**ORDINANCE #348**

AN ORDINANCE TO AMEND ORDINANCE # 323

Whereas, it is necessary to amend Ordinance # 323, which established rules pertaining to Dog Licenses, Definition of a Nuisance Dog behavior, and Removal or Destruction of a Dog.

Section 1. License, Application, and Fee for Dogs

License:

It shall be unlawful for any person(s) within the City of Avon to keep, maintain, have custody of, or have control of any dog (or animal of the dog kind) without first having obtained a license to do so from the Avon Finance Officer or Avon Police Department, as hereafter provided and without having paid the license fee therefore.

Fee:

Any person(s) desiring to keep, maintain, or have custody of any dog (or animal of the dog kind) shall on or before the 1st of January of each year make application to the city for a license to keep such dog; such application shall be in writing stating the name, sex, color, and other distinguishing characteristics of said dog and the name of the owner thereof. The application shall also state that the dog has no vicious propensities so far as known to said applicant or to any other interested party. Such application shall be made on printed blank furnished by the City of Avon and shall be filed with the Avon Finance Officer. In addition, the person desiring to license the said dog shall furnish proof from a licensed veterinarian that the said dog has been immunized for rabies within the last year (12 months).

In the event, the Avon Finance Officer has in his/her possession a signed complaint(s) verified by the Avon Police Department that such dog has vicious propensities, such application shall be denied, and the owner or person having control of such dog shall cause the same to be removed from the corporate city limits. Any person violating the provisions of this section shall be fined in a sum not exceeding the sum of one hundred dollars ($ 100.00). Each day such violation continues shall be considered a separate offense.

Tag Fee:

The applicant shall at the time of making such application pay to the Avon Finance Officer or Avon Police Department as a license fee the sum of ten dollars ($ 10.00) for each dog (6 months or older beginning January 2016) for which such license is sought and shall deliver to the Finance Officer or Police Department a receipt from the Finance Officer or Police Department showing payment of such fees at the time of the filing of such application. It shall be the duty of the Finance Officer or Police Department at the time of issuance of license herein provided for to furnish and deliver to said applicant a metallic tag for each dog for which such license is issued upon which tag is stamped or engraved the registered number of the dog and the year when registered.

It shall also be the duty of the owner of the dog to place a collar around the neck of such dog so owned or kept by him/her on which collar shall be securely fastened a tag so furnished by the city, provided that in case of the loss of any tag so issued, the Avon Finance Officer is authorized to issue a duplicate thereof upon payment to him/her the sum of two dollars ($ 2.00) upon application being made therefore and upon satisfactory proof that such tag has been lost.

Section 2. Dogs at Large

It shall be unlawful for any person in the City of Avon to have any dog which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his/her/their control to be at large at any time upon the streets, sidewalks, or to go in or upon the private premises of others or upon any public property.

For purposes of this section, any dog shall be deemed to be at large when such animal is not confined or on the premises of the owner, or on a leash in the hands of some attendant, or unless such dog, is loose, is accompanied by and under the control and direction of a competent person and obedient to that person’s command and is within two of the dog’s body length from the person, or within a vehicle being driven or parked on the street.

The penalty for having a dog at large will be twenty dollars ($ 20.00) plus any court costs.

Section 3. Destruction of Dogs Running at Large

The Avon Chief of Police is hereby authorized to employ, whenever he/she deems it necessary, a sufficient number of persons to capture, kill, and dispose of all dogs found running at large, contrary to the provisions of this chapter. It shall be the duty of the person in charge to destroy such dog and to cause it to be removed and properly buried.

Section 4. Keeping Vicious or Dangerous Animals

Dangerous Animals shall mean any animal, reptile, or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, nature, or other characteristics (such as being poisonous or carnivorous) would constitute a danger to human life or property if it escaped from secure quarters; or Any domestic mammal, reptile, or fowl, which because of its size or vicious propensity or other characteristics would constitute a danger to human life or property if it escaped from, secure quarters.

Section 5. Vicious Animals

1. An authorized representative of the Sioux Falls Humane Society or any law enforcement officer may declare an animal to be vicious, or the attending physician of the victim of an animal bite or scratch may request such declaration, under the following guidelines:
2. An animal which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, inflicts, or causes injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
3. An animal which, on private property, in a vicious or terrifying manner approaches in apparent attitude of attack, or bites, or inflicts or causes injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, deliveryman, or other person or other animal who is on private property by invitation or permission of the owner or occupant of such property or who is lawfully on private property by reason of a course of dealing with the owner of such private property;
4. No animal may be declared vicious if the injury or damage is sustained to any person or animal who was committing a willful trespass or other unlawful act or tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime, or otherwise where the animal control officer determines that the bite or injury was justified.
5. When an animal has been declared vicious, the owner shall be notified in writing of the declaration and shall comply with the following:
6. Register the animal as vicious with the city and present proof of rabies vaccination within 5 (five) days of receiving the notice and presenting proof of rabies vaccination on or before January 1st of each and every year thereafter;
7. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than 6 (six) feet, and under the control of a person over 18 (eighteen) year of age;
8. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approve by the animal control officer. Minimum standards shall include the following:
9. Fending materials shall not have openings with a diameter of more than 2 (two) inches;
10. Any gates within such pen or structure shall be lockable or of such design to prevent the entry of children or the escape of the animal;
11. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete; and
12. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands, or other objects.
13. A universal 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.
14. IMPOUNDMENT. The vicious animal shall be impounded by the Police Chief, or his or her designated agents, at the owner’s expense until all of the above requirements are complied with. If the requirements are not complied with within 10 (ten) days after giving notice to the owner as provided in this subchapter, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the city office.
15. VIOLATION REQUIREMENTS. If a vicious animal has been running at large, or bites a person, or bites another animal, the animal shall be seized by the city or its agents using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be killed.

Once the animal has been deemed vicious/dangerous, the owner has two options:

1. Remove the pet from the city limits of Avon.
2. Keep the animal in the city limits of Avon and provide proof that all of the guidelines stipulated above are actively being followed.

Section 5. Dogs, Nuisance

On the complaint by two affidavits, which two affidavits have been signed within a 72 hour period, of any two adults not of the same household, that a dog barks or howls whereby the peace and quiet of the complainants is disturbed and upon the expiration of ten days commending upon service of the affidavits upon the dog owner whereby problem of unreasonable noise has not been rectified to the satisfaction of the two complainants, and upon a finding by the court by a preponderance of the evidence that the dog(s) has unreasonably disturbed the peace and quiet of the complainants, the owner(s) of the dog(s) shall be subject to a fine not to exceed $ 200.00 plus costs as allowed by law, and the court may order a humane destruction of the dog or require the removal of the dog from the Avon city limits.

Section 6. Immediate Removal and Destruction

Upon notice from a member of the Avon Police Department the owner of a dog or other animal, declared or identified as a vicious or dangerous dog, or other animal as defined in this section, shall within 24 hours after such notice remove such dog, other animal from the City of Avon or destroy it.

Nothing in this chapter should be construed to prevent the immediate destruction of a vicious or dangerous dog, or other animal by a police officer.

1. If the owner does not comply with the order from a police officer to remove

Or destroy such dog, or other animal, in time allotted;

1. If the surrounding circumstances deem it necessary to take immediate action relative to destruction; or
2. If the animal’s owner and/or police officer are unable to restrain or control the dog, or other animal, so it might be impounded or removed.

Section 7. Time for Keeping Dogs Impounded

Licensed dogs impounded pursuant hereto shall be kept for at least seven (7) days and unlicensed dogs shall be impounded for five (5) days after giving or posting of the notice required herein, and at the expiration of which time the dog shall be destroyed in some humane manner.

Section 8. Certain Dogs Not to Be Released

Any dog, which appears to be suffering from rabies or any other infectious or dangerous disease, shall not be released, but may be forthwith destroyed.

In the interest of immediate need for the public safety and welfare, any provisions shall be in full force and effect immediately and shall not be subject to the principle of pre-existing conditions (commonly referred to as “grandfather clause.”)

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Mike Petrik – Mayor

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Twyla Simmons - Finance Officer

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