

ORDINANCE NO. 2010-03

AN ORDINANCE PROHIBITING OR REGULATING THE OWNING OR KEEPING OF DANGEROUS ANIMALS INCLUDING PIT BULL DOGS AND PROVIDING FOR PERMITS FOR CERTAIN DANGEROUS ANIMALS, AND PROVIDING PENALTIES FOR VIOLATIONS

WHEREAS, the City Council finds that the presence of vicious, ferocious, or dangerous dogs within the City of Gardendale constitutes a clear and present danger to the public health, safety, and welfare of the citizens of the City of Gardendale; and,

WHEREAS, the City Council determines that the public health, safety, and welfare of the citizens of the City of Gardendale require the establishment of regulations regarding: the sale, ownership, and harboring of such dogs; the confinement and impoundment of such dogs; the registration of such dogs; and procedures necessary to protect the public from such dogs.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Gardendale, Alabama, while in a regular session on the 18th day of January, 2010, at 6:00 p.m., as follows::

SECTION 1. Definitions.

(a) "City" as used in this Ordinance means the City of Gardendale and its police jurisdiction.

(b) "Owner" as used in this Ordinance means any person, firm, corporation, organization, or department possessing, harboring, or having the care or custody, whether temporarily or permanently, of a Pit Bull, Vicious Dog, or Dangerous dog.

(c) "Vicious Dog" as used in this Ordinance means any dog with a propensity, tendency, or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals; or any dog, which without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or any dog owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting, or any dog which has been found to be vicious by any Court in a trial or hearing upon a charge of harboring a vicious animal.

(e) "Dangerous Dog" as used in this Ordinance means: (a) Any dog which, because of its aggressive nature, training, or characteristic behavior, is capable of inflicting serious physical harm or death to humans, and which would constitute a danger to human life or property if it were not kept in the manner required by this Ordinance; and (b) Any dog which, when unprovoked, chases or approaches a person in a menacing fashion or apparent attitude of attack on public or private property.

(f) "Pit Bull" as used in this Ordinance means: Any Pit Bull Terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains, as an element of its breeding, the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.

SECTION 2. Pit Bulls, Vicious, and Dangerous Dogs.

(a) *Prohibited.* Except as provided in Section 2(b), effective immediately upon the effective date of this Ordinance, it shall be unlawful for any Owners to keep, harbor, own, or in any way possess within the corporate limits of the City any Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s).

(b) *Status of Ownership of Pit Bull(s), Vicious Dog(s) and Dangerous Dog(s) Prior to Effective Date of this Ordinance.* Subject to the standards and requirements contained in this Ordinance, any Owner that keeps, harbors, owns, or in any way possesses a Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) within the City on the effective date of this Ordinance shall be allowed to continue to do so. Failure to do so shall be unlawful.

(c) *Registering and Keeping of Pit Bull(s), Vicious Dog(s) and Dangerous Dog(s).* Any such Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) allowed under Section 2(b) shall be subject to the following:

(1) *Registration.* An application for registering all Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) shall be made to the City Clerk in writing and upon a form furnished by the City Clerk. The application shall be verified by the person who desires to keep, harbor, own, or in any way possess a Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s), and shall set forth the following:

- (i) name, address, and telephone number of the applicant;**
- (ii) the applicant's interests in such Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s);**
- (iii) the proposed location that the Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) will be kept, along with the name, address, and telephone number of the Owner of such location;**
- (iv) the number and general description of all Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) for which a permit is sought;**
- (v) any information known to the applicant concerning the vicious or dangerous propensities of the Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s);**
- (vi) the housing arrangements for all Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) with particular details as to safety or structure, locks, fencing, etc.;**
- (vii) safety precautions proposed to be taken by applicant;**
- (viii) noises or odors anticipated in keeping the Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s);**
- (ix) proof of insurance as required by section 2(c)(7) below; and**
- (x) photographs as required by section 2(c)(8) below.**

(2) *Registration Fee.* The application shall be accompanied by payment of a fee of \$50.00. The fee shall cover the cost of processing the application.

(3) *Leash and muzzle.* No person shall permit a registered Pit Bull, Vicious Dog, or Dangerous Dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a Pit Bull, Vicious Dog, or Dangerous Dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(4) *Confinement.* All registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) must comply with all zoning and buildings regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(5) *Confinement indoors.* No Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such

animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(6) *Signs.* All Owners, keepers, or harborers of registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) within the City shall within ten days of the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(7) *Insurance.* All Owners, keepers, or harborers of registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) must within ten days of the effective date of this Ordinance provide proof to the City Clerk of liability insurance in a single incident of at least \$100,000.00 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. The policy shall contain a provision requiring the City to be named as an additional insured and shall require that the insurer notify the City if there is any cancellation, termination, or expiration of the liability insurance policy. If the liability insurance is canceled, lapsed, or for any other reason becomes non-enforceable, the Owner, keeper, or harborer shall be in violation of this Ordinance and subject to the penalties provided herein.

(8) *Identification Photographs.* All Owners, keepers, or harborers of registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) must within ten days of the effective date of this section provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal. The photographs must be at least four inches by six inches in size. The animal must be the primary object shown in the photograph.

(9) *Reporting Requirements.* All Owners, keepers, or harborers of registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) must within ten days of the incident, report the following information in writing to the City Clerk as required hereinafter:

- a. The removal from the City or death of a registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s);
- b. The birth or offspring of a registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s);
- c. The new address of the Owner should the Owner move within the corporate limits.
- d. Subject to the provisions of Section 2(c)(10) below, the name and address of any person to whom Ownership or possession of a registered Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) is transferred.

(10) *Sale or Transfer of Ownership Prohibited.* No person shall in any way transfer ownership of a Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) registered with the City to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered Owner of such dog. The Owner of a Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the City.

(11) *Animals Born of Registered Dogs.* All offspring born of Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) registered with the City must be removed from the City within six weeks of the birth of such animal.

(12) *Number of Registered Dogs.* Subject to section 2(c)(11) above, no person shall own, keep, or harbor more than two (2) Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) at any one time.

(13) *Irrebuttable Presumptions.* There shall be an irrebuttable presumption that any dog registered with the City as a Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) is in fact a dog subject to the requirements of this section.

(14) *Failure to Comply.* It shall be unlawful for the Owner, keeper, or harbinger of a Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) registered with the City to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animals resulting in the immediate removal of the animal from the City.

(15) *Violations and Penalties.* Any person violating or permitting the violation of any provision of this Ordinance shall, upon conviction in municipal court, be fined a sum of not less than \$200.00 and not more than \$500.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment for a period not to exceed 30 days. In addition, the court shall order the registration of the subject Pit Bull(s), Vicious Dog(s), or Dangerous Dog(s) revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City, the municipal court judge shall find the defendant Owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including capture, shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this Ordinance.

(16) *Enforcement.* Any sworn police officer of the City, or any other sworn law enforcement officer, is hereby authorized to enforce the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall become effective immediately upon its adoption and publication or by its otherwise becoming a law.

ADOPTED AND APPROVED on this 18th day of January, 2010.