

ORDINANCE NO. 2-2009

MADISON COUNTY ANIMAL CONTROL ORDINANCE

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SECTION 1. APPLICABILITY AND AUTHORITY:

WHEREAS, Madison County, Montana, does, from time to time, experience a problem with dogs harassing livestock, attacking people, destroying or damaging property and causing increased health problems; and

WHEREAS, The Board of County Commissioners has a duty and power to protect its citizens under the law of the State of Montana. Title 7, Chapter 23 of the Montana Code Annotated gives the Board of County Commissioners the authority to control dogs; and

WHEREAS, Madison County now desires to adopt an ordinance with respect to dogs and cats.

NOW, THEREFORE, in order to promote the public health, safety, and general welfare of Madison County, Montana, and to control the spread of infectious diseases thereby;

IT IS HEREBY RESOLVED that the following ordinance is hereby adopted and shall apply to all unincorporated areas in Madison County and incorporated towns where animal ordinances are not enforceable by animal control officers:

SECTION 2. TERMS AND DEFINITIONS:

As used herein, unless the context otherwise indicates, the following terms shall have the meanings ascribed to them herein.

- A. "AT LARGE" means off the premises of the owner and not under the immediate and continued control of its owner or other authorized person

either by leash or voice and/or signal control, or by complete confinement within or upon a vehicle.

- B. "ABANDONMENT" means failure to redeem an impounded animal within three (3) days of incarceration of willfully dropping an animal off of the owner's property or willfully changing residence and failing to move or take the animal.
- C. "ANIMAL CONTROL OFFICER" means the Madison County Sheriff, Undersheriff, Deputy Sheriff or other designated Sheriff's representative.
- D. "OWNER" means every person, partnership, or corporation who owns, feeds, or harbors a cat, or dog.
- E. "RESTRAINT" means controlled by a leash not longer than 6 feet, at "heel" beside a competent person and obedient to that person's command, within a vehicle with permission of the owner, or within the property limits of the premises controlled by the owner or other person consenting thereto.
- F. "DOG" means any canine animal of either sex (whether or not spayed or neutered) or any dingo, wolf, coyote, or cross that is being kept as a dog.
- G. "CAT" means any feline animal of either sex (whether or not spayed or neutered).
- H. "ANIMAL" means any dog or cat of either sex.
- I. "VACCINATE," means an inoculation administered by a veterinarian with any rabies vaccine, the use of which is licensed by the United States Department of Agriculture.
- J. "ABANDONED DOG," means any dog left unattended by the owner or person charged with the custody thereof on the property of the owner, or leashed premises of the owner, for more than three (3) consecutive days, or any dog allowed to run at large without an attempt on the part of the owner or person responsible for the custody of said dog to exercise control over said dog within a period of three (3) consecutive days.
- K. "VICIOUS ANIMAL" means one that, without provocation, bites, attempts to bite, harasses, or chases any person; or bites, attempts to bite or harasses any animal or pet.
- L. "PUBLIC NUISANCE" shall mean any dog that is threatening the life, safety, or property, including livestock, other dogs or pets, responsible for damage to or destruction of property, an abandoned dog clearly deserted by its owner, a vicious dog not confined.
- M. "BARKING DOG" is any dog which unreasonably annoys or disturbs any person by continuous and habitual barking, howling, yelping, crying or whining. This section may not apply to a dog that is owned, kept, or harbored as part of the business of a licensed veterinarian, animal boarding facility, agricultural or livestock operation.
- N. "ABUSED DOG AND CAT" and "CRUELTY TO DOGS AND CATS" means any of the following:
 - i. Overworking, beating, tormenting, injuring, or killing any dog or cat;

- ii. Carrying a dog or cat in a cruel manner;
 - iii. Abandonment of any dog or cat or abandoning any dog or cat along a highway, railroad, or any other place or locale where said dog or cat may suffer injury, hunger, or exposure to the elements, or become a public charge;
 - iv. Promoting, sponsoring, conducting, participating in, or attending any fight between dogs;
 - v. Intentionally striking a dog or cat with a motor vehicle;
 - vi. Striking a dog or cat with a motor vehicle and failing to stop or render assistance;
 - vii. Failure to provide a dog or cat with proper food, water, shelter and protection from the elements, proper veterinary care, parasite control, and humane care and treatment.
- O. "CONFINED" shall mean restrained on the premises or property of the owner or under the restraint of the owner or another person on a chain or leash of not to exceed 8 feet or within the confines of a fence, enclosed so as to be restricted from all access and contact with the public and other animals.
- P. "LIVESTOCK" as used herein shall mean; cattle, sheep, goats, swine, horses, llamas, emus, and any other domesticated animals.

SECTION 3. ENFORCEMENT:

The Animal Control Officer is hereby vested with power and authority necessary to enforce the terms and provisions of this ordinance. The Animal Control Officer is authorized and empowered to apprehend and impound animal(s) found in violation of this Ordinance. It shall be unlawful and punishable under the penalty provisions of Section 17 of this Ordinance for any person to knowingly and intentionally interfere with or fail to comply with the lawful orders of any Animal Control Officer in the lawful discharge of his duties as herein prescribed.

SECTION 4. SHELTER:

The Animal Control Officer is hereby authorized to maintain a suitable shelter for the impounding of dogs and cats and other animals. Such shelter may be constructed and operated by the county or the county may enter into a contract with a veterinarian or other suitable person, entity, or organization for the supplying and operation of the same. All animals confined in such shelter shall be regularly fed and watered in a humane manner.

SECTION 5. IMPOUNDMENT:

The following animals are subject to impoundment by the Animal Control Officer:

- A. A vicious dog or cat as defined herein;
- B. A dog at large;
- C. A dog or cat being held for quarantine;
- D. An injured dog or cat whose owner cannot be located or found;
- E. A dog that is subject to a restraint order and is in violation of said order.

The Animal Control Officer may impound such animals upon personal observation or in response to a signed statement or signed complaint made by an identified individual. The individual making said complaint shall affix the complaint with his or her name, address or telephone number, a description of the animal(s) in question, and a description of the activity or behavior of the animal(s) which is/are in violation of the ordinance. Impoundment of animals by the Animal Control Officer shall occur in the place designated in Section 4 herein and, unless quarantined for rabies evaluation, for a period of not less than three or more than seven days. Animals impounded and not claimed by its/their owner at the expiration of three days may be disposed of in a humane manner. Immediately upon impoundment, an effort will be made to notify the owners of the conditions whereby they may regain possession of such animal. An Animal Control Officer is specifically authorized to pursue any animal onto private property for impoundment purposes.

SECTION 6. RECLAIM:

Any animal impounded under the provisions hereof, and not under observation for or suspected rabies, and not reclaimed by its owner within three days may be humanely destroyed or placed in custody of some person deemed to be a responsible and suitable person. The Animal Control Officer or his agent may destroy a sick or injured dog or cat that has been impounded without holding it for three days if its condition is such that it makes earlier destruction necessary or desirable or humane.

Any animal impounded hereunder may be reclaimed as herein provided upon payment by the owner to the Animal Control Officer the sum of a \$20.00 impoundment fee as well as any and all charges for board of said animal and any necessary veterinary bills or professional service bills that were incurred to sustain the animal. The owner, person having custody or exercising dominion and control over said dog or cat may not avoid any fees or costs by disclaiming any future interest in a dog or cat impounded under the provisions of this ordinance.

SECTION 7. RABIES VACCINATION AND CONTROL:

It shall be the responsibility of every person or owner keeping, harboring, or maintaining any animal over four (4) months of age to provide effective rabies vaccination for such animal.

This provision shall not apply to:

- A. Licensed veterinarians;
- B. Grooming parlors;
- C. Commercial kennel owners and/or operators when keeping animals owned by others.

Any Animal Control Officer shall have the authority to order the owner of any animal showing symptoms of rabies as stated in Section 13, or any animal which may be designated as vicious or an animal that has been bitten by or exposed to any animal suspected to have been infected with rabies to subject such animal in the discretion of the Animal Control Officer to be confined by the owner of such animal may be taken to the Madison County Animal Control Center as described in Section 4 herein for quarantine for a period of 10 days. Such animals, at the supervision of a licensed veterinarian except as specified below:

1. In the case of an unvaccinated animal that is known to have been bitten by a laboratory-confirmed rabid animal, said animal must be immediately destroyed.
2. In the case of a vaccinated animal which is known to have been bitten by a laboratory-confirmed rabid animal, said animal shall be revaccinated within 24 hours and quarantined for a period of thirty (30) days following revaccination or destroyed if said animal is not revaccinated within 24 hours. A physical exam needs to be made at the onset and end of quarantine by the veterinarian who did the vaccination.

After the confinement or quarantine period, if the Madison County Animal Control Officer determines that the animal is free of rabies, the owner may reclaim the dog or cat upon payment of the boarding, impoundment and veterinary fees.

SECTION 8. IDENTIFICATION REQUIREMENT:

Every owner, or person responsible for custody of or exercising dominion and control, is required to provide each dog or cat with a means of identification, whether by collar, tag, or microchip which shall set forth the name of the owner, person responsible for custody of or exercising dominion and control over the dog or cat, and either the mailing address of said person or said person's telephone number when the dog or cat is off the owners property. Violation of this section shall be a misdemeanor.

SECTION 9. DOGS AT LARGE:

No owner shall allow any dog to be at large off the owner's property if the dog exhibits signs of being a vicious dog or creates a public nuisance. Violation of this section shall be a misdemeanor.

SECTION 10. PUBLIC NUISANCE:

The owner of a dog that is a public nuisance is guilty of a misdemeanor.

SECTION 11. BARKING DOG:

The owner of a barking dog is guilty of a misdemeanor.

SECTION 12. VICIOUS ANIMAL

It shall be unlawful for any person to keep, harbor, or maintain any vicious animal in Madison County unless said animal is:

1. Securely and adequately confined to the property of the owner or other person having charge, care, and control of said animal so as not to injure any person or property or to be a hazard to public safety; or
2. Under proper restraint and leash on a line not to exceed six (6) feet in length, properly muzzled, and under the immediate control of a person of suitable age and discretion.

If a vicious animal is not being effectively controlled, as provided in parts 1 and 2 above, or if any animal is running at large or then and there appears to be mad or dangerous to the public, and it appears to the Animal Control Officer that it is necessary to kill such an animal at such

time in order to protect the public from imminent danger of said animal, the Animal Control Officer is hereby authorized to kill any such animal.

If any animal, including but not limited to vicious animals, bites a person such animal bite shall immediately be reported to the Madison County Sheriff's Office and the Madison County Public Health Department in accordance with Administrative Rules of Montana 37.114.571.

Upon receiving a report of an animal bite refer to Attachments "A" and "B".

A police service dog which bites any person while engaged in the lawful performance of its duties shall not be considered vicious as defined in this Ordinance and under such circumstances shall not be subject to quarantine procedures as herein prescribed.

SECTION 13. MANAGEMENT OF ANIMALS THAT BITE HUMANS

A healthy dog or cat that bites a person resulting in the breaking of the person skin shall be confined and observed for 10 days; it is recommended that rabies vaccine not be administered within the observation period. A veterinarian at the first sign of illness shall evaluate such animals during confinement. Any illness in the animal shall be reported immediately to Madison County Public Health. If signs suggestive of rabies develop, the animal may be euthanized, its head removed, and the head shipped under refrigeration (not frozen) for examination of the brain by the Department of Livestock's diagnostic laboratory at Bozeman. Any stray or unwanted dog or cat that bites a person may be euthanized immediately and the head submitted as described above for rabies examination.

An "exposure" means contamination of a mucous membrane, scratch, abrasion, or open wound of a human by the saliva or other potentially infectious material from an animal that exhibits:

- Paralysis or partial paralysis of the limbs;
- Marked excitation, muscle spasms, difficulty swallowing, apprehensiveness, delirium, or convulsions, or excessive salivation; or
- Unusual aggressive or unnatural behavior toward a person, animal, or inanimate object. (Administrative Rules of Montana: 37.114.571 "Rabies Exposure")

SECTION 14. RECORDS

A. The County Sheriff shall keep accurate records of all requests for services, capture, impoundment, and disposition of all dogs and cats coming into his custody. He shall keep records showing the date, time, location of capture, and reason for capture.

B. An animal shelter shall keep accurate records of all impounded dogs and cats showing breed, description, identification worn, sex, date admitted, date ownership taken and final disposition.

SECTION 15. FINANCING

A. The Justice Court shall keep accurate records of all monies collected as fines under this ordinance and shall deposit them with the Madison County Treasurer in an account designated for their receipt.

B. All monies collected from fines under this ordinance shall go to the general fund for use by the Sheriff's Office to administer the Madison County Animal Control Ordinance. Amounts collected as a boarding fee shall be paid to the animal shelter.

SECTION 16. SEVERABILITY

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

Section headings are for convenience only and are not intended to define or limit any provisions of this ordinance.

SECTION 17. PENALTY

It shall be unlawful and punishable by confinement in the Madison County Jail not to exceed 30 days or a fine not to exceed \$500 or both for any person to fail to obey a lawful order of an Animal Control Officer.

It shall be unlawful and punishable by confinement in the Madison County Jail not to exceed six (6) months or by a fine not to exceed \$500 or both for any person to remove any dog or cat quarantined from the place of quarantine without permission from the Madison County Animal Control Officer.

It shall be unlawful and punishable by confinement in the Madison County Jail not to exceed six (6) months or by a fine not to exceed \$500 or both for any owner to keep, harbor, or maintain a vicious animal in violation of this Ordinance.

It shall be unlawful and punishable by confinement in the Madison County Jail not to exceed six (6) months or by a fine not to exceed \$500 or both for any owner of an animal that is a public nuisance in violation of this Ordinance.

It shall be unlawful and punishable by confinement in the Madison County Jail not to exceed six (6) months or by a fine not to exceed \$500 or both for any owner of a barking dog in violation of this Ordinance.

Upon conviction, the owner of a dog that was in violation of this ordinance may be ordered by the court to pay restitution for the value of any damage inflicted by the dog upon other animals, persons, and/or property to the owner of the damaged animal and/or property. Upon good cause shown by the convicted dog owner, the court may modify restitution ordered by the court based on the information presented or by the ability of the violating dog owner to pay restitution. Restitution must be made prior to the release of the court's jurisdiction over the convicted person.

SECTION 18. EFFECTIVE DATE OF ORDINANCE

The Madison County Clerk and Recorder shall post a copy of this ordinance and shall make copies available to the public upon first Reading and Approval of this ordinance.

This Ordinance shall take effect thirty (30) days after its second Reading and Approval.

First Reading and Approval:

Date: 5/5/09

BOARD OF COUNTY COMMISSIONERS
OF MADISON COUNTY

David Schulz
David Schulz, Chair

James P. Hart
Jim Hart, Member

Marilyn Ross
Marilyn Ross, Member

ATTEST:

Peggy Kaatz by K.D. Mummolo, Deputy
PEGGY KAATZ STEMLER
Clerk and Recorder

Second Reading and Approval:

Date: 5/26/09

BOARD OF COUNTY COMMISSIONERS
OF MADISON COUNTY

David Schulz
David Schulz, Chair

James P. Hart
Jim Hart, Member

Marilyn Ross
Marilyn Ross, Member

Peggy Kaatz by K.D. Mummolo, Deputy
PEGGY KAATZ STEMLER
Clerk and Recorder

Madison County Animal Control Ordinance

ATTACHMENT "A"
MADISON COUNTY ANIMAL CONTROL ORDINANCE

RESPONSE TO REPORTED ANIMAL BITES:

Upon receiving a report of an animal bite that breaks human skin:

- 1) The report of the animal bite will be documented by the receiving agency and referred to the Madison County Sheriff's Office.
- 2) The investigating officer will identify the suspect animal and photograph the animal if possible.
- 3) The animal owner will be identified.
- 4) The Sheriff's Office will report the animal bite to Madison County Public Health Department.
- 5) Owner-less animals will be destroyed and the animal's head sent to the diagnostic lab in Bozeman for analysis for rabies. (Fees paid by Madison County.)
- 6) The animal has an acknowledged owner and the owner is not able to show proof of current rabies vaccination* for the animal, the owner is responsible for placing the animal in a veterinary facility for a 10-day quarantine, and rabies vaccination at the owner's expense (following the quarantine period and prior to discharge). The owner is responsible for notifying Madison County Health Department when the quarantine is completed and vaccination has been done, and which veterinary facility provided the service. If the owner cannot be found at his place of residence, the order may be served by leaving it with a person of suitable age and discretion or by placing it in a prominent place at the main entrance of such a residence.
- 7) If the animal owner refuses to place the animal at a veterinary or shelter, he/she must sign an *agreement/disclaimer/contract* outlining his /her risks and responsibilities in maintaining home quarantine and vaccinating the animal against rabies at the end of the 10 day period.
- 8) An investigating officer will follow-up with the animal owner at the end of the 10 day quarantine to see if the animal is alive, healthy, and vaccinated against rabies by a veterinarian.
- 9) If the animal owner has not been compliant with the *agreement/contract/disclaimer*, Madison County may take the owner to court for Breach of Contract.

*All dogs and cats must be vaccinated for rabies once they are over 4 months of age. An animal is currently vaccinated and is considered immunized if the primary vaccination was administered at least 30 days previously. Rabies inoculations administered before the animal is one year old are only good for one year following the injection. Subsequent inoculations are good for 3 years. No other animals have approved rabies vaccines.

ATTACHMENT "B"
MADISON COUNTY ANIMAL CONTROL ORDINANCE

AGREEMENT/CONTRACT/DISCLAIMER

I, _____, acknowledge that I am the owner of the animal as described below:

(Description/Photo of Animal)

I acknowledge that the Madison County Sheriff's Office has identified the above animal as having bitten a human, putting the bite victim at risk for rabies. I understand that according to Administrative Rules of Montana (ARM): 37.114.571 and 32.3.1204 and Center for Disease Control's Morbidity and Mortality Weekly Report (MMWR): Compendium of Animal Rabies and Control, the animal must be quarantined for 10 days (regardless of vaccination status) and vaccinated for rabies **following** the quarantine if indicated. The Madison County Health Officer strongly recommends this animal be quarantined and vaccinated at a veterinary facility at the owner's expense. I understand that if I cannot assume responsibility for expenses associated with quarantine, I have the option of turning the animal over to the Madison County Sheriff's Office. They may euthanize the animal and submit its head to the diagnostic lab for rabies analysis **OR** keep the animal for a 10-day observation period and relinquish the animal to the Humane Society.

In not complying with this recommendation, I am assuming the following risks:

1. I am liable if the animal escapes and cannot be found, or bites another person.
2. I may be liable for the expense and other associated costs of rabies post-exposure prophylaxis for the bite victim. (Currently this is a 5 shot series costing approximately \$675.00)
3. I will keep the animal in a fenced enclosure or tied up, isolated from other animals and people for the 10-day quarantine.
4. I will report any change of behavior or signs of illness, and in such case, have the animal seen by a veterinarian immediately.
5. In case of animal death during quarantine, the animal **must** be taken to a veterinarian immediately.

6. At the end of the quarantine, the animal must be given rabies vaccine, an examination, and a statement from the veterinarian that the animal is rabies-free. Expenses are the animal owner's responsibility. The owner is responsible for providing documentation of that exam and vaccination by the veterinarian to the Madison County Sheriff's Office.
7. I understand that my failure to comply with these conditions may subject me to additional criminal and/or civil penalties, including a fine of up to \$500 and 60 days in jail per violation, a claim for damages or costs incurred, a claim for costs of prosecution and costs incurred for enforcement, or a combination of all of the above.

Animal Owner: _____

Address: _____

Phone: _____

Name of Investigating Officer: _____

Date: _____ **Time:** _____

131486 MADISON CO Pages: 0

STATE OF MONTANA MADISON COUNTY

RECORDED: 06/04/2009 4:15 KOI: MADISON CO

Peggy Kaatz CLERK AND RECORDER

FEE: \$0.00

TO: FILE 101-E / 2 PGS,

BY: *D. H. Atkinson Deputy*

pm