

ORDINANCE NO. 366

AN ORDINANCE PERTAINING TO THE KEEPING OF ANIMALS WHICH ARE INHERETLY DANGEROUS OR DESTRUCTIVE, PIT BULL DOGS, AND WILD ANIMALS, WITHIN THE CORPORATE LIMITS OF THE CITY OF MELVERN, AND AMENDING ALL ORDINANCE IN CONFLICT THEREOF OF THE CODE OF THE CITY OF MELVERN

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MELVERN, KANSAS:

Section 1. All ordinances in conflict with the provisions hereinafter set forth, are hereby amended as hereinafter set forth:

Section 2. Animals: Keeping prohibited. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Melvern, Kansas:

- (1) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats; but excluding ferrets and small rodents of varieties used for laboratory purposes).
- (2) Any animal having poisonous bites.
- (3) Any pit bull dog; except as provided in Section 3 of this ordinance; "Pit bull dog" is defined to mean:
 - a. The bull terrier breed of dog;
 - b. Staffordshire bull terrier breed of dog;
 - c. The American pit bull terrier breed of dog;
 - d. The American Staffordshire terrier breed of dog;
 - e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;
 - f. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

Section 3. Keeping of Registered Pit Bulls. The provisions of Section 1 and 2 of this ordinance are not applicable to owners, keepers or harborers of pit bull dogs duly licensed and registered with the City as of the effective date of this article. The keeping of such dogs, however, shall be subject to the following standards:

- (1) Leash and Muzzle. No person shall permit a registered pit bull dog to go outside its kennel or pen 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 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, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (2) Confinement. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structures must have secure sides and a secure top attached to the sides. All structures used to confine registered 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 attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) 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 lighted and ventilated and kept in a clean and sanitary condition.
- (3) 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 window screen or screen doors are the only obstacle preventing the dog from exiting the structure.
- (4) Signs. All owners, keepers or harborers of registered pit bull dogs within the City shall within ten (10) 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.
- (5) Insurance. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this ordinance provide proof to the Melvern City Clerk of public liability insurance in a single incident amount of \$50,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons 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 Melvern City Clerk.
- (6) Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this

ordinance provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

- (7) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report the following information in writing to the Melvern City Clerk as required hereinafter:
 - a. The removal from the City or death of a registered pit bull dog;
 - b. The birth of offspring of a registered pit bull dog;
 - c. The new address of a registered pit bull dog owner should the owner move within the corporate city limits.
- (8) Sale or Transfer of Ownership Prohibited. Sale – No person shall sell, barter or in any other way dispose of a pit bull dog registered within 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 registered owner or such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the City.
- (9) Animals Born or Registered Dogs. All offspring born of pit bull dogs registered within the City must be removed from the City within six (6) weeks of the birth of such animal.
- (10) Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered within the City as a pit bull dog or any of those breeds prohibited by this ordinance is in fact a dog subject to the requirements of this section.
- (11) Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered within the City of Melvern to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the Cityd.
- (12) Violations and Penalties. Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in Municipal Court be fined a sum not less than \$200.00 and not more than \$1,000.00. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the County Jail for a period not to exceed thirty (30) days. In addition, the Court shall order the registration, if registered, of the subject pit bull revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City, the Municipal Court Judge shall find the defendant owner in contempt and order the immediate confiscation and imprisonment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any

person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

- (13) Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. That this ordinance shall be effect and be in full force from and after its publication in the official city newspaper.

Passed and Approved by the governing body of the City of Melvern, Kansas this (3rd) day of October 2005.