

ORDINANCE 135

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ANIMALS**

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Chapter 1 Definitions

Unless the context clearly indicates otherwise, the following definitions apply to the provisions of this chapter:

A. "Animal" means any living vertebrate creature, other than human beings, whether wild or domestic including but not limited to all livestock and any domestic pets.

B. "Officer" means all peace officers as that term is defined in Montana state law as well as all duly appointed animal control officers and animal control supervisors appointed by either the city or county to carry out and enforce each entity's respective animal control ordinances.

C. "Animal control shelter" means any premises provided by either city or county local government independently or jointly for the purpose of impounding and temporarily caring for dogs and other animals.

D. "At large" means a dog "off leash" and off the premises of the owner.

E. "Attractant(s)" means any substance, including but not limited to, food, garbage, or salt lick, which draws wildlife to a particular location.

F. "Bite" means a wound, laceration or puncture inflicted on a person or animal by the teeth of an animal, or an impression or bruise on the skin made by the closure of an animal's teeth, or a seizure made by the teeth of an animal.

G. "Dog" means any commonly domesticated canine animal that is a member of the species *canis familiaris*, and includes both the male and female sex of the species.

H. "Dog Park" means an area specially designated for dog to run off leash.

I. "Domestic animal" means any animal that is tame by nature and includes but is not limited to dogs, cats, rabbits and livestock

J. "Exotic animal" means 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, swine, member of the feline species, other than domestic cat *felis domesticus*, member of the canine species other than domestic dog *canis familiaris*, 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, or domestic farm animals. The term exotic animal does not include farm animals, rodents, domesticated ferret, and captive bred species of fish and common cage birds

K. "Feed" means a substance composed of grain, mineral, salt, fruit, vegetable, hay, or any other food material or combination of these materials, whether natural or manufactured, that may attract Wildlife.

L. "Feeding" means the depositing, distributing, or tending of feed in an area frequented by Wildlife.

M. "Leash" means any common leash, cord, rope, chain or other similar devices no longer than six feet in length and of sufficient strength to restrain and control the dog to which it is attached. Also acceptable as a leash are retractable devices whose length does not exceed 26 feet.

N. "Livestock" means cattle, sheep, swine, poultry, ostriches, emus, bees, goats, horses, mules, asses and llamas.

O. "Muzzle" means a humane device securely fastened over the mouth of an animal to prevent its biting.

P. "Nuisance dog" means any dog that commits the following acts:

1. Steal or damage either private or public property;
2. Defecate on private land without permission of the land owner, or is allowed to defecate on public land without cleaning up and disposing of the waste immediately;
3. Chase after persons not trespassing on the property of the owner, or injuring or attempting to injure, the person, family or property of the owner, or injuring or attempting to injure, the person, family or property of the owner;
4. Chase vehicles, bicycles, skateboarders, etc. in public streets, alleys, parks or public ways;
5. Cause annoyance to any person by prolonged barking, howling, yelping or other means. Specifically between the hours of 11 pm and 6 am, or for ten minutes or longer during the day.
6. Rummage through or scatter garbage or rubbish;
7. Repeatedly run at large;
8. Run at large and is an un-neutered male;

Q. Frequent barking between the hours of 11:00 p.m. and 6:00 a.m., or frequent barking for continuous periods of ten minutes or more at any time, or both.

R. "Off Leash" means a dog off the premises of the owner, keeper, or custodian of the dog not under physical restraint on a leash as previously defined even though the owner, keeper, or guardian is accompanying the dog.

S. "On-Leash" means a dog which is under physical restraint on a leash not more than 6 feet in length.

T. "Owner" means any person or custodian possessing, harboring, keeping or having control or custody of a dog or any person having any financial interest, right, or property in the dog and also includes any person who permits a dog to remain or about any premises occupied by that person.

U. "Person" means any individual, partnership, firm or corporation, trust, association or other legal entity.

V. "Provocation" means any teasing, abusing or assaulting of a dog.

W. "Quarantine" means confined in strict isolation inside a secure locked building, cage, kennel or pen on account of suspected contagion of communicable disease. Isolation shall be required so that contact between the confined animal and any person or other animal is not possible, and so that it can be observed daily under the supervision of a licensed veterinarian or local law enforcement officer.

X. "Rabies vaccination" means the inoculation of an animal with anti-rabies vaccine that has been approved for that species, having an effective immunity of at least one year, and administered by a licensed veterinarian in accordance with the current edition of the "Compendium of Animal Rabies Control", published by the National Association of State Public Health Veterinarians, Inc.

Y. "Restraint" means attached to and controlled by a leash, not to exceed six feet in length, where a person is personally present and physically capable of restraining the dog and is in fact holding the leash to control the dog or within a motor vehicle with the permission of the owner.

Z. "Serious or severe injury" means any physical injury that results in lacerations or wounds requiring either surgery or one or more stitches, or broken bones, or results in any death to person or animal including but not limited to putting another animal to death as a result of injuries received.

AA. "Unprovoked" means action by a dog not in response to the dog being teased, abused or assaulted by any person, or not in response to pain or injury suffered by the dog.

BB. "Vicious dog" means any dog that has:

1. has caused death or serious or severe injury to a person engaged in a lawful activity;
or
2. has attacked or bitten without provocation a person engaged in a lawful activity; or
3. has; while off the property of its owner and without provocation, killed or seriously injured another animal; or

4. has ever been trained for dog fighting or has ever been owned, kept or harbored for the purpose of dog fighting.

CC. "Wildlife" means skunks, foxes, raccoons, bats, wolves, wolf-hybrids, bobcats, bears, mountain lions, deer, elk, and any other species of normally non-domesticated animals.

Chapter 2

Dog Licensing

A. It is unlawful for any person to own, keep or harbor, or have custody of any dog over the age of 6 months within the Town of Ennis without obtaining a license as herein provided; only exemption being a nonresident keeping a dog within the town limits for a period not in excess of thirty (30) days. MCA 7-23-101

B. Any dog found off the owners' premise without a license shall be deemed unlicensed even though a license has been issued for that dog.

C. A written application for a license which shall include the name, street address and post office box of the applicant, description of the dog, current rabies certificate issued by a licensed veterinarian, dog's regular veterinarian contact information, and if applicable sterilization certificate issued by a licensed veterinarian or sterilization clinic, shall be submitted to Town Clerk.

D. Payment must accompany the license application.

E. Upon approval of the licensing application and fee, the clerk shall issue a tag stamped with an identification number and the issuing year. Tags must be made to fasten to a collar or harness

F. All Dogs must wear identification tags on collars or harnesses at all times when off the premise of owner

G. The clerk shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public at all times.

H. The licensing period shall begin January 1st and end December 31st each year.

I. Any person failing to obtain a license by January 31st or within thirty (30) days of the date that the dog is acquired or reaches six (6) months of age shall be deemed delinquent. A delinquency fee of five (5) dollars per month shall be assessed in addition to the application license fee.

J. A duplicate license may be obtained upon payment of a two dollar replacement fee.

K. No person may use any license for any animal other than the dog for which it was issued.

L. Upon change of ownership of a licensed dog, the new owner must apply for a new license.

M. License fees shall be established from time to time by Resolution of the Town Commission.

Licensing Issuance and Revocation

- A. If the person holding the license issued pursuant to the provisions of the section refuses or fails to comply with the provisions of this chapter, the regulation set by the Town of Ennis, or any law governing the protection and keeping of such a dog, the Mayor may revoke the license subject to the opportunity of the licensee to contest the revocation at a hearing before the city judge.
- B. If the applicant has withheld or falsified any information on the license application, the Town Clerk may refuse to issue the license. If after such license has been issued it is subsequently discovered that the applicant has withheld or provided false information of the license application, the Mayor may revoke the license.
- C. Any dog whose license is revoked shall, within ten working days thereafter, be removed. The dog may not reenter the Town of Ennis.

License liability --Transfer of license

In all prosecutions for violations of this chapter the person who applied for , and obtained the license for the dog in question shall be deemed the person responsible for the violation, unless there has been a transfer of ownership prior to the violation. Any transfer of ownership must be evidenced by a transfer notification. The notification must include the name and address of the transferee to the town clerk. Notification of the animals death will eliminate receipt of a license renewal reminder.

Number of dogs. It is unlawful for any person, family or household to keep, harbor or maintain more than three dogs over six months of age in or on any premises unless a variance is applied for and granted. (See Chapter 6)

Running at large, upon premise of another.

- A. No dog shall be allowed to run at large or upon the premise of one other than the owner without the land owner permission, and the presence of the owner, caretaker, or keeper of the animal.
- B. Any dog in areas open to the public must be under leash control.
- C. Dogs are allowed to run off leash in any park designated dog park, however the dog must still be under control of the owner.

Cleaning up after Animals

Any person owning, keeping, possessing, or harboring any dog, cat, or other animal shall promptly remove and properly dispose of all feces left by the dog, cat, or animal on any public property, and on any private property not owned by such person, or lawfully occupied by such person. Any person failing to perform such an act is in violation.

All yards, kennels, or enclosure of any kind, must kept in a manner that will not disturb the use, or enjoyment of neighboring lots due odor, or other adverse impact.

Dogs constituting a nuisance

It shall be unlawful for any person to own or keep any dog that becomes a nuisance in the community. Acts of nuisance shall include, but are expressly not restricted to the following:

- A. Frequent barking between the hours of 11:00 p.m. and 6:00 a.m., or frequent barking for continuous periods of ten minutes or more at any time, or both.
- B. Viciousness. As used in this subsection "viciousness" means posing a physical threat to other animals or to human beings.
- C. Frequent digging into, breaking or otherwise injuring shrubbery, trees, or lawn not exclusively owned by the dog owner.
- D. Frequent or habitual depositing of excreta on property not belonging to the owner of the dog.

Dogs in vehicles

It shall be unlawful to leave any dog in the back of a truck or any vehicle with an open box unless all dogs are enclosed within the vehicle or tethered in such a manner that the dog does not extend beyond the edge of vehicle.

Impoundment.

It shall be the duty of every officer to apprehend any dog found running at large, and to impound such dog in a suitable place. The officer, upon taking possession of any dog, shall make a complete registry, entering the breed, color, and sex of such dog, and whether licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag.

Notice to owner and redemption.

Upon taking possession of any dog, the officer, shall take all steps to notify the owner, or if the owner is unknown, written notice shall be posted for three days upon the bulletin board at the city clerk's office in the city hall, describing the dog, the place, and time of taking. The owner of any dog so impounded may reclaim such dog upon the payment of the license fee, if unpaid, and of all costs and charges incurred by the city for impounding and maintenance of such dog, as follows:

- A. For impounding any unlicensed dog, fifty (50) dollars;
- B. For impounding a licensed dog, fifteen (15) dollars for the first offense; thirty five (35) dollars for the second offense; and seventy (70) dollars for the third offense or any

subsequent offenses, provided that such second and subsequent offenses occur within the same license year. These fees are in addition to all boarding fees.

C. For transporting a dog to the animal shelter, one hundred twenty five (125) dollars;

Keeping Cats

A. It shall be unlawful for any person to own or keep any cat that becomes a nuisance in the community. Acts of nuisance shall include, but are expressly not restricted to the following:

1. Frequent raising of any disturbance at late or early hours or at long intervals, or both.

2. Viciousness. As used in this subsection "viciousness" means posing a physical threat to other animals or to human beings.

3. Frequent digging into, breaking or otherwise injuring shrubbery, trees, or lawn not under sole possession of cat owner.

4. Frequent or habitual depositing of excreta, or spraying of urine on property not belonging to the owner of the cat.

B. It is unlawful for any person, family or household to keep, harbor or maintain more than three cats over six months of age in or on any premises without obtaining a multiple animal permit.

C. Proof that the cat is up to date on its rabies vaccine must be provided upon request.

Rabies Prevention Requirements Tag Penalty for Violation

All dogs and cats between the ages of four to six months within the Town of Ennis shall be vaccinated against the disease known as "rabies". Upon vaccination of such dogs and or cats the veterinarian shall issue to the owner or owners of said animal a certificate showing the inoculation thereof and shall keep a duplicate of such certificate.

Quarantine for Dogs Biting Persons

Every animal which bites a person shall be promptly reported to the Ennis Police Department. Any dog or other animal which has bitten any person may be kept under quarantine under the direction and authority of the local law enforcement, unless proof of vaccine can be given. Such quarantine shall be for a period of ten days. If the owner of the animal has not appeared to claim the animal within ninety six hours of the beginning of such quarantine the animal may be destroyed and examined for rabies. If during the quarantine period the animal is adjudged as having rabies the animal shall be destroyed and appropriate health authorities notified. If after completion of the quarantine period the animal is adjudged free of rabies the animal shall be released to its owner upon written permission of the local law enforcement, and all vaccines have been brought up to date. Quarantine and associated costs including any costs of destruction shall be at the owners expense. No person shall fail or refuse to surrender any

animal for quarantine or destruction as required herein when demand is made by any law enforcement officer. MCA 50-23-103

Chapter 3

Wildlife and Exotic Animals

Feeding of Certain Wildlife Prohibited

Citizens of Ennis value wildlife and want to maintain healthy and wild populations of deer, bear, and other wildlife that are not dependent upon or hazardous to humans. Feeding deer, bear, and other wildlife results in artificially high concentrations of animals, increases human-wildlife conflicts, and compromises the health and safety of humans and wildlife.

A. It is unlawful to feed, provide feed or other attractants, excluding ornamental plants, vegetable gardens and properly hung feeders, to wildlife within the city limits.

B. Exceptions

1. It is legal to feed birds, other than waterfowl and upland game birds, utilizing a bird feeder that can be accessed only by birds.

Bird feeders that are accessed by other animals other than birds or squirrels are in violation.

2. This ordinance is not intended to prohibit feeding livestock in normal agricultural operations.

Keeping of Exotic and Wild Animals

A. It is unlawful for anyone to own, harbor, keep, or permit at large any exotic animal without the written permission of the Mayor. Such permission shall be given only if it is demonstrated to the satisfaction of the Mayor that the animal will not constitute a threat, and that the living conditions of the animal are appropriate for that animal. This provision is in addition to conditions and restrictions in the Administrative Rules of Montana 12.6.2201 - 2230, the Montana Code Annotated 87.5.7, and all applicable state of Montana control and management plans.

Chapter 4

Keeping of livestock

Unlawful to pasture or keep stock.

It is unlawful to graze, pasture, keep or house in any manner whatsoever, horses, cattle, goats, hogs, llamas, or livestock of any kind within the city unless the property has been used for such purposes prior to September 1, 1993. Upon sale of the property, or abandonment of such non conforming use, for a period in excess of one year, such nonconforming use shall cease immediately. An exception being made for controlled herds passing through town.

Chapter 5 Chickens and other fowl

Number and Type of Chickens Allowed.

- A. The maximum number of chickens over 9 months of age allowed is six (6) per lot.
- B. No male chickens over the age of three months. There is no restriction on chicken species.

Location

Chickens may be kept in the following locations

- A. Single-household parcel(s);
- B. Parcel(s) under unitary ownership with more than one dwelling on site; and
- C. Residential parcels under common ownership.

Enclosures.

- A. Chickens must be kept in an enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of their chicken pens in a securely fenced yard.
- B. All yards, or enclosure of any kind, must kept in a manner that will not disturb the use, or enjoyment of neighboring lots due odor, or other adverse impact.
- C. The hen house and chicken pen must be impermeable to predators, including dogs.
- D. Hen houses.

1. A hen house shall be provided.
2. Hen houses shall not be placed in the front yard.
3. No hen house shall be located closer than 20 feet to any structure inhabited by someone other than the owner, custodian, or keeper, and not closer than 5 feet to any property line. Hen houses may be movable but must comply with all standards of this section.

Predators, Rodents, Insects, and Parasites.

The property owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

Waste Storage and Removal.

Provision must be made for the storage, or removal of chicken manure. All eggs shall be removed in a timely manner.

Chapter 6

Variances

In order to obtain a variance a person must complete an application and come before the town commission and give reasons why a variance is needed and how they plan to mitigate any adverse impact the variance might have on the town of Ennis and/ or neighbors. The variance only has to be applied for once, but the commission can ask for more information and table the issuance of the variance until all questions have been answered and all necessary documentation is reviewed. A notification form should be provided to each residence adjacent, including those across a public right of way. This notification shall indicate that the applicant intends to apply for a variance and the circumstance in which the variance is applied for. If a neighbor refuses to sign the notification, the applicant shall so state on the application. In the event a neighbor can not be reached, a registered letter should be sent to the neighbors primary address.

In the event that a complaint is received, or an offense occurs, the animal owner will get a chance to come into compliance with this chapter. In the event that multiple offenses occur, or failure to come into compliance with this chapter, may result in the removal of the animals, and/or the variance being revoked.

Where the party seeking a variance is not the fee owner of the property the applicant shall obtain the property owner's consent in writing for the variance as described on the application. The owner's consent shall be submitted with the permit application. For the purpose of this section, when a party seeks to apply for a variance on a property owned as condominium, the

consent of the property owner's association must be obtained. An officer of the association may sign as the land owner.

Chapter 7 Animals Rights

Freeing confined animals. It is unlawful for any person to open gates or doors or otherwise cause or permit animals to escape

confinement against the wishes of the owner, custodian, or keeper.

Provoking animals. It is unlawful for any person to tease, abuse, assault, or in any way disturb a dog or other animal with

the intent to cause it to bark or attack any person.

Cruelty to animals.

A. A person commits the offense of cruelty to animals if that person knowingly, negligently or purposely subjects an animal to mistreatment or neglect by:

1. Overworking, beating, tormenting, injuring, or killing any animal; or
2. Carrying or confining any animal in a cruel manner; or
3. Failing to provide an animal in the person's custody with proper food, drink, or shelter; or
4. Failing to provide an animal in the person's custody with in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care; or
5. Abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
6. Laying out or exposing any poison for the purpose of killing, sickening, or crippling any dog, cat, domestic pet or livestock, or aiding and abetting any person doing so;

B. If, after performing an investigation, the officer feels that an animal is being subjected to any one of these violations, the officer shall have the power to immediately impound the animal to ensure that it receives proper care and/or veterinary attention at the owner's expense. In accordance with state statute MCA 45-8-211.

Chapter 8 Violation--Penalty.

(1). The following penalties shall apply to any person who is convicted of an offense under this title:

(a). **General Penalty.** The general penalty shall apply to all violations unless otherwise specified in this section.

(i) First Offense: Fine of not less than twenty-five dollars (\$25.00) and not more than one-hundred dollars (\$100.00).

(ii) Second Offense: Fine of not less than fifty dollars (\$50.00) and not more than two-hundred dollars (\$200.00). The court may also suspend a person's privilege to license and keep a dog within town limits for up to one (1) year.

(iii) Third or Subsequent Offense: Fine of not less than one-hundred dollars (\$100.00) and not more than three-hundred dollars (\$300.00). The court may also revoke a person's privilege to license and keep a dog within town limits for up to five (5) years. A third or subsequent offense shall require a mandatory appearance in court by the defendant.

(b). **Vicious Dog Penalty.** A person issued a notice to appear for a vicious dog violation shall be required to have a mandatory appearance in City Court.

(i) First Offense: Fine of not less than one-hundred dollars (\$100.00) and not more than three-hundred dollars (\$300.00), plus a suspension of the defendant's privilege to license and keep a dog within town limits for up to one (1) year, and confinement in the county jail for not more than seventy-two (72) hours.

(ii) Second Offense: Fine of not less than three-hundred dollars (\$300.00) and not more than five-hundred dollars (\$500.00), plus a revocation of the defendant's privilege to license and keep a dog within town limits for up to five (5) years, and confinement in the county jail for not more than thirty (30) days.

(iii) Third or Subsequent Offense: Fine of not less than five-hundred dollars (\$500.00), permanent revocation of the person's privilege to license and keep

a dog within town limits, and confinement in the county jail for not more than ninety (90) days.

(c). Keeping or harboring a dog in town while license is suspended or revoked penalty.

(i) It is unlawful and punishable as follows for any person to keep, harbor, maintain, or have care, custody, or control over any dog within town limits while their privilege to license or keep dogs is suspended or revoked.

(a) A fine of not less than three-hundred dollars (\$300.00) and no more than five-hundred (\$500.00) dollars,

(b) A revocation of the person's privilege to license or keep a dog within town limits for not less than five (5) years up to a permanent revocation, and

(c) Confinement in the county jail of not less than seventy-two (72) hours and not more than ninety (90) days.

(d). Enhanced penalty for dog causing injury, property damage, or death.

(i) In addition to the penalties listed in the previous sub-sections, the City Court may apply the following additional sanctions or orders in the event the dog causes injury or death to any person or causes damage to any property.

(a) In the event of property damage or injury to a person, the court may order restitution for the damaged property and medical expenses related to the injury, and/or

(b) In the event of injury or death to any person, the court may order the destruction of the animal.

Absolute liability.

This ordinance shall impose absolute liability for the conduct described in this title.

Adopted November 5, 2010

