

ORDINANCE NO. 05-5351

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA, CITY CODE BE AMENDED BY REVISING SECTIONS 4-401, 4-402, 4-404, 4-405, 4-405.7, 4-406, 4-407, 4-409, 4-411, 4-431, 4-433, 4-434 AND 4-447 OF SAID CODE AND ADDING A NEW SECTION TO BE NUMBERED 4-405.1; UPDATING LANGUAGE FOR DEFINITIONS, SMALL ANIMAL PERMITS, NOISY ANIMALS, POTENTIALLY DANGEROUS ANIMALS, QUARANTINE PROCEDURES, DANGEROUS ANIMAL REGISTRATION FEE, VACCINATION OF SMALL ANIMALS FOR RABIES, REGISTRATIONS, PROHIBITING SMALL ANIMALS AT LARGE, AND PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That Section 4-401 of the Billings, Montana, City Code be amended so that the following definitions in such section shall read as follows:

Sec. 4-401. Definitions.

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

. . .

At large means off the premises of the owner and not under the control of the owner or any other person either by leash, cord, chain, or other physical means of control; ~~this excludes 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.

. . .

~~***Commercial kennels***~~ means any lot, building, structure or premises where more than two (2) sexually unaltered dogs and/or cats over the age of six (6) months are kept or maintained for boarding, training, breeding or selling, exclusive of medical or surgical care; or for quarantine purposes.

. . .

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 or inflicts bodily injury to a person or small animal;
- (4) Inflicts injury to a person on public or private property, which injury results in the death of the person.
- (5) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

...

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

...

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 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.

...

Service Animal means in addition to a guide dog, police dog, as defined in MCA Sec. 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.

...

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

Section 2. That Section 4-402 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-402. Small animal permits.

- (a) A small animal permit is required of every owner 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, firm 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, 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 ~~adult~~ animals over three (3) months of age held over thirty (30) days.

(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 licensee of any revocation. The notice shall be in writing, shall specify the deficiencies or violations, advise the violator 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.

Section 3. That Section 4-404 of the Billings, Montana, City Code be amended so that such section shall read as follows:

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 guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor. This section does not apply to an ~~dog~~ 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 shelter 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 shelter to establish a violation of this section.

Upon conviction in Municipal Court of a Noisy Animal, the penalty shall be in accordance with Section 4-411.

Section 4. That Section 4-405 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-405. Potentially dangerous behavior.

(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.

~~(b) Upon the discretion and advice of the animal control officer, any animal which bites a person shall be isolated in strict confinement at the animal shelter or 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.~~

~~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.~~

~~(c) A dog or cat (or other animal) manifesting characteristics of rabies (hydrophobia) may be put to death at the discretion of the animal control 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, but quarantined for observation, for a negative laboratory examination at this time would only leave the diagnosis in doubt. Any dog or cat owner who fails to cooperate with the animal control officer in satisfactory quarantine of his dog or cat (or any other animal, if pertinent) who has bitten a person is guilty of a misdemeanor.~~

~~(d) When dogs are used for guarding premises, such premises shall be noticed.~~

Section 5. That the Billings, Montana City Code be amended by adding a section to be numbered 4.405.1, to read as follows:

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 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 Billings Animal Shelter.
 - 6) Animal control and/or law enforcement officers must be allowed reasonable access to the place of quarantine between the hours of 7:00am – 10:00pm 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 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 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.

Section 6. That Section 4-405.7 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-405.7. Fee for registration of dangerous animal.

Any person required to register a dangerous animal as set forth in section 4-405.5 shall pay a registration fee in an amount set by council resolution. Said dangerous animal registration fee is in addition to all other fees. Registration shall be required within seven (7) days following conviction.

Section 7. That Section 4-406 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-406. ~~Dogs~~ Small animals at large.

No ~~dog~~ small animal shall be allowed to run at large in the city. No owner shall allow or permit any ~~dog~~ 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 obedience trained dog shall be allowed to participate in obedience training, field trials, dog shows or competition. In all individual obedience training within the city, the ~~dog~~ small animal shall not be allowed to be separated from its owner or trainer by more than ~~fifty (50)~~ six (6) feet except on private property with owner permission or on public property as referenced in section 4-407. Any ~~dog~~ 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. In addition, the ~~dog's~~ small animal's owner upon conviction shall be fined as provided in section 4-411.

Section 8. That Section 4-407 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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. 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 shelter 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.

Section 9. That Section 4-409 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-409. Vaccination of ~~small animals~~ dogs/cats for rabies.

The owner of every ~~small animal~~ dog/cat kept, harbored or maintained within the city which is ~~six (6)~~ three (3) months old or older shall, at the owner's expense, cause the ~~small animal~~ dog/cat to be vaccinated for rabies by a licensed veterinarian, and the owner of any such ~~small animal~~ dog/cat who for thirty (30) days willfully fails to have such ~~small animal~~ dog/cat vaccinated is guilty of a misdemeanor. 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 ~~small animal~~ dog/cat when applying for ~~the license~~ registration required by section 4-431 shall present the vaccination receipt as proof of current and valid vaccination.

Section 10. That Section 4-411 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-411. Minimum penalty.

The following fines are hereby imposed:

- 1) Small animal running at large (Sec. 4-406)
 - First Offense – minimum fine of twenty dollars (\$20.00).
 - 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.
- 2) Noisy animal (Sec. 4-404)
 - First Offense – minimum fine of fifty dollars (\$50.00).
 - Second Offense – minimum fine of one hundred dollars (\$100.00)

Subsequent offenses within a twelve (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 \$500 or be imprisoned not to exceed 6 months or both.

~~There is hereby imposed a minimum fine for the first offense for a dog running at large (Sec. 4-406) of twenty dollars (\$20.00) and a minimum fine for a second offense of one hundred dollars (\$100.00) and a minimum fine for the first offense of a noisy animal (Sec. 4-404) of fifty dollars (\$50.00) and a minimum fine for a second offense 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. Maximum penalty for all misdemeanor violations of five hundred dollars (\$500.00) fine and/or six (6) months in jail.~~

Section 11. That Section 4-431 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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 ~~six (6)~~ three (3) months old, or within thirty (30) days in the case of a dog/cat ~~six (6)~~ three (3) months or older newly brought into the city or acquired by new owner.

Section 12. That Section 4-433 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-433. Proof of vaccination prerequisite.

No dog/cat registration shall be issued unless the applicant therefore 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 and all impound fees shall be paid and all bonds shall be posted 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 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.

Section 13. That Section 4-434 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-434. Issuance.

(a) Registrations shall be issued by the animal control officer or duly appointed registration agents, ~~and are not in addition to any small animal permit for personal owners, or those who harbor small animals over six (6) months of age for more than thirty (30) days.~~

(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.

Section 14. That Section 4-447 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-447. Impoundment of ~~dogs~~ small animals at large.

Every ~~dog~~ 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 city 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 ~~dogs~~ small animals running at large onto private property and apprehend such ~~dogs~~ small animals. ~~Dogs~~ Small animals are running at large unless they are restrained pursuant to section 4-406.

Section 15. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 16. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 17. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this 28th day of November, 2005.

ADOPTED and APPROVED on second reading this 12th day of December, 2005.

CITY OF BILLINGS

By _____
Charles F. Tooley, Mayor

ATTEST:

By: _____
Marita Herold, CMC/AAE City Clerk