

ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, MISSISSIPPI, RELATING TO THE REGULATION OF "PIT BULL" DOGS AND OWNERS OF "PIT BULL" DOGS; PROVIDING LEGISLATIVE FINDINGS AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR CONFINEMENT OF PIT BULL DOGS; PROVIDING FOR FINANCIAL RESPONSIBILITY OF OWNERS OF PIT BULL DOGS; PROVIDING REGISTRATION, ENFORCEMENT, TIME OF COMPLIANCE AND PENALTIES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE; AND FOR RELATED PURPOSES

WHEREAS, the Mayor and Board of Aldermen of The City of Cleveland, Mississippi desire to adopt an ordinance governing the owning, keeping, and harboring of pit bull dogs of all types and kinds in said City pursuant to " 21-13-1 *et seq.* ' 21-19-1, ' 21-19-9, ' 21-19-15, and ' 41-53-11 of the Mississippi Code of 1972, *inter alia*; and,

WHEREAS, such ordinance is an enactment of needful police regulations which are necessary, and which shall preserve the good order and peace of this City, shall secure its general health and shall prevent, remove and abate nuisances; and,

WHEREAS, the said Mayor and Board of Aldermen do hereby adopt the following ordinance to be known as the Cleveland, Mississippi Pit Bull Control Ordinance and directing that it shall be effective as hereinafter provided; now

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Board of Aldermen of The City of Cleveland, Mississippi as follows:

SECTION I. FINDINGS.

- (a) The City of Cleveland, Mississippi has experienced a series of incidents in which citizens and animals have been threatened or attacked and injured by pit bull dogs.
- (b) The pit bull breed was developed for the purpose of producing fighting dogs.
- (c) To increase its effectiveness as a fighter, certain pit bull traits have been selected and maximized by controlled breeding, including:
 - (1) A set of powerful jaws with an exceptional ability to grip and tear when the dog bites;
 - (2) A unique sensitivity to pain that causes pit bulls to be exceedingly tenacious in attack;
 - (3) **May be trained and/or bred to** have an aggressive temperament toward human beings and/or animals; and
 - (4) An extraordinary directness in their method of attack that does not include the common warning signs such as barking or growling as displayed by other breeds.
- (d) For the reasons provided in this section, pit bull dogs present a present danger to the health and welfare of the citizens and animals in the City different in degree and kind from the dangers presented by other breeds of dogs.

SECTION II. REGULATIONS.

(a) *Generally.* This chapter is intended to utilize the authority and powers of the City in order to secure for the citizens of the City the protection of their health, safety and welfare. This chapter is intended to be applicable to dogs which are commonly referred to as "pit bulls" and which are defined herein. This chapter is designed to regulate these pit bull dogs and to ensure responsible handling by their owners through containment and registration. The unique history, nature and characteristics of pit bull dogs have been determined to require the special regulations and provisions contained within this division which the Board of Aldermen hereby finds reasonable and necessary.

(b) *Definition of owner.* An owner, for purposes of this chapter, is defined as any person who owns, possesses keeps, exercises control over, maintains, harbors, transports or sells an animal.

(c) *Definition; identification of a pit bull dog.* The term "pit bull" dog as used within this chapter shall refer to any dog which exhibits those distinguishing characteristics which substantially conform to the standards established (1) by the American Kennel Club for American Staffordshire Terriers or Staffordshire Bull Terriers; (2) by the United Kennel Club for American Pit Bull Terriers; and (3) by the Continental Kennel Club for American Bullies. Technical deficiencies in a dog's conformance to the standards described herein shall not be considered to indicate that the subject dog is not a pit bull dog pursuant to this ordinance. Testimony by a veterinarian or an animal behaviorist that a particular dog exhibits distinguishing physical characteristics of a pit bull shall establish a rebuttable presumption that the dog is a pit bull

(d) *Definition of running at large.* A dog shall be deemed to be running at large when (1) it is not on the premises of the owner, possessor, or keeper thereof and not controlled through use of a leash, cord, or chain held by the dogs owner, possessor or keeper or an agent, servant, or member of the immediate family thereof; or (2) it is on the premises of the owner, possessor, or keeper, but confined in such a way as to allow the dog to have access to the public right-of-way.

(e) *Confinement of pit bull dogs.*

(1) Because of the pit bull dog's inbred propensity to attack other animals, and because of the danger posed to humans and animals alike by a pit bull dog when running loose or while running together in a pack, pit bull dogs must at all times be securely confined indoors. or confined in a securely and totally enclosed and locked pen, constructed with cyclone type fencing material of at least 9 gauge wire in thickness; with all four (4) sides to be at least six (6) feet in height; with concrete slab foundation at least 4 inches in thickness; and a secured cyclone fence top; such enclosure shall likewise have a conspicuous sign affixed thereto displaying the words "Dangerous Dog." The enclosure must have a bottom permanently attached to the sides or sides embedded into the ground not less than one (1) foot. This section does not relieve the owner! possessor or keeper of a dog from the obligation to comply with any provisions of the municipal codes or zoning requirements for fences.

(2) At any time that a pit bull dog is not confined as required in paragraph (1) above, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person or animal, and kept on a leash with the owner or custodian in attendance; provided, however, that no pit bull dog may be walked within fifty (50) feet of any public school ground, nor enter onto such school ground.

(3) An exception to these confinement requirements is hereby provided for any pit bull dog in attendance at, and participating in, any lawful dog show, contest or exhibition sponsored by a dog club, association, society or similar organization.

(f) *Owner age requirement.* Owners, keepers, or harborers of pit bull dogs or the like must be twenty-one (21) years of age. A person must be twenty-one (21) years of age to walk a pit bull dog or the like on a leash.

(g) *Limits of confinement.* No more than three (3) pit bull dogs or the like shall be confined at any single dwelling or business in the City of Cleveland.

(h) *Altering of pit bull dogs.* All pit bull dogs shall be neutered or spayed by six (6) months of age or, if over six months of age, within thirty (30) days of taking ownership. Appropriate certification shall be provided to the Cleveland-Bolivar County Animal Shelter upon registration.

(i) *Registration of pit bull dogs.* Every owner of a pit bull dog within the City shall register said dog with the Manager of the Cleveland-Bolivar County Animal Shelter (the "Manager" and the "Animal Shelter" hereinafter). There shall be a \$10.00 registration fee for each pit bull dog registered. The registration shall include the following:

- (1) Name, address and telephone number of the dog's owner;
- (2) the address where the dog is harbored, if different from that of the owner;
- (3) a complete identification of the dog, including the dog's sex, color, and other distinguishing physical characteristics;
- (4) a color photograph of the dog;
- (5) that pit bull dog is neutered or spayed or shall be within the appropriate time period set forth in this ordinance;
- (6) that the pit bull dog has been implanted with a microchip containing owner identification and must be registered with the animal control authority of the jurisdiction;
- (7) an engraved ID tag, that is included in the registration, that shall be worn on the dog's collar at all times;
- (8) and a description of the method of compliance with the confinement requirements.

Such registration is not transferable except to a member of the immediate family of such registrant. Certification of rabies vaccination shall be presented upon registration. The Manager of said Animal Shelter shall issue evidence of registration to the owner or custodian which must be available for examination by any lawful officer at any time. Any owner or custodian of any pit bull shall immediately notify the Manager of any change of residence or address where the dog is harbored for revision of said registration.

(j) *Running at Large.* Any pit bull dog found running at large in the city limits of Cleveland and impounded at the Cleveland-Bolivar County Animal Shelter shall not be released to the owner until all relevant ordinance requirements have been met at the owner's expense. Prior to the return of the pit bull dog to the owner, the owner must also pay (1) a \$25.00 return to owner fee, as prescribed in Chapter 10, Article II, section 10-25(g) of the City of Cleveland Code of Ordinances; and (2) an additional \$5.00 per day boarding fee for every day the Cleveland-Bolivar County Animal Shelter is responsible for the pit bull dog's care. If an owner comes forward within the five (5) day stray hold period, the owner is entitled to an additional thirty (30) days to meet the regulations contained within this ordinance. If no owner comes forward within the five (5) day stray hold period, on day six (6), the pit bull dog will become the property of the Cleveland-Bolivar County Animal Shelter as defined in Chapter 10, Article II, section 10-25(f) of the City of Cleveland Code of Ordinances and may be adopted, euthanized, or transferred to

another approved location. If the owner fails to meet the regulations contained in this ordinance within the thirty (30) day period, on day thirty-one (31), the pit pull dog will become the property of the Cleveland-Bolivar County Animal Shelter as defined in Chapter 10, Article II, section 10-25(f) of the City of Cleveland Code of Ordinances and may be adopted, euthanized, or transferred to another approved location

(k) *Liability insurance.* Owners of pit bull dogs or the like shall maintain a liability insurance policy in an amount not less than \$100,000.00, for bodily injury or property damages arising from events or occurrences associated with owning, keeping, or harboring pit bull dogs or the like. Evidence of such insurance must be presented to Manager upon registration and shall be available for examination by any lawful officer at any time

(l) *Enforcement.* It shall be the duty and responsibility of the Chief of Police utilizing the City animal control officer, or any law enforcement officer, to enforce the provisions of this ordinance. Owners, keepers, or harborers of pit bull dogs or the like, may be subjected to spot checks by said enforcement officers, as well as by the municipal building official in charge of building inspections, and must be able to produce registration, proof of liability insurance, and show confinement to the satisfaction of this ordinance. Any of said enforcement officers may make lawful arrests for violations as provided by law or issue and enforce citations for such violations as provided by the uniform citations ordinance of this City.

(m) *Penalties.* Any violation of the provisions of this ordinance shall be unlawful and punishable as a misdemeanor as provided by law.

(1) *First Offense:* A fine of not less than one-hundred (\$100.00) dollars nor more than two hundred ninety-nine (\$299.00) dollars.

(2) *Second Offense:* A fine of not less than three hundred (\$300.00) dollars nor more than four hundred ninety-nine (\$499.00) dollars.

(3) *Third Offense and subsequent offenses:* A fine of not less than five hundred (\$500.00) dollars nor more than nine hundred ninety-nine (\$999.00) dollars, and permanent relinquishment from the owner, keeper, or harborer.

(n) Enforcement of penalties for violations of this ordinance shall be within the jurisdiction of the Municipal Court of this City or any other court of competent jurisdiction

(o) Other regulations. Nothing in this chapter shall prevent the City from providing more stringent regulations of pit bull dogs and pit bull dog owners, or of other types of animals deemed to be a threat to the safety and welfare of the community

(p) Any pit bull found in violation of this ordinance may be immediately taken into custody by any lawful enforcement office and placed at the Animal Shelter as provided in other cases within the provisions of that ordinance entitled "AN ORDINANCE REGULATING THE KEEPING OF DOGS WITHIN THE CITY OF CLEVELAND; PROVIDING THAT ALL DOGS IN THE CITY LIMITS SHALL BE VACCINATED AGAINST RABIES; ROHIBITING THE RUNNING AT LARGE OF DOGS AND PROVIDING FOR IMPOUNDING AND DESTROYING THE SAME; CREATING AND PROVIDING FOR AN ENFORCEMENT OFFICER AND POUND FACILITIES; REQUIRING OWNER OR KEEPERS. OF DOGS TO KEEP PENS SANITARY AND CLEAN; REQUIRING OWNERS TO PREVENT DOGS FROM CREATING A NUISANCE; PROHIBITING CRUEL AND INHUMAN TREATMENT OF DOGS; AND FIXING THE PENAL TIES FOR VIOLATION OF THIS ORDINANCE" as amended, and subject to the penalties, fees and conditions therein provided.

SECTION III. ORDINANCE CUMULATIVE. This ordinance shall be cumulative and in addition to any other laws in force and effect.

SECTION IV. CONSTRUCTION AND SEVERABILITY. Severability is intended through and within the provisions of the pit bull control ordinance. If any provision, including *inter alia* any exception, part, phrase, or term or the application thereof to any person or circumstances, is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this ordinance in any and all other respects shall not be affected thereby. The Board of Aldermen does not intend a result that is absurd, impossible to execute, or unreasonable. It is intended that this ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given, Said Board does not intend to violate the Constitution of the State of Mississippi of the Constitution of the United States of America.

SECTION V. VIOLATION. It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, or transport any pit bull dog within the City in violation of the regulations, requirements and provisions of this ordinance, and such violation shall be punishable as provided by law.

SECTION VI. WHEN EFFECTIVE. This ordinance shall be published and shall become effective and be in force one month from and after its passage as provided by law.

SECTION VII. WHEN EFFECTIVE. This Board has considered the report of citizens and the Chief of Police of the increasing attacks of pit bull dogs upon animals and people and, the Board finds that the adoption of this ordinance is necessary for the immediate and temporary preservation of the public peace, health, and safety and for the good causes set forth herein; therefore, all members of the governing body being present and voting unanimously herefor, this ordinance shall be and is effective from and after its passage and adoption on this date, all as provided by Section 21-13-11 of the Mississippi Code of 1972, as amended.

ORDAINED, ADOPTED and APPROVED, this August 6, 2019.

/s/ Billy Nowell
BILLY NOWELL, Mayor

(SEAL)

Attest:

/s/ Dominique Green
DOMINIQUE GREEN, City Clerk

It is hereby certified that the foregoing ordinance was offered and introduced in writing and its adoption, as amended, was duly moved by Alderman *Gainspoletti*, and seconded by

Alderman Abraham, and the vote was taken as follows:

Alderman Gary Gainspoletti voted *Aye*.
Alderman Maurice Smith voted *Aye*.
Alderman Robert Sanders voted *Aye*.
Alderman Danny Abraham voted *Aye*.
Alderman J. Kirkham Povall voted *Aye*.
Alderman J. Paul Janoush voted *Aye*.
Alderman Theodore R. "Ted" Campbell *voted Aye*.

WHEREUPON, the Mayor declared said ordinance duly, legally, and unanimously adopted, and he signed the same in open session at this meeting on this August 6, 2019.

/s/ Billy Nowell
BILLY NOWELL, Mayor

(SEAL)

Attest:

/s/ Dominique Green
DOMINIQUE GREEN, City Clerk