

ORDINANCE 33

ANIMAL ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF THE CITY OF SUMMERSET, Meade County, South Dakota that Ordinance 12, 12-2A, 12-2B, 12-2C, 12-2D, 12-10E, 12F, and 12-17F be repealed in their entirety, and

BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF THE CITY OF SUMMERSET, Meade County, South Dakota that the following Ordinance 33 – Animal Ordinance be adopted as follows:

Chapters:

- 33.01: General Provisions
- 33.02: Miscellaneous
- 33.03: Dogs and Cats

Chapter 33.01 GENERAL PROVISIONS

SECTIONS:

- 33.01.01: Scope and Purpose
- 33.01.02 Definitions
- 33.01.03 Penalty

33.01.01: SCOPE AND PURPOSE

The purpose of this Ordinance is to regulate the existence of animals with the City to assure the safety of the public while also assuring the humane treatment of animals within the City.

33.01.02: DEFINITIONS

ANIMAL: Any mammal, bird, reptile, amphibian or fish, except humans.

ANIMAL CONTROL OFFICER: An Animal Control Officer shall be any person appointed to perform this duty as provided by the Ordinance or any police or law enforcement officer of the City of Somerset.

ANIMAL SHELTER: Any premises designated by the action of the City for the purpose of impounding and caring for all animals found to be in violation of this Ordinance

APPOINTED DESIGNEE: For the purpose of this Ordinance the appointed designee shall be any person appointed by, or employee of the City of Somerset, or in the case of a disaster, or other emergency situation, any member of an animal rescue or animal care group authorized by the City of Somerset.

AT LARGE: Any animal shall be deemed to be at large when it is off the property of its owner and not under the immediate control of a competent person.

EXPOSED TO RABIES: An animal has been exposed to rabies within the meaning of this Ordinance, if it has been bitten by or has been exposed to any animal known to or suspected of being infected with rabies.

KENNEL: Any person or corporation engaged in the commercial business of breeding buying, selling or boarding animals. This definition shall not apply to the owner of only one breeding matron.

LEASH: A cord, thong, or chain not more than ten (10) feet in length by which a dog is controlled by the person accompanying it. A dog in an automobile is considered on the owner's property.

(Definitions Amended August 16, 2012 by Ordinance 33.01C effective September 21, 2012)

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

OWNER: Any person, groups of persons or corporations owning, keeping or harboring an animal.

RESTRIANT: An animal is under restraint if it is controlled by a leash, "at heel" beside a competent person and obedient to that person's commands, in a vehicle, if attached to said vehicle or confined inside of the vehicle, in such a manner as not

to allow it to reach outside the confines of that vehicle, or within a vehicle being driven on the street or parked within the property limits of its owner or keeper.

SHELTER TECHNICIAN: Any person who is employed by the City to care for the daily needs of food, water, and shelter of any animal impounded by the Animal Control Officer.

SPAYED FEMALE: A matron that has undergone surgery to prevent conception, whose owner can provide suitable proof of said surgery.

33.01.03: PENALTY

Any violation of the provisions of this Ordinance is a Class 2 Misdemeanor punishable by the maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any costs and/or restitution authorized by this Ordinance and/or state law.

In addition to the remedies provided in this Ordinance, any person violating any provision of this Ordinance shall be subject to the general penalty provision as set forth in the above paragraph of this Ordinance, unless otherwise specifically provided, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Any citation for an ordinance issued by the City pursuant to the terms of the Summerset City Ordinances may be appealed to the Summerset City Commissioners, in writing and within fifteen days of the issuance of the citation. Such written notice of appeal shall be submitted to the City Finance Office. All appeals shall be heard and decided by the Summerset City Commissioners.

(33.01.03 Amended October 5, 2010 by Ordinance 33.01B effective October 30, 2010)

Chapter 33.02 MISCELLANEOUS

SECTIONS:

33.02.01: Animal Shelter (Reserved)

33.02.02: Certain Animals Prohibited

33.02.03: Exceptions

33.02.04: Animals to be Impounded: Redemption

33.02.05: Chemical Immobilization
33.02.06: Cruelty to Animals: Generally
33.02.07: Teasing and Molesting
33.02.08: Killing, Injuring, or Poisoning animals
33.02.09: Fights between animals prohibited
33.02.10: Abandonment
33.02.11: Rabies control: Impounding for Observation
33.02.12: Keeping Rabid animals
33.02.13: Report of suspected cases: General
33.02.14: Report of suspected cases: Veterinarians
33.02.15: Report of suspected cases: Physicians
33.02.16: Investigation
33.02.17: Interference
33.02.18: Records (Reserved)
33.02.19: Vicious, Ferocious, Venomous or Dangerous Animals
33.02.20: Enforcement

33.02.01: ANIMAL SHELTER (RESERVED)

33.02.02: CERTAIN ANIMALS PROHIBITED

No person shall allow, bring, keep, or maintain, into or within the City, whether under control or at large, any horse, cow, mule, swine, sheep, goats, fowl, (chickens) and pigeons except as otherwise provided in Section 33.02.03.

EXOTIC OR WILD ANIMALS

No person shall keep an animal of a species prohibited or protected by Title 50 Code of Federal Regulations, or by South Dakota in a residential zone in the City of Summerset including the following:

1. All non-human primates
2. All wild cats of the family Felidae and their hybrid, except domestic cats.
3. All species of bear
4. All wild carnivores of family Canidae and their hybrid, except domestic dogs.
5. Venomous reptiles, fish, amphibians and arachnids
6. Any constrictor snake

7. All members of alligator, crocodile, and caiman families.

Any person who violates this Chapter after given notice that they are in violation, will have 48 hours to permanently remove the animal for the City limits. Upon failure to comply with this notice the animal's owner will be subject to all fines and costs plus any expense that the City would incur to remove the animal.

(33.02.02 Amended June 14, 2014 by Ordinance 33.01D effective December 31, 2014)

33.02.03: EXCEPTIONS:

The animals mentioned in the previous Section shall be allowed within the City only when:

1. Livestock and poultry that are maintain and keep on properties zoned agriculture and kept in fenced pastures.
2. They are used or are part of a legally authorized circus, menagerie, or carnival.
3. They are used in or are part of a legally authorized parade, provided that such animals shall only be allowed within the City for said purpose for the length of time necessary to participate in said parade.
4. They are in the process of being transported from one area outside of the City to another, in which case they shall be in constant supervision and control of the owner, manager, or driver and such transporting shall be done with all due speed and care.
5. They are on the premises of a duly licensed stock exchange, livestock sale ring, or veterinarian hospital.
6. They are part of a legally authorized livestock show or exhibition.
7. They are animals of an exotic nature. There shall be no more than one such species on any premises and the owner shall have received prior approval of the City Council and Animal Control Officer before the animal is allowed on premises with a time frame on when the species is to be removed from the City.

33.02.04: ANIMALS TO BE IMPOUNDED: REDEMPTION

It shall be the duty of the Animal Control Officer to impound any animal found in violation of the provisions of this Ordinance, and any persons claiming any animal so impounded shall pay the shelter and City any fees or fines before its discharge from the Animal shelter.

33.02.05: CHEMICAL IMMOBILIZATION

The Animal Control Officer or his duly appointed designee is hereby authorized to use, operate and possess such devices that are designated to propel projectiles for the purpose of intermuscular injection of drugs used in the humane capture of animals. Any person using the above-described devices shall have specialized training in the use of the device, any and all departmental policies concerning the device, in the drugs, in the proper use of the drugs, and in the care of the animal after such drugs have been injected.

33.02.06: CRUELTY TO ANIMALS: GENERALLY

No person shall cruelly treat any animal in any way. Any person who inhumanely beats, or wantonly or maliciously tortures or deprives of necessary sustenance, drink, or shelter, overloads, abandons, mutilates or cruelly kills any animals shall be deemed guilty of a violation of this Section.

33.02.07: TEASING AND MOLESTING

Any person, who inhumanely teases, molests, baits, or in any way bothers any way bothers any animal shall be deemed guilty of a violation of this Section.

33.02.08: KILLING, INJURING, OR POISONING ANIMALS

It shall be unlawful for any person to willfully or maliciously kill, wound, or injure any animal in any way except as to protect the lives of any person or livestock from being attacked by such animal: or to willfully or maliciously administer poison to any animal that is the property of another person or to expose any such poison substance with the intent that the same shall be taken and swallowed by any dog or cat or any animal that is the property of another person.

33.02.09: FIGHTS BETWEEN ANIMALS PROHIBITED

No person shall willfully allow any animal to fight, worry, or injure another animal, nor shall any person keep any house, pit, or other place to be used in permitting any fighting, worrying, or injuring of animals.

33.02.10: ABANDONMENT

It shall be unlawful for any person to abandon any animal upon a public right of way, or upon the property of another, or upon property owned by that person within the City.

33.02.11: RABIES CONTROL: IMPOUNDING FOR OBSERVATION

When any person owning or harboring an animal has been notified that said animal has bitten or attacked any person, the owner must immediately 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, however, in those cases where the animal is a dog and the owner has a current rabies vaccination for the said dog, the Officer may, if he feels the facilities are adequate, and if the owner is a responsible person, allow the quarantine of the dog on the owner's premises. In such a case, the owner must sign a statement in which the owner recognizes and assumes the responsibility that is involved with the quarantine of a dog that has bitten. A quarantined dog must, at all times, be available for inspection during the quarantine.

At the end of the ten (10) day period of observation, the animal shall be examined by a veterinarian or the Animal Control Officer, and if cleared, may be reclaimed by the owner, and the owner must pay the expense incurred incident thereto.

Any animal impounded or placed for observation showing active signs or 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.

Any animal that has bitten or attacked and cannot be captured, shows or is suspected of rabies, or any animal that has no confirmable rabies vaccination history may be destroyed in such a manner that the head is not damaged and can be submitted for rabies examination to a laboratory.

Every unvaccinated animal bitten by another animal showing positive symptoms of rabies shall be forthwith destroyed or shall, at the owner's option and expense, be

held for observation for not less than six (6) months under direct supervision of a veterinarian, and the animal is to receive a rabies vaccination one(1) month prior to its release from observation.

Every owner having knowledge that his animal has bitten or is suspected of biting a human being shall forthwith report the same to the Summerset Police Department for disposition of said animal under the provisions of the ordinance.

33.02.12: KEEPING RABID ANIMALS

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 be infected with rabies.

33.02.13: REPORT OF SUSPECTED CASES: GENERAL

Any person who shall suspect any animal in the City to be infected with rabies shall report said animal to the Animal Control Officer, describing the animal and giving the name and address of the owner if known.

33.02.14: REPORT OF SUSPECTED CASES: VETERINARIANS

Veterinarians within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to any Animal Control Officer in the City.

33.02.15: REPORT OF SUSPECTED CASES: PHYSICIANS

Physicians, within the City, immediately upon treatment of any person bitten by an animal, shall report such information to any Animal Control Officer of the City.

33.02.16: INVESTIGATION

For the purpose of discharging the duties imposed by this Ordinance and to enforce the provisions thereof, any Animal Control Officer, or their appointed designee, is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the extradition by the owner to such animal, the license, or a valid rabies certificate for said animal. It is further provided that the Animal Control Officer, Police Officer or their appointed designee, may enter upon the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such

animal and to take possession of such animal if there is probable cause to believe an animal or animals have been treated inhumanely.

The Animal Control Officer, Police Officer, or their appointed designee, is hereby authorized to follow and enter upon any enclosure or lot within the

City in quest of any animal suspected of being infected by rabies, or to apprehend any dog which has been observed running at large.

33.02.17: INTERFERENCE

No person shall interfere with, hinder or molest any official in the performance of any duty of his office, or seek to release any animal in the custody of the Animal Control Officer except as herein provided.

33.02.18: RECORDS (RESERVED)

33.02.19: VICIOUS, FEROCIOUS, VEROMOUS, OR DANGEROUS ANIMALS

It shall be unlawful for any person to allow or maintained, run at large, or displayed in a crowded area within the City, any animal of a venomous, vicious, ferocious or dangerous habit, nature or disposition. Any such found running at large within the City may be impounded or disposed of by the Animal Control Officer. All persons or organizations authorized by the City are excluded from this provision.

Vicious Animals: An animal may be declared to be a vicious animal by the Chief of Police under the following:

- A. 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 any public ground or place.
- B. An animal which on private property in a vicious or terrifying manner approaches in apparent attitude of attack, or bites or inflicts injury or otherwise attacks a person or other animal who is on private property by reason of permission of the owner or occupant of such property or

- C. who is on private property by reason of course of dealing with the owner or occupant of such property.
 - D. Any animal of a known propensity, tendency or otherwise threaten the safety of human beings or animals.
 - E. No animal may be declared vicious if the injury or damage is sustained to any person or animal who was tormenting, abusing or assaulting the animal or who was trespassing on the property by committing or attempting to commit a crime.
 - F. When the Police Chief declares an animal to be vicious, the officer shall notify the owner of such declaration in writing that such animal must be registered as a vicious animal. Said notice shall be served either in person or by mailing such notice by certified mail.
2. The owner of an animal that has been declared vicious shall make application to Police Chief to register said vicious animal and shall comply with the following:
- A. Annually renew a vicious animal application at a fee of Seventy five dollars (\$75.00) and addition to the regular license.
 - B. Maintain two hundred and fifty thousand dollars (\$250.000) in liability insurance.
 - C. The owner of the animal shall notify the Police Department of any changes in the following:
 - 1. Ownership of the animal
 - 2. Name, address, and telephone number of a new owner
 - 3. Address change of the owner or any change in where the animal is housed.
 - 4. Any change in the health status of the animal or death of the animal.
 - 5. If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than four feet and under the control of a person over the age of 18 years of age.
 - 6. If the animal is outdoors and unattended, the animal must be locked in an escape proof kennel approved by the City, with the following conditions;

- a. Fencing material shall not have openings with a diameter of more than 2 inches.
- b. Any gates within such pen or structure shall be lockable and such design to prevent the entry of children or escape of the animal.
- c. The pen or structure shall have secure sides and top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded in the ground or concrete.
- d. The pen or structure shall protect the animal from the elements.
- e. The pen or structure may be required to have a double exterior wall to prevent the insertion of fingers or other objects.
- f. A universal sign denoting a vicious animal shall be displayed on the pen or structure visible from the sidewalk/street.
- g. The kennel or structure shall be inspected annually by the Police Department. A fee of fifty dollars (\$50.00) for the inspection will be responsibility of the owner.
- h. The owner of the animal shall present proof to the Police Department that the animal has been altered to prevent reproduction.
- i. The vicious animal shall be impounded, at the owner's expense until such time as the provisions of this Ordinance are complied with.

33.02.20: ENFORCEMENT

The provisions of this Ordinance shall be enforced by the City Police Department and his duly appointed Animal Control Officer or designees.

Chapter 33.03 DOGS AND CATS

SECTIONS:

33.03.01: Licensing of Animals (dogs, cats,)

33.03.02: Conditions for Animal license

33.03.03: License fee: Exemptions

33.03.04: Rabies Certificate

- 33.03.05: Exemptions
- 33.03.06: Dogs, Cats, Running at Large
- 33.03.07: Impoundment and Disposition of Dogs, Cats.
- 33.03.08: Redemption or Destruction of Dogs, Cats Running at Large-untagged
- 33.03.09: Dogs with Destructive Habits
- 33.03.10: Kennels- License Required for
- 33.03.11: License Fee for Kennels
- 33.03.12: Kennel license- How maintained
- 33.03.13: Barking dogs
- 33.03.14: Defecation Restriction
- 33.03.15: Fecal Cleanup Requirement
- 33.03.16: Number of Pets limited

33.03.01: LICENSING OF ANIMALS (DOGS CATS)

(33.03.01 Repealed and Nullified June 14, 2014 by Ordinance 33.01D effective December 31, 2014)

33.03.02: CONDITIONS FOR ANIMAL LICENSE

(33.03.02 Repealed and Nullified June 14, 2014 by Ordinance 33.01D effective December 31, 2014)

33.03.03: LICENSE FEE: EXEMPIONS

(33.03.03 Repealed and Nullified June 14, 2014 by Ordinance 33.01D effective December 31, 2014)

33.03.04: RABIES CERTIFICATE

Every person who keeps, maintains, or has in his control dog, cat, within the City, shall have the dog or cat inoculated for the prevention of rabies at least every two (2) years with the modified live virus. It shall be the duty of the owner of the dog or cat to place a collar around the neck of each dog or cat so owned or kept by him which the metallic rabies tag furnished by a licensed veterinarian shall be securely fastened. It shall be unlawful for any person to keep or harbor any dog or cat over

the age of six (6) months without obtaining the rabies certificate from a licensed veterinarian.

33.03.05: EXEMPTIONS

Hospitals, clinics and other premises operated by a licensed veterinarian for the care and treatment of dogs or cats are exempt from provisions of this ordinance.

33.03.06: DOGS AND CATS RUNNING AT LARGE

A. General- Any person who owns or who has under his care a dog or cat shall not allow said dog or cat to run at large in the City, and said dog or cat when present within the City, shall either be on a leash controlled by a person, or properly secured to a leash which has been tied to an immovable object, or confined within an enclosure sufficient to keep said dog or cat restrained from escaping such

enclosure. No dog or cat shall be leashed to an immovable object so as to permit the dog or cat to walk on or over any public sidewalk or street or any property of another person other than that of the owner of said dog or cat. Any dog or cat not confined by leash or enclosure as set forth herein is hereby declared to be running at large and is declared to be public nuisance. When dogs or cats are found running large, and their ownership can be discovered by examination of any rabies license which must be affixed to the dog or cat or by inquiry of any residing in the immediate vicinity where the dog or cat was first taken in possession, such dog or cat need not be impounded, but the Animal Control Officer may cite the owner of such dog or cat to appear in Court to answer charges of violations of this ordinance. Such citation shall state the violation date, time, location, breed and color of the dog or cat, if known, and the name and address of the owner of said dog or cat. Said notice shall direct the owner to appear before the Magistrate Court to answer to the charge of such violation.

B. Public Park and Recreation Area and Cemetery.

It shall be unlawful to have any animal in any public park and recreation area or cemetery within the City, except under leash control and on designated roads and walkways. This excludes all persons or organizations authorized by the City.

33.03.07: IMPOUNDMENT AND DISPOSITION OF DOGS AND CATS

Any dog or cat found running at large as defined in this ordinance may be taken by the Animal Control Officer and impounded in the animal shelter to be confined in a humane manner. Any animal impounded and not claimed by their owners at the expiration of five (5) days may be disposed of at the discretion of the Animal Control Officer, or appointed designee, except as hereinafter provided in certain cases of certain dogs or cats. Immediately after impounding such dog or cat before euthanizing or disposing of it, the owner shall be given notice of the conditions whereby he/she may regain possession of such dog or cat. If any owner has requested his animal to be euthanized and disposed of humanely, the Animal Control Officer or appointed designee, may collect from said owner a fee that will cover the cost of such euthanization, disposal.

33.03.08: REDEMPTION OR DESTRUCTION OF DOG OR RUNNING AT LARGE- UNTAGGED

During the period of possession, any person shall pay fees for impound and having a current rabies certificate may redeem and obtain possession of a dog or cat that was untagged or tagged and thereby impounded. If the owner of any impound dog or cat under the provisions of the article, shall fail to redeem such dog or cat within three (3) consecutive days, not counting Sunday and holidays, after such impounding said dog or cat shall disposed of by humane euthanization. The Animal Control Officer may euthanize by a humane manner any sick or injured animal which has been impounded without holding it for three (3) days if its condition is such that euthanization is the most human manner to dispose of the animal.

(33.03.08 Amended September 2, 2010 by Ordinance 33.01A effective October 2, 2010)

33.03.09: DOGS WITH DESTRUCTIVE HABITS

It shall be unlawful for any person to permit or suffer to run at large within the City, any dog with destructive habits or disposition, which destroys property other than that of his owner, or is in the habit of barking at persons passing along or using the streets and public sidewalks of the City. The Animal Control Officer under proper authority is hereby empowered to impound any such animal.

33.03.10: KENNELS – LICENSE REQUIRED FOR

Any person owning, possession, keeping or desiring to keep or maintain with the City, a kennel composed of three (3) or more animals of any one species shall

obtain from the City a license therefore before such kennel may be kept or maintained. For purpose of this provision, anyone keeping three (3) or more of any animal species shall be deemed to operate a kennel and shall comply with all the provisions of this ordinance and specifically all provisions of this Chapter relating to and in addition to all requirements of this provision.

33.03.11: LICENSE FEE FOR KENNEL

License or animal renewal inspection fee shall be \$25.00 per year. The Animal Control Officer shall do annual inspection and renewals.

33.03.12: KENNEL LICENSE – HOW MAINTAINED

Every person desiring to obtain a kennel license provided for herein shall make application on a form by the City of Summerset. Along with the application, the applicant shall also provide to the City the written consent of the majority of the persons of full age, residing within 400 feet of the exterior boundaries of the premises where such kennel is proposed to be located and kept. The City designee shall make a site inspection and submit in writing the site inspection report, application and written consent to the City Council. The report shall state the name and place where such kennel is to be located, and the size of the kennel proposed to be kept. Then upon payment of the license fee as herein provided, and upon the approval of the City Council, the license shall be issued. The approval of City Council shall be conditional upon compliance with all applicable zoning laws, all provisions of this Ordinance relating to the keeping of animals generally and upon compliance with all other properly promulgated rules and regulations of the State of South Dakota, and the City relating to the keeping of animals.

33.03.13: BARKING DOGS

No person owning or possessing any dogs, licensed or unlicensed, confined on the premises, or otherwise, shall suffer or permit such dog to disturb the peace and quiet of the neighborhood by continuous barking or howling or making other loud or unusual noises. It shall be duty of any person in possession of any such dog, which disturbs the peace and quiet to dispose of the disturbance even if disposing of the dog is the only effective means.

33.03.14: DEFECATION RESTRICTION

No owner, keeper, caretaker, or attendant of an animal shall allow animal to defecate on public or private property other than his own. If such animal does defecate on said property, the owner must immediately and thoroughly clean the fecal matter from such property.

33.03.15: FECAL CLEANUP REQUIREMENT

Anyone walking an animal on public or private property other than their own must carry with them a means of cleaning up any fecal matter left by the animal. Animals used in parades or involves in law enforcement are exempt from this Ordinance.

33.03.16: NUMBER OF PETS LIMITED

It is unlawful for any person to have or to keep more than four (4) domestic pets over the age of six (6) months old, except birds or fish or indoor cats on any lot or premises in the City, unless such person residing in or on premises has a valid kennel license issued by the City. The humane society, veterinarian officer and retail pet stores are exempt from the provisions of this section.

Dated this 8th day of July, 2010

ATTEST:

Rebecca J. Phillips
Finance Officer

Duane K. Fink
Mayor

Vote: Butler: Aye
Fink: Aye
Wagner: Aye

First Reading: July 1, 2010
Second Reading: July 8, 2010
Publication:

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