

ORDINANCE NUMBER _____

An ordinance dealing with animals and animal ownership; to amend Sections 5-1, 5-3, 5-4, 5-5, 5-6, 5-7, 5-8, 5-21, 5-22, 5-23, 5-24, 5-40, 5-41, 5-42, 5-44, 5-45, 5-60, 5-61, 5-62, 5-63 and 5-64 of the Beatrice City Code; to amend the Beatrice City Code by adding Sections 5-9, 5-10, 5-11, 5-12, 5-13, 5-14, 5-15, 5-16, 5-17, 5-18, 5-19, 5-20, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30, 5-31, 5-32, 5-33, 5-34, 5-35, 5-43, 5-46, 5-47, 5-65, 5-66, 5-67, 5-68, 5-69, 5-70, 5-71, 5-72, 5-73, 5-74, 5-75, 5-90, 5-91, 5-92, 5-93, 5-100, 5-101, 5-102, 5-103, 5-104, 5-105, 5-106, 5-107, 5-108, 5-120, 5-121, 5-122, 5-123, 5-124, 5-125, 5-126, and 5-127 to the Beatrice City Code; to repeal Sections 5-36, 5-37, 5-38, 5-39, 5-56, 5-57, 5-58, 5-59, 5-76, 5-77, 5-78, 5-79, 5-80, 5-81, 5-82, and 5-84 of the Beatrice City Code and all other conflicting ordinances or parts of ordinances; and to provide for an effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
BEATRICE, NEBRASKA:

SECTION 1. That Section 5-1 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate Shelter: Adequate shelter shall mean a physical structure available for use by an animal so that when factors related to the age, size, physical condition, medical condition, species, and breed disposition are considered, the animal’s well-being is not endangered by weather or environmental conditions.

Animal: Any vertebrate member of the animal kingdom excluding man.

Animal Control Officer: Animal control officer shall mean any person authorized by law, employed, appointed or contracted with for the purpose of aiding in the

enforcement of this Chapter or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals. Additionally, all Law Enforcement Officers of the City of Beatrice shall have all of the authority which is hereby conferred upon animal control officers, and any authority conferred in this Chapter upon any "Animal Control Officer" shall be deemed to also be conferred upon every Law Enforcement Officer of the City of Beatrice.

Animal Shelter: Animal shelter shall mean a facility that is used to house or contain animals and is owned, operated, or maintained by the City of Beatrice or contracted with the City of Beatrice for the purpose of providing temporary kenneling of animals.

Boarding: Boarding shall mean caring for, feeding, watering, or sheltering an animal belonging to another by any person or business for pay, trade, barter, commission, or remuneration of any sort.

Dangerous Animal: Dangerous animal shall mean any animal that (a) has killed or inflicted severe injury on a human being on public or private property; (b) has killed a domestic animal without provocation while the animal was off the owner's property; or (c) has been previously determined to be a potentially dangerous animal according to this Chapter and such animal subsequently and aggressively bites, attacks, or endangers the safety of humans or domestic animals. Under (a) and (c) herein, the animal shall not be considered a dangerous animal if the conduct of the animal in question is directed at a person:

- (1) who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the animal;
- (2) who, at the time, was tormenting, abusing, or assaulting the animal;
- (3) who has, in the past, been observed or reported to have tormented, abused, or assaulted the animal; or
- (4) who, at the time, was committing or attempting to commit a crime against the person, against public peace, or relating to property.

Dwelling: Dwelling shall mean any building or portion thereof which is designed and used for residential purposes. An attached or detached garage shall be deemed to be part of the dwelling.

Exotic Animal: Exotic animal shall mean any animal that is native to a foreign country or of foreign origin or character, is not native to the United States. This term specifically includes animals such as, but not limited to, elephants, camels, antelope, anteaters, kangaroo and water buffalo.

Fowl: Fowl shall mean chickens, ducks, geese, turkeys, pigeons, pheasants, quail, partridge, guineas, or other domesticated or wild birds.

Hybrid: Hybrid shall mean any animal which is (1) the product of the breeding of a domesticated animal with a non-domesticated animal including, but not limited to, wolf/dog hybrids, or (2) the product of the breeding of a non-domesticated animal with an animal of a different species, variety, or breed.

Large Animal: Large animal shall mean cattle, horses, mules, sheep, goats, llamas, or any other domesticated animal which is normally and historically kept and raised on farms in the United States and used or intended for use as food, fiber, or farm work weighing more than twenty pounds except pet animals, unusual animals, or fowl.

Owner: Any person owning, keeping or harboring one (1) or more animals or has licensed the animal under his or her name. An animal shall be harbored if it is fed or sheltered for three (3) consecutive days or more.

Person: Any individual, firm, corporation, association, or partnership.

Pit Bull: 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.

Potentially Dangerous Animal: Potentially dangerous animal shall mean:

(a) Any animal that when unprovoked

(1) inflicts a wound on a human or injures a domestic animal either on public or private property, or

(2) chases or approaches a person upon streets, sidewalks, or any public grounds in an outward appearance of aggressive or dangerous behavior; or

(b) Any 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.

Premises: Premise shall include any enclosure, building, lot, yard, or portion thereof, facilities and appurtenances thereto, grounds, area, or place used or held out for use to own, keep, or harbor animals.

Run at Large: Run at large shall include any animal that is not under the actual control of its owner. An animal shall not be considered under the actual control of its owner unless on a leash, cord, or chain which is securely fastened or picketed in a manner sufficient to keep the animal on the premises where picketed, or on a leash, cord, or chain of six feet or less in length physically held by the owner or confined within a receptacle, enclosed vehicle, fenced enclosure or shelter or within the real property limits of the owner and in the owner's presence and under direct and effective voice control.

Severe Injury: Severe injury shall mean any physical injury to a person that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery, or one or more broken bones, or that creates a potential danger to the life or health of the victim.

Unusual Animal: Unusual animal shall mean any exotic, wild, poisonous, or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City of Beatrice, State of Nebraska, or federal requirements, and also:

(a) Class mammalia; order carnivora, family felidae (such as lions, tigers, jaguars, leopards, and cougars) and hybrids of the same except commonly accepted domesticated cats; family canidae (such as wolves, coyotes, and fox) and hybrids of the same except domesticated dogs; family mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers) except ferrets; family procyonidae (such as raccoon); family ursidae (such as bears); order primata (such as monkeys and chimpanzees); and order chiroptera (such as bats).

(b) Class reptilia; (i) all poisonous or venomous snakes, lizards, amphibians and other reptiles and shall include but not be limited to: cobras and their allies (elapidae, hydrophidae); vipers and their allies (crotalidae, viperidae); boomslang and kirtland's tree snake (clonophis); and gila monster (helodermatidae); (ii) order loricata (such as alligators, caymans, and crocodiles); (iii) green anaconda (eunectes murinus), Indian python (molurus molurus), reticulated python (python reticulatus), and African rock python (python sebae).

Wild Animal: Wild animal shall mean any animal within the boundaries of the United States which is now or historically has been found in the wild, or is in the wild state wherein it is living in its original, natural condition and is not domesticated.

Wound: Wound shall mean any injury to a person not included within the definition of severe injury.”

SECTION 2. That Section 5-3 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-3. False Information.

It shall be unlawful for the owner of any animal to make a false or misleading statement or representation, to any Law Enforcement Officer, Animal Control Officer, or their designee regarding the ownership, control, or licensing of an animal, or regarding the ownership of an animal claimed from, surrendered to, or impounded.”

SECTION 3. That Section 5-4 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-4. Horses -- Prohibited on private and public property; exceptions thereto.

It shall be unlawful for any person who owns or is in charge of a horse to allow the horse to go upon any City park or public property other than the improved portion of the public streets and alleys within the City without a permit or consent from the City Council for such accepted usage. It shall be unlawful for any person who owns or is in charge of a horse to allow the horse to go upon private property within the City of Beatrice without the consent of the owner or occupant of said private property.”

SECTION 4. That Section 5-5 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-5 Keeping of Large Animals Prohibited.

(a) No person shall, within the corporate limits of the city, keep or harbor large animals.

(b) Upon the annexation of lands into the City where large animals are kept, the person keeping said animals shall be allowed 30 months from the date of annexation to remove said animals, or to otherwise bring their property into compliance with this Chapter. During such time, the person granted said extension shall not:

(1) Expand or enlarge the premises within which the animals are kept; or

(2) Increase the number or types of animals that are being kept there on the effective date of the annexation ordinance.

(c) Any large animals within the corporate limits of the City as of March 1, 2011 shall be considered a nonconforming use and may continue but the number or types of animals shall not be enlarged. Any conforming use that remains unused for a continuous period of one year shall be deemed an abandonment of the nonconforming use and any subsequent use must conform to all applicable ordinances and regulations. Any nonconforming use shall run with the land.”

SECTION 5. That Section 5-6 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-6 Keeping of Roosters Prohibited.

- (a) No person shall, within the corporate limits of the City, own, keep or harbor live roosters. The unlawful keeping or harboring of roosters is hereby declared to be a public nuisance.
- (b) This prohibition on the ownership, keeping, or harboring of live roosters shall not apply to roosters owned or harbored by a governmental entity, Humane Society, animal shelter, zoo, or to an animal hospital operated by veterinarians duly licensed under the laws of the State of Nebraska.”

SECTION 6. That Section 5-7 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-7 Unusual Animals Prohibited.

- (a) It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the City of Beatrice. This section shall not apply to:
 - (1) a public zoo, circus, or carnival that maintains all legally required permits under applicable state or federal law, including applicable rules and regulations of the Nebraska Game and Parks Commission and federal wildlife agencies;
 - (2) primary, secondary, and post-secondary educational institutions using said unusual animal for research and teaching;
 - (3) an animal shelter kenneling or boarding impounded unusual animals for the City;
 - (4) any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission that rehabilitate or shelter unusual animals; or
 - (5) the temporary storage or display of animals adjacent to and for use in connection with any veterinary clinic, livestock sale yard, circus, rodeo, parade, county fair, or by the City of Beatrice
- (b) It shall be unlawful for any person to sell, give away, transfer, or import into the City any unusual animals as defined in this Chapter.
- (c) In the event that the Chief of Police, the Animal Control Officer or their designee determines an unusual animal is being owned, kept, or harbored by any person in violation of this Chapter, the Chief of Police, the Animal Control Officer, or their designee may have such person prosecuted for such violation and shall order such person to remove said unusual animal from the city or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten days and shall be delivered in person or by certified mail, return receipt requested. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper or general circulation in the City or by conspicuously posting notice on the premises where the animal is kept or harbored. If the owner fails to remove or destroy such unusual animal after the expiration of ten (10) days from receipt of notice, the Chief of Police, the Animal Control Officer or their designee is hereby authorized and empowered to enter private property in order to impound the unusual animal in violation of this Chapter.

(d) Authority to remove and impound. If the Chief of Police, the Animal Control Officer or their designee reasonably believes that a violation of this section exists, the Chief of Police, the Animal Control Officer or their designee is hereby authorized and empowered to enter private property in order to inspect, care for, or impound unusual animals in violation of this Chapter.

(e) Owner's cost. Any person or persons violating this section shall bear the full cost and expenses incurred by the City in the recovery, care, medical treatment, impoundment cost, and disposal of said animals, including removal from a motor vehicle or trailer.

(f) Whenever an unusual animal has been seized, the release or disposition of the unusual animal shall be within the sound discretion of the Chief of Police, the Animal Control Officer or their designee. The Chief of Police, the Animal Control Officer or their designee may, order that the unusual animal be destroyed in a humane fashion, and any such impoundment or disposal costs incurred by the City shall be payable by the owner.”

SECTION 7. That Section 5-8 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-8. Location of Hives.

No person shall establish or maintain any hive or box where bees are kept, or keep any bees on the premises within fifty feet of any dwelling (except the dwelling of the owner of such bees), or within fifteen feet of any lot line, sidewalk, alley, or other public way.”

SECTION 8. That Section 5-9 be added to the Beatrice City Code as follows:

“Sec. 5-9. Minimum Area Required.

No person shall establish or maintain any hive or box where bees are kept on any parcel of real estate in excess of one hive or box per 1,500 square feet.”

SECTION 9. That Section 5-10 be added to the Beatrice City Code as follows:

“Sec. 5-10. Standards for Management.

Any person keeping bees shall:

- (a) Minimize swarming of bees;
- (b) Provide an adequate source of water located on the premises;

(c) Provide an adequate number of hives or boxes;

(d) Maintain and manage such boxes or hives so as not to create a nuisance.”

SECTION 10. That Section 5-11 be added to the Beatrice City Code as follows:

“Sec. 5-11. Animals; pitting; definitions.

Bearbaiting shall mean the pitting of any animal against a bear. Cockfighting shall mean the pitting of a fowl against another fowl. Dogfighting shall mean the pitting of a dog against another dog. Pitting shall mean bringing animals together in combat.”

SECTION 11. That Section 5-12 be added to the Beatrice City Code as follows:

“Sec. 5-12. Animals; pitting; prohibited.

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this Section to occur on any premises owned or controlled by him or her.”

SECTION 12. That Section 5-13 be added to the Beatrice City Code as follows:

“Sec. 5-13. Animals; pitting; spectators prohibited.

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in this Chapter.”

SECTION 13. That Section 5-14 be added to the Beatrice City Code as follows:

“Sec. 5-14. Cruelty to Animals.

Cruelty to animals shall be prohibited within the Beatrice city limits.

(a) Physical Abuse. It shall be unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise cruelly set upon any animal.

(b) Physically Mistreat. It shall be unlawful for any person to knowingly, intentionally, or recklessly cause or allow any animal to endure unreasonable or unjustifiable pain, suffering, or injury.

(c) It shall be unlawful for any person to use any live animal including fish and fowl as or for a target or in any cruel or unusual manner.”

SECTION 14. That Section 5-15 be added to the Beatrice City Code as follows:

“Sec. 5-15. Cruelty; Exemptions.

Section 5-14 shall not apply in the following circumstances, except that no animal shall be killed in an inhumane fashion or tortured in any event.

(1) Care or treatment of an animal by a veterinarian licensed under the Nebraska Veterinary Practice Act;

(2) Commonly accepted care or treatment of a police animal by a Law Enforcement Officer or Animal Control Officer in the normal course of his or her duties;

(3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131, et seq.;

(4) Commonly accepted practices of hunting, fishing, or trapping, while lawfully engaged in said activity;

(5) Commonly accepted practices occurring in conjunction with rodeos, animal racing, or pulling contests, while lawfully engaged in said activity;

(6) Humane killing of an animal by a veterinarian upon the owner's request;

(7) Commonly accepted practices of animal husbandry with respect to farm animals, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Nebraska Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;

(8) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;

(9) Killing of house or garden pests in one’s own house or garden. For purposes of this section, “house or garden pests” shall include moles, voles, mice, rats, bats, gophers, ground squirrels, and the like, but shall not include any animal which is assigned a hunting season by the State of Nebraska or which is subject to any other special protection such as being designated a threatened or endangered species;

(10) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts; and

(11) Commonly accepted animal training practices.”

SECTION 15. That Section 5-16 be added to the Beatrice City Code as follows:

“Sec. 5-16. Animal Neglect.

(a) Care and maintenance. It shall be unlawful for any person owning, keeping or harboring any animal to fail, refuse, or neglect to provide such animal with adequate food, water, shade, shelter, living environment, or veterinary care as may be necessary for diseased or injured animals. Any animal habitually kept outside or repeatedly left unattended outside shall be provided with a structurally sound, moisture-proof and windproof shelter large enough to accommodate and keep the animal reasonably clean, dry, and comfortable. Adequate food, water, shade, shelter, living environment and care shall mean:

(1) That each animal shall at suitable intervals, and at least once every twenty-four hours receive a quantity of wholesome foodstuff suitable for the species’ physical condition and age, sufficient to maintain an adequate level of nutrition for the animal;

(2) That each animal shall at all times have access to an adequate supply of clean, fresh potable water for the species’ physical condition and age, and such water shall be provided either free-flowing or in a receptacle. Snow or ice is not an acceptable water source. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping;

(3) That each animal shall have convenient access to adequate shelter throughout the year. Any artificial shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around and lie down in a natural manner. Any shelter which does not protect the animal from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, does not comply with this section. The shelter and any other spaces accessible to the animal and all bedding for the animal shall be maintained in a manner which minimizes the risk of the animal contracting disease, being injured or becoming infested with parasites.

(4) That each animal shall receive care and medical treatment for debilitating injuries, parasites, and disease, sufficient to maintain the animal in good health and to minimize suffering;

(5) That any animal being confined in any sort of shelter or restrained in any way shall be provided space to walk and lie down in and said space shall have adequate drainage such that the animal shall be free to walk and lie down without coming into contact with standing water;

(6) That if any animal is restrained by a chain, leash, wire cable or similar restraint, such restraint shall be designed and placed to prevent choking or strangulation or entanglement with other objects. Any tethering device must be attached to a properly fitting collar or harness. Choke chain collars, prong or pinch collars, or any collar devised for training so that it chokes or pinches the animal when pulled is prohibited for the purposes of tethering an animal. The tethering device must be at least ten feet in length but shall not allow the animal to leave the property on which it is tethered. No animal shall be tethered for more than eight (8) hours during any twenty-four (24) hour period. Each animal shall be separately tethered. The tether shall terminate at each end with a swivel, weigh no more than one-eighth of the animal's weight, be free of tangles, prevent strangulation or injury and prevent the animal from being within 15 feet from the edge of any public street or sidewalk.

(7) That if any animal is kept in an enclosure, the enclosure shall be constructed in a manner and of material designed to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

Size of Dog	Enclosure Size (Sq. Ft.)
Extra Large (over 26 in. at withers or over 75 lbs.)	48
Large (over 20 in. and up to 26 in. at withers and not over 75 lbs)	40
Medium (over 12 in. and up to 20 in. at withers and not over 50 lbs.)	32
Small (12 in. or less at the withers and not over 20 lbs.)	24
An additional sixteen (16) square feet shall be required for each dog sharing a pen with another.	

(b) Leaving animals in an unattended vehicle. It shall be unlawful for any person to place or confine an animal or allow an animal to be confined, in a motor vehicle or trailer in such a manner or under such conditions or for such periods of time as to endanger the health or well-being of the animal, including, but not limited to, extremes of heat or cold, lack of food or water, or any other circumstances which may cause suffering, disability, injury, or death.

(c) Abandonment of animals. It shall be unlawful for any person to abandon any animal within the City of Beatrice. Abandonment shall mean leaving an animal for a period of time in excess of twenty-four hours without appropriate provisions having been made for the feedings, watering, and care of such animal, or leaving an animal unattended with the intent to discontinue care and maintenance of the animal.

(d) Authority to remove and impound. If the Chief of Police, the Animal Control Officer or their designee reasonably believes that a violation of this section exists, the Chief of Police, the Animal Control Officer or their designee is hereby authorized and empowered to enter private property in order to inspect, care for, or impound animals which show signs of animal neglect or abuse.

(e) Owner's cost. Any person or persons violating this section shall bear the full cost and expenses incurred by the City or representative in the recovery, care, medical treatment, impoundment cost, and disposal of said animals, including removal from a motor vehicle or trailer.

(f) Whenever an animal has been seized, the release or disposition of the animal shall be within the sound discretion of the Chief of Police, the Animal Control Officer, or their designee. The Chief of Police, the Animal Control Officer, or their designee may, order that the animal be destroyed in a humane fashion, and any such impoundment or disposal costs incurred by the City or representative shall be the responsibility of the owner of the animal."

SECTION 16. That Section 5-17 be added to the Beatrice City Code as follows:

"Sec. 5-17. Animals running at large.

It shall be unlawful for the owner or keeper of any animal to permit the same to run at large within the city at any time."

SECTION 17. That Section 5-18 be added to the Beatrice City Code as follows:

"Sec. 5-18. Dead Animals; Duty to Remove.

(a) Except as permitted by subsection (c), if any animal shall die in the possession of any person in this city, it shall be the duty of the owner of such animal to cause the same to be at once removed to a site approved by the Chief of Police, the Animal Control Officer or their designee and buried or otherwise disposed of. In case the owner or person having charge of any such animal shall neglect or refuse to remove such dead animal within twenty-four hours after its death, then the Chief of Police, the Animal Control Officer or their designee shall cause the same to be removed at the expense of such owner or person having charge of the same, such expenditure to be recovered in a civil action.

(b) It shall be unlawful for any person to deposit or bury on any of the streets or alleys or other places within the corporate limits of the city, or cause to be buried, any carcass of any dead animal of any kind, and it shall be unlawful for the owner or person having possession of any animal that shall die to allow the carcass of any such animal to remain within the corporate limits of said city for more than twenty-four hours after the death of said animal except under the direction of the Chief of Police, the Animal Control Officer or their designee. In no event shall diseased dead animals or fowl be used for food for other animals or be buried above the course of groundwater that is used for drinking purposes by the inhabitants of the City.

(c) Nothing in this section shall prevent burial of any animal on the residential premises of the owner of such animal if such animal weighs less than 25 pounds and such animal is a household pet and is permitted within the City. Any such animal shall be buried within twenty-four hours after its death, and all parts of any such animal shall be covered by at least two feet of fine soil.”

SECTION 18. That Section 5-19 be added to the Beatrice City Code as follows:

“Sec. 5-19. Sanitary Regulations.

The owner of any animal shall keep all pens, cages, sheds, yard, shelter structures, or any other area or enclosure for the confinement of animals, wherein such animals are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner of any animal shall not allow offal, manure, and waste material of such animal to accumulate or remain in the pens, cages, sheds, yard, shelter areas, or any other area or enclosure, upon which such animal resides or is confined in any manner which is conducive to the breeding or attraction of flies, mosquitoes, or other noxious insects or in any manner which endangers the public health or safety or which creates an unhealthy environment. The maintenance or permitting of any of the foregoing conditions on any such lot or parcel of ground is hereby declared to be a public nuisance. The owner of any animal shall in a sanitary manner remove or dispose of all offal, manure, and waste material accumulating from such animal at least once every five days.”

SECTION 19. That Section 5-20 be added to the Beatrice City Code as follows:

“Sec. 5-20. Animal waste.

It shall be unlawful for the owner of any animal to allow the animal to urinate or defecate off of the property of the owner, or on any public property, unless the animal owner immediately collects and removes the animal waste from the property. It shall be unlawful for any person to dispose of any animal waste by dumping or abandoning said waste on property located within the city limits. The owner of any animal that damages property by urinating or defecating on said property shall be liable for the damage resulting therefrom. The provisions of this section shall not apply to Law Enforcement Officers while using the animal to perform law enforcement functions or rescue activity.

It shall be unlawful for any person having custody or control of any animal to place, deposit, discard, or dispose of feces or manure on public property or private property of another unless placed in approved garbage or refuse containers on public property or with the consent of the owner of the private property.”

SECTION 20. That Section 5-21 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-21. Storage of Hides.

No salted or green hides shall be stored in any warehouse or other building or other place within the city so that odors arising from said hides shall annoy or disturb the occupants of the premises in the vicinity thereof; and the maintaining of such hides in such condition shall of itself constitute a public nuisance.”

SECTION 21. That Section 5-22 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-22. Animal Control Officer -- Powers and duties.

It shall be the duty of the Animal Control Officer to enforce the provisions of this Chapter and any other Ordinance pertaining to the control of animals. The animal control officer shall inform the Chief of Police, immediately upon receipt of an animal suspected of having rabies and shall not release any such animal without permission from the Chief of Police.”

SECTION 22. That Section 5-23 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-23. Contracting for animal control services.

The Mayor and City Council, in lieu of utilizing City employees, may contract with any humane society, business, or individual for the performance of all or a part of the services required to carry out and enforce the provisions of this Chapter.”

SECTION 23. That Section 5-24 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-24. Right of Entry; powers; immunity.

(a) Any Law Enforcement Officer, Animal Control Officer or their designee who has reason to believe that an animal has been abandoned, is being cruelly neglected or cruelly mistreated, or that a nuisance exists may enter upon private property to inspect, care for, impound the animal, or abate the nuisance. No such officer shall enter upon any premises in violation of the statutory and constitutional rights of the owner or occupant thereof.

(b) Any Law Enforcement Officer, Animal Control Officer or their designee acting in the official capacity shall not be liable for damage to property if such damage is not the result of the officer's negligence.”

SECTION 24. That Section 5-25 be added to the Beatrice City Code as follows:

“Sec. 5-25. Animals; capture impossible.

Any Law Enforcement Officer, Animal Control Officer or their designee shall have the authority to destroy any animal showing vicious tendencies or characteristics of rabies which make capture impossible and any animal found in the act of attacking any person, domestic animal, or livestock.”

SECTION 25. That Section 5-26 be added to the Beatrice City Code as follows:

“Sec. 5-26. Stockyards.

(a) It shall be unlawful for any person to erect, keep or maintain any stockyard for the purpose of keeping or feeding meat cattle, sheep or swine therein within the city; and it shall be unlawful for any person to keep or feed, or cause to be kept or feed, or procure any other person or persons to keep or feed, any meat cattle, sheep or swine in any such stockyard. The provisions of this section shall not, however, be construed to apply to the stockyard of any railroad company or owner that is used solely for the temporary retention and loading, not to exceed forty-eight (48) hours, of stock for shipment.

(b) A stockyard within the meaning of this section is defined to be a pen, shed or other enclosure in which are kept or fed ten (10) or more head of meat cattle, swine or sheep.”

SECTION 26. That Section 5-27 be added to the Beatrice City Code as follows:

“Sec. 5-27. Exemption.

Any livestock auction market licensed by the State Department of Agricultural is exempt from Section 5-26.”

SECTION 27. That Section 5-28 be added to the Beatrice City Code as follows:

“Sec. 5-28. Limitation on number of dogs or cats.

(a) It shall be unlawful and a public nuisance for any person to own, keep, harbor, maintain or allow to be kept, harbored, or maintained more than five (5) dogs, cats or any combination of such animals at any residence, dwelling or premises.

(b) No person shall own, keep, harbor, or maintain in, about, or upon any residence, dwelling, or premises, more than five (5) dogs, cats or any combination at any one time. Provided however, the offspring of any dog or cat shall not count toward the maximum number of dogs or cats allowed, for a period of four (4) months after the birth

of said offspring. It being the intention of this section to limit the number of dogs, cats or any combination to five (5) per residence, dwelling or premises.

(c) Any person who owns, keeps, harbors, or maintains more than five (5) dogs, cats or any combination of such animals at their residence, dwelling, or premises shall be grandfathered and may retain the additional dogs or cats in excess of the limit set forth in subsections (a) and (b) if the person had said additional dog or cat licensed in the City of Beatrice prior to May 1, 2011.

(d) Any person grandfathered under subsection (c) shall cease to be grandfathered for the additional dog or cat once said additional dog or cat no longer are owned, kept, harbored, or maintained at said residence, dwelling, or premises, said additional dog or cat dies, or said additional dog or cat is not licensed in accordance with the provisions set forth in this Chapter. Any person grandfathered under subsection (c) shall not increase the number of dogs or cats at said person is grandfathered for at said residence, dwelling, or premises, except for the offspring of any dog or cat so grandfathered at said residence, dwelling, or premises shall not count toward the maximum number of dogs or cats for a period of four (4) months after the birth of said offspring.

As an example, if a person was grandfathered to have a combination of seven dogs and cats and one of the animals died, then that person would be grandfathered to have a combination of six dogs and cats.

(e) Any person desiring to keep or harbor more than five (5) dogs, cats or any combination of such animals at their residence, dwelling or premises may apply for a permit for each additional the dog or cat they wish to keep or harbor at their residence, dwelling or premises. Said permit shall be twenty dollars (\$20.00) per dog or cat and shall be valid from January 1 to December 31 of the year the permit is issued. Prior to a permit being issued the Chief of Police, Animal Control Officer, or their designee shall inspect the premises to ensure that the premises is a clean and healthy environment, capable of supporting the additional dogs or cats, and all other applicable ordinances and regulations are satisfied. Said permit shall not be available to premises with a potentially dangerous, dangerous animal, or pit bull and shall not be transferable. Said permit may be revoked if the owner fails to conform with the provisions of this Chapter. In addition to said permit any person desiring to keep or harbor more than five (5) dogs, cats or any combination of such animals must license said animals in accordance with the provisions set forth in this Chapter. ”

SECTION 28. That Section 5-29 be added to the Beatrice City Code as follows:

“Sec. 5-29. Animals; public nuisances; excretion; disturbing the peace.

It shall be unlawful for any person owning, possessing, harboring or keeping any animal to do any of the following:

(1) Permit an animal, whether restrained by a leash or not, to be present at any time upon the playing surface of any baseball or softball diamond, including foul territory thereof, or upon any football or soccer field. This provision shall apply to any such diamond or field owned or maintained by the City.

(2) Permit an animal to unreasonably obstruct the use and enjoyment of property held by others in the community by allowing such animal to habitually bark, howl, yelp, bay or make other noise which by loudness or frequency causes a breach of the peace; provided, however, this section shall not apply to the animal shelter, and the business premises of licensed veterinarians.

(3) Permit an animal to engage in menacing behavior including but not limited to the chasing of vehicles or the molesting or frightening of passersby or neighbors.

Any Law Enforcement Officer, Animal Control Officer or their designee may abate any of the above nuisances, either through issuance of a citation or impounding the animal.”

SECTION 29. That Section 5-30 be added to the Beatrice City Code as follows:

“Sec. 5-30. Issuance of citations.

The Animal Control Officer shall be vested with the power to issue to any person violating any of the provisions of this Chapter, a Complaint and Citation in Lieu of Arrest on forms by or similar to forms approved for use in the State of Nebraska.”

SECTION 30. That Section 5-31 be added to the Beatrice City Code as follows:

“Sec. 5-31. Animal Control Violation; Citation.

Whenever a Law Enforcement Officers, Animal Control Officers or their designee shall observe any violation of this Chapter or has probable cause to believe that a violation of this Chapter has occurred, it shall be the officer's duty to issue a citation to the appropriate person.”

SECTION 31. That Section 5-32 be added to the Beatrice City Code as follows:

“Sec. 5-32. Animal; Liability of Owner.

It shall be unlawful for any person to allow an animal owned, kept, or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such animal, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained.”

SECTION 32. That Section 5-33 be added to the Beatrice City Code as follows:

“Sec. 5-33. Requests for destruction; fee.

Any person owning, keeping or harboring a dog or cat which he wishes euthanized may turn the same over to the Chief of Police, the Animal Control Officer or their designee. Such person shall pay a fee for such destruction of the dog or cat as established by the Mayor and City Council by Resolution.”

SECTION 33. That Section 5-34 be added to the Beatrice City Code as follows:

“Sec. 5-34. Interference with Capture of Animals.

It shall be unlawful for any person to hinder, delay, interfere with or obstruct any Law Enforcement Officer, Animal Control Officer, or their designee while engaged in capturing, securing or taking to the animal shelter, any animal subject to be impounded, or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of any animal shelter, or any vehicle used for the collecting or conveying of animals to the shelter.”

SECTION 34. That Section 5-35 be added to the Beatrice City Code as follows:

“Sec. 5-35. Penalty, General.

Any person upon whom a duty is placed by the provisions of this Chapter who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Chapter for which a penalty is not specifically provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or be fined in a sum not to exceed \$500.00 and not less than \$50.00 for the first offense and not less than \$75.00 for a second offense, and not less than \$100.00 for the third offense and each offense thereafter, recoverable with costs, or by both such fine and imprisonment.

In addition to the penalties for all violations herein provided, the court may order such person to reimburse the city, and/or a public or private agency for expenses incurred in the care, medical treatment, impoundment, and disposal of any animal involved in or connected with the incident for which the complaint was filed.

A court, upon finding a person guilty or any violation of this title, may in addition to fines, imprisonment, costs, or otherwise, order such convicted person to make restitution to any persons for damage or injury to such person or such person’s property.

Each day that a violation of this Chapter continues shall be punishable as a separate offense. The penalty herein provided shall be cumulative and in addition to

revocation, cancellation, or forfeiture of any license, permit, or right granted by this chapter or elsewhere.”

SECTION 35. That Sections 5-36, 5-37, 5-38, and 5-39 of the Beatrice City Code be and hereby are repealed.

SECTION 36. That Article II and Section 5-40 of the Beatrice City Code be amended to the as follows:

“ARTICLE II. DOGS

Sec. 5-40. Dogs Running at Large.

It shall be unlawful for the owner of any dog to let such dog run at large, whether licensed or not, at any time within the city, and any dog found to be running at large may be impounded by the Chief of Police, the Animal Control Officer or their designee.”

SECTION 37. That Section 5-41 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-41. Mistreatment of police dogs.

It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, strike, mutilate, injure, disable or kill any dog used by the police department of the city, or the sheriff, in the performance of the functions or duties of such department or office or to interfere with or meddle with any such dog while being used by such department or any officer or member.”

SECTION 38. That Section 5-42 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-42. Nuisance dogs.

It shall be unlawful for any person owning, keeping or harboring a dog to fail to exercise proper care and control of such dog or to allow it to become a public nuisance. A public nuisance is defined as any animal that:

- (1) Attacks passersby or passing vehicles;
- (2) Attacks other animals while at large;

- (3) Is repeatedly at large;
- (4) Damages property;
- (5) Barks, whines or howls in a continuous or frequent manner disturbing the comfort or repose of the residents of any residential neighborhood.”

SECTION 39. That Section 5-43 be added to the Beatrice City Code as follows:

“Sec. 5-43 . Vaccination Against Rabies Required; Vaccination Tag.

Any person within the city owning a dog shall have such dog vaccinated against rabies with a licensed vaccine as approved by the Nebraska State Department of Health. All dogs shall be vaccinated against rabies commencing at three months of age and the vaccination shall be repeated at fifteen months; and a booster vaccination shall be given triennially thereafter. Unvaccinated dogs acquired or moved into the City of Beatrice must be vaccinated within thirty days after purchase or arrival, unless under three months of age. It shall be the duty of every veterinarian, at the time of vaccinating any dog, to provide a rabies vaccination tag to the owner. The rabies vaccination tag shall be attached to and kept upon the collar or harness of the dog.

Any person convicted of violating this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum of not more than \$500.00, recoverable with costs, except that each person so convicted shall be fined in a sum of not less than \$50.00 for the first offense; not less than \$75.00 for a second offense; and not less than \$100.00 for the third offense and each offense thereafter.”

SECTION 40. That Section 5-44 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-44. Poisoning or Injuring Dogs.

It shall be unlawful for any person to administer, or cause to be administered, poison of any sort whatsoever to any dog, or to neglect or in any manner to mistreat, injure, maim, or destroy except as elsewhere in this Chapter specifically authorized, or in any manner to attempt to mistreat, injure, maim, or destroy the property of another, or to place any poison or poisoned food where the same is accessible to any dog.”

SECTION 41. That Section 5-45 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-45. Barking, Howling, or Yelping 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, person, or persons. Provided, however, this section shall not apply to the humane society or the business premises of licensed veterinarians.

Any person convicted of violating this provision shall be guilty of a misdemeanor and shall be punished by a fine in a sum of not more than \$500.00, recoverable with costs, except that each person so convicted shall be fined in a sum of not less than \$50.00 for the first offense; not less than \$75.00 for a second offense; and not less than \$100.00 for the third offense and each offense thereafter.”

SECTION 42. That Section 5-46 be added to the Beatrice City Code as follows:

“Sec. 5-46. Duty of Owner in Case of Dog Bite or Injury to Another Person.

It shall be unlawful for the owner of any dog involved in a bite or bodily injury to another person to fail to immediately prevent further bites or injury, and immediately furnish to the other person or persons injured, or, in case of juvenile, the parent or guardians of said juvenile, the owner's name and address and the rabies tag number or license tag number of the dog.”

SECTION 43. That Section 5-47 be added to the Beatrice City Code as follows:

“Sec. 5-47. Dogs; exceptions to limits.

No person shall own, keep, harbor or maintain any dog or dogs in, about or upon premises not occupied by such owner as a residence, unless such premises is a clinic operated by a licensed veterinarian, a kennel licensed by the City, or an animal shelter.”

SECTION 44. That Sections 5-56, 5-57, 5-58, and 5-59 of the Beatrice City Code be and hereby are repealed.

SECTION 45. That Article III and Section 5-60 of the Beatrice City Code be and hereby is amended as follows:

“ARTICLE III. DANGEROUS ANIMALS

Sec. 5-60. Dangerous and Potentially Dangerous Animals; Prohibited.

It shall be unlawful for any person after being notified as provided herein to keep or harbor a dangerous, a potentially dangerous animal, or pit bull within the City of Beatrice without first having complied with the provisions of this Article.”

SECTION 46. That Section 5-61 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-61. Dangerous and Potentially Dangerous Animal; Procedure.

(a) A Law Enforcement Officer or Animal Control Officer shall initiate administrative proceedings to determine an animal to be a potentially dangerous animal, dangerous animal, or pit bull if it meets the definition of potentially dangerous animal, dangerous animal, or pit bull under this Chapter, 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 by personal service. The notice shall contain:

- 1) The name and address of the owner whose animal is subject to such determination;
- 2) The name, description and license number of the animal who is subject to such determination;
- 3) A description of the facts which form the basis of such determination;
- 4) A summary of the effects of such determination, including the requirements of this Article;
- 5) 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
- 6) 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.

(b) An owner whose animal is determined to be a potentially dangerous animal, a dangerous animal, or pit bull shall be required to comply with the requirements of this Article, unless a notice of appeal of the order is filled with the City Clerk, provided, non-compliance with any of the sections set forth above in this paragraph shall result in the owner being declared a reckless owner pursuant to Section 5-72.

(c) An appeal of such determination order shall be heard by the Chief of Police, City Administrator, and Mayor within twenty (20) 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 established by the Mayor and City Council by Resolution. A decision to affirm or reverse such order shall be entered within ten days of the date of hearing.

An owner may request termination of the determination order if there are no incidents of the type specified in the definition of potentially dangerous animal or dangerous animal for at least two years following the date of the determination order.

Such request for termination shall be heard, by the Chief of Police, City Administrator, and Mayor 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 environment, health, age, training, neutering or other relevant factor. The filing fee for each request for termination shall be established by the Mayor and City Council by Resolution. A decision to continue or terminate such determination order shall be entered within twenty (20) days of the date of the hearing.”

SECTION 47. That Section 5-62 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-62. Registration Requirements; Dangerous Animals.

- (a) The owner of any dangerous animal shall register such animal with the City and upon registration shall provide the following:
 - (1) The name, address and telephone number of the owner;
 - (2) A written description and representation indicating the owner has and will continue to comply with the confinement provisions of this Chapter;
 - (3) Written evidence from a licensed veterinarian that the animal is currently neutered or spayed and micro-chipped;
 - (4) A written acknowledgment that the owner shall notify the City immediately if said animal is known by the owner to be running at large, unconfined, or when the owner has any knowledge or belief that the animal has bitten or is alleged to have bitten a human being or another animal;
 - (5) A written acknowledgment that the owner of said animal shall notify the City of any changes in material recorded as a part of the registration within twenty-four hours of said change. Changes in material recorded as part of the registration shall include information that the animal has been sold, given away, or otherwise transferred to any other person, and in that event the registered owner shall provide the City with the name, address, and telephone number of such person; and
 - (6) A non-refundable annual registration fee shall be established by the Mayor and City Council by Resolution. Said fee shall be in addition to any other license fee required by this Chapter. Said registration shall be valid from January 1 to December 31 of the year registration is filed.

- (b) Upon satisfactory completion of all the requirements of this section the City shall issue a registration certificate which shall be used to assign the animal a permanent number.
- (c) The registration requirements including the notification requirements acknowledged therein shall be construed as affirmative duties upon the owner, failure of which shall constitute a violation of this section.
- (d) It shall be unlawful for any person registering an animal to falsify or misrepresent material recorded as a part of the registration.”

SECTION 48. That Section 5-63 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-63. Registration Requirements; Potentially Dangerous Animals.

- (a) The owner of any potentially dangerous animal or pit bull shall register such animal with the City and upon registration shall provide the following:
 - (1) The name, address and telephone number of the owner;
 - (2) A written acknowledgment that the owner shall notify the City immediately or when the owner has any knowledge or belief that the animal has bitten or is alleged to have bitten a human being or another animal;
 - (3) A written acknowledgment that the owner of said animal shall notify the City of any changes in material recorded as a part of the registration within twenty-four hours of said change. Changes in material recorded as part of the registration shall include information that the animal has been sold, given away, or otherwise transferred to any other person, and in that event the registered owner shall provide the City with the name, address, and telephone number of such person; and
 - (4) A non-refundable annual registration fee shall be established by the Mayor and City Council by Resolution. Said fee shall be in addition to any other license fee required by this Chapter. Said registration shall be valid from January 1 to December 31 of the year registration is filed.
- (b) Upon satisfactory completion of all the requirements of this section the City shall issue a registration certificate which shall be used to assign the animal a permanent number.

- (c) The registration requirements including the notification requirements acknowledged therein shall be construed as affirmative duties upon the owner, failure of which shall constitute a violation of this section.
- (d) It shall be unlawful for any person registering an animal to falsify or misrepresent material recorded as a part of the registration.

SECTION 49. That Section 5-64 of the Beatrice City Code be and hereby is amended as follows:

“Sec. 5-64. Dangerous Animals; Securely Confined.

- (a) It shall be unlawful for the owner of a dangerous animal to fail, neglect, or refuse to securely confine such animal, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the animal from escaping. For materials used to provide a securely enclosed and locked pen or structure as required herein, such materials shall, at a minimum, comply with the following:
 - (1) Any fencing material used shall not have openings with a diameter of more than two inches, or in the case of wooden fence materials, gaps of more than two inches wide;
 - (2) Any gates within such pen or structure shall be lockable or of such design to prevent the entry of children or the escape of the animal.
- (b) The required pen or structure shall have secure sides and a secure top. Any top provided shall be a fence outrigger on the top of the fencing material or an equivalently secured top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements.
- (c) The owner of a dangerous animal shall securely restrain such animal by chain or leash when moving the animal to or from such pen or structure.”

SECTION 50. That Section 5-65 be added to the Beatrice City Code as follows:

“Sec. 5-65. Dangerous Animals; Warning Signs.

The owner of a dangerous animal shall display signs warning that there is a dangerous animal on the property. These signs shall be placed so as to be readily discernible and clearly visible from the public sidewalk or property line at any actual or customary point of entry to the premises. An additional sign shall be conspicuously displayed on any pen or structure provided for such dangerous animal.”

SECTION 51. That Section 5-66 be added to the Beatrice City Code as follows:

“Sec. 5-66. Dangerous Animals; Confiscation.

Any dangerous animal may be immediately confiscated by the Chief of Police, the Animal Control Officer or their designee if in violation of this Chapter. The owner shall be responsible for the reasonable costs incurred for the care of a dangerous animal confiscated or for the destruction of any dangerous animal as authorized herein. In addition to any other penalty, a court may order the Chief of Police, the Animal Control Officer or their designee to dispose of a dangerous animal in an expeditious and humane manner.”

SECTION 52. That Section 5-67 be added to the Beatrice City Code as follows:

“Sec. 5-67. Bites Unlawful.

It shall be unlawful for the owner of any dangerous animal, required to be registered under this Chapter to permit or allow such animal to kill, bite, chase, attack, injure, wound, or endanger in such a way that the animal may be considered either a dangerous animal or a potentially dangerous animal as defined in this Chapter. In addition, any such dangerous animal required to be registered under this Chapter shall be immediately confiscated by the Chief of Police, the Animal Control Officer or their designee, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.”

SECTION 53. That Section 5-68 be added to the Beatrice City Code as follows:

“Sec. 5-68. Dangerous animals; limit on number.

In no event shall a permit be issued for the keeping or more than one (1) dangerous animal at any single location.”

SECTION 54. That Section 5-69 be added to the Beatrice City Code as follows:

“Sec. 5-69. Confinement.

No person owning or harboring or having the care of a dangerous animal, potentially dangerous animal, or pit bull, shall permit such animal to go unconfined on the premises of such person. A dangerous animal, potentially dangerous animal or pit bull 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 animal, or pit bull, is not permitted in areas where such structures or opens are not authorized by zoning regulations. If permitted, such pen or structure shall be at least two (2) lengths of the dog or animal wide, four (4) lengths of the dog or other animal long, and two (2) lengths of the dog or other animal high, and must be constructed with chain link fencing for all four (4) sides and top. If the pen or structure does not have a bottom secured to the side, the sides must be imbedded in the ground no less than one foot (1'), or have a concrete pad for the bottom. The pen or structure shall be set back at least ten feet (10') from the nearest property line.”

SECTION 55. That Section 5-70 be added to the Beatrice City Code as follows:

“Sec. 5-70. Leashing.

No person, owning, harboring, or having the care of a dangerous animal, potentially dangerous animal or pit bull, shall permit such animal to be outdoors unless confined as required in Section 5-69 or unless such animal is securely leashed with a leash of a fixed length no longer than four (4) feet, under the control of a person 19 years of age or older, and muzzled. “Muzzled” for the purposes of this section shall mean that the jaws of the dangerous animal, potentially dangerous animal or pit bull, are confined by a device that prevents it from biting.”

SECTION 56. That Section 5-71 be added to the Beatrice City Code as follows:

“Sec. 5-71. Proof of Insurance.

Any person owning or harboring an animal within the City of Beatrice, that has been determined to be a dangerous animal, potentially dangerous animal or pit bull must, within thirty (30) days of said determination, present written proof of public liability insurance, covering any damage or injury that may be caused by said animal, of not less than one hundred thousand dollars (\$100,000.00), to the City Clerk. The policy shall contain a provision requiring the insurance company to provide written notice to the City not less than fifteen (15) days prior to any cancellation, termination, or expiration of said policy.”

SECTION 57. That Section 5-72 be added to the Beatrice City Code as follows:

“Sec. 5-72. Reckless owner.

(a) A Law Enforcement Officer or Animal Control Officer shall initiate administrative proceedings to declare an owner, who has been determined to have violated or convicted of one or more violations of this Chapter on three separate occasions in a 12-month period, or whose animal has been determined to be dangerous animal, potentially

dangerous animal or pit bull and who has not complied with the requirements of this Chapter pertaining to dangerous animal, potentially dangerous animal, or pit bull a reckless owner, and to revoke all animal licenses issued to such person. Such proceedings shall be instituted by service of a notice, in writing, upon such owner either by certified and regular mail to the owner's last known address or personally. The notice shall contain:

- (1) The name and address of the owner who is subject to such declaration and revocation;
- (2) The names, descriptions and license numbers of any animals licensed to the owner;
- (3) A description of the violations or requirements which form the basis of such declaration and revocation, including the case numbers, if any;
- (4) A summary of the effects of such declaration, including revocation of all pet licenses and surrender of all animals;
- (5) The date of proposed entry of the declaration and revocation order which shall be not less than ten days after the date of mailing or personal service of the notice; and,
- (6) Notification of the availability of an appeal, if the owner objects to such declaration and revocation, within ten days of the date of mailing or personal service of the notice.

(b) Upon entry of such declaration and revocation order, unless an appeal of such order is filed with the City in accordance with this section, such reckless owner shall be required to surrender all animals to the City within 24 hours. Failure to surrender such animals shall result in immediate impoundment by the City. Such surrendered or impounded animals shall immediately become the property of the City and may be disposed of by the City as the City deems appropriate.

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

(d) An appeal of such declaration and revocation order shall be heard by the Chief of Police, City Administrator, and Mayor and shall provide an opportunity for the owner to appear and offer evidence to dispute the declaration and revocation order within twenty (20) business days. The filing fee for each appeal shall be established by the Mayor and City Council by Resolution. A determination to affirm or reverse such order shall be entered within ten days of the date of the hearing.”

SECTION 58. That Section 5-73 be added to the Beatrice City Code as follows:

“Sec. 5-73. Dangerous or potentially dangerous animals--Spaying or neutering: microchip identification and license required.

Any animal determined to be 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 City within 72 hours of the procedure being completed.”

SECTION 59. That Section 5-74 be added to the Beatrice City Code as follows:

“Sec. 5-74. Judicially excluded animals.

It shall be unlawful for any person to bring any animal 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.”

SECTION 60. That Section 5-75 be added to the Beatrice City Code as follows:

“Sec. 5-75. Penalty.

Any person who shall violate any of the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or be fined in a sum not to exceed \$500.00 and not less than \$200.00 recoverable with costs, or by both such fine and imprisonment. In addition to any other penalty, a court may order the Chief of Police, the Animal Control Officer or their designee to dispose of a dangerous animal in an expeditious and humane manner.”

SECTION 61. That Sections 5-76, 5-77, 5-78, 5-79, 5-80, 5-81, 5-82, and 5-84 of the Beatrice City Code be and hereby are repealed.

SECTION 62. That Article IV and Section 5-90 be added to the Beatrice City Code as follows:

“ARTICLE IV. CATS

Sec. 5-90. Vaccination Against Rabies Required; Vaccination Tag.

Any person within the city owning a cat shall have such cat vaccinated against rabies with a licensed vaccine as approved by the Nebraska State Department of Health. All cats shall be vaccinated against rabies commencing at three months of age and the vaccination shall be repeated at fifteen months; and a booster vaccination shall be given

triennially thereafter. Unvaccinated cats acquired or moved into the City of Beatrice must be vaccinated within thirty days after purchase or arrival, unless under three months of age. It shall be the duty of every veterinarian, at the time of vaccinating any cat, to provide a rabies vaccination tag to the owner. The rabies vaccination tag shall be attached to and kept upon the collar or harness of the cat.

Any person convicted of violating this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not more than \$500.00, recoverable with costs, except that each person so convicted shall be fined in a sum of not less than \$50.00 for the first offense; not less than \$75.00 for a second offense; and not less than \$100.00 for the third offense and each offense thereafter.”

SECTION 63. That Section 5-91 be added to the Beatrice City Code as follows:

“Sec. 5-91. Nuisance cats.

It shall be unlawful for any person owning, keeping or harboring a cat to fail to exercise proper care and control of such cat to allow it to become a public nuisance. A nuisance is defined as any cat that:

- (1) Goes upon any sidewalk, park or private lands or premises without the permission of the owner of such premises and breaks, bruises, tears up or crushes any lawn, flower bed, plant, shrub, tree or garden whatsoever or defecates thereon;
- (2) Habitually cries or howls to the discomfort of the peace and quiet of the residents of any residential neighborhood; or
- (3) Is repeatedly at large.”

SECTION 64. That Section 5-92 be added to the Beatrice City Code as follows:

“Sec. 5-92. Cats running at large.

It shall be unlawful for any person owning, keeping or harboring any animal of the cat species to permit such animal to run at large.”

SECTION 65. That Section 5-93 be added to the Beatrice City Code as follows:

“Sec. 5-93. Poisoning or Injuring Cats.

It shall be unlawful for any person to administer, or cause to be administered, poison of any sort whatsoever to any cat, or to neglect or in any manner to mistreat, injure, maim, or destroy except as elsewhere in this Chapter specifically authorized, or in

any manner to attempt to mistreat, injure, maim, or destroy a cat of another, or to place any poison or poisoned food where the same is accessible to any cat.”

SECTION 66. That Article V and Section 5-100 be added to the Beatrice City Code as follows:

“ARTICLE V. LICENSES

Sec. 5-100. License Required – Dog and Cats

It shall be unlawful for any person within the City to own a dog or cat over six months of age without procuring a license for such dog or cat as provided in this Chapter. Any person convicted of violating this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not more than \$500.00, recoverable with costs, except that each person so convicted shall be fined in a sum of not less than \$50.00 for the first offense; not less than \$75.00 for a second offense; and not less than \$100.00 for the third offense and each offense thereafter. Each day that this violation continues shall constitute a separate and distinct offense and shall be punishable as such.

Application for such license shall be made to the City, and the following information, including presentation of a valid rabies certificate showing that the dog or cat has been immunized for rabies shall be furnished:

- (a) Name and address of the owner or harbinger of such dog or cat;
- (b) Such description of the dog or cat as may be required for the purpose of identification; and
- (c) The license number of the tag issued.

The City shall furnish to the owner upon payment of the license fees as hereinafter required a license receipt showing thereon such information and metallic tag bearing the tag number and the license year for which issued.”

SECTION 67. That Section 5-101 be added to the Beatrice City Code as follows:

“Sec. 5-101. Rabies shot prerequisite.

A certificate that a dog or cat to be licensed under the provisions of this Chapter has had a rabies shot effective for the license year shall be presented when the license is applied for. Such certificate shall state that such rabies shot was administered to the dog or cat in accordance with state law.”

SECTION 68. That Section 5-102 be added to the Beatrice City Code as follows:

“Sec. 5-102. License Tag.

It shall be unlawful for the owner of any animal to permit or allow such animal to wear any other license tag than the identical one issued for such animal and for the license year for which issued.”

SECTION 69. That Section 5-103 be added to the Beatrice City Code as follows:

“Sec. 5-103. Period for Which Valid.

All licenses issued under the provisions of this Article shall expire on the first day of January following the date of issuance thereof. No license shall be assignable or transferable from one owner to another owner or from one animal to another animal.”

SECTION 70. That Section 5-104 be added to the Beatrice City Code as follows:

“Sec. 5-104. Fee.

Before any license is issued under this Article, the applicant therefore shall pay to the City Clerk for each dog or cat to be licensed a fee as established by the Mayor and City Council by Resolution.

All authorized veterinarians issuing licenses on behalf of the City may charge and retain an additional fee as set forth by the Mayor and City Council by Resolution per license issued by such veterinarian to cover the cost of issuing said licenses. The owner of a guide dog, hearing aid dog or service dog that is a graduate of a recognized training school for guide dogs, hearing aid dogs or service dogs shall not be required to pay the license fee set forth in this section; provided that upon the retirement or discontinuance of the dog as a guide dog, hearing aid dog or service dog, the owner of the dog shall be liable for the payment of the license fee set forth in this section. Any state fees or taxes on dog and cat licenses shall be in addition to the fees set forth in this section.”

SECTION 71. That Section 5-105 be added to the Beatrice City Code as follows:

“Sec. 5-105. Issuance, contents.

Upon the payment of the required fee, and upon presentation of the certificate of vaccination against rabies, the City Clerk or an authorized veterinarian shall issue to the person applying for the same a license which shall contain a brief description of the sex, color, breed, size and age of the dog or cat for which the license is applied. Such license shall be dated, numbered and signed by the City Clerk or an authorized veterinarian.”

SECTION 72. That Section 5-106 be added to the Beatrice City Code as follows:

“ Sec. 5-106. Tag.

Along with the license, the City Clerk, or an authorized veterinarian shall issue to each person obtaining a license under this Article a metallic tag with the number of the license and year of payment stamped thereon. Such tag shall be attached to a collar by the person obtaining such license and shall be worn at all times by the dog or cat for which the same was issued.”

SECTION 73. That Section 5-107 be added to the Beatrice City Code as follows:

“Sec. 5-107. Records.

The City Clerk shall keep a memorandum, on stubs provided for that purpose, showing the date and number of each license issued under this Article, the name of the person to whom issued, the amount of the fee paid by him and the number of the certificate of rabies shot, and may record the name and address of the doctor issuing such certificate.”

SECTION 74. That Section 5-108 be added to the Beatrice City Code as follows:

“Sec. 5-108. Wearing of Collars; Removal of License Tag.

Every dog and cat within the city shall wear a collar or harness at all times. It shall be unlawful for any person to remove, or cause to be removed the collar, harness, or metallic license tag, or rabies vaccination tag from any licensed dog or cat.”

SECTION 75. That Article VI and Section 5-120 be added to the Beatrice City Code as follows:

“ARTICLE VI. IMPOUNDMENT

Sec. 5-120. Reasons for impoundment.

- (a) It shall be the duty of the Chief of Police, the Animal Control Officer or their designee to take up and impound every animal found in violation of any provision of this Chapter within the city.
- (b) Any person owning an animal shall immediately place the animal under the care and observation of the Chief of Police, the Animal Control Officer, or a licensed veterinarian within the city when the owner has received notification or has knowledge that the animal has bitten or attacked a person, causing an abrasion, penetration, or puncture of the skin of such person or that the animal has been bitten by a rabid animal. If the owner does not immediately submit the animal to the Chief of Police, the Animal Control Officer, or their designee, or a veterinarian, the chief of

police, the Animal Control Officer or their designee shall impound the animal for care and observation. Expenses of such care and observation shall be the responsibility of the owner. The Chief of Police, the Animal Control Officer or their designee, or licensed veterinarian shall impound said animal for care and observation for a period of at least ten (10) days or for such other period as required by Neb. Rev. Stat. 71-4401 et seq. (Reiss. 1985), and the amendments thereto. It shall be lawful for the Chief of Police, the Animal Control Officer or their designee to destroy in a humane manner any animal that has been (1) impounded for observation after the period of observation has expired unless the owner shall, within five (5) days after the notice has been given, redeem such animal by paying such expense incident to such impounding, observation, or treatment, (2) determined by the Chief of Police or the Animal Control Officer to have rabies, or (3) determined by the Chief of Police or the Animal Control Officer to present a danger to the public health, safety, and welfare. It shall be unlawful for any person to release any animal held for observation to any person prior to expiration of the observation period. Before any such animal shall be released, the person to whom it is released shall submit proof, in the form of a certificate issued by a licensed veterinarian or other person authorized by law to administer rabies inoculation, that such animal does not have rabies and has been properly inoculated for rabies. Any animal suspected of having rabies shall be impounded and shall not be released without permission from the Chief of Police.

- (c) Whenever any person has been bitten or has an abrasion of the skin caused by an animal which animal has been licensed in accordance with section of this Chapter or if such injury to a person is caused by an owned animal determined by the State of Nebraska Department of Health to be a rabid species amenable to rabies protection by immunization which has been vaccinated, the Chief of Police or the Animal Control Officer may allow the owner or other responsible person to confine such animal at his or her residence within the city for a period of at least ten (10) days. The animal shall be observed and examined by a veterinarian at the end of such ten-day period. If no clinical signs of rabies are found by the veterinarian, such animal may be released from confinement, and the owner shall deliver a written report of such examination prepared by the veterinarian to the Chief of Police within five (5) days after such examination.”

SECTION 76. That Section 5-121 be added to the Beatrice City Code as follows:

“Sec. 5-121. Animal shelter.

- (a) The City shall provide an animal shelter. The Mayor may, when necessary, employ or appoint a manager of the animal shelter and such other assistants as may be necessary.
- (b) The City shall have the authority to enter into a contract with any humane society, business, or individual for the purpose of carrying out the provisions for an animal shelter. The manager of the animal shelter shall receive all orders from the Chief of Police or his designee and shall make all necessary reports requested by the Chief of

Police or his designee, and shall operate the shelter in conformance with procedures established by the Chief of Police or his designee.”

SECTION 77. That Section 5-122 be added to the Beatrice City Code as follows:

“Sec. 5-122. Notice of owner of dog or cat impounded.

The Chief of Police, the Animal Control Officer or their designee shall notify the owner of any animal impounded, regardless of reason for impounding, if such owner's identity and address can be ascertained by the Chief of Police, the Animal Control Officer or their designee upon reasonable investigation, within twenty-four (24) hours after such animal is impounded under any of the provisions of this article. The notice shall inform the owner that the animal has been impounded and the purpose or reason for such impounding. Notice of impoundment of any animal, including any significant marks of identification, shall be posted at the Animal Shelter within twenty-four (24) hours after such animal is impounded, as public notification of impoundment.

Not later than five days after the impounding of any animal, the owner shall be notified or if the owner of the animal is unknown, written notice shall be posted for seventy-two (72) hours at the Animal Shelter describing the animal. The owner of any animal so impounded may reclaim such animal upon payment of all costs and charges incurred for impounding and maintenance of the animal. The owner of any animal so impounded, shall be responsible for the payment of these charges, whether the owner reclaims any such animal or not.”

SECTION 78. That Section 5-123 be added to the Beatrice City Code as follows:

“Sec. 5-123. Holding impounded Animals.

- (a) Except as otherwise provided in this Article, any animal impounded under the provisions of this Article shall be held by the Chief of Police or the Animal Control Officer for not less than seventy-two (72) hours, unless sooner redeemed or released as hereinafter provided; and if not so redeemed or released at the expiration of the time limit of seventy-two (72) hours, may be destroyed in a humane manner unless in the judgment of the Chief of Police a suitable home may be found for such animal.
- (b) All animals impounded for the lack of a valid rabies vaccination tag only shall be held by the City for not less than one hundred twenty (120) hours, unless sooner redeemed or released as hereinafter provided, and if not so redeemed or released at the expiration of the time limit of one hundred twenty (120) hours may be destroyed in a humane manner, unless in the judgment of the Chief of Police that a suitable home may be found for such animal.
- (c) In the event the Chief of Police shall find a suitable home for an impounded dog or cat within the corporate limits of the city, the person taking such dog or cat shall first

present to the Chief of Police, the Animal Control Officer or their designee a license and metallic tag for that particular dog or cat as provided for in this Chapter, and shall also furnish proof of inoculation for rabies as provided in this Chapter.

- (d) The humane society, business, or individual with whom the City has contracted to enforce the provisions of this Article, may hold any animal impounded in the animal shelter after the expiration of the time limit as set by this section for the purpose of finding a suitable home for such animal. At no time shall any animal impounded in the animal shelter remain at the animal shelter in excess of fifteen (15) days. The proceeds of any sale of any such dog or cat may be retained by the animal shelter.
- (e) The owner of any animal which is impounded and destroyed under this Article shall be held responsible for payment of the fees set out in this Chapter and failure to pay such fee or expense to the City within fifteen (15) days after destruction of such animal shall constitute a violation of this Article.”

SECTION 79. That Section 5-124 be added to the Beatrice City Code as follows:

“Sec. 5-124. Shelter fee; Release from shelter.

(a) Except as provided in subsection (b) of this section, any animal held or impounded in the animal shelter because of a violation of any of the provisions of this Chapter by its owner shall be released to the owner thereof by the Chief of Police, the Animal Control Officer or their designee upon presentation of the following:

- (1) Proof of ownership of such animal;
- (2) Payment of the daily boarding cost plus the impoundment fee as established by the Mayor and City Council by Resolution.

If said impounded animal is a dog or cat, in addition to the requirements set forth above in Subsections (a)(1) and (a)(2), the owner must also present the following information to the Chief of Police, the Animal Control Officer, or their designee before the dog or cat is released.

- (3) A license for the current year showing that such dog or cat has been properly licensed;
- (4) Proof either in the form of a certificate issued and signed by a licensed veterinarian, or other person authorized by law to administer rabies inoculations, that such dog or cat has been properly inoculated for rabies as required by this chapter, or by depositing a rabies vaccination fee with the City to be forwarded to the veterinarian upon presentment of a valid rabies vaccination certificate for such dog or cat, in which case the owner's failure to obtain a valid rabies vaccination certificate and tag

within five (5) days shall constitute a violation of this section; and

The owner shall remain responsible for all penalties for violation of any of the provisions of this Chapter.

(b) The owner of any animal that is impounded pursuant to Subsection 5-120(b) shall pay the expenses of care and observation of such animal plus an impoundment fee as established by the Mayor and City Council by Resolution. If the owner elects to have the animal boarded with a licensed veterinarian, the expense of such boarding shall be borne by the owner, together with any costs incurred for the examination of the animal for rabies.”

SECTION 80. That Section 5-125 be added to the Beatrice City Code as follows:

“Sec. 5-125. Shelter records and reports; Registration of persons delivering animals to shelter.

(a) The manager of any animal shelter under this Chapter shall keep an accurate account of all animals received at the shelter and released to the owner or purchaser, showing the date and from whom received, the description of the animal, the name and address of the person or persons releasing or purchasing. The shelter manager shall keep a like accurate account and description of all animals destroyed. On the last day of each month, the shelter manager shall forward to the Chief of Police or the Animal Control Officer an accurate and complete account of all monies received during the month under the provisions of this Chapter, together with a statement of the number of animals in the shelter at the first of the month, the number received, the number destroyed, the number released or sold, the number on hand at the end of the month and other information as required by the Chief of Police or the Animal Control Officer.

(b) The Chief of Police, the Animal Control Officer, or shelter manager shall not receive an animal into the shelter from any person unless such person shall give their full name and place of residence which shall be registered in a proper book kept by the shelter manager. It shall be unlawful for any person delivering to or receiving any animal from said shelter to give any false information concerning the same.”

SECTION 81. That Section 5-126 be added to the Beatrice City Code as follows:

“Sec. 5-126. Voluntary impoundment by owner.

Any person living in Gage County may cause any dog or cat owned by him to be impounded in the animal shelter for destruction or adoption by any other person. Such owner shall pay a voluntary impoundment fee as established by the Mayor and City Council by Resolution.”

SECTION 82. That Section 5-127 be added to the Beatrice City Code as follows:

“Sec. 5-127. Failure to surrender animal.

Any person who fails to surrender an animal to a person identifiable as a Law Enforcement Officer or an Animal Control Officer upon their demand, so that the animal can be impounded as provided for by this Chapter, commits an offense.”

SECTION 83. That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2011.

Dennis M. Schuster, Mayor

Attest:

Linda S. Koch, City Clerk