

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council
FROM: Mari E. Macomber, City Manager ^{MEM}
SESSION DATE: December 20, 2010
TIME: 4:30 pm
PLACE: Second Floor Conference Room

We will meet in the second floor conference room of City Hall starting at 4:30 pm, followed by the City Council Meeting at 6:00 pm. The City Manager will be out of the office on Monday, so Laura Guy, Finance Director will be in attendance at the Study Session to help facilitate discussion. The City Council will adjourn into executive session at 5:30 pm for a personnel matter.

AGENDA:

- REVIEW DOWNTOWN DESIGN GUIDELINES
- REVIEW PROPOSED DRAFT DANGEROUS ANIMAL ORDINANCE
- REVIEW NEWSLETTER

REVIEW DOWNTOWN DESIGN GUIDELINES

In March of this year, the City dusted off the Downtown Redevelopment Plan and discussed moving forward with the development of the design guidelines that would be necessary to give guidance and direction to property owners, potential investors and business owners within the downtown area.

Already in existence are the 2004 Downtown Design Guidelines which give general direction and recommended the creation of an architectural review board that would review proposed building improvements to insure compliance with the old town historic theme, which will be the Kirksville Historic Preservation Commission (KHPC).

With more and more improvements being made within the downtown area and with the implementation of the City's low interest loan building façade program it is important that the guidelines be in place.

City staff has been working on the development of these standards. The Kirksville Historic Preservation Commission (KHPC) completed its review and approval earlier this month and the document will be scheduled for review by the Planning and Zoning Commission.

We are bringing this back to the Council one more time to share the updates that were made as part of the KHPC process. Councilmember Fajkus is the Council's representative to the KHPC should you have any questions regarding KHPC input. In

addition, Mayor Kuhns had sent several comments to both the City Manager and Councilmember Fajkus. They are included below and may serve as discussions for before the KHPC meeting.

The table beginning on page 12:

* Lighting - is this only EXTERNAL fixtures, or does this include internal as well? Should be clarified, I think.

* Painting - currently says "Yes, for all external". Should this be clarified if, say, a person is just touching up a paint job - repainting without changing the color - that they don't need approval for that? I realize that the first part of the document states that this does not apply for general maintenance, but such clarifications are being made elsewhere in this table, so it would make sense to have it here as well.

Page 14, Display Windows:

* b. Darkly tinted windows and mirrored windows that block two-way visibility are prohibited in the Historic District.

There are a number of solar films on the market right now (and at least one business in town that offers it) with a partial mirroring and/or darkening of the windows for energy efficiency purposes. They usually have different levels, ranging from clear to super dark/highly mirrored. How dark is "darkly tinted" and how mirrored can a window be before it is determined unacceptable? Just looking for clarification, if the committee is willing to be lenient on this.

Page 16, Awnings:

"Awnings should not be shiny, synthetic materials nor should they be pulled tightly around aluminum or metal frames."

The "nor should they be pulled tightly around aluminum or metal frames" is confusing I think, because most canvas awnings are pulled around metal frames. See Tranquil Seasons, Steve's Deli, and Edna Campbell's. Is "tightly" the key word here?

In general, where are the enforcement provisions? What happens if a person undertakes work without first getting approval? What if a person completes the work in a manner that is not consistent with what was approved? Does the work get torn down/reversed? Are the fines/fees basically covered under the building permits?

The next step would be for the document to go before the Planning and Zoning Commission and then back to the City Council.

A draft of the guidelines with changes from the KHPC is included with this Study Session packet.

Recommended Action:

Discuss the document as presented and give direction to City staff on changes that you may want to make.

DANGEROUS ANIMAL ORDINANCE REVIEW

It is important that any ordinance considered by the City Council be substantially complete and that issues are resolved prior to its implementation. Following the Council's last discussion additional questions were raised by citizens and City Council members. A summary of these questions and comments are contained in this section of the packet. The draft ordinance that includes the changes the Council has already discussed is included toward the end of the packet.

Issue #1 - Muzzling of dogs for prolonged periods of time – can harm dogs. The ordinance requires Pit Bulls to be muzzled and leashed when they are free from their kennel. Here is some information from a website called "Vetinfo".

<http://www.vetinfo.com/using-dog-muzzle-stop-chewing.html>

A **dog muzzle** can be a useful tool in preventing chewing around your home. However, there are many disadvantages to using a muzzle in this way, including the dangers it presents to your dog.

Effective Use of Muzzles

Muzzles are most commonly used to prevent dogs from biting, especially during situations where they must be handled such as at the vet. There are several different types of muzzles, and all of them prevent your dog from being able to use their mouth as a weapon. The most common type of muzzle is the cloth muzzle used at the vet's office, which prevents your dog from opening his mouth. There are also leather and basket muzzles, which allow your dog to open his mouth and even, take treats but prevent him from making contact with anything not inside his muzzle.

If your dog is chewing on items in your home or himself, this might be a good short-term solution, such as in the car when he can't be properly supervised. It would also be useful if your dog is doing harm to himself through incessant chewing.

Disadvantages of Muzzle Use

Cloth muzzles prevent dogs from using their mouths at all. Thus, they can't drink or pant when these are on. Because of this, cloth muzzles cannot be worn during exercise or for long periods of time. Basket muzzles do allow panting and even some drinking, but they still should not be left on for extended periods of time. Regardless, you should never leave a muzzle on a dog unsupervised.

If left alone, most dogs will be able to get out of a muzzle. Once they figure out how to do this, it is easier subsequent tries, and it will be difficult to muzzle your dog in an emergency if necessary.

ISSUE #2 - The insurance requirement should be removed since some insurance companies do not sell it and some people will not be able to get it. The research that staff completed did show that insurance could be obtained. It may not be the company the property owner uses today, but there are options out there.

Insurance 1

This company will not write a homeowner's insurance policy if someone owns a Pit Bull, Chow, Rottweiler, Akita or any dog that has Wolf hybrid. These breeds are listed on the policy application. If it comes to the company's attention that someone covered by this

company's insurance owns one of the listed breeds, then the homeowner is notified to place the dog somewhere else or lose their homeowners' insurance.

Insurance 2

The company will not write a policy if the dog has previously bitten. In Missouri they do not refuse insurance based on the breed of dog.

Insurance 3

They have several carriers. There is a question on the policy application that asks - What breed of dog do you own? If a Pit Bull is listed, then the underwriter will ask how the dog was raised, and have they experienced any vicious tendencies? They could send an inspector to the home to see the dog. A carrier will provide homeowners insurance, but at a potentially higher premium.

Insurance 4

They have several carriers. There is a question on the policy application that asks if the applicant has a pet. If it is a dog, the next question asks that the applicant state the breed. If the breed is a Pit Bull or Rottweiler, no policy will be written by any of the companies.

The Current vicious animal ordinance has a very small insurance requirement if your animal is determined to be vicious the insurance requirement is \$10,000 for a single incident and \$20,000 total.

The proposed dangerous animal ordinance has a \$100,000 requirement.

Issue #3 - Should the owner be required to have a kennel as opposed to a fence? In doing some additional research, the idea of a dog proof fence means one that is a complete enclosure with appropriate fitting gates. There are no gaps; the fence is built to go underground to keep the dog from burrowing under. There are no structures or surfaces along the fence line that would allow the dog to climb over the fence. The ideal fence would be one that obstructs the site of the animal and one that is 5 feet to 6 feet in height.

The following is draft language that was developed for discussion:

(1) 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 (4) feet in length. No person shall permit a Pit Bull dog to be kept on a chain, rope or other type of leash outside **a fenced in area of the property** ~~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 **a fenced in yard** ~~the animal's kennel~~ must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

~~(2) Confinement generally.~~ All Pit Bull dogs shall be securely confined indoors or in a **securely enclosed fenced in yard** ~~and locked pen or kennel~~, except when leashed and muzzled as provided in section 5-20 (b) (2) of this section. Such ~~fence pen, kennel or structure~~ **must have secure sides** ~~and a secure top attached to the sides~~. All **fenced yards** ~~structures~~ used to confine Pit Bull dogs must be locked with a key or combination lock when such animals are within the structure. Such **fenced yard** ~~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 (2) feet. All fencing 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 following article was found on the Internet at <http://www.workingpitbull.com/housing2.htm> this article is advocating for Pit Bulls and for fences.

WHERE TO KEEP THE DOG

The relationship you have with your dog(s) will dictate how they are housed. Are they constant companions who share your days and nights, ups and downs, joys and sorrows? Are they cherished pets who reside in a dog-appropriate environment during the day while you are at work and spend "after work" time with the family? Or are they "stock animals", purchased not as companions but for the purpose of breeding, fighting, showing or as status symbols, destined to a life of constant kenneling, chaining, or crating?

A dog is an intelligent, highly social animal to whom isolation is as odious as it is to us. A lonely dog is a destructive and noisy dog, and loneliness (and its resulting behaviors) are the most common reason dogs are turned into shelters or otherwise disposed of. A pup seems like a fun idea - but caring for a canine life companion in an appropriate way is a tremendous commitment of time and energy. Tragic indeed are kennels (and rescues) which boast of housing anywhere from a couple dozen to a couple *hundred* dogs. Their dogs live lives of tragic and often squalid isolation. A *very few* moments of attention a day is the very best these dogs can expect.

Happily, most pit bulls live as family companions, in the house where they belong. Pit bulls are active animals, however, and are far happier outside during the day, tethered or in a roomy kennel. The exception to this is in extremely hot or cold weather, when a dog's activity level drops. Obviously, the very best place for a pit bull to live is with you, in the house as your companion. However, many people work during the day necessitating leaving the dog unattended for *several hours* at a time. Where is the best place to keep the dog? House? Yard? In a kennel or tethered? Each situation has merits and drawbacks.



Pit bulls *should* have a large, *well fenced* yard for daily exercise. A dog proof fence is absolutely necessary to protect your dog - and the breed. You don't have to be a rocket scientist to contain a dog and yet so many people fail to, resulting in "incidents" which harm the breed. There is NO excuse for allowing a bulldog to run loose in the neighborhood.

If the kennel requirement is removed, then it is recommended that the Council require all individuals who own dogs who are loose in the backyard to relocate their meters to the front of the house at the owner's expense. This would eliminate city workers from stepping into the fenced yard, protecting the employee and reducing the stress on the animal.

Issue #4 – The Adair County Humane Society has been aware of the City's interest in pursuing a dangerous animal ordinance. We did ask what will the additional costs be and can the Adair County Humane Society provide the services that will be needed? The following is a summary response from the Adair County Humane Society. Please note that the response extends beyond costs to other areas.

Housing - The foremost issue is the potential volume and housing accommodations that must go along with this based upon the ordinance. The Shelter has 4 isolation cages that are constructed to accommodate these dogs according to the guidelines in the proposal. It will be necessary for the City to construct at least 5 to 6 additional cages for the expected volume. If the cages were full the Humane Society would not be able to take any other Pit Bulls into their facility.

The initial thought is that there would be an initial influx at first that would possibly taper off, but this is very unpredictable.

Owners Relinquishing their Pets – The Humane Society expects an increase of owners turning their pets over to the shelter after not being able to comply with the regulations. The Humane Society noted that the shelter is broken into largely due to someone wishing to get their Pit Bull back and feels it would be necessary for the City to install camera surveillance in the isolation area. They have had kennels torn apart, locks cut off, etc. when people have tried retrieving their Pit Bull from the shelter after business hours. Fencing put up by the City in that area may be necessary as we would have an increased liability housing such a volume of Pit Bulls.

Additional Costs for Appeals – The Humane Society will hold any animal brought in from Animal Control for 7 business days, unless under rabies observation quarantine that is 10 inclusive days, as per the contract with the city. With the undetermined amount of time that pit bulls will need to be held past this 7 day hold, if being appealed, the City could be responsible for the extra days if the owners are not made to cover the fees incurred during this time period. There is cost of food, supplies and care. The shelter policy is to have 2 employees present anytime caring for a pit bull as they take extra safety precautions when working with this breed. Most assuredly the Humane Society would have at least 1 pit bull at any given time with this new ordinance and will make it necessary to employ 2 individuals on days, such as Sundays and holidays, when normally they have just one employee caring for the animals.

Medical Conditions - The Humane Society cannot medicate/vaccinate an animal while on the "hold" period according to Missouri Department of Agriculture regulations, as the animal is not "property" of the shelter at that point. It would be necessary for the animal to be checked before entering the shelter as this would ensure the healthiest environment to the other animals. They are concerned about illness for non-vaccinated animals for such an extended period of time.

Specific Documentation – The Humane Society is saying that they would need very specific documentation on any pit bull brought into the shelter, any vaccinations records, bite history, owner's information will be necessary. They would also need documentation determining if the dog is there due to an appeal and a system in place to be notified immediately when a decision has been made as to the release of a dog.

The Humane Society obviously has some concerns and some expectations that will need to be ironed out once an ordinance is passed. There will be additional costs incurred by the City including potentially providing additional pens for the Humane Society, surveillance camera if that is warranted.

Recommended Action:

It is recommended that the Council do a page by page review of the ordinance, keeping mind the issues that were raised since your last review and give direction to staff on a consensus of direction in which to proceed.

NEWSLETTER – 12-17-2010

Attachments

- Staff Report
- Downtown Design Guidelines
- Design Guideline Boundary Map
- Staff Report
- Dangerous Animal Ordinance

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Downtown Design Guidelines

STUDY SESSION MEETING DATE: December 20, 2010

CITY DEPARTMENT: Codes Department

PREPARED BY: Brad Selby, Codes & Planning Director

The Kirksville Historic Preservation Commission (KHPC) met in a Special Meeting on December 1, 2010. Part of the reason for the Special Meeting was to vote on proposed Downtown Design Guidelines. Several changes were discussed on the proposed ordinance. Some changes were voted and approved. The KHPC asked to make the changes to the proposed guidelines, and to bring them back to the next regular meeting for a vote.

The major change was to reduce the size of the designated Downtown Kirksville area. The area is now defined as roughly between Illinois and Jefferson streets north to south, and between High street and the old Norfolk and Western Railroad right of way west to east, with a narrow section extending down Franklin Street to Normal Avenue. This narrow section is between Marion and Elson streets. The exact area is in the proposed guidelines.

The Design Committee was affirmed at two people, with Carol Kellum and Derrick Miller being the two-person committee. Cole Woodcox will act as an alternate if a conflict of interest arises with one of the two committee members.

Other changes were made to identify minor vs. major projects.

The KHPC will be reviewing these changes and should meet and vote on them at their regular meeting of January 5, 2011.

Downtown Design Guidelines Ordinance
Draft #5 12-14-2010

I. General

A. Purpose

1. The purpose of the Downtown Design Guidelines Ordinance is to ensure that modifications to the façades of buildings in the designated area of Downtown Kirksville will not remove, alter, damage, or cover up significant architectural features of the buildings which are original or which reflect a major alteration that is itself architecturally coherent, and additionally helps create a unified and attractive appearance to the building. For any new building constructed, the appearance must not conflict with the historic appearance of other buildings in the area, and any new building façade, materials, color, or general appearance is designed with identical or similar design features of the existing original buildings and facades.

B. Requirements and intent

1. The guidelines in this ordinance do not require building owners to change any building features that are existing at the time the ordinance becomes effective. The intent is to regulate future external modifications to structures and to dissuade owners from performing inappropriate rehabilitations that do not conform to approved guidelines. These guidelines are intended to *guide* the applicant's work and the commission's decisions.

C. Maintenance

1. Nothing in the Downtown Design Guidelines ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure in this designated area. Ordinary maintenance is defined as: any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay, or damage.

D. Applied To:

1. The Downtown Design Guidelines ordinance applies to all buildings in the designated area of Downtown Kirksville, except those that are currently 1- or 2-family homes. If a 1- or 2-family home in the designated area is torn down, or is converted to a multi-family home, apartment building, or commercial building, or a new building is constructed in that location, they must meet the requirements of the Downtown Design Guidelines.

II. Designated Area of Downtown

- A. The downtown area of Kirksville, Missouri affected by this ordinance includes that part of the City that is contained within the following area: Beginning at the intersection of Normal **Avenue** and Elson streets; continuing ~~west down Normal Avenue to Osteopathy and following a line West to the West City Limits; then North to Missouri Street; then following Missouri Street East to its intersection of Osteopathy Street; then South on Osteopathy Street to Washington Street; then~~

~~East on Washington Street to the old Norfolk and Western Railroad right of way; then north to the intersection of Buchanan Street; then East on Buchanan to the alley between Elson and Franklin streets; then south to the alley's intersection with Illinois Street; then East on Illinois to the alley between Marion and High Streets; then following this line South to Scott Street; then West on Scott Street to Marion Street; then south on Marion Street and following the same line to Patterson Street; then West on Patterson Street to a line that is in line with Elson Street, and following this line north~~ **north up Elson Street to Jefferson Street; then West on Jefferson Street to First Street, then north on the old Norfolk and Western Railroad right-of-way to Illinois Street, then East on Illinois Street to High Street, then South on High Street to Jefferson Street, then West on Jefferson Street to Marion Street, then South on Marion Street to Normal Avenue, then West on Normal Avenue** to the place of beginning, at the corner of Elson ~~Street~~ **Streets Avenue**.

- III. Kirksville Historic Preservation Commission responsibilities for Design and Review
 - A. The KHPC is responsible for reviewing applications for approval of new or renovated facades on existing buildings.
 - B. A Design Committee of two people, **with an alternate person available**, from the Kirksville Historic Preservation Commission (KHPC) will evaluate requests for Category I, Minor Projects. If the Design Committee members cannot agree on a request for renovation or changes, the request will be referred to the KHPC at their next regular or special meeting. **If one of the members of the 2-person Design Committee has a conflict of interest or is unable to be at a meeting, the alternate committee person will fill the position.** The members of the KHPC, with a quorum in regular or special meeting, will evaluate requests for Category II Major Projects, and for any new structures for compliance with this ordinance.

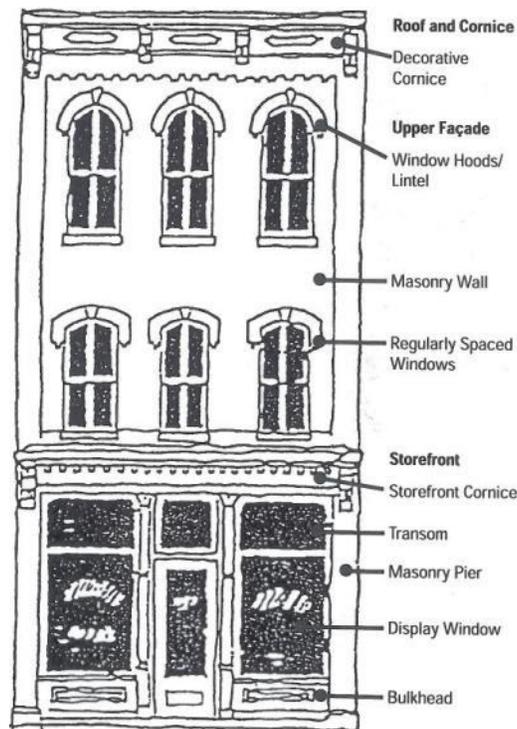
- IV. Approval Procedures
 - A. Design Review Process
 - 1. Applicants who wish to modify or change the external features of an existing building in the designated downtown area, or to construct a new building, should contact the Codes Department at Kirksville City Hall as early in the planning process as possible. The Codes Department will identify which work will require approval from the KHPC and which may be approved administratively. Approval is granted via a Certificate of Appropriateness.
 - 2. Drawings of the modifications desired, pictures, or artists' renderings of any new building, or modifications to existing structures, must be presented to the codes staff.
 - 3. Codes staff members will determine if the modifications will require the Design Committee's approval, or the KHPC to make the decision. If the Design Committee is all that is needed, they will be contacted for a meeting date and time to discuss the project. If the KHPC needs to meet and vote for a project, the Codes Department will add an agenda item to the next possible meeting

of the KHPC to consider approval of the changes desired.

4. The applicant will need to bring any information to the meeting that they think is necessary for the Design Committee or the KHPC to make an informed decision. This could include samples of materials, colors, designs, or other information.
5. The KHPC will decide by majority vote on the appropriateness of the project.
6. If approving a project, a Certificate of Appropriateness (COA) will be issued to the applicant. This COA will be required to obtain the building permit for the renovations, if a building permit is warranted, depending on the type of work performed. If a building permit is not needed, the applicant can start the work as soon as the COA is issued. If a building permit is required, work could commence as soon as a building permit was issued.
7. A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The KHPC shall make recommendations to the applicant concerning changes, if any, in the proposed plans that would cause the KHPC to reconsider its denial. The applicant may resubmit an amended application, or the KHPC may approve a project with stated stipulations that would include the changes agreed on.

B. Project Categories

1. A Certificate of Appropriateness for all Category I Minor Projects are reviewed administratively by a Design Committee of the Kirksville Historic Preservation Commission. Certificates of Appropriateness for all Category II Major Projects are reviewed by the Kirksville Historic Preservation Commission. See the Table below for the types of work and the Category most appropriate for it.



Type of Project/Work	Category I Minor Projects Design Committee of KHPC Approves the Certificate of Appropriateness*	Category II Major Projects Full KHPC Approves the Certificate of Appropriateness
Awnings and Canopies	Awning additions or removals; significant change in color or material	
Construction of New Building or Building Addition		All projects visible from public right of way
Cornices	Alterations to existing cornice design, and new cornices	
Decks		All projects visible from public right of way
Doors	Replacement of doors with no change in opening size	New doors for new openings or when there is a change in opening size
Dumpster Enclosure	All projects visible from public right of way	
Fencing and Retaining Walls	Yes, for all uses	
Gutters	Not required for ordinary maintenance. Yes for new gutters	
Handicapped Accessibility	Yes if visible from public right of way	
Interior Alterations	No	No
Landscape, Sidewalks	Yes, for all uses	
Lighting	Yes, to change a fixture which is visible from the public right of way	Lighting installed in conjunction with major projects
Ordinary Maintenance	No	No
Painting	Yes, for all exterior	
Parking Lots	All projects Yes, for new parking construction No, for striping, re-paving, sealing or repair of any existing	
Roofing	No for replacement of existing materials with identical material; yes for changes in material or color	Yes, if alterations in roof design are proposed
Rooftop Mechanicals	Not required for ordinary maintenance	Yes, if building permit is required and visible from public right of way
Shutters	All projects other than ordinary maintenance	
Siding	All projects other than ordinary maintenance	
Signs	All projects	
Skylights	Yes, if visible from public r-o-w	Yes, if visible from public right of way
Stairs – exterior	Yes, if visible from public r-o-w	Yes, if visible from public right of way
Windows	All projects visible from public right of way if opening is unchanged	Yes, if new/change in opening is proposed
* Due to individual project specifications, the Design Committee of the KHPC may in some circumstances refer a Category I Minor Project to the full Kirksville Historic Preservation Commission for its review of the Certificate of Appropriateness.		

V. Guidelines

A. Design Review Guidelines

1. Storefronts

- a. Continuous storefronts are strongly encouraged even where offices and restaurants occupy the first floor spaces.
- b. Whenever possible, existing historic storefronts should be refurbished or restored.
- c. Alterations to an original storefront may be retained if they are well designed and constructed.
- d. When a new storefront is required, it should be constructed of materials similar to those of historic storefronts (i.e., metal or wood frames and glass) with proportions, heights, and profiles that are appropriate to prevailing existing storefronts.
- e. The storefront should be designed to fit inside the original framed opening and not extend beyond it. To emphasize this feeling of containment, a storefront might be set back slightly (6 to 12 inches) from the front, or the entrance area may be further recessed also increasing the window display area and providing a semi-protected vestibule.
- f. The approach to replacement of historic doors and windows should be prioritized as follows:
 - (1) repair of historic materials
 - (2) replacement with same type of materials, and as a last resort,
 - (3) replacement with similar or like materials



2. Entrances

- a. Historic entrance doors should be retained and restored on buildings which are designated as landmarks or which have the potential to be designated as landmarks. Attractive durable hardware including brass door pulls and kick plates should be added to the overall appearance of the front entrance.
- b. Double entry doors and pairs of doors were common and are encouraged.
- c. Replacement doors must be constructed of the same material and must be similar in size, proportion, and appearance to the original. Wood doors are encouraged.
- d. In the case of new storefronts in existing storefront areas, entry doors should be constructed of wood with a large glass panel. Contemporary doors such as flush doors are not appropriate to the style of a historic building. Doors with moldings, cross bucks, or window grills are more residential in character and are not appropriate.
- e. Recessed entrances should be retained or restored. New storefronts in existing commercial areas should be constructed with an appropriate recessed entrance.



3. Display windows
 - a. Original size, division and shape of display windows within the overall storefront frame should be preserved. Glass should be transparent.
 - b. Darkly tinted windows and mirrored windows that block two-way visibility are **generally** prohibited in the Historic District.



DO



DON'T

The building on the top displays good placement of windows, and follows the rule that windows on top floors should be smaller than 1st floor windows. It also includes attractive display windows.

The building on the bottom has a mixture of different style windows that gives the building an unorganized look.

4. Transom windows
 - a. Transom windows should be restored to glass. They may be clear, beveled, leaded, etched, or prism glass. The area can also be used for signage, painted on the glass. Any existing prism glass transoms should be retained.
 - b. If a ceiling has been lowered, dark painted panels can be placed behind transom windows to simulate transparency and depth.
5. Bulkheads
 - a. Original bulkhead materials should always be retained, maintained, or uncovered when possible.
 - b. If new bulkheads are required, they should be a material appropriate to the particular storefront and structure. Typically, bulkheads were constructed of wood panels, polished stone, glass, tile, or stone. New bulkheads should be at the same height as the originals and should be compatible with surrounding storefronts.
 - c. Simplified bulkheads may be provided for newer storefronts.
6. Storefront cornice
 - a. Storefront cornices should be restored. Traditional materials such as wood, sheet metal, or sometimes a horizontal supporting steel beam served as the storefront cap.
7. Side piers
 - a. Side piers should be maintained or restored. Where new side piers are necessary they should be constructed of the same material as

the upper façade, or occasionally a contrasting masonry material, if appropriate to the particular building.

8. Awnings

- a. Traditional shed type cloth awnings with a valance are encouraged.
- b. Awnings may be fixed or retractable. Awnings should not be shiny, synthetic materials nor should they be pulled tightly around aluminum or metal frames. The awning materials should be of cloth or canvas. Barrel vault, semi-circular or umbrella forms are not appropriate, nor are aluminum, wood, or plastic materials.
- c. Signage on the valance part of the awning, in compliance with the sign ordinance, is acceptable.
- d. Awning installations should not damage or obscure significant existing building features. Awnings should cover less than one-third of the storefront window; they may be positioned above or below transom windows, but should be compatible with surrounding buildings.
- e. The fixed metal canopies installed in the mid-1970's that exist in the downtown area at the effective date of this ordinance will not be approved if they are part of a renovation or building plan presented to the KHPC for approval. These canopies cover up architectural and historic features of the original buildings and are not compatible with the efforts to restore buildings and to emphasize those historic features.

9. Masonry Walls

- a. Masonry wall surfaces that are in good condition, and have not been painted, should remain unpainted.
- b. Sandblasting, high pressure water washes, and other abrasive cleaning methods should not be undertaken because of the potential for irreversible damage to the building material and possible damage to the building envelope.
- c. The use of waterproof or water repellent coatings on masonry walls is discouraged, unless applied to solve a specific problem.

10. Tuckpointing/Repointing

- a. Masonry walls and other masonry features should be repaired by repointing the mortar joints where there is evidence of deterioration such as disintegrating mortar, cracks in mortar joints, loose bricks, damp walls, or damaged plasterwork. This work should be limited to only what is necessary and should not include removal or repointing of sound material. The true cause of deterioration should be identified and corrected first before masonry repair is undertaken. Irreversible damage can be done to buildings when Tuckpointing is undertaken in the wrong manner.
- b. Only tuckpoint those areas that need to be repaired. Power saws should be used sparingly and cautiously to remove old mortar. Power saws should never be used where mortar joints are less than 3/8 of an inch thick.

- c. New mortar should match the historic mortar in composition, color, texture, and detailing, as best possible. It should be softer (in compressive strength) than the brick and it should be as soft or softer than the historic mortar.
- d. Proper tooling of finished joints should match the old joints.

11. Siding

- a. Siding is **generally** prohibited on all masonry structures in the designated area, even cement block.
- b. Where siding was installed over masonry prior to the adoption of this ordinance, owners are encouraged to remove the siding and restore the original masonry.

12. Painting

- a. If a brick façade was originally painted, it should remain painted. Normally, the previous paint type should be used.
- b. If a brick façade has never been painted, it should not be painted.
- c. Colors should be complementary with surrounding buildings. Color should be used to tie building elements together. This is usually most successful when a maximum of three colors is used. Elaborate color changes within a decorative surfaces is neither historically accurate nor aesthetically desirable.

13. Roofs

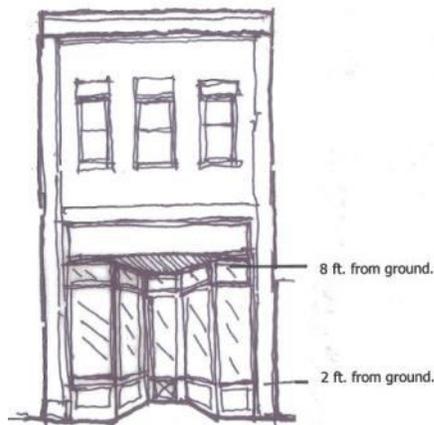
- a. Roofs that are visible from a public right-of-way should be of a style and composed of materials appropriate to the historical period of the building. No new visible roofs or decorative representations of roofs should be added to historic facades unless there is a historic precedent and proof of a pre-existing condition.
- b. Roof materials which are a distinctive part of the architectural style, historic character, and visual appeal of a building should be repaired or replaced with identical materials, when necessary and possible.

14. Cornices

- a. Older cornices were typically made of one or more of the following materials: sheet metal, wood, brick, stone, cast stone, or terra cotta. Cornice repair or replacement required the selection of appropriate replacement material, proper fabrication, and watertight installation.
- b. Restoration of historic cornices is highly encouraged. Even relatively humble cornices of clay tile or stone should be cleaned or repaired so that they offer a contrasting “cap” to the building façade.

15. Building Name

- a. Many buildings originally had a decorative pediment that gave the name of the building or block. Where appropriate, these pediments should be re-established.



Appropriate window heights for a storefront.

16. Upper Story Windows

- a. The size, proportion, placement, and style of windows combine with the solid masses of the exterior façade to establish balance and create visual harmony in the building exterior appearance.
- b. Upper story windows should not be blocked in.
- c. If a window is missing or has deteriorated beyond repair, the replacement should match the original window. Replacement windows should always fill the entire opening and duplicate the original type of sash, pattern of light divisions and profile. For example, a double-hung sash window should not be replaced by a single fixed pane of glass. Windows and shutters not in keeping with the style of the building should not be used.
- d. Window materials should match original materials.
- e. Storm windows may be used to conserve energy. Storm windows must conform to the size and shape of the original opening and match the color of the sash. Building owners should consider interior storm windows, which may be more practical to install and maintain.

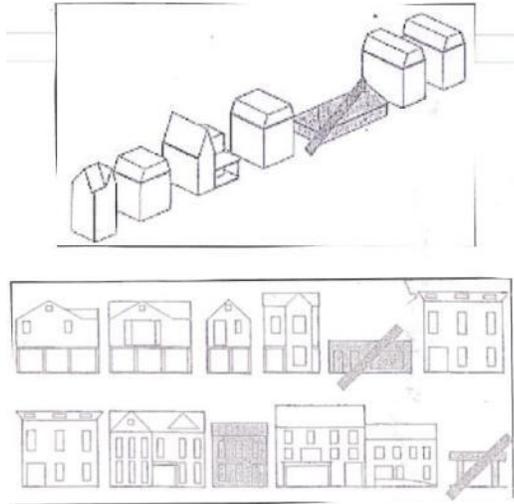
17. Shutters

- a. Shutters are **generally** prohibited unless there is historic evidence that shutters were once present on the building. If such evidence exists, shutters must be sized appropriately.
- b. Shutters must be wood.

18. Additions in Existing Storefront Areas

- a. Additions should match existing buildings in terms of shape, proportion, mass, materials, and colors.
- b. New additions should be located so there is the least possible loss of historic materials and so that character defining features are not obscured.
- c. New additions should be designed in a manner that makes clear what is

historic and what is new, and should also be sympathetic to the historic structure.



19. New Construction

- a. New construction should be ~~traditional in appearance so as~~ **sympathetic to the architecture of the surrounding buildings so it does not** detract from the historic character of the district.
- b. Buildings should be constructed of traditional materials.
- c. Artificial siding and metal fascia is generally prohibited.
- d. New construction should not attempt to replicate historic buildings, but should complement other buildings in the district.
- e. Buildings should be oriented along the street.
- f. Attempt to reflect the height of adjacent buildings. If the heights of the buildings on each side of a site are different, aim for the average height.
- g. Any side of a building that is visible from a street or sidewalk should have windows. Blank walls detract from the streetscape.
- h. Window trim should be finely crafted and appropriate for the style of the building.
- i. **Colors should be complementary with surrounding buildings. Color should be used to tie building elements together. This is usually most successful when a maximum of three colors is used. Elaborate color changes within a decorative surface is neither historically accurate nor aesthetically desirable.**



VI. City staff responsibilities

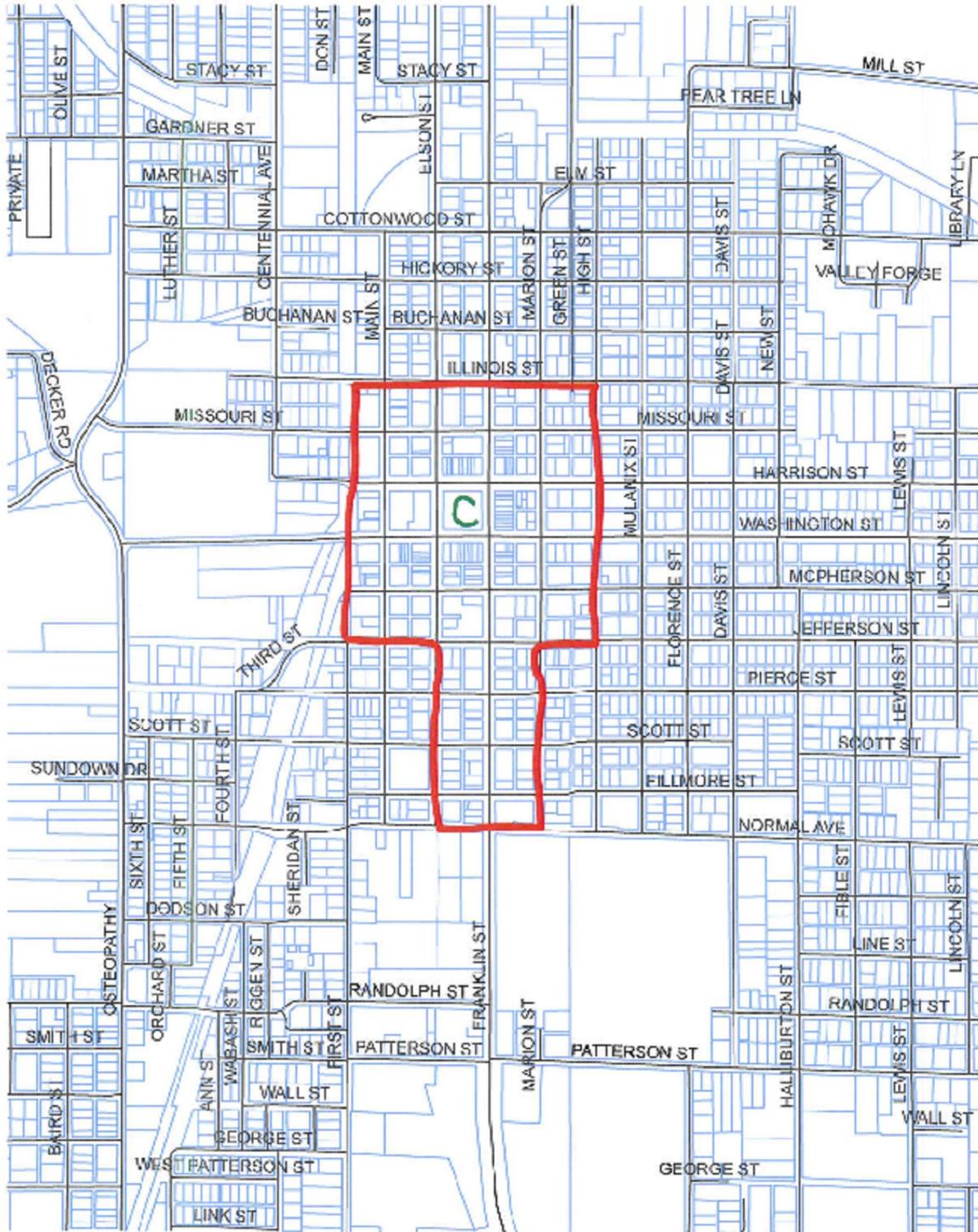
- A. City staff is responsible for obtaining information from applicants for the work desired in the downtown area, to deliver necessary information to the Design Committee, to add agenda items to the KHPC agendas, and to inform KHPC members and applicants of the meeting dates and of the information required and needed at the meetings to ensure that the Design Committee or the KHPC is able to make a complete decision on the project.
- B. City staff will make sure the Certificate of Appropriateness is available for signatures so that if a favorable vote is received for a project, the members can sign appropriately.

VII. Appeals to Kirksville City Council

- A. If the Kirksville Historic Preservation Commission denies an application for a Certificate of Appropriateness, the KHPC shall work with the applicant to arrive at a mutually satisfactory alternative to the proposed activities. If an agreement cannot be reached within thirty (30) days, the applicant may file with the Codes and Planning Director a written appeal to the Kirksville City Council. In acting upon the appeal, the Council may grant a variance from the strict interpretation of this article when such will not materially affect the health or safety of the applicant and general public.

VIII. Signs

- A. Signs in the Designated Area of Downtown Kirksville must meet ~~the~~ **all** Sign Code provisions **as stated in the appropriate sections of the Sign Code, Chapter 6, Article XI.** ~~in Sec. 6-164 (4) Downtown Business District.~~



KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Dangerous and Restricted Animals

STUDY SESSION MEETING DATE: December 20, 2010

CITY DEPARTMENT: Codes Department

PREPARED BY: Brad Selby, Codes & Planning Director

The Dangerous Animal Ordinance that has been worked on for some time has been changed to the Dangerous and Restricted Animals Ordinance. This change has been made to follow council's recommendation to not have a specific breed ban for Pit Bull dogs. The changes proposed in the ordinance identify a Pit Bull Dog over 4 months of age as a Restricted Animal.

Any citizen can have a Pit Bull/Restricted Animal, as long as they meet the requirements of the ordinance, which are:

1. An annual no-fee registration of each animal.
2. Pit Bulls may not be kept on a chain or rope, or leashed to inanimate objects (posts, trees, etc.).
3. They must be securely confined indoors or in a securely enclosed and locked pen or kennel.
4. If not kept indoors or in the animals pen, they must be leashed and muzzled and under someone's personal control.
5. Provide proof to the city that the owner has public liability insurance of \$100,000 for the animals, for bodily injury to, or the death of any person, or for property damage to another's property.

The owner of any Pit Bull dog found at large, or an owner discovered who is not in compliance with this ordinance, must immediately remove the dog from the city, turn the dog over to the Humane Society for adoption by others, or have the dog destroyed.

All requirements of animals classified under the Dangerous Animal section of the proposed ordinance are unchanged.

DANGEROUS AND RESTRICTED ANIMALS ORDINANCE

Article II. Dangerous and Restricted Animals

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 section 5-19 (c) or (g) of this article.

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 in excess of six inches (6") in length;
 - (l) Any crossbreed of such animals or reptiles which have similar characteristics to the animals or reptiles specified above.

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 animal show when properly confined in a locked cage or on a leash and muzzle and personally restrained by a handler or owner of the animal.
- (g) Any dangerous animal whose owner meets the requirements of, and gains the approvals required, in Section 5-19 (g).

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) and (g) shall at all times keep such animal from biting persons or other animals and be either:
 - (a) Confined to a securely enclosed and locked cage, pen, or kennel with sides and a secure top attached to the sides, or
 - (b) Securely leashed with a leash or lead no more than four (4) feet in length, with the owner, his agent, or a member of the owner's immediate family in physical control of such leash or lead. Such animals may not be leashed, chained, or tied to inanimate objects such as trees, posts, buildings, etc.
 - (c) Meet the special requirements stated in a written permit for the animal allowed in Section 5-19 (g).
- (2) No person, firm or corporation owning, keeping, sheltering, or harboring a dangerous animal as permitted under section 5-19 (c) or (g) 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) or (g) to immediately report to the police department when any dangerous animal is found missing.

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 on public or private property, such animal may be destroyed, if in the discretion of the law enforcement officer or his designee, such animal presents an imminent danger to the safety of people **any person**, or other animals. 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) If a law enforcement officer or his designee determines that a person is keeping, harboring, or sheltering a dangerous animal, in violation of city ordinance, then such person shall **be ordered to** safely remove such animal from the city, permanently place the animal with an organization or group allowed under section 5-19 (c) or (g) of this Code to possess dangerous animals, or destroy the animal at any time after an appeal time period has expired. Notice of such order shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, by being 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) **Any person who is cited or given a ticket and ordered** The order to remove a dangerous animal **from the City of Kirksville** may be appealed to the Kirksville City Council; **plead their case in Municipal Court.** However, the animal shall be removed **from the City** until such time as the order may be reversed by the city council **Municipal Court Judge. A finding of Guilty in Municipal Court may be appealed to the Adair County Circuit Court, if the appeal is filed within 10 days of the finding in Municipal Court.** In order to appeal such order, written notice of appeal must be filed with the city clerk within three (3) business days after receipt of the order 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) Any determination made by the City Council may be appealed to the circuit court of Adair County within ten (10) business days by filing a request for review of such

determination. Failure to file such request for review shall constitute a waiver of the right for appeal of the City Council's determination.

(4) If the original **removal** order of law enforcement personnel or their designee is not complied with within three (3) 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, and/or **Municipal Court arraignment, or appeal to** the circuit court. If the order **to remove the animal** is affirmed upon appeal, **conviction, or on conviction after appeal to the circuit court**, then at the end of the impoundment period, 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.

(5) 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.

g) Other **Dangerous** animals residing in the city on December 6 **20**, 2010, may be considered for an exception of the prohibition. 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 animal's conformance with the following attributes and characteristics:

- (1) The avoidance of or likelihood of the animal escaping
- (2) The size of the animal in comparison to humans/children
- (3) The nature of the animal – the animal may not be naturally tame, but has been domesticated to the extent that it is tame or gentle
- (4) The animal does not have the propensity to kill
- (5) Past behavioral history of the individual animal, if any.

The Chief of Police and the Codes & Planning Director of the City of Kirksville will determine whether the application is approved or denied based on the above criteria. There is no appeal of their decision. If the application is approved, the owner may have **there may be additional** safety confinements or rules **imposed** that are in addition to that used for Pit Bull dogs. Insurance and registration or other standards may be required, **and if so, will** and would be stated in the permit that would be issued.

Section 5-20. Restricted Animals.

- a) Defined. "Restricted animal" means:
- (1) Pit Bull dogs over four (4) months **of age or older**

The term "Pit Bull dog" 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.

b) Pit Bull dogs residing in the city on December **20**, 2010, 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 December **20**, 2010, must be registered with the city by the owners within sixty (60) 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 Police 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. **Annual registration of any Pit Bull dog is required.** Any Pit Bull dog over four (4) months old **of age or older** must be registered.
- (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 (4) 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 (b) (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 (2) 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.

- (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) 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 (10) days' written notice is first given to the city. Any person found to be the owner, keeper, or harbinger of a Pit Bull dog that does not have insurance on the same, and is found guilty in Municipal Court or any other Court of this violation, must permanently remove the animal from the city.
- (6) Irrefutable presumptions. There shall be an irrefutable presumption that any dog registered with the city as a Pit Bull dog, or any of those breeds that are restricted under the definition of "Pit Bull dog", is in fact a dog subject to the requirements of this section.

c) Escape; general prohibition and duty.

- (1) No person shall aid or cause any restricted 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.

d) Seizure, impoundment and disposition of restricted animals.

(1) In the event that a restricted animal is found at large on public or private property, such animal may be immediately confined and the owner or person in charge of the dog will be cited for an ordinance violation. If the owner or person cited for the violation is found guilty of the ordinance violation, the dog must be removed from the city or taken to the Humane Society for adoption or to be destroyed. The animal may not be given to another person in the same family, unless it is adopted through the Humane Society. The city shall be under no duty to attempt the confinement or capture of a restricted animal found at large. The animal may be destroyed if in the discretion of the law enforcement officer or his designee, such animal presents an imminent danger to the safety of people **any person** or other animals. The city shall not have a duty to notify the owner of such animal prior to its destruction.

- (2) If a law enforcement officer or his designee determines that a person is keeping, harboring, or sheltering a restricted animal, in violation of city ordinance, then such person shall **be ordered to** safely remove such

animal from the city, and **or the animal shall be** taken to the Humane Society for adoption, or have the animal **shall be** destroyed, at any time after an appeal time period has expired. The animal may not be given to another person in the same family, unless it is adopted through the Humane Society. Notice of such order shall be given in writing to the person keeping, sheltering or harboring the restricted animal, by being 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) **Any person who is cited or given a ticket and ordered** The order to remove a restricted animal **from the City of Kirksville** may be appealed to the Kirksville City Council; **plead their case in Municipal Court.** However, the animal shall be removed **from the City** until such time as the order may be reversed by the City Council **Municipal Court Judge.** **A finding of Guilty in Municipal Court may be appealed to the Adair County Circuit Court, if the appeal is filed within 10 days of the finding in Municipal Court.** In order to appeal such order, written notice of appeal must be filed with the city clerk within three (3) business days after receipt of the order to remove the restricted 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) Any determination made by the City Council may be appealed to the circuit court of Adair County within ten (10) business days by filing a request for review of such determination. Failure to file such request for review shall constitute a waiver of the right for appeal of City Councils determination.

(4) If the original **removal** order of law enforcement personnel or their designee is not complied with within three (3) days of the order, a law enforcement officer or his designee is authorized to seize and impound such restricted animal. An animal so seized shall be impounded pending any appeal before the City Council and/or **Municipal Court arraignment, or appeal to** the circuit court. If the order **to remove the animal** is affirmed upon appeal, **conviction, or on conviction after appeal to the circuit court,** then at the end of the impoundment period, law enforcement personnel or his designee may allow the Humane Society to cause the animal to be adopted by another person, or to destroy such animal in a humane manner. All impoundment fees and fees incurred for

the care of the restricted animal shall be at the expense of the owner of the restricted animal.

- (5) The owner of the restricted 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 **within 7 days**, a law enforcement officer or his designee may allow the Humane Society to cause such animal to be permanently placed with another person who would agree to harbor the animal under the laws of the current city ordinance.
- (6) When a law enforcement officer, or his designee, determines that an animal is classified as a restricted animal by virtue of being a Pit Bull, and the owner disputes the classification, it shall be the owner's responsibility to provide positive proof by documentation or other means to the law enforcement officer, or his designee, that the animal is not a Pit Bull as defined herein. If, notwithstanding such proof, the law enforcement officer, or his designee, continues to determine that the animal is a Pit Bull, **the owner will be cited for an ordinance violation, and then the owner may appeal the animal's classification by purchasing a DNA test from the City of Kirksville. The owner will be required to pay the fee up front for the DNA test. The owner will need to bring the dog to the police department or provide access for law enforcement to do a swab sample of the dog. The results will be sent to an approved lab and results sent back. If the animal has any of the breeds in its lineage that are defined as Pit Bull dogs, it is a Pit Bull dog. If results show that the animal does not have Pit Bull dog lineage, the dog would not have to be removed from the city under the Restricted Animal ordinance. If the owner disputes the results of the DNA testing of the animal, they have the right to contest any citation received, in the Kirksville Municipal Court.** to a three (3) person committee, consisting of the Chief of Police, the Codes & Planning Director, and a local veterinary appointed by the Chief of Police. The Committee's determination shall be made by a majority of said committee members. Written notice of appeal must be filed with the city clerk within three (3) business days after receipt of the determination made by the law enforcement officer, or his designee. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the determination. 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 within seven (7) business days following receipt of the notice of appeal, with at least three (3) days written notice to the owner of the time, date and place of the hearing being given to the owner. After the hearing, the Committee shall affirm or reverse the determination of the law enforcement officer, or his designee. If the owner disagrees with the committee's determination, the owner may request a review of the same by the Adair County, Missouri Circuit Court in the same manner as

provided above. However, the animal shall be removed from the city until such time as the classification is reversed by the Committee.

- (7) 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 confined and removed from the city as in Section 5-20 (d) 2 above.

Section 5-21. Obstructions.

- a) The user of any water meter that is obstructed from being read by the City Water Meter Reader, due to being blocked by, or the confinement of a Restricted Animal, will be charged an additional service fee of fifteen (\$15.00) on their next month's water bill, to reimburse the city for extra trips to the residence.

Section 5-22 **5-21**. Fees and Penalties.

- a) Any person violating or permitting the violation of any of the provisions of section 5-19 or 5-20 pertaining to dangerous or restricted animals shall, upon conviction, be fined not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00) for each violation, or confined for a period of not more than ninety (90) days, or punished by both such fine and imprisonment. In addition, the court shall order the license of the subject animal revoked, and the animal destroyed or removed from the city, and the removal of any other dangerous or restricted animals in the owner's possession. Should the defendant refuse to remove the animal, the court shall find the defendant in contempt, and order the animal to be immediately destroyed, confiscated, or impounded.
- b) In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter.