

ORDINANCE NO. 669

AN ORDINANCE OF THE CITY OF FORT CALHOUN, NEBRASKA TO AMEND AND COMPLETELY REVISE SECTION II, ARTICLE III – DOGS AND CATS; PROVIDING FOR DEFINITIONS; OWNER DEFINED; LICENSES; LICENSE TAGS, NUMBER RESTRICTED; EXCEPTIONS; DOG GUIDES, HEARING AID DOGS AND SERVICE DOGS; EXEMPT FROM LICENSE TAX; WRONGFUL LICENSING; REMOVAL OF TAGS; UNLAWFUL USE OF A DOG OR CAT; FIGHTING; KILLING AND POISONING; BARKING AND OFFENSIVE DOGS; OFFENSIVE CATS; RUNNING AT LARGE; RESTRAINT; DAMAGING PROPERTY; DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS GENERALLY; JUDICIALLY EXCLUDED ANIMALS; IMPOUNDMENT OF CERTAIN ANIMALS DURING ENFORCEMENT PROCEEDINGS; IMPOUNDING; ANIMAL SHELTER; SPAYING OR NEUTERING; MICROCHIP IDENTIFICATION AND LICENSE REQUIRED; CLASSES REQUIRED; WARNING SIGNS REQUIRED; DANGEROUS ANIMALS CONFINED; LEASH, MUZZLE AND HARNESS REQUIRED; PROOF OF INSURANCE; DESTRUCTION OF DANGEROUS ANIMALS AT LARGE; REGISTRY OF DANGEROUS ANIMAL; DETERMINATION OF POTENTIALLY DANGEROUS ANIMAL; AGGRESSIVE OR POTENTIALLY DANGEROUS BREED; CLASSES OF DOGS AND ANIMALS PROHIBITED AND DETERMINED A NUISANCE; DEFINITIONS OF RABIES CONTROL; RABIES VACCINATION REQUIRED; RABIES REVACCINATION; PROCEDURE FOR PERSON BITTEN BY DOGS OR CATS; RABID ANIMAL WHEN CAPTURE IMPOSSIBLE; PROCLAMATION FOR RABIES CONTROL; RECKLESS OWNER; TO PROVIDE PROVISIONS FOR VIOLATIONS AND PROVIDE FOR PENALTIES; AND TO PROVIDE FOR SEVERABILITY; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND TO ESTABLISH WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FORT CALHOUN, NEBRASKA:

SECTION 1: SECTION 2, ARTICLE 3 – DOGS AND CATS of the Fort Calhoun Municipal Code is hereby revised and amended to read as follows:

SECTION 2-301 – DEFINITIONS:

“Animal Control Authority” shall mean an entity authorized by the City Council of Fort Calhoun to enforce the animal control laws of the City or in the absence of such authorization the City Council, in whole or in part, may act as the “Animal Control Authority”.

"Animal Control Officer" shall mean any individual employed, appointed or authorized by the Animal Control Authority or the City Council for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals, and shall include any state or local law enforcement personnel or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal. (*Ref. Neb. Rev. Stat. § 54-617*)

SECTION 2-302 - OWNER DEFINED:

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Any person who shall harbor or permit any dog or cat to be present for ten days or more in or about his/her house, store or enclosure, or allow to remain to be fed, shall be deemed liable for all penalties herein described. (*Ref. Neb. Rev. Stat. 54-606, 71-4401*)

SECTION 2-303 – LICENSES:

(1) Any person who shall own, keep or harbor a dog or cat over the age of 6 months within the City shall, within 10 days after acquisition of said dog or cat, acquire a license for each such dog or cat annually by or before January 30, of each year. The license fee shall be delinquent from and after March 15; provided the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to January 30 of any year shall be liable for the payment of the license fee levied herein and such fee shall be delinquent if not paid within 10 days thereafter.

Licenses shall be issued by the City. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat.

(2) The owner shall state at the time the application is made and upon printed forms provided for such purpose his or her name and address and the name, breed, color, and sex of each dog or cat owned and kept by him or her. A certificate that the dog or cat has had a rabies vaccination, effective for the ensuing year of the license, shall be presented when the license is applied for, and no license or tag shall be issued until the certificate is shown.

(3) License fees for dogs and cats shall be set by ordinance of the City Council and shall be on file in the City office, where they shall be available for inspection by the public during office hours. (*Ref. Neb. Rev. Stat. § 54-603*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-304 - LICENSE TAGS:

Upon payment of the required license fee, the City shall issue a numbered receipt and tag as necessary to the owner for the dog or cat licensed. Tags shall be issued annually, or at another interval determined by the City. (*Ref. Neb. Rev. Stat. §17-526, 54-603*)

SECTION 2-305 - NUMBER RESTRICTED:

It shall be unlawful to own, keep or harbor at any time more than three dogs and/or three cats over the age of four months per residential or dwelling unit in the city; provided, however, this section shall not apply to kennels and catteries. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-306 – EXCEPTIONS:

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Notwithstanding any other provision herein, the provisions of this article shall not be deemed to apply to, or in any way to interfere with, the ordinary conduct and operation of veterinary clinics, biological laboratories or pet shows, when conducted within the city.

SECTION 2-307 - DOG GUIDES, HEARING AID DOGS AND SERVICE DOGS; EXEMPT FROM LICENSE TAX:

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing-impaired person, and service dog for a physically limited person shall be licensed as required, but no license fee shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license fee. (*Ref. Neb. Rev. Stat. §54-603*)

SECTION 2-308 - WRONGFUL LICENSING:

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, or other city identification other than that issued by the City for such dogs or cats. (*Ref. Neb. Rev. Stat. §17-526*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-309 - REMOVAL OF TAGS:

It shall be unlawful for any person to remove or cause to be removed the collar, harness, or metallic tag from any licensed dog or cat without the consent of the owner, keeper, or possessor thereof. (*Ref. Neb. Rev. Stat. §17-526*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-310 - UNLAWFUL USE OF A DOG OR CAT:

It shall be unlawful for person to make use of a dog or cat in the commission or furtherance of any criminal act in the city. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-311 – FIGHTING:

It shall be unlawful for any person, by agreement or otherwise, to set dogs or cats to fighting, or by any gesture or word to encourage the same to fight. (*Ref. Neb. Rev. Stat. §17-526, §28-1004 to 28-1005.01*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-312 - KILLING AND POISONING:

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It shall be unlawful to kill or to administer, or cause to be administered, poison of any sort to a dog or cat, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy, any dog or cat that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog or cat; provided, that this section shall not apply to the City and/or its agents acting within its power and duty. (*Ref. Neb. Rev. Stat. §28- 1008 and §28-1014*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-313 - BARKING AND OFFENSIVE DOGS:

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers, or owners of vehicles while they are on any public sidewalks, streets, or alleys in the City. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-314 - OFFENSIVE CATS:

It shall be unlawful for any person to own, keep, or harbor any cat which shall annoy or disturb any neighborhood or person. (*Ref. Neb. Rev. Stat. §17-526*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-315 - RUNNING AT LARGE—DOGS AND CATS:

All dogs and cats found to be at large and to go in or upon the private premises of others or upon the public grounds, streets or highways of the City, are hereby declared to be a public nuisance. It shall be unlawful for any person or persons to have any dog or cat which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him/her or under his, her or their control, to be at large and to go in or upon the private premises of others or upon the public grounds, streets or highways of the City; and it shall be unlawful for such person or persons to own, keep, or harbor, or to have in or upon the premises occupied by him/her or under his, her or their control, any dog or cat, unless said dog or cat is securely fastened by a chain or otherwise confined in or upon said premises in some enclosure. However, when a dog or cat is away from the occupied premises there is no violation of this section if the dog or cat is on a secure leash and under control of the owner or other person. (*Ref. Neb. Rev. Stat. §17-526, §17-548*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-316 - RESTRAINT—DOGS:

It shall be unlawful for the owner of any dog within the city to fail to keep his dog securely restrained or otherwise confined in or upon his premises in an enclosure sufficient to contain the dog. Each animal shall be separately tethered. That no animal shall be tethered outdoors in excess of 15 minutes at any one time unless an owner,

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custodian or person responsible for the animal, 19 years of age or older, is present in the same yard in which the animal is tethered. The tether shall be at least five times the length of the animal's body as measured from the tip of the nose to the base of the tail, terminates at each end with a swivel, weighs no more than one-eighth of the animal's weight, is free of tangles, prevents strangulation or injury and prevents the animal from being within 15 feet from the edge of any public street or sidewalk. Provided, that if the tethering method is a trolley system, at least 15 feet in length and less than seven feet above ground, and meets the foregoing tether requirements, the animal may be tethered outdoors for up to one hour with an owner, custodian or person responsible for the animal, 19 years of age or older, in the same yard in which the animal is tethered. In addition to the sanctions which may be imposed by law, any person who fails to keep his dog securely restrained or otherwise confined as required by this section shall pay the following penalties:

(a) For the first violation, a penalty in the sum of \$100.00.

(b) For the second violation within 24 months of the first violation, a penalty in the sum of \$250.00.

(c) For the third violation within 24 months of the first violation, and each subsequent violation thereafter, a penalty in the sum of \$500.00. Such penalties shall be paid to the City.

SECTION 2-317 - DOGS OR CATS DAMAGING PROPERTY OF OTHERS:

It shall be unlawful for the owner of a dog or cat to allow or permit his dog or cat to damage the property of others or to cause bodily injury. If the owner is adjudged guilty of a violation of this section, the court may, in addition to the penalty provided for the violation of this Code, order such disposition or destruction of the offending dog/cat as may seem reasonable and proper. (*Ref. Nev. Rev. Stat. §17-526 and §54-601*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-318 - DANGEROUS AND POTENTIALLY DANGEROUS DOGS OR CATS, GENERALLY:

(1) No person shall own, keep or harbor, or allow to be in or upon any premises occupied by him, or under his charge or control, any dangerous dog, cat or potentially dangerous dog or cat without complying with the requirements of this chapter regarding dangerous or potentially dangerous animals.

(2) A dangerous dog or cat is defined as one who meets one or more of the following conditions:

(a) Any dog or cat which attacks, snaps at, bites, or has a history of attacking a human being or other domestic animal one or more times, without provocation.

(b) Any dog engaging in or found to have been trained to engage in exhibitions of fighting.

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(c) Any dog or cat previously declared a potentially dangerous animal that bites a human being without provocation.

(3) A potentially dangerous dog or cat is defined as one who meets one or more of the following conditions:

(a) Any dog or cat that when unprovoked: (i) inflicts an injury on a human being that does not require medical treatment, (ii) injures a domestic animal, or (iii) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

(b) Any specific animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

(4) No dog or cat may be declared dangerous or potentially dangerous that inflicts injury or damage on a person committing a willful trespass or other tort upon premises occupied by the owner or lessee of the animal, or committing or attempting to commit a crime. No dog or cat may be declared dangerous or potentially dangerous for taking any action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault. No dog used in connection with lawful activities of law enforcement officials shall be declared a dangerous or potentially dangerous animal.

The court may, in addition to any other fine or judgment, order the animal control authority to forthwith put the animal to death by removing the same to the animal shelter for such purpose. Any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the animal, boarding and veterinary expenses necessitated by the seizure of any animal for the protection of the public and such other expenses as may be required for the destruction of any such animal. (*Ref. Neb. Rev. Stat. §54-617 and §54-524*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-319 - JUDICIALLY EXCLUDED DOG:

It shall be unlawful for any person to bring any dog into the city, which has, in another jurisdiction been judicially determined to be a dangerous, potentially dangerous, vicious, a nuisance, or a threat to the health or safety of human beings. (*Ref. Neb. Rev. Stat. §54-618 and §54-624*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-320(A) - IMPOUNDMENT OF CERTAIN DOGS DURING ENFORCEMENT PROCEEDINGS:

If there is reasonable cause shown that the offending animal under section 2-317 or 2-318 may constitute a hazard to the safety of the public at large during the pendency of any action commenced thereunder, the court may order such animal or animals impounded pending the outcome of such proceedings. Any person, who owns, keeps,

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harbors, maintains, or controls any animal involved in such impoundment shall pay all expenses, including shelter, food, veterinary expenses, boarding, or other expenses, necessitated by the impoundment of the animal for the protection of the public and other expenses as may be required. The authority may require such person to pay, prior to expiration of ten days after the date of impoundment, an amount sufficient to pay all reasonable expenses incurred in caring and providing for the animal, including estimated medical care, for 30 days, inclusive of the date on which the animal was impounded. If such payment is not made prior to expiration of this ten-day period, the animal shall become the property of the authority to be disposed of as the authority deems appropriate. Such payment shall be required for each succeeding 30-day period. If any such payment is not made prior to the end of each succeeding 30-day period, the animal shall become the property of the authority to be disposed of as the authority deems appropriate. The amount of the payment shall be determined by the authority based on the current rate for board at the animal shelter and the condition of the animal after examination of the animal by a veterinarian acting for the authority. Any such payment received by the authority in excess of the amount determined by the authority to be due for the board and care of the animal shall be refunded by the authority upon expiration of the order of impoundment. Notwithstanding the foregoing, if the owner or custodian is found not guilty of animal neglect or cruelty, the owner or custodian shall only be required to pay the veterinary expenses and one-half of the board and care fees determined by the authority to be due. Notwithstanding the foregoing, if it is determined by a veterinarian acting for the authority that such animal is diseased or disabled beyond any useful purpose, the animal shall immediately become the property of the authority to be humanely disposed of, as the authority deems appropriate.

SECTION 2-320(B) – IMPOUNDING:

It shall be the duty of the animal control officer to capture, secure and remove in a humane manner to the designated city animal shelter any animal violating any of the provisions of this article. The animal so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the pound for a period of not less than five days, unless reclaimed earlier by the owner. No later than 24 hours after the impoundment of any animal, notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the city clerk as public notification of such impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file at the office of the city clerk. The owner shall then be required to comply with the rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of the required waiting period after public notice has been given, the animal control officer may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, if the animal control officer can find a suitable home for the impounded

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animal, he/she may turn it over to any person willing to provide the animal with a home. In this event the new owner shall be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed animal impounded in the animal shelter for a period longer than the required waiting period after giving notice. All animals not placed for adoption shall be destroyed and buried in a humane manner as prescribed by the Board of Health. (*Ref. Neb. Rev. Stat. §17-548, § 71-4401 to 71-4410*)

SECTION 2-320(C) - ANIMAL SHELTER:

The animal shelter shall be safe, suitable and conveniently located for the impounding, keeping and destruction of animals. The said shelter shall be sanitary, ventilated and lighted.

SECTION 2-321 - DANGEROUS OR POTENTIALLY DANGEROUS DOGS; SPAYING OR NEUTERING; MICROCHIP IDENTIFICATION AND LICENSE REQUIRED:

Any dog judicially determined to be dangerous or administratively determined to be potentially dangerous shall be spayed or neutered and implanted with microchip identification by a licensed veterinarian at the owner's expense no less than 30 days after such determination is entered with written proof of spaying or neutering and the microchip identification number being provided to the animal control authority within 72 hours of the procedure being completed. In addition such dangerous or potentially dangerous dog shall be required to be licensed as a dangerous or potentially dangerous dog within 30 days of the determination. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-322 - DANGEROUS OR POTENTIALLY DANGEROUS DOG; CLASSES REQUIRED:

The owner of any dog judicially determined to be dangerous or administratively determined to be potentially dangerous shall be required to attend, at the owner's expense, within 90 days after such determination is entered, a responsible pet ownership class approved by the animal control authority and, at the discretion and direction of the animal control authority, a dog behavior class provided or approved by the animal control authority. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-323 - DANGEROUS OR POTENTIALLY DANGEROUS DOGS OR CATS; WARNING SIGNS REQUIRED:

Any property wherein a dangerous animal is kept, harbored or confined shall be posted with warning signs visible from all areas of public access. The warning signs must:

- (1) Be no less than ten inches by 12 inches in size,

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(2) Contain the words "Warning; Dangerous Animal" in high contrast lettering on a black background in English, and

(3) Lettering must be no less than three inches high. (Ref. Neb. Rev. Stat. §54-619) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-324 - DANGEROUS DOG; CONFINED:

No person owning, harboring or having the care of a dangerous dog shall permit such animal to go unconfined on the premises of such person. A dangerous dog is unconfined as the term is used in this section if such animal is not:

(a) Confined indoors; or

(b) Confined outdoors in an enclosed and locked pen or structure upon the premises of the person described above; provided the existence of such a pen or structure is permitted by zoning regulations. Maintenance of a dangerous dog is not permitted in areas where such structures or pens are not authorized by zoning regulations. If permitted, such pen or structure shall be:

TABLE INSET:

Size of Animal	Square ft. of pen
Extra large (over 26 inches at withers or over 75 lbs.)	48
Large (over 20 inches and up to 26 inches at withers or not over 75 lbs.)	40
Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.)	32
Small (12 inches or less at withers or not over 20 lbs.)	24

The pen must be constructed with chain link fencing for all four sides and the top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground no less than one foot, or have a concrete pad for the bottom. The pen or structure shall be set back at least ten feet from the nearest property line. (Ref. Neb. Rev. Stat. §54-619) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-325 - DANGEROUS OR POTENTIALLY DANGEROUS DOG; LEASH, MUZZLE AND HARNESS REQUIRED:

It shall be unlawful for any person owning, harboring or having the care of a dangerous or potentially dangerous dog to permit such dog to go beyond the property of such

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person unless the animal is under the control of a person 19 years of age or older and restrained securely by a harness and leash no longer than six feet and properly muzzled to reasonably prevent the animal from biting. (*Ref. Neb. Rev. Stat. §54-624*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-326 - DANGEROUS DOGS, POTENTIALLY DANGEROUS DOGS AND AGGRESSIVE AND/OR POTENTIALLY DANGEROUS BREEDS; PROOF OF INSURANCE:

Any animal that has been determined to be a dangerous dog by a court determination, any dog administratively determined to be a potentially dangerous dog, and any aggressive and/or potentially dangerous breeds as defined in section 2-331 that is required to be licensed under this chapter cannot be licensed unless the person having custody, ownership or control of such dog or other animal first presents written proof of public liability insurance of not less than \$100,000.00 to the City Clerk. Such insurance shall be maintained in effect for the period such dangerous or potentially dangerous animal is so designated, provided, that insurance for a aggressive and/or potentially dangerous breed as defined in section 2-331 shall be maintained in effect for the life of the dog. (*Ref. Neb. Rev. Stat. § 54-624*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-327 - DANGEROUS AND POTENTIALLY DANGEROUS DOGS OR CAT - IMPOUNDMENT:

Any dog or cat that has been determined to be a dangerous animal or a potentially dangerous animal that, without provocation, bites a human being may be immediately impounded by an animal control officer, if in violation of this chapter. The owner shall be responsible for the reasonable costs incurred for the care of such impounded dangerous dog or cat. (*Ref. Neb. Rev. Stat. §54-624*)

SECTION 2-328 - DESTRUCTION OF DANGEROUS DOGS OR CATS AT LARGE

In the event that a dog or cat that has been determined to be dangerous as defined in section 2-318 is found at large and unattended upon public property, park property, or a public right-of-way, or upon the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the county sheriff or authorized designee, be destroyed if it cannot be confined or captured. The city shall be under no duty to attempt the confinement or capture of a dangerous dog or cat found at large, nor shall it have a duty to notify the owner of such dog or cat prior to its destruction. (*Ref. Neb. Rev. Stat. §54-624*)

SECTION 2-329 - REGISTRY OF DANGEROUS DOG OR CAT:

The owner of any dog or cat that has been determined to be dangerous as defined in section 2-318, or previously determined to be dangerous under this chapter shall register such animal with the city within thirty (30) days of such determination or within

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thirty (30) days of enactment of this section if previously determined to be dangerous. Such registration shall include the following information:

- (a) The name of the current owner of the animal;
- (b) The address where the animal is harbored;
- (c) A description of the animal, including name, breed, sex, and coloring;
- (d) The current license number for the animal;
- (e) The carrier and policy number for public liability insurance as required in section 2-326;
- (f) Microchip manufacturer and microchip identification number.

At least once per calendar year, the authority shall publish a list of animals on the above registry, providing the name of the owner, the address where the animal is harbored, and a description of the animal including name and breed.

Any person who has registered an animal pursuant to this section shall have a continuing obligation to provide updated registration information to the authority and shall, within thirty (30) days of the sale or transfer of such animal, provide to the authority the date of such sale or transfer, the name of the new owner, and the address where the animal will be harbored. (*Ref. Neb. Rev. Stat. §54-624*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-330 - DETERMINATION OF POTENTIALLY DANGEROUS DOG OR CAT:

The animal control authority shall initiate administrative proceedings to determine an animal to be a potentially dangerous animal if it meets the definition of potentially dangerous animal under section 2-318, by service of a notice, in writing, upon such animal's owner either by certified and regular mail to the owner's last known address or personally. The notice shall contain:

- (a) The name and address of the owner whose animal is subject to such determination;
- (b) The name, description and license number of the animal that is subject to such determination;
- (c) A description of the facts which form the basis of such determination;
- (d) A summary of the effects of such determination, including the requirements for sections 2-321 through section 2-325 and state that noncompliance will result in an owner being declared a reckless owner by the animal control authority;
- (e) The date of proposed entry of the determination which shall be not less than ten days after the date of mailing or personal service of the notice; and,
- (f) Notification of the availability of an appeal if the owner objects to such determination, within ten days of the date of mailing or personal service of the notice.

An owner whose animal is determined to be a potentially dangerous animal shall be required to comply with section 2-321 immediately, sections 2-322 and 2-323 within 30 days of the date of entry of the determination order, and shall be required to comply with section 2-324 within 90 days of the date of entry of the determination order, unless

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a notice of appeal of the order is filed with the animal control authority, provided, non-compliance with any of the sections set forth above in this paragraph shall result in the owner being declared a reckless owner by the animal control authority under section 2-339.

An appeal of such determination order shall be heard by a hearing officer designated by the animal control authority within ten days of the date of the filing of the notice of appeal, and shall provide an opportunity for the owner to appear and offer evidence to dispute the determination order. The filing fee for each notice of appeal shall be \$100.00. A decision to affirm or reverse such order shall be entered by the hearing officer within ten days of the date of the hearing.

An owner may request termination of the determination order if there are no incidents of the type specified in section 2-318 for at least two years following the date of the determination order. Such request for termination shall be heard, by a hearing officer designated by the animal control authority, within ten days of the date of the filing of the request for termination, and shall provide an opportunity for the owner to appear and offer evidence to support termination of the determination order. The owner must provide documented evidence that the animal's behavior has changed due to environment, health, age, training, neutering or other relevant factor. The filing fee for each request for termination shall be \$200.00. A decision to continue or terminate such determination order shall be entered by the hearing officer within ten days of the date of the hearing.

SECTION 2-331 - AN AGGRESSIVE OR POTENTIALLY DANGEROUS BREED:

It shall be unlawful for any person owning, harboring or having the care of an aggressive or potentially dangerous breed to permit such animal to be outdoors unless confined in a securely fenced yard or unless the animal is under the control of a person 19 years of age or older, restrained securely by a harness and leash no longer than six feet and properly muzzled to reasonably prevent the animal from biting. For purposes of this section, An aggressive or potentially dangerous breed shall be defined as any dog that is a Pit- Bull, Doberman Pinscher, Rottweiler, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the animal control authority. Provided that an aggressive or potentially dangerous breed which is a participant in an organized dog event approved by the authority shall not be required to be leashed and muzzled while outdoors and being shown or otherwise actively competing in such event. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-332 - CLASSES OF DOGS AND ANIMALS PROHIBITED AND DETERMINED A NUISANCE:

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Those dogs exhibiting the following breed's characteristics are hereby determined to be a public nuisance. It is unlawful to keep shelter or harbor such breeds of dogs for any purpose within the City limits. For purposes of this section, pit bull shall be defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Dogo Argentino, Presa Canario, Cane Corso, American Bulldog, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the animal control authority.

Those animals exhibiting the following characteristics are hereby determined to be a public nuisance. It is unlawful to keep shelter or harbor such animals for any purpose within the City limits. Wolves and/or any cross between a wolf and dog; any cat not a domesticated house cat; venomous snakes or large carnivorous reptiles; and any and all other wild animals. (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-333 - RABIES CONTROL; DEFINITIONS:

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Cat" shall mean any feline animal, male or female, sexed or neutered.

"Dog" shall mean any canine animal, male or female, sexed or neutered.

"Own" unless otherwise specified, shall mean to possess, keep, harbor or have control of, charge of or custody of a dog or cat. "Own" shall not apply to dogs or cats owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of no not more than 30 days.

"Owner" shall mean any person possessing, keeping, harboring or having charge or control of, or permitting any dog or cat to habitually be or remain on, or be lodged or fed within, such person's house, yard or premises. Owner shall not apply to veterinarians or kennel operators temporarily maintaining on their premises dogs or cats owned by other persons for a period of not more than 30 days.

"Rabies control authority" shall mean any City law enforcement officer, animal control officer or other officer designated by the mayor.

"Vaccination against rabies" shall mean the inoculation of a dog or cat with a rabies vaccine licensed by the U. S. Department of Agriculture on the effective date of this code. Such vaccination must be performed by a veterinarian duly licensed to practice veterinary medicine in the state. (*Ref. Neb. Rev. Stat. §71-4401 to §71-4412*)

SECTION 2-334 - RABIES CONTROL; VACCINATION REQUIRED:

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Every dog and cat four months of age and older shall be vaccinated against rabies by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska. Young dogs or cats shall be vaccinated within 10 days after they have reached four months of age. Unvaccinated dogs and cats acquired or moved into the City must be vaccinated within 10 days after purchase or arrival, unless under four months of age, as specified above. (*Ref. Neb. Rev. Stat. §71-4401 to §71-4412*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-335 - RABIES CONTROL; REVACCINATION:

Every dog or cat shall be revaccinated against rabies according to product label directions following a period of not more than 36 months since its last vaccination. Such revaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska. The intervals of any other anti-rabies vaccine shall be set by the state veterinarian, and he/she shall follow the latest recommendations of the U. S. Public Health Service. (*Ref. Neb. Rev. Stat. §71-4401 to §71-4412*) (Penalties refer to Sections 2-340 through 2-342)

SECTION 2-336 - RABIES CONTROL; PERSON BITTEN BY DOGS OR CATS; PROCEDURE:

- (1) Any dog or cat suspected of being afflicted with rabies or any dog or cat not vaccinated in accordance with the regulations herein which has bitten any person and caused an abrasion of the skin of such person, shall be seized by the City and impounded under the supervision of a licensed veterinarian or a public health authority for a period of not less than 10 days. If upon examination by a veterinarian, the dog or cat has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of a stray, it shall be disposed of in accordance with applicable law.
- (2) Any dog or cat vaccinated in accordance with the provisions herein which has bitten any person(s) shall be confined by the owner or other responsible person as required by the rabies control authority for a period of at least ten days, at which time the dog or cat shall be examined by a licensed veterinarian. If no signs of rabies are observed by the veterinarian, the dog or cat may be released from confinement.
- (3) All costs of impoundment and examination fees shall be the responsibility of the owner.

SECTION 2-337 - RABID ANIMALS; CAPTURE IMPOSSIBLE:

The animal control officer shall have the authority to kill any domestic animal with the characteristics of rabies which make capture impossible because of the danger involved.

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SECTION 2-338 - RABIES CONTROL; PROCLAMATION:

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat to muzzle the same or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is passed. The dogs or cats may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the said owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided. (*Neb. Rev. Stat. §17-526*)

SECTION 2-339 - RECKLESS OWNER:

(1) The City may initiate administrative proceedings to declare an owner, who has been convicted of one (1) or more violations of this chapter on two (2) separate occasions in a 24-month period or whose animal(s) has been determined to be dangerous or potentially dangerous and who has not complied with the requirements of this chapter pertaining to dangerous or potentially dangerous animal(s), a reckless owner, and to revoke all pet license(s) associated with said animal(s) issued to such person. Such proceedings shall be instituted by service of a notice in writing upon such owner either by certified mail and regular mail to the owner's last known address or upon the owner personally.

The notice shall contain:

(a) The name and address of the owner who is subject to such declaration and revocation decision;

(b) The name(s), description(s) and license number(s) of any animal(s) associated with such violations licensed to the owner;

(c) A description of the violations or requirements which form the basis of such declaration and revocation decision, including the case numbers, if any;

(d) A summary of the effects of such declaration, including the revocation of said pet license(s) and surrender of said animal(s);

(e) The date of proposed entry of the declaration and revocation decision which shall be not less than ten days after the date of mailing or personal service of the notice; and

(f) Notification of the availability of an appeal, if the owner objects to such declaration and revocation decision, within 10 days of the date of mailing or personal service of the notice.

(2) Upon entry of such declaration and revocation decision, unless an appeal of such is filed with the City in accordance with this section, such reckless owner shall be required to surrender said animal(s) to any City law enforcement officer or animal control officer within 24 hours. Failure to surrender such animal(s) shall result in immediate impoundment by the City. Such surrendered or impounded animal(s) shall immediately

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become the property of the City and may be disposed of by the City as they deem appropriate.

(3) An owner who is declared a reckless owner shall be prohibited from licensing, residing with, or owning any additional animal(s) in the City for a period of 48 months from the date of entry of the declaration and revocation decision.

(4) An appeal of such declaration and revocation decision shall be heard by the City Council which shall provide an opportunity for the owner to appear and offer evidence to dispute the declaration and revocation decision. The filing fee for each appeal shall be \$200.00 payable to the City at the time of the filing of said appeal. A determination to affirm or reverse such decision shall be determined by the City Council.

Section 2-340: VIOLATIONS, PENALTY:

It shall be unlawful for any person to fail to comply with the provisions herein and every person failing to comply with or violating any of the provisions of this Chapter shall unless specifically provided otherwise be deemed to be guilty of a Class III misdemeanor as defined by the Statutes of the State of Nebraska Section 28-106 and upon conviction there of shall be fined accordingly.

SECTION 2-341: VIOLATIONS, BUREAU:

A violations Bureau for the City of Fort Calhoun is hereby created pursuant to Section 18-1729 R.R.S. Neb. for the purpose of collecting penalties for city code violation. Any person accused of a violation as established by Sections 2-303, 2-305, 2-308, 2-309, 2-310, 2-311, 2-312, 2-313, 2-314, 2-315, 2-316, 2-317, 2-318, 2-319, 2-321, 2-322, 2-323, 2-324, 2-325, 2-326, 2-329, 2-331, 2-332, 2-334, and 2-335, may within ten (10) days after the issuance of a citation of the violation and before the appearance date thereon dispose of the citation by appearing at the office of the City Clerk of the City of Fort Calhoun and remitting full payment of the penalty assessed for the specific violation. Any person may plead not guilty to the citation and he or she may appear before the County Court of Washington County Nebraska on the date and at the time specified on the citation. At the time of the commission of the alleged violation the accused shall be served with printed notice informing the accused of his or her options in disposing of the citation as noted herein above. If the accused fails to appear at the office of the City Clerk of the City of Fort Calhoun or before the County Court of Washington County Nebraska on or before the date specified on the citation a Warrant for his or her arrest shall be issued by the County Court of Washington County Nebraska.

SECTION 2-342: PENALTIES:

A conviction for violation of sections 2-303, 2-308, 2-309, 2-310, 2-311, 2-312, 2-313, 2-314, 2-315, 2-317, 2-319, 2-321, 2-322, 2-323, 2-334 and 2-335 shall result in a fine for the first offense in any one calendar year of the sum of twenty five dollars \$25.00 for

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the second offense in any one calendar year the sum of fifty dollars \$50.00 and for the third or subsequent offenses in any one calendar year the sum of one hundred dollars \$100.00. A conviction for violation of Sections 2-305, 2-311, 2-318, 2-324, 2-325, 2-326, 2-329, 2-331 and 2-332 shall result in a fine for the first offense in any one calendar year of the sum of one hundred dollars (\$100.00), for the second offense in any one calendar year the sum of one hundred fifty dollars (\$150.00), and for the third offense and subsequent offenses in any one calendar year the sum of two hundred dollars (\$200.00).

SECTION 3: All conflicting provisions of other Ordinances or parts thereof are hereby repealed.

SECTION 4: This Ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 17TH day of OCTOBER 2011

CITY OF FORT CALHOUN, WASHINGTON
COUNTY, NEBRASKA

Mitch Robinson, Mayor

ATTEST:

Linda Welsher, City Clerk