

FALL RIVER COUNTY ORDINANCE #2010-01

AN ORDINANCE PROVIDING FOR THE CONTROL OF ANIMALS WITHIN FALL RIVER COUNTY

BE IT ORDAINED by the Fall River County Commission that Ordinance _____ of Ordinances of Fall River County be implemented to read as follows:

PURPOSE: Public health, safety, and welfare are the primary concerns of the Fall River County Commission. Although the first and primary responsibility for animal control belongs to the owner, this ordinance is intended to address the situations where owners of animals covered by this ordinance fail to take proper responsibility for their animals.

ARTICLE 1. GENERAL

SECTION 1. DEFINITIONS

For the purpose of this chapter the following words and phrases shall have the meanings herein ascribed to them:

- A. Animal. Any mammal, bird, reptile, amphibian or fish, except humans.
- B. Domestic Animal. Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting temperament, color, conformation, or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. Said term is to include, but not limited to, dogs and cats.
- C. Animal Control Officer. The officer(s) approved by the Fall River County Commission and authorized to investigate and enforce violations of this ordinance and the laws of the State of South Dakota relating to cruelty, abuse, and injury to animals. The Fall River County Sheriff and his deputies shall act as Animal Control Officers, in the absence of or at the request of the Animal Control Officer.
- D. At large. Any dog located off the property of its owner and not under control of a competent person at least ten (10) years of age.
- E. Control. Any dog is under control if it is restrained by a leash, cord, chain, or electric collar or is being carried or is within a vehicle being driven or parked on the highways.
- F. Dangerous Animal. Any animal that, by itself or by environmental circumstances, at the determination of an animal control officer after investigation, is a threat to the physical well being of other animals or humans.
- G. Owner. Any person, partnership, corporation, or other legal entity owning, harboring or keeping any animal, or in the case of a person under the age of 18, that person's parent(s) or legal guardian.

H. Shelter Manager. The supervisor of the Animal Shelter. The Shelter Manager performs or causes to be performed the professional services required in the care, treatment or euthanasia of the animals being handled. The shelter manager shall not be an employee of Fall River County.

I. Vicious Dog.

1. Any dog which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack or bites, inflicts injury, assaults or otherwise attacks a human being upon the streets, sidewalks, or any public grounds or places; or

2. Any dog which, on private property, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack or bites, or inflicts injury, or otherwise attacks a mail carrier, meter reader, service person, delivery person, or other employed person who is on the private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with or as a guest of the owner of such private property.

3. Has severely injured or killed a domestic animal or livestock while off the owner's property; or

4. Has been used primarily or in part for the purpose of animal fighting or is an animal trained for animal fighting.

J. Bite. The grasping or tearing of clothing, any abrasion, scratch, puncture, laceration, bruise, or piercing of the skin inflicted by the teeth of an animal.

SECTIONS 2. RECORDS

A. It shall be the duty of the Shelter Manager and the Animal Control Officer(s) to keep, or cause to be kept, accurate and detailed records of the finding, impoundment, and disposition of all animals coming into their custody.

B. It shall be the duty of the Shelter Manager and the Animal Control Officer(s) to keep or to cause to be kept, accurate and detailed records of the following:

i) All bite cases reported to him/her and the investigation of the same;

ii) All citations and warning tickets issued by him/her; and

iii) All investigations conducted by him/her concerning reported violations of state law regarding inhumane treatment of animals.

C. It shall be the duty of the Shelter Manager and the Animal Control Officer(s) to keep, or cause to be kept, accurate and detailed records.

D. It shall be the duty of the Shelter Manager or the Animal Control Officer(s) to keep, or cause

to be kept, records of all animals quarantined for animal bites and proceedings regarding vicious dogs.

SECTION 3. ENFORCEMENT

A. The provisions of this Ordinance shall be enforced by the Animal Control Officer. The complaining party must first file a written complaint with the Animal Control Officer and the complaining party must agree to testify in open court to the allegations made in the written complaint.

B. The Animal Control Officer may issue a citation for a violation of this ordinance or may issue warning tickets requiring corrections of the violation.

C. No person may hinder, delay or obstruct the Animal Control Officer in the lawful performance of any duty under this ordinance, or seek the release of any animal in the custody of the Animal Control Officer.

D. Any person, firm, or corporation violating any provision of this ordinance shall be subject to all applicable civil and criminal remedies allowed under the laws of the State of South Dakota, in addition to a fine of not more than five hundred dollars (\$500) and/or 30 days in the Fall River County Jail may be imposed by the ordinance herein. A person violating this ordinance may be required to make restitution to any victim of said violation.

E. The Fall River County Commissioners shall establish a fine schedule that lists the violation and suggested penalty imposed for each violation. Said schedule shall be used the Animal Control Officer as guidance for setting the fine on any citation given. However, said schedule is not to be binding upon the Court.

F. This ordinance shall apply to all of Fall River County, State of South Dakota, except for those areas within any organized municipality.

G. The omission to specify or affirm in this ordinance any liability to any damages, penalty, forfeiture, or other remedy imposed by law and allowed to be recovered or enforced in any civil action or proceeding for any act or omission declared punishable in this ordinance does not affect any right to recover or enforce the same.

ARTICLE II: REGULATIONS

SECTION 1. DOGS AT LARGE

No owner may permit his dog to be at large off of the owner's premises.

SECTIONS 2. NOISY DOGS

No person may allow any dog under his/her control to habitually make loud noises to disturb or annoy persons who are of ordinary sensibilities.

SECTION 3. KEEPING OF VICIOUS DOG

A. It shall be considered a public nuisance for any person to own or keep a vicious dog, except under specific conditions set forth herein.

B. No dog may be declared vicious if an injury or damage is sustained to any person who was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or who was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

C. The Animal Control Officer(s) may make a determination that a dog is vicious after taking the following into consideration:

- i) The nature and severity of the attack; and
- ii) Whether the dog has shown a propensity to display dangerous, aggressive behavior and is able or likely to inflict injury to another animal or person.
- iii) Previous incidents of a like nature.

D. After a dog has been declared vicious, the owner of the dog shall be notified accordingly in writing by the Animal Control Officer. The written notification shall also include any containment procedures or facilities deemed necessary by the Animal Control Officer to control said animal, which may include, but not limited to, muzzling, chaining, double fencing, caging or euthanasia.

E. Any dog declared vicious by the procedures set forth in this Section that is subsequently found off the premises of the owner or if the Animal Control Officer determines that a violation of the written containment notice has occurred, the Animal Control Officer shall immediately seize and impound said dog. If the dog cannot be captured without undue risk to the safety of the Animal Control Officer, it may be immediately destroyed in a manner whereby the head is not damaged. If the dog has been seen running at large and/or has bitten a person or animal, the Animal Control Officer may order the owner or custodian to deliver the dog to the animal shelter within 24 hours to be impounded.

ARTICLE III. IMPOUNDMENT AND DISPOSITION OF ANIMALS

SECTION 1. IMPOUNDMENT OF ANIMALS

A. The Animal Control Officer may seize and impound an animal directly from its owner's property or possession without court order or other written permission in the following circumstances:

- i) Said animal is suspected of having rabies;
- ii) Said animal's life is in immediate jeopardy;
- iii) Said animal poses an immediate threat to the physical well-being of other animals or humans; or
- iv) Said animal has been observed at large by the Animal Control Officer and returns to private property; however, the animal's owner is not present on the property to take control of said animal.

B. When animals are found running at large and their ownership is known or unknown to the Animal Control Officer, such animal(s) may be impounded or at the discretion of the Animal Control Officer, returned to their owner who shall be issued a warning and written notification of containment procedures deemed necessary to control said animal as provided by this ordinance.

C. Immediately upon impounding any animal, the Animal Control Officer shall make every reasonable effort to notify the owner of the animal so impounded and inform the owner of the conditions whereby he may regain possession of his/her animal. If an animal is wearing a rabies tag or other identification, the Animal Control Officer shall immediately after impounding said animal, and before destroying or disposing of it, ascertain the name of the owner from the records of the veterinarian and inform that owner of the conditions whereby he/she may regain possession of his animal.

D. If any owner has requested in writing that his animal be destroyed, the same shall be humanely destroyed. Under no circumstances shall it be sold or given to any other person. The owner shall be charged a fee for the humane destruction of his/her animal.

SECTION 2. REDEMPTION AND DESTRUCTION OF IMPOUNDED ANIMALS

A. Any animal impounded under the provisions of this ordinance and not reclaimed by its owner within four (4) days may be humanely destroyed by the Animal Control Officer, or be sold or placed in the custody of some person deemed to be a responsible and suitable person to the owner of such animal.

B. The Animal Control Officer may destroy any sick or injured animal which has been impounded, if that animal is not wearing a rabies tag, license tag, or other identification, without holding it for four (4) days, if its condition is such that it makes its earlier destruction necessary.

C. Any vicious dog or animal having bitten, scratched or attacked two or more persons and/or domestic animals or livestock shall be destroyed by the Animal Control Officer after at least three (3) days prior actual notice to the owner. The owner shall have the right to request a hearing in Magistrate Court to show cause why said animal should not be euthanized as a dangerous and/or vicious animal. The request for hearing shall be filed with the Fall River County Auditor's Office. If such a request is filed, Fall River County shall take no further action on said animal until after the hearing, except in an emergency to protect public safety or in accordance with any other provision of this ordinance.

SECTION 3. IMPOUNDMENT FEES

A. Any animal impounded pursuant to this ordinance may be reclaimed upon payment by the owner to Fall River County of a fee for each animal reclaimed, plus any charges for boarding the animal and veterinarian services rendered.

B. The Fall River County Commission shall set the fee for reclaiming any animal impounded pursuant to this ordinance.

ARTICLE V. RABIES CONTROL

SECTION 1. BITE CASES, QUARANTINE AND RABID ANIMALS

A. For purposes of this Section, "Veterinarian" shall mean a veterinarian licensed to practice in the State of South Dakota.

B. It shall be the duty of every health care practitioner to report to the Shelter Manager, the names and addresses of persons treated for bites inflicted by animals, together with such information as will be helpful in rabies control

C. Every owner having knowledge that his/her animal has bitten or is suspected of biting a human being, shall forthwith report the same to the Shelter Manager for disposition of said animal under the provisions of this ordinance.

D. All quarantine procedures and all procedures for management of animals that have bitten humans, animals exposed to rabies, and rabid animals, will be in accordance with the current "Compendium of Animal Rabies Control" promulgated by the National Association of State Public Health Veterinarians, Inc. In case of conflict between said Compendium and this ordinance concerning said quarantines and procedures, the recommendation in said Compendium will take precedence over this ordinance.

E. Any animal shall be considered unvaccinated unless proof of a current rabies vaccination effective not less than thirty (30) days prior to the bite is provided within twenty-four (24) hours of the bite. An Animal Control Officer or the State Department of Health may order the destruction of any unvaccinated animal that has bitten a person if, based on sound medical judgments, a greater risk to human life exists by not doing so. In making such determination the following facts may be considered:

- i) The history of the animal, including the possibility of its exposure to rabies;
- ii) The vaccination record of the animal;
- iii) The health of the animal;
- iv) The nature, location, and seriousness of the bite;
- v) The circumstances surrounding the bite, including whether or not the bite was provoked; and
- vi) The tolerance of the person bitten to the vaccines used for treatment.

F. Any dog or cat that bites or attacks a person shall be quarantined at the direction of the Animal Control Officer or any veterinarian for a period of not less than ten (10) days. During quarantine the animal shall be securely confined and kept from contact with any other animal or humans other than the caretaker. If the dog or cat has bitten or attacked while on the premises of the owner and has a current rabies vaccination by veterinarian, the Shelter manager may, if it is determined that the facilities are adequate and the owners are responsible persons, quarantine the animal on the owner's premises. The quarantined animal must, at all times be available for inspection during the quarantine period, and shall be evaluated by the veterinarian at the first sign of illness. Confinement is to be at the owner's expense.

G. At the end of the specified quarantine period, the animal will be examined by a veterinarian at the owner's expense. If the veterinarian finds that the animal is showing no clinical signs or symptoms known to be present in active cases of rabies, the animal will be released from quarantine and may be reclaimed by the owner. The veterinarian shall so notify the Animal Control Officer.

H. Any stray animal that bites a person, if its ownership cannot be ascertained within forty-eight (48) hours of the bite, shall be euthanized and the Animal Control Officer shall arrange to have the animal's head sent to a competent laboratory to be examined for rabies.

I. If a veterinarian, during a routine examination, discovers an animal that may have rabies but is unable to make a definite diagnosis, the veterinarian shall have authority to require, at the owner's expense, any procedure or confinement necessary to make an accurate diagnosis.

J. When any animal has been diagnosed by a veterinarian as being rabid or dies during quarantine or rabies observation, the veterinarian shall immediately send the head of such animal to a competent laboratory for pathological examination and shall notify the proper Public Health Official and Animal Control Officer of reports of human contacts and the diagnosis made of the suspected animal.

K. Every owner whose animal is bitten or scratched by an animal showing positive symptoms of rabies or by a wild or carnivorous mammal or bat not available for testing, shall have that animal

examined by a veterinarian at the owner's expense. Said animal shall be euthanized, quarantined or held for further observation as requested and the owner shall be responsible for all expenses incurred as a result thereof.

L. Any person who kills or causes to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, shall immediately report the same to the Animal Control Officer. No person may sell, give away, remove from the County, or otherwise dispose of such animal without written permission of the Animal Control Officer. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Animal Control Officer. The Animal Control Officer or veterinarian shall direct the disposition of any animal found to be infected with rabies.

M. No person shall fail or refuse to surrender any animal for quarantine or euthanasia as required herein when demand is made by the Shelter Manager. A violation shall be punished pursuant to Article 1, Section 3 of this ordinance.

ARTICLE IV. SEVERABILITY

Each of the provisions of this ordinance is separate and severable and if any provision or any part of any provision hereof is held illegal or invalid, the remaining provisions shall not be affected thereby and shall remain in full force and effect.

FALL RIVER COUNTY COMMISSION

ATTEST:

MICHAEL ORTNER
CHAIRMAN

SUE GANJE, COUNTY AUDITOR
FALL RIVER

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