

# **SAFETY CORNER**

## **Public Safety Newsletter**

**TOPIC: ANIMAL CONTROL ORDINANCES**

Written By: John Parker - Animal Control Officer

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Hello – I am Animal Control Officer John Parker. As the Animal Control Officer at the Mitchell Department of Public Safety I receive many calls and questions on the animal control process, so I have decided to do an overview of city ordinances in reference to animal control policies which are listed below:

### **ANIMAL CONTROL**

#### **6-1-1: DEFINITIONS:**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

**AT LARGE:** An animal shall be deemed to be running at large 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.

**LEASH:** A cord, thong or chain by which an animal is controlled by the person accompanying it.

**OWNER:** Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to is the owner of the animal within the meaning of this chapter.

**PET CONTROL OFFICER:** The person designated by the city council to be responsible for the enforcement of this chapter and who shall work with other law enforcement officials in the enforcement of this chapter. (1984 Code § 6-1)

#### **6-1-2: RABIES CONTROL:**

A. Cooperation With County, State And Federal Officials: The city shall cooperate with the state department of health, the state livestock sanitary guard, the U.S. fish and wildlife service, the U.S. public health service, the U.S. department of agriculture, state and local veterinary associations and any other county, state or federal agency concerned with the control of rabies in a combined effort to reduce rabies in wildlife and domestic animals. The city shall institute such additional measures for the control of rabies as may be deemed necessary. (1984 Code § 6-14)

B. Vaccination Required:

1. An animal shall be considered unvaccinated after the expiration of thirteen (13) months following the date of its latest rabies vaccination; provided, however, that if a licensed veterinarian shall issue a certificate certifying the effective period of a vaccination, the animal shall not be considered unvaccinated until after the expiration of the certified effective period of the vaccination.
2. Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal vaccinated against rabies within one month following acquisition or when the animal reaches the age of six (6) months. (1984 Code § 6-15)

C. Impounded Animals: Any impounded animal shall not be released by the pet control officer or his agent to any person until such animal has been vaccinated against rabies; provided, however, no animal so impounded shall be vaccinated if the owner can present a certificate of current vaccination. (1984 Code § 6-16)

D. Impounding For Observation:

1. When any person owning or harboring a dog, cat or other animal which is not currently vaccinated for rabies, or for which the owner cannot produce a current certificate of vaccination issued by a licensed veterinarian, has been notified that said animal has bitten any person, the animal must be impounded at the city impound facility for the period of ten (10) days, under the observation of a licensed veterinarian, with the expense of such impoundment and observation to be borne by the owner of the animal. (Ord. 1745, 8-2-1993)

2. If it is determined by the licensed veterinarian at the end of the ten (10) day impoundment period that the animal is not rabid, and provided the animal is not determined to be a dangerous dog under [article A of this chapter](#), the animal may be returned to its owner, subject to the owner: a) paying impound charges and all other expenses incident to the observation of the animal; b) the animal is properly vaccinated for rabies; and c) any other provisions or requirements of law, including licensing, are fully complied with, otherwise the animal shall be disposed of. (Ord. 1745, 8-2-1993; amd. 2005 Code)

3. Upon the advice of a licensed veterinarian or medical doctor, the chief of police may order and require that the animal be immediately destroyed, and that the head or other organs or parts, as required for the diagnosis of rabies, be sent to an appropriate laboratory for an expedited determination of whether or not the animal committing the bite is infected with rabies.

4. Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have been exposed to rabies, shall be subject to the control and direction, including disposition as necessary, of the licensed veterinarian conducting the observation and impoundment. (Ord. 1745, 8-2-1993)

E. Keeping Rabid Animals: No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies. (1984 Code § 6-18)

F. Reports Of Suspected Cases:

1. Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the pet control officer or other proper city official, describing the animal and giving the name and address of the owner if known. (1984 Code § 6-19)

2. Veterinarians within the city receiving information or reports of suspected rabies in wild or domestic animals shall report such information to the pet control officer or other proper city official. (1984 Code § 6-20)

3. Immediately upon treatment of any person bitten by an animal, physicians within the city shall report such information to the pet control officer or other proper city official. (1984 Code § 6-21)

- G. Destruction Of Rabid Animals: Any rabid animal may be destroyed by the pet control officer or a veterinarian upon written authorization of the proper city official. (1984 Code § 6-22)
- H. Muzzling Proclamation; Authority Of City: Whenever the proper city official shall have determined that there is danger of the existence or spread of rabies in the city, he shall make the facts known to the mayor, in writing. The mayor, upon receipt of said facts, may, by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty eight (48) hours after the publication of said proclamation, all animals found off the premises of the owner, unmuzzled, shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation for ten (10) days and, if cleared by a licensed veterinarian, may be claimed by the owner, and the owner must pay the expenses incidental thereto. Any animal not claimed may be disposed of in a humane manner. (1984 Code § 6-23; amd. 2005 Code)

### **6-1-3: ANIMALS AT LARGE<sup>1</sup>:**

- A. Running At Large Prohibited: The owner of an animal shall not permit such animal to run at large within the city. Whenever an animal is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.
- B. No Pet Areas: The city finds that animal defecation within certain areas within the public grounds and parks within the city, which are subject to concentrated use by the public, constitutes a public nuisance. Accordingly, the park and recreation board shall have authority, in their discretion, to designate areas within city park property as no pet areas, and post such areas as no pet areas as shall be required to give reasonable notice to the public. The golf and cemetery board shall have authority, in their discretion, to designate areas of city property within and adjacent to the cemetery and golf course and on the bike and pedestrian paths that run adjacent to the golf course and cemetery, as no pet areas or as areas that will have restrictions placed upon pet conduct, and post such areas as shall be required to give reasonable notice to the public of those restrictions. Any other area of public property within the city designated by the city council as a no pet area shall also be posted as shall be required to give reasonable notice to the public. It shall be unlawful for any person to permit any animal under his ownership or control to be present upon any park or public ground designated as a no pet area, or be engaged in prohibited pet conduct and for which signs providing reasonable notice to the public are posted. Any person who violates this subsection by causing or permitting the presence of an animal in an area so designated and posted as a no pet area or allows his/her pet to violate the pet conduct prohibited shall, upon conviction, be subject to the general penalty in section [1-4-1](#) of this code. (Ord. 2286, 7-21-2008)

### **6-1-4: PROHIBITED ACTS AND CONDITIONS:**

- A. Disturbance Of Peace: The owner of an animal shall not suffer or allow the animal to disturb the peace and quiet of the city<sup>2</sup>. (1984 Code § 6-4)
- B. Cruelty To Animals: No person shall wilfully or negligently maltreat, abuse, or neglect, in a cruel or inhumane manner, any animal or fowl. (1984 Code § 6-5)
- C. Stray, Abandoned Or Unkept Animals: No person shall harbor or keep any stray animals. Animals known to be strays shall be immediately reported to the pet control officer. (1984 Code § 6-6)

- D. Poisoning Of Animals: Unless recommended by the proper city official, it shall be unlawful for any person to wilfully or maliciously administer or cause to be administered poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal or to wilfully or maliciously place any poison or poisoned food where the same is accessible to any such animal. (1984 Code § 6-7)
- E. Nuisance Animals: No person shall keep or maintain any animal or animals, including fowl, within the city or within its jurisdictional limits on the scale or basis which causes, creates or constitutes a nuisance. Pursuant to South Dakota Codified Laws [9-29-13](#), the city council may consider any specific case or circumstance in respect to the keeping of an animal or animals within the jurisdictional limits if the city, and pursuant to such state law authority may by resolution declare the existence of a public nuisance and require abatement of the same. (Ord. 1745, 8-2-1993)
- F. Keeping Of Animals In Unoccupied Structures: No person shall, within the city, keep or maintain any animal in or upon an enclosed and unoccupied structure and upon premises which is not the residence of the owner unless prior consent therefor shall have been obtained, in writing, from the proper city official. The proper city official shall not give his consent therefor unless the owner or person seeking such consent is satisfied that a health and sanitation nuisance will not be created and that the safety and protection of the public is adequately provided for. The proper city official may withdraw his consent upon notice to the owner or person in possession of the premises, if said official deems, at any time, that a health and sanitation nuisance is created or that the safety and protection of the public is not adequately provided for. (1984 Code § 6-9)
- G. Abandoning Animals: No person shall abandon an animal in the city. (1984 Code § 6-10)
- H. Fowl: No person shall allow any ducks, geese, chickens or other domestic fowl to run at large, nor shall any person keep enclosed or housed any domestic fowl within the distance of one hundred feet (100') of any occupied dwelling or building, or within any residential area of the city. No person owning or in control or possession of any pigeons within the city shall suffer, allow or permit the same or any of them to roam or fly at large within the city. (Ord. 1745, 8-2-1993)
- I. Keeping Livestock Within City:
1. No person shall keep any horse, cow, goat or sheep or erect or maintain any building or enclosure for use in keeping any of such animals within one hundred feet (100') of any dwelling house or building used for human habitation other than that of the owner of such animals.
  2. No person shall keep or maintain any building or enclosure where livestock is kept unless the same be, at all times, kept in a clean and sanitary condition.
  3. No person shall place, keep or maintain any live hogs within the city except such hogs as are kept in the yards or pens of the railway companies for shipping purposes or in pens, houses or yards of the stockyards, packing houses or butcher shops and kept for the purpose of immediate shipment or slaughter. (1984 Code § 6-12)
- J. Picketing Of Animals: No person shall, within the city, stake out or tether any domestic animal in such a manner as to permit such animal to go upon any street, alley or sidewalk or to approach within one hundred feet (100') of any dwelling, house or building used for human habitation other than that of the owner or keeper of such animal; except, that a small household pet may be tethered by its owner within one hundred feet (100') of another's dwelling house or building; provided, such small household pet does not create a nuisance. (Ord. 1592, 4-18-1988)

K. Animal Feces: No owner, keeper, caretaker or attendant of an animal shall allow the animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner, keeper, caretaker or attendant must immediately and thoroughly clean the fecal matter from such property. Any person who violates this subsection shall, upon conviction of such violation, be subject to the general penalty in section [1-4-1](#) of this code. (Ord. 1902, 5-4-1998)

#### **6-1-5: ENFORCEMENT AND IMPOUNDMENT:**

A. Enforcement: It shall be the duty of the pet control officer to carry out and enforce all of the provisions of this chapter, and no person shall hinder, delay or obstruct the pet control officer, his assistant or any law enforcement officer when engaged in capturing, securing or impounding any animal. (1984 Code §§ 6-24, 6-25)

B. Pet Shelter Established: The city council shall, by resolution, establish and maintain facilities to be used for a pound within the city or may contract with any private sector for the establishment and maintenance of a pound. Such public pound shall be under the charge of the chief of police or his designated representative. (1984 Code § 6-26)

C. Authority To Impound: Any police officer or any other person of proper authority is hereby authorized and empowered to impound any animal found within the city in violation of any provision of this chapter. (1984 Code § 6-27)

D. Costs For Impoundment: Before any person may redeem any animal from impoundment, he shall first pay the redemption fee as shall be established from time to time by resolution of the city council. (Ord. 1864, 1-6-1997)

E. Notice Of Impoundment: The owner of any animal impounded under the provisions of this section, 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. (1984 Code § 6-29)

F. Redemption By Person Other Than Owner: If the owner of any animal impounded under the provisions of this section shall fail to redeem such animal within three (3) days, not counting Saturdays, Sundays and holidays, after such impounding, any other person, subject to the discretion of the chief of public safety or such other person as he shall designate, may redeem or adopt such animal from the pet shelter and be the lawful owner thereof. (Ord. 2109, 12-15-2003)

It shall be unlawful for any person to fraudulently adopt an otherwise unredeemed animal for the purpose of avoiding the payment of redemption fees otherwise chargeable against the owner of the animal, whether such fraudulent redemption is committed by the owner of the animal or by another person for the purpose of returning the animal to its prior owner.

G. Disposition Of Unredeemed Animals: All animals impounded under the provisions of this section and remaining unredeemed after five (5) consecutive days, not counting Sundays and holidays, of the impounding, unless impounded for a longer specified time, may be disposed of by any humane means. (Ord. 1864, 1-6-1997)

H. Impoundment By Private Persons: The pet control officer shall not receive any animal into the impoundment facilities from any person unless such person shall leave his full name and place of residence, which shall be registered in a proper book kept by the pet control officer. It shall be unlawful for any person to give any false information or statement concerning the owner, keeper or harbinger of any animal brought into the impoundment facilities or impounded therein. (1984 Code § 6-32)

I. Records Kept:

1. Impoundment Records: The pet control officer shall keep an accurate record of all animals received at the shelter and released, including the date and from whom received and description of the animal and the name and address of the person receiving the animal. He shall also keep an accurate count and description of animals destroyed. (1984 Code § 6-33)

2. Record Of Animal Bites: The pet control officer shall keep an accurate record of all animal bites and shall use forms supplied by the proper city official. The forms shall be made out in duplicate and filled out in detail with one copy sent to the proper city official and the other copy kept on file by the pet control officer for his record. (1984 Code § 6-34)

#### J. Injured Animals:

1. Unlicensed Animals: In those instances when an animal without identification is injured, and the owner cannot be found, it will be the duty of the pet control officer to determine if that animal, for humane reasons due to the extent of the injury and the suffering, shall be destroyed. The city and/or pet control officer shall not be held liable in any way for this humane act.

2. Licensed Animals: In those instances where an injured animal with a license tag issued by the pet control officer is picked up, it shall be delivered to a licensed veterinarian. All expenses of the city and the veterinarian charges and fees must be paid by the pet owner. (1984 Code § 6-35)

#### **6-1-6: VIOLATIONS AND PENALTIES:**

A violation of any provision of this chapter is a separate offense and is punishable as provided in the general penalty in section [1-4-1](#) of this code. (Ord. 1745, 8-2-1993; amd. 2005 Code)

**Footnotes** - Click any footnote link to go back to its reference.

[Footnote 1:](#) See subsections [8-3-5C](#) and [8-6-2H4](#) of this code.

[Footnote 2:](#) See subsection [5-5-4B5](#) of this code.

### **ARTICLE A. DANGEROUS DOGS**

#### **6-1A-1: DEFINITIONS:**

Whenever used in this article, the following terms shall be defined as follows:

DANGEROUS DOG: A. Any dog that when unprovoked approaches in a dangerous or terrorizing manner towards any person in an apparent attitude of attack or which when unprovoked displays menacing behavior towards any person, and with the apparent capability to cause severe injury to persons or other animals; or

B. Any dog possessing the apparent capability to cause severe injury, and with a known propensity, tendency or disposition to attack when unprovoked, or to otherwise endanger the safety of human beings or domestic animals; or

C. Any dog which inflicts serious injury, assaults or otherwise attacks a human being or domestic animal without provocation, on public or private property;

D. Any dog which exhibits vicious tendencies; and

E. Any dog which bites a human being and causes injury, whether or not the injury is a severe injury, and the owner has knowledge that the dog has the propensity to bite human beings by reason of the owner having had notice on prior occasion that the dog has actually bitten a human being and caused injury.

**MENACING AND MENACE:** The display by a dog of a disposition, determination, or intent to attack or inflict injury or harm to a human being or other domestic animal.

**OWNER:** Any person possessing, harboring, keeping, having an interest in, or having control or custody of a dog.

**PERSON:** Any individual, partnership, firm, corporation or employee thereof, or other legal entity, unless otherwise stated.

**SEVERE INJURY:** Any physical injury that results in broken bones, lacerations requiring either multiple stitches or cosmetic surgery, or which requires medical attention which is more than incidental and which endangers the health of any person. Multiple puncture wounds from successive bites constitutes severe injury for the purpose of this article.

**UNPROVOKED:** That the dog was not hit, kicked or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched or squeezed by a person, nor threatened or intimidated under circumstances where the dog was not allowed free opportunity to escape. (Ord. 1745, 8-2-1993)

### **6-1A-2: DETERMINATION OF DANGEROUS DOGS:**

A. Determination Procedures: The chief of police shall have the authority to make a determination that a dog is dangerous, as defined in section [6-1A-1](#) of this article, upon the complaint of any person, or upon his own information. The chief of police shall make such determination after a reasonable investigation of the physical and behavioral characteristics, including breed characteristics, of the dog in question. In the event that the dog in question is alleged to have caused severe injury to any person, the chief of police may impound the dog, at the owner's expense, pending the investigation and determination of the complaint. If, after reasonable investigation, the chief of police determines that the dog is dangerous, he may order the owner to either remove the dangerous dog from the jurisdictional limits of the city, or in the alternative, deliver the dangerous dog to the city impoundment facility for humane euthanization. The owner of the dog determined to be dangerous by the chief of police may request the chief of police to review his determination, and in such case the chief of police shall reconsider his determination and consider any additional information or evidence the owner may offer in respect to the issue of whether the dog in question is a dangerous dog according to the standards of this article. Upon such reconsideration, the chief of police may, but shall not be required to, confer with a licensed veterinarian concerning whether the dog in question is a dangerous dog under the terms of this article. The determination of the chief of police after such reconsideration that the dog in question is a dangerous dog shall be his final determination of the matter, and the owner shall be required to comply immediately with the order of the chief of police to either remove the dangerous dog from the jurisdictional limits of the city, or in the alternative deliver the dangerous dog to the city impoundment facility for humane euthanization. In the event that the chief of police determines that the dog in question is not a dangerous dog, then the dog, if impounded, shall be returned to the owner. Nothing in this section shall excuse the owner from complying with any terms or conditions relating to dogs with known propensity to bite.

B. Appeal To City Council: The owner of a dog declared to be a dangerous dog may appeal the determination of the chief of police to the city council; provided, however, that the owner may not defer compliance with the order of the chief of police to remove the dangerous dog from the jurisdictional limits of the city, or deliver the same to the city impoundment facility for humane euthanization, provided that the euthanization shall not be carried out if the owner shall have paid in advance the daily charge of the boarding at the impound facility for such number of days as will be required for the matter to come before the city council at its next regularly scheduled meeting. (Ord. 1745, 8-2-1993)

### **6-1A-3: ANIMALS WITH KNOWN PROPENSITY TO BITE OR BE POTENTIALLY DANGEROUS:**

Any dog or other animal which has bitten a human being and caused injury thereby, which is not deemed serious injury, or which occurred under circumstances for which there is justification or excuse, and the dog is not determined to be a dangerous dog, shall be deemed a potentially dangerous dog or animal. The owner of any such potentially dangerous dog or animal shall comply with the following requirements as a condition of maintaining such animal within the jurisdictional limits of the city:

- A. Registration: The police department shall maintain a registry of each dog bite or other animal bite reported, which occurs within the city. The owner of any such dog or animal must register such dog or animal with the police department. The application for such registration shall contain the name and address of the owner, the breed, age, sex, color and any other identifying marks of the dog, the location where the dog is to be kept if not at the address of the owner and any other information which the chief of police may require. The application for registration pursuant to this subsection shall be accompanied by a registration fee as established from time to time by resolution of the city council. Each potentially dangerous dog or animal registered pursuant hereto shall be assigned an official registration number by the department. Such registration number shall be inscribed on a metal tab which shall be attached to the collar of the such dog or other animal at all times. The tag and a certificate of registration shall be of such form and design and shall contain such information as the chief of police shall prescribe and shall be issued to the owner upon payment of the registration fee and the presentment of sufficient evidence that the owner has complied with all of the orders of the chief of police or his designated animal control officer in respect to said potentially dangerous animal or dog.
  
- B. Confinement: The chief of police may order the owner of a potentially dangerous animal or dog to confine the animal or dog, at all times, indoors or in a proper enclosure which shall consist of a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, or any part of their bodies or other foreign objects, and designed to prevent the animal from escaping; such pen or structure shall have secure sides and prevent the dog from digging his way out through the bottom or under the sides. The pen or structure shall also provide the animal or dog with protection from the elements. The chief of police may further require the owner to conspicuously display a sign designed with a warning symbol approved by the chief of police which indicates to both children and adults the presence of a potentially dangerous dog or animal, on the pen or structure and on or near the entrance to the residence where the dog is kept. At any time the dog is not confined as required herein, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person, and kept on a leash no longer than six feet (6') with the owner or some other responsible person attending such dog.
  
- C. Confiscation And Impoundment: In the event that the owner of a potentially dangerous dog violates any order of the chief of police such owner's dog may be confiscated and impounded, and shall be disposed of in a manner as provided for the humane disposal of dangerous dogs as provided in this article. Any dog which bites a human being and causes injury thereby on more than one occasion, even though the injury may not be severe, shall be deemed a dangerous dog and shall either be removed from the jurisdiction of the city by its owner, or the dog shall be disposed of by humane euthanization, in accordance with the provisions of this article relating to dangerous dogs. (Ord. 1745, 8-2-1993)

#### **6-1A-4: PROHIBITED ACTS:**

##### **A. Acquisition Of Dangerous Dog:**

1. No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to attack or menace human beings or domestic animals when not provoked.

2. No person shall sell, offer for sale, breed, buy or attempt to buy any dangerous dog within the city.

B. Nuisance Dogs: Any dangerous dog found within the city is declared to be a public nuisance. The chief of police shall order the owner of a dangerous dog to remove the dangerous dog from the jurisdictional limits of the city, or in the alternative, to deliver the dangerous dog to the city impoundment facility for humane euthanization. (Ord. 1745, 8-2-1993)

#### **6-1A-5: EXCUSED BEHAVIOR:**

No dog shall be declared dangerous pursuant to section [6-1A-2](#) of this article if the threat, injury or damage caused by such dog was sustained by a person who was tormenting, abusing or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused or assaulted the dog; nor shall any dog be declared dangerous if it was responding to pain or injury. (Ord. 1745, 8-2-1993)

#### **6-1A-6: ENFORCEMENT; PENALTIES:**

A. Enforcement: Authorized officers and employees of the police department, and any other persons designated by the chief of police, shall be empowered to enforce the provisions of this article.

B. Humane Destruction: The chief of police may order the humane destruction of any dog that kills or causes severe injury to a human being. (Ord. 1745, 8-2-1993)

C. Penalties:

1. Any person who violates any provision of this article shall be guilty of a misdemeanor punished as provided in the general penalty in section [1-4-1](#) of this code. (Ord. 1745, 8-2-1993; amd. 2005 Code)

2. In addition to the penalties prescribed by this subsection, any person who violates any order of the chief of police in respect to the disposition of any dog determined to be a dangerous dog shall be liable for a civil penalty of not more than five thousand dollars (\$5,000.00). (Ord. 1745, 8-2-1993)

It is important to remember that any violation of any of the above city ordinances is punishable by a \$104 fine per incident.

Sincerely,  
**John Parker**  
Animal Control Officer

If you would like to learn about certain topics please email [cindy@mitchelldps.com](mailto:cindy@mitchelldps.com) and reference Safety Corner.

