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CHAPTER ELEVEN

ANIMALS AND FOWL

ARTICLE 1 - General Regulations

11.0101 Cruelty

No person shall cruelly treat any animal in the city in any way. Any person who inhumanely 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) days imprisonment, or both such fine and imprisonment.* (Source: North Dakota Century Code Section 36-21.1-02).

11.0102 Dangerous Animals

It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the city. Exhibitions or parades of wild animals may be conducted only upon securing a permit from the chief of police. It shall also be unlawful to keep or harbor within the city any dangerous animal without first having obtained a permit from the chief of police to keep or harbor such animal.

11.0103 Permit – When Issued

The chief of police shall have discretion as to whether or not to issue a permit pursuant to Section 13.0102. If the chief of police shall refuse to issue a permit, the decision may be appealed to the City Council. 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 chief of police shall 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 shall be guilty of a violation of this article.

11.0104 Killing Dangerous Animals

The members of the police department or any other person 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.

11.0105 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 chief of police 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.

11.0106 Housing

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

11.0107 Keeping of Certain Animals Prohibited

It shall be unlawful to keep any live sheep, swine or pigs, cattle, chickens or other poultry, goats in the city. 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.

11.0108 Strays

It shall be 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 shall further be unlawful to picket or tie any such animal in any of the streets of the city for the purpose of grazing or feeding.

11.0109 Noises

It shall be unlawful to harbor or keep any animals that *habitually* disturb the peace by loud noises at any time of the day or night.

11.0110 Penalty

Any person who shall violate 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 pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal shall be released to the owner.

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 rabies and proof thereof must shown to the person issuing the license before a license may be issued.

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 chief of police 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 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: \$20 one time for each dog and \$150 each year for dangerous dogs and \$7.50 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 1st day of January in each year and shall become delinquent on the 1st day of May in each.

11.0205 Dog or Cat Running at Large Prohibited

It shall be unlawful for the owner or keeper of any dog or cat to permit the same to run at large in the city at any time. A dog or cat shall not be considered running at large if attended and on a leash not exceeding six (6) feet in length or unless accompanied by or under the control and direction of a competent person and obedient to the person's commands or within any vehicle being driven or parked on the streets or when in the confines of the owner's or keeper's premises.

Every female dog in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in such manner that such animal cannot come in contact with another animal, except for breeding purposes.

11.0206 Disposition of Unlawful Dogs or Cats

Any dog or cat running at large may be taken up by any police officer and impounded at the city dog pound or such other place as may be designated by the chief of police. The dog or cat shall not be released to any person except upon approval of the chief of police, and payment of a fee which shall be set by resolution of the City Council as a per day charge to cover the costs and charges incurred by the city of LaMoure for impounding, maintenance, keep and notice of said dog or cat, together with all costs incurred for any needed rabies inoculation.

However, if any dangerous, fierce or vicious dog so found at large cannot be safely taken up and impounded, such dog may be slain by any policeman.

11.0207 Disposition of Unclaimed Dogs or Cats

No later than two (2) days after the impounding of any dog or cat, the owner or keeper shall be notified, or if the owner or keeper is unknown, the chief of police shall post written notices at three (3) conspicuous places in the city of LaMoure describing the animal and place and time of taking. If the owner or keeper fails to pay the charges and claim the animal within three days of notification, the animal may be destroyed. Any dog or cat which appears to be suffering from rabies or affected with hydrophobia, mange or other infectious or dangerous disease shall not be released but may be forthwith destroyed.

11.0208 Return to Owner if Known

Notwithstanding the provisions of Section 11.0203, 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 policeman or other officer may proceed against the owner or keeper for violation of this article.

11.0209 Muzzling, When Required

Whenever it shall by the chief of police of the city be deemed necessary to the public safety that any dog or dogs permitted to run at large within said city should be muzzled, he is hereby empowered to compel the owner or keeper of such dog or dogs to properly and securely muzzle the same.

The owner of every fierce, dangerous or vicious dog shall confine such animal within a building or secure enclosure and such dog shall not be taken out of such building or enclosure unless such dog is securely muzzled.

11.0210 Noisy Dog or Cat

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 during the nighttime, any dog or dogs which shall run out and bark at any person, or other passing object upon or along any street, highway, or other public ground within the limits of said city. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

11.0211 Nuisance - When

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

11.0212 Penalty

Any person violating any provisions of this article shall be guilty of an infraction and be fined not to exceed five hundred dollars (\$500.00).

11.0213 Dangerous Dogs

- A. "Dangerous dogs" shall mean and include any of the following:
1. Without provocation, inflicted substantial bodily harm on a human on public or private property; or
 2. Killed a domestic animal without provocation while off the owner's property; or
 3. Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog, unprovoked, aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
 4. Any dog, not owned by a governmental or law enforcement unit, used primarily to guard public or private property.
- B. Potentially dangerous dog shall mean and include any of the following:
1. When unprovoked, inflicts bites on a human or a domestic animal on a public or private property; or
 2. When unprovoked, chases or approaches a person, including persons on a bicycle, persons upon streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude to attack; or
 3. Has a known propensity, disposition or tendency to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- C. A dangerous dog does not include the following:
1. An animal that bites or attacks a person, who is knowingly trespassing on the property of the animal's owner; or
 2. An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault; or
 3. An animal that bites or attacks a person who provokes or torments the animal.
- D. An attack by a dog means any assault or battery by a dog upon a person or domestic animal, to include biting, felling or toppling, tearing of clothing, provoking flight to escape attack, or any other act which could reasonably cause physical injury to the person or domestic animal.
- E. A bite by a dog means any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal. This does not include playful behavior by a puppy that is welcome and not likely to cause any injury, fear or harm to the person or animal.
- F. A law enforcement dog means a dog trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.
- G. A lawful hunt means to hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if requires) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.
- H. An owner means any person or legal entity that has a possessory property right in a dog, including the harbinger or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.
- I. An owner's real property means any real property owned or leased by the owner of the dog, not

including any public right of way or a common area of a condominium, apartment complex or townhouse development.

J. A substantial bodily injury means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization or an injury that requires multiple sutures.

K. The provisions of this ordinance do not apply to:

1. A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;
2. A dog being used in a lawful hunt;
3. A dog where the injury or damage inflicted by a dog was sustained by a person who, at the time of the injury, was tormenting, abusing or assaulting the dog, had tormented, abused or assaulted the dog, or was committing to attempting to commit a crime.

L. It shall be unlawful for any person to keep or harbor a dog that such person knows, or reasonably should know, to be a dangerous dog, unless the keeper or harborer receives a permit as required in Ordinance No. 11.0103 along with complying with the following requirements:

1. **Confinement.** Any keeper or harborer of a dangerous dog shall keep such dog confined, except as set forth hereinafter. 'Confined' as that term is used in this section, shall mean such dog is securely kept indoors or in a securely enclosed and locked pen or dog-run area made of at least, nine-gauge chain link with no more than one-inch spacing. Said pen or run must be locked with a key or combination lock whenever such dog is within the structure. Said pen or dog-run area must have sides at least six (6) feet high and be secured over the top. If the pen or dog-run area has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot deep
2. **Leash and Muzzle.** Any keeper or harborer of a dangerous dog shall, when the dog is not confined pursuant to the section (L)(1), securely muzzle and restrain the dog with a leash, chain, rope or harness having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length.
3. **Notice.** Any keeper or harborer of a dangerous dog shall display, in a prominent place on the premises where the dog is kept, a sign easily readable by the public using the words 'Beware of Dog.' In addition, a similar sign shall be posted on the pen or run of such animal.
4. **Registration and Reporting.** Any keeper or harborer of a dangerous dog shall properly license the dog pursuant to Ordinance No. 11.0103 and pursuant to the requirements set forth in this subsection.
Upon issuance, the dangerous animal license shall be effective for one (1) year from the date of issuance and shall be reapplied for prior to its expiration. Such dangerous animal license shall not be transferable and shall expire whenever changes occur that would make the keeper or harborer ineligible to obtain a license. The keeper or harborer of the dangerous dog shall maintain with the city auditor the address where the dangerous dog is primarily kept or harbored.
5. **Insurance.** Any keeper or harborer of a dangerous dog shall maintain liability insurance in the single incident amount of \$100,000.00 for bodily injury or death of any person(s) or for damage to property which may result from actions of the dangerous dog, or from actions or inactions of the keeper or harborer related to the dangerous dog. The application or reapplication for a dangerous animal license shall include a certificate of liability insurance that indicates the required insurance level and is valid for the intended registration period.
6. **Identification.** Any keeper or harborer of the dangerous dog must prior to the issuance of the dangerous animal license make the dog available to the city to take photographs to be used to depict the animal's size, coloring and distinguishing features. Failure to make the dog available when reasonably requested by the city shall be grounds for denial of the application.

- K. Any keeper or harborer of a dog that is a size and/or breed that allows the dog to be capable of inflicting life threatening injuries upon human beings or domestic animals is hereby held to a very high standard of care regarding their knowledge of factors or incidents that indicate that the dog may be dangerous as defined in subsection (a). The court, in determining whether a keeper or harborer of such dog reasonably should know about the dog's dangerousness, shall apply such very high standard. Examples of breeds to which this standard applies include, but are not limited to, the following, to-wit:
1. Staffordshire Bull Terrier:
 2. American Staffordshire Terrier:
 3. American Pit Bull Terrier:
 4. Argentine Dogo:
 5. Cane Corso:
 6. Dogue do Bordeaux:
 7. Dogo Cubano:
 8. Dogo Sardesco:
 9. Fila Brasileiro:
 10. Perro de Presa Canario:
 11. Rottweiler:
 12. Doberman Pinscher
 13. Any dog, whether purebred or mix, that has the appearance and characteristics of any of the breeds listed above.
- L. In the event that a law enforcement officer or animal control has probable cause to believe that a dog is dangerous as defined herein, such officer may file an affidavit with the municipal court judge, setting forth the facts upon which such officer relies to support such probable cause. Upon receipt of such affidavit, if the judge determines that the facts set forth in the affidavit are sufficient to establish such probable cause, the judge shall schedule a hearing for the purpose of determining whether or not the dog in question should be deemed dangerous as defined herein. The judge, also, upon request of the city attorney, shall issue a search warrant, pursuant to the applicable city ordinances to seize the dog , and to impound the dog at an animal shelter pending the determination of whether the dog is dangerous. The court shall provide notice of the hearing to any known harbinger or keeper of the dog. Such notice shall be served on such harbinger or keeper in the same manner as the service of a subpoena. The hearing date shall not less than five (5) days nor more than thirty (30) days following the date of service upon the harbinger or keeper. At the hearing, the city shall have the burden, by clear and convincing evidence, to prove the dog is dangerous as defined herein and shall present evidence to that effect. The keeper or harbinger of the dog may present evidence to rebut the city's evidence. The failure of the keeper or harbinger to attend or participate in the hearing shall not prevent the judge from making the appropriate determination concerning the dog. After the hearing, the keeper or harbinger of the dog shall be notified in writing of the judge's determination. If a determination is made that the dog is dangerous, the keeper or harbinger shall submit a quest for a license under Ordinance 11.01012 within the time frame established by the court, which shall not be more than twenty (20) days. If the dog has been impounded pending the determination by the court, the dog shall remain impounded until the harbinger or keeper has complied with this subsection. If the keeper or harbinger fails to comply with the provisions of this article within the time frame established by the court, and the court has not granted an extension of such time, the keeper or harbinger shall be deemed to have abandoned the dog and it shall become the property of the city. The city shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog. Either the city or the keeper or harbinger may appeal the judge's determination of the LaMoure County District Court, by filing an appeal, and posting the appropriate bond as required under the appropriate North Dakota Statues. In the event an appeal by the keeper or harbinger of a dog impounded hereunder, the bond for such an appeal shall include an amount to insure the payment of the costs of impoundment for 30 days and such bond may be adjusted during the pendency of such an appeal. The failure to post such bond, or adjustment thereto, within a time frame established by the Court shall be deemed an abandonment of the dog by the keeper or harbinger and the city shall have the

right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog. If the dog is not determined to be dangerous, the court may determine whether the keeper or harbinger shall pay any or all costs of impoundment, taking in to consideration whether other reasons existed for the impoundment and such other relevant factors as the court determines.

- M. In addition to any penalties the court may prescribe for violation of this section, if the court finds, after notice to the keeper or harbinger and an opportunity for hearing, that such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals, either because the court finds that the keeper or harbinger is unlikely to comply with the provisions of this section, or because the court finds that, even with compliance with this section, the dangerous dog poses a threat to the public that is unreasonable, the court shall render such animal destroyed.
- N. No person who has been convicted of a violation of this section shall keep or harbor a dangerous dog nor shall such person be eligible for a dangerous animal license for a period of five (5) years following such conviction. In addition, no dangerous dog shall be kept or harbored and no license shall be issued for any dog, if the primary location where such dog is to be kept or harbored is the residence of a person who has been convicted of a violation of this section within the previous five (5) year. Except that if the court permits the person who has been convicted of a violation to keep or harbor his or her dangerous dogs existing at the time of the conviction, the person may keep and harbor such dogs and apply for or re-apply for a dangerous animal license only for those particular dog(s).

ARTICLE 3 - Inoculation of Dogs and Cats

11.0301 Inoculation of Dogs and Cats Against Rabies

- A. Rabies Inoculation Required. The owners of all dogs and cats in the city of LaMoure must have them inoculated against rabies as provided for herein. The veterinarian who administers the inoculation shall keep a register of the dogs and cats inoculated indicating the date of the inoculation, the name of the owner of the dog or cat, a description of the dog or cat, and the tag number assigned to the dog or cat. The veterinarian shall attach a metal tag to the dog or cat's collar showing the tag number and the date of inoculation. The dog or cat owner shall be obligated to provide a collar for this purpose. On request, a veterinarian shall provide to the chief of police ownership information on any animal contained in the veterinarian's vaccination records.
- B. Application. A rabies inoculation shall be required every three (3) years and shall apply to all dogs or cats over six (6) months of age but shall not apply to dogs and cats which are owned by nonresidents and who are in the city on a temporary basis.
- C. It shall be unlawful to cause a dog or cat to wear attached to its collar, or otherwise, a vaccination tag not issued for that dog or cat.
- D. Penalty. A person violating any provision of this article shall be guilty of an infraction for which a maximum fine of \$500.00 may be imposed.

