

## **Ordinance 19-003**

### **An Ordinance establishing an Appeal Procedure for Dogs declared to be Biting or Vicious in the City of Brookings, South Dakota.**

Be It Ordained by the governing body of the City of Brookings, South Dakota, as follows:

I.

#### **Sec. 14-129. Appeal Permitted.**

(a) Any party who is aggrieved by any action or decision of an Animal Control Officer to declare a dog as biting, dangerous or vicious may appeal the decision. The party who wishes to appeal is referred to as the "appellant." An independent hearing examiner, who must be a member in good standing of the State Bar of South Dakota, shall be assigned to hear the appeal.

(b) Appeals shall be commenced by filing a written notice of appeal either in person or postmarked within 15 days of the decision. The written notice of appeal shall be printed legibly or typed and contain the following information:

1. The reasons the appellant believes the decision is objectionable, incorrect or illegal;

The type of claim or dispute involved and the time during which it accrued or occurred;

3. The name, address and telephone number of the appellant;
4. The number of the citation being appealed, if applicable;
5. A statement indicating whether the appellant desires the administrative appeal hearing to be open or closed to the public. All administrative appeal hearings are presumed to be open to the public. If either party requests a hearing that is closed to the public, the party requesting the closed hearing must present good cause to the hearing examiner that the public interest in having an open hearing is outweighed by the privacy interest involved in a particular case or that a closed hearing is legally required based upon the nature of the evidence to be presented at the administrative appeal hearing;
6. If the appellant is to be represented by a legal representative, the name, address and telephone number of the representative; and
7. The signature of the appellant, legal representative and/or corporate agent.

(c) There shall be no fee to file an appeal. Compliance with the above time limit and notice of appeal information requirements shall be jurisdictional prerequisites to any appeal. Failure to comply with any of these requirements shall be deemed to waive the right to a hearing.

(d) If the appellant complies with the jurisdictional requirements for an appeal, then the city will take no further action to enforce the decision until the hearing examiner renders a final decision. However, the provisions for prior notice and hearing may be dispensed with when, in the opinion of the Animal Control Officer, immediate action is necessary to summarily abate a dangerous condition on public or private property or there is an imminent threat to life or safety on public or private property. The Animal Control Officer shall take only such action as is reasonably necessary to summarily abate the danger, and then the city will take no further action to enforce the decision until the hearing examiner renders a final decision.

(e) The Animal Control Officer, or his or her designee, shall immediately deliver a copy of the appeal to the city attorney who will act as the City's legal counsel.

## II.

Any or all ordinances in conflict herewith are hereby repealed.

First Reading:	March 26, 2019
Second Reading:	April 23, 2019
Published:	April 26, 2019

CITY OF BROOKINGS, SD

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Keith W. Corbett, Mayor

ATTEST:

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Bonnie Foster, Acting City Clerk