

ORDINANCE NO. 16-_____

AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA, PROVIDING THAT THE BILLINGS, MONTANA, CITY CODE BE AMENDED BY REVISING SECTIONS 4-401, 4-405 and 4-407 PERMITTING DOGS AND CATS ON LEASH WITHIN CITY PARKS AND OTHER DESIGNATED PUBLIC LANDS SUBJECT TO RESTRICTIONS AND REGULATIONS.

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

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

Sec. 4-401. - Definitions.

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

Animal means to include all livestock, fowl, 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 operated or contracted by the city for the purpose of impounding and caring for 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 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 city 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 family as referred to in section 23-201 and MCA 70-24-103.

Foster home means a home or facility where a recognized tax exempt agency or organization, for the purpose of re-homing animals, may place 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 the person(s) claiming ownership, and responsible for the keeping, feeding, harboring and care of an animal.

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.

Public Lands means tracts of land set aside for public use and enjoyment that are owned, managed or leased by the City of Billings to include City Parks, Rights-of-Way, Conservation Areas, Cemeteries, Golf Courses and Trails.

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 search and rescue dog, police dog, law enforcement or military canine, as defined in MCA 45-8-209, 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, chicken, 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.

Section 2. That Section 4-405(b)(6) of the Billings, Montana City Code be amended so that such subsection shall read as follows:

Sec. 4-405. - Potentially dangerous 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 be a potentially dangerous 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 (24) 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 dangerous or potentially dangerous animal under Sections 4-405 or 4-405.5 shall not bring such animal(s) into any City park or City Dog park. Further, the owner or keeper 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 owner's property, enclosed secure kennel, behavior training, and any other restrictions or requirements to insure the safety of the citizens of the city 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.

Section 3. That section 4-407 of the Billings, Montana City Code be amended so that such section shall read as follows:

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.~~ Small animals, limited to dogs and cats, shall be allowed within city parks and other designated public lands subject to the following restrictions and regulations.

- (a) Dogs and cats in city parks or on public lands shall be restrained by a secure leash or other secure restraint not more than 6 feet in length and under physical control of a person capable of restricting the animal's movement.
- (b) Service animals are exempt from the restraint requirement in subsection (a) when being used for that purpose and when service animals are being used in police work.
- (c) The owner or handler of any dog or cat shall remove fecal matter deposited by their animals within a city park, on public land or on public sidewalks, trails or easements before the owner leaves the immediate area where the fecal matter was deposited.
- (d) The owner or handler must have in their possession the equipment necessary to remove their dog's or cat's fecal matter.

- (e) Due to heavy use by the public in addition to health and safety concerns, there are several park or public areas where dogs and cats are not allowed:
- I. In established playgrounds with play equipment
 - II. In established spray grounds or swimming pools
 - III. On established athletic fields
 - IV. On tennis courts
 - V. On basketball courts
 - VI. Within established community gardens or formal garden areas
 - VII. On City owned golf courses
 - VIII. Within all park buildings
 - IX. At organized events including but not limited to outdoor concerts, markets, shows, programs, exhibits, assemblies, festivals, carnivals, fairs, etc.
- (f) In the City owned cemeteries, dogs and cats are allowed provided they are restrained in accordance to with subsection (a) and are restricted to the roadways within the cemetery.
- (g) ~~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 city council through resolution. The City Administrator may allow dogs off leash in designated areas of one or more City parks. 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 animals in the city parks are deemed a nuisance and may be impounded; provided, that a~~ A permit for organized dog related events ~~obedience training or obedience shows~~ may be granted for use in designated areas of ~~designated dog parks~~ on designated days. A park use permit shall be obtained from the Parks, Recreation and Public Lands department. ~~Also a~~ 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 dog 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 section 18-1304.
- (h) Any owner or keeper convicted of having a dangerous or potentially dangerous animal under sections 4-405 or 4-405.5 of this Code shall not bring or be allowed or permitted to bring such animal (s) into any City park or City Dog park.

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 these ordinances are declared to be severable.

Section 4. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective on the first day of the month following the month in which the Animal Control Supervisor reports to the Chief of Police and City Administrator that 10,000 or more small animals are registered with the City of Billings Animal Control Division.

APPROVED on first reading this ____ day of _____, 2016.

ADOPTED and APPROVED on second reading this ____ day of _____, 2016.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Denise R. Bohlman, City Clerk