

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, ESTABLISHING THE OFFENSE OF KEEPING A DANGEROUS DOG OR OTHER ANIMAL AND THE PENALTY AND THE PROVISION FOR SEIZING AND DESTROYING THE ANIMAL AND TO PROVIDE AUTHORITY TO SEEK A WARRANT TO SEIZE ANY ANIMAL KEPT, MAINTAINED OR HARBORED IN VIOLATION OF CHAPTER 205 OF THE OSAGE BEACH MUNICIPAL CODE.

WHEREAS, the Board of Aldermen recognizes that dogs, pets and domestic animals are a choice for many people and families that enrich their lives; and,

WHEREAS, the Board of Aldermen recognizes that dogs, pets and domestic animals may in certain circumstances become dangerous and must be controlled within the city; and,

WHEREAS, the Board of Aldermen conclude the city should have the tools necessary to address any dangerous dogs, pets or domestic animals:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. That a new Article V Dangerous Animals consisting of new Sections 205.400 Dangerous Animals and Section 205.410 Warrant for Seizure and Disposition of Dangerous Animals, of the Osage Beach Code of Ordinances be and is hereby enacted as follows:

Sections 205.400 Dangerous Animals

1. A person commits the offense of keeping a dangerous dog or other animal if he or she owns or possesses a dog or other animal that has previously bitten a person or a domestic animal without provocation and that dog or other animal bites any person on a subsequent occasion.

2. The offense of keeping a dangerous dog or other animal shall be punishable under the general penalty section 100.190 of this code.

3. In addition to the penalty included in subsection 2 of this section, if any dog or other animal that has previously bitten a person or a domestic animal without provocation bites any person on a subsequent occasion or if a dog or other animal that has not previously bitten a person attacks and causes serious injury to or the death of any human, the dog or other animal shall be seized immediately by an animal control authority or by the Chief of Police or any Osage Beach Police Officer. The dog or other animal shall be impounded and held for at least ten business days. After the owner or possessor is given written notification, and after the expiration of the ten-day period, the animal may thereafter be destroyed.

4. The owner or possessor of the dog or other animal that has been impounded may file a written appeal to the Twenty Sixth Judicial Circuit Court, or to the Osage Beach Municipal Division of

the Circuit Court to contest the impoundment and destruction of such dog. The owner or possessor shall provide notice of the filing of the appeal to the animal control authority or Chief of Police who seized the dog. If the owner or possessor files such an appeal and provides proper notice, the dog or other animal shall remain impounded and shall not be destroyed while such appeal is pending and until the court issues an order for the destruction of the dog. The court shall hold a disposition hearing within thirty days of the filing of the appeal to determine whether such dog or other animal shall be humanely destroyed. The court may order the owner or possessor of the dog or other animal to pay the costs associated with the animal's keeping and care during the pending appeal.

Section 205.410 Warrant for Seizure and Disposition of Dangerous Animals

- A. Any duly authorized Public Health Official or Law Enforcement Official may seek a warrant from the Osage Beach Municipal Division of the 26th Judicial Circuit Court to enable him/her to enter private property in order to seize or impound any dangerous dog, pet or domesticated animal. All requests for such warrants shall be accompanied by an affidavit stating the probable cause to believe a violation of this Chapter 205 has occurred. A person acting under the authority of a warrant shall not be liable for any necessary damage to property while acting under such warrant. All animals impounded pursuant to a warrant issued under this Section shall be:
1. Placed in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose; or
 2. If it is determined by a veterinarian that an animal impounded under a warrant diseased or disabled beyond recovery for any useful purpose, that animal may be humanely killed.
- B. The owner or custodian of any dog pet or domestic animal who has been found to be dangerous and seized under this section shall be liable for reasonable costs for the care and maintenance or other disposition of the animal. Any person incurring reasonable costs for the care and maintenance of such an animal shall have a lien against such animal until the reasonable costs have been paid. The City may humanely kill such animal if such costs are not paid within ten (10) days after demand. Any monies received for an animal adopted pursuant to this Subsection in excess of costs shall be paid to the owner of such animal.

Section 3. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same

would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 4. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 5. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: December 19, 2019 READ SECOND TIME: January 2, 2020

I hereby certify that Ordinance No.19.91 was duly passed on January 2, 2020 by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 5

Nays: 0

Abstentions: 0

Absent: 1

This Ordinance is hereby transmitted to the Mayor for his signature.

January 2, 2020
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Edward B. Rucker
Edward B. Rucker, City Attorney

I hereby approve Ordinance No.19.91.

John Olivarri
John Olivarri, Mayor

January 2, 2020
Date

Tara Berreth
Tara Berreth, City Clerk