

ORDINANCE NO. 1665

AN ORDINANCE OF THE CITY OF THE CITY OF AMORY
ADDRESSING DANGEROUS DOGS, CONFINEMENT OF
DANGEROUS DOGS, TETHERING OF DOGS, AND RELATED MATTERS

BE IT ORDAINED BY THE MAYOR AND BOARD OF
ALDERMEN OF THE CITY OF AMORY, MISSISSIPPI, AS FOLLOWS:

WHEREAS, the Mayor and the Board of Aldermen of the City of Amory, Mississippi have determined that it is necessary to place certain restrictions on the keeping of dogs in the City of Amory, Mississippi, for the preservation of the public health, safety and welfare; and

WHEREAS, Section 21-19-9 Mississippi Code Annotated of 1972, as amended, provides municipalities with the authority to prevent or regulate the running at large of animals of all kinds; and

WHEREAS, dog bites and attacks are a serious public health problem that inflict considerable physical and emotional damage on victims and negatively affect the community at large and the quality of life in the community; and

WHEREAS, according to the Center for Disease Control and Prevention (the "CDC") and various studies, there are approximately 4.5 million people per year who are bitten by dogs in the United States and almost one in five bite victims require medical attention; and

WHEREAS, studies have also established that over 30 dog attacks per year result in the death of American citizens; and

WHEREAS, according to the CDC, children are at a higher risk for dog bite-related injuries and are more likely to receive medical attention for dog bites than adults; and

WHEREAS, according to the CDC, a chained dog is more likely to bite a human than an un-chained dog; and

WHEREAS, the Board finds that it is an appropriate use of its police power to regulate dog behavior in order to address safety concerns from dogs that may be dangerous and could potentially harm, attack, or injure humans or other domestic animals.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF
ALDERMEN OF THE CITY OF AMORY, MISSISSIPPI, as follows:

SECTION 1. Definitions

The following words, whenever used in this Ordinance shall have the meaning ascribed to them in this Section unless a different meaning clearly appears from the context:

A. "Person" shall mean any individual, firm, association, partnership or corporation.

B. "Dangerous Dog" shall mean any dog of any breed which meets any of the following characteristics:

1. Any dog which, without provocation, attempts to bite, inflict injury, assault, or otherwise attempts to attack a human being or a domestic animal; or

2. Any dog which, without provocation, approaches any person or domestic animal in a threatening or terrorizing manner, upon any street, sidewalk, public grounds or private property; or

3. Any dog that is trained to attack, cause injury, intimidate, or otherwise endanger the safety of human beings or domestic animals, or any dog that which has a history of attacking any person or domestic animal; or

4. Any dog which demonstrates propensities for aggression or violent behavior toward any person or domestic animal; or

5. Any dog that has been trained, tormented, badgered, abused, baited, or encouraged to engage in unprovoked attacks or aggressive behavior upon or toward any person or domestic animal; or

6. Any dog that has killed another domestic animal, unless the animal killed was the initial aggressor; or

7. Any dog which, without provocation, chases any person in a menacing fashion or apparent attitude of attack; or

8. Any dog with a known propensity, tendency or disposition to attack a person or domestic animal without provocation; or

9. Any dog which is owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

10. Any dog declared by the Amory Municipal Court to be a dangerous dog.

However, no dog may be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time such threat, injury, or damage was sustained, was committing a willful trespass, tort, or criminal act upon the premises of the owner of the dog.

C. "Owner" shall mean any person or persons owning, keeping, or harboring any dog or a person having control over any dog. A dog shall be deemed harbored if it is fed or sheltered. For purposes of this ordinance, an owner and a keeper of dogs shall be deemed one and the same.

It is not necessary that a person keeping or having possession of the dog be the actual registered owner or rightful owner of a dog or the purchaser of a dog in order to be deemed the owner for purposes of this ordinance.

D. "Tether" shall mean the fastening, affixing or restraining of a dog to a stationary or inanimate object, including but not limited to a dog house, pole, post, building, tree, in ground restraint, tie down, or similar object, by tie, cable, rope, chain, leash or similar means of restraint

E. "City's Designee" shall mean the person or persons designated to act for the City of Amory, Mississippi, in the capture and impoundment of animals, controlling of animals running at large and as otherwise required in this Ordinance. These persons may include the Chief of Police, Police Officers, City employees and/or any recognized humane society.

SECTION 2: Unlawful Keeping of Dangerous Dogs Prohibited

A. It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell any dangerous dog within the City of Amory, unless such dog is kept in accordance with the terms of this ordinance or falls within an exception as provided hereinbelow.

B. It shall be unlawful for any person to keep any dog tethered, except in the manner provided for in this ordinance.

C. It shall not be lawful to tether a dangerous dog in the City of Amory.

SECTION 3: EXCEPTIONS

The following exceptions are allowable:

(a) The owner of a dangerous dog who maintains the dog at all times in compliance with the terms of this Ordinance may keep a dangerous dog within the City of Amory.

(b) The City's Designee may temporarily harbor and transport any dangerous dog for purposes of enforcing the provisions of this Ordinance.

(c) Any humane society operating an animal shelter which is recognized by the City of Amory may hold any dangerous dog that it has received or otherwise recovered.

(d) The keeping of such animal in a bona fide, licensed veterinary hospital for treatment.

(e) A person may temporarily transport into and hold in the City of Amory a dangerous

dog for the purpose of showing such dog in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the City of Amory or the City's Designee, and additionally must obtain any other permits or permits required by City Ordinance. Such person must provide protective measures adequate to prevent such dogs from escaping or injuring the public or other animals. The person who transports and holds a dangerous dog for showing shall, at all times when the dog is being transported within the City, to and from the place of exhibition, contest, or show, keep the dangerous dog confined in a secure temporary enclosure such as a dog carrier or crate.

(f) All dogs used and/or maintained under the supervision of law enforcement for law enforcement purposes, including police dogs, guard dogs, and drug dogs.

(g) All dogs considered service dogs or K-9 teams which are used under supervision by the military, governmental agencies, or corporations for bona fide service purposes.

(h) The owner of a dangerous dog may transport the dog for legitimate veterinary purposes, vacation purposes, or other legitimate travel. During transport such person must provide protective measures adequate to prevent such dogs from escaping or injuring the public or other animals. The person who transports and holds a dangerous dog shall, at all times when the dog is being transported within the City, keep the dangerous dog confined in a secure temporary enclosure such as a dog carrier or crate.

SECTION 4: LEASH AND CONFINEMENT REQUIREMENTS FOR DANGEROUS DOGS

Owners of dangerous dogs shall properly restrain and confine such dogs at all times in accordance with the requirements of this ordinance. The owning or keeping of a dangerous dog is subject to the following minimum requirements for restraint and confinement:

(1) **Leash.** No person shall permit a dangerous dog to go outside of the home or building if kept indoors, or outside its enclosure if kept outdoors, unless such animal is securely leashed with a leash no longer than four feet in length.

(2) **Muzzle.** No person shall permit a dangerous dog to go outside its enclosure unless such animal is securely muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.

(3) **Outdoor Confinement.** Dangerous dogs may be confined outdoors in accordance with the following terms of confinement:

A dangerous dog must be kept inside a secure outside enclosure as defined herein

except when leashed and muzzled as above provided. The enclosure must be constructed in a manner that is satisfactory to the City of Amory or its designee, and written approval from the City of Amory or its designee must be obtained by the owner. The enclosure must contain a minimum of 100 square feet per dog housed in order to allow adequate space for exercise and humane living conditions. The enclosure is to have adequate shading and cover in order to protect the dog from heat, rain and other elements. Adequate shading and cover shall include but not be limited to a top or cover over the enclosure and/or an adequate dog house inside the enclosure. The enclosure is to be constructed of chain link, wood, or pre-fabricated materials, with all four sides enclosed. The enclosure shall be of sufficient height and strength to prevent the dog from escaping from such enclosure. The enclosure is to be locked and closed at all times except for when the dog is entering and exiting the enclosure while leashed and muzzled as above provided. All enclosures are to be adequately ventilated and kept in a clean and sanitary condition.

All enclosures erected to house dangerous dogs must also comply with all zoning and building regulations of the City of Amory.

(4) Confinement Indoors. Dangerous dogs may be kept and confined indoors. All such dogs are to be kept in a secure manner, in order to prevent the dog from exiting and/or escaping the indoor confinement. No dangerous dog may be kept on a porch, patio, or any part of a house or structure or in any manner that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(5) Signs. All owners or keepers of dangerous dogs within the City of Amory shall within thirty days of the effective date of this Ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign shall be posted on the enclosure housing such animal.

(6) Special Collar. All dangerous dogs shall be required to wear a bright orange collar furnished by the City of Amory at all times. The collar shall be visible on the dog when it is in a kennel or pen or on a leash. The owner of the dog shall be responsible for obtaining a dog tag which contains the owner's name, telephone number and address. The dog tag shall be permanently affixed to the collar.

SECTION 5: LOCATION RESTRICTIONS

Dangerous Dogs shall not be kept, confined, or located within five hundred feet from the property line of any property upon which is located a church, school, preschool or kindergarten facility, daycare, hospital, nursing home athletic field or recreational area.

SECTION 6: RESTRAINT OF DOGS BY TETHERING:

1. Any person owning, keeping, and/or controlling a dog, other than a dangerous dog, for any purpose whatsoever, shall not allow such dog to be tethered for more than ten (10) hours per day.

While the dog is tethered, the following rules shall apply:

- water, food and shelter shall be provided at all times.
- length of chain/tie/tether must be at least 6 feet in length but not more than 12 feet.
- dogs may only be tethered in the back yard of residences and not in the front or side yard.
- tethered dogs must be at least ten feet from city right of way.

2. No person shall permit a dangerous dog to be tethered outside its enclosure.

SECTION 7: FAILURE TO COMPLY

It shall be unlawful for the owner or person that is a keeper of any dog to fail to comply with the requirements and conditions of this Ordinance, and upon conviction for a violation, such owner or person shall be subject to those penalties set out hereinbelow.

SECTION 8: NOTICE OF VIOLATION

When the City Designee has knowledge of a possible violation of this ordinance, the City Designee shall forthwith cause the matter to be investigated. If after investigation there are reasonable grounds to believe there has been a violation of this Ordinance, the City Designee shall forthwith deliver written notice to the owner of the dog that is the subject of a violation of this ordinance.

Upon delivery of notice, the City Designee may confer with the owner as to the nature of the dog and its confinement in accordance with the requirements of this ordinance. In the event an owner agrees to properly confine such dog and promptly does so in accordance with the requirements of this ordinance, then no violation will be deemed to have occurred. The City designee is to make a report of the agreement, including the terms thereof and the timeframe in which the confinement is to be accomplished. In the event the owner does not comply with the terms of the agreement reached, then the City Designee may proceed with the filing of an affidavit and/or complaint in the Amory Municipal Court in the manner set forth hereinbelow.

If the violation concerns a dangerous dog, the notice may require such person to safely remove the dangerous dog from the City or arrange for its confinement within the City until the matter can be heard by the Amory Municipal Court. Confinement may be on the owner's premises if done in a secure manner that is acceptable to the City Designee, or with a humane society operating an animal shelter which is recognized by the City of Amory or in a bona fide, licensed veterinary clinic within five days of the date of said notice. If an owner fails to do so, then the owner will be in violation of this ordinance.

After notice is delivered, assuming the owner does not make proper arrangements to confine

the dog in accordance with the terms of this ordinance, the City Designee shall promptly cause an affidavit and/or complaint to be filed in the Amory Municipal Court. The Amory Municipal Court will then make a determination of whether or not a violation of this ordinance has occurred and whether or not the dog is a dangerous dog as provided below.

In the event the Municipal Court determines that a violation of this ordinance has occurred, the court, in addition to any penalties provided for hereinbelow, shall declare any dog involved in such violation and meeting the above definition to be a dangerous dog. Upon such declaration, the dog must be confined in accordance with the terms of this ordinance. Further, the declaration shall establish the dog as a dangerous dog for purposes of determining any future violations of this ordinance. Failure of the owner to confine such dog in accordance with this ordinance after such declaration shall be deemed a separate violation of this ordinance and subject the owner to the enhanced penalties set forth herein.

The City Court Clerk will notify the City Clerk of the name, location and owner of all dogs declared dangerous by the municipal court. The City Clerk will maintain a registry of all such information on file in the office of the City Clerk.

Such notice shall not be required when a dangerous dog has caused serious physical harm or death to any person or has escaped and it is at large, in which case the dangerous dog will be dealt with under the terms of the Ordinance of the City of Amory addressing Animal Control and Vicious Animals which is currently Ordinance 1636.

If the violation concerns tethering a dog other than a dangerous dog, then the City Designee shall give notice that the owner or keeper is in violation of the ordinance and cause an affidavit and/or complaint to be filed in the Amory Municipal Court. However, for tethering violations of non-dangerous dogs, the removal of the dog shall be discretionary with the City's Designee.

SECTION 9: SEIZURE, IMPOUNDMENT,

The City Designee may cause to be seized and impounded, any dangerous dog, when the owner of such dog has failed to comply with the terms of this ordinance after receiving the notice sent pursuant to Section 8. Upon seizure and impoundment, the City Designee shall promptly cause an affidavit and/or complaint to be filed in the Amory Municipal Court against the owner of the

dangerous dog and said dog shall be delivered to a place of confinement and kept until further order of the Amory Municipal Court. The Amory Municipal Court will then hear the matter on one of its regularly scheduled Court dates in the same manner provided for in Section 8 hereinabove.

SECTION 10: APPEAL

Any aggrieved party may appeal the decision and findings of the Amory Municipal Court judge pursuant to applicable Mississippi Code statutes. However the filing of such an appeal under this subsection shall not stay any action taken pursuant to this Ordinance.

SECTION 11: VIOLATIONS AND PENALTIES

Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished as follows:

A. Upon the first conviction of a violation of any of the provisions of this Ordinance, by a fine of not less than \$50.00 and not more than \$1000.00 or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

B. Upon a second conviction of a violation of any of the provisions of this Ordinance, by a fine of not less than \$250.00 and not more than \$1,000.00 or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

C. Upon the third or subsequent conviction of a violation of any of the provisions of this ordinance, by a fine of not less than \$500.00 and not more than \$1,000.00 or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

D. In addition to the foregoing penalties, upon a violation having occurred that concerns a dangerous dog, the Court may order the permanent removal of the dangerous dog from the City. Should the defendant refuse to remove the dangerous dog from the City, the Court may find the defendant in contempt and order the immediate impoundment of the dangerous dog, or continued impoundment if the dangerous dog has already been impounded. The Court may also order the destruction of the dangerous dog.

In addition to the foregoing penalties, any person who violates this Ordinance shall pay all expenses, including shelter, food, handling, veterinary care, witness fees, and expenses necessitated by the enforcement of this Ordinance. The minimum daily expense shall be not less than twenty-five dollars (\$25.00).

Each day that a violation of this Ordinance continues shall be deemed a separate offense.

SECTION 12: SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or part thereof of this Ordinance or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction such decision shall not effect the validity of the remaining portions of this Ordinance.

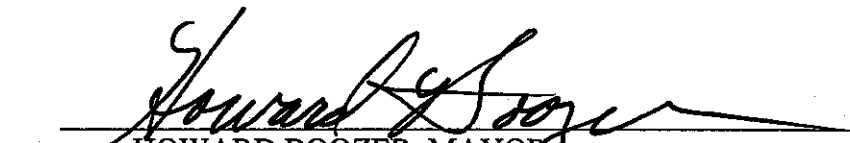
SECTION 13: EFFECTIVE DATE This Ordinance as amended shall take effect and be in force as provided for by law.

This Ordinance having first been reduced to writing was read, considered and adopted, first section by section and then as a whole.


Thereupon, upon motion duly made by Alderman Tommy Wilkerson seconded by Alderman John E. Darden, to adopt the foregoing ordinance, section by section, and then as a whole, and the question being put to a roll call vote, the result was as follows:

Alderman Buddy Carlisle	Voting <u>"AYE"</u>
Alderman John Darden	Voting <u>"AYE"</u>
Alderman Tony Poss	Voting <u>"AYE"</u>
Alderman Bill Lyle	Voting <u>"AYE"</u>
Alderman Tommy Wilkerson	Voting <u>"AYE"</u>

Thereupon, the Mayor declared said Ordinance approved, passed and adopted on this the 21ST day of SEPTEMBER, 2010.


HOWARD BOOZER, MAYOR

ATTEST:


GLENN HOWELL, CITY CLERK