

ORDINANCE NO. 378

AN ORDINANCE AMENDING AND RE-ENACTING THE PROVISIONS OF CHAPTER 5 OF THE REVISED ORDINANCES OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, OF 1972, AND ALL SUBSEQUENT REVISIONS THERETO, SAID REVISED ORDINANCE RELATING TO ANIMALS AND FOWL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

- I. That Chapter 5 of the Revised Ordinances of 1972 and all subsequent amendments thereto, including Ordinances No. 123, 127, 200, and 233 of the City of Beulah, Mercer County, North Dakota, and hereby amended and re-enacted as follows:

ARTICLE 1 - General Regulations

- 5.0101 Definitions
- 5.0102 Overworking, Mistreating, or Abandoning Animals
- 5.0103 Cruelty in Transportation
- 5.0104 Unattended Dog or Cat in Motor Vehicle
- 5.0105 Poisoning Animals
- 5.0106 Diseased Animals
- 5.0107 Housing
- 5.0108 Keeping of Certain Animals Prohibited
- 5.0109 Kennels and Other Breeding Establishments
- 5.0110 Strays

ARTICLE 2 - Dogs and Cats

- 5.0201 License Required
- 5.0202 Licensing Procedure and Terms
- 5.0203 License Fee
- 5.0204 License: When Due and Payable
- 5.0205 Dogs Running at Large Prohibited
- 5.0206 Impounding
- 5.0207 Rabies Shots
- 5.0208 Return to Owner if Known
- 5.0209 Noisy Dog Prohibited
- 5.0210 Nuisance - When
- 5.0211 Dangerous Animals
- 5.0212 Keeping of Female Dogs in Season Prohibited, Exception.
- 5.0213 Limitation on Number of Dogs.
- 5.0214 Dog and Cat Feces Declared Nuisance.
- 5.0215 Setting of Dogs at Large Prohibited
- 5.0216 Breaking Into Pound - Hindering Officer

ARTICLE 3 - Rabies Control

- 5.0301 Quarantine of Biting Animal.
- 5.0302 Duty of Owner to Surrender Animal; Redemption.
- 5.0303 Disposition of Dead Rabid Animal.
- 5.0304 Destruction, Isolation of Bitten Animals.
- 5.0305 Destruction, Removal of Rabid Animals.
- 5.0306 Surrender of Carcass.
- 5.0307 Report of Bite Cases.
- 5.0308 Failure to Obey Health Officer.
- 5.0309 Report of Suspected Cases.

ARTICLE 4 - Penalty

- 5.0401 Penalty for Violation of Chapter.

ARTICLE 1 – General Regulations

5.0101 Definitions

In this Chapter, unless the context or subject matter otherwise requires:

1. “Animal” includes every living animal except the human race.
2. “Cruelty” or “torture” includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.

5.0102 Overworking, mistreating, or abandoning animals

1. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injury, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.
2. No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter.
3. No person may keep any animal in any enclosure without exercise and wholesome change of air.
4. No person may abandon any animal.
5. No person may allow any maimed, sick, infirm, or disabled animal of which the person is the owner, or which the person has custody, to lie in any street, road, or other public place for more than 3 hours after notice.
6. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or act tending to produce such cruelty.

Any person who shall violate this article shall be deemed guilty of an offense for which the maximum penalty shall be a fine of one thousand dollars (\$1,000.00), thirty (30) day imprisonment, or both such fine and imprisonment.

5.0103 Cruelty in Transportation

No person may carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages, or other proper carrying container, nor may he carry an animal, or cause an animal to be carried, in any other cruel manner.

5.0104 Unattended Dog or Cat in Motor Vehicle

No person may leave a cat or a dog unattended in a stationary or parked motor vehicle in a manner that endangers the animals health or safety. Any person who violates this section is guilty of an infraction.

5.0105 Poisoning Animals

No person may unjustifiably administer or expose any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which maybe eaten by any domestic animal.

5.0106 Diseased Animals

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the chief of police or the local health officer.

It is hereby made the duty of the local health officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state department of health is empowered to act.

5.0107 Housing

No person shall cause or allow any stable or place where any animal is or may be kept to be unclean, or unwholesome. Any area in which animals are kept must be maintained in such a manner as to prevent offensive odors and/or attraction of insects.

5.0108 Keeping of Certain Animals Prohibited

It shall be unlawful to keep any sheep, horses, cattle, swine, goats, rabbits, chickens or other poultry, except for small house birds, dogs and cats, which may be kept pursuant to the regulations set out herein, within the city limits of the City of Beulah except as provided in areas zoned Agricultural (A) pursuant to the zoning ordinances of the City of Beulah. The areas zoned Agricultural (A) pursuant to the zoning ordinances of the City of Beulah, shall have the following limitations:

1. There shall be no more than one (1) adult horse, sheep or cow and one (1) foal, lamb or calf per two (2) acres.
2. No swine shall be allowed whatsoever.
3. There shall be no feedlots allowed and the feedlots shall be defined as fenced-off or closed in areas where animals are fed rather than allowed to graze.

Murray Addition/Country Club Estates as well as the Beulah High School FFA projects are excluded from the above described animal limitations. Murray Addition/Country Club Estates shall be governed by the Restrictive Covenants filed and recorded at the Mercer County Recorder's Office as approved by the Beulah City Council. The Beulah High School FFA project, as administered by the Beulah High School Administration and Beulah High School FFA organization shall be excluded from the above requirements to the extent that the Beulah High School FFA projects are conducted in accordance with the guidelines as may be established by the Beulah City Council.

5.0109 Kennels and Other Breeding Establishments

No person or corporation shall be permitted to maintain or keep kennels or other establishments for the breeding for sale of dogs and cats within the city limits of the City of Beulah, provided however, that the keeping of dogs and cats as pets shall be permitted as provided in this Chapter.

5.0110 Strays

It shall be unlawful to permit any cattle, horses, sheep, swine, goats or poultry to run at large in the City; and any such animal running at large in any public place in the City shall be impounded. It shall further be unlawful to picket or tie any such animal in any of the streets of the City for the purpose of grazing or feeding.

ARTICLE 2 – Dogs and Cats

5.0201 License Required

No dog or cat shall be permitted to be or remain in the City without being licensed as herein after provided if over six months of age. It shall be the duty of the owner or keeper of any dog or cat kept within the City to have the dog or cat inoculated against rabies and proof thereof is shown to the person issuing the license.

5.0202 Licensing Procedure and Terms

All dogs and cats shall be registered as to sex, breed, name and address of owner and name of said dog or cat. Licenses shall be issued by the chief of police on an annual basis as hereinafter more fully provided. The person paying the license fee shall receive a receipt therefore and a metal tag or badge with which to mark the animal. It shall be the duty of the owner or keeper to cause such license tag or badge to be securely attached around the animal's neck and kept there at all times during the license period.

5.0203 License Fee

Any person keeping, owning, or harboring any dog or cat in the City of Beulah shall pay annually to the city auditor of the City, a license fee shall be seven dollars (\$7.00) for each male animal and for each spayed female animal; and ten dollars (\$10.00) for each female dog or cat not spayed. The owner of any spayed female animal shall present to the city auditor a certificate executed by a licensed veterinarian to the effect that such animal has been spayed, or such other evidence as the auditor shall require.

5.0204 License: When Due and Payable

The annual license fee herein provided shall become due and payable on January 1st of each year and shall license an animal for the ensuing year; all animal licenses shall expire on December 31st of each year. If the annual license fee is not paid before the first day of February a penalty of five dollars (\$5.00) shall be added to the license or renewal fee. In case of failure of any owner or keeper of a dog and/or cat to pay such license fee upon any such animals, such animals shall be surrendered by the owner or keeper thereof for the purpose of being disposed of, as hereinafter provided, upon the demand of the city auditor or any police officer of the city.

Any animal required to be licensed and not wearing upon his collar the license tag herein provided for, found within the city after the 1st day of January in any year, shall be taken by the police officer of the city or any other person authorized by the city council of the City of Beulah to act. It shall be the duty of the police officer or any other person authorized by the city council of the

City of Beulah to hold said animal in the city pound for a period of three (3) days. If during such period of three (3) days, the owner shall claim the same, and shall pay the city auditor the license fee and penalty fee, plus the costs of taking and caring for the animal while in custody, said animal shall be returned to him. If not so redeemed within the three (3) days, the police officer or any other person authorized by the city council of the City of Beulah to so act, shall humanely destroy said animal. If the owner can reasonably be identified, the city official impounding the animal shall immediately notify the owner upon impoundment of the animal. Said notification may be by telephone or mail.

5.0205 Dogs Running Unleashed and at Large Prohibited

It shall be unlawful and a violation of this chapter for any dog to run unleashed and at large at any time, upon any public grounds, streets, avenues, alleys, parks, or school grounds or upon private premises of any person other than such owner or keeper of such dog, and such running at large is hereby declared to be a nuisance. While off owners premises, said dog must be controlled by a capable individual and restrained by a leash of adequate size and length. While upon the premises of its owner or keeper, said dog must be restrained in an appropriate manner so as to keep said dog from leaving its owners or keepers property, such as leashed and attended by the owner or keeper, restrained by rope, chain or cord attached to the dog's collar, or maintained in a kennel or behind an enclosed fenced-in area. The owner or keeper of such dog shall be subject to the penalty hereinafter provided for violation of this chapter, and for such purpose the head of the household of the premises on which such dog is kept shall be considered to be the owner.

The penalty for a violation of this article in the case of a dog seized by the city police officer or by any other person authorized by the City Council to act and impound such animal, shall be determined as provided below in Section 5.0206. Otherwise, any person who violates this section shall be guilty of an infraction for which the maximum penalty is a fine of Five Hundred Dollars (\$500.00).

5.0206 Impounding

Unrestrained dogs or cats may be taken by the City police officer or any other person authorized by the City Council to act and impounded in an animal shelter or the City pound and there confined in a humane manner. Impounded animals shall be kept for not less than three (3) days unless reclaimed by their owners. If by a permit tag or other means the owner can be identified, the officer shall immediately upon impoundment notify the owner by telephone or mail of the impoundment of the animal. Animals not claimed by their owners within three (3) days after such notification or within three (3) days after impoundment if no such owner can be identified, the animal may be adopted or humanely destroyed. Animals impounded pursuant to this section, may be claimed by their owners, upon payment of the owner of the following costs and penalties:

1. For the first violation, within one (1) year, the owner shall pay a fine in the amount of Twenty-Five Dollars (\$25.00), plus Ten Dollars (\$10.00) per day kennel fee.
2. For the second violation, within one (1) year, the owner shall pay a fine in the amount of Fifty Dollars (\$50.00), plus Ten Dollars (\$10.00) per day kennel fee.

3. For the third violation, within one (1) year, the owner shall pay a fine in the amount of Seventy-Five Dollars (\$75.00), plus Ten Dollars (\$10.00) per day kennel fee.
4. For the fourth violation, within one (1) year, the owner shall pay a fine in the amount of One Hundred Dollars (\$100.00), plus Ten Dollars (\$10.00) per day kennel fee.
5. For the fifth violation, within one (1) year, or for any additional violation, within one (1) year, the owner shall be prosecuted for a general violation of this ordinance and shall be subject to a maximum fine of Five Hundred Dollars (\$500.00) per occurrence.

The impounded animal must be currently licensed prior to release to owner or keeper if said animal is to be kept within the city limits.

For the purposes of this ordinance, one (1) year shall be defined as 365 days prior to a violation, exclusive of the day in which the violation occurs.

5.0207 Rabies Shots

The owner or keeper of any dog or cat shall have such pet given rabies shot by a licensed veterinarian at such times as recommended by the veterinarian. Such owner or keeper shall present a certificate or statement from such veterinarian showing that all rabies shots required have been given when he makes application for a pet license, and no license shall be issued until such proof of rabies shot is presented. Said shots must be kept current and proof provided of same.

5.0208 Return to Owner if Known

Notwithstanding the provisions of Section 5.0206, if a dog or cat is found at large and its owner can be identified and located, such animal need not be impounded but may, instead, be taken to the owner. In such case the policeman or other officer may proceed against the owner or keeper for violation of this article.

5.0209 Noisy Dog Prohibited

It shall be unlawful to keep or harbor within the City any dog that disturbs the peace by habitually howling, barking, whining, or making other disagreeable noise. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

5.0210 Nuisance – When

Any licensed or unlicensed dog running unleashed and at large, or any dog molesting passers by, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance. Any dog which shall within the City of Beulah destroy any property, which is not the property of the owner or keeper, or which trespasses upon the property of someone other than the owner or keeper, and by any yelping, barking, or howling disturbs the peace, is hereby declared to be a public nuisance. The owner or keeper of such dog shall be guilty of an infraction.

5.0211 Dangerous Animals

A. Definitions.

1. "Dangerous animal" as the term is used in this section means:
 - a. Any animal having a propensity, tendency, or disposition to attack, bite, cause injury to or to otherwise endanger the safety of or menace human beings or domestic animals; or
 - b. Any animal which attacks, bites, or injures a human being or another domestic animal one or more times without provocation; or
 - c. Any unmuzzled animal which, when unprovoked, in a malicious, vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any place where such person may lawfully be, public or private; or
 - d. Any animal owned or harbored primarily or in part for purposes of fighting or attacking or any animal trained for fighting or attacking; or
 - e. Any animal which has been determined to be dangerous by the city commission or municipal court pursuant to any state statute or the ordinance codified in this section; or
 - f. Any animal which has been deemed dangerous or vicious by any government agency or entity.
2. Notwithstanding the foregoing, no animal may be found or declared dangerous if any injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premise occupied by the owner or keeper of the animal, or was teasing, abusing, or assaulting the animal or was committing or attempting to commit a crime.
3. No animal may be found or declared dangerous if any injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was taunting, abusing or assaulting the animal. No animal may be declared dangerous if the animal was protecting or defending a human being within the immediate vicinity of the animal from an illegal or nonconsensual attack or assault. No animal may be deemed dangerous if the animal was protecting or defending its young offspring.

B. Prohibition and Control of Dangerous Animals.

Except as permitted hereinafter it shall be unlawful for any person to own, keep, or harbor a dangerous animal within the city limits and no person shall own or harbor any animal for the purpose of attacking, fighting, or training, tormenting, badgering, baiting, or use any animal for the purpose of causing or encouraging said animal to engage in unprovoked attacks upon human beings or domestic animals except as hereinafter provided.

1. The police department is empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this section, and the chief of police or his designated agent is empowered to seize and impound any dangerous animal whose owner or keeper fails to comply with the provisions hereof.

2. Upon such attack or assault, the police department is empowered to confiscate and destroy such dangerous animal if the conduct of such dangerous animal or its owner or keeper constitutes a violation of the provisions of this article, punishable by the confiscation and destruction of the animal. However, notwithstanding the foregoing, no animal shall be destroyed within five days of being impounded, exclusive of Sundays and holidays.
3. If the owner or keeper of an animal impounded for an alleged violation of this section believes that there has not been a violation of this section, the owner or keeper may petition the municipal court that the impounded animal not be destroyed. The impounded animal shall not be destroyed pending resolution of such owner's or keeper's petition, if the petition shall have been filed within five days of impoundment of such animal.
4. In the event that the police department has a reasonable and articulable suspicion to believe that an animal is dangerous, the chief of police or his designee, shall be empowered to issue a citation in order to appear before the municipal court for the purposes of determining whether or not the animal in question shall be declared dangerous. The chief of police shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the animal that a hearing will be held, at which time he or she may have the opportunity to present evidence why the animal shall not be declared dangerous.
5. In the event that the police department has probable cause to believe that the animal in question is dangerous and/or may pose a threat of serious harm to human beings or other domestic animals, the police department may seize and impound the animal pending the aforesaid hearing. The owner or keeper of the animal shall be liable to the city for the costs and expenses of impounding such animal.
6. It is unlawful for the owner, keeper, or harbinger of a dangerous animal to fail to comply with the requirements and conditions set forth in this section. Any animal found to be the subject of the violation of this section shall be subject to immediate seizure and the impoundment as hereinbefore provided. In addition, failure to comply shall be an offense punishable with a fine as hereinafter provided.
7. In addition to those persons specified herein, any person may file a petition with the police department to determine, declare, or find an animal dangerous as defined herein.

C. Exemptions.

The provision of this section shall not apply to K-9 or other dogs owned by any police department or any law enforcement agency or officer which are used in the performance of police work.

D. Violations

1. Any person violating or permitting the violation of any provision of this section shall, upon conviction in municipal court, be found guilty of an infraction and fined a sum of not more than Five Hundred Dollars (\$500.00). In addition to the foregoing penalty, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.
2. If any animal shall previously have been declared dangerous pursuant to any of the provisions above, and after having been ordered removed from city limits; if such animal shall at any time be brought back into the city limits in violation of court order or the provisions of this section, such animal shall immediately be taken by the police department and humanely destroyed. A separate penalty including a fine shall be assessed as indicated in the paragraph above against the violator.
3. At any time, if a dangerous animal cannot be taken up and caught by a police officer without exposing such officer to danger of personal injury from such animal, or without exposing other persons to danger of personal injury from such animal, it shall be lawful for the animal control or police officer to forthwith destroy such animal.
4. If any person is found to be in violation of this section three times, said person may be prevented from owning animals within the city limits for a reasonable amount of time as determined by a municipal judge.

5.0212 Keeping of Female Dogs in Season Prohibited, Exception.

It shall be unlawful for any person to keep any female dog within the City of Beulah when in season unless such female dog is kept upon the premises of the owner, either tethered, kenneled or kept within a building or fence on said premises.

5.0213 Limitation on Number of Dogs.

No more than two (2) dogs shall be kept at any personal place of residence or dwelling house (apartment, single-family home, mobile home, or other type of residence or dwelling house), nor shall any one individual or his immediate family own more than two (2) dogs located within the city limits of the City of Beulah. However, should a female dog deliver puppies, those puppies may be kept, along with the mother and one (1) other dog, in said residence or dwelling house for a period of not more than six (6) months after the birth of the puppies. At the expiration of six (6) months after the birth of any puppies being kept in a residence or dwelling house, the limits as set out herein, on the number of dogs shall be two (2) dogs as otherwise provided herein.

5.0214 Dog and Cat Feces Declared Nuisance.

It is hereby declared a nuisance and a violation of this ordinance for the owner or keeper of a dog or cat to allow dog or cat feces to be deposited on the private property of another or on public property if such feces is deposited by a dog or cat owned or kept by the person. The owner or keeper

of said dog or cat shall remove and sanitarly dispose of such deposited dog and cat feces immediately.

5.0215 Setting of Dogs at Large Prohibited.

It shall be unlawful for any person to open any door or gate of any private premises for the purpose of setting any dog or dogs at large, or otherwise enticing or enabling any dog to leave any private premises, within which the same may be, for the purpose of setting such dog at large.

5.0216 Breaking into Pound - Hindering Officer.

It shall be unlawful for any unauthorized person to break into the city pound or any other enclosure in which the police department has impounded any animal or to attempt to do so, or to take or let out any animal therefrom, or to take or attempt to take from any police officer any animal taken up by him in compliance with this ordinance or in any manner to interfere with or hinder such police officer in the discharge of his duties under this ordinance.

ARTICLE 3 - Rabies Control

5.0301 Quarantine of Biting Animal.

Any animal which bites or scratches a person shall be immediately reported to the city health officer and shall thereupon be securely quarantined at the direction of the city health officer, for a period of ten (10) days, and shall not be released from such quarantine except by written permission of the city health officer or under his direction. At the discretion of the city health officer, such quarantine may be on the premises of the owner, at the shelter designated as the city pound, or at the owner's option and expense, in a veterinary hospital of his choice. In the case of stray animals, or in the cases of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city pound. In the alternative, the animal may be humanely euthanized at the discretion of the animal's owner or at the discretion of the chief of police if the owner of the animal cannot be determined and the animal's brain shall be sent in to the public health lab for rabies testing at the expense of the owner or the City of Beulah if ownership cannot be determined. At the discretion of the city council another agent of the city other than the city health officer, such as the mayor or chief of police, may be appointed to discharge the duties of the city health officer with respect to rabies control.

5.0302 Duty of Owner to Surrender Animal; Redemption.

The owner, upon demand by the city health officer, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner, in accordance with fees set from time to time by the city council. If said animal is adjudged to be free of rabies, it may be reclaimed by the owner at the end of the quarantine period upon payment of all expenses incurred by the city as a result of such quarantine and upon providing proof of licensure, unless it shall be ordered destroyed pursuant to Section 5.0211 of this chapter.

5.0303 Disposition of Dead Rabid Animal.

When rabies has been diagnosed in an animal under quarantine or rabies suspected by a licensed veterinarian, and the animal dies while under such observation, the city health officer shall immediately send the head of such animal to the state health department for pathological examination and shall notify the property public health officer of the reports of human contacts and diagnosis.

5.0304 Destruction, Isolation of Bitten Animals.

Animals bitten by a known rabid animal shall be immediately destroyed, or if the owner is unwilling to destroy the exposed animal, strict isolation of the animal in a kennel, designated by the city health officer, for six (6) months shall be enforced. If the animal has been previously vaccinated, within time limits established by the Public Health Service based on the kind of vaccination used, re-vaccination and restraint (leashing and confinement) for thirty (30) days shall be carried out.

5.0305 Destruction, Removal of Rabid Animals.

No person shall kill, or caused to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove such animal from the city limits without written permission from the city health officer.

5.0306 Surrender of Carcass.

The carcass of any dead animal exposed to rabies or which has bitten a person or another animal shall upon demand be surrendered to the city health officer.

5.0307 Report of Bite Cases.

It shall be the duty of every physician, or other medical practitioner, to report to the city health officer, the names and addresses of persons treated for bites, inflicted by animals, together with such other information as will be helpful in rabies control.

5.0308 Failure to Obey Health Officer.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefore by the city health officer.

5.0309 Report of Suspected Cases.

It shall be the duty of every licensed veterinarian to report to the city health officer any animal considered by him to be a rabies suspect.

ARTICLE 4 - Penalty

5.0401 Penalty for Violation of Chapter.


Any person who shall violate any provisions of this ordinance for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of five hundred dollars (\$500.00). The owner of any animal impounded pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal shall be released to the owner.

Further, the municipal judge of the City of Beulah may, at his sole discretion, order any animal kept within the city limits of the City of Beulah, be removed from the jurisdictional limits of the City of Beulah and may also restrict any person residing within the jurisdictional limits of the City of Beulah from owning an animal for a specified period of time for violating any provision of this ordinance, in addition to any other specific penalty otherwise provided herein.

- II All Ordinances and parts of Ordinances in conflict herewith are hereby repealed so far as the conflicting portions thereof are concerned.
- III. Should any section, paragraph, sentence, clause, or phrase of this chapter be declared unconstitutional or invalid for any reason, the remainder of said chapter shall not be affected thereby.
- IV This Ordinance shall be in full force and effect from and after its final passage and approval, and publication of the title and penalty clause in the official newspaper of the City of Beulah, Mercer County, North Dakota.


DARRELL BJERKE, Mayor

ATTEST:


LINDA A. WIEDRICH
City Auditor

First Reading: September 18, 2006

Second Reading: November 6, 2006

Publication Date: November 23, 2006

Effective Date: November 23, 2006

ORDINANCE NO. 378

AN ORDINANCE AMENDING AND RE-ENACTING THE PROVISIONS OF CHAPTER 5 OF THE REVISED ORDINANCES OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, OF 1972, AND ALL SUBSEQUENT REVISIONS THERETO, SAID REVISED ORDINANCE RELATING TO ANIMALS AND FOWL.

ARTICLE 1 – General Regulations

5.0102 Overworking, mistreating, or abandoning animals

Any person who shall violate this article shall be deemed guilty of an offense for which the maximum penalty shall be a fine of one thousand dollars (\$1,000.00), thirty (30) day imprisonment, or both such fine and imprisonment.

5.0104 Unattended Dog or Cat in Motor Vehicle

Any person who violates this section is guilty of an infraction.

ARTICLE 2 – Dogs and Cats

5.0204 License: When Due and Payable

If the annual license fee is not paid before the first day of February a penalty of five dollars (\$5.00) shall be added to the license or renewal fee. In case of failure of any owner or keeper of a dog and/or cat to pay such license fee upon any such animals, such animals shall be surrendered by the owner or keeper thereof for the purpose of being disposed of, as hereinafter provided, upon the demand of the city auditor or any police officer of the city.

Any animal required to be licensed and not wearing upon his collar the license tag herein provided for, found within the city after the 1st day of January in any year, shall be taken by the police officer of the city or any other person authorized by the city council of the City of Beulah to act. It shall be the duty of the police officer or any other person authorized by the city council of the City of Beulah to hold said animal in the city pound for a period of three (3) days. If during such period of three (3) days, the owner shall claim the same, and shall pay the city auditor the license fee and penalty fee, plus the costs of taking and caring for the animal while in custody, said animal shall be returned to him. If not so redeemed within the three (3) days, the police officer or any other person authorized by the city council of the City of Beulah to so act, shall humanely destroy said animal. If the owner can reasonably be identified, the city official impounding the animal shall immediately notify the owner upon impoundment of the animal. Said notification may be by telephone or mail.

5.0205 Dogs Running Unleashed and at Large Prohibited

The penalty for a violation of this article in the case of a dog seized by the city police officer or by any other person authorized by the City Council to act and impound such animal, shall be determined as provided below in Section 5.0206. Otherwise, any person who violates this section shall be guilty of an infraction for which the maximum penalty is a fine of Five Hundred Dollars (\$500.00).

5.0206 Impounding

Animals not claimed by their owners within three (3) days after such notification or within three (3) days after impoundment if no such owner can be identified, the animal may be adopted or humanely destroyed. Animals impounded pursuant to this section, may be claimed by their owners, upon payment of the owner of the following costs and penalties:

1. For the first violation, within one (1) year, the owner shall pay a fine in the amount of Twenty-Five Dollars (\$25.00), plus Ten Dollars (\$10.00) per day kennel fee.
2. For the second violation, within one (1) year, the owner shall pay a fine in the amount of Fifty Dollars (\$50.00), plus Ten Dollars (\$10.00) per day kennel fee.
3. For the third violation, within one (1) year, the owner shall pay a fine in the amount of Seventy-Five Dollars (\$75.00), plus Ten Dollars (\$10.00) per day kennel fee.
4. For the fourth violation, within one (1) year, the owner shall pay a fine in the amount of One Hundred Dollars (\$100.00), plus Ten Dollars (\$10.00) per day kennel fee.
5. For the fifth violation, within one (1) year, or for any additional violation, within one (1) year, the owner shall be prosecuted for a general violation of this ordinance and shall be subject to a maximum fine of Five Hundred Dollars (\$500.00) per occurrence.

5.0210 Nuisance – When

Any licensed or unlicensed dog running unleashed and at large, or any dog molesting passers by, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance. Any dog which shall within the City of Beulah destroy any property, which is not the property of the owner or keeper, or which trespasses upon the property of someone other than the owner or keeper, and by any yelping, barking, or howling disturbs the peace, is hereby declared to be a public nuisance. The owner or keeper of such dog shall be guilty of an infraction.

5.0211 Dangerous Animals

B. Violations

1. Any person violating or permitting the violation of any provision of this section shall, upon conviction in municipal court, be found guilty of an infraction and fined a sum of not more than Five Hundred Dollars (\$500.00). In addition to the foregoing penalty, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.
2. If any animal shall previously have been declared dangerous pursuant to any of the provisions above, and after having been ordered removed from city limits; if such animal shall at any time be brought back into the city limits in violation of court order or the provisions of this section, such animal shall immediately be taken by the police department and humanely destroyed. A separate penalty including a fine shall be assessed as indicated in the paragraph above against the violator.

3. At any time, if a dangerous animal cannot be taken up and caught by a police officer without exposing such officer to danger of personal injury from such animal, or without exposing other persons to danger of personal injury from such animal, it shall be lawful for the animal control or police officer to forthwith destroy such animal.
4. If any person is found to be in violation of this section three times, said person may be prevented from owning animals within the city limits for a reasonable amount of time as determined by a municipal judge.

ARTICLE 4 - Penalty

5.0401 Penalty for Violation of Chapter.

Any person who shall violate any provisions of this ordinance for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of five hundred dollars (\$500.00). The owner of any animal impounded pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal shall be released to the owner.

Further, the municipal judge of the City of Beulah may, at his sole discretion, order any animal kept within the city limits of the City of Beulah, be removed from the jurisdictional limits of the City of Beulah and may also restrict any person residing within the jurisdictional limits of the City of Beulah from owning an animal for a specified period of time for violating any provision of this ordinance, in addition to any other specific penalty otherwise provided herein.

The title and penalty section of the above Ordinance is published in accordance with the Laws of the State of North Dakota.

Dated this 6th day of November, 2006.

/s/ Linda A. Wiedrich
LINDA A. WIEDRICH, CITY AUDITOR
CITY OF BEULAH