

**CODIFIED LAW #27**  
**TOWN OF MISSION HILL**

***CLASSIFICATION & KEEPING OF VIXCIOUS & DANGEROUS DOGS***

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF MISSION HILL, SOUTH DAKOTA AS FOLOWS, TO-WIT”

**Section 1. Definitions.**

In this section, unless the context otherwise requires, the following words and phrases shall have the following meanings:

- A. **Bite:** Any contact, scraping, or penetration of the skin of another person or animal by the teeth of a dog.
- B. **Dangerous Dog:** A dog which displays a tendency, disposition, or propensity, as determined by the Town Board of Trustees or any law enforcement officer, to:
  - 1. Injure, bite, attack, chase or charge, or attempt to injure, bite, attack, chase or charge a person or domestic animal in a threatening manner, or
  - 2. Bare its teeth or approach a person or domestic animal in a threatening manner.A dangerous dog does not include an animal used in law enforcement, nor does the section apply to animals under the care of veterinarians.
- C. **Muzzle:** A leather, wire or device that, when fitted over a dog’s snout, prevents biting and eating.
- D. **Pit bull:** Any dog that is partially or completely of the breed of dog know as American Pit Bull Terrier, the American Staffordshire Terrier, or the Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
- E. **Provocation:** Any behavior toward an animal or its owner which is likely to cause a defensive reaction by the animal.
- F. **Vicious dog:** Any animal that bites, attempts to bite, endangers or otherwise injures or causes to be injured any person.

Definitions set forth in Mission Hill Revised Ordinance 72 shall supplement the definitions set forth herein.

**Section 2. Prohibited Activity.**

- A. No person owning, keeping, possessing, harboring, maintaining or having the care, custody, or control of a dog shall permit such dog to:
  - 1. Snap at or attempt to bit or attempt to cause physical harm to any other person or domestic animal while the dog is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.
  - 2. Cause physical harm to the property of another while the dog is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.
  - 3. Bite or otherwise cause physical harm to any person or domestic animal while the dog is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.
  - 4. Bite or otherwise cause physical harm to mail carriers, utility workers, Town of Mission Hill employees, delivery persons or to any law enforcement officer while the dog is on the premises of the owner or the premises under the control of the owner.

**B. Vicious dogs.** It shall be unlawful for any person to keep, control, harbor or otherwise have under control any dog which is vicious within the territorial limits of the Town of Mission Hill. The Town Board of Trustees or any law enforcement officer shall conduct an evaluation of a dog whenever there is reason to believe a dog is vicious. If the town Board of Trustees or any law enforcement officer declares a dog is vicious, the owner shall be notified and issued an order to remove the dog from the territorial limits of the Town of Mission Hill. The owner of the dog may request an informal hearing before the Town Board of Trustees at a regular meeting of the Town Board of Trustees to contest the declaration of viciousness. At said hearing, it is the burden of the owner of the dog to establish by a preponderance of the evidence that the dog is not vicious. No determination of viciousness precludes a later determination of viciousness or dangerousness, whether based on new or additional facts or circumstance of any nature. It shall be unlawful and a violation of this Ordinance for any owner to fail to comply with any order for removal pertaining to any dog declared to be vicious.

**1. Order of Removal**

When a dog has been declared vicious, the Town Board of Trustees shall cause to be issued an Order of Removal to be sent by certified mail to the owner's last known address requiring the owner to remove the dog from the territorial limits of the Town of Mission Hill within fifteen (15) days of mailing the Order. Upon the owner's failure to comply with the Order of Removal, any law enforcement officer, Town employee or Animal Control Officer may seize and humanely destroy the dog.

**C. Dangerous Dogs.** The Town Board of Trustees or any law enforcement officer shall conduct an evaluation of a dog whenever there is reason to believe a dog is dangerous or vicious. If the town Board of Trustees or any law enforcement officer declares a dog is dangerous, the owner shall be notified and issued an order setting forth confinement and other compliance requirements to insure public safety with respect to the dangerous dog. The owner of the dog may request an informal hearing before the Town Board of Trustees at a regular meeting of the town Board of Trustees to contest the declaration of the dangerousness or contest the confinement requirements. At said hearing, it is the burden of the owner of the dog to establish by a preponderance of the evidence that the dog is not dangerous. No determination of dangerousness precludes a late determination of viciousness of dangerousness, whether based on a new or additional facts or circumstances of any nature. It shall be unlawful and a violation of this Ordinance for any owner to fails to comply with any confinement or compliance order pertaining to any dog declared to be dangerous.

**1. Order of Compliance, Confinement**

When a dog has been declared dangerous, the Town Board of Trustees shall cause to be issued an Order of Compliance to be sent by certified mail to the owner's last known address requiring the owner to comply with any or all of the following requirements within thirty (30) days of mailing:

- a. Confine the animal sufficiently to prevent the dog's escape as follows:
  - i. The Town Board of Trustees shall determine the appropriate fencing requirements for the size and nature of the dog. The Town may require a fence including gates to be six (6) feet height; the fence, from five (5) feet in height to six (6) feet in height to incline to the inside of the confinement area at a forty-five (45) degree angle from the vertical; or that the confinement area be wholly covered by a material strong enough to keep the dog from escaping.
  - ii. The Town may require the gates to the confinement area be locked at all times with a padlock except while the owner enters or exits the confinement area.

2. Temporary Confinement. The Town may require temporary confinement measures until the Order of Compliance has been obeyed or the Town determines that the dog is not dangerous. If the owner does not immediately comply with the temporary confinement requirements, the animal may be impounded.
3. Consent to Inspection.
  - a. By continuing to own a dog declared dangerous, an owner gives consent to the Town, its Trustees or employees or any law enforcement officer to inspect the dog which has been declared dangerous and the premises where the dog is kept.
  - b. Any law enforcement officer may seize and impound the dangerous dog if the owner fails to obey the Order of Compliance. Five (5) days after seizure, the law enforcement officer may humanely euthanize the dog unless the owner has demonstrated obedience to the Order of Compliance. The owner of the dog is responsible for any impound fees. If the owner of the dog demonstrates proof that the Order of Compliance has been obeyed, then the animal will be returned to the owner after payment of impound fees.
4. Required Acts and Unlawful Activities
  - a. An owner of a dog declared vicious shall obey the Order of Removal
  - b. An owner of a dog declared dangerous shall obey the Order of Compliance
  - c. An owner of a dog declared dangerous shall not prevent or try to prevent inspection of the dog or the premises where the dog is kept.
  - d. When the owner of a dog is notified that the Town is evaluating the dog or desires to evaluate the dog to determine if the dog is dangerous, the owner of the dog shall present the dog for inspection within twenty-four (24) hours of a request by the town or any law enforcement officer.
  - e. The owner of a dog declared dangerous shall prevent the dog from running at large
  - f. The owner of a dog declared dangerous shall prevent the dog from biting, injuring or attacking any person outside of the confinement area.

**D. Pit Bull Dogs Presumed Dangerous** Due to the unpredictable nature and propensity for viciousness, it shall be unlawful and a violation of this Ordinance for any person to bring any new pit bull dogs within the territorial limits of the Town of Mission Hill. There shall be an irrefutable presumption that any pit bull dog already being kept, possessed, harbored, and/or maintained within the Town limits as of the date of Ordinance became effective, is a dangerous dog and is therefore subject to the requirements of Section 2 ©(1) through 2©(4) of this Ordinance.

### **Section 3. Defenses.**

- A. It shall be an affirmative defense to a violation of Section 2 (A) of this Ordinance if the dog was not at large or out of its confinement, and there was provocation. It shall not be an affirmative defense to the characterization of the dog as vicious or dangerous.
- B. No public law enforcement agency or member thereof, or a licensed private law enforcement agency or member thereof, shall be convicted of any violation of this Ordinance where the dog is owned by the agency and being utilized for law enforcement purposes.
- C. Lack of intent or knowledge is not a defense to a violation of this Ordinance.

### **Section 4. Penalties.**

Violation of Sections 2 (A), 2 (C) (4) and 2 (D) of this Ordinance shall be a Class 2 Misdemeanor punishable by a fine of not more than Two Hundred and no/100 (\$200.00) Dollars. Each day any violation occurs shall constitute a separate offense. In addition, restitution may be ordered paid to the victim, if any, for damages caused by an owner's failure to comply with this section. This remedy shall not abridge any civil cause of action of the victim.

### **Section 5. 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 officers of the Board of Trustees of Mission Hill.

Scott Vanburen  
Town Board President

LeAnne J. Cutts  
Finance Officer

BOARD REVIEWED 10-14-14

**ORDINANCE #115**