

ANIMAL CONTROL BOARD PUBLIC MEETING

Date: **April 27, 2010**
Location: **Billings Animal Control Office – 1735 Monad Road**
Time: **6:00pm**

AGENDA

Call to order: 6:00pm

Role Call

Public Comment – 2 minute limit

New Business

Discussion of suggested changes submitted by: Alison J. Longley

Dave Klein
Animal Control Supervisor
Animal Control Board
City of Billings 210 N. 27th Street Billings, MT 59101
April 2, 2010

Dear Mr. Klein:

As you know, I am participating in a legislative clinic while a graduate law student at Lewis & Clark Law School. As a Billings resident, I chose to focus my project on Billings' city ordinances in hope that I may provide some assistance to my former hometown.

After speaking with you and members of the community, I have drafted four proposed ordinances and amendments to the Billings City Code. I would love to receive your input on these proposals. If you agree that these changes would be beneficial for both the community and the Animal Control Board and Division, I hope to submit them to the Board for review and possible proposal to City Council.

Dangerous Animal Ordinances

The first two proposals, sections 4-405.8 and 4-405.9, concern dangerous animal violation procedures. In our first conversation, you expressed the Board's concern about obtaining adequate conditions and restrictions from the courts for owners of dangerous animals.

Section 4-405.8 provides violators with the opportunity to request a hearing before an administrative hearings officer instead of going directly to municipal court, while still maintaining the option of going to the courts if the party is not satisfied with the outcome. This ordinance, similar to those in other localities, provides:

- The ability for more flexibility to impose conditions and restrictions on owners on a case-by-case basis;

- The animal control division with authority to select and train as necessary volunteer attorneys to conduct hearings and set policy and procedures for hearings; and
- An opportunity to save court resources by redirecting cases to a hearings officer.

Proposed section 4-405.9 would allow for potential deregistration of animals classified as dangerous. The possibility of deregistration, after the completion of certain criteria, encourages owners to rehabilitate their animals and provide proper training, care, and handling. This, in turn, creates a safer community because owners will be more willing to address the problems with, and the behaviors of, their animal. Additionally, the likelihood that owners would abandon or relinquish their animals to shelters would be reduced, thereby protecting the community from these animals running at large and alleviating already overburdened facilities. Section 4-405.8 provides:

- That all conditions imposed at the initial determination must remain satisfied for at least two years;
- Deregistration is at the discretion of the Animal Control Division, as is the opportunity to continue enforcement of certain conditions despite deregistration; and
- Encouragement for owners to complete obedience training, behavioral assessment, and other handling and care procedures recommended by the Division.

Penalties for Small Animals at Large; Unsterilized Animals

The proposed amendment to Section 4-411 would add a spay and neuter penalty for first time violations of the small animal at large ordinance under Section 4-406 for unsterilized animals. These amendments will not only encourage residents to spay or neuter their unsterilized pets, which are the primary cause of hundreds of unwanted animals each year, it will also create potential revenue for the city. The way this amendment is drafted requires the payment of a \$100 spay/neuter fee for first offenses and a \$300 fee for second offenses. Under both subsections, the fee is refundable upon submission of proof of sterilization within 30 days of the violation. Therefore, the owner of an animal found in violation of Section 4-406 will remain able to keep their animal unaltered by forgoing the fee or be reimbursed the difference between the fee and the cost of the procedure. Enactment of these amendments will:

- Encourage spaying and neutering of pets running at large, thereby reducing the rate of unwanted breeding;
- Facilitate the Yellowstone County Animal Shelter in enforcing its policy of mandatory spaying and neutering after 48 hours of sheltering an animal;
- Incentivize only those residents with a significant interest in keeping their animals unaltered to forgo the refundable fee in lieu of providing proof of sterilization; and
- Generate potential revenue for the City.

Protective Orders to Include Pets

I have also been in contact with local domestic violence groups regarding a potential legislation to include animals in protective orders. Although this ordinance does not directly involve animal control issues, it does involve animal welfare and community safety, so it would be great to have your feedback and perspective on this proposal as well. As confirmed by the Billings YWCA women's shelter, in many cases an abuser not only commits violent acts upon a person but also upon a household pet. This makes victims more reluctant to escape the situation and seek help because they fear for the safety of their pets. Thirteen

states have enacted legislation allowing victims or others to obtain protective orders for animals and several other states and localities are considering similar legislation. The ordinance proposed here, section 4-310, provides:

- Victims of domestic violence the ability to seek an order of protection to include animals of the household;
- Encourage victims to leave abusive situations because they can also seek protection for their pets; and
- Facilitate sheltering or fostering of animals, as victims may be granted exclusive care, control, and possession of any animal of the household regardless of ownership.

Thank you for taking the time to review these proposals. I look forward to hearing from you!

Sincerely,

Alison L. Longley, J.D.
Legislative Clinic Intern
Lewis & Clark Law School
LL.M. Candidate, May 2010
alongley@lclark.edu

City of Billings, MT
Proposed Ordinances
DANGEROUS ANIMAL HEARINGS

Sec. 4-401 Definitions.

Hearings officer means a volunteer attorney appointed by the animal control division to conduct an investigation regarding the determination of an animal as potentially dangerous or dangerous under sections 4-405 and 4-405.5. The animal control division shall have authority to set policy and procedures for training volunteer hearings officers.

Sec. 4-405.8 Dangerous Animal Hearing Procedures. (1) Any person cited with an infraction under Sec. 4-405 for owning an animal exhibiting potentially dangerous or dangerous behavior shall have the opportunity for a hearing before a designated hearings officer, provided the person submits a written request for a hearing along with a hearing fee, in an amount determined by the City Council, within fourteen (14) days of the date of the citation. The hearings officer shall have authority and discretion to impose conditions or restrictions in addition to or in lieu of those proscribed under sections 4-405 and 4-405.5(b)-(e).

(2) The animal control division shall have authority to appoint volunteers to serve as hearings officers.

DEREGISTRATION OF DANGEROUS ANIMALS

Sec. 4-405.9 Deregistration of Dangerous Animals. (1) The owner of an animal registered under Sec. 4-405.5 may deregister the animal as dangerous if the following conditions have been satisfied, without violation, for at least two years from the initial registration:

- a. all requirements under Sec. 4-405.5(1)-(3) remain satisfied, without violation;

- b. there have been no further incidents;

c. any other conditions or requirements imposed upon the owner at the time of determination remain satisfied, without violation.

(2) In order to deregister the animal, the animal control division may, in its discretion, require that the owner submit to the animal control division documentation including, but not limited to, the following,

a. a written certification demonstrating that the animal has successfully completed appropriate obedience training, or

b. a written statement from a licensed veterinarian stating that the animal has received proper attention, care, or behavioral assessment such that deregistration is warranted.

(3) If the conditions and requirements for deregistration under this section have been met, the animal control division may, in its discretion, require that the owner remain subject to any enclosure or containment requirements imposed at the initial registration. 3

PENALTIES FOR SMALL ANIMALS AT LARGE; UNSTERILIZED ANIMALS

Sec. 4-411. Minimum Penalty.

The following fines are hereby imposed:

(1) Small animal running at large (Sec. 4-406):

a. First offense—Minimum fine of twenty dollars (\$20.00) and a one hundred dollar (\$100) mandatory spaying/neutering fee if the animal is unaltered. If proof of sterilization of the animal is submitted to the City within thirty (30) days, the spay/neuter fee shall be refunded.

b. Second offense—Minimum fine of one hundred dollars (\$100.00) and mandatory spaying or neutering if the animal has not been spayed or neutered prior and a three hundred dollar (\$300) mandatory spaying/neutering fee if the animal is unaltered. If proof of sterilization of the animal is submitted to the City within thirty (30) days, the spay/neuter fee shall be refunded.

(2) Noisy animal (Sec. 4-404):

a. First offense--Minimum fine of fifty dollars (\$50.00).

b. Second offense--Minimum fine of one hundred dollars (\$100.00).

Subsequent offenses within a 12-month period will result in a minimum doubling of fines from the previous offense onward.

A person convicted of a violation of this article shall be fined not to exceed five hundred dollars (\$500.00) or be imprisoned not to exceed six (6) months or both. 4

ORDERS OF PROTECTION

Sec. 4-310 Temporary Orders of Protection to include animals. Any temporary order of protection, issued pursuant to Mont. Code Ann. section 40-15-201, may, in the court's discretion,

(1) restrain or enjoin the party against which the order is obtained from taking, concealing, harassing, threatening, or physically abusing any animal belonging to the household or under the care of petitioner or any minor children residing in the household; and

(2) grant to petitioner the exclusive care, control, or possession of any animal in the household or under the care of petitioner or any minor children residing in the household, regardless of ownership of the animal.

Old Business

Continued discussion on possible Ordinance changes and Policies/Procedures for Animal Control Officers enforcing violations.

Adjourn