

**ORDINANCE NO. 2147**

**AN ORDINANCE TO AMEND CHAPTER 9 OF THE WEST MEMPHIS MUNICIPAL CODE TO PROHIBIT CHAINING OR TETHERING OF DOGS, TO PROHIBIT THE KEEPING OF VICIOUS DOGS WITHIN THE CITY OF WEST MEMPHIS, TO MAKE TECHNICAL CORRECTION, AND FOR OTHER PURPOSES.**

**WHEREAS**, there are numerous reported findings of the effects of chaining or tethering of dogs, including, but not limited to, a report from the Centers for Disease Control which found that chained dogs are 2.8 times more likely to bite, and a report from the U.S. Department of Agriculture stating:

Our experience in enforcing the Animal Welfare Act has led us to conclude that continuous confinement of dogs by a tether is inhumane. A tether significantly restricts a dog's movement. A tether can also become tangled around or hooked on the dog's shelter structure or other objects, further restricting the dog's movement and potentially causing injury.

and

**WHEREAS**, the West Memphis Animal Control Commission has recommended that chaining or tethering of dogs be prohibited; and

**WHEREAS**, the West Memphis Animal Control Commission has further recommended that the keeping of vicious dogs are prohibited in West Memphis;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST MEMPHIS, ARKANSAS, THAT:**

**SECTION 1.** Section 9.04.010 of the West Memphis Municipal Code is hereby amended to read as follows:

**DEFINITIONS:**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires different meaning:

**"TETHER"** means a rope, chain, or cable that is attached to the dog's collar or harness for the purpose of restraining the animal.

**SECTION 2.** Section 9.04.020 of the West Memphis Municipal Code is hereby amended to read as follows:

- A. No person owning, possessing or keeping a dog shall keep the dog securely confined behind a fence or otherwise restrained upon the person' property by adequate means to prevent the dog's escape; or shall effectively control the dog, whether on or off the person's property, by means of a leash or other proper method of supervised restraint from which the dog cannot escape.
- B. Chaining. Direct-point chaining or tethering of dogs to any object is prohibited.

**SECTION 4.** Section 9.04.130 of the West Memphis Municipal Code is hereby amended to read as follows:

**Vicious Dogs.**

**A. INITIAL DETERMINATION:**

An animal control officer shall deem a dog to be a vicious dog if the animal control officer determines that the dog satisfies the definition of a vicious dog as described in subsection (A). Upon deeming the dog to be a vicious dog, the animal control officer shall notify the owner, as evidenced by any current city tag, by hand delivery or by mailing a notice by any form of mail requiring a signed receipt to the owner at such person' last known address. The officer shall also apprehend the dog and shall not release it until the requirements of subsection (E) have been met or until so ordered by a court of competent jurisdiction.

**B. APPEAL OF DETERMINATION.**

Any person who has received a notice that his or her dog has been deemed a vicious dog may appeal such decision to the Chairman of the West Memphis Animal Control Commission. The appeal must be made by providing notice to the West Memphis City Hall within ten days of the day the notice was made in accordance with subsection ( C ). Upon receiving an appeal, the Chairman, or the Chairman's designated representative, shall schedule and hold a hearing within ten (10) days to determine whether the initial determination was rendered in error. The decision of the Chairman, or the designated representative, shall be considered the final decision of the city as to whether the dog is a vicious dog. If the initial determination is not appealed or if the right to appeal is waived, the initial determination shall be considered the final decision of the city as to whether the dog is a vicious dog. An appeal from the decision of the Chairman, or the designated representative, may only be made to a court of competent jurisdiction. During the time a dog remains in the custody of the West Memphis Animal Control Commission, the owner of the dog shall be responsible for all fees, costs and expenses as set out in Section 9.04.110.

**C. RELEASE.**

A dog that has been apprehended pursuant to subsection ( C ) shall only be release by the animal shelter if al the following conditions have been met:

1. The owner has signed a written agreement that unless and until the dog is determined to no longer be a vicious dog by the Animal Control Commission or a court of competent jurisdiction, the dog shall be euthanized or removed from the City of West Memphis. Any vicious dog released upon condition that it will be removed from the City of West Memphis shall not be permitted to return to the City of West Memphis and if such vicious dog is subsequently apprehended with the city limits such vicious dog shall be euthanized.
2. No vicious dog in the possession of the Animal Control Commission shall be released to any person other than to the owner.

**D. FAILURE TO RETRIEVE.**

The Animal Control Commission may humanely destroy any vicious dog that is not retried by the owner, as evidenced by any current city tag, within five (5) days of the day the owner is notified that a final decision has been reached deeming the dog a vicious dog or within five (5) days of the day that the owner is notified that the vicious dog has been impounded whichever is later. A dog that is found to not be a vicious dog shall be retrieved, destroyed, or adopted in accordance with the ordinances, rules, and regulations of the city and the Animal Control Commission that generally apply to all impounded dogs.

**SECTION 5.**

Section 9.04.135 of the West Memphis Municipal Code, entitled Keeping of Registered Vicious Dogs, is hereby repealed in its entirety.

**SECTION 6.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

**SECTION 7. SEVERABILITY CLAUSE**

If any section, subsection, sentence, clause, or phrase of this ordinance or the application thereof to any person or circumstances is held invalid, such decision shall not affect the validity of the remaining portions of this ordinance or application of this ordinance which can be given effect without the invalid section, subsection, sentence, clause, or phrase, and to this end the provisions of this ordinance are declared severable.

**PASSED AND APPROVED** this 6<sup>th</sup> day of July, 2006.

**BY:** \_\_\_\_\_  
**Mayor William H. Johnson**