

CHAPTER 3-03

LICENSING AND CONTROL OF DOGS AND CATS

3-03-01. License Required. It is unlawful for any person within the city to keep, maintain or have in custody or under control any dog or cat over the age of six months which is not licensed and inoculated against rabies.

(Ord. 4159, 6-23-87)

3-03-02. License Application, Fee and Renewal.

1. Any person desiring to keep, maintain or have in custody or control any dog or cat over the age of six months shall make application to the city or designee for a license. The application must be in writing stating the name, sex, color and breed or other distinguishing characteristics of the animal and the name and address of the applicant. The license must be renewed for so long as the animal is kept within the city by payment of the fee as set by the city commission. All of the fees relating to the keeping of pets are as determined from time to time by the city commission and on file in the office of the city administrator.

2. Before any license may be issued the applicant shall furnish a certificate of vaccination issued by a licensed veterinarian evidencing that the dog or cat for which the license is desired has been vaccinated against rabies. A license issued under this chapter may not exceed the duration of the rabies vaccination.

3. A license fee as set by the city commission must be paid at the time any dog or cat is first licensed. The license is valid for the duration of the rabies vaccination under which it is obtained. Licenses must be renewed for so long as the animal is kept within the City of Bismarck. The license fee for any period of less than one year shall be prorated by the month.

4. A refund may not be made on any license fees because of the death of an animal or because the owner of the animal leaves the city before expiration of the license period. A license is not transferable. If an animal is sold or given to another, the new owner must obtain a new license for the animal.

5. In addition to the initial and ongoing license fee there is a fee as set by the city commission for any unaltered dog or cat. An applicant who wishes to avoid payment of the additional fee for an unaltered dog or cat shall upon application for a license furnish a certificate

signed by a veterinarian or the owner evidencing that the animal for which the license is desired has been spayed or neutered. The certification is valid for the life of the animal.

6. A license issued under this chapter shall expire at the date when the last rabies vaccination for the animal expires.

7. The City shall design the license certificate and suitable license tag and shall issue same to licensed veterinarians. The license tags shall designate the name of the city and the year, in addition to any other wording or identification as, from time to time, may be deemed practical or appropriate.

8. If the license is issued by the designee, who is not an employee of the city, who the city has deputized to issue licenses, they may keep as compensation one dollar and fifty cents (\$1.50) for the work involved in issuing the license.

9. The total number of dogs and/or cats permitted per location shall be governed by Chapter 14 (Zoning Ordinance).

10. In addition to the number of dogs and/or cats allowed in residentially-zoned areas by City Ordinance 14-03-06, the City may grant a special license to an applicant granting the authority to keep additional dogs or cats in a residential area subject to the following:

a. The applicant must file an application with the Bismarck Department of Fire and Inspections which states specifically the number of dogs and cats to be kept, a description of each and the address of the location where they will be kept. A non-refundable fee as set by the city commission must accompany each application.

b. No resident may keep more than three unaltered dogs or cats at any one residential location.

c. The special license shall state the number of dogs or cats allowed at the location. In reaching this decision, the Department of Fire and Inspections may consider:

i. The size, age, breed and dispositions of the applicant's dogs and cats.

ii. The location, size, facilities and proximity to neighbors of the applicant's residence.

iii. The general health, welfare and safety of the citizens of Bismarck and the impact of the applicant's request.

d. After a license is granted, it may be revoked by the Director of Fire and Inspections upon 10 days' notice for any of the following reasons:

i. Dog(s) and/or cat(s) kept at the premises are habitually at large.

ii. Offspring from the breeding of dogs and/or cats kept at the premises are habitually at large.

iii. Noise or odors from premises are offensive or a nuisance.

iv. Unsanitary or unhealthy conditions exist at the premises.

v. The dog(s) and/or cat(s) kept at the premises are unlicensed.

vi. There are more than three unaltered dogs and/or cats at the premises.

vii. The applicant has failed to redeem an impounded dog or cat kept under the special license.

viii. The applicant has committed cruelty to animals as defined by Section 3-01-04.

e. A special license granted under this section shall be valid only for the specific location listed on the license, and for the number of dog(s) and/or cat(s) allowed. A special license shall not be granted to any kennel, dog or cat boarder or any other commercial dog or cat facility. A person granted a special license has 10 days from the granting of the license in which to license the dogs and cats listed in the special license.

f. A licensee under this section may replace a dog or cat that has died or has been relocated, within the restrictions of the license. A licensee must inform the Department of Fire and Inspections of any

change in the animals covered by the license. An applicant wishing to increase the number of dogs and/or cats must reapply under section a.

g. Denial or revocation of a special dog and/or cat license is subject to appeal to the Board of City Commissioners upon written notice of appeal filed with City Administration within 10 days of denial. If no appeal is filed within the time specified, the action of Director of Fire and Inspections shall be final.

h. Upon receipt of a notice of appeal, the Board shall set a date for a hearing within 15 days of receipt of the notice of the appeal. Notice of the time and place for the hearing must be served upon the applicant by mailing notice to the address contained in the application at least five days before the hearing. The board shall hear such testimony and other evidence as it deems necessary and expedient and thereupon make its findings and decision, which shall be final.

(Ord. 4743, 12-12-95; Ord. 4867, 09-09-97; Ord. 5239, 04-08-03; Ord. 5559, 11-14-06)

3-03-03. Tag Issuance. The issuance and use of license tags issued under this chapter is governed by the following provisions:

1. It is the duty of the city or its designee, at the time of the issuance of a license under this division, to furnish and deliver to the applicant for the license a tag for the animal for which the license is issued, upon which tag must be stamped or engraved the number of the license and the year for which the license is issued.

2. It is the duty of the owner of the animal licensed to place a collar around the neck of the animal on which collar must be securely fastened the tag furnished by the city or its designee.

3. In the event of the loss of any tag issued under the provisions of this division, the city may issue a duplicate tag upon payment of a replacement fee, upon application being made thereof, and upon satisfactory proof that such tag has been lost.

4. A license tag may not be transferred from one animal to another.

(Ord. 4743, 12-12-95; Ord. 4867, 09-09-97; Ord. 5559, 11-14-06)

3-03-04. Impoundment. Notwithstanding the provisions of Chapter 3-01, the following provisions govern the impoundment and disposition of impounded dogs and cats:

1. Any dog found at large may be seized and impounded by any police officer or animal warden. Impoundment may be in any animal shelter designated by the board of city commissioners or chief of police.

2. Any cat found at large may be seized and impounded by any police officer or animal warden with reasonable cause to believe the cat is without proper care and control, lost, abandoned, or upon reasonable cause to believe the cat is a public nuisance, as defined in Section 3-03-06.

3. The owner of any impounded dog or cat shall be notified within 48 hours that the dog or cat has been impounded if the owner's identity and location can be obtained by reasonable means. The notice shall inform the owner that if the dog or cat is not redeemed within three days following notice, the dog or cat will be put up for adoption or disposed of. The owner may, within three days, request in writing a hearing before the municipal judge, in which case the dog or cat may not be disposed of pending the hearing. Following the hearing, the municipal judge may order that the dog or cat be returned to the owner or otherwise disposed of, and shall order payment of expenses and costs accordingly.

4. A fee as set by the city commission must be assessed whenever any dog or cat is impounded. A fee as set by the city commission must be assessed whenever any dog or cat over the age of six months which is licensed, is impounded. An additional fee as set by the city commission must be charged for each day, or fraction thereof, of impoundment for feeding and caring for such dog or cat.

5. The owner of any impounded dog or cat which has not been vaccinated in accordance with this chapter, upon satisfactory proof of ownership, may redeem the dog or cat upon payment of all fees and expenses and be allowed 24 hours to get such dog or cat vaccinated and licensed. If the owner fails to procure a certificate of vaccination and license within 24 hours, the dog or cat shall again be seized and impounded.

6. If the owner of any dog or cat impounded fails to redeem the dog or cat within three days after notice to the owner if the owner can be located through reasonable means, any other person may, upon complying with the provisions of this chapter, redeem the dog or cat from the pound and be the lawful owner of the dog or cat thereafter. No person may act as the agent or on behalf of the owner in order to redeem a dog or cat to avoid the impound and care fee. Any

other person redeeming a dog or cat must agree in writing to procure a certificate of vaccination and license within 72 hours of redeeming the dog or cat.

7. Dogs or cats impounded for which an owner cannot be located and that are not claimed within three days or which have not been redeemed or purchased as authorized by this chapter within three days of such impoundment or, if the owner is known within three days after notice to the owner, may be disposed of in a humane manner, unless a written request for a hearing has been filed with the municipal judge by any person in accordance with the procedures set forth in paragraph 3.

(Ord. 4159, 06-23-87; Ord. 4295, 10-03-89; Ord. 4591, 03-29-94; Ord. 4867, 09-09-97; Ord. 5559, 11-14-06; Ord. 5709, 03-24-09)

3-03-05. Running at Large Prohibited - Wastes.

1. It is unlawful for any owner or keeper of a dog to allow the animal to be at large. No intent or knowledge by the owner or keeper of a dog is necessary to prove a violation of this ordinance.

2. Every owner or person having control of a dog or cat shall collect and properly dispose of the dog's or cat's solid waste when eliminated.

(Ord. 4159, 06-23-87; Ord. 4231, 11-08-88)

3-03-06. Public Nuisance.

1. Every dog or cat that has committed any of the following acts is deemed to be a public nuisance:

a. Habitually at large.

b. Habitually annoys, barks at or chases any person or vehicle.

c. Habitually disturbs the peace by barking, howling or fighting.

d. Bites any person off the premises of the owner or any person lawfully on the premises of the owner.

e. Habitually attacks and injures, without provocation, any domestic animal or bird or other animal protected by law.

f. Approaches any person, off of or lawfully on the premises of the owner, in a vicious or terrorizing manner or in an apparent attitude of attack.

2. Upon complaint made by the city attorney before the municipal judge and notice to its owner, or, if the owner is unknown, after ten days' notice by publication and a hearing, the municipal judge, upon a finding that a dog or cat is a public nuisance, shall:

a. Order the confinement of such animal within a building or secure enclosure, said animal not to be removed from such building or enclosure without being effectively restrained by chain or leash not exceeding six feet in length and/or properly muzzled; or

b. Order the surrender of such animal to the humane society or other animal placement organization or chief of police for purposes of placement outside the city or humane destruction; or

c. Issue such other order as may be necessary to abate the nuisance.

3. The municipal judge may assess costs and expenses to the owner or keeper of the dog or cat.

Reference: NDCC Chapter 42-03

(Ord. 5709, 03-24-09)

3-03-07. Prohibited Dogs. Section 3-03-07 relating to Prohibited Dogs is hereby repealed.

(Ord. 4162, 06-30-87; Ord. 4591, 03-29-94; Ord. 5709, 03-24-09)