

TITLE 4
POLICE REGULATIONS

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CHAPTER 1
ANIMAL CONTROL

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- 4-1-1: **DEFINITIONS:** As used in this chapter, the following definitions apply unless the context otherwise indicates:

ANIMAL SHELTER: Any premises provided by the city and maintained by the poundmaster or other assigned person who has the authority and responsibility for the impounding and caring for of dogs or other animals, or which is provided by one for which the city has contracted for impounding service.

AT LARGE:	Off the premises of the owner or the keeper of said animal, and not under strict leash control of a competent person. Being at large can be with or without the owner's or keeper's knowledge.
CRUELTY:	The endangerment of life or health, or to the causing of mental suffering or fear.
EXOTIC ANIMAL:	Any wild or other animal which is not tame by nature, and includes, but is not limited to, raccoon, fox, skunk, beaver, otter, wolf, wolf hybrid, bear, raptor, alligator, crocodile, poisonous snake, monkey, pig, potbellied pig, member of the feline species other than domestic cat (<i>Felis domesticus</i>), member of the canine species other than domestic dog (<i>Canis familiaris</i>), or any other animal that would require a standard of care and control greater than that required for customary household pets sold by pet shops. The term exotic animal does not include rodents, domesticated ferret, and captive bred species of fish and common cage birds.
FARM ANIMAL:	A domestic farm animal including, but not limited to, cattle, horses, mules, asses, swine, sheep, goats, rabbits, chickens, hens, ducks, geese, turkeys, or other fowl.
HUMANE:	Marked by compassion, sympathy, or consideration.
KENNEL ¹ :	An establishment or place where more than two (2) dogs over the age of six (6) months are kept for breeding, sale, pets, or any other purposes.
NUISANCE:	An annoying, disturbing, unsanitary thing, or practice.
OWNER:	Any person, group of people, corporation, or company who keeps or harbors a dog, dogs, or other animals.

1. See section 10-2-2 of this code for definition of "commercial kennel".

POUNDMASTER:	The operator of the city animal shelter, or the person with whom the city contracts to provide the services of an animal shelter.
TORTURE:	The causing of pain or anguish of body or mind.
VICIOUS ANIMAL:	An animal that bites or attempts to bite any human being without provocation or which harasses, chases, bites, or attempts to bite any other animal. The term "animal" includes all livestock and any domestic pet. (1983 Code § 8.02.010; amd. Ord. 688, 4-4-1989; Ord. 2002-1, 2-19-2002)

4-1-2: DOG LICENSES REQUIRED:

- A. Annual License Required; Fee: All dogs over six (6) months of age, kept within the city limits, shall be registered, numbered and licensed annually with the director of finance office. The fees shall be set by the city council, yearly.
- B. Proof Of Neutering Or Spaying: Where a difference in fees is required for neutered or spayed animals as opposed to unneutered or unspayed animals, proof of spaying or neutering must be presented prior to the issuing of a license.
- C. Proof Of Rabies Vaccination: No license of any type may be issued without proof of vaccination against the disease known as rabies. Proof of vaccine immunization must cover the licensing period for which the license is required.
- D. Term: Licenses herein required will be due and payable on January 1 of each year and will be deemed delinquent on January 25 of each year. All licenses will expire on December 31 of the year issued. (1983 Code § 8.02.020; amd. Ord. 688, 4-4-1989)
- E. Violation; Penalty: Violation hereof, upon conviction thereof, is punishable as provided in section 1-4-1 of this code. (1983 Code § 8.02.020; amd. Ord. 688, 4-4-1989; 2009 Code)

4-1-3: LICENSING AND REGISTRATION:

- A. Issuance Of Tag: Upon payment of appropriate fees to the city, it shall be the duty of the director of finance to issue a license to the

person applying for the same; providing, that all other requirements have been met. The director of finance shall provide and furnish with each license issued, a metallic tag upon which shall be stamped or engraved the register number of the dog and the year registered. The city shall keep a suitable record to be designated the "dog license register", in which shall be recorded data as to the number of such license, the name of the person to whom issued, the breed and sex of the dog.

- B. Collar Or Harness Required; Tags: Every owner of a dog kept within the city shall place and keep around the neck of each dog owned, a collar or harness to which the metallic tag issued to him for such dog can be attached. In addition to this license tag, a tag showing that this dog has been inoculated against the disease known as rabies and that inoculation is current, must be securely attached.
- C. Duplicate Tag: In the event that a tag is lost or destroyed, a duplicate shall be issued for the current year upon payment of half of the fee for neutered dogs for such duplicate.
- D. Attaching Tags To Another Animal Prohibited: No person shall attach either a dog license tag or rabies tag to any other animal than the one to whom these tags are assigned. In addition, said dog shall wear only those tags for the current year.
- E. Violation; Penalty: Violation of this section constitutes a misdemeanor and subjects the person responsible to penalties as hereafter provided. (1983 Code § 8.02.030; amd. Ord. 688, 4-4-1989)

4-1-4: EXEMPTIONS:

- A. Nonresidents: The licensing requirements of this chapter shall not apply to any dog belonging to a nonresident of this city and kept within the city for a period of less than fifteen (15) days; provided, that such dog is kept within a building, enclosure, vehicle, or under strict leash control by a competent person. The owner of such a dog will be required to show proof of vaccination if so requested by the city police, animal control officer, or other health officials during times of quarantine or if the animal is involved with a bite or injury to a person.
- B. Bite By Nonresident Dog: If such animal is involved in a bite to a person, the animal shall be quarantined by the city for a period of

observation of fourteen (14) days. The expenses of such quarantine are to be at the owner's expense. (1983 Code § 8.02.040; amd. Ord. 688, 4-4-1989)

4-1-5: **KENNEL LICENSE:**

- A. License Required: It shall be unlawful for any person, family, group of people, corporation, or other entity in the same building, dwelling or business premises to keep, harbor, or maintain more than two (2) dogs over the age of six (6) months without a kennel license.
- B. Discretion Of Council: Authorization or refusal of a kennel license is in the sole discretion of the city council.
- C. Conditional Use: A "kennel", as defined in section 4-1-1 of this chapter, shall not be allowed in residential zones within the city limits, but shall be allowed as a conditional use in M-1 and M-2 districts upon proper application and hearing before the zoning board and the city.
- D. Exception: This section does not apply to licensed veterinary hospitals, but is intended to apply to the keeping or maintaining a "kennel" as defined by section 4-1-1 of this chapter.
- E. Review By Animal Control Officer; Inspections: All applications for kennel licenses will be reviewed by an animal control officer, who investigates the premises and will make a recommendation. The animal control officer can authorize and conduct periodic inspections.
- F. Transferability: All kennel licenses shall be for a designated purpose with a specific number and breed or type of animals, not to be transferable.
- G. Hearing Required: New kennel licenses shall only be issued after a hearing before the city council. Written notice of the hearing shall be provided, by the applicant, to all owners and occupants of real property within two hundred feet (200') of the site in question, not more than thirty (30) days nor less than ten (10) days prior to the scheduled hearing, specifying the date, time and place for said hearing.
- H. Criteria For Approval: The city council, in approving a kennel license, must find as follows:

1. The site for the proposed use is adequate in size and topography to accommodate such use, and all yards, spaces, fences and enclosures are adequate to properly relate such use with the land and uses in the vicinity;

2. The proposed use will have no adverse effect on the abutting property;

3. Any conditions stated in the approval are deemed necessary, and shall apply and be adhered to by the applicant and the owner of the land as a condition of approval.

- I. Change In Location: In the event the licensee changes locations, a new license application must be made.
- J. License Fee: The city council may from time to time establish, by resolution, the annual kennel license fees. The initial kennel fee shall be fifty dollars (\$50.00), and the renewal fee shall be twenty five dollars (\$25.00), until modified by resolution of the city council. There is no prorated kennel license fee. All kennel licenses granted under this chapter shall be due and payable annually on the first business day of January. All kennel licenses issued under the provisions of this chapter shall expire on December 31 of each year.
- K. Revocation: The city court or the city council may revoke a kennel license, after hearing and notice to the licensee, upon a showing that the kennel is being operated or maintained in a manner that violates the conditions of issuance of the license, in an inhumane way, by showing that the conditions of the kennel are offensive to members of the neighborhood, or that improper, unhealthy or unsanitary conditions exist. A kennel license may also be revoked by the court upon citation and conviction of the person operating the kennel as a public nuisance. (Ord. 2002-1, 2-19-2002)

4-1-6: **KEEPING OF EXOTIC ANIMAL:**

- A. Permission Required To Permit Keeping: It is unlawful for anyone to own, harbor, keep, or permit at large any exotic animal without the written permission of the city council. Such permission shall be given only if it is demonstrated to the satisfaction of the council that the animal will not constitute a threat to public health or safety.
- B. Special License Required: Any person that owns, keeps or harbors an exotic animal shall make application to the city council for a

special license in the manner provided in section 4-1-5 of this chapter, and said license shall only be issued according to procedures and criteria specified therein. Written notice of the hearing shall be provided, by the applicant, to all owners and occupants of real property within two hundred feet (200') of the site in question, not more than thirty (30) days nor less than ten (10) days prior to the scheduled hearing, specifying the date, time and place for said hearing. Such notice shall also provide notice of intent to maintain an exotic animal to all neighbors and include specific information about the nature of the animal.

- C. Additional Conditions: The council shall, in addition to all other conditions, impose appropriate requirements for proposed enclosures to house or transport the animal(s):
1. The housing enclosure must be constructed according to applicable zoning codes and must have the proper permits.
 2. Each housing enclosure where an exotic animal is to be kept must be periodically inspected by the animal control officer.
 3. Each housing enclosure must provide an adequate exercise area and sleeping quarters. Proper temperature control and ventilation for the particular species must be provided in both areas.
 4. Each housing enclosure must be kept locked and designed so that no one can enter or place appendages into the enclosure.
 5. Each housing enclosure must be constructed so as to prevent the animal from escaping. Each housing enclosure must be kept in good repair to prevent both escape and injury to the wild animal.
 6. Each housing enclosure must have a water container which is secured so as to prevent its being overturned.
 7. Each housing enclosure must be disinfected daily. Surfaces must be of an impervious material to allow for disinfecting.
- D. Exceptions: The standards set out in this section for keeping exotic animals do not apply to:
1. Any zoological garden accredited by the American Association of Zoological Parks and Aquariums;
 2. Appropriately licensed theatrical exhibits or circuses;

3. Federally licensed research institutions;

4. Any government agency or its employees who use the wild animals for an agency related education, propagation or behavior program;

5. Anyone holding a valid rehabilitation permit from the Montana department of fish, wildlife and parks, but such exception is granted only for animals which are in rehabilitation and are scheduled to be released to the wild.

E. **Animals Prohibited By Statute:** Nothing herein shall be construed to allow the keeping of any wild animal expressly prohibited by state statute.

F. **License Fee:** The city council may from time to time establish, by resolution, the annual license fee for exotic animals. The initial exotic animal fee shall be fifty dollars (\$50.00), and the renewal fee shall be fifteen dollars (\$15.00), until modified by resolution of the city council. There is no prorated exotic animal license fee. A separate exotic animal license is required for each animal kept as defined herein. All exotic animal licenses granted under this chapter shall be due and payable annually on the first business day in January. All exotic animal licenses issued under the provisions of this chapter shall expire on December 31 of each year.

G. **Revocation:** The city court may revoke an exotic animal license, after hearing and notice to the licensee, upon showing that the exotic animal is being kept or maintained in a manner that violates the conditions of issuance of the license, in an inhumane way, by showing that the conditions of the animal enclosure are offensive to members of the neighborhood, or that improper, unhealthy or unsanitary conditions exist. The court may also revoke an exotic animal license upon citation and conviction of the person keeping or maintaining an exotic animal as a public nuisance. (Ord. 2002-1, 2-19-2001)

4-1-7: ANIMALS AT LARGE:

A. **Responsibility Of Owner:** There shall be a strict liability on any person electing to keep or own a dog within the city limits. Any person so electing to keep said dog within the city shall assume the responsibility of at all times knowing the whereabouts of said dog, and to at all times prohibit and prevent such dog from being off his

premises while not under the strict leash control of a competent person.

- B. Subject To Impoundment; Penalties: Any dog found off the premises of the owner, and not under the strict leash control of a competent person, is subject to impoundment and penalties hereafter provided, and the owner or keeper of said animal at large shall be subject to citations, arrest, or other penalties as hereafter provided.
- C. Liability For Security: Owners or keepers of animals shall at all times be liable for the security of buildings, pens, or other containment devices and are responsible for the animal being at large by intention, negligence, or by accident.
- D. Responsibility For Damages: Owners of an animal kept within the city are responsible for any damages caused by such animal or any costs incurred by the city in the control of such animal. (1983 Code § 8.02.060)

4-1-8: **FARM ANIMALS PROHIBITED:** It is unlawful for any person, family, group of people, corporation, or other entity to keep, harbor, or maintain a "farm animal" as defined in section 4-1-1 of this chapter within the city limits. (Ord. 2002-1, 2-19-2002; amd. 2009 Code)

4-1-9: **DOGS IN HEAT:** All female dogs, while in heat, shall be kept in a secure, enclosed shelter or area in such a manner so as to not come in contact with male dogs, except for planned breeding. (1983 Code § 8.02.070)

4-1-10: **VACCINATION FOR RABIES:**

- A. Required For Dogs And Cats: All dogs and cats within the city limits shall be vaccinated for the disease known as rabies. Upon vaccination of such animal, the veterinarian shall issue a certificate showing the date of inoculation and the time period for which the inoculation should be effective to the owner of said animal.
- B. Duplicate Certificate: A duplicate certificate will be kept on file with the veterinarian and be subject to review by authorized animal control, health, or police officers of the city or county. (1983 Code § 8.02.080; amd. Ord. 688, 4-4-1989)

- C. **Failure To Comply:** Every owner or keeper who fails to comply with the requirements of this section, in regard to the vaccination of the dog or cat against rabies, shall be deemed in violation of this section and subject to a charge of maintaining a nuisance and shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code. (1983 Code § 8.02.080; amd. Ord. 688, 4-4-1989; 2009 Code)
- D. **Misdemeanor:** Violation of this section shall constitute a misdemeanor. (1983 Code § 8.02.080; amd. Ord. 688, 4-4-1989)

4-1-11: **QUARANTINE OF ANIMALS:**

- A. **Report Of Animal Bites:** Every animal which bites a person shall be reported promptly to the animal control officer. Any dog or other animal which has bitten any person shall be kept under quarantine under the direction of the animal control officer.
- B. **Quarantine Period:** Quarantine period shall be for a minimum of ten (10) days and authorized for a period of fourteen (14) days. This quarantine shall be at the owner's expense. If, after a period of seventy two (72) hours from the beginning of the quarantine period, the owner has not appeared to claim the animal, said animal shall be destroyed and examined for rabies. If, during the time of quarantine, said animal is adjudged to have rabies, such animal can be destroyed without the owner's consent and appropriate health authorities notified.
- C. **Release Of Animal:** If, after the quarantine period has been completed, said animal is found to be free from rabies, said animal shall be released to the owner upon request and the payment of fees incurred for care during the quarantine. This release to be with the written consent of the animal control officer.
- D. **Failure To Surrender Animal:** Any person failing to surrender any animal for quarantine, or who disposes of any animal after being notified the animal is subject to quarantine, or who hides or helps to hide or dispose of any animal in an attempt to keep the animal from quarantine shall, upon conviction of violation of this section, be subject to penalty as provided in section 4-1-22 of this chapter. (1983 Code § 8.02.090)

4-1-12: RESPONSIBILITIES OF PHYSICIANS AND VETERINARIANS:

- A. Physicians: It shall be the duty of any physician or other practitioner to report to the animal control officer the name, address and any other pertinent information relating to any person treated for bites inflicted by animals, if the person is a resident of the city or is bitten within the city limits.
- B. Veterinarians: It shall be the duty of any veterinarian to report to the animal control officer any diagnosis of any animal observed by them and considered to be suspect of rabies. This requirement shall apply to any practice within the city, or that treats any animal that is associated with residency within the city. (1983 Code § 8.02.100)

4-1-13: NUISANCE ANIMALS:

- A. Definition: Any dog, cat or other animal that destroys property or pets, that bites or molests persons or prohibits any person with the right to enter property from entering, or that injures or attempts to injure any person, family, or property of any person, or that for a prolonged period howls, barks, yelps, whines, or that has habitually been allowed to run at large, or that by any other means causes annoyance or disturbance to any person shall be declared to be a nuisance animal.
- B. Prohibited: It shall be unlawful for any person to own, keep or to maintain any such nuisance animal within the city.
- C. Complaint; Citation: Any person aggrieved by a nuisance animal can file a complaint with the city court. Any policeman or animal control officer of the city may file either a complaint with the court, or issue a citation to the owner or keeper of such nuisance animal requiring this person to personally appear in court, upon reasonable cause or belief that such person is the owner or keeper of a nuisance animal. (1983 Code § 8.02.110; amd. Ord. 688, 4-4-1989)

4-1-14: VICIOUS ANIMALS:

- A. Confinement: Every vicious animal shall be confined by 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 three hundred (300) pounds and not more than three feet (3') in length, or caged. Every person harboring a 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.

- B. Violation; Penalty: Any animal found to be in violation of this section is subject to impoundment and penalties hereafter provided, and the owner or keeper or said animal shall be subject to the penalties provided in section 4-1-22 of this chapter. (Ord. 2002-1, 2-19-2002)

4-1-15: **IMPOUNDING:**

- A. Impounding Authorized: Unlicensed dogs, or other animals found at large, may be impounded by the animal control officer or a police officer. Any dangerous, vicious, or other animal that cannot be taken in any other reasonable manner may be taken by the use of a tranquilizer gun by either the animal control officer or a police officer. For those animals that are constantly at large and that consistently elude these officers, this chapter authorizes the officer to use the necessary means to eliminate this nuisance, if the owner cannot be determined or found after reasonable effort.
- B. Impound Register: The animal shelter shall keep a complete register of every dog, or other animal impounded, showing the time; place; breed, if known; sex and color. If a license is attached, the license number shall be shown. Upon redemption of said animal, the redeeming person shall be noted.
- C. Redemption: The person redeeming any impounded animal shall be responsible for all impounding fees and the current licensing, if required.
- D. Separation Required: Male dogs shall be kept separate from female dogs, if impounded, and healthy dogs shall be kept separate from unhealthy dogs.
- E. Injured Or Ill Dog, Owner Unknown: If, in the opinion of the veterinarian or other trained person, an injured or an ill dog requires treatment and the owner cannot be immediately determined, the animal may be destroyed in a humane manner. (1983 Code § 8.02.120)

4-1-16: IMPOUND FEES:

- A. **Owner Responsibility; Redemption:** It is the responsibility of the owner or keeper of any dog or other animal to know its whereabouts at all times. In the event that any dog or animal is impounded, the owner or keeper shall redeem such animal within a period of seventy two (72) hours.
- B. **Unredeemed Animals:** Any dog or animal impounded and not redeemed within this period of time may be destroyed in a humane way, placed with other shelters, or given up for sale or adoption to interested parties.
- C. **Procedure For Redemption:** Any owner of said animal may redeem the same within such period of time by appearing at the city office and paying either a bond on a citation issued for the offense, or by paying an impounding fee as may be imposed, and by currently licensing a dog, if this is the animal impounded.
- D. **Fees:** Impounding fees shall be set by council rule and continue in force until new fees are set at council hearing. In determining application of impounding fees as to the first, second, or third occurrence of payment of said fees under this section, the owner of the impounded animal shall be considered the party to have been charged for the impoundment, not the impounded animal. A person is considered to have previously paid an impounding fee under this section if less than two (2) years have elapsed between the payment of the present fee charged and the payment of a fee previously charged.
- E. **Additional Charges:** The owner of a redeemed animal will be required to pay impounding fees; post bond, if citation is issued; pay current licensing fees and have a current rabies certificate for the animal, if required. In addition, he will be responsible for impounding fees both if the animal is released to him or destroyed.
- F. **Seeking To Defeat Impound Process Unlawful:** It shall be unlawful for any person to seek to defeat the impounding process, either by releasing an animal from impoundment from any officer or poundmaster, or by claiming not to be the owner or keeper of such animal when he is in fact such owner or keeper. (1983 Code § 8.02.130)

4-1-17: UNREDEEMED ANIMALS:

- A. Forfeiture Of Ownership: If the impounded animal is not redeemed within seventy two (72) hours from the time impounded, the owner shall forfeit all right and title to the animal and the animal control officer or the poundmaster may dispose of, sell, or transfer the ownership of such animal to a new owner upon payment of per diem fees.
- B. Infectious Disease: Any animal with an infectious disease shall not be released but shall be disposed of in a humane way, unless otherwise directed by the animal control officer. (1983 Code § 8.02.140)

4-1-18: LIABILITY OF LICENSEE IN TRANSFER OF ANIMAL:

- A. Responsibility For Violations: In all prosecutions for violations of this chapter, the person who applied for and obtained the license, or the person who regularly keeps and provides for the animal shall be deemed to be the person responsible for the animal and be deemed to be responsible for the violation of this chapter.
- B. Registration Of Transfer: Any transfer of license must be registered with the city, a transfer permit issued and notation of the new owner made. (1983 Code § 8.02.170)

4-1-19: USE OF PUBLIC PROPERTY:

- A. Purpose: The purpose of this section is to regulate the use of city public property, including school district property, by animals, animal owners, animal caretakers, and animal harborers toward the general purpose of said property being used by all members of the public in the most safe, healthy, and germ free environment as possible.
- B. Limitation Of Use: No animal owners, animal caretakers, or animal harborers shall allow or permit any such animal in or upon any public park, public property, or school district property within the city at which time said animal or animals may urinate or defecate upon said public property. In the event an animal owner, animal caretaker, or animal harborer does bring or allow an animal under his/her control upon public property and thereafter said animal defecates, it shall be the animal owner, animal caretaker, or animal harborer's

responsibility to immediately remove such excrement or waste matter of said animal from said public place.

- C. Penalty: Violation of this section constitutes a misdemeanor as stated under section 4-1-22 of this chapter and a penalty of fifty dollars (\$50.00) shall be imposed upon first offense. Upon second and subsequent offenses, a fine of one hundred dollars (\$100.00) shall be imposed. Strict liability under section 4-1-22 of this chapter shall be applied to enforcement of this subsection. (Ord. 97-6, 9-15-1997)

4-1-20: **CRUELTY TO ANIMALS:**

- A. Enumerated: A person commits the offense of cruelty to animals if, without justification, he knowingly or negligently subjects an animal to mistreatment or neglect by overworking, beating, tormenting, injuring, killing; caring for in an improper manner; caring for an animal in a cruel manner; failing to provide proper shelter, food or drink; or by abandoning an animal in his care onto any public place, or in any place where it may suffer hunger, exposure, or where it may become a public charge or nuisance.
- B. Animal Fights: A person shall not expose any animal to danger by sponsoring, promoting, or participating in a fight between animals. (1983 Code § 8.02.160)

4-1-21: **ENFORCEMENT:** For the purpose of discharging the duties of this chapter and the enforcement of its provisions, the animal control officer, any city police officer, or any health officer of either the city or the county, is empowered to demand from the occupants of any premises in which any animal is sheltered, the exhibition of the animal and the license for a dog, if applicable. (1983 Code § 8.02.150)

4-1-22: **VIOLATIONS; PENALTY:**

- A. Penalty: Any person who shall violate any of the provisions of this chapter for which another penalty has not been provided shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code.

- B. Spaying Or Neutering Ordered: In addition to the penalty provided in subsection A of this section and all other penalties provided for herein, the court may, upon the second or subsequent conviction of an individual for a violation of the provisions of this chapter, order that the animal be spayed or neutered at the owner's expense.
- C. Termination Of Ownership; Removal From City: In addition to the penalty provided in subsection A of this section and all other penalties provided for herein, the court may, upon the fourth or subsequent conviction of an individual for violation of section 4-1-7 of this chapter, terminate all ownership rights in the animal, order that the animal be permanently removed from the city limits, or order that the animal be destroyed at the owner's expense.
- D. Removal From City; Destruction Of Animal: In addition to the penalty provided in subsection A of this section and all other penalties provided for herein, the court may, upon conviction of an individual for violation of section 4-1-5, 4-1-6, 4-1-8, 4-1-13 or 4-1-14 of this chapter, terminate all ownership rights in the animal, order that the animal be permanently removed from the city limits, or order that the animal be destroyed at the owner's expense.
- E. Intent: It is the intent of the city council that the criminal offenses listed in this chapter be offenses involving legislative intent. Those offenses shall not require proof of any one of the mental states described in Montana Code Annotated subsections 45-2-101(35), (43) and (65). (Ord. 2002-1, 2-19-2002)

CHAPTER 2
MINORS; CURFEW

SECTION:

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4-2-1: **SHORT TITLE:** This chapter shall be known and may be cited as the *CURFEW CHAPTER*. (Ord. 93-6, 10-18-1993)

4-2-2: **PURPOSE:** The purpose of this chapter is to establish reasonable restrictions upon the time of day during which minors shall be allowed on any of the streets or other public places of the city. Such restrictions are enacted to further the general welfare of the community and specifically to further the following community interests:

- A. The protection of the younger children in the city from each other and from other persons on the street during the nighttime hours;
- B. The enforcement of parental control of, and responsibility for, their children;
- C. The protection of the public from nocturnal mischief by minors;
- D. The reduction in the incidence of juvenile criminal activity; and

- E. Prevent exposure to, and the possibility of being led into involvement with, crimes of violence, destruction and/or self-destruction.

These restrictions are enacted pursuant to the general police and other powers granted to self-power local governments. (Ord. 93-6, 10-18-1993)

4-2-3: **SCOPE:** The provisions of this chapter are intended to apply to all minors under the age of sixteen (16) years and to any parent of any minor person under the age of sixteen (16) years. (Ord. 93-6, 10-18-1993)

4-2-4: **DEFINITIONS:** As used in this chapter, the following definitions shall apply:

CITY: The local government of the city, and all of the area located within its geographical boundaries.

CURFEW: A regulation establishing restrictions upon the time of day during which minor persons may appear on any of the streets or public places of the city.

LAW ENFORCEMENT FACILITY: The offices of the city of Belgrade police department at 88 North Broadway, Belgrade, Montana, or the Gallatin County sheriff's office, located in the city of Bozeman, Montana.

MASCULINE GENDER: Includes the feminine gender.

MINOR: Any person who has not attained the age of sixteen (16) years.

PARENT: Any person having legal custody of a minor:

- A. As a natural or adoptive parent;
- B. As a legal guardian; or
- C. Is a person to whom legal custody has been given by order of court.

PERSON: Any human being, male or female.

PUBLIC PLACE: Any park, playground, school yard or other publicly owned property.

SINGULAR NUMBER: Includes the plural number.

STREET: Any public street, highway, sidewalk, alley or other public way within the city. (Ord. 93-6, 10-18-1993)

4-2-5: **CURFEW FOR MINORS:** A curfew restricting the time of day during which minor persons may appear on any of the streets or in any of the public places of the city, is hereby established. No minor, as specified in section 4-2-7 of this chapter, shall be in or upon any street or public place within the city during the hours provided in section 4-2-7 of this chapter. (Ord. 93-6, 10-18-1993)

4-2-6: **EXCEPTIONS:** In the following exceptional cases, a minor in or upon any street or public place within the city, during the hours provided in section 4-2-7 of this chapter, shall not be considered in violation of this chapter when:

- A. Accompanied by a parent of such minor.
- B. Accompanied by a person over sixteen (16) years of age who is authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.
- C. In the performance of an errand or duty directed by a parent of such minor.
- D. Attending a school or religious activity. This exception will apply for one-half ($\frac{1}{2}$) hour after the completion of such activity.
- E. Engaged in legally recognized employment. This exception will apply for the period from one-half ($\frac{1}{2}$) hour before to one-half ($\frac{1}{2}$) hour after work. (Ord. 93-6, 10-18-1993)

4-2-7: **MINORS UNDER SIXTEEN YEARS OF AGE:** Minors who have not reached their sixteenth birthday shall not be in or upon any street or public place between the hours of ten o'clock (10:00)

P.M. and five o'clock (5:00) A.M. except on Friday or Saturday nights when such hours shall be between twelve o'clock (12:00) midnight and five o'clock (5:00) A.M.; provided, however, that on any weekday night preceding a holiday recognized by the United States of America, state of Montana, or the city of Belgrade, the hours shall be between twelve o'clock (12:00) midnight and five o'clock (5:00) A.M. In addition, during the period of time that the state of Montana is operating under daylight savings time, the aforementioned hours shall be extended by one-half ($\frac{1}{2}$) hour. (Ord. 93-6, 10-18-1993)

4-2-8: **DUTY OF PARENT:** No parent of any minor under the age of sixteen (16) shall allow or permit any such minor to go or be in or upon any street or public place within the city after the hours prescribed in section 4-2-7 of this chapter. The words "allow" or "permit" as used in this section require actual or constructive knowledge on the part of a parent. A parent must actually know about a minor's violation or the circumstances must be such that a reasonable, responsible parent should have known of the minor's violation. (Ord. 93-6, 10-18-1993)

4-2-9: **DUTY OF LAW ENFORCEMENT OFFICERS:**

- A. Ascertain Name And Address Of Parent: Upon finding a minor in or upon any street or public place within the city in violation of any of the provisions of this chapter, it shall be the duty of the attending law enforcement officer of the city to take the name of such minor and the name and address of the minor's "parent" as defined in section 4-2-4 of this chapter.
- B. Detention Of Minor; Notice To Parents; Medical Treatment: The law enforcement officer shall detain the minor and the parent shall immediately be notified to appear and take charge of such minor. If the minor requires emergency medical treatment, the law enforcement officer shall arrange for such treatment.
- C. Minor Turned Over To Parent: When a minor is apprehended for violation of the provisions of this chapter, the law enforcement officer shall turn the minor over to the minor's parent or parents. If a parent cannot be located, or fails to take charge of the minor, said minor may be entrusted to a relative, neighbor or other person who will, on behalf of the parent, assume responsibility of caring for the minor pending the availability or the arrival of the parent.

- D. **Written Report:** The law enforcement officer shall file a written report to the chief of police or his designee within twenty four (24) hours of the violation if criminal charges are to be made under this chapter. (Ord. 93-6, 10-18-1993)

4-2-10: **PENALTY:**

- A. **First Offense:** Upon the first incident of violation of this chapter, written notice shall be given to a parent or guardian of the minor who is in violation of this chapter. Subsequent violation and conviction under this chapter shall result in a fine of twenty five dollars (\$25.00);
- B. **Second Offense:** For a second offense a fine of fifty dollars (\$50.00) shall be imposed;
- C. **Third Offense:** For a third offense a fine of one hundred dollars (\$100.00) shall be imposed;
- D. **Fourth Offense:** For a fourth offense a fine of two hundred dollars (\$200.00) shall be imposed;
- E. **Fifth Offense:** For a fifth offense a fine of four hundred dollars (\$400.00) shall be imposed; and
- F. **Sixth And Subsequent Offense:** For a sixth and subsequent conviction a fine of five hundred dollars (\$500.00) shall be imposed.
- G. **Cited In Youth Court:** "Minors" as defined in section 4-2-4 of this chapter may be cited into youth court upon violation of this chapter at the discretion of the police officer. (Ord. 93-6, 10-18-1993)

CHAPTER 3
PUBLIC DRINKING

SECTION:

- 4-3-1: Definition
4-3-2: Public Consumption Prohibited
4-3-3: Violation; Penalty

4-3-1: **DEFINITION:** "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half percent (0.5%) of alcohol by volume. (2009 Code)

4-3-2: **PUBLIC CONSUMPTION PROHIBITED:**

- A. Consumption: No person shall drink or consume intoxicating liquor in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking.
- B. Possession: No person shall have in his possession while in or on a motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing intoxicating liquor which has been opened, or the seal broken, or the contents of which have been partially removed.
- C. Unlawful To Keep Or Allow To Be Kept; Exception: It is unlawful for the owner of any motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking, any bottle or receptacle containing such intoxicating liquor which has been opened, or the seal broken, or the contents of which have been partially removed, except when such bottle or receptacle shall be kept in the trunk of the motor vehicle when such motor vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by

the driver or passenger if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passenger. (1983 Code § 9.08.020)

4-3-3: **VIOLATION; PENALTY:** Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code. (1983 Code § 9.08.030)