

# **CITY COMMISSION WORK SESSION**

City Hall Commission Chambers

Monday, March 4, 2013

6:00 p.m.

MEETING #4915

## **WORK SESSION**

1. Discussion of Levee Improvement
2. Discussion of Pit Bull Ordinance

DANGEROUS ANIMALS.

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(a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a dangerous animal within the City. Impoundment of animals whose owners or harborers have been cited for violation of this section shall be at the discretion of the animal control officer or law enforcement officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or law enforcement officer, or an authorized agent to immediately impound the animal.

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(b) Defined: For purposes of this chapter a dangerous animal shall include:

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(1) Any animal with a known propensity, tendency or disposition to cause injury or to otherwise threaten the safety of human beings or domestic animals or companion animals; or

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(2) Any animal which in a dangerous or threatening manner approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places or on private property other than on the property of the owner; or

Deleted: attacks or causes injury to a human being, or domestic animal or companion animal;

(3) Any animal which, unprovoked, attacks or bites or has attacked or bitten a human being or domestic animal; or

Deleted: owned or harbored, primarily or in part, for the purpose of fighting or any animal which has been trained or used for fighting;

(4) Any animal which is urged by its' owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any animal control officer or any law enforcement officer while such officer is engaged in the performance of official duty.

(5) This section shall not apply to dogs kept by law enforcement agencies for use in the performance of official duties.

(c) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or a law enforcement officer from taking whatever action is reasonably necessary to protect the officer or the public from injury or danger, including immediate destruction of any dangerous animal without notice to the owner.

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(d) Whenever a complaint is filed in the municipal court alleging that an animal is dangerous and in violation of this section, the Municipal Court shall determine whether or not the animal is dangerous, as defined herein. In making a determination, the Court shall consider the following:

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- (1) The seriousness of the attack or injury;
- (2) Past history of attacks or injuries;
- (3) The likelihood of future attacks or injuries;
- (4) The condition and circumstances under which the animal is kept or confined.

If the court finds from the evidence presented that the animal is dangerous, the court shall order the following:

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(A) Registration. The owner shall annually register the dangerous dog with the city. The city may require one or more special or additional forms for the dangerous dog and the owner shall pay a \$50 annual registration fee for the year, or any part thereof, of first registration. Such registration shall be valid for the remainder of the year and thereafter shall be subject to renewal on a calendar year basis, at the rate of \$50 per annum.

**Deleted:** release of the animal to the owner or harbinger, after the payment of any fees or expenses associated with the impoundment of said animal as assessed by the court.

**Deleted:** If after trial it is found that the animal is vicious as defined herein, the court may order the animal to be destroyed in a humane manner by the animal control officer or designated agent.

(B) Microchipping. The owner shall, at his or her own expense, cause the dangerous dog to be

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microchipped by a veterinarian or other licensed animal care provided permitted by Kansas law to carry out the procedure. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. Such shall be done before the dangerous dog will be released to the owner.

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(C) Sterilization. The owner shall, at his or her own expense, cause the dangerous dog to be sterilized by spaying or neutering. Such shall be done before the dangerous dog will be released to the owner.

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(D) Confinement. All dangerous dogs shall be confined in a secure enclosure. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secure enclosure. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling of the owner or outside the secured enclosure unless it is necessary for the owner to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four feet in length, and shall be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(E) Insurance. The owner of a dangerous dog shall at time of registration as a dangerous dog and continuously thereafter provide proof to the City Clerk of liability insurance in force in a single incident amount of not less than \$100,000 for

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bodily injury to or death of any person or persons or for damage to property owned by any person or persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall be written so as to provide that no cancellation of the policy will be made unless 10 days written notice is first given to the City Clerk of the City of Doge City.

(F) Time for Compliance. Upon conviction of keeping a dangerous dog, the owner shall comply with the provisions of this section within 15 days. The owner shall file proof of sterilization and microchipping, acceptable to the municipal court, with the clerk of the municipal court no later than 20 calendar days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy of such proof to the legal department and if in satisfactory form, the dog may then be released. If the owner fails to comply with the provisions of this section within the time provided, the dog shall be destroyed. If the owner or keeper of the dog contests the determination, he or she may appeal within 14 days of the finding to the Ford County District Court, pursuant to law.

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(G) Information to be Kept Current. The owner of a dangerous dog shall keep all information on the licensing and registration papers current. To that end, the owner shall notify the City Clerk within seven days:

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1. Any change in address for the owner and the dangerous dog; or
2. Any sale or disposition of a dangerous dog including identifying the new owner or recipient of said dog, including such person's name and address.

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Once determined to be a dangerous dog, subsequent violations involving that dog have more serious consequences to the owner and dog:

1. Allowing a dangerous dog to run at large, results in a mandatory \$250 fine and up to 6 months in jail, and mandatory destruction of the dog on a second offense.
2. A dangerous dog attacking a human, results in a mandatory \$500 fine, destruction of the animal and a possible 6 months in jail.
3. A dangerous dog attacking another animal, is a mandatory \$250 fine, destruction of the animal and a possible 6 months in jail.

The court is given broad authority to order the destruction of any dog that the court finds to be an immediate threat to public safety.

**Deleted:** Consent by an owner or harborer of a vicious animal to have it destroyed, after finding that the animal is vicious, does not relieve or render the owner or harborer immune from the decision of the court, nor of the fees and fines which result from the animal being in violation of this section.

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**ORDINANCE NO. 3382**

**AN ORDINANCE DETERMINING THAT PIT BULL DOGS ARE UNIQUELY DANGEROUS DOGS AND PROHIBITING THEIR OWNERSHIP AND POSSESSION IN THE CITY LIMITS, WITH CERTAIN EXCEPTIONS.**

**WHEREAS**, local governmental bodies possess broad powers to regulate the ownership and possession of dogs within the community; and

**WHEREAS**, the Kansas Supreme Court has determined that pit bull dogs:

- (a) represent a unique public health hazard not presented by other breeds or mixes of dogs;
- (b) possess both the capacity for extraordinary savage behavior and physical capabilities in excess of those possessed by many other breeds or mixes of dogs; and
- (c) have an unpredictable nature;

**WHEREAS**, the governing body finds that pit bull dogs are uniquely dangerous dogs and desires to enhance the public health, safety, and welfare by prohibiting their ownership and possession within the city limits, with certain exceptions.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY:**

**Section 1: Definitions.**

The following words and phrases when used in this ordinance, shall have the meanings respectively, ascribed to them:

- (1) “Enforcement Authority” means the city manager, chief of police, animal control supervisor and their respective designees.
- (2) “Pit Bull Dog” is defined to mean any and all of the following dogs:
  - (a) The Staffordshire Bull Terrier breed of dog;
  - (b) The American Staffordshire Terrier breed of dogs;
  - (c) The American Pit Bull Terrier breed of dog;
  - (d) Any other breed commonly known as Pit Bull, Pit Bull Dog, or Pit Bull Terrier;
  - (e) Dogs which have the appearance and characteristics of being predominantly of the breed of dogs known as Stafford Shire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

The registration of a dog with a dog association or in any governmental jurisdiction as a pit bull or any of the dogs listed above shall constitute prima facie evidence the animal is prohibited by this ordinance.

Owner of pit bulls or alleged pit bulls may challenge sections A thru E of the Definitions by obtaining a DNA test from a licensed veterinarian approved by the City of Dodge City. DNA testing will be at the expenses of the owner.

## **Section 2. Prohibition**

No person shall own, keep, harbor, or in any way possess a pit bull dog within the city limits of Dodge City, Kansas. The city manager shall implement administrative regulations related to standards and requirements to protect the public safety governing nonresident possession of a pit bull dog within the city limits on a temporary basis.

**Section 3. Exception**

Pit bull dogs located within the city limits and lawfully registered with the city of Dodge City in full compliance with the provisions of this ordinance may be kept within the city limits upon strict compliance with the standards and requirements set forth in Section 4.

**Section 4. Standards and Requirements**

The keeping of a pit bull dog eligible for the exception under Section 3 shall be subject to the following mandatory requirements:

(1) Special Permit Required

A special annual permit shall be required for keeping of any pit bull dog eligible for the exception under Section 3. No permit shall be granted except with such conditions attached as shall, in the opinion of the enforcement authority, reasonably protect the public health, safety and welfare. A temporary permit may be issued following application and pending final disposition of the application. Permits shall only be issued to adults.

(2) Application for Permit

The application shall be on forms provided by the city, with its form, content and submittal requirements to be determined by the city manager.

**Deleted:** An application for a pit bull dog permit pursuant to this ordinance shall be made no later than 30 days following the effective date of this ordinance.

(3) Permit Fee

An initial application fee for an annual permit shall be Fifty Dollars (\$50.00) for each pit bull dog, which fee will include the annual license for the first year. Annual renewal fee shall be Five Dollars (\$5.00) for each pit bull dog for the purchase of a license each year as required by all other dog owners residing within the city.

(4) Standards and Requirements

The keeping of a specially permitted pit bull dog in the city limits shall be subject to the following mandatory requirements, in addition to compliance with all other state and local laws and regulations:

- (a) Leash Requirement Outside of Pen. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six (6) 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 kennel or pen unless an adult physically capable of controlling the dog is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or buildings.
- (b) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and

locked pen or kennel. Such pen or kennel must meet administrative regulations for construction and location standards established by the city manager. All structures used to confine specially permitted pit bull dogs must be locked by a key or combination lock when such animals are within the structure.

- (c) 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.
- (d) Microchipping. All pit bull dogs shall have an identification microchip implanted in the dog which is compatible with city detection equipment. Such microchipping shall be accomplished by a licensed veterinarian or by the Dodge City Animal Shelter as part of the special permitting process. The applicant for a special permit under this ordinance shall file proof of microchipping if it has already taken place or has been accomplished outside the permitting process, in which case the initial application fee will be reduced by \$15.00.
- (e) Signs. All owners of pit bull dogs shall within 30 days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

- (f) Special Collar. All pit bull dogs shall be required to wear a special designated numbered collar at all times when not confined indoors. The collar shall be visible on the dog when it is in a kennel or pen, or on a leash. The collar shall be one issued by the city during the special permit process. If the numbered collar is lost, stolen or damaged to the extent the number is not easily visible, the owner must immediately purchase a replacement collar from the city.
- (g) Insurance. All owners of pit bull dogs shall, within thirty (30) days of the effective date of this ordinance obtain and have in effect public liability insurance in a single incident amount of not less than \$100,000 for bodily injury to or death of any person or persons which may result from the ownership, keeping or maintenance of such pit bull dog. In addition, such insurance policy shall provide for medical pay coverage protection in an amount of not less than \$5,000 for any bodily injury sustained by any person which is caused by a pit bull dog owned by or in the care of the insured person. At the time of initial application for a special permit, the owner, keeper or harborer must present proof of the required insurance. At the time of each subsequent registration renewal, the owner, keeper, or harborer shall show proof of insurance for the present registration period and proof that there was continuous insurance coverage through the period of the prior special permit year. In the event said liability insurance is canceled, lapsed or for any other reason becomes non-enforceable, said owner, keeper or harborer shall be in violation of the provisions of this

ordinance. The owner, harborer or keeper shall notify the city within ten (10) days of any cancellation, lapse or non-enforceability of this insurance, and provide proof substitute coverage had been obtained. The insurance may be in the form of a special liability policy or a standard homeowners or renters insurance policy from a Kansas licensed insurer which does not have a provision limiting or excluding coverage due to pit bull dog ownership.

- (h) Identification Photographs. All owners of pit bull dogs shall make available the dog during the special permit process in order to allow the city to obtain digital photographs of the registered animal for identification purposes.
- (i) Reporting Requirements. All owners of specially permitted pit bull dogs shall, within ten (10) days of the occurrence, report the following information in writing to the city:
  - (1) The removal from the city limits or death, theft or loss of a specially permitted pit bull dog.
  - (2) The birth of offspring of the specially permitted pit bull dog.
  - (3) The new address of the premises where the pit bull dog is kept or harbored should the owner move within the city limits.
- (j) Written Notices. All notices required to be given to the city in writing shall be directed to the

director of the Dodge City Animal Shelter and delivered to either the shelter or the city clerk. Such delivery shall be made in person or by United States Postal Service via regular mail or certified mail.

- (k) Number of Pit Bulls Permitted per Household. One adult registered pit bull dog will be allowed per residence.
- (l) Temperment Test. All owners shall provide a "Temperment" test certificate from a trained veterinary professional approved by the City of Dodge City at time of application for permit.
- (m) Spayed or Neutered. All owners at the time of application permit shall provide proof that the pit bull has been spayed or neutered.

**Deleted:** Animals Born to Specially Permitted Dogs. All offspring born of pit bull dogs specially permitted within the city must be removed from the city limits within twelve (12) weeks of their birth.

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## Section 5.

## Section 6. Duty of Owners: Failure to Comply.

**Deleted:** Sale or Transfer of Ownership Prohibited.

**Deleted:** No person shall sell, barter or in any other way transfer ownership of a pit bull dog to any person within the city limits unless the recipient person is an adult permanently residing in the same household and on the same premises as the owner issued the special permit.¶

The purpose of the requirements in this ordinance governing pit bull dogs is to prevent attacks, injuries or deaths by mandating use of control methods. It is the positive duty of any owner of a pit bull dog to take all necessary steps to comply with this ordinance. It is unlawful for the owner of a pit bull dog and any person claiming to be responsible for said pit bull dog as agent of the owner.

Any dog found to be the subject of a violation of this ordinance may be subject to immediate seizure and impoundment. If the dog is not immediately seized and impounded, the officer shall instruct the owner to keep said dog confined in a securely enclosed and

locked pen or kennel until such time as the court may order seizure and impoundment. Neither the owner, nor any other person, may remove said dog from said secure pen or kennel without the written permission of either the animal control director or judge of the municipal court. Failure to comply with any provision of this ordinance shall also be considered good cause for the revocation of any license or special permit issued allowing for the keeping of the subject dog, resulting in the immediate removal of the animal from the city.

**Section 7. Costs to be Paid by Responsible Persons.**

Any reasonable costs incurred by the city in seizing, impounding, confining or disposing of any pit bull dog pursuant to the provisions of this ordinance shall be charged against the owner of such animal and shall be subject to collection by any lawful means. If the owner of the animal is found guilty of a violation of this ordinance, said above-mentioned expenses shall be assessed as costs in said court action.

**Section 8. Administration and Enforcement.**

It shall be the duty of the city manager, through the enforcement authority to administer and enforce the provisions of this ordinance. The city manager shall have authority to establish reasonable administrative regulations, policies and procedures as needed to effectively carry out the spirit and intent of this ordinance.

**Section 9. Penalties.**

Whenever in this ordinance any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of this ordinance shall be punished by a fine of not more

than two thousand five hundred dollars (\$2,500), or by imprisonment for a period not exceeding one (1) year, or by both fine and imprisonment, at the discretion of the court. Each day any violation of this ordinance continues shall constitute a separate offense.

**Section 10.**

That this ordinance shall be effective February 1, 2005, and published once in the official city newspaper.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Nannette Pogue, City Clerk