

**CHAPTER ELEVEN  
ANIMALS AND FOWL**

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## **ARTICLE I - General Regulations**

### **11.0101 Cruelty to Animals**

It is an offense for any person to:

1. Overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor;
2. Deprive any animal over which he has charge or control, of necessary food, water or shelter;
3. Keep any animal in any enclosure without exercise and wholesome change of air;
4. Abandon any animal;
5. Allow any maimed, sick, infirm, or disabled animal of which he is the owner or keeper, to lie in any street, road, or any public place for more than three hours after notice;
6. Cage any animal for public display except as allowed by NDCC 36-21.1-02(8);
7. Administer or expose any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which may be eaten or is eaten by any domestic animal;

The word "animal" includes every living animal except the human race; the word "torture" and "cruelty", includes every act, omission or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted.

The provisions of this section are non-withstanding to any police officer discharging his official duties regarding any dangerous or nuisance animal.

### **11.0102 Dangerous Animals**

#### **Definitions.**

1. "Dangerous animal" as the term 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 to or 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 another domestic animal one or more times without provocation; or
  - c. Any animal which, when unprovoked, in a malicious, vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any place where such person may lawfully be, public or private; or
  - d. Any animal owned or harbored primarily or in part for purposes of fighting or attacking or any animal trained for fighting or attacking; 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 danger to human life or property if not kept in the manner required by this section; or
- g. Any animal which has been determined to be dangerous by the city council or municipal court pursuant to any state statute or the ordinance codified in this section; or
- h. Any animal which has been deemed dangerous or vicious by any government agency or entity; or
- i. Any animal which is owned, harbored, or trained primarily or in part for the purposes of fighting or making unprovoked attacks.

2. Notwithstanding the foregoing, no animal may be found or declared 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 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.

3. No animal may be found or declared dangerous if an injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was taunting, abusing or assaulting the animal. No animal may be declared dangerous if the animal was protecting or defending the human being within the immediate vicinity of the animal from an illegal or nonconsensual attack or assault. No animal may be deemed dangerous if the animal was protecting or defending its young offspring.

#### 11.0103 Prohibition and Control of Dangerous Animals.

Except as permitted hereinafter, it shall be unlawful for any person to own, keep, or harbor a dangerous animal within the city limits and no person shall own or harbor any animal for the purpose of attacking, fighting, or training, tormenting, badgering, baiting, or use any animal for the purpose of causing or encouraging said animal to unprovoked attacks upon human beings or domestic animals except as herein after provided.

1. The police department is empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this section, and any such police officer is empowered to seize and impound any dangerous animal whose owner or keeper fails to comply with the provisions hereof.

2. Upon such attack or assault, the police department is empowered to confiscate and destroy such dangerous 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. However, notwithstanding the foregoing, no animal shall be destroyed within five days of being impounded, exclusive of Sundays and holidays.

3. If the owner or keeper of an animal impounded for an alleged violation of this section believes that there has not been a violation of this section, the owner or keeper may petition the municipal court that the impounded animal not be destroyed. The impounded animal shall not be destroyed pending resolution of such owner's or keeper's petition, if the petition shall have been filed within five days of impoundment of such animal and notice shall have been served within five day of impoundment of such animal upon the police department.

4. In the event that the police department has a reasonable and articulable suspicion to believe that an animal is dangerous, the police or the designee, shall be empowered to issue a citation in order to appear before the municipal court for the purposes of determining whether or not the animal in question shall be declared dangerous. The chief of police shall conduct or cause to be conducted an investigation and shall

notify the owner or keeper of the animal that a hearing will be held at which time he or she may have the opportunity to present evidence why the animal shall not be declared dangerous.

5. In the event that the police department has probable cause to believe that the animal in question is dangerous and may pose a threat of serious harm to human beings or other domestic animals, the police department may seize and impound the animal pending the aforesaid hearings. The owner or keeper of the animal shall be liable to the city for the costs and expenses of impounding such animal.

6. It is unlawful for the owner, keeper, or harbinger of a dangerous animal to fail to comply with the requirements and conditions set forth in this section. Any animal found to be the subject of the violation of this section shall be subject to immediate seizure and impoundment as hereinbefore provided. In addition, failure to comply shall be an offense punishable with a fine as hereinafter provided.

7. In addition to those persons specified herein, any person may file a petition with the city commission or a complaint with the municipal court to determine, declare, or find an animal dangerous as defined herein.

#### 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 disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or best 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 veterinarian 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 or horses 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 of 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 disturb the peace by loud noises at any time of the day or night.

**ARTICLE II - 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 to license such dog or cat. No license or renewal license shall be issued unless the dog or cat has been 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 and address of owner, and name of dog or cat. The City Auditor on an annual shall issue licenses. 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.

**11.0203 License Fees**

Every person required to obtain a license under the preceding section shall pay to the city a license fee that shall be as set by the Fees and Rates Resolution of the City Council.

**11.0204 When Due and Payable**

The license fees or renewal fees previously provided for, shall become due and payable on or before the 31<sup>st</sup> day of December in each year and shall become delinquent on the last day of February in each year. If the fee is not paid before the 1<sup>st</sup> day of February, a penalty fee, as set by the Fees and Rates Resolution, shall be added to the license renewal fee.

**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 (leash defined as any physical or electronic means of restraining an animal from going a limited distance) or when in the confines of the owner's or keeper's premises. Penalty for animals at large are as follows:

Animal at Large (licensed)

- 1<sup>st</sup> Warning
- 2<sup>nd</sup> \$20
- 3<sup>rd</sup> \$40

\*Plus Impound Fees

Animal at Large (unlicensed)

- 1<sup>st</sup> \$50
- 2<sup>nd</sup> \$100
- 3<sup>rd</sup> Nuisance

\*Plus Impound Fees

**11.0206 Disposition of Unlawful Dogs and Cats**

Any unlicensed dog or cat or any dog or cat running at large may be taken up by any police officer and impounded. The dog or cat shall not be released to any person until such dog or cat is licensed (if unlicensed). A fee, as set by the Fees and Rates Resolution, is paid for the taking of each animal, for the first, second and third offense, and all pound charges are to be paid, to cover the cost of such impoundment. Any dog or animal impounded for the fourth time will be destroyed.

#### 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 the license if necessary) and claim the animal within 3 days of notification, the animal may be destroyed or otherwise disposed of. If the owner or keeper is unknown, any police officer shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

#### 11.0208 Return to Owner if Known

Notwithstanding to 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 returned to the owner. In the event the dog or cat cannot be caught or impounded, but nevertheless identified as being owned by a particular owner, in such cases, the officer may proceed against the owner or keeper for violation of the Article and subject to penalty pursuant to resolution.

#### 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 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.

#### 11.0210 Nuisances

Any person who owns, keeps or maintains any animal shall be responsible for the behavior of the animal and shall not permit the animal to become a nuisance as defined in this section.

Any animal is considered a nuisance which:

- A. Frightens, annoys or chases any person, domestic animal, or vehicle; or
- B. By loud and frequent yelping, barking, howling, or otherwise creating substantial noise, annoys any person; or
- C. Damages or destroys any property not the property of the owner or keeper of the animal; or
- D. Has not received a current inoculation against rabies, or other diseases as required, if over six months of age; or
- E. Creates an offensive odor; or
- F. Creates an alarming or offensive condition against the peace and dignity of the City of Cando or its citizens; or
- G. Shall not have a collar with license and rabies tags attached as required under section 11.0201; or
- H. It defecates on property, other than the property of the owner of the animal, and the owner of the animal fails to clean up after the animal.

An individual whose animal is found to be a nuisance under this section is guilty of a non-criminal infraction for a first or second offense. An individual with a third or subsequent offense of this section within a two-year period shall be charged with a B misdemeanor. A repeated offense does not need to involve the same animal, but the same individual.

#### 11.0211 Number of Allowable Pets

A. The number of dogs and cats, six months of age or older, in one home is limited at six. This can be six dogs, six cats, or any combination of the two adding up to six.

B. If any home has more than six dogs or cats at the time of the passage and adoption of this Ordinance, that home will be allowed to have dogs and/or cats exceeding six. All of these dogs and/or cats will need to have current licenses issued by the Cando Police Department on the effective date of this Ordinance. As the number of dogs and/or cats decrease, the home will not replace those dogs and/or cats, until the number of dogs and or/cats in the home is six or less.

#### 11.0212 Breeding Kennels 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 a kennel is prohibited.

### **ARTICLE 3 - Pit Bull Dogs**

#### 11.0301 Pit bull dogs - Keeping Prohibited

It shall be unlawful to keep, harbor, own or in any way possess within Cando any pit bull dog. "Pit bull dog" is defined to mean:

1. The bull terrier breed of dog;
2. Stafford shire bull terrier breed of dog;
3. The American pit bull terrier breed of dog;
4. The American Stafford shire terrier breed of dog;
5. 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;
6. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Stafford shire bull terrier, American pit bull terrier, American Stafford shire terrier, or any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

### **ARTICLE 4 – Violations and Penalties – Severability**

#### 11.0401 Violations and Penalties.

1. Any person violating or permitting the violation of this section shall, upon conviction in municipal court, be found guilty of an infraction and fined a sum not more than five hundred dollars. In addition to the foregoing penalty, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

2. If any animal shall previously have been declared dangerous pursuant to any of the provisions above, and after having been ordered removed from city limits; if such animal shall at any time be brought back into the city limits in violation of court order or provisions of this section, such animal shall immediately be taken by the police department and destroyed. A separate penalty including fine shall be assessed as indicated in the paragraph above against the violator.

3. At any time, if a dangerous animal cannot be taken up and caught by a police officer without exposing such officer to danger of personal injury from such animal, or without exposing other persons to danger of personal injury from such animal, it shall be lawful for the police officer to forthwith destroy such animal.

4. If any person is found to be in violation of this section three times, said person may be prevented from owning animals within the city limits for a reasonable amount of time as determined by a municipal judge.

11.0402 Severability

If any section, sentence, clause or phrase of this chapter is for any reason held to be 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 chapter.

**ARTICLE 5 – General Regulations**

11.0501 Exemptions.

The provision of this section shall not apply to K-9 or other dogs owned by any police department or any law enforcement agency or officer which was used in the performance of police work.