CITY OF SCANDIA
ORDINANCE NO. 185

AN ORDINANCE REPEALING ORDINANCE NO. 166 AND REPLACING IT WITH A NEW ORDINANCE NO. 185 PROVIDING FOR IDENTIFICATION, REGULATION, CONFINEMENT AND DISPOSITION OF DOGS WITHIN THE CITY OF SCANDIA AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF

The City Council of the City of Scandia does hereby ordain as follows:

Section 1. DEFINITIONS:

A. Dangerous Dog: Any dog that has:

1. without provocation, inflicted substantial bodily harm on a human being on public or private property;

2. killed a domestic animal without provocation while off the owner's property; or

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

B. Potentially Dangerous Dog: Any dog that:

1. when unprovoked, inflicts bites on a human or domestic animal on public or private property;

2. when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's 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.

C. Animal Control Authority: Any person, firm, agency or company hired or ppointed by the City to assist and/or enforce this ordinance or any police officer charged with enforcing this ordinance.

D. Animal Shelter: Any premises designated by the City Council for impounding and caring for all dogs found running at large.

E. At Large: A dog shall be termed to be at large when it is not under "restraint" as defined in this section.

F. Attack: Any unprovoked, threatening aggressive behavior of a dog which puts a reasonable person in fear of immediate bodily harm.

G. Biting Dog: Any dog which has bitten, scratched or caused any other injury to a human being in a location where, at the time of the attack, the victim was lawfully conducting himself or herself, including premises owned or controlled by the owner of the animal if such location is commonly open to the public, such as a driveway or boulevard, or the victim was on such premises at the express or implied invitation of the owner of the animal.

H. Owner: Any person, group of persons or corporation, firm or partnership, owning, possessing, keeping, having an interest in or harboring a dog or dogs. The harborer of a dog shall mean any person who has the care, custody or control of any dog or permits the same to be kept on or about his or her premises.

I. Proper Enclosure: Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

J. Provocation: An act that an adult could reasonably expect may cause a dog to attack or bite.

K. Restraint: A dog is under restraint within the meaning of this section if it is controlled by a leash; if it is wearing a remote shock collar controlled by the owner, if it is under the voice or signal command of a responsible person whom the dog will immediately obey; if it is within a vehicle being driven or parked on the public streets; and if it is within the limits of its owner's premises.

L. Stray: Any unidentified dog, the owner of which is unknown and which is at large within the City.

M. Substantial Bodily Harm: Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss of impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

N. Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a

permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Section 2. IDENTIFICATION: No person shall own, harbor, keep or have custody of a dog over six (6) months of age, within this City, without the dog being identified by a device, tag or plate attached to the dog by a collar, harness or device giving the name and telephone number of the current owner.

Section 3. RABIES VACCINATION: No person shall own, harbor, keep or have custody of a dog over six (6) months of age, within this City, unless the dog has a current vaccination against rabies and the dog has attached to its collar, harness or similar device a current rabies vaccination tag.

Section 4. CONFINEMENT: The owner shall confine within a building or secure enclosure any fierce, dangerous or vicious dog, except when under restraint by a responsible person. Every female dog in heat shall be confined in a building, secure enclosure, veterinary hospital, or boarding kennel, or shall be controlled on a leash while being exercised.

Section 5. AT LARGE: No owner shall permit the owner's dog to be at large within the City.

Section 6. PUBLIC NUISANCE: No person shall keep or harbor a dog which is a public nuisance. A dog is a public nuisance that does any of the following:

A. Destroys property or habitually trespasses in a damaging manner on property of persons other than the owner.

B. Attacks or bites a person outside the owner's or custodian's premises.

C. Shows vicious habits or molests pedestrians or persons riding or driving on the public streets or highways.

D. Habitually barks, bays, cries, howls, or makes any other noise continuously for a period of 10 minutes or barks intermittently for 30 minutes or more, at any time, either day or night. A dog shall not be deemed a public nuisance if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon the private property on which the dog is situated or when the dog is teased or provoked.

Section 7. POISONING OF ANIMALS: It shall be unlawful for anyone to place upon the ground or in any other place, any poison, bait or other material intended to harm a dog.

Section 8. IMPOUNDING:

A. Unidentified dogs, stray dogs and dogs found at large shall, except as provided in Subdivision B below, be taken by the Animal Control Authority of

the City and impounded in a shelter designated by the City and there confined in a humane manner for a period of the lesser of 5 working days or until claimed by the owner and may thereafter be disposed of as provided in this Ordinance.

B. When a dog is found running at large and its ownership is known to the Animal Control Authority, such dog need not be impounded, but the Animal Control Authority may at its discretion return the dog to its owner and charge the owner or keeper with a violation of this Ordinance.

C. Immediately upon impounding a dog, the Animal Control Authority shall make a reasonable effort to notify the owner of the dog so impounded and inform the owner of the conditions whereby the owner may regain custody.

Section 9. RECORDS: The animal shelter shall keep proper records of the impoundment and disposition of all animals coming into its custody.

Section 10. REDEMPTION: Any dog may be redeemed by the owner after being impounded within five (5) working days after seizure of the dog upon payment of an impounding fee of $100.00 to the Clerk, or to such agent as the City Council may designate plus the amount then being charged by the Animal Shelter for daily board, veterinary and administrative fees.

Section 11. DISPOSITION OF UNCLAIMED DOGS.

A. Any dog which is not claimed within five (5) working days after impounding shall become the property of the City and if not requested by a licensed educational or scientific institution under Minnesota Statutes 35.71, may be sold or painlessly killed.

The City's ownership interest in unclaimed dogs may be transferred to the Animal Control Authority by contract.

B. If a dog is diseased, vicious, dangerous, rabid or exposed to rabies and the dog cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the persons attempting to impound the dog, the dog may be immediately killed.

Section 12. RABIES CONTROL: Minnesota health laws and regulations are hereby adopted by reference to govern the possession, testing and disposition of rabid animals or animals suspected of being rabid.

Section 13. INVESTIGATION:

A. For the purpose of discharging the duties imposed by this Ordinance and to enforce its provisions, the Animal Control Authority is empowered to enter upon any premises upon which a dog is kept or harbored and demand exhibition by the owner of the identification tag and rabies tag of the dog.

B. The Animal Control Authority of the City may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal.

C. No person shall interfere with, hinder or obstruct the Animal Control Authority in the performance of any duty of such person under this Ordinance or seek to release any animal in the custody of the City or the Animal Control Authority except as herein provided.

Section 14. REGULATION OF POTENTIALLY DANGEROUS DOGS.

A. DETERMINATION OF POTENTIALLY DANGEROUS DOG: The Animal Control Authority shall determine that a dog is a potentially dangerous dog if the Animal Control Authority believes, based upon the Animal Control Authority's professional judgment, that a dog:

1. has, when unprovoked, inflicted bites on a human or domestic animal on public or private property; or

2. has, when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's 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.

B. NOTICE OF POTENTIALLY DANGEROUS DOG: Upon a determination by the Animal Control Authority that a dog is potentially dangerous, the Animal Control Authority shall provide a Notice of Potentially Dangerous Dog to the owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. Service upon any owner shall be effective as to all owners. The notice shall include the following:

1. a description of the dog deemed to be potentially dangerous;

2. the factual basis for that determination;

3. the identity of the officer who has made the determination;

4. an order that the owner have a microchip implanted in the dog for identification in accordance with Section 15.D hereof and provide the Animal Control Authority with proof thereof within 30 days of the date of service;

5. an order that the owner provide the Animal Control Authority with written notice of any relocation of the dog from its current residence, providing any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten (10) days prior to any such relocation or new ownership; and

6. the criminal penalties for violation of the requirements pertaining to potentially dangerous dogs.

C. REQUIREMENTS: It shall be the joint and several responsibility of each owner of any dog kept or harbored within the City and determined to be potentially dangerous under this Section or state law to have a microchip implanted in the dog for identification and provide the Animal Control Authority with proof thereof, including the name of the microchip manufacturer and its serial identification number, within thirty (30) days of any owner's receipt of the notice of potentially dangerous dog or within ten (10) days of the dog's location within the City, whichever occurs first. It shall also be the joint and several responsibility of each owner of any potentially dangerous dog kept or harbored within the City to provide the animal control authority with written notice of any intended relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten (10) days prior to any such relocation or new ownership.

Section 15. REGULATION OF DANGEROUS DOGS:

A. REQUIREMENT: No person may own a dangerous dog unless the dog is registered as provided in this section.

B. REGISTRATION: The Animal Control Authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

1. a proper enclosure exists for the dangerous dog and there is posted on the premises a clearly visible warning sign provided by the Animal Control Authority to inform children that there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the commissioner of public safety. The commissioner shall provide the number of copies of the warning symbol requested by the Animal Control Authority and shall charge the Animal Control Authority the actual cost of the warning symbols received. The Animal Control Authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol;

2. a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the Animal Control Authority in the sum of at least $300,000.00, payable to any person

injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least $300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog;

3. the owner has paid an annual fee of $300.00, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and

4. the owner has had microchip identification implanted in the dangerous dog as required in Subsection D below.

C. DANGEROUS DOG DESIGNATION REVIEW. Beginning six months after a dog is declared a dangerous dog, an owner may request annually that the Animal Control Authority review the designation. The owner must provide evidence that the dog's behavior has changed 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 Authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

D. MICROCHIP IDENTIFICATION: The owner of a dangerous or potentially dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Authority. Once implanted, no one, except a licensed veterinarian, shall remove a microchip from a dangerous dog. All costs related to the purchase and implantation of the microchip must be borne by the dog's owner.

E. DANGEROUS DOGS; ADDITIONAL REQUIREMENTS:

1. An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

2. An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.

3. An owner of a dangerous dog must notify the Animal Control Authority in writing of the death of the dog or its transfer to a new jurisdiction within 30 days of the death or transfer, and must, if requested by the

Animal Control Authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred.

4. The Animal Control Authority may require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized, the Animal Control Authority may have the animal sterilized at the owner's expense.

5. A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that that person owns a dangerous dog that will reside at the property.

6. A person who sells a dangerous dog must notify the purchaser that the Animal Control Authority has identified the dog as dangerous. The seller must also notify the Animal Control Authority in writing of the sale and provide the Animal Control Authority with the new owner's name, address and telephone number.

F. CONFISCATION:

1. Seizure: The Animal Control Authority shall immediately seize any dangerous dog if:

   a. 14 days after the owner has notice that the dog is dangerous, the dog is not validly registered pursuant to Sections 15A and B herein;

   b. 14 days after the owner has notice that the dog is dangerous, the owner does not secure the property liability insurance or surety coverage required by Section 15B herein;

   c. the dog is not maintained in a proper enclosure; or

   d. the dog is outside its proper enclosure and not under the physical restraint of a responsible person as required by Section 15E herein;

   e. or the dog is not sterilized within 30 days of the owner being required, as provided in 15E herein, to cause the dog to be sterilized.

2. Reclaimed: A dangerous dog seized under this Section may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the Animal Control Authority

that the requirements of this Section will be met. A dog not reclaimed under this Subdivision within seven days may be disposed of as provided in Minn. Stat. §35.71, Subd. 3, and the owner is liable to the Animal Control Authority for costs incurred in confining and disposing of the dog.

3. Subsequent offenses; seizure. If a person has been convicted of a misdemeanor for violating a provision of this section and the person is charged with a subsequent violation relating to the same dog, the dog shall be seized by the Animal Control Authority. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner shall pay the cost of confining and destroying the animal. If the person is not convicted of the crime for which the dog was seized, the owner may reclaim the dog upon payment to the Animal Control Authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided in Minn. Stat. §35.71, Subd. 3, and the owner is liable to the Animal Control Authority for the costs incurred in confining, impounding, and disposing of the dog.

Section 16. DISPOSITION OF SEIZED ANIMALS:

A. Hearing. The owner of any dog declared dangerous has the right to a hearing by an impartial hearing officer.

B. Security. A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.

C. Notice. The authority declaring the dog dangerous shall give notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

1. a description of the seized dog; the authority for and purpose of the dangerous dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous; and the telephone number and contact person where the dog is kept;

2. a statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to

do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;

3. a statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of Section 15 (E) (1) and (3), and until such time as the hearing officer issues an opinion;

4. a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of Sections 15B, 15D and 15E hereof;

5. a form to request a hearing under this subdivision; and

6. a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

Section 17. RESTRICTIONS:

A. Dog ownership prohibited. Except as provided in paragraph C, no person may own a dog if the person has:

1. been convicted of a third or subsequent violation of Sections 15A, 15D or 15E hereof.

2. been convicted of a violation under Minnesota Statutes 609.205, clause (4);

3. been convicted of a gross misdemeanor under Minnesota Statutes 609.226, subdivision 1;

4. been convicted of a violation under Minnesota Statutes 609.226, subdivision 2; or

5. had a dog ordered destroyed under Section 20 and been convicted of one or more violations of Sections 15A, 15D or 15E hereof or Minn. Stat. § 609.226, subdivision 2.

B. Household members. If any member of a household is prohibited from owning a dog in subdivision 1, unless specifically approved with or without restrictions by the Animal Control Authority, no person in the household is permitted to own a dog.

C. Dog ownership prohibition review. Beginning three years after a conviction under Subsection A hereof that prohibits a person from owning a dog, and

annually thereafter, the person may request that the Animal Control Authority review the prohibition. The Animal Control Authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Animal Control Authority deems appropriate. The Animal Control Authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Animal Control Authority rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the Animal Control Authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Authority may permanently prohibit the person from owning a dog in this state.

Section 18. BITE CASES: It shall be the duty of every physician to report to the Animal Control Authority the names and addresses of persons treated for bites inflicted by animals within the City, together with such other information as will aid in rabies control.

Section 19. EXEMPTIONS TO THIS ORDINANCE:

A. Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter except where duties are expressly stated to apply to them.

B. The definition of "dangerous dog" and "biting dog" shall not apply to a dog under the control of or on duty with a law enforcement officer.

C. The dog identification requirements of this Ordinance shall not apply to any dog belonging to a nonresident of the City and kept within the City for not longer than 30 days provided that all such dogs, shall, at all times while within the City, be kept under restraint.

D. Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

1. who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

2. who was provoking, tormenting, abusing, or assaulting the dog or who can be sown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

3. who was committing or attempting to commit a crime.

Section 20. PENALTIES:

A. Any person who shall violate sections 2, 3, or 5 of this Ordinance shall be guilty of a petty misdemeanor. Each day that a person shall own, harbor,

keep or have custody of a dog over six months of age within this City without an identification tag and rabies tag shall be considered a separate violation.

B. Any person who shall violate any of the terms and provisions of Sections 4, 6, 7, 15A, 15D, 15E and 18 of this Ordinance shall be guilty of a misdemeanor. In addition, after a finding of a court of proper jurisdiction that a dog is a public nuisance as defined in Section 6, the Court may order that the dog be destroyed or that the owner or custodian remove it from the City or keep it confined in a designated place.

C. It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous dog, to fail to renew the registration of a dangerous dog, to fail to account for a dangerous dog's death or change of location where the dog will reside, to sign a false affidavit with respect to a dangerous dog's death or change of location where the dog will reside, or to fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.

D. A person who is convicted of a second or subsequent violation of Sections 15A, 15D or 15E is guilty of a gross misdemeanor.

E. An owner who violates section 17(A) is guilty of a gross misdemeanor.

F. Any household member who knowingly violates Section 17B is guilty of a gross misdemeanor.

Section 21: DESTRUCTION OF DOG IN CERTAIN CIRCUMSTANCES:

A. Circumstances. Notwithstanding Section 15, a dog may be destroyed in a proper and humane manner by the Animal Control Authority if the dog:

1. inflicted substantial or great bodily harm on a human on public or private property without provocation;

2. inflicted multiple bites on a human on public or private property without provocation;

3. bit multiple human victims on public or private property in the same attack without provocation; or

4. bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

B. Hearing. The Animal Control Authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker. The definitions in Section 1 and the exemptions under Section 19 apply to this section.

Section 21. REPEALER: Ordinance numbered 166 is hereby repealed in its entirety.

Section 22. EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its passage and publication according to law.

Adopted by the City Council of the City of Scandia this 20th day of June, 2017.

Christine Maefsky, Mayor

ATTEST:

Neil Soltis, Clerk/Administrator