

ORDINANCES – CITY OF GRAPELAND
Ordinance Number 08 – 0701

AN ORDINANCE TO REGULATE THE KEEPING OF VICIOUS DOGS AND PROCEDURES FOR DETERMINING WHETHER A DOG IS VICIOUS WITHIN THE LIMITS OF THE CITY OF GRAPELAND, TEXAS. NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GRAPELAND AS FOLLOWS:

ARTICLE 1
VICIOUS DOGS

SECTION 1: DEFINITIONS

The following words, terms, and phrases, and their derivations used in this ordinance, except where the context clearly indicates otherwise, shall have the following meanings:

- (1) **Vicious dog** means a dog of any breed of dog which:
 - a. Approaches any person in an aggressive, menacing, or terrorizing manner or in an apparent attitude of attack if such person is upon any public way, including streets and sidewalks, or any public or private property; or
 - b. Has a known propensity, tendency, or disposition to attack, inflict injury to or otherwise endanger the safety of persons or domestic animals; or
 - c. Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or
 - d. Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting.
- (2) **Impoundment** means the taking or picking up and confining of an animal by any peace officer, animal control authority, or any other public officer under the provisions of this ordinance.
- (3) **Muzzle** means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.
- (4) **Confined** means to be securely kept indoors, within an automobile or other vehicle, or kept in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of such dog.
- (5) **Securely enclosed and locked pen or structure** means a fenced in area that shall be a minimum of ten (10) feet wide, ten (10) feet long, and six (6) feet in height above grade, and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting posts. The floor shall be at least three (3) inches of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least two (2) feet below grade. The gate must be of the same materials as the fencing, fit securely and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property. The enclosure shall contain and provide shelter and protection from the elements, adequate exercise room, be adequately lighted and ventilated, and kept in a sanitary condition.
- (6) **Physical restraint** means a muzzle and a leash not to exceed four (4) feet in length.
- (7) **Under restraint** means that a dog is secured by a leash, led under the control of a person who is at least eighteen (18) years of age and physically capable of restraining the dog, and that the dog is obedient to that person's commands. A dog kept within a securely enclosed and locked pen or structure shall also be considered to be under restraint.
- (8) **Sanitary condition** means a condition of good order and cleanliness to minimize the possibility of disease transmission.
- (9) **Owner** means any person, partnership, corporation, or other legal entity owning, harboring, or possessing a dog, regardless of breed, that is determined to be vicious, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. Such dog shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

SECTION 2: VICIOUS DOGS PROHIBITED

It shall be unlawful for any person to own, keep, harbor, or possess a vicious dog within the corporate limits of the City of Grapeland unless such dog is confined in compliance with this ordinance.

SECTION 3: PROCEDURE FOR DETERMINING THAT A DOG IS VICIOUS

- (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such complaint signed by one or more residents of Grapeland, the Grapeland Animal Control Authority or his / her designee shall conduct an investigation. The purpose of the investigation shall be to determine whether such dog is, in fact, vicious. The dog owner shall have the right to appeal to the Grapeland City Council if they disagree with the determination that their dog is declared to be vicious.
- (2) In making the determination as to whether a dog is vicious, the Animal Control Authority or his / her designee shall consider, but is not limited to, the following criteria:
 - a. Provocation.
 - b. Severity of attack or injury.
 - c. Previous aggressive history of the dog.
 - d. Observable behavior of the dog.
 - e. Site and circumstances of the incident giving rise to the complaint.
 - f. Age of the victim.
 - g. Statements from witnesses and other interested parties.
 - h. Reasonable enclosures already in place.
 - i. Height and weight of the dog.
- (3) Within five (5) days of the investigation, the Animal Control Authority or his / her designee shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the dog's owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog within a securely enclosed and locked pen or structure, and whenever the dog is removed from such secure enclosure it shall be physically restrained and under restraint as defined in this ordinance. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested, and shall be at the owner's sole expense. The Animal Control Authority may;
 - a. Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this ordinance; or
 - b. Permit an alternate method of enclosure provided that, in the sole discretion of the Animal Control Authority, such alternate method fulfills the objectives as a secure enclosure.
- (4) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:
 - a. Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or
 - b. Was teasing, tormenting, abusing, or provoking the dog; or
 - c. Was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault.

SECTION 4: IMPOUNDMENT OF VICIOUS DOGS

Any vicious dog, not in compliance with the provisions of this ordinance, may be taken into custody by the appropriate authorities of the City of Grapeland or agents acting on behalf of the City, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with such impoundment in addition to any punitive fines to be paid. No dog which has been declared vicious pursuant to this ordinance shall be released from impoundment unless and until the standards and requirements for keeping vicious dogs, as specified in Article 2, Section 5 of this ordinance have been met.

SECTION 5: STANDARDS AND REQUIREMENTS FOR KEEPING VICIOUS DOGS

The following standards and requirements shall apply to the keeping of vicious dogs located within the corporate limits of the City of Grapeland:

- (1) **Registration.** Within ten (10) days of a dog being declared vicious pursuant to this ordinance, the owner, keeper, harborer, or possessor of such dog shall register the dog with the Grapeland Police Department.
- (2) **Physical restraint.** No person having charge, custody, control or possession of a vicious dog shall permit the dog to go outside its kennel, pen, or other securely enclosed and locked pen or structure unless such dog is under restraint. No person shall permit a vicious dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or structures.
- (3) **Muzzle.** It is unlawful for any owner or keeper of a vicious dog to allow the dog to be outside its kennel, pen, or other securely enclosed and locked pen or structure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent the dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.
- (4) **Outdoor confinement.** Except when leashed and muzzled as provided in this ordinance, all vicious dogs shall be securely confined as described in Article 1, Section 1 (5) of this ordinance. All structures used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. All outdoor structures erected to house vicious dogs must comply with building ordinances and regulations of the City of Grapeland and construction of such structures shall be completed within thirty (30) days of the owner's dog being declared vicious.
- (5) **Indoor confinement.** No vicious dog shall be kept on a porch, patio, or in any part of a dwelling or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a dwelling or structure when the windows or screen doors are the only obstacles preventing the dog from exiting the structure.
- (6) **Signs.** All owners, keepers, harborers, or possessors of vicious dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog" and include a warning symbol to inform children that there is a dangerous dog on the property. All such signs required by this ordinance shall be installed and in place within fourteen (14) days of an owner's dog being declared vicious.
- (7) **Insurance.** Within fourteen (14) days of being declared vicious, all owners, keepers, harborers, or possessors of vicious dogs shall provide proof to the Police Department of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, keeping, possessing, or maintaining such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days advance written notice is first given to the Grapeland Police Department.
- (8) **Identification photographs.** Within fourteen (14) days of being declared vicious, all owners, keepers, harborers, or possessors of vicious dogs shall provide to the Grapeland Police Department two (2) color photographs of the dog clearly showing the color and approximate size of the animal.
- (9) **Reporting requirements.** All owners, keepers, harborers, or possessors of vicious dogs shall within ten (10) days of the incident report the following information in writing to the Grapeland Police Department as required hereinafter:
 - (a) The removal from the city or death of a vicious dog.
 - (b) The birth of offspring of a vicious dog.
 - (c) The new address of a vicious dog owner, keeper, harborer, or possessor should the owner, keeper, harborer, or possessor move his residence within the corporate limits of the City of Grapeland.

SECTION 6: SALE OR TRANSFER OF OWNERSHIP PROHIBITED

No person shall sell, barter, or in any other way transfer possession of a vicious dog to any person within the City of Grapeland unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided he owner of a vicious dog may sell or otherwise dispose of a vicious dog or the offspring of a vicious dog to persons who do not reside within the City of Grapeland.

SECTION 7: COURT PROCEEDINGS AGAINST THE OWNER

If any vicious dog is impounded, the City of Grapeland may institute proceedings in Municipal Court charging the owner with violation of this ordinance. Nothing in this section, however, shall be construed as preventing the City or any citizen from instituting a proceeding for violation of this ordinance where there has been no impoundment.

SECTION 8: COURT FINDINGS

If a complaint has been filed in Municipal Court against the owner of a dog for violation of this ordinance, the dog shall not be released from impoundment or disposed of except on order of the Court and payment of all charges and costs incurred under this ordinance, including penalties for violating this ordinance. The Court may, upon a finding that the dog is vicious pursuant to this ordinance, order the dog to be destroyed in a humane manner.

SECTION 9: GUARD DOGS

It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Grapeland for the protection of persons or property unless the following provisions are met:

- (1) The guard dog shall be confined; or
- (2) The guard dog shall be under the direct and absolute control of a handler at all times when not confined; and
- (3) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty (50) feet, whichever is lesser and shall contain a telephone number where some person responsible for controlling the guard dog can be reached twenty four (24) hours a day.

ARTICLE 2

PENALTIES, REPEALS, AND SEVERABILITY

SECTION 1: PENALTIES

Any person found guilty of violating any provision of this ordinance is guilty of a Class C Misdemeanor and may be fined not more than five hundred dollars (\$500.00). Each day or part of a day a person is found guilty of violating any provision of this ordinance shall be guilty of a new and separate offense.

SECTION 2: CUMULATIVE AND REPEAL OF CONFLICTING ORDIANANCES

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency or conflict is apparent.

SECTION 3: SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Grapeland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

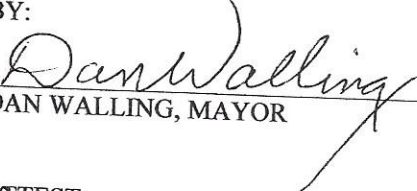
SECTION 4: FORCE AND EFFECT

This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Grapeland, Texas, on this the 8th of July, 2008.

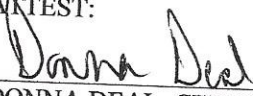
CITY OF GRAPELAND

BY:



DAN WALLING, MAYOR

ATTEST:



DONNA DEAL, CITY SECRETARY