

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 3.03.008 “DANGEROUS DOGS” AND 3.03.009 “VICIOUS 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,

WHEREAS, On July 17th, 2023, the City Council voted to amend Section 3.03.007 of the Independence City Code to enhance safety; and,

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

SECTION 1. Section 3.03.008 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 a dangerous dog. For purposes of this section, a dangerous 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 a person, resulting in an injury when such person is conducting himself or herself peacefully and lawfully.
 - 2. Attacks another domestic animal on property other than that of the owner of the attacking dog, resulting in serious bodily injury to or death of the victim animal.
 - 3. Has previously been classified as an aggressive dog under Section 3.03.007 and has committed another violation of Section 3.03.007A.
- 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 may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time of such injury or damage, was:

1. 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 dangerous may include, but is not necessarily limited to, testimony of persons who have witnessed the unlawful behavior displayed by the dog, severity of the injuries, testimony of the Animal Services Officer, past incidents involving said 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 a dangerous 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 impoundment or home confinement of a dog alleged to have demonstrated the behavior of a dangerous dog after a complaint is filed if there is evidence that the dog is an immediate threat to the 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 kennel approved by the Director.
- H. A finding of guilt by a Judge or a plea of guilt under Section 3.03.008A shall be considered a determination that the dog alleged in the complaint to have demonstrated the behavior of a dangerous dog is a dangerous dog.
- I. Any unowned dog alleged to have demonstrated the behavior of a dangerous dog may be classified as a dangerous 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. It shall be unlawful for any person to own, keep or harbor a dangerous dog without a valid annual permit to keep such dog.
1. Application to obtain a permit shall be submitted to the Director at the time that the animal is reclaimed or in cases where the animal was not impounded, within ten days from the date the dog was classified as dangerous. If no permit is obtained within ten days from the date the dog was classified as dangerous, said dog shall be impounded and held until the permit is obtained. If no permit is obtained within ten days after the animal is impounded, said animal may be destroyed.
 2. The renewable permit shall be valid for one year from the date issued. Failure to obtain a permit when required after written notice by the Animal Services Officer shall be adequate grounds for the dangerous dog to be impounded until a permit is obtained. If no permit is obtained within ten days, said animal may be destroyed.
 3. The Animal Services Officer may conduct inspections of properties where a dangerous dog is kept to determine whether the person to whom the permit has been issued is continuing to comply with all of the conditions specified in this chapter. If the Animal Services Officer determines during any inspection that any of the conditions are being violated, the Animal Services Officer may recommend denial of a renewal of any such permit, or revocation of such permit in the event that such violation is not corrected within the period of time as directed.

4. The Director, in the event that it is reasonably necessary to protect against a threat of public health or safety, may revoke any permit or modify the terms or provisions thereof. Failure to comply with the provisions of this chapter shall be sufficient ground for revocation.
- K. Dangerous 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 dangerous.
 2. Spayed or neutered within ten days after being classified as dangerous and proof of the procedure performed by a veterinarian shall be submitted to Animal Services.
 3. Confined within a fully enclosed, secure structure from which it cannot escape. The enclosure 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. No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition, or
 - b. A pen having four walls, a top, and a concrete bottom of sufficient strength that the dangerous 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
 4. When outside said structure, a dangerous dog shall be restrained on a leash not more than six feet in length, securely held by a person at least 17 years of age who is capable of controlling the dog. Additionally, a dangerous dog restrained by leash must wear a properly fitted metal cage-type muzzle.
 5. Wear a bright orange collar at all times.
- L. The owner of a dangerous dog must comply with the following conditions:
1. Display a dangerous dog sign on the premise where the dog is kept. The sign shall be visible and capable of being read from the public highway or thoroughfare from which the property is entered. In addition, a similar sign is required to be posted on any enclosure of such animal.
 2. Provide proof of liability insurance in the amount of at least ~~\$300,000.00~~ **one million dollars (\$1,000,000.00)**. 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.
 3. Provide proof of continuous rabies vaccination.
 4. Provide four color photographs (two profile photos of the left and right sides, one front view and one rear view) of the dog clearly showing the color, markings and approximate size of the dog.
 5. Immediately notify the Director in the event that a dangerous dog is not properly restrained, is lost, or dies.
- M. The owner of a dangerous dog must comply with the following requirements when relocating or transferring ownership of such dog:
1. Immediately report any relocation of the dog to the Director and provide the address where the dog will be kept.

2. Prior to transferring ownership of a dangerous dog, the owner must inform the prospective owner that the dog has been declared dangerous within the City.
 3. Immediately report any transfer of ownership to the Director, including the name, address and phone number of the new owner. If the new owner resides in the City, a dangerous dog permit must be obtained and the dog must be kept in compliance with this section.
 4. The owner of a dangerous 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 a dangerous dog to be tethered, restrained by an electronic containment system, or transported in the open bed of a truck or in a vehicle from which it can escape. Housing a dangerous dog in a vehicle for purposes other than transport shall be a violation of this section.
- O. It shall be unlawful for any person to own or have upon property occupied by him/her or under his/her control a dangerous dog not maintained as required in this section or chapter. Any dog classified as a dangerous dog found to be in violation of this section or chapter may be impounded.
- P. It shall be unlawful for any person to own, keep, harbor or possess within the City, any dog that has been deemed aggressive, dangerous, vicious, or the equivalent by another jurisdiction. Any such dog shall be removed from the City immediately or may be impounded. If such dog is found within the City after reportedly being removed, the dog shall be impounded and may be ordered to be destroyed by the Judge.
- Q. Upon conviction, the penalties for violating this section shall be:
First Offense: A fine of 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.
Second or Subsequent Offense: A fine of not less than \$350.00 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 180 days in jail.
- R. Imposition or execution of sentence may not be suspended, except that fines for the first offense may be suspended if the owner provides proof of the destruction of the dangerous dog.
- S. Upon a finding of guilt for a plea of guilt or any offense in this section, the Judge may order that the dangerous dog be removed from the City or destroyed.

SECTION 2. Section 3.03.009 of the Independence City Code is hereby amended to read as follows:

- A. It shall be unlawful to own, keep, possess, or harbor a vicious animal within the City limits. A vicious 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. Has caused serious bodily injury or death to any person, or
 2. Has been classified as dangerous under Section 3.03.008 and has committed another violation under Section 3.03.008A.
- B. For the 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 may be declared vicious if any injury or death is sustained by a person who, at the time of such injury or damage, was:
 - 1. 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 vicious may include, but is not necessarily limited to, testimony of persons who have witnessed the unlawful behavior displayed by the dog, the severity of the injuries, testimony of the Animal Services Officer, past incidents involving said 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 a vicious 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 impoundment of a dog alleged to have demonstrated the behavior of a vicious dog after a complaint is filed if there is evidence that the dog is an immediate threat to the 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 3.03.009A shall be considered a determination that the dog alleged in the complaint to have demonstrated the behavior of a vicious dog is a vicious dog.
- I. Any unowned dog alleged to have demonstrated the behavior of a vicious dog may be classified as a vicious 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. Upon conviction, the court shall order that the animal be ~~removed from the City or~~ humanely euthanized. ~~The owner of a vicious dog that is ordered to be removed from the City must:~~
 - ~~1. Consent to having the dog microchipped and sterilized prior to release from the shelter or quarantine.~~
 - ~~2. Provide the Director with the address where the dog will be kept outside of the City.~~
 - ~~3. Inform any new prospective owners that the dog had been declared vicious within the City of Independence.~~
 - ~~4. Ensure the dog's microchip information is accurate and updated to reflect any relocation or transfer of ownership.~~
- ~~K. Upon conviction, the penalties for violating this section shall be:~~

~~*First Offense: A fine of not less than \$350.00, 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.*~~

~~**Second or Subsequent Offense: A fine of not less 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 180 days in jail.**~~

~~**I. Imposition or execution of sentence may not be suspended, except that fines for the first offense may be suspended if the owner provides proof of the destruction of the vicious dog.**~~

SECTION 3. 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 4. That correction of any scrivener errors identified within Chapter 3 are hereby authorized by this ordinance.

SECTION 5. 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.