

ORDINANCE NO. 03-5259

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 4-301, 4-306, 4-401, 4-402, 4-404, 4-405, 4-405.5, 4-405.6, 4-405.7, 4-407, 4-411, 4-431, 4-432, 4-433, 4-434, 4-435, 4-436, 4-437, 4-438, 4-449, 4-451, AND 4-453 OF SAID CODE; PROHIBITING WILD ANIMALS WITHIN THE CITY LIMITS AND OFFENSIVE ANIMAL WASTE; CHANGING CERTAIN DEFINITIONS; REQUIRING PERMITS FOR 4 OR MORE DOGS AND/OR CATS; UPDATING LANGUAGE ON NOISY ANIMALS, DANGEROUS, AND POTENTIALLY DANGEROUS BEHAVIOR, AND AN ANIMAL'S JUSTIFIED USE OF FORCE; ALLOWING THE CITY ADMINISTRATOR TO SET FEES; PROHIBITING SMALL ANIMALS FROM BEING IN CITY PARKS; REQUIRING DOGS AND CATS TO BE VACCINATED; REQUIRING REGISTRATION AND VACCINATION TAGS TO BE ON ANIMAL WHEN OFF OF THE OWNER'S PROPERTY; ALLOWING IMPOUNDMENT OF CATS AND DOGS AND COLLECTION OF FEES; AND INCREASING PENALTIES.

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

Section 1. That Section 4-301 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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 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 of Billings, 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 registration and must comply with all requirements for a small animal registration 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 registered, 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 registered 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

registered, 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 which is deemed capable of survival.

Section 2. That Section 4-306 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-306. Offensive ~~barns-~~animal waste.

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

Section 3. That Section 4-401 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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; this excludes obedience trained dogs under complete verbal control of the owner or trainer.

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.

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.

~~Hobby kennels means any building, structure, lot or premises which have chain link runs, or a completely fenced portion of yard, where more than two (2) sexually unaltered dogs over the age of six (6) months are kept or maintained for training; breeding, with a maximum of two (2) litters per kennel per year; selling; or for the hobby of the householder in using them in dog shows, obedience trials or sporting field trials. The owner is required to present proof of registration in a nationally recognized breed or utility club, legally incorporated in a state, or an affiliated organization of the incorporated entity.~~

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

Neutered means rendered permanently incapable of reproduction.

~~Noncommercial 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 the hobby of the householder, in using them in dog and/or cat shows, obedience trials, personal pleasure, or for guarding or protecting the householder's property.~~

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

~~**Persons** means two or more people, residing in separate households. For the purpose of barking the Animal Control Officer investigating a complaint could be considered as one of these persons.~~

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.

Licensing 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 ~~licenses~~ 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.

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

Small animal permit means a permit that allows the premises ~~used as a commercial or noncommercial kennel or hobby kennel~~ 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 of Montana

Section 4. 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 ~~or operator of a commercial or noncommercial kennel or hobby kennel~~ as defined in section 4-401.

(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 license registration fees or small animal permits shall be required of any veterinary hospital, government animal shelter, or zoological park.

~~(2) A commercial kennel must comply with all requirements of the holder of a small animal permit, but the small animal permit fee shall be waived.~~

~~(3) A hobby kennel must comply with all requirements of the holder of a small animal permit, but the small animal permit fee shall be waived so long as compliance with all provisions of this article exists.~~

~~(4) (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 license registration fees shall be required of dogs/cats waiting for adoption, but rabies vaccinations shall be required of adult animals held over thirty (30) days.

(d) The city administrator shall revoke a small animal permit ~~or the designation of a licensee as a commercial kennel or hobby kennel~~ 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 any provisions for kennels or any other violation of the provisions of this article.~~

~~(2) The designation of a licensee as a commercial kennel or hobby kennel shall be revoked for violation of any provision for kennels or any other provisions of this article.~~

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

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 ~~loud and continuous and~~ habitual barking, howling, yelping, whining or other noise ~~unreasonably annoys or disturbs the neighborhood or any considerable number of persons~~ is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor. This section does not apply to a dog 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. ~~The complainant must identify himself or herself by name, address and telephone number.~~

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

Section 6. 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 ~~fourteen (14)~~ ten (10) days ~~after~~ from the day of infliction of the bite. ~~If approved by the animal control officer, such animal may be left with the owner for confinement; otherwise the animal must be impounded by the animal control officer, in which case the~~ The owner will be responsible and must pay the daily 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 7. That Section 4-405.5 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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 an ~~unprovoked~~ 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 ~~the unauthorized~~ entry of ~~young children~~ 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 a sign~~s~~ 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 ~~fifty thousand dollars (\$50,000.00)~~ one hundred thousand dollars (\$100,000.00), covering the twelve-month period during which ~~licensing~~ registration is sought. This policy shall contain a provision requiring the City of Billings to be named as an additional insured ~~for the sole purpose of~~ and requiring that the City of Billings to 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.

(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, ~~if the animal is loose, or if the animal has been sold or given away. If the animal has been sold or given away, the owner or keeper shall provide the animal control officer with the name, address, and phone number of the new owner, who must comply with the requirements of this ordinance. 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 Shelter for disposal.

~~(d 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, ~~and~~ impounded, and destroyed.

Section 8. That Section 4-405.6 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-405.6. Justifiable use of force.

While on the owner's property or off the owner's property and under the owner's control, an animal is justified in using the force or threat to use force necessary: ~~To~~ to defend himself or a person; to prevent or terminate a person's unlawful entry into or attack upon his owner's property; or to prevent or terminate a person's trespass on or other criminal interference with his owner's property. A defense of justifiable use of force is an affirmative defense to sections 4-405 and 4-405.5.

Section 9. 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 ~~the city administrator~~. Said dangerous animal registration fee is in addition to all other fees.

Section 10. That Section 4-407 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-407. ~~Dogs~~ Small animals in city parks.

No ~~dogs~~ small animals, whether restrained or unrestrained, shall be permitted in the city parks except for ~~Seeing Eye dogs~~ service animals when being used for that purpose and ~~dogs~~ 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. ~~This section imposes an absolute prohibition on dogs in the city parks whether unrestrained or restrained. This prohibition does not prohibit dogs in areas that are undeveloped parks. Dogs~~ Small animals 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 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 11. 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.

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 ~~fifty~~ one hundred dollars (~~\$50.00~~ \$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 offense within a 12-month period will result in a minimum doubling of fines from the previous offense onward. Maximum penalty for all misdemeanor violations if five hundred (\$500.00) fine and/or six (6) months in jail.

Section 12. That DIVISION 2. of the Billings, Montana, City Code be amended so that such section shall read as follow:

DIVISION 2. LICENSING REGISTRATION

Section 13. 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 ~~small animal~~ dog/cat kept, harbored or maintained within the city shall ~~license~~ register the ~~small animal~~ dog/cat within thirty (30) days after the ~~small animal~~ dog/cat becomes six (6) months old, or within thirty (30) days in the case of a ~~small animal~~ dog/cat six (6) months or older newly brought into the city or acquired by new owner.

Section 14. That Section 4-432 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-432. Application.

The owner shall, at the time application for a ~~license~~ 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 if the animal has been spayed or neutered, of each ~~small animal~~ dog/cat owned or kept by the owner; also the date vaccinated for rabies and the signature of the veterinarian who vaccinated the ~~small animal~~ dog/cat.

Section 15. 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 ~~license~~ dog/cat registration shall be issued unless the applicant therefor produces satisfactory proof that the ~~small animal~~ 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 ~~small animal~~ dog/cat has been reclaimed from the animal shelter, license 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 license registration tag shall be retained by the city until the ~~small animal~~ dog/cat has been vaccinated or proof of vaccination is produced.

Section 16. 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) ~~Licenses Registrations~~ shall be issued by the animal control officer or duly appointed license 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. ~~For the first two (2) small animals in a commercial kennel, or first two (2) dogs in a hobby kennel, licenses shall be purchased at the regularly established fee. For other adult small animals in the commercial kennel or additional dogs in a hobby kennel the fee shall be one-half the established fee normally charged by the animal shelter.~~

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

Section 17. That Section 4-435 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-435. Fees.

(a) ~~Small animal Dog/cat license registration~~ fees shall be prescribed by council resolution the City Administrator.

(b) Beginning July 1, 1990, ~~licenses dog/cat registrations~~ shall be issued by duly appointed ~~license- registration~~ agents, upon proof that the animal has a current rabies vaccination, and upon payment of an annual license registration fee. Such license 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 dollars (\$1.00). Satisfactory proof of age shall be furnished to the city officials.

Section 18. That Section 4-436 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-436. Exemptions and license registration tag provisions.

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

(b) ~~Licenses Registrations~~ shall be required for ~~Seeing Eye dogs trained to assist blind persons, when such dogs are actually being used by blind persons, or hearing dogs trained to assist the hearing impaired~~ service animals, when such ~~dogs~~ animals are actually being used by ~~the hearing impaired~~ as service animals, but the fees provided for in section 4-435 shall be waived. Such ~~dogs~~ service animals must be vaccinated as required by section 4-409.

Section 19. That Section 4-437 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-437. Tags and collars.

(a) Upon payment of the license registration fee under this division, the animal control officer or agent designated as herein provided shall issue to the owner a license registration certificate in the form of a receipt and a metallic tag for each ~~small animal~~ dog/cat so licensed registered. The tag shall have stamped thereon the year for which it was issued and the number appearing on the certificate. ~~If the owner can show proof of current license upon request, the~~ The small animal dog/cat is not required to display a license registration and vaccination tag when off of the owner's property.

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

(c) Any person who knowingly fastens a license 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 license registration tag or vaccination tag issued for another dog or cat is guilty of a misdemeanor. The animal control officer shall impound every dog or cat found bearing a license 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 license registration tag is lost or destroyed, the owner of the ~~small animal~~ dog/cat shall apply to the animal control officer for a duplicate tag and the animal control officer shall issue a duplicate tag upon presentation of the receipt showing payment for the license registration for the current year and upon payment of a fee. ~~prescribed by council resolution for the duplicate tag.~~

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

Section 20. That Section 4-438 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-438. Unlicensed Unregistered small animals dogs/cats.

Every person who knowingly keeps, feed, harbors or allows to stay about any premises occupied or controlled by such person, any ~~unlicensed~~ unregistered small animal dog/cat or upon which no ~~license~~ registration tag current and valid vaccination tag are kept as required by section 4-437 is guilty of a misdemeanor.

Section 21. That Section 4-449 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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

- (a) In addition to all impound and registration fees, the animal control officer shall collect a deposit for spaying or neutering ~~the any animal adopted prior to sterilization surgery, if required.~~ the 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. ~~In case such animal has already been neutered, the neutering fee shall be waived. A receipt shall be issued to the person adopting the dog or cat and shall entitle that person to a credit against the veterinarian bill for the operation. In the event the credit is not used within a period of sixty (60) days, or if the dog or cat is less than six (6) months of age, then within sixty (60) days after the dog or cat becomes six (6) month of age the deposit shall be forfeited. The animal control officer is authorized to pay the deposit directly to the veterinarian or veterinarian hospital performing the operation.~~
- (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.

Section 22. That Section 4-451 of the Billings, Montana, City Code be amended so that such section shall read as follow:

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 ~~the proper impoundment~~ all fees and the usual license registration fee for such dog/cat if it is not already ~~licensed~~ 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.

Section 23. That Section 4-453 of the Billings, Montana, City Code be amended so that such section shall read as follow:

Sec. 4-453. Animal shelter fees.

The city council by resolution shall establish from time to time the fees to be charged by the animal shelter. The fees charged by the animal shelter shall be established by the City Administrator after considering costs for services provided and the "reasonableness" of such charges compared to other such organizations around the state.

Section 24. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 25. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 26. 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 8th day of September, 2003.

PASSED, ADOPTED and APPROVED on second reading this 27th day of October, 2003.

CITY OF BILLINGS

ss. Charles F. Tooley, Mayor

ATTEST:

ss. Marita Herold, CMC/AE, City Clerk