

ORDINANCE NO. 1564

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF TERRELL BY AMENDING SECTIONS 1 AND 12 AND ADDING SECTION 11-A; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PROCEDURE FOR REMOVAL OF DANGEROUS OR VICIOUS ANIMALS WITHIN THE CITY LIMITS; REGULATING THE KEEPING OF PIT BULL DOGS WITHIN THE CITY; REQUIRING REGISTRATION AND PROVIDING STANDARDS AND CONDITIONS FOR KEEPING PIT BULL DOGS; INCLUDING THE PROVISION OF INSURANCE; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE OF THE ORDINANCE.

WHEREAS, the Code of Ordinances of the City of Terrell, Texas as presently enacted does not adequately protect the public health, safety, and welfare against vicious and dangerous animals, and requires that amendments be made to the Code in order to provide adequate protection to the public health, safety and welfare of the residents of the City of Terrell.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS that:

ARTICLE I.

Section 1 of Chapter 3 of the Code of Ordinances shall be and the same is hereby amended by adding subsections H and I to hereafter provide as follows:

- H. “VICIOUS OR DANGEROUS ANIMAL” shall mean:
- (a) Any animal which because of its physical nature and vicious propensity is capable of inflicting serious physical harm or death to human beings and would constitute a danger to human life or property; or
 - (b) Any animal which has behaved in such a manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or to bite human beings or other animals;
 - (c) Any animal certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life, animal life, or property upon the basis of a reasonable medical probability; or
 - (d) Any animal that commits an unprovoked attack on a person or animal on public or private property. An “unprovoked” attack by an animal shall mean that the animal was not hit, kicked, or struck with an object or part of a person’s body nor was any part of the animal’s body pulled, pinched, or squeezed by a person; or
 - (e) Any animal that attacks or threatens to attack a person.
- H. “PIT BULL DOG” shall mean the Bull Terrier breed of dogs; the Staffordshire Bull Terrier breed of dogs; the American Pit Bull Terrier breed of dogs; and/or the American Staffordshire Terrier breed of dogs.

Chapter 3 of the Code of Ordinances shall be, and the same is hereby amended by adding Section 11-A to hereafter provide as follows:

SECTION 11-A: KEEPING OF VICIOUS OR DANGEROUS ANIMALS

It shall be unlawful to keep or harbor any vicious or dangerous animal or animals within the city limits.

A. DISPOSITION OF VICIOUS OR DANGEROUS ANIMALS

1. Should any person desire to file a complain concerning an animal which is believed to be a vicious or dangerous animal, a sworn complaint must be filed with the Chief of Police of the City including the following information:
 - (a) Name, address and telephone number of complainant and other witnesses;
 - (b) Date, time and location of any incident involving the animal;
 - (c) Description of the animal.
 - (d) Name, address and telephone number of the animal's owner, if known;
 - (e) A statement regarding the animal which is believed to be a vicious and dangerous animal, stating the facts upon which such complaint is based;
 - (f) A statement that the animal has exhibited vicious propensities in past conduct, if known; and
 - (g) Other facts or circumstances of the incident.

1. After a sworn complaint is filed, it shall be referred to the city health officer or his representative to set a time and place for a hearing not to exceed twenty (20) days from the time the complaint is received. The animal control officer shall give notice of the hearing to the animal's owner by personal service or by certified mail, return receipt requested, at least ten (10) days prior to the hearing date. After the owner of the animal receives the notice, the owner shall keep such animal at the animal shelter or at a veterinarian's clinic until such hearing is held by the city health officer. After the owner of the animal received notice, the city animal control officer shall impound the animal specified in the complaint if such animal is found at large.
 - (a) The City health officer or his representative shall determine at the hearing if the animal specified in the complaint is a vicious animal and should be permanently removed from the city or destroyed for the protection of the public health, safety and or his representative shall receive testimony at the hearing concerning the incident under investigation. To order destruction or removal of the animal for the public health, safety and welfare, the city health officer or his representative must find all the following facts to be true:
 - (1) The animal is a vicious or dangerous animal.
 - (2) Destruction or removal of the animal is necessary to preserve the public health, safety, and welfare of the community. If the city health officer or his representative orders destruction or removal of the animal and the owner is not present at the hearing, he shall notify the owner of

the decision by personal service or certified mail, return receipt requested. If the destruction or removal of the animal is not ordered, the city animal control officer shall return the animal to the owner upon payment of all fees at the published rate. If the city health officer or his representative orders the animal removed from the city, he shall allow the owner ten (10) days to do so. The owner shall furnish the city health officer or his representative evidence of such removal within ten (10) days thereof.

- (a) The owner may appeal a destruction or removal order to the municipal court judge within five (5) days of the decision. If the city secretary receives written notice of appeal within five (5) days of the decision, the destruction or removal order shall be suspended pending final determination of the municipal court judge; provided, that during the pendency of the appeal, the owner shall keep such animal at the animal shelter or at a veterinarian's clinic. The municipal court judge shall determine the appeal based upon the substantial evidence received by the city health officer and may affirm, modify or reverse such decision. The city health officer shall furnish the municipal court judge with all report, memoranda and other tangible evidence received by him as well as a summary of the evidence and his findings. The decision of the municipal court judge will be made by the application of the substantial evidence rule.
- (b) A person commits an offense if he knowingly possesses and fails to release to the city animal control officer an animal that has been charged by sworn complaint as provided in paragraph (a) of this section and whose destruction or removal has been ordered by the city health officer; provided that such destruction or removal order has not been appealed as provided in paragraph (d) above.

Subsection C of Section 12 of Chapter 3 of the Code of Ordinances shall be and the same is hereby amended to hereafter provide as follows:

C. DANGEROUS AND VICIOUS DOGS

1. It shall be unlawful for any person to allow a vicious dog or a dog with vicious propensities, or a female dog in heat, to run at large or allow such dog off the owner's premises within the city limits even if said dog is securely leashed and in control of a person of suitable age and discretion to control and restrain the dog. Any such dog found to be in violation of this subsection may be disposed of as provided in Section 11-A.
2. It shall be unlawful for any person to own, keep, harbor, or in any way possess a pit bull dog within the city limits unless such pit bull dog is properly registered with the City, the registration fee paid, and said pit bull dog maintained within the city in accordance with the requirements of this subsection.
 - (a) Leash and muzzle.

No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six (6') feet in length. No person shall permit a pit bull 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 dog shall not be leashed to inanimate objects such as trees, posts, building, etc. All pit bull dogs 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.

(b) Confinement.

All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or fence of sufficient height to prevent escape, except when leashed and muzzled as provided herein. Such enclosures must have secure sides and must be locked with a key or a combination lock when such animals are within the pens or fence. All structures or fences that are erected to house pit bull dogs must comply with all zoning and building regulations of the City.

(c) Confinement indoors.

No pit bull dog 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 of its own volition. In addition, no structure when the windows are open or when unsecured screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(d) Signs.

All owners of registered pit bull dogs within the City shall display in a prominent place on their fence a sign easily readable by the public using the words "Beware of Dog – Pit Bull".

(e) All owners of registered pit bull dogs shall provide proof to the City of Liability Insurance in a single-incident amount of Twenty-five Thousand (\$25,000.00) Dollars for bodily injury or death of any person or persons, or for damage to property owned by any person which may result from the ownership of such animal.

(f) Identification Photograph.

All owners of registered pit bull dogs shall provide to the City two (2) color photographs of the registered animal in two (2) different poses showing the color and approximate size of the animal.

(g) Reporting Requirements.

All owners of registered pit bull dogs shall report in writing the following events to the Chief of Police within ten (10) days of occurrence:

- (1.) Removal from the City of death of said dog;
- (2.) Birth of offspring;
- (3.) Current address if owner moves within the city;
- (4.) Attack or bit by a pit bull dog.

ARTICLE II.

All ordinances of the City of Terrell, Texas in conflict with the provisions of this ordinance be, and the same are, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this

Ordinance, since the same would have been enacted by such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE IV.

That any person, firm or corporation violating any of the provisions of this ordinance shall be subject to the penalties as provided for in Chapter 1, Section G of the Code of Ordinances of the City of Terrell and each and every day said violation shall continue shall constitute a separate offense and; shall be subject to a separate fine as provided therein.

ARTICLE V.

This Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

PASSED AND APPROVED this 7th day of March, 1989.

PASSED AND ADOPTED this 21st day of March, 1989.

DON L. LINDSEY, MAYOR

ATTEST:

BOBBY BISHOP, CITY SECRETARY