

**MANTUA TOWN**

**ORDINANCE NO. 2021-12-16**

**AN ORDINANCE AMENDING THE CLASSIFICATION OF A VIOLATION OF THE TOWN'S ANIMAL ORDINANCE FROM A CLASS C MISDEMEANOR TO AN INFRACTION.**

WHEREAS, the Town of Mantua (the "Town") passed Ordinance 19-07-18C on or about July 18, 2019 regulating animals within the Town; and

WHEREAS, the Town desires to amend Ordinance 19-07-18C in order revise the classification of a violation of the Ordinance from a Class C Misdemeanor to an Infraction;

NOW, THEREFORE, BE IT ORDAINED, by the Mantua Town Council, Box Elder County, State of Utah, as follows:

1. Section 19-3-1(C) is hereby revised to read as follows:

C. The licensing period shall begin June 1st and shall run for one year. License renewal may be applied for within sixty (60) days prior to the expiration date. New residents must apply for a license within thirty (30) days of establishing residency.

2. The unnumbered language at end of Ordinance 19-07-18C setting the classification of a violation of the Ordinance is revised to read as follows:

Unless another penalty is provided for in this Ordinance, or elsewhere in the ordinances of Mantua Town, any person who is convicted of a violation of any provision of this chapter is guilty of an infraction. Notwithstanding the foregoing, a violation of this chapter may be charged as a Class C Misdemeanor if:

(1) the violation amounts to a nuisance as defined in the Utah Code or in other ordinances of the Town of Mantua and threatens the health, safety, or welfare of any person; or

(2) the individual who owns the animal that is the subject of the violation has already been fined for the same violation under this chapter on three previous occasions within the past 12 months.

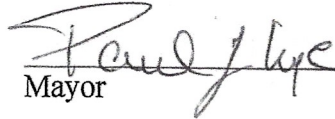
3. To the extent of any conflict between this Ordinance and any other ordinance(s) or regulation(s) of Mantua Town, the provisions of this Ordinance shall be controlling.

4. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

5. This Ordinance shall become effective upon posting in the manner required by law.

ADOPTED AND PASSED by the Town Council of Mantua Town, Box Elder County, State of Utah, this 16 day of December, 2021

MANTUA TOWN

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Town Clerk/Recorder

12-16-2021  
\_\_\_\_\_  
Posting Date

MANTUA TOWN

ORDINANCE No. 2020-12-03 B

AN ORDINANCE AMENDING THE MANTUA TOWN ANIMAL CONTROL ORDINANCE.

WHEREAS, the Town Council of the Town of Mantua, Box Elder County, State of Utah, passed and posted a Town Animal Control Ordinance, Ordinance No. 19-07-18C, which is currently effective; and


WHEREAS, after review and discussion, the Town Council has determined there is a need to amend the Town Animal Control Ordinance in order to more adequately protect the best interests and welfare of the municipality and its residents, and that the residents of this municipality would be better served by amending the Town Animal Control Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MANTUA, BOX ELDER COUNTY, STATE OF UTAH AS FOLLOWS:

1. Section 19-3-2(E) of the Town Animal Control Ordinance is amended and restated to read as follows:
  - E. No person or persons at any one residence within Mantua Town shall at any time own or license more than three (3) dogs or own more than four (4) cats, with no combination exceeding five (5), except as otherwise provided in this title.
2. All other provisions of the Town Animal Control Ordinance remain in full force and effect.
3. This Ordinance shall take effect upon its first posting as required by law.

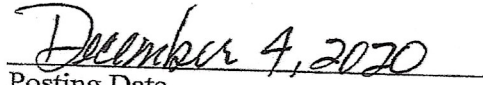
ADOPTED AND PASSED by the Town Council of Mantua Town, Box Elder County, State of Utah, this 3rd day of December, 2020.

MANTUA TOWN

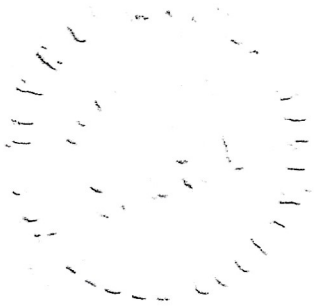
  
Mayor

ATTEST:

  
Town Clerk/Recorder

  
Posting Date

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**TOWN OF MANTUA  
ANIMAL ORDINANCE**

**ORDINANCE NO. 19-07-18C**

**WHEREAS**, the Town Council of the Town of Mantua, Utah, has adopted and passed the Ordinances of the Town of Mantua, which Code continues in full force and effect, as it has been amended from time to time; and

**WHEREAS**, the Town of Mantua desires to amend Ordinance 19-06-06, dealing with the control of animals within the municipality of the Town of Mantua; and

**WHEREAS**, the Town of Mantua has determined that there is a need to supplement, amend and restate these regulations in order to more adequately protect the best interests and welfare of the residents of the municipality;

**NOW, THEREFORE, THE TOWN BOARD OF THE TOWN OF MANTUA HEREBY ADOPTS, PASSES AND PUBLISHES THE FOLLOWING:**

**AN ORDINANCE SUPPLEMENTING, AMENDING AND RESTATING THE MUNICIPAL ANIMAL CONTROL ORDINANCE.**

**BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF MANTUA AS FOLLOWS:**

1. The following shall be adopted as Ordinance No. 19-07-18C and shall replace Ordinance No. 19-06-06 Animal Control of the Code of Revised Ordinances of the Town of Mantua and shall be known as the Town Animal Control Ordinance.

**19-1 GENERAL PROVISIONS**

**19-1-1 DEFINITIONS**

**19-1-2 DUTIES OF ANIMAL CONTROL OFFICER**

**19-1-3 INTERFERENCE WITH OFFICER PROIBDITED**

**19-1-4 LAWFUL FOR OFFICERS TO GO ON PROPERTY**

**19-1-5 ESTABLISHMENT INSPECTIONS**

**19-1-6 BITING ANIMALS QUARANTINED FOR OBSERVATION**

**19-1-7 HOME QUARANTINE**

**19-1-8 RETRIEVAL OF SUFFERING ANIMALS**

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**19-2-1 UNLAWFUL ACTS**

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- 19-3-5 DUTY OF ANIMAL CONTROL OFFICER
- 19-3-6 NOTICE OF SALE OF DETAINED ANIMALS
- 19-3-7 OWNER MAY PAY AND TAKE ANIMALS;  
DISPUTED APPRAISAL
- 19-3-8 BILL OF SALE
- 19-3-9 REDEMPTION BY OWNER WITHIN NINETY DAYS
- 19-3-10 OWNER ENTITLED TO RESIDUE OF PROCEEDS
- 19-5-11 RETAKING ANIMAL ULAWFULLY

## 19-1-1 DEFINITIONS

As used in this title, unless the context otherwise indicates, the following terms mean:

**ANIMAL CONTROL OFFICER:** The person or persons designated to enforce this title.

**ANIMAL ESTABLISHMENT:** Any pet shop, grooming shop, animal auction, performing animal exhibition, kennel/cattery or animal shelter, except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers.

**ANIMAL SHELTER:** A facility designated or recognized by Mantua Town for the purposes of: impounding, caring or other temporary housing needs for domestic animals.

**CATTERY:** any lot, building, structure, enclosure or pen meant to contain five (5) or more cats over the age of four (4) months are kept for any purpose including but not limited to: boarding, breeding, buying, grooming, training for a fee, selling or animal shelter regulated by a conditional use permit.

**COMPANION ANIMAL:** an animal kept for pleasure rather than for utility. It shall have the same definition as Utah Code Ann. 76-9-30'(1)(c). (Any animal that is a domestic canine or domestic cat).

**KENNEL:** any lot, building, structure, enclosure or pen meant to contain three (3) or more dogs over the age of four (4) months are kept for any purpose including but not limited to: boarding, breeding, buying, grooming, training for fee, selling or animal shelter and regulated by a conditional use permit.

**AT LARGE:** A domestic animal shall be deemed to be at large when off the property of the owner and not under restraint.

**DANGEROUS ANIMAL:** An animal that without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals.

**DOMESTIC ANIMAL:** Any animal commonly kept as a pet in family households in the United States, including, but not limited to, dogs, cats, guinea pigs, rabbits, and hamsters; and any animals commonly kept for companion or commercial purposes.

**ESTRAY:** Any valuable animal, except dogs and cats, not wild, found running at large.

**FERAL CAT:** Any unowned cat.

**FIELD CAT:** A cat kept primarily out of doors, not as a pet, but instead kept for the control of rodents. Owners of field cats are still required to vaccinate and spay/neuter this class of cats to help control the spread of disease and more unwanted cats.

**FIXED DOG RUN:** A fenced in and/or covered structure used to house or contain a dog(s) in a relatively limited area. Not meant to include merely keeping a dog attached to a line or keeping a dog in a fenced yard. A fixed dog run must be closer to the owner's residence than the adjoining neighbors' residence. Locations of fixed runs shall be located according to the following setbacks: a) front setback: thirty feet (30'); b) side setback: ten feet (10'); c) side setback adjoining street: twenty feet (20'); d) rear setback: ten feet (10'); e) setback from neighbors' residences (any residence on adjacent property): thirty feet (30').

**FOSTER CARE PROVIDER:** A person or persons designated by a "rescue agency" and approved by Mantua Town and the animal control officer to provide care for a maximum of two (2) impounded animals.

**HUMANE MANNER:** Care of a domestic animal including, but not limited to, adequate heat, ventilation, sanitary shelter, and wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

**LICENSING AUTHORITY:** The agency or department of Mantua Town or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this title.

**LIVESTOCK GUARDING DOGS:** Dogs kept for the primary purpose of protecting livestock from predatory attacks.

**NEUTERED OR SPAYED:** To be rendered permanently incapable of reproduction.

**NUISANCE:** A domestic animal which damages, soils, defiles, or defecates on property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

**OWNER:** A person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.

**PERSON:** Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

**PET SHOP:** An establishment engaged in the business of buying or selling, at retail, animals for profit making purposes.

**RESCUE AGENCY:** A nonprofit organization (such as Cache Humane Society) whose purpose is the rescue of homeless animals and require humane treatment and medical care including immunizations and prevention of reproduction. Rescue agencies select and approve "foster care providers" who care for homeless animals under their direction and supervision.



**RESTRAINT:** An animal which is within the real property limits of its owner or secured by a leash or lead.

**WILD ANIMAL:** Any animal of a species that in natural life is wild.

### **19-1-2 DUTIES OF ANIMAL CONTROL OFFICER**

The animal control officer shall perform the following duties:

- A. Carry out and enforce the provisions of this title.
- B. Enforce the licensing and control of all animals within the municipality as hereafter provided.
- C. Issue citations and file complaints in the courts against any person, firm, or corporation failing to comply with the provisions of this title and obtain licenses when required thereunder.
- D. Capture and secure all animals found running at large contrary to the provisions of this title and impound such animals in a humane manner.
- E. Provide for a good and sufficient pound in which an animal duly committed to his charge or otherwise impounded by him shall be maintained.
- F. Enter on the impound record a description sufficient to provide identification thereof in records kept for that purpose stating the kind of animal and the circumstances under which received or impounded, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animal.

### **19-1-3 INTERFERENCE WITH OFFICER PROIBDITED**

It shall be unlawful for any person to interfere, molest, hinder, or obstruct the animal control officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

### **19-1-4 LAWFUL FOR OFFICERS TO GO ON PROPERTY**

In the enforcement of any provision of this title any police officer or animal control officer is authorized to enter on to the property of any person or entity to take possession of any dangerous or vicious dog or animal, or dog or animal which has committed an act prohibited by town ordinance, when in fresh pursuit of such dog or animal at the time the dog or animal goes onto private property.

### **19-1-5 ESTABLISHMENT INSPECTIONS**

All establishments required to be permitted under this chapter shall be subject to periodic inspections by the animal control officer. The animal control officer shall make a report of such inspections with a copy to be filed with the Town.

### **19-1-6 BITING ANIMALS QUARANTINED FOR OBSERVATION**

- A. Any animal of a species subject to rabies which is known to have bitten or has been bitten, or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the municipal pound and shall not be killed or released until at least ten (10) days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, it shall be immediately taken to the state health or other appropriate laboratory to be examined for rabies.
- B. The owner of such quarantined animal, or if the owner cannot be found then the person having custody and control of the animal, shall be responsible for and reimburse the Town for any and all costs incurred for such quarantine regardless of whether or not the animal in fact has rabies.
- C. The owner of such animal may choose to euthanize the animal prior to the ten (10) day quarantine period and take the animal to the proper agency for the required tests.

### **19-1-7 HOME QUARANTINE**

When an animal bite has occurred that requires quarantining as defined in SMC 6.04.060 of this chapter, home quarantining may be an alternative. This decision is to be made at the discretion of the animal control officer. The following criteria needs to be considered in making the decision. The animal will be considered for home quarantine only if:

- A. This is the animal's first offense;
- B. The animal is not exhibiting aggressive behavior;
- C. The bite or attack was minor and not repetitive;
- D. In the opinion of the animal control officer, there is relatively little safety risk to the owner or the public if the home quarantine is allowed;
- E. The owner/caregiver is capable of confining the animal at home in such a way that it will not be able to stray; and
- F. The animal is current in its vaccinations for rabies.

- G. If home quarantine is determined by the officer to be an acceptable option, the officer will review the requirements for home quarantine with the owner/caregiver. The owner/caregiver will be required to sign a document agreeing to abide by such requirements.

## **19-1-8 RETRIEVAL OF SUFFERING ANIMALS**

In the event that Mantua Town finds dogs, cats or other animals to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner/caregiver may be withheld until the owner/caregiver shall have made full payment for all expenses so incurred.

## **19-2 UNLAWFUL ACTS**

### **19-2-1 TRESPASSING ANIMALS**

It is unlawful for any owner or caregiver of any dog or other animal to permit or negligently allow such dog or other animal to run at large or to trespass upon the property of another person. Any person found in violation of this will be subject to a recommended penalty of \$75.00.

### **19-2-2 KILLING OR POISONING ANIMALS PROIDBITED**

It is unlawful for any person to willfully kill any domestic animal belonging to another, or to administer poison to any domestic animal or to expose any poisonous substance with the intent that it shall be taken by any such animal. Any person found in violation of this will be subject to a recommended penalty of \$750.00.

### **19-2-3 KEEPING ANIMALS FOR FIGHTING**

- A. It is unlawful for any person, firm or corporation to raise, keep or use any animal, for the purpose of fighting or baiting; and for any person to be party to or be present as spectator at any such fighting or baiting of any animal. and for any person, firm, corporation to knowingly permit the use of his building, sheds, rooms, grounds, or premises for these purposes.
- B. Law enforcement officers or animal control officers may enter any building or place where there is an exhibition of the fighting or baiting of live animals, or where preparations are being made for such exhibitions, and law enforcement officers may arrest persons there present and take

possession of all animals being prepared to fight, engaged in fighting, or found for the purpose of fighting, along with all implements and other paraphernalia used in such exhibition. This provision shall not be interpreted to authorize a search or arrest without a warrant when the law requires such.

#### **19-2-4 MALICIOUS IMPOUNDING**

It is unlawful for any person to maliciously hide or impound the animal of another. Any person found in violation of this will be subject to a recommended penalty of \$100.00.

#### **19-2-5 REMOVAL OF DEAD ANIMALS**

The owner of any animal that has died or been killed shall remove or bury the carcass of such animal. No horse, cow, ox, or other such large animal shall be buried on the owner's real property which is less than two (2) acres.

#### **19-2-6 TRAPPING OF DOMESTIC ANIMALS**

- A. It is unlawful for any person to trap, set a trap or engage in trapping in Mantua Town except under the supervision of the animal control officer. The mayor may authorize any employees of the Town to engage in trapping where it is deemed by the mayor to be in the best interest of Mantua Town.
- B. The animal control officer may make available humane "live" traps to the public to trap nuisance animals running at large and trespassing on their property.
- C. It shall be the responsibility of the citizen trapping an animal to notify the animal control officer who will retrieve the contents of the trap and deal with the animal in accordance with approved policies.

#### **19-2-7 : TRAPPING OF WILD AND/OR NUISANCE ANIMALS**

The trapping of wild and nuisance animals is regulated by state law.

#### **19-2-8 WILD ANIMAL RESTRICTIONS**

It is unlawful for any person to sell, possess, offer for sale, barter, give away, keep or purchase any vicious wild animal which is fierce, dangerous, noxious, or naturally inclined

to do harm. An animal shelter, a zoological park, veterinary hospital, humane society shelter, public laboratory, circus, sideshow, amusement park or facility for education of scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided. Any person found in violation of this shall be subject to a recommended penalty of \$300.00 for the first offense, with any subsequent offense having a recommended penalty of \$500.00.

**19-2-9 NUISANCE ANIMALS**

Any owner or person having charge, care, custody, or control of an animal(s) causing a nuisance as defined in this title shall be subject to the following recommended penalties:

- First offense \$75.00
- Second offense \$150.00
- Third offense \$300.00
- Every offense thereafter \$600.00

**19-2-10 KEEPING CHICKENS (DOMESTIC FOWL)**

A. Subject to the requirements of this section and any other applicable provision of this code, hen chickens and one rooster regardless of age, in the amount set forth below, may be kept on a lot or parcel of land in a residential (R) zone, with the exception of the multiple-family residential zone, for the sole purpose of producing eggs.

- 1. The number of hen chickens which may be kept shall be limited based on the size of the lot or parcel as follows:

20,000 square feet and under	Up to 14 chickens
16,000 square feet and under	Up to 12 chickens
12,000 square feet and under	Up to 10 chickens
10,000 square feet and under	Up to 8 chickens
8,000 square feet and under	Up to 4 chickens

B. Chickens shall be confined within a secure outdoor enclosed area which shall include a covered, ventilated, and predator resistant chicken coop.

- 1. The coop shall have a minimum floor area of at least two (2) square feet per chicken.
- 2. If chickens are not allowed to roam within an enclosed area outside the coop, the coop shall have a minimum floor area of six (6) square feet per chicken.

3. The coop shall be located in a rear yard at least twenty-five feet (25') from any dwelling located on an adjacent lot and that there be a three-foot (3') setback between the property line and the coop.
  4. The coop and enclosed area shall be maintained in a neat and sanitary condition.
  5. No chicken shall be permitted to roam outside the enclosed area or outside the coop if there is no enclosed area.
  6. Chicken feed shall be stored and dispensed in rodentproof and predator proof containers.
- C. It shall be unlawful for any person to keep any chicken in a residential zone in a manner contrary to the provisions of this section. Any person found in violation of this will be subject to a recommended penalty of \$75.00 for the first offense and a recommended penalty of \$150.00 for each subsequent offense.

## **19-3 ANIMAL CONTROL REGULATIONS GENERALLY**

### **19-3-1 LICENSING AND RABIES VACCINATIONS**

- A. Except as provided in this section, no person shall own, keep, or harbor any dog over four (4) months of age within Mantua Town unless such dog is vaccinated and licensed. All dogs shall be vaccinated against rabies. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or a licensed government operated animal shelter, a rescue agency or authorized foster care provider. Any person found in violation of this will be subject to a recommended penalty of \$50.00.
- B. Application for a license must be made within thirty (30) days after obtaining a dog over four (4) months of age, except that this requirement will not apply to a nonresident keeping a dog within Mantua Town for no longer than sixty (60) days. The Town shall provide applications for a dog license and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination.
- C. ~~The licensing period shall begin the first day of the calendar year and shall run for one year. License renewal may be applied for within sixty (60) days prior to the expiration date. New residents must apply for a license within thirty (30) days of establishing residency. Amended by ordinance no. 2021-12-16.~~
- D. A license shall be issued after payment of a fee according to the prevailing fee schedule for each dog. Persons who fail to obtain a license as required

within the time period specified in this section will be subjected to a late fee as set forth in the prevailing fee schedule.

- E. License fees shall be waived for dogs serving the disabled or government owned dogs used for law enforcement. All other licensing provisions shall apply.
- F. Upon acceptance of the license application and fee, Mantua Town shall issue a durable license tag including an identifying number, year of issuance, city, county, and state, which must be attached to the collar of the dog. Tags must be worn at all times and are not transferable. Mantua Town shall maintain a record of all licenses issued, and such records shall be available to the animal control officer.

### **19-3-2 FOR ANIMAL ESTABLISHMENTS**

- A. No person shall operate an animal establishment without first obtaining a permit in compliance with this section.
- B. The permit period shall begin with the first day of the calendar year and shall run for one year, except for kennel/cattery permits which shall be for three (3) years. Renewal applications for permits may be made within sixty (60) days prior of the expiration date. However, applications for a permit to establish a new animal establishment under the provisions of this title may be made at any time.
- C. Annual permits shall be issued upon payment of the applicable fees as found in the prevailing fee schedule.
- D. Under the provisions of this title, a conditional use permit shall be required of any animal shelter, rescue agency, and foster care provider operating within the Town limits. All fees normally required in the prevailing fee schedule will be waived for these three (3) entities.
- E. ~~No person or persons at any one residence within Mantua Town shall at any time own or license more than two (2) dogs or own more than four (4) cats, with no combination exceeding five (5), except otherwise provided in this title.~~ Amended by ordinance no. 2020-12-03(B)
- F. Research facilities where beneficial medical or related research is being conducted, humane shelters and other animal establishments operated by state or local government or which are licensed by federal law are excluded from the permit requirements of this chapter.

### **19-3-3 ISSUANCE AND REVOCATION OF PERMITS AND LICENSES**

- A. Mantua Town may revoke any permit or license for any dog or permit for any cat if the person holding the permit or license refuses or fails to comply with this title, the regulations promulgated by Mantua Town or any other law governing the protection and keeping of animals. In such cases, the animal control officer may pick up and impound any animal kept by the person under such order. Any dog or cat impounded pursuant to such an order shall be dealt with in accordance with the provisions of this title for impounded animals.
- B. If an applicant is shown to have withheld or falsified any material information on the application, Mantua Town may refuse to issue or may revoke a permit or license.
- C. It shall be a condition of issuance of any permit for an animal establishment that Mantua Town shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause, or pending appeal of any such action, Mantua Town shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not reapply for a period of at least thirty (30) days. Each reapplication shall disclose any previous denial or revocation and shall be accompanied by the fee as set forth in the prevailing fee schedule.

#### **19-3-4 OWNER RESPONSIBILITY**

- A. All dogs shall be kept under restraint. Any person found in violation of this will be subject to a recommended penalty of \$75.00 and any subsequent offense will have a recommended penalty of \$150.00.
- B. No dog or cat shall be abandoned, neglected, or allowed to cause a nuisance. The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this title.
- C. Livestock guarding dogs shall be exempt from nuisance regulations when performing duties protecting livestock on premises owned or controlled by the owner.
- D. Dog owners shall ensure that their dog carries identification at all times in the form of a tag, or other means to allow easy determination of the owners. Any person found in violation of this will be subject to a recommended penalty of \$75.00.

#### **19-3-5 IMPOUNDMENT**



- A. Any dog found running at large or any cat suspected of causing a "nuisance" as defined in this title shall be impounded by the animal control officer and confined in a humane manner. Immediately upon impounding a dog or cat the animal control officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats not claimed by their owners within a period of five (5) working days in which the shelter is open to the public shall become the property of Mantua Town and will fall under the jurisdiction of the animal control officer. A feral cat becomes the property of Mantua Town immediately upon impoundment and therefore may be euthanized, at the discretion of the animal control officer, prior to the normal five (5) day requirement.
- B. When any animal is found running at large or causing a nuisance, and its ownership is verified by the animal control officer, the officer may exercise the option of serving the owner with a citation in lieu of impounding the animal if it is the animal's first offense. The owner of the animal, which has been impounded three (3) times, in a two (2) year period, will be required to appear before a judge for review.
- C. Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

### **19-3-6 REDEMPTION**

- A. Any dog or cat impounded may be redeemed by the owner/caregiver thereof within five (5) working days upon payment of a mandatory impound fee as listed in the prevailing fee schedule plus any additional costs incurred in caring for the impounded animal. If any such dog or cat has been previously impounded within the past twenty-four (24) months the impoundment fee shall be increased as listed in the prevailing fee schedule. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, or license fees.
- B. The owner/caregiver of an impounded dog or cat may redeem their animal by the following procedure:
  - 1. Owner/caregiver will report to the Mantua Town office to request the redemption of the animal.
  - 2. An authorized Town employee will locate the proper impound record and calculate the daily board charges incurred as per the prevailing fee schedule. (The Town employee may also call the impound facility to obtain the current daily boarding charges.)

3. The owner/caregiver will pay Mantua Town for all impound fees, fines, and daily board charges. The Town will then issue the owner/caregiver an itemized paid receipt listing all charges paid for.
  4. Owner/caregiver will then present the paid receipt at the impound facility and request the redemption of the dog or cat. Owner will pay the impound facility for all expenses incurred for any veterinarian care, vaccinations, spaying, neutering, or other charges.
  5. The impound facility will then release the animal to the owner/caregiver and bill Mantua Town for the daily board charges incurred for the dog or cat.
- C. Any dog or cat confined for rabies, quarantine, evidence or other purposes may be redeemed by the owner, following the confinement period, and upon payment of all costs incurred in caring for the animal as specified in SMC B of this section.
  - D. No dog required to be licensed or vaccinated under this title may be redeemed until provisions for such licensing and vaccinations have been fulfilled.
  - E. No cat may be redeemed until provisions for vaccinations have been fulfilled.

### **19-3-7 ADOPTION**

No dog or cat over four (4) months shall be released for adoption without being spayed or neutered except to an authorized rescue agency. Vaccination fees, licensing fees, boarding charges, and veterinary costs may be assessed above and beyond, or as part of, the adoption fees.

### **19-3-8 RESCUE**

In the event an animal is neither redeemed nor adopted, it may be rescued by an authorized rescue agency (such as Cache Humane Society). No rescue agency will be assessed any fees for the rescue of any animal from impound. The rescue agency immediately assumes responsibility and legal ownership for the animal.

### **19-3-9 EUTHANIZATION**

Any animal not redeemed, adopted, or rescued within five (5) working days may be euthanized. Any animal deemed by the animal control officer to be feral, dangerous, sick, injured or suffering may be euthanized immediately.

## 19-4 DANGEROUS DOGS

### 19-4-1 DEFINITIONS

As used in this chapter the following terms mean:

**ATTACK:** Aggressive physical contact initiated by the dog.

**DANGEROUS DOG:** Any dog which without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals. A dog's breed shall not be considered in determining whether or not it is "dangerous". The owner of a dog deemed dangerous shall be subject to a recommended penalty of \$250.00

- A. No dog may be declared "dangerous":
1. If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
  2. If at the time the person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
  3. If the person was teasing, tormenting, abusing, or assaulting the dog, or in the past had teased, tormented, abused or assaulted the dog;
  4. If the dog was attacked or menaced by a domestic animal, or the domestic animal was on the property of the owner, or custodian, of the dog;
  5. If the dog was responding to pain or injury, or protecting itself, its kennel, or its offspring;
  6. If the person or domestic animal was disturbing the dog's natural functions such as sleeping or eating.

Neither growling nor barking, nor both, shall alone constitute grounds upon which to find a dog to be "dangerous".

**DOMESTIC ANIMAL:** Any animal commonly kept as a pet in family households in the United States, including, but not limited to, dogs, cats, guinea pigs, rabbits, pigmy pigs, and hamsters; and any animals commonly kept for companion or commercial purposes.

**SERIOUS INJURY:** Any physical injury consisting of broken bones or a permanently disfiguring laceration requiring either multiple stitches or cosmetic surgery.

### 19-4-2 OWNER RESPONSIBILITY

Every "dangerous" dog or cat, as determined by the animal control officer, shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

#### **19-4-3 ACTIONS PERMITTED AGAINST DANGEROUS DOGS**

- A. If any dog shall attack a person or domestic animal who was peaceably conducting himself in any place where he may lawfully be, any person, for the purpose preventing imminent injury or further injury, may use such force as is required to stop the attack.
- B. A police officer or animal control officer acting pursuant to his statutory duties may, where the threat of serious injury to a person or domestic animal is imminent and unjustified, use such force as is required to prevent such injury.

#### **19-4-4 JUDICIAL HEARING PROCEDURE**

- A. Any person may make a complainant of an alleged "dangerous dog" as that term is defined herein to the animal control officer or a police officer of Mantua Town. Such officer(s) shall immediately inform the complainant of his right to commence a judicial hearing as provided for in SMC B of this section, and if there is reason to believe the dog is a "dangerous" dog, the officer shall forthwith commence such judicial hearing himself.
- B. Any person may, and any police officer, or animal control officer acting within the scope of his statutory duties, shall make a complaint under oath or affirmation of an alleged "dangerous" dog as that term is defined herein to any municipal judge or justice. Thereupon, the judge or justice, shall immediately determine if there is probable cause to believe the dog is a "dangerous" dog and, if so, shall issue an order to any police officer pursuant to his statutory duties or animal control officer directing such officer to immediately seize such dog and hold same pending judicial determination as herein provided. Whether or not the judge or justice, finds there is probable cause for such seizure, he shall, within five (5) working days and upon written notice of not less than three (3) days to the owner of the dog, hold a judicial hearing on the complaint.
- C. Where a dog is determined pursuant to clear and convincing evidence at a duly constituted hearing to be "dangerous", the judge or justice, shall require the owner of said animal to register such animal with Mantua Town, and to provide prompt notification to Mantua Town of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instance

of attack; any claims made or lawsuits brought as a result of further instances of attack, or the death of the animal. The owner must, at the time of licensing, provide proof of a fully paid homeowners or rental insurance policy containing a personal liability clause in the minimum amount of one hundred thousand dollars (\$100,000.00). Mantua Town must be listed on the policy as an additional insured. In addition, the judge or justice, may require any or all of the following, but SMC C5 and C6 of this section may only be imposed where there has been serious injury to a person.

1. Indoors, when not alone, the dog must be under the control of a person eighteen (18) years or older. Provisions for the dog to be outdoors must also be made.
2. Outdoors and unattended, the dog must be kept within a locked fenced area from which it cannot escape.
3. When outdoors the dog must be attended and kept within a fenced area from which it cannot escape.
4. When outdoors the dog must be attended and kept on a leash no longer than six feet (6') and under the control of a person eighteen (18) years of age or older.
5. When outdoors the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.
6. Outdoors and unattended the dog must be confined to an escape proof fixed dog run of the following description:
  - a. Such fixed dog run shall allow the dog to stand normally and without restriction and shall be at least two and one-half (2 $\frac{1}{2}$ ) times the length of the dog, and shall protect the dog from the elements.
  - b. Fencing materials shall not have openings with a diameter of more than two inches (2"), and in the case of wooden fences, the gaps shall not be more than two inches (2").
  - c. Any gates within such fixed dog run or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the dog is confined to such kennel and unattended such locks shall be kept locked.
  - d. The fixed dog run may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

7. Placement of a sign or signs of a description and in places directed by the judge or justice, advising the public of the presence and tendencies of said animal.
  8. Attendance by the dog and its owner/caregiver at training sessions conducted by a certified applied animal behaviorist, board certified veterinarian behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all costs associated with the evaluation and training ordered under this section.
  9. Neutering or spaying of the dog at the owner's expense, unless medically contraindicated.
  10. That the dog be permanently identified by tattooing or by injecting an identification microchip, using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with Mantua Town.
- D. If a dog has been determined to be a "dangerous dog" by a judge or justice following a hearing as described above, and is involved in another attack as defined herein, the judge or justice may impose or reimpose any applicable directives listed above. Humane destruction of the dog may be ordered by the judge or justice following repeat attacks, but only where further incident involves serious injury to a person.

## **19-5 ESTRAYS AND TRESPASSING ANIMALS**

### **19-5-1 IMPOUNDING AND DISPOSAL OF ESTRAYS GENERALLY**

It is made the duty of the animal control officer(s) to take into his possession and impound all estrays running at large within the boundaries of the Town and attempt to determine the name and location of the animal's owner. The local state brand inspector may assist with any or all responsibilities assigned to the animal control officer regarding estrays.

### **19-5-2 RECORD OF ESTRAYS**

The animal control officer shall keep an accurate record of all estrays received by him, their age, color, sex, marks, and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount paid, all monies paid to owners after sale, all monies paid into the treasury and all other matters necessary for compliance with the provisions of this

chapter. The Town shall provide the animal control officer with a suitable book in which shall be entered the records required by law to be kept by the animal control officer. Such records shall be open to the inspection of the public at all reasonable hours, and shall be deposited by the animal control officer with his successor in office.

### **19-5-3 TRESPASSING ANIMALS; APPRAISEMENT OF DAMAGES; DETAINING**

If any cattle, horses, asses, mules, sheep, goats, swine or other animals shall trespass or do damage upon the premises of any person, the party aggrieved, whether he be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals or by detaining and impounding any or all of said animals trespassing or doing damage thereon. He shall, within forty-eight (48) hours thereafter, deliver said animals to the animal control officer together with a certificate of the appraisal of damage done by such animals. Such appraisal must be made by some disinterested person. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known, it must state that fact together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisal and a separate certificate thereof shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners. In such cases, the owners shall be notified separately, and each lot or group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times. If deemed appropriate the animal control officer or state brand inspector may authorize the person in possession of the estray to maintain and care for it pending determination and location or its owner. A person authorized to care for any estray(s) is entitled to be reimbursed for expenses incurred according to the prevailing fee schedule.

### **19-5-4 FAILURE TO NOTIFY; WAIVER OF DAMAGES**

No person who finds an estray is entitled to reimbursement for feed and maintenance or for any other cost incurred on behalf of the estray before such time as notice of the estray is given to the animal control officer or state brand inspector. If the party detaining any animals shall fail to deliver them or the certification of appraisal to the animal control officer or the state brand inspector within forty-eight (48) hours after he receives the same or to deposit the same in a post office as provided in this chapter, he shall not be entitled to recover damages under the provisions of this chapter.

### **19-5-5 DUTY OF ANIMAL CONTROL OFFICER**

Whenever any animals are delivered to the animal control officer and the certificate of appraisal is filed with him as provided in this chapter and such certificate states that the owner is unknown, the animal control officer shall immediately examine all brand

books or brand sheets in his possession. If the owner be ascertained hereby or if the owner be already known to the animal control officer, he shall, if the owner lives within ten (10) miles, immediately deliver a copy of such certificate of appraisal to such owner, or leave the same at his residence if they cannot be found. If the owner lives more than ten (10) miles away, the animal control officer may at his option deliver such copy personally to the owner, or deposit the same in the nearest post office in a registered letter addressed to such owner. He shall, however, serve a copy in one of the ways provided in the section: provided, that whenever personal service of a copy of any paper is required by this chapter, service by an authorized agent shall be deemed sufficient.

#### **19-5-6 NOTICE OF SALE OF DETAINED ANIMALS**

As soon as any such animal(s) are delivered to the animal control officer, he shall immediately proceed to advertise the same as provided in this section except when the owner is known and has been notified, in which case he shall hold said animal forty-eight

(48) hours before advertising the same. He shall advertise in a newspaper published in and having general circulation in the county, by publishing a notice in at least one issue of said paper, by posting notices in three (3) public places within the Town, one of which shall be at or near the post office, and he shall deliver a copy of the same to the county clerk or send the same by deputy or registered mail. The clerk should preserve such notice and post a copy thereof. The notice provided for in this section shall state the time when the damage was done and the amount thereof, the name of the party damaged, a description of the animals, including all visible marks and brands, and the day, hour and place at which such animals will be sold, which shall not be less than ten (10) or more than twenty (20) days from the time of posting such notice. The proper notice form shall be provided by the Town.

#### **19-5-7 OWNER MAY PAY AND TAKE ANIMALS; DISPUTED APPRAISAL**

The owner of any trespassing animals taken under the provisions of this chapter may at any time before the sale thereof claim and take such animals away upon paying the amount of damages set forth in the certificate of appraisal and the accrued costs, and if such animals are included in a lot or group of animals belonging to other parties against which the damages and costs are assessed as a whole, he shall pay his proportion of the total amount of damages and costs assessed such animals, according to the number of animals he owns when compared with the number of the entire lot or group. If he deems the appraisal too high, he may choose another appraiser having the qualifications provided in this section who with the first appraiser shall make a new appraisal, and if they cannot agree, they shall choose a third appraiser, and the three (3) shall proceed to make another appraisal, and the decision of the majority shall be final.



### **19-5-8 BILL OF SALE**

If such animals are not claimed and taken away by the owner, the animal control officer shall, at the time and place set forth in the notice of sale, proceed to sell such animals, one at a time, to the highest cash bidder. If the owner of any lot of animals to be sold is known, the animal control officer shall sell only enough of the animals to pay the damages and cost, the remainder may be turned over to the owner at any time thereafter; but if the owner be unknown, the animal control officer shall proceed to sell all of said animals so advertised for sale. He shall execute and deliver a bill of sale therefor, and file a copy with the county clerk as provided in this chapter. Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus sold, free and clear of all claims of the owner or any person claiming through the owner. Mantua Town, provided it complies with this chapter, is immune from liability on account of any estray sold at a livestock or other appropriate market.

### **19-5-9 REDEMPTION BY OWNER WITHIN NINETY DAYS**

The owner of any trespassing animals sold under the provisions of this chapter may, at any time within ninety (90) days of the date of such sale, redeem such animals from the purchaser or assignee having the same in his possession, upon paying to such purchaser or assignee the sum for which such animals were originally sold, together with an additional ten percent (10%) and reasonable compensation for the care and keeping of the same. If such purchaser or assignee refuses to give up such animals on the owner proving his title to the same and on his tendering the amount due as provided in this chapter, such owner may maintain an action at law to recover the same, provided that redemption of such animals is not made within ninety (90) days after the date of such sale, such sale shall be absolute and shall vest the title to such animals in the purchaser or assignee. Any person selling or disposing of any such animal within ninety (90) days of its sale under the provisions of this chapter shall notify the purchaser of the same of the date of the original sale and the amount paid for such animal at that time, and if he fails to do so, he shall be liable for any loss that may accrue to such purchaser by reason of such animal being redeemed for an amount less than he paid therefor.

### **19-5-10 OWNER ENTITLED TO RESIDUE OF PROCEEDS**

If any strays or trespassing animals sold under the provisions of this chapter shall, within a period of six (6) months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the amount of damages and the expense of taking, keeping and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the municipality, provided that in case there is a contest between two (2) or more persons claiming to be the owners of any such animals, the treasurer shall pay the residue to the party who shall establish by action his right to the same.

### **19-5-11 RETAKING ANIMAL UNLAWFULLY**

It is unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provisions of this chapter, either by stealth, force, fraud, or to intercept or hinder any person lawfully taking up or attempting to take up such animals.

~~Unless another penalty is provided for in this Ordinance or elsewhere in the ordinances of Mantua Town, any person who violates any provision of this chapter, upon conviction, is guilty of a Class C Misdemeanor.~~ Amended by ordinance no. 2021-12-16.

This Ordinance shall become effective immediately upon the posting of three (3) copies at three (3) public places within the corporate limits of the Town of Mantua.