

ORDINANCE NO. 10-035

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE BY: AMENDING THE DEFINITIONS OF KENNELS; ADDING PERMIT REQUIREMENTS AND PERMITTING PROCEDURE; PROVIDING A PENALTY, SEVERABILITY, AND REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the keeping of kennels within the corporate limits of the City of Greenville may lead to health and sanitation problems and poses a nuisance to the public; and

WHEREAS, the City Council of the City of Greenville finds that implementation and enforcement of these new provisions is for the good government, peace, and order of the City of Greenville, is in the best interests of the citizens of Greenville, and is needed to protect the health, safety and welfare of the citizens of Greenville;

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

SECTION 1. That the Code of Ordinances of the City of Greenville is hereby amended to include the following:

Sec. 4.01.001 Definitions

Commercial Kennel shall mean: As defined in Section 2-2 of the *Greenville Zoning Ordinance*.

Private Kennel shall mean: any premises with more than three dogs or three cats or any combination of more than five dogs and cats, thereof over four months of age (does not apply to a single litter under four months of age), and including one or more dogs or cats that have not been sterilized.

Multi-pet Premise shall mean: any premises with more than four sterilized dogs or four sterilized cats or any combination of more than six sterilized dogs and cats, over four months of age.

Sec. 4.03.008 Permitting Requirements

(a) **Permit required:** No person shall conduct, operate, or keep any Private Kennel or Multi-Pet Premise within the City of Greenville, without first obtaining a Private Kennel Permit or Multi-Pet Permit.

(1) Permit applications shall be reviewed by the Animal Control Supervisor, the City Sanitarian, and the City Building Official.

- (2) All Private Kennels and Multi-Pet Premises shall meet the requirements for care of domesticated animals, public nuisance, and the prevention of zoonotic diseases.
- (3) Permits must be renewed annually and each renewal will require inspection and approval. The Animal Control Supervisor, the City Sanitarian, and the City Building Official shall have the authority to inspect the facility at any reasonable time.

(b) Application for permit:

- (1) A person who wishes to obtain a permit may apply to the Greenville Community Development Department. An application for a permit shall include:
 1. The name, address, and telephone number of the applicant;
 2. The name, address, and telephone number of the proposed location;
 3. A description of the types and numbers of animals proposed to be onsite;
 4. A site plan showing the location of any dog runs, houses, and/or kennels, and any proposed methods to be used to minimize impacts on adjacent neighbors;
 5. For a Multi-Pet Permit, applicant shall also provide proof from the veterinarian performing the sterilization that all animals on the premise have been sterilized; and
 6. Any other information deemed necessary by the Animal Control Supervisor.
- (2) An application for a permit must be submitted within 30 days of meeting the definition of a Private Kennel or Multi-Pet Premise as defined in Section 4.01.001.
- (3) **Time to obtain permit.** Any premise that currently meets the definition of a Private Kennel or Multi-Pet Premise, as defined in Section 4.01.001, shall have until October 1, 2010 to obtain a Permit.

(c) Fee and Terms. The following fees and permit terms shall be applicable:

- (1) Private Kennel Permit - Each permit application shall be accompanied by a non-refundable \$250.00 fee for the first year and \$100 for each consecutive year.

- (2) Multi-Pet Permit – Each permit application shall be accompanied by a non-refundable \$100 fee for the first year and \$20 for each consecutive year.
- (3) A permit is effective for one year from the date of issuance and must be renewed annually.

(d) Regulations and standards. All kennels shall meet the following requirements for cages and sanitation:

- (1) No Private Kennel shall have more than one litter of puppies or kittens on the premises at any one time.
- (2) Animals shall be kept in areas which maintain adequate sanitation which shall mean periodic cleaning and sanitizing enclosures and housing facilities to remove excreta and other waste materials.
- (3) Animals shall be housed in enclosures with adequate space for the animals to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns.
- (4) Housing for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals or the escape of animals contained therein.
- (5) Animals shall be afforded proper veterinarian care. A sick, diseased, or injured animal shall be provided with a proper program of care by a veterinarian or humanely euthanized.
- (6) Animals shall be provided with an adequate supply of fresh, clean, potable water provided in a sanitary manner and wholesome food suitable for species and age as often as the feeding habits of such animals require to maintain a reasonable level of nutrition. If kept outdoors water shall be provided at all times.
- (7) If kept outdoors, animals shall be provided with proper shelter. All shelters must have three sides and a roof and be large enough for the animal to enter, turn around and to lie down. Shelter shall be provided for each individual animal. Shelter for females with offspring shall be large enough for the female to nurse the puppies without harming them.
- (8) All animals shall be treated in a humane manner.

- (e) Failure of an applicant or permit holder to comply with any of the provisions of the permit shall be deemed just cause for denial or revocation of the permit.
- (f) City Animal Control Officers shall be allowed to inspect any Private Kennel or Multi-Pet Premise following any complaint received by the Animal Control Division.
- (g) Permits issued pursuant to this section shall not be transferable to any other person, entity or location.
- (h) **Exemptions** - This section shall not be construed to apply to:
 - (1) Other uses regulated by the *Greenville Zoning Ordinance*.
 - (2) Animals owned by, or in the possession or control of persons who are nonresidents of the city, traveling through the city, or temporarily sojourning therein for a period not exceeding 30 days;
 - (3) Animals kept for teaching or research purposes by a medical school, veterinary school, licensed hospital or nonprofit university or college providing a degree program;
 - (4) Animals kept for the purposes of medical observation or treatment in veterinary hospitals;
 - (5) Animals owned by, or in the possession or control of persons who have been residents of the city for 30 days or less.
- (i) In any prosecution under this section, the burden shall be upon the defendant to establish as an affirmative defense that one of the exceptions set out in subparagraph (h)(1) through (h)(5), above, is applicable.
- (j) **Denial or Revocation** - A permit application may be denied, or a permit may be revoked for any of the following reasons:
 - (1) Failure to comply with any provisions of the permit;
 - (2) Failing inspection;
 - (3) Conviction of noise disturbance or public nuisance for barking dogs;
 - (4) Whenever permit holder has willfully withheld or falsified any information required for the permit;
 - (5) If the applicant or permit holder has been convicted of, by a court of law, more than two violations of this ordinance within any 12

month period, or, has been convicted of cruelty to animals in this or any other state in the last five (5) years. For purposes of this section, a bail forfeiture shall be deemed to be a conviction of offense charged.

(k) If a permit is denied or revoked, no new permit application will be accepted from the same person or location for a period of six months after such denial or revocation.

(l) Upon denial or revocation of a permit, the applicant will be given 10 days to remove excess animals from the property, take other actions necessary to be in compliance with these regulations or deliver a written request of an appeal to the Animal Control Supervisor.

(m) **Notice of denial or revocation.** If the Animal Control Supervisor denies an application or a request for renewal, or revokes an existing permit, a notice of the denial or revocation shall be provided to the applicant or permit holder in writing not later than the 10th business day after the determination to deny an application or renewal or to revoke a permit. The notice of denial or revocation shall be sent to the permit holder or applicant by certified mail, return receipt requested, addressed to the permit holder or applicant.

(n) Appeal Process

(1) A person may appeal the denial or revocation of a permit by delivering a written request for an appeal to the Animal Control Supervisor not more than 10 days after the first date of mailing written notice of denial or revocation.

(2) Any such appeal will be heard and decided by administrative appeal to the City of Greenville Municipal Judge.

(o) **Hearing** - The Animal Control Supervisor shall cause written notice to be given to the applicant or permit holder that a hearing on his appeal will be conducted. Such notice shall include the following:

(1) The place where the hearing will be conducted; and

(2) The date and time of the hearing, which shall be not later than the tenth day after the date the notice was sent to the applicant or permittee; provided that the Municipal Judge may continue the hearing upon the written request of the licensee.

(p) All hearings shall be held by the Municipal Judge, who shall not designate any person to perform the duties of hearing officer under this section. The Municipal Judge, may, prior to the hearing, receive a copy of the notice given to the applicant or permit holder.

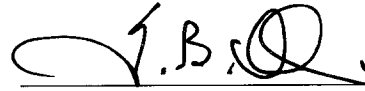
- (q) The City Attorney or his or her designee may be present at the hearing to advise the hearing officer as to procedural matters; however, the attorney shall not participate in any determination of the facts.
- (r) All hearings shall be conducted under rules consistent with the informal nature of the proceedings; provided, however, the following rules shall apply to all hearings:
- (1) All parties shall have the right to representation by an attorney licensed to practice in Texas though an attorney is not required;
 - (2) Each party may present witnesses in his own behalf;
 - (3) Each party has the right to cross examine all witnesses;
 - (4) Only evidence presented before the hearing officer at the hearing shall be considered in rendering the decision;
 - (5) The Municipal Judge may affirm or reverse a permit denial or a permit revocation. The decision of the Municipal Judge shall be final and shall be delivered in writing to the applicant or permit holder in the same manner as a notice under section 6-115 of this Code.
- (s) **Violation** – An offense under this section is a Class C misdemeanor. A person who violates this Ordinance is guilty of a separate offense for each act of violation and each day or part of day the violation is committed, continues, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$2,000.00, unless otherwise specified. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication, and revocation of licenses or permits.

SECTION 2. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 3. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Greenville, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

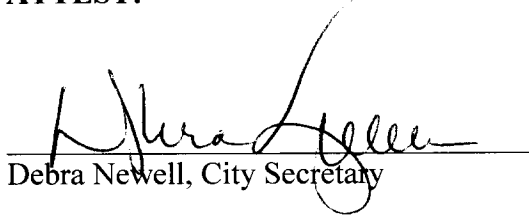
SECTION 4. This Ordinance shall be in full force and effect from and after June 1, 2010.

PASSED AND APPROVED, this the 27th day of April 2010.

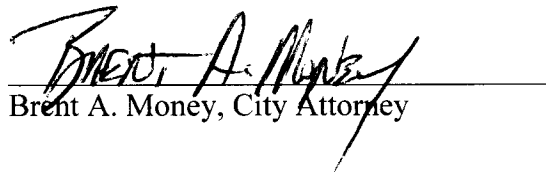


Thomas B. Oliver, Mayor

ATTEST:


Debra Newell, City Secretary

APPROVED AS TO FORM:


Brent A. Money, City Attorney