

## ORDINANCE NO. 09-5489

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA MUNICIPAL CODE BE AMENDED BY REVISING SECTIONS 2-513, 4-301, 4-401, 4-404, 4-405.1, 4-405.5, 4-407, 4-433, 4-446, 4-447, 4-448, 4-450, 4-451, 4-453, 4-502, 4-503, 4-504, 4-505 AND ADDING A SECTION TO BE NUMBERED 4-309, AND REPEALING SECTIONS 4-449, 4-452.

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

Section 1. That the Billings, Montana, City Code be amended by adding a new section, amending other sections, repealing some sections, and revising content of ordinances relating to animal control, the animal shelter, and the animal control board, as follows:

**Sec. 2-513. Powers and duties.**

The animal control board shall serve in an advisory capacity to the city council and shall be for the purpose of providing citizen input to the policy decisions of the city council. The primary responsibilities of the board are to review existing and proposed city policies and to review city department activities to ensure that city policies are being implemented and carried out and further, to report any shortcomings and to make recommendations to the city council in the formulation of programs and policies to improve among others the following areas of concern:

- (1) ~~Reserved —Operation of the city animal shelter and pound, including sanitation and financial efficiency;~~
- (2) ~~Reserved —The humane disposition of all of the animals held in the animal shelter or pound;~~
- (3) The formulation of policies, regulations, implementation and control of animals within the city;
- (4) Solving the serious problem created by the uncontrolled reproduction of pet animals;
- (5) Cooperation with other municipal, county and state governments.

**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 Shelter 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 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) 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 of Montana, which is deemed capable of survival.

**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 hooved 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.

Any person/organization found in violation is guilty of a misdemeanor.

**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 by the city for the impounding of dogs, cats or other small animals, or livestock.

*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; 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 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.

*Foster home* means a tax exempt facility or organization where animals may be placed 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 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.

*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, police dog, 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.

*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)

**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 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 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 shelter control officer 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.

(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)

**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 control office shelter.

(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 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.

(Ord. No. 05-5351, § 5, 12-12-05)

#### **Sec. 4-405.5. 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 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 by the animal control officer. An animal involved in a fatal attack on a person will be impounded 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. 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 structure is provided by the owner suitable to prevent unauthorized entry and designed to prevent the animal from escaping. 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 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 shelter for disposal.

(e) The animal control officer is empowered to make whatever inquiry is deemed necessary to ensure compliance with the above provisions. Should it be found that the owner or keeper is in noncompliance with the provisions, the animal shall be immediately confiscated, impounded, and destroyed.

(Ord. No. 90-4829, § 6, 5-7-90; Ord. No. 03-5259, § 7, 10-27-03)

**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 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.

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

No dog/cat registration shall be issued unless the applicant therefor 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 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.

**Sec. 4-446. ~~Animal shelter and a~~ Animal control officer.**

~~There is hereby established a city animal shelter.~~ 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 as city employees.

**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 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 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.

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

Immediately upon impounding any animal, the animal control officer shall record, ~~in a book to be provided by the city and kept by him for that purpose,~~ 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, ~~and upon final disposition of such animal, the record shall show such disposition.~~

**Sec. 4-449. Reserved —Additional fee for adopted dogs or cats.**

~~(a) In addition to all impound and registration fees, the animal shelter control officer shall collect a deposit for spaying or neutering any animal adopted prior to sterilization surgery. The amount collected shall be equal to the amount set by the city administrator or his designee after consultation with the local veterinarian association.~~

~~(b) It is unlawful for any person to adopt a dog or cat from the animal shelter and fail to have the animal spayed or neutered within the prescribed time limit as set by the spay/neuter certificate. Such failure is a misdemeanor and can result in forfeiture of the animal.~~

**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, ~~and if not claimed by the owner or by some person acting in the owner's behalf who pay the license and impounding fees as provided in section 4-451, may be put to death by the animal control officer; provided, that instead of putting such dog or cat to death, the animal control officer, in his discretion, may turn any such dog or cat over to some person who agrees to find a home for the dog or cat. Such person must pay the fees referred to in section 4-451, except that no license fee need be paid for a dog to be removed from the city. The refusal or failure of the owner of any such dog or cat to pay the pound fees and charges after due notification shall be held to be an abandonment of the dog or cat by the owner.~~

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

~~Before any dog, cat or other animal is released from the animal shelter, the animal control officer shall collect from the person claiming/adopting such dog, cat or other animal all fees and the usual registration fee for such dog/cat if it is not already registered, subject to the conditions outlined in section 4-450. Tax-exempt organizations shall be allowed to participate as a foster home for up to (3) three adult animals provided they have complied with requirements of the animal shelter. Fees for such animals shall be paid within (10) ten days after finding the animal a new home or within (10) days after the animal has been in the foster home for (60) days. The small animal control officer shall remit immediately all sums of money collected to the city finance department.~~

**Sec. 4-452. Reserved Disposal of animal upon request.**

~~The animal shelter shall dispose of dogs, cats or other small animals, upon request of the person bringing the animal to the animal shelter pursuant to the procedure established at the animal shelter and upon payment of the proper fee.~~



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

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

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

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

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

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

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

Before any livestock animal is released from the animal control officer shelter to an owner, the animal control officer warden shall collect from the person claiming such animal all fee costs incurred as a result of feeding, care, and impounded of the livestock. as established by council resolution.

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

Every livestock animal not claimed within ~~fifteen (15)~~ thirty (30) days of impoundment shall be sold at public auction.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. 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 9<sup>th</sup> day of March, 2009.

PASSED, ADOPTED and APPROVED on second reading this 13th day of April, 2009.



CITY OF BILLINGS

By

*Ron Tussing*  
Ron Tussing, Mayor

ATTEST:

By *Cari Martin*  
Cari Martin, City Clerk