

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 3.03.007 “AGGRESSIVE DOGS” OF THE INDEPENDENCE CITY CODE.

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 June 5th, 2023, the City Council directed the City Manager to conduct a review of the applicable City Code and submit an amended ordinance to enhance safety; and,

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

SECTION 1. Section 3.03.007 of the Independence City Code is hereby amended to read as follows:

- A. It shall be unlawful for any person to permit a dog owned by him/her, or a dog upon any premises occupied by him/her or under his/her control to demonstrate the behavior of an aggressive dog. For purposes of this section, an aggressive dog means any dog, other than a police dog used to assist Law Enforcement Officers acting in an official capacity, which demonstrates any of the following behavior:
 1. Attacks another domestic animal upon property other than that of the owner of the attacking dog.
 2. Displays behaviors which constitute a threat of bodily harm to a person when such person is conducting himself or herself peacefully and lawfully.
- B. For purposes of this section, a person is conducting himself or herself peacefully and lawfully upon the private property of the owner of the dog when he or she is on such property in the performance of any duty imposed on such person by Federal, State or local law or the postal regulations of the United States, or when he or she is on such property upon invitation, express or implied.
- C. No dog shall be classified as aggressive if any injury or damage is sustained by a person or animal who, at the time of such injury or damage, was:
 1. ~~A member of the household, or~~; Teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime, or;
 2. Protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

- D. Evidence that may be considered in determining a dog is aggressive may include, but is not limited to, testimony of persons who witnessed the unlawful behavior displayed by the dog, severity of the injuries, testimony of the Animal Services Officer, past incidents involving the dog, size of the dog, the conditions in which the dog is kept, and training given the dog.
- E. A complaint may be filed in Municipal Court by an Animal Services Officer, Police Officer or any person aggrieved or threatened by a dog demonstrating the behavior of an aggressive dog.
- F. A hearing on any municipal court complaint filed under this section shall be set within 14 calendar days of filing or on the earliest possible date available. Final disposition of the complaint shall be expedited, giving due consideration to the on-going impoundment of the dog.
- G. The Director may require the impoundment or home confinement of a dog alleged to have demonstrated the behavior of an aggressive dog after a complaint is filed if there is evidence that the dog is an immediate threat to public safety or is causing a disruption in services to the persons occupying property adjacent to the premises on which the dog is kept. Impoundment shall be at the Animal Shelter, or at a veterinary hospital or licensed kennel approved by the Director.
- H. A finding of guilt by a Judge or a plea of guilt under Section 3.03.007A shall be considered a determination that the dog alleged in the complaint to have demonstrated the behavior of an aggressive dog is an aggressive dog.
- I. Any unowned dog alleged to have demonstrated the behavior of an aggressive dog may be classified as an aggressive dog by the Director. For purposes of this section, an unowned dog shall mean a dog that has been impounded at the Animal Shelter and held for the required hold time and whose owner cannot be determined.
- J. Aggressive dogs must be maintained under the following conditions:
 - 1. Permanently identified with a microchip as provided in this chapter within ten days after being classified as aggressive.
 - 2. Spayed or neutered within ten days after being classified as aggressive and proof of the procedure performed by a veterinarian shall be submitted to Animal Services. This subsection shall not apply to any show dog which is registered with the American Kennel Club, American Dog Breeders Association or the United Kennel Club and meets one of the following requirements:
 - a. The dog has competed in at least one dog show or sporting competition sanctioned by a purebred registry referenced above.
 - b. The dog has earned a conformation, obedience, agility, carting herding, protection, rally, sporting, working or other title from a purebred dog registry referenced above.
 - 3. Confined within a fully enclosed, secure structure from which it cannot escape. Enclosures must be in compliance with any section of the municipal zoning code or building code concerning requirements for the placement or construction of fences or dog kennels. A fully enclosed structure shall mean:
 - a. A building with all doors, windows and other openings covered in a manner that will prevent escape, or;
 - b. A pen having four walls, a top, and a concrete bottom of sufficient strength that the aggressive dog cannot escape and that is located behind the front line of the main building on the lot and more than ten feet from any lot line. Such pen must have minimum dimensions of five by ten feet and must be locked with a key or combination lock when such animal is within the structure, or;
 - c. A fenced enclosure with secure sides being six feet high, with a bottom attached to the sides or the sides embedded into the ground not less than two feet. The enclosure must be locked

- with a key or combination lock when such animal is within the structure.
4. When outside said structure, such dog shall be restrained on a leash not more than six feet in length, securely held by a responsible person capable of controlling said dog.
- K. It shall be unlawful for an aggressive dog to be tethered, restrained by an electronic containment system, or transported in a vehicle from which it can escape. Housing an aggressive dog in a vehicle for purposes other than transport shall be a violation of this section.
- L. The owner of an aggressive dog must comply with the following requirements when transferring ownership of such dog:
- a. Prior to transferring ownership of an aggressive dog, the owner must inform the prospective owner that the dog has been declared aggressive within the City.
- M. The owner of an aggressive dog must ensure that the dog's microchip information is accurate and updated to reflect any relocation or transfer of ownership.
- N. It shall be unlawful for any person to own or have upon any property occupied by him/her or under his/her control an aggressive dog not maintained as required in this section or chapter. Any dog classified as aggressive that is found to be in violation of this section or chapter may be impounded.

O. The owner of an aggressive dog must provide proof of liability insurance in the amount of at least \$300,000.00. At the time of subsequent registration, the owner must provide proof of insurance for the present registration period and that there was insurance coverage throughout the period of the prior registration period.

- P. Any person violating or permitting the violation of any provision of this section shall, upon conviction be fined a sum not less than \$150.00 and not more than \$500.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the City jail for a period not to exceed 90 days. The Judge may suspend imposition of any sentence on the first offense.
- Q. Upon a finding of guilt or a plea of guilt for any offense in this section, the Judge may order that an aggressive dog be removed from the City or destroyed.

SECTION 2. That all other parts and provisions of the City Code not in conflict herewith shall remain in full force and effect unless previously or subsequently amended or repealed.

SECTION 3. That correction of any scrivener errors identified within Chapter 3 are hereby authorized by this ordinance.

SECTION 4. The effective date of this ordinance shall be August 4, 2023, and all previous codes shall remain in effect until that date.

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.