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Sponsored by: Hosmer, Fisk, Fishel

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2016- 280

GENERAL ORDINANCE NO. _____

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 18, 'Animals,' Article I, 'In General,'
2 Section 18-2, 'Minimum fine for certain violations; reckless owners;' Chapter
3 18, 'Animals,' Article I, 'In General,' Section 18-10, 'Search and Seizure
4 Warrants;' Chapter 18, 'Animals,' Article II, 'Dogs, Cats and Ferrets,' Division
5 3, 'Prohibition of Pit Bull Dogs,' Section 18-98; Chapter 18, 'Animals,' Article
6 II, 'Dogs, Cats and Ferrets,' Division 1, 'Generally,' Section 18-60, 'Restricted
7 Dogs;' Chapter 18, 'Animals,' Article II, 'Dogs, Cats and Ferrets,' Division 1,
8 'Generally,' and Section 18-61, 'Nuisance Dogs.' (The Plans and Policies
9 Committee recommends approval 3 to 1.)

10
11 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD,
12 MISSOURI, as follows, that:

13
14 NOTE: Language to be added is underlined and language to be deleted is
15 ~~stricken~~.

16
17 Section 1 – The Springfield City Code, Chapter 18, Animals, Article I, In General,
18 Section 18-2, Minimum fine for certain violations reckless owners, is hereby amended
19 as follows:

20
21 Sec. 18-2. - Minimum fines for certain violations; reckless owners

22
23 (a) Any person who has violated provisions of this chapter more than three
24 times in an 18-month period shall be fined a minimum of \$200.00 for the
25 fourth offense and \$400.00 for the fifth offense and each offense
26 thereafter occurring during an 18-month period. Any person who has been
27 found guilty of more than three offenses during an 18-month period shall
28 be required as a condition of releasing any animal impounded by the city
29 to post a bond with the court equal to the minimum penalty for the offense
30 as established by this section, which bond shall be subject to forfeiture to
31 the city if the person is found guilty of a violation of this chapter. In addition
32 to the fine, such person shall pay for all costs of keeping the animal. All
33 such animals shall be disposed of by the city in accordance with the
34 procedures set forth in section 18-55 if the person charged fails to pay the

35 minimum fine assessed by the court plus the costs of keeping the animal
36 as set forth in this chapter

- 37
38 (b) It is hereby found and declared that certain persons have committed either
39 such severe or repeated violations of this chapter that they are reckless
40 owners, and a judgment of the hearing examiner shall include revocation
41 of the person's right to own, harbor or possess animals (with the type or
42 types of animal to be determined by the hearing examiner) for a specified
43 amount of time.

44
45 (1) Definition. A person may be found to be a reckless owner if:

- 46
47 a. The person has been convicted of one or more violations of
48 this chapter on three separate occasions within a 24-month
49 period; or
50
51 b. Sufficient proof is presented that the person is guilty of
52 animal cruelty under section 18-9; ~~or~~
53
54 c. The person owns, harbors or possesses a dog that has been
55 determined to be vicious, restricted, or a nuisance and has
56 not complied with the subsequent requirements of this
57 chapter; or
58
59 d. The person owns, harbors or possesses a dog that has been
60 accused of attacking a domestic animal or biting a person,
61 and the owner, harborer, or possessor of such a dog fails to
62 surrender the dog to the Animal Control authority or fails to
63 comply with the requirements of this Chapter.

64
65 Section 2 – The Springfield City Code, Chapter 18, Animals, Article I, In General,
66 Section 18-10, Search and Seizure Warrants, subsection (a) is hereby amended as
67 follows:

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69 Sec. 18-10. - Search and seizure warrants.

- 70
71 (a) The judge of the municipal court, upon application of the city attorney or
72 assistant city attorney and upon a showing that there is probable cause to
73 believe that a violation of ~~section 18-7 or 18-2, 18-9, 18-59.1, or 18-60~~
74 exists, and that there is probable cause to believe that evidence of such
75 violation may be found at a specified location, may issue a search and
76 seizure warrant, which shall be served only by an official of the
77 department of public health and welfare in the company of a uniformed
78 officer of the city police department. The warrant shall specify that only
79 animals, domesticated or wild, and other living creatures may be seized
80 and shall specify the location of any animals to be seized.

- 81 (b) The judge of the municipal court shall upon issuance of a search and
82 seizure warrant under this section order the department of public health
83 and welfare to:
- 84 (1) Use reasonable care to care for and maintain the animals seized
85 pursuant to the authority granted by this section free of charge to
86 their owner for a period of two weeks or upon a disposition of any
87 municipal court proceedings filed under section 18-9, whichever is
88 sooner;
- 89 (2) Return to the municipal court for further instructions concerning the
90 disposition of any animals seized pursuant to the authority granted
91 by this section if the animals have not been returned to their rightful
92 owner at the end of two weeks; and
- 93 (3) Seek the permission of the municipal court before killing or giving
94 up for adoption any animals seized pursuant to the authority
95 granted by this section.
- 96 (c) Upon an owner's being found guilty of a violation of section 18-9, the
97 municipal court shall require that the owner pay a reclamation fee of such
98 amount as established by ordinance from time to time, plus any other
99 license fees or immunization costs imposed under this chapter. Failure or
100 refusal to pay such fees shall constitute abandonment of any ownership
101 rights to the seized animal, and the judge shall immediately order the
102 animal's disposal.
- 103 (d) The judge of the municipal court, in exercising authority granted in this
104 section relative to the disposition of impounded animals, shall authorize
105 the disposal of all animals pursuant to subsection 18-26(d); however, in
106 exercising such authority, the municipal judge may authorize the disposal
107 of dogs and cats pursuant to section 18-55.

108
109 Section 3 – The Springfield City Code, Chapter 18, Animals, Article II, Dogs, Cats
110 and Ferrets, Division 3, Prohibition of Pit Bull Dogs, Section 18-98 is hereby amended
111 as follows:

112
113 Sec. 18-98. - Additional regulations.

114
115 The current owner of any pit bull or any person who acquires valid ownership of a
116 pit bull shall be allowed to keep such pit bull within the city only if the owner
117 registers the pit bull with the city and receives a valid registration. Further, any
118 person owning a pit bull who relocates his or her residence to the city shall,
119 within 30 days of relocating their residence to the city, register their pit bull and
120 comply with all provisions of this chapter regarding ownership of such animal. As
121 a condition of registration of a pit bull, the owner shall at the time of application
122 comply with or otherwise provide sufficient evidence that the owner is in
123 compliance with all of the following regulations:
124

- 125 (1) The owner of the pit bull shall provide proof of rabies vaccination and shall
126 pay the annual pit bull registration fee of \$50.00.
127
- 128 (2) The owner of the pit bull shall keep current the registration for such pit bull
129 through annual renewal. Such registration is not transferable and shall be
130 renewable only by the holder of the registration or by a member of the
131 holder's immediate family. A pit bull registration tag will be issued to the
132 owner at the time of issuance of the registration. Such registration tag
133 shall be attached to the pit bull by means of a collar or harness and shall
134 not be attached to any pit bull other than the pit bull for which the
135 registration was issued. If the pit bull tag is lost or destroyed, a duplicate
136 tag may be issued upon the payment of a \$2.00 fee.
137
- 138 (3) The owner shall, at the owner's own expense, have the pit bull spayed or
139 neutered and shall present to the city manager or his authorized
140 representative documentary proof from a licensed veterinarian that this
141 sterilization has been performed. This subsection shall not apply to any pit
142 bull which is registered as an active participant in a dog exhibition or skills
143 association or organization for which the owner must present a certificate
144 of registration from the American Kennel Club and/or the United Kennel
145 Club and a signed and notarized affidavit that the animal has or will be
146 used a show dog or is a registered service animal. The exception
147 contained in this subsection does not apply to any pit bull which has not
148 actively participated in any such shows in the previous 12 months.
149
- 150 (4) The owner shall bring the pit bull along with the documentary proof that all
151 of the above conditions have been met to the city animal shelter. The city
152 animal shelter shall issue a registration and registration tag if all conditions
153 have been met and upon receipt of the registration fee. The owner shall
154 allow a person authorized by the city manager to implant a microchip or at
155 the owner's option have the microchip implanted by a veterinarian. The
156 city animal shelter shall maintain a file containing the registration numbers
157 and names of the pit bulls and the names and addresses of the owners.
158 The owner shall notify the city animal shelter of any change of address.
159
- 160 (5) At all times when a pit bull is at the property of the owner, the owner shall
161 keep the pit bull "confined", as that term is defined in subsection 18-
162 59.1(d)(3)b18-7(f)(2). At all times when a pit bull is away from the
163 property of the owner, the owner shall keep the pit bull securely leashed
164 and either muzzled or wearing head gear that provides equal protection as
165 if muzzled or in a "secure temporary enclosure", as that term is defined in
166 section 18-96.
167
- 168 (6) An owner of a pit bull shall notify the city manager or authorized
169 representative within five days in the event that the pit bull is lost, stolen,
170 dies, or has a litter. In the event of a litter, the owner must deliver the

171 puppies to the city animal shelter for destruction or permanently remove
172 the puppies from the city and provide sufficient evidence of such removal
173 by the time the puppies are weaned, but in no event shall the owner be
174 allowed to keep in the city a pit bull puppy born after the date of
175 publication of this ordinance, that is more than eight weeks old. Any pit
176 bull puppies kept contrary to the provisions of this subdivision are subject
177 to immediate impoundment and disposal pursuant to this section.
178

179 (7) The owner shall have posted at each possible entrance to the owner's
180 property where the pit bull is kept a conspicuous and clearly legible pit bull
181 sign. Such pit bull sign must be at least eight inches by ten inches in
182 rectangular dimensions and shall contain only the words "PIT BULL DOG"
183 in lettering not less than two inches in height.
184

185 (e) Notwithstanding the provisions of this chapter, the city manager or his
186 authorized representative is authorized to immediately impound any pit
187 bull found in the city which does not fall within the exceptions listed in
188 section 18-97, and the municipal animal shelter may house or dispose of
189 such pit bull in such manner as the city manager or his authorized
190 representative may deem appropriate, except as the procedures in
191 subsection (f), otherwise require.
192

193 (f) When the city manager or his authorized representative has impounded
194 any pit bull dog pursuant to this section, and the owner of such dog
195 disputes the classification of such dog as a pit bull, the owner of such dog
196 may file a written petition with the city manager or his authorized
197 representative for an administrative hearing concerning such classification
198 no later than seven days after impoundment. Such petition shall include
199 the name and address, including mailing address, of the petitioner. The
200 city manager or his authorized representative will then issue a notice of
201 hearing date by mailing a copy to the petitioner's address no later than ten
202 days prior to the date of the hearing. Where no written request from the
203 owner for a hearing is received by the city manager or his authorized
204 representative within seven days of impoundment, the pit bull shall be
205 destroyed.
206

207 The administrative hearing, if any, will be held before the city municipal court.
208 Any facts which the petitioners wish to be considered shall be submitted at the
209 hearing. Municipal court shall make a final determination whether the dog is a pit
210 bull as defined in section 18-96. Such final determination shall be considered a
211 final order of the city manager or his authorized representative subject to review
212 under RSMo Ch. 536.
213

214 If the dog is found to be a pit bull, it shall be destroyed, unless the owner
215 produces evidence deemed sufficient by the city manager or his authorized
216 representative that the pit bull is to be permanently taken out of the city and the

217 owner pays the cost of impoundment. If the dog is found not to be a pit bull, the
218 dog shall be released to the owner. The procedures in this subsection shall not
219 apply and the owner is not entitled to such a hearing with respect to any dog
220 which was impounded as the immediate result of an attack or bite and has been
221 deemed a "vicious or restricted-dangerous dog" under section 18-59.1 or 18-
222 6048-7 or if the owner is a "reckless owner" pursuant to Section 18-2.

223
224 Section 4 – The Springfield City Code, Chapter 18, Dogs, Cats and Ferrets,
225 Article II, In General, Section 18-60, Restricted dogs, subsections (a) and (b) are hereby
226 amended as follows:

227
228 Sec. 18-60. - Restricted Dogs

- 229
230 (a) It is unlawful for any person to own, harbor or possess a restricted dog,
231 except as allowed by the provisions of this section. The director of health
232 or his designee, the hearing examiner, or municipal judge may declare a
233 dog restricted:
- 234
- 235 (1) When evidence shows an attack or bite to a human is unprovoked
236 and is determined to be a ~~Level 3 or lower~~ at a Level 2 or higher on
237 the Dunbar scale, set forth in section 18-62; or
- 238
- 239 (2) When evidence shows an attack upon another domestic animal is
240 unprovoked and is determined to be a ~~Level 3 or lower~~ at a Level 2 or
241 higher on the Dunbar scale, and a pattern of vicious behavior such as
242 habitually snapping, charging, growling, or otherwise manifests a
243 disposition to bite, attack or injure any person or domestic animal or
244 pet if afforded the opportunity, or if in the judgment of the court or
245 administrative tribunal it causes any person to have a reasonable fear
246 of immediate serious physical injury; or
- 247
- 248 (b) It is unlawful for any person to violate any restriction imposed by this
249 section after a dog has been declared a restricted dog by the director of
250 health, his designee, or by order of the municipal court or by order of the
251 hearing examiner.

252
253 Section 5 – The Springfield City Code, Chapter 18, Dogs, Cats and Ferrets,
254 Article II, In General, Section 18-61, Nuisance dogs (a) is hereby amended as follows:

255
256 Sec. 18-61. - Nuisance dogs

- 257
258 (a) It is unlawful for any person to own, harbor or possess a nuisance dog,
259 except as allowed by the provisions of this section. The director of health
260 or his designee, the hearing examiner, or municipal judge may declare a
261 dog a nuisance when a dog has been found running at large in violation of
262 Section 18-53 more than one time within a 12-month period.

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Section 6 – Severability Clause. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses, or phrases be declared invalid.

Section 7 – Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or cause of action occurred or existing, under any act or Ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 8 – This Ordinance shall be in full force and effect from and after passage.

Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: K. Sturby, Assistant City Attorney

Approved for Council action: Greg Bunt, City Manager

EXPLANATION TO COUNCIL BILL NO: 2016- 280

FILED: 11-22-16

ORIGINATING DEPARTMENT: Health.

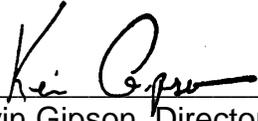
PURPOSE: Amending the Springfield City Code, Chapter 18, 'Animals,' Article I, 'In General,' Section 18-2, 'Minimum fine for certain violations; reckless owners;' Chapter 18, 'Animals,' Article I, 'In General,' Section 18-10, 'Search and Seizure Warrants;' Chapter 18, 'Animals,' Article II, 'Dogs, Cats and Ferrets,' Division 3, 'Prohibition of Pit Bull Dogs,' Section 18-98; Chapter 18, 'Animals,' Article II, 'Dogs, Cats and Ferrets,' Division 1, 'Generally,' Section 18-60, 'Restricted Dogs;' Chapter 18, 'Animals,' Article II, 'Dogs, Cats and Ferrets,' Division 1, 'Generally,' and Section 18-61, 'Nuisance Dogs.'

BACKGROUND INFORMATION: The significant changes altering specific citations and language within Chapter 18, 'Animals,' Article I and Article II are as follows:

- Definition of a reckless owner in 18-2 (b)(1) by adding 18-2 (b)(1)(d).
- Section 18-10 (a) changing reference to section 18-7 or 18-9 from the aforementioned to 18-2, 18-9, 18-59.1 or 18-60.
- Section 18-98 (5) changing reference to section 18-7 (f)(2) from the aforementioned to section 18-59.1(d)(3).
- Section 18-98 (7)(f) changing "dangerous dog" to "vicious or restricted dog".
- Section 18-98 (7)(f) changing reference to 18-7 from the aforementioned to 18-59.1 or 18-60.
- Section 18-98 (7)(f) adding language "or if the owner is a reckless owner" pursuant to section 18-2.
- Section 18-60 (a) adding language "or his designee, the" in reference to the director of health.
- Section 18-60 (a)(1) changing language of "a Level 3 or lower" to "at a Level 2 or higher".
- Section 18-60 (a)(2) changing language of "a Level 3 or lower" to "at a Level 2 or higher".
- Section 18-60 (b) adding language "his designee" in the reference to the director of health.
- Section 18-61 (a) adding language "or his designee, the" in reference to the director of health.

REMARKS: These recommended changes are a result of the City Council requesting a review one year after the initial passage of the Vicious or Restricted Dog and Reckless Owner sections of the City Code. The requested review was completed and approved by the Plans and Policies Committee. The Plans and Policies Committee did not recommend any changes to the existing ownership requirements on pit bull terriers, otherwise known as BSL (Breed Specific Language).

Submitted by:



Kevin Gipson, Director of Health

Approved by:



Greg Burris, City Manager