

ORDINANCE NO.: 2017-526

AN ORDINANCE AMENDING AND REPLACING SECTION 18-51 OF THE CODE OF THE CITY OF PLEASANT GROVE, ALABAMA, CONCERNING THE PROHIBITION AGAINST HARBORING VICIOUS DOGS WITHIN THE CITY LIMITS

WHEREAS, that the citizens of the City of Pleasant Grove, Alabama (“City”) have voiced concerns over the growing number of vicious dogs within the City limits that threaten the health, safety and wellbeing of all inhabitants of the City; and

WHEREAS, that the City’s current vicious dog regulation, to-wit, Section 18-51 of the Code of the City of Pleasant Grove (Ordinance No. 2008-459), is lacking in sufficient detail so as to deter the harboring, owning and keeping of vicious dogs within the City limits, and to effectively punish those persons harboring, owning or keeping vicious dogs within the City limits, and to facilitate for the removal of vicious dogs from the City.

BE IT ORDAINED by the City Council of the City of Pleasant Grove, Alabama, that:

1. Section 18-51 of the Code of the City of Pleasant Grove (Ordinance No. 2008-459), concerning vicious dogs, is hereby amended and replaced to state as follows:

SECTION 18-51: PROHIBITION AGAINST THE HARBORING OF VICIOUS DOGS; DEFINITION; PENALTIES AND FINES FOR VIOLATION OF ORDINANCE; REMOVAL OF VICIOUS DOGS FROM THE CITY.

(a) Definition:

(1) As used in this Ordinance, a “Vicious Dog” shall mean any dog with a known propensity, tendency, or disposition to attack, unprovoked, and which threatens to attack or chases human beings or other domestic animals; or any dog with a known propensity, tendency, or disposition to attack and which, without provocation, attacks or bites, or has attacked or bitten, a human being; or any dog with a known propensity, tendency, or disposition to attack and which attacks or bites another domestic animal in the presence of a City official or in the presence of two or more adult persons, except where the nature of the attack is open and obvious; 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 with a known propensity, tendency, or disposition to attack and which has heretofore been the subject of two or more previous complaints for aggressive behavior towards human beings or another domestic animal(s).

(2) Although any type or breed of dog may fit within the definition of a Vicious Dog, the following types or breeds of dogs, or mixes thereof, are hereby declared to be *per se* “vicious,” as that term is used herein, and thereby automatically have one strike for the purpose of determining whether such is a Vicious Dog pursuant to Section (c) hereof:

a Pit Bull, Rottweiler, and Bull Terrier. As used herein, "pit bull" shall mean 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 Terrier.

(3) *Exceptions:* The provisions of this article shall not apply, and a dog shall not be declared vicious, under the following circumstances:

- (i.) Any dog owned or housed by or assisting a police officer of the City or any other law enforcement agency engaged in a law enforcement duty;
- (ii.) Any dog which attacks or inflicts bites upon a trespasser unlawfully upon the private property of another, or who attacks or bites a person teasing, tormenting, abusing or assaulting such dog, or a person aiding or assisting another person in so doing;
- (iii.) Any dog housed in a zoo, bona fide educational or medical institution, museums or an other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
- (iv.) Any dog kept in or visiting a licensed veterinary hospital or clinic for treatment;
- (v.) Any dog which attacks or threatens to attack another domestic animal which, at the time of the attack or threatened attack, was teasing, tormenting, abusing, attacking, provoking or assaulting that dog;
- (vi.) Any dog protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault;
- (vii.) Any dog which injures or attacks another domestic animal while the dog was working as a hunting dog, herding dog or predator-control dog on the property or under the control of its owner or harbinger, and the domestic animal injured or attacked was of a species or type appropriate for such work of the dog;
- (viii.) Any dog which attacks or threatens to attack as a result of pain or injury, or for the purpose of protecting itself, its kennel or its offspring; or
- (ix.) Any dog which weighs at or under fifteen (15) pounds.

(b) *Prohibition:*

(1) Except as provided herein, it shall be unlawful to harbor, keep, own or in any way possess a Vicious Dog within the corporate limits of the City.

(2) It shall be unlawful for the owner, possessor or harbinger of a vicious dog located within the City limits, whether or not said dog has been deemed vicious by the Municipal Court as provided herein, or for the owner, possessor or harbinger of any dog defined herein to be *per se* vicious, to keep said dog within the City limits, unless said owner, possessor or harbinger, at their own expense, satisfies all of the following conditions:

- (i.) The Vicious Dog must be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided below. Such pen, kennel or structure must: have secure sides and a secure top attached to the sides; have a secure bottom or floor attached to the sides of the pen, such as a concrete slab, or the sides are embedded under the ground not less than two (2) feet; and be locked by a key or combination lock when such dogs are within the pen, kennel or structure. In addition, the pen, kennel or structure must be adequately lighted and well ventilated, and be kept in a clean and sanitary condition. The owner shall not keep a Vicious Dog on a porch, patio or in any part of a house or structure that would allow the dog to exit such house or structure on its own volition.
- (ii.) When outside its pen, kennel or structure, the Vicious Dog must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other domestic animals and must be kept securely on a chain, rope or other type of leash no longer than four (4) feet in length, and with a person in actual physical control of the leash, said person being of such reasonable age and strength so as to be able to securely control the Vicious Dog
- (iii.) The owner shall place and maintain at the residence where the Vicious Dog is kept two (2) signs, located in two or more prominent places about said residence, easily readable by the public and which uses the words "Beware of Dog" or similar wording, with at least one sign setting forth the same being placed at the pen or kennel where the Vicious Dog is kept.
- (iv.) No person shall have more than two (2) Vicious Dogs or *per se* Vicious Dogs upon their premises within the City limits, unless said dogs are the offspring of the Vicious Dog(s) and such offspring are less than nine (9) weeks of age.
- (v.) The Chief of Police, Building Inspector, police officer or other designated official of the City shall be permitted to inspect the premises of the owner, possessor or harbinger of a Vicious Dog or potentially Vicious Dog(s) located within the City limits for compliance with this section, with the consent of the owner of the premises; but, in the event that consent is denied or is not forthcoming, the Chief of Police, Building Inspector, police officer or other designated official of the City shall issue and serve upon said owner, possessor or harbinger a ticket for violation of this section, which

shall order the owner, possessor or harbinger of a potentially Vicious Dog to appear at the next scheduled Municipal Court session to show cause, by proof of documented, photographic or other evidence, that the owner, possessor or harbinger is within the requirements of this Section.

(3) Any police officer, animal control officer or other agent or employee of the City so designated shall have authority to declare a dog vicious, as such term is defined herein, and, upon such determination, shall confine the Vicious Dog for a period of ten (10) days in an animal shelter designated by the City, or such shorter period upon the payment of the fines and costs as are hereinafter set forth. As soon as practicable, an owner of a Vicious Dog confined in an animal shelter shall be given notice of such dog's confinement and of the procedure for appealing the determination of such dog being declared Vicious by filing an appeal to the Municipal Court of the City of Pleasant Grove for a trial *de novo*, on a form prescribed by the Clerk of the Municipal Court, within ten (10) days following notice being given to said owner. A hearing on such owner's appeal shall occur at the next regularly scheduled Municipal Court date following such dog's confinement; and, at such court hearing, said owner may present such evidence as they may deem fit and proper to aid the Court in making a determination of the dog's viciousness. The owner, possessor or harbinger of a Vicious Dog shall be responsible for all costs incurred in keeping said dog confined in an animal shelter, including any delay caused by the owner's request for a hearing, whether or not such dog is later determined to be not vicious by the Judge of the Municipal Court or other appropriate court on appeal; and the costs incurred for such dogs confinement in an animal shelter shall be in addition to any fine or court cost imposed by the Municipal Court for violation of this article.

(c) *Penalties.* Any person violating or permitting the violation of any provision of this article shall, upon conviction in the Pleasant Grove Municipal Court, be fined a sum of not less than Two Hundred (\$200.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or imprisoned in the City Jail for not more than Thirty (30) days, or both fine and imprisonment. In addition to fine and imprisonment, the Municipal Court shall order the owner to remove the Vicious Dog from the City limits within ten (10) days, where the dog has viciously attacked or viciously bitten a human being or where the dog has heretofore on three (3) total occasions bitten or attacked another domestic animal or has threatened to bite or attack a human being or other domestic animal, except as provided in Section (a) hereof; and, should the owner of said Vicious Dog fail to remove the same from the City limits or animal shelter during said ten (10) day period, such owner shall be fined, in addition to any other fines, penalties or expenses herein provided, Twenty-Five (\$25.00) Dollars per day for each day said Vicious Dog remains within the City limits or the animal shelter, which shall increase incrementally by \$25 each day thereafter; provided that, where the dog is located at an animal shelter, the animal shelter is hereby authorized to dispose of said dog six (6) days following the expiration of the ten (10) day removal period.

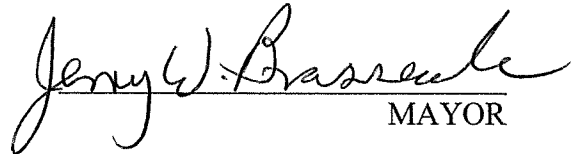
2. Any person in violation of this article at the time of its adoption shall have ten (10) days from the date of this Ordinance's adoption to come into compliance therewith.

3. Should any portion of this Ordinance be deemed by a Court of Law or other judicial authority to violate the laws of this State or of the United States, then such portion thereof shall not cause the remaining portions hereof which do not violate such laws to become subject to being stricken nor shall act to invalidate this entire Ordinance.

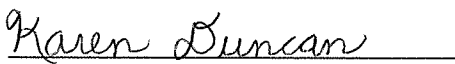
4. Any provision of Chapter 18 of the Code of the City of Pleasant Grove not inconsistent herewith shall remain in full force and effect.

5. This Ordinance shall become effective immediately upon its passage or upon notice being given as provided by law.

DONE AND ENTERED on this, the 7th day of August, 2017.


MAYOR

ATTESTED TO:


CITY CLERK

CERTIFICATION

I, Karen Duncan, City Clerk of the City of Pleasant Grove, Alabama, hereby certify the above to be a true and correct copy of Ordinance number 2017-526, adopted by the City Council of Pleasant Grove at its meeting held on August 7, 2017, as same appears in the minutes of record of said meeting, and published by posting copies thereof on August 8, 2017, at the following public places, which copies remained posted for (30) days as required by law:

Pleasant Grove City Hall Bulletin Board 501 Park Road
Pleasant Grove Post Office 832 Park Road
BB&T Bank 27 Park Road
Union State Bank 829 Park Road
Hill's Foodland Grocery Store 851 Park Road

Karen Duncan
Karen Duncan, City Clerk