

Bottineau Municipal Code Revised

Chapter Eleven

Animals

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## Chapter Eleven

### Animals

#### ARTICLE 1 – ANIMALS

##### 11.0101 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Animal – Any mammal, reptile, amphibian, fish, bird ( including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

1. Domestic Animals: Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

2. Farm Animals: Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chicken, turkeys), fowl (duck, geese), swine (including Vietnamese pot-bellied pigs), goats, and other animals associated with a farm, ranch, or stable.

3. Non-domestic Animals: Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, non-domestic animals shall include:

A. Any member of the large cat family (family felidae) including lions, tigers, cougars, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated house cats;

B. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;

C. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated pet;

D. Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;

E. Any poisonous, venomous, constricting, or inherently dangerous members of the reptile or amphibian families including rattlesnakes, boa constrictor, pit vipers, crocodiles and alligators; and

F. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

4. At large; Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

5. Cat: Both the male and female of the felidae species commonly accepted as domesticated household pets.

6. Dog: Both of male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

7. Owner: Any person or persons, firm, association or corporation owning, keeping, possessing, harboring, maintaining or having the care, custody, or control of an animal.

#### 11.0102 Dogs and Cats

1. Running at large prohibited. It shall be unlawful for the dog or cat of any person who owns, keeps, possesses harbors, maintains or has the care, custody or control of a dog or cat, to run at large. A person, who owns, keeps, possesses harbors, maintains or has the care, custody or control of a dog or cat which runs at large shall be guilty of an offense. Dogs and cats on a leash and accompanied by a responsible person shall be permitted in streets or on public land unless the City has posted an area with signs reading “Dogs or Cats Prohibited.”

2. Licensed required:

A. All dogs over the age of six months, kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by City personnel upon payment of the license fee as established by resolution of the City. The owner shall state, at the time of receiving a license his or her name and address and the name, breed, color and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated;

B. Upon registration City personnel shall issue to the owner a license certificate and/or a metallic tag for each dog licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a tag is lost or destroyed, a duplicate can be issued. Dog tags shall not be transferable from one dog to another

C. The licensing provisions of this division (2) shall not apply to dogs whose owners are non-residents temporarily within the City, nor shall this provision apply to “seeing eye” dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place;

3. Cats: Cats shall be included as controlled by this division insofar as running-at-large, pickup, licensing and proof of vaccination is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

4. Vaccination:

A. All dogs and cats harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for:

I. Rabies – with a live modified vaccine; and

II. Distemper.

B. A certificate of vaccination must be kept on which states the date of vaccination, owner’s name and address, the animal’s name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian’s signature. Upon demand made of the City of Bottineau, or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s)

shall have three days in which to present the certificate(s) to the City of Bottineau or police officer. Failure to do so shall be deemed a violation of this section.

#### 11.0103 Non-Domestic Animals

It shall be illegal for any person to own, keep, possess, maintain, have the care and custody of, harbor, or offer for sale, any non-domestic animal within the City. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of a licensed show or exhibition.

#### 11.0104 Farm Animals

It shall be illegal for any person to own, keep, possess, maintain, have the care and custody of or harbor farm animals within the City limits. An exception shall be made to this section for those farm animals brought into the City as part of a licensed or City sanctioned show or exhibit.

#### 11.0105 Kennels

It shall be unlawful for any person to maintain a kennel for breeding dogs or cats. A kennel for breeding dogs or cats shall be construed to mean any place where more than one female dog or cat is kept for breeding purposes.

#### 11.0106 Nuisances

1. Habitual barking: It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

2. Damage to property: It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

3. Cleaning up litter: The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the of others or on public property.

4. Health unit: It shall be unlawful for any person to keep or harbor an animal officially declared a public nuisance by the First District Health Unit. It shall also be unlawful for any person to keep or harbor an animal under circumstances or conditions officially declared a public nuisance by the First District Health Unit.

5. Running at large/multiple offenses: In addition to the penalties provided herein, if the same animal is the basis for three running at large offenses within a one year period of time resulting in conviction or pleas of guilty to running at large by the owner, the municipal judge may, upon making a finding that the same animal has been the basis for three offenses resulting in convictions or pleas of guilty of the offense of running at large within a one year time period, order the City of Bottineau to destroy the animal in a proper and humane manner and properly dispose of the remains thereof. If the municipal court orders destruction of the animal under this section, the owner shall immediately make the animal available to the City of Bottineau. The owner shall be liable to the City for the cost of maintaining and disposing of the animal. The owner of the animal shall have ten days from the date of the destruction order to appeal to the District Court.

6. Inoculated: Shall not have been inoculated against rabies if over six months of age or shall not have other current inoculations.

7. Collar: Shall not have a collar and license tag.

8. Injury to Person: Shall cause injury to any person.

9. Penalty: Any person found violating this section will be subject to the following fine: First violation is twenty-five dollars (\$25.00); Second violation is fifty dollars (\$50.00); Third violation is one-hundred fifty dollars (\$150.00); Fourth violation five hundred dollars (\$500.00).

#### 11.0107 Seizure of Animals

Any police officer or the City of Bottineau may enter upon private property and seize any animal provided that the following exist:

1. There is an identified complainant other than the police officer or the City Council making a contemporaneous complaint about the animal.

2.

A. The officer or City Council reasonably believes that the animal is subject to inhumane treatment.

B. The officer or City Council can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of the animal; or that the animal was at large at this address on a prior date.

3. The officer or City Council has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored.

4. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, or other authorized person to have that key shall not be considered unauthorized entry.

5. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

#### 11.0108 Dangerous Animals

1. Attack by an animal: It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

2. Destruction of dangerous animal: The City of Bottineau shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

3. Definitions: For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. Dangerous Animal. An animal which has:

I. Caused bodily injury or disfigurement to any person on public or private property;

II. Engaged unusually aggressive behavior, such as an attack on another animal;

III. Bitten one or more persons on two or more occasions; or

IV. Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bit, attack, or endangers the safety of humans or domestic animals.

B. Potentially Dangerous Animal. An animal which has:

I. Bitten a human or domestic animal on public or private property;

II. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

III. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

C. Recommended Enclosure. Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit on its own, or any house or structure in which windows open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

I. Have a minimum overall floor size of 32 square feet;

II. Sidewalls shall have a minimum height of five feet and be constructed of 11 gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 ¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

III. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches; and

IV. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

D. Unprovoked: The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

4. Designation as potentially dangerous animal. The City of Bottineau shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (3)(B). When an animal is declared potentially dangerous, the City of Bottineau shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

5. Evidence justifying designation. The City of Bottineau shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (3)(A).

6. Authority to order destruction. The City of Bottineau shall have the authority to designate any animal as a dangerous hereunder, and is authorized to order, as part of the disposition of the

case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

- A. The animal is dangerous as by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
- B. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animal.

7. Procedure. When the City of Bottineau has determined that an animal is dangerous they will proceed as follows: The owner will be notified in writing of the dates, times, places and parties bitten. The owner then has five days to appeal before the City Council. No person shall harbor an animal after it has been found dangerous and ordered to be destroyed. If the City Council does not order the animal to be destroyed, the City Council may, as an alternative order any of the following:

- A. The owner may provide proper enclosure for the dangerous animal as specified in (3)(C);
- B. Post the front and rear of the premises with clearly stated warding signs, including a warning symbol to warn children that there is a dangerous animal on the property;
- C. The animal must be licensed and up to date on rabies and distemper vaccinations; and
- D. The owner shall have fourteen days after receiving written notice to complete the above, or the City will file the complaint with the Municipal Court.

#### 11.0109 Notice to Owner—Redemption

Not later than the day after the impounding of any dog or cat, the owner shall be notified, or if the owner of the dog or cat is unknown, written notice shall be posted for ten days at the police headquarters in the City, describing the dog or cat and the place and time of taking. The owner of any dog or cat so impounded may reclaim such dog or cat upon the payment of the license fees, if unpaid, and the costs and charges incurred by the City for impounding and maintenance of the dog or cat. The impounding fee will be determined from time to time and kept on file with the City Auditor.

#### 11.0110 Disposition of Unclaimed Dogs or Cats

It shall be the duty of the pound master or other official designated by the City Council to keep all dogs and cats so impounded for a period of three days from the date of notice to the owner, or posting of notice as herein provided. If at the expiration of three days from the date of notice to the owner of the posting of notice as herein provided such dog or cat shall not have been redeemed, it may be destroyed.

#### 11.0111 License--Registry to be Kept by City Auditor--Tags

On receipt of the license application required by Section 11.0102 the City Auditor shall register the animal for which the same is paid, in a book kept for that purpose, which record shall state the name of the owner of the animal, and the name and description of the animal. The City Auditor shall also deliver to the owner of the animal a registry certification and a metal check upon which shall be stamped the number of the certificate, and the year of issue.

#### 11.0112 Tag to be Attached to Animal

Every owner or keeper of an animal of the dog or cat kind within the City, shall place and keep around the neck of the animal owned or kept by him, a collar on which shall be securely fixed the metallic tag or check mentioned in Section 11.0102.

11.0113 Dead Animals

It is unlawful for any owner or possessor of any animal which shall have died to suffer the dead animal to lie on any public ground, street, land, alley or any private lot or place within the City, nor shall any person throw or leave any such animal or decayed animal matter into any pool of water in the City.

11.0114 Cruelty to Animal

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

11-0115 Penalty

Offense. Violation of the provisions of this chapter shall constitute with a maximum penalty of one thousand dollars (\$1,000.00), thirty (30) day imprisonment, or both such fine and imprisonment.