

City of Arnegard, North Dakota

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CHAPTER ELEVEN

ANIMALS AND FOWL

ARTICLE 1 – General Regulations

11.0101 Cruelty – Penalty

It shall be unlawful for any person to abuse any animal through act, omission, or neglect, which causes or inflicts any unnecessary pain, injury or death to any animal, whether such animal belongs to such person or to another, except that reasonable force, taking into account the size and demeanor of the animal, may be employed to drive away vicious or trespassing animals.

It shall be unlawful for any person in charge of any animal to fail to provide such animal with food, potable water, shade or shelter, or to expose any animal to hot, stormy, cold or inclement weather for an extended period, or to carry any such animal in or upon any vehicle in a cruel or inhumane manner.

As used in this section:

- a) *Shade* shall mean protection from the direct rays of the sun during the months of June through September.
- b) *Shelter* as it applies to animals, shall mean a moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat, made of durable material with a solid floor raised at least two (2) inches from the ground and with the entrance covered by a flexible, wind-proof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.
- c) *Vicious* shall mean any animal that approaches any person or domestic animal in an apparent attitude of attack.

(Amended – Ordinance 126 – 10-12-2015)

11.0102 Dangerous Animals

It is 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 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 a permit to keep or harbor such animal from the chief of police.

- a) “Dangerous animal” as the term is used in this chapter means:
 - 1. Any animal known to its owner or harbinger to have a tendency or disposition to attack, bite, cause injury or to otherwise endanger the safety of or be a menace to human beings or domestic animals;
 - 2. Any animal that attacks, bites, or injures a human being or another domestic animal one (1) or more times;

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3. Any animal that 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;
 4. Any animal owned or harbored primarily or in part for purposes of fighting or any animal trained for fighting;
 5. Any animal certified by a veterinarian, after observation, as posing a danger to human life or property if not kept in the manner required by this article; or
 6. Any animal that has been determined to be dangerous by the city council or municipal court.
- b) Notwithstanding the foregoing, no animal may be declared dangerous solely due to injury or damage 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.
- c) No animal may be declared dangerous solely due to injury or damage sustained by a domestic animal that at the time such injury or damage was sustained by teasing, taunting, abusing, or assaulting the animal. No animal may declared dangerous solely due to the animal protecting or defending a human being from an attack or assault in the immediate vicinity of the animal. No animal may be deemed dangerous solely due to the animal protecting or defending its young offspring.

(Amended – Ordinance 126 – 10/12/2015)

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 City governing body. No permit shall be issued without first obtaining a 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 may determine. 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 is 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 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 or the health officer.

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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 Keeping of Certain Animals Prohibited

It is unlawful to keep any live horses, sheep, swine or pigs, cattle, chickens or other poultry, goats, or rabbits 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.

11.0107 Strays

It is 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 is also unlawful to picket or tie any such animal in any of the streets of the City for the purpose of grazing or feeding.

11.0108 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.

11.0109 Duty of animal owners to be responsible

- a) It shall be the duty of every owner of any animal, or anyone having an animal in his or her possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property, and animals from injuries or damage which might result from their animals' behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.
- b) In the event that the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of this chapter are complied with.

(Amended – Ordinance 126- 10/12/2015)

11.0110 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 five hundred dollars (\$500.00)**.

In addition to the foregoing penalty, any person who violates this article shall pay all expenses, including impoundment, shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article, before the animal may be released.

(Amended – Ordinance 126- 10/12/2015)

11.0111 Wild Animals Prohibited

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- a) Wild animals shall be defined as follows: any living member of the animal kingdom, including those born or raised in captivity, except the following: domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents whose adult weight is less than five (5) pounds, captive-bred species of common cage birds, fish, and non-venomous and non-poisonous reptiles and amphibians whose adult weight is less than five (5) pounds.
- b) No person or facility within the City limits shall own, possess, or have custody of any wild animal on their premises unless such facility is classified as a zoological park or veterinary clinic.
- c) No person shall keep or allow to be kept any wild animals as a pet within the City limits.
- d) The members of the Police Department are authorized to kill any Wild Animal of any kind when it is necessary for the protection of any person or property. An animal being restrained is not admissible evidence that it was not necessary to kill the animal for the protection of people and property.

(Amended – Ordinance 126 – 10/12/2015)

ARTICLE 2 – Dogs and Cats

11.0201 License Required; Rabies Inoculation

No dog or cat shall be permitted to be or remain in the City without being licensed as hereinafter provided if over six months of age. No license or renewal license shall be issued for a dog or cat over six months of age unless it has been inoculated against rabies. The owner shall provide the City with proof in the form of a veterinarian's certificate or affidavit that the animal has been inoculated with rabies vaccine. Dogs and cats must be inoculated against rabies. It is unlawful to own an animal that does not have current inoculation against rabies.

(Amended – Ordinance 126 – 10/12/2015)

11.0202 Licensing Procedure and Terms

- a) The owner or keeper of any animal shall pay a fee to the city for a license required by this article as follows:
 1. Five dollars (\$5.00) for a dog or cat, which dog or cat has been spayed or neutered; or;
 2. Ten dollars (\$10.00) for any other dog or cat;
- b) The fee set forth herein shall be for a license issued for one (1) year.
- c) The fee required under subsection (a) shall not be required for a trained animal for a handicapped individual
- d) Licenses shall be issued by the City Auditor on an annual basis. The person paying the license fee shall receive a receipt therefore and a metal tag or a badge with thick to mark the animal. It shall be the duty of the owner or keeper to cause such license tag

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or badge to be securely attached around the animal's neck and kept there at all times during the license period.

(Amended – Ordinance 126 – 10/12/2015)

11.0203 License: When Due and Payable

The license fees or renewal fees previously provided for shall become due and payable when the animal is six months old, as provided in 11.0201, and due the first day of January, of every year thereafter.

(Amended – Ordinance 126 – 10/12/2015)

11.0204 Prohibition and Control of Dangerous Dogs or Cats

Except as otherwise permitted in this chapter, it shall be unlawful for any person to own, keep or harbor a dangerous dog or cat within the City limits, and any animal found to be the subject of the violation of this ordinance shall be subject to immediate seizure and impoundment.

Upon order by the Municipal Court, a dangerous dog or cat may be destroyed if it poses a continuing threat to the citizens of the City.

(Amended – Ordinance 126 – 10/12/2015)

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. "At large" means not being under the control of a human by means of a leash, lead or properly operating electronic collar attached to an animal or being carried.

(Amended – Ordinance 126 – 10/12/2015)

11.0206 Impounding

- a) Unrestrained dogs and cats may be taken by the police or the City dog or cat warden and impounded in an animal shelter, and thereafter confined in a humane manner. If by a permit tag or other means the owner can be identified, the officer shall immediately upon impoundment notify the owner by telephone or mail of the impoundment of the animal. Licensed dogs or cats not claimed by their owners within five (5) days shall be humanely disposed of or offered to the public for adoption. Impounded, unlicensed dogs or cats shall be kept for three (3) days and, unless reclaimed by their owners, within three (3) days after a photo and notice of the impounded animal has been placed at City Hall shall be humanely disposed of or offered to the public for adoption.

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Redemption of Impounded Animal; Conditions

- b) If the impounded animal is a dog or cat which has been impounded previously, it shall not be released 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, and if such arrangements are made within five (5) days, the time allowed for redemption of the animal shall be extended accordingly.

(Amended – Ordinance 126 – 10/12/2015)

11.0207 Fee for Redemption of Impounded Animals

- a) In any case where an animal is impounded, the owner or keeper claiming the animal shall pay to the City the license fee for the animal, if any, plus an impounding fee and a fee for the care and maintenance of the animal while in custody, as established by the City Council.
- b) The impounding fee for an animal for the first impounding shall be seventy-five dollars (\$75.00).
- c) In the event an animal is impounded a second time, the impounding fee shall be one hundred fifty dollars (\$150.00).
- d) In the even an animal is impounded a third or subsequent time, the impounding fee shall be two hundred twenty-five dollars (\$225.00).
- e) In addition to the above impounding fee, a daily fee of twenty dollars (\$20.00) shall be charged for each day or fraction thereof that the animal is impounded.
- f) There shall be a fee of twenty (\$20.00) for adopting an animal. Anyone adopting an animal who lives within McKenzie County, shall license the animal with the City of Arnegard, and such animal shall not be released until it is 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, and if such arrangements are made within five (5) days, the time allowed for redemption of the animal shall be extended accordingly.

(Amended – Ordinance 126 – 10/12/2015)

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 may proceed against the owner or keeper for violation of this article, and subject the owner to the penalties found in 11.0219.

(Amended – Ordinance 126 – 10/12/2015)

11.0209 Noisy Dog or Cat Prohibited

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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.

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 passersby, chasing vehicles, attacking other domestic animals, causing an accumulation of waste or causing odors, trespassing upon school grounds, or trespassing upon private property, or damaging property is hereby declared to be a nuisance.

It shall be unlawful for the owner or person having custody or responsibility of a cat or dog to allow or permit the cat or dog to be a nuisance as defined herein. The nuisance shall be an offense irrespective of whether such offense occurs on or off the property of the offender.

(Amended – Ordinance 126 – 10/12/2015)

11.0211 Limitation to the Number of Dogs and Cats

- a) No person shall harbor or keep more than three dogs or cats or combination of dogs or cats upon premises within the city which are owned or controlled by him, unless a permit is obtained pursuant to the subsections which follow.
- b) The Arnegard City Council may grant a person a permit to harbor or keep more than three dogs or cats, or combination of dogs or cats. The permit shall specify the number of dogs or cats, or combination of dogs or cats, which the permittee may harbor or keep, subject to such limitations and conditions as the Council may impose. The permit shall attach to the premises to which relates and shall be personal to the permittee and may not be transferred.
- c) In determining whether a permit shall issue or not, the Arnegard City Council shall consider:
 1. The area in square footage of the premises to which the permit relates;
 2. The proposed facilities to house the animals and to provide them with an exercise area;
 3. The proposed sanitation measures the permittee will employ;
 4. The size and customary habits of each type or breed of animal sought to be kept;
 5. The proximity, type, and configuration of residences surrounding the place where the animals are to be housed;
 6. The past history of the applicant with regard to violations of this chapter and generally with regard to providing sanitary and humane care for the animals; and
 7. Any other factor reasonably likely to affect adversely the persons who live, work, visit or transact business in close proximity to the proposed permit area.
- d) Any violation of 11.0211, or any violation of the terms of a permit issued under 11.0211 (b), (c) shall be an offense punished under 11.0219 of this code.

(Amended – Ordinance 126 – 10/12/2015)

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11.0212 Confinement of Dangerous Dogs or Cats

- a) No person owning or harboring a dangerous dog or cat shall permit the animal to go unconfined outdoors, including on the premises of such person. A dangerous dog or cat is “unconfined outdoors” if the 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 have sides at least six (6) feet high. And 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.
- b) All structures erected to house a dangerous dog or cat shall comply with all zoning and building requirements and regulations of the City. All such structures must be adequately lighted and ventilated, kept in a clean and sanitary condition and meet the standards set out in 11.0101 of this code.
- c) No person owning or harboring a dangerous animal shall permit the animal to go beyond his or her property line unless the animal is securely muzzled and harnessed or leashed with an unbreakable chain, leash or cord having a minimum tensile strength of three hundred (300) pounds and not exceeding four (4) feet in length, and is under the direct control and supervision of the owner or keeper of the animal.
- d) All owners or keepers of any dangerous dog or cat shall display in a prominent place on their premises, 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.
- e) No person shall own or harbor any dog or cat for the purpose of causing or encouraging the animal to attack human beings or domestic animals.
- f) No dangerous dog or cat 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 violation. 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.
- g) Any person owning or harboring a dangerous dog or cat and not adhering to the provisions of this article shall immediately remove the 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.

(Amended – Ordinance 126 – 10/12/2015)

11.0213 Liability insurance

All owners or keepers of dangerous dogs or cats shall present the City Auditor proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by such dangerous animal for a period not less than twelve (12) months. That policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of the City Auditor or other licensing authority where such animals are licensed to be notified by the insurance company of any cancellation, termination, or expiration of the liability insurance.

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(Amended – Ordinance 126 – 10/12/2015)

11.0214 Owner or Keeper's Signed Statement

The owner or keeper of any dangerous dog or cat shall sign a statement attesting that:

- a) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this Article during the twelve-month period for which said insurance is provided, unless the owner or keeper shall cease to own or keep the dangerous animal prior to expiration of said policy, or said policy is replaced by a newly issued policy.
- b) The owner or keeper has an enclosure for the dangerous animal which will be kept or maintained so as to prevent escape.
- c) The owner or keeper will notify the police department immediately if a dangerous animal is on the loose, is unconfined, has attacked another domestic animal, or has attacked a human being.
- d) The owner understands that it is unlawful for the owner or keeper of a 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. In addition, failure to comply shall be an offense punishable with a fine.

(Amended – Ordinance 126 – 10/12/2015)

11.0215 Police Department Powers

- a) The police department and community service officers are hereby empowered to make whatever reasonable inquiry is deemed necessary to ensure compliance with the provisions of this article, and any such officer is hereby empowered to seize and impound any dangerous animal whose owner or keeper fails to comply with the provisions hereof.
- b) Upon attack or assault, a community officer or the police department is hereby empowered to seize and impound the dangerous animal if the conduct of such dangerous animal or its owner or keeper constitutes a violation of the provisions of this article.
- c) In the event that a community officer or the police department has probable cause to believe that the animal in question is dangerous and may pose a threat of harm to human beings or other domestic animals, the officer or police department may seize and impound the animal pending the hearing. The owner or keeper of the animal shall be liable to the City for the costs and expenses of impounding such animal. If at any time prior to the hearing the owner or keeper of the animal wishes to have the animal humanely destroyed, the animal may be released for that purpose. The owner or keeper must present written proof of the destruction to a police officer.

11.0216 Restraint requirements

No person having the custody or control of any dog or cat shall permit the same to be written or upon any unfenced area or lot abutting a street, sidewalk, public park, public place, or any other

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private land without being effectively restrained by a chain, rope, cord, or other such restrictive restraint, including a properly operating electronic collar, effectively preventing such animal from reaching any street, sidewalk, public park, public place, or any private land belonging to another.

11.0217 Active Duty Dog Exemption

All dogs owned or used by local, state or federal governmental bodies, while in active duty or during training, and under the supervision of a peace officer, shall be exempt from the provisions of this chapter.

11.0218 Pet solid waste – Collection and disposal

Every owner or person having control of a dog or cat shall collect and properly dispose of the dog or cat's solid waste when eliminated. It is an offense subject to a fee of twenty-five (\$25.00) to allow a dog or cat to eliminate solid waste on another's private property without permission, or upon public streets, sidewalks, parks, or other public areas, and fail to properly collect and dispose of such waste.

11.0219 Penalty

A violation of Section 11.0204 or 11.0210 is an infraction, for which the maximum penalty is a fine of five hundred dollars (\$500.00). Any person convicted of an infraction who has, within one (1) year prior to commission of the infraction, been previously convicted of an offense classified as an infraction, may be sentenced as though convicted of a Class B Misdemeanor. If the prosecution contends that the infraction is punishable as a Class B Misdemeanor, the Complaint shall specify that the offense is a Class B Misdemeanor. A person convicted of violating the dangerous or nuisance dog or cat sections of this Article (Articles 11.0204 and 11.0210) shall be assessed a fine of not less than one hundred dollars (\$100.00) for a first offense and a fine of not less than one hundred fifty dollars (\$150.00) for a second offense. In addition to any fine which may be imposed by the Court, any sentence imposed for a third offense must require that the offending dog or cat be humanely disposed of.

A violation of Section 11.0201, 11.0205, or 11.0211 is a noncriminal offense for which there shall be assessed a fee of one hundred dollars (\$100.00).

- a) Any individual who has been cited for a violation of Section 11.0201, 11.0205, or 11.0211 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.

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- b) If an individual cited for a violation of Section 11.0201, 11.0205, or 11.0211 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety (90) days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
- c) The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.

(Amended – Ordinance 126 – 10/12/2015)