

ANIMAL RESPONSIBILITY AND ANIMAL CRUELTY ORDINANCE

WHEREAS, The City of Waveland has deemed it to be in the best interest of its citizenry to create an Ordinance for animal responsibility and animal cruelty for the protection of the health, safety and welfare of the citizens of the City of Waveland, and all of the animals thereof.

NOW THEREFORE, The City of Waveland, by and through the Mayor and Board of Aldermen, hereby adopt this "ANIMAL RESPONSIBILITY AND ANIMAL CRUELTY ORDINANCE".

1. **TITLE:** This ordinance shall be known and may be cited as the "*ANIMAL RESPONSIBILITY AND ANIMAL CRUELTY ORDINANCE*".
2. **JURISDICTION.** The Waveland Municipal Court is vested with jurisdiction in the enforcement of the provisions of this Ordinance and any applicable state laws.
3. **DEFINITIONS:**
  - A. As used in this Ordinance:
    - (1) "*Animal*" means any live, vertebrate creature, domestic or wild, except homo sapiens.
    - (2) "*Animal control division*" means any person designated by the City to enforce the provisions of this Ordinance.
    - (3) "*Animal Shelter*" means any facility operated by a humane society, the City, or the county for the purpose of impounding or caring for animals held under the authority of this Ordinance or state law.
    - (4) "*At Large*" means any animal not under restraint.
    - (5) "*Boarding Kennel*" means any commercial establishment where any dogs, cats, or other animals are boarded for a fee.
    - (6) "*Proper Enclosure for a Dangerous Dog*" means a securely enclosed and locked pen or structure, suitable to prevent the entry of small children, and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide proper shelter. Secure

confinement inside the residence will qualify as a proper enclosure.

- (7) “*Feral cat*” means a cat that has escaped from domestication and becomes wild, dangerous, or untamed.
- (8) “*Feral dog*” means a dog that has escaped from domestication and becomes wild, dangerous, or untamed.
- (9) “*For-profit pet breeder*” means any owner who breeds more than two litters of offspring per year and receives monetary compensation for the sale of these offspring.
- (10) “*Grooming establishment*” means any commercial establishment at which dogs, cats or other animals are bathed, groomed, clipped, trimmed, or shorn, and where no animals are kept or maintained on the premises overnight.
- (11) “*Owner*” means any person owning, keeping or harboring an animal.
- (12) “*Performing animal exhibition*” means any spectacle, display, act or event, other than a circus, in which performing animals are used.
- (13) “*Pet*” means any animal kept for pleasure rather than utility.
- (14) “*Pet store*” means any place of business which sells birds, fish, reptiles or mammals intended for use as pets.
- (15) “*Public nuisance*” means any animal which:
  - (a) damages property of one other than its owner;
  - (b) barks, whines, screams or howls in an excessive, continuous, or untimely fashion;
  - (c) defecates or frequently urinates on property of one other than its owner; or,
  - (d) exists on property of owner where owner has failed to sanitize or care for the grounds, kennel, or home, by proper disposal of feces and which causes a noxious odor or health hazard to animal or human.
- (16) “*Restrain*” means the condition of securing any animal by leash or lead eight feet or less within the fenced real property limits of its owner; or by tethering in such a way that the animal is within the real property limits of its owner.
- (17) “*Veterinary hospital*” means any establishment maintained and operated by

a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

- (18) “*Vicious animal*” means any animal, except dogs, that constitutes a physical threat to human beings or other animals.
- (19) “*Vicious dog*” means a dog:
- (a) which has shown a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
  - (b) which, when unprovoked:
    - (i) bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property; or,
    - (ii) chases or approaches a person upon the streets, sidewalks or on any public grounds in a menacing or terrorizing manner or apparent attitude of attack.
  - (c) which is owned or harbored primarily, or in part, for the purpose of dogfighting, or any dog trained for dog fighting. Notwithstanding the provisions of this definition, no dog may be considered a vicious dog if any injury or damage is sustained by a person who, at the time of such injury or damage, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime. No dog may be considered vicious if an injury or damage was sustained by a domestic animal which, at the time of such injury or damage, was teasing, tormenting, abusing or assaulting the dog. No dog may be considered vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- (20) “*Wild animal*” means any animal which can normally be found in the wild state and is not ordinarily domesticated by man, whether raised in captivity or in the wild.

(21) ***“Sanitary Shelter”*** means a space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include a condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(22) ***“Shelter”*** means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter for livestock includes structures or natural features such as trees or topography. Shelter for a dog shall include one or more of the following:

- (i) the residence of the dog’s owner;
- (ii) a doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall be in a shade during the months of April through October and shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing;
- (iii) a structure, including, but not limited to, a garage, barn, or shed that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under this Ordinance that accessible to the dog.

(23) ***“State of Good Health”*** means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

**4 RESPONSIBILITY OF OWNER:**

A. No owner shall fail to:

- (1) exercise proper care and control of his animals;
- (2) prevent them from becoming a public nuisance as defined herein, or private nuisance; or,

(3) comply with the standards set out next in this section and all other provisions of this Ordinance.

- B. It shall be unlawful for animal pens or enclosures where animals are kept to be in an unclean, filthy, or unsanitary condition. All animal pens or enclosures and other places where dogs, cats or other animals are kept shall be kept clean by removal of all offensive matter and by suitable cleansing and disinfecting daily, which care is hereby required and made the duty of every person controlling such place. Lots, stalls and stables for cattle, sheep, goats, horses and similar animals shall comply with this Ordinance.
- C. The owner of every animal including, but not limited to, cats and dogs, shall remove any fecal matter deposited by such animals on public property, walks, streets, or private property of another. It shall be unlawful for the owner of any real property to allow unsanitary or malodorous conditions to develop on his property due to the keeping, maintaining, owning, or harboring of animals. Reasonable efforts shall be made to keep yards, pens, premises and animals free of insect and flea infestation.
- D. Animal pens or enclosures shall be large enough to provide reasonable freedom of movement to the animals contained therein. Food supplies shall be stored in rodent-proof containers. Food and water containers shall be kept clean, and litter and bedding materials shall be changed as often as necessary to prevent an odor nuisance. Feces shall be removed daily from yards, pens, and enclosures. The owner shall conduct his ownership and control of the animal in a manner so as not to cause or give rise to a nuisance.
- E. No owner of an animal shall abandon it or fail to provide appropriate veterinary treatment, if ill.
- F. No owner shall fail to provide his animal(s) with proper shelter and protection from the weather.
- G. 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.

**5 KEEPING OF ANIMALS WITHIN CITY LIMITS.**

- A. It shall be unlawful for any person to keep or maintain chickens, ducks, geese, turkeys, or other domestic fowl of any kind, or sheep, cattle, mules, goats, horses or other similar animal, within one hundred (100) feet of any building or structure used as a residence by another. The provisions of this subsection shall not apply to cats and dogs.
- B. It shall be unlawful for any person to keep hogs and pigs within the city, provided that this section shall not apply to sanctioned city or county events for the duration of such event.
- C. No person shall leave or throw into any stream or river, or any other body of water, nor offensively expose the body, or any part thereof, of any dead animal, nor shall the same be kept where it may be dangerous to the life or detrimental to the health of any person. The animal control division shall be promptly notified of the existence of any such dead animal and where it is to be found so that it may be removed and disposed of in a sanitary manner.
- D. It shall be unlawful for any person who is not licensed as provided for in this Ordinance to keep more than **five (5) dogs or five (5) cats**.

**6 PET STORES, BOARDING KENNELS, GROOMING ESTABLISHMENTS, AND FOR-PROFIT PET BREEDERS.**

- A. The City of Waveland shall issue a license to pet stores, boarding kennels, grooming establishments, and for-profit pet breeders upon submission of a completed application, payment of a fee of \$10.00, and inspection of the premises by the animal control supervisor, or their agent, to ensure all conditions set forth in subsection (B) of this section are being met. The license shall expire one (1) year from the date of issuance, unless earlier revoked for cause. Such license shall not be transferable.
- B. Upon application for issuance or renewal of a license, an inspection shall be made of the premises to determine compliance with the following provisions:
  - (1) Any building on the premises shall be in good repair, structurally sound, shall

not leak, and shall be easy to clean and sanitize. Drains must rapidly eliminate excess water on the floor. There must be adequate heat, cooling, ventilation and lighting.

- (2) Cages must allow the animals enough room to stand easily, turn about freely, and sit and lie in a normal position. Cages must be kept clean and in a good state of repair.
  - (3) All animals must be maintained in a healthy condition, or, if ill, shall promptly be given appropriate veterinary treatment.
  - (4) Animal and food waste and bedding must be removed as often as necessary to prevent an odor nuisance.
  - (5) Food supplies shall be stored in rodent-proof containers. Food and water containers must be kept clean and sanitary.
  - (6) Premises and animals shall be kept reasonably free of insect infestation.
  - (7) No nuisance caused by odor or noise shall be permitted.
- C. Periodic unannounced inspections by the animal control division shall be conducted.
- D. Any pet store, boarding kennel, grooming establishment or for-profit pet breeder that is currently lawfully operating within the City at the time this chapter is enacted shall be given a license for the first year without having to meet the conditions set forth in this section. However, before any license is renewed after the first year, the owner of any such establishment must first meet the conditions of subsection (B) of this section. If the owner of any establishment that is currently operating changes its location or ownership the first year, the owner must apply for a new license and comply with all the requirements established in subsection (B) of this section. Charges may be filed for any violation of the provisions of this section. Each violation will be deemed a separate offense. The City of Waveland may revoke a license for serious or repeated non-compliance with the provisions of this section. Appeal of a license revocation, may be made in writing to the Mayor and Board of Aldermen within five (5) business days, and the revocation shall be stayed pending action by the Mayor and Board of Aldermen. The fee for such appeal shall be \$200.00.

7. **CRUELTY TO ANIMALS.** The purpose of this section is to prevent cruelty to animals. In implementing this section, enforcement officers are encouraged to educate the public on requirements of this Section and, when appropriate, seek voluntary resolution of violations.

A. A person commits the crime of aggravated cruelty to animals if the person:

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner. This subsection will not apply in the event the person feared for his life or the life of another person. Furthermore, this section will not apply in the event the animal was attacking livestock;
- (2) administers poison to, exposes a poison with intent that it be taken, cruelly beats, mutilates, including, but not limited to, the docking of tails or cropping of ears by other than a licensed veterinarian, or tortures an animal;
- (3) owns, possesses, uses, trains, buys, sells, offers to buy or sell, import, or export an animal for fighting or baiting or as a target to be shot at as a test of skill in marksmanship;
- (4) acts as a judge, participant or spectator at events of animal fighting or bets or wagers on the fight;
- (5) permit any such acts of fighting to be done on premises under his or her care or control;
- (6) intentionally torments, injures, or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
- (7) intentionally torments, injures, or harasses a guide or leader dog.

B. A person commits the crime of simple cruelty to animals if the person:

- (1) fails to provide adequate sanitary shelter and conditions, clean water, sufficient food, exercise, and necessary medical attention in order to maintain an animal in a state of good health;
- (2) abandons an animal or causes an animal to be abandoned in any place, without making provisions for the animal's adequate care, unless premises



are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal. A person is not deemed to have abandoned an animal if he processes it into an animal shelter during the shelter's normal working hours;

- (3) willfully or negligently allows any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or non-ambulatory to suffer unnecessary neglect, torture, or pain;
- (4) uses a live animal as bait or lure in a race, game or contest;
- (5) strikes an animal with a motor vehicle and makes no attempt upon reaching a telephone to notify an animal control officer of the accident;
- (6) tethers a dog to a stationary object while the 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, in a manner that:
  - (a) the range of movement of the dog on the tether is less than one hundred (100) square feet;
  - (b) the tether is subject to entanglement thereby reducing the movement of the dog to less than one hundred (100) square feet;
  - (c) the tether weighs more than ten percent (10%) of the weight of the dog;
  - (d) the tether is attached to a choke-type collar.
- (7) tethers a dog at an unoccupied house, barn or property;
- (8) leaves an animal unattended in a motor vehicle, when such action is harmful or potentially harmful to said animal. In the event the owner of said vehicle is not available and cannot be found or refuses to prevent said harm or reasonably potential harm from continuing, the animal control officer, police, sheriff's deputy, or State Highway Patrolman shall be authorized to remove said animal from such vehicle by utilizing any reasonable method of removal.

Any animal so removed from a vehicle may be impounded at the animal shelter once notice has been placed on said vehicle. Owners of animals so impounded will pay all costs of impoundment before their animal(s) will be released;

- (9) intentionally or negligently leaves the animal or animals unattended and allows animals to exist and live in its own feces without any attempts to clean or sanitize the animal living area or human health and safety. Failure to sanitize within forty-eight (48) hours shall be prima facia proof of violation of this Ordinance.

**8. SEIZURE AND DISPOSITION OF ANIMALS CRUELLY TREATED.**

- A. The Municipal Court for the City of Waveland may order the seizure of an animal by a law enforcement agency, for its care and protection, upon finding of probably cause to believe said animal is being cruelly treated, neglected or abandoned. After three (3) days' notice to the owner or custodian and at a preliminary hearing, such probable cause may be established upon sworn testimony of any person who has witnessed the condition or treatment of said animal. The Municipal Court may appoint an animal control agency, agent of an animal protection organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall be signed by the Municipal Court Judge issuing the order;
- B. Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the Municipal Court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of

the animal. The Municipal Court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the Municipal Court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days from the date of the request to post a bond or security with the Municipal Court clerk, in an amount determined by the Municipal Court, to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the Municipal Court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the Municipal Court, unless the Municipal Court orders otherwise;

B. In determining the owner's fitness to have custody of an animal, the Municipal Court may consider, among other matters:

- (1) testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition and treatment of the animal;
- (2) testimony and evidence as to the type and amount of care provided to the animal by the owner or custodian;
- (3) expert testimony as to the proper and reasonable care of the same type of animal;
- (4) testimony from any witness as to prior treatment or condition of this or other animals in the same custody;
- (5) violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing; or,
- (6) any other evidence the Municipal Court considers to be material or relevant.

D. Upon proof of costs incurred as a result of the animal's seizure, including but not limited to animal medical and boarding, the Municipal Court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal;

- E. If the Municipal Court finds the owner of the animal is unable or unfit to adequately provide for the animal, or the animal is severely injured, diseased, or suffering, and therefore, not likely to recover, the Municipal Court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization, or to the appropriate entity to be euthanized, sold or put up for adoption;
- F. Upon notice and hearing as provided in this Section, or as a part of any proceeding conducted under the terms of this Section, the Municipal Court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of any other animals in the future;
- G. If the Municipal Court determines the owner is able to provide adequately for, and have custody of the animal, the Municipal Court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order;
- H. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive or is suffering excessively as the result of any physical condition. In such instances, the Municipal Court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

**9 SEARCH WARRANTS; ANIMAL CRUELTY OFFENSES.** If a complaint is made, by affidavit, to any Municipal Court authorized to issue search warrants, that the complainant has reason to believe that an animal has been or is being cruelly treated in violation of this Ordinance, in any building or place, such Municipal Court, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer, authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found in violation of this Ordinance. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This Section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of arrest.

**10 CONTROL OF ANIMALS.**

- A. It shall be unlawful for any person to permit any animal to run at large within the city

limits.

- (1) An animal is deemed to be running at large when it is on a street or public property unless the animal is under the control, custody, charge or possession of the owner or custodian of said animal.
  - (2) An animal is deemed to be running at large if it enters upon the property of someone other than the animal's owner without the permission of the owner of that property.
  - (3) A dog that is participating in a hunt with the owner or custodian in attendance, has an owner identification tag, is currently vaccinated for rabies, and is wearing a rabies tag is not to be considered as an animal running at large.
- B. An animal control officer may seize or cause to have seized any animal whose owner is found to be in violation of Subsection (A) of this Section and impound or cause to have impounded such animal in a designated animal shelter. The owner of such animal will have a period of five (5) days (holding period) from the date that the animal was impounded to claim his animal from the shelter. If the animal is not reclaimed by the owner by the end of the holding period, the animal may be humanely disposed of by sale, adoption, or euthanasia.
- C. Before the animal will be released to the owner, all citations will be paid to the City and impoundment costs including, but not limited to, veterinarian care, housing and feeding, will be paid to the animal shelter.
- D. Proof of current rabies vaccination is required before any animal will be released. If no proof of current rabies vaccination is produced, the owner may request that the animal shelter vaccinate the animal at a cost determined by the shelter, or may leave a reasonable deposit determined by the shelter, with the shelter, which will be refunded upon proof of current rabies vaccination produced to the shelter.
- E. The penalties for an animal running at large are:
- (1) First offense, rabies tag on the animal - \$25.00;
  - (2) Subsequent offenses, rabies tag on the animal - \$50.00;
  - (3) First offense, no rabies tag on the animal - \$75.00;

(4) Subsequent offenses, no rabies tag on the animal - \$100.00.

F. These penalties may be charged in addition to the penalties and costs as outlined in other Sections of this Ordinance.

G. All penalties for animals running at large as outlined in Subsection (E) of this Section will be waived if the owner chooses to spay or neuter the animal at a reduced charge, paid by the owner, at the animal shelter. If the animal has been previously spayed or neutered, with proof produced by the owner, the penalty for an animal running at large may be reduced by fifty percent (50%).

**11 RABIES VACCINATION OF ANIMALS.**

A. Each year every owner or keeper of a dog or a cat three (3) months of age or older, shall cause such dog or cat to be vaccinated against rabies by a veterinarian licensed to practice in the state, or by a competent person granted a permit to administer the vaccine by the State Board of Health;

B. It is the purpose of this Section, to provide for rabies vaccinations as set forth in *Mississippi Code Annotated*, Section 41-53-1, et seq. The dog or cat, at three (3) months of age or older, shall be vaccinated against rabies. One (1) year later, the dog or cat shall again be vaccinated. Thereafter, in lieu of a yearly vaccination, the dog or cat may be vaccinated with a serum which lasts three (3) years. Vaccinations of dogs or cats so vaccinated shall thereafter be required every three (3) years.

C. Evidence of vaccination shall consist of a metal tag worn by the dog or cat at all times that the animal is outside the owner's residence. A certificate evidencing vaccination must be maintained by the owner and be shown to any animal control officer upon request;

D. The failure or refusal of any person to comply with the provisions of this Section shall constitute a misdemeanor, and the offender shall on the conviction thereof, be fined for the first offense a sum not to exceed \$50.00, and for the second offense a sum not to exceed \$100.00, and for the third offense a sum not to exceed \$200.00, together with all costs. The penalties of this Section may be levied in addition to the penalties of other Sections of this Ordinance.

**12. HUMANE EUTHANASIA.** The purpose of this section is to provide a swift and merciful

means whereby animals which are suffering from an incurable or untreatable condition or are imminently near death from injury or disease or are deemed unadoptable by two (2) qualified staff members of the Animal Shelter may be destroyed without unconscionable delay and in a humane and proficient manner.

- A. Whenever any animal is so injured or diseased as to appear useless and is suffering, and it reasonably appears to a veterinarian, or an agent of the Animal Shelter that such animal is imminently near death, or cannot be cured or rendered fit for service, and every reasonable attempt, although unsuccessful, has been made to locate the owner, the owner's agent or veterinarian, then that animal may immediately be euthanized by using the most humane means available. When possible, the veterinarian or two (2) members of the Animal Shelter should sign an order to euthanize said animal.
- B. Notwithstanding any other provisions of this section, any animal control officer or any trained staff member of the Animal Shelter, or any officer of the Sheriff's Department, Waveland Police Department, or Mississippi Highway Patrol, may, with the approval of his or her immediate superior, humanely euthanize any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.
- C. No animal control officer, veterinarian, or agent of the Animal Shelter, while acting in good faith and with due care pursuant to this Section, will be liable either criminally or civilly for such act, nor will any civil or criminal liability attach to the employer of the animal control officer, veterinarian, or agent of the Animal Shelter.
- D. Sodium pentobarbital, sodium pentobarbital with lidocaine, a sodium pentobarbital derivative, or other agent the Board of Veterinary Medicine may approve by rule shall be the only methods used for euthanasia of dogs and cats by public or private agencies, animal shelters, or other facilities which are operated for the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference;
  - (1) intravenous injection by hypodermic needle;

- (2) intraperitoneal injection by hypodermic needle;
- (3) intracardial injection by hypodermic needle.
- E. A dog or cat may be tranquilized with an approved and humane substance before euthanasia is performed.
- F. Succinylcholine chloride, curare, curariform mixtures, any substance which acts as a neuromuscular blocking agent, or a chamber which causes a change in body oxygen may not be used on a dog or cat for any purpose.
- G. Euthanasia may be performed only by a licensed veterinarian or an employee or agent of a public or private agency, animal shelter or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals, provided the employee or agent has successfully completed a sixteen (16) hour euthanasia technician certification course.

**13. AFFIRMATIVE DEFENSE.**

- A. An affirmative defense to prosecution under this Ordinance may be raised when:
  - (1) the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area;
  - (2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;
  - (3) the defendant was a person appropriately licensed to utilize pesticides;
  - (4) the defendant humanely euthanized any animal as a veterinarian or a representative of a duly organized humane society or animal shelter;
  - (5) a state agency was implementing a rabies control program; or,
  - (6) the defendant acted under the authority of Section 97-41-3 of the Mississippi Code of 1972.

**14. PENALTIES.**

- A. A conviction of aggravated cruelty to animals shall be punishable upon conviction as provided by Mississippi Code of 1972, Section 97-41-1, et seq.
- B. A conviction of simple cruelty to animals, or any unlawful activity shall be punishable by a sentence of imprisonment of not more than sixty (60) days, or a fine of not more than \$500.00, or both.



- C. Any person who shall violate any provisions of this Ordinance, or fails to comply with any of the requirements thereof, shall be guilty of a misdemeanor, punishable by up to sixty (60) ~~days~~ imprisonment, or a \$500.00 fine, or both.
- D. In addition to any other sentence the Municipal Court may impose, the Municipal Court may require a defendant convicted of a violation under this Ordinance to:
- (1) forfeit any right to the animal subjected to cruelty;
  - (2) repay the reasonable costs incurred by any person, municipality, or agency, for providing care for the animal prior to judgment. If the Municipal Court does not order a defendant to pay all the applicable costs incurred or orders only a partial payment, it shall state on the record the reasons for that action.
  - (3) forfeit any right to own, possess, or care for any animal for a period which the Municipal Court deems appropriate;
  - (4) participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling;
  - (5) permit periodic unannounced visits for a period of up to two (2) years by an investigating agent specified in this Ordinance;
  - (6) restore property and comply with the provisions of health, safety and international building code, City of Waveland Building Code and Ordinances, and subject to the provisions of Section 21-19-11, Mississippi Code of 1972, Annotated.
- E. Upon an order of forfeiture of an animal under this or another Section of this Ordinance, the Municipal Court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the Municipal Court, for the further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity to whom rights are granted to dispose of the animal in a humane manner as set out in this Ordinance.

15. **SUPPLEMENTARY NATURE OF ORDINANCE.** The provisions of this Ordinance are in addition to and supplementary of any previously existing ordinance of this City, or law of

this state, and shall not be construed to repeal or supersede such previously existing ordinances or laws. The provisions of this amendment shall not be construed to repeal or supersede any previously existing ordinances, except to the extent that such previously existing ordinance is in conflict or is inconsistent with provisions of this Ordinance.

16. **REPEAL OF INCONSISTENT ORDINANCES.** Any ordinances or provisions of any code of the City of Waveland, which are in conflict with or contrary to the provisions of this Ordinance are, to the extent of such conflict, repealed.
17. **SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof, be held by any Court of competent jurisdiction to be invalid or unconstitutional, such holding shall not affect the remaining portions of this Ordinance.
18. **EFFECTIVE DATE.** In order to provide for the health and safety of the public, this Ordinance shall take effect and be in force thirty (30) days from the after its adoption. Further, it shall be published and spread upon the official minutes of the City of Waveland in the manner provided by law.

The above and foregoing Ordinance was introduced in writing by **Alderman THOMAS**, who moved its adoption. **Alderman SCHMITT** seconded the motion to adopt the Ordinance, and after discussion, and the question being put to a roll call vote, the result was as follows:

<b>Alderman THOMAS</b>	<b>voted Aye</b>
<b>Alderman GEOFFREY</b>	<b>voted Aye</b>
<b>Alderman SCHMITT</b>	<b>voted Aye</b>
<b>Alderman SAUCIER</b>	<b>voted Aye</b>


The question having received the affirmative vote of the majority of all the Aldermen present and voting, the motion carried and the Ordinance was adopted on this the 5 day of April, 2005.

CITY OF WAVELAND

BY: 

John Thomas Longo, Jr., Mayor

ATTEST:

  
Lisa Planchard, City Clerk

ORDINANCE # 324

**AN ORDINANCE AMENDING AND REPLACING ORDINANCE #230  
PROVIDING FOR EXTENDED USE SPACE AVAILABILITY IN MUNICIPAL  
BUILDINGS**

**BE IT ORDAINED** by the Board of Mayor and Aldermen of the City of Waveland, as follows:

**WHEREAS**, the Board of Mayor and Aldermen adopted Ordinance #230 regulating extended use space availability in municipal buildings and,

**WHEREAS**, that Ordinance did not provide for broad usage of agencies, businesses, groups for which the Board intends, therefore

**BE IT ORDAINED** by the Board of Mayor and Aldermen for the City of Waveland, Mississippi, and it is hereby ordained by said Board as follows:

**WHEREAS**, Extended Use shall be defined as occupancy for more than two (2) consecutive days.

**WHEREAS**, the Board of Mayor and Aldermen shall declare what facilities are available for Extended Use. Those facilities shall be advertised in the local newspaper along with instructions to pick up application from the City Clerk; and upon completion, application shall be returned by the end of the month to the City Clerk. At the next regular meeting of the Board of Mayor and Aldermen shall review all applications and award Extended Use pursuant to MS. Code Section 21-17-1 et seq.

**WHEREAS**, if the Board determines the facility is needed for municipal or public purposes, the Board may terminate the Extended Use agreement by giving thirty (30) days notice or as provided in the lease agreement.

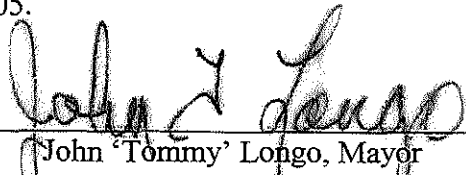
**WHEREAS** any individual, organization, agency, or legal entity, which for profit or non-profit, engaged in lawful activity, may apply by filling out the 'Extended Facility Use Request Form' obtainable from the City Clerk and submitting said form by deadline date.

Alderman Schmitt moved, seconded by Alderman Thomas to adopt the above and foregoing Ordinance, and upon a roll call vote, the results were as follows:

Those voting Yea: Thomas, Geoffrey, Schmitt, and Saucier  
Those voting Nay: None

It was therefore declared that said ordinance be, and the same is, hereby adopted as the Extended Use Facility Ordinance and that said Ordinance shall take effect and be in force the 31st day following it's advertisement in it's entirety in the local newspaper.

So ordered this, the 6<sup>th</sup> day of July 2005.

  
\_\_\_\_\_  
John 'Tommy' Longo, Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Planchard, City Secretary