

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3282

AN ORDINANCE ESTABLISHING THE CITY'S ANIMAL CONTROL REGULATIONS BY ADOPTING CHAPTER 2 OF TITLE 5 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY
OF HELENA, MONTANA:

Title 5, of the Helena City Code, Police Regulations, is hereby amended by repealing Chapter 2, Animal Control, in its entirety and adopting this new Chapter 2 in its place:

TITLE 5: POLICE REGULATIONS

CHAPTER 2

ANIMAL CONTROL

SECTION:

- 5-2-1: DEFINITIONS
- 5-2-2: ANIMALS ALLOWED WITHIN CITY LIMITS
- 5-2-3: ANIMAL LICENSES
- 5-2-4: RABIES VACCINATIONS
- 5-2-5: PROHIBITED BEHAVIOR OF ANIMALS, OWNERS, AND RESPONSIBLE PERSONS
- 5-2-6: BITE REPORTING, RABIES, AND QUARANTINE
- 5-2-7: POTENTIALLY DANGEROUS AND DANGEROUS DOGS
- 5-2-8: SEIZURE, IMPOUNDMENT, AND REDEMPTION OF ANIMALS
- 5-2-9: DUTY TO GIVE AID UPON STRIKING ANIMAL WITH MOTOR VEHICLE
- 5-2-10: KEEPING OF APIARIES
- 5-2-11: FEEDING OF WILD ANIMALS
- 5-2-12: ENFORCEMENT
- 5-2-13: APPLICATION

5-2-1. DEFINITIONS: As used in this chapter, the following definitions apply unless specified otherwise:

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- A. "Animal control officer" means any duly appointed and qualified city animal control officer, as well as any sworn city police officer.
- B. "Attitude of attack" means behavior of a dog that leads a reasonable person to believe the dog is going to inflict injury upon the person or another, which behavior may include growling, barking, baring of teeth, tense or stiff posture, raised hackles, lunging, or nipping.
- C. "Bee" means any stage *apis mellifera* and all European subspecies.
- D. "Bite" means any abrasion, scratch, puncture, laceration, bruise, tear or piercing of the skin caused by the teeth of an animal.
- E. "Continuously" means any noise that is repeated with less than one minute of silence between the noises.
- F. "Enclosure" means any confined space closed on all sides to prevent escape and provide protection from the elements, including a vehicle, pen, cage, or kennel.
- G. "Hive" means a receptacle, container, or part of a container, natural or artificial, used as a domicile for bees that is clearly recognized for that use.
- H. "Hobbyist apiary site" means an apiary site registered by a hobbyist beekeeper.
- I. "Hobbyist beekeeper" means a person who owns a total of no more than two (2) hives.
- J. "Livestock" means cattle, goats, horses, pigs, sheep, and other domesticated animals normally used or raised on a farm.
- K. "Owner" means a person over the age of 18 who owns, keeps, or harbors an animal. A person listed on a dog license, multiple animal license, or dangerous dog license is presumed to be an owner.

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- L. "Responsible person" means a person over the age of 18 who possesses an animal or the parent or guardian of a person under the age of 18 who possesses an animal, irrespective of whether the person is an owner.
- M. "Severe injury" means any physical injury consisting of a broken bone, muscle tear, disfiguring laceration, or more than one bite or deep puncture. (Ord. 3282, 7-13-2020)

5-2-2: ANIMALS ALLOWED WITHIN CITY LIMITS:

- A. The following animals may be kept in city limits:
 - 1. Dogs;
 - 2. Cats;
 - 3. Ferrets;
 - 4. Chickens, turkeys, or ducks; and
 - 5. Livestock, but no more than two (2) total animals above the age of one (1) year. Pigs must weigh less than one hundred and fifty (150) pounds.
- B. Animals other than dogs and cats shall be located or kept at least twenty-five feet (25') away from the dwelling of another person. (Ord. 3282, 7-13-2020)

5-2-3: ANIMAL LICENSES:

- A. A person who keeps or harbors a dog over six (6) months of age within the city for more than fourteen (14) consecutive days shall obtain a dog license.
 - 1. To obtain a dog license, the owner of the animal shall:
 - a. Submit a completed application provided by the city;
 - b. Provide current proof of rabies vaccination for the animal being licensed, which rabies vaccination

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must remain current and unexpired or the associated license automatically becomes void; and

- c. Pay the associated license fee.
- B. A person who keeps or harbors more than two (2) dogs or two (2) cats over six (6) months of age within the city for a period longer than fourteen (14) consecutive days shall obtain a multiple animal license.
1. To obtain a multiple animal license, the owner of the animals shall:
 - a. Submit a completed application provided by the city;
 - b. Provide current proof of rabies vaccination for each animal being licensed, which rabies vaccinations must remain current and unexpired or the associated license automatically becomes void;
 - c. Provide written confirmation from the animal control officer that the premises at which the animals are to be kept has been inspected for compliance with the requirements of section 5-2-3(B)(2) of this code;
 - d. Provide a written recommendation from the animal control officer that the license should be granted; and
 - e. Pay the associated license fee.
 2. Multiple animal license applicants and holders shall do the following or the city will deny the license application or may revoke the license if already issued:
 - a. Maintain an enclosure or enclosures that are adequate to house the animals;

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- b. Regularly dispose of animal excreta so it does not become a nuisance or a health hazard;
 - c. Provide proper food, water, shelter, and general care for all animals;
 - d. Comply with all zoning and business license requirements if operating a commercial kennel as defined in Title 11 of this code; and
 - e. Commit no violations of the provisions of this chapter, provided, however, that a person's eligibility for a multiple animal license will be restored once the person has gone two (2) years without such a violation.
- C. A person who keeps or harbors a dog that has been designated as dangerous pursuant to section 5-2-7 of this code shall obtain a dangerous dog license.
- 1. To obtain a dangerous dog license, the owner of the animal shall:
 - a. Submit a completed application provided by the city;
 - b. Provide current proof of rabies vaccination for the animal being licensed, which rabies vaccination must remain current and unexpired or the associated license automatically becomes void;
 - c. Provide written confirmation from the animal control officer that the premises at which the dog is to be kept has been inspected for compliance with the requirements of section 5-2-3(C)(2) of this code; and
 - d. Pay the associated license fee.

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2. Dangerous dog license applicants and holders shall do the following or the city will deny the license application or automatically revoke the license if already issued:
 - a. Maintain an enclosure on the premises where the dog is kept that prevents entry by children, is shut-in on all sides, including the top, to prevent the dog from escaping the premises, and provides the dog with protection from the elements;
 - b. Post the premises where the dog is kept with clearly visible and readable warning signs that a dangerous dog is on the premises;
 - c. Obtain from an insurer qualified under the laws of the state either a surety bond in an amount no less than one hundred thousand dollars (\$100,000.00) that is payable to any person injured by the dangerous dog, or a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under the laws of the state in the amount of no less than one hundred thousand dollars (\$100,000.00) that insures the owner for any personal injuries inflicted by the dangerous dog; and
 - d. Present the animal control officer with proof that the dog has been microchipped.
- D. Regardless of issuance date, a license granted pursuant to this chapter automatically expires at 11:59 p.m. on December 31st of the calendar year for which the license was issued. A new license shall be obtained for each calendar year.
- E. A license issued pursuant to this chapter is non-transferable. If ownership of an animal changes during the license year, the new owner shall obtain all required licenses within fourteen (14) days of acquiring the animal.
- F. Every licensed dog must bear either its license tag or another tag engraved with its license number on a collar or harness

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when not located on the owner's property. (Ord. 3282, 7-13-2020)

5-2-4: RABIES VACCINATIONS:

- A. A dog, cat, or ferret located within the city must have a valid rabies vaccination if the animal is over three (3) months of age. Vaccination must be administered by a veterinarian licensed pursuant to 37-18-305, MCA, or under the direct supervision of such a veterinarian.
- B. All rabies vaccinations must remain current and unexpired. Failure to maintain a current, unexpired rabies vaccination automatically voids any license issued pursuant to this chapter.
- C. Proof of valid rabies vaccination is required upon demand by the animal control officer or a police officer of the city. Proof can be in the form of vaccination records from a licensed veterinarian. (Ord. 3282, 7-13-2020)

5-2-5: PROHIBITED BEHAVIOR OF ANIMALS, OWNERS, AND RESPONSIBLE PERSONS:

- A. It is unlawful and an owner or responsible person may be cited if a dog:
 - 1. That is off the owner's or responsible person's property charges or approaches a human with an attitude of attack.
 - 2. Bites or causes injury to a human or domesticated animal.
 - 3. Makes noise continuously, on three separate occasions, over a seven-day period:
 - a. for longer than thirty (30) minutes; or
 - b. at separate and distinct time periods that, when considered together, amount to a time greater than sixty (60) minutes out of any twelve (12) hour period.

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- B. It is unlawful and an owner or responsible person may be cited if the owner or responsible person:
1. Allows an animal to run at large or leaves an animal unattended or picketed upon the right-of-way, city park, open space, or other public facility;
 2. Fails to remove and properly dispose of any excreta deposited by their animal on public property or private property not belonging to the owner or responsible person;
 3. Fails to remove and properly dispose of excreta deposited on the owner's or responsible person's property on a weekly basis;
 4. Abandons an animal in city limits;
 5. Fails to surrender an animal when the animal control officer is either required or permitted to seize the animal by city ordinance;
 6. Fails to keep a dog on a leash of ten feet (10') or less that is held by a person physically able to control the dog when the dog is not confined within an enclosure or on the owner's property, unless:
 - a. The dog is within a designated open space or any natural park as defined in section 7-12-1 of this code and is more than one hundred (100) yards from a trailhead, is within the owner's or responsible person's sight, and is under the person's voice control; or
 - b. The dog is within a fenced area of a dog park designated by the city commission and is within the owner's or responsible person's sight and under the person's voice control.
- C. A person cited under section 5-2-5(A) of this code may assert as an affirmative defense that the dog was responding to a

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provocation, an offense upon a person, or an unreasonable trespass upon the property of a person. (Ord. 3282, 7-13-2020)

5-2-6: BITE REPORTING, RABIES, AND QUARANTINE:

- A. Any person with knowledge that an animal has bitten a human shall promptly make a report of the bite to the animal control officer.
- B. Every physician or other medical practitioner shall report to the animal control officer the name and address of any person treated for an animal bite.
- C. Upon suspicion that a person has sustained a bite that may have exposed the person to rabies, the animal control officer shall order that the biting animal be quarantined for no less than ten (10) days. If the animal control officer does not believe the biting animal has been exposed to rabies, the animal control officer may, at his or her sole and absolute discretion, allow the animal to be quarantined on the premises of the owner. If the biting animal is not quarantined on the premises of the owner, quarantine shall occur at a veterinary hospital, veterinarian's office of the owner's choice, or at any other place approved by the animal control officer, all at the owner's expense. The biting animal shall not be released from quarantine except by permission of the animal control officer.
- D. If the animal control officer suspects an animal has been exposed to rabies, the animal control officer may immediately seize the animal for placement in quarantine at a veterinary hospital or veterinarian's office, all at the owner's expense. The owner can only reclaim the animal upon compliance with the licensing provisions of this chapter, payment of any accrued quarantine fees, and confirmation that the animal is free of rabies.
- E. If a quarantined animal dies while under observation and a veterinarian has diagnosed a quarantined animal as rabid or suspects the animal is rabid, the veterinarian or the animal control officer shall promptly send the animal's head to a

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competent laboratory for pathological examination. The animal control officer shall notify the proper public health office of the examination results as well as any reports of the animal's contact with humans. (Ord. 3282, 7-13-2020)

5-2-7: POTENTIALLY DANGEROUS AND DANGEROUS DOGS:

- A. The animal control officer may designate a dog as potentially dangerous if:
 - 1. The dog, unprovoked, inflicts a bite on a human or domesticated animal; or
 - 2. The dog, unprovoked, charges or approaches a person ~~in~~ with an attitude of attack.

- B. The animal control officer may designate a dog as dangerous if:
 - 1. The dog, unprovoked, inflicts severe injury on a human or domesticated animal;
 - 2. The dog, unprovoked, kills a domesticated animal; or
 - 3. The dog has been previously designated as potentially dangerous and, unprovoked, inflicts a bite on a human or domesticated animal, charges or approaches a person with an attitude of attack.

- C. A dog is not potentially dangerous or dangerous if the threat, injury, or damage was sustained by a human who at the time of the animal's act or acts:
 - 1. Was committing an unreasonable trespass upon premises occupied by the dog's owner, the owner's immediate family, a responsible person, or a responsible person's immediate family;
 - 2. Was tormenting, abusing, or assaulting the dog;

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3. Has in the past been observed or reported to have tormented, abused, or assaulted the dog; or
 4. Was committing or attempting to commit a crime.
- D. The animal control officer shall seize any dog the animal control officer has designated as dangerous within a reasonable time after the designation. The animal shall be impounded at a licensed veterinary hospital or licensed animal shelter and may only be released if the owner pays all impoundment fees and:
1. The Municipal Court Judge has determined the dog is not dangerous; or
 2. The animal control officer has determined the owner meets the requirements for keeping a dangerous dog as required by this chapter.
- E. If the animal control officer designates a dog as dangerous or potentially dangerous, the officer shall provide the owner with notice of the designation. Notification may be accomplished orally by phone, electronic mail, or in-person communication, or by written notice via standard mail, personal delivery, or posting the notice in a conspicuous place at the owner's residence.
- F. An owner may appeal a potentially dangerous or dangerous designation by filing a written notice of appeal and request for hearing with the clerk of the Municipal Court. The filing shall occur within ten (10) business days after notification of the designation, with a copy provided to the City Attorney.
1. The Municipal Court shall hold a hearing on the appeal within thirty (30) business days after filing, but not earlier than fourteen (14) business days after filing. The parties can agree to a continuance of the hearing.
 2. Both sides shall give notice of the witnesses they intend to call at least ten (10) days prior to the date set for the hearing.

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3. At the hearing, the owner has the burden to show the designation was improper by the preponderance of the evidence.
 4. The Montana Rules of Evidence shall be enforced at the hearing.
- G. A dangerous dog shall be kept in the enclosure required by the dangerous dog licensing provisions when on the owner's premises. At all times when the dog is outside the enclosure, it shall be muzzled and on a leash of ten feet (10') or less that is held by a person physically able to control the dog. The muzzle must prevent the dog from biting any human or animal but must not cause injury to the dog or interfere with its vision or respiration.
- H. If an owner fails to comply with any condition of keeping a dangerous dog, the animal control officer shall seize the dangerous dog and may also pursue court-ordered relinquishment under 5-2-7(J).
- I. Within twenty-four (24) hours after a change in ownership, change in address, or death of a dangerous dog, the owner shall notify the animal control officer of such event.
- J. The city may petition the Municipal Court for an order requiring the owner to relinquish ownership of a dangerous dog when the owner has failed to comply with any condition of keeping a dangerous dog or has not retrieved the dog from impoundment within five (5) business days after the date on which the animal control officer designates the dog as dangerous or the date on which the Municipal Court Judge issues a decision on any appeal of the designation, whichever is later.
1. The city shall make a reasonable effort to provide the owner a copy of the petition within a reasonable time after filing.

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2. The Municipal Court shall hold a hearing within twenty (20) business days after the date on which the petition was filed and shall issue a decision within ten (10) business days after the hearing date.
- K. The owner of a potentially dangerous dog may petition the Municipal Court to remove the designation if the owner and the dog have not committed any violations of this chapter for a period of at least two (2) years following the designation. The owner shall provide the city attorney with a copy of the petition.
- L. The owner of a dangerous dog may petition the Municipal Court to remove the designation if the owner and the dog have not committed any violations of this chapter for a period of at least five (5) years following the designation. The owner shall provide the city attorney with a copy of the petition.
- M. When an owner has filed a petition for removal of a potentially dangerous or dangerous designation, the Municipal Court shall hold a hearing to determine if the designation should be removed. If the court finds the designation should be removed, the court may impose continuing conditions on the owner to assure continuing compliance with this chapter, as the court deems proper.
- N. If the Municipal Court denies a petition to remove a potentially dangerous or dangerous designation, the owner may not file another such petition for at least one (1) year from the date of the order denying the petition. (Ord. 3282, 7-13-2020)

5-2-8: SEIZURE, IMPOUNDMENT, AND REDEMPTION OF ANIMALS:

- A. If an owner fails to surrender an animal when the animal control officer is either required or permitted to seize the animal by city ordinance, the city or the animal control officer may file with the Municipal Court a written petition seeking an immediate seizure order. The Municipal Court may

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issue such an order without a hearing if the petition, made under oath or affirmation, includes:

1. Facts to support probable cause to believe the animal must be seized; and
 2. An adequate description of the animal to be seized.
- B. Any animal found running at large or left unattended or picketed upon any city right-of-way, city park, open space, or other public facility; or picketed on private property in such a way that the animal can enter the city right-of-way, city park, open space, or other public facility may be taken by the animal control officer and impounded in the animal shelter or a veterinarian's office and there confined in a humane manner. Upon impounding any animal, the animal control officer must make a reasonable effort to notify the owner of the impounded animal and inform the owner of the conditions whereby they may regain possession of the animal.
- C. If the city impounds, boards, or has an animal sheltered for any reason not specifically discussed elsewhere in this code, or does so because the animal was either abandoned or found pursuant to section 5-2-8(B):
1. The owner shall be entitled to regain possession of the animal upon compliance with all animal licensing provisions and payment of all fees and charges provided for in this chapter, including but not limited to impoundment fees; and
 2. The animal shall become the property of the Lewis and Clark Humane Society and the owner is deemed to have relinquished ownership of the animal if the owner has not reclaimed it within seventy-two (72) hours of impoundment if the animal was impounded pursuant to section 5-2-8(B), or within ten (10) business days if it came into the City's possession for any other reason.

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- D. If an animal that is impounded or housed for any reason under this chapter requires veterinary care or treatment, representatives of the facility housing or caring for the animal are permitted to obtain the required veterinary care or treatment for the animal. To reclaim the animal, the owner shall reimburse the facility for the veterinary care or treatment.
- E. The animal control officer, a licensed veterinarian, or the humane society may destroy any sick or injured animal without holding it for ten (10) business days if its condition is such that destruction is necessary. (Ord. 3282, 7-13-2020)

5-2-9: DUTY TO GIVE AID UPON STRIKING ANIMAL WITH MOTOR VEHICLE:

The operator of a motor vehicle that strikes, injures, maims, or runs down any domesticated animal shall immediately notify law enforcement or give aid to such animal. (Ord. 3282, 7-13-2020)

5-2-10: KEEPING OF APIARIES:

- A. An apiary is permitted within city limits in the following circumstances only:
 - 1. For exhibition in one (1) observation hive of no more than three (3) frames, each no larger than ten inches by twenty inches (10" x 20") in size, and with no more than two (2) pounds of bees in the hive; and
 - 2. When owned by a hobbyist beekeeper who is licensed and regulated by this chapter.
- B. A hobbyist beekeeper may own, use, or maintain a hobbyist apiary site within city limits if the hobbyist beekeeper first obtains an annual apiary license from the city. To obtain an apiary license, a hobbyist beekeeper shall:
 - 1. Have no more than two (2) hives at a hobbyist apiary site that is registered with the Montana Department of Agriculture, pursuant to section 80-6-114, MCA;

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2. Certify that the hobbyist beekeeper is the owner of the bees and that the hobbyist beekeeper will personally manage, maintain and operate the apiary site;
3. Notify the city of the species of bees the hobbyist beekeeper will tend at the hobbyist apiary site;
4. Provide proof that the hobbyist apiary site will utilize hives that are movable and framed with adequate space in the hive to prevent overcrowding and swarming;
5. Agree that the hobbyist apiary site must be re-queened or united with another hive following any swarming or aggressive behavior by the bees of that site or any hive therein;
6. Agree that the hobbyist apiary site may not be manipulated between the hours of sunset and sunrise unless the hives are being moved to or from another location or for public safety; and
7. Present a site plan of the hobbyist apiary site showing:
 - a. That the hobbyist apiary site is located on property owned or leased by the hobbyist beekeeper;
 - b. Availability of a water source that is within twenty feet (20') of the hobbyist apiary site for the active duration of the site; and
 - c. That the hobbyist apiary site will either be kept at least fifteen feet (15') from the boundary lines of adjacent property owned by another person or that there is a barrier no less than six feet (6') high that prohibits the direct flight of bees that is erected between the site and adjoining property. (Ord. 3282, 7-13-2020)

5-2-11: FEEDING DEER:

A person may not purposely or knowingly provide supplemental feed to deer. (Ord. 3282, 7-13-2020)

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5-2-12: ENFORCEMENT:

- A. A person found to be in violation of any section of this chapter not relating to dangerous dogs shall be subject to a fine of no more than five hundred dollars (\$500.00) for each violation. Each day of operation in violation of this chapter constitutes a separate violation. In addition, the person may be required to pay restitution.
- B. A person found to be in violation of any section of this chapter relating to dangerous dogs shall be subject to a fine of five hundred dollars (\$500.00) for each violation. In addition, the person may be required to pay restitution. Each day of operation in violation of this chapter constitutes a separate violation.
- C. Governmental agencies, humane societies, animal shelters, and veterinary clinics shall not be subject to the provisions of this chapter. (Ord. 3282, 7-13-2020)

5-2-13: APPLICATION:

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter is not affected. (Ord. 3282, 7-13-2020)

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,
THIS 8TH DAY OF JUNE, 2020.**

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION

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FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 13TH DAY OF JULY, 2020.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION