



CITY OF SHAWNEE

PACKET MEMORANDUM

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**TO:** Carol Gonzales, City Manager  
**FROM:** Captain Ben Mendoza, Special Operations Bureau Commander  
**DATE:** April 20, 2016  
**SUBJECT:** Ordinance Striking the Breed Specific Identifier in Shawnee Municipal Code Title 6

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**BACKGROUND**

In 1985, the City Council passed Ordinance 1671, prohibiting the keeping of pit bulls within the city limits, which has been enforced since that time.

The pit bull prohibition was enforced successfully for many years, however over time it has become increasingly difficult to distinguish whether a dog is the specific pit bull breed. Additionally, trends in animal control enforcement have moved from differentiating an animal’s propensity to aggressive behavior based on breed alone, to establishing a consistent response to all aggressive acts by any animal.

For a long time, the Shawnee Municipal Code (SMC) has had a definition of dangerous animal and the limited ability to address dangerous animals. In 1996, Ordinance 2276 was passed which included regulations related to the keeping of dangerous animals. In 2007, Ordinance 2876 was passed which included a definition and regulations for potentially dangerous animals. The definition and regulations were added to allow Community Services Officers the ability to address animals that exhibit aggressive or harmful behavior but may not meet the definition of a dangerous animals.

**DISCUSSION**

Eliminating the specific prohibition of pit bulls in no way will prevent Animal Control officers from dealing with a pit bull, or with any dog that is declared potentially dangerous or dangerous. Currently SMC 6.04.010 includes the following definition for Potentially Dangerous animal:

- CC. *“Potentially Dangerous Animal” means any Animal designated as such because the animal has:*
1. *Attempted to attack or has attacked a Person or Domestic Animal within the prior eighteen (18) month period; or*
  2. *Engaged in any behavior when unprovoked that reasonably would have required a Person to take defensive action to prevent bodily injury within the prior eighteen (18) month period while off the property of its Owner, Keeper, or Harborer; or*

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3. *Bitten a Person or a Domestic Animal causing a severe injury when unprovoked while off the property of its Owner, Keeper, or Harborer; or*

SMC 6.04.010 includes the following definition for Dangerous Animal with the differences from Potentially Dangerous Animal underlined:

6. *Any Dog that has been designated as a Dangerous Animal because the Dog has:*
  - a. *Attempted to attack or has attacked a Person or Domestic Animal on two (2) or more occasions within the prior eighteen (18) month period; or*
  - b. *Engaged in any behavior when unprovoked that reasonably would have required a Person to take defensive action to prevent bodily injury on two (2) or more occasions within the prior eighteen (18) month period while off the property of its Owner, Keeper, or Harborer; or*
  - c. *Bitten a Person or a Domestic Animal causing a severe injury when unprovoked while off the property of its Owner, Keeper, or Harborer; or*
  - d. *Previously been declared a Potentially Dangerous Animal but has not been Kept in compliance with any restrictions placed by City upon the Owner, Keeper, or Harborer of such Animal; or*
  - e. *Moved into the City and been classified as a Dangerous Animal by another jurisdiction. All information, past history, and reports from other agencies, organizations, or Persons may be used to determine if the Animal should be designated as a Dangerous Animal;*

Depending on conditions, any breed of dog may bite, no matter how well-bred, well-trained, or well-loved the animal is. Another important reason to make this change is the need to emphasize owner accountability rather than sole emphasis being placed on the animal. The owner, environment and manner in which the dog is raised can mold the dog into an aggressive animal, regardless of its breed. Eliminating the prohibition of pit bulls and using the Dangerous Animal enforcement will provide for a consistent response to all animals who exhibit aggressive behavior. The SMC includes a number of enforceable restrictions for both Dangerous and Potentially Dangerous Animals.

SMC 6.14.040 regulates keeping Potentially Dangerous Animals. The regulations are included as an attachment. SMC 6.14.050 includes the following regulations for keeping Dangerous Animals.

- A. *The Dog shall be Owned, Kept, or Harbored indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of twelve (12) and designed to prevent the Dog from escaping. Such enclosure shall be no less than five feet (5') from an outer fence;*

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- B. *The Dog shall not be Owned, Kept, or Harbored 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;*
- C. *The Dog shall not be Owned, Kept, or Harbored 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;*
- D. *Outside pens or kennels shall have secure sides and a secure top attached to the sides. Such structure shall have a secure bottom or floor attached to the sides, or the sides shall be embedded in the ground no less than two (2) feet. The pen or kennel shall be locked with a key or combination lock when such Dog is within the structure;*
- E. *The Owner, Keeper, or Harbored shall allow inspection of the Dog and its enclosure by a Community Service Officer and must produce, upon demand, proof of compliance with such restrictions;*
- F. *In the event that the Owner, Keeper, or Harbored of the Dog is a tenant on real property where the Dog is being Owned, Kept, or Harbored, the Owner, Keeper, or Harbored must obtain written permission, to be filed with the City, to Own, Keep, or Harbor the Animal on certain specified premises from the landlord or property owner;*
- G. *The Owner, Keeper, or Harbored and Dog shall attend and complete a training class and/or behavior modification course approved by the City that is designated to teach the Owner, Keeper, or Harbored how to deal with, correct, manage and/or alter the problem behavior;*
- H. *Signs shall be displayed in prominent places on the premises where the Dog is Owned, Kept, or Harbored that are easily readable by the public, using the words "Beware of Dog";*
- I. *A Dog that has been designated as a Dangerous Animal shall not be permitted to leave the premises of the Owner, Keeper, or Harbored unless such Dog is properly restrained by an adult using a leash no more than four (4) feet in length and humanely muzzled for protection of Persons and other Animals, or the Dog is in a secure Animal crate;*
- J. *A Dog that has been designated as a Dangerous Animal shall never, even with the Owner, Keeper, or Harbored present, be allowed to be unrestrained on property that allows the Dog direct access to the public;*
- K. *The Owner, Keeper, or Harbored of a Dog that has been designated as a Dangerous Animal shall not permit such Dog to be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its own separate enclosure;*
- L. *Any Dog that has been designated as a Dangerous Animal shall be photographed by a Community Service Officer for future identification purposes;*
- M. *Any Dog that has been designated as a Dangerous Animal shall be neutered or spayed;*
- N. *Any Dog that has been designated as a Dangerous Animal shall have an identification microchip implanted in it; and the name of the microchip manufacturer and the identification number of the microchip must be supplied to a Community Service Officer;*
- O. *The Owner, Keeper, or Harbored of any Dog that has been designated as a Dangerous Animal, or owner of the premises on which any Dog that has been designated as a Dangerous Animal, is*

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*Owned, Kept, or Harbored shall obtain and maintain liability insurance in the amount of three hundred thousand dollars (\$300,000.00) and shall furnish a certificate of insurance to the City of Shawnee;*

- P. The Owner, Keeper, or Harbored of any Dog that has been designated as a Dangerous Animal shall maintain and update annually a record maintained by Community Service Officers that lists the Owner, Keeper, Harbor, or agent, contact information, emergency contact Persons and phone numbers, veterinarian, landlord and/or property owner contact information, property/liability insurance carrier, vaccination, photo of the Animal and any other information deemed necessary by the City;*
- Q. Notification in writing to the City of the location of the Animal's residence, temporary or permanent, including prior notice of plans to move the Animal to another residence within the City or outside the City and/or to transfer ownership of the Animal;*
- R. Any other reasonable requirement specified by Community Service Officers;*
- S. The Owner, Keeper, or Harbored of any Dog that has been designated as a Dangerous Animal who moves or sells such Animal, or otherwise transfers the ownership, custody or location of such Animal, shall, at least fifteen (15) days prior to the actual transfer or removal of such Animal, notify the City in writing of the name, address and telephone number of the proposed new Owner, Keeper, or Harbored the proposed new premises on which such Animal is to be Kept, and the name and description of such Animal;*
  - 1. The Owner, Keeper, or Harbored of any Dog that has been designated as a Dangerous Animal, in addition to the above, shall notify any new Owner, Keeper, or Harbored of such Animal in writing regarding the details of the Animal's record and the terms and conditions for confinement and control of the Animal. The transferring Owner, Keeper, or Harbored shall also provide the City with a copy of the notification to the new Owner, Keeper, or Harbored of his or her receipt of the original notification and acceptance of the terms and conditions. Community Service Officers may impose different or additional restrictions or conditions upon the new Owner, Keeper, or Harbored;*
- T. If any Dog that has been designated as a Dangerous Animal should die, the Owner, Keeper, or Harbored shall notify a Community Service Officer no later than twenty-four (24) hours thereafter and, upon request, from a Community Service Officer, shall produce such Animal for verification or evidence of the Animal's death that is satisfactory to the Community Service Officer; and*
- U. If any Dog that has been designated as a Dangerous Animal escapes, the Owner, Keeper, or Harbored shall immediately notify the Police Department and make every reasonable effort to recapture the escaped Animal to prevent injury and/or death to humans and/or Domestic Animals.*
- V. Community Service Officer may impound any Dangerous Animal if the Community Service Officer has reasonable cause to believe that any of the restrictions upon such Animal are not being followed or if the failure to follow such restrictions would likely result in a threat to public safety;*

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- W. The Owner, Keeper or Harboring of a Dangerous Animal shall surrender such an Animal to any Community Service Officer or law enforcement officer upon demand;*
- X. No Dog that has been designated by the City as a Dangerous Animal may be released by the Animal Shelter until the Owner, Keeper, or Harboring has paid all veterinarian costs and all other fees and costs of the Animal Shelter that are normally charged to an Owner, Keeper, or Harboring prior to redemption of the Animal. If the Owner, Keeper, or Harboring fails to pay such fees and costs and take possession of the Animal within five (5) days of the Owner, Keeper, or Harboring's receipt of notice that the Animal has been impounded, the Animal shall be deemed to have been Abandoned and may be disposed of by the Animal Shelter. Euthanasia or surrender to the Animal Shelter of such an Animal does not free the Owner, Keeper, or Harboring of responsibility for all costs incurred up to and including the date of Euthanasia or surrender; and*
- Y. If any Dog has been previously designated, by another jurisdiction, as a Dangerous Animal, the Owner, Keeper, or Harboring of said Animal shall notify a Community Service Officer or the Police Department within three (3) days of establishing a residence within the City.*

Currently 19 different states have passed laws prohibiting county or municipality breed specific legislation, and Missouri is one of the most recent to begin discussions on the topic. Kansas state law does not currently contain breed specific language and applies to any animal deemed dangerous. Of the 20 cities in Johnson County, Shawnee is currently one of four with a breed-specific ordinance. The other three are Leawood, Overland Park and Prairie Village. Spring Hill (2014) and Roeland Park (2015) are the most recent cities in Johnson County to lift their ban on specific breeds of dogs.

#### **RECOMMENDATION**

Staff recommends the Governing Body pass an ordinance amending section 6.04.010 and 6.14.010 of the Shawnee Municipal Code striking the breed identifier, "Pit bull", as referenced in the Shawnee Municipal Code 6.04.010 and SMC 6.14.010. With this change, any and all aggressive acts committed by any animal will be subject to violation of Shawnee Municipal Code 6.14.040 and 6.14.050.