Bill
No.
2008-03

ORDINANCE
NO. 2008.03

An Ordinance repealing Ordinance #91-15 (Restricting the keeping of Pit Bull Dogs Within the Corporate Limits of the City of Osceola, Missouri) and establishing an ordinance pertaining to dangerous and vicious dogs and establishing penalties for owning one within the Corporate Limits of the City of Osceola, Missouri.

Be it ordained by the Board of Aldermen of the City of Osceola, as follows:

Section One. For the purposes of this title, the following terms, phrases, words and derivations shall have the meaning given in this section:

(a) "Animal" means any live, vertebrate creature, domestic or wild, other than humans;

(b) "Animal Control Officer" is a duly authorized person employed by the City who is charged with the duties of enforcing this title and who is educated in the care, seizure, custody and confinement of animals;

(c) "Animal Nuisance" is created when an animal:

(1) Runs uncontrolled;

(2) Molests or disturbs vehicles by chasing, barking or biting;

(3) Attacks other animals;

(4) Damages property other than that of the owner or harborer; (5) Barks, whines, howls, brays, cries or makes other noise excessively so as to cause unreasonable annoyance, disturbance or discomfort to an individual who is a neighbor (a neighbor for this purpose is hereby defined as individual residing in a residence structure which is within five hundred (500) feet of the property on which the animal is kept or harbored) and who does in writing state he will so

testify if called upon to testify about such matter under oath;

(6) Creates noxious or offensive odors;

(7) Defecates upon any public place or upon premises not owned or controlled by the owner or harborer unless promptly removed by the animal owner or harborer;

(8) Creates an insect breeding and/or attraction site due to an accumulation of excreta;

(9) Is in heat and not properly confined;

(10) Obstructs or interferes with vehicular or pedestrian traffic;

(11) Threatens or causes a condition which endangers public health; or

(12) Impedes refuse collection by ripping any bag or tipping any container of such.

(d) "Animal Shelter" means any premises designated by the City for the purpose of impounding and caring for animals held under the authority of this ordinance.

(e) "At Large" means an animal running at will, acting on its own initiative and not secured by a leash, a lead or within a fenced area.

(f) "Bite" is any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, bruise or other piercing of the skin.

(g) "Control" of an animal means that the same is on a leash not more than eight (8) feet in length; is under voice control in the presence of a competent person; is within a vehicle being driven or parked; or is within the property limits of the owner or harborer or

upon the premises of another person with the consent of that person.

(h) "Dangerous Animal" means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of it's size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

(i) "Dog" means any member of the animal species Canis Familiaris.

(j) "Domestic Animal" includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants and other birds and animals raised and/or maintained in confinement.

(k) "Enclosure" means an escape-proof structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous or vicious dog in conjunction with other measures which the owner or harborer may take. Such enclosure shall secured sides and a secured top, shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. If such enclosure has no bottom secured to the sides, the sides must be embedded in the ground no less than two (2) feet deep.

(1) "Euthanasia" means the humane destruction of an animal accomplished by a method, which is approved by the American Veterinarian Medical Association.

(m) "Harborer" is any person who provides food and shelter or otherwise accepts any responsibility for the care or control of a domesticated animal for three (3) or more days.

(n) "Impound" means to seize summarily, confine, or restrain in custody.

(o) "Inoculation, vaccination, or vaccination for rabies" means the inoculation of an animal with a vaccine approved by the State of Missouri for use in the prevention of rabies.

(p) "Licensed animal" is an animal licensed in compliance with this ordinance.

(q) "License Tag" is a metal tag issued annually by the City evidencing a licensed animal.

(r) "Own" means and includes own, keep, harbor, or have charge, custody.or control of an animal.

(s) "Owner" means any person or persons, firm, association, partnership or corporation owning, keeping or harboring an animal. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by children upon their premises.

(t) "Persons" means any individual, firm, corporation, association or partnership.

(u) "Scratch" means any contact between an animal's claws and the skin of a scratch victim, which causes visible trauma, such as a puncture wound, laceration or abrasion, bruise, or other piercing of the skin.

(v) "Trap" means any mechanical device or snare which seeks to hold, capture or kill an animal.

(w) "Trapping" means the setting or laying or otherwise using a trap.

(x) "Veterinary Hospital" means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injury of animals.

(y) "Dangerous Dog" means:

(1) Has attacked or bitten a human being or domestic animal on public or private property;

(2) Chased or approached a person, including a person on a conveyance, upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or

(3) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(z) "Vicious Dog" means:

(1) Inflicted substantial bodily harm on a human being on public or private property; or

(2) Killed a domestic animal without provocation while off the owner's *or* harborer's property; or

(3) Has been found to be dangerous and after the owner or harborer has notice that the dog is dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

(aa) "Voice Control" means:

(1) Is physically capable of hearing normal commands.

(2) Is, at the time under consideration, within reasonable proximity to the controller so that shouting or excessively loud commands are not necessary;

(3) Has been adequately trained in obedience so as to be capable of understanding control commands; and

(4) Either continually demonstrates, or is able to demonstrate on demand, response to a command that will cause the animal to immediately come into close proximity to the controller and cease any kind of aggressive behavior or action that would be offensive to other persons or animals.

(bb) "Work Dog" is any member of the animal species Canis Familiaris trained for and actively engaged in rescue, law enforcement or war work, or as a guide for the blind or deaf, or certified service dog."

Police canines actively in use for law enforcement purpose are exempt from this ordinance.

Notwithstanding the definition of a dangerous or vicious dog above, no dog may be declared dangerous or vicious if any injury or damage was sustained, while committing, or attempting to commit, a willful trespass and other unlawful activity upon premises occupied by the owner or harborer of the dog, or was physically abusing or assaulting the dog.

No dog may be declared dangerous or vicious if any injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was attacking or assaulting the dog. No dog may be declared dangerous or vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

Section Two. Dangerous or Vicious Dogs.

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(a) Determination of a Dangerous or Vicious Dog. In the event that the Animal Control Officer or Police Officer has probable cause to believe that a dog is dangerous or vicious, as defined in Section 1.y and Section 1.z and upon submission of a probable cause affidavit by the City Attorney's Office, the Municipal Judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous or vicious.

The City Attorney shall notify the owner or harborer of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared dangerous or vicious. The hearing shall be held promptly within no less than five (5) days nor more than fourteen (14) days after service of notice upon the owner or harborer of the dog. The hearing shall be informal and shall be open to the public.

After the hearing, the owner or harborer **of** the dog and the City Attorney shall be notified by the Court in writing within ten (10) business days of the determination. If a determination is made that the dog is dangerous or vicious, the owner or harborer shall comply

with the provisions of this title as directed by the Municipal Judge in accordance with a time table established by the Municipal Judge, but in no case more than thirty (30) days subsequent to the date of the determination. If the owner or harborer of the dog contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays of such determination appeal to the district court.

In the event that the Animal Control Officer or law enforcement officer has probable cause to believe that the dog in question is dangerous or vicious, and may pose a threat of serious harm to human beings or other domestic animals, the Animal Control Officer or law enforcement officer may seize and impound the **dog** pending the aforesaid Municipal Court determination and/or the findings of any appeals taken. Upon the Court's determination that the impounded dog is dangerous or vicious, the owner or harborer of the dog shall be liable to the City where the dog is impounded for the cost and expenses of keeping such dog.

In the event of impoundment by the City, the aforesaid Municipal Court hearing must be scheduled within sixty (60) days of such impoundment.

(b) Control of Dangerous Dog. If the Municipal Court Judge determines that a dog is dangerous, the owner or harborer of such dog shall comply with the following:

(1) Confinement. All dangerous dogs shall be confined in an enclosure when outside of the dwelling. It shall be unlawful for any owner or harborer to maintain a dangerous dog upon any premises, which does not have a locked enclosure. It shall be unlawful for any owner or harborer to allow a dangerous dog to be outside of the dwelling of the owner or harborer or outside of the enclosure unless in a fenced yard under the direct supervision of a responsible adult capable of controlling the dog, unless it is necessary for the owner or harborer to obtain veterinary care for the dangerous dog or for

professional training or to sell or give away the dangerous dog **or** to comply with commands or directions of the Animal Control Officer, the dangerous dog shall be securely muzzled on a leash or crated and securely muzzled. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(2) Signs. The owner or harborer of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a dangerous dog on the premises. A similar sign is required to be posted on the enclosure. Such sign shall conform to the size requirements established under Section 1.k.

(3) Microchip Identification. The owner or harborer of a dangerous dog must have a microchip implanted in the dog for identification, and the name and number of the microchip must be provided to the Animal Control Officer. If the owner or harborer does not implant the microchip, the Animal Control Officer may implant it. In either case, all costs related to the purchase and implementation of the microchip must be borne by the dog's owner or harborer.

(4) Dangerous Dog License Fees. All dangerous dogs shall pay a license fee, which shall be renewed annually on or before January 1st of each year. The Board of Aldermen shall adopt the license fee by resolution.

(5) Mandatory Spay and Neuter. All dangerous dogs shall be required to be spayed or neutered.

(6) Training. All dangerous dogs shall be required to be enrolled in a behavior modification program administered by a licensed animal behaviorist prior to the compliance hearing. Verification of successful completion of said program must be provided to the Animal Control Officer at the annual license review.

(7) Insurance.

The owner or harborer of a dangerous dog is required to present the Municipal Court proof that the owner or harborer has procured liability insurance in the amount of at least One Hundred Thousand Dollars ($100,000), covering any damage or injury which may be caused by such dangerous dog during the twelve (12) month period for which licensing is sought. The policy shall contain a provision requiring the City to be named as an additional insured for the sole

purpose of notification to the City by the insurance company of any cancellation, termination or expiration of the liability insurance policy. The owner or harborer shall maintain and not voluntarily cancel the liability insurance required by the Court during each annual license period for which licensing is sought, unless the owner or harborer shall cease to own or keep the dangerous dog prior to expiration of such license.

(8) Compliance Hearing. In the event that a dog has been determined to be dangerous, the Municipal Court Judge shall set a compliance hearing within forty (40) days of said determination. If the owner

owner or harborer is not in full compliance, the Animal Control Officer shall impound the dangerous dog for a period not to exceed thirty (30) days. If full compliance is not verified to the Court within the thirty (30) day period, the dangerous dog shall be euthanized or removed from the City. The owner or harborer shall pay all costs of said confinement. Such costs shall be assessed as Court costs.

(9) Dangerous Dog Designation Review. Beginning one (1) year after a dog is declared a dangerous dog, an owner or harborer may request annually that the Municipal Court review the designation. The owner or harborer must provide evidence that the dog is no longer dangerous due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors.

If the Animal Control Officer finds sufficient evidence that the dog's behavior has changed, the Municipal Judge may rescind that dangerous dog designation.

(c) Disposition of Vicious Dogs. If the Municipal Court Judge determines that a dog is vicious, the dog shall be euthanized or the owner or harborer of such dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location and address of where the animal was moved. The dog shall not be returned to the City limits after removal. It shall be unlawful for the owner or harborer of a vicious dog to maintain such animal in violation of the Court's order.

Section Three. Penalties

(a) Nuisance Violations. Any person found guilty of permitting an animal nuisance to exist shall be fined.

(1) Not less than $35.00 nor more than $100.00 for the first offense;

(2) Not less than $100.00 nor more than $200.00 for the second offense within a consecutive twenty-four (24) month period, otherwise the first offense fine;

(3) Not less than $200.00 nor more than $350.00 for the third offense within a consecutive twenty-four (24) month period, otherwise the first offense fine;

(4) Not less than $350.00 nor more than $500.00 for the fourth offense within a consecutive twenty-four (24) month period, otherwise the first offense fine; and/or

(5) Ordered to remove such animal permanently from the City within twenty-four (24) hours of such order.

(b) Penalties for Non Compliance Following a Dangerous or Vicious Dog Determination.

(1) Any animal, which is not contained or controlled as ordered pursuant to Section 3, shall be confiscated by an Animal Control Officer and destroyed in an expeditious and humane manner after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays. In addition, the owner of harborer shall pay a $250.00 fine.

(2) If any dangerous or vicious dog shall, when unprovoked, kill, wound or worry or assist in killing or wounding any animal, the owner or harborer of said dog shall pay a $250.00 fine and the Animal Control Officer is empowered to confiscate and after the expiration of a five (5) day waiting period, exclusive of

Sundays and holidays, shall destroy said dangerous or vicious dog.

(3) If any dangerous or vicious dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or harborer of said dog shall pay a $500.00 fine and the Animal Control Officer is empowered to confiscate and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said dangerous or vicious dog.

(4) If the owner or harborer of a dog impounded for an alleged violation shall believe there has not been a violation of Section 3, such owner or harborer may petition the Municipal Court, praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending resolution of such owner's or harborer's petition if the petition shall have been filed within five (5) days of impoundment of such dog and notice shall have been served within five (5) days of the impoundment of such dog upon the City Attorney and Animal Control Officer. The hearing shall be conducted within seven (7) days from serving the notice. The dog shall remain impounded pending the Municipal Court proceedings. The decision of the Municipal Court shall be final and conclusive upon all the parties thereto.

(c) Other Violations. Any person found guilty of violating another other provision of this ordinance that does not specify a penalty shall be fined not less than $50.00 nor more than $200.00 for each offense. A separate offense shall be held to have been committed each day that such violation shall occur or continue.

Section Four: This Ordinance shall take effect and be in full force from and after its passage as provided by law.

First Reading: March 22, 2008

Second Reading: April 8, 2008

Bill #2008-03

Dangerous and Vicious Dogs March 11, 2008

BILL NO. 2007-24

ORDINANCE NO.: 2007-24

AN ORDINANCE AMENDING ORDINANCE 2006-23 REGULATING THE KEEPING OF ANIMALS WITHIN THE CITY LIMITS OF OSCEOLA, MISSOURI

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSCEOLA, MISSOURI, AS FOLLOWS:

SECTION 1. **Definition**. Whenever in this ordinance the following terms are used, they shall have the meaning respective ascribed to them in this section.

ANIMAL- Every living vertebrate except a human being, domestic or feral.

DOG- Any male **or** female dog, domestic or feral, over the age of three (3) months, whether singular or plural.

CAT- Any male or female cat, domestic **or** feral, over the age of four (4) months, whether singular or plural.

KEEPING OR HARBORING- Any person or persons who allow any dog, cat or other animal, to remain three (3) or more days within his/her house, store, yard, enclosure or place, shall be deemed as keeping or harboring the animal.

PERSON-Singular or plural, and shall include any group or association of individuals and all mention thereof.

NOT UNDER REASONABLE CONTROL- An animal is **NOT** under reasonable control of its owner when the animal is not on a leash, tether, or behind an enclosed fence.

SECTION 5. **Disturbing the peace/public nuisance** (a) No person shall own, keep, or harbor within the City of Osceola, any animal, which by frequent or habitual barking, yelping, or howling shall annoy or disturb any neighbor or person. (b) Nor shall any person own, keep, or harbor any animal, which habitually causes a public nuisance by destroying personal property, digging, chewing, jumping upon, or otherwise exhibiting behavior that causes public distress.

SECTION 6. **Animals run at large-** Any animal found running at large, and not under reasonable control may be impounded by the City. Animals impounded by the City will be held five (5) working days and one (1) Saturday for the owner to redeem. During this time, the animal will be cared for according to State laws. In the event the animal is impounded and found to be wearing any form of identification, every effort will be made to contact the owner and inform him/her that such animal has been impounded. After being held five (5) working days and one (1) Saturday, the animal will be disposed of by adoption, or euthanasia. If diseased or disabled as determined by a Public Health Official, Law Enforcement Officer, Veterinarian or Animal Control Officer, the animal may be humanely killed.

SECTION 7. Impound fee— At the time of impoundment, the owner of such animal may recover the animal by paying an impound fee of $20.00 plus $5.00 per day for boarding. Fees to increase with each pickup. Such owner must first obtain a current rabies vaccination or proof of current vaccination, documentation of spaying/ neutering and purchase a current City license, before the animal will be released.

SECTION 8. **Dangerous animals-** Any member of the Police Department or any person authorized by the Police Department is authorized to kill any dangerous animal of any kind when it is necessary for the protection of any person.

SECTION 9. **Guard dogs-** Any person owning, keeping, or harboring a guard dog or attack dog with known vicious tendencies shall be required to keep such animals totally confined within a six (6) foot high, fenced, covered enclosure.

SECTION 10. Cruel and inhumane treatment- No person shall be cruel or inhumane or allow any minor to be cruel or inhumane to any animal, by beating, kicking, torturing **or** otherwise physically abusing the same. No person shall confine or allow to be confined in any enclosure, chain, tether or any other place an animal and fail to provide wholesome food, clean water, adequate shelter and health care as necessary to maintain good health in that species of animal. Every enclosure or other place shall be kept in a clean condition so not to cause a health hazard to person or animal. If a health hazard or a danger to the animal's welfare exists it may be removed from the owner's property by the Animal Control Officer or a Police Officer of the City of Osceola, without notice, for veterinary care or impoundment. The Animal Control Officer must attempt to contact the owner within twenty-four (24) hours in writing.

SECTION 11. Impoundment for rabies observation- Whenever a dog or cat or any rabies susceptible animal bites a person, the owner of said animal shall, notify the Chief of Police who shall order the animal impounded at the owner's expense of $100.00 or confined to the owner's property for a period of not less than ten (10) days. The animal shall be examined immediately after it has bitten anyone and again at the end of the impound period. If at the end of the impound time a veterinarian is convinced that the animal is free from rabies the animal shall be released to the owner or destroyed. If the animal dies during observation or shows symptoms of the rabies virus, its head must be sent to the Missouri Department of Health for examination of rabies.

SECTION 12. Rabies Alert Protocol- Compliance with the rabies alert protocol emanating from the Missouri Department of Health is mandatory on all citizens and visitors of Osceola. Failure to comply with the rabies protocol will be a misdemeanor, punishable upon conviction by a fine of $100.00 plus all court costs. (A copy of the rabies protocol is filed with this ordinance.)

SECTION 13. Separability of clauses- If any section or portion of this ordinance is invalid, it shall not affect the remainder in any way. The various sections are severable and in no way depend for their validity upon any other section in this ordinance.

SECTION 14. Violations and penalties- Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be assessed a fine of $50.00 for the first violation, $75.00 for the second violation, and $150.00 for the third and each subsequent violation.

If the animal is picked up for third time, the owner must pre-pay for sterilization of the animal.

Any animal control officer employed by the City of Osceola shall be authorized to issue tickets, citations, summons, or other process in the same manner as other police officers of the city but in the furtherance of the compliance with the city ordinances pertaining to animals.

SECTION 15. Effective date- This ordinance shall be in full force and effect upon approval and passage.

SECTION 16. All ordinances or parts thereof in conflict with this ordinance are hereby repealed.

Passed and approved this
26th day of June, 2007.

Mayor
Jerry
Osborn

Ordinance
Number:
2007-23

AN ORDINANCE TO LIMIT THE CHAINING OR TETHERING OF DOGS AND MANDATING THAT DOG ENCLOSURES MUST PROVIDE 100 SQUARE FEET OF SPACE FOR DOGS OVER SIX MONTHS OF AGE.

Be it ordained by the Board of Aldermen of **the** City of Osceola, Missouri as follows:

Section 1: Any person owning and/or controlling dogs **whether** vaccinated or unvaccinated, licensed or unlicensed, shall **not allow** said animal to **be** tied or chained to dog houses. Dogs may be staked out **for** exercise purposes to cable **tie-out** stakes **with swivel** snaps to allow **for** free mobility. Should **the** City of Osceola receive three (3) **or** more viable complaints and **the** dog **owner is** issued tickets and/or **fines** then **the** dog **owner** shall **forfeit** this privilege.

Section 2: Any dogs confined within a fenced yard must have an adequate space for exercise based on a dimension of **at** least 100 square feet per dog **or as** approved by **the** Mayor and/or Board **of** Aldermen. Provided, further that **where** dogs are kept or housed on property without a fenced yard, the owner of such dogs or persons having custody of such dogs **shall** provide an enclosure for such dogs meeting the 100 square foot **per** dog dimension. Such enclosure shall be constructed **of** chain link or similar type materials **with** all four sides enclosed. The enclosure shall be sufficient height to prevent the dog from escaping from such enclosure, and shall meet **the** requirements of **the** Missouri State Statutes.

Section 3: Nothing **in** this ordinance shall be construed to prohibit owners **or** others walking dogs with a hand held leash.

Section 4: **Shelter** must **be** sanitary and provide protection from cold and heat, with fresh water **available**. The shelter must be placed in a dry area free of debris and feces. Shelter must be cleaned on a regular basis, fecal matter removed and properly disposed, so not to attract insects or rodents, become unsightly or cause objectionable odor.

Section 5: The dog may be tethered to **allow the** cleaning of the dog's enclosure or **while the** owner is outside with **the** dog and is in visual contact of the **animal** at all times to prevent injury to the dog.

Section 6. Persons found guilty of violating this Ordinance will be liable to fines ranging from $25.00 to $200.00.

Section 8: All Ordinances or parts thereof in conflict with this Ordinance **are** hereby repealed. This Ordinance shall be in full force and in effect upon approval and passage.

PASSED AND APPROVED THIS
26th DAY OF June 2007.

Mayor
Jerry
Osborn