

Chapter 4 - ANIMALS⁽¹⁾

Footnotes:

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State Law reference— Animals generally, MCA 81-1-101 et seq.; animal abuse and cruelty, MCA 35-8-209 et seq.; power of local governments relative to animals, MCA 41-23-101 et seq.

ARTICLE I. - IN GENERAL

Sec. 4-1. - Keeping livestock under control.

- (a) Every person, firm or corporation owning or having control of any of the following classes of domestic animals at any time in the town, shall keep the same within or upon his own premises at all times, except when such animals are necessarily passing through the public streets, and at such times the same shall be attended by some person competent to control and prevent such animals from damaging or troubling any person or property within the town: horses, mules, asses, cattle, sheep, goats, swine, chickens, ducks, turkeys, or any other bird or fowl.
- (b) If any horses, mules, asses, cattle, sheep, goats, swine, bird or fowl, or other similar animals are found running at large within the corporate limits of the town, the town marshal is hereby authorized to impound the same in some suitable place to be designated by the town council and provide for the same until sold under the provisions of this chapter, or until the claimant of any such animal, or animals, shall pay to the town the sum established by resolution and take the animal away. Any sum of money paid to the town under this section shall be in addition to any fine.

(Prior Code, §§ 8.02.030, 8.06.010)

State Law reference— Control of animals running at large, MCA 7-23-4101.

Secs. 4-2—4-20. - Reserved.

ARTICLE II. - RESTRICTIONS ON NUMBER OF ANIMALS

Sec. 4-21. - Penalty for violation of article.

Any person, firm or corporation who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$25.00 nor more than \$250.00, or imprisonment not to exceed ten days, or both such fine and imprisonment at the discretion of the court. Each day that such violation is maintained shall constitute a separate offense.

(Prior Code, § 8.08.070)

State Law reference— Penalty for ordinance violations, MCA 7-1-111(8), 7-5-109.

Sec. 4-22. - Exclusion of dogs.

The maintaining and keeping of dogs is specifically excepted from the provisions of this article.

(Prior Code, § 8.08.030)

Sec. 4-23. - Confinement of animals.

Every person, firm or corporation owning, keeping or maintaining any domestic animals or poultry must keep such animals or poultry confined within a fence or similar enclosure and upon the private premises of their owner or person responsible for their maintenance or control.

(Prior Code, § 8.08.010)

Sec. 4-24. - Limitations according to weight and land area.

On parcels of property comprised of one acre or less, there can be no more than three animals or poultry maintained or kept, and the total live weight of such three animals or poultry cannot exceed 100 pounds. On parcels of property exceeding one acre in size, there can be no more than three animals or poultry maintained or kept, but there shall be no limitation on the total live weight of such three animals or poultry.

(Prior Code, § 8.08.020)

Sec. 4-25. - Commercial purposes.

The keeping or maintaining of animals or poultry for commercial purposes is specifically prohibited. For purposes of this section, the term "commercial" shall be defined as the keeping or maintaining of more than three animals or poultry.

(Prior Code, § 8.08.040)

Sec. 4-26. - Abatement of conditions offensive or injurious to health.

Every person, firm or corporation keeping or maintaining animals or poultry in conformity with the restrictions of this article must not permit the keeping or maintenance of such animals or poultry to become offensive to neighbors or injurious to public health. If such activity becomes offensive to neighbors or injurious to public health, such activity shall be declared a nuisance, and as such shall be abated. No person, firm or corporation shall create, allow, or continue to allow any nuisance to exist on the premises on which he occupies or controls with respect to the keeping or maintaining of animals or poultry.

(Prior Code, § 8.08.050)

Secs. 4-27—4-55. - Reserved.

ARTICLE III. - CARE AND KEEPING OF ANIMALS

Sec. 4-56. - Penalty for violation of article.

Before any prosecution is brought under this article, the town marshal shall deliver a notice to the party or parties creating a nuisance, and unless such nuisance is abated within three days after receipt of such notice, a complaint will be filed against such person. After such three-day period, a complaint may be filed for any further annoyance or disturbance caused by such nuisance. Violation of any of the provisions of this article shall be deemed a misdemeanor, and any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not more than \$100.00.

(Prior Code, § 8.06.040)

Sec. 4-57. - Nuisances.

- (a) It is a nuisance for any animal, including dogs, cats, insects, fowl or reptiles, to become injurious to the health or morals, or indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with comfortable enjoyment of life or property. Such a nuisance shall be abated.
- (b) It shall be unlawful for any person to create, continue, or suffer a nuisance to exist on the premises which he occupies or controls.

(Prior Code, § 8.06.020)

Sec. 4-58. - Offensive barns.

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

(Prior Code, § 8.06.030)

Secs. 4-59—4-89. - Reserved.

ARTICLE IV. - DOGS^[2]

Footnotes:

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State Law reference— Local government control of dogs, MCA 7-23-101 et seq.

Sec. 4-90. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Current vaccination certificate means a vaccination certificate against rabies, which shall be dated within three years from the date that the application for a dog license is made.

Dog means male or female.

Harborer means a person who habitually lets or permits a dog to remain or be in or about his house or premises.

Owner means any person, firm, association or corporation owning, keeping or harboring a dog.

Pound means the place provided by the town or veterinarian for the impounding of dogs.

Public nuisance animal means any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. A "public nuisance animal" shall mean and include, but not be limited to, any animal, including dogs, that:

- (1) Is repeatedly found at-large;
- (2) Damages the property of anyone other than its owner;

- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles;
- (5) Makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (8) Attacks other animals or is found to be a menace to the public health, welfare or safety.

Running at large means a dog is off the owned or leased premises of the dog owner, unless such dog is under leash or under the direct control of owner.

Vaccinate means the inoculation of a dog with an anti-rabies vaccine by any licensed veterinarian, the cost of said vaccination to be borne by the owner of the dog.

Vicious dog means any dog that bites any person, whether or not said person is on the property of the owner of said dog, or chases a person not trespassing on the property of, or injures or attempts to injure, the person, family or property of the person.

(Prior Code, § 8.04.010; Ord. of 8-8-2007, § 5-3A-1)

Sec. 4-91. - Violations.

- (a) *Complaint filed; hearing.* Whenever a complaint shall be filed with the city judge of the town stating that any dog has violated section 4-99 or 4-100, the city judge shall, at the time and place set for appearance, hear and determine the matter.
- (b) *Order to remove from town.* If it shall appear that said dog has so violated section 4-99 or 4-100, the city judge may order the owner or keeper of said dog to remove the same from the corporate limits of the town within 24 hours from the time of making such order, and he shall continue the further hearing of the case.
- (c) *Failure to comply.*
 - (1) *Fine.* In the event that the owner or keeper shall refuse or neglect to remove said dog from the corporate limits of the town, in compliance with the order of the city judge, such owner or keeper shall be subject to a fine of not less than \$25.00 nor more than \$500.00.
 - (2) *Disposition of animal.* It shall be the duty of the town marshal to kill any such dog whenever the same shall be found in the town at any time after such owner or keeper has refused or neglected to comply with the order herein provided for.
- (d) *Violation.* Except as otherwise provided in this section, any owner found violating any provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$25.00 nor more than \$500.00 and if such fine is not forthwith paid, shall be confined in the town jail one day for each \$10.00 of such fine, until fully paid.

(Prior Code, §§ 8.04.130, 8.04.140; Ord. of 8-8-2007, §§ 5-3A-11, 5-3A-12)

State Law reference— Penalty for ordinance violations, MCA 7-1-111(8), 7-5-109.

Sec. 4-92. - License; fee.

- (a) *Annual license required.* Every person who owns or is in possession of a dog over the age of five months within the corporate limits of the town shall report to the town clerk-treasurer annually, on or before January 1 of each calendar year, his name and address and shall give the name, breed (if known), color and sex of each dog so owned or kept. Registration must be issued to an adult member of the household. Proof of current rabies vaccination (within preceding 36 months) must be presented to the town clerk-treasurer.
- (b) *Fee.* The owner shall pay the sum established by resolution, and if the dog is neutered, shall show proof that the dog is neutered. Such dog or dogs shall be registered for license in the office of the town clerk-treasurer.
- (c) *Exemptions.* The provision of this section shall not apply to the following:
 - (1) Dogs brought into the town for the purpose of participating in any dog show or event, nor assistance dogs, properly trained to assist any person with impairment, when such dogs are actually being used by said impaired person for the purpose of aiding them.
 - (2) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals. The licensing and vaccination requirements of this article shall not apply to any animal belonging to a nonresident of the town and kept within the town limits for not longer than 30 days, provided all such dogs shall, at all times while in the town, be kept within a building enclosure or vehicle or be under the restraint of the owner. Any nonresident of the town who brings a dog into the town limits and allows it to run at large will be subject to the provisions of this article.

(Prior Code, § 8.04.020; Ord. of 8-8-2007, § 5-3A-2)

State Law reference— Dog licensing, MCA 7-23-4102.

Sec. 4-93. - Tag; collar.

- (a) *Issuance of tag.* Upon payment of the license fee, the town clerk-treasurer shall issue to the owner a license certificate and a numbered metallic tag for each dog licensed. The shape of the tag shall change every year and shall have stamped thereon the year for which it is issued.
- (b) *Collar required.* Every dog kept within the town shall be provided by the owner with a suitable collar to which said license shall be securely attached. No dog shall be permitted to be kept or remain in the town unless the owner thereof shall have caused such dog to be registered or licensed and provided with a suitable collar with license fastened thereto. However, it shall be lawful to remove such collar and license tag when such dog is under the immediate control of its owner.
- (c) *Transferability.* Tags shall not be transferable from one dog to another.

(Prior Code, § 8.04.030; Ord. of 8-8-2007, § 5-3A-3)

Sec. 4-94. - Running at large.

- (a) No owner of any dog shall permit such dog to run at large at any time. However, if a dog escapes from its owner and its owner notifies police and is making concerted effort to locate and control the dog, said dog is not considered to be running at large.
- (b) It shall be the duty of the police when they observe a dog running at large or when the police and/or town receive a complaint of a dog running at large, to diligently attempt to ascertain ownership of said dog running at large. A citation will either be mailed to the owner of said dog, by certified mail with return receipt requested, or personally served on the owner. The owner of said dog shall be fined \$25.00 and be required to provide proof of licensing or purchase a license for said dog. The cited fine for said dog shall double for each new offense to a maximum of \$500.00.

(Prior Code, § 8.04.00; Ord. of 8-8-2007, § 5-3A-4)

State Law reference— Control of animals running at large, MCA 7-23-4101; penalty for ordinance violations, MCA 7-1-111(8), 7-5-109.

Sec. 4-95. - Impounding.

- (a) *Duty to impound.* If the police cannot ascertain ownership of a dog running at large, it shall be the duty of the town marshal or any employee designated by the town council for the purpose of enforcing this article to apprehend any dog running at large or unlicensed or without collar and license tag in violation of any one or more sections of this article and to impound such dog in a place designated by the town council.
- (b) *Registry.* The town marshal, upon impounding any dog, shall make or cause to be made a complete registry, entering the apparent breed, color, sex and whether licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag. The registry will be filed daily at the town office.
- (c) *Enforcement authority.* Any person employed by the town for the purpose of enforcing sections 4-92 through 4-100 shall be under the authority of the town marshal.
- (d) *Notice to owner and rescue organizations.* No later than 24 hours after the impounding of any dog, the owner shall be issued a citation either personally or by registered mail. If the owner is unknown and the dog is not a purebred dog (as defined by the American Kennel Club), notice shall be posted for four business days at the town office describing the dog and the time and place of taking. If the dog appears to be a purebred dog, the proper rescue organization for that breed shall be diligently contacted within 24 hours and cooperated with. Said rescue organization shall have four business days to make arrangements to place said dog and may do so after five business days if the owner of said purebred dog cannot be diligently located.
- (e) *Redemption.* The owner of any dog so impounded may reclaim such dog upon the procuring of a license, if lacking, and the posting of a bond in the amount of \$25.00 for the first offense. The bond shall double with each subsequent offense for said dog to a maximum of \$500.00. The owner must pay all costs incurred to the place of impoundment.
- (f) *No bond posted.* In the event a bond has not been posted for a non-purebred dog within four business days from the date of impoundment, the dog shall be subject to extermination. In the event a bond has not been posted within six days from the date of impoundment, for a dog that appears to be a purebred and a rescue organization cannot or will not place the dog, the dog shall be subject to extermination. Prior to extermination, written notification shall be sent by registered mail or delivered personally to the owner of the dog and if the dog appears purebred, to the breed rescue organization.
- (g) *Disposition of unclaimed dogs.* Every dog impounded shall be held for a period of four business days, or if it appears to be purebred, for six business days after such impounding and, if not claimed by the owner or by some person acting on the owner's behalf who pays the impounding fees or, if not placed by the breed rescue organization, said dog may be disposed of in a humane manner or turned over to some person who agrees to find a home for the dog.

(Prior Code, §§ 8.04-050—8.04.070; Ord. of 8-8-2007, § 5-3A-5)

State Law reference— Impoundment and redemption of dogs and cats, MCA 7-23-4201 et seq.

Sec. 4-96. - Provoking animals.

It is unlawful for any person to provoke, harangue, tease, torment or in any way disturb a dog or other animal with the intent to cause it to bark or attack any person.

(Prior Code, § 8.04.080; Ord. of 8-8-2007, § 5-3A-6)

Sec. 4-97. - Rabid animals.

- (a) *Animal bite; quarantine.* Any dog or other animal which bites a person shall be quarantined by the town marshal for up to 15 days. During quarantine, the animal shall be securely confined in the dog pound at the owner's expense. At the discretion of the town marshal, the quarantine may be on the premises of the owner or other approved place.
- (b) *Suspected rabies.* No person shall kill or cause to be killed any animal suspected of being rabid, unless such action is necessary to protect lives or property.
- (c) *Rabies diagnosed.* If a veterinarian diagnoses rabies in an animal in quarantine, the animal shall be humanely killed and the head of such animal sent to a laboratory for pathological examination and confirmation of diagnosis. Nothing herein shall prevent disposition of a vicious dog, which does not have rabies.

(Prior Code, § 8.04.090; Ord. of 8-8-2007, § 5-3A-7)

Sec. 4-98. - Female dogs.

Every person having under his control any female dog in heat (i.e., the menstrual period) shall confine such dog in a house, garage, or other building, and in such a manner as to eliminate the congregating of other dogs in the immediate vicinity of the female dog. Any such female dog not so confined is a public nuisance, and the owner or other person in control of such dog is guilty of maintaining a public nuisance, and is, therefore, guilty of a misdemeanor. The dog warden or any police officer may immediately abate every such nuisance by impounding such dog at the expense of the owner.

(Prior Code, § 8.04.100; Ord. of 8-8-2007, § 5-3A-8)

Sec. 4-99. - Nuisance dogs.

- (a) *Prohibited.* No owner shall keep a dog, whether running at large or not, which shall cause annoyance or disturbance by prolonged and repeated barking, howling or yelping, by chasing motor vehicles or human beings, or by repeatedly damaging or destroying the flowers, plants, lawn, shrubbery or trees of a neighborhood or of a citizen of the town either willfully or through willful neglect which shall cause any nuisance as defined in this article. Any owner keeping such a nuisance dog in violation of this section shall be punished as set forth in section 4-91.
- (b) *Notice to owner.* Before any prosecution is brought under this section, however, the town marshal shall deliver a notice to the party creating a nuisance that unless such nuisance is abated within three days after receipt of such notice, a complaint will be filed against such person. After such three-day period, a complaint will be filed against such person. After such three-day period, a complaint may be filed for any further annoyance or disturbance caused by such nuisance.

(Prior Code, § 8.04.110; Ord. of 8-8-2007, § 5-3A-9)

Sec. 4-100. - Vicious dogs.

Whenever an affidavit has been made before the town marshal or city judge of a "vicious dog," as defined in section 4-90, it shall be the duty of the town marshal and all enforcement officers of the town to issue a notice to appear and a complaint to the owner of said dog. Upon investigation and at the discretion of the town marshal, said dog may be impounded at the owner's expense or ordered to be securely restrained upon the property of the owner until the owner's appearance before the city judge.

(Prior Code, § 8.04.120; Ord. of 8-8-2007, § 5-3A-10)