

CHAPTER 12

CONTROL AND PROTECTION OF ANIMALS, BIRDS AND FOWL

Article

- 12-01 Dogs and Cats, §§ 12-0101 to 12-0113.
- 12-02 Animals, General, §§ 12-0201 to 12-0219.
- 12-03 Domestic Fowl, Wild Birds, and Pets, §§ 12-0301 to 12-0310.
- 12-04 Deer Management Program-Regulations, §§12-0401 to 12-0409.

ARTICLE 12-01

DOGS AND CATS

Section

- 12-0101 Definition of terms.
- 12-0102 License and registration required--Kennel license fee.
- 12-0103 Terms of license--Cancellation for failure to have rabies inoculation.
- 12-0104 Animal must have collar with rabies tag and license tag attached.
- 12-0105 Running at large prohibited.
- 12-0106 Impounded animals--Procedure for impounding.
- 12-0107 Impounded animals--Notice to owner and redemption.
- 12-0108 Impounded animals--Disposition of unclaimed or infected dogs and cats.
- 12-0109 Muzzling.
- 12-0110 Rabies--Notice to police required.
- 12-0111 Procedure for complaint.
- 12-0112 Habitually barking, crying or howling dog or cat declared public nuisance.
- 12-0113 Habitually barking, crying or howling dog or cat--Procedure for complaint.

12-0101 Definition of terms.--As used in this ordinance, unless the context otherwise indicates:

1. "Dog" or "cat" shall refer to both the male and female of the species.
2. "Owner" shall mean any person or persons, firm, association, or corporation owning, keeping, or harboring a dog or a cat.
3. "At large" shall mean off the premises of the owner and not under the control of the owner or a member of his immediate family either by leash, cord, chain, or otherwise.

Source: 1952 Rev. Ord. 12-0101, 1179 (1964).

12-0102. License and registration required.--Kennel license fee.--All dogs and cats kept or maintained by their owners in the city shall be licensed and registered if over four months of age on or before the first day of March of each calendar year. Dog and cat licenses shall be issued by the city auditor upon payment of an annual license fee as prescribed by the city commission. The owner

shall state at the time application is made for such license, upon printed forms provided for such purpose, his name and address and the breed, color, and sex of the animal, date of rabies inoculation of the animal, and whether or not the animal is neutered, spayed or desexed. A license shall not be issued unless the license application is accompanied by a certificate showing a dog has been inoculated against rabies within 24 months preceding the application, and a cat has been inoculated within 24 months preceding the application. No license for a neutered, spayed or desexed dog or cat shall be issued unless satisfactory evidence of neutering, spaying or desexing is submitted. The licensing provision of the section shall not apply to dogs or cats brought into the city for the purpose of participation in any dog or cat show, nor to "seeing-eye" dogs properly trained to assist blind persons when such dogs are actually kept for use by blind persons for the purpose of aiding them in going from place to place, nor to dogs owned by the city of Fargo or any other political subdivision and used for law enforcement purposes.

Each person, group, or persons, association, or corporation engaged in the commercial business of buying, selling, breeding, or boarding dogs and cats who owns or keeps five or more dogs or cats in a kennel shall pay an annual kennel license fee of \$30.

Source: 1965 Rev. Ord. 12-0102, 1729 (1976), 2246 (1986), 2846 (1998).

12-0103. Terms of license--Cancellation for failure to have rabies inoculation.--The license herein provided for shall be in force until December 31 of the year in which it is issued. Said license shall be canceled unless the records of the city auditor contain written evidence that a dog has been inoculated against rabies at least once every two years and a cat at least once every two years.

Source: 1965 Rev. Ord. 12-0103, 1729 (1976), 2846 (1998).

12-0104. Animal must have collar with rabies tag and license tag attached.--Upon payment of the license fee provided for in § 12-0102, the chief of police shall issue to the owner a license certificate and a metallic tag for each dog and cat so licensed. The shape of the tag shall be changed every year and the tag shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Each owner shall be required to provide each dog and cat 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 will be issued by the chief of police upon presentation of a receipt showing the payment of the license fee for the current year and the payment of a \$.50 fee for such duplicate. Tags shall not be transferable from one animal to another and no refunds shall be made on any license fee because of death of the animal or the owner's leaving the city before expiration of the license period. The metal rabies inoculation tag shall also be kept affixed to the animal's collar at all times. The provisions of this ordinance shall not apply to dogs owned by the city of Fargo or any other political subdivision and used for law enforcement purposes.

Source: 1952 Rev. Ord. 12-0104, 1179 (1964), 2246 (1987).

12-0105. Running at large prohibited.--

- A. Every person having the custody or control of any dog or cat shall prevent said animal from leaving the property limits of its owner or keeper without being effectively restrained by a chain or leash not exceeding six feet in

length, or, within a vehicle being driven or parked on the street. In the event any such dog or cat is found at large, the owner, custodian or keeper of such animal shall be guilty of a violation of this section.

- B. Every person having custody or control of a leashed animal on property other than his own shall be equipped to, and collect said animal's solid waste when eliminated.
- C. The owner of every fierce, dangerous, or vicious dog shall confine such animal within a building or secure enclosure and such dog shall not be taken out of such building or enclosure unless the dog is securely muzzled.
- D. Every female dog or cat in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in such manner that such dog or cat cannot come in contact with another dog or cat except for breeding purposes.
- E. Any dog or cat that is determined by the Fargo police department to be fierce, dangerous, or vicious and is not confined as required in subsection (C) of this section; or any dog or cat that is determined by the Fargo police department to be habitually at large is declared to be a public nuisance. The owner, custodian or keeper of any such animal shall be notified of said determination in writing and, upon request of the humane officer, shall surrender such animal for purposes of placement or destruction; provided, however, any said owner, custodian or keeper of any such animal shall have ten days from the receipt of notification to appeal to the Fargo municipal court and a hearing shall be held. In the event that the court affirms the determination of the police department, the court shall:
  - 1. Order the confinement of such animal within a building or secure enclosure, said animal not to be removed from such building or enclosure without being effectively restrained by chain or leash not exceeding six feet in length; or
  - 2. Order the surrender of such animal to the humane society or other animal placement organization for purposes of placement or destruction.
- F. The owner, custodian or keeper of any animal which has bitten or scratched a human being or other animal, or which is suspected by the humane officer, health officer, or other appropriate city official, of having rabies, shall:
  - 1. At the request of such official, confine any said animal for 10 days in a suitable secure enclosure or, if deemed necessary by said official, in the animal pound.
  - 2. Immediately notify the Fargo police department if any said animal escapes during the above-mentioned 10-day period.
  - 3. Make any and all reports requested in reference to the general health and medical history of said animal.
  - 4. Surrender any said animal for such medical tests as are deemed necessary and submit said animal to treatment, or in

the alternative, for destruction.

- G. The provisions of this ordinance shall not apply to any dogs owned by the city of Fargo or any other political subdivision and used for law enforcement purposes.

Source: 1965 Rev. Ord. 12-0105, 1729 (1976), 2003 (1980), 2246 (1987), 2686 (1994).

12-0106. Impounded animals--Procedure for impounding.--It shall be the duty of every police officer or any other person designated by the board of city commissioners to apprehend any dog or cat found running at large contrary to the provisions of this article and to impound such dog or cat in the city pound, if one is maintained, or other suitable place selected by the chief of police for the impounding of animals. The poundmaster, upon receiving any dog or cat, shall make a complete registry, entering the breed, color, and sex of such dog or cat and whether licensed for the current year. If licensed, he shall enter the name and address of the owner and the number of the license tag. Licensed animals shall be separated from unlicensed animals.

Source: 1952 Rev. Ord. 12-0106, 1179 (1964).

12-0107. Impounded animals--Notice to owner and redemption.--Not later than two days after the impound of any dog or cat, the owner, if known, shall be notified. The owner of any dog or cat so impounded may reclaim such animal upon payment of the license fee, if unpaid, the costs of impoundment and maintenance, all costs incurred in giving any needed rabies inoculations, together with an administrative penalty in the amount approved by resolution of the board of city commissioners.

Source: 1965 Rev. Ord. 12-0107, 1729 (1976), 1999 (1980).

12-0108. Impounded animals--Disposition of unclaimed or infected dogs and cats.--It shall be the duty of the chief of police to keep all dogs and cats so impounded for a period of three days. If at the expiration of three days from the date of notice to the owner such dog or cat shall not have been redeemed, it may be destroyed; any unlicensed dog or cat required by law to be licensed or any dog or cat which appears to be suffering from rabies or to be affected with another dangerous disease shall not be released but may be forthwith destroyed.

Source: 1965 Rev. Ord. 12-0108, 1729 (1976).

12-0109. Muzzling.--Whenever it becomes necessary to safeguard the public from the dangers of rabies, the chief of police, poundmaster, or city health officer, if any of them deem it necessary, shall request the president of the board of city commissioners to issue a proclamation ordering every person owning or keeping a dog or cat to confine it securely on his premises unless such dog or cat shall have a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled dog or cat running at large during the time of the proclamation shall be seized and impounded, unless noticeably infected with rabies. All dogs and cats so noticeably infected with rabies and displaying vicious propensities shall be killed by the police department without notice to the owner. If not noticeably infected with rabies, such unmuzzled dogs or cats shall be impounded for at least two weeks; after which time they may be released to the owner upon payment of the impounding charges provided for in § 12-0107. Any dog or cat found to be infected with rabies

during the impoundment shall be destroyed. If unclaimed after two weeks, such dogs or cats may be summarily destroyed.

Source: 1965 Rev. Ord. 12-0109, 1729 (1976).

12-0110. Rabies--Notice to police required.--If a dog or cat is believed to have rabies and has been bitten by a dog or cat suspected of having rabies, such animal shall be placed under the observation of a veterinarian, at the expense of the owner, for a period of two weeks. The owner shall notify the chief of police of the fact that his dog or cat has been exposed to rabies and at his discretion the chief of police is empowered to have such animal removed from the owner's premises to a veterinary hospital and there placed under observation for a period of two weeks at the expense of the owner.

It shall be unlawful for any person knowing or suspecting that a dog or cat has rabies to allow such dog or cat to be taken off his premises or beyond the limits of the city without the written permission of the chief of police. Every owner, or other person, upon ascertaining that a dog or cat is rabid shall immediately notify the poundmaster or a policeman who shall either remove the animal to the pound or summarily destroy it.

Source: 1952 Rev. Ord. 12-0110, 1179 (1964).

12-0111. Procedure for complaint.--An individual who wishes to make a complaint regarding violations of sections of this article, excluding § 12-0112 regarding habitually barking, crying, or howling dogs and cats, must contact the Fargo police department and state his name, address, nature and circumstances of the violation. This individual must appear before the judge of municipal court and sign the complaint.

Source: 1965 Rev. Ord. 12-0111, 1729 (1976).

12-0112. Habitually barking, crying or howling dog or cat declared public nuisance.--No person shall keep or harbor any dog or cat which habitually barks, cries or howls. Any such animals which habitually bark, cry or howl are hereby declared to be a public nuisance.

Source: 1965 Rev. Ord. 12-0112, 1729 (1976).

12-0113. Habitually barking, crying or howling dog or cat--Procedure for complaint.--Any person desiring to sign a complaint against the owner or custodian of a habitually barking, crying or howling dog or cat must contact the Fargo police department and state his name, address, and facts supporting the alleged nuisance. The humane officer will check with adjoining neighbors to further substantiate the alleged nuisance. The animal's owner or custodian shall be notified a complaint has been received and substantiated. Once notified, the owner or custodian shall have 48 hours to abate the nuisance. If the animal is not quieted within this time, a formal complaint will be signed before the municipal judge and served upon the owner or custodian. An order of impoundment pending trial may be issued at the discretion of the court.

Source: 1965 Rev. Ord. 12-0113, 1729 (1976), 2772 (1995).

ARTICLE 12-02

ANIMALS, GENERAL

| Section |  |
|---------|--|
| 12-0201 | Unlawful to keep vicious animal.   |
| 12-0202 | Rabbits and guinea pigs.   |
| 12-0203 | Unlawful to keep farm animals within city limits--Public nuisance--Exceptions.   |
| 12-0204 | Impounding farm animals--Authority.  |
| 12-0205 | Impounding farm animals--Duties of police.   |
| 12-0206 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Complaint to municipal judge--Hearing and notice.        |
| 12-0207 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Service of notice of hearing.                            |
| 12-0208 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Hearing--Procedure.                                      |
| 12-0209 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Default cases--Manner of trial.                          |
| 12-0210 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Judgment and order for sale of animals.                  |
| 12-0211 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Notice of sale of animals.                               |
| 12-0212 | Impounding farm animals--Failure of owner to pay fines, fees, or charges--Procedure for sale of animals-- Disposition of proceeds. |
| 12-0213 | Impounding farm animals--Notice to owner--Redemption-- Fees.   |
| 12-0214 | Trespassing animals may be taken up by owner or occupant of property.  |
| 12-0215 | Unlawful to let out animal from private enclosure.   |
| 12-0216 | Squirrels--Killing in city prohibited.   |
| 12-0217 | Cruelty to dumb animals prohibited.  |
| 12-0218 | Keeping of wild or exotic animals prohibited.  |
| 12-0219 | Feeding of deer prohibited.  |

12-0201. Unlawful to keep vicious animal.--No person or persons in the city, being the owner or keeper of any dangerous, vicious, mischievous, or unruly animal and knowing said animal to be such, shall allow or permit the same to be or run at large.

Source: 1952 Rev. Ord. 12-0201.

12-0202. Rabbits and guinea pigs.--No rabbits or guinea pigs shall be kept within an enclosure within the city at a distance less than 300 feet from any dwelling house without the written consent of the owner or tenant of said dwelling.

Source: 1952 Rev. Ord. 12-0202.

12-0203. Unlawful to keep farm animals within city limits-- Public nuisance--Exceptions.--

It shall be unlawful for the owner or owners of any farm animal mentioned in § 12-0213 to allow the same to be kept within the limits of the city, except that such farm animals may be kept on property which is classified as “A-Agricultural” under the zoning ordinances of the city of Fargo. It shall further be unlawful to allow any such farm animal to run at large on the streets, avenues, alleys, parks, or public grounds of the city, or to be tethered or staked out on the streets, parks, or public grounds of the city, or to be tethered or staked in such a manner as to go upon any street, sidewalk, crosswalk, or public ground within the city. Any such animals found within the corporate limits of the city except on property zoned with an “A-Agricultural” zoning classification as herein provided, are declared to be public nuisances. This section shall not apply to the owners of any farm animals kept as a part of any state educational institution or the owners of any farm animals temporarily exhibited at any fair or agricultural exhibition, provided said animals are stabled and cared for in a sanitary manner approved by the health department.

Source: 1965 Rev. Ord. 12-0203, 1699 (1976).

12-0204. Impounding farm animals--Authority.--Any farm animals mentioned in § 12-0213 found to be in violation of the provisions of § 12-0203 shall be liable to impounding according to law.

Source: 1965 Rev. Ord. 12-0204, 1699 (1976).

12-0205. Impounding farm animals--Duties of police.--It shall be the duty of the chief of police or any police officer of the city to take any of the farm animals mentioned in § 12-0213 found within the city, limits or running at large or tethered or staked contrary to the provisions of this article and impound the same, in accordance with § 12-0105 of article 12-01 of this chapter.

Source: 1952 Rev. Ord. 12-0205, 941 (1955).

12-0206. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Complaint to municipal judge--Hearing and notice.--Upon the refusal or neglect of the owner of any of the farm animals mentioned in § 12-0213, for 24 hours after the impounding of such animal or animals, to pay any fines, fees, and charges provided for, the chief of police or policeman so impounding such animal shall make a complaint in writing to the municipal judge giving a general description of the animal so impounded and the date when impounded and, if known, the name of the owner. The municipal judge shall fix a day and hour for hearing said complaint and the trial of the matter. Such municipal judge shall issue notice of such hearing or trial to such owner if known, and if the name of the owner be unknown, then to the unknown owner of such animal. Notice shall be served or posted as provided in § 12-0207.

Source: 1952 Rev. Ord. 12-0206.

12-0207. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Service of notice of hearing.--The notice of hearing may be served by the chief of police or any police officer of the city. The serving officer shall make service upon the owner of such animal, if known, by giving such notice to said owner in hand or by leaving a copy thereof at his usual place of abode with some member of the family over 14 years of age, informing such person of the contents thereof; and, if the owner be unknown, then he shall serve same by posting a copy of such notice in each of

three conspicuous places in the city of Fargo, and, in addition thereto, shall cause a copy thereof to be published once in the official newspaper of the city. He shall make a return in writing of the manner in which such service is made, which return shall be sworn to by him and shall be prima facie evidence of the matter therein stated.

Source: 1952 Rev. Ord. 12-0207.

12-0208. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Hearing--Procedure.--If the notice shall be served or posted and published at least three days before the day therein named for the hearing, then the complaint shall be for trial at the time and place mentioned in said notice. The city of Fargo shall be the plaintiff and the owner, or unknown owner, of the animals impounded shall be the defendant in such case or trial. Either party shall be entitled to a trial by jury under the same conditions and in the same manner, as near as may be possible, as any other cases before the court.

Source: 1952 Rev. Ord. 12-0208.

12-0209. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Default cases--Manner of trial.--If the owner shall fail to appear at the time and place of hearing or trial, his default shall be entered and a hearing may be had before the court as in other cases of default.

Source: 1952 Rev. Ord. 12-0209.

12-0210. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Judgment and order for sale of animals.--If the owner, or unknown owner, of such animals be convicted on the basis of the complaint provided for in § 12-0206, then judgment shall be rendered against him for the fine, fees, costs, and charges provided under § 12-0213, and the court shall make an order directing the chief of police forthwith to proceed to sell such animals to pay such fine, fees, costs, and charges.

Source: 1952 Rev. Ord. 12-0210.

12-0211. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Notice of sale of animals.--Immediately upon receipt of the order provided for in § 12-0210, the chief of police shall proceed to sell such animals at public auction at the pound where they are impounded by first giving 10 days' notice of said sale by posting the same at the door of the police department. The notice shall specify the time and place of such sale, a general description of the animals to be sold, and the date on which same were impounded. The chief of police shall also cause such notice to be published once in the official newspaper of the city, at least five days prior to the time of such sale.

Source: 1952 Rev. Ord. 12-0211.

12-0212. Impounding farm animals--Failure of owner to pay fines, fees, or charges--Procedure for sale of animals--Disposition of proceeds.--All sales made under the provisions of the order provided for in § 12-0210 shall be for cash in hand; the sale may be adjourned, from day to day, for good cause. Out of the proceeds of the sale the chief of police shall pay all fees and charges as herein provided, and pay over any balance to the city treasurer with a statement of the amount for

which such animal or animals were sold and the amount of charges and costs incurred. The amount so paid to the city treasurer shall be for the use of the owner of such animal or animals. The chief of police shall not purchase or be interested directly or indirectly in the purchase of any animal by virtue of the provisions hereof, under a penalty of \$10 fine and the forfeiture of his office.

Source: 1952 Rev. Ord. 12-0212.

12-0213. Impounding farm animals--Notice to owner--Redemption--Fees.--The chief of police shall immediately, upon the impounding of any animals mentioned herein, notify the owner, if known to him, either verbally or by leaving a written notice at his place of residence. Any animal which has been restrained or impounded may be redeemed at any time before the sale by, paying the chief of police or poundmaster the following fees and other costs up to the time of redemption, viz.:

|  | <u>EACH</u> |
|--|-------------|
| For impounding animals of the horse kind               | \$2.00      |
| For impounding cattle                                  | \$2.00      |
| For impounding sheep                                   | \$1.00      |
| For impounding swine                                   | \$1.00      |
| For impounding goats                                   | \$1.00      |
| Providing substance for horses, per day                | \$1.00      |
| Providing substance for cattle, per day                | \$1.00      |
| Providing substance for sheep, goats or swine, per day | \$1.00      |
| For notifying owners of animals                        | \$1.00      |
| For making of service of notice of time                | \$2.00      |
| For writing and posting notice of sale                 | \$1.00      |
| Court fees for issuing notice                          | \$1.00      |
| Court fees for taking proof and entering judgment      | \$2.00      |
| Court fees for making order of sale                    | \$1.00      |

The fees and costs collected shall forthwith be turned over to the city treasurer by the chief of police or poundmaster.

Source: 1952 Rev. Ord. 12-0213.

12-0214. Trespassing animals may be taken up by owner or occupant of property.--Any and all animals which shall at any time be found trespassing upon any private property within the limits of the city shall be liable to be taken up and restrained by the owner or occupant of such property or his child, servant, or agent.

Source: 1952 Rev. Ord. 12-0214.

12-0215. Unlawful to let out animal from private enclosure.-- No person or persons shall open, let down, break down, tear down, or injure or shall aid, assist, or advise in opening, letting down, breaking down, tearing down or injuring any gate, boards, fence, yard, shed, stable, barn, or other enclosure or building of any person whereby any animal or animals belonging to such person shall get out or escape from any building or enclosure.

Source: 1952 Rev. Ord. 12-0215.

12-0216. Squirrels--Killing in city prohibited.--It shall be unlawful for any person to kill or injure or attempt to kill or injure any squirrel within the corporate limits of the city.

Source: 1952 Rev. Ord. 12-0216.

12-0217. Cruelty to dumb animals prohibited.--It shall be unlawful for any person within the city to beat, injure, or otherwise abuse inhumanly, unnecessarily, or cruelly any dumb animal.

Source: 1952 Rev. Ord. 12-0217.

12-0218. Keeping of wild or exotic animals prohibited.--

A. Definitions.--For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:

1. "Animal" shall include any live vertebrate creature, domestic or wild, not to include birds.
2. "Pet" shall mean any animal kept for pleasure rather than utility.
3. "Wild" or "exotic animal" shall mean any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula which can normally be found in the wild state or any other member of crocodylian, including but not limited to alligators, crocodiles, caimans, and gavials and including such other animal that cannot be effectively inoculated for rabies. Ferrets, non-poisonous snakes, rabbits, and laboratory rats which have been bred in captivity and which have never known the wild shall be excluded from this definition.

B. Display or exhibition.--No person shall keep or permit to be kept on his premises any wild or exotic animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, circuses, or veterinary clinics which are properly licensed by the federal government or state of North Dakota.

C. Keeping as a pet.--No person shall keep or permit to be kept any wild or exotic animal as a pet.

D. Notice required at a place of sale.--Any person who offers for sale a wild or exotic animal as defined by § 12-0218, subsection (A), subparagraph 3, of this section shall post conspicuously at the place of sale or display the following notice:

No person may lawfully keep or permit to be kept in the city of Fargo any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or

any other warm-blooded animal, poisonous snake or tarantula, crocodile or alligator, which can normally be found in the wild state or any other member of the crocodilian, including but not limited to, alligators, crocodiles, caimans and gavials and including such other animal that cannot be effectively inoculated for rabies.

- E. Penalty.--Any person violating any of the provisions of this section shall be deemed guilty of an infraction. Each day a violation of this section shall continue constitutes a separate offense.
- F. Notice of keeping dangerous animals.--Upon the written complaint of any person that a person owns or is keeping or harboring a wild or exotic animal in violation of this section in the city, the police department or their authorized designee shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such animal in the city, they shall forthwith send written notice to the person requiring such person to safely remove the animal from the city within five days of the date of the notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the police department shall cause the animal to be immediately seized and impounded, according to the provisions of § 12-0218, or killed if seizure and impoundment are not possible without risk or serious physical harm or death to any person.
- G. Seizure and impounding of wild or exotic animals.--The police department or their authorized designee shall forthwith cause to be seized and impounded any wild or exotic animal, where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to § 12-0218, subsection (F), above. Upon a seizure and impoundment, the animal shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.

If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the police department may render the animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then the animal may be killed.
- H. Enforcement.--The provisions of § 12-0218 shall be enforced by the police department or the North Dakota State Game and Fish Department, the Animal Damage Control Department of the United States Department of Agriculture or any other person duly designated by the Fargo chief of police.
- I. Effective date.--Any person who keeps a wild or exotic animal(s) in contravention of this section may dispose of the animal(s) by removal of the animal(s) from the city of Fargo by giving or selling the animal(s) to a zoological park or by releasing the animal(s) to the wild.

Source: 2770 (1995).

12-0219. Feeding of deer prohibited.--No person shall feed or allow the feeding of any deer within the city limits of the city of Fargo. For purposes of this section, feeding shall mean the provision of one-half cubic foot or more of grain, fruit, vegetables, nuts, hay, or other edible material, either on the ground or at a height of less than five feet above the ground, in a manner that attracts deer on a regular basis. Living food sources such as fruit trees and other live vegetation shall not be considered as deer feeding. This prohibition shall not apply to veterinarians, city animal control officers, and park maintenance staff, or county, state or federal game officials who, in the course of their duties, have deer in their custody or under their management.

Source: 4505 (2006).

## ARTICLE 12-03

### DOMESTIC FOWL, WILD BIRDS, AND PETS

#### Section

- 12-0301 Running at large of domestic fowl prohibited.
- 12-0302 Distance from dwellings domestic fowl to be kept.
- 12-0303 Keeping of domestic fowl as public nuisance--Declaration.
- 12-0304 Keeping of domestic fowl as public nuisance--Abatement.
- 12-0305 Unlawful to kill harmless wild birds or to destroy eggs or nests.
- 12-0306 Unlawful to sell or display pet birds, animals, and fowl without a permit--Sale or display of colored birds or animals prohibited--Repealed.
- 12-0307 Permit to sell or display pet birds, animals, and fowl issued annually--Fee--Application form--Repealed.
- 12-0308 Cruelty to pet birds, animals, and fowl prohibited-- Repealed.
- 12-0309 Pet birds or animals shall be provided with clean and proper food and water--Repealed.
- 12-0310 Sale or display of pet birds, animals, and fowl--Penalty for violation--Repealed.

12-0301. Running at large of domestic fowl prohibited.--It shall be unlawful for the owner, keeper, or custodian of chickens, ducks, geese, turkeys, pigeons, or other domestic fowl to permit or allow the same to run at large within the limits of the city.

Source: 1952 Rev. Ord. 12-0301.

12-0302. Distance from dwellings domestic fowl to be kept.--No chickens, geese, ducks, turkeys, pigeons, or other domestic fowl shall under any circumstances be kept within an enclosure within the city at a distance less than 75 feet from any dwelling house without the written consent of the owner or tenants of said dwelling.

Source: 1952 Rev. Ord. 12-0302.

12-0303. Keeping of domestic fowl as public nuisance--Declaration.--The keeping of any chickens, ducks, geese, turkeys, pigeons, or other domestic fowl, which cause unpleasant odors, or the noise from which is an annoyance to persons in the vicinity, or which attract vermin, or which are a hazard or danger to the health of persons living nearby, at a distance less than 200 feet from any dwelling house is declared to be a public nuisance.

Source: 1952 Rev. Ord. 12-0303.

12-0304. Keeping of domestic fowl as public nuisance--Abatement.--Any person who owns or keeps at any time within the limits of the city any fowl of any kind declared to be a public nuisance, as set forth in § 12-0303, who shall fail, neglect or refuse to abate said nuisance by destroying said fowl or removing said fowl from the city or by doing whatever shall be necessary to the abatement of such nuisance within 10 days after notice thereof so to do shall be deemed guilty of maintaining a public nuisance.

Source: 1952 Rev. Ord. 12-0304.

12-0305. Unlawful to kill harmless wild birds or to destroy eggs or nests.--It shall be unlawful for any person to kill or injure or attempt to kill or injure any harmless wild bird as defined in 20.1-01-02, N.D.C.C., within the corporate limits of the city or to injure or destroy the eggs or nest of any such bird within said corporate limits.

Source: 1952 Rev. Ord. 12-0305, 2120 (1983).

12-0306. Unlawful to sell or display pet birds, animals, and fowl without a permit--Sale or display of colored birds or animals prohibited.--

Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).

12-0307. Permit to sell or display pet birds, animals, and fowl issued annually--Fee--Application form.--

Source: 1965 Rev. Ord. 12-0307, 1544 (1973), repealed by Ord. No. 2824 (1997).

12-0308. Cruelty to pet birds, animals, and fowl prohibited.--

Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).

12-0309. Pet birds or animals shall be provided with clean and proper food and water.--

Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).

12-0310. Sale or display of pet birds, animals, and fowl--Penalty for violation.--

Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).

## ARTICLE 12-04

### DEER MANAGEMENT PROGRAM-REGULATIONS

|         |  |
|---------|--|
| Section |  |
| 12-0401 | City Deer Management Program.  |
| 12-0402 | Definitions.   |
| 12-0403 | Designated season and areas for inclusion within Deer Management Program, number of permits, permit fee. |
| 12-0404 | Proficiency requirements for participants.   |
| 12-0405 | Permission of landowner required.  |
| 12-0406 | Rules and regulations of participation.  |
| 12-0407 | Specific actions prohibited.   |
| 12-0408 | Deer retrieval.  |
| 12-0409 | Penalty for violations.  |

12-0401. City Deer Management Program.--The board of city commissioners deems it necessary and appropriate to establish a Deer Management Program within the city limits of Fargo. Through this program, the city may authorize persons to use an archery device for purposes of meeting the goals of the program. The board of city commissioners shall have authority to adopt such rules and regulations as are necessary to implement the Deer Management Program.

Source: 4517 (2006).

12-0402. Definitions.--In this article, unless the context or subject matter otherwise requires:

1. "Archery device" shall mean any longbow or compound bow.
2. "Crossbow" shall mean a device for discharging quarrels, bolts, or arrows, formed of a bow set cross-wise on a stock, usually drawn by means of a mechanism and discharged by the release of a trigger.
3. "Projectile weapon" shall mean any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.
4. "Under the influence" shall mean that condition as defined by state regulation applied to motor vehicle operation.
5. "Tree stand" shall mean an elevated platform, a minimum of ten (10) feet above ground level, designed to support one hunter.

Source: 4517 (2006).

12-0403. Designated season and areas for inclusion within Deer Management Program, number of permits, permit fee.--The board of city commissioners may annually, by resolution, designate a period of time during which persons may participate in the city's Deer Management Program. The board of city commissioners may also, by resolution designate specific areas

within the city limits for inclusion within the program as well as designate the appropriate number of permits. The board of city commissioners shall also have authority to charge a fee for participating in the program which may be set annually by resolution.

Source: 4517 (2006).

12-0404. Proficiency requirements for participants.--No person shall be allowed to participate in the Deer Management Program until he or she can present certification of having completed an archery safety course approved by the chief of police or his designee.

Source: 4517 (2006).

12-0405. Permission of landowner required.--

- A. It shall be unlawful for any person carrying an archery device, or crossbow, of any type, to knowingly enter into the premises of another, or to discharge an archery device or crossbow of any type while on the premises or property of another without first having obtained written permission from the owner, lessee, or person in charge of such premises or property.
- B. When taking part in the activities authorized under this article, all participants must carry on their person, written documentation signed by the private property owner as confirmation that the participant has permission to be on that owner's private property.
- C. Any person granted permission to enter upon the property of another for purposes of this program shall be held responsible for their actions while on the person's property.

Source: 4517 (2006).

12-0406. Rules and regulations of participation.--

- A. Eligibility for participation in the Deer Management Program is limited to persons eighteen years of age or older.
- B. Any person participating in the Deer Management Program shall:
  - 1. Pass an archery safety and program training course, to include a proficiency test;
  - 2. Apply for and obtain a city of Fargo permit to participate in the program and pay any related fee;
  - 3. Obtain a North Dakota Game and Fish Department special archery license and tag;
  - 4. Obtain written permission from the landowner prior to entering upon private property and carry proof of such written authorization;
  - 5. Permanently mark all arrows in his or her possession with the participant's last name and city of Fargo permit number;
  - 6. Comply with any rules and regulations governing the Deer

Management Program;

7. Comply with all other applicable archery rules and regulations issued by the North Dakota Game and Fish Department; and
  8. Follow all North Dakota Game and Fish Department guidelines regarding field dressing and processing of the animal.
- C. Nothing in this article shall authorize the parking or standing of vehicles on private property without the consent of the property owner or the parking or standing of any vehicles in violation of the Fargo Municipal Code.

Source: 4517 (2006).

12-0407. Specific actions prohibited.--

- A. It shall be unlawful for any person to discharge any archery device or crossbow from across any street, sidewalk, road, highway, or playground.
- B. It shall be unlawful for any person to discharge an archery device or crossbow within one hundred (100) yards of any church, school, or playground.
- C. It shall be unlawful for any person to discharge any archery device or crossbow within fifty (50) yards of any dwelling, building, structure, or vehicle, unless the person has previously received express authority to discharge the archery device or crossbow within fifty (50) yards from the owner of the dwelling, building, structure, or vehicle.
- D. No arrow or other projectile authorized for use under this article may be discharged or projected at such an angle or distance as to land on public or private property other than the property on which the participant has permission to enter upon.
- E. No arrow or other projectile may be discharged or projected at such an angle or distance as to land within seventy-five (75) feet of any front-yard property line.
- F. No arrow or other projectile may be discharged or projected at such an angle or distance as to land within fifty (50) feet of any street or public-right of way.
- G. All hunting shall be conducted from an elevated position that is at least ten (10) feet in height and faces the interior of the property. The elevated position (deer stand) shall be located in such a way as to direct arrows away from occupied areas, buildings or dwellings, and to prevent any arrow from landing any closer than twenty-five (25) feet from any side or rear property line.
- H. No hunting is authorized on tracts of land under one (1) acre in area, except that adjacent property owners may combine their parcels to satisfy the property line discharge restrictions.

- I. No person shall possess, consume, or be under the influence of alcohol or any other controlled substance while participating in activities authorized under this article.
- J. Deer drives or efforts to direct or push deer to certain locations as part of assisting participants shall be prohibited.

Source: 4517 (2006).

12-0408. Deer retrieval.--

- A. Participants shall make every reasonable effort to retrieve deer.
- B. Nothing in this article authorizes the act of trespass.
- C. It shall be the participant's responsibility to immediately notify any property owner, other than the specific property owner who has granted permission for hunting on his or her property, of the fact that an injured animal is located on his or her property.
- D. It shall be the participant's responsibility to obtain the permission of any property owner upon which an animal is located prior to engaging in a reasonable search and retrieval of the animal.
- E. In the event the participant cannot obtain the permission of a property owner to conduct a reasonable search and retrieval of an animal, the participant shall notify the North Dakota Game and Fish Department.

Source: 4517 (2006).

12-0409. Penalty for violations.--Any person, entity, or group of individuals who violate any provision of this article, other than the unlawful carrying, possession, or discharge of a weapon as described in section 10-0304, or who fail to follow any related rules or regulations, shall be charged with an infraction, punishable by a fine not to exceed \$500.00.

Source: 4517 (2006).