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**CHAPTER ELEVEN
ANIMALS AND FOWL**

ARTICLE 1 – GENERAL REGULATIONS

11.0101 Cruelty – Penalty

No person shall cruelly treat any animal in the City in any way. Any person who inhumanly beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense for which the maximum penalty shall be a fine of one-thousand five-hundred dollars (\$1500.00), thirty (30) day imprisonment, or both such fine and imprisonment. (North Dakota Century Code Section 36-21.2)

1. It is an offense for any person to:
 - a. Overdrive, overload, torture, cruelly beat, neglect or unjustifiably injure, maim, mutilate or kill any animal, or cruelly work any animal when unfit for labor;
 - b. Deprive any animal over which he/she has charge or control of necessary food, water or shelter;
 - c. Keep any animal in any enclosure without exercise and wholesome change of air;
 - d. Abandon any animal;
 - e. Allow any maimed, sick, infirm or disabled animal of which he/she is the owner, or of which he/she has custody, to lie in any street, road or other public place for more than three (3) hours after notice;
 - f. No person shall willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.
 - g. Cage any animal for public display except as allowed by North Dakota Century Code Section 36-21.2-11);
2. The word “animal” includes every living animal except the human race; the word “torture” or “cruelty” includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering or death is cause or permitted. (Source: North Dakota Century Code Section 36-21.2-03)

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 which are ferae naturae in the eyes of the law 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 permission to keep or harbor such animal from the City’s police officer or other designated officer as designated by the City Council.

Permission may be granted through a written request stating the 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

11.0103 Permit – When Issued

The chief of police shall have discretion as to whether or not to issue a permit pursuant to Section 11.0102. If the chief of police shall refuse to issue a permit, the decision may be appealed to the governing body. 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 human 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, or 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.

11.0107a Service Animals

Service animals engaged in recognition and response are welcome. The service animal must be required for the disability and trained for the specific work and task required (emotional support, well-being, comfort and companionship are not "work" or "task" under the ADA but are recognized under the FHA).

11.0108 Animals and Fowl; Keeping, Nuisance, Defined and Prohibited

1. The keeping of any animal or fowl which causes annoyance, disturbance or offense to persons residing in, or passing through the neighborhood, either by reason of:
 - a. Barking, howling, braying, crowing, or other sound common to its species; or
 - b. Biting, threatening, chasing or molesting persons upon the public sidewalks or streets, or the property of persons other than the owner; or
 - c. By reason of the failure of the owner to maintain all structures, pens, coops or yards wherein any animal or fowl is kept, in a clean and sanitary condition devoid of rodents and vermin, and free from all objectionable odors; or
 - d. Keeping any animal or fowl in violation of any provision of this section is hereby declared to be a nuisance and the keeping or maintaining of such nuisance is hereby prohibited. Each day's continuance of such nuisance shall be a separate offense.

2. No live swine or pigs, cattle, horses, mules, sheep, goats, or other hard-hoofed animals or chickens, ducks, geese, turkeys, doves, pigeons, or other fowl shall be kept by any person within 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
3. Except as otherwise provided in this article, it shall be unlawful for any owner, keeper, or custodian of chickens, ducks, geese, turkeys, doves, pigeons, or other fowl to permit or allow the same to be maintained, kept, housed or at large within the limits of the city.

Penalty Section: Any person who shall violate any provisions of this section shall be guilty of an offense and subject to a fine of fifty dollars (\$50.00) for the first violation and one hundred dollars (\$100.00) for the second and each subsequent offense up to a maximum of one-thousand dollars (\$1000.00).

11.0109 Noises

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

11.0110 Penalty

Any person who violates this chapter shall be assessed a fee of twenty-five (\$25.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to five-hundred (\$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 shall be released to the owner. Any person may request a hearing with the District Court within 14 days notice of issue of citation.

ARTICLE 2 – DOGS AND CATS

11.0201 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.

11.0202 Licensing Procedure and Terms

All dogs and cats shall be registered as to sex, breed, name, date of rabies inoculation and addresses of owner and name of dog. Licenses shall be issued by the chief of police or authorized agent within thirty (30) days of obtaining possession of the dog or cat. The person paying the license fee shall receive a receipt therefore and a metal tag or badge with which to mark the animal. 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.

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.

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/her license fee. 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.

11.0203 License Fee

The license fee shall be a one-time, lifetime fee of \$15.00 (or amount set by resolution of the governing body), payable to the City Auditor for any dog or cat.

11.0204 License: When Due and Payable

The license fee provided herein shall become due and payable within thirty (30) days of obtaining the cat or dog in one's possession.

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 or when in the confines of the owner's or keeper's premises.

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 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 twenty-five (\$25.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to five-hundred (\$500.00) be paid for the taking of each animal, and all pound charges are paid directly to the facility where the dog or cat is housed by the owner, if known.

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 does not claim the animal within three days of notification the animal may be destroyed. If the owner or keeper is unknown, the chief of police shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

Public notice shall be given over local radio station and local community television channel once daily for three (3) days if owner is unknown and dog or cat has been impounded. Any licensed or unlicensed dog or cat which appears to be suffering from rabies, hydrophobia, mange or other infectious or dangerous diseases shall not be released but may be forthwith destroyed.

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 policeman or other officer or such other officer as designated by the City Council may proceed against the owner or keeper for violation of this article.

11.0209 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 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 written complaint to submit to the City Attorney.

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.

11.0211 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 Oakes of a kennel is hereby prohibited.

11.0212 Muzzling

Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Chief of Police or City Health Officer, if any of them deem it necessary, shall request the Mayor to issue a proclamation ordering every person owning or keeping a dog, cat, or other animal to confine it securely on his/her premises unless such dog, cat or other animal shall have a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled dog or cat running at large during the time of proclamation shall be seized and impounded, unless noticeably infected with rabies. All dogs or cats so noticeably infected with rabies and displaying vicious propensities shall be killed by the Police Department without notice to the owner. Dogs or cats impounded during the first two days of such proclamation shall, if claimed within three (3) days, be released to the owner, unless infected with rabies, upon payment of the impounding charges. If unclaimed after that period, such dog or cat may be destroyed.

11.0213 Rabies-Notice

If a dog or cat is believed to have rabies or has been bitten by any animal suspected of having rabies, such dog or cat shall be placed under the observation of a veterinarian, at the expense of the owner, for a period of 14 days. The owner shall notify the Chief of Police of the fact that his/her dog or cat has been exposed to rabies and at his/her discretion, the Chief of Police is empowered to have such animal removed from the owner's premises to a veterinary hospital and there placed under observation for a period of 14 days at the expense of the owner.

It shall be unlawful for any person knowing or suspecting a dog or cat has rabies to allow such dog or cat to be taken off his/her premises or beyond the limits of the City without the written permission of the Chief of Police. Every owner, or other person, upon ascertaining a dog or cat is rabid, shall immediately notify the Poundmaster or the police who shall either remove the animal to the pound or destroy it.

11.0214 Vicious Dog Defined

A vicious dog is hereby defined as being a dog which has bitten or threatened any person while the person bitten or threatened was not at the time of the biting trespassing upon the property of said dog, or doing damage or injury to person or property of such owner.

11.0215 Keeping Vicious Dog Prohibited

No person shall keep, harbor, or shelter a vicious dog, as herein defined, within the City of Oakes.

11.0216 Seizure and Impounding of Vicious Dogs

Whenever any person makes a complaint in writing and verified under oath before the City's Police Representative that any dog is a vicious dog within the terms of this section, having bitten a person under the circumstances herein set forth, the owner shall forthwith surrender such dog to the Police Department, and failure to do so shall constitute a violation of this section. In the event the owner fails to surrender said dog, such dog shall be seized by the police. Whether the dog is surrendered or seized, the dog shall be impounded at such place as may be designated by the City Council for a period of three (3) days during which time the owner of the dog may, if he/she chooses, make arrangements to remove said dog from the City, and if he/she fails to do so within said time, then such dog shall be destroyed by the police.

11.0217 Vicious Dogs: Release to Police Upon Demand

It is hereby declared unlawful for the owner or keeper of any vicious dog within the City to refuse to deliver the same up to any police officer, whenever requested, for the purpose of being killed and any owner or keeper of any dangerous or vicious dog, who, after demand by the police officer, shall refuse or neglect to surrender the same for the purpose of being killed shall, on conviction in the court of the City, be subject to the penalty as hereafter defined.

11.0218 Vicious Dogs: To Be Killed

Any dangerous or vicious dog, upon being delivered up to any police officer under this article, shall be killed by said officer, or by any police officer of the City.

11.0219 Pit Bull Dogs: Keeping Prohibited

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Oakes, North Dakota any pit bull dog. "Pit Bull Dog" is defined to mean:

- (a) The bull breed of dog;
- (b) Staffordshire bull terrier breed of dog;
- (c) The American pit bull terrier breed of dog;
- (d) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;
- (e) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Shaffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terrier, or a combination of any of these breeds.

11.0220 Severability

If any section, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article.

11.0221 Penalty

Any person who violates this chapter shall be assessed a fee of twenty-five (\$25.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to five-hundred (\$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 shall be released to the owner. Any person may request a hearing with the District Court within 14 days notice of issue of citation.

In addition, the Court shall order any pit bull removed from the City. Should the defendant/person refuse to remove the dog from the City of Oakes, the district court judge shall find said defendant/person in contempt of court and issue an order for the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense.

In addition to the foregoing penalties, any person who violates this ordinance shall pay all expense, including shelter, food, handling, veterinary care, any witness fees and costs necessitated by enforcement of this ordinance.