

ORDINANCE NO. 1599

AN ORDINANCE TO AMEND ORDINANCE NO. 1510 AS PROVIDED IN CHAPTER 5 – ANIMALS – ARTICLE IV – DOGS AND CATS – DIVISION 1 – GENERALLY BY AMENDING SECTION 5-126 REGARDING VICIOUS OR BITING DOGS

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MADISON, SOUTH DAKOTA:

That Section 5-126 of the Revised Ordinances of the City of Madison, also known as the Code of Ordinances, be amended to read as follows:

Sec. 5-126. Vicious or biting dogs.

A) An animal may be declared to be a biting, dangerous or vicious animal by at least two persons which may include law enforcement and animal control officers, utility personnel or veterinarians, or by the attending physician of a victim of an animal bite or scratch may make such declaration under the following guidelines:

- 1) An animal which, in a vicious or aggressive manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks or any public grounds, parks or places; or
- 2) An animal, while on private property, approaches in a vicious or aggressive manner, in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a postal worker, meter reader, service person, journeyman, delivery person, or other such person, or other animal, provided such person or animal 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 or occupant of such private property.
- 3) No animal may be declared biting, dangerous or vicious if the injury of damage is sustained to any person or animal who is committing a willful trespass or is not authorized to be upon the premises occupied by the owner or caretaker of the animal, or who is teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

The following conditions shall also be considered:

- a. The nature or severity of the attack or bite.
 - b. 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.
 - c. Previous incidents of a similar nature.
- B) When the animal in question is declared to be biting or dangerous, an animal control officer shall notify the owner of such declaration in writing that such animal must be registered as a biting, dangerous or vicious animal. The notice shall be served either in person or by mail.
- C) The owner or caretaker of an animal that has been declared biting, dangerous or vicious shall register the dog as a biting or dangerous animal and shall comply with the following:
- 1) The owner or caretaker of the animal shall notify the City Animal Control Department of any changes in the following:
 - a. Ownership of the dog;
 - b. Name, address and telephone number of a new owner;
 - c. Address change of the owner or any change of where the dog is housed;

- d. Any changes in the health status of the animal; and
 - e. Death of the animal.
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- 2) If the dog is indoors, the dog shall be in control of a person over 18 years old.
 - 3) If the dog is outdoors and attended, the dog shall be muzzled, on a leash no longer than six feet and under control of a person over 18 years of age.
 - 4) If the dog is outdoors and unattended, the dog must be locked in an escape proof kennel approved by the City Animal Control Department.
 - 5) The owner shall present proof of current rabies vaccination and current City identification of the dog to the Animal Control Department and shall be required in the future to maintain current and up-to-date rabies vaccination and identification.
 - 6) The owner shall present proof the dog has been altered to prevent reproduction to animal control.
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- D) The biting, dangerous or vicious dog shall be impounded by the City Animal Control Department for a period of no longer than 30 days at the owner's expense until such time as all provisions of subsection (c) are fully performed.
 - E) If the conditions of subsection (c) are not fully performed within the 30 days allowed, the dog shall be euthanized in a humane manner and proof of euthanasia filed with animal control.
 - F) Any biting, dangerous or vicious dog found off the premises of its owner, other than provided for in this article, shall be seized by an animal control officer, any police officer or any sheriff's deputy and impounded. If the dog cannot be captured, it may be destroyed. If the dog has been running at large, or bites a person, or bites another animal, the animal control officer, any police officer or any sheriff's deputy may order the owner to deliver the dog to the City animal shelter within 24 hours and the owner required to appear in court to show cause why the dog shall not be destroyed. If the owner of the dog fails to deliver the dog as ordered, an animal control officer, any police officer or sheriff's deputy shall use such means necessary to impound the dog.
 - G) When a dog has been declared vicious by at least two persons as set forth in Section 5-126, the dog may be destroyed as soon as practically possible. Notice to an owner that the dog will be destroyed is not required prior to destruction. The factors that shall be considered in determining if a dog is vicious are as follows:
 - 1) The nature and severity of the attack or bite.
 - 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 a similar nature.
 - 4) The observable behavior of the dog.

Dated this 4th day of December, 2017.

CITY OF MADISON

/s/Roy J. Lindsay, Jr.
Mayor

ATTEST: /s/Jennifer Eimers
Finance Officer

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2nd Reading: December 4, 2017

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