

## ANIMAL CONTROL BOARD

MEETING JULY 27, 2010

### CALL TO ORDER 6:00 PM

**ROLL CALL:** Present: Diana Kay Bachmann, David Klein,  
Douglas Ruebke, Dennis Ulvestad  
Absent: Solomon Neuhardt, Sandy Weiss

Minutes from the June 29, 2010 meeting were presented and approved.

Motion to approve: Diana Kay Bachmann

Seconded by: Dennis Ulvestad

All in favor.

### Public Comment:

Christopher Fryett, spoke about his desire to see changes to the Noisy Animal portion of the Animal Ordinance. Mr. Fryett feels that the Ordinance as written gives too much power to the complainant of a barking dog and allows for possible abuse and possible false information being provided by a complainant for a citation to be issued.

Mr. Fryett handed out a copy of his opinion titled: Noisy Animal Ordinance – Public Opinion by Mr. & Mrs. Christopher D. Fryett.

Ordinance Requirements prior to 2003:

The Opinion explains that prior to the change of this Ordinance in 2003 – (3) three separate sources were required before a citation could be issued.

Current policy:

1<sup>st</sup> complaint: letter sent to dog owner and complainant explaining ordinance. Education material included to explain possible ways to correct the problem.

2<sup>nd</sup> complaint: (w/in 3 month period) visit from an Officer to the complainant to explain documentation needed for further investigation, and information on how to complete included affidavit is delivered. Contact made with pet owner to explain possibility of prosecution and attempt to solve the problem.

3<sup>rd</sup> complaint: (w/in 3 month period) investigation and documentation gathered by Officer. Sufficient evidence present and charges for noisy animal issued.

Why the Ordinance should be revised:

Places too much power in the hands of one person

Many of the complainants are “hypersensitive” due to their own personal issues, whether it be fatigue, age, or personality.

Like people, animals do make noise, whether it be a dog, cat, or bird. We need our pets to be able to make noise when needed.

Current policy needs to be more specific regarding animal noise. With the current policy, a dog can be reported for just one bark, just because it bothers someone.

The policy can be taken advantage of in its current state

If a dog is truly making too much noise by barking, whining or yelping constantly, surrounding neighbors can usually corroborate the complaining neighbor's grievance.

There is no true investigation with current policy. Entire case can be based upon one source's affidavit.

Excuses for not wanting to report or get involved:

Rarely home

Own a dog themselves and don't want to get involved

Afraid of the owner

Suggestions for policy revision:

A balance of power set within the policy so that pet owners and no-pet owners know what to expect and so no individual person can take advantage of the policy.

A clear definition of what a "nuisance" animal is. It is currently very subjective and is defined by what the individual deems to be a nuisance.

Policy should apply to both dogs and cats since they both can perform "nuisance" misbehaviors.

Verification by Officer of habitual noise via corroboration by neighbors, witnessing of animal's misbehavior by Officer by visiting the premises at the "noisy" time of day (or night", providing some sort of video taping device so that the complainant can provide better evidence of an issue with the animal.

A reporting system that is anonymous to the pet owner only, so that there is no fear of retaliation.

Provision of an online reporting system requiring proper identification of reporting parties.

Some interesting factoids:

Most pet owners in Billings may not be aware that the current ordinance for a noisy pet only requires one person to complain. Most think it requires three.

A dog that barks, whines, or yelps constantly is usually a dog that is left alone for many hours a day, has a high anxiety level.

According to pet training experts, static or shock collars do not 'cure' dogs from barking and can make the behavior worse. Most dogs are smart enough to figure out that when the collar is off they can bark, and will make up for "lost barking time". They can also figure out how to flip the collar so that the electronic part that provides the static or shock is NOT on their voicebox.

Mr. Fryett stated that in his situation he has been told by a neighbor that they witnessed the complainant in his case open Mr. Fryett's gate so that the dog could get out.

Mrs. Fryett explained that one day she had heard her dog barking and went out the dog was barking in the direction of the person complaining about their dog barking, when she went out and corrected the dog then went back in the dog went back to barking in the direction of the same neighbor. Both Mr. and Mrs. Fryett felt that possibly the neighbor was teasing the dog into barking.

This meaning that one person could be teasing a dog to bark and then call in a complaint.

Mr. Fryett explained that they were currently working with a dog trainer whose philosophy was that a dog be allowed on bark in order to make owner aware that someone was there.

Mr. Fryett explained that he was not sure if they would see a complaint or not but from past history with the person who is having a problem with his dog he expects that there will be.

Doug Ruebke, Animal Control Board President, explained that a violation of Noisy Animal was now a civil infraction not a criminal infraction. Doug provided a copy of the State Law regarding False Reporting. Doug also provided Mr. Fryett with a copy of the list of calls received by Animal Control and the priority in which they are handled.

Mr. Fryett explained that if a citation were to be issued he feels not only should the complainant provide documentation of duration and time of barking but also provide a reason why the dog might be barking. (example: person walking down alley, mail carrier in area, or possibly someone teasing dog) Mr. Fryett again explained that he would like to see that it require more than one person complaining for a citation to be issued.

Doug Ruebke provided Mr. Fryett a copy of the State Law for Nuisance.

Dennis Ulvestad, Animal Control Board Member, asked how situation all began.

Mr. Fryett stated that his wife and son heard the neighbor cursing at the dog. When Mr. Fryett approached the neighbor to speak about the issue he was told to keep his xoxo dog quiet. Mr. Fryett explained that this neighbor works in his home and complained that the dog was barking at him when in his office. Mr. Fryett stated that the dog can only see this gentleman when he is standing in the window of his Office and feels he may be provoking the dog.

## **New Business**

Numerous updates are needed to the City of Billings Web Site as a result of the privatization of the Animal Shelter and it was discussed that the Animal Control Board would look at possible changes in the coming months.

## Old Business

The Animal Control Board began looking at all the proposed changes to the Animal Control Ordinance that have been discussed over the past several meeting. Each change was given one final look for additional discussion or changes.

Section: 4-406 Small Animal at Large

Board discussion and approval was given to include giving away animals as prohibited in the Section of Roadside and flea market sales.

### **Sec. 4-309. Roadside and flea market sales.**

(a) It shall be unlawful for any person to sell, trade, give away, or barter a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(b) This section does not apply to:

(1) An agent of a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets;

(2) An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; or

(3) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

(Ord. No. 09-5489, § 1, 4-13-09; Ord. No. 10-5501, § 1, 1-11-10)

Mark Jarvis explained that the problems the Parks Department Employees see with the Small Animal at Large Section of the Ordinance as written is the pet owner who fails to have their animal under control when walking their dog(s) on many of the Cities paths and near City Parks. Mark made the suggestion that the Ordinance read as follows:

### **Sec. 4-406. Small animals at large.**

No small animal shall be allowed to run at large in the city. No owner shall allow or permit any small animal to be at large off the owner's property unless restrained by leash, cord, chain, fence or other physical means of control. ~~provided, that an~~ Dogs that have been trained and under positive voice control or command ~~obedience-trained dog~~ shall be allowed to participate in sanctioned obedience training, field trials, dog shows or competition but. ~~In all individual obedience training within the city, the small animal~~ shall not be allowed to be separated from its owner or trainer by more than six (6) feet except on private property with owner permission or on public property as referenced in section 4-407. Any small animal found to be running at large in the city or on private property in violation of this section is a public nuisance and shall be impounded in the animal shelter. Persons found to have committed a violation of this section shall be subject to civil penalties as specified in section 18-1304.

(Ord. No. 05-5351, § 7, 12-12-05; Ord. No. 10-5501, § 1, 1-11-10)

Mr. Jarvis explained that the complaints they receive are from people who keep their animals on a leash when walking their pets and the people who don't have their pets under leash control failing to control their animals when they encounter them.

Board Members agreed with the suggested changes and all were in favor of placing the suggested changes into the proposed changes for Council. Discussion included that additional like changes would be made to the definition of Small animal in city parks.

Mark Jarvis presented his thoughts about changes to the Section of the Ordinance for Small animals in City Parks. Mark explained that with the work and fundraising that is being done to provide Dog Parks within the City it would be beneficial for these changes to be placed in the proposed Ordinance changes to be presented to Council.

Mark's suggestion:

**Sec. 4-407. Small animals in city parks.**

No small animals, whether restrained or unrestrained, shall be permitted in the city parks except for service animals when being used for that purpose and service animals being used in police work. This prohibition does not prohibit small animals in posted areas of parks or public lands that are specifically designated by council resolution for use by small animals in accordance with posted regulations. Areas in parks or public lands may be designated as a dog park by Council through resolution. Dogs may be present without a leash within dog parks in accordance with posted regulations. Dogs located in these dog park areas are not subject to the leash restriction contained in section 4-406. Small animal in the city parks are deemed a nuisance and may be impounded; provided, that a permit for organized obedience training or shows may be granted for use in designated areas of designated parks on designated days. The permit shall be obtained from the animal control division at the discretion of the animal control supervisor for that particular event. The permit shall be in writing and shall designate the park, area within the park, the dates and duration. A fee as prescribed by council resolution shall be collected for each permit for each event. (Ord. No. 03-5259, § 10, 10-27-03; Ord. No. 05-5351, § 8, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09)

The Animal Control Board discussed Mr. Jarvis's suggestions and approved that his suggestions be included in the proposed changes to be presented to City Council..

All other proposed changes were also looked at by the Animal Control Board and approved as written to be presented to City Council.

Animal Control Supervisor, David Klein, suggested that one additional Animal Control Board Meeting be held so that proposed changes could be placed in the draft for City Council and the Board be given on last chance before submission to Council for any additional changes. Mr. Klein stated that although it has not been addressed the Board may wish to look at placing wording in the Ordinance giving Animal Control Officers more authority when required to remove animals for possible Cruelty violations like animal left in hot vehicles or left in inhumane situations.

Next Meeting was set for July 27, 2010 at the Animal Control Office at 6:00pm.

Meeting adjourned at 7:15pm

Current Proposed Changes listed below:

#### Chapter 4 ANIMALS\*

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**\*Cross references:** Zoning regulation of animals, § 27-808.

**State law references:** Livestock, MCA 81-1-101 et seq.; fish and wildlife, MCA 87-1-101 et seq.

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Art. 4-100. In General (Reserved)

Art. 4-200. Reserved

Art. 4-300. Care, Keeping and Sale of Animals

Art. 4-400. Dogs, Cats and Small Animals

Div. 1. Generally

Div. 2. Registration

Div. 3. Impoundment

Art. 4-500. Livestock

### **ARTICLE 4-100. IN GENERAL (RESERVED)**

### **ARTICLE 4-200. RESERVED\***

**\*Editor's note:** Ord. No. 09-5485, § 1, adopted January 12, 2009, repealed article 4-200, §§ 4-201--4-204 in its entirety, which pertained to the animal control board and derived from the Code of 1967, §§ 2.90.010, 2.90.040, 2.90.060, and Ord. No. 83-4526, § 1, adopted June 20, 1983. For provisions pertaining to the animal control board, the user's attention is directed to article 2-500, division 2.

Secs. 4-201--4-204. Reserved.

### **ARTICLE 4-300. CARE, KEEPING AND SALE OF ANIMALS**

#### **Sec. 4-301. Keeping of wild animals.**

~~(a) The terms and words used in this section are defined as follows:~~

~~*Wild animal* means any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, bobcat, coyote, wolf, warm-blooded animal taken from the wild state or bred in captivity, or any wild animal hybrid.~~

~~*Wild animal hybrid* or *hybrid* means an animal which is the product of the breeding of:-~~

~~(1) A wild animal with an animal that is not wild, including, but not limited to wolf/dog hybrids;~~

~~(2) A wild animal with an animal of a different species, variety or breed;~~

~~(3) An animal that is expressly or impliedly represented to be a wild animal hybrid; or~~  
~~(4) An animal, the appearance of which (including but not limited to the color, shape, size and markings) causes a representative of the Montana Fish, Wildlife and Parks or the Billings Animal Control to reasonably believe that the animal is a wild animal hybrid.~~

~~Wolf/dog hybrid means an animal which is part wolf and part domestic dog.~~

~~(b) (a) No person shall keep or permit to be kept on his or her premises within the city limits any wild or vicious animal or wild animal hybrid for display for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.~~

~~(c) (b) No person shall bring into, offer for sale or barter, or release anywhere in the city limits any wild animal or wild animal hybrid.~~

~~(d) (c) No person shall possess, keep or permit to be kept on or off his/her premises within the city limits a wild animal or wild animal hybrid. If the following conditions are met, wolf/dog hybrids which were in private possession prior to February 1, 1993, may be retained by the same owner as a domestic pet, but may not be transferred to another person:~~

~~(1) The owner must comply with all rules, regulations and requirements of the Montana Department of Fish, Wildlife and Parks.~~

~~(2) By May 1, 1993, the owner must register the wolf/dog hybrid with the city, must purchase a small animal license and must comply with all requirements for a small animal license as set forth in sections 4-432 through 4-438.~~

~~(3) The owner must keep the wolf/dog hybrid in a securely enclosed structure to which all entrances remain locked. The structure must be designed so that a person cannot place an extremity in any part of it and so that the wolf/dog hybrid cannot escape. The structure must be kept in good repair at all times. No person shall allow or permit the wolf/dog hybrid to be removed from its structure unless the animal is muzzled and on a leash held by a person able to control the animal.~~

~~(4) At the time of licensing the wolf/dog hybrid or by May 1, 1993, if the wolf/dog hybrid is currently licensed, the owner of the wolf/dog hybrid must schedule a time with the animal shelter for an animal control officer to inspect and approve the structure in which the animal will be kept. The animal control officer shall also take a photo of the wolf/dog hybrid to be retained by the animal shelter for identification purposes.~~

~~(5) The owner/keeper of the wolf/dog hybrid shall allow an animal control officer at any reasonable time with 24 hour notice to inspect the premises upon which the wolf/dog hybrid is kept.~~

~~(6) No person shall possess, keep or harbor a wolf/dog hybrid unless all of the above conditions have been met.~~

~~(7) A wolf/dog hybrid which has not been licensed in accordance with subsection (d)(2) shall be seized and impounded by an animal control officer or a police officer. In the alternative, the animal control officer or police officer may order the person owning, keeping, or harboring the wolf/dog hybrid to deliver the animal to the animal shelter within twenty four (24) hours. The person owning, keeping or harboring such animal shall then be ordered to appear in city court to show cause why the animal should not be destroyed. The city court judge, after making a determination that the animal is a wolf/dog hybrid and that it was not licensed, shall order that the animal be destroyed or that it immediately be removed from the city.~~

~~(8) A wolf/dog hybrid which is running at large in the city shall immediately be impounded by an animal control officer or police officer. The person owning, keeping or harboring such animal shall be ordered to appear in city court to show cause why the animal should not be destroyed. The city court judge, after making a determination that~~

~~the animal is a wolf/dog hybrid and that it was running at large, shall order that the animal be destroyed or that it immediately be removed from the city.~~

~~(e)~~ (d) The animal control officers shall have the power to release or order the release of any young wild animal kept under temporary permit issued by the state which is deemed capable of survival.

(Code 1967, § 8.04.015; Ord. No. 93-4920, § 1, 2-22-93; Ord. No. 03-5259, § 1, 10-27-03; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-302. Swine and goats within the city.**

No person shall keep any swine or goats within the city at any time except to bring them to market for commercial purposes. When brought to market for commercial purposes, they shall be kept and cared for by the owner or person in their charge at such place as may be authorized.

(Code 1967, §§ 8.04.020, 8.04.030)

**Cross references:** Zoning regulations of animals, § 27-808.

#### **Sec. 4-303. Rabbitry.**

~~(a) Whenever the term "rabbitry" is used in this section it shall be deemed to mean any premises or property of any kind or description where more than one female rabbit or hare is kept for purposes of breeding, or where more than one litter of rabbits or hares is kept for purposes of sale.~~

~~(b)~~ No person shall keep or maintain a rabbitry on premises controlled by such person.

(Code 1967, §§ 8.04.040, 8.04.050; Ord. No. 10-5501, § 1, 1-11-10)

#### **Sec. 4-304. Raising rats.**

It is unlawful for any person to sell, offer for sale, harbor, raise or give away rats as pets, toys, premiums, novelties, or for any other purpose except as feed for reptiles or birds of prey or both, or as hereinafter set forth; or to bring or transport the same into the city. This section shall not be construed to prohibit the keeping of rats in proper facilities by people engaged in a legitimate scientific research project or educational programs.

(Code 1967, § 8.04.090; Ord. No. 90-4829, § 1, 5-7-90)

#### **Sec. 4-305. Keeping apiary prohibited.**

No person shall keep or maintain, on any premises, property or place in the city, hives or colonies of bees.

(Code 1967, § 8.04.130)

**State law references:** Apiculture, MCA 80-6-101 et seq.

#### **Sec. 4-306. Offensive animal waste.**

Any barn, stable, building, shed, yard or other place wherein any animal is or has been kept, which barn, stable, building, shed, yard or other place is suffered to become filthy or offensive with animal waste to neighbors or passersby, or injurious to the health of any neighborhood, or tends to contaminate the atmosphere in any place in the city is declared to be a nuisance.

(Ord. No. 03-5259, § 2, 10-27-03)

**Editor's note:** Ord. No. 03-5259, § 2, adopted October 27, 2003, amended § 4-306 in its entirety to read as herein set out. Formerly, § 4-306 pertained to offensive barns and derived from the Code of 1967, § 8.04.060.

#### **Sec. 4-307. Animal waste.**

The owner or custodian of every animal shall immediately retrieve and remove all excreta deposited by his or her animal while off the owner's property.  
(Code 1967, § 8.04.065; Ord. No. 90-4829, § 2, 5-7-90)

**Sec. 4-308. Impoundment of mistreated or neglected animal.**

Upon application made by an animal warden, the city court may order impounded and held, pending disposition of any complaint filed under MCA 45-8-211, any animal being apparently mistreated or neglected, with costs of confinement to be paid by the owner.  
(Code 1967, § 8.04.070)

**Sec. 4-309. Roadside and flea market sales.**

(a) It shall be unlawful for any person to sell, trade, or barter a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(b) This section does not apply to:

(1) An agent of a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets;

(2) An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; or

(3) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

(Ord. No. 09-5489, § 1, 4-13-09; Ord. No. 10-5501, § 1, 1-11-10)

**Sec. 4-310. Penalties.**

Violations of sections 4-302 through 4-309 are designated as municipal infractions and punishable by civil penalties as specified in section 18-1304.  
(Ord. No. 10-5501, § 1, 1-11-10)

Violations of section 4-301 are designated as a misdemeanors and punishable by penalties as specified in City Code 1-110.

**Chapter 4 ANIMALS\***

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**\*Cross references:** Zoning regulation of animals, § 27-808 300.

**State law references:** Livestock, MCA 81-1-101 et seq.; fish and wildlife, MCA 87-1-101 et seq.

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Art. 4-100. In General (Reserved)

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## ARTICLE 4-300. CARE, KEEPING AND SALE OF ANIMALS

### Sec. 4-302. Swine and goats within the city.

No person shall keep any swine or goats within the city at any time except to bring them to market for commercial purposes. When brought to market for commercial purposes, they shall be kept and cared for by the owner or person in their charge at such place as may be authorized.

(Code 1967, §§ 8.04.020, 8.04.030)

**Cross references:** Zoning regulations of animals, § 27-808 300.

## ARTICLE 4-400. DOGS, CATS AND SMALL ANIMALS

### DIVISION 1. GENERALLY

#### Sec. 4-401. Definitions.

Terms and words, as used in this article, shall have the following meanings unless the context otherwise indicates:

~~*Adult animal* means any animal over six (6) months of age.~~

*Animal* means to include all livestock and any domestic pet, both male and female.

*Animal control officer* means any one or more of the employees of the city designated by the city administrator or his designee as animal control officer.

*Animal shelter* means the place ~~provided~~ operated or contracted by the City of Billings for the purpose of impounding and caring for ~~of~~ dogs, cats or other small animals, or livestock.

*At large* means off the premises of the owner or other property where permission has been granted and not under the control of the owner or any other person either by leash, cord, chain, or other physical means of control; obedience trained dogs under complete verbal control of the owner or trainer shall not be allowed to separate from their owner by more than six (6) feet except on private property with owner permission or on public property as referenced in section 4-407.

*Bite* means any abrasion, scratch, puncture, laceration, bruise, tear, or piercing of the skin inflicted by the teeth of an animal.

*Bodily injury* means physical pain, illness, or any impairment of physical condition.

*City administrator* means the city of billings city administrator or his/her designee.

*Dangerous animal* means any animal that in the absence of intentional provocation:

- (1) Inflicts serious bodily injury to a person on public or private property; or
- (2) Is involved in a continuous sustained attack upon a person, not allowing the victim any means of escape, regardless of the extent of injury or defensive action required; or
- (3) Is previously found to be potentially dangerous and while on or off the owner's property chases or approaches a person in a menacing fashion or apparent attitude of attack by charging, barking, growling, snapping, raising hackles, harassing, chasing, attempts to bite, stalking, or inflicts bodily injury to a person or small animal; or
- (4) Inflicts injury to a person on public or private property, which injury results in the death of the person.

(5) Is brought into Billings city limits and has been convicted of Dangerous Animal or similar violation by any animal control agency, court, or authorizing government entity outside of Billings's city limits. The person owning, keeping or harboring such animal shall be ordered to appear in city court to show just cause why the animal should not be euthanized. The city court judge, after making a determination that the animal is a convicted dangerous animal and in violation of this section, shall order that the animal be euthanized or that it shall be required to comply with regulations as set forth in section 4-405.5.

~~(5)~~ (6) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

*Foster home* means a tax exempt facility or, organization or home, where animals may be placed temporarily for the purpose of finding a new home.

*Neutered/spayed* means rendered permanently incapable of reproduction.

*Owner* means any person owning, keeping, feeding or harboring an animal over thirty (30) days.

*Persons* means two (2) or more people.

*Potentially dangerous animal* means any animal that in the absence of intentional provocation:

(1) While off the owner's property, chases or approaches a person in a menacing fashion or apparent attitude of attack by charging, barking, growling, snapping, raising hackles, harassing, chasing, attempts to bite, stalking, or inflicts bodily injury to a person or small animal; or

(2) While on the owner's property causes bodily injury to a person; or

(3) While off the owner's property kills a domestic animal, excluding birds, rodents and reptiles.

(4) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

*Rabbitry* means any premises or property of any kind or description where more than one female rabbit or hare is kept for purposes of breeding or where more than one litter of rabbits or hares is kept for purposes of sale.

*Registration authority* means the agency or department of the city or any designated representative thereof charged with administering the issuance and/or revocation of permits and registrations under the provisions of this chapter.

*Serious bodily injury* means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function or process of any bodily member or organ.

*Service animal* means in addition to a ~~guide dog~~, search and rescue dog, police dog, law enforcement or military canine as defined in MCA 45-8-209, ~~law enforcement or military canine~~ all other animals that are "individually trained to provide assistance to an individual with a disability" in a public setting, as defined in MCA 49-4-214.

*Small animal* includes any dog, cat, rabbit or domesticated small animal, both male and female.

*Small animal permit* means a permit that allows the premises to be inspected and approved by the animal control officer, or by the health department, at a prearranged appointment established with the owner.

*Vaccination* means the inoculation of a dog or cat with anti-rabies vaccine administered by a licensed veterinarian in compliance with regulations established by the state.

*Wild animal* means any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, bobcat, coyote, wolf, warm-blooded animal taken from the wild state or bred in captivity, or any wild animal hybrid.

Wild animal hybrid or hybrid means an animal which is the product of the breeding of:

(1) A wild animal with an animal that is not wild, including, but not limited to wolf/dog hybrids;

(2) A wild animal with an animal of a different species, variety or breed;

(3) An animal that is expressly or impliedly represented to be a wild animal hybrid; or

(4) An animal, the appearance of which (including but not limited to the color, shape, size and markings) causes a representative of the Montana Fish, Wildlife and Parks or the Billings Animal Control to reasonably believe that the animal is a wild animal hybrid.

Wolf/dog hybrid means an animal which is part wolf and part domestic dog.

(Code 1967, § 8.08.010; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 1, 12-23-85; Ord. No. 90-4829, § 3, 5-7-90; Ord. No. 90-4848, § 1, 11-19-90; Ord. No. 03-5259, § 3, 10-27-03; Ord. No. 05-5351, § 1, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-402. Small animal permits.**

(a) A small animal permit is required of every owner dwelling unit of four (4) or more dogs and/or cats as defined in section 4-401. A small animal permit is required in addition to individual registrations as referenced in 4-431.

(b) Every person, dwelling unit, firm, business, or corporation granted a permit under this section shall be subject to regulation and inspection by the animal control officer or the health department. Any small animal permit granted hereunder may be revoked and cancelled by the city upon giving notice as provided in notice and appeal procedure as set forth in subsection 4-402(d).

(c) Exclusions:

(1) No registration fees or small animal permits shall be required of any veterinary hospital, government animal shelter, or zoological park.

(2) A recognized tax-exempt humane society, organization, foster home, or animal welfare society must comply with all requirements of the holder of a small animal permit, but the small animal permit fee shall be waived. No registration fees shall be required of dogs/cats waiting for adoption, but rabies vaccinations shall be required of animals over three (3) months of age held over thirty (30) days.

(3) The applicant shall, at the time of application for a Small Animal Permit provide the name and address of the owner(s), the name, breed, color, sex, age, and proof if the animal(s) have been spayed or neutered, for each dog/cat owned or kept at the dwelling unit, business, or corporation, also proof of the date vaccinated for rabies and the signature of the veterinarian who vaccinated the dog/cat.

(d) The city administrator shall revoke a small animal permit as follows:

(1) A small animal permit shall be revoked upon refusal to allow inspection, or for three (3) convicted violations of animal ordinances in a twenty-four (24) month period; or for use of shelter facilities to dispose of, or to find homes for surplus puppies and breeding stock; or any other violation of the provisions of this article.

(2) The city administrator shall give notice to the permittee/dwelling unit of any revocation. The notice shall be in writing, shall specify the deficiencies or violations, advise the violator/dwelling unit of the right to appeal, and shall be mailed by certified mail, return receipt requested or personally served. The violation shall have ten (10) days to appeal the revocation to the city council. The appeal shall be filed in writing with the city clerk. The city administrator shall cause the matter to be placed on the first available agenda. The appellant shall be notified by certified mail or personally served

with notice of the date of the council meeting at least three (3) days prior to the hearing. The matter shall be considered by the council after the appellant has had an opportunity to be heard in person or by council at the regular council meeting in which the matter appears on the agenda.

(Code 1967, §§ 8.08.020, 8.08.025; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 2, 12-23-85; Ord. No. 03-5259, § 4, 10-27-03; Ord. No. 05-5351, § 2, 12-12-05)

#### **Sec. 4-403. Female small animals.**

Every person having under his/her control any female small animal in heat (i.e., in the oestral period) shall confine such small animal in a house, garage or other enclosed area. The female small animal shall be contained in such a manner that the female cannot come into contact with a male of the same species except for planned breeding. Such female not so confined is a public nuisance, and the owner or other person in control of such small animal shall be subject to civil penalties as specified in section 18-1304. The animal control officer or any police officer after applying to the city court the court may order such small animal a public nuisance and order the animal impounded until end of the oestral period. ~~shall immediately abate every such nuisance by impounding such small animal.~~

(Code 1967, § 8.08.030; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 3, 12-23-85; Ord. No. 10-5501, § 1, 1-11-10)

#### **Sec. 4-404. Noisy animals.**

Every person who keeps, feeds, harbors or allows to stay about any premises occupied or controlled by such person, any animal which unreasonably annoys or disturbs any person by continuous and habitual barking, howling, yelping, whining or other noise is responsible for maintaining a public nuisance and shall be subject to civil penalties as specified in section 18-1304. This section does not apply to an animal that is owned, kept, or harbored as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation.

The complainant must identify himself or herself by name, address and telephone number.

To constitute a violation for prosecution under this section, a written complaint must be received by the animal control officer which shall include but not be limited to a summary of the nature and duration of the animal noise and any other information as may be required by the animal control officer to establish a violation of this section.

(Code 1967, § 8.08.040; Ord. No. 90-4829, § 4, 5-7-90; Ord. No. 03-5259, § 5, 10-27-03; Ord. No. 05-5351, § 3, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09; Ord. No. 10-5501, § 1, 1-11-10)

#### **Sec. 4-405. Potentially dangerous behavior animal.**

(a) Any person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him within the city any animals exhibiting potentially dangerous behavior is guilty of maintaining a public nuisance and is guilty of misdemeanor. An animal is presumed to have exhibited potentially dangerous behavior if it demonstrated any of the behavior set forth in section 4-401. Such presumption is rebuttable. Upon conviction of maintaining a public nuisance with a particular potentially dangerous animal, said animal may be ordered by the court to be euthanized by the animal control officer. An animal involved in a fatal attack on a person will be impounded, euthanized, and destroyed by the animal control officer.

(b) The owner or keeper convicted of having a potentially dangerous animal shall forthwith register the animal as such with the animal control division. Registrations are required to be renewed annually. The owner of the potentially dangerous animal must comply with and must show the animal control division sufficient evidence that the following requirements are met within thirty (30) days following registration:

(1) A securely enclosed fence that is adequate to contain the animal to be restrained. The fence shall be securely fastened to posts firmly set in the ground. The fence shall be properly maintained to keep the animal confined. The enclosure must also provide protection from the elements for the animal.

(2) The animal is to be restrained by a secure leash or other secure restraint and under the physical control of a person capable of restricting the animal's movement when off the property where the owner resides.

(3) The owner or keeper shall display signs on his or her premises warning that there is a potentially dangerous animal on the property. These signs shall be visible and capable of being read from the public roadway and from any normal means of entry to the premises. In addition, the owner or keeper shall conspicuously display a sign with a warning symbol that will inform children of the presence of a dangerous animal.

(4) The owner or keeper shall, at his or her own expense, have the potentially dangerous animal registration number provided by the animal control division tattooed upon the inner side of the right ear by a licensed veterinarian, or micro-chipped, and the chip number provided to the animal control division.

(c) The owner or keeper of an animal convicted of having a potentially dangerous animal shall notify the animal control division within twenty-four (24) hours of a change of address or death of the animal, immediate notification will be required if the animal is loose.

(d) The owner or keeper of an animal convicted of having a potentially dangerous animal shall not sell, transfer or give away the animal, without notification to the animal control officer, the new owner will be responsible for compliance with all potentially dangerous restrictions.

(e) The owner or keeper of the animal convicted of having a potentially dangerous animal shall not allow the animal off the owners/keepers property unless securely muzzled. The muzzle shall be worn in a manner which will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

(f) The animal control officer is empowered to make whatever inquiry is deemed necessary to ensure compliance with the above provisions. Inspections will be conducted by the Animal Control Officer for each year that Registration is required. Should it be found that the owner or keeper is in noncompliance with the provisions, the animal shall be immediately confiscated, impounded, and the owner/keeper shall be ordered to appear in City Court to show cause why the animal should not be euthanized and destroyed.

(g) Any animal convicted of a second or subsequent violation under this section may be classified as a Dangerous Animal and subject to regulations set forth in Section 4-405.5.

(Code 1967, § 8.08.050; Ord. No. 85-4616, 1-7-85; Ord. No. 90-4829, § 5, 5-7-90; Ord. No. 03-5259, § 6, 10-27-03; Ord. No. 05-5351, § 4, 12-12-05)

**State law references:** Liability of owner of vicious dog, MCA 27-1-715.

#### **Sec. 4-405.1. Quarantine--Rabies.**

(a) Any animal not currently vaccinated for rabies which bites a person shall be isolated in strict confinement at the animal shelter or a licensed veterinarian clinic to be observed for at least ten (10) days from the day of infliction of the bite. The owner will be responsible and must pay the confinement fees. If the owner fails to pay such fees, the animal control officer shall dispose of the animal.

(b) Upon the discretion and advice of the animal control or law enforcement officer any animal currently vaccinated for rabies which bites a person may be isolated in strict confinement at the owner's home provided the following conditions are available and met:

(1) Animal must be kept away from all animals and people except the immediate household.

(2) Animal must be kept inside an enclosed structure such as a house, garage or if outside, the animal must be in a covered pen from which it cannot escape or come into contact with another animal or person. If confinement is authorized under this condition, the person responsible for the animal shall further assure that the animal shall only be allowed outside the above-described pen or other suitable place approved by the animal control or law enforcement officer if the animal is muzzled and on a leash which is held by a person that is capable of and is in fact controlling the animal in question.

(3) Animal cannot be sold, given away, destroyed or moved from the premises until notified by an animal control or law enforcement officer that the quarantine period is over.

(4) Animal under quarantine is not to receive any vaccinations without the authorization of a veterinarian and the animal control officer.

(5) If the animal becomes lost, sick, acts strangely in any way, or dies during quarantine it must be reported immediately to the animal control office.

(6) Animal control and/or law enforcement officers must be allowed reasonable access to the place of quarantine between the hours of 7:00 a.m.--10:00 p.m. for inspections.

(7) The owner will be responsible and must pay all confinement fees. If the owner fails to pay such fees, the animal control officer shall dispose of the animal.

(c) Any animal owner who fails to cooperate with the animal control officer in satisfactory quarantine of his dog or cat (or any other warm-blooded animal, if pertinent) who has bitten a person is guilty of a misdemeanor.

(d) A dog or cat (or other warm-blooded animal) manifesting characteristics of rabies (hydrophobia) may be ~~put to death~~  euthanized and destroyed  at the discretion of the animal control or law enforcement officer so that the head may be examined to make a confirmatory search for Negri bodies. All animals definitely known to have been bitten by the infected animal should be destroyed. If, however, the animal is only suspected of having the disease he should not be ~~put to death~~  euthanized  but quarantined for observation, for a negative laboratory examination at this time would only leave the diagnosis in doubt.

(e) Quarantine procedures do not apply to animals used in military or law enforcement work and service animals for the disabled. These animals will be required to be under current veterinarian care and subject to inspections by an animal control or law enforcement officer. Service animals will be required to wear a muzzle while off the owner's property during the required quarantine period.

(Ord. No. 05-5351, § 5, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-405.5. Dangerous behavior animal.**

(a) Any person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him within the city any animal exhibiting dangerous behavior is guilty of maintaining a public nuisance and is guilty of a misdemeanor. An animal is

presumed to have exhibited dangerous behavior if it demonstrated any of the behavior set forth in section 4-401. Such presumption is rebuttable. Upon conviction of maintaining a public nuisance with a particular dangerous animal, said animal may be ordered by the court to be ~~destroyed~~ euthanized by the animal control officer. An animal involved in a fatal attack on a person will be impounded, euthanized, and destroyed by the animal control officer.

(b) The owner or keeper convicted of having a dangerous animal shall forthwith register the animal as such with the animal control division. Registrations are required to be renewed annually. The owner of the dangerous animal must comply with and must show the animal control division sufficient evidence that the following requirements are met within thirty (30) days following registration:

(1) A securely enclosed locked pen or structure is provided by the owner suitable to prevent unauthorized entry and designed to prevent the animal from escaping. Such pen or structure shall have a locking door with a padlock, secure sides, a concrete floor, and a secure top. The secure pen or structure shall be located within property whose perimeter must have a secondary secure fence of board or wire that is adequate to contain the animal being restrained. The fence shall be securely fastened to posts firmly set in the ground. The fence shall be properly maintained to keep the animal confined. The enclosure must also provide protection from the elements for the animal.

(2) The owner or keeper shall display signs on his or her premises warning that there is a dangerous animal on the property. These signs shall be visible and capable of being read from the public roadway and from any normal means of entry to the premises. In addition, the owner or keeper shall conspicuously display a sign with a warning symbol that will inform children of the presence of a dangerous animal.

(3) The owner or keeper of a dangerous animal shall present proof of procurement of liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering the 12-month period during which registration is sought. This policy shall contain a provision requiring the city to be named as an additional insured and requiring that the city be notified by the insurance company at least ten (10) days in advance of any cancellation, termination or expiration of the policy.

(4) The owner or keeper shall, at his or her own expense, have the dangerous animal registration number provided by the animal control division tattooed upon the inner side of the right ear by a licensed veterinarian, or have the animal micro-chipped, and the chip number provided to the animal control division.

(c) The owner or keeper of an animal convicted of having a dangerous animal shall notify the animal control division within twenty-four (24) hours of a change of address or death of the animal, immediate notification will be required if the animal is loose.

(d) The owner or keeper of an animal convicted of having a dangerous animal shall not sell, transfer or give away the animal, other than to the animal control officer for ~~disposal~~ euthanasia.

(e) The owner or keeper of the animal convicted of having a dangerous animal shall not allow the animal off the owners/keepers property unless securely muzzled, shall at all times wear a collar approved by the City visibly displaying the words Dangerous Dog, and restrained by a secure leash or other secure restraint and under the physical control of a person capable of restricting the animal's movement when off the property where the owner resides. The muzzle shall be worn in a manner which will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

(e)-(f) The animal shall be spayed/neutered and proof of the date of the spay/neutering with the signature of the veterinarian who performed the procedure shall be supplied to the animal control division within (30) thirty days.

(g) The animal control officer is empowered to make whatever inquiry is deemed necessary to ensure compliance with the above provisions. *Inspections will be conducted by the Animal Control Officer for each year that Registration is required.* Should it be found that the owner or keeper is in noncompliance with the provisions, the animal shall be immediately confiscated, impounded, and ~~destroyed~~ *euthanized*. (Ord. No. 90-4829, § 6, 5-7-90; Ord. No. 03-5259, § 7, 10-27-03; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-405.6. Justifiable use of force.**

While on the owner's property or off the owner's property and under the owner's control, an animal is justified in using the force or threat to use force necessary: to defend himself or a person; to prevent or terminate a person's unlawful entry into or attack upon his owner's property; or to prevent or terminate a person's trespass on or other criminal interference with his owner's property. A defense of justifiable use of force is an affirmative defense to sections 4-405 and 4-405.5. (Ord. No. 90-4829, § 7, 5-7-90; Ord. No. 03-5259, § 8, 10-27-03)

#### **Sec. 4-405.7. Fee for registration of potentially dangerous or dangerous animal.**

Any person required to register a potentially dangerous or dangerous animal as set forth in sections 4-405 or 4-405.5 shall pay a registration fee in an amount set by council resolution. Said potentially dangerous or dangerous animal registration fee is in addition to all other fees. Registration shall be required within seven (7) days following conviction. Such registration shall expire on the last day of the month one year from the month of issuance and shall become delinquent on the first day of the following month or shall expire when such rabies vaccination is no longer current, whichever comes first. (Ord. No. 90-4848, § 2, 11-19-90; Ord. No. 03-5259, § 9, 10-27-03; Ord. No. 05-5351, § 6, 12-12-05)

#### **Sec. 4-406. Small animals at large.**

No small animal shall be allowed to run at large in the city. No owner shall allow or permit any small animal to be at large off the owner's property unless restrained by leash, cord, chain, fence or other physical means of control. ~~provided, that an~~ Dogs that have been trained and under positive voice control or command ~~obedience-trained dog~~ shall be allowed to participate in sanctioned obedience training, field trials, dog shows or competition but. ~~In all individual obedience training within the city, the small animal shall not be allowed to be separated from its owner or trainer by more than six (6) feet except on private property with owner permission or on public property as referenced in section 4-407. Any small animal found to be running at large in the city or on private property in violation of this section is a public nuisance and shall be impounded in the animal shelter. Persons found to have committed a violation of this section shall be subject to civil penalties as specified in section 18-1304.~~ (Ord. No. 05-5351, § 7, 12-12-05; Ord. No. 10-5501, § 1, 1-11-10)

**Editor's note:** Ord. No. 05-5351, § 7, adopted December 12, 2005, amended § 4-406 in its entirety to read as herein set out. Formerly, § 4-406 pertained to dogs at large and derived from the Code of 1967, § 8.08.060.

#### **Sec. 4-407. Small animals in city parks.**

No small animals, whether restrained or unrestrained, shall be permitted in the city parks except for service animals when being used for that purpose and service

animals being used in police work. This prohibition does not prohibit small animals in posted areas of parks or public lands that are specifically designated by council resolution for use by small animals in accordance with posted regulations. Areas in parks or public lands may be designated as a dog park by Council through resolution. Dogs may be present without a leash within dog parks in accordance with posted regulations. Dogs located in these dog park areas are not subject to the leash restriction contained in section 4-406. Small animal in the city parks are deemed a nuisance and may be impounded; provided, that a permit for organized obedience training or shows may be granted for use in designated areas of designated parks on designated days. The permit shall be obtained from the animal control division at the discretion of the animal control supervisor for that particular event. The permit shall be in writing and shall designate the park, area within the park, the dates and duration. A fee as prescribed by council resolution shall be collected for each permit for each event.  
(Ord. No. 03-5259, § 10, 10-27-03; Ord. No. 05-5351, § 8, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09)

**Editor's note:** Ord. No. 03-5259, § 10, adopted October 27, 2003, amended § 4-407 in its entirety to read as herein set out. Formerly, § 4-407 pertained to dogs in city parks and derived from the Code of 1967, § 8.08.065.

**Cross references:** Parks and recreation, Ch. 19.

#### **Sec. 4-408. Loosing of strays.**

No person shall dump or in any manner turn loose any dog, cat or other small animal to stray on any property or public way within the city.  
(Code 1967, § 8.08.090)

#### **Sec. 4-409. Vaccination of dogs/cats for rabies.**

The owner of every dog/cat kept, harbored or maintained within the city which is three (3) months old or older shall, at the owner's expense, cause the dog/cat to be vaccinated for rabies by a licensed veterinarian, and the owner of any such dog/cat who for thirty (30) days willfully fails to have such dog/cat vaccinated shall be subject to civil penalties as specified in section 18-1304. The veterinarian shall retain a copy of the vaccination receipt for such period as the health officer of the city shall prescribe. The owner of such dog/cat when applying for registration required by section 4-431 shall present the vaccination receipt as proof of current and valid vaccination.  
(Ord. No. 05-5351, § 9, 12-12-05; Ord. No. 10-5501, § 1, 1-11-10)

#### **Sec. 4-410. Small animal owner's promise to appear.**

(a) Whenever there is any violation of this article, in addition to any other remedy provided by law and instead of arresting the owner or other person in control of a small animal, or of impounding the small animal, the animal control officer may, in his or her discretion, release the owner or person in control of the small animal, upon giving his or her promise to appear as specified in a written notice to be prepared by the animal control officer. The notice shall be in duplicate on forms provided by the city court judge, shall contain the name and address of the owner or controller of the small animal, a description of the small animal, the small animal's license number, if known, the date and location of the violation, the offense charged and shall require the person receiving the notice to answer the charge during hours and at a place specified in the notice. If any dispute exists as to the ownership of a small animal, for the purpose of this section, the person who has signed the application for the small animal's license shall be deemed the owner thereof.

(b) Any person who fails to appear in court or at the office of the clerk of city court in compliance with the directions contained in the notice of animal violation given to such person by the animal control officer for any animal violation is ~~guilty of a misdemeanor regardless of the disposition of the charge for which such person was given the notice.~~ punishable by penalties as authorized by law.

(Code 1967, §§ 8.08.250, 8.08.260; Ord. No. 85-4676, § 5, 12-23-85)  
Secs. 4-411--4-430. Reserved.

**Editor's note:** Ord. No. 10-5501, § 1, adopted January 11, 2010, repealed the former section 4-411 in its entirety, which pertained to the minimum penalty, and derived from the Code of 1967, § 8.08.230; Ord. No. 03-5259, § 11, adopted October 27, 2003, and Ord. No. 05-5351, § 10, adopted December 12, 2005.

## **DIVISION 2. REGISTRATION\***

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**\*Editor's note:** Ord. No. 03-5259, § 12, adopted October 27, 2003, changed the title of division 2 from "Licensing" to "Registration."

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### **Sec. 4-431. Required.**

The owner of every dog/cat kept, harbored or maintained within the city shall register the dog/cat within thirty (30) days after the dog/cat becomes three (3) months old, or within thirty (30) days in the case of a dog/cat three (3) months or older newly brought into the city or acquired by new owner. Animals placed in private homes for foster care while actively looking for a new home by a tax exempt or animal welfare organization will be required to be register if in the foster home for over (6) six months. (Code 1967, § 8.08.100(a); Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 6, 12-23-85; Ord. No. 03-5259, § 13, 10-27-03; Ord. No. 05-5351, § 11, 12-12-05)

### **Sec. 4-432. Application.**

The owner shall, at the time of application for a registration ~~is made, state upon a printed form provided for that purpose,~~ provide the name and address of the owner, the name, breed, color, sex, age, and proof if the animal has been spayed or neutered, of each dog/cat owned or kept by the owner; also proof of the date vaccinated for rabies and the signature of the veterinarian who vaccinated the dog/cat. (Code 1967, § 8.08.110; Ord. No. 85-4676, § 7, 12-23-85; Ord. No. 03-5259, § 14, 10-27-03)

### **Sec. 4-433. Proof of vaccination prerequisite.**

No dog/cat registration shall be issued unless the applicant there for produces satisfactory proof that the dog/cat has been vaccinated with a rabies vaccine currently effective. Such proof may be made by presenting the vaccination receipt referred to in section 4-409; provided that when a dog/cat has been reclaimed from the animal shelter, registration fees shall be paid prior to release of the dog/cat. If satisfactory proof of rabies vaccination cannot be produced, the registration tag shall be retained by the city until the dog/cat has been vaccinated or proof of vaccination is produced. Proof of

vaccination must be provided to the animal control officer *or Yellowstone Valley Animal Shelter* within thirty (30) days after the dog/cat becomes three (3) months old, or within thirty (30) days in the case of a dog/cat three (3) months or older. Failure to provide proof of vaccination will result in the registration being void.

(Code 1967, § 8.08.100(b); Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 8, 12-23-85; Ord. No. 03-5259, § 15, 10-27-03; Ord. No. 05-5351, § 12, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-434. Issuance.**

(a) Registrations shall be issued by the animal control officer or duly appointed registration agents.

(b) Registration agents. The registration authority shall appoint additional registration agents as may be deemed necessary or expedient. The city will provide an allowance of one dollar (\$1.00) from the registration fee to reimburse additional registration agents for costs incurred in performing registration duties for the city. Additional registration agents will settle accounts with the city monthly, the timing and manner of which will be determined by the registration authority.

(Code 1967, § 8.08.100(c); Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 9, 12-23-85; Ord. No. 90-4829, § 8, 5-7-90; Ord. No. 03-5259, § 16, 10-27-03; Ord. No. 05-5351, § 13, 12-12-05)

#### **Sec. 4-435. Fees.**

(a) Dog/cat registration fees shall be prescribed by council resolution.

(b) Beginning July 1, 1990, dog/cat registrations shall be issued by duly appointed registration agents, upon proof that the animal has a current rabies vaccination, and upon payment of an annual registration fee. Such registration shall expire on the last day of the month one year from the month of issuance and shall become delinquent on the first day of the following month or shall expire when such rabies vaccination is no longer current, whichever comes first. Delinquent fees shall be prescribed by council resolution.

(c) Persons over sixty-five (65) years of age shall pay fifty (50) percent of the fees imposed under this section, but not less than one dollar (\$1.00). Satisfactory proof of age shall be furnished to the appointed registration agent or city officials.

(Code 1967, § 8.08.100(c-g); Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 10, 12-23-85; Ord. No. 90-4829, § 9, 5-7-90; Ord. No. 03-5259, § 17, 10-27-03)

#### **Sec. 4-436. Exemptions and registration tag provisions.**

(a) No registration shall be required for dogs or cats brought into the city for the purpose of participating in any dog or cat show; but such dogs or cats must be vaccinated as required by section 4-409.

(b) Registrations shall be required for service animals, when such animals are actually being used as service animals, but the fees provided for in section 4-435 shall be waived. Such service animals must be vaccinated as required by section 4-409.

(Ord. No. 03-5259, § 18, 10-27-03)

**Editor's note:** Ord. No. 03-5259, § 18, adopted October 27, 2003, amended § 4-436 in its entirety to read as herein set out. Formerly, § 4-436 pertained to exemptions and license tag provisions and derived from the Code of 1967, § 8.08.140(a), and Ord. No. 85-4616, adopted January 7, 1985.

#### **Sec. 4-437. Tags and collars.**

(a) Upon payment of the registration fee under this division, the animal control officer or agent designated as herein provided shall issue to the owner a registration certificate in the form of a receipt and a metallic tag for each dog/cat so registered. The tag shall have stamped thereon the year for which it was issued and the number appearing on the certificate. The dog/cat is required to display a registration and vaccination tag when off of the owner's property.

(b) No registration provided for in this chapter is transferable, and no registration tag shall be fastened to any dog/cat other than the one for which it was issued.

(c) Any person who knowingly fastens a registration tag or a vaccination tag to any dog or cat other than the one for which such tag was issued or who willfully permits such dog or cat to wear any registration tag or vaccination tag issued for another dog or cat shall be subject to civil penalties as specified in section 18-1304. The animal control officer shall impound every dog or cat found bearing a registration tag or vaccination tag not issued for that dog or cat, and shall dispose of such dog or cat as provided by section 4-450.

(d) In case a registration tag is lost or destroyed, the owner of the dog/cat shall apply to ~~the animal control officer~~ for a duplicate tag and ~~the animal control officer~~ shall be issued a duplicate tag upon presentation of the receipt showing payment for the registration for the current year and upon payment of a fee.

(e) In case a vaccination receipt is lost or destroyed, the owner of the dog or cat shall apply to the veterinarian who vaccinated the dog or cat for a duplicate receipt.

(Code 1967, §§ 8.08.140(b--d), 8.08.150; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 11, 12-23-85; Ord. No. 92-4907, § 1, 8-3-92; Ord. No. 03-5259, § 19, 10-27-03; Ord. No. 10-5501, § 1, 1-11-10)

#### **Sec. 4-438. Unregistered dogs/cats.**

Every person who knowingly keeps, feed, harbors or allows to stay about any premises occupied or controlled by such person, any unregistered dog/cat or upon which no registration tag current and valid vaccination tag are kept as required by section 4-437 shall be subject to civil penalties as specified in section 18-1304.

(Ord. No. 03-5259, § 20, 10-27-03; Ord. No. 10-5501, § 1, 1-11-10)

**Editor's note:** Ord. No. 03-5259, § 20, adopted October 27, 2003, amended § 4-438 in its entirety to read as herein set out. Formerly, § 4-438 pertained to unlicensed small animals and derived from the Code of 1967, § 8.08.160, and Ord. No. 85-4676, § 12, adopted December 23, 1985.

Secs. 4-439--4-445. Reserved.

### **DIVISION 3. IMPOUNDMENT**

#### **Sec. 4-446. Animal control officer.**

The animal control officers shall be employees of the city, designated by the city administrator to act as such animal control officers and they shall receive no pay other than their regular pay while working in the function as city employees.

(Code 1967, § 8.08.170; Ord. No. 85-4616, 1-7-85; Ord. No. 09-5489, § 1, 4-13-09)

**Editor's note:** Ord. No. 09-5489, § 1, adopted April 13, 2009, changed the title of section 4-446 from "Animal shelter and animal control officer" to "Animal control officer."

#### **Sec. 4-447. Impoundment of small animals at large.**

Every small animal, licensed or unlicensed, found running at large in the streets, avenues, alleys or other public places within the city, or on private property, except as

provided in section 4-406, is a public nuisance and may be taken and impounded in the animal shelter by an animal control officer, police officer or other employee designated by the city administrator or persons with whom the city has contracted. Such persons are specifically authorized to pursue small animals running at large onto private property and apprehend such small animals. Small animals are running at large unless they are restrained pursuant to section 4-406.

(Ord. No. 05-5351, § 14, 12-12-05; Ord. No. 09-5489, § 1, 4-13-09)

**Editor's note:** Ord. No. 05-5351, § 14, adopted December 12, 2005, amended § 4-447 in its entirety to read as herein set out. Formerly, § 4-447 pertained to the impoundment of dogs at large and derived from the Code of 1967, § 8.08.180, and Ord. No. 85-4616, adopted January 7, 1985.

#### **Sec. 4-448. Records of impounded animals.**

Immediately upon impounding any animal, the animal control officer shall record a description of such animal. Such record shall state the sex, color, breed, estimated age, distinguishing marks, if any, and the date and hour of impounding.

(Code 1967, § 8.08.190; Ord. No. 85-4616, 1-7-85; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-449. Reserved.**

**Editor's note:** Ord. No. 09-5489, § 1, adopted April 13, 2009, repealed the former section 4-449 in its entirety, which pertained to additional fee for adopted dogs or cats, and derived from the Code of 1967, § 8.08.195; Ord. No. 85-4616, adopted January 7, 1985; Ord. No. 90-4829, § 10, adopted May 7, 1990, and Ord. No. 03-5259, § 21, adopted October 27, 2003.

#### **Sec. 4-450. Disposition of unclaimed animals.**

Every dog or cat impounded shall be held for a period of not less than forty-eight (48) hours nor more than seventy-two (72) hours after such impounding and if not claimed by the owner the animal shall become the property of the Yellowstone Valley Animal Shelter.

(Code 1967, § 8.08.200; Ord. No. 85-4616, 1-7-85; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-451. Collection of fees for impounded animals.**

Before any dog, cat or other animal is released, the animal shelter shall collect from the person claiming/adopting such dog or cat the usual registration fee for such dog/cat if it is not already registered, subject to the conditions outlined in section 4-450.

(Code 1967, § 8.08.210; Ord. No. 85-4616, 1-7-85; Ord. No. 03-5259, § 22, 10-27-03; Ord. No. 09-5489, § 1, 4-13-09)

#### **Sec. 4-452. Reserved.**

**Editor's note:** Ord. No. 09-5489, § 1, adopted April 13, 2009, repealed the former section 4-452, which pertained to the disposal of animal upon request, and derived from the Code of 1967, § 8.08.220.

#### **Sec. 4-453. Animal control fees.**

The city council by resolution shall establish from time to time the fees to be charged by the animal control division.

(Code 1967, § 8.08.270; Ord. No. 03-5259, § 23, 10-27-03; Ord. No. 09-5489, § 1, 4-13-09)

**Editor's note:** Ord. No. 09-5489, § 1, adopted April 13, 2009, changed the title of section 4-453 from "Animal shelter fees" to "Animal control fees."

**Sec. 4-454. Penalties.**

Violations of sections 4-402, 4-403, 4-404, 4-406, 4-407, 4-408, 4-409, 4-437, and 4-438 are designated as municipal infractions and punishable by civil penalties as specified in section 18-1304.

(Ord. No. 10-5501, § 1, 1-11-10)

Violations of section 4-405, 405.1, 405.5, 4-410 are designated as a misdemeanors and punishable by penalties as specified in City Code 1-110. In addition the court may place conditions on the person's custody of an animal that could include a prohibition of the custody of any animals.

**ARTICLE 4-500. LIVESTOCK\***

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**\*State law references:** Livestock, MCA 81-1-101 et seq.

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**Sec. 4-501. Running at large prohibited.**

No person owning or having control of a horse, donkey, bovine, sheep, goat, swine, chicken, duck, turkey, or other livestock animals, shall allow any such animal to be at large. A violation of this section is designated as a municipal infraction and punishable by civil penalties as specified in section 18-1304.

(Code 1967, § 8.12.010; Ord. No. 10-5501, § 1, 1-11-10)

**State law references:** Swine, sheep and goats running at large, MCA 81-4-201; certain livestock not to run at large in municipalities, MCA 81-4-401.

**Sec. 4-502. Impoundment authorized.**

The animal control officer is authorized to take possession of any livestock animal found to be at large within the city limits, and to impound the same.

(Code 1967, § 8.12.030; Ord. No. 09-5489, § 1, 4-13-09)

**State law references:** Duties of cities impounding animals, MCA 81-4-403.

**Sec. 4-503. Notice to owner.**

Immediately upon impounding any livestock animal, the animal control officer shall use reasonable means to ascertain the owner of such livestock animal, and to give notice to such owner of the impoundment.

(Code 1967, § 8.12.040; Ord. No. 09-5489, § 1, 4-13-09)

**State law references:** Notice, MCA 81-4-403 et seq.

**Sec. 4-504. Release to owner; fee.**

Before any livestock animal is released from the animal control officer to an owner, the animal control officer shall collect from the person claiming such animal all costs incurred as a result of feeding, care, and impoundment of the livestock.

(Code 1967, § 8.12.050; Ord. No. 09-5489, § 1, 4-13-09)

**Sec. 4-505. Auction of unclaimed animals.**

Every livestock animal not claimed within thirty (30) days of impoundment shall be sold at public auction.

(Code 1967, § 8.12.060; Ord. No. 09-5489, § 1, 4-13-09)

**Sec. 4-506. Penalties.**

Violations of section 4-501, are designated as municipal infractions and punishable by civil penalties as specified in section 18-1304.

(Ord. No. 10-5501, § 1, 1-11-10)