

ORDINANCE NO. 87-048

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 4, ANIMALS AND FOWL, OF THE CODE OF ORDINANCES, TOWN OF ADDISON, TEXAS, PROVIDING FOR THE PURPOSE OF THE DANGEROUS DOG ORDINANCE; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITION OF DANGEROUS DOGS; PROVIDING FOR SPECIAL REGISTRATION OF DANGEROUS DOGS; PROVIDING FOR LEASH AND MUZZLE; PROVIDING FOR CONFINEMENT OUTDOORS; PROVIDING FOR CONFINEMENT INDOORS; PROVIDING FOR BANISHMENT OF DANGEROUS DOGS FROM THE CITY; PROVIDING FOR SIGNS; PROVIDING FOR REPORTING REQUIREMENTS; PROVIDING FOR SALE OR TRANSFER OF OWNERSHIP; PROVIDING FOR DISPOSAL OF OFFSPRING; PROVIDING FOR DECLARATION OF DANGEROUS DOG; PROVIDING FOR AUTHORITY TO IMMEDIATELY IMPOUND DANGEROUS DOG; PROVIDING FOR HEARING ON DANGEROUS DOG DECLARATION; PROVIDING FOR BURDEN OF PROOF REGARDING IDENTIFICATION; PROVIDING FOR AUTHORITY TO DESTROY IF FOUND RUNNING AT LARGE; PROVIDING FOR FAILURE TO REMOVE; PROVIDING FOR SEARCH AND SEIZURE WARRANTS; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council and City Administration have received reliable information indicating an urgent need to review

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and study the City's existing ordinances and codes governing the control and regulation of animals within the City, particularly as such laws, codes and ordinances relate to dogs generally described as vicious or dangerous; and

WHEREAS, research, data, statistics, newspaper accounts, books and articles by recognized authorities in the field have led the City Council to conclude that an urgent and pressing immediate public necessity exists that dictates the need to pass an ordinance governing the keeping or harboring of dangerous dogs within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That there is hereby adopted by the Town of Addison, Texas, this ordinance which shall be known as the Dangerous Dog Ordinance for the purpose of providing a greater degree of safety and protection for citizens by establishing rules and regulations regarding the keeping and harboring of dangerous dogs within the jurisdictional boundaries of the Town of Addison.

SECTION 2. That Chapter 4 of the Code of Ordinances, Town of Addison, Texas, is hereby amended by amending Sec. 4-1 to read as follows:

Sec. 4-1. Definitions. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include

the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Animal control" shall mean the animal control division of the City.

B. "Animal control officer" shall mean any person designated by the supervisor of animal control to enforce the provisions of this chapter.

C. "City" or "Town" shall mean the Town of Addison, Texas.

D. "City Council" or "Council" shall mean the City Council of the Town of Addison, Texas.

E. "Dangerous dog" or "vicious dog" shall mean:

(1) any dog which because of its physical nature or vicious propensity is capable of inflicting serious physical harm or death to human beings and would constitute a danger to human life or property;

(2) any dog which attacks a human being or other domestic animal without provocation;

(3) any dog which has behaved in such a manner that the owner thereof knows or should reasonably know that the dog is possessed of tendencies to attack or to bite human beings;

(4) any dog certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life or property upon the basis of reasonable medical probability.

F. "Dog" means a domesticated member of the family canidae, but shall include a wolf, fox or other wild animal of this family.

G. "Owner" shall mean any person, firm or corporation having title to any animal, or a person who has, harbors or keeps, or who causes or permits to be harbored or kept, an animal in his care, or who permits an animal to remain on or about his premises.

H. "Prohibited animals" means an animal not normally considered domesticated, including but not limited to, the following:

(1) Class Reptilia: Family Helodermatidea (the venomous lizards); family Viperidea (rattlesnakes, pit vipers and true vipers); family Elapidae (coral snakes, cobras and mambas); family Colubridae Dispholidus typus (boomslang), Cyclagras gigas (water cobra) and Boiga dendrophila (mangrove snake) only; order Phidia (racers, boas, water snakes and pythons); order crocodilia (crocodiles, alligators, caimans and gavials);

(2) The following members of the Class Aves: Order Falconiforms (such as hawks, eagles and vultures) and subdivision Ratitae (such as ostriches, rheas, cassowaries and emus);

(3) Class Mammalia: Order Carnivora, family Felidae (such as ocelots, margays, tigers, jaguars, leopards and cougars), except commonly accepted domesticated cats; the family canidae (such as wolves, dingos, coyotes and Jackals), except domesticated dogs; family Mustelidae (such as weasels, martins, mink, badgers); family Procyonidae (raccoons); family Ursidae (such as bears); and order Marsupialia (such as kangaroos and common opossums); order Edentata (such as sloths, anteaters and armadillos); order Proboscidea (elephants); order Primata (such as monkeys, chimpanzees and gorillas); order Rodentia (such as porcupines); and order Ungulata (such as antelope, deer, bison and camels).

I. "Running at large" shall mean not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animal is either on a leash, or held in the hands of the owner or keeper, or under direct supervision of the owner within the limits of the owner's private property.

J. "Supervisor of animal control" shall mean the person designated by the city manager to supervise all aspects of animal control.

SECTION 3. That Chapter 4 of the Code of Ordinances, Town of Addison, Texas, is hereby amended to amend Sec. 4-10 to read as follows:

Sec. 4-10. Vicious or Dangerous Dogs Prohibited. From the effective date of this ordinance forward, it shall be unlawful for any person to keep or harbor any Dangerous Dog

within the City limits of Addison, Texas; except for Dangerous Dogs which were registered pursuant to Sec. 4-14 with the Town of Addison immediately preceding the effective date of this ordinance.

Sec. 4-10.1 Registration of Dangerous Dogs Required. All persons keeping or harboring Dangerous Dogs within the City immediately preceding the effective date of this ordinance shall register said Dog(s) within thirty (30) days from the adoption date of this ordinance with the Animal Control Authority and provide the Authority with the following:

(1) the name, address and telephone number of persons keeping or harboring a Dangerous Dog;

(2) a \$50.00 registration fee for each Dangerous Dog being kept;

(3) proof that each Dangerous Dog is four months of age or over, has been vaccinated against rabies by a licensed veterinarian and supply name, address and phone number of veterinarian;

(4) two (2) identification photographs, color photos at least 3' x 5', of each Dog with one photograph showing the frontal view and the other showing a side view of each Dog;

(5) proof of a current public liability insurance policy in the amount of at least \$250,000.00 for personal injury or death and \$50,000.00 for property damage to cover injury or damage caused by a Dangerous Dog, which policy shall name the Town of Addison as a co-insured;

Sec. 4-10-2. Leash and Muzzle.

A. It shall be unlawful for an Owner to permit a Dangerous Dog to go outdoors or outside its kennel or place of enclosure unless said dog is securely leashed with a leash no longer than four (4) feet in length and unless said Dog is muzzled by a muzzling device sufficient to prevent such Dog from biting persons or other animals.

B. An Owner shall be in physical control of a leashed Dangerous Dog at all times, and it shall be unlawful for a person to leash a Dog on a chain, rope or other type leash outside of its kennel or place of enclosure to an inanimate object such as a tree, post, building, car or truck.

Sec. 4-10.3. Confinement Outdoors.

A. All Dangerous Dogs shall be securely confined either indoors or in a securely enclosed and locked kennel, pen or structure outdoors, except when leashed and muzzled as provided for in Sec. 4-10.2 above. Such kennel, pen or structure outdoors must have secure sides, a secure top attached to the sides and either a secure bottom or floor attached to the sides, or the sides must be embedded no less than twelve (12) inches wide and will extend into the soil at least to a depth of twenty-four (24) inches.

B. At no place within the kennel, pen or structure shall a Dangerous Dog be able to put his mouth outside of the enclosure.

C. All kennels, pens or structures used to confine Dangerous Dogs must be locked with a key or combination lock when such animals are within the enclosures.

D. All kennels, pens or structures erected to confine Dangerous Dogs must comply with all zoning and construction regulations of the City.

E. All kennels, pens or structures must be adequately lighted, ventilated and must be maintained in a clean and sanitary condition.

F. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

G. For Dangerous Dogs confined in kennels, pens or structures outdoors, the kennels, pens or structures must comply with this section no later than sixty (60) days after the date of the adoption of this ordinance.

Sec. 4-10.4. Confinement Indoors. It shall be unlawful for any Owner to keep or harbor a Dangerous Dog on a porch, patio or in any part of a house or building that would allow the Dog to exit such structure on its own volition. It shall be unlawful for any Owner to keep a Dangerous Dog in a house or building when the windows are open or when screened windows or screened doors are the only obstacle preventing the Dog from exiting the structure and running at large.

Sec. 4-10.5. Banishment of Dangerous Dog from the City. Any person convicted in municipal court for a violation of this ordinance shall immediately remove all Dangerous Dogs this person is keeping or harboring to a location outside of the City limits and said Dogs shall never be brought into the City again.

Sec. 4-10.6. Signs. Any person keeping or harboring a Dangerous Dog within the City shall, within ten (10) days of the adoption date of this ordinance, display in a prominent place on the premises a sign easily readable from the public street stating, "BEWARE OF DOG." A similar sign shall be posted on the kennel, pen or structure where a Dangerous Dog is kept.

Sec. 4-10.7. Reporting Requirements. Any person keeping or harboring a Dangerous Dog within the City shall within ten (10) days of the following incidents make a written report of the incidents to the Animal Control Authority.

(1) report the death or removal from the City of any Dangerous Dog in person's care;

(2) report the birth of offspring of any Dangerous Dog in person's care;

(3) report the move and specific addresses involved when a person keeping or harboring a Dangerous Dog moves from one location within the City to another location.

Sec. 4-10.8. Sale or Transfer of Ownership. It shall be unlawful for a person to sell, barter or in any other way dispose of a Dangerous Dog to any other person within the City, unless the recipient person resides permanently in the same household and on the same premises as the owner of such Dog. A person may sell or dispose of Dangerous Dogs or the offspring of such Dogs to persons who reside outside the City.

Sec. 4-10.9. Disposal of Offspring. All offspring born of Dangerous Dogs must be removed from the City within three (3) months of the birth of such animals.

Sec. 4-10.10. Declaration of Dangerous Dog.

A. If the Animal Control Officer has cause to believe that a Dog is a Dangerous or Vicious dog as defined herein, he may find and declare such Dog a Dangerous Dog.

B. Within three (3) days of declaring a Dog vicious, the Animal Control Officer of the Town of Addison will notify, the person owning or possessing the Dog of its designation as a Vicious Dog and provide him with a copy of this ordinance. The Animal Control Officer shall also notify the City Manager, Fire Department and the Police Department of the designation of any Dog as a Vicious Dog. The notification will describe the Dog and specify any particular requirements or conditions placed upon the person owning or possessing the Dog.

C. The notice shall inform the Owner or custodian of the Dog that he/she may request, in writing, a hearing within five (5) working days of the mailing of the Vicious Dog declaration, to contest the finding and designation.

D. Upon request of the Owner or custodian of the Dog for a hearing, a hearing before the City Manager or his designee shall be held within ten (10) days of the request for a hearing, a notice of which hearing shall be mailed to the owner or custodian of the Dog requesting the hearing.

Sec. 4-10.11. Authority to Immediately Impound Dangerous Dog. In the event that the Supervisor of Animal Control shall determine that a Dog is Dangerous and presents an immediate and imminent threat and danger to the health and safety of the public or of other animals, he is hereby authorized to immediately impound such animal and keep such animal impounded through the pendency and resolution of the hearing provided for in Sec. 4-10.10 C and Sec. 4-10.12. The Owner of such Dangerous Dog shall be responsible to pay all impoundment fees which accrue pursuant to Sec. 4-6 of this Code.

Sec. 4-10.12. Hearing on Vicious Dog Declaration.

A. Failure of the person owning or possessing the Dog to request a hearing pursuant to Sec. 4-10.10 shall result in the Dog's being finally declared a Vicious Dog and subject the Dog and the person owning or possessing the Dog to the provisions of this chapter.

B. In making a determination as to the dangerous nature of a Dog, evidence of the following shall be considered:

- (1) any previous history of the Dog attacking, biting or causing injury to a human being or other animal;

(2) the nature and extent of injuries inflicted and the number of victims involved;

(3) the place where the bite, attack or injury occurred;

(4) the presence or absence of any provocation for the bite, attack or injury;

(5) the extent to which property has been damaged or destroyed;

(6) whether the Dog exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting;

(7) whether the Dog exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or dogs or other animals;

(8) whether the Dog can be effectively trained or re-trained to change its temperament or behavior;

(9) any relevant evidence concerning the maintenance of the Dog;

(10) any other relevant evidence regarding the ability of the Owner or custodian, or the Town, to protect the public safety in the future if the Dog is permitted to remain in the Town.

C. A finding at the hearing that the Dog does fall within the definition of a Dangerous Dog set forth at Sec. 4-1 shall result in that Dog's being declared a Vicious Dog and subject the Dog and the person owning or possessing the Dog to the provisions of this chapter.

Sec. 4-10.13. Burden of Proof Regarding Identification. It is a rebuttable presumption that identification by the City's Animal Control Officer of a Dog as a Dangerous Dog pursuant to this ordinance establishes that fact as a matter of law. The burden to rebut that presumption lies with the party keeping or harboring the Dog.

Sec. 4-10.14. Authority to Destroy If Found Running at Large. Any vicious animal found running at large may be impounded or destroyed by any peace officer or Animal Control Officer in the interest of public safety.

Sec. 4-10.15. Failure to Remove; Grounds For Impoundment or Destruction. If the Owner or person having care, custody or control of a Vicious Dog fails to remove such Dog as provided for in Sec. 4-10.5 of this ordinance, such Dog may be impounded and/or destroyed.

Sec. 4-10.16. Search and Seizure Warrants Authorized. The Supervisor of Animal Control shall be authorized to obtain a search and seizure warrant if there is reason to believe that an animal ordered removed from the City for being Vicious has not been so removed.

SECTION 4. In addition to and cumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

SECTION 5. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

SECTION 7. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty of fine only not to exceed the sum of One Thousand and no/100 Dollars (\$1,000.00) for each offense, and each and every day such

offense is continued shall constitute a new and separate offense.

SECTION 9. The fact that the present code of Ordinances does not provide for regulation of dangerous dogs within the City and therefore, inadequate to properly safeguard the general public health and safety, creates an emergency and an imperative public necessity, and the ordinance shall take effect and be in force from and after its adoption.

DULY PASSED by the City Council of the Town of Addison, Texas, this the 28th day of July, 1987.

APPROVED:



MAYOR

ATTEST:



CITY SECRETARY