

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, PROVIDING THAT THE CODE OF ORDINANCES BE AMENDED BY ADDING A SECTION - DANGEROUS AND RESTRICTED ANIMALS - TO CHAPTER 5. ANIMALS AND FOWL, OF THE CODE OF ORDINANCES OF THE CITY OF KIRKSVILLE, MISSOURI.**

**WHEREAS**, in response to citizens requests, the City of Kirksville hosted a public hearing on October 18, 2010 and determined that an ordinance prohibiting dangerous animals, and restricting not banning bit pulls was warranted, and

**WHEREAS**, the ordinance bars dangerous animals from being kept in the city, subject to some limited exceptions; and restricted animals have certain requirements that must be met to be legally kept in the City limits of Kirksville.

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

Section 1. That Chapter 5, Animals and Fowl, of the Code of Ordinances of the City of Kirksville be amended by adding a new Section, and the provisions of this ordinance shall be included and incorporated into the Code of Ordinances as follows:

**ARTICLE \_\_\_\_\_. DANGEROUS AND RESTRICTED ANIMALS**

Sec. 5-19. Dangerous Animals.

(a) Keeping Prohibited.

(1) No person shall keep, shelter, or harbor for any purpose within the city a dangerous animal except as provided in section 5-19 (c) or (g) of this section.

(b) Defined. "Dangerous animal" means:

(1) Any animal or reptile which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

(2) Any animal declared to be dangerous by the Kirksville City Council.

(3) The following animals shall be deemed to be dangerous animals:

a. Lions, tigers, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;

b. Wolves, coyotes and foxes;

c. Badgers, wolverines, weasels, and skunks;

d. Raccoons;

e. Bears;

f. Monkeys, chimpanzees, and other primates;

g. Alligators, crocodiles, or any related species;

h. Venomous snakes;

i. Constrictor snakes longer than eight (8) feet;

j. Gila monsters;

- k. Piranhas and sharks in excess of six inches (6") in length;
- l. Any crossbreed of such animals or reptiles which have similar characteristics to the animals or reptiles specified above.

(c) Exceptions.

- (1) The prohibition contained in section 5-19 (a) (1) of this Code shall not apply to the keeping of dangerous animals in the following circumstances, but all other sections shall still apply:
  - a. The keeping of dangerous animals in a public zoo, public aquarium, and bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.
  - b. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show licensed to perform in the city.
  - c. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
  - d. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Missouri Conservation Commission.
  - e. Any dangerous animals under the jurisdiction of and in the possession of the Missouri Conservation Commission.
  - f. The transport, entry and display of a dangerous animal at an approved animal show when properly confined in a locked cage or on a leash and muzzle, and personally restrained by a handler or owner of the animal.
  - g. Any dangerous animal whose owner meets the requirements of, and gains the approvals required in, Section 5-19 (g).

(d) Regulation of keeping dangerous animals.

- (1) Every person, firm or corporation keeping, sheltering, or harboring a dangerous animal as permitted under section 5-19 (c) and (g) shall at all times keep such animal from biting persons or other animals and be either:
  - a. Confined to a securely enclosed and locked cage, pen, or kennel with sides and a secure top attached to the sides, or
  - b. Securely leashed with a leash or lead no more than four (4) feet in length, with the owner, his agent, or a member of the owner's immediate family in physical control of such leash or lead. Such animals may not be leashed, chained, or tied to inanimate objects such as trees, posts, buildings, etc.
  - c. Meet the special requirements stated in a written permit for the animal allowed in Section 5-19 (g).
- (2) No person, firm or corporation owning, keeping, sheltering, or harboring a dangerous animal as permitted under section 5-19 (c) or (g) shall permit or allow such animal to enter upon, be placed in, or traverse any public property, park property, public right-of-way, public waterway, or lagoon, or public sewer system, or any business establishment licensed by the city, or the property of another, except when such animal is being transported while caged or confined.

(3) It shall be the duty of the persons permitted to keep dangerous animals under section 5-19 (c) or (g) to immediately report to the police department when any dangerous animal is found missing.

(e) Escape; general prohibition and duty.

(1) No person shall aid or cause any dangerous animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window or making any opening of any fence, enclosure of structure, or by unleashing or releasing such animal.

(f) Seizure, impoundment and disposition of dangerous animals.

(1) In the event that a dangerous animal is found at large on public or private property, such animal may be destroyed, if in the discretion of the law enforcement officer or his designee, such animal presents an imminent danger to the safety of any person, or other animals. The city shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

(2) If a law enforcement officer or his designee determines that a person is keeping, harboring, or sheltering a dangerous animal, in violation of city ordinance, then such person shall be ordered to safely remove such animal from the city, permanently place the animal with an organization or group allowed under section 5-19 (c) of this Code to possess dangerous animals, or destroy the animal at any time after an appeal time period has expired. Notice of such order shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, by being served personally or by first-class mail or by posting to the front door of the last known address. After any appeal period has expired, law enforcement personnel or their designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

(3) Any person who is cited or given a ticket and ordered to remove a dangerous animal from the City of Kirksville may plead their case in Municipal Court. However, the animal shall be removed from the City until such time as the order may be reversed by the Municipal Court Judge. A finding of guilty in Municipal Court may be appealed to the Adair County Circuit Court, if the appeal is filed within ten (10) days of the finding in Municipal Court.

(4) If the original removal order of law enforcement personnel, or their designee, is not complied with within three (3) days of the order, a law enforcement officer or his designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded pending any Municipal Court arraignment, or appeal to the Circuit Court. If the order to remove the animal is affirmed upon conviction, or on conviction after appeal to the Circuit Court, then at the end of the impoundment period, law enforcement personnel, or his designee, may allow the animal to be placed with an organization or group allowed under section 5-19 (c) to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees and fees incurred for the care of the

dangerous animal shall be at the expense of the owner of the dangerous animal.

- (5) The owner of the dangerous animal may claim the animal upon showing proof of ownership, payment of all impound and veterinary fees, and agreement to immediately remove the animal from the city upon taking possession of the animal. In the event the owner does not claim the animal, a law enforcement officer or his designee may allow the Humane Society to cause such animal to be permanently placed with an organization or group allowed under section 5-19 (c) to possess dangerous animals, or shall destroy such animal in a humane manner.

- (g) Dangerous animals residing in the city on or after April 1, 2011 may be considered for an exception of the prohibition. Any application to be considered as an exception must be submitted to the Chief of Police or to the Codes & Planning Director within thirty (30) days of the passage of this ordinance. The application approval or denial will be determined by the animal's conformance with the following attributes and characteristics:

- (1) The avoidance of or likelihood of the animal escaping
- (2) The size of the animal in comparison to humans/children
- (3) The nature of the animal – the animal may not be naturally tame, but has been domesticated to the extent that it is tame or gentle
- (4) The animal does not have the propensity to kill
- (5) Past behavioral history of the individual animal, if any.

The Chief of Police and the Codes & Planning Director of the City of Kirksville will determine within thirty (30) days of receipt of the application whether the request for exception is approved or denied based on the above criteria. There is no appeal of their decision. If the exception is approved, additional safety confinements or rules may be imposed that are in addition to that used for Pit Bull dogs. Insurance and registration or other standards may be required, and if so, will be stated in the permit that would be issued.

#### Section 5-20. Restricted Animals.

- (a) Defined. "Restricted animal" means:

- (1) Pit Bull dogs four (4) months of age or older  
The term "Pit Bull dog" is defined to mean:
  - a. Staffordshire Bull Terrier breed of dog;
  - b. American Pit Bull Terrier breed of dog;
  - c. American Staffordshire Terrier breed of dog;
  - d. Any mixed breed of dog, which contains as an element of its breeding, the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier.
  - e. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire Bull Terrier, American Pit Bull

Terrier, American Staffordshire Terrier; and other breeds commonly known as Pit Bulls, Pit Bull dogs, or Pit Bull Terriers, or a combination of any of these breeds.

- (b) Pit Bull dogs residing in the city on or after April 1, 2011, may only be kept by their owners within the city, subject to the following standards:
- (1) Registration. Pit bull dogs currently residing in the city must be registered with the city by the owner(s) within sixty (60) days of April 1, 2011. Annual registration of any Pit Bull dog is required. Any Pit Bull dog four (4) months of age or older must be registered.
  - (2) Leash. No person shall permit a Pit Bull dog to go outside of a securely enclosed fenced yard unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a Pit Bull dog to be kept on a chain, rope or other type of leash outside its securely enclosed fenced yard unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc.
  - (3) Confinement Outdoors. All Pit Bull dogs shall be confined in a securely enclosed fenced yard, except when leashed as provided in section 5-20 (b) (2) of this section. Such fence must have secure sides and be at least sixty (60) inches in height. All gates in fenced yards used to confine Pit Bull dogs must be locked with a key, or combination lock, when such animals are within the fenced area. All fencing erected to house Pit Bull dogs must comply with all zoning and building regulations of the city.
  - (4) Confinement indoors. No Pit Bull 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. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
  - (5) Insurance. All owners, keepers, or harborers of Pit Bull dogs must provide proof to the city of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or for damage to property owned by any person, which may result from the ownership, keeping, or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the city. Any person found to be the owner, keeper, or harbinger of a Pit Bull dog that does not have insurance on the same, and is found guilty in Municipal Court or any other Court of this violation, must permanently remove the animal from the city.
  - (6) Certification. Owners of Pit Bull dogs, whose dogs are registered as required in section 5-20 (b) (1) of this ordinance, who can show proof of current certification for their Pit Bull dogs from the American Kennel Club Canine Good Citizen (AKC CGC) Program to the Kirksville Police Department will be exempted for so long as the AKC CGC Certification remains valid from 5-20 (b) (3) and 5-20 (b) (5).
  - (7) Irrefutable presumptions. There shall be an irrefutable presumption that any dog registered with the city as a Pit Bull dog, or any of those breeds that are

restricted under the definition of "Pit Bull dog", is in fact a dog subject to the requirements of this section.

(c) Escape; general prohibition and duty.

- (1) No person shall aid or cause any restricted animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window or making any opening of any fence, enclosure of structure, or by unleashing or releasing such animal.

(d) Seizure, impoundment and disposition of restricted animals.

- (1) In the event that a restricted animal is found at large on public or private property, such animal may be immediately confined and the owner or person in charge of the dog will be cited for an ordinance violation. If the owner or person cited for the violation is found guilty of the ordinance violation, the dog must be removed from the city or taken to the city's contract shelter for adoption or to be destroyed. The animal may not be given to another person in the same family, unless it is adopted through the shelter.
- (2) The city shall be under no duty to attempt the confinement or capture of a restricted animal found at large. The animal may be destroyed if in the discretion of the law enforcement officer or his designee, such animal presents an imminent danger to the safety of any person or other animals. The city shall not have a duty to notify the owner of such animal prior to its destruction.
- (3) If it is determined that the restricted animal identified in Section 5-20 (d) (1) did not cause harm to any person or damage to any property, that restricted animal will not be removed from its home as outlined in Section 5-20 (d) (1).
- (4) If a law enforcement officer, or his designee, determines that a person is keeping, harboring, or sheltering a restricted animal in violation of city ordinance, then such person shall be ordered to safely remove such animal from the city, or the animal shall be taken to the City's contract shelter for adoption, or the animal shall be destroyed, at any time after an appeal time period has expired. The animal may not be given to another person in the same family, unless it is adopted through the shelter. Notice of such order shall be given in writing to the person keeping, sheltering or harboring the restricted animal, by being served personally or by first-class mail, or by posting to the front door of the last known address. After any appeal period has expired, law enforcement personnel or their designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- (5) Any person who is cited or given a ticket and ordered to remove a restricted animal from the City of Kirksville may plead their case in Municipal Court. However, the animal shall be removed from the City until such time as the order may be reversed by the Municipal Court Judge. A finding of guilty in Municipal Court may be appealed to the Adair County Circuit Court, if the appeal is filed within (ten) 10 days of the finding in Municipal Court.

- (6) If the original removal order of law enforcement personnel or their designee is not complied with within three (3) days of the order, a law enforcement officer, or his designee, is authorized to seize and impound such restricted animal. An animal so seized shall be impounded pending any Municipal Court arraignment, or appeal to the Circuit Court. If the order to remove the animal is affirmed upon conviction or on conviction after appeal to the Circuit Court, then at the end of the impoundment period, law enforcement personnel or his designee may allow the city's contract shelter to cause the animal to be adopted by another person, or to destroy such animal in a humane manner. All impoundment fees and fees incurred for the care of the restricted animal shall be at the expense of the owner of the restricted animal.
- (7) The owner of the restricted animal may claim the animal upon showing proof of ownership, payment of all impound and veterinary fees, and agreement to immediately remove the animal from the city upon taking possession of the animal. In the event the owner does not claim the animal within seven (7) days, a law enforcement officer, or his designee, may allow the city's contract shelter to cause such animal to be permanently placed with another person who would agree to harbor the animal under the laws of the current city ordinance.
- (8) When a law enforcement officer, or his designee, determines that an animal is classified as a restricted animal by virtue of being a Pit Bull, and the owner disputes the classification, it shall be the owner's responsibility to provide positive proof by documentation or other means to the law enforcement officer, or his designee, that the animal is not a Pit Bull as defined herein. If, notwithstanding such proof, the law enforcement officer, or his designee, continues to determine that the animal is a Pit Bull, the owner will be cited for an ordinance violation, and then may appeal the animal's classification by purchasing a DNA test from the City of Kirksville. The owner will be required to pay the fee up front for the DNA test. The owner will need to bring the dog to the police department or provide access for law enforcement to do a swab sample of the dog. The results will be sent to an approved lab and results sent back. If the animal has any of the breeds in its lineage that are defined as Pit Bull dogs, it is a Pit Bull dog. If results show that the animal does not have Pit Bull dog lineage, the dog would not have to be removed from the city under the Restricted Animal ordinance. If the owner disputes the results of the DNA testing of the animal, they have the right to contest any citation received, in the Kirksville Municipal Court. However, the animal shall be removed from the city until such time as the classification is reversed by the court.
- (9) Failure to comply. It shall be unlawful for the owner, keeper, or harbinger of a Pit Bull dog registered with the city 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 shall be confined and removed from the city as in Section 5-20 (d) 2.

#### Section 5-21. Fees and Penalties.

- (a) Any person violating or permitting the violation of any of the provisions of Section 5-19 or 5-20 pertaining to dangerous or restricted animals shall, upon conviction, be fined

not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00) for each violation, or confined for a period of not more than ninety (90) days, or punished by both such fine and imprisonment. In addition, the court shall order the license of the subject animal revoked, and the animal destroyed or removed from the city, and the removal of any other dangerous or restricted animals in the owner's possession. Should the defendant refuse to remove the animal, the court shall find the defendant in contempt, and order the animal to be immediately destroyed, confiscated, or impounded.

- (b) 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.

Section 2. The provisions of this Ordinance shall be numbered as deemed necessary by the Municipal Code Corporation and included in the Code of Ordinances for the City of Kirksville, Missouri.

Section 3. This ordinance shall be effective on April 1, 2011.

Passed by the City Council and signed by the Mayor this 21<sup>st</sup> day of March, 2011.

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Todd Kuhns, Mayor

ATTEST:

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Vickie Brumbaugh, City Clerk