

TITLE 8 - ANIMALS

Contents:

CHAPTER 8.02 Dogs

Notes – Montana Animal Abuse Laws

CHAPTER 8.04 Animals and Fowls at Large

CHAPTER 8.06 Deer

Chapter 8.02 - DOGS

Sections:

- 8.02.010 Definitions
- 8.02.020 Vaccination Required
- 8.02.030 License and Registration
- 8.02.040 Barking Dogs
- 8.02.050 Dogs Running At Large on School Grounds
- 8.02.060 Dogs At Large
- 8.02.070 Impounded Dog - Records
- 8.02.080 Notice and Redemption
- 8.02.090 Disposition
- 8.02.100 Female Dogs
- 8.02.110 Confinement or Destruction of Certain Dogs
- 8.02.120 Releasing Impounded Dogs Prohibited
- 8.02.130 Interference with Dog Warden or Police Officer
- 8.02.140 Dangerous Dogs
- 8.02.150 Animals in Parks and Cleaning Up After Animals

Notes - Montana Animal Abuse Laws

Chapter 8.02

DOGS AND CATS

8.02.010 Definitions. For the purposes of this chapter, certain terms used herein shall be interpreted, implied, or defined as follows:

- 1) "Animal control officer" means all peace officers as that term is defined in state law as well as all duly appointed animal control officers or dog wardens appointed by the city and/or deputized by the Sheriff to carry out and enforce this section.
- 2) "At Large" shall mean an animal is off the premises of the owner, keeper, or responsible custodian of the animal and not on a leash or confined within a kennel, cage, or motor vehicle, or otherwise under the immediate control of a person physically capable of restraining the animal.
- 3) "Cat" shall mean both male and female animals of the feline species which are domesticated.
- 4) "Dangerous" or "vicious" animal means any animal that attacks, bites, or injures human beings, domestic animals, or livestock without adequate provocation, or which, because of its nature, temperament, training, or other characteristics, would constitute an unreasonable danger to human life or property if not kept, maintained, or confined in a safe and secure manner. Any animal that, without provocation, has aggressively bitten or caused any physical injury to any human being, domestic animal or livestock shall be prima facie presumed vicious or dangerous.
- 5) "Dog" shall mean both male and female animals of the canine species, whether altered or not.
- 6) "Impound" shall mean the holding of an animal in the pound pending claim by its owner or other disposition.
- 7) "Leash" means a line, chain or lead of appropriate length to control or restrain an animal and does not include an electronic leash or shock collar.
- 8) "Nuisance" means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "nuisance" shall include, but not be limited to:
 - a) Any animal that is repeatedly (more than two separate occurrences) found running at large;
 - b) Any dog in any section of a park or public recreation area which is not controlled by a leash or similar physical restraint, except in such parks or public areas designated exempt;
 - c) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner, with the exception of service animals authorized under the Americans with Disabilities Act;

- d) Any animal that makes disturbing noises including, but not limited to, continued and repeated howling, barking, whining, crowing or other utterances causing unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- e) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;
- f) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- g) Any animal that chases motor vehicles in a public right-of-way;
- h) Any animal that attacks domestic animals;
- i) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- j) Any animal that is offensive or dangerous to the public health, safety, or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

9) "Owner" shall mean any person owning, keeping, or harboring a dog or other animal.

10) "Premises of the Owner" means the property of the owner but does not include the public right of way, the sidewalk or other publicly traveled portion of a road, street or alley.

11) "Pound" shall mean the place provided by the city for the impounding of dogs or other animals.

12) "Vaccination" shall mean the injection of an approved vaccine by a licensed veterinarian for the purpose of immunizing a dog against rabies or other communicable and harmful diseases.

13) "Without provocation" shall mean an act which is not done intentionally for the purpose of aggravating or inciting another, acting in an aggressive manner or attacking without adequate reason; attacking another animal or human being which is not specifically threatening harm to an animal or owner. Mere presence on the premises of the owner does not amount to provocation.

8.02.020 Vaccination Required - Tag. All dogs or cats six months or older within the corporate limits of the city shall be vaccinated against rabies and other diseases which may be transmitted to human beings or which may pose a threat to public health. Dogs shall be vaccinated once every two years thereafter and cats shall be so vaccinated every year thereafter. The vaccination required by this section shall be made by any veterinarian licensed to practice veterinary medicine in the State of Montana. A tag showing proper vaccination shall be worn by every dog or cat when not confined and proof of vaccination shall be retained by every dog or cat owner. The animal control officer or law enforcement officer shall have the right to impound any dog or cat at large within the city not wearing a collar or harness on which is displayed the license tag and the vaccination tag.

8.02.030 License and Registration.

- 1) Every person owning, keeping or harboring any dog over five months of age or any cat over six months of age within the city limits shall cause such dog or cat to be registered annually.
- 2) Licenses shall be issued by the city clerk, or by a duly appointed license agent, upon proof that the dog or cat has been vaccinated and upon payment of an annual license fee in an amount to be established by resolution of the City Council.
- 3) Any owner claiming the animal has been spayed or neutered must show to the satisfaction of the licensing the city clerk or license agent proof of such operation being performed.
- 4) Said owner shall keep on the neck or harness of a dog or cat so registered, a suitable metallic or leather collar, with a metallic check or tag to be furnished by the city, and the number and the year of registry shall be distinctly marked thereon. In case a tag is lost or destroyed, a duplicate will be issued by the city clerk upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a fee as set by resolution. Any dog or cat found running at large without the license tag shall be deemed unlicensed.
- 5) Tags shall not be transferable from one animal to another, and no refunds shall be made on any license fee because of the death of the animal or the owner's leaving town before expiration of the license period.
- 6) The provisions of this section shall not apply to nonresidents having dogs or cats under leash within the city less than 15 days or to such animals brought into the city for exhibitions provided the animal is properly vaccinated or otherwise exempt .
- 7) Licenses for "guide dogs" shall be furnished without charge upon proof of vaccination, as herein provided.
- 8) Licenses shall not be issued to any person under the age of 18 years unless a parent or guardian signs the application as a co-owner.

8.02.040 Nuisance animals prohibited. It is unlawful for any person to own, harbor, keep, or maintain any animal which meets the definition of "nuisance" as defined in this section, and it shall be the duty of the animal control officer and all law enforcement officers to file complaints for all such violations occurring in their presence. Any person aggrieved by a nuisance animal may file a complaint with the animal control officer or with law enforcement. Where the offense is not committed in the presence of the animal control officer or law enforcement, the animal control officer shall investigate and issue an appropriate criminal or civil citation, or request prosecution for the violation through the city attorney. Violation of this provision is a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.050 Dogs Running at Large on School Grounds.

- 1) Every person who owns, keeps, or harbors any dog and who allows such dog to run at large on any school grounds within the city is guilty of maintaining a nuisance animal and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.
- 2) Any officer or employee of the city, and any officer or employee of any school, or police officer within the city, is hereby authorized to take, chase, or drive any dog from any such school grounds using any reasonable means therefor, and the animal control officer shall impound any dog found running at large on any such school grounds, as provided in section 8.02.060 of this Code.
- 3) Guidelines for fines for violating this section shall be as set forth in 8.02.060 (3).

8.02.060 At Large.

- 1) It is unlawful for the owner of any animal to fail to keep such animal under restraint or to permit such animal to run at large upon the streets and public ways of the city.
- 2) Any dog, while on a street, sidewalk, public way, or in a park or other public space, or upon any private property without the consent of the property owner, shall be secured by a leash or chain of sufficient tensile strength and appropriate length to restrain the particular dog. However, while actually participating in instructional obedience training, dogs may be temporarily restrained by a leash of greater length.
- 3) No owner or custodian of any animal shall leave such animal unattended while on a street, sidewalk, public way, or in a park or other public space, or fail to exercise proper care and control of such animal to prevent the same from becoming a nuisance.
- 4) Every female dog or cat, while in heat, shall be kept in a secure enclosed shelter or area within the real property limits of the owner's premises in such a manner so as not to come in contact with another animal except for planned breeding.
- 5) Every dangerous or vicious animal shall be confined by its owner, or authorized agent of its owner, within a building or secure enclosure, and, whenever off the premises of its owner, shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not more than three feet in length or caged. Every person harboring a dangerous or vicious animal is charged with an affirmative duty to confine the animal in such a way that no other person has access to such animal.
- 6) Every dog or cat, unlicensed or licensed, found running at large in the streets, avenues, alleys, or other public places within the city, or on private property belonging to persons other than the owners or persons in control of such dogs, is hereby declared to be a public nuisance and may be taken and impounded in the city pound or elsewhere by the animal control officer, any sheriff, or his deputy, or other persons designated by the mayor from time to time for such purposes. If a dog or cat running at large has previously bitten a human being, domestic animal or livestock, whether or not the bite took place on the owner's private property, then upon impoundment that dog or cat shall be destroyed in a humane manner under the supervision of the animal control officer or the sheriff.
- 7) Every owner or other person in control of any dog or cat who allows such dog or cat to be at large, as defined in section 8.02.010 of this Code, is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.
- 8) Guidelines for fines for violating this section shall be up to \$50.00 for the first offense, up to \$100.00 for a second offense and up to \$500.00 for a third or subsequent offense. Any owner who fails to pay all fines within the period prescribed after imposition thereof by the City Judge and any fees for impoundment of the animal pursuant to 8.02.080, shall cause the animal to be deemed abandoned, disposition of which shall be provided in 8.02.090.

8.02.070 Impounded Dog – Records. Immediately upon impounding any dog or other animal, the animal control officer or law enforcement officer shall record in a book to be provided by the city and kept for that purpose, a description of such animal. Such record shall state the sex, color, breed (if known), 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.

8.02.080 Notice and Redemption.

- 1) It is hereby declared the duty of every owner of any dog or other animal to know its whereabouts at all times. In the event that any dog or other animal is impounded, the owner shall redeem the same within 72 hours, or it shall be subject to disposal by the animal control officer, as hereinafter provided.

- 2) In the event that any animal is reclaimed, on the first offense the owner shall pay a releasing fee to be set by resolution for food and shelter and all reasonable transportation costs when the animal is sheltered outside the city limits; the releasing fee shall double on the second offense and triple on the third and all other offenses occurring within one year of the first offense or within one year of any subsequent offense. If the owner is a resident within the city limits, he or she shall be required to obtain a license for the animal, if it does not already have one, at the time of the release.
- 3) It shall be the duty of the animal control officer to remit immediately all sums of money collected under this section to the city treasurer.

8.02.090 Disposition. Every animal impounded shall be held for a period of 72 hours after such impounding and if not claimed by the owner or by some person acting in the owner's behalf who pays the license and impounding fees, as provided in this chapter, the animal shall be put to death under the supervision of the animal control officer in a medically approved and humane manner. Any dog or other animal suffering from an infectious disease shall not be released, but must be put to death unless the county health officer or a licensed veterinarian shall otherwise request.

8.02.100 Female Dogs.

- 1) Every person having under their control any female dog or cat in heat (i.e., in the estrous period) shall confine such dog or cat in a house, garage, or other building, and in such manner as to eliminate the congregation of other dogs or cats in the immediate vicinity of the female. Any such female dog or cat not so confined is a public nuisance, and the owner or other person in control of such dog or cat is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.
- 2) The animal control officer or any law enforcement officer shall immediately abate every such nuisance by impounding any such dog or cat as provided in section 8.02.070 and section 8.02.080 of this Code.

8.02.110 Confinement or Destruction of Certain Dogs.

- 1) Any dog which has bitten or which is suspected of having bitten a human being, domestic animal or livestock or which is believed to have rabies or other diseases which may pose a threat to public health, or to have been exposed to the same, shall be confined upon order of the animal control officer, any law enforcement officer, or the county health officer or his agent.
- 2) Any dog which has threatened or caused reasonable apprehension or bodily injury or bitten a person or a domestic animal or livestock while the owner or other responsible person was present and the animal was connected to the owner or other person by a leash or otherwise on other than the owner's private property, unless the bite was in response to an immediate threat of physical harm to the owner or his family, shall be destroyed in a humane manner under the supervision of the animal control officer or the sheriff.
- 3) The cost of confinement, as provided for in this section, shall be charged to the owner of said dog.

8.02.120 Releasing Impounded Dogs Prohibited.

- 1) It is unlawful and a misdemeanor for any person other than the animal control officer or Sheriff or designee to release or remove any impounded dog or other impounded animal from the city pound, or to either break open or in any way injure the pound, or either directly or indirectly aid or assist any other person in doing so.
- 2) Persons convicted of a violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.130 Interference with Animal Control Officer or Law Enforcement Officer.

- 1) It is unlawful for any person to interfere with, molest, hinder, or obstruct the animal control officer or Law Enforcement Officer in the discharge of their official duties under sections 8.02.010 through section 8.02.120 of this Code.
- 2) Persons convicted of violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.140 Dangerous Dogs - Insurance.

- 1) The owner of any pit bull, American Staffordshire Terrier, Staffordshire Bull Terrier, Doberman Pinscher, Rottweiler or any dog displaying a majority of the physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or the United Kennel Club for any of the above breeds, or any individual dog of any breeding which is known, at any time, to have been aggressive toward or bitten a human being, domestic animal or livestock without provocation, whether a citation was issued or not, shall be required to have liability insurance in the amount of at least \$500,000.00 to cover any damage or injury which may be caused by such dog.
- 2) Proof of insurance shall be required at the time of licensing and may be requested at any time by the animal control officer, city clerk, member of the city council or any law enforcement officer. Failure to provide proof of such liability insurance shall result in immediate impoundment of the animal.
- 3) If the owner of the animal does not provide proof of insurance to the animal control officer or other person with authority to request such proof within 3 business days of impoundment, the animal shall be euthanized under the supervision of the animal control officer in a medically approved and humane manner.
- 4) If the animal has never been aggressive toward or bitten a human being, domestic animal or livestock the owner may be allowed to remove the animal from the city limits of White Sulphur Springs, after which the animal shall be permanently banished from ever being within the city limits of White Sulphur Springs.
- 5) The owner of any dog impounded under this ordinance shall be required to pay all costs of impoundment which shall be no less than \$5.00 per day.

8.02.150 Animals in Parks and Cleaning Up After Animals:

- 1) Any person owning, keeping, possessing or harboring any dog, cat or other animal within the City limits, shall promptly remove and properly dispose of all feces left by the dog, cat or animal on any public sidewalk or in any public park or ball field and on any private property not owned or lawfully occupied by such person.
- 2) Violation of this section shall be punishable by fine of up to \$50.00 for the first offense, up to \$100.00 for the second offense and up to \$500.00 for a third or subsequent offense. Any animal owner, who fails to pay all fines within 3 days after imposition thereof by the City Judge, may result in impoundment of the animal, and the cost of impoundment assessed to the owner thereof. Any animal impounded under this section may be destroyed after 3 days, if the fines and cost of the impoundment imposed hereunder remain unpaid.

(Ord. 321; 2-5-79, Ord. 335; 12-3-84, Ord. 336; 8-5-85, Ord. 346; 8-7-87, Amd. Res. 525; 6-17-10, New. Res. 533; 7-7-11)

Notes - MONTANA ANIMAL ABUSE LAWS

Montana law defines cruelty to animals as “knowingly or negligently” subjecting an animal to mistreatment or neglect by:

Overworking, beating, tormenting, injuring or killing any animal.

Carrying or confining any animal in a cruel manner.

Failing to provide an animal with proper food, drink or shelter.

In cases of immediate, obvious, serious illness or injury, failing to provide licensed veterinary or other appropriate medical care.

Failing to do any of the above is grounds for conviction. The penalty for each count is a fine of up to \$500 and/or up to six months in jail. Perpetrators may also be required to forfeit their animals and/or repay all reasonable costs incurred in caring for the animals in question.

Chapter 8.04 - ANIMALS AND FOWLS AT LARGE

Sections:

- 8.02.010 Livestock and Fowls at Large Prohibited
- 8.04.020 Duty of Chief of Police: Impoundment
- 8.04.030 Claiming Ownership after Sale
- 8.04.040 Fees
- 8.04.050 Prohibiting Leaving of Livestock in Vehicles

8.04.010 Livestock and Fowls at Large Prohibited

It shall be unlawful for any person to allow or permit livestock or fowls to run at large and said person shall at all times keep the same within or upon his own premises, except when the same are necessarily passing through the city and using the public thoroughfares, at which time the same shall be attended by competent person to prevent their running at large or damaging property.

8.04.020 Duty of Chief of Police; Impoundment

It shall be the duty of the chief of police to take and impound in some suitable place provided for that purpose any animal that may be at large upon public thoroughfares or other public places, or that may be upon or about any private premises damaging or annoying the owner or occupant thereof; to give notice to the owner thereof, if known; if unknown to publish notice of such impounding for three weeks in the official newspaper of the city. In the event the owner fails to pay the charges accrued thereon, hereinafter specified, within five days after such notice or publication, the chief of police shall make complaint before the city judge setting forth the facts in relation thereto, who shall thereupon fix a time not less than four or more than ten days for the hearing of proof on said complaint and give notice thereof in the manner provided for service of summons in civil actions. At the appointed time, the city judge shall hear proof of the facts alleged in the complaint and if found satisfactory shall order a sale to be made of the same at a time not more than ten or less than five days from date of said hearing, of which sale notice shall be given by posting notice thereof in three public places in said city, said sale shall be for cash to the highest bidder, the proceeds to be paid by the chief of police to the treasurer.

8.04.030 Claiming Ownership after Sale

If any such sale shall claim to be the owner thereof, the city judge, upon satisfactory proof of his ownership, shall order the city treasurer to pay the proceeds of said sale

to such owner after first deducting the costs, charges and expenses incurred in connection therewith.

8.04.040 Fees

The fees to be charged for services in connection with the impounding and sale of animals shall be in accordance with the fees on file in the office of the city clerk, as established from time to time.

8.04.050 Prohibiting Leaving of Livestock in Vehicles

It shall be unlawful for any person to retain livestock overnight in any vehicle. If such stock is held for a longer period than five hours, it shall be removed from the vehicle and placed in appropriate pens or enclosures.

(Ords. 219-223; 2-3-69)

Chapter 8.06 - DEER

Sections:

- 8.06.010 Purpose and Scope
- 8.06.020 Goals
- 8.06.030 Deer Populations
- 8.06.040 Action Plan

8.06.010 Purpose and Scope

To reduce the negative impacts to people caused by deer in the City of White Sulphur Springs.

To work with adjacent landowners and the Montana Department of Fish Wildlife and Parks (DRWP) to manage deer populations near the City to reduce the potential of those deer from moving into the City and becoming year round resident deer within the City.

8.06.020 Goals

Eliminate individual deer within the City which threaten human safety.

To reduce the potential for human-deer interactions and conflicts by lowering resident deer numbers in the City if needed.

Respond to seasonal deer population increases within the City.

8.06.030 Deer Populations

The deer population has two components: Deer that are year round residents within the city limits and transient deer which generally inhabit land immediately adjacent to the City but move in and out of the town. These wile deer numbers increase during certain period of the year resulting in conflicts with human safety.

8.06.040 Action Plan

Aggressive deer that threaten human safety will be dispatched as soon as possible after verification there is an actual threat. Deer which are a nuisance but are not threatening public safety will be tranquilized and relocated if at all possible. City and Meagher County sheriff's officers and Montana DFWP officials are the only persons authorized to use firearms to dispatch animals within city limits. Complaints must be directed to City Hall at 406.547.3911 or the Meagher County Sheriff at 406.547.3397 or the Montana DFWP. All deer removed under this plan must be documented. A record must be maintained by the City and the Meagher County

Sheriff's department and reported directly to the Montana DFWP. An annual report will be prepared and provided to the DFWP documenting each event. The report will include the date of the complaint, the nature of the complaint, name of the sheriff's officer responding, the number of deer dispatched, method of removal (tranquilization and relocation or lethal control) and the disposition of the deer removed. Deer that must be tranquilized or killed will be removed in accordance with DFWP rules and statues. Deer that have been killed due to vehicle/deer collisions in city limits will be removed by the Meagher County Sheriff's department, the city public works crew or if available, a local DFWP game warden.

Citizens of White Sulphur Springs and resident adjacent to the City shall refrain from artificially feeding residents and wild deer pursuant to Montana Code Annotated §87-3-130. Artificial feeding of wildlife is a misdemeanor and encourages deer to habituate to the urban environment and creates human/deer conflict and human health and safety issues. Wild deer that enter the City are less likely to become resident deer and more likely to remain in town for a shorter period when artificial feed is not present.

(New. Res. 538; 1-3-12)

ORDINANCE NO. 356

AN ORDINANCE AMENDING CHAPTER 8 PART 02 OF THE MUNICIPAL CODE OF THE CITY OF WHITE SULPHUR SPRINGS, MONTANA; PROVIDING REVISED DEFINITIONS FOR THIS SECTION, CREATING A DEFINITION AND PENALTY FOR VICIOUS OR NUISANCE ANIMALS, REVISING FINES AND FEES TO BE ESTABLISHED BY SEPARATE RESOLUTION, CLARIFYING PROVISIONS TO REFLECT CURRENT TERMINOLOGY AND FOR CONSISTENCY, AND MAKING AMENDMENTS AS TO STYLE AND FORM FOR PURPOSES OF REFERENCE AND CODIFICATION.

WHEREAS, the City of White Sulphur Springs has established within its code provisions for addressing animal control issues; and

WHEREAS, the City of White Sulphur Springs has a domestic animal and a livestock population in addition to its human population; and

WHEREAS, the provisions of the Municipal Code do not adequately address animal attacks on other animals (vicious animals), nuisance animals, animals other than dogs, animals subject to the American's with Disabilities Act; license and registration requirements and fines; and

WHEREAS, other definitions and provisions required clarification to reflect current terminology and for consistency with revisions to identified definitions; and

WHEREAS, certain other provisions use terms which are not consistent with present titles or references within the City; and

WHEREAS, amendments as to style and form are necessary for purposes of reference and inclusion in the electronically accessible version of the code;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of White Sulphur Springs Montana, that Chapter 8, Part 02 be amended as follows:

Section 1

That the Municipal Code for White Sulphur Springs be amended by revising the Title 8, Ch. 2 as follows:

8.02.010 Definitions. For the purposes of this chapter, certain terms used herein shall be interpreted, implied, or defined as follows:

- 1) ~~"Dog" shall mean both male and female animals of the canine species, whether altered or not.~~
"Animal control officer" means all peace officers as that term is defined in state law as well as all

duly appointed animal control officers or dog wardens appointed by the city and/or deputized by the Sheriff to carry out and enforce this section.

- 2) "Owner" shall mean any person owning, keeping, or harboring a dog. "At Large" shall mean an animal is off the premises of the owner, keeper, or responsible custodian of the animal and not on a leash or confined within a kennel, cage, or motor vehicle, or otherwise under the immediate control of a person physically capable of restraining the animal.
- 3) "At Large" shall mean off the premises of the owner and not under control of the owner or any other person by leash, cord, chain, restrained in a motor vehicle, or otherwise. "Cat" shall mean both male and female animals of the feline species which are domesticated.
- 4) "Pound" shall mean the place provided by the city for the impounding of dogs. "Dangerous" or "vicious" animal means any animal that attacks, bites, or injures human beings, domestic animals, or livestock without adequate provocation, or which, because of its nature, temperament, training, or other characteristics, would constitute an unreasonable danger to human life or property if not kept, maintained, or confined in a safe and secure manner. Any animal that, without provocation, has aggressively bitten or caused any physical injury to any human being, domestic animal or livestock shall be prima facie presumed vicious or dangerous.
- 5) "Vaccination" shall mean the injection of an approved vaccine by a licensed veterinarian for the purpose of immunizing a dog against rabies or other communicable and harmful diseases. "Dog" shall mean both male and female animals of the canine species, whether altered or not.
- 6) "Dog Warden" shall mean any one or more of the employees of the city designated by the mayor, and deputized by the sheriff as dog wardens. "Impound" shall mean the holding of an animal in the pound pending claim by its owner or other disposition.
- 7) "Impound" shall mean the holding of an animal in the pound pending claim by its owner or other disposition. "Leash" means a line, chain or lead not to exceed six (6) feet in length used of appropriate length to control or restrain an animal and does not include an electronic leash or shock collar.
- 8) "Cat" shall mean both male and female animals of the feline species which are domesticated. "Nuisance" means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "nuisance" shall include, but not be limited to:
 - a) Any animal that is repeatedly (more than two separate occurrences) found running at large;
 - b) Any dog in any section of a park or public recreation area which is not controlled by a leash or similar physical restraint, except in such parks or public areas designated exempt;
 - c) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner, with the exception of service animals authorized under the Americans with Disabilities Act;
 - d) Any animal that makes disturbing noises including, but not limited to, continued and repeated howling, barking, whining, crowing or other utterances causing unreasonable

annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

- e) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;
- f) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- g) Any animal that chases motor vehicles in a public right-of-way;
- h) Any animal that attacks domestic animals;
- i) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- j) Any animal that is offensive or dangerous to the public health, safety, or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

9) "Owner" shall mean any person owning, keeping, or harboring a dog or other animal.

10) "Premises of the Owner" means the property of the owner but does not include the public right of way, the sidewalk or other publicly traveled portion of a road, street or alley.

11) "Pound" shall mean the place provided by the city for the impounding of dogs or other animals.

12) "Vaccination" shall mean the injection of an approved vaccine by a licensed veterinarian for the purpose of immunizing a dog against rabies or other communicable and harmful diseases.

13) "Without provocation" shall mean an act which is not done intentionally for the purpose of aggravating or inciting another, acting in an aggressive manner or attacking without adequate reason; attacking another animal or human being which is not specifically threatening harm to an animal or owner. Mere presence on the premises of the owner does not amount to provocation.

8.02.020 Vaccination Required - Tag. All dogs or cats six months or older within the corporate limits of the city shall be vaccinated against rabies and other diseases which may be transmitted to human beings or which may pose a threat to public health. Dogs shall be vaccinated once every two years thereafter and cats shall be so vaccinated every year thereafter. The vaccination required by this section shall be made by any veterinarian licensed to practice ~~veterinarian~~ veterinary medicine in the State of Montana. A tag showing proper vaccination shall be worn by every dog or cat when not confined and proof of vaccination shall be retained by every dog or cat owner. The animal control officer or law enforcement officer shall have the right to impound any dog or cat at large within the city not wearing a collar or harness on which is displayed the license tag and the vaccination tag.

8.02.030 License and Registration.

- 1) It is unlawful for any person to keep, maintain, or harbor in the city any dog over five months of age, unless the dog is fully registered and licensed as herein provided. Every person owning, keeping or harboring any dog over five months of age or any cat over six months of age within the city limits shall cause such dog or cat to be registered annually.

- 2) Licenses shall be issued by the city clerk, or by a duly appointed license agent, upon proof that the dog or cat has been vaccinated and upon payment of an annual license fee in an amount to be established by resolution of the City Council.
- 3) ~~Every person registering a male dog or spayed female dog shall pay a license fee of \$5.00; and every person registering an un-spayed female dog shall pay a license fee of \$10.00~~ Any owner claiming the animal has been spayed or neutered must show to the satisfaction of the licensing the city clerk or license agent proof of such operation being performed.
- 4) Said owner shall keep on the neck or harness of a dog or cat so registered, a suitable metallic or leather collar, with a metallic check or tag to be furnished by the city, and the number and the year of registry shall be distinctly marked thereon. In case a dog tag is lost or destroyed, a duplicate will be issued by the city clerk upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a fee ~~of \$1.00 for each duplicate~~ as set by resolution. Any dog or cat found running at large without the license tag shall be deemed unlicensed.
- 5) ~~Dog~~ Tags shall not be transferable from one dog animal to another, and no refunds shall be made on any ~~dog~~ license fee because of the death of the ~~dog~~ animal or the owner's leaving town before expiration of the license period.
- 6) The provisions of this section shall not apply to nonresidents having dogs or cats under leash within the city less than 15 days or to such animals brought into the city for exhibitions provided the animal is properly vaccinated or otherwise exempt.
- 7) Licenses for "guide dogs" shall be furnished without charge upon proof of vaccination, as herein provided.
- 8) Licenses shall not be issued to any person under the age of 18 years unless a parent or guardian signs the application as a co-owner.

8.02.040 Barking Dogs Nuisance animals prohibited. ~~Every person who shall keep, feed, harbor, or allow to stay about any premises occupied or controlled by him, any dog which by loud and continuous barking, howling, or yelping constitutes an annoyance or disturbance to the neighborhood or to any considerable number of persons is guilty of maintaining a public nuisance and is therefore guilty of~~ It is unlawful for any person to own, harbor, keep, or maintain any animal which meets the definition of "nuisance" as defined in this section, and it shall be the duty of the animal control officer and all law enforcement officers to file complaints for all such violations occurring in their presence. Any person aggrieved by a nuisance animal may file a complaint with the animal control officer or with law enforcement. Where the offense is not committed in the presence of the animal control officer or law enforcement, the animal control officer shall investigate and issue an appropriate criminal or civil citation, or request prosecution for the violation through the city attorney. Violation of this provision is a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.050 Dogs Running at Large on School Grounds.

- 1) Every person who owns, keeps, or harbors any dog and who allows such dog to run at large on any school grounds within the city is guilty of maintaining a public nuisance animal and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.
- 2) Any officer or employee of the city, and any officer or employee of any school, or police officer within the city, is hereby authorized to take, chase, or drive any dog from any such school grounds using any reasonable means therefor, and the ~~dog warden~~ animal control officer shall impound any dog found running at large on any such school grounds, as provided in section 8.02.060 of this Code.

- 3) Guidelines for fines for violating this section shall be as set forth in 8.02.060 (3).

8.02.060 Dogs At Large.

- 1) It is unlawful for the owner of any animal to fail to keep such animal under restraint or to permit such animal to run at large upon the streets and public ways of the city.
- 2) Any dog, while on a street, sidewalk, public way, or in a park or other public space, or upon any private property without the consent of the property owner, shall be secured by a leash or chain of sufficient tensile strength and appropriate length to restrain the particular dog, ~~such leash or chain not to exceed six feet in length.~~ However, while actually participating in instructional obedience training, dogs may be temporarily restrained by a leash of greater length.
- 3) No owner or custodian of any animal shall leave such animal unattended while on a street, sidewalk, public way, or in a park or other public space, or fail to exercise proper care and control of such animal to prevent the same from becoming a nuisance.
- 4) Every female dog or cat, while in heat, shall be kept in a secure enclosed shelter or area within the real property limits of the owner's premises in such a manner so as not to come in contact with another animal except for planned breeding.
- 5) Every dangerous or vicious animal shall be confined by its owner, or authorized agent of its owner, within a building or secure enclosure, and, whenever off the premises of its owner, shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not more than three feet in length or caged. Every person harboring a dangerous or vicious animal is charged with an affirmative duty to confine the animal in such a way that no other person has access to such animal.
- 6) Every dog or cat, unlicensed or licensed, found running at large in the streets, avenues, alleys, or other public places within the city, or on private property belonging to persons other than the owners or persons in control of such dogs, is hereby declared to be a public nuisance and may be taken and impounded in the city pound or elsewhere by the ~~dog warden~~ animal control officer, any sheriff, or his deputy, or other persons designated by the mayor from time to time for such purposes. If a dog or cat running at large has previously bitten a ~~person~~ human being, domestic animal or livestock, whether or not the bite took place on the owner's private property, then upon impoundment that dog or cat shall be destroyed in a humane manner under the supervision of the ~~dog warden~~ animal control officer or the sheriff.
- 2-7) Every owner or other person in control of any dog or cat who allows such dog or cat to be at large, as defined in section 8.02.010 of this Code, is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.
- 38) Guidelines for fines for violating this section shall be up to \$50.00 for the first offense, up to \$100.00 for a second offense and up to \$500.00 for a third or subsequent offense. Any dog owner who fails to pay all fines within ~~3 days~~ the period prescribed after imposition thereof by the City Judge and any fees for impoundment of the animal pursuant to 8.02.080, shall result in abandonment of the animal cause the animal to be deemed abandoned, disposition of which shall be provided in 8.02.090.

8.02.070 Impounded Dog – Records. Immediately upon impounding any dog or other animal, the ~~dog warden~~ animal control officer or law enforcement officer shall record in a book to be provided by the city and by him kept for that purpose, a description of such dog animal. Such record shall state the sex, color, breed (if known), estimated age, distinguishing marks, if any, and the date and hour of impounding and upon final disposition of such dog animal, the record shall show such disposition.

8.02.080 Notice and Redemption.

- 1) It is hereby declared the duty of every owner of any dog or other animal to know its whereabouts at all times. In the event that any dog or other animal is impounded, the owner shall redeem the same within 72 hours, or it shall be subject to disposal by the ~~dog warden~~ animal control officer, as hereinafter provided.
- 2) In the event that any ~~dog~~ animal is reclaimed, on the first offense the owner shall pay a releasing fee of ~~\$25.00, plus \$5.00 per day or part thereof~~ to be set by resolution for food and shelter and all reasonable transportation costs when the ~~dog~~ animal is sheltered outside the city limits; the releasing fee shall double on the second offense and triple on the third and all other offenses occurring within one year of the first offense or within one year of any subsequent offense. ~~Also, if~~ If the owner is a resident within the city limits, he or she shall be required to obtain a license for the ~~dog~~ animal, if it does not already have one, at the time of the release ~~of the dog~~.
- 3) It shall be the duty of the ~~dog warden~~ animal control officer to remit immediately all sums of money collected ~~by him~~ under this section to the city treasurer.

8.02.090 Disposition. Every ~~dog~~ animal impounded shall be held for a period of 72 hours after such impounding and if not claimed by the owner or by some person acting in the owner's behalf who pays the license and impounding fees, as provided in this chapter, the ~~dog~~ animal shall be put to death under the supervision of the ~~dog ward~~ animal control officer in a medically approved and humane manner. Any dog or other animal suffering from an infectious disease shall not be released, but must be put to death unless the county health officer or a licensed veterinarian shall otherwise request.

8.02.100 Female Dogs.

- 1) Every person having under ~~his~~ their control any female dog or cat in heat (i.e., in the estrous period) shall confine such dog or cat in a house, garage, or other building, and in such manner as to eliminate the congregation of other dogs or cats in the immediate vicinity of the female. Any such female dog or cat not so confined is a public nuisance, and the owner or other person in control of such dog or cat is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.
- 2) The ~~dog warden~~ animal control officer or any ~~police man~~ law enforcement officer shall immediately abate every such nuisance by impounding any such dog or cat as provided in section 8.02.070 and section 8.02.080 of this Code.

8.02.110 Confinement or Destruction of Certain Dogs.

- 1) Any dog which has bitten or which is suspected of having bitten a ~~person~~ human being, domestic animal or livestock or which is believed to have rabies or other diseases which may pose a threat to public health, or to have been exposed to the same, shall be confined upon order of the ~~dog warden~~ animal control officer, any ~~police~~ law enforcement officer, or the county health officer or his agent.
- 2) Any dog which has threatened or caused reasonable apprehension or bodily injury or bitten a person or a domestic animal or livestock while the owner or other responsible person was present and the animal was connected to the owner or other person by a leash or otherwise on other than the owner's private property, unless the bite was in response to an immediate threat of physical harm to the owner or his family, shall be destroyed in a humane manner under the supervision of the ~~dog warden~~ animal control officer or the sheriff.
- 3) The cost of confinement, as provided for in this section, shall be charged to the owner of said dog.

8.02.120 Releasing Impounded Dogs Prohibited.

- 1) It is unlawful and a misdemeanor for any person other than the ~~dog warden, his representative, or a police officer~~ animal control officer or Sheriff or designee to release or remove any impounded dog or other impounded animal from the city pound, or to either break open or in any way injure the pound, or either directly or indirectly aid or assist any other person in doing so.
- 2) Persons convicted of a violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.130 Interference with ~~Dog Warden~~ Animal Control Officer or ~~Police~~ Law Enforcement Officer.

- 1) It is unlawful for any person to interfere with, molest, hinder, or obstruct the ~~dog warden, his representative, or a police officer~~ animal control officer or Law Enforcement Officer in the discharge of their official duties under sections 8.02.010 through section 8.02.120 of this Code.
- 2) Persons convicted of violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.140 Dangerous Dogs - Insurance.

- 1) The owner of any pit bull, American Staffordshire Terrier, Staffordshire Bull Terrier, Doberman Pinscher, Rottweiler or any dog displaying a majority of the physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or the United Kennel Club for any of the above breeds, or any individual dog of any breeding which is known, at any time, to have been aggressive toward or bitten a human being, domestic animal or livestock ~~on property other than the owner's property~~, whether a citation was issued or not, shall be required to have liability insurance in the amount of at least \$500,000.00 to cover any damage or injury which may be caused by such dog.
- 2) Proof of insurance shall be required at the time of licensing and may be requested at any time by the animal control officer, city clerk, member of the city council or any law enforcement officer. Failure to provide proof of such liability insurance shall result in immediate impoundment of the animal.
- 3) If the owner of the animal does not provide proof of insurance to the animal control officer or other person with authority to request such proof within 3 business days of impoundment, the animal shall be euthanized under the supervision of the animal control officer in a medically approved and humane manner.
- 4) ~~In the alternative if the animal has never bitten a person nor acted aggressively toward a human being~~ been aggressive toward or bitten a human being, domestic animal or livestock the owner may be allowed to remove the animal from the city limits of White Sulphur Springs, after which the animal shall be permanently banished from ever being within the city limits of White Sulphur Springs.
- 5) The owner of any dog impounded under this ordinance shall be required to pay all costs of impoundment which shall be no less than \$5.00 per day.

8.02.150 Animals in Parks and Cleaning Up After Animals:

- 1) Any person owning, keeping, possessing or harboring any dog, cat or other animal within the City limits, shall promptly remove and properly dispose of all feces left by the dog, cat or animal on any public sidewalk or in any public park or ball field and on any private property not owned or lawfully occupied by such person.

- 2) Violation of this section shall be punishable by fine of up to \$50.00 for the first offense, up to \$100.00 for the second offense and up to \$500.00 for a third or subsequent offense. Any animal owner, who fails to pay all fines within 3 days after imposition thereof by the City Judge, may result in impoundment of the animal, and the cost of impoundment assessed to the owner thereof. Any animal impounded under this section may be destroyed after 3 days, if the fines and cost of the impoundment imposed hereunder remain unpaid.

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.

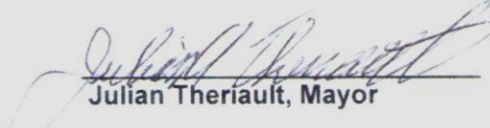
SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 5.

CODIFICATION. Upon Final Passage and Adoption, the City Clerk is authorized to publish the foregoing ordinance, making amendments as to referenced code sections, notations, and grammar as well as style to be consistent with the ordinance as passed and shall insert this ordinance and shall remove the prior provisions inconsistent with the current ordinance, as passed and adopted, in any official publication or on-line version of the White Sulphur Springs Municipal Code.

PROVISIONALLY ADOPTED by the City Commission of the City of White Sulphur Springs, Montana on first reading at a regular session held on the 20 day of October, 2015


CITY OF WHITE SULPHUR SPRINGS


Julian Theriault, Mayor

SEAL

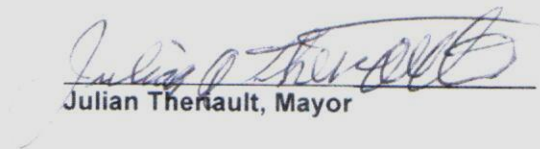
CITY OF WHITE SULPHUR SPRINGS

ATTEST:


Michelle Stidham, City Clerk


FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of White Sulphur Springs, Montana on second reading at a regular session thereof held on the 7 day of December, 2015. The effective date of this ordinance is the 7 day of December, 2015.

CITY OF WHITE SULPHUR SPRINGS

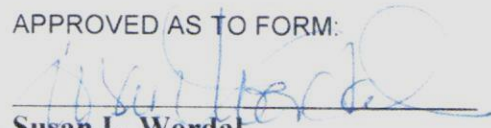

Julian Theriault, Mayor

SEAL
CITY OF WHITE SULPHUR SPRINGS

ATTEST:


Michelle Stidham, City Clerk

APPROVED AS TO FORM:


Susan L. Wordal
City Attorney

RESOLUTION No. 589

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS, MONTANA, ESTABLISHING A POLICY FOR ANIMALS BROUGHT IN TO LAW ENFORCEMENT WITHIN THE CITY LIMITS REGARDING FEES AND COSTS TO BE PAID.

WHEREAS, the City of White Sulphur Springs has established within its Municipal Code provisions for addressing animal control issues; and

WHEREAS, the City of White Sulphur Springs has a domestic animal and a livestock population in addition to its human population; and

WHEREAS, animals are frequently brought in to Law Enforcement and surrendered rather than through the City Animal Control Officer; and

WHEREAS, the City has costs to hold and place or transition animals brought in regardless of how they come to be in the City's program; and

WHEREAS, the City frequently has animals brought in by individuals and the owner is not identified; and

WHEREAS, the Council believes the cost for care and keeping of these animals should be borne by the owner, and in the absence of the owner by the individual who took responsibility for the animal and turned the animal in; and

WHEREAS, the Council desires to give fair warning to those bringing in animals of their responsibility in the event the owner is not identified.

NOW, THEREFORE, BE IT RESOLVED the City Council of White Sulphur Springs adopts the following policy and procedure for animals at large who are brought in to the City Animal Control Officer or Law Enforcement as follows:

1. Any animal brought in and surrendered to the City Animal Control Officer or Law Enforcement shall be documented to include the following in addition to information as required by Municipal Code:
 - a. Name of Owner on tag or if known in the absence of the tag;
 - b. Name and/or description of the animal;
 - c. Name and contact information, to include mailing address, for the individual turning in the animal;


- d. A photograph of the animal and the individual turning in the animal if possible;
 - e. Description of the location where animal found.
2. The Animal Control Officer and holding area shall have posted the following sign in a conspicuous location:

Animals brought into the City "Pound" is subject to the White Sulphur Springs Municipal Code, which includes licensing fees, release fee, impound costs, and related fees as may be established by City Resolution. The Owner is responsible for these fees and costs. If the Owner cannot be identified, the individual turning in the animal shall be responsible for assuming such costs.

3. The same notice shall be posted in a conspicuous location at the Sheriff's Department.
4. The Animal Control Officer and Law Enforcement are required, upon accepting an animal under the Municipal Code to advise the individual turning in the animal of the potential the individual is assuming the costs of licensing, release, impound, and other related fees as may be incurred by the animal.
5. An individual who has turned in an animal and is required to assume responsibility for the animal when an owner cannot be identified, may provide to the City the name and address of the owner. If the ownership can be verified and the Owner pays the costs, then the individual may be released from further responsibility.
6. If the individual is unwilling to accept responsibility for the costs as stated in this policy, then the Animal Control Officer or Law Enforcement shall not take the animal in. The individual must sign a form indicating they have been advised of the policy and obligations and indicate whether they accept or decline to be responsible.
7. A form shall be provided by the City for the use of the Animal Control Officer and Law Enforcement.


This policy and procedure shall be effective upon passage.

PASSED AND ADOPTED by the City Council of the City of White Sulphur Springs, Montana,
on this 21st day of November, 2017.



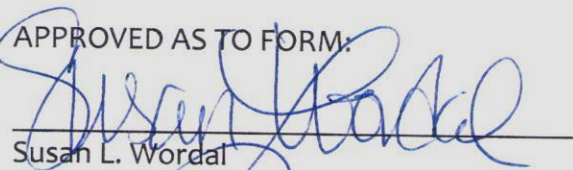
Julian Theirault
Mayor

ATTEST:



Michelle Stridhem
City Clerk

APPROVED AS TO FORM:



Susan L. Wordal
WORDAL Law, PLLC
City Attorney