

CHAPTER TWELVE

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CHAPTER TWELVE

ANIMALS

ARTICLE 1 – General Regulations

12.0101 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 cruelty.

No person may leave a dog, cat, or other small animal unattended in a standing or parked motor vehicle in a manner that endangers the health or safety of the animal.

No person may chain or tether a dog in a manner that endangers the health or safety of the animal.

Cruelty to animals is an offense for which the penalty shall be a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), thirty (30) day imprisonment, or both such fine and imprisonment.

Any person operating a motorcycle, snowmobile, or other motor vehicle who willfully harasses or frightens any domestic animal, is, upon conviction, guilty of a class B misdemeanor. If injury or death results to the animal due to such action, such person is liable for the value of the animal and exemplary damages as provided in Section 36-21-13 of the North Dakota Century Code.

12.0102 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.

12.0103 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 a law enforcement officer or a member of the Southwestern District Health Unit.

It is hereby made the duty of a member of the Southwestern District Health Unit 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.

12.0104 Housing

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

12.0105 Keeping of Certain Animals Prohibited

It is unlawful to keep any live sheep, swine or pigs, cattle, or goats, or other animals commonly referred to as “livestock” 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. Chickens (hens only), not to exceed six (6) per lot, are permitted.

12.0106 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. (see 11.0504(8))

12.0107 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 one hundred dollars (\$100). 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.

ARTICLE 2 – Dogs

12.0201 Dog Bite Statute

1. The owner, harborer, or keeper of any dog shall be civilly liable for all injuries and damages suffered by any person who is bitten by the dog while in a public place, or lawfully in a private place, including the property of the owner, harborer, or keeper of the dog, regardless of the former viciousness of the dog or that person's knowledge of such viciousness.
2. A person is lawfully upon the private property of such owner, harborer, or keeper within the meaning of this Dog Bite Statute when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner, harborer, or keeper of the dog, the owner or lessee of the property, or any person authorized to grant such permission.
3. This Dog Bite Statute shall not apply where the victim was a criminal suspect, and the dog was engaged in the performance of duties for on-duty law enforcement officers or military personnel who were acting within the written guidelines previously adopted by their agencies.
4. This Dog Bite Statute shall not apply where the dog was in the custody of an animal trainer, animal behaviorist, groomer, veterinarian, or an agent or employee of any of the foregoing, for the purpose of rendering a professional service in exchange for compensation.
5. Provocation shall not be a defense to liability under this Dog Bite Statute or any other cause of action, except where the victim:
 - a. was threatening or attempting to commit a crime of violence upon any person,
or
 - b. caused the dog to experience physical pain and the bite was an immediate response to the pain, provided however that the dog bit the victim only once and further provided that the victim was not younger than five (5) years of age.
6. The parents having custody of a minor who is the owner, harborer, or keeper of any dog shall be additionally liable parties under this Dog Bite Statute.
7. If the victim of the dog bite is a harborer, or keeper of the dog, the owner of the dog nevertheless shall be liable under this Dog Bite Statute.

8. It shall not be a defense to liability under this Dog Bite Statute that the owner, harbinger, or keeper:
 - a. exercised the utmost care to prevent the dog from biting, or
 - b. did not have custody or control of the dog at the time of the biting.
9. It shall not be a defense to liability under this Dog Bite Statute that the dog did not intend to injure the victim, or that the dog's action was playful, mischievous, or otherwise not vicious.
10. A person who kills, wounds, or attempts to kill or wound a dog while it is chasing, approaching in a menacing fashion, approaching in an apparent attitude of attack, attempting to bite, or biting a person or livestock, poultry, or a domestic animal other than a cat or dog, or which had bitten, attempted to bite, or killed a person, shall not be liable for the payment of damages to the owner of the dog or any third party, shall not be prosecuted for or convicted of any law pertaining to cruelty to animals, and if the killing, wounding, or attempt to kill or wound the dog took place on the premises which are owned by the person or where the person resides, shall not be prosecuted for or convicted of any law pertaining to the possession, display, discharge, or use of weapons.
11. Every person who owns, harbors, keeps, or is in temporary possession of a dog shall be required to provide in writing that person's name and address, and the name and address of the owner of the dog if that person is not the owner, to anyone whom the dog has injured or damaged, or the parents, if the victim was a minor, at the time of the incident or as soon as possible thereafter, whether or not requested to provide such information, and to anyone who requests such information after witnessing a violation of any law involving that dog.
12. The owner, harbinger, or keeper of any dog shall provide a copy of its most recent proof of rabies vaccination to anyone whom the dog has injured, or the parents of an injured minor, at the time of the incident or as soon as possible thereafter, whether or not requested to provide such information. If the dog never received such vaccination, a written statement to that effect shall be provided to the person who was injured, or the parents of an injured minor.
13. The owner, harbinger, or keeper of any dog who has actual knowledge that the dog is injuring, attempting to injure, or indicating intent to injure another person shall take all necessary measures to prevent injury or further injury to such person.
14. The following aspects of animal control are mandatory duties which if breached causing damages to any person shall subject this jurisdiction to liability for

negligence, with no limitation on a plaintiff's other remedies: seizing any dog which is reported to have bitten a person other than its owner, seizing any dog which is reported to have chased, approached in a menacing fashion, approached in an apparent attitude of attack, or attempted to bite a person, holding any dog seized hereunder until the conclusion of a hearing to determine whether the dog should be euthanized or returned to its owner, rendering a decision to return a dog to its owner which is shown by clear and convincing evidence to be the incorrect decision.

12.0202 Dog Laws - Definitions

Definitions -

1. “Animal control authority” - an entity authorized to enforce the animal control laws of a city, county, or state, whether acting alone or in concert with other governmental authorities. In those areas not served by an animal control authority, the sheriff or municipal law enforcement shall carry out the duties and have the privileges of the animal control authority under this Dangerous Dog Law.
2. “At large” - a dog that is not under restraint as defined below. (exception - working dogs such as: leader dogs, guard dogs, farm dogs, hunting dogs, and other such dogs, when accompanied by their owner or his authorized agent while actively engaged in activities for which such dogs are trained.)
 - a. engaged in or has been trained to engage in exhibitions of fighting;
 - b. attacked a person or domestic animal without justification causing serious bodily injury or death;
 - c. bitten a human or domestic animal more than once on public or private property.
 - d. behaved, on two or more occasions, in a manner that a reasonable person would believe posed an unjustified threat of serious injury or death to a person or domestic animal; or
 - e. committed a nuisance three or more times.
3. “Nuisance” - a dog that:
 - a. damages, soils, defiles, or defecates on private property other than private property owned or occupied by the dog's owner, 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;
 - b. causes a disturbance by excessive barking, howling, or other noise-making as defined in 11.0504(8); or
 - c. chases vehicles, or molests, threatens, attacks, or interferes with persons or other domestic animals while the latter are on public property, irrespective of whether the dog is on private or public property; or
 - d. not being restrained
4. “Owner” - a person who:

- a. has a right of property or custody of a dog provided that the right is not merely temporary;
 - b. keeps or harbors a dog other than temporarily; or
 - c. knowingly permits a dog to remain indefinitely on or about any premises occupied by that person. If the owner is under the age of eighteen (18), that person and his or her parents or guardians shall be deemed the owner. If a dog customarily returns daily for a period of seven (7) days to a place, the occupiers of that place shall be deemed to be harborers and not temporary harborers.
5. “Potentially Dangerous Animal” - An animal which has bitten a human or domestic animal on public or private property.
6. “Restraint” - a dog shall be considered under restraint if it is:
- a. within the real property limits of its owner, possessor, keeper, or member of his immediate family and securely confined thereon by a physical fence; or
 - b. secured by a leash, cord, or chain of not more than six feet (6ft.) in length, or a properly operating electronic collar.

Any dog conveyed in an open compartment of any vehicle must be controlled either by leash, cord, or chain, the length of which is not greater than the dimensions of the open compartment of the vehicle, or a confined pet carrier. Dogs conveyed within the passenger compartment of any vehicle need not be controlled by the aforementioned devices.

No intent or knowledge by the owner or keeper of a dog is necessary to prove a violation.

7. “Serious bodily injury” - laceration to or avulsion of the face of a human being, laceration to or avulsion of another area of a person's body requiring sutures, broken or dislocated bone, permanent nerve damage, partial or total loss of use of a part of the body for a significant period of time, or disability of fifty (50) percent or more for a significant amount of time.
8. “Trespass” - the presence of a dog upon real property owned or occupied by another where the latter has not consented explicitly or implicitly to the dog's presence. The intent of the owner of the dog, and whether the dog is under restraint, shall be immaterial.

9. “Vicious dog” - a vicious dog is one that has been declared or found to be dangerous or vicious by the animal control authority or court of this jurisdiction or another jurisdiction.

12.0203 Dog Laws -- Owner Responsibility

1. Owner Responsibility -
 - a. Every dog shall be kept under restraint at all times.
 - b. No dog shall trespass.
 - c. No dog shall cause a nuisance by defecating or excessive barking, howling, or other noise-making.
 - d. Every dog shall be identified at all times by a microchip or tag that can be used to identify the owner of the dog.
 - e. A dog kept for the primary purpose of protecting livestock from predatory attacks shall be exempt from nuisance regulations when performing such duties on premises owned or controlled by the owner.
 - f. In determining whether a violation of any of these provisions has occurred, it shall not be a defense that the dog owner was free from negligence or had taken reasonable measures to ensure compliance. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint with a law enforcement official.
 - g. A dog that has been declared or found dangerous by the animal control authority or court of another jurisdiction shall be conclusively presumed to be dangerous in this jurisdiction. A dog that has been declared or found vicious by the animal control authority or court of another jurisdiction shall be conclusively presumed to be vicious in this jurisdiction. No dog that has been declared or found to be dangerous or vicious in another jurisdiction shall be permitted to be present in this jurisdiction.
2. Irresponsible dog owner -
 - a. An "irresponsible dog owner" is a person who:
 - (1) Owns, keeps, or harbors one or more dogs, and,
 - (2) Has violated, three or more times, one or more ordinances or statutes that prohibit a dog from running at large, trespassing, creating a nuisance by defecating, being off leash, excessive barking, or exhibiting cruelty to animals, or chaining or tethering a dog.

12.0204 Number of Dogs

The number of dogs kept as pets is not restricted.

Each dog must have a collar, a rabies vaccination tag, a tag that can be used to identify the owner. The governing body may, by resolution, require registration or licensing of any dog.

12.0205 Dog Laws -- Penalties

Any person violating any provision of Section 12.0203(1a-d) shall be guilty of an infraction and be given a warning for the first violation, and fined twenty-five dollars (\$25) for a second violation, fifty dollars (\$50) for a third violation, and one hundred dollars (\$100) for each subsequent violation.

Any person violating any provision of Section 12.0204 shall be guilty of an infraction and be fined twenty-five dollars (\$25) for each violation. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time.

The owner, harbinger, or keeper of any dog shall be civilly liable for all injuries and damages suffered by any person who is attacked or bitten by a dog while in a public place or lawfully in a private place, including the property of the owner, harbinger, or keeper of the dog, regardless of the former viciousness of the dog or that person's knowledge of such viciousness.

The owner, harbinger, or keeper of any potentially dangerous or dangerous dog shall also be fined one hundred dollars (\$100) for the first violation, five hundred dollars (\$500) for the second violation, one thousand, five hundred dollars (\$1,500) for the third violation. The owner of the dog may be sentenced to confinement in the county jail for one day if it is the first conviction, and up to thirty (30) days for the second or any subsequent conviction. If the violation results in serious bodily injury, the fines and penalties set forth herein may be tripled.

ARTICLE 3 – Cats

12.0301 Number of Cats

1. The number of cats kept as pets is not restricted.
2. Each cat should be neutered or spayed. This is necessary to decrease the feral (non-owned, stray) cat problem.
3. Each cat must have a collar, a rabies vaccination tag, and microchip or tag that can be used to identify the owner. Any cat without a collar will be presumed to be a feral cat.

12.0302 Nuisance – When

Any feral cat, cat running at large, or cat disturbing the peace, is hereby declared to be a nuisance. Any cat defecating on property other than its owner is hereby declared to be a nuisance.

Any person wishing to file a complaint shall be required to give their name and address and sign a complaint with a law enforcement official.

12.0303 Feeding Feral Cats

No person shall feed or make food available to feral cats. This is aiding and abetting a nuisance and shall be considered an infraction.

12.0304 Cat Laws -- Penalties

Any non-feral cat trapped or impounded in violation of 12.0301(3) or 12.0302 shall not be released to its owner unless it has been spayed or neutered. If the lack of spaying or neutering prohibits the release of the animal, the person seeking its release may arrange for its spaying or neutering. If such arrangements are made within five (5) days, the time allowed for the redemption of the animal shall be extended accordingly. Otherwise, the animal will be humanely disposed of, or offered to the public for adoption after it has been spayed or neutered.

Any person violating any provision of Section 12.0301, 12.0302, or 12.0303, shall be guilty of an infraction and be given a warning for the first violation, and fined twenty-five dollars (\$25) for each subsequent violation.

ARTICLE 4 – Dog and Cat Licensing

12.0401 Dog and Cat Licensing

1. Benefits of licensing your pet:
 - a. Compliance with City Ordinance;
 - b. You will not be subject to a fine for failure to license your pet;
 - c. The City will remind you when rabies vaccinations are due;
 - d. If your animal has a current City license and is lost, law enforcement officers have access to your information to try and return the pet to you instead of impounding or humanely disposing of it.

12.0402 Dog and Cat License Fee

1. Any owner, harborer, or keeper of any dog or cat over the age of six months shall make application to the city, or its designee, for a license. The application must be in writing stating the name, sex, color, breed, other distinguishing characteristics of the animal, an accompanying photograph, and the name and address of the applicant.
2. Before any license may be issued, the applicant shall furnish a certificate of vaccination issued by a licensed veterinarian evidencing that the dog or cat for which the license is desired has been vaccinated against rabies. The City will send a reminder to the owner when subsequent vaccinations are due.
3. A license fee as set by the governing body must be paid at the time any dog or cat is first licensed. The license is valid for the life of the animal as long as it is kept within the City of New England.
4. The license is not transferable. If an animal is sold or given to another, the new owner must obtain a new license for the animal.
5. In addition to the license fee, the governing body may, by resolution, set a surcharge fee for any unaltered dog or cat. An applicant who wishes to avoid payment of the additional fee for an unaltered dog or cat shall, upon application for a license, furnish a certificate signed by a veterinarian evidencing that the animal for which the license is desired has been spayed or neutered.
6. The City shall design the license certificate and suitable license tag. The license tags shall designate any wording or identification as may be deemed practical or appropriate.

7. Replacements for lost or damaged tags are available by payment of a minimal fee set by the governing body.

12.0403 Dog and Cat Licensing Penalty

Failure to license a dog or cat shall be an infraction, punishable by a minimum penalty of one hundred dollars (\$100) or ten (10) hours of community service.

(see 12.0204 & 12.0205 for failure to vaccinate dogs.)

(see 12.0301 & 12.0304 for failure to vaccinate cats.)

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