BILL 2016-42

****** Full Reading ******

Agenda Item

TO: Mayor and City Council

FROM: Mark S. Gaugh, City Manager

DATE: September 6, 2016

RE: Ordinance – S.B. 752 Changes

Issues

The attached ordinance will authorize the changes in our ordinance to coincide with recently acted legislation in Jefferson City. The new State law is effective August 28, 2016. Padraic has attached all relevant information and the ordinance.

Recommendation

Staff recommends that the Council approve Bill 2016-42 on full reading, since this is a required change from State law, taking effect August 28, 2016.

Bill 2016-42

AN ORDINANCE FOR THE CITY OF CAMERON, CLINTON AND DEKALB COUNTIES, MISSOURI REGARDING MINOR TRAFFIC VIOLATIONS AND MUNICIPAL CODE VIOLATIONS TO CONFORM TO THE PROVISIONS OF SENATE BILL NO. 572

WHEREAS, the 98th Session of the Missouri General Assembly adopted and the Governor has approved Senate Bill No. 572 amending various provisions of the Revised Statutes of Missouri relating to the fines applicable for minor traffic violations and municipal ordinance violations, the ability of municipal courts to sentence persons to confinement, and procedures required for the abatement of nuisances; and

WHEREAS, the City Council desires to amend the Code of the City of Cameron, Missouri ("Code") to comply with the statutory amendments made by Senate Bill No. 572.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI, AS FOLLOWS:

Section 1. That **Sec. 1-9. – General penalty**. of Chapter 1 – General Provisions of the Code be amended to read as follows:

Sec. 1-9. – General penalty.

(a) Except as provided in subsections (b), (d), and (e) of this section, whenever in this Code or in any other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or whenever in such Code or in such other city ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the city shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for a period of not exceeding three (3) months or by both such fine and imprisonment.

(b) Whenever any provision of the Revised Statutes of Missouri or other statute of the state limits the authority of the city to punish the violation of any particular provision of this Code or other city ordinance to a fine of less amount than that provided in subsection (a) of this section or imprisonment for a shorter term than that provided in subsection (a) of this section, then the violation of such particular provision of this Code or other city ordinance shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized or by both such fine and imprisonment.

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(c) Each day any violation of this Code or any other city ordinance shall continue shall constitute a separate offense, unless otherwise provided.

(d) Minor Traffic Violations.

(1) Minor traffic violations are defined in Section 479.350 RSMo and include traffic ordinance violations that do not involve an accident or injury, that do not involve the operation of a commercial vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one to four points to a person's driving record upon conviction. Minor traffic violations include amended charges for any minor traffic violation. The definition of minor traffic violations does not include violations for exceeding the speed limit by more than nineteen (19) miles per hour or a violation occurring within a construction zone or a school zone.

(2) Fines. A person convicted of or who pled guilty to a minor traffic violation shall not be assessed a fine, if combined with the amount of court costs, totaling in excess of $225.00 for a minor traffic violation.

(e) Municipal Ordinance Violations.

(1) Municipal ordinance violations are defined in Section 479.350 RSMo and include violations of Chapter 8 Article III Nuisances, Chapter III Article II Building Code, and the Cameron Zoning Ordinance.

(2) Fines. A person, general agent, occupant, lessee, or any other entity convicted of or that pled guilty to a municipal ordinance violation shall not be assessed a fine, if combined with the amount of court costs, for violations committed within a twelve-month period beginning with the first violation totaling in excess of: $200.00 for the first violation, $275.00 for the second violation, $350.00 for the third violation, and $450.00 for the fourth and any subsequent violations.

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Section 2. That **Sec. 2-160. – Jailing of defendants**. of Division 1. – Generally of Article VIII – Municipal Court of Chapter 2. Administration of the Code be amended to read as follows:

Sec. 2-160. – Jailing of defendants.

(a) If, in the opinion of the municipal judge, the city has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail, and it shall be the duty of the sheriff, if space for the prisoner is available in the county jail, upon receipt of a warrant of commitment from the judge, to receive and safely keep such prisoner until discharged by due process of law. The city shall pay the board of

such prisoner at the same rate as may now or hereafter be allowed by law to such sheriff for the keeping of other prisoners in his custody. The payment of board of prisoner shall taxed as cost.

(b) The municipal judge may not sentence a defendant to confinement for failure to pay a fine for a minor traffic violation or municipal ordinance violation, as defined in Section 1-9(d)(1) and 1-9(e)(1) of this Code and Section 479.350 RSMo, unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the municipal judge.

Section 3. That **Sec. 8-127. – Defined and enumerated**. of Division 1. – Generally, Article III. – Nuisances of Chapter 8 Offenses – Miscellaneous of the Code be amended to read as follows:

Sec. 8-127. – Defined and enumerated.

Nuisances within the city are hereby defined and declared to be as follows:

(14) debris of any kind, weed cuttings, cut, fallen, or hazardous trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material or condition which is unhealthy or unsafe and declared to be a public nuisance

Section 4. That **Sec. 8-136 –Notification to owner of occupant of premises to remove; abatement.** of Division 1. – Generally, Article III. – Nuisances of Chapter 8 Offenses - Miscellaneous of the Code be amended to read as follows.

Sec. 8-136. – Notification to owner of occupant of premises to remove; abatement.

1. Notice. When a nuisance as described in this article exists, the building official, or a person designated by the building official, shall so declare and give written notice.
   a. Delivery of Notice. The building official shall deliver written notice to the owner of the property or if the property is not owner-occupied, to any occupant of the property by:
      1. personal service; or
      2. first class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same.

      If notice cannot be given as described in the preceding sentence, then the building official may post such notice on or about the premise described in the notice.
   b. Content of notice. Such notice shall at a minimum:
      1. declare that a public nuisance exists;

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2. specifically describe each condition of the lot or land declared to be a public nuisance;
3. identify what action will remedy the public nuisance;
4. Order the removal or abatement of the public nuisance within a reasonable amount of time, not less than ten days, unless the public nuisance presents an immediate, specifically identified risk to the public health or safety.
5. describe the location of the property (using the mailing or popular address rather than a legal description when reasonably possible to do so);
6. State that if the owner fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the building official shall cause the condition which constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in the annual real estate tax bill for the property where such ordinance violations existed; and
7. state that if the owner or occupant of the property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal or such nuisance without unnecessary delay, such owner or occupant may be cited in municipal court for violating this ordinance and shall, upon conviction in municipal court, be subject to punishment pursuant to Sec. 1-9(e)(2) of the Cameron City Code.

2. Abatement. If the owner or occupant of such property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the building official shall cause the condition which constitutes the nuisance to be removed. If the building official causes such condition to be removed or abated, the cost of such removal and the proof of notice to the owner of the property shall be certified to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate bill, at the collection official's option, for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a person debt against the owner and shall also be a lien on the property from the date the tax bill is delinquent until paid.

Section 5. That **Sec. 8-138 – Penalty; collection of cost of abatement by city**. of Division 1. – Generally, Article III. – Nuisances of Chapter 8 Offenses – Miscellaneous of the Code be amended to read as follows:

Sec. 8-138. – Penalty; collection of cost of abatement by city.

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If the owner or occupant of property fails to begin removing a nuisance within the time allowed by the notice provided to them under Section 8-136 of the Cameron City Code, or upon failure to pursue the removal of such nuisance, the owner or occupant may be cited in municipal court for violating the ordinance and shall, upon conviction in municipal court, be subject to punishment pursuant to Section 1-9(e)(2) of the Cameron City Code.

Section 6. That this Ordinance shall be in full force and effect from and after its passage.

Section 7. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed

Read two times, passed, and approved this 6th day of September 2016.

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Mayor Jerri Ann Eddins

ATTEST:

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City Clerk/Finance Clerk

Full Reading