



City of Muscatine



MUSCATINE CITY COUNCIL

Agenda Item Summary – Regular Meeting

Date April 21, 2022

STAFF

Carol Webb, City Administrator

Anthony Kies, Police Captain

SUBJECT

Third and Final Reading of an Ordinance Striking Title 6, Chapter 9 of the Muscatine City Code
Regarding Keeping of Pit Bull Dogs

EXECUTIVE SUMMARY

Presented for City Council's consideration is an ordinance striking Title 6, Chapter 9 of Muscatine City Code related to Keeping of Pit Bull Dogs.

STAFF RECOMMENDATION

Staff does not have a recommendation at this time, however staff has certain concerns regarding the current code language found in Title 6, Chapter 9, including the lack of due process (those cited do not have rights to an administrative appeal before the City Council). In addition, the code language lacks clarity regarding how a Pit Bull is identified and which party has the burden of proof (the animal owner or the City). Finally, the recent adoption of City Code related to the regulation of dangerous and vicious dogs and irresponsible animal ownership provide for additional regulation of Pit Bull dogs.

BACKGROUND/DISCUSSION

At its March 3, 2022 meeting, City Council directed City staff to prepare an ordinance striking Title 6, Chapter 9 of Muscatine City Code related to Keeping of Pit Bull dogs. This proposed action follows several months of discussion by the City Council regarding animals, primarily dogs, including the adoption of updates to Title 6, Chapter 9 of the City Code regarding animal regulations. Those updates include additional code language regulating dangerous and vicious dogs, irresponsible animal ownership, and humane treatment of animals. In addition, an appeal process (the right to appeal a dangerous or vicious dog declaration or an irresponsible animal owner designation) was added to this Chapter.

CITY FINANCIAL IMPACT

This action may result in the need for additional animal control resources (policing more dangerous animals), however to what extent is difficult to determine. It may also have the reverse effect, in that pit bull dogs that are not dangerous would not consume animal control resources.

ATTACHMENTS

Ordinance

Exhibit A: Code Language

ORDINANCE NO. 2022-0134

AN ORDINANCE STRIKING TITLE 6, CHAPTER 9 OF THE CODE OF THE CITY OF MUSCATINE

WHEREAS, the Code of the City of Muscatine prohibits the keeping of Pit Bull dogs within the corporate limits of the City of Muscatine; and

WHEREAS, the City Council of the City of Muscatine, Iowa has discussed on several occasions the keeping of Pit Bull dogs within the City; and

WHEREAS, the City Council recently adopted changes to portions of Title 6, Chapter 8 of the Muscatine City Code to strengthen the regulation of dangerous and vicious dogs, irresponsible animal ownership, and the humane treatment of animals.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Muscatine, Iowa as follows:

SECTION 1. Municipal Code Title 6, Chapter 9 of the Muscatine City Code of Ordinances is hereby stricken in its entirety, as set forth in Exhibit "A" attached hereto and by reference made a part hereof, along with any references to the Keeping of Pit Bulls anywhere else in the Muscatine Code of Ordinances.

SECTION 2. REPEALER. All ordinances or parts thereof in conflict with the removal of Title 6, Chapter 9 are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of the removal of Title 6, Chapter 9 shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This revised ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

PASSED, APPROVED AND ADOPTED this 5th day of May , 2022.



attest:


Carol Webb (May 6, 2022 12:32 CDT)

Carol Webb, City Administrator

By the City Council of the City of Muscatine Iowa;


Brad Bark (May 6, 2022 20:15 CDT)

Dr. Brad Bark, Mayor

First Reading: 4-07-2022

Second Reading: 4-21-2022

Third Reading: 5-5-22

Publication:

EXHIBIT "A"
Title 6 – Police and Public Safety
Chapter 9 – Keeping of Pit Bull Dogs

SECTIONS:

- ~~6-9-1 Purpose~~
- ~~6-9-2 Keeping of Pit Bull Dogs Prohibited~~
- ~~6-9-3 Definition~~
- ~~6-9-4 Spayed or
Neutered~~
- ~~6-9-5 Leash
Requirement~~
- ~~6-9-6 Confinement~~
- ~~6-9-7 Confinement Indoors~~
- ~~6-9-8 Signs~~
- ~~6-9-9 Financial Responsibility~~
- ~~6-9-10 Identification Photographs and Microchips~~
- ~~6-9-11 Reporting Requirements~~
- ~~6-9-12 Sale or Transfer of Ownership Prohibited~~
- ~~6-9-13 Irrebuttable Presumptions~~
- ~~6-9-14 Failure to Comply~~
- ~~6-9-15 Violation Penalty~~

6-9-1 Purpose. In order to protect the health, safety and welfare of the residents and citizens of the city, the provisions of this Chapter are enacted by the City Council.

6-9-2 Keeping of Pit Bull Dogs Prohibited. It is unlawful to keep, harbor, own or in any way possess within the corporate limits of the City, any pit bull dogs; provided that pit bull dogs licensed with the City within thirty (30) days of the effective date of this Chapter, August 1, 2003, may be kept within the City subject to the standards and requirements set forth in this Chapter.

6-9-3 Definition. "Pit bull dog" is defined to mean the following:

- ~~A. Staffordshire terrier breed of dog;~~
- ~~B. The American pit bull terrier breed of dog;~~
- ~~C. The American Staffordshire terrier breed of dog;~~
- ~~D. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire terrier, American pit bull terrier, or American Staffordshire terrier.~~

6-9-4 Spayed or Neutered. All pit bull dogs shall be spayed or neutered within sixty (60) days of the effective date of this Chapter or by six months of age and a certificate that such dog has been spayed or neutered shall be filed with the City Clerk.

6-9-5 Leash Requirement. No person shall permit a licensed pit bull dog to go outside its kennel or pen unless such dog is securely muzzled and leashed with a leash no longer than six 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 a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, dog houses or buildings.

6-9-6 Confinement. All licensed pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine licensed pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor of solid construction (such as concrete) to prevent escape and to allow for proper cleaning, odor control and health of the dog, attached to the sides of the pen or the sides of the pen must be imbedded in the ground no less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately ventilated and kept in a clean and sanitary condition.

6-9-7 Confinement Indoors. No pit bull dog may be kept on a porch, patio or in a part of the house or structure that would allow the dog to exit such building on its own volition. In addition, no pit bull dog 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.

6-9-8 Signs. All owners, keepers or harborers of licensed pit bull dogs within the City shall within ten days of the effective date of the ordinance codified in this Chapter shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog, Pit Bull on Premises". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

6-9-9 Financial Responsibility. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the effective date of the ordinance codified in this Chapter provide proof to the City Clerk of financial responsibility. The financial responsibility requirements for the issuance of a license issued under this Chapter shall be set by resolution of the City Council and are listed in the Schedule of Permit and Licensing Requirements in Appendix B of this Code of Ordinances. The financial responsibility requirement of this Section may be met by a homeowner's or tenant's insurance policy if such policy clearly and specifically provides coverage in the amounts required. Such insurance policy shall provide that no cancellation of that policy will be made unless ten days written notice is first given to the City Clerk of the City.

6-9-10 Identification, Photographs and Microchips. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the effective date of the ordinance codified in this Chapter provide to the City Clerk proof that an identification microchip has been implanted between the shoulder blades of the pit bull dog and shall affix a tag to the collar on the dog indicating that a microchip has been implanted between the shoulder blades of the pit bull dog.

6-9-11 Reporting Requirements. All owners, keepers or harborers of licensed pit bull dogs must within ten days of the incident, report the removal from the City or death of a licensed pit bull dog or the new address of a licensed pit bull dog owner should the owner move within the corporate limits of the City in writing to the City Clerk.

6-9-12 Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a pit bull dog licensed with the City to any person within

the City unless the recipient person resides permanently in the same household and on the same premises as the licensed owner of such dog; provided, that the licensed owner of a pit bull dog may sell or otherwise dispose of a licensed pit bull dog to persons who do not reside within the City.

6-9-13 Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog listed or registered with any kennel, association or public authority as a pit bull dog as defined in this Chapter is in fact a dog subject to the requirements of this Chapter.

6-9-14 Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog licensed with the City to fail to comply with the requirements and conditions set forth in this Chapter. Any pit bull dog found to be the subject of a violation of this Chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply shall result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

6-9-15 Violation – Penalty. Any person violating or permitting the violation of any provision of this Chapter commits a municipal infraction and shall be subject to the civil penalty as provided in Section 1-3 of this Code of Ordinances. In addition, the court shall order the license of the subject pit bull dog revoked and the dog removed from the City. Should the violator refuse to remove the dog from the City, the court shall find the violator in contempt and order the immediate confiscation and impoundment of the dog. Each day that a violation of this Chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this Chapter.

*** Proof of Publication ***

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legal account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 126333

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.



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PASSED, APPROVED AND ADOPTED
this 5th day of May, 2022.
By the City Council of the City of
Muscatine Iowa;

Attest:
Dr. Brad Bark, Mayor
Carol Webb, City Administrator

Section: Notices & Legal

Category: 2635 Legal Ordinance

PUBLISHED ON: 05/13/2022

TOTAL AD COST: 19.98

FILED ON: 5/13/2022

Subscribed and sworn to before me by said affiant this 13 day of
May 2022.



Notary Public in and for Scott County, Iowa

