

**An Ordinance Amending Ordinance # 65-1**

The City Council of the city of Ellendale, MN does ordain:

**Section 1: Definitions.**

As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

- A. **Animal.** "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:
1. **Domestic.** "Domestic Animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such 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. **Non-Domestic.** "Non-Domestic animals" shall mean 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, such animals shall include:
    - a. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
    - b. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingos, 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 house pet.
    - d. Any member or relative of the rodent family including skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

- e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
  - f. Any other animal which is not explicitly listed above but which can be reasonable defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.
3. **Farm.** “Farm animals” shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horse, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese potbellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.
- B. **Cat.** “Cat” shall be intended to mean both the male and female of felidae species commonly accepted as domesticated house pets.
- C. **Dog.** “Dog” shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.
- D. **Owner.** “Owner” means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal.
- E. **At Large.** “At Large” shall be intended to mean 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.
- F. **Release Permit.** “Release Permit” shall mean a permit issued by an animal control officer for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement of the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established from time to time by resolution of the city council, but not less than twenty-five (\$25.00) the first time an animal is impounded, fifty dollars (\$50.00) the second time it is impounded, and seventy-five (\$75.00) for the third and each subsequent time the same animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset that animal’s impoundment count to the beginning of the fee scale.

## Section 2: Dogs and Cats.

A. **Running at Large Prohibited.** It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to run at large. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading "Dogs or Cats Prohibited."

### B. Licensed Required.

1. 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 the Clerk upon payment of the license fee. The owner shall state, at the time application is made for the license and upon forms provided for such purpose, 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 which has not been vaccinated against distemper and rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog owner for affixing to the license application.
2. It shall be the duty of each owner of a dog subject to this Section to pay to the Clerk the license fee as imposed by the Council by resolution.
3. Upon payment of the license fee, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. 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 dog tag is lost or destroyed, a duplicate shall be issued by the Clerk-Treasurer. A charge of two dollars (\$2.00) shall be made for each duplicate tag. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.
4. The licensing provisions of the Subdivision shall not apply to dogs whose owners are non-residents temporarily within the City, or to dogs brought into the City for the

purpose of participating in any dog show, nor shall this provision apply to “service” dogs properly trained to assist persons with disabilities.

5. The funds received by the Clerk from all dog licenses and metallic tags fees shall first be used to defray any costs incidental to the enforcement of this Section; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

E. **Cats.** Cats shall be included as controlled by this sub-section insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this Section shall also apply to cats unless otherwise provided.

F. **Vaccination.**

1. All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for:
  - a. Rabies – with a live modified vaccine; and
  - b. Distemper
2. A certificate of vaccination must be kept on which is stated 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 by the Clerk, a law enforcement officer or an animal control 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 seven days in which to present the certificate(s) to the Clerk, law enforcement officer or animal control officer. Failure to do so shall be deemed in violation of this Section.

**Section 3: Non-Domestic and Farm Animals.**

Except as provided in this section or Section 4, it shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic or farm animal within the City limits. 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 an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

**Section 4: Grandfather Provision for Farm Animals.**

A person who possesses or keeps a farm animal on a premises in the city of Ellendale at the time of the adoption of this ordinance may continue to keep such animal on said premises as long as, from the time of the adoption of this ordinance, the kind of farm animal kept on the premises does not change; location on the premises where the farm animal is kept does not change; the number of farm

animals on the premises is not increased; and the possessing of the farm animal on said premises is not discontinued for a period of more than one (1) year.

### **Section 5: Impounding.**

- A. **Running at Large.** Any unlicensed animal running at large is hereby declared a public nuisance. Any law enforcement officer or animal control officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the City office that if the dog or other animal is not claimed within the time specified in Section 5(C), it will be sold or otherwise disposed of. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.
- B. **Biting Animals.** Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the City Pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of such need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.
- C. **Reclaiming.** All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under Section 11 in which case it shall be kept for seven regular business days or the times specified in Section 11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this Section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the city council:
1. Payment of twenty-five dollars (\$25.00) release fee and receipt of a release permit from a law enforcement or an animal control officer;

2. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound; and
3. If a dog is unlicensed, payment of a regular license fee and valid certificate of vaccination for rabies and distemper shots is required.

The twenty-five dollar (\$25.00) release fee in 1 is in addition to the release permit fee specified by section 1(F).

D. **Unclaimed Animals.** At the expiration of the times established in Section 5(C), if the animal has not been reclaimed in accordance with the provisions of this Section, the officer appointed to enforce this Section may let any person claim the animal by complying with all provisions in this Section, or the officer may sell the animal by complying with all provisions in this Section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this Section shall be payable to the Clerk.

#### **Section 6: Kennels.**

- A. **Definition of Kennel.** The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel", except that a fresh litter of pups may be kept for a period of three months before such keeping shall be deemed a "kennel".
- B. **Kennel as a Nuisance.** Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City.

#### **Section 7: Nuisances.**

- A. **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 three minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises.
- B. **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. Any animal covered by this subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

- C. **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 such feces in a sanitary manner whether on their own property, on the property of others or on public property. Any person violating this section shall be punishable by a fine of ten dollars (\$10.00) or five (5) hours of public lands fecal cleanup. Any person who is found guilty of subsequent violations of this section shall be punished by a fine of at least twenty-five (\$25.00) but not more than fifty dollars (\$50.00).
- D. **Other.** Any animals kept contrary to this Section are subject to impoundment as provided in Section 5.

### **Section 8: Seizure of Animals.**

Any law enforcement officer or animal control officer may enter upon private property and seize any animal provided that the following exists:

- a. There is an identified complainant other than the police officer or animal control officer making a contemporaneous complaint about the animal;
- b. The law enforcement or animal control officer reasonable believes that the animal meets either the barking dog criteria set out in Section 7(A); the criteria for cruelty set out in Section 13; or the criteria for an at large animal set out in Section 1(E);
- c. The law enforcement or animal control officer 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;
- d. The law enforcement or animal control officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
- e. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person who has such key shall not be considered unauthorized entry; and
- f. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

### **Section 9: Animals Presenting a Danger to Health and Safety of City.**

If, in the reasonable belief of any person, law enforcement officer, or animal control officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the law

enforcement or animal officer may destroy the animal in a proper and humane manner. Otherwise the person, law enforcement officer or animal control officer may apprehend the animal and deliver it to the pound for confinement under Section 5. If the animal is destroyed, a charge of seventy-five dollars (\$75.00) to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with Section 5(C).

#### **Section 10: Diseased Animals.**

- A. **Running at Large.** No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so and to be a danger to the health and safety of the City, even though the animals be property licensed under this Section.
  
- B. **Confinement.** Any animal reasonable suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, law enforcement officer or animal control officer. The law enforcement officer or animal control officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the law enforcement officer or animal control officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be liable for at least seventy-five dollars (\$75.00) to cover the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
  
- C. **Release.** If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free charge.

#### **Section 11: Dangerous Animals.**

- A. **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.
  
- B. **Destruction of Dangerous Animals.** An animal control officer or law enforcement officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this ordinance.
  
- C. **Definitions.**

1. A dangerous animal is an animal which has:
  - a. Without provocation, inflicted substantial bodily harm on a human being on public or private property;
  - b. Killed a domestic animal without provocation while off of the owner's property; or
  - c. Been found to be potentially dangerous and after the owner has noticed that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domesticated animals.
  
2. A potentially dangerous animal is an animal that:
  - a. When unprovoked, inflicts bites on a human or domestic animal on public or private property;
  - b. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dogs owner's property, in an apparent attitude of attack; or
  - c. Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
  
3. **Proper Enclosure.** Proper enclosure means 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 of its own volition, or any house or structure in which windows are 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:
  - a. Have a minimum overall floor size of thirty-two (32) square feet.
  - b. Sidewalls shall have a minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Opening s in the wire shall not exceed the two (2) inches, support posts shall be one-and-one-quarter-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.



- a. If no appeal is filed, the orders issued will stand and the animal control officer or law enforcement officer may order the animal destroyed.
  - b. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the city council, which shall set a date for hearing not more than three (3) weeks after demand for the hearing. The records of law enforcement, animal control and the city clerk's office shall be admissible for consideration without further foundation. After considering all evidence pertaining to the temperament of the animal, the city council shall make an order as it deems proper. The city council may order that the law enforcement or animal control officer take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the law enforcement or animal control officer.
  - c. No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.
- H. **Stopping an Attack.** If any law enforcement officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.
- I. **Notification of New Address.** The owner of an animal which has been identified as dangerous or potentially dangerous must notify an animal control officer in writing if the animal is to be relocated from it current address or given or sold to another person. The notification must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

## Section 12: Dangerous Animal Requirements.

- A. **Requirements.** If the city council does not order the destruction of an animal that has been declared dangerous, the city council may, as an alternative, order any or all of the following:
1. That the owner provide and maintain proper enclosure for the dangerous animal as specified in Section 11(C)(3);
  2. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statue 347.51;

3. Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00);
  4. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration.
  5. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51;
  6. All animals deemed dangerous by a law enforcement or animal control officer shall be registered with the County in which this city is located within fourteen (14) days after the date the animal was so deemed and provided satisfactory proof thereof to the animal control officer.
  7. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.
  8. If the animal is a dog, all other requirements contained in the Minn. Stat. 347.52 must be met.
- B. **Seizure.** Animal control or law enforcement shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filling it with the district court.
- C. **Reclaiming Animals.** A dangerous animal seized under Section 12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to animal control that each of the requirements under Section 12(A), is fulfilled. A dog not reclaimed under this section within fourteen (14) days may be disposed of in a proper and humane manner (as provided in Minn. Stat. 35.71 subd. 3 for a dog) and the owner is liable to animal control for costs incurred in confining the animal.

D. **Subsequent Offenses.** If an owner of an animal has subsequently violated the provisions under Section 11 with the same animal, the animal must be seized by animal control or law enforcement. The owner may request a hearing as defined in Section 11(G)(1b). If the owner is found to have violated the provisions for which the animal was seized, the animal control officer shall order the animal destroyed in a proper and humane manner (as provided in Minn. Stat. 35.71 subd 3 for a dog) and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Section 12(C). If the animal is not yet reclaimed by the owner within fourteen (14) days, the animal may be disposed of in a proper and humane manner (as provided in Minn. Stat. 35.71 subd. 3 for dogs) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

### **Section 13: Basic Care.**

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this Section.

### **Section 14: Breeding Moratorium.**

Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

### **Section 15: Enforcing Officer.**

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this Section, he or she may from time to time, with the consent of the Council, designate assistants.

### **Section 16: Pound.**

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary for destruction.

### **Section 17: Interference with Officers.**

No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs, cats or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Chapter, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Chapter.

**Section 18: Violations and Penalties**

A. **Separate Offenses.** Each day a violation of this Chapter is committed or permitted to continue shall constitute a separate offence and shall be punishable as such under this Section.

B. **Misdemeanor.** Unless otherwise provided, violation of this Chapter shall constitute a misdemeanor.

C. **Petty Misdemeanor.** Violations of Sections 2, 13 and 14 are petty misdemeanors.

**Section 19: Repealer.** Ordinances 3, 30, 48, 65-1 and 2002-01 are hereby repealed.

Passed by the City Council of Ellendale, Minnesota this 28<sup>th</sup> day of August, 2003