

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

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF ABERDEEN, MONROE COUNTY, MISSISSIPPI, AS FOLLOWS, TO-WIT:

Section 1: Definitions.

"Pit bull dog" means any and all the following dogs: (a) the Staffordshire Bull Terrier breed of dogs; (b) The American Staffordshire Terrier breed of dogs; (c) The American Pit Bull Terrier breed of dogs; (d) any other breed commonly known as Pit Bull, Pit Bull Dog or Pit Bull Terrier; or (e) Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as the Staffordshire Bull Terrier, the American Staffordshire Terrier, or the American Pit Bull Terrier.

The registration of a dog at any time in any jurisdiction as any of the dogs listed above shall constitute prima facie evidence the animal is a pit bull dog.

"Person" includes any natural person, association, partnership, organization, or corporation.

"Own" or "keep" means to own, keep, harbor, control, manage, possess, maintain, or have charge or custody of or provide care for.

"Owner" or "Keeper" means any person who owns or keeps a "Pit bull dog".

Section 2: Pit bull dogs prohibited.

It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the City of Aberdeen any pit bull dog, subject to those Exceptions in Section 3.

Section 3: Exceptions.

(a) The owner of a pit bull dog, who has applied for and received a pit bull dog permit in accordance with this Ordinance, and who maintains the pit bull dog at all times in compliance with the pit bull dog permit requirements of this Ordinance and all other applicable requirements of this Ordinance, may keep a pit bull dog within the City of Aberdeen.

(b) The City of Aberdeen's Animal Control Officer may temporarily harbor and transport any pit bull dog for purposes of enforcing the provisions of this Ordinance.

(c) Any humane society operating an animal shelter which is registered and licensed in the City of Aberdeen may temporarily hold any pit bull dog that it has received or otherwise recovered, but only for so long as it takes to contact the City of Aberdeen's Animal Control Officer and either turn the pit bull dog over to the Animal Control Officer or receive permission to destroy or have destroyed the pit bull dog.

(d) The keeping of such animal in a bona fide, licensed veterinary hospital for treatment.

(e) A person may temporarily transport into and hold in the City of Aberdeen a pit bull dog only for the purpose of showing such pit bull dog in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the City Clerk, must obtain any other permits or permits required by City Ordinance, and must provide protective measures adequate to prevent pit bull dogs from escaping or injuring the public. The person who transports and holds a pit bull dog for showing shall, at all times when the pit bull dog is being transported within the City to and from the place of exhibition, contest, or show, keep the pit bull dog confined in a secure temporary enclosure.

(f) The owner of any pit bull dog which had been permitted pursuant to this Ordinance shall be allowed to keep such pit bull dog within the City only if the owner applies for and receives an annual pit bull dog permit.

Section 4: Leash and Confinement.

The owning or keeping of a registered pit bull dog is subject to the following requirements:

(1) Leash. No person shall permit a registered pit bull dog to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit a put bull dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless an adult person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or building.

(2) Muzzle. No person shall permit a registered pit bulldog to go outside its kennel or pen unless such animal is securely muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.

(3) Confinement. All registered pit bull dogs shall be securely confined indoors or, if outdoors, in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided.

All structures must include a concrete floor and cinder block walls coated with epoxy sealer and paint, small grid steel doors, and heavy gauge chain link on the ceiling' or such other components as may be approved in writing by the Animal Control Officer.

All structures used to confine registered pit bull dogs must be locked with a key lock or combination lock when such animals are within the structure. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept clean and sanitary condition.

(4) Confinement Indoors. No pit bull dog may be kept on a porch, patio, or any part of a house or structure or in any manner 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.

(5) Signs. All owners or keepers of registered pit bull dogs within the City shall within thirty days of the effective date of this Ordinance 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 shall be posted on the kennel or pen of such animal.

(6) Special Collar. All registered pit bull dogs shall be required to wear a bright orange collar furnished by the City of Aberdeen at all times. The collar shall be visible on the dog when it is in a kennel or pen or on a leash.

(7) Reporting Requirements. All owners or keepers of registered pit bull dogs must within ten days of any of the following incidents report in writing to the City Clerk as required herein:

- (a) The removal from the City or the death of a registered pit bull dog;
- (b) The move of a permit owner or keeper or the move of a registered pit bull dog to a new location within the City limits. In such case, the new address of the registered pit bull dog and that of the owner or keeper shall also be reported to the City Clerk.

Section 5: Permit Issuance.

(A) An initial application for a pit bull dog permit pursuant to this Ordinance shall be made to the City Clerk no later than thirty days following the effective date of this Ordinance. A permit shall be valid for twelve months. An application for a permit shall be made for each twelve-month period thereafter and shall be made prior to the expiration of the previous twelve-month period. Applications shall be made on a form provided by the City.

(B) As a condition of issuance of a pit bull dog permit, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with *all* of the following regulations:

- (1) The owner of the pit bull dog shall provide proof of rabies vaccination and

shall pay the annual pit bull dog permit fee of fifty dollars (\$50.00).

(2) The owner of the pit bull dog shall keep current the permit for such pit bull dog through annual renewal. Such permit is not transferable and shall be renewable only by the holder of the permit or by a member of the immediate family of such permittee. A pit bull dog permit tag will be issued to the owner at the time of issuance of the permit. Such permit tag shall be attached to the pit bull dog by means of a collar or harness and shall not be attached to any pit bull dog other than the pit bull dog for which the permit was issued. If the pit bull dog tag is lost or destroyed, a duplicate tag may be issued upon the payment of a ten-dollar (\$10.00) fee.

(3) The owner must be at least twenty-one (21) years of age.

(4) The owner shall present to the City Clerk proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by a pit bull dog during the twelve-month period covered by the pit bull permit. The policy shall contain a provision requiring the insurance company to provide written notice to the City Clerk not less than fifteen (15) days prior to any cancellation, termination, or expiration of the policy.

(5) The owner shall, at the owner's own expense, have the pit bull dog spayed or neutered and shall present to the City Clerk documentary proof from a licensed veterinarian that this sterilization has been performed.

(6) The City Clerk shall maintain a file containing the registration numbers and names of the pit bull dogs and the names and addresses of the owners. The owner shall notify the City Clerk of any change of address.

(7) At all times when a pit bull dog is at the property of the owner, the owner shall keep the pit bull confined. At all times when a pit bull dog is away from the property of the owner, the owner shall keep the pit bull dog either securely leashed and muzzled or in a secure temporary enclosure.

(8) The owner shall not sell or otherwise transfer the pit bull dog to any person except a member of the owner's immediate family who will then become the owner and will be subject to all of the provisions of this Ordinance. The owner shall notify the City Clerk within five (5) days in the event that the pit bull dog is lost, stolen, or dies.

Section 6: Failure to Comply.

It shall be unlawful for the owner or keeper of any pit bull dog to fail to comply with the requirements and conditions of this Ordinance, and upon conviction for a violation shall be subject to those penalties in Section 9 of this Ordinance.

Section 7: Notice of Violation.

When the Animal Control Officer has knowledge of a possible violation of this ordinance, the Animal Control Officer shall forthwith cause the matter to be investigated. If after investigation there are reasonable grounds to believe there has been a violation of this Ordinance, the Animal Control Officer shall forthwith deliver written notice to the owner or keeper of the pit bull dog that is

the subject of the violation requiring such person to safely remove said pit bull dog from the City within five days of the date of said notice. Such owner or keeper shall remove said pit bull dog from the City within the required time. Such a notice shall not be required when a pit bull dog has caused serious physical harm or death to any person or has escaped and it is at large in which case the Animal Control Officer shall cause said pit bull dog to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person or animal.

Section 8: Seizure and Impoundment.

The Animal Control Officer shall forthwith caused to be seized and impounded any pit bull dog when the owner or keeper of such pit bull dog has failed to comply with the notice sent pursuant to Section 7. Upon seizure and impoundment, the Animal Control Officer shall cause a complaint to be filed in the Aberdeen Municipal Court against the owner or keeper of the subject pit bull dog and said pit bull dog shall be delivered to a place of confinement and kept until further order of the Aberdeen Municipal Court.

Section 9: Appeals.

(A) Any person aggrieved by any of the following decisions, rulings, actions, or findings of the Animal Control Officer or the City Clerk may, within ten days thereafter, file a written notice of appeal from said decision, ruling, action, or finding to the Aberdeen Municipal Court for an administrative hearing thereon:

- (1) The determination that a dog is a pit bull dog;
- (2) The denial of a permit; or
- (3) The revocation of a permit.

(B) An administrative fee of Fifty Dollars (\$50.00) shall be paid to the Municipal Court Clerk for each appeal to the Municipal Court. No appeal shall be set for hearing until such fee has been paid.

(C) The filing of an appeal under this subsection shall not stay any action taken pursuant to this ordinance.

(D) The hearing on the appeal shall be conducted by the Judge of the Aberdeen Municipal Court who shall act as an administrative judge for this purpose of this Ordinance. The sole issue for

determination shall be whether the decisions, rulings, actions, or findings of the Animal Control Officer and/or the City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature.

(E) The Aberdeen Municipal Court is empowered to hold hearings, subpoena witnesses, take testimony, and require the production of any evidence relating to any matter being heard. In the case the refusal of any person to comply with any subpoena issued hereunder or to testify in any matter regarding which he or she may be lawfully questioned, the Aberdeen Municipal Court may order such person to comply with such subpoena and testify.

(F) Any aggrieved party may appeal the decision and findings of the Aberdeen Municipal Court judge pursuant to applicable Mississippi Code statutes. However the filing of such an appeal under this subsection shall not stay any action taken pursuant to this Ordinance.

Section 10: Violations and Penalties.

Any person violating any provisions of this Ordinance shall upon conviction be subject to a fine of not less than two-hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000.00). In addition to the fine imposed, the Court shall sentence the defendant to imprisonment in jail for a period not less than seven (7) days and not more than six (6) months. In addition, the Court shall order the revocation of any permit for the subject pit bull dog and shall order the removal of the pit bull dog from the City. Should the defendant refuse to remove the pit bull dog from the City, the Court may find the defendant in contempt and order the immediate impoundment of the pit bull dog, or continued impoundment if the pit bull dog has already been impounded, as well as destruction of the pit bull dog. Each day that a violation of this Ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Ordinance shall pay all expenses, including shelter, food, handling, veterinary care, witness fees, and expenses necessitated by the enforcement of this Ordinance. The minimum daily expense shall be no less than twenty-five dollars (\$25.00).

Section 11: Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or part thereof of this Ordinance or any part thereof, is for any reason held to be unconstitutional, invalid, or

ineffective by any court of competent jurisdiction such decision shall not effect the validity of the remaining portions of this Ordinance.

Section 12: Effective Date. This Ordinance shall take effect and be in force one month from and after the date of its publication in the Monroe County Journal newspaper. All ordinances and resolutions, or parts of ordinances and resolutions, in conflict with this Ordinance are hereby repealed.

The above and foregoing Ordinance having first been reduced to writing was read and considered section by section, and each of said sections were adopted by the following vote, to-wit:

Aldermen voting "YEA": Alonzo Sykes
Cloyd Garth
Randy Nichols
John Allen
Aldermen voting "NAY": David Ewing
Aldermen absent or not voting: None

WHEREUPON, said Ordinance was put to a vote upon its final passage as a whole, and the same was passed as read, with the following vote, to-wit:

Aldermen voting "YEA": Alonzo Sykes
Cloyd Garth
Randy Nichols
John Allen
Aldermen voting "NAY": David Ewing
Aldermen absent or not voting: None

THEREUPON, the Mayor declared said Ordinance approved, passed, and adopted this 17th day of November, 2009.

Jim W. Ballard, Mayor

ATTEST:

Jackie Benson, City Clerk