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## TITLE 6. KEEPING ANIMALS

The purpose of this chapter is to describe the conditions and requirements allowing citizens to keep animals within the City of Flandreau, and to describe the City's responsibilities to its citizens regarding the humane and appropriate keeping of animals within the City.

### Chapter 6.1. Definitions.

- a. *"Animal"* - Any live creature, both domestic and wild, except humans. "Animal" includes fowl, fish and reptiles. (New language.)
- b. *"Animal Control Officer"* - Some person or agency appointed to be responsible for the care and maintenance of the animal shelter and who shall work with other law enforcement officials in the enforcement of this Ordinance.
- c. *"Animal Shelter"* - A building and facilities therein which is approved by the City Council for the impoundment of animals.
- d. *"Cruelty"* - Any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in siphoned quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" shall mean a failure to employ the most humane method reasonably available. (New language.)
- e. *"Disturbance"* - The act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.
- f. *"Impound"* - Taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof. (New language.)
- g. *"Leash"* - A cord, thong or chain by which an animal is controlled by the person accompanying it.
- h. *"Nuisance"* - The act of destroying or defacing property or causing injury to persons or domestic animals.
- i. *"Owner"* - Any person keeping, maintaining or having in their custody or control an animal. The occupant of any premises on which an animal remains or to which it customarily returns daily for a period of ten (10) days is presumed to be keeping the animal within the meaning of this Ordinance.

j. *“Running at Large”*

1. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
  2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.
- f. *“Vicious Animal”* - Any animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal whether on public or private property, provided that the animal has not been provoked to do so by teasing, tormenting, abusing or assaulting the animal.

## **Chapter 6.2 Keeping of animals.**

### **Section 6.2.1. Be a responsible pet owner.**

**Article 6.2.1.1.** Keep vaccinations up-to-date for all dogs, cats and ferrets. This requirement is important not only to keep your pets from getting rabies, but also to provide a barrier of protection to you, if your animal is bitten by a rabid wild animal.

**Article 6.2.1.2.** Keep your pets under direct supervision so they do not come in contact with wild animals. If your pet is bitten by a wild animal, seek veterinary assistance for the animal immediately.

**Article 6.2.1.3.** Call your local animal control officer to remove any stray animals from your neighborhood. They may be unvaccinated and could be infected by the disease.

**Article 6.2.1.4.** Spay or neuter your pets to help reduce the number of unwanted pets that may not be properly cared for or regularly vaccinated.

### **Section 6.2.2. Allowable Animals.**

Animals that can be bought from a commercial pet store in the State of South Dakota; except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, hybrids, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets; are allowable animals authorized by this ordinance and can be kept in the City.

**Section 6.2.3. Number of Animals.**

It is unlawful for any person to own on any premises more than four animals (except birds and fish) over the age of six months.

**Section 6.2.4. Running at Large Prohibited.**

No owner of any animal shall permit such animal to run at large.

**Section 6.2.5. Cruelty Prohibited.**

No owner of any animal shall permit such animal to be subjected to cruelty.

**Section 6.2.6. Defecation Removal.**

No owner of any animal shall allow such animal to defecate on public or private property other than his own. If such animal does defecate on public or private property, the owner must immediately and thoroughly clean the fecal matter from such property.

**Section 6.2.7. Abandonment Prohibited.**

No person shall abandon an animal in the city.

**Section 6.2.8. Rabid Animals.**

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.

**Section 6.2.9. Transmission of Disease.**

No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

**Section 6.2.10. Poison.**

Unless recommended by the health authority, it shall be unlawful for any person to:

- a. Willfully administer or cause to be administered, poison of any sort whatsoever to any animal, that is the property of another with the intent to injure or destroy such animal, or
- b. Willfully place any poison or poisoned food where the same is accessible to any such animal.

## **Chapter 6.3 Requirements.**

### **Section 6.3.1. License.**

Any owner of a dog or cat shall make application to the City Finance Officer for a license. Such application shall be in writing stating the name, sex, color and other distinguishing characteristics of said dog or cat, and the name of the owner thereof, and that said dog or cat has no vicious propensities so far as known to the application. The application shall be made on a printed blank furnished by the City Finance Officer, and shall be filed with said City Finance Officer. Licenses issued pursuant to this Section are valid from January 1 through December 31. Costs will be prorated by quarters.

### **Section 6.3.2. Fee, Tag.**

The applicant shall pay to the City Finance Officer as a license fee the sum of Ten Dollars (\$10.00) for unspayed or unneutered dogs and cats of one (1) year of age or older. They shall pay the sum of Five Dollars (\$5.00) for spayed or neutered dogs and cats and all dogs and cats under the age of one year. In the case of spayed or neutered animals, the applicant must furnish a registered Veterinarian's statement confirming that fact. A certificate by a registered Veterinarian showing that such dog or cat has been inoculated or has a continuing immunity against Rabies within six (6) months of such application shall accompany the application. It shall be the duty of the City Finance Officer at the time of the issuance of the license herein provided for, to furnish and deliver to said applicant, a metallic fiber or plastic tag for each dog and cat for which such license is issued. The tag shall be stamped or engraved with the registered number of the dog or cat and the year when registered. It shall then be the duty of the owner of the dog or cat to place a collar around the neck of such animal so owned and kept by him, on which collar shall be securely fastened a tag so furnished by the City Finance Officer. In case of the loss of any tag so issued, the said City Finance Officer is authorized to issue a duplicate thereof upon payment of the actual cost of same upon application being made therefore, and upon satisfactory proof that such tag has been lost.

### **Section 6.3.3. Immunizations.**

Every animal, except fowl, fish and reptile, authorized by this ordinance held as a domestic pet in the city, three (3) months of age or older, is hereby required to be immunized against rabies by a licensed veterinarian or other qualified person. Immunization against rabies shall be given by such intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the state veterinarian. Any owner acquiring an animal authorized by this ordinance by purchase, gift, birth or other method shall have such animal immunized against rabies immediately after acquisition or when the animal reaches the age of three (3) months. In the event no immunization serum is available for a particular animal, then it need not be immunized.

#### **Section 6.3.4. Immunization Tag.**

All veterinarians or other qualified persons designated by the health officer to immunize animals against rabies shall provide the owner at the time of immunization with a metallic tag bearing the date of the immunization. All animals shall wear the above tag on a collar, harness or chain when off the premises of the owner.

### **Chapter 6.4 Vicious Animals**

#### **Section 6.4.1. Who May Declare.**

The Mayor, animal control officer, a law enforcement officer or an attending physician of any victim of an animal bite or scratch may declare an animal vicious.

#### **Section 6.4.2. Willful Trespass or other Tort.**

No animal may be declared vicious if the injury or damage is sustained to any person or animal that is committing a willful trespass or other tort or criminal act upon premises occupied by the owner or keeper of the animal.

#### **Section 6.4.3. Notification.**

When an animal is declared to be vicious as provided for above, the City shall notify the owner or keeper of such declaration in writing that such animal is vicious which notice shall be serviced either in person or by mailing such notice by certified mail.

#### **Section 6.4.4. Compliance Required.**

The owner or keeper of an animal that has been declared vicious then must comply with the following:

- a. If the animal is kept indoors, the animal shall be under the control of a person over 18 years of age.
- b. If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet and under the control of a person over 18 years of age.
- c. If the animal is outdoors and unattended, the animal must be locked in an escape proof kennel approved by the Chief of Police or his representative.

#### **Section 6.4.5. Animals off Premises may be seized.**

Any vicious animal found off the premises of its owner, other than as provided for in this Ordinance, shall be seized by the animal control officer or any police officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any police officer may order the owner to deliver the animal to the animal

shelter within 24 hours. The owner shall be ordered to appear in court to show just cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer of any police officer shall use such means as is necessary to impound the animal.

**Section 6.4.6. Kennel Standards.**

Minimum standards shall include the following:

- a. Fencing materials shall not have openings with a diameter of more than two (2) inches, and in the case of a wooden fence the gaps shall not be more than two (2) inches.
- b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
- c. The required pen or structure shall have a top and bottom with both secured to the sides.
- d. The pen or structure shall protect the animal from the elements.
- e. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects within reach of the animal.
- f. A sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

**Section 6.4.7. Insurance.** (Ordinance 534)

The owner shall carry a minimum of \$250,000 in liability insurance for the purpose of covering the medical and/or veterinary costs resulting from the vicious actions or any other damages the animal may do or cause to be done. Proof of such insurance shall be filed with the Chief of Police.

**Section 6.4.8. Licensing Requirements.**

The owner shall comply with the licensing requirements of the City Ordinances and present proof of a current rabies vaccination.

**Section 6.4.9. City may Impound.**

The City at the owner or keeper's expense may impound the vicious animal until such time as all provisions outlined above are complied with.

**Section 6.4.10. Euthanization.**

If the conditions outlined above are not complied with, the owner shall euthanize the animal in a humane manner. Proof of euthanasia shall be filed with the City Office.

**Section 6.4.11. Prosecution.**

The owner may be subject to prosecution for failure to comply. Animals impounded under this section shall be dealt with as provided herein.

**Chapter 6.5 Enforcement**

**Section 6.5.1. Authority.**

The Animal Control Officer, any law enforcement officer, or other person of proper authority is hereby authorized and empowered to enforce all provisions of this Title.

**Section 6.5.2. Interference Prohibited.**

No person shall hinder, delay or obstruct any person in their ability to enforce the provisions of this Title.

**Section 6.5.3. Allowable Enforcement Activities.**

Any person authorized to enforce the provisions of this Title shall, having reasonable basis to believe a violation of this ordinance has occurred, have the power to:

- a. Lawfully enter the premises where the animal(s) is (are) kept;
- b. Examine such animal; and
- c. Take possession and impound such animal(s), when in the officer's opinion, a violation has occurred. Any animal impounded under this section shall be dealt with as provided herein.

**Section 6.5.4. Impounded Animals.**

Any impounded animal shall not be released by the Animal Control Officer to any person until such animal has been immunized against rabies; provided no animal so impounded shall be immunized if the owner can present a certificate of current immunization having been previously performed.

**Article 6.5.4.1. Notice to Owner.** The owner of any animal impounded under the provisions of this Ordinance, if his identity and location can be obtained by reasonable means, shall be notified within twenty-four (24) hours that his animal has been impounded.

**Article 6.5.4.2** Costs. (Ordinance 546)

**6.5.4.2.1** Before any person may redeem any animal impounded under the provision of this Ordinance, that person shall pay to the person or proper authority an impoundment fee as set by the City Council. The person redeeming such impounded animal under the provisions of this Ordinance shall receive a dated receipt signed by the City Finance Officer or Animal Control Officer. The receipt for payment of impoundment and boarding costs must be presented to the person, association or corporation housing the impounded animal before such animal may be redeemed.

**6.5.4.2.2** The owner of any impounded animal that has not been vaccinated or licensed under this Title, upon satisfactory proof of ownership, may redeem the animal by payment of the fees determined by the City Council. In addition, by making a deposit of fifty dollars (\$50.00), the owner shall be allowed forty-eight (48) hours to get such animal vaccinated and properly licensed. If the owner fails to produce a certificate of vaccination and city license within forty-eight (48) hours, the deposit shall be forfeited and turned over to the City Finance Officer to be placed in the general fund and the animal may be impounded again. Upon presentation within forty-eight (48) hours of a license being issued and certificate of vaccination, the deposit shall be refunded.

**6.5.4.2.3** If the owner of any impounded animal shall fail to redeem the animal within five (5) days, including Sundays and holidays, unclaimed animals will be put up for adoption or disposed of.

## **Chapter 6.6 Rabid Animals**

Anytime the Animal Control Officer or any law enforcement officer suspects an animal within the City is infected with rabies, the City may require it to be impounded for observation as hereinafter provided.

### **Section 6.6.1. Report of Suspected Cases.**

Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the Animal Control Officer, or the local law enforcement, describing the animal and giving the name and address of the owner if known.

### **Section 6.6.2. Impoundment for Observation.**

**Article 6.6.2.1** When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must within 24 hours place the animal under the care and observation of the Animal Control Officer or a licensed veterinarian. The period of observation shall be a period of not less than ten days except in those cases when an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for the animal. The Animal Control Officer, or any law enforcement officer, may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.

**Article 6.6.2.2** At the end of the ten-day observation period the animal shall be examined by a licensed veterinarian and, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.

**Article 6.6.2.3** Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have exposed to rabies shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

**Article 6.6.2.4** Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

### **Section 6.6.3. Destruction of Rabid Animals.**

Any animal reasonably believed to have rabies, and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer or the Animal Control Officer may destroy the animal. The owner shall pay any expense incident to the impoundment, destruction or diagnosis of rabid animals thereof. Neither the City nor any person authorized by this section shall be liable for the destruction of any animal when done under circumstances as set forth in this section.

## **Chapter 6.7 General Provisions**

### **Section 6.7.1. Contracting for Care.**

The City Council is hereby authorized to enter into any contract with any person, association or corporation for the housing, care, disposition or destruction of animals impounded under the provisions of this Ordinance.

**Section 6.7.2. Penalties.**

Violation of this Ordinance may result in the impoundment of the animals if such is required by this Ordinance and upon conviction thereof; the owner of any animal may be punished according to the general punishment provisions of the City's revised Ordinance.

**Section 6.7.3. Conflict.**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

