

**ORDINANCE NO. 2043**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2008 AS CODIFIED IN CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY AMENDING THE ORDINANCE TO CLARIFY LIABILITY, OWNERSHIP AND ANIMAL LICENSING REQUIREMENTS.**

**\* \* \* \***

**Preamble.**

The purpose of this Ordinance is to amend the animal control ordinance to clarify absolute liability and ownership for nuisance animals and animals at large and animal licensing requirements.

**\* \* \* \* \***

**WHEREAS**, the City of Livingston has established an animal control ordinance for regulating animals within the City of Livingston; and

**WHEREAS**, the City Code outlines ownership of animals in Section 4-1 but does not consider ownership in regards to City licensing; and

**WHEREAS**, the City Code provides for absolute liability in Section 4-8, and penalties in 4-9, however, the crimes in section 4-41 are not specifically delineated as such absolute liability crimes;

**WHEREAS**, the City Commission believes that it would be in the best interest of the City to specify the definition of ownership and liability standards in Section 4-1 and Section 4-41 respectively;

**WHEREAS**, the City Commission believes it would serve the interests of justice to require one registered and sufficiently identified individual to license dogs and cats within the City;

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**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Livingston, Montana, that Ordinance No. 2008 be amended with additions shaded in gray and deletions struck through, as follows:

## **SECTION 1**

That Ordinance No. 1915, and as amended by Ordinance No. 2008, codified in Chapter 4 entitled “Animals” of the Livingston Municipal Code Ordinance be and the same is hereby amended, with additions shown in enlarged type face and deletions struck through as follows:

### **Chapter 4 - ANIMALS**

#### **ARTICLE I. In General**

##### **Sec. 4-1. Definitions.**

The following terms shall have the meanings ascribed to them for the purposes of this Chapter.

“Abandoned animal” means

- (a) any animal whose owner or caretaker has knowingly or negligently left the animal without proper food, water or shelter for twenty-four hours or more;
- (b) any stray animal impounded in the animal shelter for 5 days or more;
- (c) an obviously feral animal;
- (d) the owner or caretaker is unknown; or
- (e) the owner or caretaker has willfully surrendered physical control of the animal to the animal shelter; or

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(f) an unlicensed animal.

“Animal” means dog, cat, fowl, livestock, amphibian, reptile, or insect.

“Cattery” means a place where cats are bred or looked after.

“Fowl” shall include chickens, geese, ducks, turkeys, or other poultry.

“Humane manner” – Care of an animal which includes, but not limited to, a sanitary shelter providing adequate protection against adverse weather conditions, providing adequate quantity and quality of food and water to sustain the animal’s normal health. Humane manner includes the use of live traps which must be checked regularly to ensure that any trapped animal is not injured or exposed to the weather.

A “kennel” means a place where dogs are bred or looked after.

“Livestock” shall include all animals of the equine, bovine or swine class, including goats, sheep, mules, horses, hogs, cattle, llamas and other domestic grazing animals.

“Nuisance animal” means any animal that is off of the premises of the animal’s owner creating a condition which endangers safety or health, is offensive to the senses of a reasonable person, or obstructs the free use of property, including, but not limited to:

1. causing injury or damage to property,
2. animal defecation which is not immediately removed from public or private property and properly disposed of by the owner or the person responsible for the animal,
3. cat urination,

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4. hunting or killing wildlife, including birds,
5. while the animal is in estrus (heat),
6. when the animal is unvaccinated,
7. when the animal is unaltered or unspayed, or
8. when the animal tips over garbage cans or otherwise disperses garbage onto public or private property.

“Owner” shall include any person owning, registering, licensing, possessing, keeping, or harboring an animal or allowing the animal to remain on the person’s residence. For purposes of this ordinance, anyone who feeds or otherwise attracts a stray or homeless animal to said person’s residence shall be deemed to be the owner of said animal. An owner is hereby deemed to be jointly and severally liable with any other person who commits a any violation of this ordinance.

“Residence” shall mean the dwelling place and surrounding property of one family.

"Restraint" means controlled by a leash not longer than six (6) feet or within the enclosed portion of a motor vehicle.

“Running At large” or means a dog, fowl, livestock, amphibian, reptile, or insect off the premises of the owner and not under the control of the owner or any other person either by leash or other physical means of control.

“Service dog” as used herein shall mean a dog that has been certified to render assistance to a disabled person, such as a seeing eye dog..

“Shelter” as used herein shall mean the Stafford Animal Shelter.

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#### **Sec. 4-2. Owner's Responsibility**

The owner as defined herein is jointly and severally liable and bears the ultimate responsibility for any and all violations of this ordinance.

#### **Sec. 4-3. Livestock, fowl, or swine prohibited.**

It shall be unlawful and punishable as a civil offense for any person to keep, harbor, or allow to be at large any livestock, fowl, or swine within the City limits, but the Sanitarian may, upon proper application, issue for a period of two years, permits for keeping of livestock or fowl. It shall be unlawful for any person to keep, harbor, or allow at large more than four (4) rabbits; babies less than six (6) months of age shall not be counted for purposes of this section. (Code 1958, 4-2; Ord. 1354, 6/20; Ord. 1657, 5/7/90)

#### **Sec. 4-4. Revocation permit.**

The Sanitarian shall have the power and authority to revoke such permit if at any time the premises for which a permit is issued is not at all times maintained in a clean and sanitary condition.

#### **Sec. 4-5. Keeping or allowing at large vicious species or poisonous snakes prohibited.**

It shall be unlawful and punishable as a civil offense for any person to keep, harbor any dangerous, poisonous, vicious, unruly or ferocious animal, reptile, insect or snake within the City.

#### **Sec. 4-6. Impoundment of Nuisance animal.**

It shall be the duty of the Animal Control Officer or police where any nuisance animal is found at large, or upon complaint to them that any nuisance animal is at large, to take up and impound such nuisance animal.

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Nothing herein is to be construed as preventing any person from causing a nuisance animal to be captured or impounded without the assistance of the animal control officer or police officer, so long as the person treats the nuisance animal humanely during the capture and subsequent restraint.

**Sec. 4-7. Barking dogs as nuisances.**

A. It is unlawful and punishable as a civil offense for any owner, possessor or keeper of any dog to permit or allow such dog to persistently or continually bark, howl or yelp. No summons and complaint shall be issued for any violation of this Section unless there are at least two (2) or more complaining witnesses from separate households who have signed such complaint. In appropriate cases, any Animal Control Officer or Police Officer who has personally investigated the complaint of a single complainant, and observed the problem behavior of the dog with regard to its loud and persistent or habitual barking, howling or yelping, may be the second complaining witness.

B. Any dog which has been allowed or permitted to persistently and chronically violate this Section, as demonstrated by three (3) or more convictions for violating this Section, and the receipt of subsequent complaints from more than one (1) household, is declared to be a public nuisance and may be abated after due notice and opportunity for hearing.

**Sec. 4-8. through 4-19. Reserved.**

**ARTICLE II. Dog and Cat Licensing**

**Sec. 4-20. Dog and Cat licensing.**

(A) **Licensing.** It is unlawful and punishable as a civil offense for any person owning, keeping or harboring any dog or cat 4 months of age or older to fail to register and license said dog

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or cat with the City of Livingston. License fees and other fees shall be established by resolution. Dog and Cat licenses require one sole registered owner who shall provide sufficient identification (such as a Driver's License or other State issued ID) when registering/licensing the animal. The registered owner is absolutely responsible for the animal's behavior and violations of this section regardless of other ownership, proximity, or intent.

**(B) Place and Time of Payment.** The dog and cat license fee shall be paid to the City on or before the first day of March each year, but if any dog or cat be acquired by any person subsequent to the first day of March, such fee shall be paid within seven (7) days of the date of acquisition of the dog or cat. All fees and penalties under this section shall be paid and credited to the general fund of the City.

**(C) No Pro-ration Period.** The license fee shall not be prorated and shall cover the calendar year, or balance thereof from the date of payment.

**(D) Delinquency.** If the license fee is not paid on or before the first day of March of each year, or within seven (7) days of the date of acquisition of any dog or cat acquired after the first day of March, there shall be charged a late fee in addition to the amount of the fee as hereinbefore provided.

**(E) Nonpayment as Evidence of Abandonment.** A failure to pay the fee within the time provided herein, shall be taken as conclusive evidence of abandonment of ownership of the dog or cat.

**(F) Collection of fees.** The Animal Control Officer or designee shall collect from such

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person claiming an impounded dog or cat, the boarding fee, the vaccination fee, the impoundment fee, any veterinary costs and the license fee unless satisfactory evidence is produced that such license fee has been paid. All such fees shall be remitted to the City and credited to the General Fund.

**Sec. 4-21. Rabies vaccination required.**

All dogs and cats within the City of Livingston shall be vaccinated against rabies. No application for license shall be accepted until the dog or cat for which a license is to be issued has been vaccinated with a rabies vaccine licensed by the U.S. Department of Agriculture, which shall immunize the dog or cat from rabies for at least one (1) year from and after date of application for license. The City shall accept as evidence of such vaccination a certificate of a licensed veterinarian, licensed to practice in the state, that such dog or cat has been vaccinated with a U.S.D.A. approved strain of vaccine. (Ord. 1354, 6/20/77)

**Sec. 4-22. Dog and Cat tags securely fastened, exception.**

A. Upon payment of the license fee under this section the City shall issue to the owner a license certificate in the form of a receipt and a metallic tag for each dog and cat so licensed. The tag shall have stamped thereon the year for which it was issued and the number appearing on the certificate. Every owner of a dog shall provide each dog with a collar and shall securely attach to such collar the license tag and the vaccination tag. Every owner of a cat shall provide proof of licensure thereof, however the cat shall not be required to wear a collar with an attached license.

B. No license provided for in this section is transferable, and no license tag shall be fastened to any dog or cat other than the one for which it was issued. Any person who knowingly fastens a

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license tag or a vaccination tag to any dog or cat other than the one for which such tag was issued or who willfully permits such dog to wear any license tag or vaccination tag issued for another dog, is guilty of a civil offense. The Animal Control Officer shall impound every dog or cat found bearing a license tag or vaccination tag not issued for that dog or cat, and shall dispose of such dog or cat as provided by Section 4-44.

C. In case a license tag is lost or destroyed, the owner of the dog or cat shall apply to the City for a duplicate tag and City shall issue a duplicate tag upon presentation of the receipt showing payment for the license for the current year and upon payment of Two Dollars (\$2.00) for the duplicate tag.

D. In case a vaccination tag is lost or destroyed, the owner of the dog or cat shall apply to the veterinarian who vaccinated the dog or cat for a duplicate tag, and such veterinarian shall issue a duplicate tag upon presentation of the receipt showing payment for the vaccination and upon payment of such charge as the veterinarian may require.

**Sec. 4-23. Expiration.**

All licenses shall expire at 12:00 midnight of the last day of February of the year following payment of the license fee. (Ord. 1354,6/20/77)

**Sec. 4-24. Keeping unlicensed dogs or cat.**

Every person who knowingly keeps, feeds, harbors or allows to stay about any premises occupied or controlled by said person, any dog or cat for which no license fee has been paid, or upon which no license tag and vaccination tag are kept as required by Sec. 4-22 is guilty of a civil offense.

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**Sec. 4-25. Limit upon number of dogs and cats.**

It shall be unlawful and punishable as a civil offense for any person or family, to keep, harbor, or maintain more than two dogs at any location or residence within the City. Dogs under four months of age shall not be counted for purposes of this Section, and this Section shall not apply to licensed kennels. (Ord. 1354, 6/20/77).

(2) It shall be unlawful and punishable as a civil offense for any person or family to keep, harbor, or maintain more than two (2) unaltered cats or six (6) altered cats at any location or residence within the City. Cats under four months of age shall not be counted for purposes of this Section, and this Section shall not apply to a licensed cattery.

**Sec. 4-26. Dog kennels or Cattery.**

1. A person, firm or corporation may maintain a dog kennel or cattery upon proper application, compliance with zoning requirements and approval for a non-transferable license from the City. A "kennel" or "cattery" includes any premises or property of any kind or description where more than two female dogs or cats are kept for breeding purposes, or where more than one litter of pups or kittens are kept for purposes of sale. As a condition of receiving a license, the kennel or cattery shall be inspected annually by the animal control officer. To maintain the license, the kennel or cattery shall provide proper and adequate shelter, bedding, food and water for the animals, vaccinations and veterinary care and shall keep the animal area sanitary, i.e. remove feces on a daily basis. The fee for said inspection shall be set by resolution.

2. A kennel or cattery license may be suspended or revoked for failure to comply with the requirements of this ordinance by filing a civil complaint with the City Court.

3. It shall be unlawful and punishable as a civil offense to operate a kennel or cattery

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without a city business license.

**Sec. 4-27. Dog or cat shows.**

No license shall be required for dogs or cats brought into the City for purpose of participating in any dog or cat show, but such dogs or cats must be vaccinated as required by Section 4-21.

**Sec. 4-28- Exemptions from licensing:**

The licensing requirements of this chapter shall not apply to any dog or cat belonging to a nonresident of the city and kept within the city for not longer than 15 days, provided that all such dogs or cats shall at the time of entry into the city be properly vaccinated against rabies.

**4-29-4-30. Reserved.**

**ARTICLE III. Animal Control Officer and Animal Pound**

**Sec. 4-31. Animal Control Officer as peace officer.**

The Animal Control Officer shall be a Peace Officer with a limited duty and scope of authority to enforce the provisions of this chapter and to make arrests for offenses under this chapter.

**Section 4-32. Dog and Cat Impoundment and Boarding.**

The City shall make arrangements for boarding and caring for impounded dogs and cats.  
(Ord. 1518, 11/21/83; Ord. 1712,7/20/92; Ord. 1837,8/5/96, Ord. 1902)

**Sec. 4-33. Animal Shelter records.**

Immediately upon impounding any animal the Animal Control Officer shall, in a book to be provided by the City, record the following information upon each animal: the sex, color, breed, estimate of age, distinguishing marks, if any, and the date and hour of impounding, and upon final disposition of such animal, the record shall show such disposition.

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**Sec. 4-35-4-39. Reserved.**

#### **ARTICLE IV- Enforcement**

**Sec. 4-41. Civil Offenses, exceptions.**

A. Nuisance Animal. It is unlawful and punishable as a civil offense for a person to allow or permit an animal to be a nuisance animal.

B. It is unlawful and punishable as a civil offense for a person to allow or permit a dog, fowl, livestock, amphibian, reptile, or insect to be found running at large.

C. Exceptions to running at large are as follows:

1. A person may accompany a dog without a leash in Miles Park, along the north bank of the Yellowstone River provided the dog is trained for and will respond to voice command or other control and provided the dog is no more than twenty (20) yards from the person with voice control, with the exception that no dogs are permitted on the playing fields of the ball parks, nor in the pedestrian areas and viewing stands located between the ball fields.

2. A person may allow a dog to run in Mayor's Landing Park under voice command or other control, i.e. without a leash provided the dog is trained for and will respond to voice command. (Ord. 1744, 7/6/93; Ord No. 1887, 6/7/99).

3. A person may allow a dog to run unrestrained by leash or other restraint on View Vista Drive from the posted sign at the driveway to the golf driving range to Mayor's Landing Park so long as the dog is under voice command or other control and provided that the dog is trained for and will respond to voice command or other

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control and provided that the dog is no more than twenty (20) yards from the person exercising voice or other control

D. Any person who takes a dog to Miles Park, View Vista Drive, Mayor's Landing or onto any other city property or city right-of-way shall remove any dog feces deposited by said dog and dispose of said feces in a trash container. It is unlawful and punishable as a civil offense for any person to fail to remove and properly dispose of dog feces deposited by his or her dog in Miles Park, View Vista Drive, Mayor's Landing or any other city property or city right-of-way.

E. It is unlawful and punishable as a civil offense for any person to exercise or run a dog by using a moving motor vehicle while upon a city street or right-of-way.

F. Cruelty to animals is a crime under state law. The City of Livingston has a zero tolerance policy for cruelty to animals and any suspected animal cruelty is a threat to public safety as animal cruelty has been linked to domestic violence and other criminal behavior, and all reports of animal cruelty will be aggressively investigated and prosecuted in accordance with state law.

G. Any violation of this section is an absolute liability offense as described in section 4-8. Any and all owners as defined in Section 4-1 or the sole registered owner listed on the City license for the animal are jointly and severally liable for the civil offenses listed in this section regardless of proximity or intent.

#### **Sec. 4-42. Impounding and release.**

Animals running at large and nuisance animals may be taken and placed in the City animal shelter by any Animal Control Officer or police officer. Licensed animals at large in the discretion of the Animal Control Officer, may be taken and returned to the owner, but a complaint for a

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violation of Section 4-41 shall be personally served upon the owner. Unlicensed animals shall be placed in the shelter and shall not be released until the animal is properly licensed with written evidence thereof provided to the animal shelter, or in the alternative, an exemption is duly established to the satisfaction of the Animal Control Officer who shall document said exemption. (Ord. 1354,6/20/17)

**Sec. 4-43. Notice to owner.**

No notice to the owner of animal impoundment shall be required, but the Animal Control Officer may notify the owner of licensed animals of the impoundment. It is the duty of every owner of an animal to know the whereabouts of the animal at all times.

**Sec. 4-44. Disposition of unredeemed animals.**

(a) If an impounded animal is not redeemed by the owner or some person acting in the owner's behalf within five (5) days of impoundment, then the Animal Control Officer will turn the animal over to the Animal Shelter. Payment of the impoundment fees of Sec. 4-20 and licensing fees must be made for an animal to be redeemed.

(b) Instead of turning the animal over to the animal shelter, after the required time, the Animal Control Officer may give the animal to any person who pays the impoundment and licensing fees, but no license fee shall be required if the animal's home will be outside the city limits. All right, title and interest in the animal's original owner shall be forfeited if the animal is not redeemed within five (5) days.

**Section 4-45. Diseased or injured dog or cat.**

Any unlicensed dog or cat found at large which, in the discretion of the Animal Control

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Officer and/or a Veterinarian, is in a diseased condition constituting a health hazard to humans or any animal, or in a famished or injured condition, may be disposed of immediately in a humane manner by the Animal Control Officer, or in his absence, by a police officer.

**Sec. 4-46. Dogs excluded from Sacajawea Park.**

It is a civil offense for a person to negligently or knowingly permit a dog, whether under restraint or not, upon public areas of Sacajawea Park north of River Drive. This section shall not apply during periods designated by the City Commission for dog shows. The penalty for violation of this section shall be the same as under 4-41. (Ord. 1541,6/17/85)

**ARTICLE V - Bites**

**Sec. 4-50. Reports of biting.**

(a) Any person bitten by any dog, cat or other animal within the limits of the City, or within three (3) miles thereof, shall, within one (1) hour after such biting, report the fact to the police department, giving the time and place of the biting together with a description of the offending animal.

(b) Any person who owns or harbors any dog, cat or other animal which has, to the knowledge of the owner or keeper, bitten a human being shall immediately confine the animal in some structure from which it cannot make exit by its own power and volition and shall forthwith notify the police department.

**Sec. 4-51. Affidavit and seizure of animal.**

Whenever affidavit shall be made before the Animal Control Officer or the City Judge that a

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dog or the animal has bitten a person, the Animal Control Officer or police officer shall require the owner of such dog or other animal to surrender the same to the pound or a licensed veterinary hospital for quarantine. A copy of the affidavit may be served by the Animal Control Officer or any law enforcement officer upon the owner and, if the owner cannot be found at his place of residence, the copy may be served by leaving it with a person of suitable age and discretion at, or by placing it in a prominent place at the front door of, such residence. In the event that the owner is unknown, upon the making of such affidavit, the dog warden, or any law enforcement officer shall seize and impound such animal without notice.

**Sec. 4-52. Quarantine.**

All animals seized pursuant to Section 4-51 shall be quarantined in the pound or at a licensed veterinary hospital for a period often (10) days.

**Section 4-55. Release.**

If, after observation under the supervision of a veterinarian for such period, any such animal is adjudged free of rabies, the owner may reclaim the animal, upon payment of the regular boarding, vaccination and impoundment fees, any veterinary costs and upon compliance with licensing requirements. If the proper fees and costs have not been paid within two (2) days of the release date, then the animal may be put to death by the Animal Control Officer. In the event that any animal under quarantine is diagnosed as being rabid, it shall be disposed of only under the orders and directions of the Animal Control Officer and/or a Veterinarian.

**ARTICLE VI. - Rabies Quarantine**

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#### **Section 4-60. Quarantine Order.**

If the City Commission shall find, upon information and advice given it by the State Veterinarian, that the community in and about the City is or may be subjected to the danger of rabies infection among the animal life in or near the City, the City Commission shall declare that an emergency exists and shall thereupon by a motion duly made, passed and recorded in the minutes, direct and order that all dogs and cats in the City and within three (3) miles thereof be placed under quarantine until otherwise ordered by the City Commission acting upon the advise and information given it by the State Veterinarian.

#### **Sec. 4-61. Confinement during quarantine.**

In the event that the City Commission shall order and direct a quarantine of all dogs and cats, all persons residing in the City and within three (3) miles hereof, who own or harbor any dogs or cats shall, immediately upon issuance of such quarantine order, cause all dogs and cats so owned or harbored to be confined in a structure from which the dog or cat cannot make exit upon its own volition, powers and resources. (Ord. 1354,6/20/77; Ord. 1518, 11/21/83; Ord. 1.525,5/7/84; Ord. 1541,7/1/85; Ord. 1581, 12/21/87)

### **ARTICLE VII - Dangerous and Vicious Dogs**

#### **Sec. 4-70 - Definitions.**

As used in Sections 4-70 through 4-75, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Vicious and dangerous dog" means:

(1) Any dog that when unprovoked inflicts bites or attacks a human being or domestic animal

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either on public or, private property, or in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or

(2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(3) Any dog which engages in, or is found to have been trained to engage in, exhibitions of dog fighting; or

(4) Any dog at large found to attack, menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or person.

(b) "Vicious and dangerous dog" does not mean:

(1) Any dog that attacks or inflicts bites upon a trespasser in a fully enclosed building or fenced enclosure; or

(2) Any dog used in the military or police if the bites or attack occurred while the dog was performing in that capacity.

(c) "Enclosure" means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to humanely confine a dog with adequate exercise area, and posted with an appropriate warning sign, in conjunction with other measures which may be taken by the owner or keeper.

(d) "Animal Control Officer" means the person designated by the City who enforces the city's animal control ordinances.

(e) "Impounded" means taken into the custody of the Animal Control Officer or City Police Department.

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(f) "Person" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

**Sec. 4.71 - Registration.**

Any dog found by the Court to be vicious and dangerous pursuant to a hearing under Section 4.73, shall be registered with City of Livingston within 10 days of the effective date of the finding. The vicious and dangerous dog registration fee shall be \$75.00 per year plus the actual costs incurred by the City in making the warning sign.

**Sec. 4.72 - Keeping of vicious animal.**

Furthermore, the keeping of a registered dog in the City shall be subject to the following conditions:

(a) **Number, Tattoo or Microchip.** The owner or keeper, at his or her own expense, shall have the licensing number assigned to such dog, or such other identification number as the City shall determine, either tattooed by a licensed veterinarian on the dog's upper inner lip, inner thigh or elsewhere as directed by the Animal Control Officer or shall have the dog implanted with a microchip. For the purposes of this section "tattoo" shall be defined as any permanent numbering of a dog by means of indelible or permanent ink with the number designated by the Animal Control Officer.

(b) **Display of Sign.** The owner or keeper shall display a sign on his or her premises warning that there is a vicious and dangerous dog on the premises. Said sign shall be visible and capable of being read from the street or public highway in front of the premises. The sign shall be supplied by the City of Livingston.

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(c) **Confinement Indoors.** No registered dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition except to a secured enclosure. In addition, no such dog may be kept in a house or structure when the windows are open or where screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) **Confinement Outdoors.** When outside, all registered dogs shall be confined in a secure enclosure, except when necessary to obtain veterinary care or to comply with commands or directions of a City official. All such enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(e) **Traveling with vicious dog.** Whenever necessity requires a registered dog to be outside of the enclosure, the dog shall be securely muzzled and restrained with a metal chain capable of restraining the animal and not exceeding three feet in length, with handgrip, and shall be under the direct control and supervision of the owner or keeper of the dog.

(f) **Identification Photographs.** All owners, keepers or harborers of a registered dog must, within 10 days of the effective date of this ordinance, provide to the Animal Control Officer, or his or her designee, two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(g) **Reporting Requirements.** All owners, keepers or harborers of a registered dog must, within 10 days of the incident, report the following information in writing to the Animal Control Officer:

- (1) The removal from the City or death of a registered dog;

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(2) The new address of a registered dog owner should the owner move within City limits.

**(h) Sale or Transfer of Ownership Prohibited.** No person shall sell, barter or in any other way dispose of a dog registered with the City to any person within the City; provided that the owner of a registered dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who neither reside within the City nor intend to train, keep, harbor, own, or in any way possess such animal in the City providing written approval of such sale or transfer by an authorized officer or employee of the city or county where the dog is intended to be kept.

**Sec. 4.73 - Seizure of dog, hearing:**

**(a) Subject to Seizure.** Upon the receipt of a signed complaint, or upon the personal observation of an Animal Control Officer or Police Officer that a dog is vicious and dangerous, and said dog is on its owner, keeper or harbinger's property, the Animal Control Officer or Police Officer, may find the dog presents a danger and is subject to seizure and impoundment. Upon a finding that the dog is subject to seizure, written notice of such finding shall be made to the owner, keeper or any adult in apparent control or possession of the dog. Prior to the seizure of the dog, the owner or keeper of the dog shall be entitled to a hearing as described in paragraph (c) of this section.

**(b) Immediate Seizure.** (i) Should any Animal Control Officer or Police Officer determine that probable cause exists to believe that a dog is vicious and dangerous and cannot be properly controlled, such dog is subject to immediate seizure. The owner or keeper of the dog shall be entitled to a hearing upon seizure as described in paragraph (c) of this section, and upon the hearing the owner of any dog found to be vicious or dangerous shall be assessed the costs of sheltering the dog and of administering the ordinance.

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**Amending Animal Ordinance to clarify ownership, liability and animal licensing requirements.**

(ii) Upon the receipt of a signed complaint, or upon the personal observation of an Animal Control Officer Police Officer that a dog has killed or wounded, or assisted in killing or wounding any domestic animal, or has attacked, assaulted, bit or otherwise injured any person or assisted in attacking, assaulting, biting or otherwise injuring any person, such dog shall be subject to immediate seizure and impoundment. The owner or keeper of the dog shall be entitled to a hearing upon seizure as described in paragraph (c) of this section.

**(c) Hearing.** (i) Prior to the seizure of any dog authorized by paragraph (a) and within three days of the seizure of any dog pursuant to paragraph (b) the City Attorney shall inform, in writing, the owner or keeper of the dog that the person's dog is alleged to be vicious and dangerous and subject to penalties under this ordinance and, unless the hearing is waived in writing by the owner or keeper of the dog, the hearing shall be held within 7 days of the incident, if at all possible. The hearing may be informal and the rules of evidence not strictly observed. It shall not be necessary, for the City, to prove that the owner or keeper of the dog knew that the dog was vicious and dangerous.

(ii) Should the City Judge find the dog to be vicious and dangerous, the City Judge shall order the dog be registered pursuant to Section 4.72, and that the dog be spayed or neutered. The City Judge may, in addition, order the dog and the owner, keeper and any person in control of the dog to attend and complete a basic obedience course under an approved and recognized obedience trainer or dog-training organization with proof of completion of said course being submitted to the Court within 5 days of completion.

(iii) In the event the City Judge concludes that the dog is vicious and dangerous and that the health, safety and welfare of the community is not adequately addressed by the requirements

provided in Section 4.72, the City Judge may order the dog destroyed.

**Sec. 4.74 - Violation of Registration Requirements.**

It shall be unlawful and punishable by a civil penalty, not to exceed \$300.00, for the owner, keeper or harbinger of a dog registered with the City to fail to comply with the requirements and conditions set forth in this ordinance regarding registration. Any dog found to be the subject of a violation of these registration requirements shall be subject to seizure and impoundment. In addition, failure to comply will be cause for the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

**Sec. 4.75. Owner of registered dog which is a repeat offender, penalty.**

It is unlawful and punishable as hereinafter set forth for the owner, keeper or harbinger of a registered vicious dog to knowingly allow said dog to commit any of the acts as defined in Section 4.70(a) unless excepted by 4.70(b). Upon conviction, the owner, keeper or harbinger shall be guilty of a misdemeanor and punishable by a fine not to exceed \$500.00 and/or imprisonment in the county jail for a term not to exceed 6 months. In addition, to such fine and imprisonment, the City Court in its discretion may order the owner to pay such restitution as the Court determines to be just and reasonable under the circumstances and according to law. A registered vicious dog which is found to be repeat offender shall be destroyed at the owner's expense.

**ARTICLE VIII- Civil Penalty**

**Sec. 4.80. Civil Penalty.**

The registered owner is jointly and severally liable along with any other person who violated this Chapter and may be punished by a civil penalty not to exceed Three Hundred Dollars (\$300.00).

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## **SECTION 2- Statutory Interpretation and Repealer**

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

## **SECTION 3- Severability**

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


## **SECTION 4- Savings Provision**

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.


## **SECTION 5- Effective Date**

This ordinance will become effective 30 days after second and final adoption.

**PASSED** by the City Commission of the City of Livingston, Montana, at a regular session thereof held on the 4<sup>th</sup> day of ~~October~~, 2012.  
*December*

  
\_\_\_\_\_  
**STEVE CALDWELL- Chairman**

**ATTEST:**

  
\_\_\_\_\_  
**DAVID FINE**  
**Recording Secretary**

\* \* \* \* \*

**Ordinance No. 2043**

**Amending Animal Ordinance to clarify ownership, liability and animal licensing requirements.**

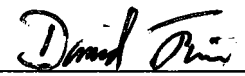
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**PASSED, ADOPTED AND APPROVED** by the City Commission of the City of  
Livingston, Montana, on second reading at a regular session thereof held on the 18<sup>th</sup> day of  
~~October~~, 2012.  
December

  
\_\_\_\_\_  
**STEVE CALDWELL - Chairman**

**ATTEST:**

  
\_\_\_\_\_  
**DAVID FINE**  
Recording Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**BRUCE E. BECKER**  
City Attorney

#### **NOTICE**

The public is invited to attend and comment at a public hearing to be held on December 18, 2012, at 6:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on the second reading of **ORDINANCE NO. 2043** entitled **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2008 AS CODIFIED IN CHAPTER 4, ANIMALS, OF THE LIVINGSTON MUNICIPAL CODE BY AMENDING THE ORDINANCE TO CLARIFY LIABILITY AND OWNERSHIP FOR NUISANCE ANIMALS AND ANIMALS AT LARGE.** A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call the City Attorney at (406)823-6007.

(Notice must be published twice at least 6 days apart. (7-1-4127(6) and posted on the City Bulletin Board, and copies available for the public (7-5-103 MCA).

**Ordinance No. 2043**

**Amending Animal Ordinance to clarify ownership, liability and animal licensing requirements.**

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Please publish December 7, 2012 and December 12, 2012.

Pam Payovich  
City of Livingston

Date: December 5, 2012