

ORDINANCE NO. 11-5536

AN ORDINANCE AMENDING THE BILLINGS CITY CODE BY AMENDING MULTIPLE SECTIONS, UPDATING LANGUAGE, AND STRENGTHENING TO PROTECT BOTH THE PUBLIC AND ANIMALS.

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

Section 1. That the Billings, Montana City Code be amended by revising Sections 4-301, 4-302, 4-307, 4-308, 4-309, 4-310, 4-401, 4-402, 4-403, 4-404, 4-405, 4-405.1, 4-405.5, 4-405.6, 4-405.7, 4-406, 4-407, 4-408, 4-409, 4-410, 4-431, 4-432, 4-433, 4-434, 4-435, 4-437, 4-446, 4-450, 4-454 of said code, updating language, further defining violation of impoundment of abused, mistreated or neglected animals, adding giving away as violation of roadside and flea market sales of animals, designating specific offenses as municipal infractions, establishing responsibilities for both owner's and/or keeper's of animals, allowing for confinement restrictions/exemptions for potentially dangerous animals, allowing for impoundment of dangerous animals once charged, requiring registration of potentially dangerous animals, allowing Council the authority to place restrictions on animals at public events and lands, requiring registration of animals in foster care after six (6) months, to read as follows:

Chapter 4 ANIMALS*

*Cross references: Zoning regulation of animals, § 27-808300.

State law references: Livestock, MCA 81-1-101 et seq.; ~~f~~Fish and ~~w~~Wildlife, MCA 87-1-101, 27-1-222, 27-1-715, 45-8-210, 45-8-211, 45-8-217 et seq.

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 No. 09-5485, § 1, adopted January 12, 2009, repealed article 4-200, §§ 4-201--4-204 in its entirety, which pertained to the animal control board and derived from the Code of 1967, §§ 2.90.010, 2.90.040, 2.90.060,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) 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) 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) 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 animal control officer or police officer may order a person found owning, keeping, or harboring a 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 Court to show cause why the animal should not be humanely euthanized. The Municipal Court Judge, after making a determination that the animal is a wolf/dog hybrid shall order that the animal be euthanized or that it immediately be removed from the city. 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.

(2)-(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 Municipal Court to show cause why the animal should not be euthanized destroyed. The Municipal 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 euthanized destroyed or that it immediately be removed from the city.

(e) 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, § 27-808 300.

Sec. 4-307. Animal waste.

The owner, keeper or custodian of every animal shall immediately retrieve and remove all excreta deposited by his or her animal while off the owner's/keepers property.

(Code 1967, § 8.04.065; Ord. No. 90-4829, § 2, 5-7-90)

Sec. 4-308. Impoundment of abused, mistreated or neglected animals.

Upon application made by an animal warden control officer, the city Court may order impounded and held, pending disposition of any complaint filed under MCA 45-8-211, any animal being apparently abused, mistreated or neglected, with costs of confinement and care to be paid by the owner upon conviction. It is further provided; an animal control officer may with the owner's permission, search warrant, or under exigent circumstances with documentable evidence, enter a premises where an animal(s) is/are kept in a reportedly cruel or inhumane manner and demand to examine such animal(s). The animal control officer may take possession of such animal(s) when, in the officer's opinion, the animal(s) require immediate medical or humane treatment. No person shall interfere with, hinder, or molest the animal control officer in the performance of any duty of his office, or attempt to release any animal in the custody of animal control or other authorized agency.

No person shall leave any animal(s) in any trailer, RV, or vehicle under extreme temperature conditions or in a manner that endangers the animal's health or safety. Any animal control or law enforcement officer is authorized to take all steps reasonably necessary, but not limited to breaking into the vehicle, including the breaking of a window, to remove an animal(s) whenever it appears the animal's immediate health or safety is endangered. Said neglected or endangered animal(s) may be brought to a veterinarian for emergency care or impounded. If the owner/custodian of the animal(s) cannot be located, the officer removing the animal(s) shall place a written notice in/on the vehicle, bearing their name, contact information and where the animal(s) may be reclaimed. The animal's owner/custodian shall be responsible for all expenses incurred during the removal of the animal(s) and its/their subsequent care and impoundment. The owner/custodian in custody of the animal(s) may be charged with the offense of cruelty to animals and subject to penalties as specified in MCA 45-8-211.

(Code 1967, § 8.04.070)

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)

Sec. 4-310. Penalties.

Violations of sections 4-302 through 4-307 and 4-309 are designated as municipal infractions and punishable by civil penalties as specified in section 18-1304. Violations of section 4-301 are

designated as misdemeanors and punishable by criminal penalties as specified in B.M.C.C. Sec. 1-110(a). Violations of section 4-308 are punishable by penalties as specified in MCA 45-8-211.
(Ord. No. 10-5501, § 1, 1-11-10)

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 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.

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 convicted of potentially dangerous animal and while on or off the owner's and/or keepers property chases or approaches a person in a menacing fashion or apparent attitude of attack by charging, growling, snapping, raising hackles, harassing, chasing, attempting to bite or stalking; 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) Is brought into the City and has been previously convicted of Dangerous Animal or a similar violation by any Court of competent jurisdiction. The person owning, keeping or harboring such animal shall be ordered to appear in Billings Municipal Court to show just cause why euthanasia should not be ordered of the animal. The Municipal Court Judge, after making a determination that the animal is a dangerous animal and in violation of this section, shall order the euthanasia of the animal or that the owner be required to comply with regulations as set forth in section 4-405.5.

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

Dwelling unit means any building or portion thereof providing complete, independent, and permanent living facilities for one (1) family as referred to in BCMC Sec. 23-201 and MCA 70-24-103.

Foster home means a home or facility where a recognized tax exempt facility or agency or organization, for the purpose of re-homing animals, where animals may be placed an animal(s) temporarily for the purpose of finding a new permanent home.

Keeper means any person/organization that enters into a verbal or written agreement with the animal's owner and is responsible for the keeping, feeding or harboring of an animal(s).

Neutered/spayed means rendered permanently incapable of reproduction.

Owner means any the person(s) claiming ownership, and responsible for the keeping, feeding, or harboring and care of 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 and/or keeper's property, chases or approaches a person in a menacing fashion or apparent attitude of attack by charging, growling, snapping, raising hackles, harassing, chasing, attempting to bite, stalking, or inflicts bodily injury to a person or small animal; or

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

(3) While off the owner's and/or keeper'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.

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.

(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 or government contracted 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 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, proof if the animal(s) have been spayed or neutered, and verification of current rabies vaccination for each animal(s) owned or kept at the dwelling unit, business, or corporation.

(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 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 permittee 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)

*Cross Reference: Zoning regulation of animal, S 27-300

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 Court, the Court may order such small animal a public nuisance and order the

animal impounded until the 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 persistent 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 or witnesses 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 owner and/or person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him/her 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 be a potentially dangerous behavior animal if it has demonstrated any of the behaviors set forth in section 4-401. Such presumption is rebuttable. Upon conviction of maintaining a public nuisance with a particular potentially dangerous animal, euthanasia of the animal may be ordered by the Court. The Court shall order euthanasia of an animal involved in a fatal attack on a person.

(b) If euthanasia of the animal is not ordered by the Court the owner or keeper convicted of having a potentially dangerous animal shall within seven (7) days of conviction, register the animal as such with the animal control division. Potentially dangerous registrations will require renewal annually for the life of the animal unless within the first year of registration the owner and animal attends and provides proof of attendance and completion of a certified animal behavior modification class to the animal control officer and the owner/keeper is not convicted of any animal violations or violates any Court requirements. Potentially dangerous animal owners/keepers may be required by the Court to comply with and show the animal control division sufficient evidence that any or all of 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. No registered animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such building on its own volition except into the required secured area. In addition, no such animal may be kept in a house or structure

when the windows are open or where screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(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 not in the securely enclosed fence of the owner or keepers property.

(3) The owner or keeper shall display commercially manufactured signs on his/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 way 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 potentially dangerous animal.

(4) The owner or keeper shall, at his/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 have the animal micro-chipped, and the chip number registered with the animal control division.

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

(6) 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 division, the new owner shall be responsible for compliance with required potentially dangerous restrictions.

(7) The Court may order additional restrictions as they pertain to the conviction such as muzzling when off owners property, enclosed secure kennel, behavior training, and any other restrictions or requirements to insure the safety of the citizens of Billings and the potentially dangerous animal.

(c) The animal control officer is empowered to make whatever inquiry is deemed necessary to ensure compliance with the above provisions. Inspections shall 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 any of the provisions, the animal shall be immediately confiscated, impounded, and the owner and/or keeper shall be ordered to appear in Court to show cause why euthanasia of the animal should not be ordered.

(d) 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 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/her 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 a quarantine approved by the State Veterinarian Office or animal control division may be allowed, ~~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. 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.

Any owner and/or person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him/her 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 be a~~ dangerous behavior animal if it has demonstrated any of the behavior set forth in section 4-401. Such presumption is rebuttable. Animals charged as a dangerous animal shall be impounded and held at the animal shelter until determination by the Court. Upon conviction of maintaining a public nuisance with a particular dangerous animal, ~~said animal euthanasia of the animal~~ may be ordered by the Court to be destroyed by the animal control officer. The Court shall order euthanasia of ~~An~~ animal involved in a fatal attack on a person ~~will be impounded and destroyed by the animal control officer.~~

(b) If euthanasia is not ordered by the Court The owner or keeper convicted of having a dangerous animal shall forthwith register the animal as such with the animal control division within seven (7) days of conviction. Dangerous animal registrations are required to be renewed annually for the life of the animal. The owner and/or keeper 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) Prior to release of an animal back to the owner or keeper from the animal shelter the owner or keeper will be required to provide A 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 enclosed pen must also provide protection from the elements for the animal. No registered dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition except into the required secure pen. In addition, no such animal may be kept in a house or structure when the windows are open or where screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(2) The owner or keeper shall display commercially manufactured 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 five hundred thousand dollars (\$100,000.00) (\$500,000.00), 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 registered with 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 an animal convicted of having a dangerous animal shall not allow the animal off the owners/keepers property unless securely muzzled, wearing a collar approved by the animal control division visibly displaying the words dangerous animal 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/keeper 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.

(f) The animal shall be spayed/neutered if not previously and proof of the date of the spaying/neutering, with the signature of the veterinarian who performed the procedure shall be supplied to the animal control division.

(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 the owner and/or keeper shall be issued a notice to appear in Court and show cause why euthanasia of the animal should not be ordered destroyed.

(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 and/or keeper's property or off the owner's/keeper's property and under the owner's/keeper'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/keeper's property; or to prevent or terminate a person's trespass on or other criminal interference with his owner's/keeper'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 a potentially dangerous or dangerous animal.

Any person required to register a potentially dangerous or dangerous animal as set forth in sections 4-405 and 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. Registrations shall be required annually for the life of the animal.

(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 or keeper shall allow or permit any small animal to be at large off the owner's or keeper'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, keeper 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 or public lands.

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 the Billings City 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. The City Administrator, by Administrative Order, may regulate or restrict animals from being on certain public lands during designated public events. Such restrictions shall be clearly posted at the designated event. Failure to comply with the terms of such restrictions shall constitute a municipal infraction, and subject the animal owner to civil penalties as specified in B.M.C.C. Sec. 18-1304. (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 animal(s).

No person shall dump, release or cause to escape from confinement against the wishes of an owner, keeper or person in custody, or in any otherwise unauthorized manner turn loose any dog, cat or other small animal from or onto to stray on any property or public way within the city.

Persons found to have committed a violation of this section shall be subject to civil penalties as specified in section 18-1304.

(Code 1967, § 8.08.090)

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

The owner and/or keeper of every dog/cat kept, harbored or maintained within the city which is three (3) months old or older shall, at the owner's and/or keeper's expense, cause the dog/cat to be vaccinated for rabies by a licensed veterinarian, and the owner and/or keeper 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 and/or keeper 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)

DIVISION 2. REGISTRATION*

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

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 by a tax exempt animal welfare organization for foster care while actively looking for a new permanent home will be required to be registered if in the

foster home for over six (6) 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, the name and address of the owner, the name, breed, color, sex, age, and verification if the animal has been spayed or neutered, of each dog/cat owned or kept by the owner; also and the date current vaccination history for rabies and the signature of the administered by a licensed veterinarian shall be required who vaccinated the dog/cat for each dog/cat that registration is sought.~~

(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 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 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 city or its registration authority animal control officer 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 registration authority 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 registration authority, 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. 4-437. Tags and collars.

- (a) Upon payment of the registration fee under this division, the ~~animal control officer~~ registration authority 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~~ registration authority or agent 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)

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. 4-450. 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 City of Billings or its designated agent, 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. 4-454. 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. Violations of section 4-405, 4-405.1, 4-405.5 are designated as misdemeanors and punishable by criminal penalties as specified in B.M.C.C. Sec. 1-110(a). 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.

(Ord. No. 10-5501, § 1, 1-11-10)

Section 2. Effective Date. This ordinance shall be effective .

Section 3. 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.

PASSED by the City Council on first reading this 11th day of June, 2011.

PASSED, ADOPTED and APPROVED on second reading this 27th day of June, 2011.

CITY OF BILLINGS

By: Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

By: Cari Martin
Cari Martin, City Clerk

