

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1203

AN ORDINANCE AMENDING THE PROVISIONS OF CHAPTER 4, ARTICLES II AND III OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY REGARDING DEFINITION OF ANIMAL CONTROL OFFICER, POUNDMASTER, AND VICIOUS DOG, PROVIDING FOR THE CONTROL, REGISTRATION AND DESTRUCTION OF VICIOUS DOGS, AND PROVIDING AN EFFECTIVE DATE THEREOF.

BE IT ORDAINED by the City Council of the City of Miles City, Montana as follows:

Section 1. Section 4-26 of the Code of Ordinances of the City of Miles City, Montana is amended to read as follows:

“Section 4-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal Control Officer means all Miles City police officers as well as all duly appointed animal control officers;

At large means off the premises of the owner and not under the control of the owner or any other person.

Dog means both male and female.

Kennel means any establishment wherein or whereon four or more dogs are kept.

Owner means any person owning, keeping or possessing a dog.

Potentially vicious dog means any dog that in the absence of intentional provocation:

- (1) While off the owner's property, chases or approaches a person in a menacing fashion or apparent attitude of attack or inflicts bodily injury to a person or small animal; or
- (2) While on the owner's property causes bodily injury to a person; or
- (3) While off the owner's property kills a domestic animal, excluding birds, rodents and reptiles.
- (4) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

Poundmaster means the animal control officer appointed by the mayor pursuant to Section 4-67 of this code;

Under control means within a vehicle of the owner or restrained by a substantial leash of not over six feet in length.”

Vicious dog means any dog that in the absence of intentional provocation:

- (1) Inflicts serious bodily injury to a person on public or private property; or
- (2) Is involved in a continuous sustained attack upon a person, not allowing the victim any means of escape, regardless of the extent of injury or defensive action required; or
- (3) Is previously found to be potentially vicious and while on or off the owner's property chases or approaches a person in a menacing fashion or apparent attitude of attack or inflicts bodily injury to a person or small animal;
- (4) Inflicts injury to a person on public or private property, which injury results in the death of the person.
- (5) These definitions do not apply to animals used in military or law enforcement work while they are actually performing in that capacity.

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Section 2. Section 4-32 of the Code of Ordinances of the City of Miles City, Montana is amended to read as follows:

“Sec. 4-32. Vicious dogs and potentially vicious dogs.

A. Keeping a potentially vicious dog.

Any person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him within the city any dog exhibiting potentially vicious dog behavior is guilty of maintaining a public nuisance and is guilty of a misdemeanor. A dog is presumed to have exhibited potentially dangerous behavior if it demonstrated any of the behavior set forth in the definition of “potentially vicious dog” in Section 4-26 of this code. Such presumption is rebuttable.

B. Keeping a vicious dog.

Any person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him within the city a vicious dog is guilty of maintaining a public nuisance and is guilty of a misdemeanor. An animal is presumed to be a vicious dog if it demonstrated any of the behavior set forth in the definition of “vicious dog” in Section 4-26 of this Code. Such presumption is rebuttable. Upon conviction of maintaining a public nuisance with a particular vicious dog, said dog may be ordered by the City Court to be destroyed by the animal control officer or a licensed veterinarian designated by the animal control officer. A dog involved in a fatal attack on a person will be impounded and destroyed by the animal control officer or a licensed veterinarian designated by the animal control officer. A licensed doctor of veterinarian medicine (DVM) shall submit the animal to the appropriate laboratory for rabies testing.

C. Registration of vicious dog; Destruction of dog for noncompliance; Misdemeanor for failure to register.

The owner convicted of having a vicious dog shall forthwith register the dog as such with the Miles City Police Department and renew such registration every 12 months. The owner of the vicious dog must comply with and must show the animal control officer sufficient evidence that the following requirements are met within thirty (30) days following registration:

- (1) A securely enclosed structure is provided by the owner suitable to prevent unauthorized entry and designed to prevent the dog from escaping. The enclosure must also provide protection from the elements for the animal.
- (2) The owner shall display signs on his or her premises warning that there is a vicious dog on the property. These signs shall be visible and capable of being read from the public roadway and from any normal means of entry to the premises. In addition, the owner or keeper shall conspicuously display a sign with a warning symbol that will inform children of the presence of a vicious dog.
- (3) The owner of a vicious dog shall present proof of procurement of liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering the 12-month period during which registration is sought. This policy shall contain a provision requiring the City to be named as an additional insured and requiring that the City be notified by the insurance company at least ten (10) days in advance of any

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cancellation, termination or expiration of the policy.

(4) The owner shall, at his or her own expense, have the vicious dog registration number provided by the Miles City Police Department tattooed upon the inner side of the right ear by a licensed veterinarian, or micro-chipped, and the chip number provided to the Miles City Police Department.

(5) The owner convicted of having a vicious dog shall notify the Miles City Police Department within twenty-four (24) hours of a change of address or death of the dog. Immediate notification is required if the dog is loose.

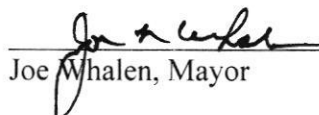
(6) The owner convicted of having a vicious dog shall not sell, transfer or give away the dog, other than to the animal control officer for disposal.

(7) The animal control officer is empowered to make whatever inquiry is deemed necessary to ensure compliance with the above provisions. Should it be found that the owner is in noncompliance with the provisions, the animal shall be immediately confiscated, and impounded, and upon notice and hearing before the City Court, if the owner is found to be in noncompliance, the dog shall be destroyed by the animal control officer or a licensed veterinarian designated by the animal control officer.

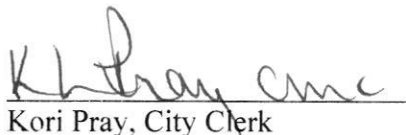
Any person failing to register such vicious dog in compliance herewith shall be guilty of a misdemeanor, and upon convictions shall be punished as provided by Section 1-11. Every day that such dog is not registered in compliance herewith shall be deemed a separate offense.

Section 3. This amendment shall become effective thirty (30) days after its final passage.

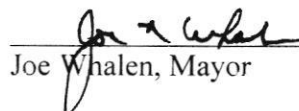
Said ordinance read and put on its passage this 27th day of April, 2010.


Joe Whalen, Mayor

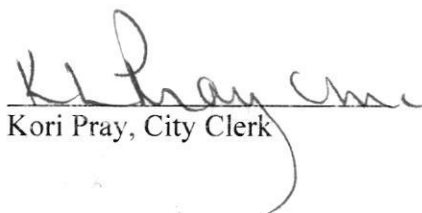
ATTEST:


Kori Pray, City Clerk

FINALLY PASSED AND ADOPTED this 11th day of May, 2010.


Joe Whalen, Mayor

ATTEST:


Kori Pray, City Clerk