

CHAPTER TEN

ANIMALS AND FOWL

ARTICLE 1 - GENERAL REGULATIONS

10.0101 **Cruelty - Penalty**

No person shall cruelly treat any animal in the City in any way; any person who inhumanely beats, underfeeds, overloads or abandons any animals shall be deemed guilty of an offense.

Every person who shall willfully (a) torture, torment, deprive of necessary food or water, or cruelly beat any animal or (b) harmfully and knowingly expose any animal to heat or cold shall be guilty of an offense.

No person shall allow any maimed, sick, infirm, or disabled animal of which he is the owner, or of which he has custody, to lie in any street, road, or any public place for more than three (3) hours after notice by the City Police.

Consistent with NDCC Section 36-21.2-05. Seizure of animal - Court order.

1. A law enforcement officer, upon a recommendation from a licensed veterinarian approved by the board of animal health, may petition the court for an order directing the seizure of any animal believed to have been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter.
2. The court, upon a recommendation from a licensed veterinarian approved by the board of animal health, may act without notice to the animal's owner or to the person having custody or control of the animal and may rely solely on testimony or an affidavit in considering the petition.
3. In the order for seizure, the court may direct that a veterinarian humanely destroy an animal if the veterinarian, upon examining the animal, determines that the animal is experiencing excruciating pain or suffering and that the animal's pain or suffering is not likely to be alleviated using reasonable medical interventions.

anyone, 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.

It is hereby made the duty of the Chief of Police or his designee 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 veterinarian is empowered to act.

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 40-05-01 (44, 47) 36-14-01, 36-14-03, 36-14-19, and 40-05-02 (22) NDCC

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.

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 36-21.1-02 and 36-21.1-06 NDCC

10.0107 Running of Cattle

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. Any driving of livestock in the City is illegal without a permit granted by the City. The City shall require proof of insurance for damages caused by the drive and establish a fee and other restrictions for granting the permit. A “drive” means five or more animals not individually led or ridden upon any streets in the City.

Source: Section 36-11-01 and 40-05-01 (44, 47) NDCC and Chapter 36-13 NDCC, generally

10.0108 Noises

It shall be unlawful to harbor or keep any animals which disturb the peace by loud

noises at any time of the day or night.

The keeping of any animal, fowl, or snake which causes annoyance, disturbance, or offense to persons residing in or passing through the neighborhood, by reason of barking, howling, braying, crowing, or other sound common to its species will constitute a nuisance.

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 40-05-01 (1, 44, 47) and 40-05-02 (22) NDCC

10.0109 Animal Rides

The owners and operators of animal rides, animal drawn carts, sleighs or attachments must obtain a permit from the Chief of Police. The Chief of Police shall require such information as deemed necessary and proof of liability insurance with the City receiving notice of any insurance cancellation. Other restrictions may be attached to the permit as required by the Chief of Police with notice to the City. The fee for such permit shall be fixed by resolution of the City Council.

10.0110 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 One Thousand and no/100 Dollars (\$1000.00) The owner of any animal who violates this ordinance pursuant of this article shall pay costs and charges incurred before such animal shall be released to the owner.

ARTICLE 2 - DOGS AND CATS

10.0201 License Required - Kennel License Fee

All dogs kept or maintained by their owners in this City shall be licensed and registered if over six (6) months of age on or before March 1 of each calendar year. Dog licenses shall be issued by the City Auditor upon payment of any annual license fee as

prescribed by the City Council. The owner shall state at the time application is made for such license, upon printed forms provided for such purpose, owner's name and address and the breed, color, and sex of the animal, date of rabies inoculation of the animal, and whether or not the animal is neutered, spayed, or de-sexed. A license shall not be issued unless the license application is accompanied by a certificate a dog has been inoculated against rabies within 24 months preceding the application. The licensing provision of this section shall not apply to dogs brought into the City for the purpose of participating in any dog show, nor to seeing eye dogs properly trained to assist blind persons when such dogs are actually kept for use by blind persons for the purpose of aiding them in going from place to place.

Subject to such other restrictions, including owning requirements, each person, group, association, or corporation engaged in the commercial business of buying, selling, breeding or boarding dogs or cats, who owns or keeps five (5) or more dogs and/or cats in a kennel, shall apply to the City for permission and, if permission is granted, pay a \$50.00 license fee.

Source: Sections 40-05-02 (22) and 42-03-01, 42-03-02, and 42-03-03 NDCC

10.0202 License Fee and Issuance of Tags - Record

The license fee shall be established by the City Council upon resolution in accordance with this article.

Upon payment to the City Auditor of the license fee prescribed by this article, the City Auditor shall give to the person paying the license a receipt therefor and provide the person with a numbered metal tag with which to mark the animal so licensed. The City Auditor shall keep an accurate record of such licenses and the money received for same. The City Auditor may delegate all or some of the duties under this section to another department within City Hall for the purpose of licensing dogs.

Each owner or keeper of an animal shall cause the license tag issued by the City Auditor to be affixed to a collar and the collar shall be securely fastened about the neck of the dog licensed. The owner of the animal shall see that the collar is constantly worn.

Source: Sections 40-05-02 (22) and 42-03-01, 42-03-02, and 42-03-03 NDCC

10.0203 License Fee and Issuance of Tags - When Due and Payable

The license fees or renewal fees therefor previously provided for shall become due and payable on or before the first day of March each year and shall become delinquent on or before the second day of March each year.

Source: Sections 40-05-02 (22) and 42-03-01, 42-03-02, 42-03-03, and 42-03-03 NDCC

10.0204 Dog or Cat Running at Large Prohibited

Any person having the custody or control of any dog or cat shall prevent such animal from leaving the property limits of its owner or keeper without being effectively controlled. In the event any such dog or cat is found at large, the owner, custodian or keeper of such animal shall be guilty of a violation of this section.

Source: Sections 40-05-01 (44) and 40-05-02 (22) NDCC

10.0205 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 and impounded by the City, at such 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 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.

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 40-05-01 (44) and 40-05-02 (22) NDCC

10.0206 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) and claim the animal within five (5) days of notification by certified mail the animal may be destroyed. If the owner or keeper

is unknown, the Chief of Police shall give public notice by posting in the U.S. Post Office in the City of Medora of the taking of the animal before it is destroyed or otherwise disposed of.

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 40-05-01 (44), 40-05-02 (22) and 42-03-01 NDCC

10.0207 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 may proceed against the owner or keeper for violation of this article.

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 40-05-01 (44) and 40-05-02 (22) NDCC

10.0208 When Animal is Public Nuisance

Any animal within the City limits is a public nuisance when:

1. It frequently frightens, annoys, barks at or chases any person or vehicle;
2. If a female, is in heat and not continually confined indoors by its owner;
3. It is more than six months old and has not been vaccinated or inoculated against rabies within the last two years;
4. It does not have on a collar and registration license tag as required under the provisions of this chapter;
5. By loud and frequent yelping, barking, crying or howling, it annoys any person;

6. It damages any property not the property of its owner;
7. It runs at large upon any of the streets, avenues, alleys, parks, public ways, school grounds, or upon the private premises of any person other than the owner or keeper of the animal within the City;
8. It bites any person, when the person so bitten was not at the time trespassing on or injuring the person or property of the owner or keeper of such animal;
9. It molests passers-by, chases vehicles, or trespasses upon private property; or
10. Female cats and dogs that are not kept continually confined indoors while in heat.

10.0209 Owner or Keeper of Animals as Maintaining Nuisance

Any person who owns or keeps and permits to run loose at any time within the City an animal declared to be a public nuisance in this chapter, and who shall fail, neglect or refuse to abate the nuisance by destroying the animal, or removing the animal from the City, or by permanently confining the animal, whichever shall be necessary to the abatement of such nuisance, within six hours after notice to do so shall be deemed guilty of maintaining a public nuisance.

Source: Sections 40-05-01 (44) and 40-05-02 (22) NDCC

10.0210 Citation to Animal Owner - Disposition

Whenever any police officer shall find an animal, whether licensed or unlicensed, declared a nuisance under any of the provisions of this chapter, the officer shall issue to the owner or keeper of the animal a citation containing a notice to answer to the charge or violation of this article alleged in the citation in the municipal court at a time designated by officer after the alleged violation. The police officer, upon receiving the written promise

of the alleged violator to appear at the time specified in the citation, shall release the person from custody. Upon filing of the original citation in the municipal court the citation may be disposed of by official action of a judge.

Source: Sections 40-05-01 (44) and 40-05-02 (22) NDCC

10.0211 Disposition of Animal Waste

Every person having custody or control of a leashed animal on property other than his own shall be equipped to collect and shall collect such animal's solid waste when eliminate. Any person violating any provisions of this section shall be guilty of an infraction and be fined not to exceed Five Hundred and no/100 Dollars (\$500.00). Any animal found to be a public nuisance shall be disposed of in accordance with law or, in the alternative, conditions imposed properly abating the nuisance as set forth in the discretion of a judge.

10.0212 Disposition of Dead Animals

No owner or person having custody or responsibility for the care of any animal which shall have died shall abandon or allow the same to lie on any public ground, street, lane, alley or any private lot or place within the City limits, nor shall any person throw or discard any dead animal or decayed animal matter into any pool of water in the City. No owner or possessor of any dead animal shall bury it either within the City limits or in grounds designated for such purpose by the City Council without first obtaining a written permit therefor from the Chief of Police. The expense of burying or removing any dead animal shall be a charge against the owner or person having custody or responsibility for the care of the same.

Source: Sections 58-13-01 through 58-13-07, 40-05-01 (44, 47), 40-05-02 (22) and 40-05-19 NDCC

10.0213 Penalty

Any person violating any provision of this article shall be guilty of an infraction and be fined not to exceed Five Hundred and no/100 dollars (\$500.00).

Source: North Dakota League of Cities Model Municipal Ordinance Code 1987 and Sections 40-05-01 (44) and 40-05-02 (22) NDCC

AN ORDINANCE TO ESTABLISH A PROCEDURE TO ENABLE THE TRAPPING, NEUTERING AND RETURN OF ABANDONED, STRAY, LOST OR FERAL CATS IN THE CITY

Animal Regulation

WHEREAS, pursuant to Chapter 2, Article 3, of The City of Medora, and pursuant to the NDCC Chapter 40-05, the Mayor and the Council of the City of Medora possess the authority to adopt, amend, modify, or repeal The City of Medora City Code; and

WHEREAS, the Mayor and City Council recognize the need for innovation in addressing the issues presented by abandoned, stray, lost, or feral cats in the community. To that end, it recognizes that Trap-Neuter-Return is an effective and humane method to manage, and over time, reduce the population of community cats; and

WHEREAS, the Mayor and City Council desire to amend Chapter 10, to adopt a new Article 3, as part of the City of Medora City Code as set forth below (“Proposed Code Sections”); and

WHEREAS, the Proposed Code changes were introduced by a member of Council at a regular meeting, duly read in full or in abstract.

NOW, THEREFORE, the Mayor and the City Council of the City of Medora hereby ordain:

ARTICLE 3 TRAP-NEUTER-RETURN

Section 10.0301 Definitions

For the purpose of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

- a. Animal Control Officer: The person or persons employed by the City of Medora as its enforcement officers, or such other persons designated by Resolution of the Mayor and Council of the City of Medora.
- b. Animal Shelter: Any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this Chapter or State law.
- c. Community Cat: A cat that is abandoned, stray, lost, or feral within the corporate limits of the City of Medora. A community cat is not to be classified as a Public

- Nuisance Animal under subsection (l) below merely for being repeatedly found at large.
- d. Community Cat Caregiver: A person, who resides in the corporate limits of the City of Medora, and, in accordance with Trap-Neuter-Return, provides care, including, food, shelter or medical care to a Community Cat. A Community Cat Caregiver shall not be considered the owner, harborer, controller, or keeper of a Community Cat.
 - e. Eartipping: The removal of the ¼ inch tip of a Community Cat's left ear, performed while the cat is under anesthesia, to identify the Community Cat as being sterilized and lawfully vaccinated for rabies.
 - f. Keeping: One who has the care, custody or management under his/her direct control of any animal or one who undertakes to possess or harbor an animal.
 - g. Licensed: a license issued by the State of North Dakota and such City license as may be required by Mayor and Council.
 - h. Owner: Any person, partnership or corporation owning, keeping or harboring one or more animals in the corporate limits of the City of Medora. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.
 - i. Public Nuisance Animal: Any animal or group of animals which: (1) is repeatedly found at large; (2) damages the property of anyone other than its owner; (3) is vicious; or (4) molests passersby or passing vehicles.
 - j. Trap-Neuter-Return: The process of humanely trapping, sterilizing, vaccinating for rabies, ear tipping, and returning Community Cats to their original locations within the corporate limits of the City of Medora.

Sections 10.0302 Community Cat Initiative

- a. Purpose: City of Medora recognizes the need for innovation in addressing the issues presented by Community Cats. To that end, it recognizes that Trap-

Neuter-Return is an effective and humane method to manage, and over time, reduce the population of Community Cats.

- b. Trap-Neuter-Return shall be permitted, and Community Cat Caregivers, organizations, city staff, and animal control officers, are hereby permitted to carry out Trap-Neuter-Return. Community Cat Caregivers shall have immunity from any claim or suit for damages as a result of their actions to follow the Trap-Neuter-Return procedure.
- c. **Only the veterinary costs of Trap-Neuter-Return as defined in this Chapter are authorized to be billed to the City of Medora. The veterinary facility must be preapproved by the City. The incurring of any costs outside sterilization, vaccinating for rabies, and ear tipping of community cats from the corporate limits of the City of Medora, are not authorized.**
- d. An eartipped cat received by local shelters will be returned to the location where trapped after neutering unless further veterinary care is required or a home is found for the cat (unless found to be a Public Nuisance Animal). A trapped, eartipped cat, unless found to be a Public Nuisance Animal, will be released on site unless further veterinary care is required, in which case the cat will be returned once it no longer needs care.
- e. Community Cat Caregivers may reclaim impounded Community Cats if eartipped or for Trap-Neuter-Return without proof of ownership.
- f. Community Cat Caregivers who perform Trap-Neuter-Return or return eartipped cats shall not be deemed in violation of this Chapter.

ARTICLE 4 - KEEPING OF LIVESTOCK

10.04.01 When Prohibited

The keeping of livestock, sheep, or pigs within the City limits is prohibited unless temporary or part of a shipping or receiving operation. Nothing in this ordinance shall

prohibit the keeping of livestock, sheep or range pigs outside the City limits in the City's extra-territorial zoning jurisdiction.

Existing operations as of June 3, 1997, and their spouses or next of kin, would be exempt except for the keeping of pigs or hogs.

Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts or Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.