

TITLE 3

ANIMAL CONTROL AND PROTECTION

CHAPTER 3-01..... 2

 GENERAL PROVISIONS 2

 3-01-01. Definitions..... 2

 3-01-02. Restrictions; Number and Limits on Animals..... 3

 3-01-03. Sale of Turtles Restricted **(Repealed)** 5

 3-01-04. Cruelty to Animals..... 5

 3-01-05. Impoundment of Animals..... 7

 3-01-06. Redeeming Impounded Animals..... 7

 3-01-07. Lien on Impounded Animal..... 8

 3-01-08. Disposal of Impounded Animals. 8

 3-01-09. Breaking into the Pound..... 8

CHAPTER 3-02..... 10

 RABIES CONTROL 10

 3-02-01. Reports; Isolation or Destruction of Animals..... 10

 3-02-02. Duty of Owner to Surrender Animal..... 11

 3-02-03. Duty to Report Animal Bites..... 12

CHAPTER 3-03..... 12

 LICENSING AND CONTROL OF DOGS AND CATS 12

 3-03-01. License Required..... 12

 3-03-02. License Application, Fee and Renewal..... 12

 3-03-03. Tag Issuance..... 15

 3-03-04. Impoundment..... 16

 3-03-05. Running at Large Prohibited - Wastes..... 17

 3-03-06. Public Nuisance..... 17

 3-03-07. Prohibited Dogs..... 18

 3-03-08. Retention of Animals..... 18

CHAPTER 3-04..... 19

 BISMARCK ANIMAL ADVISORY BOARD..... 19

 3-04-01. Bismarck Animal Advisory Board; Purpose..... 19

 3-04-02. Membership - Terms - Filling Vacancies..... 19

 3-04-03. Board President - Meetings - Records to be kept.. 20

 3-04-04. Powers and Duties of Board..... 20

 3-04-05. Bismarck Animal Advisory Board Advisory in Nature 20

CHAPTER 3-05..... 20

 PET SHOP OPERATORS..... 20

 3-05-01. Prohibited Activities for Pet Shop Operators..... 20

 3-05-02. Certificate of Source..... 21

 3-05-03. Structural Standards..... 22

 3-05-04. Enclosures..... 22

 3-05-05. Housing Facilities Temperature..... 22

 3-05-06. Lighting..... 23

 3-05-07. Animal Health..... 23

CHAPTER 3-01

GENERAL PROVISIONS

3-01-01. Definitions. In this title unless the context or subject matter otherwise requires:

1. "Unaltered dog or cat" shall mean an unneutered male dog or cat or an unspayed female dog or cat.

2. "Animal" means every living vertebrate, male or female, domestic or wild, and including all fowl, other than humans.

3. "Cruelty" means every act, omission or neglect whereby physically torturing, mutilating or causing the prolonged impairment of an animals' health or death, that does not rise to the level of animal abuse punishable by North Dakota Century Code.

4. "Dangerous animals" means animals which, because of their poisonous bite or sting, their size, or their propensity to viciousness or aggressiveness would constitute a hazard or threat to the safety of the citizens of Bismarck.

5. "Dog" or "cat" means both the female and male of the species.

6. "Domestic and Non-Domestic fowl" means chickens, ratites, water fowl to include but not limited to ducks, geese, shorebirds, upland game birds to include but not limited to turkeys, pheasants, chukars, quails, peafowl pigeons and guinea fowl.

7. "Owner" means any person, firm, association, corporation or combination thereof owning, keeping, possessing or harboring an animal, or any person who feeds or shelters any stray animal for seventy-two (72) or more consecutive hours without reporting such animals to Animal Control. If a minor is an owner of an animal, then any adult within the household of the minor shall be deemed the owner of such animal under this chapter and shall be responsible as the owner.

8. "At large" means the animal is off the premises of the owner and is not securely confined in a vehicle or other enclosure or effectively restrained with a chain, leash or cord not more than six feet in length except that a supervised dog may be at large in any Parks and

Recreation District property that the Board of Park Commissioners has designated for off leash activities.

9. "Adequate care" means normal and prudent attention to the needs of an animal include that care which is normally necessary to maintain good health in the specific species of animal. This includes adequate food, health/medical care, shelter and water.

10. "Animal Impound" means the facility operated by the City of Bismarck for the purpose of impounding and caring for animals under the authority of this chapter or under state law.

11. "Attack" means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person.

12. "Household" means all persons living in the same dwelling unit.

(Ord. 4591, 03-29-94; Ord. 5418, 05-24-05; Ord. 6480, 08-31-21)

3-01-02. Restrictions; Number and Limits on Animals.

1. The raising and keeping of animals is hereby prohibited except: As permitted in the zoning ordinances of the City; at zoos; at schools, Commercial Animal Establishment, clinics or laboratories for recognized educational, scientific or research purposes; and, providing the keeping of them does not create a public health or safety problem.

a. Amphibians, Reptiles and Turtle; exemptions. The owning, harboring, keeping, possessing of amphibians, reptiles and turtles is limited to no more than four (4) of any combination of the species.

b. Canine and feline; exemptions. The owning, harboring, keeping, possessing of cats or dogs is limited to no more than a combination of three (3) animals of either species per household.

This prohibition shall not apply to:

- i. Individuals possessing a special pet licenses;
- ii. Persons temporarily transporting such animals through the city or remaining in the city less than thirty (30) days in any twelve-month period;

- iii. Individuals selling or giving away puppies or kittens. Such individual shall have ninety (90) days from the date of birth of these puppies or kittens to comply with this section;
- iv. If a cat or dog is fostered by a rescue in the community, which is provided by showing a currently registered non-profit filed with the North Dakota Secretary of State and a document identifying the address of the individual who is caring for the foster dog or cat with the letterhead of the non-profit rescue.

The exemptions above do not apply to keep any canine or feline in the city which have been bred or trained for fighting for sport or exhibition or for any person to, by words, signs or otherwise, intentionally set any canine or feline to attack any other animal, or aid, abet or encourage any canine or feline fights.

c. Fowl, domestic, non-domestic and exotic; exemptions. The owning, harboring, keeping, possessing or selling of any domestic and non-domestic fowl is prohibited within the city limits. This prohibition shall not apply to:

- i. An individual may possess caged birds within a residential structure; such exotic fowl to include but not limited to macaw, African grey, cockatiels, canaries so long zoning ordinances are followed;
- ii. As part of a performance that is limited to one week or less per year within the city; or
- iii. Persons temporarily transporting such animals through the city.

The exemptions above do not apply to keep any fowl in the city which have been bred or trained for fighting for sport or exhibition.

d. Pocket Pets; exemptions. The owning, harboring, keeping, possessing, selling of pocket pets is limited to no more than a combination of four (4) animals of any species per household.

This prohibition shall not apply to:

- i. Individuals possessing a special pet licenses;
- ii. Persons temporarily transporting such animals through the city; or
- iii. Individuals selling or giving away off spring of said species. Such individual shall have thirty (30) to ninety (90) days from the date of birth of the offspring, depending on species to comply with this section.

e. Wildlife and exotic animals; exemptions. The owning, harboring, keeping, possessing, selling of any wildlife and exotic animal is prohibited within the city limits. This prohibition shall not apply to:

- i. Hybrids recognized by the American Kennel Club;
- ii. As part of a performance that is limited to one week or less per year within the city; or
- iii. Persons temporarily transporting such animals through the city.

2. It is unlawful to keep animals or fowl in the city which have been bred or trained for fighting for sport or exhibition.

3. It is unlawful for any person, either as owner or as agent, representative, employee or bailee of any owner, to keep or harbor any bees within the limits of the city.

(Ord. 4591, 03-29-94; Ord. 6480, 08-31-21)

3-01-03. Sale of Turtles Restricted. ~~Repealed.~~
(Ord. 6480, 08-31-21)

3-01-04. Cruelty to Animals. It is unlawful for any person to:

1. Overwork, overload, torture, beat, torment, neglect, or unjustifiably injure, maim, mutilate or kill any animal, or cruelly work any animal when unfit for labor, or abnormal treatment or prolonged impairment of health of the animal that results in physical injury to an animal or that causes the death of an animal.

2. Fail to provide any animal in his or her charge or control with adequate care, food, water, health/medical attention or shelter as appropriate for the species, the breed, and the animal's age and physical conditions. At a minimum, any animal that is habitually outside or repeatedly left outside unattended shall be provided adequate shelter. Shelter must have at least three sides and a weatherproof roof, have a solid, sanitary floor and suitable drainage so that water is not standing in or around the shelter.

3. Leave or confine a dog, cat, or other animal in any unattended motor vehicle in a manner that endangers the health, wellbeing or safety of the animal due to heat, cold, lack of ventilation, or lack of food or water, or other circumstance that could reasonably be expected to cause suffering, disability or death to the animal. A law enforcement officer may use reasonable means to enter the vehicle and remove the animal from the motor vehicle. A law enforcement officer removing an animal from a motor vehicle under this section shall not be held civilly or criminally liable for any damage caused by the removal of the animal from the motor vehicle.

4. Keep any animal in any enclosure without exercise or wholesome change of air.

5. Unjustifiably administer or expose any known poisonous substance or noxious drug, whether mixed with food or not, which shall be eaten by any domestic animal.

6. Carry or transport any live animal in any vehicle, cage, railroad car, or by any other means that does not permit adequate ventilation and space for the reasonable comfort of the animal, nor carry or transport an animal in any other cruel manner.

7. Willfully frighten, shoot at, wound, kill, capture, ensnare, net trap or in any other manner molest or injure any song bird or insectivorous bird; or in any manner to molest or injure the nest eggs or young of any such bird; or to have in possession the nest eggs, young or body of such bird.

8. It shall be unlawful for any person to use a spring steel trap in the city limits. The use of humane traps is permitted within the city.

9. This section does not apply to the eradication by lawful and safe methods, of rodents, including rats, mice, gophers and moles.

3-01-05. Impoundment of Animals.

1. It is the duty of any police officer or animal warden of the City to take and impound any animal declared to be a nuisance or at large and in violation of any of the provisions of this chapter, or abandoned, unjustifiably exposed to the elements, or not properly fed and watered. Any impounded animal must be kept until the owner or some person for the owner pays to the City any expense, fees, costs and charges as provided in this title or until such animal is sold in accordance with Section 3-01-08. A fee as set by the city commission must be assessed when any animal is impounded. 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. 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 animal. The provisions of this section, and Sections 3-01-06, 3-01-07 and 3-01-08, do not apply to the impoundment of dogs and cats, which is subject to the provisions of Chapter 3-03.

2. Any sick or injured cat or dog found at large in the city and wearing a current city license tag, identification tag, or rabies vaccination tag shall be taken at once to a veterinarian for examination and treatment, and the owner/custodian of such animal shall be promptly notified. All charges for veterinarian services shall be borne by such owner/custodian.

3. Any sick or injured cat or dog found at large in the city without such identifying tag, tattoo or microchip shall be examined by Animal Control Officer. Proper medical attention will be given and the animal will be held at the animal pound if not required to remain at the veterinarian office. If the animal is reclaimed by the owner/custodian, the payment for veterinarian services shall be paid prior to the redemption of the cat or dog.

4. An Animal Control Officer may remove an animal upon probable cause that the animal is living in conditions listed in Section 3-01-04.

(Ord. 4591, 03-29-94; Ord. 4867, 09-09-97; Ord. 5559, 11-14-06; Ord. 6480, 08-31-21)

3-01-06. Redeeming Impounded Animals. The owner of the animal impounded must be notified, in writing, by the police department. If the owner is unknown, notice may be given by posting notice and a description of the animal at the pound or police department and city hall, or by publication in the legal newspaper of the city. The notice shall inform the owner that

the animal will be sold or disposed of if the animal is not redeemed within five days after receipt of the notice or posting of the notice or after publication, and that the owner may, within three days of notice of posting or publication of notice, request, in writing, a hearing before the municipal judge. The hearing must be held within seven (7) days of the receipt of the request. Following the hearing the municipal judge may order that the animal be returned to its owner, sold or otherwise disposed of, and shall order payment of expenses and costs accordingly. If a timely request for a hearing is filed, the animal may not be sold or disposed of except by order of the municipal judge. This section does not apply to wild animals, including muskrats, weasels, beavers, deer and other wild animals that are impounded.

(Ord. 4159, 6-23-87; Ord. 4867, 09-09-97; Ord. 6000, 09-10-13)

3-01-07. Lien on Impounded Animal. The city has a lien on each animal impounded for the full amount of fees and expenses in keeping the animal and any fine imposed.

Reference: NDCC Sec. 40-05-01(47).

3-01-08. Disposal of Impounded Animals. If the lien is not discharged and satisfied by the owner within five days after notice to the owner, posting of notice or publication the chief of police may apply to the municipal court for an order to sell the animal to discharge the lien. Upon order of the court the chief of police may sell the animal at a public sale to pay off the lien, and the title to the animal shall pass with the sale. The court may award costs and reasonable attorney's fees and the remainder of proceeds, if any, must be paid over to the owner. If the owner is not known, the remainder must be deposited in the city's general fund. If no purchaser is found, or if the animal is not offered for sale, it may be offered for adoption or disposed of by the police consistent with state law and other provisions of this code.

Reference: NDCC Sec. 40-05-01(47); 36-21.1-06(2)

(Ord. 6000, 09-10-13)

3-01-09. Breaking into the Pound. It is unlawful for any person to damage, injure or break open any pound, or to aid or assist, abet or advise any person to do so, and no person shall let out or rescue or aid or assist or abet in letting out or rescuing any animal which may be impounded. It is unlawful for any person to aid or assist, abet or advise, any person to take from any other person any animal being taken or driven to any pound.

3-01-10. Animals at Large. It is unlawful for any person to allow or permit any animal owned by or under his control to run at large within the city. This section does not apply to dogs and cats, which are subject to the provisions of Chapter 3-03.

3-01-11. Removal and Disposal of Dead Animals. Except as provided in Chapters 8-05, 8-08, zoning restrictions and otherwise in this chapter.

1. The Animal Control Officer shall be responsible for the removal of any dead animal found on public property within the city. In this section "dead animal" shall exclude any animal lawfully and humanely killed for food.

2. No person having in his possession any dead animal shall permit the same to remain in or upon any private or public place.

3. No dead animal shall be deposited or allowed to remain upon any premises within a quarter of a mile of any park, city highway, state highway, or any public highway, road or alley, or any dwelling or other structure used or occupied by a person or persons, nor to throw any dead animal or decayed animal matter into any pool of water or city trash bins in the city, or in any standing or running water or in any open excavation, and any animal deposited or allowed to remain upon such premises is declared to be a public nuisance.

4. It shall be the duty of the owner of a dead animal to dispose of such dead animal in a manner authorized by law.

5. It is unlawful for any person to bury the carcass of any dead animal in such a way that there shall be less than three feet of soil above such carcass.

(Ord. 6480, 08-31-21)

3-01-12. Report of Motor Vehicle Striking Animal. The operator of a motor vehicle that strikes any domesticated animal shall, as soon as possible, report the accident to the Animal Control Officer or the Police Department.

(Ord. 6480, 08-31-21)

3-01-13. Selling of Certain Animals Prohibited. It shall be unlawful to sell or display within the city any animal or fowl that has been artificially dyed or colored.

(Ord. 6480, 08-31-21)

3-01-14. Animals in Public Buildings. No animal shall be allowed to enter any theatre, store or other public building whether accompanied by its owner/custodian or person in charge or otherwise, except with the approval of the building's owner or manager. Formally trained or training assist dogs and police dogs engaged in law enforcement activities are exempt.

(Ord. 6480, 08-31-21)

3-01-15. Duty of All Animal Owners/Custodians. It shall be the duty of every owner/custodian of any animal or anyone having an animal in their possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property and animals from injury or damage which might results from their animal's behavior.

(Ord. 6480, 08-31-21)

3-01-16. Trapping of Animals. It shall be unlawful for any person to use a spring steel trap in the city limits except rat, mice, gopher, and mole traps. The use of humane traps is permitted within the city.

(Ord. 6480, 08-31-21)

CHAPTER 3-02

RABIES CONTROL

3-02-01. Reports; Isolation or Destruction of Animals.

1. Any person who has knowledge that any person or animal has been bitten or injured by a dog or other animal infected or suspected of being infected with rabies, or of a case of rabies or suspected rabies in animals, shall immediately report that fact to the Bismarck Police Department.

2. Any domestic animal that bites a human where the skin is broken or any domestic animal suspected of having rabies must be confined and observed for a period of ten days and evaluated by a licensed veterinarian, at the owner's expense, at the beginning of confinement, at the first sign of any illness during confinement, and prior to release from confinement. If an animal warden or veterinarian so determines, the warden or veterinarian may order that the animal be impounded and evaluated. If the animal shows clinical signs of rabies during the period of isolation, it must be humanely destroyed immediately in a manner that preserves the brain intact, and the brain tissue shall be examined for rabies.

3. Any stray or unwanted domestic animal or wild animal that bites a person must be humanely destroyed in a manner that preserves the brain intact, and the brain tissue must be examined for rabies. A domestic animal will be presumed to be stray or unwanted if the owner has failed to claim the animal within three days of the seizure of the animal.

4. Any domestic vaccinated animal that is bitten or scratched by a rabid animal or exposed to a rabid animal in a manner that reasonably indicates a bite or scratch may

have occurred, must be re-vaccinated immediately and observed by the owner for ninety days. If the animal shows clinical signs of rabies during the period of observation, it must be humanely destroyed immediately in a manner that preserves the brain intact, and the brain tissue must be examined for rabies.

5. Any domestic, unvaccinated animal that is bitten or scratched by a rabid animal or exposed to a suspected rabid animal in a manner that reasonably indicates a bite or scratch may have occurred, must be destroyed immediately, or, at the owner's expense, be placed in strict isolation under the observation of a licensed veterinarian for six months and vaccinated one month prior to being released. If the animal shows clinical signs of rabies during the period of isolation, it must be humanely destroyed immediately, in a manner that preserves the brain intact, and the brain tissue must be examined for rabies.

6. Specimens collected for examination for rabies must be packaged and forwarded as required by health Department regulations.

7. If whether or not an animal has been vaccinated for rabies is unknown, the city and any impounding authority will comply with an order from a medical authority to destroy the animal and preserve the brain intact.

8. Any domestic animal which bites a human where the skin is broken and the animal is unvaccinated or it is unknown whether or not the animal is vaccinated, the animal will be taken into custody by the animal warden and quarantined at the city pound for ten (10) days.

(Ord. 4186, 1-19-88; Ord. 4262, 5-23-89; Ord. 4295, 10-03-89; Ord. 4591, 03-29-94; Ord. 4867, 09-09-97; Ord. 6480, 08-31-21)

3-02-02. Duty of Owner to Surrender Animal. The owner or other person in charge of any animal, upon demand by a police officer or animal warden must surrender any animal which has bitten a human, or domestic animal, or which is suspected as having been exposed to rabies, to city or state officials or to a licensed veterinarian as directed by city or state officials. All expenses of any required period of isolation or observation must be paid by the owner before the animal may be returned to the owner. It is unlawful for an owner or other person in charge of an animal to fail or refuse to surrender any animal as required by this chapter. Notwithstanding any other provision of this title, any animal that has bitten a human or domestic animal, or that is suspected of having rabies, may be seized by a police officer or animal warden.

(Ord. 4186, 1-19-88)

3-02-03. Duty to Report Animal Bites. The owner or custodian in charge of any animal shall immediately report to the Bismarck Police Department any incident in which the animal has bitten any person or domestic animal, regardless of circumstances.

(Ord. 6480, 08-31-21)

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 within the corporate limits of the City of Bismarck shall make application to the city or designee for a license. The application must be in writing stating the name, sex (altered or unaltered), color and breed or other distinguishing characteristics of the animal and the name, date of birth, phone number 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. 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 Public Health Department, Environmental Health Division 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 Public Health Department, Environmental Health Division 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 Public Health 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 Public Health Department, Environmental Health Division 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; Ord. 6156, 10-13-15; Ord. 6480, 08-31-21)

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 five days following notice, the dog or cat will be put up for adoption or disposed of. The owner may, within five 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 five days or which have not been redeemed or purchased as authorized by this chapter within five days of such impoundment or, if the owner is known within five 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; Ord. 6000, 09-10-13)

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, when such animal is off the owner/custodian's property, shall collect, remove and properly dispose of the dog's or cat's solid waste when eliminated.

(Ord. 4159, 06-23-87; Ord. 4231, 11-08-88; Ord. 6480, 08-31-21)

3-03-06. Public Nuisance.

1. Every animal or group of animals that commit any of the following acts is deemed to be a public nuisance:

a. At large on more than one occasion.

b. Chases any person or vehicle.

c. Disturbs the peace by barking, howling, fighting, or makes any unprovoked noise which is so loud that it disturbs a person of normal sensibilities

and which such person does in writing state that they will so testify if called upon to testify about such matter under oath.

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

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

f. Habitually 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.

g. Habitually damages public or private property by its activities or with its excrement.

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, may:

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 Animal Control Officer 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); Ord. 6089 – Amended, 12-23-14; Ord. 6480, 08-31-21)

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

3-03-08. Retention of Animals. No person shall, without the knowledge or consent of the owner/custodian, hold or retain possession of any animal of which he or she is not the owner/custodian for more than twenty-four (24) hours without

first reporting the possession of such animal to the Animal Control Officer, Bismarck Police Department, or the animal pound.

(Ord. 4162, 06-30-87; Ord. 4591, 03-29-94; Ord. 5709, 03-24-09; Ord. 6480, 08-31-21)

CHAPTER 3-04

BISMARCK ANIMAL ADVISORY BOARD

3-04-01. Bismarck Animal Advisory Board; Purpose. There is hereby created and established a body to be known as the Bismarck Animal Advisory Board. The purpose of the Animal Advisory Board is to advise the Bismarck Police Department on companion animal policies, promote collaboration between the City and private citizens, institutions, and agencies interested in or conducting activities relating to companion animals in the city, to identify proactive, creative approaches to engage and facilitate communication and education within the companion animal community and to foster and assist the development of companion animal programs in the community. The Animal Advisory Board may study, advise, and report on policy recommendations it deems effective to promote outcomes consistent with City goals and objectives as outlined by the Police Department and the City Commission. For the purposes of this chapter, "companion animal" shall mean a dog or cat.

(Ord. 6219, 08-23-16)

3-04-02. Membership - Terms - Filling Vacancies. The Bismarck Animal Advisory Board shall consist of seven members, who will serve without pay. The make-up of the Bismarck Animal Advisory Board shall consist of one member of the board of city commissioners, or his or her designee, and six citizens who shall reside in or own property in the City of Bismarck. Members shall be nominated by members of the Board of City Commissioners and subject to confirmation by a majority of the Board of City Commissioners. It is the intent of this chapter for the Animal Advisory Board to be made up of a diverse membership from an array of companion animal businesses and organizations. This may include, but is not limited to; Small Animal Veterinarian; Large Animal Veterinarian; Animal Shelter; Animal Rescue; Attorney; Zoo; Large Animal organization; and a member at-large. City employees, whose chief function is to handle animals and enforce City Ordinances on a daily basis may staff the Animal Advisory Board as non-voting, technical advisors at the discretion of their departments. Of the initial appointees, three shall serve for three year terms and four shall serve for two year terms. After expiration of each initial term, all terms shall run for three years. After the initial terms, no Board Member may serve on the Bismarck Animal Advisory Board more than an unexpired term plus two full terms.

Appointees to the Board should promote companion animal welfare and represent the citizens and animals of the City of Bismarck.
(Ord. 6219, 08-23-16)

3-04-03. Board President - Meetings - Records to be kept. The Bismarck Animal Advisory Board shall elect its President for a term of one year from among its members and shall hold regular meetings. The Bismarck Animal Advisory Board shall keep a record of its findings and determinations and all records shall be public records unless otherwise provided by North Dakota law. The Bismarck Animal Advisory Board may appoint such subcommittees from among the appointed members as may be necessary for its work.
(Ord. 6219, 08-23-16)

3-04-04. Powers and Duties of Board. The Bismarck Animal Advisory Board shall:

1. Report to the Bismarck Police Department regarding the activities of the Bismarck Animal Advisory Board.

2. Recommend to the Bismarck Police Department action and programs within the authority of the City in furtherance of the purpose of the Bismarck Animal Advisory Board as described in this Chapter.

3. Consult with and advise public officials and agencies and with private individuals and organizations to provide education regarding companion animals.

4. Assist by offering information and referral guidance and services as a forum for discussion.

(Ord. 6219, 08-23-16)

3-04-05. Bismarck Animal Advisory Board Advisory in Nature. The Bismarck Animal Advisory Board shall be advisory in nature and shall submit all reports and recommendations to the Bismarck Police Department.

(Ord. 6219, 08-23-16)

(Ord. 4162, 06-30-87; Ord. 4591, 03-29-94; Ord. 5709, 03-24-09; Ord. 6480, 08-31-21)

CHAPTER 3-05

PET SHOP OPERATORS

3-05-01. Prohibited Activities for Pet Shop Operators.

1. Import or cause to be imported into the city, or offer for sale or resale, a canine or feline less than 8 weeks old and unless the said animal has deciduous (baby) teeth visibly present.

2. Sell or offer for sale a canine, unless the canine has been inoculated against distemper, parvovirus, Adenovirus, Para influenza, and if indicated, has been treated for external and internal parasite, not less than 7 days before the canine entry into the city. The canine shall be accompanied by a health certificate signed by a licensed veterinarian, including records of the canine's medication and immunization.

3. Sell or offer for sale a feline, unless the cat has been inoculated against feline pan leukopenia (cat distemper), feline viral rhinotracheitis and calici virus infection and, if indicated, has been treated for external and internal parasites, not less than 7 days prior to the feline's entry into the city. The feline shall be accompanied by a health certificate signed by a licensed veterinarian, including records of the feline's medication and immunization.

4. Sell or deliver a canine or feline without providing to the purchaser a health certificate signed by a licensed veterinarian for said animal. The certificate shall include health record indicating the date and type of vaccinations which have been given to the animal.

(Ord. 6480, 08-31-21)

3-05-02. Certificate of Source. All pet shops shall be required to maintain a manifest listing the source of all animals as described above. Said manifest will be available upon request to animal control officers, law enforcement, code compliance officials or any other city employee charged with enforcing the provisions of this section and shall contain the following:

1. The name, address of person, firm or corporation from whom animal was obtained date thereof and United States Department of Agriculture (USDA) dealer license number if applicable.

2. Description of canine or feline including species, breed, color and distinctive markings, physical condition and health, age and USDA animal identification number if applicable.

3. Name and address of person, firm or corporation to whom canine or feline was sold or ownership was transferred and date thereof.

4. Disposition of canine or feline, if not sold or transferred, including euthanasia and method, mortality and cause, if known, escape, or other specific circumstance and date thereof.

5. For each canine or feline receiving medical care, the type of service rendered date and veterinarian's name.
(Ord. 6480, 08-31-21)

3-05-03. Structural Standards. The facilities for housing animals shall be structurally sound and shall be maintained in good repair to prevent injury to the animals. All buildings, premises and containers used to transport animals shall be maintained in a sanitary manner. Equipment shall be available for the proper storage or disposal of waste material to control vermin, insects and obnoxious odors. Pet shops shall take effective measures to prevent and control the infestation of animals and premises with external parasite and vermin.
(Ord. 6480, 08-31-21)

3-05-04. Enclosures.

1. Enclosures for all animals shall be suited to the species, to protect animals from injury and escape. Enclosures shall be constructed and maintained so as to enable the animals to remain clean and dry when appropriate for the species. All animals shall be kept in proper enclosures except when cleaning said enclosures.

2. Walls and floors of enclosures shall be constructed of nonabsorbent, nonporous materials impervious to moisture. If wire or grid flooring is used it must be made of galvanized, stainless steel, or plastic coated wire and be of adequate gauge to support the animal(s) without sagging and to prevent the animals' feet from passing through. Enclosures in current use shall be cleaned and disinfected daily or more if necessary to maintain sanitary conditions.

3. Enclosures shall be constructed as to provide adequate physical comfort to the animals. Each animal must be provided with sufficient space to turn about freely and easily stand, sit or lie in a comfortable, normal position. Animals housed in groups must be maintained in compatible groups.

(Ord. 6480, 08-31-21)

3-05-05. Housing Facilities Temperature.

1. Pet shops shall be sufficiently heated to protect animals from the cold and to provide for their health and comfort at all times. The temperature of the air surrounding animals shall be maintained, under normal conditions, at a minimum of 65° F and a maximum of 78° F, except for those animals which require higher temperatures. Animals shall be provided protection from the direct rays of the sun.

2. Housing for animals shall be adequately ventilated in such a manner as to minimize drafts, offensive odors and moisture condensation and to provide for the health and comfort of the animals at all times. Ventilation shall be deemed adequate only if mechanical ventilation, such as exhaust fans, exhaust vents or air condition is provided and operating properly.

(Ord. 6480, 08-31-21)

3-05-06. Lighting. Facilities housing animals shall have ample well distributed light by natural or artificial means, or both, providing a minimum of eight(8) hours in each twenty-four(24) hour, period except where contraindicated for health reasons. Enclosures shall be so placed as to protect animals from excessive illumination except those which require it.

(Ord. 6480, 08-31-21)

3-05-07. Animal Health.

1. Animals shall be provided with food that is palatable, wholesome and free of contamination and of sufficient quantity and nutrition to maintain animals in good health. Animals must be fed at least once a day, except as directed by a veterinarian or for certain species of animals. In the case of young animals, they should be fed at least two times per day, except when continuous self-feeders are provided. Feeding dishes shall be durable and sanitized daily. Self-feeders shall be cleaned and sanitized regularly to prevent molding and caking of food. If disposable receptacles are used, they must be discarded after each feeding. Food shall be stored in facilities which adequately protect against deterioration, molding, or contamination by vermin.

2. Potable water shall be provided at all times to each animal in accordance with its needs, except as directed by a veterinarian or for certain species of animals. Water containers shall provide and dispense adequate quantities of water for the particular species and must be placed in such a manner as to prevent spillage. Water containers shall be cleaned and sanitized at least once each day. Sipper tube water bottles, if used, must be kept clean and sanitized regularly, kept free of dirt, debris and algae, and must be cleaned and sanitized prior to an animal being placed in an enclosure.

3. All animals received for resale shall be housed, separate from other animals of their species on the premises for a minimum of 48 hours before being released to a purchaser. Each animal shall be observed by the licensee or his/her representative in order to recognize general

symptoms of injury, illness or disease. Any animal that exhibits symptoms of injury, illness or disease shall be isolated and treated as prescribed by a veterinarian. Any such animal shall be verified by a veterinarian to be healthy before such animal can be offered for sale.

4. Canines confined in cages shall be removed at least once daily for a period of time, adequate to the size and breed of the canine.

(Ord. 6480, 08-31-21)