

ORDINANCE NO. 18-21

An Ordinance of the City Council of the City of Whitefish, Montana, amending Title 5, Chapter 3, Animal Control, of the Whitefish City Code.

WHEREAS, the City of Whitefish's ordinance governing animal control places enforcement duties upon a duly authorized City animal control officer; and

WHEREAS, the City has not employed an animal control officer for several years; and

WHEREAS, the City's ordinance requires the City to issue and administer licenses for dogs within City limits; and

WHEREAS, all other dog licenses in Flathead County are issued and administered by the Flathead County Animal Shelter; and

WHEREAS, the Flathead County Animal Shelter wishes to issue and administer licenses for dogs within the City; and

WHEREAS, transferring responsibility for issuing and administering dog licenses to the Flathead County Animal Shelter will conserve City staff time and resources and will result in better customer service to dog owners.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

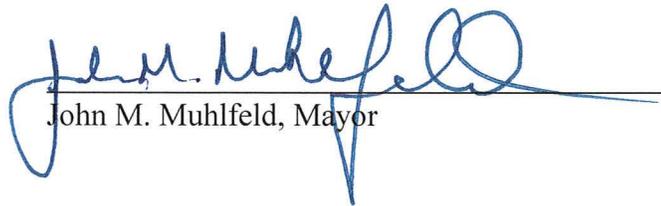
Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: Title 5, Chapter 3, Animal Control, of the Whitefish City Code is hereby amended as set forth in Exhibit A attached hereto.

Section 3: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 4: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 2ND DAY OF JULY 2018.


John M. Muhlfeld, Mayor

ATTEST:


Michelle Howke, City Clerk

EXHIBIT "A"

**Whitefish City Code Title 5 – Police Regulations
Chapter 3 – Animal Control**

5-3-1 DEFINITIONS:

ANIMAL CONTROL OFFICER: Includes all police officers and any person appointed or contracted to enforce this chapter.

DOG: Includes both male and female canines regardless of age.

POUND: Includes any city or county animal pound, control center or animal shelter.

5-3-2: ENFORCEMENT:

A. Animal Control Officer: The city manager, on behalf of the city council, ~~shall~~may contract with or appoint some suitable person to be animal control officer. The compensation to be paid to the animal control officer, if any, shall be set by resolution of the city council.

B. Authority Of Police: The members of the police force of the city shall have the same authority in regard to the enforcement of the provisions of this chapter as are conferred on the animal control officer, including the authority to enforce Flathead County Amended Ordinance 3, "Animal Control," Section 3, "Dog Licensing."

5-3-3: LICENSE REQUIREMENTS:

A. License Required; Fee: Every person who owns, keeps or harbors a dog in the city must annually obtain a license for such dog from the ~~city clerk, and shall pay for such license an amount as established by resolution of the city council~~Flathead County in accordance with Flathead County Amended Ordinance 3, "Animal Control," Section 3, "Dog Licensing." Provided, however, licenses issued by the City Clerk prior to the effective date of this section remain valid until their expiration date.

~~B. Term Of License:~~

~~1. All licenses issued hereunder shall expire on March 31 of each year. The owner of any dog brought into the city after May 30 of any year may obtain a license therefor until the following March 31 by paying a prorated share of the license fee as established by resolution of the city council.~~

~~2. Any renewal of the license provided for herein must be purchased by the owner or possessor of such dogs on or before May 30 of each year, and if not so purchased prior to that date, the owner or possessor thereof shall be deemed to have violated the terms of this chapter; provided, further, that if such annual license is not so renewed and purchased prior~~

~~to May 30, a surcharge shall be added to each fee as set forth by resolution of the city council.~~

~~C. Prerequisites To License: No license required by this section shall be issued to the owner of any dog until the city clerk has been furnished with a certificate of a licensed veterinarian stating that such dog is protected by vaccination against rabies for a period of at least one year from and after the date of application for such license; and provided further, that no license shall be issued for a spayed female dog or a neutered male dog until the city clerk has been furnished with a certificate from a licensed veterinarian that such dog has been spayed or neutered, as the case may be, except, however, renewal licenses for dogs may be issued for such dog without the production of such a certificate of each application for renewal license.~~

~~D. License Tags:~~

~~1. The city clerk shall furnish with each licensee a tag, which shall be stamped with the number to correspond with the number of the license and the year for which issued. In case a dog is brought within the corporate limits within the license year, the owner or person having such dog in charge shall obtain a license for the dog as herein provided, and the city clerk shall thereupon issue a license as in other cases; provided, however, that the provisions of this section shall not apply to any person visiting in the city for a period not exceeding thirty (30) days and owning or possessing a dog currently licensed and bearing a license issued by another licensing authority.~~

~~2. The metal tag as described above shall be attached to the collar of the dog, which the owner or person in charge of the dog shall provide and which shall be placed and kept upon the neck of the dog so licensed. If the metal tag is lost, a duplicate tag shall be obtained by making application to the city clerk, who shall issue such duplicate tag upon payment by the applicant of a replacement fee.~~

~~E. License Not Transferable: Dog licenses are not transferable from one dog to another. It shall be unlawful for any owner or any other person to use a license tag on any dog other than the one for which it was issued. Any person transferring dog tags contrary to the provisions of this subsection shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Any person violating this subsection shall also be deemed to have committed a municipal infraction, and shall be assessed a civil penalty, as permitted by section 1-4-4 of this code, but such penalty shall be not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.~~

~~F.B. Failure To Obtain License: Failure to license a dog in violation of this chapter shall constitute a misdemeanor. Any person violating any of the provisions of this subsection shall, upon conviction, be fined not less than twenty-five dollars (\$25.00) nor more than~~

three hundred dollars (\$300.00). Any person violating this subsection shall also be deemed to have committed a municipal infraction, and shall be assessed a civil penalty, as permitted by section 1-4-4 of this code, but such penalty shall be not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

5-3-4: VACCINATIONS REQUIRED: Any dog within the city, whether licensed or unlicensed, must be vaccinated against rabies in accordance with the Flathead County Rabies Control Program, enacted March 21, 2015. ~~If any dog is not vaccinated against rabies, the animal control officer may have the dog vaccinated against rabies and the charges therefor shall be paid for by the owner within ten (10) days of the notification to the owner that the dog has been so vaccinated. If the owner refuses or neglects to pay such charges for such vaccination against rabies within ten (10) days after such notification, the owner or possessor thereof shall be deemed to have committed a misdemeanor and shall be subject to the penalties provided in the general penalty in section 1-4-1 of this code, and shall also be deemed to have committed a municipal infraction, and shall be subject to the civil penalties in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.~~

5-3-5: ANIMALS AT LARGE:

- A. Dogs: No owner, keeper or harbinger of any dog shall permit such dog to run at large on any street, alley, avenue, park or public ground of the city, or to trespass upon the private property of any property owner not the owner, keeper or harbinger of such dog, within the city limits; and all dogs shall at all times when not on the premises of the owner, keeper or harbinger, be restrained and under the strict control of some person in charge of such dog by means of a rope, strap, chain or leash, securely fastened to such dog and held by such person so in charge. Any person violating any provision of this subsection shall be guilty of a misdemeanor and punished therefor as provided in the general penalty in section 1-4-1 of this code. In addition, any person violating any provision of this subsection shall be deemed to have committed a municipal infraction, the penalty for which is set forth in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

- B. Animals And Fowl: The herding or running at large of horses, mules, sheep, colts, swine or cattle or such other animals upon the streets, avenues, alleys, parks or public places or grounds within the city, or the herding of such animals on any unenclosed private grounds within the city, unless such animals are in the charge of a sufficient number of competent and discreet persons to prevent the escape of such animals from the control of the persons in charge, is prohibited and declared to be a nuisance.

C. Livestock And Fowl:

1. Except as specifically authorized in this code, no person shall keep, harbor, house, maintain or allow to run at large any cattle, sheep, horses, mules, asses, goats, swine, chickens or other livestock or fowl within the city limits; provided, however, this section shall not prevent the keeping of such animals for use in race meets, parades, rodeos, fairs or other like events authorized by the city council, during the immediate preparation for and holding of such events.

2. Any persons violating any provisions of this subsection C shall be guilty of a misdemeanor and punished therefor as provided in section 1-4-1 of this code. Any person violating any provisions of this subsection C shall also be deemed to have committed a municipal infraction, punishable as provided in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

5-3-6: ANIMAL NUISANCES:

A. Barking Dogs: It is unlawful for any person to own, keep or harbor any dog, male or female, which by loud, frequent barking, howling, nipping or yelping; or by trespassing upon the property of another, or which by any other manner or way causes annoyance or disturbance to any person in this city.

B. Dog Feces: Any person who owns or is in control of a dog or other domestic animal that deposits feces in any city park, city boulevard or other city owned property, or in any other publicly owned property, or in any privately-owned property, and who fails to promptly dispose of such feces in a trash receptacle, shall be guilty of a misdemeanor, and shall also be deemed to have committed a municipal infraction, unless the owner of such property consents thereto. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

5-3-7: IMPOUNDMENT:

A. Authority:

1. Dogs: It is the duty of the animal control officer to impound every dog running at large contrary to any provision of this chapter. All dogs impounded will be held for ninety-six (96) hours. If such impounded dog has a license or other identification tag, the Flathead County animal control center shall notify the owner of said dog, within one business day, by telephone or personal notice, that the dog has been impounded and where it may be redeemed.

If, after the above prescribed time limit, such dog is not claimed by its owner and the appropriate fees not paid, the dog may be sold to a private individual upon payment of the necessary fees, and, if required, compliance with the licensing regulations. In the event an unclaimed dog is not sold to a private individual, it may be destroyed. All fees collected in behalf of the city shall be turned over to the city clerk.

2. Other Animals: It is the duty of the animal control officer to impound every animal or fowl running at large and/or known to ~~him~~ the animal control officer to be within the city limits contrary to any provision of this chapter. If an impounded animal or fowl is not redeemed within ninety-six (96) hours, the animal or fowl shall be offered for sale. If the animal or fowl is not sold, it may be killed; provided, however, the owner of any impounded animal or fowl may redeem the same within such period of time by paying an impounding fee, a release fee, plus a maintenance fee for its keeping for each twenty-four (24) hour period of time, or part thereof, that it is impounded. All amounts so collected on behalf of the city shall be turned over to the city clerk.

B. Breaking Into Pound:

1. Prohibited: No person shall break open or injure the pound or in any manner aid or advise breaking, opening or injuring the pound, nor shall any person hinder, delay or obstruct any officer while engaged in taking to the pound any dog liable to be impounded under the provisions of this chapter.

2. Violation; Penalty: Any person breaking open or otherwise injuring or in any manner, directly or indirectly, aiding, counseling or advising the breaking open or injuring the pound, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in the sum of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Any person violating this subsection shall also be deemed to have committed a civil infraction and shall be assessed a civil penalty of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

5-3-8: REPORTS REQUIRED: ~~During the first week of each month, the animal control officer and t~~The police department shall present to the city manager an monthly annual report of the previous monthyear's activities, including ~~the number of licenses issued,~~ animals impounded, animals destroyed, animals picked up by owners, animals returned to owners, citations issued, animals adopted, plus any other information pertinent to animal control.

5-3-9: PROHIBITED ACTS AND CONDITIONS:

A. Causing Impoundment: Any person who takes or drives any animal from any enclosure, lot or tract of ground, or from any stable or other building, or from outside the city limits to within the city limits to any pound or with the intent that such animal shall be impounded, shall, upon conviction, be liable to a fine of not less than twenty-five dollars (\$25.00) nor

more than three hundred dollars (\$300.00) for each animal so taken or driven from the place aforesaid. Any such person shall also be deemed to have committed a municipal infraction and assessed a civil penalty of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) for each violation. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

- B. Interfering With Animal Control Officer: Any person who hinders, delays or obstructs the animal control officer or police, or other persons while engaged in taking to the pound any animal or animals liable to be impounded, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Any such person shall also be deemed to have committed a municipal infraction and assessed a civil penalty of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) for each violation. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.
- C. Interests Of Animal Control Officer: The animal control officer shall not purchase or be interested directly or indirectly in the purchase of any animals sold under the provisions of this chapter, under a minimum penalty of twenty-five dollars (\$25.00) for each animal, and the forfeiture of his office.
- D. Trapping Of Furbearing Animals:
 - 1. Definition: "Furbearing animal" shall mean a marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox or beaver.
 - 2. Trapping Prohibited: It shall be unlawful for any person to trap or attempt to trap any furbearing animal within the city limits.
 - 3. Exceptions: Nothing herein shall prevent or prohibit authorized employees of the department of fish, wildlife and parks from carrying out trapping activities when deemed necessary by said department.

5-3-10: VIOLATION; PENALTY:

Every person owning or having in charge, or whose duty it is to restrain, control and keep all such animals mentioned in this chapter, while within the city, who, contrary to the provisions of this chapter, fails to prevent such animal or animals from going loose or unattended or uncontrolled upon the public streets, or straying or trespassing upon the premises of another, shall, upon conviction thereof, be deemed guilty of a misdemeanor and fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). Such person shall also be deemed to have committed a municipal infraction and shall be assessed a civil penalty of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a

violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.