

ORDINANCE 2023-2

AN ORDINANCE AMENDING CHAPTER 2A OF TITLE 5 OF THE TOWN CODE OF PHILIPSBURG TO PROHIBIT FEEDING DEER

WHEREAS, the Town of Philipsburg is authorized by MCA 7-5-41-1 to “make and pass all bylaws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of Montana or to the provisions of [MCA Title 7], necessary for the government or management of the affairs of a city or town, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of [MCA Title 7].”

WHEREAS, no provision of the above-referenced laws prohibits a town from prohibiting the feeding of deer;

WHEREAS, feeding deer in the Town limits attracts deer and causes a nuisance, including a danger to the safe flow of vehicular traffic;

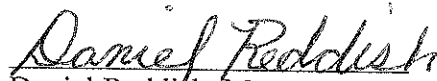
NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PHILIPSBURG, MONTANA:

Section 1. Chapter 2A of Title 5 of the Town Code of Philipsburg is hereby amended as depicted by Exhibit A attached hereto and incorporated by reference herein.


Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the Town Council.

ACCEPTED by the Town Council of the Town of Philipsburg, Montana on first reading on March 7th, 2023.

ADOPTED by the Town Council of the Town of Philipsburg, Montana on second reading on March 21st, 2023.


Daniel Reddish, Mayor

ATTEST:


Reed Speegle, Town Clerk

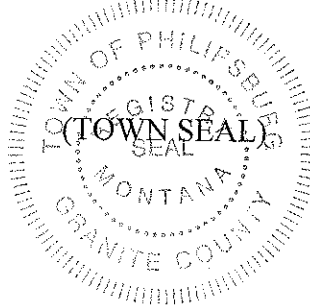


Exhibit A to Ordinance No. 2023-2

CHAPTER 2
ANIMAL CONTROL
ARTICLE A. ANIMALS AND FOWL

SECTION:

5-2A-1:	Definitions
5-2A-2:	Running At Large Prohibited
5-2A-3:	Animal Catcher; Impound Services; Notice
5-2A-4:	Impounding Costs; Records
5-2A-5:	Sale Of Impounded Animals
5-2A-6:	Trespass On Private Property
5-2A-7:	Racing Animals
5-2A-8:	Prohibition Of Certain Animals
5-2A-9:	Horse Pasturing Exception
5-2A-10:	Residence Restriction
5-2A-11:	Insanitary Conditions
5-2A-12:	Fowl Prohibited At Large
5-2A-13:	Diseased Animals; Fowl
5-2A-14:	Unnecessary Noise
<u>5-2A-15:</u>	<u>Feeding Deer</u>
5-2A-156:	Penalties

5-2A-1: DEFINITIONS: Definitions as used in this chapter:

HOUSEHOLD PETS: Any domesticated animals, such as dogs, cats, rabbits, gerbils, or other small mammals that are usually kept within a residence, cage, or kennel. Hoofed animals shall not be included in the definition of household pet. Household pets shall include any caged birds, and shall not include turkeys, ducks, chickens, geese, pigeons, or any game birds defined by Montana law.

KENNEL: An establishment for the breeding and/or boarding of dogs.

PASTURE: A completely fenced in area covered with herbaceous plants, either native or introduced, for the grazing of livestock.

PEN/CORRAL: A small fenced area used or built to confine or work horses, cattle, and/ or other hoofed animals. (Ord., 9-5-2006)

5-2A-2: **RUNNING AT LARGE PROHIBITED:** No horses, mules, swine, sheep, cattle or any cloven hoofed animal whatsoever, shall be permitted to run at large or herded within the corporate limits of the town, except when permission is obtained from town hall, under penalty of a fine not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00) for each and every animal so permitted to run at large or herded, together with the costs of impounding and the expense of sustenance and shelter for such animal or animals when impounded as hereinafter provided, to be paid by the owner of the animals or the person having charge, care or keeping thereof, severally and respectively. (Ord., 11-6-1989)

5-2A-3: **ANIMAL CATCHER; IMPOUND SERVICES; NOTICE:** The town shall use the contractual services of an animal catcher and establishment for

impounding animals as determined by the mayor with the consent of the town council. The animal catcher and establishment providing impound services shall be paid their reasonable costs and fees by the impounded animal owner as specified in a written contract with the town. The animal catcher shall give reasonable notice of the impoundment if the animal's owner is known. If the owner of an impounded animal is not known, reasonable notice shall be posted in three (3) prominent business establishments in town such as the post office, a grocery store, town hall, a bank, or the like. (Ord. 2008-5, 9-2-2008)

5-2A-4: **IMPOUNDING COSTS; RECORDS:** Prior to any animal being released to its owner or agent of the owner, the animal catcher and the establishment providing impound services shall be paid all costs and fees incurred in the impoundment of the animals as specified in the written contract contemplated in section 5-2A-3 of this article. The establishment providing impound services shall collect, in good faith, the costs and fees incurred by the animal catcher and deliver said monies to the town clerk in trust for the animal catcher. The animal catcher and establishment providing impound services shall keep timely and accurate records of all animals impounded and costs incurred. These said records shall be delivered to the town upon written demand. (Ord. 2008-5, 9-2-2008)

5-2A-5: **SALE OF IMPOUNDED ANIMALS:** Animals in impound may be sold to pay the costs of the animal catcher and establishment providing impound services, with any excess monies being paid to the town clerk. The basis and process for the sale of such impounded animals shall be set by resolution of the town council. (Ord. 2008-5, 9-2-2008)

5-2A-6: **TRESPASS ON PRIVATE PROPERTY:** If any animal or animals hereby prohibited from running at large, or being herded within the corporate limits, shall be found trespassing upon the premises of another, the owner of or any person occupying such premises may deliver to the chief of police any such animal or animals and the same may be dealt with as provided in this article. (Ord. 52, 6-5-1893; amd. Ord. 2008-5, 9-2-2008)

5-2A-7: **RACING ANIMALS:** It shall be unlawful for any person, within the town limits, to race any team or single animal or animals, by driving, riding or otherwise, in trials of speed for stakes, or for no stakes, or in any manner for anything or otherwise. Nothing in this section, nevertheless, shall be construed as to prevent the council at such times as they may see fit, and deem best, by a resolution duly entered on the minutes of the town, to allow racing on any of the streets of the town on a day and time and between certain hours to be specially designated in said resolution, and provided further that not more than a certain number of days in any one year shall be so specially set aside for such racing within the town limits. (Ord. 95, 7-1-1901; amd. Ord. 2008-5, 9-2-2008)

5-2A-8: **PROHIBITION OF CERTAIN ANIMALS:**

- A. Except for household pets and days of rodeos and parades, it shall be unlawful for any person to keep or maintain animals such as any hoofed animals, cattle, horses, goats, pigs, sheep, llamas or other bovine or equine livestock. Up to twenty (20) adult chickens or any combination of adult fowl such as turkeys, ducks, chickens, pigeons, geese, other game birds, may be allowed within the corporate town limits. Household pets are allowed.
- B. All animals not specifically allowed in subsection A of this section and section 5-2A-9 of this article are prohibited within the corporate town limits. (Ord., 9-5-2006; amd. Ord. 2008-5, 9-2-2008)

5-2A-9: **HORSE PASTURING EXCEPTION:** As an exception to section 5-2A-8 of this article, horses may be allowed within the corporate town limits if they are kept in a pasture not less than one-half (1/2) acre per animal to prevent the accumulation of manure. To fall under this exception, horse pasturing must have been in

place prior to January 1, 2006. Horses must be kept in a reasonably maintained pasture and be enclosed by a reasonably maintained fence. This exception immediately ceases upon the sale of the horse pasturing property or abandonment of such use. Horse pasturing use shall be presumed abandoned if any pasture is not used for pasturing horses for a period of one year or more. (Ord. 2008-5, 9-2-2008)

5-2A-10: RESIDENCE RESTRICTION: It is hereby declared to be a nuisance, and it shall be unlawful to keep any animals, fowl or birds, wild or domestic, within twenty-five feet (25') of any building, school, church, hospital or any residence or dwelling house or other buildings used for the habitation of human beings. (1972 Code; amd. Ord. 2008-5, 9-2-2008)

5-2A-11: INSANITARY CONDITIONS: It is hereby declared to be a nuisance, and it shall be unlawful to keep or permit to be kept on any premises any wild or domestic animals, fowl or birds, in a foul, offensive, obnoxious, filthy or insanitary condition. (1972 Code; amd. Ord. 2008-5, 9-2-2008)

5-2A-12: FOWL PROHIBITED AT LARGE: It is hereby declared to be a nuisance and it shall be unlawful to allow or permit any fowl or birds to run at large upon any public street, avenue, alley or place, or to allow or permit the same to run at large or trespass upon any private property. (1972 Code; amd. Ord. 2008-5, 9-2-2008)

5-2A-13: DISEASED ANIMALS; FOWL: It is hereby declared to be a nuisance, and it shall be unlawful to allow or permit upon any street, avenue, alley, public place or upon any unenclosed premises any animal or fowl that shall be suspected of, or that shall be known to have been exposed to, or that shall be known to have any disease which may be communicated to human beings, animals or fowl. (1972 Code; amd. Ord. 2008-5, 9-2-2008)

5-2A-14: UNNECESSARY NOISE: It is hereby declared to be a nuisance, and it shall be unlawful to keep, maintain or permit on any lot or parcel of land, any animals or fowl, which by any sound or cry shall disturb the peace and comfort of any neighborhood, or interfere with any person in the reasonable and comfortable enjoyment of life or property. (1972 Code; amd. Ord. 2008-5, 9-2-2008)

5-2A-15: FEEDING DEER: It is hereby declared to be a nuisance, and it shall be unlawful to feed deer.

5-2A-156: PENALTIES: Any person violating this article has acted unlawfully and is guilty of a misdemeanor. Except as otherwise stated in any particular section in this article, a person who violates any provision in this article shall be subject to a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed six (6) months, or both such fine and imprisonment for each misdemeanor offense. Each day a person is in violation of this article shall be construed as a separate misdemeanor offense. (Ord. 2008-5, 9-2-2008)