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CHAPTER TEN
ANIMALS AND FOWL

Amendment of Chapter 10
Ellendale Revised Ordinances by
Amendment Sections of Chapter 10, Article 1
“Animals and Fowl”

WE, THE CITY COUNCIL OF THE CITY OF ELLENDALE, NORTH DAKOTA, do hereby amend Chapter 10, Article 1 to read as follows (Article 2 is not amended hereby):

CHAPTER TEN
ANIMALS AND FOWL

ARTICLE 1 – General Regulations

10.0101 Description; Penalty

No person shall cruelly treat any animal in the City in any way. Any person who neglects, abuses, inflicts cruelty or abandons any animal shall be punished and penalized pursuant to North Dakota Century Code Chapters 36-21.2 and 12.1-32-01, which are incorporated by reference herein.

10.0102. Definitions

1. “Dangerous animal” as the term is used in this section means:
 - a. Any animal known to its owner or harborer to have a propensity, tendency, or disposition to attack, bite, cause injury, or to otherwise endanger the safety of or menace human beings or domestic animals; or
 - b. Any animal which attacks, bites, or injures a human being or other domestic animal one (1) or more times without provocation; or
 - c. Any animal which, when unprovoked, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
 - d. Any animal owned or harbored primarily or in part for purposes of fighting or any animal trained for fighting; or
 - e. Any animal not licensed according to state and/or city law; or
 - f. Any animal certified by a doctor of veterinary medicine licensed within the State of North Dakota, after observation thereof, as posing a danger to human life or property if not kept in the manner required by this article; or
 - g. Any breed of dog that is known to have violent propensities as determined from time to time in the sole discretion of the City Council; or
 - h. Any animal which has been determined to be dangerous by the city council or district court under this article.
2. Notwithstanding the foregoing, no animal shall be found or declared to be dangerous if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner

or keeper of the animal, or was teasing, abusing, or assaulting the animal or was committing or attempting to commit a crime.

10.0103. Prohibition and control of dangerous animals

Except as permitted by Article 1 of this Chapter, it shall be unlawful for any person to own, keep or harbor a dangerous animal as defined in Section 10.0102 within city limits. In addition to complying with all other aspects of Article 1 of this Chapter it shall be unlawful for any person to own, keep or harbor a dangerous animal as defined in Section 10.0102 without first having obtained from the City Council a dangerous animal permit which the City Council may grant or deny in their sole discretion. A permit application form approved from time to time by the City Council shall be provided to an applicant upon request.

10.0104. Confinement of dangerous animals

1. No persons owning or harboring or having the care or custody of a dangerous animal shall suffer or permit such animal to go unconfined outdoors on the premises of such person. A dangerous animal is “unconfined outdoors” as the term is used in this section if said animal is not securely confined indoors or confined in a securely enclosed and locked pen, kennel, or fenced enclosure upon the premises of said person. Such pen, kennel, or fenced enclosure must also have sides of at least six (6) feet high, and a securely attached top. If the pen or structure has no bottom or floor securely attached to the sides, the sides must be imbedded into the ground no less than one (1) foot. The pen, kennel, or fenced enclosure must be constructed in a manner to prevent escape by the animal and to prevent access by young children.
2. All structures erected to house a dangerous animal shall comply with all zoning and building requirements and regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
3. No person owning or harboring, or having the care or custody of a dangerous animal shall suffer or permit such animal to go beyond the premises of such person unless such animal is securely muzzled, harnessed, leashed and restrained with an unbreakable chain, leash or cord of suitable length so as to keep the animal from interfering with other people and property, and shall be under the direct control and supervision of the owner or keeper of the animal.
4. All owners, keepers, or harborers of any dangerous animal shall display in a prominent place on their premise, and at each entrance or exit to the area where such animal is confined, a sign warning that there is a dangerous animal on the premises.
5. No person shall own or harbor any animal for the purpose of fighting, training, tormenting, badgering, baiting, or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals.
6. No dangerous animal shall be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such structure on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open, or when such windows or screen doors are the only obstacle or obstruction preventing the animal from exiting the structure.

7. Any person harboring or owning a dangerous animal and not adhering to the provisions of this article shall immediately remove said animal from the city or have the dangerous animal impounded until compliance with provisions of this article are met or until arrangements are made to remove the animal from the city.
8. The owner or keeper of any dangerous animal shall sign a statement attesting that:
 - a. The owner or keeper shall have an enclosure for the dangerous animal on the property where the dangerous animal will be kept or maintained.
 - b. The owner or keeper shall notify the police department within twenty-four (24) hours if a dangerous animal is on the loose, is unconfined, has attacked another domestic animal, or has attacked a human being.
9. The city police department and/or any community service officers who include but are not limited to the mayor, city council members, and the city auditor, are hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article, and any such officer is hereby empowered to seize and impound and, if imminently dangerous as determined by said officer, kill, any dangerous animal whose owner or keeper fails to comply with the provisions hereof.
10. Upon an attack or assault, the city police department or any community service officer is hereby empowered to confiscate and destroy such animal if the conduct of such dangerous animal or its owner or keeper constitutes a violation of the provisions of this article, punishable by the confiscation and destruction of the animal.
11. No person may, nor shall sell, barter or in any other way transfer a dangerous animal permit to any other person within the city limits of Ellendale.
12. All offspring born of a dangerous animal must be removed from the City within six (6) weeks of the birth of said animal.

10.0105 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 City's Police Representative 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.

10.0106 Housing

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

10.0107 Keeping of Certain Animals Prohibited

Except as otherwise authorized by a resolution of the City Council and issuance of a permit, which the City Council may grant or deny in their sole discretion, it shall be unlawful to keep any live horses, sheep, swine or pigs, cattle, chickens or other poultry, goats, rabbits or other animals considered to be livestock or nontraditional livestock by the North Dakota Department of Agriculture 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.

Except as otherwise authorized by a resolution of the City Council, It shall be unlawful to keep any exotic animals as pets in the City. An exotic animal is an animal kept within human households which are generally thought of as a wild species not typically kept as a pet.

10.0108 Strays

It shall be unlawful to permit any live exotic animals, horses, sheep, swine or pigs, cattle, chickens or other poultry, goats, rabbits or other animals considered to be livestock or nontraditional livestock by the North Dakota Department of Agriculture 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 or for any other purpose.

10.0109 Noises

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

10.0110 Penalty

1. It shall be unlawful for the owner, keeper, or harbinger of any animal, including without limitation any dangerous animal, to fail to comply with the requirements and conditions set forth in this Article. Any animal found to be the subject of the violation of this Article shall be subject to immediate seizure and impoundment and/or termination as herein specified. In addition, failure by any person to comply with the provisions of this Article shall be an offense punishable as follows.
2. In addition to those persons specified herein, any person may file documentation or written complaint with the city council or a complaint with the District Court to determine, declare, or find any animal to be a nuisance and/or to consider voiding any permit.
3. Any person violating or permitting the violation of any provisions of this Article shall, upon conviction in municipal court or district court, be found guilty of an infraction and fined a sum of not less than \$250.00 for a first offense and \$500.00 for a second or subsequent offense.

In addition to the foregoing penalty, any person who violates this Article shall pay all expenses, including shelter, food, handling, veterinary care related to and/or arising out of any violation of this Article.

Be it so ordained this 11th day of May, 2020

CITY OF ELLENDALE

By: _____
Matt Thorpe, Mayor

ATTEST:

Candace Middlestead, Auditor
First Reading: May 11, 2020
Second Reading: _____
Publication Date: _____

ARTICLE 2 – Dogs and Cats

10.0201 License Required

No dog or cat shall be permitted to be or remain in the City without being licensed as herein after provided if over one month of age. 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 is shown to the person issuing the license.

10.0202 Licensing Procedure and Terms

All dogs and cats shall be registered as to sex, breed, color, name, date of rabies inoculation, and addressees of owner and name of dog or cat.

The provisions of this section shall not apply to dogs whose owners are non-residents, temporarily within this City, nor to dogs brought into this City to participate in shows.

Licenses shall be issued by the City Auditor on an annual basis as hereinafter more fully provided. The person paying the license fee shall receive a receipt therefore and a metal tags or badge with which to mark the animal. The shape of the tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the receipt. It shall be the duty of the owner or keeper to cause such license tag or badge to be securely attached around the animal’s neck and kept there at all times during the license period. In case a tag is lost or destroyed, a duplicate will be issued by the City Auditor upon presentation of a receipt showing the payment of his license fee for the current year and a payment of \$2.00 for such duplicate. Tags shall not be transferable from one animal to another, and no refund shall be made on license fees because of the death of an animal or because of the owner of the animal leaving the City before expiration of the license period.

10.0203 License Fee

The license fee and renewal fee for each dog or cat shall be set from time to time by resolution of the City Council.

10.0204 License: When Due and Payable

The license fees or renewal fees previously provided for shall become due and payable on the 1st day of June in each year and shall become delinquent on the 1st day of July in each year. If the fee is not paid before the first day of July, a penalty of \$10.00 shall be added to the license or renewal fee.

10.0205 Dog or Cat Running at Large Prohibited

Amendment of Article 10.0205

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, unless it is a dog and is entirely within the fully enclosed and city council designated dog park fenced area. A dog or cat shall not be considered running at large if attended and on a leash or when in the confines of the owner's or keeper's premises or if entirely within the fully enclosed and city council designated dog park fenced area.

10.0206 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 police officer or other designated officer as designated by the City Council and impounded at such place as may be designated by the City Council. The dog or cat shall not be released to any person until such dog or cat is licensed (if unlicensed); a fee of \$50.00 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.

10.0207 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 claims the animal within ten (10) 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.

10.0208 Return to Owner if Known

Notwithstanding the provisions of Section 10.0206, 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 police officer or such other officer as designated by the City Council may proceed against the owner or keeper for violation of this article.

10.0209 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 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.

10.0210 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 passersby, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance.

10.0211 Penalty

Any person violating any provision of this article shall be guilty of an infraction and be fined pursuant to Section 1.0104 herein.

10.0212 Breeding Kennels for Dogs Prohibited

A kennel for breeding dogs shall be construed to mean any place where a female dog is kept for breeding purposes, where the enterprise of breeding dogs is carried on for commercial purposes, or profit, and the maintaining within the City of Ellendale of a kennel is hereby prohibited.