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SUBJECT: ORDINANCE #1998-3 (ANIMAL CONTROL ORDINANCE)

ADOPTED DATE: JULY 20, 1998

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**CASS COUNTY  
ANIMAL CONTROL ORDINANCE #1998-3**

Purpose

It is the purpose of this Ordinance to promote the public health, safety, comfort and general welfare of the county through the proper control and care of animals by their owners and others; and to encourage animal owners to have their pets neutered or spayed in order to minimize the unwanted pet population.

Definitions

A. Animal:

Includes every living animal except the human race.

B. Altered Animal:

Any animal that has been operated on to prevent it from procreating.

C. Owner:

A person having the right of property or custody of an animal, who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.

D. Kennel:

Any person, group of persons, partnerships or corporation engaged in breeding animals.

E. Public Nuisance:

- A. Any animal which interferes with a passerby or a passing vehicle.
- B. Any animal which attacks another animal or person.
- C. Any animal which trespasses on school grounds.
- D. Any animal which runs at large or unrestrained.
- E. Any animal which damages private or public property.
- F. Any animal which barks, whines, howls or makes other sounds common to its species in an excessive or continuous manner.
- G. Any owner that causes foul or noxious odors resulting from the accumulation of excrement or other waste materials from an animal and which is offensive to surrounding residents.

## F. Dangerous Animal:

Any animal that;

- A. When unprovoked inflicts bite(s) on a human or a domestic animal either on public or private property.
- B. Has a history documented with a public agency of biting or attacking humans or domestic animals.
- C. Has a known propensity, tendency or disposition to attack, to cause injury, or otherwise threaten or endanger the safety of humans or domestic animals.
- D. Is not properly vaccinated.

General Provisions

A. Any person within the boundaries of Cass County owning, keeping, harboring or having custody of a dangerous animal as defined in this ordinance will;

1. Confine the animal within a building or secure enclosure and shall not take such animal out of such building or secure enclosure unless such animal is restrained.

Duly authorized members of a law enforcement agency including but not limited to sheriffs, deputy sheriffs, police officers, highway patrol officers, game wardens, conservation officers and other law enforcement officers while on official duty, shall be exempt from the provisions of this section for any working animal utilized in the performance of their official duties.

B. When, in the judgment of any court, an animal should be destroyed for humane reasons, such animal may not be redeemed.

Inspection

A. Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this ordinance or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of this ordinance or North Dakota Century Code, the sheriff or any other law enforcement agency is authorized at all reasonable times to inspect the same for compliance with the provisions of this ordinance, or any state law, provided that;

1. If the property is occupied, the law enforcement officer shall first present proper credentials to the occupant and request entry explaining the reasons therefore.

- a. If entry is refused by the owner or other persons having control of the property, the law enforcement officer shall secure a search warrant to inspect said premises.
2. If the property is unoccupied, the law enforcement officer shall make a reasonable effort to locate the owner or other persons having control of the property and request entry explaining the reasons therefore.
    - a. If the owner or other persons having control of the property cannot be located, the law enforcement officer may enter any out building except the residence without a search warrant for purposes of inspecting the same for compliance with the provisions of this ordinance, or any state law regarding animals.
    - b. The law enforcement officer shall secure a search warrant to inspect said residence unless the law enforcement officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal, public health or safety. In such cases, the law enforcement officer may exercise such reasonable force as to gain access to the property for the purpose of inspecting same for compliance with the provisions of this ordinance, or any state law regarding animals.

#### Keeping animals in an unhealthy/unsanitary manner

- A. It is hereby declared a public nuisance, for any owner to keep any animal in a manner that is unsanitary or unhealthful. Where the law enforcement officer finds probable cause to believe that a situation is occurring where an owner is keeping any animal in an unsanitary or unhealthful manner, it may do any or all of the following;
  1. Secure a search warrant to inspect premises to determine if unsanitary or unhealthful situation exists.
  2. Order the owner in writing to immediately abate any unsanitary or unhealthful situation by;
    - a. Removing any and all diseased or dead animals for treatment or disposal, as appropriate.
    - b. Cleaning up and removing any and all urine, feces or other material of an unsanitary nature.

- c. Taking any and all additional steps necessary to ensure the complete abatement of the unsanitary and unhealthful situation.
3. In the event the owner fails to comply with the written order to abate for this section, the law enforcement officer may do any of the following;
  - a. Issue a citation or summons.
  - b. File a complaint charging the owner with a violation of this ordinance.
  - c. Institute legal action through the County Attorney for an injunctive and/or other appropriate relief to forthwith abate the public nuisance.

#### Public Nuisance

- A. No person shall own or harbor within the boundaries of Cass County a public nuisance as defined in this ordinance. Violators of this section shall be fined in accordance with the penalties section.

#### Cruelty to animals

- A. No person shall willfully;
  1. Torment, torture, abuse, cruelly kill or otherwise inflict cruelty upon an animal or bird.
  2. Fail to provide any domesticated animal or bird with proper food, drink, shelter or protection from weather.
  3. Confine or leave an animal in a vehicle or other enclosure without adequate ventilation.
  4. Abandon any diseased, maimed, hopelessly sick, infirm or disabled animal or bird any place in the county.

#### Penalties

- A. Any person who shall violate or assist in the violation of this ordinance shall be guilty of and be punished as follows;
  1. First offense shall be an infraction with a fine of fifty dollars, (\$50.00).
  2. Second offense or subsequent offenses within one year shall be classified as a Class B misdemeanor.

- B. For all violations of this Ordinance, fines shall not exceed one thousand dollars, (\$1,000.00).
- C. Each offense shall be considered a separate offense and subject to a fine.
- D. Each twenty-four (24) hours that a violation occurs will be considered a separate offense and can be cited as such.
- E. Violations of this Ordinance may result in immediate impoundment of the animal(s).
- F. Any animal not claimed by it's owner within five days, excluding the day of impound, will be given to Adopt-A-Pet, the Humane Society or disposed of.
- G. Any person who violates this Ordinance shall pay all expenses, including shelter, food, handling, veterinary care, court costs and testimony necessitated by these regulations.

Severability Clause

- A. Should any section, provision or part of this Ordinance be adjudged invalid or unconstitutional, such adjudication should not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.
- B. With the passage of the Ordinance, the entire County will be covered by a uniform animal control ordinance which will apply within the boundaries of Cass County, except that this ordinance will not supercede any ordinance of any political subdivision without its consent.

APPROVED:

ss/Donna Schneider  
Chair, Board of Commissioners  
of the County of Cass

ATTEST:

ss/ Michael Montplaisir  
Michael Montplaisir  
County Auditor

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Second Reading:	7/20/98
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(SEAL)

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