

ORDINANCE NO. 514

AN ORDINANCE TO REPEAL SECTION 90.020 LICENSE REQUIRED, SECTION 90.022 WRONGFUL LICENSING, AND SECTION 90.025 UNLICENSED DOGS; TO AMEND SECTION 90.035 RELATING TO REMOVAL OF DOG TAGS; TO AMEND SECTION 90.036 DOG IMPOUNDING TO IMPOUNDING AND DESTRUCTION OF DOGS, DOGS RUNNING AT LARGE AND DANGEROUS ANIMALS; TO AMEND SECTION 90.037 RABIES SUSPECTED TO VACCINATION AGAINST RABIES; TO REPEAL SECTION 90.038 LEGAL DESTRUCTION; TO AMEND SECTION 90.050 DANGEROUS DOGS TO DANGEROUS ANIMALS; TO REPEAL SECTION 90.067 RABIES, SECTION 90.068 LICENSE REQUIRED, SECTION 90.069 WRONGFUL LICENSING AND SECTION 90.070 WEARING OF COLLARS; REMOVAL OF LICENSE TAG PERTAINING TO CATS, TO AMEND SECTION 90.072 CATS RUNNING AT LARGE; TO REPEAL SECTION 90.073 PUBLIC NUISANCE SECTION AND 90.074 IMPOUNDING RELATING TO CATS OF THE MUNICIPAL CODE OF THE VILLAGE OF POTTER, NEBRASKA, TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CHAIRMAN AND THE BOARD OF TRUSTEES OF THE VILLAGE OF POTTER, NEBRASKA:

Section 1. That §90.020 LICENSE REQUIRED, §90.022 WRONGFUL LICENSING, and §90.025 UNLICENSED DOGS, of the Municipal Code of the Village of Potter, Nebraska, are hereby repealed.

Section 2. That §90.035 be amended to read as follows:

§ 90.035 REMOVAL OF TAGS.

It shall be unlawful for any person to remove or cause to be removed, the collar, harness, metallic tag, tattoo, or microchip from any dog without the consent of the owner, keeper, or possessor thereof.

Section 3. That §90.036 be amended to read as follows:

§ 90.036 IMPOUNDING AND DESTRUCTION OF DOGS, DOGS RUNNING AT LARGE AND DANGEROUS ANIMALS.

- (A) The Animal Control Officer or any law enforcement officer shall capture, secure, and remove in a humane manner to the village animal shelter which shall destroy and bury, as hereinafter provided, all dogs that are found to be running at large in violation of §90.027 or are dangerous animals in violation of §90.050.
- (B) No animal taken by the Animal Control Officer or any law enforcement officer, as provided in this section shall be disposed of until at least ten (10) days have expired after its impounding.
- (C) The village shall provide or cause to be provided a safe and suitable animal shelter for the impounding, keeping and destruction of domestic animals. All animals placed in the village animal shelter shall be treated in a humane manner and shall be provided with adequate food and fresh water each day.
- (D) For dogs found to be running at large, the period of impounding shall constitute the time allowed for the owner to claim or redeem his or her animal. For every animal so claimed or redeemed, the owner shall pay redemption fees as set out in the Village of Potter Master Fee Schedule, a copy of which is located at the office of the Village Clerk, as well as applicable impounding fees and the costs of disposal of the animal, in the event that the owner does not claim the animal or orders the disposal of the animal.
- (E) The Animal Control Officer or another officer designated by the governing body shall release, during such period, from the animal shelter any animal found running at large to any person who proves ownership thereof, provided that before such animal is released, adequate proof shall be presented that all redemption and impound fees and all penalties have been paid and that such animal has been vaccinated against rabies as provided in Section 90.037. Any owner who fails to redeem his or her animal within the time provided shall be liable as provided in subsection (D) hereof and for the costs of disposal of the animal. The Animal Control Officer shall notify the owner if the animal has an identifiable tag or a microchip of any impoundment. Such notice shall be by personal service or mailed first-class to the address appearing on the identification.

- (F) Any animal that remains in the shelter beyond the applicable impoundment period without being claimed, redeemed, or released shall be destroyed and buried as provided in this section, unless, in the judgment of the Animal Control Officer or another officer designated by the governing body, a suitable home may be found for such animal. If a suitable home is found for any such animal within the corporate limits of the village, the person taking such animal from the animal shelter shall first present to the Animal Control Officer or another officer designated by the governing body a receipt for the payment of the shelter fees and any other penalties provided in this chapter, and proof that such animal has been vaccinated against rabies as provided in Section 90.037. The village acquires legal title to any animal impounded in its animal shelter at the expiration of the applicable impoundment period.
- (G) An animal at the village animal shelter which is alleged to be a Dangerous Animal shall not be released except upon the direction of the Village Board of Trustees. Prior to release, the owner shall pay a redemption fee as set out in the Village of Potter Master Fee Schedule, a copy of which is located at the office of the Village Clerk, plus applicable fines and costs. When an animal is impounded in the animal shelter as an alleged Dangerous Animal, an investigation shall be completed by the Animal Control Officer, or another officer designated by the governing body and said investigation reports directed to the Village Attorney for consideration of filing under state statutory provisions or Section 90.050. No animal shall be held as an alleged Dangerous Animal in the village animal shelter for more than twenty-one (21) days unless a "Dangerous Animal" Complaint under State statutory provisions or Section 90.050 of the village has been filed within that time. Upon the filing of a "Dangerous Animal" Complaint, said animal shall continue to be held until such time as the Complaint has been adjudicated or is dismissed. If said animal is ordered by the Court to be destroyed pursuant to State Statutes or Section 90.050, the animal shelter will comply with the Court Order therein and the owner of said animal is responsible for and will pay an impoundment fee as set out in the Village of Potter Master Fee Schedule, a copy of which is located at the office of the Village Clerk, plus any costs of destruction and disposal of the animal.

Section 4. That §90.037 be amended to read as follows:

§ 90.037 VACCINATION AGAINST RABIES.

- (A) "Vaccination Against Rabies" Defined. For the purpose of this section, "vaccination against rabies" means the inoculation of an animal with a rabies vaccine licensed by the United States Department of Agriculture. Such vaccination must be performed by a veterinarian duly licensed to practice veterinary medicine.
- (B) Certificate of Vaccination. A certificate or other evidence of rabies vaccination shall be obtained as set forth in subsection (D) hereof, and a tag to indicate a rabies vaccination has been given and the date of the vaccination shall be displayed on each animal owned within the corporate limits of the village.
- (C) Rabies Vaccination Required. Every animal twelve weeks of age and older shall be vaccinated against rabies. Young animals shall be vaccinated within thirty (30) days after they have reached twelve weeks of age and shall receive a rabies booster vaccine within one year from the date of their initial twelve-week vaccination. Unvaccinated animals acquired or moved into the village shall be vaccinated within thirty (30) days after purchase or arrival, unless less than twelve weeks of age as specified above. Every animal shall be re-vaccinated at thirty-six-month intervals thereafter.
- (D) Duties of Veterinarian. It shall be the duty of each veterinarian, at the time of vaccinating any animal, to complete a certificate of rabies vaccination, which shall include, but not be limited to, the following information:
 - (1) The owner's name and address;
 - (2) An adequate description of the animal, including, but not limited to, such items as the animal's breed, sex, age, name, and distinctive markings;
 - (3) The date of the vaccination;
 - (4) The rabies vaccination tag number;
 - (5) The type of rabies vaccination administered; and
 - (6) The manufacturer's serial number of the vaccine used.

The veterinarian shall issue a tag with the certificate of vaccination. Whenever the animal is outdoors, whether on or off the owner's premises, the collar or harness with the vaccination tag

must be worn or if the animal is microchipped or tattooed, a copy of the certificate shall be immediately available.

- (E) Vaccination Costs. The owner of an animal shall pay the cost for the rabies vaccination.
- (F) Impoundment of Rabies Suspects.
 - (1) Any dog, cat, or other animal suspected to be afflicted with rabies or any dog, cat, or other animal not vaccinated as provided herein, which has bitten any person and caused an abrasion of the skin of such person, shall be seized and impounded under the supervision of a licensed veterinarian for a period of not less than ten (10) days, unless a physician requests that such animal be destroyed for a specimen to be examined by a certified laboratory. If, upon examination by a veterinarian, the dog, cat, or other animal has no signs of rabies at the end of such impoundment, once proof has been provided that such animal has been vaccinated against rabies it may be released to the owner or, in the case of a stray, it shall be disposed of in accordance with applicable laws.
 - (2) Any dog, cat, or other animal which has been vaccinated as provided herein, and which has bitten any person, shall be confined by a chain which is anchored to an object or structure by the owner or other responsible person as required by the Animal Control Officer for a period of at least ten (10) days, at which time the dog, cat, or other animal shall be examined by a licensed veterinarian. If no signs of rabies are observed by the veterinarian, the dog, cat, or other animal may be released from confinement. Any animal under rabies observation as set out herein, which is not confined or which is found to be running at large, will be seized, and impounded under the observation of a licensed veterinarian for the balance of the ten-day (10) observation period.
- (G) Handling of Animals Bitten by Rabid Animals. In the case of animals known to have been bitten by a rabid animal, the following shall apply:
 - (1) In the case of an animal which has not been vaccinated as provided herein, and which has been bitten by a known rabid animal, such bitten or exposed animal shall be immediately destroyed, unless the owner is willing to place such animal in strict isolation in a kennel under veterinary supervision for a period of not less than forty-five (45) days.
 - (2) If the bitten or exposed animal has been vaccinated as provided herein, such animal shall be subject to the following procedure:
 - (a) Such animal shall be immediately re-vaccinated and confined for a period of not less than thirty (30) days following vaccination.
 - (b) If such animal is not immediately re-vaccinated, such animal shall be confined in strict isolation in a kennel for a period of up to six (6) months, under the supervision of a veterinarian.
 - (c) Such animal shall be destroyed if the owner does not comply with either paragraph (G)(2)(a) or (b) hereof.
- (H) Impoundment and Redemption Fees. Any impoundment and redemption fees shall be borne by the owner of the animal being impounded or redeemed.

Section 5. That §90.38 LEGAL DESTRUCTION of the Municipal Code of the Village of Potter, Nebraska is hereby repealed.

Section 6. That §90.050 be amended to read as follows:

DANGEROUS ANIMALS

§ 90.050 DANGEROUS ANIMALS.

- (A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) *ANIMAL CONTROL AUTHORITY*. An entity authorized to enforce the animal control laws of the village. The Board of Trustees shall serve as the Animal Control Authority for the Village of Potter.
- (2) *ANIMAL CONTROL OFFICER*. Any individual employed, appointed, or authorized by an Animal Control Authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.
- (3) *DANGEROUS ANIMAL*. Any animal that, according to the records of the Animal Control Authority:
- (a) Has killed a human being;
 - (b) Has inflicted injury on a human being that requires medical treatment;
 - (c) Has killed or inflicted serious injury on a domestic animal without provocation;
 - (d) Has been previously determined to be a potentially dangerous by the Animal Control Authority of the village, the owner has received notice from the Animal Control Authority of the village of such determination, and that inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals;
- i. An animal shall not be defined as a dangerous animal under paragraph (A)(3) above if the individual threatened or attacked was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal
 - ii. An animal shall not be defined as a dangerous animal under paragraph (A)(3) above if this injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in this Code or in Neb. RS 20-203, 28-520, or 28-521, or was committing or attempting to commit a crime.
- (4) *DOMESTIC ANIMAL*. A cat, a dog, or any other type of animal which is kept as a pet.
- (5) *OWNER*. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a domestic animal.
- (6) *MEDICAL TREATMENT*. Medical treatment means treatment administered by a physician or other licensed health care professional.
- (7) *POTENTIALLY DANGEROUS ANIMAL*. Potentially dangerous animal means:
- (a) Any animal that when unprovoked by the person threatened inflicts an injury on a human being that does not require medical treatment; injures a domestic animal; or chases or approaches a person upon streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; or
 - (b) Any specific animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury or to threaten the safety of humans or domestic animals.
- (8) *RESTRAINT*. Any animal secured by a leash or lead or within the real property limits of its owners.
- (C) No person, firm, partnership, limited liability company or corporation shall own, keep, or harbor or allow to be in or on any premises owned or occupied by him, her, or it or under his, her, or its charge or control any dangerous animal. It shall be unlawful for any person to keep, harbor or own any animal that has been determined to be a dangerous within the village limits.
- (D) No owner found guilty of violating a dangerous animal ordinance or statute shall relocate an animal upon which said finding is based to within the village limits. No owner of an animal previously determined to be a dangerous animal in any other jurisdiction shall move said animal from outside the corporate limits of the village into the village limits. Any such animal shall be humanely impounded or removed from the village limits. Any such animal will be destroyed if

the owner does not remove same from the village within ten (10) days. Such an animal shall only be released from impound for immediate removal from the village upon payment of all impound and boarding fees.

- (E) Any dangerous animal may be immediately confiscated by an Animal Control Officer if the owner is in violation of this chapter. The owner shall be responsible for the reasonable costs incurred by the Animal Control Authority for the care of a dangerous animal confiscated by an animal control officer and for the destruction of any dangerous animal.
- (F) It shall be unlawful for any person to keep or harbor a Potentially Dangerous Animal, except as otherwise provided in this article.
 - (1) Potentially Dangerous Animal; determination. The preliminary determination as to whether a particular animal is a Potentially Dangerous Animal shall be made by the Animal Control Officer on the basis of reasonable evidence, which may include but shall not be limited to reports and statements of witnesses, observations, and the opinion of experts. If the Animal Control Officer has reasonable cause to believe that the animal threatens the safety of the public or of domestic animals, the Animal Control Officer may enter upon any premises upon which the animal is kept and remove the animal from the premise to a place of impoundment.
 - (a) If the Animal Control Authority has preliminarily determined an animal to be a Potentially Dangerous Animal, as defined above, the Animal Control Authority shall initiate administrative proceedings to make such determination final by serving a preliminary determination notice on such animal's owner either by personal service or by certified mail, return receipt requested, addressed to the owner at the owner's usual place of residence. The preliminary determination shall contain:
 - i. The name and address of the owner whose animal is the subject of the proceeding;
 - ii. The name and description of the animal that is the subject of the proceeding;
 - iii. A statement that the Animal Control Authority has preliminarily determined the animal to be a Potentially Dangerous Animal and a summary of the description of the facts that form the basis of such preliminary determination;
 - iv. A summary of the effects of a final determination that the animal is a Potentially Dangerous Animal.
 - v. A statement of the effective date on which the preliminary determination notice will become a final determination order in the owner does not file a timely written request for a hearing with the Animal Control Authority, which effective date shall not be less than ten (10) days after the date of personal service or certified mailing of the preliminary determination notice; and
 - vi. A statement that the owner may file with the Animal Control Authority a written request for a hearing within ten (10) days after the date of the personal service or the certified mailing of the preliminary determination.
 - 2. If the owner whose animal is preliminarily determined to be a Potentially Dangerous Animal does not file a written request for a hearing with the Animal Control Authority within ten (10) days after the date of the personal service or the certified mailing of the preliminary determination notice, the preliminary determination notice shall become a final determination order on the effective date stated in the preliminary determination notice, and the Animal Control Authority shall so indicate in the records of the Animal Control Authority. In such case, the owner shall be required to comply with subsection (C) immediately and with subsection (A) and subsection (B) within thirty (30) days after such effective date. If the owner fails to comply with any of such sections within the time limits specified, the animal will be immediately seized and

impounded. At which time the owner will have ten (10) days to comply with subsection (C), subsection (A), and subsection (B), and if the owner does not comply within ten (10) days the animal will be destroyed. The owner shall be responsible for the reasonable costs incurred by the Animal Control Authority for the care of a Potentially Dangerous Animal confiscated by an animal control officer.

1. If the owner whose animal is preliminarily determined to be a Potentially Dangerous Animal files a written request for a hearing with the Animal Control Authority within ten (10) days after the date of the personal service or the certified mailing of the preliminary determination notice, a hearing on such preliminary determination notice shall be held by the Animal Control Authority. The hearing shall be held if practicable within ten (10) days of receipt by the Animal Control Authority of the written request for a hearing. The Animal Control Authority shall provide notice of the time and place of the hearing to the owner of the animal by mail not less than forty-eight (48) hours prior to the scheduled hearing. At the hearing, the owner shall be provided an opportunity to appear and offer evidence to dispute the preliminary determination notice. A written determination to affirm or reverse the preliminary determination notice shall be entered by the Animal Control Authority within ten (10) days after the date of the hearing, if practicable. If the preliminary determination notice is affirmed, the Animal Control Authority shall enter a final determination order and, such order shall require the owner to comply with subsection (C) immediately and with subsection (A) and subsection (B) within thirty (30) days after such effective date. If the owner fails to comply with any of such sections within the time limits specified, the animal will be immediately seized and impounded. At which time the owner will have ten (10) days to comply with subsection (C), subsection (A), and subsection (B), and if the owner does not comply within ten (10) days the animal will be destroyed. The owner shall be responsible for the reasonable costs incurred by the Animal Control Authority for the care of a Potentially Dangerous Animal confiscated by an animal control officer.
 2. The Animal Control Authority will notify the owner of any Potentially Dangerous Animal that has been involved in no incidents of the type described above within the three (3) years following the date of the determination order that such animal is no longer determined to be a Potentially Dangerous Animal.
- A. Potentially Dangerous Animals; proof of insurance. No animal administratively determined to be a Potentially Dangerous Animal shall be allowed to reside in the village unless the person having custody, ownership or control of such animal first presents to the Animal Control Authority written proof of liability insurance, written by an insurer authorized to issue such insurance in Nebraska, having limits of liability not less than five-hundred thousand dollars (\$500,000.00) for injury to any one person caused by such animal. Such insurance shall be maintained for the entire period such animal is deemed a Potentially Dangerous Animal. The Animal Control Authority may require proof that such insurance coverage remains in effect at any time, but not more frequently than every sixty (60) days or may require such policy of insurance to provide that it may not be cancelled or allowed to expire without thirty (30) days prior written notice to the Animal Control Authority.
 - B. Owners of Potentially Dangerous Animals shall install written signs warning of the presence of a potentially dangerous animal on all doors to the animal's place of residence, and on all gates to any fencing on the premises, the form and placement of which shall be pre-approved in writing by the Animal Control Officer.
 - C. Potentially Dangerous Animals; leash, muzzle, muzzle, and harness required. It shall be unlawful for any person owning, harboring, or having the care of a Potentially Dangerous Animal to permit or enable such animal to go beyond the property of such person unless the animal is under the control of a person 19 years of age or older, the animal is restrained securely by a harness or leash no more than six (6) feet in length, and the animal is properly muzzled to reasonably prevent the animal from biting.

1. Definitions. For purposes of this section:

Harness shall mean a close-fitting device with straps that encircle the animal's body across the chest, over the shoulders, and under the belly behind the front legs, to which a leash can be securely

attached, and which is constructed of materials sufficient to securely restrain the animal wearing it given the size and strength of the animal.

Leash shall mean a strap, rope or similar tethering device that can be securely attached to a harness, and which is sufficient strength and weight to securely restrain the animal wearing the harness.

Muzzle shall mean a basket or cage-like device approved by the Animal Control Authority to cover the animal's mouth and snout and prevent the animal from biting, but which allows the animal to open its mouth to pant and drink.

- D. Potentially Dangerous Animals; impoundment. Any animal that has been determined to be a Potentially Dangerous Animal that bites a human being without provocation may be immediately impounded by the Animal Control Officer and held until the disposition of the animal is finally determined. The owner shall be responsible for all the costs incurred for the care of such impounded animal.
- E. Impoundment of certain animals during enforcement proceedings. If there is reasonable cause shown that a domestic animal would constitute a hazard to the safety of the public at large during the pendency of any action or proceeding commenced under this article, or that the owner of such animal has subjected the animal to neglect or cruelty, the Animal Control Authority may order such animal impounded pending the outcome of such proceedings. Any person who owns, kept, harbored, maintained, or controlled the animal involved in such impoundment shall pay all the expenses of the impoundment to the Animal Control Authority, including the costs for shelter, food, veterinary expenses, boarding, and any other expenses necessitated by the impoundment of the animal or as may be required for the protection of the public. The Animal Control Authority may require such person, prior to the expiration of ten (10) days after the date of impoundment, to pay an amount sufficient to pay all reasonable expenses incurred in caring and providing for the animal, including estimated medical care, for thirty (30) days, inclusive of the date on which the animal was impounded. If such payment is not made prior to the expiration of such ten (10) day period, the animal shall become the property of the Animal Control Authority and may be humanely disposed of, destroyed, or placed with a new owner, as the Animal Control Authority deems appropriate. Such payment shall be required for each succeeding thirty (30) day period. If any such payment is not made prior to the end of each succeeding thirty (30) day period the animal shall become the property of the Animal Control Authority and may be humanely disposed of, destroyed, or placed with a new owner, as the Animal Control Authority deems appropriate.
- i. The amount of the payment shall be determined by the Animal Control Authority based on the current rate for board at the animal shelter and the condition of the animal after its examination by a veterinarian acting for the Animal Control Authority. Any such payment received by the Animal Control Authority in excess of the amount determined by the Animal Control Authority to be due for board and care of the animal shall be refunded by the Animal Control Authority upon expiration of the order of impoundment. Notwithstanding the foregoing, if the owner of the animal is found not guilty of animal neglect or cruelty, the owner shall only be required to pay to veterinary expenses and one-half of the board and care fees determined by the Animal Control Authority to be due.
 - ii. Notwithstanding the foregoing, if it is determined by a veterinarian acting for the Animal Control Authority that such animal is diseased or disabled, that it would be inhumane to allow such animal to continue to suffer the effects of such disease or disability, and that the owner of such animal declines to advance the costs of reasonable veterinary efforts to cure or ameliorate the effects of such disease or disability and that the costs of such veterinary efforts and not otherwise economically practicable, then the animal shall immediately become property of the Animal Control Authority and may be humanely disposed of, destroyed, or placed with a new owner, as the Animal Control Authority deems appropriate.

Section 7. That §90.067 RABIES, §90.068 LICENSE REQUIRED, §90.069 WRONGFUL LICENSING, AND §90.070 WEARING OF COLLARS; REMOVAL OF LICENSE TAG of the Municipal Code of the Village of Potter, Nebraska, are hereby repealed.

Section 8. That §90.072 be amended to read as follows:

§ 90.072 CATS RUNNING AT LARGE.

It shall be unlawful for any owner and possessor of any cat to let the cat run at large, unless the

cat has been spayed or neutered.

Section 9. That §90.073 PUBLIC NUISANCE and §90.074 IMPOUNDING of the Municipal Code of the Village of Potter, Nebraska, are hereby repealed.

Section 10. That any other ordinance or code section passed and approved prior to the passage, approval, and publication of this ordinance, and in conflict with the provisions of this ordinance, is hereby repealed.

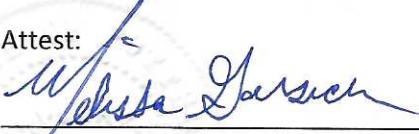
Section 11. This ordinance shall go into force and effect from and after its passage, approval, publication, and posting as required by law.

Passed and approved this 14th day of March 2022.



Chairman of the Board of Trustees

Attest:



Village Clerk