

# City of Ogallala

## APPLICATION FOR PERMIT TO KEEP MORE THAN FOUR DOGS OR CATS.

Date \_\_\_\_\_

Name of applicant \_\_\_\_\_ Date of Birth \_\_\_\_\_

Home Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Home Telephone (\_\_\_\_) \_\_\_\_\_ Business / Cellular (\_\_\_\_) \_\_\_\_\_

a) Name and Address of the owner of the dogs or cats:

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

b) The breed, color, age and sex of the dogs or cats:

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

c) Whether such dogs or cats are licensed:

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

d) Whether such dogs or cats are neutered, spayed or intact:

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

e) Other information as may identify the dogs or cats:

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

The undersigned applicant hereby consents to an investigation of his/her background by the Ogallala Police Department, including all records of every kind and description including police records, arrest records and court records, and said applicant waives any rights or causes of action that said applicant may have against the Ogallala Police Department and any other individual disclosing or releasing said information to the Ogallala City Council. The applicant further consents to an inspection of premises where the animals are kept. Failure to allow such inspection of premises shall result in denial of the application. The undersigned understand and acknowledge that any permit issued may be revoked for probable cause by the City Council.

I have been provided a copy of Ogallala City Code Chapter 3. I have read, understand, and agree to comply with the requirements of this ordinance.

Applicants Signature \_\_\_\_\_ Date \_\_\_\_\_

Approved

Disapproved  
Planning and Zoning Administrator

Date \_\_\_\_\_

Permit Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

# CHAPTER 3

## ANIMALS

### Article.

1. General Provisions.
2. License Requirements.
3. Animals and Fowl.
4. Dead Animals.
5. Penalty.

### ARTICLE 1

#### GENERAL PROVISIONS

### Section.

- 3-101. Definitions.
- 3-102. Abandonment, neglect, and cruelty.
- 3-103. Killing and poisoning of animals.
- 3-104. At large dogs.
- 3-105. Nuisance dogs.
- 3-106. Dogs; collar required.
- 3-107. Limitation on number of dogs and cats.
- 3-108. Feces disposal and removal.
- 3-109. Impoundment.
- 3-110. Animal shelter.
- 3-111. Owner liable for damages.
- 3-112. Law enforcement officer; powers; immunity.
- 3-113. Interference with police.

#### **3-101. Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) Abandon means to leave any animal, by its owner or other person responsible for its care or custody, any length of time, without making effective provisions for its food, water, or other care as is reasonably necessary for the animal's health and proper care;

(2) Animal means any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature;

(3) At large animal means any animal not kept confined to the premises of the owner thereof or kept on a leash or under direct supervision and adequate control by the owner to prevent it from doing mischief or being a nuisance or destroying or damaging property of another, and shall for the purposes of this chapter be deemed to be running at large;

(4) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal;

(5) Cruelly neglect means to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;

(6) Humane killing means the destruction of an animal by a method which causes the animal a minimum of pain and suffering;

(7) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, or any member of the police force of any City or village authorized to enforce state or local animal control laws, rules, regulations, or ordinances; and,

(8) Owner shall mean any person, firm corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of an animal or permitting any animal to habitually be or remain on, or be lodged or fed within, such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises animals owned by others for a period of more than 30 days;

(9) Police animal means a horse or dog owned or controlled by the State of Nebraska for the purpose of assisting a Nebraska state trooper in the performance of his or her official enforcement duties.

Statutory reference: Neb RS 28-1008.

**3-102. Abandonment, neglect, and cruelty.**

(1) Abandonment. No person shall abandon any animal within the City. Any animal abandoned in the City shall be surrendered to the Ordinance Enforcement Officer for impoundment or disposal.

(2) Cruelty to animals.

(a) No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the City. A person commits cruelty to animals if he or she intentionally or recklessly:

(i) Subjects any animal to cruel mistreatment;

(ii) Abandons any animal; or,

(iii) Kills or injures any animal belonging to another.

(b) Any animal treated cruelly after the owner or person in control of said animal has been given written notice of said violation and has not corrected the same within 24 hours thereafter shall be deemed surrendered to the Ordinance Enforcement Officer for impoundment or disposal.

(3) Warrant. Whenever a violation of subsection (1) or (2) has occurred and a citation has been filed, the City Attorney may request a court of competent jurisdiction to issue a warrant authorizing the seizing of the animal affected by the Ordinance Enforcement Officer. Any animal seized as the result of the issuance of a warrant shall be held by the City until final disposition of the action by the issuing court.

(4) Cruelty. A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal.

Statutory reference: Neb. RS 16-235, 16-240, 28-1008, 28-1009, 74-4401.

Historical reference: Ord. 836 passed 10-22-85 and Ord. 951 passed 12-11-90.

**3-103. Killing and poisoning of animals.**

It shall be unlawful to kill or to administer or cause to be administered poison of any sort to an animal or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy, any animal that is the property of another person, or to place any poison or poisoned food where the same is accessible to an animal.

Statutory reference: Neb. RS 28-1008, 28-1009.

**3-104. At large dogs.**

(1) It shall be unlawful for any person owning, keeping, or harboring any dog to permit, suffer, or allow said dog to run at large within the City. For the purpose of this section, any dog shall be deemed to have been permitted, suffered, or allowed by its owner, keeper, or harborer to run at large when outside of the property of the owner, keeper, or harborer and not

effectively physically restrained on a chain or leash or behind a suitable fence or other proper method of physical restraint from which it cannot escape.

(2) A legally blind person using a “seeing eye dog” or a deaf person using a “hearing dog” in the customary manner shall be deemed to be in compliance with this section.

(3) Official use of dogs by any governmental unit shall be deemed in compliance with this section.

(4) Any person owning, keeping, or harboring any dog found to be running at large shall be subject to the penalties and provisions of this chapter.

Statutory reference: Neb. RS 16-206, 16-235.

Historical reference: Ord. 945, passed 2-13-90

### **3-105. Nuisance 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 may disturb the quiet of the neighborhood after 10:00 p.m. or before 6:00 a.m. prevailing time, or which habitually chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the City. It shall be unlawful for any owner or persons responsible to said owner to permit the continual barking of any dog or dogs between 6:00 a.m. and 10:00 p.m. Continued barking shall mean the barking of any dog or dogs for a continuing period of 30 seconds or more on three or more occasions during any twenty minute period. The provisions of this section shall not be construed to apply to the City Animal Shelter. No summons and complaint shall be issued for any single violation of this section unless there are at least two (2) or more complaining witnesses from separate households who have signed the complaint. Accumulation of more than three (3) nuisance dog convictions in a one year period, for the same animal, may cause the animal to be destroyed, at the owner’s expense, upon the recommendation of the court.

Statutory reference: Neb RS 54-605, 54-606, 54-607.

### **3-106. Dogs; collar required.**

(1) It shall be the duty of every owner or owners of any dog or dogs to securely place upon the neck of such dog or dogs a good and sufficient collar with a metallic plate thereon. The plate shall be plainly inscribed with the name of such owner.

(2) Every person who shall harbor about his or her premises a collarless dog for the space of ten days shall be taken and held as the owner, and shall be liable for all damages which such dog shall commit.

(3) Whoever, being the owner of any dog, shall permit the same to run at large for ten days, without such collar as hereinbefore described being securely placed upon the neck of such dog, shall be fined in any sum not exceeding twenty-five dollars.

Statutory reference: Neb RS 54-605, 54-606, 54-607.

### **3-107. Limitation on number of dogs and cats.**

(1) Maximum number; exceptions. It shall be unlawful and a public nuisance for any person in charge of a residence to keep or allow to be kept more than four dogs or cats, or any combination of such animals exceeding four in number, over the age of 90 days at such residence, unless the residence or the owner of the dogs and cats kept there is within one or more of the following exceptions:

(a) The residence is licensed as a commercial animal establishment; or

(b) The owner of the dogs and cats over 90 days of age has applied for and received a permit to keep dogs and cats in excess of four as provided for under this section and, upon request of any officer, presents for inspection such permit.

(2) Application for permit. Application for a permit as provided for under this section shall be made in writing to the Planning and Zoning Administrator on a form furnished by the City Clerk. Such application shall state:

- (a) The name and address of the owner of the dogs or cats;
- (b) The breed, color, age and sex of the dogs or cats;
- (c) Whether such dogs or cats are licensed under this chapter;
- (d) Whether such dogs or cats are neutered, spayed or intact;
- (e) Such other information as may identify the dogs or cats; and
- (f) Such other information as the Planning and Zoning Administrator may require.

The application shall certify to the information contained in such application under penalty of law for the willful making of any untrue statement. The application shall further state, by making and signing the application that the applicant consents to an inspection of premises where the animals are kept. Failure to allow such inspection of premises shall result in denial of the application.

(3) Issuance of permit; revocation; expiration. Upon receipt of an application for a permit provided for under this section, the Planning and Zoning Administrator shall investigate the premises and the manner in which the dogs or cats are kept. A permit shall be issued only if the locating and the keeping of the dogs and cats is, in the opinion of the Planning and Zoning Administrator, such as not to be a health hazard or nuisance to the surrounding neighborhood. An attempt shall be made as a part of the application investigation to contact the neighbors in order to determine if they have any objection to the issuance of the permit. A permit issued under the provisions of this section may be revoked by the Planning and Zoning Administrator for the violation by the holder of such permit of any provision of this section or any other applicable provision of this chapter. All permits issued under the provisions of this section shall be valid for a period of two years of their issuance.

(4) Violations. When animals in excess of the limit established in this section are found at a residence, the owner of the animals shall have 72 hours to comply with this section. Failure to comply within 72 hours shall constitute a violation of this section and shall be punished as provided. Any combination of dogs or cats in excess of four in number shall be considered one violation of this section, but each day in violation shall constitute a separate offense.

(5) Review of issuance or revocation of permit. The issuance or revocation of a permit shall be reviewable by the City Council upon request of any interested party. The request for the City Council to review the issuance or revocation of a permit shall be in writing to the City Clerk, requesting that it be included on the agenda of the next regularly scheduled meeting of the City Council. In reviewing the commission's action, the City Council may approve, disapprove, or take no action at all, which in the latter case shall mean that the Planning and Zoning Administrator's action shall stand. As part of this review process, the Council shall have the power to grant or revoke a permit.

### **3-108. Feces disposal and removal.**

(1) When any animal defecates on any property other than the property of the owner or custodian of the animal, including common areas of condominiums, townhouses, duplexes or apartments, it shall be the duty of the owner or custodian of the animal to immediately remove and properly dispose of the animal feces.

(2) It is unlawful for any person to allow the accumulation of animal feces on any property owned, occupied or controlled by such person, if such accumulation creates an unsanitary, offensive or unhealthy condition.

(3) It is unlawful for any person to place animal feces in storm sewers or upon the property of another, or to dispose of such feces in any manner except by depositing such feces in a toilet or a covered container normally used for refuse or garbage.

**3-109. Impoundment.**

It shall be the duty of the City Police to capture, secure, and remove in a humane manner to the City Animal Shelter, any animal violating any of the provisions of this chapter. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the City Animal Shelter for a period of not less than five days, unless reclaimed earlier by the owner. Notice of impoundment of animals whose owners are not known, including any significant marks or identifications, shall be posted at the Ogallala Police Department as public notification of such impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of the impoundment fee as set by resolution of the Council and maintained on file in the office of the City Clerk. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of the time specified herein, the City Police may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, that if in the judgment of the City Police a suitable home can be found for any such animal within the City, said animal shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter. The City shall acquire legal title to any unlicensed animal impounded in the City Animal Shelter after five days. All animals shall be destroyed in the summary and humane manner as prescribed by applicable laws or rules and regulations.

Statutory reference: RS 16-235, 71-4408.

**3-110. Animal shelter.**

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

Statutory reference: Neb. RS 16-236.

**3-111. Owner liable for damages.**

Dogs are hereby declared to be personal property for all intents and purposes, and the owner or owners of any dog or dogs shall be liable for any and all damages that may accrue:

(1) To any person, other than a trespasser, by reason of having been bitten by any such dog or dogs; and,

(2) To any person, firm, or corporation by reason of such dog or dogs killing, wounding, injuring, worrying, or chasing any person or persons or any sheep or other domestic animals belonging to such person, firm, or corporation. Such damage may be recovered in any court having jurisdiction of the amount claimed.

Statutory reference: Neb. RS 54-601, 54-602

**3-112. Law enforcement officer; powers; immunity.**

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

(3) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

Statutory reference: Neb. RS 28-1012.

Historical reference: Ord. 951, passed 12-11-90.

**3-113. Interference with police.**

It shall be unlawful for any person to hinder, delay, or interfere with any municipal police officer who is performing any duty enjoined upon him or her by the provisions of this chapter or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, or any vehicle used for the collecting or conveying of animals to the shelter.

Statutory reference: Neb. RS 28-906.

**ARTICLE 2  
LICENSE REQUIREMENTS.**

Section.

3-201. License requirements.

**3-201. License requirements.**

Any person owning, keeping, harboring, having custody or control over a dog or cat over four months of age within the City, must obtain a license as herein provided:

(1) A license shall be issued only after payment of a fee herein specified and written application, on a form provided by the Chief of Police, which shall include the name, address, and telephone number of the applicant, a description of the dog or cat, proof of vaccination against rabies within twenty-four months.

(2) Application for a license shall be made within 30 days after a dog or cat attains the age of four months or within 30 days after the first day a dog or cat over the age of four months is owned, kept or harbored within the City.

(3) Unless revoked, a license shall be valid for two years from the date of issue.

(4) Upon proper application and payment of the applicable fee the City shall issue a suitable license tag bearing an identification number which shall be public record.

(5) License tags shall be affixed to the collar or harness and worn by the dog or cat when off the premises of the owner.

(6) No person shall place a license tag on any dog or cat other than the dog or cat for which the tag was issued.

Statutory reference: Neb. RS 16-206.

**ARTICLE 3  
ANIMALS AND FOWL**

Section.

3-301. Animals and fowl.

3-302. Permits.

**3-301. Animals and fowl.**

(1) Running at large. It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another.

(2) Fowls running at large. It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property.

**3-302. Permits.**

(1) Livestock permit. It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock without first obtaining a permit from the Council.

(2) Fowl permit. It shall be unlawful for any person to keep on their private property poultry, chickens, turkeys, geese, or other fowls unless and until they have received a permit from the Council.

Statutory reference: Neb. RS 16-235, 16-240.

**ARTICLE 4  
DEAD ANIMALS**

Section.

3-401. Dead animals.

**3-401. Dead animals.**

All dead animals shall be immediately removed and properly disposed of by the owner of such animals. If the owner of such animal cannot be found, then such animal shall be removed by the City and properly disposed of by and at the expense of the City. Dead animals shall not be buried within the corporate limits of the City, nor within two miles thereof, nor in or above the course of groundwater that is used for drinking purposes by the City or its inhabitants.

Statutory reference: Neb. RS 16-231, 16-240.

**ARTICLE 5  
PENALTY**

Section.

3-501. Penalty.

**3-501. Penalty.**

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed \$1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than \$1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720

Historical reference: Ord. 909 passed 9-27-88.

SEAL