

## ORDINANCE NO. 502

AN ORDINANCE AMENDING ORDINANCE NO. 442 and ORDINANCE NO. 291 PROVIDING THAT POLICE OFFICER SHALL HAVE AUTHORITY TO IMMEDIATELY TAKE POSSESSION OF DOG WHICH HAS BITTEN A PERSON OR ANIMAL IN THE CITY, WITHOUT PROVOCATION, AND TO ENTER PREMISES OF OWNER, IF NECESSARY, AND TO DELIVER DOG TO VETERINARY CLINIC FOR CLINICAL OBSERVATION OF RABIES, and GIVING DEFINITIONS.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF POLSON, STATE OF MONTANA, AS FOLLOWS:

Section 8.04.090, of Polson City Ordinance No. 442, adopted by the City of Polson on the 11th day of December, 1986, and Section 8.04.100 of Polson City Ordinance No. 291, adopted by the City of Polson on the 7th day of July, 1965, are hereby amended to provide, as follows:

8.04.090 Vicious dogs. (A) Whenever an affidavit shall be signed and submitted to a police officer or the animal control officer, that a dog has bitten a person or animal in the City, without provocation, the officer shall have authority to take immediate possession of said dog and to enter upon the premises of its owner, if necessary, in order to secure possession, and thereupon to deliver said dog to a designated veterinary clinic for clinical observation of rabies.

(B) The period of clinical observation shall be determined by the licensed veterinarian in charge of the clinic, but shall in no event be for a period less than ten (10) days.

(C) At the conclusion of the clinical observation period, the dog shall be destroyed unless the owner declares his or her desire to reclaim possession of the dog. In the event the owner desires to reclaim possession, a hearing shall be held before the City Judge to determine whether the dog should be found to be a dangerous dog within the definition set forth hereinafter, and at the conclusion of the hearing the Court shall issue an Order determining:

(1) That the dog is not a dangerous dog within the definition set forth in this code and should be returned to the owner subject to payment of all fees, impoundment expenses, fines, and other appropriate orders issued by the Judge in the circumstances;

(2) That the dog is a dangerous dog within the definition set forth in this code, in which case the dog shall be immediately destroyed at the direction of a police officer or animal control officer.

(D) The cost of impounding, keeping, observing, testing, destroying, any fines, and other related expenses shall be paid by the owner of the biting dog to the City Clerk or the City Judge prior to release of the dog to the owner.

(E) The failure on the part of the owner of a dog to fully cooperate in delivering the dog to the officer shall be deemed a misdemeanor and shall be punishable by a fine of not less than \$50 or by imprisonment in the county jail for a period not exceeding five (5) days or by both such fine and imprisonment.

8.04.110 Definitions. As used in this chapter unless otherwise indicated by text:

(A) "Dog" shall be intended to mean both male and female.

(B) "Owner" shall be intended to mean any person, firm, association, or corporation owning, keeping, or harboring any dog.

(C) "At large" shall mean off the premises of the owner and not under the control of the owner or member of his family or his agent by leash, cord, chain, or otherwise.

(D) "Dangerous Dog" means any dog which is capable of inflicting death or serious injury on any person or other animal and which:

(1) Has without provocation, attacked or bitten a person engaged in a lawful activity; or

(2) Has, while off the property of its owner and without provocation, killed or seriously injured another animal;  
or

(3) Has, anywhere, without provocation, chased, confronted or approached a person on a street, sidewalk or other public property in a menacing fashion, such as would put an average person in fear of attack; or

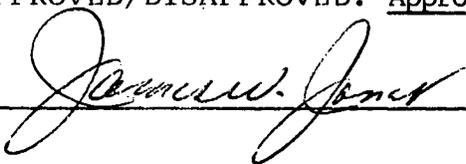
(4) Has anywhere exhibited a propensity, tendency or disposition to attack, cause injury or threaten the safety of persons or other animals without provocation; or

(5) Has anywhere acted in a manner that causes or should cause its owner to know that it is potentially vicious.

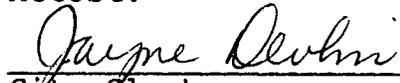
All other provisions of the City of Polson Ordinance No. 442 and Ordinance No. 291 not otherwise amended by this Ordinance shall remain in full force and effect.

FIRST READING: November 19, '90 APPROVED/DISAPPROVED: Approved as Amended

SECOND READING: December 3, '90 APPROVED/DISAPPROVED: Approved

  
\_\_\_\_\_  
Mayor

Attest:

  
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City Clerk