

## **CHAPTER ELEVEN**

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**CHAPTER ELEVEN**  
**ANIMALS AND FOWL**

ARTICLE 1 – General Regulations

**11.0101 DEFINITIONS**

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

**ANIMAL:** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

**FARM ANIMALS:** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chicken, turkeys), fowl (duck, geese), swine (including Vietnamese pot-bellied pigs), goats, and other animals associated with a farm, ranch, or stable.

**DOMESTIC ANIMALS:** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

**NON-DOMESTIC ANIMALS:** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. It shall be illegal for any person to own, keep, possess, maintain, have the care and custody of, harbor, or offer for sale, any non-domestic animal within the city. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of a licensed show or exhibition. Unless otherwise defined, non-domestic animals shall include:

- (a) Any member of the large cat family (family felidae) including bobcats, lynx, lions, tigers, and cougars, but excluding commonly accepted domesticated house cats.
- (b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
- (c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated pet.
- (d) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.
- (e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
- (f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

**AT LARGE.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

**CAT.** Both the male and female of the felidae species commonly accepted as domesticated household pets. Cats shall be included as controlled by this division insofar as running-at-large, pickup, licensing and proof of vaccination is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

**DOG.** Both of male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

**OWNER.** Any person or persons, firm, association or corporation owning, keeping, possessing, harboring, maintaining or having the care, custody, or control of an animal.

**DANGEROUS ANIMAL:** An animal which has caused bodily injury or disfigurement to any person on public or private property; engaged in unusually aggressive behavior, such as an attack on another animal; exhibited unusually aggressive behavior, such as an attack on another animal; bitten one or more persons on two or more occasions; or been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

**POTENTIALLY DANGEROUS ANIMAL:** An animal which has bitten a human or domestic animal on public or private property; when unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

**UNPROVOKED:** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

#### **11.0102 Cruelty – Penalty**

No person may cruelly treat any animal in the city. Any person who beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense for which the maximum penalty shall be a fine of five hundred dollars (\$500.00), thirty (30) day imprisonment, or both such fine and imprisonment. (Source: North Dakota Century Code Section 36-21.1-02)

#### **11.0103 Dangerous Animals**

It is unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the city.

**Designation as potentially dangerous animal.** The city shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in the definition. When an animal is declared potentially dangerous, the city shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

**Evidence justifying designation.** The city shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

**Attack by an animal.** It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent. That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal.

**Procedure.** When the city has determined that an animal is dangerous they will proceed as follows: The owner will be notified in writing of the dates, times, places and parties bitten. The owner then has five days to appeal before the Governing body. No person shall harbor an animal after it has been found dangerous and ordered to be destroyed. If the Governing body does not order the animal to be destroyed, the Governing body may, as an alternative order any of the following:

The owner may provide proper enclosure for the dangerous animal as specified in the front and rear of the premises with clearly stated warning signs, including a warning symbol to warn children that there is a dangerous animal on the property.

**Recommended proper enclosure.** The animal must be securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow

the animal to exit on its own, or any house or structure in which windows open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

Have a minimum overall floor size of 32 square feet, with sidewalls that shall have a minimum height of five feet and be constructed of 11 gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 ¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

***Authority to order destruction.*** The city shall have the authority to designate any animal as a dangerous animal and hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
3. The animal is not licensed and up to date on rabies and distemper vaccinations.

The owner shall have fourteen days after receiving written notice to complete the above, or the city will file the complaint with the Municipal Court.

***Exhibition.*** An Exhibition, parade or circus which includes wild animals may be conducted only upon securing a permit from the city auditor. It is also unlawful to keep or harbor within the city any dangerous animal without first having obtained an "Exhibition" permit from the city auditor to keep or harbor such animal. No dangerous animal for the purpose of "Exhibition" whether a circus, carnival or exhibition may be allowed to stay in city limits for more than a 48 hour period.

#### **11.0104 Permit – When Issued**

The city auditor shall have discretion as to whether or not to issue a permit pursuant to Section 11.0103. If the city auditor shall refuse to issue a permit, the decision may be appealed to the city governing body. No permit shall be issued without first obtaining a description of the animal, the name of the owner or person in charge, the purpose for which the animal is kept, and such other pertinent information as the city governing body may determine. Any dangerous animal kept or allowed to run at large without the owner or keeper having first obtained a permit in compliance with this section is hereby declared a nuisance and the owner or keeper is guilty of a violation of this article.

#### **11.0105 Killing Dangerous Animals**

The city shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter. The members of law enforcement or any other persons in the city are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property. If, in the reasonable belief of any person of the city or any law enforcement officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination.

#### **11.0106 Diseased Animals**

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the animal control officer or the health officer.

It is hereby made the duty of the health officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state department of health is empowered to act.

**11.0107 Housing**

No person shall cause or allow any stable or place where any animal is or may be kept to be unclean.

**11.0108 Keeping of Certain Animals Prohibited**

This section shall not apply to any person, partnership or corporation keeping or handling such animals under consignment in the course of regular business or to a licensed livestock auction market.

It is unlawful to keep any of the following animals within the limits of the city:

PROHIBITION OF live sheep, swine or pigs, cattle, chickens or other poultry, goats, or rabbits in the city.

PROHIBITION OF PIT BULL DOGS. "Pit bull dog" is defined to mean:

The bull terrier breed of dog; Staffordshire bull terrier breed of dog; The American pit bull terrier breed of dog; The American Staffordshire terrier breed of dog; A dog of mixed breed or of other breeds than the above listed which breed for mixed breed is known as the above mentioned. Any dog which has the appearance or characteristics of being the breed of the above mentioned.

PROHIBITION OF ROTTWEILER DOGS. "Rottweiler dog" is defined to mean:

The German Rottweiler breed of dog; the American Rottweiler breed of dog; a dog of mixed breed or of other breeds than the above listed which breed for mixed breed is known as the above mentioned. Any dog which has the appearance or characteristics of being the breed of the above mentioned.

PROHIBITION OF CHOW CHOW DOGS, "Chow Chow dog" is defined to mean: Rough-haired Chow Chow breed of dog; smooth-haired Chow Chow breed of dog; a dog of mixed breed or of other breeds than the above listed which breed for mixed breed is known as the above mentioned. Any dog which has the appearance or characteristics of being the breed of the above mentioned.

PROHIBITION OF CANARY DOGS "Canary dog" is defined to mean: Perro de Presa Canario breed of dog; Perro Basto breed of dog; Verdino breed of dog; Dogo Canario breed of dogs; A dog of mixed breed or of other breeds than above listed which breed or mixed breed is known as a Canary dog. Any dog which has the appearance and characteristics of being predominantly of the breed of Canary dog or a combination of these breeds.

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city of Ray, North Dakota a Canary dog or the above mentioned combination of these breeds.

PROHIBITION OF NON-DOMESTIC ANIMALS. It shall be illegal for any person to own, keep, possess, maintain, have the care and custody of, harbor, or offer for sale, any non-domestic animal within the city. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of a licensed show or exhibition.

PROHIBITION OF FARM ANIMALS. It shall be illegal for any person to own, keep, possess, maintain, have the care and custody of or harbor farm animals within the city limits. An exception shall be made to this section for those farm animals brought into the city as part of a licensed or city sanctioned show or exhibit.

**11.0109 Strays**

It is unlawful to permit any cattle, horses, sheep, swine, goats or poultry to run at large in the city; and any such animal running at large in any public place in the city shall be impounded. It is also unlawful to picket or tie any such animal in any of the streets of the city for the purpose of grazing or feeding.

**11.0110 Noises**

It is unlawful to harbor or keep any animal which habitually disturbs the peace by loud noises at any time of the day or night.

## **ARTICLE 2 – Dogs and Cats**

### **11.0201 License Required**

No dog or cat over one month of age shall be permitted to be or remain in the city without being licensed as provided in this Article.

It shall be the duty of the owner or keeper of any dog or cat kept within the city to have the dog or cat inoculated against distemper and rabies and proof thereof must be filed with the city auditor's office before a license may be issued, as evidenced with a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

*Vaccination.* All dogs and cats harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for: Rabies – with a live modified vaccine; and Distemper. A certificate of vaccination must be kept on file which states the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made of the city, or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have three days in which to present the certificate(s) to the city or police officer. Failure to do so shall be deemed a violation of this section.

Dog licenses shall be issued by city personnel upon payment of the license fee as established by the governing body of the city. The owner shall state, at the time of receiving a license his or her name and address and the name, breed, color and sex of each dog owned or kept by him or her. Upon payment of the license fee city personnel shall issue to the owner a license certificate and/or a metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a tag is lost or destroyed, a duplicate can be issued. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

The licensing provisions of this division shall not apply to dogs whose owners are non-residents temporarily within the city, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place. The funds received by the city auditor from all dog licenses and tag fees as established by the governing body shall first be used to defray any costs incidental to the enforcement of this chapter; including but not restricted to the costs of licenses, tags, and maintenance of the dogs.

### **11.0202 Licensing Procedure and Terms**

All dogs and cats shall be registered as to sex, breed, name and addressees of owner and name of dog. Licenses shall be issued by the city auditor or other authorized person on an annual basis. The person paying the license fee shall receive a receipt therefore and a license tag with which to mark the animal. It shall be the duty of the owner or keeper to cause such license tag or to be securely attached around the animal's neck and kept there at all times during the license period.

### **11.0203 License Fee**

The license fee shall be \$5.00 annually for each male dog and each female dog; and \$5.00 for each male and female cat.

### **11.0204 License: When Due and Payable**

The license fees or renewal fees previously provided for shall become due and payable on the 1<sup>st</sup> day of May in each year and shall become delinquent on the 1<sup>st</sup> day of June in each. If the fee is not paid before the first day of June a penalty of twenty-five dollars (\$25.00) per month shall be added to each license or renewal fee.

### **11.0205 Dog or Cat Running at Large Prohibited**

It shall be unlawful for the dog or cat of any person who owns, keeps, possesses, harbors, maintains or has the care, custody or control of a dog or cat, to run at large. A person, who owns, keeps, possesses harbors, maintains

or has the care, custody or control of a dog or cat which runs at large shall be guilty of an offense. Dogs and cats on a leash and accompanied by a responsible person shall be permitted in streets or on public land unless the city has posted an area with signs reading “Dogs or Cats Prohibited”.

#### **11.0206 Disposition of Unlawful Dogs or Cats**

Any unlicensed dog or cat or any dog or cat running at large may be taken up by any Law Enforcement officer and impounded at the city dog pound, or such other place as may be designated by the governing body. The dog or cat shall not be released to any person until such dog or cat is licensed (if unlicensed); a fee of \$25.00 per day is paid for the taking of each animal, and all pound charges are paid directly to the facility where the dog or cat is housed.

#### **11.0207 Disposition of Unclaimed Dogs or Cats**

The owner or keeper shall be notified of the taking of the dog or cat. If the owner or keeper fails to pay the charges (including license if necessary) and claim the animal within three days of notification the animal may be destroyed. If the owner or keeper is unknown, the city auditor shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

#### **11.0208 Return to Owner if Known**

Notwithstanding the provisions of Section 11.0206, if a dog or cat is found at large and its owner can be identified and located, such dog or cat need not be impounded but may, instead, be taken to the owner. In such case the animal control officer or other officer may proceed against the owner or keeper for violation of this article.

#### **11.0209 Kennels**

*Definition of kennel.* The keeping of more than three dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel”; except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a “kennel”.

*Kennel as a nuisance.* Because the keeping of more than three dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel with the city.

#### **11.0210 Nuisance – When**

Any licensed dog or cat, any dog or cat running at large, any dog or cat disturbing the peace, or any dog or cat molesting passers by, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance.

*Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner’s or caretaker’s premises.

*Damage to property.* It shall be unlawful for any person’s dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

*Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

*Health unit.* It shall be unlawful for any person to keep or harbor an animal officially declared a public nuisance by the Upper Missouri District Health Unit. It shall also be unlawful for any person to keep or harbor an animal under circumstances or conditions officially declared a public nuisance by the Upper Missouri District Health Unit.

*Running at large/multiple offenses.* In addition to the penalties provided herein, if the same animal is the basis for three running at large offenses within a one year period of time resulting in conviction or pleas of guilty to running at large by the owner, the municipal judge may, upon making a finding that the same animal has been the basis for three offenses resulting in convictions or pleas of guilty of the offense of running at large within a one year

time period, order the city to destroy the animal in a proper and humane manner and properly dispose of the remains thereof. If the municipal court orders destruction of the animal under this section, the owner shall immediately make the animal available to the city. The owner shall be liable to the city for the cost of maintaining and disposing of the animal. The owner of the animal shall have ten days from the date of the destruction order to appeal to the District Court

**11.0211 Seizure of Animals**

Any law enforcement officer or authorized personnel of the city may enter upon private property and seize any animal provided that the following exist:

There is an identified complainant other than the police officer or the Governing body making a contemporaneous complaint about the animal;

The officer or Governing body reasonably believes that the animal meets either the barking dog criteria set out in 11.0212; or the criteria for an at large animal set out in 11.0210;

The officer or Governing body can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

The officer or Governing body has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;

The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, or other authorized person to have that key shall not be considered unauthorized entry; and

Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

**11.0212 Noisy Dog or Cat Prohibited**

It shall be unlawful to keep or harbor within the city any dog or cat that disturbs the peace by habitually howling, barking, whining, meowing or making other disagreeable noise. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

**11.0213 Dogs and Cats Limitations - Enforcement**

It shall be unlawful for any person(s) within a household to own, keep, possess, harbor, maintain or to have the care, custody and control over more than three dogs or three cats or a combination of the two animals, but not more than three of said animals within the corporate limits of the city.

If the city receives excessive complaints regarding any resident who at the time of the adoption of this ordinance, owns more than three (3) of said animals, a warning will be issued. With the second complaint a ticket will be issued and the owner of the animals will be required to appear in court and the limitation of animals as stated in this ordinance will be enforced.

**11.0214 Penalty**

Any person who violates the provisions of this article for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of five hundred dollars (\$500.00). The owner of any animal impounded pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal may be released to the owner.