

ORDINANCE NO. 555

AN ORDINANCE OF THE CITY OF SALEM, SOUTH DAKOTA, AMENDING THE MUNICIPAL ORDINANCES OF THE CITY OF SALEM, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SALEM, SOUTH DAKOTA, THAT CHAPTER 5.02 ANIMALS OF THE SALEM MUNICIPAL ORDINANCES IS AMENDED AS FOLLOWS:

Section 1. That Chapter 5.0, Animals, of the Salem Municipal Ordinances is hereby amended in its entirety to read as follows:

CHAPTER 5.02 - ANIMALS

5.0201 General Definitions. Words when used in this Chapter unless the text otherwise plainly refers, shall have the meaning indicated:

- A. At Large. Off or outside of the premises belonging to the owner or keeper of such dog and not under the control of such owner or keeper, or the agent or servant member of his immediate family, by means of a leash, cord or chain not to exceed ten (10) feet in length, provided that an unleashed dog off the owners premises shall not be deemed to be at large if he is under the immediate control of the owner or his agent and engaged in a course of training which require the animal to be unleashed.
- B. Dog. Any member of the canine family, both male and female.
- C. Leash. A cord, thong, chain, device or physical restraint not more than ten (10) feet in length by which a dog is controlled by the person accompanying it sufficient to restrain dogs.
- D. Owner. A person owning, keeping or harboring a dog; the occupant of any premises to which a dog customarily returns is presumed to be the owner.
- E. Domestic Animal. Any of various animals (as the horse, sheep, dog, cat, goat) domesticated by man so as to live and breed in a tame condition.
- F. Cat. Any member of the feline family, both male and female. For the purposes of this Ordinance, "cat" is meant to include only common domesticated cats, and not any wild species of cat.
- G. Premises. The dwelling house and outbuildings and the lot or tract of land on which the same are situated and shall include an automobile or other vehicle in which the owner of the dog shall be an occupant or of which he shall have control, or in which any dog shall be situated with the consent of the owner of the vehicle.

H. Vaccination. The injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with, the provisions of this Chapter and resolutions of the governing body of the City.

I. Veterinarian. A licensed practitioner of veterinary medicine licensed to practice such profession in the state.

5.0202 Limit in number of Animals. It shall be unlawful for any person or persons, or household, in the limits of the City of Salem to own or possess more than three (3) domestic pets over the age of six (6) months, except birds and fish. Veterinarian officers and retail pet stores are exempt from the provisions of this section. Those domestic pets that are licensed by the city as of November 1, 2007 are exempt.

5.0203 Dogs and Cats at Large.

A. It shall be unlawful for any person or persons to permit or allow to run at large within the limits of the City of Salem any dog or cat, whether licensed or unlicensed, and any police officer or person of proper authority is hereby authorized and empowered to impound any such dog or animal found running at large in violation of this section.

B. Any dog or cat shall be deemed running at large within the meaning of this section when such animal is loose and not confined to the premises of the owner. However, a dog on a leash in the hands of an attendant or a dog which is loose but accompanied by its owner or an attendant, shall not be deemed running at large.

5.0204 Dogs Barking.

No person owning any dog, licensed or unlicensed, confined on the premises, or otherwise, shall permit such dog to disturb the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.

Upon signed complaint to the Police Department that any person is keeping or harboring any dog which disturbs the peace as herein set forth, it shall be the duty of said Police Department to notify the owner of said dog in writing of said complaint, and after such owner has been given forty-eight (48) hours notice of such violation and the violation is continuing, any police officer or person of proper authority is hereby authorized and empowered to go upon the premises and impound any such dog or animal so disturbing the peace. In addition to the costs of impounding such animal, including the costs of kenneling, or other penalties prescribed, the owner shall be subject to a fine not to exceed \$25.00.

5.0205 Duty to clean up animal waste of dog or cat.

It shall be the duty of any person who owns or possesses any dog or cat to clean up and dispose of any animal feces produced by a dog or cat. If any dog or cat

defecates on the private property of another person, or on public property, it shall be the duty of the owner or possessor of the dog or cat to immediately secure the feces and to remove it from the private property of another person, or public property, and to place the feces in an appropriate container or bag for permanent disposal.

All fecal matter produced by a dog or cat shall be disposed of before such fecal matter produces obnoxious odors, attracts flies or other vermin, or annoys the health, safety, repose, or comfort of the citizens of the City of Salem, or their neighbors.

5.0206 Animals Running at Large Prohibited. No owner of any dog, cat, or other animal held as a domestic pet in the City shall permit such animal to run at large at any time. Any such animal found at large may be impounded as hereinafter provided. Upon impounding, the owner of such animal may at any time within seventy-two (72) hours after the same shall have been impounded, reclaim the animal by paying the City the sum of Twenty-five and No/100 Dollars (\$25.00) plus kenneling costs.

In the event such animal is seized a second time, the owner shall pay the City the sum of Fifty and No/100 Dollars (\$50.00) plus kenneling costs to reclaim such animal. If any animal so impounded shall not be reclaimed within seventy-two (72) hours and all efforts to locate the owner have failed, or in the event the same animal is seized for a third time, the City is authorized to destroy, sell, or otherwise dispose of such animal. Any dog or cat which does not display the proper tags shall be considered to be an animal running at large.

Any owner allowing their animal to run at large as defined in the provisions of this Section, if convicted, shall be guilty of a Class 2 misdemeanor.

5.0207 Destruction of Animals Running at Large. The Police is hereby authorized to employ, whenever he deems it necessary, a sufficient number of persons to capture and convey to the pound, and care for, kill and dispose of in the manner herein provided, any animal found running at large contrary to the provisions of this section. All animals captured and conveyed to the pound, as established by the City, shall be kept with humane treatment and supplied with sufficient food and water for a period of at least seventy-two (72) hours, unless sooner reclaimed by the owner or keeper thereof as herein provided in Section 5.0205 of this Title. At the expiration of seventy-two (72) hours from the date of impounding such animal, and providing the owner of said animal shall fail or refuse to comply with the provisions of this section for the releasing of same, the person in charge of such dog pound may destroy such animal and to cause it to be removed and properly buried; provided that the owner of the licensed animals shall have forty-eight (48) hours notice in writing, after the expiration of the first seventy-two (72) hours, before the same may be killed or destroyed. It shall be the duty of the person in charge of said dog pound, before destroying any animal under the provisions of this section, to attempt to sell said animal at a private sale to any person who is willing to pay a sum sufficient to reimburse the City for all expenses of keeping said animal, including the costs set forth in Section 5.0205 of this Title and the \$5.00 licensing fee herein provided.

The City of Salem should attempt to notify the owner, if possible, of any animal subject to this section within the forty-eight (48) hour holding period. The Police have the discretion to delay the destruction of any animal when he reasonably believes the interests of justice so require.

5.0208 Cruelty To Animals. It shall be unlawful to cruelly beat, torture, injure, maim, wound or otherwise abuse any animal or animals, whether owned by such person or others; to permit horses or mules, or other animals to be tied up in inclement or stormy weather or without feed or water.

5.0209 Impoundment. The City Council shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an Animal Pound for the City. The City may, in lieu of the provisions of this Section, maintain its own impoundment area or quarters, under the supervision of the City Council or local law enforcement officials.

5.0210 Obstruction of Law Enforcement. No person shall hinder, delay, or obstruct any law enforcement officer or other authorized official when engaged in capturing, securing or impounding any animal or animals. A violation of this Section is declared to be a class 2 misdemeanor.

5.0211 Licensing of Dogs and Cats.

A. License. It shall be unlawful for any person or persons within the City of Salem to keep, maintain, or have in his custody or under his control, any dog or cat, without first having obtained an annual license from the City Finance Officer as hereinafter provided.

B. Obtaining Annual License. Any person or persons desiring to keep, maintain or have in his custody or control by himself, or agent, within the said City of Salem, any dog or cat, shall, on or before January 31 of each year, obtain from the City Finance Officer a license to keep such dog for said year. No license shall be issued for any dog or cat that does not have a rabies vaccination pursuant to Section E.

C. Fee, Tag. The owner shall at the time of obtaining such license, pay to the City Finance Officer as a license fee the sum of \$5.00 for each animal for which such license is sought. All license fees are to go into the city treasury. Further, at the time of procuring said license, the owner of such dog or cat must produce a receipt or other certificate executed by a licensed veterinarian stating the breed of dog and showing that said dog or cat has been immunized for rabies for the duration of the license period. It shall be the duty of the City Finance Officer at the time of the issuance of the license herein provided for, to furnish and deliver to said owner a metallic tag for each dog or cat for which such license is issued, upon which tag shall be stamped or engraved the registered number of the dog or cat. It shall then be the duty of the owner of the dog or cat to place a collar

around the neck of such dog or cat so owned or kept by him, on which collar shall be securely fastened the metallic tag furnished by the City Finance Officer.

The said collar and tag are to remain at all times on the body of the dog or cat. In case of the loss of any tag so issued, the City Finance Officer is authorized to issue a duplicate tag upon payment to the department the actual cost of replacing the tag.

- D. Duty of Finance Office. It shall be the duty of the Finance Office to keep a register of the name of the owner of each dog or cat, the registered number of the dog or cat, and the description of each dog or cat.
- E. Compulsory Immunization of Animals for Rabies. Every dog or cat held in the City, six months of age or older, shall be immunized against rabies by a licensed veterinarian. Immunization against rabies shall be given at such intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal immunized against rabies within one month following acquisition or when such animal reaches the age of six months.

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

All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization.

Whenever metallic tags are so given for immunizations, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5.0212 Vicious or Diseased Animals.

- A. Vicious animals prohibited. It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city any vicious animal.
- B. Vicious animal defined. Any animal which, according to records of the appropriate authority, has inflicted injury on a human being on public or private property. Any animal, according to records of appropriate authority, has killed or seriously injured a domestic animal while OFF of the owners property. Any animal owned or harbored primarily or in part for the purpose of fighting, or any

animal trained for fighting. Any animal which chases or approaches a person upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack.

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.

C. Specific canine breeds prohibited as vicious. It shall be unlawful for anyone to have in their possession or control any of the following breeds of canines within the City of Salem:

1. Pit Bulls
2. Doberman Pincer
3. Rottweilers

D. Exemptions for animals that are provoked. It is recommended no animal be declared vicious if the threat, injury or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing or assaulting the animal, or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal or was committing or attempting to conduct a crime.

If any animal is of a vicious disposition or has dangerous habits, or is suspected of being diseased, the police shall notify the owner or possessor of such animal orally or by written private or public notice to confine or muzzle such animal and if thereafter such owner or possessor fails to comply with such notice, the police are authorized, empowered and directed to kill or cause to be killed such animal, whether found running at large or upon the premises of the owner of such animal, forthwith, and without impounding such animal.

Any owner who allows a vicious animal to be in violation of the provisions of this section shall be guilty of a misdemeanor and if convicted will be guilty of a further violation each day that such condition is allowed to exist or goes uncorrected.

Any animal involved in an unprovoked attack which results in injury to any human, shall be impounded and if unable to be captured, any law enforcement officer is authorized to destroy the animal to prevent further endangerment to human life. Any animal impounded for an unprovoked attack which results in injury to any human, shall be euthanized, or at the discretion of the city the animal may be placed at a home outside of the city. Unless permitted by the city council, no vicious animal shall be returned to reside in the city. Because of the dangers involved in housing a vicious animal, the owner must show cause in court within five days of impoundment of vicious animal why the animal should not be destroyed.

5.0213 Poisoning of Animals. It shall be unlawful to willfully administer poison to any dog or other animal, the property of another, or to expose any poisonous substance with intent that the same shall be taken by such animal.

5.0214 Placing Animals for Observation. 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 shall within twenty-four (24) hours place the animal under the care and observation of a law enforcement officer or a licensed veterinarian for a period not less than ten (10) days.

At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

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.

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.

Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to a law enforcement officer.

Whenever law enforcement officer or other authorized official shall have determined that there is danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council. The Council, 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 approval 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 as hereinbefore provided for not less than ten (10) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

5.0215 Wild or Dangerous Animals.

A. Wild or dangerous animals prohibited. It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city of Salem, any poisonous reptile or any other dangerous animal or carnivorous wild animal or reptile, or any other animal or reptile of wild, vicious or dangerous propensities.

- B. Dangerous animal defined. Any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it escaped from secure quarters. Dangerous Animal also includes any domestic mammal, reptile or fowl which because of its size or vicious propensity or other characteristic would constitute a danger to human life or property if it escaped from secure quarters.
- C. Specific animals prohibited as dangerous. It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city any of the following animals:
1. Any animal which has been declared to be protected or endangered by the U.S. Department of the Interior
 2. All poisonous animals, including rear-fang snakes
 3. Badgers (mellinae)
 4. Bears (ursidae)
 5. Beavers (castoridae)
 6. Canids, that is: Wolves, Foxes, Coyotes, Jackals, Dingo, Raccoon dogs, or any hybrid thereof
 7. Civet (viverrines)
 8. Civet or raccoon dog (nycterevtes procyonoides)
 9. Constrictor snakes
 10. Crocodilians, that is: alligators, crocodiles, caimans, caviales
 11. Eagles, hawks, owls
 12. Edentata, that is: anteaters, tamanduas, sloths, armadillos
 13. Emus (casuariiformes)
 14. Felids, that is: lions, tigers, leopards, cheetahs, jaguars, pumas, lynx, ocelots, bobcats or any hybrid thereof
 15. Game Cocks and other fighting birds
 16. Hyenidea (hyenas)
 17. Marsupials, that is: opossums, tasmanian wolf, kangaroos, koalas, wombats
 18. Muskrats (ondata)
 19. Ostriches (struthio)
 20. Porcupine (hystricomorpha)
 21. Primates (non-human), that is: apes, monkeys, baboons, chimpanzees, gibbons, gorillas, orangutans, siamangs
 22. Procuoriids, that is: raccoons, coatis, kinkajous, ring-tailed cats, pandas
 23. Rheas (frheiformes)
 24. Skunks (imephitinae)
 25. Squirrels (sduridae)
 26. Sharks (chondrichthyes)
 27. Swine (suidae)

28. Ungulates, that is: elephants, zebra, tapirs, rhinoceroses, camel, llama, caribou, antelope, bison, reindeer, deer, giraffe, hippopotamus, wild boar, gazelle, gnu
29. Water buffalo (bubalus)
30. Wart hogs (phacochorus aethiopicus)
31. Weasels

Commercial animal shows or circus companies may obtain a permit from the city for shows to be performed in the city.

D. Owner to Report Escape of Dangerous Animals or Animals not Indigenous to State. The owner or keeper of any member of a species of the animal kingdom that escapes from their custody or control and that is a dangerous animal or is not indigenous of this state or presents a risk of serious physical harm to persons or property shall, within one hour after they discover or reasonably should have discovered the escape, report it to a law enforcement officer or elected official of the City of Salem, and to the Turner County Sheriff's Office.

5.0216 Violation, Penalty. Any person violating the provisions of this Chapter shall be guilty of a class 2 misdemeanor.

5.0217 Violation of This Chapter Declared A Public Nuisance. Any person who violates the provisions of this Chapter shall be deemed to have engaged in a public nuisance as defined in SDCL Chapter 21-10.

5.0218 Permits. No person may possess any commonly grown farm animal, including, but not limited to, cattle, hogs, sheep, chickens, ducks, and other fowl, or horses, without obtaining a yearly permit from the City Council. The City Council may permit the possession of these types of animals if the applicant demonstrates that the area the animal is to be kept is appropriate for such a purpose, and the possession of the particular animal or animals shall not annoy the comfort, health, safety, or repose of neighboring properties. The City Council may deny any such request when it determines that the allowance of such a permit is not in the best interests of the City of Salem.

5.0219 Stray, Abandoned, or Unkept Animals. No person shall feed, harbor or keep any stray, abandoned, or unkept animals within the City. Animals known to be strays shall be reported to law enforcement officer immediately. This Ordinance does not apply to any City officials or animal control officers in the official performance of their duties, or to any kennel, veterinarian, or similar person who is keeping any stray, abandoned, or unkept animals pursuant to the City Animal Ordinances.

Section 3 – Separability: If any provision of this ordinance is declared unconstitutional or the application thereof of any person or circumstances held invalid, the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

Section 4 - Conflicts: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, but only to the extent of such conflict.

Section 5 -Effective Date: This ordinance shall be in full force and effect from and after its adoption and publication by the City as provided by law.

Dated this 8th day of October, 2007.

Robin Rayman
Mayor

ATTEST:

Lori Heumiller
Finance Officer

FIRST READING: September 10, 2007

SECOND READING & ADOPTION: October 8, 2007

PUBLISHED: October 11, 2007

EFFECTIVE: October 31, 2007