BILL 2016-49

****** Third Reading ******

AGENDA ITEM

To: Mayor and City Council

Fr: Tim Hamilton

Dt: October 11, 2016

Re: Bill amending the Definitions Section 5-91 and Section 5-101 to include provisions for determining vicious or dangerous dogs.

This is a Bill which has been considered by Planning and Zoning through a public hearing begun in August of last year. This Bill sets out to define dangerous and vicious dogs, and specify procedures for the boarding of such dogs within City limits.

At the October 10, 2016 Planning and Zoning meeting, the Commission recommended unanimously to approve the attached Bill amending Article IV of Chapter 5 of the City Code.

Bill 2016-49

AN ORDINANCE FOR THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI REPEALING AND REPLACING SEC. 5-91. DEFINITIONS. AND SEC. 5-101. RESTRAINT OF VICIOUS OR DANGEROUS DOGS. DIVISION 2. DOGS, ARTICLE IV. ANIMALS IN CHAPTER 5, HEALTH AND SANITATION, OF THE CODE OF THE CITY OF CAMERON MISSOURI TO ESTABLISH ADDITIONAL GUIDELINES FOR IDENTIFYING AND CONTROLLING VICIOUS OR DANGEROUS DOGS

WHEREAS, public notice regarding the above petition was published in the *Cameron Citizen-Observer*, a newspaper of general circulation, on September 24, 2015. A Public Hearing concerning said matter was held at City Hall in Cameron Missouri at 6:00 p.m. on April 11, 2016; and

WHEREAS, Cameron Planning and Zoning Commission has met; considered said request and voted on recommending approval of the amendments by the City Council.

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

Section 1. Chapter 5 – HEALTH AND SANITATION, Article IV. Animals, Division 2. Dogs, Sec. 5-91. shall be amended to read as follows:

Sec. 5-91. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal shelter means any premises designated by action of the city for the purpose of impounding and caring for dogs found running at large in violation of this division.

At large means any dog that is off the property of its owner and not under control of a competent person.

Neutered male means any male dog which has been castrated or operated on so as to enable it incapable of impregnating.

Owner means any person, group of persons or corporation owning, keeping or harboring a dog.

Spayed female means any bitch which has been operated on and rendered incapable of conception.

Stray dog means any dog running at large and not wearing the vaccination tag or license tag as provided for in this division.

Tethering means the fastening of an animal to a stationary object or stake as a means of keeping the animal under control. Tethering does not refer to the periods when an animal is walked on a leash.

Vicious or Dangerous dog means any dog, except one owned by or assisting a law enforcement officer in the cause of their official duties, which demonstrates any of the following:

1. Any dog which is determined dangerous based on past behavior, violations of this chapter, or the nature of the animal in relation to persons or domestic animals.

2. Having inflicted a severe or fatal injury on a human being on public or private property. "Severe injury" means any physical injury, resulting directly from an animal's bite or strike which results in death, broken bones, lacerations requiring stitches, or hospitalization. The victim receiving severe injuries must provide the supervisor of animal control a signed physician's statement documenting injury and treatment qualifying such as a severe injury or sign an authorization for release of such statement.

3. Having killed a domestic animal, livestock, or poultry without provocation, while off the owner's property.

4. Animals owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.

5. Having bitten a human being, without provocation, on public or private property other than the property of the owner.

6. Having bitten while on the owner's property without provocation, a human being other than the owner or a member of the owner's family who normally resides at the place where the animal is kept.

7. When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds, or private property other than that property of the owner, in a menacing fashion or apparent attitudes of attack, regardless of whether or not a person is injured by the animal.

8. Possessing a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals.

(Ord. No. 4521, 6-3-97)

Section 2. Chapter 5 – HEALTH AND SANITATION, Article IV. Animals, Division 2. Dogs, Sec. 5-101. Restraint of vicious or dangerous dogs. shall be repealed and replaced as follows:

Sec. 5-101. Restraint of vicious or dangerous dogs.

Any person in the city who shall own, keep or harbor a vicious or dangerous dog as defined herein shall keep such dog muzzled securely, tied and otherwise effectively restrained, as provided in this section, when ordered to do so by either the city manager or his/her designee, or the chief of police:

(a) Determination of Dangerousness Upon Complaint.
When it is charged by any person that any dog is dangerous or vicious, a complaint shall be made by the person making such charge, and the Municipal Court shall have jurisdiction to determine whether or not such dog is dangerous or vicious. In the event it is determined by the court that said dog is vicious or dangerous in addition to imposing punishment as provided herein for violation of this Section, the court shall also have the authority to order the dog killed or securely confined as provided in this Section.

(b) Leash and muzzle.
No person shall permit a vicious or dangerous 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 dangerous 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 dangerous dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous dogs on a leash outside the dog's kennel must be muzzled by a muzzling device sufficient to prevent such dangerous dog from biting other persons or other animals. If an animal is deemed an immediate threat to the public or residents of a dwelling unit, the City designated Animal Control Officer has authority to remove the vicious or dangerous dog from the City (or confined and restrained in house, or commercial kennel) once a citation is issued. The animal shall be confined for the interim time until the court date established in the Citation. Unless such case as a bite which breaks the skin shall require immediate removal of animal by the City as required by the Department of Agriculture.

(c) Confinement.
All vicious or dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in Sec. 5-101 (b.) Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous dogs must be locked with a key or combination lock when such dogs 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 dangerous 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.

(d) Confinement Indoors.
No dangerous dogs 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 dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(e) Warning signs.
All owners, keepers or harborers of vicious or dangerous dogs within the city as determined by Municipal Court shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dangerous Dog." In addition, a similar sign is required to be posted on the kennel or pen of such dog.

(f) Registration.
Owners of dangerous dogs within the corporate limits of the city shall be required to register their dogs with the animal control officer as a "dangerous dog" within 30 days of the effective date of the ordinance from which this section is derived, or upon the determination that the dog is a dangerous animal by the animal control officer, or a court of competent jurisdiction. The registration shall be accompanied by a registration fee in the amount provided in the city schedule of fees and charges.

(g) Identification photographs.
All owners, keepers or harborers of dangerous dogs must, within ten days of the effective date of the ordinance from which this chapter is derived, provide to the animal control department two color photographs of the dog clearly showing the color and approximate size of the dog.

(h) Duty to report changes in animal's status.
All owners, keepers or harborers of dangerous dogs must within ten days of the incident, report the following information in writing to the animal control department as required hereinafter:
The removal from the city or death of a dangerous dog.
The birth of offspring of a dangerous dog.
The new address of a dangerous dog owner should the owner move within the corporate city limits.
The deletion, expiration or change in liability insurance policies maintained as required in this section.

(i) Sale and transfer restricted.
No person shall sell, barter, or in any other way dispose of a dangerous 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 dangerous dog may sell or

otherwise dispose of a dangerous dog or offspring of such dog to persons who do not reside within the city.

(j) Liability insurance required.
The owner or keeper of a dangerous dog shall present to the animal control department proof that the owner or keeper has procured public liability insurance in a single incident in the amount of at least $300,000.00 for bodily injury to or death of any person or for damage to property owned by any persons which may result from the ownership of such dog. The policy must stay in effect while the dangerous dog is maintained in the city. This policy shall contain a provision requiring the city to be notified by the insurance company of any cancellation, termination or expiration of the policy.

(k) Violations and penalties.
Any person violating or permitting the violation of any provision of this section shall upon conviction in municipal court be fined a sum not less than $500.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment for a period not to exceed 90 days. In addition to all other applicable penalties for violation of this chapter, upon violation of this article the court shall order the registration of the subject dog revoked and the animal removed from the city. Should the defendant refuse to move the dangerous dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the dog. Each day that a violation of this section continues shall be deemed a separate offense. In addition to all other applicable penalties the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

(l) Right of Entry To Dispose Of Dangerous Dog.
The Animal Control Officer or any Police Officer of the City shall have the right to go on any property by order of the Municipal Court to dispose of any dog found by the court to be dangerous or vicious.

(m) Appeals.
Any person who has been found guilty by Municipal Court of harboring, or owning a dangerous dog as defined herein may have their appeal heard in Circuit Court."

(Code 1970, § 4-12) State law reference— Keeping other dangerous animals, RSMo 578.023**;** Code 1970, § 4-8; Ord. No. 4015, §§ 1, 2, 2-19-91; Ord. No. 5832, § 1, 6-16-14)
"Dog" defined, RSMo 273.010, 273.040.

Section 3. The Mayor is authorized to sign this ordinance approving it on behalf of the City.

Section 4. The City Clerk is directed to attest to the Mayor's signature.

Section 5. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved on first reading this 17th day of October 2016.
Passed and approved on second reading this 7th day of November 2016.
Passed and approved on third and final reading this 21st day of November 2016.

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Mayor Jerri Ann Eddins

ATTEST:

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City Clerk/Finance Clerk