**Ordinance No. 1 (Revised)**

AN ORDINANCE PROVIDING FOR THE LICENSING AND CONTROL OF ANIMALS WITHIN CUSTER COUNTY.

Be it ordained by Custer County that Ordinance 4 of the Ordinances of Custer County be amended to read as follows:

**Purpose**: Public health safety and welfare is the primary concern of the Custer County Commission. This ordinance is enacted to replace all previous ordinances relating to animal control and licensing within Custer County other than Planning and Zoning ordinances. Although the first and primary responsibility for animal control belongs to the owner, this ordinance is intended to aid in the control of animals within Custer County.

**Article I. GENERAL**

For the purpose of this chapter the following words and phrases shall have the meanings herein ascribed to them:

Animal: Any mammal, bird, reptile, amphibian or fish, except humans. SDCL§40-1-1(2). For the purpose of Article IV rabies control, "animal" shall mean any animal that may be infected with rabies.

Animal Control Officer: The officer(s) approved by the Custer County Commission and authorized to investigate and enforce violations of this ordinance and the laws of the State of South Dakota relating to cruelty, abuse and injury to animals. The Custer County Sheriff or his deputies, may act as Animal Control Officers.

 **At Large**: Any animal located off the property of its owner and not under control of a competent person.

**Contracted Agent**: Means the person, organization, governmental agency, or corporation with whom the County contracts to perform animal control functions.

**Dangerous Animal**: Any animal that, by itself or by environmental circumstances, at the determination of an animal control officer after investigation, is a threat to the physical well-being of other owned animals or humans. SDCL § 40-1-2.5.

 **Kennel**: Any lot or premises or portion thereof where four or more dogs, cats, rabbits or other

household/domesticated animals, six months of age or older, are maintained, boarded, bred, or cared for in return for any compensation or are kept for the purposes of sale. This definition does not include 4H Club member projects nor fowl.

 **Owner**: Any person, partnership, corporation, or other legal entity owning, harboring or keeping any animal, or in the case of a person under the age of 18, that persons parent(s) or legal guardian.

**Potentially Dangerous Animal**: Means any animal that, because of its aggressive nature, training or characteristic behavior, presents a risk of substantial physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. The term Potentially Dangerous Animal includes any animal that, according to the records of Custer County's contracted agent or any law enforcement agency.

1. When unprovoked has bitten, attacked, endangered , or inflicted injury on a human being on public or private property, or when unprovoked, has chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack;

2. Has more than once severally injured or killed a domestic animal or livestock while off the owners property; or

3. Has been used primarily or in part for the purpose of animal fighting, or is an animal trained for animal fighting.

**Shelter Manager**: The Shelter Manager shall be the supervisor of the Animal Shelter. The Shelter Manager performs or causes to be performed the professional services required in the care, treatment, or euthanasia of the animals being handled, and is responsible for keeping all records of rabid animals, animal bites, and rabies related quarantines. The Shelter Manager may be an employee of the County or the County may contract with a municipality or other suitable person, firm or corporation to provide same.

**Vicious Dog**: means:

1. Any dog which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a human being upon the streets, sidewalks or any public grounds or places; or

2. Any dog which, on private property, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person 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. SDCL § 40 34-14.

**Section 2. Enforcement**.

A. The provisions of this Ordinance shall be enforced by the Custer County Sheriff or his deputies or the Animal Control Officers.

B. The Custer County Sheriff his deputies or Animal Control Officers may issue a citation for violation of this ordinance or may issue warning tickets requiring correction of a violation.

C. No person may hinder, delay or obstruct the Custer County Sheriff his deputies or any Animal Control Officer in the lawful performance of any duty under this Ordinance, or seek to release any animal in the custody of the Sheriff or Animal Control Officer agency.

D. Any person, firm or corporation violating any provision of this Ordinance shall be subject to all applicable civil and criminal remedies allowed under the laws of the State of South Dakota in addition to a fine of not more than Five Hundred Dollars (500.00)

**Section 3. Records**.

A. It shall be the duty of the Shelter Manager and the Animal Control Officer(s) to keep, or cause to be kept, accurate and detailed records of the finding, impoundment, and disposition of all animals coming into their custody.

B. It shall be the duty of the Shelter Manager and the Animal Control Officer(s) to keep, or cause to be kept, accurate and detailed records of:

1. All bite cases reported to him and his investigation of the same;

2. All citations and warning tickets issued by him;

3. All investigations conducted by him concerning reported violations of state law regarding inhumane treatment of animals.

C. It shall be the duty of the Shelter Manager and the Animal Control Officer( s) to keep, or cause to be kept, accurate and detailed records of all monies belonging to the County, which records shall be open to inspection at reasonable times at the request of the Custer County Commission or its designee.

D. It shall be the duty of the Shelter Manager and the Animal Control Officer(s) to keep or cause to be kept records of all animals quarantined for rabies observation, reported cases of rabies, animal bites, and proceedings regarding vicious dogs.

**Article II. Regulations**

**Section 1. Dogs or Cats at Large**.

No owner may permit his dog or cat to be at large. It shall be considered a public nuisance for any person who owns or keeps more than five dogs and who fails to keep such dogs within the confines of his own property. SDCL § 40-34-4.

**Section 2. Striking Animal with Motor Vehicle.**

Any person/s who, as the operator of a motor vehicle, strikes an animal, shall at once report the accident to the appropriate law enforcement agency, Animal Control Officer, or Shelter Manager.

**Section 3. Noisy Animal.**

No person may allow any animal under his control to make loud noises to the great discomfort of the peace and quiet in such continuous manner as to materially disturb or annoy persons who are of ordinary sensibilities.

**Section 4. Teasing and Molesting.**

It shall be unlawful for any person to tease, molest, bait, or in any way bother any animal not belonging to him or not legally under his control.

**Section 5. Keeping of Vicious Dog.**

A. It shall be considered a public nuisance for any person to own or keep a vicious dog except under the specific conditions outlined in this section below. SDCL § 40-34-13.

B. No dog may be declared vicious if an injury or damage is sustained to any person who was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or who was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. SDCL § 40 34- 15.

C. The Custer County Sheriff or his designee may make a determination that a dog is vicious after taking the following into consideration:

1. The nature and severity of an attack

2. Whether the dog has shown a propensity to display dangerously aggressive behavior and is able or likely to inflict injury to another animal or person.

3. Previous incidents of like nature.

D. After a dog has been declared vicious, the owner of the dog shall be notified accordingly in writing by the Sheriff or his designee. The written notification shall also include any containment procedures or facilities deemed necessary by the Sheriff to control said animal which may include, but not necessarily be limited to, muzzling, chaining, double fencing, or caging.

E. Any dog declared vicious by the procedures set forth in this Section that is subsequently found off the premises of the owner or if the Sheriff or his designee determines that a violation of the written containment notice has occurred, the Sheriff or Animal Control Officer shall immediately seize and impound said dog. If the dog cannot be captured without undue risk to the safety of the Sheriff or Animal Control Officer, it may be immediately destroyed in a manner whereby the head is not damaged. If the dog has been seen running at large and/or has bitten a person or animal, the Sheriff or Animal Control Officer may order the owner or custodian to deliver the dog to the animal shelter within 24 hours to be impounded.

**Section 6. Keeping of Dangerous Animal.**

A. No person may own, harbor, or keep within the County any dangerous animal, except according to the provisions of this Section.

B. The owner or caretaker of a potentially dangerous animal shall keep such animal in a proper enclosure. If a potentially dangerous animal is not in a proper enclosure, it shall be directly accompanied by its owner or caretaker and confined or restrained in such a manner that, after investigation by [an Animal Control Officer], it is not a dangerous animal. The ownership or possession of a dangerous animal in violation of this Section is a Class I misdemeanor. SDCL § 40-1-23.

C. The Sheriff or his designee may take possession of and impound any animal suspected of being dangerous. The Sheriff may hold such animal for a necessary period of time to determine the extent of the danger such animal poses. The Sheriff or his designee may dispose of any animal so determined to be dangerous. SDCL § 7- 12-29.

D. The Sheriff or his designee may use all necessary means to control a dangerous animal so as not to immediately jeopardize the health or safety of themselves or others. The Sheriff or his designee may enter, search and investigate premises, take testimony from the owner and witnesses and seize, impound or euthanize a dangerous animal. SDCL § 40-1-24.

E. At the discretion of the Custer County Sheriff or his designee, a person may continue to own, harbor, or keep a dangerous animal only if the Sheriff or his designee provides the owner with written containment procedures as set forth in Section 5 of this Ordinance and said animal is kept accordingly. If the Sheriff or his designee determines that a violation of the Containment Notice has occurred, said animal shall be seized and impounded immediately to be disposed of as set forth in this section. The owner of said dangerous animal is subject to any civil or criminal penalties referenced in this Ordinance.

**Article III. Impoundment and Disposition of Animals**

**Section 1. Impoundment of Animals.**

A. An Animal Control Officer may seize and impound an animal directly from its owner's property or possession without court order or other written permission in the following circumstances:

1. Said animal is suspected of having rabies;

2. Said animal's life is in immediate jeopardy;

4. Said animal has been observed at large by an Animal Control Officer and returns to private property however, the animal's owner is not present on the property to take control of said animal.

B. When animals are found running at large and their ownership is known to the Sheriff or Animal Control Officer, such animal(s) may be impounded or, at the discretion of the Sheriff or Animal Control Officer, returned to their owner who shall be issued a warning and written notification of containment procedures deemed necessary to control said animal as provided for in this ordinance.

C. Immediately upon impounding any animal, the Animal Control Officer shall make every reasonable effort to notify the owner of the animal so impounded and inform that owner of the conditions whereby he may regain possession of his animal. If an animal shall be wearing a rabies tag or other identification, the Animal Control Officer shall, immediately after impounding such animal, and before destroying or disposing of it, ascertain the name of the owner from the records of the veterinarian and inform that owner of the conditions whereby he may regain possession of his animal

D. If any owner has requested in writing that his animal be destroyed, the same shall be humanely destroyed; under no circumstances shall it be sold or given to any person or persons. The owner may be charged a fee for the humane destruction of his animal.

**Section 2. Redemption and Destruction of Impounded Animals.**

The owner(s) shall be entitled to regain possession of any impounded animal except as herein provided in the cases of certain animal(s) upon compliance with the provisions contained in Article IV - Rabies Control of this Ordinance and payment of the fees and charges provided for in this Ordinance. Any animal impounded under the provision s of this Ordinance and not reclaimed by its owner within three (3) days may be humanely destroyed by the Animal Control Officer or sold or placed in the custody of some person deemed to be a responsible and suitable person to be the owner of such animal. The Animal Control Officer may destroy any sick or injured animal or feral cat which has been impounded, if that animal is not wearing any rabies tab, license tag, or other identification, and due to its condition, earlier destruction is necessary or desirable.

**Section 3. Impoundment Fees.**

Any animal impounded hereunder may be re-claimed as herein provided upon payment by the owner to Custer County of a fee for each animal reclaimed, plus any charges for boarding the animal and veterinarian services rendered.

**Article IV. Rabies Control**

**Section 1. Rabies Vaccination.**

No dog or cat may be kept or harbored within the County without having a current rabies vaccination designated for the species by the United States Department of Agriculture and administered as recommended in the current "Compendium of Animal Rabies Control" prepared by the National Association of State Public Health Veterinarians. Such vaccination shall be administered by or under the supervision of a licensed veterinarian.

**Section 2. Bite Cases, Quarantine and Rabid Animals.**

A. For purposes of this Section, "Veterinarian" shall mean a veterinarian licensed to practice in the State of South Dakota.

B. It shall be the duty of every physician or other practitioner to report to the Shelter Manager or Sheriff, the names and addresses of persons treated for bites inflicted by animals, together with such information as will be helpful in rabies control.

C. Every owner having knowledge that his animal has bitten or is suspected of biting a human being, shall forthwith report same to the Shelter manager or Sheriff for disposition of said animal under the provisions of this Ordinance.

D. All quarantine procedures and all procedures for management of animals that have bitten humans, animals exposed to rabies, and rabid animals, will be in accordance with the current ''Compendium of Animal Rabies Control" promulgated by the National Association of State Public Health Veterinarians, Inc. In case of conflict between said Compendium and this Ordinance concerning said quarantines and procedures, the recommendation in said Compendium will take precedence over this Ordinance.

E. Any animal shall be considered unvaccinated 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. An Animal Control Officer or the State Department of Health may order the destruction of any unvaccinated animal that has bitten any person if, based on sound medical judgments, a greater risk to human life exists by not doing so. In making such a determination the following facts may be considered:

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.

F. Any dog or cat that bites or attacks a personal shall be quarantined at the direction of the Shelter Manager or any veterinarian for a period of not less than ten (10) days. During quarantine the animal shall be securely confined and kept from contact with any other animal or humans other than the caretaker. If the dog or cat has bitten or attached while on the premises of the owner and has a current rabies vaccination, the Shelter Manger may, if it is determined that the facilities are adequate and the owners are responsible persons, quarantine the animal on the owner's premises. The quarantined animal must, at all times, be available for inspection during the quarantine period, and shall be evaluated by a veterinarian at the first sign of illness. If other confinement is required, the owner shall surrender the animal for the quarantine period to the Animal Shelter, or shall place it in a veterinary hospital, either confinement to be at the owner's expense.

G. At the end of the specified quarantine period, the animal will be examined by a veterinarian at the owner's expense. If the veterinarian finds that the animal is showing no clinical signs or symptoms known to be present in active cases of rabies, the animal will be released from quarantine and may be reclaimed by the owner. The veterinarian shall so notify the Shelter Manager.

H. Any stray animal that bites a person, if its ownership cannot be ascertained within 48 hours of the bite, shall be euthanized and the Shelter Manager shall arrange to have the animal's head sent to a competent laboratory to be examined for rabies.

I. If a veterinarian, during a routine examination, discovers an animal which may have rabies but is unable to make a definite diagnosis, the veterinarian shall have authority to require, at the owner's expense, any procedure or confinement necessary to make an accurate diagnosis.

J. When any animal has been diagnosed by a veterinarian as being rabid or dies during quarantine or rabies observation, the veterinarian or Shelter Manger shall immediately send the head of such animal to a competent laboratory for pathological examination and shall notify the proper Public Health officials and Shelter Manager of reports of human contacts and the diagnosis made of the suspected animal.

K. Every owner whose animal is bitten or scratched by an animal showing positive symptoms of rabies or by a wild or carnivorous mammal or bat not available for testing shall have that animal examined by a veterinarian at the owner's expense. Said animal shall be euthanized, quarantined or held for further observation as requested and the owner shall be responsible for all expenses incurred as a result thereof.

L. Any person who kills or causes to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, shall immediately report same to the Shelter Manager or Sheriff. No person may sell, give away, remove from the County, or otherwise dispose of such animal without written permission from the Shelter Manager or Sheriff. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Shelter Manager. The Shelter Manager or veterinarian shall direct the disposition of any animal found to be infected with rabies. No person shall fail or refuse to surrender any animal for quarantine or euthanasia as required herein when demand is made by the Shelter Manager.

**Penalty and Disposition of Fees**

A. A violation of any provision of this ordinance shall be guilty of a Class II Misdemeanor and subject to the penalties for Class II Misdemeanor under the laws of the State of South Dakota or otherwise stated herein.

B. All fees collected pursuant to this Article shall be retained by the Shelter Manager and used to supplement the County's Animal Control Budget.

C. Prior to May 1st of each year, the Shelter Manager shall provide the County Commission a report of the licenses issued, fees collected and a report of any other information requested by the Commission.

D. The following shall be designated as the animal control fine and bond schedule:

1. Renewal of vaccination $ 25.00 - Fine

2. Failure to vaccinate $ 25.00 - Fine

3. Barking dogs $ 30.00 - Fine

4. Public nuisances $ 30.00 - Fine

5. Vicious animals $ 75.00 - Fine

6. Attacking dogs $ 75.00 - Fine

7. Chasing livestock $125.00 - Fine

8. Killing of livestock Mandatory Court Appearance Bond - $125.00

9. Cruelty to animals Mandatory Court Appearance Bond - $125.00

E. Fines may be payable by Power of Attorney (POA) to the Custer County Auditor’s Office. Citations not paid by POA or that require a mandatory court appearance shall be set for appearance before the Magistrate Court in Custer County, South Dakota.

First Reading of Ordinance No. 1 (Revised): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading of Ordinance: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Published: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Effective Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_