinance, or
 - (2) Not maintained in a proper enclosure provided by this ordinance; or

- (3) Is outside a proper enclosure in violation of this ordinance.
- C. Any animal that has been confiscated under the provisions of this paragraph shall be returned to its owner after a hearing on the matter is concluded by the municipal court or upon the owner's compliance with the provisions of this ordinance and upon the payment of reasonable confiscation costs, which costs shall be determined by the animal control officer. In the event the owner has not complied with the provisions of this ordinance within fifteen (15) days of the date the animal was confiscated, said animal will be destroyed in an expeditious and humane manner.

9. OFFENSES

It shall be unlawful for an owner to have or possess within this city a dangerous animal or a potentially dangerous animal without authority of the animal control officer issued in accordance with the provisions of this ordinance.

10. VIOLATIONS; PENALTIES

- A. The owner of a dangerous animal who violates the applicable provisions of this ordinance, or whose dangerous animal is subject to confiscation under this ordinance, shall be guilty of a misdemeanor and fined two hundred and fifty dollars (\$250.00) for a first offense. In addition to any confinement that might be imposed for a conviction under this subparagraph, for the second conviction a fine of not less than five hundred dollars (\$500.00) shall be imposed, and for a third or subsequent conviction a fine of not less than one thousand (\$1000.00) shall be imposed.
- B. The owner of a potentially dangerous animal who violates the applicable provisions of this ordinance, or whose potentially dangerous animal is subject to confiscation under this ordinance, shall be guilty of a misdemeanor and fined two hundred and fifty dollars (\$250.00) for a first offense. In addition to any confinement that might be imposed for a conviction under this subparagraph, for the second conviction a fine of not less than five hundred dollars (\$500.00) shall be imposed, and for a third or subsequent conviction a fine of not less than one thousand (\$1000.00) shall be imposed.

11. PARTICIPATION BY LOCAL MUNICIPALITIES AND COUNTIES

Nothing contained in this article shall prevent the governing authority of the city from contracting with other local municipalities or counties to establish joint animal control boards, and/or joint animal control officers.

12. FEES

The governing authority of the city may establish an annual fee to register dangerous animals and potentially dangerous animals as required by this article.

Because the City of Diamondhead is a newly-incorporated municipality in urgent need of a dangerous animal ordinance, immediate passage and effect of this Ordinance is

needed for the immediate and temporary preservation of the public peace and safety in accordance with Miss. Code Ann. § 21-13-11 (Rev. 2007). Thus, this Ordinance moved for adoption by Councilmember Belcomb and seconded by Councilmember Knobloch is adopted by unanimous vote of all members of the City Council of the City of Diamondhead and is effective from and after its passage by a unanimous vote of all members of the City Council. In accordance with Miss. Code Ann. § 21-13-11 (Rev. 2007), this Ordinance shall become effective immediately upon the adoption thereof, and prior to being recorded and published in the ordinance book in the same manner as required by state law of other ordinances.

	Aye	Nay
Mayor Ingraham	<u>✓</u>	_____
Councilmember Ackerman	<u>✓</u>	_____
Councilmember Holcomb	<u>✓</u>	_____
Councilmember Knobloch	<u>✓</u>	_____
Councilmember Rech	<u>✓</u>	_____
Councilmember Roberson	<u>✓</u>	_____

APPROVED: *Charlotte Ingram*
MAYOR

ATTEST *Ane W. Foster*
CITY CLERK

SEAL

THIS IS TO CERTIFY that the aforementioned Ordinance was adopted at the regular meeting of the Mayor and City Council of the City of Diamondhead, Mississippi, held on October 18, 2012, and duly recorded in Minute Book _____ Page _____ thereof.

Ane W. Foster
CITY CLERK