

PROPOSED PIT BULL REGULATION TOWN OF MASHPEE

Section 1. Purpose

Dogs known as "pit bulls" have generally-exhibited traits such as (i) powerful instincts for dominance which naturally result in a proclivity for fighting; (ii) a **strong prey drive, which inspires a natural chase** instinct that often results in their **aggressive pursuit of cats, rabbits, other dogs, and human children**; (iii) a stubbornness that results in sustained, unyielding aggressiveness once an attack begins; (iv) powerful jaws capable of crushing bones and hanging on to victims even while the animal withstands infliction of injury or pain; and (v) a combination of stamina, agility, strength, and "gameness" (the will to successfully complete a task). Judicial and legislative bodies have reacted by noting that the classification of pit bulls as dangerous animals has a rational basis in fact and that adopting controlling measures in order to reduce the likelihood of human injury bears a rational relationship to the governmental objectives of preserving public health, public safety, and public welfare. The Town of Mashpee believes it is necessary to regulate, subject to certain exceptions with certain restrictions, pit bulls in order to fulfill its primary mandate to protect human health, safety, and welfare within the Town.

Section 2. Definitions

PIT BULL - Any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog of mixed breed displaying the majority of the physical traits of any one (1) 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, such characteristics being identifiable as an element of its breeding by a licensed veterinarian, by the animal control officer, or by any other qualified person, or any dog registered or licensed as a pit bull. Specifically excepted from this definition is any dog with proof by American Kennel Club or United Kennel Club papers or by a written certification or written notice from a veterinarian licensed in the Commonwealth of Massachusetts that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier. As per an animal DNA lineage test

TOWN - The Town of Mashpee

OWNER - Any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull; KEEPER - Any person who possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull whether or not that person is an owner;

HOUSEHOLD - All persons residing in one dwelling unit in the Town of Mashpee whether such persons are related by blood or by marriage or are unrelated;

ANIMAL CONTROL OFFICER - The Animal Control Officer of the Town of Mashpee

MUZZLE - A restraining appliance made of metal, plastic, leather, cloth, or a combination of these materials that, when fitted and fastened over a pit bull's snout/mouth/head, prevents the pit bull from biting but allows room for the pit bull to breathe/pant;

SECURE TEMPORARY ENCLOSURE - 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 securable door used for the ingress and egress of a 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 without human assistance.

HEARING OFFICER - The Town of Mashpee Board of Selectmen or the Town board or Town official designated by the Town Board of Selectmen to conduct hearings required by this by-law.

Section 3. Pit Bulls Prohibited

- (a) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, house, harbor, transport, or sell within the Town any pit bull, subject only to the exceptions set forth in sub-paragraphs (b)-(g), below.
- (b) The owner or keeper of a pit bull that is registered and licensed with the Town Clerk as of the date of enactment of this by-law may apply for a pit bull license in accordance with the requirements of section 4, below, such license to be the subject of annual renewal. Any owner or keeper who has applied for and received a pit bull license in accordance with this sub-paragraph and who maintains the pit bull at all times in compliance with the pit bull license requirements of section 4, below, and all other applicable requirements of this Section . . . may keep a pit bull within the Town.
- (c) Any person who is not covered by sub-paragraph (b), above, shall be entitled to apply for one annual pit bull license in accordance with the requirements of section 4, below. Notwithstanding the foregoing, no household in the Town shall be occupied at any one time by more than one owner or keeper of a pit bull licensed under this sub-paragraph (c) and in accordance with this Section
- (d) The Town Kennel may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this Section
- (e) Any humane society operating an animal shelter which is registered and licensed by the Town may temporarily hold any pit bull that it has received or

otherwise recovered, but only for so long as it takes to contact the Town Kennel and either turn the pit bull over to the Town Kennel employees or to receive permission to destroy or to have destroyed the pit bull pursuant to the provisions of sections 5 and 6, below, if applicable.

(f) A person may temporarily transport into and hold in the Town a pit bull for the sole purpose of showing such pit bull in a place of public exhibition, contest, or show sponsored by a dog club association or similar organization, provided that the sponsor have received written permission from the Town's Board of Selectmen, have obtained all other permits or licenses required by by-law, and furnishes protective measures adequate to prevent pit bulls from escaping or injuring members of the public. The person who transports and holds a pit bull for showing shall at all times while the pit bull is being transported within the Town **keep the pit bull confined in a secure temporary enclosure.**

(g) Failure by the owner or keeper to comply or remain in compliance with all of the terms of an applicable exception set forth above shall subject the pit bull to immediate impoundment and/or disposal pursuant to sections 5 and 6, below, and shall operate to prevent the owner or keeper from asserting such exception as a defense in any proceeding under sections 5, 6, and 7, below.

Section 4. Pit Bull License Requirements

The owner or keeper of any pit bull who is allowed to apply for an annual pit bull license under section 3(b) or section 3(c), above, shall at the time of application for the annual pit bull license comply with or otherwise provide sufficient evidence that the owner or keeper is in compliance with all of the following regulations:

(a) The owner or keeper 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. A pit bull license tag must be obtained by the owner or keeper 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 twenty dollar (\$20) fee;

(b) The owner or keeper must be at least 21 years of age;

(c) The license application form to be completed by the owner or keeper and presented to the Town Clerk shall require (i) the complete legal name of the pit bull's owner and/or keeper and presentation of a positive form of government-issued picture identification (no photocopies) for the owner and/or keeper, and the Animal Control Officer shall make a copy of such identification and attach it to the application; (ii) the complete residential address of the pit bull's owner and/or keeper; (iii) the complete address where the pit bull will be primarily housed/sheltered; (iv) the telephone number of the pit bull's owner or keeper; (v) the complete details of the pit bull's physical identification, including but not limited to breed, sex, weight, color, markings, and any other distinguishing physical characteristics, all provided by the owner and/or keeper; (vi) a photograph of the pit bull that is not more than thirty (30) calendar days old; and (vii) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the

Town and true and accurate copies of the pit bull's rabies vaccination and a copy of the pit bull's health record as prepared by a veterinarian which shall not be dated more than thirty (30) calendar days from the application for registration of the pit bull under this sub-section;

(d) The owner or keeper shall present to the Town Clerk proof that the owner or keeper has procured liability insurance in the amount of a 1 million/2 million policy.

, covering any damage or injury which may be caused by a pit bull during the twelve-month period covered by the pit bull license. The policy shall contain a provision requiring the insurance company to provide written notice to the Town Clerk not less than fifteen (15) days prior to any termination of the policy and not less than five (5) days subsequent to cancellation or expiration of the policy;

(e) The owner or keeper, at the owner's or keeper's own expense, shall have had the pit bull spayed or neutered and shall present to the Town Clerk in connection with the license application documentary proof from a licensed veterinarian that this sterilization has been performed. This requirement shall be waived upon a written statement from a licensed veterinarian that the procedure should not or cannot be performed for reasons of the health or age of the animal.

(f) Upon an owner's or keeper's successful application, the Animal Control Officer shall provide to the successful owner or keeper registering a pit bull (i) a pit bull license tag; (ii) a complete copy of the application for registration and license as submitted by the owner or keeper; (iii) a written summary of all methods for contacting the Animal Control Officer, including but not limited to the Animal Control Officer's telephone number during business hours, the Animal Control Officer's telephone number during non-business hours, the telephone number of the Town Police Department, and the 24-hour helpline or hotline for the Town; and (iv) a legible copy of this Section

(g) The license tag issued by the Animal Control Officer pursuant to this section 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 tag was issued. If the pit bull license tag is lost or destroyed, a duplicate may be issued by the Animal Control Officer upon the owner or keeper's application and payment of a fee in the amount of twenty-five dollars (\$25.00);

(h) The Animal Control Officer and the Town Clerk shall each maintain a file containing the license numbers, pit bull tag numbers, and the names and addresses of the owner or keepers. The owner or keeper shall notify the Animal Control Officer and the Town Clerk in writing of any change of address;

(i) At all times when a pit bull is at the property of the owner or keeper, the owner or keeper shall keep the pit bull confined, either in a secure temporary enclosure or within the premises of the owner or keeper or within a fenced enclosure from which the dog cannot escape. At all times when a pit bull is away from the property of the owner or keeper, the owner or keeper shall keep the pit bull either securely leashed and muzzled or in a secure temporary enclosure;

(k) The owner or keeper shall not sell or otherwise transfer the pit bull to any person resident in the Town except a member of the owner's or keeper's

immediate family who will then become the owner or keeper and will be subject to all of the provisions of this section. The owner or keeper shall notify the Town Clerk 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 or keeper (i) must deliver the puppies to the Town Kennel for destruction or (ii) shall permanently remove the puppies from the Town and provide sufficient evidence of such removal by the time the puppies are weaned. In no event shall the owner or keeper be allowed to keep in the Town a pit bull puppy born after the date of enactment of this Section that is more than eight weeks old. Any pit bull puppies kept contrary to the provisions of this subsection are subject to immediate impoundment and disposal pursuant to this Section.

(l) The owner or keeper shall have posted at each possible entrance to the owner's or keeper's property where the pit bull is kept a conspicuous and clearly legible sign. Such sign must be at least eight and one-half (8 ½) inches by eleven (11) inches in rectangular dimensions and shall contain only the words "WARNING - PIT BULL DOG" in lettering which is not less than two inches in height and which is in sharp contrast with the background of the sign.

Section 5. Impoundment

(a) Any pit bull found by the Animal Control Officer or any member of the Town Police Department to be on the loose, at-large, or unconfined, or which has been observed by the Animal Control Officer or any member of the Town Police Department to have mauled, bitten, attacked, threatened, or in any way menaced another animal or human shall be presumed to be in violation of this by-law and shall be subject to immediate impoundment;

(b) The Animal Control Officer is authorized to immediately impound any Pit Bull which is in violation of this by-law and which does not fall within the exceptions listed therein. The Animal Control Officer is authorized to house and/or dispose of any impounded Pit Bull at his/her sole professional discretion.

Section 6. Impoundment Procedure and Enforcement

(a) The Animal Control Officer is empowered to make whatever inquiry or investigation is deemed necessary to ensure compliance with the provisions of this by-law. The Animal Control Officer is empowered to seize and impound any pit bull found to be in violation of this by-law or any pit bull for which the owner or keeper has failed to comply with the provisions of this Section.

(b) The Animal Control Officer shall not release a pit bull from impoundment unless the owner or keeper (i) provides proof of registration and license satisfactory to the Animal Control Officer, (ii) provides adequate proof that any violations of this by-law have been corrected in a manner satisfactory to the Animal Control Officer; (iii) remits payment to the Animal Control Officer of all fines issued pursuant to violations under this by-law; and (iv) remits payment to the Animal Control Officer for the costs associated with the impounding of the pit bull and the term of impoundment of the pit bull;

(c) The Animal Control Officer and the Town Police Department shall each have the authority and shall cooperate with each other to the greatest extent possible

to enforce the provisions of this by-law. The Town Police Department shall notify the Animal Control Officer of any location or address at which a pit bull is observed;

(d) A pit bull found in violation of this by-law shall be subject to immediate impoundment;

(e) Any violation of this Section shall be subject to a fine of twenty-five dollars (\$25.00) for the first offense, and a fine of one hundred dollars (\$100) for each additional offense. In addition, upon any violation of this Section, the owner's or keeper's pit bull shall be subject to impoundment. Each day a violation exists shall be considered a separate and distinct violation.

Section 7. Appeal Procedure

(a) The owner or keeper of a dog that has been impounded pursuant to this by-law or that has been the subject of a citation for a violation under this by-law may dispute the classification of such a dog as a pit bull or whether the provisions of this by-law for enforcement have been complied with by filing a written petition with the Animal Control Officer for a hearing concerning such classification no later than seven (7) calendar days after the date of impoundment or citation. A petition shall include, but not be limited to, (i) the complete legal name and social security number of the pit bull's owner and/or keeper; (ii) the complete residential address of the pit bull's owner and/or keeper; (iii) the complete address where the pit bull is primarily housed/sheltered; (iv) the telephone number of the pit bull's owner and/or keeper; (v) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the Town; and (vi) a summary of the facts that the petitioner wishes to introduce for consideration in support of the petitioner's appeal. The written petition shall be submitted under oath or affirmation.

(b) The hearing will be held before the hearing officer. 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 hearing officer shall make a final **determination** of the petitioner's appeal. Such final determination shall be **considered a final action by a municipal board. If the dog is found to be a pit bull and the impoundment or the citation is in compliance with this by-law, the pit bull shall be destroyed unless the owner or keeper produces evidence deemed sufficient by the hearing officer that the pit bull is to be removed permanently from the Town and the owner or keeper pays the cost of impoundment. If the dog is found not to be a pit bull or the impoundment or citation is determined by the hearing officer not to have complied with this by-law, the dog shall be released to the owner or keeper with no impoundment fee imposed unless the dog was impounded as a result of the provisions of Section**