

**CODIFIED LAW #26**  
**TOWN OF MISSION HILL**

***REGULATION & CONTROL OF ANIMALS WITHIN CITY LIMITS***

BE IT ORDAINED, by the President and Board of Trustees of Mission Hill, South Dakota;

**Section 1. Definitions**

- A. Domestic Pet:** an animal customarily permitted to be kept in a dwelling for company or pleasure, including, but not limited to dogs, cats, potbellied pigs, gerbils, hamsters, tropical fish, or common house birds, provided that such animals are not kept to supplement food supplies or for any commercial purposes.
- B. 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, nonhuman primates, wolves, and coyotes. "Exotic Animal" shall not include ferrets (*Mustela Furo*), livestock, or household pets as defined herein. Alleged domestication of any exotic animal shall not affect its status under this definition.
- C. "At Large"**
  - 1. An animal when off the premises of the owner and not under the control of the owner, possessor, keeper, agent, servant, or member of his immediately family by a leash.
  - 2. An animal when on the premises of the owner, possessor, keeper, agent, or servant and not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises or from reaching the sidewalk.
- D. Leash:** a cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.
- E. Owner:** any person harboring or keeping an animal or who is head of the household or owner or manager of the premises where such animal remains; the occupant of any premises to which an animal customarily returns is presumed to be the owner.
- F. Impound:** the act by an authorized person of taking up and confining an animal within an animal control facility or shelter.
- G. Veterinarian:** any licensed practitioner of veterinary medicine licensed to practice such profession in the state.
- H. Animal Control Officer:** any person designated by the Board of Trustees of Mission Hill to apprehend offending animals.

**Section 2. Number of Pets and Strays**

- A. Number of Pets Limited.** It is unlawful for any person to have or to keep more than five (5) domestic pets over the age of six (6) months, except birds and fish, on any lot of premises in the Town of Mission Hill. Anyone in violation of this provision is subject to prosecution for a Class 2 misdemeanor. Veterinarian offices, boarding kennels and retail pet stores are exempt from the provisions of this Section 2 so long as they do not operate in conflict with any other provisions of this Ordinance or the provisions of any zoning ordinance applicable to the Town of Mission Hill. The fine for violation of this Section 2(A) shall be \$20.00 per day for the 1st offense, \$40.00 per day for the 2nd offense, \$60.00 per day for the 3rd and all subsequent offenses.
- B. Stray Animals.** No person shall harbor, keep or maintain any stray animals. Animals known or suspected to be strays shall be reported to the Animal control Officer

immediately. The fine for violation of this Section 2(B) shall be \$20.00 per day for the 1st offense, \$40.00 per day for the 2nd offense, \$60.00 per day for the 3rd and all subsequent offenses.

### **Section 3. Exotic Animals**

- A. Exotic Animals and Livestock Prohibited.** No exotic animal or livestock as defined by this ordinance may be housed or kept except for those legally within the Town of Mission Hill 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 Town Finance Officer within ninety (90) 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 Town for a specific and limited time period. Facilities shall be maintained for those animals grand fathered in to insure protection of the public and humane care of the animals.
- B. Running At Large.** No person shall allow any exotic animal to run at large. Any exotic or wild animal that is at large will be impounded by a law enforcement officer, Town employee or Animal Control Officer pursuant to Section 4 of this Ordinance. If the Animal Control Officer cannot safely capture the animal after reasonable efforts, the animal may be euthanized. The owner shall bear all costs of apprehension, impoundment, maintenance, adoption and/or euthanizing the animal.
- C. Public Nuisance.** Any owner who violates the provisions of this Section shall be deemed to have engaged in a public nuisance as defined in SDCL Chapter 21-10. The nuisance shall be deemed to have occurred on the real property of the owner. All expenses arising from or related to apprehension, impoundment, maintenance, adoption and/or euthanizing that animal shall be deemed costs of abatement and shall be fully recoverable from the owner via any and all methods permitted under South Dakota law, including but not limited to special assessment against real property of the owner of the animal.
- D. Violation.** Any owner who unlawfully maintains an exotic animal or allows his/her exotic animal to run at large is in violation of this Ordinance and subject to prosecution of a Class 2 misdemeanor. The fine for violation of this Section 3 shall be \$20.00 per day for the 1st offense, \$40.00 per day for the 2nd offense, \$60.00 per day for the 3rd and all subsequent offenses. Any violation of this chapter shall be documented by the law enforcement officer, Town employee or Animal Control Officer involved in the incident by issuing a warning or violation ticket.

### **Section 4. Animals at Large**

- A.** It shall be unlawful for any person to allow any dog, cat, or other animal held as a domestic pet to run at large at any time. The animal control officer, law enforcement officer, code enforcement officer, or any member of the Mission Hill Board of Trustees shall issue one written warning to the owner of the animal. Any additional violation shall result in the issuance of a ticket.
- B. Right of Entry in Pursuit.** When in immediate pursuit of any animal found to be at large in the Town, a law enforcement officer, Town employee or Animal Control Officer may enter upon the premises of the owner of such offending animal for the purpose of apprehending such animal, provided that, for the purpose of this section, the word premises shall not be construed to include the inside of any dwelling.
- C. Impoundment.** A law enforcement officer, Town employee or Animal Control Officer shall impound any animal found running at large within the Town of Mission Hill. Once the owner of the animal is ascertained, the owner shall be notified of the impoundment within 24 hours. Owner shall be liable and responsible for all impound fees and charges.

- D. Liability.** Animal Control Officers, Town employees or officials and law enforcement officers shall not be responsible for any injury to or disease of any animal resulting from the enforcement of this chapter.
- E. Failure to Claim.** Any impounded animal whose owner remains unidentified after 5 (five) days or any impounded animal not claimed by the owner within 3 (three) days after receiving notice provided by Section 4 (C ) shall become the property of the Town of Mission Hill and shall be placed for adoption in a suitable home or euthanized.
- F. Fees.** In addition to any fines or penalties applicable thereto, an owner of an impounded animal is responsible for and shall pay all expenses arising from or related to apprehension, impoundment, maintenance, adoption and/or euthanizing the animal. An owner may not reclaim an impounded animal until all such expenses have been paid.
- G. Conditions for Release.** The owner of any dog or cat, or other animal found running at large must pay fees provided for in Section 4 (F) prior to release of the animal to the care of the owner.
- H. Violation.** Any owner who allows his/her animal to run at large is in violation of this Ordinance and subject to prosecution of a Class 2 misdemeanor. Any violation of this chapter shall be documented by the law enforcement officer, Town employee or Animal Control Officer involved in the incident by issuing a warning or violation ticket. The fine for an animal running at large shall be \$20.00 per day for the 1st offense, \$40.00 per day for the 2nd offense, \$60.00 per day for the 3rd and all subsequent offenses assessable against the animal's owner.
- I. Public Nuisance.** Any person who violates the provisions of the Section shall be deemed to have engaged in a public nuisance as defined in SDCL Chapter 21-10. Any nuisance caused by an animal shall be deemed to have occurred on the real property of the owner. All expenses arising from or related to apprehension, impoundment, maintenance, adoption and/or euthanizing the animal shall be deemed costs of abatement and shall be fully recoverable from the owner via any and all methods permitted under South Dakota law, including but not limited to special assessment against the real property of the owner of the animal.

### **Section 5. Contracting for Impoundment**

The Board of Trustees is hereby authorized to enter into any contract with any person, association or corporation for the housing, care, disposition or destruction of animals impounded under the provisions of this Ordinance.

### **Section 6. Violation Tickets.**

All municipal ordinance violation tickets issued by an animal control officer, law enforcement officer, code enforcement officer, or any member of the Mission Hill Board of Trustees may be paid by the offender directly to the Mission Hill Finance Officer within fifteen (15) days of the date of issuance. Thereafter, the Finance Officer shall deliver the ticket to the Yankton County Clerk of Courts. All fines tendered after fifteen (15) days of issuance shall be paid by the offender to the Yankton County Clerk of Courts. All fines less than \$60.00 not paid to the Mission Hill Finance Officer in full within fifteen (15) days of the date of issuance shall automatically increase to \$60.00.

### **Section 7. Disturbing the Peace.**

- A. Loud or Annoying Noises.** It is declared that the persistent or constant barking, howling, whining, snarling or growling or any such sound by a dog constitutes a public nuisance by disturbing the peace and quiet of a neighborhood. No owner of a dog and no person keeping, harboring or having a dog on property occupied by that person, whether the

person is a resident or not of the property, shall allow the dog to persistently and constantly bark, howl, whine, snarl, growl or make other such sound. For purposes of this provision "persistent or constant" shall mean the barking, howling, whining, snarling, growling or any such sound continually for at least five minutes and with only brief or no interruptions within the five-minute period, OR the barking, howling, whining, snarling, growling or any such sound continually for at least one hour with periodic or short intervals between the barking, howling, whining, snarling, growling or any such sound. An owner of a dog and a person keeping, harboring or having a dog on property during the time that the dog is a public nuisance by disturbing the peace and quiet of a neighborhood shall be issued a warning of said nuisance by the police department, code enforcement officer or city attorney. Any subsequent instances when the dog is creating a public nuisance as set forth in this section shall result in the person being issued a violation ticket. A ticket so issued shall identify the amount of the fine and command the person to appear in court unless the fine is paid prior to the court date. The penalty for violating the ordinance codified in this section, after the requisite warning has been given, shall be a fine as set forth below.

- B. Removal.** Any Animal Control Officer or police officer may remove and impound any animal which is disturbing the peace when the owner of the animal cannot be located. A notice advising the owner of the impoundment shall be left on the premises.
- C. Animals in Heat.** Any person having custody or control of any female dog or cat in heat shall be required to keep such dog or cat confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes.
- D. Public Nuisance.** Any person who violates the provisions of this Section shall be deemed to have engaged in a public nuisance as defined in SDCL Chapter 21-10. Any nuisance caused by an animal shall be deemed to have occurred on the real property of the owner. All expenses arising from or related to apprehension, impoundment, maintenance, adopting and/or euthanization of the animal shall be deemed costs of abatement and shall be fully recoverable from the owner via any and all methods permitted under South Dakota law, including but not limited to special assessment against the real property of the owner of the animal.
- E. Violation.** Any owner who allows his/her animal to cause a disturbance of the peace is in violation of this Ordinance and subject to prosecution of a Class 2 misdemeanor. Any violation of this chapter shall be documented by the law enforcement officer, Town employee or Animal Control Officer involved in the incident by issuing a warning or violation ticket. The fine for violation of this Section 7 shall be \$20.00 per day for the 1st offense, \$40.00 per day for the 2nd offense, \$60.00 per day for the 3rd and all subsequent offenses.

## **Section 8. Defecation Removal.**

No owner of any animal shall allow such animal to defecate on public or private property other than his own. If such animal does defecate on public or private property, the owner must immediately clean the fecal matter from such property. Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Animals used in parades, involved in law enforcement, or utilized as service animals are exempt from the subsection. Any owner who in violation of this section is in violation of this Ordinance and subject to prosecution of a simple misdemeanor. Any violation of this chapter shall be documented by the law enforcement officer, Town employee or Animal Control Officer involved in the incident by issuing a warning or violation ticket. The fine for violation of this Section 8 shall be \$20.00 per day for the 1st offense, \$40.00 per day for the 2nd offense, \$60.00 per day for the 3rd and all subsequent offenses.

**Section 9. Severability.**

This Ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

**IN WITNESS WHEREOF**, the Town Board of the Town of Mission Hill has duly adopted this ordinance and caused it to be executed by the officer of the Board of Trustees of Mission Hill, South Dakota.

Scott Vanburen  
Town Board President

LeAnne J. Cutts  
Finance Officer

BOARD REVIEWED 10-14-14