

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council
FROM: Mari E. Macomber, City Manager ^{MEM}
SESSION DATE: August 30, 2010
TIME: Study Session will begin immediately following meeting with President Paino
PLACE: Second Floor Conference Room

We will meet in the second floor conference room of City Hall. We will need to adjourn the Study Session to attend the City Council meeting at 6:00 pm.

AGENDA:

- HeRO UPDATE
- VICIOUS ANIMAL ORDINANCE DISCUSSION
- NEWSLETTER

HeRO UPDATE

The City and Kirksville Housing Authority joined together to apply for a housing improvement program, called HeRO, (Home Repair Opportunities) in the fall of 2008. This collaborative effort resulted in a grant award of \$132,000. The funds will be used to assist those residential homeowners within the project area (DREAM initiative boundary) whose income falls below 80% below the median income. The City was fortunate to have a willing partner in this effort, the Kirksville Housing Authority, who will be administering the grant on our behalf.

A second application was submitted for the program through the efforts of the Kirksville Housing Authority and approved earlier this year. The program for this year will allow the Kirksville Housing Authority to allocate up to \$20,000 to an estimated five homes.

Kyle Horst, Program Administrator for the Kirksville Housing Authority will be at the Study Session on Monday to give the City Council an update on the project.

More information on the HeRO program is included in this packet, including a staff report from Cherie Bryant and summary information about HeRO.

Recommended Action:

The City Council is just asked to visit with Mr. Horst, ask questions and discuss potential future partnerships with the Kirksville Housing Authority.

VICIOUS ANIMAL ORDINANCE DISCUSSION

In May the City Council met to discuss whether or not there was interest on the part of the Council to explore an ordinance that would prohibit “vicious dogs”. There was not a consensus of the Council to move forward with a specific ordinance regarding dogs, but there was an interest in discussing a “vicious animal ordinance”. A couple of members of the City Council were interested in including a ban on certain breeds of dogs in a draft ordinance. The City Council agreed to discuss a number of things: 1) considering an ordinance to ban certain vicious animals; 2) grandfathering certain types of existing animals; and 3) exploring increasing insurance requirements.

Since the Council met to discuss this issue, a number of emails expressing opinions on this issue were sent to the Council. City Clerk Vickie Brumbaugh summarized the emails identifying five (5) key areas that the comments addressed.

Included with this Study Session packet is a draft ordinance that was prepared after several meetings between the Codes and Police Department. The ordinance does ban certain vicious animals; it includes a registration for a certain breed of dogs and a grandfather clause unless an animal is determined to be vicious. It also gives a possible grandfather for other vicious animals, and it addresses the insurance requirements.

A copy of the Ottumwa Iowa vicious animal ordinance is included for your information.

Recommended Action:

It is recommended that the City Council discuss the draft ordinance and determine if it addresses the intent of the Council giving direction to staff on changes. It is further recommended that the City provide information to the general public on this ordinance before it is formally adopted by the City Council.

NEWSLETTER

Attachments

- HeRO Staff Report Cherie Bryant
- Summary of HeRO
- Vicious Animal Staff Report Brad Selby
- Draft Vicious Animal Ordinance – including staff responsibilities
- Summary of Citizen Comments
- City of Ottumwa Ordinance

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: HeRO Program

STUDY SESSION MEETING DATE: August 30, 2010

CITY DEPARTMENT: Economic and Community Development

PREPARED BY: Cherie Bryant, Assistant to the City Manager

HeRO Program

In September of 2008, the City of Kirksville and the Kirksville Housing Authority collaborated on a grant opportunity provided by the Missouri Housing Development Commission and the DREAM Initiative. Grant proposals were for repairs and improvements to owner occupied houses which assist persons or families below 80% of the area median income bring their homes to code by offering up to \$20,000 in repairs. The HOME Repair Opportunities (HeRO) Program is designed to solve housing code violations and reduce lead-based paint hazards *first* and then general rehabilitation. Qualified houses would be located within the DREAM Initiative area (Downtown Kirksville) or corridors leading to the downtown.

On December 19, 2008, the City of Kirksville and the Kirksville Housing Authority was notified of the grant award of \$132,000. Over the course of 2009, many homeowners inquired about receiving help with repairs; however, only eight homes received rehabilitation assistance. Due to the overwhelming response from people who requested help, the Kirksville Housing Authority decided to apply again for further funding. In March, 2010 they were notified of award of \$113,000, which meant an estimated five homes would be repaired.

Kyle Horst, Assistant to the Director, of the Kirksville Housing Authority has requested time to speak about the HeRO grant to City Council. He will be in attendance to present and answer questions.

HeRO Program

HOME Repair Opportunity Program

The **Home Repair Opportunity (HeRO) Program** provides funding to meet the growing need for home repair for low and moderate income homeowners. MHDC provides federal HOME funds to selected community partners who operate the program in the region they serve.

Money for the 2009 Funding Year has been allocated to 21 nonprofit and community development agencies who have each applied for and received a portion of the \$5 million set aside for this program. To be eligible to receive funding, your town must be located within one of the participating agency's governing areas.

The maximum income for participants ranges between \$33,000 and \$45,100 for a family of four depending on the county of residence

What Can Be Done

Only specific types of work are eligible for funding under the HeRO program. These include:

- **Rehabilitation:** The repair or updating of existing systems, including: HVAC, plumbing or electrical wiring, repair or replacement of all or part of a roof, interior or exterior painting including necessary preparation, permanent floor coverings, replacement siding, and repair of sidewalks/steps/porches/railings etc.
- **Lead Risk Reduction:** The removal or encapsulation of lead or lead-bearing wood trim, siding, interior or exterior walls, windows, gutters etc.; the removal of contaminated carpeting or flooring; removal and/or replacement of contaminated topsoil, etc. to reduce the possibility of lead poisoning.
- **Weatherization:** Activities determined to reduce heating and/or cooling costs, and to improve the overall safety and comfort of the home. Repair or replacement of HVAC, installation of insulated windows, caulking, sealing of exterior walls, etc.
- **Accessibility:** Activities that will make an elderly or disabled person better able to enter or move about their home, or to improve the overall quality of life. This includes improvements to allow the elderly to age in place, including ramps, lifts (but not elevators), re-locating light switches and service outlets, widening doorways, lowering kitchen counters, installing roll-in showers, etc.
- Units may receive multiple services, but total grant cannot exceed \$20,000.

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Dangerous Animal Ordinance

STUDY SESSION MEETING DATE: August 30, 2010

CITY DEPARTMENT: Codes and Police Department

PREPARED BY: Brad Selby, Codes & Planning Director

This is a proposed ordinance identifying and prohibiting the keeping and harboring of animals defined as “dangerous”. The complete list of animals is in the attached proposed ordinance. This ordinance also specifically identifies a “pit bull dog” as a dangerous animal, along with any crossbreeds of the three main dog breeds considered to be a “pit bull”: Staffordshire Bull Terrier, American Pit Bull Terrier, and American Staffordshire Terrier.

The proposed ordinance is also considered a “grandfather” type of ordinance. This means citizens are allowed to keep their pit bull dog in the city by applying for a permit, paying a fee, and following a list of standards designed to protect the public from the animal. The animal can be kept until it is sold, given to someone outside the city, or until it dies. No new dangerous animal can be brought into the city after the effective date of the ordinance. After an estimated 10 years, all dangerous animals should be gone from the city, or very few shall remain.

The ordinance includes procedures for the Police Department to seize and impound illegal animals and to destroy them if necessary. It includes procedures for the Codes Department to inspect the animal’s kennel, to ensure signs are installed as required, and to verify insurance and identification requirements in an annual inspection for each animal.

There is an appeal available for those persons who wish to appeal an order to remove a dangerous animal. There is another appeal available for those persons who wish to appeal the classification of an animal that has been determined to be a dangerous animal as listed under Sec. 5-19 (b).

This ordinance also provides that an animal other than a pit bull dog may, in a rare instance, be considered for an exception to the dangerous animal prohibition. The Chief of Police and the Codes & Planning Director would consider an application that is filed within 30 days of any ordinance passage for other animals. If approved, the permit could include more strict standards for keeping an animal other than the pit bull requirements currently listed.

DRAFT

Subject: Dangerous Animal Ordinance

Sec. 5-19. Dangerous Animals

(a) Keeping prohibited.

(1) No person shall keep, shelter, or harbor for any purpose within the city a dangerous animal except as provided in sections 5-19 (c) and (d) of this section. A violation of this section is an ordinance violation resulting in a minimum fine of \$200.00. A conviction of any section of Sec. 5-19 will result in a fine and removal or destruction of the animal, and the removal of any other dangerous animals in the owner's possession.

(2) An exception to the prohibited keeping of a dangerous animal, identified as a breed of "pit bull dog" is also listed in Sec. 5-20 of this ordinance. In rare cases, a citizen can apply to the City of Kirksville to register their dangerous animal for the same type of prohibitions allowed for "pit bull dogs". The application will be determined by the Chief of Police and the Codes & Planning Director. If the application is approved, it may include other safety confinements or rules than that used for pit bull dogs. The time frame for applying will be the same as for pit bull dogs.

(b) Defined. "Dangerous animal" means:

(1) Any animal or reptile which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

(2) Any animal declared to be dangerous by the Kirksville City Council.

(3) The following animals shall be deemed to be dangerous animals:

- a. Lions, tigers, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;
- b. Wolves, coyotes and foxes;
- c. Badgers, wolverines, weasels, and skunks;
- d. Raccoons;
- e. Bears;
- f. Monkeys, chimpanzees, and other primates;
- g. Alligators, crocodiles, or any related species;
- h. Venomous snakes;
- i. Constrictor snakes longer than eight (8) feet;
- j. Gila monsters;
- k. Piranhas and sharks;
- l. Any crossbreed of such animals or reptiles which have similar

characteristics to the animals or reptiles specified above.

m. Pit bull dogs

“Pit bull dogs” is defined to mean:

1. Staffordshire Bull Terrier breed of dog;
2. American Pit Bull Terrier breed of dog;
3. American Staffordshire Terrier breed of dog;
4. Any mixed breed of dog, which contains as an element of its breeding, the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier.
5. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier; and other breeds commonly known as Pit Bulls, Pit Bull dogs, or Pit Bull Terriers, or a combination of any of these breeds.

(4) Any vicious animal as defined in Sec. 5-1 of the Code of Ordinances of the City of Kirksville.

(c) Exceptions.

(1) The prohibition contained in section 5-19 (a) (1) of this Code shall not apply to the keeping of dangerous animals in the following circumstances, but all other sections shall still apply:

- a. The keeping of dangerous animals in a public zoo, public aquarium, and bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.
- b. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show licensed to perform in the City.
- c. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
- d. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the state conservation commission.
- e. Any dangerous animals under the jurisdiction of and in the possession of the Missouri Conservation Commission.
- f. The transport, entry, and display of a dangerous animal at an approved dog show when properly confined in a locked cage, or on a leash and muzzle and personally restrained by a handler or owner of the dog.

(d) Regulation of keeping dangerous animals

- (1) Every person, firm or corporation keeping, sheltering, or harboring a dangerous animal as permitted under section 5-19 (c) shall at all times keep such animal securely confined within a cage or other enclosure approved by the Codes Department.
 - (2) No person, firm or corporation owning, keeping, sheltering, or harboring a dangerous animal as permitted under section 5-19 (c) shall permit or allow such animal to enter upon, be placed in, or traverse any public property, park property, public right-of-way, public waterway, or lagoon, or public sewer system, or any business establishment licensed by the city, or the property of another except when such animal is being transported while caged or confined.
 - (3) It shall be the duty of the persons permitted to keep dangerous animals under section 5-19 (c) to immediately report to the police department when any dangerous animal is found missing.
 - (4) No person shall keep or harbor a dangerous animal which has demonstrated a propensity without provocation to attack or bite.
- (e) Escape; general prohibition and duty.
- (1) No person shall aid or cause any dangerous animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window or making any opening of any fence, enclosure of structure, or by unleashing or releasing such animal.
- (f) Seizure, impoundment and disposition of dangerous animals.
- (1) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, public waterway, lagoon, or public sewer system, or the property of someone other than its owner, such animal may, in the discretion of a law enforcement officer or his designee, be destroyed. The city shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
 - (2) Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal on premises in the city in violation of this ordinance or who keeps a dangerous animal which has demonstrated a propensity to attack or bite without provocation, city law enforcement shall cause the matter to be investigated, and if after investigation the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous animal in the city, law enforcement personnel/designee shall order the person named in the complaint

to safely remove such animal from the city, permanently place the animal with an organization or group allowed under section 5-19 (c) of this Code to possess dangerous animals, or destroy the animal at any time after an appeal time period has expired. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by first-class mail or by posting to the front door of the last known address. After any appeal period has expired, law enforcement personnel or their designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

- (3) The order to remove a dangerous animal may be appealed to the Kirksville City Council; however, the animal shall be removed until such time as the order may be reversed by the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three business days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.
- (4) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be held during the next scheduled meeting of the city council following receipt of notice of appeal, provided it meets the cut-off time for the addition of items to the city council agenda. The hearing may be continued for good cause. After such hearing, the city council shall affirm or reverse the order of law enforcement personnel or their designee.
- (5) If the original order of law enforcement personnel or their designee is not complied with within three days of the order, a law enforcement officer or his designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded pending any appeal before the city council. If, at the end of the impoundment period, the person against whom the order was issued by law enforcement personnel or their designee has not petitioned the county court within ten (10) business days for a review of said order issued by city council decision, law enforcement personnel or his designee may allow the Humane Society to cause the animal to be placed with an organization or group allowed under section 5-19 (c) to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees and fees incurred for the care of the dangerous animal shall be at the expense of the owner of the dangerous animal.

- (6) In the event a dangerous animal as defined in section 5-19 (b) (3) is found within the city, the owner or person possessing the dangerous animal may be summoned to Municipal Court to answer the charges. The owner will be told by a police officer, his designee, or the Animal Control Officer to immediately remove the animal from the city. If the owner or person having possession of such dangerous animal as defined in section 5-19 (b) (3) fails to immediately remove said animal or refuses to do so, a police officer, his designee, or the Animal Control Officer shall immediately seize the dangerous animal and impound the animal at the animal pound. If a police officer, his designee, or the Animal Control Officer cannot safely capture or take control of such dangerous animal, the police officer, his designee, or the Animal Control Officer shall immediately destroy it. If the animal's owner is not present, the city shall be under no duty to attempt to notify the owner prior to its capture or destruction.
- (7) The owner of the dangerous animal may claim the animal upon showing proof of ownership, payment of all impound and veterinary fees, and agreement to immediately remove the animal from the city upon taking possession of the animal. In the event the owner does not claim the animal, a law enforcement officer or his designee may allow the Humane Society to cause such animal to be permanently placed with an organization or group allowed under section 5-19 (c) to possess dangerous animals, or shall destroy such animal in a humane manner.
- (8) When an animal has been determined to be a dangerous/vicious animal by a law enforcement officer or his designee as listed in section 5-19 (b) (3) and the owner of such animal disputes its classification as one of the listed animals, it shall be the owner's responsibility to provide positive proof by documentation or other means to a law enforcement officer or designee that the animal is not an animal identified as a dangerous animal as listed in section 5-19 (b) (3). Only if the case/animal's classification is not already in the court system, the owner may appeal the animal's classification to a 3-person committee, consisting of the Chief of Police, the Codes & Planning Director, and a local veterinary appointed by the Kirksville City Council. However, the animal shall be removed from the city until such time as the classification is reversed by the 3-person committee. The appeal process shall be the same as set forth in sections 5-19 (f) (3) and (4), except that the appeal is made to, and determined, by the 3-person committee, not the city council. The decision of the 3-person committee is final.

Section 5-20. Exception to Keeping of Pit bull dogs and other dangerous animals

- (a) Pit bull dogs residing in the city on **< Insert date Here >** , may only be kept by their owners within the city, subject to the following standards:
- (1) Registration. Pit bull dogs residing in the city on **< Insert date Here >**, must be registered with the city by the owners within thirty days of date of such ordinance passage. This registration fee will be \$50.00 annually per animal. The payment of the annual fee to the Codes Department of the City of Kirksville will purchase a permit for keeping and harboring a pit bull dog for one year. Permits are due and payable January 1 thru January 31 of each year.
 - (2) Leash and muzzle. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four 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.
 - (3) Confinement generally. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in section 5-20 (a) (2) of this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine 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 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. The Codes Department of the City of Kirksville will inspect these premises annually, between February 1 and April 30, each year that a pit bull dog is kept and harbored.
 - (4) 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 screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
 - (5) Signs. All owners, keepers, or harborers of pit bull dogs within the

city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog - Pit Bull" or words of similar effect. In addition, a similar sign is required to be posted on the kennel or pen of such animal. Signs must be a minimum of 8" x 10" in size, with a minimum of 1" tall lettering. The posting of such signs will be part of the annual inspection by the Codes Department of the City of Kirksville from February 1 to April 30.

- (6) Insurance. All owners, keepers, or harborers of pit bull dogs must provide proof to the city of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or for damage to property owned by any person 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 days' written notice is first given to the city.
- (7) Identification photographs. All owners, keepers, or harborers of registered pit bull dogs must provide to the codes department of the city, a minimum of two color photographs (showing front and side poses) of each animal clearly showing the color and approximate size of the animal, any distinctive characteristics, identifiable tattoos, or information on chip implants the animal may have.
- (8) Reporting requirements. All owners, keepers or harborers of pit bull dogs must, within ten days of the incident, report the following information in a signed letter to the codes department of the City of Kirksville as required in this section:
 - a. The removal from the city of a pit bull dog
 - b. The death of a pit bull dog.
 - c. The birth of offspring from a pit bull dog.
 - d. The new address of a pit bull dog owner should the owner move within the corporate city limits.
- (9) Sale or transfer of ownership prohibited. No person shall sell, barter or in any way dispose of a pit bull dog registered with 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 of such dog; provided that the registered owner of a pit bull dog may or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the city.
- (10) Offspring. All offspring born of pit bull dogs registered with the city must be removed from the city within ten (10) weeks of the birth of such animal or animals.

- (11) Irrebuttable presumptions. There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds prohibited under the definition of “pit bull dogs” is in fact a dog subject to the requirements of this section.
- (12) Failure to comply. It shall be unlawful for the owner, keeper, or harbinger of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section 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 city.
- (b) Other dangerous animals residing in the city on [Insert Date Here] may, in a rare instance, be considered for an exception of the prohibition, similar to pit bull dogs. Any application, to be considered as an exception, must be submitted to the Chief of Police or to the Codes & Planning Director within thirty (30) days of the passage of this ordinance. The application approval or denial will be determined by the Chief of Police and the Codes & Planning Director of the City of Kirksville. There is no appeal of their decision. If the application is approved, the owner may have safety confinements or rules that are in addition to that used for pit bull dogs. Signs, identification requirements, insurance, sale or transfer of ownership, and other standards will be required. Other stipulations for keeping of the dangerous animal may be stated in the permit that is issued.

(end of draft ordinance)

Responsibilities

The responsibility of enforcement and record keeping of the proposed ordinance will be as follows:

Kirksville Police Department and the Animal Control Officer responsible for:

1. Responding to complaints of loose dogs, or dogs or other dangerous animals living in the city without the proper permit.
2. Investigation of complaints and to determine if complaints about a particular dog meets the description of a “pit bull dog”. (See Section 5-19 (f) (8))
3. Seizure or impoundment of animals found loose or living in the city without the proper permit for keeping or harboring a “pit bull dog”.

Kirksville Codes Department responsible for:

1. Collection of annual fees and issuance of the permit for “Pit Bull dogs”, or other animals.

2. Annual inspections of the pen or kennel of each pit bull dog registered with the city.
3. Annual inspection to be sure the proper signs are posted on the property and on the pen or kennel of each registered dog.
4. Collecting and filing of copies of the insurance required of each owner for the pit bull dogs in his possession and that a policy is issued for each dog owned, and that the insurance copy is updated annually.
5. Collecting and filing of the two color photographs or tattoo pictures or chip information of each dog to be registered within the city.
6. Maintaining a file on each animal registered in the city until the removal from the City of the dog, or until the death of the dog.
7. Tracking any address changes in the City of the owner of “pit bull dogs”, or changes in ownership as provided in Section 5-20 (a) (9).
8. Monitor animal seizures and any appeal process that takes place.

July 8, 2010

To summarize the e-mail's received from the general public regarding a proposal to ban certain dog breeds:

Do not discriminate against people who own a different breed of dog.

Hold owners of dogs responsible for their dog's actions.

Encourage spaying and neutering.

Require that all dogs be confined behind a specific fence, and certain breed dogs must have a padlocked gate. Owners not be allowed to chain any dog.

An alternative to banning breeds –Require mandatory training for dog owners of specific breeds moving into Kirksville, and require renewal every two or three years.

Prepared by: Vickie Brumbaugh, City Clerk

ARTICLE IV. DANGEROUS ANIMALS**Sec. 7-61. Defined.**

"Dangerous animal" means:

- (1) Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so.
- (2) Any animals declared to be dangerous by the city council.
- (3) The following animals which shall be deemed to be dangerous animals per se:
 - a. Lions, tiger, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;
 - b. Wolves, coyotes and foxes;
 - c. Badgers, wolverines, weasels, and skunks;
 - d. Raccoons;
 - e. Bears;
 - f. Monkeys, chimpanzees, and other primates;
 - g. Alligators and crocodiles;
 - h. Scorpions;
 - i. Snakes that are venomous or constrictors;
 - j. Gila monsters;
 - k. Piranha and sharks;
 - l. Pit bull terrier; and,
 - m. Any crossbreed of such animals which have similar characteristics to the animals specified above.

(Ord. No. 2911, § 1, 4-16-02; Ord. No. 2921, § 3, 2-4-03)

Sec. 7-62. Keeping prohibited.

No person shall keep, shelter, or harbor for any purpose within the city a dangerous animal except as provided in sections 7-63 and 7-64 of this article. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

(Ord. No. 2911, § 1, 4-16-02; Ord. No. 2921, § 4, 2-4-03)

Sec. 7-63. Exceptions.

The prohibition contained in section 7-62 of this Code shall not apply to the keeping of dangerous animals in the following circumstances:

- (1) The keeping of dangerous animals in a public zoo, public aquarium, and bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.
- (2) The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show licensed to perform in the city.
- (3) The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
- (4) The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the state conservation commission.
- (5) Any dangerous animals under the jurisdiction of and in the possession of the state conservation commission, pursuant to I.C.A. ch. 481A or I.C.A. ch. 481B.
- (6) The transport, entry, and display of a dangerous animal at an approved dog show when properly confined in a locked cage, or on a leash and muzzle and personally restrained by a handler or owner of the dog.

(Ord. No. 2911, § 1, 4-16-02; Ord. No. 2921, § 5, 2-4-03)

Sec. 7-64. Regulation of keeping dangerous animals.

- (a) Every person, firm or corporation keeping, sheltering, or harboring a dangerous animal as permitted under section 7-63 shall at all times keep such animal securely confined within a cage or other enclosure approved by the chief of police or designee.
- (b) No person, firm or corporation owning, keeping, sheltering or harboring a dangerous animal as permitted under section 7-63 shall permit or allow such animal to enter upon, be placed in, or traverse any public property, park property, public right-of-way, public waterway, or lagoon, or public sewer system, or any business establishment licensed by the city, or the property of another except when such animal is being transported while caged or confined.
- (c) It shall be the duty of the persons permitted to keep dangerous animals under section 7-63 to report to the police department when any dangerous animal is found missing.
- (d) No person shall keep or harbor a dangerous animal which has demonstrated a propensity without provocation to attack or bite.

(Ord. No. 2911, § 1, 4-16-02; Ord. No. 2921, § 6, 2-4-03)

Sec. 7-65. Escape; general prohibition and duty.

No person shall aid or cause any dangerous animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window or making any opening of any fence, enclosure of structure or by unleashing or releasing such animal.

(Ord. No. 2911, § 1, 4-16-02)

Sec. 7-66. Seizure, impoundment and disposition of dangerous animals.

- (a) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, public waterway, lagoon, or public sewer system, or the property of someone other than its owner, thereby creating a hazard to person or property, such

animal may, in the discretion of the chief of police or a peace officer, be destroyed if it cannot be confined or captured. The city shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

(b) Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal on premises in the city in violation of this article or who keeps a dangerous animal which has demonstrated a propensity to attack or bite without provocation, the chief of police shall cause the matter to be investigated, and if after investigation the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the city, the chief of police shall order the person named in the complaint to safely remove such animal from the city, permanently place the animal with an organization or group allowed under section 7-63 of this Code to possess dangerous animals, or destroy the animal, within three days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the chief of police or a peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

(c) The order to remove a dangerous animal issued by the chief of police may be appealed to the city council; however, the animal shall be removed until such time as the order is reversed by the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.

(d) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be held during the next scheduled meeting of the city council following receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the city council shall affirm or reverse the order of the chief of police.

(e) If the original order of the chief of police is not complied with within three days of the order, a peace officer or the community service officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded pending any appeal before the city council. If, at the end of the impoundment period, the person against whom the order was issued by the chief of police has not petitioned the county district court for a review of said order or city council decision, the chief of police shall cause the animal to be disposed of by sale, permanently place such animal with a an organization or group allowed under section 7-63 to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees and fees incurred for the care of the dangerous animal shall be at the expense of the owner of the dangerous animal.

(f) In the event a dangerous animal as defined in section 7-61(3) is found within the city, the owner or person possessing the dangerous animal shall be ordered by a peace officer to immediately remove the animal from the city. If the owner or person having possession of such dangerous animal as defined in section 7-61(3) fails to immediately remove said animal or refuses to do so, a peace officer shall immediately seize the dangerous animal and impound the animal at the animal pound. If a police officer cannot safely capture or take control of such dangerous animal, the police officer shall immediately destroy it. If the animal's owner is not present, the city shall be under no duty to attempt to notify the owner prior to its capture or destruction.

(g) Upon the impounding of a dangerous animal as defined in section 7-61(3), the owner, if known, shall be notified of such impoundment by telephone or letter mailed to the owner's last

known address if not reached by phone. Notice shall be deemed given upon telephone contact with owner or depositing the notice in the U.S. mail. The owner of the dangerous animal may claim the animal upon showing proof of ownership, payment of all impound and veterinary fees, and agreement to immediately remove the animal from the city upon taking possession of the animal. In the event the owner does not claim the animal, the chief of police shall cause such animal to be permanently placed with an organization or group allowed under section 7-63 to possess dangerous animals, or shall destroy such animal in a humane manner.

(h) When an animal has been determined to be a dangerous animal by the chief of police or designee as listed in section 7-61(3) and the owner of such animal disputes its classification as one of the listed animals, it shall be the owner's responsibility to provide positive proof by documentation or other means to the chief of police or designee that the animal is not an animal identified as a dangerous animal in section 7-61(3). If the animal remains classified as a dangerous animal as listed in section 7-61(3), the owner may appeal the animal's classification to the city council; however, the animal shall be removed from the city until such time as the classification is reversed by the city council. The appeal process shall be the same as set forth in sections 7-66(c) and (d).

(Ord. No. 2911, § 1, 4-16-02; Ord. No. 2921, § 7, 2-4-03)

Secs. 7-67--7-80. Reserved.