

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE REPEALING INDEPENDENCE CITY CODE OF ORDINANCES SECTION 3.03.006 “KEEPING OF PIT BULLS PROHIBITED” AND ORDERING A REVIEW OF INDEPENDENCE CITY CODE OF ORDINANCES SECTIONS 3.03.007 “AGGRESSIVE DOGS,” 3.03.008 “DANGEROUS DOGS,” AND 3.03.009 “VICIOUS DOGS.”

WHEREAS, on March 31st, 2023, the City Clerk received an Initiative Petition to allow the voters to decide whether the city should move forward in repealing 3.03.006 of the City Code and reviewing 3.03.007-3.03.009 of the City Code; and,

WHEREAS, on May 1st, 2023, the City Clerk received 610 pages of circulated petitions proposing a repeal of Independence City Code of Ordinances Section 3.03.006 “Keeping of Pit Bulls Prohibited” and a review of Independence City Code of Ordinances Sections 3.03.007 “Aggressive Dogs,” 3.03.008 “Dangerous Dogs,” and 3.03.009 “Vicious Dogs,” to assure protections for the citizens from any dangerous animals; and,

WHEREAS, On May 4th, 2023, the City Clerk received notice from the Jackson County Election Board indicating sufficient signatures on the initiative petitions; and,

WHEREAS, On May 15th, 2023, the City Clerk formally notified the City Council of the Jackson County Election Board’s findings, per 7.4 of the City Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. Section 3.03.006 of the Independence City Code is hereby amended to read as follows:

SEC. 3.03.006 RESERVED ~~SEC. 3.03.006. KEEPING OF PIT BULLS PROHIBITED.~~

~~A. It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the City any pit bull.~~

B. Definitions:

~~**A PIT BULL, for purposes of this Section, is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.**~~

~~**A SECURE TEMPORARY ENCLOSURE, for purposes of this Section, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom**~~

~~permanently attached to the sides, except for a “door” for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure on its own or have the capacity to bite any person in close proximity to the enclosure.~~

~~C. Exceptions. The prohibition in subsection A. of this section shall not apply in the following enumerated circumstances. Failure by the owner to comply and remain in compliance with all of the terms of any applicable exception shall subject the pit bull to immediate impoundment and disposal pursuant to subsection E. of this section, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under subsection A.~~

~~1. The owner of a pit bull on or before the date of passage of the ordinance enacting this section, who has applied for and received a pit bull license in accordance with subsection D. of this section, and who maintains the pit bull at all times in compliance with the pit bull license requirements of subsection D. of this section and all other applicable requirements of this chapter, may keep the same pit bull within the City.~~

~~2. The City’s Animal Services Officers may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.~~

~~3. Except according to the provisions in paragraph H., below, any nonprofit animal welfare organization lawfully operating an animal shelter in the City may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to contact and surrender the pit bull to the City’s Animal Services Officer or to surrender the pit bull to the Animal Shelter. or receive permission to destroy or have destroyed the pit bull pursuant to the provisions of subsection E. The Animal Shelter is authorized to hold any pit bull that has been received.~~

~~4. A person may temporarily transport into and hold in the City a pit bull only for the purpose of showing such pit bull 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 Director of Health, must obtain any other permits or licenses required by City ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the City to and from the place of~~

~~exhibition, contest, or show, keep the pit bull confined in a “secure temporary enclosure” as defined in subdivision B.~~

~~5. Except as provided in 3.03.006C4, the owner of an unlicensed pit bull may transport a pit bull through the City under the following circumstances:~~

~~a) From a point outside the City directly to a destination outside the City.~~

~~b) From a point outside the City to an airport, train station or bus station within the City for transport to a destination outside the City.~~

~~c) From a point inside or outside the City to the Animal Shelter.~~

~~d) From the Animal Shelter directly to a destination outside the City.~~

~~e) From a point outside the City directly to and from a veterinary clinic in the City.~~

~~During such transportation, the owner may only stop in the City where such stoppage is necessary and solely related to the continuing ability of the owner to continue said transportation, including, but not limited to the refueling or repair of a motor vehicle. The pit bull must be maintained at all times inside a secure temporary enclosure, as defined in subdivision B., which may include inside of the passenger compartment of a private motor vehicle, with all accessible windows closed; adequate shelter must be maintained for such pit bull confined in a motor vehicle.~~

~~D. The owner of any pit bull on or before the date of passage of the ordinance enacting this section shall be allowed to keep such pit bull within the city upon compliance with the terms of the exception contained in subdivision C.1. of this section only if the owner applies for and receives an annual pit bull license within sixty (60) days of the passage of the ordinance enacting this section. As a condition of issuance of a pit bull license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with all of the following regulations:~~

~~1. The owner of the pit bull shall provide proof of continuous rabies vaccination, and shall pay the initial pit bull license fee of One Hundred and Fifty dollars (\$150.00) and annual renewal fee of One Hundred Dollars (\$100.00) thereafter. The license shall be renewed between August 28 and September 27 of each year. Late applications for renewals received between September 28 and October 27 shall be accompanied by an additional non refundable late fee of One Hundred Dollars (\$100.00). No renewal applications will be accepted on or after October 28 of each year.~~

~~2. The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A pit bull license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a Twenty Dollar (\$20.00) fee.~~

~~3. The owner must be at least eighteen (18) years of age.~~

~~4. The owner shall present to the Director proof that the owner has procured liability insurance in the amount of at least Three Hundred Thousand Dollars (\$300,000.00). At the time of subsequent registration the owner, keeper or harbinger must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration period.~~

~~5. The owner shall, at the owner's expense, have the pit bull spayed or neutered and shall present to the Director of Health documentary proof from a licensed veterinarian that this sterilization has been performed. This subsection shall not apply to any pit bull which is registered with the American Kennel Club, American Dog Breeders Association or the United Kennel Club and has had or sired offspring born between August 28, 2003, and August 28, 2006, that were sold and were registered with the American Kennel Club or the United Kennel Club:~~

~~This subsection shall not apply to a show dog, which includes a dog used to show or~~

~~compete, which is of a breed recognized by and registered with the American Kennel Club (AKC), American Dog Breeders Association (ADBA) or United Kennel Club (UKC) and meets one of the following requirements: (1) The dog has competed in at least one dog show or sporting competition sanctioned by a purebred registry referenced above between August 28, 2003, and August 28, 2006; (2) the dog has earned a conformation, obedience, agility, carting, herding, protection, rally, sporting, working or other title from a purebred dog registry referenced above between August 28, 2003, and August 28, 2006. Each show dog registered with the City must be shown at least once during each license~~

~~renewal period. Any show dog born prior to August 28, 2006, must be shown at least once every 365 days after achieving two years of age.~~

~~(a) All offspring born of pit bull dogs registered with the City must be removed from the City within twelve (12) weeks of the birth of such dogs.~~

~~(b) Breeders must obtain a background check on all prospective buyers of puppies, and must not transfer a pit bull dog to anyone having been convicted of a felony or of any crime related to animal abuse or neglect, fighting of animals, any conviction related to or of a violent nature, possession of illegal firearms, or for the use, sale, or distribution of drugs.~~

~~(c) Any owner found to have violated this subsection must immediately have their pit bull dog spayed or neutered, pay a Five Hundred Dollars (\$500.00) fine, and in addition to such fine, may be ordered to serve up to sixty (60) days in jail.~~

~~(d) In addition to the above penalties, a violation of this section by a registered and licensed breeder will result in the immediate revocation of their breeding license.~~

~~6. The owner shall bring the pit bull to the Director of Health where a person authorized by the Director of Health shall cause a registration number to be assigned by the department and a micro-chip shall be implanted in the pit bull. The Director of Health shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owner shall, within five (5) days, notify the Director of Health of any change of address. The owner must provide to the Director of Health four (4) color photographs (front, rear, and both sides) of the dog clearly showing the color, markings and approximate size of the dog, such pictures may be digital. Owners of dogs registered prior to the dog's second birthday shall provide updated photos upon annual renewal until such dog passes its second birthday. The cost of the above photographs and micro-chip implantation will be borne by the owner.~~

~~7. At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull "confined." A dog is "confined" as the term is used in this section if such dog is securely confined in the owner's Residence or confined in a secure fully enclosed structure which meets the following requirements:~~

~~(a) The enclosure must have no more than a single entrance, with secure sides and a secure top, or all sides must be at least six feet (6') high and provide adequate shelter;~~

~~(b) The enclosure must have a bottom permanently attached to the sides or sides embedded into the ground not less than two feet (2'); and~~

~~(c) The enclosure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own; and~~

~~(d) The enclosure used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure; and~~

~~(e) The enclosure must be secured against the unauthorized entry by a minor on their own accord; and~~

~~(f) A legible sign, as described in paragraph D.10. must be posted and continuously maintained on the enclosure; and~~

~~(g) A pit bull dog shall not be kept on a porch, patio or any part of the house or structure that would allow the dog to exit such structure on its own volition. In addition, no such dog may be kept in a structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.~~

~~(h) No part of a property line fence shall be part of any enclosure, unless the entire line fence forms the enclosure and conforms in its entirety to the requirements of this section.~~

~~This section does not relieve the owner, possessor or keeper of a dog from the obligation to comply with any section of the municipal zoning code or building code concerning requirements for the placement or construction of fences or dog kennels.~~

~~8. At all times when the pit bull is away from the property of the owner, the owner shall keep the pit bull either securely attached to a leash not more than four feet (4') in length of sufficient strength to control the pit bull dog and a secondary restraint attached to a prong training collar or choke collar, both securely held by a person of at least eighteen (18) years of age who is capable of controlling the pit bull or in a "secure temporary enclosure," as that term is defined in subdivision B. of this section. Pit bulls may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs outside the dog's enclosure must be muzzled by a steel cage type muzzle sufficient to prevent such dog from biting persons, animals, or the muzzle.~~

~~9. No person shall sell, barter, or in any other way dispose of a pit bull registered with the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner and will then become the owner and will be subject to all of the provisions of this section. Provided, that the registered owner may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City. The owner shall notify the city within forty-eight (48) hours in the event the pit bull is lost or stolen. The owner shall notify the City within five (5) days in the event that the pit bull is relocated, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Director of Health or City Animal Shelter for destruction or permanently remove the puppies from the city and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in the City a pit bull puppy born after the date of publication of the ordinance, that is more than twelve (12) weeks old. Any pit bull puppies kept contrary to the provisions of this subdivision are subject to immediate impoundment and disposal pursuant to subsection E. of this section.~~

~~10. The owner shall post a conspicuous and clearly legible sign at each possible enclosure entrance where the pit bull is kept. Such sign must be rectangular with dimensions of twelve inches (12") in height by eighteen inches (18") in width, with lettering of not less than two inches (2") in height and proportional width that shall read as follows: "DOG ON PREMISES."~~

~~E. The Director of Health is authorized to immediately impound any pit bull found in the City which is not licensed under subsection D., above, and does not fall within the exceptions listed in subsection C., above. The Animal Services Officer or Animal Shelter may house or dispose of such pit bull in such manner as the Director of Health may deem appropriate, except as the procedures in subsection G., below, otherwise require.~~

~~F. If an owner does not have documentation of their dog's breed and disputes that their dog is a pit bull as defined in this Chapter, a licensed veterinarian shall determine the dog's breed. Once a veterinarian has determined that a dog is predominantly pit bull, the owner must comply with the ordinance and remove the dog from the City. If the owner disagrees with the veterinarian's breed determination, the owner may choose to have a DNA test conducted by a licensed veterinarian and provide proof to the Director prior to bringing the dog back into the City.~~

~~G. Any pit bull impounded by the Animal Services Officer must be spayed or neutered before its release, unless a licensed veterinarian states that the pit bull is unfit to undergo the required surgical procedure due to an extreme health condition. The Director may authorize the secured transportation of the pit bull to a licensed veterinary hospital within the City for the spay or neuter to be performed, if necessary. Additionally, the owner of any dog determined to be a pit bull shall agree to immediately and permanently remove the dog from the City to a specified lawful location, and:~~

- ~~1. Provide proof that the pit bull has been microchipped.~~
- ~~2. Acknowledge that if the pit bull is found within the City in the future, the pit bull may be destroyed.~~
- ~~3. Acknowledge that the owner of the pit bull is responsible for all costs of impoundment, microchipping, transportation and all associated veterinary costs, including sterilization.~~

~~H. It shall be unlawful for the owner of a pit bull dog to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section may be immediately seized and impounded.~~

~~I. Penalties:~~

- ~~1. Upon conviction of a first offense of this section, the penalty shall be a fine of not less than Three Hundred Dollars (\$300.00) and not more than Five Hundred Dollars (\$500.00) and up to forty-five (45) days in jail.~~
- ~~2. Upon conviction of a second offense, the penalty shall be a fine of not less than Five Hundred Dollars (\$500.00) and up to ninety (90) days in jail. Imposition or execution of the sentence for a second offense may not be suspended unless the owner agrees to removal of the dog from the City or destruction of the dog.~~

~~3. Upon conviction of a third or subsequent offense, the penalty shall be a fine of Five Hundred Dollars (\$500.00) and not less than forty five (45) days or more than one hundred eighty (180) days in jail. Imposition or execution of the sentence for a third or subsequent offense may not be suspended and the judge may order the destruction of the pit bull dog.~~

~~4. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this section. For purposes of this section, proof of a prior violation shall not require proof that the same pit bull dog was involved. Each day of violation shall be a separate offense.~~

~~5. Notwithstanding the aforementioned section in its entirety, the Judge may order the destruction of a pit bull upon a finding of guilt for any offense under this section.~~

~~K. If any section, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.~~

~~L. No part of this Chapter shall prevent any veterinary hospital from providing services for any pit bull.~~

SECTION 2. The City Manager is directed to conduct a review of Independence City Code Sections 3.03.007 “Aggressive Dogs,” 3.03.008 “Dangerous Dogs,” and 3.03.009 “Vicious Dogs,” and present any recommended changes to the City Council.

SECTION 3. This ordinance shall go into effect Friday, August 4, 2023.

PASSED THIS _____ DAY OF _____, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

NOTE: Words struck through and bolded are being removed by this ordinance and words underscored and bolded are being added by this ordinance.