AN ORDINANCE #314 CITY OF GALESBURG RELATING TO THE CONTROL AND PROTECTION OF ANIMALS, BIRDS, AND FOWL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALESBURG, NORTH DAKOTA:

314-0105. – **DANGEROUS ANIMALS**.

“Dangerous animal” as used in this article, unless the context otherwise indicates:

1. Any animal known to its owner or harborer to have a propensity, tendency, or disposition to attack, bite, cause injury or to otherwise endanger the safety of or menace human beings or domestic animals; or
2. Any animal which attacks, bites, or injures a human being or another domestic animal one (1) or more times without provocation; or
3. Any animal which, when unprovoked, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
4. Any animal certified by a doctor of veterinary medicine licensed within the State of North Dakota, after observation thereof, as posing a danger to human life or property; or
5. Any animal which has been determined to be dangerous by the city council or municipal court under this article.

Notwithstanding the foregoing, no animal may be found or declared dangerous if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, abusing, or assaulting the animal or was committing or attempting to commit a crime.

No animal may be found or declared dangerous if an injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, taunting, abusing or assaulting the animal. No animal may be declared dangerous if the animal was protecting or defending a human being within the immediate vicinity of the animal from an attack or assault. No animal may be deemed dangerous if the animal was protecting or defending its young offspring.

314-0106. **PROHIBITION AND CONTROL OF DANGEROUS ANIMALS.**

Except as permitted hereinafter, it shall be unlawful for any person to own, keep or harbor a dangerous animal within the city limits.

1. No person owning or harboring or having the care or custody of a dangerous animal shall suffer or permit such animal to go unconfined outdoors on the premises of such person. A dangerous animal is "unconfined outdoors" as the term is used in this section if said animal is not securely confined indoors or confined in a securely enclosed and locked pen, kennel, or fenced enclosure upon the premises of said person. Such pen, kennel, or fenced enclosure must also have sides at least six (6) feet high, and a securely attached top. If the pen or structure has no bottom or floor securely attached to the sides, the sides must be imbedded into the ground no less than one (1) foot. The pen, kennel, or fenced enclosure must be constructed in a manner to prevent escape by the animal and to prevent access by young children.
2. All structures erected to house a dangerous animal shall comply with all zoning and building requirements and regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
3. No person owning or harboring, or having the care or custody of a dangerous animal shall suffer or permit such animal to go beyond the premises of such person unless such animal is maintained in the manner as hereinbefore set forth or unless such animal is securely muzzled, harnessed, leashed and restrained with an unbreakable chain, leash or cord having a minimum tensile strength of three hundred (300) pounds and not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the animal.
4. All owners, keepers, or harborers of any dangerous animal shall display in a prominent place on their premises, and at each entrance or exit to the area where such animal is confined, a sign warning that there is a dangerous animal on the premises.
5. No person shall own or harbor any animal for the purpose of fighting, or training, tormenting, badgering, baiting, or use any animal for the purpose of causing or encouraging said animal to unprovoked attacks upon human beings or domestic animals.
6. No dangerous animal shall be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such structure on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open, or when such windows or screen doors are the only obstacle or obstruction preventing the animal from exiting the structure.
7. Any person harboring or owning a dangerous animal and not adhering to the provisions of this article shall immediately remove said animal from the city or have the dangerous animal impounded at a place designated by law enforcement until compliance with provisions of this article are met or until arrangements are made to remove the animal from the city.
8. All owners, keepers, or harborers of dangerous animals shall present to the city auditor proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars ($100,000.00), covering any damage or injury which may be caused by such dangerous animal for a period not less than twelve (12) months, which policy shall contain a provision requiring the city to be named as additional insured for the sole purpose of the city auditor or other licensing authority where such animals are licensed to be notified by the insurance company of any cancellation, termination, or expiration of the liability insurance policy.
9. The owner or keeper of any dangerous animal shall sign a statement attesting that:
   1. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve-month period for which said insurance is provided, unless the owner or keeper shall cease to own or keep the dangerous animal prior to expiration of said policy, or said policy is replaced by a newly issued policy.
   2. The owner or keeper shall have an enclosure for the dangerous animal on the property where the dangerous animal will be kept or maintained.
   3. The owner or keeper shall notify law enforcement within two hours (2) hours if a dangerous animal is on the loose, is unconfined, has attacked another domestic animal, or has attacked a human being.
10. Law enforcement and community service officers are hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article, and any such officer is hereby empowered to seize and impound at a place designated by law enforcement any dangerous animal whose owner or keeper fails to comply with the provisions hereof.
11. Upon such attack or assault, a community service officer or law enforcement is hereby empowered to confiscate and destroy such dangerous animal if the conduct of such dangerous animal or its owner or keeper constitutes a violation of the provisions of this article, punishable by the confiscation and destruction of the animal. However, notwithstanding the foregoing, no animal shall be destroyed within five (5) days of being impounded, exclusive of Sundays and holidays.
12. If the owner or keeper of an animal impounded for an alleged violation of this section shall believe that there shall not have been a violation of such section hereof, such owner or keeper may petition the Municipal Court for the City of Galesburg praying that the impounded animal not be destroyed. The impounded animal shall not be destroyed pending resolution of such owner's or keeper's petition, if the petition shall have been filed within five (5) days of impoundment of such animal and notice shall have been served within five (5) days of the impoundment of such animal upon law enforcement.
13. In the event that a community service officer or law enforcement has probable cause to believe that an animal is dangerous, the officer or law enforcement or the designee shall be empowered to issue a citation in order to appear before the municipal court for the purposes of determining whether or not the animal in question should be declared dangerous. The community service officer or law enforcement shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the animal that a hearing will be held, at which time he or she may have the opportunity to present evidence why the animal shall not be declared dangerous.
14. In the event that a community service officer or law enforcement has probable cause to believe that the animal in question is dangerous and may pose a threat of serious harm to human beings or other domestic animals, the officer or law enforcement may seize and impound the animal at a place designated by law enforcement pending the aforesaid hearings. The owner or keeper of the animal shall be liable to the city for the costs and expenses of impounding such animal.
15. It shall be unlawful for the owner or keeper of a dangerous animal to fail to comply with the requirements and conditions set forth in this article. Any animal found to be the subject of the violation of this article shall be subject to immediate seizure and impoundment as hereinbefore provided. In addition, failure to comply shall be an offense punishable with a fine as hereinafter provided.
16. In addition to those persons specified herein, any person may file a petition with the city council or a complaint with the municipal court to determine, declare, or find an animal dangerous as defined herein.
17. The provisions of this article shall not apply to K-9 or other dogs owned by any law enforcement department or agency or officer which are used in the performance of law enforcement work.

Penalty - Except as otherwise provided by law, any person violating or permitting the violation of any provision of this article shall, upon conviction in municipal court, be found guilty of a noncriminal offense and fined a sum not more than five hundred dollars ($500.00). In addition to the foregoing penalty, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

SECTION 2. Effective Date. This ordinance shall be in full force and effect from and after the date of its second reading and final passage.

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Mayor

Galesburg, North Dakota

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Auditor

Council Members Voting AYE: \_\_\_\_\_\_

Council Members Opposed: \_\_\_\_\_\_\_\_\_

Council Members Abstaining: \_\_\_\_\_\_\_

Date of First Reading: 12/8/2014

Date of Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_

Date of Publication: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_