

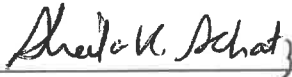
**ORDINANCE #2019-3-3**

**A REVISED ANIMAL ORDINANCE AMENDING  
TITLE 6: ANIMALS, CHAPTERS 1-6, OF THE GETTYSBURG  
MUNICIPAL CODE**

**BE IT ORDAINED** by the City of Gettysburg Common Council that the above Revised Animal Ordinance, Title 6: Animals, Chapters 1-6, has been revised in multiple sections and is available in full at the Gettysburg City Finance Office.

ATTEST:

WITNESS:



Sheila K. Schatz, Finance Officer



Bill Wuttke, Mayor

First reading: March 4, 2019  
Second Reading: April 1, 2019  
Published: April 10, 2019  
Published once at the approximate cost of \$

## **Title 6: Animals**

The purpose of this title is to describe the conditions and requirements allowing citizens to keep animals within the City of Gettysburg. (SDCL §9-29-12)

### **Chapter 1 Definitions**

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a. "Abandonment" - Giving up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party.
- b. "Animal" - Any live creature, both domestic and wild, including mammals (except humans), birds, reptiles, amphibians, or fish.
- c. "Animal Control Officer"- An individual, approved by the governing body, with police authority, whose duty it is to apprehend animals within the jurisdiction of this chapter whose owner are in violation of this chapter. The Potter County Sheriff's department staff shall also act as animal control officers.
- d. "Animal Shelter" - A building and facilities therein which is approved by the governing board for the impounding of animals.
- e. "Anti-Escape"- Any housing, fencing or device which a guard dog cannot go over, under, through or around.
- f. "At Large" -
  1. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of its immediate family by a leash.
  2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless that animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

- g. "Contracted Agent"- The person, organization, governmental agency or corporation with whom the municipality and/or county contracts to perform animal control functions.
- h. "Dangerous Animal"- Any animal that, by itself or by environmental circumstances, at the determination of any agent or officer of a humane society, or any peace officer after investigation, is a threat to the physical well-being of other owned animals or humans. (SDCL §40-1-2.5)
- i. "Disturbance" - The act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.
- j. "Domestic Animal" - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind.
- k. "Exposed To Rabies" - An animal has been EXPOSED TO RABIES if it has been bitten by, or been exposed to, any animal known to be or suspected of being infected with rabies.
- l. "Feral Animals" - Any livestock or pets not effectively controlled by any person and exhibiting predatory, scavenger or vicious tendencies.
- m. "Guard Dog" - Any dog that is utilized to protect commercial property, or is housed unattended on commercial property at any time other than normal business hours, except that such definition shall not apply to pet stores, boarding kennels, veterinary offices and animal shelters.
- n. "Handler" - A person who is responsible for or capable of controlling the operations of a guard dog.
- o. "Humane Society Investigator" - An individual, approved by the governing body, with law enforcement authority, whose duty it is to apprehend animals within the jurisdiction of this chapter, whose owners are in violation of this chapter.
- p. "Impoundment" - Taking physical control and custody of an animal by any law enforcement officer, animal control officer, or any authorized representative.
- q. "Inhumane Treatment" - Any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation, or inhumane slaughter of an animal that is not consistent with generally

accepted training, use and husbandry procedures for the species, breed, physical condition, and type of animal. (SDCL §40-1-2.4)

- r. "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 purpose of sale.
- s. "Mistreatment, Torture Or Cruelty Of Animals" - Any act or omission whereby unnecessary, unjustifiable, or unreasonable physical pain or suffering is caused, permitted, or allowed to continue including acts of mutilation. (SDCL §40-1-2.2)
- t. "Neglect" - The failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities, or care generally considered to be standard and accepted for an animal's health and wellbeing consistent with the species, breed, physical condition, and type of animal. (SDCL §40-1-2.3)
- u. "Neutered Dog/Cat" - Any male dog/cat which has undergone surgery to prevent reproduction, whose owner can provide proof of surgery.
- v. "Nuisance" - The act of destroying or defacing property or causing injury to persons or domestic animals.
- w. "Owner" - Any person harboring or keeping an animal and who is the head of the household of the residence of the owner or manager in charge of the establishment or premises at which an animal remains or returns to. An animal shall be deemed harbored if it is fed or sheltered for 20 consecutive days. (SDCL §40-12-4)
- x. "Pet" - Any dog, cat, or other species of carnivore kept for domestication or display. (SDCL §40-12-4) Note: Guide dogs are not considered pets.
- y. "Proper Enclosure" - A secure confinement, as determined by the board, any agent or officer of a humane society, or any peace officer, indoors or in a securely enclosed or locked facility, suitable to prevent a dangerous animal from escaping and to prevent any physical threat to the well-being of any other animal or human, while not constituting inhumane treatment. (SDCL §40-1-2.6)
- aa. "Restraint" - A leash or chain, not longer than six feet in length, held by a competent person, or enclosing an animal within a vehicle being driven or parked on the streets, or keeping the animal within the property limits of its owner or keeper.

- bb. "Service Animal" - Any dog owned by any state, county or municipal police department or any state of federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for law enforcement purposes, or any properly trained dog certified by a licensed seeing-eye or hearing-ear dog agency and actually being used by a visually or hearing impaired person.
- cc. "Spayed Dog/Cat" - Any female dog/cat which has undergone surgery to prevent conception, whose owners can provide suitable proof of such surgery.
- dd. "Wild Animal" - Any animal(s) other than domestic dogs and cats, which in a wild state are carnivorous or which because of their nature or physical make up are capable of inflicting serious physical harm or death to human beings, including but not limited to: animal(s) which belong to the cat family, snakes which are poisonous or otherwise present a risk of serious physical harm of death to human beings as a result of their nature or physical makeup, and all raccoons, skunks, foxes, bears, coyotes, wolverines, badgers, lions and tigers.
- ee. "Vicious Animal" - Any animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal whether on public or private property, provided that the animal has not been provoked to do so by teasing, tormenting, abusing, or assaulting the animal.

## **Chapter 2**

### **Licensing Requirements**

#### **Section 6.2.1 Dog and Cat License Required**

Any owner of a dog or cat shall make application at the City Finance Office for the appropriate dog or cat license/tag. The fee is ten dollars (\$10.00) for each unspayed or unneutered cat/dog and five dollars (\$5.00) for each spayed or neutered cat/dog, payable annually by December 31st for the following year's licensure.

## **Chapter 3**

### **General Requirements**

#### **Section 6.3.1 Types of Allowable Animals**

No person shall keep, maintain, harbor or have in custody or under control any animal within the city of Gettysburg, except as otherwise provided in this title.

- a. Allowable small animals/pets include those that can be bought from a commercial pet store in the State of South Dakota; except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snakes, prairie dogs, poisonous insects, hybrids, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets; are allowable animals authorized by this ordinance and can be kept in the City. A license is required for dogs and cats.
- b. No large domesticated livestock or domesticated fowl of any kind including but not limited to horses, cows, goats, swine, sheep, ducks, geese, pigeons, turkeys, guineas, etc. are allowed to be kept within in the city limits except at the fairgrounds during special events or with special permission of the county, city or school personnel.
  - i. No more than six (6) chickens are allowed to be kept within the city limits unless a special license/permission has been granted by the city council. (Refer to SDCL §39-11-2 Eggs and Egg Products and SDCL §40-33-3 Dealers in Poultry, Eggs and Dairy Products)

### **Section 6.3.2 Number of Animals**

It is unlawful for any person to own or keep in their care on any premises more than six (6) animals, of which no more than three (3) can be dogs and three (3) can be cats, over the age of 6 months (except fish) unless a special license/permission has been granted by the city council.

### **Section 6.3.3 Running at Large Prohibited**

No owner of any animal shall permit such animal to be at large.

Any owner whose animal is not confined by a leash or enclosed is declared to be running at large and is declared to be a public nuisance. Such violation will be considered a city misdemeanor. The local law enforcement agency or a designated animal control officer is authorized to catch any animal running at large or causing a nuisance.

### **Section 6.3.4 Animals Disturbing the Peace/Nuisance**

- a. No person owning any dog or other animal confined on the premises or otherwise, shall permit such animal to disturb the peace and quiet of the neighborhood by making loud and/or unusual noises.

- b. As determined by local law enforcement, or upon a signed complaint with the designated animal control officer or Potter County Sheriff's Department, that any person is keeping or harboring any animal which disturbs the peace, it shall be the duty of the local law enforcement agency or a designated animal control officer to notify the owner of such animal in writing of such complaint, and after such owner has been given forty-eight (48) hours notice of such habit, any law enforcement officer or person of proper authority is authorized to impound any such dog or animal so disturbing the peace. In addition to the impounding fees, each violation shall be considered a city misdemeanor.

### **Section 6.3.5 Cruelty Prohibited**

No person shall cruelly torture, beat, or injure any domestic animal. Nor shall any person willfully or intentionally abuse or neglect in a cruel or inhuman manner any such animal.

### **Section 6.3.6 Defecation Removal/Removal of Excrement**

No owner of any animal shall allow such animal to defecate on public or private property other than his/her own property. If an animal does defecate on public or private property, the owner shall immediately clean the fecal matter from such property.

### **Section 6.3.7 Abandonment Prohibited**

It is unlawful for any person to abandon an animal in the City of Gettysburg.

### **Section 6.3.8 Rabid Animals**

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.

### **Section 6.3.9 Transmission of Disease**

No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet or insect under their control in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

### **Section 6.3.10 Poison**

Unless recommended by a veterinarian, it shall be unlawful for any person to:

- a. Willfully administer or cause to be administered, poison of any sort whatsoever to any

animal, that is the property of another with the intent to injure or destroy such animal, or

- b. Willfully place any poison or poisoned food where the same is accessible to any such animal.

### **Section 6.3.11 Hunting, Trapping and Destruction**

No person shall hunt, trap or otherwise injure or destroy any animal within the City of Gettysburg. This provision shall not apply to licensed veterinarians, law enforcement officers, or animal control officers.

## **Chapter 4 Vicious Animals**

### **Section 6.4.1 Ownership**

a. Any person owning or keeping a vicious dog, as defined in SDCL §40-34-13 through §40-34-14 or any corresponding state law, or any person owning or keeping a vicious animal has committed a public nuisance and is subject to the provisions of SDCL §21-10-4, §21-10-9 or corresponding state law.

b. No person shall permit feral animals, or vicious animals of any type, to remain upon property owned or occupied by any person within the City of Gettysburg. Such animals must be promptly reported to local law enforcement or animal control officer and the City Finance Office. The sole exceptions to this prohibition is a guard dog that is professionally trained and fully controlled by voice command, or a dog that is enclosed within a pen or proper enclosure so that it is inaccessible to children or other pets. Any excepted animal shall be licensed and registered with the City and the exception will be made of record on the certificate of registration.

### **Section 6.4.2 Who May Declare**

The Mayor, animal control officer, a law enforcement officer or an attending physician of any victim of an animal bite or scratch may declare an animal vicious.

### **Section 6.4.3. Willful Trespass or other Tort**

No animal may be declared vicious if the injury or damage is sustained to any person or animal that is committing a willful trespass or other tort or criminal act upon premises occupied by the



owner or keeper of the animal.

#### **Section 6.4.4. Notification**

When an animal is declared to be vicious as provided for above, the City's acting law enforcement agency shall notify the owner or keeper of said animal of said declaration in writing that such animal is vicious. Such notice shall be served either in person or by certified mailed within forty-eight (48) hours of such declaration.

#### **Section 6.4.5. Compliance Required**

The owner or keeper of an animal that has been declared vicious then must comply with the following:

- a. If the animal is kept indoors, the animal shall be under the control of a person over 18 years of age.
- b. If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet and under the control of a person over 18 years of age.
- c. If the animal is outdoors and unattended, the animal must be locked in an escape proof pen or proper enclosure approved by local law enforcement or animal control officer.

#### **Section 6.4.6. Animals off Premises May Be Seized**

Any vicious animal found off the premises of its owner or caretaker, other than as provided for in this Ordinance, shall be seized by the animal control officer or any law enforcement officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any law enforcement officer may order the owner to deliver the animal to the animal shelter within 24 hours. The owner shall be ordered to appear to show just cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any law enforcement officer shall use such means as is necessary to impound the animal.

#### **Section 6.4.7. Kennel Standards**

Minimum standards shall include the following:

- a. Fencing materials shall not have openings with a diameter of more than two (2)

inches, and in the case of a wooden fence the gaps shall not be more than two (2) inches.

- b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
- c. The required pen or structure shall have a top and bottom with both secured to the sides.
- d. The pen or structure shall protect the animal from the elements.
- e. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects within reach of the animal.
- f. A sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

#### **Section 6.4.8. Insurance**

The owner shall carry a minimum of \$100,000 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with local law enforcement and the City Finance Office.

#### **Section 6.4.9. Licensing Requirements**

The owner shall comply with the licensing requirements of the City Ordinances as required in Section 6.2.1 and present proof of a current rabies vaccination.

#### **Section 6.4.10. City May Impound**

The City, local law enforcement or animal control officer, at the owner or keeper's expense, may impound the vicious animal until such time as all provisions outlined above are complied with.

#### **Section 6.4.11. Euthanization**

If the conditions outlined above are not complied with, the owner shall euthanize the animal in a humane manner. Proof of euthanasia shall be filed with the City Office.

#### **Section 6.4.12. Prosecution**

The owner may be subject to prosecution for failure to comply. Animals impounded under this section shall be dealt with as provided herein.

## **Chapter 5 Enforcement**

### **Section 6.5.1. Authority**

The animal control officer, any law enforcement officer, or other persons of proper authority is hereby authorized and empowered to enforce all provisions of this Chapter.

### **Section 6.5.2. Interference Prohibited**

No person shall hinder, delay or obstruct any person in their ability to enforce the provisions of this Title.

### **Section 6.5.3. Allowable Enforcement Activities**

Any person authorized to enforce the provisions of this Chapter shall, having reasonable basis to believe a violation of this ordinance has occurred, have the power to:

- a. Lawfully enter the premises where the animal(s) is (are) kept;
- b. Examine such animal; and
- c. Take possession and impound such animal(s), when in the officer's opinion, a violation has occurred. Any animal impounded under this section shall be dealt with as provided herein.

### **Section 6.5.4. Impounded Animals**

Any impounded animal shall not be released by the animal control officer or local law enforcement to any person until such animal has been immunized against rabies; provided no animal so impounded shall be immunized if the owner can present a certificate of current immunization having been previously performed.

#### **Section 6.5.4.1. Notice to Owner**

The owner of any animal impounded under the provisions of this Chapter, if his identity and location can be obtained by reasonable means, shall be notified within twenty-four (24) hours that his animal has been impounded.

#### **Section 6.5.4.2 Costs**

- a. Before any person may redeem any animal impounded under the provision of this Ordinance he/she shall pay to the City Finance Officer an impoundment fee of twenty (\$20.00) plus eight dollars (\$8.00) per day or other actual costs incurred by the City, for feeding and caring of such animal. The person redeeming such impounded animal under the provisions of this Chapter shall receive a dated receipt signed by the City Finance Officer. The receipt for payment of impoundment and boarding costs must be presented to the person, association or corporation housing the impounded animal before such animal may be redeemed.

- b. The owner of any impounded animal that has not been vaccinated or licensed under this Chapter, upon satisfactory proof of ownership, may redeem the animal by payment of the fees determined above. In addition, by making a deposit of twenty-five dollars (\$25.00) the owner shall be allowed forty-eight (48) hours to get such animal vaccinated and properly licensed. If the owner fails to produce a certificate of vaccination and city license within forty-eight (48) hours, the deposit shall be forfeited and turned over to the City Finance Officer to be placed in the general fund and the animal may be impounded again. Upon representation within forty-eight (48) hours of a license issued under Section 6.2.1, the deposit shall be refunded.
  
- c. If the owner of any impounded animal shall fail to redeem the animal within seventy-two (72) hours, excluding Sundays and holidays, unclaimed animals will become the property of the contracted animal control organization. Unclaimed animals may be put up for adoption or disposed of at the discretion of that organization.

## **Chapter 6**

### **Rabid Animals**

Anytime the animal control officer, any law enforcement officer or the SD Animal Industry Board suspects an animal within the City is infected with rabies, the local law enforcement or animal control officer may require it to be impounded for observation as hereinafter provided. (SDCL §40-12-0 thru §40-12-6 and SDCL §7-12-29).

#### **Section 6.6.1. Report of Suspected Cases.**

Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the animal control officer, or the local law enforcement, describing the animal and giving the name and address of the owner, if known.

#### **Section 6.6.2. Impoundment for Observation.**

- a. When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must within twenty-four (24) hours place the animal under the care and observation of the animal control officer, local law enforcement or a licensed veterinarian. The period of observation shall be a period of not less than ten (10) days except in those cases when an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for the animal. The animal control officer, or any law enforcement officer, may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case, the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten. The

quarantined animal must at all times be available for inspection during the quarantine.

- b. At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.
- c. 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.
- d. Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

### **Section 6.6.3. Destruction of Rabid Animals.**

Any animal reasonably believed to have rabies, and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer or the animal control officer may destroy the animal. The owner shall pay any expense incident thereof. Neither the City nor any person authorized by this section shall be liable for the destruction of any animal when done under circumstances as set forth in this section.