

Ordinance MC 52 -17

AN ORDINANCE ENACTING THE 2017 MINNEHAHA COUNTY REVISED ANIMAL CONTROL ORDINANCE, AND FOR THE REPEAL OF THE 2002 MINNEHAHA COUNTY ANIMAL CONTROL ORDINANCE AND ANY OTHER RESOLUTIONS, RULES AND REGULATIONS IN CONFLICT HEREWITH.

WHEREAS, the Minnehaha County, South Dakota, Board of County Commissioners finds it necessary to regulate the ownership and possession of animals in order to protect and promote the public health, safety and welfare for the residents and animals in the unincorporated areas of Minnehaha County;

WHEREAS, pursuant to SDCL Ch 40-34, the County may enact ordinances to establish an animal control program and related powers within the County; and

WHEREAS, SDCL § 7-18A-2 provides counties with authority to enact, amend, and repeal such ordinances and resolutions as may be proper and necessary to carry into effect the powers granted to it by law and provide for the enforcement of violations of such ordinances; and

WHEREAS, these regulations shall be in full force and effect from and after its passage and publication as provided by law, and

WHEREAS, these regulations shall repeal and replace the 2002 Minnehaha County Animal Control Ordinance, and

WHEREAS, the Board of County Commissioners conducted a public hearing on October 24, 2017 commencing at 9:00 a.m. or as soon thereafter as may be heard.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners that the 2002 Minnehaha County Animal Control Ordinance is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED by the Board of County Commissioners that the 2017 Minnehaha County Revised Animal Control Ordinance is hereby adopted and shall become effective upon the passage and publication thereof and effective on the twentieth day after its completed publication or notice of adoption pursuant to SDCL § 7-18A-5, and placed on file with the County Auditor, unless suspended pursuant to law.

ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS

1.01 TITLE. This ordinance shall be known as the "2017 Minnehaha County Revised Animal Control Ordinance".

1.02 INTENT. These regulations are enacted for the purpose of regulating the ownership and possession of animals in order to protect and promote the public health, safety and welfare for the residents and animals of the unincorporated areas of Minnehaha County.

1.03 Effective Date. These regulations shall be in full force and effect from and after its passage and publication as provided by law.

1.04 SAVING CLAUSE. These regulations shall in no manner affect pending actions either civil or criminal, founded on or growing out of any regulations hereby repealed. These regulations shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.

1.05 SEVERABILITY. Should any provision of this ordinance be declared invalid for any reason, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof.

1.06 DEFINITIONS. The following words, terms, and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandonment. To intentionally desert or to relinquish the supervision or care of an animal.

Alter. To render an animal permanently sterile and incapable of reproduction.

Animal. Any mammal, bird, reptile, amphibian or fish, except humans.

Animal Control Facility or Shelter. A building, property or facilities approved by the County Commission for the impounding of animals.

Animal Control Officer. An individual or organization employed or appointed by the Board of County Commissioners to enforce the ordinance.

Board of County Commissioners. The governing body of Minnehaha County.

Bodily Injury. Any physical injury to a human being caused by an animal, including but not limited to injuries wherein the skin is broken, interior or exterior bleeding or bruising occurs, or bone tissue or muscle damage is suffered.

Commercial Kennel. Commercial kennel refers to kennel services for dogs, cats and similar animals. Typical uses include commercial animal breeding with four (4) or more animals, boarding kennels or pet motels.

Enclosed Lot. Any parcel of land or portion thereof in private ownership, around the perimeter of which a wall or fence has been erected of such a height and surety so as to retain the species of animal within the bounds for which the fence was erected.

Exotic Animal. Any animal which is ordinarily found in an unconfined state and is usually not kept as a household pet, including, but not limited to: lions, tigers, cheetahs, panthers, leopards, cougars, mountain lions, ocelots, alligators, venomous snakes, poisonous tarantulas or other arachnoids, scorpions or poisonous reptilians, any wild members of the genus felis, lynx, bobcats, foxes, minks, skunks, raccoons, bears, non-human primates, wolves and coyotes. "Exotic Animal" shall not include domestic ferrets (*Mustelia furo*), livestock, or household pets as defined herein. Alleged domestication of any exotic animal shall not affect its status under this definition. The determination of exotic animal status for an animal not listed herein will be made by an Animal Control Officer, or its authorized designee.

Household pet. An animal customarily permitted to be kept in a dwelling for company or pleasure, including, but not limited to, dogs, cats, pot-bellied pigs, gerbils, hamsters, tropical fish, or common house birds, provided that such animals are not kept to supplement food supplies or for any commercial purpose. "Household pet" shall not include animals which are the offspring of a household pet and an exotic animal as defined herein.

Impound. The act by an Animal Control Officer, or its authorized designee, of taking up and confining an animal within an animal control facility or shelter.

Leash or Lead. Means a cord, thong, or chain by which an animal is controlled by the person accompanying it.

Livestock and Poultry. Livestock includes but is not limited to horses, mules, cattle, bison, burros, llamas, alpacas, swine, sheep, and goats. Poultry includes, but is not limited to chickens, turkeys, game birds, peafowl and ostriches.

Owner. A person who owns, has, keeps, harbors, or knowingly permits an animal to remain in, on or about his premises.

Premises. A lot, parcel, tract or plot of land together with all buildings and structures thereon.

Provocation. Means the threatening, teasing, or striking of an animal or the threatening of the animal's owner either on or off the animal owner's property.

Residential Development Area. An area of land that is located in a residential zoning district; a residential subarea within a planned development zoning district; or a subdivision of 5 or more lots.

Stray. A “stray” is an animal that is off or away from the premises or at large and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash or lead.

Seized Animal. A “seized animal” is one that a Court has issued an Order declaring that the Animal Control Officer, Law Enforcement Officer, or their authorized designee may seize and take possession of.

Vicious Animal. A “vicious animal” is one that bites or attempts to bite any person; bites another animal; or in a vicious or terrifying, and terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated.

ARTICLE II. RABIES CONTROL AND LICENSING

2.01 RABIES CONTROL - VACCINATION REQUIRED. Every dog, cat or other animal commonly vaccinated for rabies held as a household pet, six (6) months of age or older, is hereby required to be vaccinated against rabies by a licensed veterinarian. It shall be the animal owner’s responsibility to secure the required vaccination. Vaccination against rabies shall follow the current rabies compendium set by the State Animal Industry Board.

2.02 KEEPING RABID ANIMALS PROHIBITED. No person shall knowingly harbor or keep any animal infected with rabies or an animal known to have been bitten by an animal known to have been infected with rabies.

2.03 IMPOUNDING FOR OBSERVATION OF RABIES.

(A) When any person owning or harboring a dog, cat or other animal has been notified that the owner’s animal has bitten or attacked any person, the owner must within twenty-four (24) hours place the animal under the care and observation of the Animal Control Officer, a licensed veterinarian, or their authorized designee for a period of not less than ten (10) 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 its authorized designee may, if 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.

(B) At the end of the ten (10) days observation period, the animal shall be examined by the Animal Control Officer, veterinarian, or their authorized designee and if cleared for release to the owner, may be reclaimed by the owner upon payment by the owner must pay the of all expenses incurred incident thereto, including but not limited to impoundment, board and veterinary costs.

(C) 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 confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

(D) Any animal that has bitten or attacked any person and which cannot be captured may be euthanized in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

(E) Any animal that has bitten any person may be euthanized by order of the Animal Control Officer or its authorized designee unless proof of a current rabies vaccination effected not less than thirty (30) days prior to the bite is provided within twenty-four (24) hours of the bite. Any animal that has bitten any person may be euthanized by order of the Animal Control Officer, or its authorized designee, if in that person's opinion, based on sound judgment, a greater risk to human life exists in not doing so. In making such a determination, the following factors shall take into consideration:

- (1) The history of the animal including the possibility of its exposure to rabies.
- (2) The vaccination record of the animal.
- (3) The health of the animal.
- (4) The nature, location and seriousness of the bite.
- (5) The circumstances surrounding the bite including whether or not the bite was provoked.
- (6) The tolerance of the person bitten to the vaccines used for treatment.

ARTICLE III. CONTROL OF ANIMALS

3.01 AUTHORITY. The Animal Control Officer, Law Enforcement Officer, or their authorized designee, is hereby authorized and empowered to control, seize or impound any animal found in violation of any provision of this ordinance.

3.02 RUN AT LARGE/STRAY ANIMAL. No animal shall run at large. An animal shall be declared to be running at large or be declared to be a stray animal whenever such animal is off the premises and not under the immediate physical control of its owner, possessor, keeper, agent, servant, or a member of the immediate family thereof. Whenever an animal is declared to be running at large or declared to be a stray animal, the same shall constitute prima facie evidence that the owner permitted it to run at large or be a stray animal, and the Animal Control Officer, Law Enforcement Officer, or their authorized designee may control and impound the animal, and dispose of the animal as set forth in Article V.

3.03 SEIZED ANIMALS. The Animal Control Officer, Law Enforcement Officer, or their authorized designee, may seize an animal through a Court Order, and dispose of the animal as set forth in Article IV.

3.04 VICIOUS ANIMAL.

(A) An animal may be declared to be vicious by an Animal Control Officer, by the attending physician of the victim of an animal bite or scratch, or by a Court of competent jurisdiction, giving consideration the following guidelines:

(1) An animal which, in a vicious or terrifying manner, approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or

(2) An animal, while on private property, in a vicious or terrifying manner, approaches in apparent attitude of attack, or bites, inflicts injury, or otherwise attacks a mailman, delivery man, or other person, or other animal who is on 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 the owner of such private property.

(3) Any animal of a known propensity, tendency or disposition to attack, to cause injury or to otherwise threaten the safety of human beings or animals.

(4) An animal while at large which, in a vicious or terrifying manner, approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal.

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

(C) An animal declared to be vicious shall be taken into custody and impounded by the Animal Control Officer, or its authorized designee. If the animal is running at large it may be captured by the Animal Control Officer, or its authorized designee, or, if it cannot be captured and constitutes a public safety risk, it may be euthanized by the Animal Control Officer, any Law Enforcement Officer, or their authorized designee. If the animal is in the custody of the owner, the Animal Control Officer, or its authorized designee, may either verbally or in writing left at the owner's residence, order the owner to deliver the animal into the custody of the Animal Control Officer, or its authorized designee within twenty-four (24) hours. If the animal is not so timely delivered as ordered, the Animal Control Officer, or its authorized designee, may petition any Magistrate or Circuit Court Judge having authority in Minnehaha County for an Order authorizing the Animal Control Officer, or its authorized designee to enter on to the owner's premises and take custody of the animal.

(D) Absent a risk to public safety as set forth in 3.04(C) above, or risk to the health, welfare and safety of the Animal Control Officer, Law Enforcement Officer, or their authorized designee, an animal that is declared vicious, once in the custody of the Animal Control Officer, shall be held pending a final determination regarding the disposition of the animal. If the Animal Control Officer and Owner cannot agree on the

disposition of the animal, the Animal Control Officer shall request that the State's Attorney's Office commence proceedings to summons the owner into court and show cause why the animal should not be euthanized. The owner shall bear all costs associated with the impoundment, including but not limited to impoundment, board and veterinary costs of the animal during the period of impoundment.

(E) An animal declared vicious, which is running at large with no proof of ownership and for which no ownership can be immediately established, shall be deemed an abandoned vicious animal and may be euthanized by the Animal Control Officer without prior judicial approval.

3.05 The Animal Control Facility or Shelter, Animal Control Officer, Law Enforcement Officer, or their authorized designee, may serve written notice upon the owner of a dog or cat known to have been bitten by an animal known or suspected of being affected by rabies, requiring the owner to confine such dog or cat for a period of not less than six months. However, if such dog or cat had been properly treated with an antirabic vaccine, confinement shall be for a period of not less than three months. In the case of any pet other than a dog or cat, the department may serve written notice upon the owner of such animal that the owner shall have the animal euthanized immediately.

3.06 RECORD OF BITES. The Animal Control Officer, or its authorized designee, shall keep an accurate record of all animal bites.

3.07 RESIDENTIAL DEVELOPMENT AREA - FURTHER LIMITATIONS. The following limitations shall apply in a Residential Development Area:

(A) It is unlawful for any person to have or to keep more than a combined total of four (4) dogs (*Canis lupus familiaris*), cats (*Felis silvestris*) or potbellied pigs over the age of six months.

(B) Disturbing the Peace. The owner or custodian of an animal located within a residential development area shall not allow the animal to create a frequent, habitual or continued disturbance by making loud noises so as to be a nuisance to a neighbor or neighbors at any time of the night or day. A nuisance shall constitute an ongoing problem over several days and at several intervals throughout a 24 hour period for any length of time. The Animal Control Officer, or its authorized designee, shall have the authority to use all reasonable means to abate such nuisance, including but not limited to requiring that the owner make bona fide efforts to quiet his animal and impoundment of the animal at all times. Upon impoundment of an animal for violation of this Section, the Animal Control Officer, or its authorized designee, shall attempt to locate and notify the absent owner by any reasonable means as readily as possible. No summons and complaint shall be issued nor shall there be a conviction for violation of this Section unless there are at least two (2) complaining witnesses from separate households who shall have signed such complaint. An Animal Control Officer, or its authorized

designee, who has personally investigated the complaint of a single complainant and observed the behavior of the animal complained of, with regard to its frequent, habitual and continued loud noises, may satisfy the requirement for the second complaining witness and may testify to his observations at trial. This section shall not apply to any commercial kennel operating pursuant to a conditional use permit issued by Minnehaha County.

3.08 EXOTIC ANIMALS - PROHIBITED.

(A) No exotic animal as defined by this ordinance may be housed or kept except for those legally within the County at the time of the adoption of this ordinance. Any exotic animals that are housed or kept prior to the effective date of this ordinance must be registered with the Animal Control Officer within ninety days subsequent to the adoption of this ordinance. This provision shall not apply to any circus or exotic animal exhibit or display that is validly and legally operating within the County for a specific and limited time period.

3.09 INJURED ANIMALS.

(A) If an animal is injured and the owner cannot be found, it will be the duty of the Animal Control Officer, or its authorized designee, to determine if that animal for humane reasons, due to the extent of the injury and the suffering, shall be humanely euthanized. The County and Animal Control Officer shall not be held liable in any way for this humane act. Any such euthanasia shall take place as set forth in SDCL 40-1-13.

3.10 UNATTENDED ANIMALS IN STANDING OR PARKED VEHICLES.

No owner or caretaker may leave a dog, cat, or other small animal unattended in a standing or parked vehicle in a manner that endangers the health or safety of such animal. Reasonable force may be used to remove such animal by any Animal Control Officer, Law Enforcement Officer, or their authorized designee, without civil or criminal liability for any damage caused by removing such animal from a vehicle.

ARTICLE IV. RECLAMATION & DISPOSITION OF SEIZED ANIMALS

4.01 Except as provided herein, in cases where an animal has been seized by the Animal Control Officer, Law Enforcement Officer, or their authorized designee, such animal may be reclaimed by the existing owner, adopted to another owner, or humanely euthanized thereby extinguishing all property rights of the existing owner following the procedures as hereinafter provided:

(A) Upon seizure of an animal, the Law Enforcement Officer, Animal Control Officer, or their authorized designee shall attempt to contact the existing owner and provide verbal notice to the owner that the animal may be reclaimed as provided herein. If verbal notice is unsuccessful, then the Law Enforcement Officer, Animal Control Officer, or their authorized designee, shall then serve

written notice upon the existing owner of the seizure of the animal and of the owner's opportunity to redeem the animal as follows:

- (1) If the identity of the existing owner is known, by posting a copy of the written notice on the owner's last known residential property and by mailing a copy of the notice to the owner's last known residential property;
or
- (2) If the identity of the existing owner is not known, by leaving a copy of the written notice posted on the property where the animal was seized.

The written notice shall identify as best able to the animal species, color and age and shall state the owner has seven (7) business days to contact the Law Enforcement Officer or Animal Control Officer or the animal will be placed for adoption or humanely euthanized.

(B) The existing owner shall have seven (7) business days from the date the owner was provided verbal notice or the date the written notice was mailed or posted to:

- (1). Declare in writing and deliver to the Animal Control Officer or its authorized designee keeping said animal—

- (a) Acknowledgement by the existing owner of the owner's intent to maintain ownership of the animal and to object to the adoption or euthanasia of the animal; and

- (b) Acknowledgement by the existing owner of the obligation to pay when due all impoundment, board, veterinary, and any other incurred costs until such time as the animal is released to said existing owner, and that failure to comply may result in the animal being adopted or euthanized.

- (2) Pay to the animal control shelter all impoundment, board, veterinary and any other incurred costs.

(C) Upon acknowledgement of the existing owner of the intent to maintain ownership of the animal and the objection to the adoption or euthanasia of the animal, the existing owner shall pay to the animal control shelter all impoundment, board, veterinary and any other incurred costs prior to release of the animal to the existing owner.

4.02. If the existing owner of the animal fails within the 7 day period to declare the hereinbefore stated acknowledgement or fails within 10 days of delivery of the notice as provided in § 4.01(a) (1) or (2) to make full payment and redeem the animal, then ownership of the animal will be transferred to the Animal Control Facility or Shelter, Animal Control Officer or their authorized designee and the animal may be adopted or be humanely euthanized.

ARTICLE V. RECLAMATION & DISPOSITION OF ANIMALS RUNNING AT LARGE/STRAYS

5.01 For any animal impounded having been declared to be running at large or a stray, the Animal Control Officer, Law Enforcement Officer, or their authorized designee will make an attempt to contact the owner where the animal has identification. Following impoundment, animals having identification will be held for 5 days and animals having no identification will be held for 3 days. If the owner has not reclaimed the animal within this time period, the Animal Control Officer or its authorized designee may adopt out the animal or have it humanely euthanized.

5.02. Before any owner may redeem an animal impounded under the provisions of this ordinance, all impoundment, board, veterinary and any other costs incurred by the County, Animal Control Facility or Shelter, Animal Control Officer, Law Enforcement Officer or their authorized designee in impounding such animal shall be paid.

ARTICLE VI. COMMERCIAL KENNELS

6.01 REQUIREMENTS.

(A) Commercial kennels shall be constructed to the standards of the Animal Welfare Act- Part 3, Sub-part A, Sections 3.1-3.12.

ARTICLE VII. ENFORCEMENT

7.01 ENFORCEMENT OF ORDINANCE. It shall be the duty of the Animal Control Officer, Law Enforcement Officer, or their authorized designee to carry out and enforce all the provisions of this ordinance, including but not limited to issuing a citation for an ordinance violation to any owner or person possessing or having control over an animal. No person shall hinder, delay or obstruct the Animal Control Officer, Law Enforcement

Officer, or their authorized designee such person is engaged in performance of an official duty.

ARTICLE VIII. SANCTIONS

8.01 CLASS 2 MISDEMEANORS. Violations of this County Ordinance shall be deemed Class 2 Misdemeanors.

Adopted this 14 day of November, 2017.

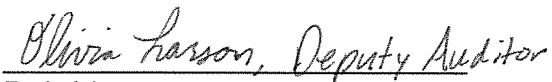
Effective: 12/19/2017

MINNEHAHA COUNTY BOARD OF COUNTY COMMISSIONERS



Gerald Beninga, Chairman
Minnehaha County Board of County Commissioners

ATTEST:



Bob Litz
County Auditor

First Reading	October 31, 2017
Publication of Notice of Hearing	November 6 & 8, 2017
Public Hearing	November 14, 2017
Notice of Adoption	November 20 & 22, 27 & 29, 2017
Effective Date	December 19, 2017

FACT OF ADOPTION

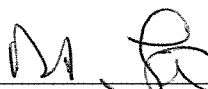
An ordinance Enacting the 2017 Minnehaha County Revised Animal Control Ordinance, and for the Repeal of the 2002 Minnehaha County Animal Control Ordinance (MC29-02) and Any Other Resolutions, Rules and Regulations in Conflict Herewith.

The Minnehaha County Board of Commissioners adopted Ordinance MC52-17 on November 14, 2017. This ordinance repeals the 2002 Minnehaha County Animal Control Ordinance (MC29-02) and adopts the 2017 Minnehaha County Revised Animal Control Ordinance.

The entire ordinance is on file in the office of the County Auditor and available for inspection during regular business hours.

Published once at the total approximate cost of \$___.

This revised ordinance shall take effect on the twentieth day after its completed publication, to wit: December 19th, 2017.



Bob Litz, County Auditor

PUBLISH:

Argus Leader: November 20, 2017 & November 27, 2017

Brandon Valley Challenger: November 22, 2017 & November 29, 2017

Dell Rapids Tribune: November 22, 2017 & November 29, 2017

