

STATE OF ALABAMA)
COUNTY OF DEKALB)
CITY OF RAINSVILLE)

ORDINANCE NO.: 05-15-2017

**AN ORDINANCE PROHIBITING OR REGULATING THE OWNING
OR KEEPING OF DANGEROUS, VICIOUS, AND/OR
AGGRESSIVE ANIMALS, AND PROVIDING
PENALTIES FOR VIOLATIONS**

WHEREAS, the Rainsville City Council finds that the presence of aggressive, vicious, and/or dangerous animals within the City of Rainsville, Alabama has become a problem, and constitutes a clear and present danger to the public health, safety, and welfare of the citizens of the City of Rainsville; and,

WHEREAS, the Rainsville City Council determines that in addition to the City's "Responsible Pet Ownership Ordinance," which is Ordinance Number 5-23-13-A, the public health, safety, and welfare of the citizens of the City of Rainsville, Alabama require the establishment of further regulations regarding the owning and keeping of dangerous, aggressive, or vicious animals, and the establishment of further penalties and procedures necessary to protect the public from such animals.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Rainsville, Alabama, while in a regular session on the 15th day of May, 2017, at 5:00 p m., as follows:

SECTION 1. **Definitions.**

(a) "Animal" as used in this Ordinance includes any and all living non-human creatures, domestic or wild, including livestock, and including any type of wolf-hybrid dogs.

(b) "City" as used in this Ordinance means the City of Rainsville, Alabama and its police jurisdiction.

(c) "Dangerous, Aggressive, or Vicious Animal" as used in this Ordinance means an animal which has, at any time, attacked or bitten a person or domestic animal off the premises of the animal's owner or keeper; an animal who disturbs and annoys passers-by who are lawfully on a public street, in a public park, or on school grounds, whether or not such animal is on a public street; and any animal that without justification or provocation attacks a person or domestic animal causing physical injury or death; and any animal that behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domesticated animals.

SECTION 2. **Applicability.**

This Ordinance shall apply to any owner or keeper of an animal in the City of Rainsville or in the police jurisdiction of the City of Rainsville.

SECTION 3. **Right of Entry by Enforcement Agents; Interfering with, Obstructing, etc., Enforcement of Ordinance.**

(a) The City of Rainsville's designated Animal Control Authority shall be authorized to enter upon and make an inspection of any public or private premises, and any structures located thereon, for the purpose of investigating and insuring compliance with the provisions of this Ordinance.

(b) Any person who by word or act resists, obstructs, or impedes the Animal Control Authority, or who uses threatening or abusive language toward such Authority while engaged in the enforcement of this Ordinance, or while engaged in the performance of any duty, or in the exercise of any power, authorized by this Ordinance of the City of Rainsville, shall be guilty of a misdemeanor.

(c) The Animal Control Authority, or any police officer or other officer of the City exercising police authority, is authorized to kill any animal running at large contrary to the provisions of this Ordinance if, in the Authority's or Officer's opinion, the animal is dangerous, aggressive, or vicious, and constitutes an immediate threat to the public health, safety, and welfare.

SECTION 4. **Dangerous, Aggressive, and/or Vicious Animals.**

(a) It shall be unlawful for the owner of any dangerous, aggressive, and/or vicious animal to allow such animal to be at large or unrestrained within the city or its police jurisdiction.

(b) Every dangerous, aggressive, and/or vicious animal shall be confined by its owner within a building, or secure enclosure, which at all times adequately prevents such animal from escaping the building or enclosure.

(c) It shall be unlawful for the owner of any vicious, aggressive, and/or dangerous animal to allow such animal to be off the owner's property unless such animal is securely muzzled or caged so as to effectively prevent such animal from biting another animal or person.

(d) All owners of a dangerous, vicious, or aggressive animal must report any incident of aggression toward a person or domesticated animal to the city Animal Control Authority within 24 hours of the incident. Failure to so report may result in the animal being removed from the owner's care and destroyed.

(e) All owners, keepers or harborers of a dangerous animal must provide proof to the City Clerk of liability insurance in a single incident amount of at least \$100,000.00 specifically covering any damage or injury which may result from the ownership, keeping, or maintenance of such animal. The policy shall contain a provision requiring the City to be named as an additional insured for the sole purpose of being notified by the insurer of any cancellation, termination or expiration of the liability insurance policy. At the time of initial registration the owner, keeper or harborer must present proof to the City Clerk of the required insurance. At the time of subsequent renewal the owner, keeper or harborer must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior year. In the event the liability insurance is canceled, lapsed, or for any other reason becomes non-enforceable, the owner, keeper, or harborer shall be in violation of the provisions of this Ordinance, and subject to the penalties provided herein.

(f) It shall be unlawful for the owner, keeper or harborer of a dangerous animal to fail to comply with the requirements and conditions set forth in this Ordinance. Any animal found to be the subject of a violation of this Ordinance shall be subject to immediate seizure and impoundment, and further may be subject to the immediate removal of the animal from the city, or destruction.

SECTION 5. Procedure for declaring an animal aggressive, dangerous, and/or vicious.

(a) Upon the written complaint of any interested person, including a written report made by the Animal Control Authority, that a person owns or is keeping or harboring a vicious, aggressive, or dangerous animal in violation of this Ordinance, the Animal Control Authority shall forthwith cause the matter to be investigated. If, after investigation, the facts indicate that such person named in the complaint is, in fact, the owner or is keeping or harboring a vicious, aggressive, or dangerous animal, the Animal Control Authority shall forthwith send written notice to such person requiring such person to take such action as is necessary in the estimation of the Animal Control Authority to ensure the safety of people and domesticated animals within the city and police jurisdiction. This action may include properly securing the animal as provided in this Ordinance, or may include removing the animal from the city. Such notice shall not be required where the dangerous animal has previously caused serious physical harm or death to any person or domesticated animal, or has escaped and is at large; in those instances the Animal Control Authority shall cause the animal to be immediately seized and impounded, or destroyed if seizure and impoundment are not possible without risk of serious physical harm or death to any person or domesticated animal.

The notice from the Animal Control Authority shall inform the owner that he/she may request, in writing, a hearing before the Rainsville Municipal Court to contest the Animal Control Authority's finding that the animal is aggressive, vicious, or dangerous within five (5) days after delivery of the declaration notice. However, the animal may be removed from the possession of the owner, and housed at the owner's expense, pending a resolution of the hearing, if the Animal Control Authority deems such action appropriate.

(b) It shall be no defense that such animal was at large, or improperly muzzled, or improperly caged without the knowledge, consent, or permission of the owner or person responsible for the animal.

(c) Any interested person may request under oath that an animal be classified as dangerous, aggressive, or vicious as defined in this Ordinance by submitting a sworn, written complaint to the Rainsville City Court Magistrate. Upon receipt of such complaint, the City Magistrate shall notify the owner of the animal, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted. The notice shall provide a court date for the matter to be heard in the Rainsville Municipal Court.

(d) Nothing contained in this Ordinance shall be construed to require the City of Rainsville to allow an animal determined by the Animal Control Authority to be vicious, dangerous, or aggressive to remain in the possession of the owner until such time as there is a resolution of the matter by a court. The animal may be removed from the owner and/or destroyed if determined necessary for the protection of the safety of persons or domesticated animals within the city or police jurisdiction.

(e) At a hearing all interested parties shall be given the opportunity to present evidence on the issue of the animal's aggressiveness, dangerousness, and viciousness. Criteria to be considered in the hearing shall include, but not be limited to the following:

1. Provocation,
2. Severity of attack or injury to a person or animal,
3. Previous aggressive history of the animal,
4. Observable behavior of the animal,
5. Site and circumstances of the incident, and
6. Statements from interested parties.

(f) A determination that the animal is, in fact, a vicious, aggressive, and/or dangerous animal as defined in this Ordinance shall subject the animal and its owner to the requirements of this Ordinance.

(g) If the court determines that the animal is aggressive, vicious, or dangerous and has caused serious physical injury or death to a human being or domesticated animal, then the court may order the dog to be euthanized by a licensed veterinarian or an authorized animal control official with the owner ordered to pay the costs associated therewith.

(h) If a court or Animal Control Authority determines that an animal is aggressive, dangerous, or vicious, but does not order that the animal be destroyed, in addition to any other requirements imposed by the court or Animal Control Authority, before releasing the animal to the possession of the owner, the owner of the animal may be required to register the animal with the Rainsville Animal Control Department; present evidence of a current certificate of rabies vaccination; present a current photograph of the animal; provide an affidavit stating that the animal will be confined to a proper and adequate enclosure when the animal is outdoors and unattended; provide proof that the animal has been neutered or spayed; comply with

any order that the animal be permanently identified by tattooing or injecting an identification microchip using standard veterinary procedures and practices, providing the name, address, and phone number of the veterinarian performing the identification procedure; provide and maintain a policy of liability insurance as detailed above in this Ordinance; provide proof of written permission from any landlord that the owner has consent to maintain the animal on the premises; provide an affidavit stating that the animal will be under the control of a person 19 years or older when the animal is not in an enclosure or inside a building on the owner's premises, and that the animal will not be allowed outside the property unless properly muzzled or caged in a manner so as to prevent harm to any persons or other animals; and to provide proof that the animal's veterinarian has been notified of the court's orders or Animal Control Authority's determination.

(i) In the event the owner fails to comply with the orders of the court or Animal Control Authority, the animal shall be destroyed in a humane manner with the owner paying for all expenses associated therewith.

(j) Failure of the owner to request a hearing as provided herein shall result in the animal being finally declared a vicious, aggressive, and/or dangerous animal and shall subject the animal and its owner to the requirements of this Ordinance.

SECTION 6. Appeal from vicious, aggressive, dangerous animal declaration.

If the Municipal Court determines that an animal is vicious, aggressive, or dangerous at the conclusion of a hearing, that decision shall be final unless the owner of the animal appeals the decision to the Circuit Court of DeKalb County within 14 days of the decision. However, pending the outcome of the appeal, the animal shall be subject to any such requirements as deemed necessary by the City of Rainsville in order to keep people and domesticated animals safe, which may include requiring the animal to remain outside of Rainsville or its city limits and requiring the owner to pay any and all fees associated with housing the animal if determined appropriate by the City.

SECTION 7: Impoundment costs.

If at any time an animal is impounded under the terms of this Ordinance, and the owner fails to pay such impoundment costs, housing fees, and inoculation costs when due, after the expiration of 7 days, the animal may be humanely destroyed at the City's direction with the owner being responsible for any costs associated therewith.

SECTION 8. Barking, Howling, Loud Animals.

It shall be unlawful for the owner of any animal to allow the loud and frequent, or continued barking, howling or loud sounds of such animal to continue for any interval of ten (10) minutes or more between the hours of six o'clock in the evening (6:00 p.m.) and six o'clock in the morning (6:00 a.m.), or to allow such barking, howling or loud sounds to repeatedly awaken any neighbor or neighbors from sleep at any time, or to allow such barking, howling or loud sounds to repeatedly interfere with the lawful right of any neighbor to enjoy the use of their premises for social, recreational or business purposes. Any person violating this Section shall be guilty of a misdemeanor.

SECTION 9. Impoundment of Animals; Citations; Disposition of Animals; Liability of the Animal Control Authority; Diseased or Injured Animals.

(a) The Animal Control Authority shall impound or cause to be impounded any animal found to be in violation of this Ordinance, or in violation of the rabies control law, and may issue a citation, and/or may cause to be issued a court summons to the owner.

(b) Any animal impounded under the provisions of this Ordinance shall not be redeemed or released to the owner of such animal until all impound fees and fines for the violation, as set by the governing body of the City have been paid, and until such animal shall have been properly inoculated against rabies or written evidence of such inoculation is presented, and until all expenses necessitated by the seizure of the animal for the protection of the public, and such other expenses as may be required for the destruction of any such animal have been paid.

(c) The Animal Control Authority shall exercise reasonable care to prevent injury, illness, death, escape or theft of any animal with which he deals in carrying out the provisions of this Ordinance, but he shall not be held responsible for any such occurrence.

(d) Any animal impounded under the provisions of this Ordinance, which is found upon arrival at the animal control center, or private veterinarian chosen by the City, to be diseased or injured, and which bears no identification or tags, and whose owner is unknown, unavailable, or voluntarily relinquished such animal, may be humanely destroyed at the direction of the animal control officer.

(e) The Owner of any vicious, aggressive, or dangerous animal which attacks a human being or domestic animal may be required to remove the animal from the City of Rainsville and its police jurisdiction. In the event the Owner will not do so upon request, then the animal may be destroyed when the animal represents a continuing threat of serious harm to human beings or domestic animals.

SECTION 10. Signs.

All owners, keepers, or harborers of any vicious, dangerous, or aggressive animal shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog."

SECTION 11: Penalties and Fines.

Any person found to have violated Sections 2(b); 4(a) through 4(e); 5(h); 8; and 10 of this Ordinance shall be guilty of a misdemeanor, and shall be fined not more than \$500.00, and may be jailed in the city or county's jail for a period not to exceed six (6) months, and may be ordered to pay restitution in an amount sufficient to reimburse any victim for all damages and losses occasioned as a result of the offense. Additionally, a person may be assessed all costs associate with housing, inoculating, and impounding his/her animal.

SECTION 12: Immunity for actions pertaining to vicious, aggressive, or dangerous animals.

All employees of the City, the Animal Control Authority, the municipal court officials, the DeKalb County Animal Adoption Center, and any veterinarian providing services pursuant to this Ordinance, shall be immune from liability to any animal owner for any actions performed in relation to any animal alleged to be vicious, aggressive, or dangerous.

SECTION 13. Exceptions.

- (a) This Ordinance shall not apply to any dog used by the police department or law enforcement agencies.
- (b) No animal shall be declared vicious, aggressive, or dangerous for injury or damage sustained by a person who was entering the owner's premises to commit a burglary, robbery, assault, willful trespass or other tort or crime.
- (c) No animal shall be declared vicious, aggressive, or dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing, assaulting, or otherwise provoking the animal on the premises of the owner.
- (d) No animal shall be declared vicious, aggressive, or dangerous solely because it bites or attacks a person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a suspect.
- (e) No animal shall be declared vicious, aggressive, or dangerous solely because it bites or attacks an unrestrained animal that attacks it or its young on the premises of the owner.

SECTION 14. Severability Clause.

If any part of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 15. Repealer Clause.

Any ordinance heretofore adopted by the City Council of the City of Rainsville, Alabama, which is in conflict with this Ordinance hereby is repealed only to the extent of such conflict.

Adopted this the 15th day of May, 2017.

CITY OF RAINSVILLE, ALABAMA

By: Rodger Lingerfelt
Rodger Lingerfelt
Its Mayor

Attested by:
(SEAL)

Kelly Frazier
Kelly Frazier
City Clerk

CLERK'S ATTESTATION OF PUBLICATION

I hereby certify that the above and foregoing Ordinance was duly adopted at a regular meeting of the City Council of the City of Rainsville, Alabama, at which it was passed by unanimous vote of the Mayor and City Council, and that it has been published one time in *The Mountain Valley News*, a newspaper of general circulation published in the City of Rainsville, Alabama and which is a newspaper of general circulation published in DeKalb County, Alabama, in its publication of the 18th day of May, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official corporate seal of the City of Rainsville, Alabama on this the 15th day of May, 2017.

Kelly Frazier
Kelly Frazier
City Clerk