

Ordinance MC29-02

AN ORDINANCE ENACTING THE 2002 MINNEHAHA COUNTY ANIMAL CONTROL ORDINANCE, AND FOR THE REPEAL OF ALL ORDINANCES, RESOLUTIONS, RULES AND REGULATIONS IN CONFLICT HEREWITH.

WHEREAS, the Board of County Commissioners intends 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, 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 An Ordinance for Animal Control in Rural Minnehaha County, and

WHEREAS, the Board of County Commissioners conducted a public hearing on this date.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners that the 2002 Minnehaha County Animal Control Ordinance is hereby adopted and placed on file with the County Auditor.

**ARTICLE I. GENERAL PROVISIONS**

1.01 TITLE. This ordinance shall be known as the “2002 Minnehaha County 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shall in no manner affect pending actions either civil or criminal, founded on or growing out of any regulations hereby repealed.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causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.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.

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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.

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Abandonment. To deliberately desert and/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.

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County Health Board. The County Health Board as defined by SDCL 34-2-1.

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, 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.

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 a exotic animal as defined herein.

Impound. The act by an Animal Control Officer 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, the lots being five acres in size or less.

Run At Large. 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 or lead.

Vicious Animal. A "vicious animal" is one that bites or attempts to bite any person; bites another animal; or in a vicious 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 be given yearly.

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 said 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 or a licensed veterinarian 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 said animal the Animal Control Officer may, if s/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.
- (B) At the end of ten (10) days observation period, the animal shall be examined by the Animal Control Officer, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.
- (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 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.
- (E) Any animal that has bitten any person may be euthanized by order of the Animal Control Officer 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 if in the Animal Control Officer's opinion, based on sound judgment, a greater risk to human life exists in not doing so. In making such a determination, the Animal Control Officer shall take into consideration the following factors:
  - (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 RUN AT LARGE. The owner of an animal shall not permit such animal to run at large. An animal shall be deemed to be running at large 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 found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.

3.02 VICIOUS ANIMAL.

- \_\_\_\_\_(A) An animal may be declared to be vicious by an Animal Control Officer or the attending physician of the victim of an animal bite or scratch and may request such declaration under the following guidelines:
- (1) An animal which, in a vicious or terrorizing 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 terrorizing 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 terrorizing manner, approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal.
  - (5) No animal may be declared vicious 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.
- (B) An animal declared to be vicious shall be taken into custody and impounded by the Animal Control Officer. If the animal is running at large it may be captured by the Animal Control Officer, or, if it can not be captured and constitutes a public safety risk, it may be destroyed by the Animal Control Officer or any Law Enforcement Officer. If the animal is in the custody of the owner, the Animal Control Officer 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 within twenty-four (24) hours. If the animal is not delivered to the Animal Control Officer within twenty-four (24) hours as ordered, the Animal Control Officer may petition any Magistrate or Circuit Court Judge having authority in Minnehaha County for an Order authorizing the Animal Control Officer to enter on to the owner's premises and take custody of the animal.

- (C) 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 can not 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 destroyed. The owner shall bear all costs associated with the impoundment and board of the animal during the period of impoundment.
- (D) 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 animal and may be destroyed by the Animal Control Officer without prior judicial approval.

3.03 RECORD OF BITES. The Animal Control Officer shall keep an accurate record of all animal bites.

3.04 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 pot bellied 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 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 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 when the owner is absent from the premises. Upon impoundment of an animal for violation of this Section, the Animal Control Officer 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) or more

complaining witnesses from separate households who shall have signed such complaint. An Animal Control Officer 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.

3.05 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.

3.06 INJURED ANIMALS.

\_\_\_\_\_(A) If an animal is injured and the owner cannot be found, it will be the duty of the Animal Control Officer 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.

**ARTICLE IV. DISPOSITION OF ABUSED ANIMALS**

4.01 In cases where an animal or animals have been seized by the Animal Control Officer or Law Enforcement Officer based upon cruelty, neglect or abandonment, such animal may be 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 the animal or animals, the Animal Control Officer shall serve notice upon the existing owner, if the identity of said existing owner is known, informing said existing owner of the Animal Control Officer's intent to have said animal disposed of.

(B) The existing owner shall have five (5) business days to:

(1). Declare in writing and deliver to the animal shelter keeping said animal or animals -

- (a) Notice of said existing owner's intent to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof, and;
  - (b) Notice that said existing owner shall pay when due all impoundment, board and veterinary costs until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.
- (2) Pay all impoundment, board and veterinary costs, up to the date of the owner's declaration of intent to maintain his ownership of said animal or animals to the animal control shelter.
- (C) Upon notification of said existing owner's intent to maintain ownership of the animal or animals and the objection to the adoption or euthanasia thereof said existing owner shall continue said payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

4.02. If the existing owner of the animal or animals fails to declare the hereinbefore stated intent or fails to make any payment in a timely manner, or if the identity of the existing owner is unknown or notification to the existing owner cannot be made, the Animal Control Officer shall give actual written notice or published notification to the owner by publication once a week for two successive weeks in an official newspaper of the County of intent to transfer ownership of the animal or animals to the animal shelter. The owner shall have ten days following receipt of notification or following the date of final publication to comply with all of the provisions of Section 4.01 of this ordinance, or ownership of the animal or animals will be transferred to the animal shelter.

## **ARTICLE V. IMPOUNDMENT AND RECLAMATION OF ANIMALS**

5.01 IMPOUND AUTHORITY. The County Health Board, the Animal Control Officer, Law Enforcement Officer, or any other person or proper authority is hereby authorized and empowered to impound any animal found in violation of any provision of this ordinance.

5.02 COSTS OF IMPOUNDMENT. Before any person may redeem any animal impounded under the provisions of this ordinance, s/he shall first pay all costs incurred by the County in impounding such animal. The known owner of an animal that has been impounded must pay all costs incurred by the County in impounding such animal.

### 5.03 DISPOSITION OF UNREDEEMED ANIMALS.

\_\_\_\_\_(A) If an impounded animal is wearing means of identification, the animal

shall be confined by the Animal Control Officer for a period of five days, excluding Sundays and holidays.

- (B) If an impounded animal is not wearing means of identification, the animal will be impounded for no more than three days, excluding Sundays and holidays. The Animal Control Officer or a designee may dispose of animals impounded under this article after the impoundment period in any humane means.

**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 to carry out and enforce all the provisions of this ordinance. No person shall hinder, delay or obstruct the Animal Control Officer, his/her assistant, or any law enforcement officer when such officer 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 19<sup>th</sup> day of February, 2002.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_Robert Kolbe\_\_\_\_\_

\_\_\_\_Michael J. O'Connor\_\_\_\_\_

\_\_\_\_John Pekas\_\_\_\_\_

\_\_\_\_James Zweep\_\_\_\_\_

\_\_\_\_Carol Twedt\_\_\_\_\_

ATTEST:

\_\_\_\_Jody Hilmoie\_\_\_\_\_
Deputy County Auditor