

ORDINANCE NO. 404
SERIES OF 1989

BY AUTHORITY

COUNCIL BILL NO. 434

COMMITTEE OF REFERENCE:

~~HEALTH - HOUSING~~
HUMAN SERVICES

A B I L L

FOR AN ORDINANCE AMENDING CHAPTER 8
OF THE DENVER REVISED MUNICIPAL CODE BY
ADDING A NEW SECTION 8-55 WHICH PROHIBITS,
SUBJECT TO CERTAIN EXCEPTIONS, THE
OWNERSHIP OR HARBORING OF PIT BULLS IN
THE CITY AND COUNTY OF DENVER.

WHEREAS, the breeds of dogs known as "pit bulls" include any American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds; and

WHEREAS, the breeds of dogs known as "pit bulls" have been selectively bred for the purpose of dogfighting; and

WHEREAS, the characteristics selectively bred into or otherwise commonly found in those dogs include:

- 1) A strong fighting instinct, together with a low level of fighting inhibitions which make pit bulls a hazard to humans as well as other animals;
- 2) A strong chase instinct which, experts believe, causes pit bulls to be a danger around running children;
- 3) A tendency to attack even those who exhibit no provocative behavior;
- 4) A diminished tendency to bark, growl, or otherwise warn their prey of an intent to attack;
- 5) A tendency to fight to the death and never quit a fight once engaged, which results in more severe injuries than those inflicted by other breeds;

- 6) The ability to withstand great pain, which makes it difficult for a person or animal to fight off a pit bull attack;
- 7) Powerful jaws capable of crushing bones and hanging on to victims even while the animal withstands infliction of injury or pain.
- 8) A tendency to tear flesh, which has resulted in grotesque injuries to human victims; and
- 9) A combination of agility, stamina, and strength, together with a genetic predisposition to aggressiveness, that makes pit bulls uniquely dangerous, even to their owners, among all breeds of dogs, especially where improperly raised or trained; and

WHEREAS, there has been an alarming increase in attacks by pit bulls against humans nationwide; and

WHEREAS, other cities have found that pit bulls are so dangerous to humans and other animals that special legislation restricting or prohibiting their ownership has been enacted; and

WHEREAS, the City and County of Denver has experienced numerous recent incidents of violent pit bull attacks; and

WHEREAS, the mere possession of pit bulls poses a significant threat to the health, welfare and safety of Denver citizens; and

WHEREAS, current methods of control by pit bull owners, judging by the large number of incidents involving pit bulls, have proved to be insufficient in protecting the public; and

WHEREAS, the Council believes it is necessary to prohibit, subject to certain exceptions with certain restrictions, pit bulls in order to protect human health, welfare and safety within the City and County of Denver;

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Division 3 of Article II, Chapter 8 of the Denver Revised Municipal Code (D.R.M.C.) be amended by adding a new Section 8-55, to read as follows:

Section 8-55. Pit bulls prohibited

(a) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city any pit bull.

(b) Definitions.

- (1) An "owner", for purposes of this Chapter, is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.
- (2) A "pit bull", for purposes of this Chapter, is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, at City Clerk Filing No. 89457.
- (3) A "secure temporary enclosure", for purposes of this Chapter, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure on its own.

(c) Exceptions. The prohibition in subsection (a) of this section shall not apply in the following enumerated circumstances. Failure by the owner to comply and remain in compliance with all of the terms of any applicable

exception shall subject the pit bull to immediate impoundment and disposal pursuant to subsection (e) of this Section, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under subsection (a).

- (1) The owner of a pit bull, who has applied for and received a dog license for such pit bull pursuant to Section 8-61 at the Denver Municipal Animal Shelter on or before the date of publication of the ordinance enacting this Section 8-55, who has applied for and received a pit bull license in accordance with subsection (d) of this Section, and who maintains the pit bull at all times in compliance with the pit bull license requirements of subsection (d) of this Section and all other applicable requirements of this Chapter, may keep a pit bull within the City.
- (2) The City's municipal animal shelter may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this Chapter.
- (3) Any humane society operating an animal shelter which is registered and licensed by the City may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to contact the City's municipal animal shelter and either turn the pit bull over to the municipal animal shelter employees or receive permission to destroy or have destroyed the pit bull pursuant to the provisions of subsection (e).
- (4) A person may temporarily transport into and hold in the City a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from

the manager of health and hospitals, must obtain any other permits or licenses required by City ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, keep the pit bull confined in a "secure temporary enclosure" as defined in subdivision (b)(3).

- (5) Except as provided in subdivision (4) above, the owner of a pit bull may temporarily transport through the City a pit bull only if such owner has obtained a valid transport permit from the manager of health and hospitals. Upon request, the manager shall issue such permits only upon a showing by the owner that the pit bull is being transported either from a point outside the City to a destination outside the City, or from a point outside the City to an airport, train station or bus station within the City. In the latter case, such owner must provide evidence of an intent to send or take the pit bull outside of the City by producing an airline, train or bus ticket, or other equivalent document, showing a departure time within six (6) hours of the time of the transport. At all times when the pit bull is being transported within the City, it must be kept confined in a "secure temporary enclosure" as defined in subdivision (b)(3) of this Section. In all cases before issuing a transport permit, the manager must find that the transport would not constitute an unnecessary or undue danger to the public health, welfare or safety, and shall not issue the permit where the manager cannot so find. All transport permits issued shall only be valid for the time, date and pit bull specified on the permit, and

shall not be construed to permit any activity otherwise prohibited.

(d) The owner of any pit bull which had been licensed pursuant to Section 8-61 on or before the date of publication of the ordinance enacting this Section 8-55 shall be allowed to keep such pit bull within the City upon compliance with the terms of the exception contained in subdivision (c)(1) of this Section only if the owner applies for and receives an annual pit bull license on or before November 1, 1989. As a condition of issuance of a pit bull license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with all of the following regulations:

- (1) The owner of the pit bull shall provide proof of rabies vaccination and shall pay the annual pit bull license fee of fifty dollars (\$50.00).
- (2) The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A pit bull license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness, and shall not be attached to any pit bull other than the pit bull for which the license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a two dollar (\$2.00) fee.
- (3) The owner must be at least twenty-one (21) years of age as of November 1, 1989.
- (4) The owner shall present to the manager proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars

(\$100,000.00), covering any damage or injury which may be caused by a pit bull during the twelve-month period covered by the pit bull license. This policy shall include the City and County of Denver as an additional insured, with minimum limits of coverage of one-hundred thousand dollars (\$100,000.00), and shall have the effect of saving harmless and defending the City and County of Denver and its officers, agents and employees from all suits, claims, demands or actions at law or in equity arising directly or indirectly as the result of injury to persons or damage to property occasioned by the maintenance of the pit bull by the owner. The policy shall contain a provision requiring the insurance company to provide written notice to the manager not less than fifteen (15) days prior to any cancellation, termination, or expiration of the policy.

- (5) The owner shall, at the owner's own expense, have the pit bull spayed or neutered, and shall present to the manager documentary proof from a licensed veterinarian that this sterilization has been performed.
- (6) The owner shall bring the pit bull to the Denver Municipal Animal Shelter, where a person authorized by the manager shall cause a registration number assigned by the Department to be tattooed or otherwise marked on the pit bull. The manager shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owner shall notify the manager of any change of address.
- (7) At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull "confined", as that term is defined in Section 8-52(b). At all times when a pit bull is away from the property of the owner, the owner shall keep the pit bull either

securely leashed and muzzled or in a "secure temporary enclosure", as that term is defined in subdivision (b)(3) of this Section.

(8) The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who will then become the owner and will be subject to all of the provisions of this Section. The owner shall notify the manager within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Denver Municipal Animal Shelter for destruction, or permanently remove the puppies from Denver and provide sufficient evidence of such removal, by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Denver a pit bull puppy born after the date of publication of this ordinance that is more than eight (8) weeks old. Any pit bull puppies kept contrary to the provisions of this subdivision are subject to immediate impoundment and disposal pursuant to subsection (e) of this Section.

(9) The owner shall have posted, at each possible entrance to the owner's property where the pit bull is kept, a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight inches by ten inches (8" x 10") in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two inches (2") in height.

(e) Notwithstanding the provisions of Article VIII of this chapter, the manager of health and hospitals is authorized to immediately impound any pit bull found in the City and County of Denver which does not fall within the exceptions listed in subsection (c) above, and the municipal animal shelter may house or dispose of such pit bull in such

manner as the manager may deem appropriate, except as the procedures in subsection (f) below otherwise require.

- (f) When the manager of health and hospitals has impounded any pit bull dog pursuant to this Section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the manager for a hearing concerning such classification no later than seven (7) days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The manager will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where no written request from the owner for a hearing is received by the manager within seven (7) days of impoundment, the pit bull shall be destroyed.

The hearing, if any, will be held before the manager or a hearing officer designated by the manager. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The petitioner shall bear the risk of nonpersuasion. The manager or hearing officer shall make a final determination whether the dog is a pit bull as defined in subsection (b)(2) of this Section. Such final determination shall be considered a final order of the manager subject to review under Rule 106(a)(4) of the state rules of civil procedure.

If the dog is found to be a pit bull, it shall be destroyed, unless the owner produces evidence deemed sufficient by the manager that the pit bull is to be permanently taken out of Denver and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner. The procedures in this subsection (f) shall not apply and the

owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite as defined in Section 8-51. In those instances, the dog shall be handled and the procedures governed by the provisions of Article VIII of this Chapter.

Section 2. The official standards of the American Kennel Club and United Kennel Club for the breeds referred to in this ordinance were filed on July 19, 1989 in the office of the Clerk and Recorder, Ex-officio Clerk of the City and County of Denver, at City Clerk filing No. 89457.

PASSED BY THE COUNCIL July 21, 1989

Cathy R. Umberger - PRESIDENT

APPROVED: Jedediah P. ... - MAYOR August 2 1989

ATTEST: [Signature] - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

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PREPARED BY: [Signature] Asst City Attorney July 19 1989

REVIEWED BY: [Signature] AST CITY ATTORNEY 7/26 1989

SPONSORED BY COUNCIL MEMBER(S) _____