

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2020

COUNCIL BILL NO. 20-0760
COMMITTEE OF REFERENCE:
Finance and Governance Committee

6 A BILL

8 **For an ordinance amending section 8-67 of the Denver Revised Municipal Code**
9 **requiring a provisional breed-restricted permit for owners of pit bulls, subject to**
10 **the approval of the voters at a special municipal election to be held in conjunction**
11 **with the coordinated election on November 3, 2020.**
12

13 **WHEREAS**, the city and county of Denver (“Denver”) passed a pit bill ban in 1989 in response
14 to two serious attacks by pit bulls resulting in death and serious injury;

15 **WHEREAS**, since Denver adopted its ban, there has been a review of controlled studies by the
16 American Veterinary Medical Association (“AVMA”) that document that pit bulls are not
17 disproportionately dangerous compared with other dogs;

18 **WHEREAS**, based on data and studies, over 100 cities have repealed their bans entirely; and,

19 **WHEREAS**, city council finds that based on studies and evidence from other jurisdictions a new
20 regulation should be adopted permitting owners of pit bulls to apply for and obtain a provisional breed-
21 restricted permit that will become permanent upon satisfaction of and no violations of certain
22 conditions imposed upon owners and keepers of pit bulls; and,

23 **WHEREAS**, § 3.3.6 of the Charter authorizes the City Council to refer any ordinance to the
24 voters for approval.

25 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

26 **Section 1.** That section 8-67, D.R.M.C. shall be amended by deleting the language stricken
27 and adding the language underlined, to read as follows:

28 **Sec. 8-67. – Pit bulls prohibited without breed-restricted permit.**

29 (a) It shall be unlawful for any person to own or keep any pit bull within the city without first
30 obtaining a breed-restricted permit satisfying the conditions set forth in this section. “Breed-restricted
31 permit” under this section shall mean a permit granted by animal protection to owners or keepers of a
32 pit bull in accordance with certain conditions.

33 ~~(b) Exceptions. The prohibition in subsection (a) of this section shall not apply in the following~~
34 ~~enumerated circumstances. Exceptions. The prohibition in subsection (a) of this section shall not apply~~
35 ~~in the following enumerated circumstances. Failure by the owner to comply and remain in compliance~~

1 with all of the terms of any applicable exception shall subject the pit bull to immediate impoundment
2 and disposal pursuant to subsection (d) of this section, and shall operate to prevent the owner from
3 asserting such exception as a defense in any prosecution under subsection (a).

4 (1) ~~The owner of a pit bull, who has applied for and received a dog license for such pit bull at
5 the Denver Animal Shelter on or before the date of publication of the ordinance enacting this section
6 [August 7, 1989], who has applied for and received a pit bull license in accordance with subsection (c)
7 of this section, and who maintains the pit bull at all times in compliance with the pit bull license
8 requirements of subsection (c) of this section and all other applicable requirements of this chapter,
9 may keep a pit bull within the city.~~

10 (21) Denver Animal protection, the Denver Police Department, or a licensed Colorado
11 veterinarian may temporarily harbor, and transport, adopt, and/or disposition any pit bull for purposes
12 of enforcing the provisions of this chapter under the conditions set forth in this section.

13 (32) Any humane society operating an animal shelter which is registered and licensed by the
14 city may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long
15 as it takes to contact Denver Animal Protection and either turn the pit bull over to Denver Animal
16 Protection employees or receive permission to destroy or have destroyed the pit bull pursuant to the
17 provisions of subsection (d). harbor and disposition any animal that it has determined to be a pit bull
18 breed. Any pit bull breed assessment not done by Denver animal protection is non-binding and it is the
19 responsibility of any new owner of an adopted animal to contact Denver animal protection and follow
20 the breed-restricted licensing process. Adopters intending to own or keep any such animals within
21 Denver must comply with all requirements set forth in this section.

22 (4) ~~A person may temporarily transport into and hold in the city a pit bull only for the purpose
23 of showing such pit bull in a place of public exhibition, contest or show sponsored by a dog club
24 association or similar organization. However, the sponsor of the exhibition, contest, or show must
25 receive written permission from the executive director, must obtain any other permits or licenses
26 required by city ordinance, and must provide protective measures adequate to prevent pit bulls from
27 escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all
28 times when the pit bull is being transported within the city to and from the place of exhibition, contest,
29 or show, keep the pit bull confined in a secure temporary enclosure as defined in section 8-2(x).~~

30 (5) ~~Except as provided in subdivision (b)(4), above, the owner of a pit bull may temporarily
31 transport through the city a pit bull only if such owner has obtained a valid transport permit from the
32 executive director. Upon request, the executive director shall issue such permits only upon a showing
33 by the owner that the pit bull is being transported either from a point outside the city to a destination
34 outside the city, or from a point outside the city to an airport, train station or bus station within the city.~~

1 In the latter case, such owner must provide evidence of an intent to send or take the pit bull outside of
2 the city by producing an airline, train or bus ticket, or other equivalent document, showing a departure
3 time within six (6) hours of the time of the transport. At all times when the pit bull is being transported
4 within the city, it must be kept confined in a secure temporary enclosure as defined in section 8-2(x) of
5 this section. In all cases before issuing a transport permit, the executive director must find that the
6 transport would not constitute an unnecessary or undue danger to the public health, welfare or safety,
7 and shall not issue the permit where the executive director cannot so find. All transport permits issued
8 shall only be valid for the time, date and pit bull specified on the permit, and shall not be construed to
9 permit any activity otherwise prohibited.

10 (c) ~~The owner of any pit bull which had been licensed pursuant to section 8-46 on or before~~
11 ~~the date of publication of the ordinance enacting this section (Ordinance No. 404, Series of 1989) shall~~
12 ~~be allowed to keep such pit bull within the city upon compliance with the terms of the exception~~
13 ~~contained in subdivision (b)(1) of this section only if the owner applies for and receives an annual pit~~
14 ~~bull license on or before January 1, 1990. As a condition of issuance of a pit bull license, the owner~~
15 ~~shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in~~
16 ~~compliance with all of the following regulations:~~

17 (1) ~~The owner of the pit bull shall provide proof of rabies vaccination and shall pay the annual~~
18 ~~pit bull license fee of fifty dollars (\$50.00).~~

19 (2) ~~The owner of the pit bull shall keep current the license for such pit bull through annual~~
20 ~~renewal. Such license is not transferable and shall be renewable only by the holder of the license or by~~
21 ~~a member of the immediate family of such licensee. A pit bull license tag will be issued to the owner at~~
22 ~~the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a~~
23 ~~collar or harness and shall not be attached to any pit bull other than the pit bull for which the license~~
24 ~~was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a~~
25 ~~two-dollar (\$2.00) fee.~~

26 (3) ~~The owner must be at least twenty-one (21) years of age as of January 1, 1990.~~

27 (4) ~~The owner shall present to the executive director proof that the owner has procured~~
28 ~~liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any~~
29 ~~damage or injury which may be caused by a pit bull during the twelve-month period covered by the pit~~
30 ~~bull license. The policy shall contain a provision requiring the insurance company to provide written~~
31 ~~notice to the executive director not less than fifteen (15) days prior to any cancellation, termination, or~~
32 ~~expiration of the policy.~~

33 (5) ~~The owner shall, at the owner's own expense, have the pit bull spayed or neutered and~~
34 ~~shall present to the executive director documentary proof from a licensed veterinarian that this~~

1 sterilization has been performed.

2 (6) ~~The owner shall bring the pit bull to the Denver Animal Shelter where a person authorized~~
3 ~~by the executive director shall cause a registration number assigned by the department to be tattooed~~
4 ~~or otherwise marked on the pit bull. The executive director shall maintain a file containing the~~
5 ~~registration numbers and names of the pit bulls and the names and addresses of the owners. The~~
6 ~~owner shall notify the executive director of any change of address.~~

7 (7) ~~At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull~~
8 ~~securely confined indoors or confined in a secure enclosure as defined in section 8-2(w). At all times~~
9 ~~when a pit bull is away from the property of the owner, the owner shall keep the pit bull either securely~~
10 ~~leashed and muzzled or in a secure temporary enclosure as that term is defined in section 8-2(x).~~

11 (8) ~~The owner shall not sell or otherwise transfer the pit bull to any person except a member~~
12 ~~of the owner's immediate family who will then become the owner and will be subject to all of the~~
13 ~~provisions of this section. The owner shall notify the executive director within five (5) days in the event~~
14 ~~that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the~~
15 ~~puppies to the Denver Animal Shelter for destruction or permanently remove the puppies from Denver~~
16 ~~and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event~~
17 ~~shall the owner be allowed to keep in Denver a pit bull puppy born after the date of publication of~~
18 ~~Ordinance No. 404, Series 1989, that is more than eight (8) weeks old. Any pit bull puppies kept~~
19 ~~contrary to the provisions of this subdivision are subject to immediate impoundment and disposal~~
20 ~~pursuant to subsection (d) of this section.~~

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

25 (d) ~~Notwithstanding the provisions of Article VII of this chapter, the executive director is~~
26 ~~authorized to immediately impound any pit bull found in the City and County of Denver which does not~~
27 ~~fall within the exceptions listed in subsection (b), above, and the Denver Animal Shelter may house or~~
28 ~~dispose of such pit bull in such manner as the executive director may deem appropriate, except as the~~
29 ~~procedures in subsection (e), below, otherwise require.~~

30 (e) ~~When the executive director has impounded any pit bull dog pursuant to this section, and~~
31 ~~the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may~~
32 ~~file a written petition with the executive director for a hearing concerning such classification no later~~
33 ~~than five (5) days after impoundment. Such petition shall include the name and address, including~~
34 ~~mailing address, of the petitioner. The executive director will then issue a notice of hearing date by~~

1 mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing.
2 Where no written request from the owner for a hearing is received by the executive director within five
3 (5) days of impoundment, the pit bull shall be destroyed.

4 The hearing, if any, will be held before the executive director or a hearing officer designated by
5 the executive director. Any facts which the petitioners wishes to be considered shall be submitted
6 under oath or affirmation either in writing or orally at the hearing. The executive director or hearing
7 officer shall make a final determination whether the dog is a pit bull as defined in section 8-2(u). Such
8 final determination shall be considered a final order of the executive director subject to review under
9 Rule 106(a)(4) of the state rules of civil procedure.

10 If the dog is found to be a pit bull, it shall be destroyed, unless the owner produces evidence
11 deemed sufficient by the executive director that the pit bull is to be permanently taken out of Denver
12 and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be
13 released to the owner. The procedures in this subsection (f) shall not apply and the owner is not
14 entitled to such a hearing with respect to any dog which was impounded as the immediate result of an
15 attack or bite as defined in section 8-61. In those instances, the dog shall be handled and the
16 procedures governed by the provisions of article VII of this chapter.

17 (b) Application for a breed-restricted permit to own or keep a pit bull shall include:

18 (1) The name and address of the owner or keeper where the pit bull will be located;

19 (2) The names and addresses of two (2) persons who may be contacted to take responsibility in
20 the case of emergency;

21 (3) An accurate description of the pit bull and recent photograph for which the breed-restricted
22 permit is requested;

23 (4) An annual fee for a breed-restricted permit or for any renewal or modification of such permit.
24 The permit tag shall be attached to each permitted dog at all times when it is off the property of the
25 owner or keeper by means of a collar or harness, and it shall be unlawful to place this tag on any
26 animal other than the dog for which the breed-restricted permit was issued;

27 (5) Proof that the animal has had a registered microchip implanted;

28 (6) Proof that the animal has a current rabies vaccination pursuant to section 8-31; and,

29 (7) Such other information as animal protection may reasonably require.

30 (c) Conditions of a breed-restricted permit to own or keep a pit bull:

31 (1) Any owner or keeper of a pit bull shall be jointly and severally responsible with all other
32 owners or keepers of such pit bull for compliance with the requirements of a breed-restricted permit;

33 (2) Any owner or keeper of any pit bull may not own or keep more than two (2) pit bulls per
34 household or harbor more than two (2) pit bulls at any time.

1 (3) The owner or keeper of a pit bull shall notify animal protection in person or by telephone of
2 any of the following occurrences within the scheduled time frames as set forth in this subsection:

3 a. Within eight (8) hours after the pit bull has escaped or has otherwise ceased to be in
4 the custody of the owner or keeper for any reason, unless the owner or keeper knows such
5 animal to be physically secured, restrained, or confined and to be in the custody of a competent
6 adult;

7 b. Within eight (8) hours after the pit bull has attacked or bitten a person or another
8 domestic animal;

9 c. If the pit bull has died, or if the owner or keeper of the pit bull or the address of the pit
10 bull has changed to a person or location outside of the city, the owner or keeper listed on the
11 breed-restricted permit shall notify animal protection within twenty-four (24) hours of such
12 change, including the name, address, and telephone number of the new owner or keeper. If the
13 owner or keeper or location of the pit bull changes to a person or location at a different address
14 within the city, the owner or keeper listed on the breed-restricted permit shall notify animal
15 protection within twenty-four (24) hours of the change, including the name, address, and
16 telephone number of the new owner, and the new owner or keeper may be permitted to modify
17 the breed-restricted permit to reflect the new owner's name in the discretion of animal
18 protection, but such modification must be obtained within five (5) days of the change.

19 (4) Notwithstanding section 8-4(c), animal protection officers shall be permitted access at
20 reasonable times, upon reasonable notice, and in a reasonable manner to inspect the pit bull and/or
21 the premise where the pit bull is located for sanitary and health conditions, including, without limitation,
22 conditions in Article VI of this Chapter.

23 (d) After a period of thirty-six (36) consecutive months with no violations of any provisions of
24 Chapter 8, animal protection may remove the requirements of this section by issuing a written notice to
25 the owner or keeper that the conditions of the breed-restricted permit period have been satisfied for the
26 requisite period. Upon receipt of written notice, the owner or keeper is required to license their pit bull
27 under section 8-46, D.R.M.C. and maintain compliance with all other license requirements of Division 3
28 of this Chapter.

29 (e) Violation by an owner or keeper of the conditions of the breed-restricted permit may impact
30 the permit and may result in other criminal or administrative penalties allowed by the code.

31 (f) Nothing in this section shall be construed in any manner as altering any owner or keeper's
32 duties, responsibilities and/or liabilities under Chapter 8.

33 (g) Animal protection will collect, maintain, and review data and findings from inspections and
34 violations and shall report findings and make recommendations to city council after the initial three (3)

1 year period of the program.

2 **Section 2.** Section 24-5 (a), D.R.M.C., is amended by adding the language underlined and
3 deleting the language stricken as follows:

4 (a) Any person who violates any provision of chapter 8 (animals), excluding the provisions of
5 sections 8-74 (damaging property), 8-61 (dog attack or bite), 8-62 (dangerous dogs), 8-67 (pit bulls
6 prohibited without a breed-restricted permit), 8-131(a) (cruelty to animals prohibited), 8-133
7 (abandonment), and 8-134 (keeping place for fighting animals); chapter 11 (child care); chapter 17
8 (emergency vehicles); article X (body art) of chapter 24 (health and sanitation); chapter 26 (boarding
9 homes, personal care boarding homes, and nongovernmental residential facilities for the treatment or
10 supervision of offenders); article II of chapter 27 (housing code); chapter 33 (lodging); chapter 35
11 (mobile homes and trailers); chapter 36 (noise control); article I of chapter 37 (health nuisances);
12 chapter 51 (pools); or any retail store who violates article IX of chapter 48 (disposable bags), is also
13 subject to a civil penalty of not more than nine hundred ninety-nine dollars (\$999.00) per violation.

14 **Section 3.** The ballot shall contain the following title and submission clause:

15

16

17

Referred Question _____

18 Shall the voters for the City and County of Denver adopt an ordinance authorizing the
19 city to grant a provisional permit to owners or keepers of a pit bull, provided the owner
20 microchips the animal and complies with additional requirements set by Denver Animal
21 Protection?
22

22

23 **Section 4.** The proper officials of the City and County of Denver as are charged with duties
24 relating to the election shall, before the election, issue such calls, make such certifications and
25 publications, give such notices, make such appointments, and do all such other acts and things in
26 connection with the submission of this code amendment to the registered electors of the City and
27 County of Denver at the election as are required by the Constitution and laws of the State of Colorado
28 and the Charter and ordinances of the City and County of Denver.

29 **Section 5.** The ballots cast at such election shall be canvassed and the results ascertained,
30 determined, and certified in accordance with the requirements of the Constitution and laws of the State
31 of Colorado and the Charter and ordinances of the City and County of Denver.

32 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is held to be
33 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall not
34 be affected.

1 **Section 7. Effective Date.** If approved by the voters, this ordinance shall be effective on
2 January 1, 2021.

3
4 COMMITTEE APPROVAL DATE: July 28, 2020

5 MAYOR-COUNCIL DATE: August 4, 2020

6 PASSED BY THE COUNCIL _____ August 17, 2020

7 Steve Gilmore _____ - PRESIDENT

8 APPROVED: [Signature] _____ - MAYOR _____ Aug 18, 2020

9 ATTEST: _____ - CLERK AND RECORDER,
10 EX-OFFICIO CLERK OF THE
11 CITY AND COUNTY OF DENVER
12

13 NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

14
15 PREPARED BY: Jonathan Griffin, Assistant City Attorney; DATE: July 27, 2020

16 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
17 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
18 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
19 3.2.6 of the Charter.
20

21 Kristin M. Bronson, City Attorney

22
23 BY: Kristin M. Bronson _____, Assistant City Attorney DATE: Aug 6, 2020 _____
24
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