

ORDINANCE NO. 12122006AN ORDINANCE OF THE TOWN OF BRIGHTON, TENNESSEE,
PERTAINING TO THE KEEPING OF VICIOUS DOGS.

WHEREAS, the Brighton Board of Mayor and Aldermen has found that the keeping of vicious and dangerous dogs inside the corporate limits is a public nuisance and a serious threat to the health and well-being of all persons in the community; and

WHEREAS, the Brighton Board of Mayor and Aldermen has determined that reasonable rules and regulations are needed to protect citizens from attacks by vicious dogs; and

WHEREAS, Section 2 of the 1977 Private Act Charter authorizes the Board of Mayor and Aldermen to regulate, license, and prohibit the keeping or running at large of animals; and

WHEREAS, Section 2 of the 1977 Private Act Charter authorizes the Board of Mayor and Aldermen to adopt ordinances necessary or desirable to promote or protect public safety, health, peace, and good order.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BRIGHTON, TENNESSEE, AS FOLLOWS:

1. Definitions. (a) *Vicious dog* shall mean any dog which

- (1) approaches any person in an aggressive, menacing or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property; or
- (2) has a known propensity, tendency, or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals; or
- (3) without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or
- (4) is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting.

(b) *Confined* shall mean securely confined indoors, within an automobile or other vehicle, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog.

(c) *Securely enclosed and locked pen or structure* shall mean a fenced-in area that shall be a minimum of five (5) feet wide, ten (10) feet long, and five (5) 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 the 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 one (1) foot 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 protection from the elements for the dog.

- (d) *Physical restraint* shall mean a muzzle and a leash not to exceed six (6) feet. The leash must be controlled by an adult physically capable of controlling such dog. The muzzle must not cause injury to the dog.
- (e) *Muzzle* shall mean a device, constructed of strong, bite-resistant material, which fastens over the mouth of a dog so as to prevent it from biting any person or other animal.

2. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the corporate limits of the Town of BRIGHTON, unless said vicious dog is confined in compliance with this Ordinance.

3. Procedure for determining that a dog is vicious. (a) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such a complaint signed by one or more residents of BRIGHTON, the Animal Control Officer shall hold a hearing within five (5) days of serving notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.

(b) In making the determination as to whether a dog is vicious, the Animal Control Officer shall consider, but is not limited to, the following criteria:

- (1) provocation
- (2) severity of attack or injury
- (3) previous aggressive history of the dog
- (4) observable behavior of the dog
- (5) site and circumstances of the incident
- (6) age of the victim
- (7) statements from witnesses and other interested parties
- (8) reasonable enclosures already in place
- (9) height and weight of the dog

(c) Within five (5) days of the hearing, the Animal Control Officer shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the 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 secure enclosure and whenever the dog is removed from the secure enclosure it shall be physically restrained, 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 Officer may (1) 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 Officer, such alternate method fulfills the objectives as a secure enclosure.

(d) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:

- (1) was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog; or
- (2) was teasing, tormenting, abusing, assaulting or provoking the dog; or
- (3) 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.

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 Town of BRIGHTON, or agents acting on behalf of the Town, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid.

5. Court proceedings against the owner. If any vicious dog is impounded, the Town of BRIGHTON may institute proceedings in General Sessions court charging the owner with violation of this Ordinance. Nothing in this section, however, shall be construed as preventing the Town of BRIGHTON or any citizen from instituting a proceeding for violation of this Ordinance where there has been no impoundment.

6. Court findings. If a complaint has been filed in General Session 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, payment of all charges and costs under this Ordinance, including penalties for violating this Ordinance. The court may, upon making a finding that the dog is vicious pursuant to this Ordinance, order the dog to be destroyed in a humane manner.

7. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the Town of BRIGHTON for the protection of persons or property unless the following provisions are met:

- (a) The guard dog shall be confined; or
- (b) The guard dog shall be under the direct and absolute control of a handler at all times when not confined; and
- (c) 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 such guard dog can be reached twenty-four (24) hours a day.

8. Penalties. Any person violating the provisions of this Ordinance upon conviction shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation.


9. Repealer. All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

10. Severability. Should any court of competent jurisdiction declare any section, clause, or

provision of this Ordinance to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect the validity of any other section, clause or provision of this Ordinance.

11. Effective date. This Ordinance shall be in full force and effect from and after its date of passage the welfare of the Town of BRIGHTON requiring it.

PASSED AND APPROVED THIS 9 DAY OF January, 2007 BY A ROLL CALL VOTE OF THE Brighton BOARD OF MAYOR AND ALDERMEN.


MAYOR

Attest: Bonnie K. Baker
City Recorder

DATE OF FIRST READING: 12-12-06
DATE OF SECOHD READING: 1-9-07