



**MINUTES
REGULAR CITY COUNCIL MEETING
GLADSTONE, MISSOURI
MONDAY, OCTOBER 9, 2017**

PRESENT: Mayor R. D. Mallams
Mayor Pro Tem Bill Garnos
Councilmember Carol Suter
Councilmember Jean Moore
Councilman Kyle Yarber

City Manager Scott Wingerson
City Counselor Chris Williams
City Clerk Ruth Bocchino

ABSENT: Assistant City Manager Bob Baer

Item No. 1. On the Agenda. Meeting Called to Order.

Mayor R. D. Mallams opened the Regular City Council Meeting Monday, October 9, at 7:30 PM in the Gladstone City Council Chambers.

Item No. 2. On the Agenda. ROLL CALL.

All Councilmembers were present. **Mayor Mallams** welcomed the Scouts from Troop 8.

Item No. 3. On the Agenda. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.

Mayor Mallams asked all to join in the Pledge of Allegiance to the Flag of the United States of America.

Item No. 4. On the Agenda. Approval of Agenda.

The agenda was approved as presented.

Item No. 5. On the Agenda. Approval of the Closed September 25, 2017, City Council Meeting Minutes.

Councilmember Moore moved to approve the minutes of the Closed September 25, 2017, City Council meeting as presented. **Mayor Pro Tem Garnos** seconded. The Vote: "aye", Councilman Kyle Yarber, Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 6. On the Agenda. Approval of Regular September 25, 2017, City Council Meeting Minutes.

Councilmember Moore moved to approve the minutes of the September 25, 2017, Regular City Council meeting as presented. **Mayor Pro Tem Garnos** seconded. The Vote: "aye", Councilman Kyle Yarber, Councilmember Jean Moore, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. Abstain: Councilmember Carol Suter. (4-0-1)

Item No. 7. On the Agenda. **PROCLAMATION: NATIONAL CODE ENFORCEMENT MONTH.**

Mayor Mallams read the Proclamation and presented it to Community Development Director Nick Pappas.

REGULAR AGENDA.

Item No. 8. On the Agenda. Communications from the audience.

Bradley Vieux approached Council and stated: *"I live at 1304 NE 74th Terrace and I would like to address the dangerous dog ordinance. I am a proud owner of a bull terrier mix. I've had her for 7.5 years. I moved here within the past six months for personal reasons from Topeka, Kansas, who has a breed specific ordinance towards dangerous dogs whereas it is any dog that shows aggressive behavior that is unprovoked. I would like the City Council to consider switching the City Ordinance from a breed specific to a non-breed specific; towards dogs that show aggression towards human beings, other animals, and, like, as of right now, I'm not able to go and play fetch with my dog which she really enjoys. We also have a one year old chocolate lab and a seven month old French bulldog that she is not allowed to go in our backyard and play with. I acquired my dog Heidi from one of my sister's friends who, as a rescue, to me she is a rescue, but she was found next to my sister's friend who had passed away from liver failure two days later and now she has separation anxiety so being confined inside she is not able to get a lot of energy out and everything. So I am having to take her on a leash for walks, I can't really run with her, I can't throw the ball, she can't go outside and play, get energy off. I mean I understand the ordinance as it is. We were trying to be proactive and not cause problems with specific breeds and stuff and bring them into their community because they were perceived as dangerous. Mainly the bully breed which is in our ordinance. There are other dog breeds that are not in that ordinance that are just as bad, I mean not every dog is dangerous in a sense, every dog has the potential to be dangerous but every dog doesn't have, it just all depends on how they are raised and who they are around and the social ability of them being around other dogs from when they are little. I've had my dog since the weekend of July 4, 2010. And now that I have moved here I'm restricted on what I can do with her, how I can exercise her. I am undergoing construction projects within my house and I can't put her outside. I have to put her*

in a kennel so she is not in danger and she is seeing the other dogs outside playing and she is getting jealous and restless. I have copies of Riverside and Raytown's which are close communities, of their ordinances that they changed from a breed specific to a non-breed specific for everybody on the City Council."

Mayor Mallams stated: *"Yes we would like to have a copy of those Bradley. Anyone who would like to make a comment in regard to this?"*

Mayor Pro Tem Garnos stated: *"Yes, I would just mention that, I was going to save it for one of my comments during the next item on the agenda, but I know city staff and public safety are both in the process of reviewing our dangerous dog ordinance specifically the breed specific prohibition part of it. I think you are the, maybe, fourth person that has brought the issue to our attention and I think we are sympathetic to wanting to review that language. I'm thinking maybe it is going to be probably later 2017, maybe first part of the year before we get that through, but I want to make sure that it gets thoroughly reviewed, we compare whatever we do with what the other suburbs around us are doing. I want to make sure Animal Control is involved with drafting it and reviewing it and are comfortable with it and an issue that came up at our last meeting, there was a lady here who had been attacked by a dog and wasn't happy with how the outcome went in Municipal Court so I want to make sure that we look at all aspects of our dog ordinances if we are going to review them."*

Mr. Vieux stated: *"And I agree with that and that was not considered a dangerous dog breed that had, in our ordinance, that had done that."*

Mayor Pro Tem Garnos stated: *"Right. In my mind, and as a lay person, there is a difference between a bite and an attack. It's not that complicated although I think the attorneys probably have to work out the language. I also want to make sure that we have something very specific about when a dog needs to be put down, whether it is in case law, whether it's in our ordinance, whether there is some language, some standard that sets that because I know that was one of the issues whether we already have the language and it was the interpretation of the Municipal Judge that it didn't meet that standard, or if we don't have a standard, that's a gut wrenching decision for everybody. I want to make sure that's included in it also. If you are patient, we are going to, we have that on our to-do list. Hopefully by the end of the year. I appreciate your comments."*

Mr. Vieux stated: *"I know there are some shelters in the area that are not able to advertise that they have bull terrier breeds because of the city ordinances that are there so those dogs, as sweet as they can be, or otherwise, are put down for no apparent reason, just because of their breed and that is something we have to look at is are we just putting them down because of their breed or are they actually dangerous and how much money are we actually spending disposing of the animals that have caused no harm."*

Mayor Mallams stated: *"Bradley if you will give us copies of the ordinances from adjacent cities, that would be great."*

Councilmember Suter stated: *"Mayor, for what it is worth, I think it is inappropriate for us to discuss something that is not on our agenda, or any resolution that is proposed. We seem to be guaranteeing to people some future action of City Council. We are not unanimous on this issue. It has been hashed out years ago, quite thoroughly with quite vehement proponents on both sides. I don't, I object to your assurance that something is going to happen and a certain time table by which it is going to happen. It has not even come before us."*

Mayor Mallams stated: *"But we will look at it, yes. Thank you for the handouts from the last time that we met with the facts and the myths related to dangerous dogs, breeds, and the temperament test that was explained in there."*

Item No. 9. On the Agenda. Communications from the City Council.

Councilman Yarber stated: *"We have had a lot of things that have occurred since we last met. I just want to address one issue and it is basically a big giant thank you to our Public Safety Department, the Paramedics. Just following the Little Miss Gladstone contest, which my daughter participated in, and luckily did not win, my parents had come in town that day in order to spend time with her. Following the pageant, my mother collapsed. She fainted a couple of times and I was two blocks away and before I could even get there, Gladstone paramedics already had her on a stretcher. They were taking her to the ambulance. We convinced her to go to North Kansas City hospital. It turned out she was fine, just dehydration from traveling during the day. An example of how quickly our Public Safety Department can respond to situations in the city and a huge thank you for what they do on a regular basis. Once my mom was rehydrated, she was fine. She just, as I explained to her, it's like when you go on an airplane you have to take care of yourself before you can take care of the person you are with. She was doing everything she could to take care of my father, which are completely different issues. I talked to her on the phone earlier today. You've got to take care of yourself first."*

Councilmember Suter stated: *"I want to say thank you to all of the staff and volunteers and the Chamber who work so hard to produce Gladfest. It looked like another successful event and I know it takes a lot of time and energy and I appreciate all that extra time."*

Mayor Pro Tem Garnos stated: *"Thank you Mayor. Just to follow up on something Councilmember Yarber said about how quickly things get done here in Gladstone. Near my house, there was a pothole, a nasty one, that I hit on my bike and I thought, OK, next time I go over this I'm taking a picture and sending it to Tim. The next day I drove by and I had my camera with me and it was fixed already, before I could even get around the corner to the next day. Thank you for taking care of that before I could even say anything about it. That is one of the differences with living in Gladstone vs. anywhere else. Things like that get taken care of in a timely manner. I also wanted to mention last week was a Parks and Recreation Advisory Board meeting and I know that will be a big item on our agenda next meeting, going through amenities and next phase for Hobby Hill Park. A very exciting Advisory Board meeting. The Advisory Board members had another presentation from the architect and mentioned a presentation two weeks from now. Looking forward to it. That's all I have, thank you."*

Item No. 10. On the Agenda. Communications from the City Manager.

City Manager Wingerson stated: *"Thank you, Mayor. Just all good news, really, tonight. Hopefully everybody saw the 816 North section of the Kansas City Star last week. Author was Martha Zirschky, she spent a lot of time with us and members of our community, names from the past like Larry Janacaro who, some of us may or may not know, but an unofficial historian authority on the City of Gladstone. It was great to tie the past together with the future and reference some of the things that are going on now while not forgetting the past. Certainly thank all the people who participated in making that article happen at the Star, the author, and our communities, really very good. Whiskey Fest was this last weekend, Saturday night. All reports are very good. About 400 people or so attended. About six distilleries, a couple of retail outlets, really fantastic. In fact Director Merkey has started referring to it as the First Annual Whiskey Fest implying that there will be a second annual Whiskey Fest. Congratulations to Justin and his staff that put that together. Friday Fright Night, the city is taking a larger role. It has been and continues to be co-sponsored by the Chamber. The city is taking the lead on that this year. I know it's going to be fantastic. It's October 20 from 6:00-8:00 pm at Oak Grove Park. Finally, I want to draw your attention to Resolution R-17-45, Item 11 on your agenda, the title has changed. The body of the Resolution has not. That's all for me Mayor, thank you."*

Mayor Mallams stated: *"Chief Hasty, this weekend on Saturday, do we not have a Bike Rodeo out at Happy Rock Park on the west side, 9:00-11:00."*

Item No. 11. On the Agenda. RESOLUTION R-17-45 A Resolution amending the 2018 Annual General Fund, Community Center and Park Sales Tax Fund, and the Combined Water Works and Sewer System Fund budget for the City of Gladstone, Missouri, and authorizing expenditures of funds.

Councilmember Moore moved to approve **RESOLUTION R-17-45** A Resolution amending the 2018 Annual General Fund, Community Center and Park Sales Tax Fund, and the Combined Water Works and Sewer System Fund budget for the City of Gladstone, Missouri, and authorizing expenditures of funds. **Mayor Pro Tem Garnos** seconded. The Vote: "aye", Councilman Kyle Yarber, Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 12. On the Agenda. RESOLUTION R-17-46 A Resolution approving the acceptance of a donation from AARP Missouri for the acquisition of multigenerational playground equipment to be installed at Hobby Hill Park.

Councilmember Suter moved to approve **RESOLUTION R-17-46** A Resolution approving the acceptance of a donation from AARP Missouri for the acquisition of multi-generational playground equipment to be installed at Hobby Hill Park. **Mayor Pro Tem Garnos** seconded.

Councilman Suter stated: *"Just a note of background. Craig Eichelman who is the State Director of AARP, serves on the Advisory Board for Communities for All Ages, which I sit on as well, and so one day when I was running my mouth about Gladstone, as I often do, his ears perked up when I talked about the opportunity to have park equipment that would appeal to*

older residents and so I was happy to connect him with our staff and that has resulted in this wonderful grant."

Mayor Mallams stated: *"Thank you, that's wonderful."*

City Manager Wingerson stated: *"Mayor, if I could comment on that. A couple of things. Mr. Eichelman has been very kind with his time and advised the staff and the professional consultants and the Park Board in terms of this whole multi-generational issue and will be here in two weeks to present the actual check to the City Council, a symbol of their partnership."*

The Vote: "aye", Councilman Kyle Yarber, Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 13. On the Agenda. RESOLUTION R-17-47 A Resolution authorizing the City Manager to enter into a contract with Linaweaver Construction, Incorporated, in the total amount not to exceed \$46,965.00 for the emergency repair of a retaining wall along the Rock Creek Greenway Trail.

Mayor Pro Tem Garnos moved to approve **RESOLUTION R-17-47** A Resolution authorizing the City Manager to enter into a contract with Linaweaver Construction, Incorporated, in the total amount not to exceed \$46,965.00 for the emergency repair of a retaining wall along the Rock Creek Greenway Trail. **Councilman Yarber** seconded. The Vote: "aye", Councilman Kyle Yarber, Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 14. On the Agenda. RESOLUTION R-17-48 A Resolution authorizing acceptance of emergency work performed by Linaweaver Construction, Incorporated, for the emergency repair of Northeast 58th Terrace at North Park Avenue and authorizing final payment in the amount of \$84,552.00.

Councilman Yarber moved to approve **RESOLUTION R-17-48** A Resolution authorizing acceptance of emergency work performed by Linaweaver Construction, Incorporated, for the emergency repair of Northeast 58th Terrace at North Park Avenue and authorizing final payment in the amount of \$84,552.00. **Councilmember Moore** seconded. The Vote: "aye", Councilman Kyle Yarber, Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 15. On the Agenda. RESOLUTION R-17-49 A Resolution authorizing the City Manager to execute a contract with Blue Nile Contractors, Incorporated, in the total amount not to exceed \$80,040.00 for the 2017 Sanitary Sewer Cleaning and Televising Project SP1889.

Councilmember Moore moved to approve **RESOLUTION R-17-49** A Resolution authorizing the City Manager to execute a contract with Blue Nile Contractors, Incorporated, in the total amount not to exceed \$80,040.00 for the 2017 Sanitary Sewer Cleaning and Televising Project SP1889. **Councilman Yarber** seconded. The Vote: "aye", Councilman Kyle Yarber,

Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 14. On the Agenda. Outdoor Special Event

- **OUTDOOR SPECIAL EVENT:** Public Safety Bike Rodeo, Saturday, October 14, 2017, 9:00 am – 11:00 am, Happy Rock Park West.

Mayor Pro Tem Garnos moved to approve the Outdoor Special Event Public Safety Bike Rodeo, Saturday, October 14, 2017, 9:00 am – 11:00 am, Happy Rock Park West. **Councilmember Moore** seconded. The Vote: “aye”, Councilman Kyle Yarber, Councilmember Jean Moore, Councilmember Carol Suter, Mayor Pro Tem Bill Garnos and Mayor R.D. Mallams. (5-0)

Item No. 17. On the Agenda. Other Business.

There was no other business to come before the Council.


Item No. 18. On the Agenda. Questions from the news media.

There were no questions from the news media.

Item No. 19. On the Agenda. Adjournment.


Mayor Mallams thanked the audience for being available and adjourned the Regular City Council meeting at 7:56 pm.

Respectfully submitted:


Ruth E. Bocchino, City Clerk

Approved as submitted: 

Approved as corrected/amended: _____


R.D. Mallams, Mayor

DIVISION 7. - DANGEROUS ANIMALS

Sec. 6-227. - 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:

Attack means aggressive physical contact.

Dangerous dog means any dog that without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals. No dog may be declared dangerous:

- (1) If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
- (2) If at the time the person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
- (3) If the person was teasing, tormenting, abusing or assaulting the dog, or in the past had teased, tormented, abused or assaulted the dog;
- (4) If the dog was attacked or menaced by the domestic animal, or the domestic animal was on the property of the owner or custodian of the dog;
- (5) If the dog was responding to pain or injury, or protecting itself, its kennels or its offspring;
- (6) If the person or domestic animal was disturbing the dog's natural functions such as sleeping or eating;
- (7) If the dog was in official use by any governmental unit; and/or
- (8) Neither growling or barking, nor both, shall alone constitute grounds upon which to find a dog to be dangerous.

Hearing officer means the city administrator or such person as the city administrator may designate.

Serious injury means any physical injury consisting of broken bones or a permanently disfiguring laceration requiring either multiple stitches or cosmetic surgery.

(Code 1969, § 4-50; Ord. No. 5191-07, § 1, 3-6-2007)

Sec. 6-228. - Actions allowed by authorized persons against a dangerous dog prior to hearing.

- (a) If any dog shall attack a person or domestic animal that was peaceably conducting himself in any place where the person or domestic animal may lawfully be, any person, for the purpose of preventing imminent injury or further injury, may use such force as is required to stop the attack.
- (b) An animal control officer, code enforcement officer, or police officer acting pursuant to official duties may, where the threat of serious injury to a person or domestic animal is imminent and unjustified, use such force as is required to prevent such injury.
- (c) It shall be the duty of any person slaying such animal to forthwith deliver or cause to be delivered all the remains of such animal to a licensed veterinarian designated by director. A departure from this procedure must be requested of and authorized by the director.

(Code 1969, § 4-51; Ord. No. 5191-07, § 1, 3-6-2007)

Sec. 6-229. - Hearing procedure.

- (a) Any person may make a complaint of an alleged dangerous dog, as that term is defined herein, to an animal control, code enforcement officer, or police officer. Such officers shall immediately inform the complainant of the right to commence a proceeding provided for below, and if there is reason to believe the dog is a dangerous dog, the officer shall commence such proceeding on behalf of the city.
- (b) Any person may and any animal control officer, code enforcement officer, or police officer shall, make a complaint under oath or affirmation of an alleged dangerous dog as that term is defined herein on forms provided by the city. If the director determines that there is probable cause to believe the dog is a dangerous dog, the dog shall be immediately seized and held pending an administrative determination as herein provided.
- (c) Whether or not the director finds there is probable cause for such seizure, within ten business days, and upon written notice of not less than three calendar days to the owner of the dog, the hearing shall be held on the complaint before the hearing officer.
- (d) After hearing, where a dog is determined by the hearing officer to be dangerous pursuant to clear and convincing evidence, the owner of such animal shall register the animal with the city, including the owner(s) names, addresses and telephone numbers and provide prompt notification to the city of any changes in the residence or ownership of the dog, including names, addresses and telephone numbers for new residences or new owners; any change in the health status of the animal; any further instances of attack; any claims made or lawsuits brought as a result of further instances of attack; or the death of the animal.
- (e) After hearing, where a dog is determined by the hearing officer to be dangerous, the animal shall at all times wear a fluorescent orange collar.
- (f) The hearing officer may also order any one or all of the following, but subsections (f)(4), (5), and (10) of this section, or any one of them, may only be imposed where there has been serious injury to a person:
 - (1) Indoors, when not alone, the dog shall be under the control of a person 18 years of age or older.
 - (2) Outdoors and unattended, the dog shall be kept within a fenced area from which it cannot escape, and the fence shall be constructed so as not to permit the dog to reach its mouth through the fence.
 - (3) Outdoors, the dog shall be attended and kept within a fenced area from which it cannot escape and the fence shall be constructed so as not to permit the dog to reach its mouth through the fence.
 - (4) Outdoors, the dog shall be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.
 - (5) Outdoors and unattended, the dog must be confined to an escape-proof kennel or structure of the following descriptions:
 - a. Such kennel or structure shall allow the dog to stand normally and without restriction, and shall be at least 2.5 times the length of the dog, and shall protect the dog from the elements.
 - b. Fencing materials shall not have openings with a diameter of more than two inches, and in the case of wooden fences, the gaps shall not be more than two inches.
 - c. Any gates within such kennel or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the dog is confined to such kennel or structure and unattended, such locks shall be kept locked.
 - d. The kennel or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

- (6) Placement of a sign or signs of a description and in places directed by the judge, advising the public of the presence and tendencies of the dog.
 - (7) Attendance by the dog and its owner/custodian at training sessions conducted by a board certified veterinarian or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owners of the dog shall be responsible for all costs association with the evaluation and training ordered under this section.
 - (8) Neutering or spaying of the dog at the owner's expense, unless medically contraindicated as determined by a board certified veterinarian, chosen by the director, or unless the owner offers proof that the animal is registered with the American Kennel Club and removes the dog from the city limits.
 - (9) That the dog be microchipped.
 - (10) The procurement of liability insurance in an amount to be determined by the judge, but in no case in an amount of less than \$100,000.00 per person and \$300,000.00 per occurrence.
- (g) A final decision of the hearing officer may be appealed to the municipal court.

(Code 1969, § 4-52; Ord. No. 5191-07, § 1, 3-6-2007)

Sec. 6-230. - Failure to comply with conditions.

It shall be unlawful for any person to violate any conditions ordered by the hearing officer.

(Code 1969, § 4-53; Ord. No. 5191-07, § 1, 3-6-2007)

Sec. 6-231. - Further incident.

- (a) After a hearing a described above, if a further incident of attack occurs, it shall be unlawful for any person to keep or harbor the dangerous dog within the city.
- (b) Upon conviction of a violation of this section, in addition to any other remedy, the court may order the humane destruction of the dog or the removal of the dog from the city.

(Code 1969, § 4-54; Ord. No. 5191-07, § 1, 3-6-2007)

Sec. 6-232. - Provisions applicable to guard dogs.

Any guard dog (for the purpose of this chapter here defined as a dog not owned by a governmental unit which dog is used to guard public or private property) used in the city by virtue of such use is hereby declared to be subject to the requirements of this article and this chapter; must be controlled by its keeper; and must not be used in a manner which, as determined by the director, endangers individuals not on the premises guarded. Any person operating a guard dog service shall register such business with the director and shall notify the director of all premises to be guarded before such service begins. All premises guarded shall be posted in a manner that is conspicuously visible and legible identifying the dangerous animal.

(Code 1969, § 4-55; Ord. No. 5191-07, § 1, 3-6-2007)

Sec. 6-233. - Dangerous animals, other than dogs.

- (a) The keeping or harboring of dangerous animals, other than dogs, within the city is hereby prohibited. The director shall have the authority to declare an animal dangerous because of its past or present behavior, violations, its inherently dangerous nature, including, but not limited to, exotic animals and

animals with a venomous or poisonous bites, as to persons or animals, vicious or ferocious disposition, or manifests a disposition to bite or attack. Such declaration shall be grounds for the impoundment and destruction of the animal unless, without danger to the public, it can be and is removed from the city within 24 hours. Notice of said dangerous animal declaration shall be signed by the director and furnished to the owner, keeper or harbinger of said dangerous animal.

- (b) It shall be unlawful for any person to bring into the city or to keep or harbor within the city any wild or exotic animal, unless such animal is at all times kept within the home or residence of the keeper or harbinger, and is in compliance with all applicable state and federal requirements. The director of animal control shall have the authority to declare an animal to be in violation of this section.
- (c) Subsections (a) and (b) of this section shall apply to any animal vertebrate or invertebrate, warm-blooded or cold-blooded, carnivorous or omnivorous.

(Code 1969, § 4-56; Ord. No. 5191-07, § 1, 3-6-2007)

Secs. 6-234—6-259. - Reserved.

Section 205.120 **Dangerous Dogs — Classification.**

A.

Any dog with the following characteristics may be classified as dangerous:

1.

Any dog that has inflicted a severe or fatal injury on a human being on public or private property. Severe injury means any physical injury, resulting directly from a dog's bite, that results in broken bones, lacerations requiring stitches, or in-patient hospitalization. A victim who receives 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.

2.

Any dog that has killed a domestic animal, dog, or cat without provocation, while off the owner's property.

3.

Any dog owned or harbored primarily or in part for the purpose of dogfighting or any dog trained for dogfighting.

4.

Any dog that has bitten a human being without provocation on public or private property other than the property of the owner.

5.

Any dog that, while on the owner's property, has bitten 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 dog is kept.

6.

Any dog that, when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds or private property other than the property of the owner, in a menacing fashion or apparent attitude of attack, regardless of whether or not a person is injured by such dog.

7.

Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings, domestic animals, dogs or cats.

B.

If the circumstances surrounding the classification as a dangerous dog under any of the definitions listed in Subsection **(A)** of this Section are in dispute, then the owner has the option of submitting, within five (5) working days, a written request to the Chief of Police for a hearing and possible appeal as follows:

1.

A hearing board, consisting of the Chief of Police and two (2) other people designated by him shall be convened within ten (10) working days after receipt of a bona fide written request.

2.

Pending the outcome of such a hearing, the dog must be confined in such a manner so as not to be a threat to any person. The confinement may be on the owner's premises or with a licensed veterinarian.

3.

The hearing board shall determine whether to declare the animal to be a dangerous dog based upon evidence and testimony presented at the time of the hearing by the owner, in addition to witnesses,

Animal Control personnel, police or any other person possessing information pertinent to such determination.

4.

The hearing board shall issue written findings within five (5) days after the hearing. The owner or possessor of the animal found to be dangerous shall be required to maintain the animal as provided in this Section.

C.

Exemptions to dangerous dog classification:

1.

With the exception of Subsection (A)(1) of this Section, no dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog; was teasing, tormenting, abusing, or assaulting the dog; has in the past been observed or reported to have teased, tormented, abused or assaulted the dog; or was committing or attempting to commit a crime.

2.

With the exception of Subsection (A) of this Section, an Animal Control Officer may, because of extenuating circumstances, determine from the investigation of an incident, that an animal is not dangerous. However, the owner, being responsible for the dog, may be warned of the animal's tendencies and to take appropriate action to prevent subsequent incidents. This, however, does not exempt the owner from being cited for other animal control ordinance violations.

3.

Dogs owned by governmental or law enforcement agencies when being used in the services of those agencies are exempt from being classified as dangerous.

D.

Actions to be taken for dangerous dogs causing severe or fatal injuries:

1.

Any dog, whether previously declared to be a dangerous dog or not, responsible for an unprovoked severe or fatal attack on a human being or another animal, may be humanely destroyed.

2.

A dog responsible for a provoked severe or fatal attack shall be maintained as a dangerous dog.

Section 205.121 **Dangerous Dogs — Owners' Responsibilities.**

A.

The following actions shall be required of owners of dogs that have been declared dangerous dogs:

1.

Any dangerous dog that bites or scratches a human being and any dog whose behavior immediately prior to or during an incident resulting in the biting or scratching of a human being that is determined to be dangerous, shall be impounded for a ten (10) day rabies quarantine at the Municipal Animal Shelter or a veterinarian clinic within or near to the City limits of the City. Any dog impounded shall not be released to its owner or keeper until the license and spay/neuter requirements of this Article are complied with and the owner/keeper has paid all fines and/or costs associated therewith.

2.

Any dangerous dog shall wear at all times a bright orange collar with a large brightly colored metal tag attached to the collar so the dog can readily be identified as a dangerous dog.

3.

The owner or keeper shall notify the Animal Control Unit immediately if a dangerous dog is loose, unconfined, or missing, has attacked another animal or has attacked a human being.

4.

The owner or keeper shall notify the Animal Control unit within twenty-four (24) hours if a dangerous dog has died or has been sold or given away. If the dog has been sold or given away, the owner or keeper shall provide the Animal Control Unit with the name, address and telephone number of the new owner. The new owner, if the dog is kept within the City limits of the City, must comply with the requirements of this Section.

5.

While on the owner's property, a dangerous dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable for preventing the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have minimum dimensions of five (5) feet by ten (10) feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than twelve (12) inches. The enclosure must also provide protection from the elements for the dog. The enclosure, when occupied by a dangerous dog, shall not be occupied by any other animal. If the dangerous dog is a female with a litter of puppies under three (3) months of age, the puppies may occupy the same enclosure as the mother.

6.

No dangerous 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.

7.

The owner or keeper shall display a sign on his premises that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public highway or thoroughfare from which the property is entered. In addition, a similar sign is required to be posted on the kennel or pen or fenced yard of such animal.

8.

A dangerous dog may be off the owner's premises if it is muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and under the control of a responsible person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal.

9.

The owner or keeper of a dangerous dog shall present to the Animal Control Unit proof that the owner or keeper has procured liability insurance in the amount of at least three hundred thousand dollars (\$300,000.00), covering the twelve (12) month period during which licensing is sought. 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.

10.

All owners or keepers of dangerous dogs must within ten (10) days of such declaration provide the Animal Control Unit with two (2) color photographs, one showing the left profile and the other showing the right profile of the animal, clearly showing the color and approximate size of the animal.

11.

All owners or keepers of dangerous dogs must have such dogs implanted with an identifying microchip in a manner approved by the Animal Control Unit. Owners or keepers shall then provide the Animal Control Unit the microchip number, and shall notify the Animal Control Unit and the

national registry applicable to the implanted chip of any change of ownership of the dog, or any change of address or telephone number. Any costs associated with the microchip shall be borne by the owner or keeper.

12.

It shall be unlawful for the owner or keeper of a dangerous dog within the City to fail to comply with requirements and conditions set forth in this Section. Any dog found to be the subject of a violation of this Section may be, in addition to other penalties provided by ordinance, subject to immediate seizure and impoundment for a minimum of ten (10) days or the time necessary for the owner or keeper to show compliance with this Section, whichever is shorter.