

IN THE COUNTY COMMISSION OF TANEY COUNTY, MISSOURI

AN ORDINANCE TO REGULATE VICIOUS DOGS, STRAY DOGS AND DOGS AT LARGE, TO ENHANCE THE PUBLIC HEALTH AND PREVENT INFECTIOUS, CONTAGIOUS, COMMUNICABLE OR DANGEROUS DISEASES WITHIN THE COUNTY

**WHEREAS**, vicious dogs, stray dogs, and dogs at large endanger the public health and pose a risk of infectious, contagious, communicable or dangerous diseases within the County; and,

**WHEREAS**, Section 192.300 of the Revised Statutes of Missouri permits the County Commission to make and promulgate ordinances as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable, or dangerous diseases into the County; and,

**WHEREAS**, Section 192.300 of the Revised Statutes of Missouri provides that the County Commission may establish reasonable fees to pay for any costs incurred in carrying out the ordinance.

**NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:**

1. **Definitions.** For the purposes of this Ordinance, the following terms shall have the following meanings:

a. **Vicious dog.** Any dog of any breed which without provocation or command bites or injures a human being or exhibits a pattern of behavior of biting or attacking human beings, or which habitually attacks other dogs, cats or animals.

b. **Stray Dog.** A dog of any breed or mixture of breeds found off or outside of the real property owned or possessed by its owner.

c. **Dog at Large.** A dog of any breed or mixture of breeds found off or outside of the real property owned or possessed by its owner.

d. **Designated Person.** Any person designated by the Taney County Commission to implement or enforce this Ordinance.

e. **Impound.** A place for keeping or confining dogs taken up pursuant to this Ordinance.

f. **Impounded Dog.** A dog taken up or impounded pursuant to this Ordinance.

2. After complaint is made to the Taney County Commission or to any Designated Person, any Vicious Dog, Stray Dog, or Dog at Large may be taken up and impounded by any Designated Person.

3. Any Designated Person taking up or impounding a dog pursuant to this Ordinance shall immediately notify the office of the Taney County Commission of the following information:

- a. the date, time and place such dog was taken up;
- b. a description of said dog;
- c. the owner's name, address, and telephone number, if known; and
- d. the place where said dog is impounded.

4. Any Designated Person that takes up or impounds a dog pursuant to this Ordinance shall make a diligent inquiry as to the identity of the dog's owner.

5. If any dog is found with identification, or if a Designated Person determines the identity of the owner, the Designated Person shall make reasonable efforts to notify the owner that the dog has been taken up and impounded, and of the location of the Impound where such dog was taken.

6. Impounded Dogs shall be kept for a period of at least seven days in a suitable place designated by the Taney County Commission or the Designated Person. Such suitable places may include, but are not limited to animal shelters owned, operated or maintained by:

- a. Taney County; or
- b. any person or entity designated by the Taney County Commission;
- c. or by any city or village; or
- d. by a humane society, animal welfare society, society for the prevention of cruelty to animals, or other not for profit organization devoted to the welfare, protection and humane treatment of animals.

7. The owner of an Impounded Dog shall be responsible to pay the charges imposed by the Taney County Commission for taking up, transporting, keeping and caring for an Impounded Dog.

8. An Impounded Dog may be redeemed by its owner as follows:

- a. On the first occasion that a dog is impounded pursuant to this ordinance, the owner may redeem it by paying the usual and ordinary charges imposed by the animal shelter for taking up, transporting, keeping and caring for such dog.
- b. On the second occasion that a Stray Dog or Dog at Large is impounded pursuant to this ordinance, the owner of an impounded Dog may redeem it by paying the usual and ordinary charges imposed by the animal shelter for taking up, transporting, keeping and caring

for such dog, plus a penalty of fifty dollars.

c. On the third or subsequent occasion that a Stray Dog or Dog at Large is impounded pursuant to this ordinance, the Taney County Commission and/or its Designated Person may in his or her discretion determine that the owner of an impounded Dog may redeem it by paying the usual and ordinary charges imposed by the animal shelter for taking up, transporting, keeping and caring for such dog, plus a penalty of seventy-five dollars.

9. After being impounded for seven days, an Impounded Dog that has not been redeemed may be put up for adoption or put to death by a humane method.

10. On any occasion that a Vicious Dog is impounded pursuant to this Ordinance, the Taney County Commission may apply to the Circuit Court or to the Associate Division of the Circuit Court in a civil proceeding, in a quasi criminal proceeding, or in a criminal proceeding, for a determination that the dog is vicious as defined in this Ordinance, and for an order that said dog be put to death by a humane method. However, the Taney County Commission may in its discretion release a dog adjudged vicious to its owner upon payment of the costs set forth in paragraph 8(a) above, and upon proof of compliance with the conditions set forth in paragraph 11 below.

11. No person shall own, keep, harbor or allow to be in or upon his premises any dog of a cross, dangerous, vicious, or ferocious disposition, or which habitually snaps at or bites or manifests a disposition to bite or attack persons or animals or pets, unless such dog is securely confined upon such premises; the following will apply:

a. All dogs described in paragraph 11 and 12 shall be securely confined indoors or in a securely enclosed and locked kennel. The kennel shall be of a size appropriate to the size of the dog kept therein and shall provided adequate ventilation, shade from the sun and protection from the elements. In the event of a dispute over the appropriate size, the guidelines of the USDA (APHIS 9 CFR) shall apply. The kennel must have secure sides at sufficient height and a secure top attached to the sides to prevent escape. Such kennel must have a secure bottom or floor attached to the sides of the kennel, or the sides of the kennel must be embedded in the ground no less than two (2) feet. The kennel must be locked with a key or combination lock when such animals are within the structure. Any such kennel must be located at least ten (10) feet from any property line and must comply with all zoning and building regulations of the county;

b. When confined indoors, no such dog may be kept on a porch, patio or in any part of a house, building or structure that would allow the dog to exit such building of its own volition. No such dog may be kept in a house, building or structure when the windows or screen doors are not sufficient to prevent the dog from exiting the structure;

c. No person shall permit a dog as described in subsection (a) of this section to go outside its kennel or secure structure unless that person has the dog securely leashed on a leash no longer than four (4) feet in length and that person has physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, etc. Additionally, all such dogs on a leash outside the animal's kennel or a secure structure must

be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals;

d. As directed by the animal control officer, a sign or signs shall be conspicuously posted upon the kennel of such dogs with letters at least two (2) inches high containing the following: "Beware of Dangerous Dog."

e. All owners, keepers or harborers of any dog as described in subsection (a) of this section must present to the animal control officer proof of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the animal control officer.

f. Upon conviction of any person of a violation of this section, the circuit court judge may, in addition to the usual judgment upon conviction, order the animal control officer to forthwith take up and put to death such dog.

g. Any person who violates any requirement or provision of these regulations shall be deemed guilty of a misdemeanor and shall be punished as provided in Section 192.300, RSMo., including but not limited to imposition of civil fines up to \$1,000.00 for violations of these regulations and/or incarceration in the County Jail for up to 180 days. The penal remedy provided herein shall not be exclusive and the County may seek and obtain in their own name any other judicial relief provided for in equity or at law, including, but not limited to declaratory and injunctive relief as may be appropriate under the circumstances.

12. On the second or subsequent occasion that a Vicious Dog is impounded pursuant to this Ordinance, the dog may be put to death by a humane method.

13. Notwithstanding any other provision of this Ordinance, any dog suspected of being contaminated with the rabies virus shall be kept in isolation for observation for at least ten days.

14. The Taney County Commission shall have the authority to make rules and regulations to carry out the purposes of this Ordinance, as follows:

a. The Taney County Commission may propose rules based upon substantial evidence on the record and a finding by the Taney County Commission that the rule is necessary to carry out the purposes of this Ordinance.

b. No rule or regulation promulgated by the Taney County Commission shall be valid in the event that:

(1) There is an absence of legal authority for the rule or any portion thereof; or

(2) The rule is in conflict with state law; or

(3) The rule is so arbitrary and capricious as to create such substantial inequity as to be unreasonably burdensome on persons affected.

c. To promulgate rules or regulations under this Ordinance, the Taney County Commission shall adopt procedures by which it will determine whether a rule is necessary to carry out the purposes of this Ordinance. Such criteria and rulemaking shall be based upon reasonably available empirical data and shall include an assessment of the effectiveness and the cost of rules both to the County and to any private or public person or entity affected by such rules.

d. No rule shall hereafter be proposed, adopted, amended or rescinded by the Taney County Commission unless the Taney County Commission shall first file with the Clerk of the County Commission a notice of proposed rulemaking and a subsequent final order of rulemaking, both of which shall be published in a newspaper of general circulation within the County qualified as a legal publication as soon as practicable after the filing thereof with the Clerk of the County Commission. Neither the Taney County Commission nor the Clerk of the County Commission shall publish any proposed rulemaking or final order of rulemaking that does not fully comply with the provisions of Chapter 536 of the Revised Statutes of Missouri. No proposed order of rulemaking, final order of rulemaking or portion thereof shall take effect, or be published.

e. A notice of proposed rulemaking shall contain:

(1) An explanation of any proposed rule or any change in an existing rule, and the reasons therefore;

(2) The legal authority upon which the proposed rule is based;

(3) The text of the entire proposed rule or the entire text of any affected section or subsection of an existing rule which is proposed to be amended, with all new matter underlined or printed in boldface type and with all deleted matter placed in brackets, except that when a proposed rule consists of material so extensive that the publication thereof would be unduly cumbersome or expensive, the Clerk of the County Commission need publish only a summary and description of the substance of the proposed rule so long as a complete copy of the rule is made immediately available to any interested person upon application to the adopting state agency at a cost not to exceed the actual cost of reproduction. A proposed rule may incorporate by reference only if the material so incorporated is retained by the Clerk of the County Commission and made available to any interested person at a cost not to exceed the actual cost of the reproduction of a copy. When a proposed amendment to an existing rule is to correct a typographical or printing error, or merely to make a technical change not affecting substantive matters, the amendment may be described in general terms without reprinting the entire existing rule, section or subsection;

(4) The number and general subject matter of any existing rule proposed to be rescinded;

(5) Notice that anyone may file a statement in support of or in opposition to the proposed rulemaking at a specified place and within a specified time not less than thirty days after publication of the notice of proposed rulemaking; and

(6) Notice of the time and place of a hearing on the proposed rulemaking if a hearing is ordered, which hearing shall be not less than thirty days after publication of the notice of proposed rulemaking in a newspaper of general circulation within the County qualified as a legal publication; or a statement that no hearing has been ordered if such is the case.

f. The Taney County Commission, after issuing a notice of proposed rulemaking, may order a hearing thereon, but no such hearing shall be necessary unless otherwise required by law.

g. The Taney County Commission, after publication of the notice of proposed rulemaking in a newspaper of general circulation within the County qualified as a legal publication of proposed rulemaking to be made without a hearing, if the Taney County Commission thereafter concludes that a hearing is desirable, shall withdraw the earlier notice and file a new notice of proposed rulemaking, and shall not schedule the hearing for a time less than thirty days following the publication of the new notice.

h. Within ninety days after the expiration of the time for filing statements in support of or in opposition to the proposed rulemaking, or within ninety days after the hearing on such proposed rulemaking if a hearing is held thereon, the Taney County Commission shall file with the Clerk of the County Commission a final order of rulemaking either adopting the proposed rule, with or without further changes, or withdrawing the proposed rule, which order of rulemaking shall be published in a newspaper of general circulation within the County qualified as a legal publication. If the Taney County Commission fails to file the order of rulemaking as indicated in this subsection, the proposed rule shall lapse and shall be null, void and unenforceable.

i. The final order of rulemaking shall contain:

(1) Reference to the date and page or pages where the notice of proposed rulemaking was published in a newspaper of general circulation within the County qualified as a legal publication;

(2) An explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change;

(3) The full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking;

(4) A brief summary of the general nature and extent of comments submitted in support of or in opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with said rulemaking, together with a concise summary of the Taney County Commission's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule; and

(5) The legal authority upon which the order of rulemaking is based.

j. Any rule, or amendment or rescission thereof, shall be null, void and unenforceable unless made in accordance with the provisions of this section.

k. No rule, except an emergency rule, shall become effective before the thirtieth day after the date of publication in a newspaper of general circulation within the County qualified as a legal publication.

15. This Ordinance shall be printed and be made available for distribution to the public in the office of the Clerk of the County Commission and in the office of the Taney County Commission. The Clerk of the County Commission shall cause a copy of this Ordinance to be published in a newspaper of general circulation within the County qualified as a legal publication for three successive weeks, not later than thirty days after the entry of this Ordinance.

DONE AT THE COURTHOUSE IN FORSYTH, MISSOURI ON THIS 20TH DAY OF FEBRUARY, 2007

**THE COUNTY COMMISSION OF  
TANEY COUNTY, MISSOURI**

BY:   
**CHUCK PENNEL**  
PRESIDING COMMISSIONER

BY:   
**RON HERSCHEM**  
WESTERN COMMISSIONER

BY:   
**DANNY STRAHAN**  
EASTERN COMMISSIONER

