

ORDINANCE 3174

AN ORDINANCE AMENDING TITLE 6, CHAPTER 1, SECTIONS 010, 120, 130, AND 250, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO RABIES CONTROL AND UNATTENDED ANIMALS IN VEHICLES.

* * * * *

WHEREAS, the City Commission established Title 6, Chapter 1 of the OCCGF outlining provisions pertaining to animal control regulations; and

WHEREAS, the City Commission established regulations pertaining to rabies exposure control; and

WHEREAS, the rabies exposure control regulations must be amended to be consistent with the Montana Code Annotated and The Administrative Rules of Montana; and

WHEREAS, the City Commission wishes to amend regulations pertaining to animals being left unattended in vehicles and who is authorized to rescue them.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1. OCCGF Title 6, Chapter 1, Section 010 shall be amended as depicted in Exhibit "A" attached hereto, with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 2. OCCGF Title 6, Chapter 1, Section 120 shall be amended as depicted in Exhibit "B" attached hereto, with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 3. OCCGF Title 6, Chapter 1, Section 130 shall be amended as depicted in Exhibit "C" attached hereto, with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 4. OCCGF Title 6, Chapter 1, Section 250 shall be amended as depicted in Exhibit "D" attached hereto, with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 5. This Ordinance shall become effective thirty (30) days after adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading October 17, 2017.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading November 7, 2017.

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

Darcy Dea, Deputy City Clerk

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Darcy Dea, Deputy City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3174 on the Great Falls Civic Center posting board and the Great Falls City website.

Darcy Dea, Deputy City Clerk

(CITY SEAL)

Exhibit "A"

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6.1.010 Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms shall have the meaning ascribed to each:

- A. "Abandon" means to forsake, desert, or absolutely give up an animal previously under the custody, or possession, of a person without having secured another owner or custodian by failing to provide one or more of the elements of adequate care for a period of twenty-four (24) or more consecutive hours.
- B. "Adequate care" means the reasonable practice of good animal husbandry, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia. This practice must be appropriate for the age, species, condition, size, and type of animal. Adequate care additionally includes the provision of veterinary care to prevent suffering, disease, or the impairment of health.
- C. "Adequate feed" means the provision of access to food that is:
 - 1. Of sufficient quantity and nutritive value to maintain each animal in good health;
 - 2. Accessible to each animal without duress or competition;
 - 3. Prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal;
 - 4. Provided in a clean and sanitary manner;
 - 5. Placed so as to minimize contamination by excrement and pests; and
 - 6. Provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting for the normal species.
- D. "Adequate shelter" means the provision of, and access to, shelter that:
 - 1. Is suitable for the species, age, condition, size, and type of each animal;
 - 2. Provides adequate space for each animal;
 - 3. Is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health;
 - 4. Is properly cleaned to include:
 - i. clean of carcasses, debris, food waste and excrement with sufficient frequency to minimize the animal's contact with those contaminants;
 - ii. sanitized with sufficient frequency to minimize odors and the hazard of disease; and
 - iii. cleaned to prevent the animals confined therein from being directly or indirectly sprayed with a stream of water or exposed to hazardous chemicals or disinfectants.
 - 5. Enables each animal to be clean and dry, except when detrimental to the species.
 - 6. For dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner.

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7. A shelter with wire, grid, or slat floors which do not sag under the animal's weight, do not permit the animal's feet to pass through the openings, or which otherwise protect the animal's feet or toes from injury.
 8. With respect to outdoor facilities for animals, the provision of one or more shelter structures that are accessible to each animal in each outdoor facility and that are large enough to allow each animal in the shelter structure to sit, stand, and lie in a normal manner and to turn about freely. In addition to the shelter structures, one or more separate outside areas of shade must be provided, large enough to contain all the animals at one time and protect them from the direct rays of the sun. Shelters in outdoor facilities for animals must:
 - i. Contain a roof and be fully enclosed with an opening to allow animal access;
 - ii. Provide the animals with adequate protection and shelter from the cold and heat, provided that no animal may be maintained in any outdoor location where the ambient temperature is under thirty-five (35) degrees Fahrenheit or higher than one hundred (100) degrees Fahrenheit or any indoor location where the ambient temperature is under forty-five (45) degrees Fahrenheit or exceeds eighty-five (85) degrees Fahrenheit;
 - iii. Provide a wind break at the entrance;
 - iv. For building surfaces in contact with animals in outdoor housing facilities, be impervious to moisture;
 - v. Not be made of metal barrels, cans, refrigerators or freezers, and similar materials; and
 - vi. Have floors which are maintained on a regular basis and made of compacted earth, absorbent bedding, sand, gravel, or grass, which must be replaced if there are any prevalent odors, diseases, insects, pests, or venom. Surfaces of outdoor housing facilities that cannot be readily cleaned and sanitized must be replaced when worn or soiled.
- E. "Adequate space" means sufficient space to allow each animal:
1. To easily stand, sit, lie, turn about and make all other normal body movement in a comfortable, normal position for the animal;
 2. To interact safely with other animals in the enclosure. Outside dog runs must be a least ten (10) feet long and thirty-six (36) inches wide for dogs weighing up to forty-five (45) pounds, and at least ten (10) feet long and forty-eight (48) inches wide for dogs weighing forty-five (45) pounds or more;
 3. When an animal is tethered, to engage in the above actions and is:
 - i. Appropriate to the age and size of the animal;
 - ii. Attached to the animal by a properly fitted collar, halter, or harness configured so as to protect the animal from injury and to prevent the animal or tether from becoming entangled with other objects or animals or from extending over an object or edge that could result in the strangulation or injury of the animal; and
 - iii. Is at least three times the length of the animal, as measured from the tip of the nose to the base of the tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to accepted veterinary standards for the

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species is considered provision of adequate space, provided, however, that no animal shall be tethered for more than a reasonable period.

- F. "Adequate veterinary care" means provision of medical care to alleviate suffering, prevent disease and disease transmission, and maintain health through accepted practice by the American Veterinary Medical Association for the age, species, condition, size, and type of each animal.
- G. "Adequate water" means the provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and suitable intervals to maintain normal hydration for the age, species, condition, size, and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species. Such water shall be provided in clean, durable receptacles that are accessible to each animal and placed so as to minimize contamination of the water by excrement or pests. Alternatively, provision of an alternate source of hydration consistent with generally accepted husbandry practices may be provided.
- H. "Adoption" means the transfer of ownership of an animal from a releasing agency to an individual.
- I. "Animal" means any living vertebrate creature, other than human beings, whether wild or domestic, including but not limited to all livestock and any domestic pet.
- J. "Animal Control Officer" means any person charged with the duty of enforcement of the City's animal control ordinances. Animal Control Officers shall be peace officers for the limited purpose of animal control.
- K. "Animal hoarder" means any person who possesses a large number of animals, and who;
 - 1. Keeps animals in severely overcrowded conditions where they are unable to be in a state of good health;
 - 2. Displays the inability to recognize or understand the nature of, or has reckless disregard for, the conditions of the animals; or
 - 3. Lives in unsanitary, unhealthy or potentially dangerous conditions and fails to or is unable to provide the animals with adequate care as defined in this chapter.
- L. "Animal Shelter" means any premise provided for intaking and caring for domestic animals. References in this Title to "Animal Shelter" shall mean the Great Falls Animal Shelter unless specifically stated otherwise.
- M. "ARM" means the Administrative Rules of Montana.
- N. "At large" means off the premises of the owner and not under the immediate, continuous and effective control of its owner or some other competent person.
- O. "Collar" means a well fitted device that:
 - 1. Encircles an animal's neck or torso in such a way as to avert trauma or injury to the animal;
 - 2. Allows two fingers to be inserted between the neck and collar;
 - 3. Is appropriate to the age and size of the animal; and
 - 4. Is constructed of nylon, leather, metal, or similar material.
- P. "Commercial kennel/cattery" means any building, structure, or premise which is used for the business of charging fees for boarding, training, or breeding of domestic animals, exclusive of medical or surgical care, or for quarantine purposes.

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- Q. "Companion Animal" means any domestic animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability, the need for which is documented by a health care provider.
- R. "Dangerous Animal" means any animal that displays any of the following behaviors:
1. inflicting bodily injury upon or has caused the death of a person or domestic animal; or
 2. demonstrating tendencies that would cause a reasonable person to believe that the animal may inflict injury upon or cause the death of any person or domestic animal, including but not limited to the following behaviors:
 - i. attacking, without provocation, requiring defensive action by any person to prevent bodily injury and/or property damage in a place where such person is conducting himself peaceably and lawfully;
 - ii. attacking, without provocation, resulting in an injury to a person in a place where such person is conducting himself peaceably and lawfully;
 - iii. attacking, without provocation, resulting in injury or death to other animals unless the other animal is trespassing on the attacking animal owner's property, or injuring or attempting to injure the person, family or property of the owner; or
 3. engaging in or been trained for animal fighting.
- S. "Domestic animal" means any animal that may be legally possessed by a person and is commonly kept in or around a residence, outbuildings or business.
- T. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.
- U. "Excrement" means waste from the bowels or bladders of animals.
- V. "Feral cat" means any cat that is a descendant of a domesticated cat that has returned to the wild.
- W. "Foster home" means a private residential dwelling and its surrounding grounds where care and/or rehabilitation are provided to domestic animals through an affiliation with the Great Falls Animal Shelter.
- X. "Fowl" means any of various birds of the order alloforms, including chickens, roosters, ducks, geese, turkeys, and pheasants, or any bird that is used for food or hunted as game.
- Y. "Hybrid animal" means an animal resulting from the crossbreeding between two (2) different species of animals. These may include, but are not limited to, crosses between wild animal species such as lions, tigers, and wolves. For the purpose of this chapter, a hybrid animal will be considered a wild animal.
- Z. "Intake" means the taking into custody of an animal either wild or domestic by Animal Control Officers or the Great Falls Animal Shelter.
- AA. "Leash" means a cord, rope, chain, or strap attached to the collar or harness of an animal, and used to lead it or hold it in check.

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- BB. "Licensing authority" means any designated representative of the City or Animal Shelter charged with administering the issuance and/or revocation of permits and pet registrations under the provisions of this chapter.
- CC. "Livestock" means domestic animals traditionally raised in an agricultural setting to produce commodities such as food, fiber, or labor. These may include, but are not limited to, cattle, sheep, swine including domestic pot-bellied pigs, poultry, fowl, ostriches, emus, goats, horses, mules and llamas.
- DD. "Microchip Implant" means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification.
- EE. "Multiple Animal Permit" means a permit authorizing a household, individual or family unit to keep, harbor or maintain more than the limited number of dogs and cats permitted by this Chapter.
- FF. "Neglect" occurs when the owner or keeper of an animal does any of the following:
1. Fails to provide an animal with adequate care as defined in this chapter;
 2. Fails to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized;
 3. Keeps any animal under conditions which increase the probability of the transmission of disease;
 4. Allows any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or not ambulatory, to suffer unnecessary pain; or
 5. Meets the definition of an animal hoarder as defined in this chapter.
- GG. "Nuisance animal" means any animal or group of animals that behaves in a disruptive or destructive manner, including but not limited to, the following, habitually:
1. Steals, damages, soils, or defiles community or neighborhoods private property or public property;
 2. Turns over garbage containers, rummages through or scattering garbage or rubbish, or damages flower or vegetable gardens;
 3. Causes unsanitary or offensive conditions;
 4. Chases vehicles or bicycles on public streets, ways or parks, or impedes the safety of pedestrians, bicyclists, or motorists;
 5. Is inside a public area which is designated as one prohibiting animals, except for an animal that has been duly and properly trained and registered as a Service Animal as described in Section 6.1.010, or a Companion Animal as defined in this Title, may be allowed in such an area when acting in that capacity; or
 6. Barks, howls, whines, bays, or makes any noise common to its species, so continuously or incessantly as to unreasonably disturb the peace, comfort, tranquility of life or property of one or more persons occupying property in the community or neighborhood, within reasonable proximity to the premises where the animal or animals are kept. The noise must be continuously or intermittently audible for thirty (30) minutes within one (1) hour period, however, the provisions of this section shall not apply to any commercial kennel permitted by zoning laws.
 7. Is allowed by any person having ownership, possession, charge, custody or control of the animal to be at large during its estrous period or when in heat. During this period, the owner or person having possession of the animal must

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restrain the animal in a proper enclosure in such a manner that will prevent the animal from coming in contact with a male of its species. Any such animal not so confined may be taken in by Animal Control Officers or the Animal Shelter. This section shall not be construed to prohibit the intentional breeding of animals on the premises of the owners of the animals involved.

- HH. "Owner" means any person, or group of persons, corporation, organization, or association (excluding the Great Falls Animal Shelter, any non-profit releasing agency, feral cat caretaker, or veterinarian) that:
1. Has a property right in an animal;
 2. Keeps or harbors an animal;
 3. Has an animal in his or her care or acts as a custodian of an animal for ten (10) or more consecutive days when the true owner of the animal is unknown to such person; or
 4. Has an animal in his or her care or acts as a caretaker or custodian of an animal by agreement with or without permission of the true owner of the animal.
- II. "Pet animal" means any animal sold or kept for the purpose of being kept or domesticated as a household pet. Pet animal includes but is not limited to dogs, cats, birds, rabbits, ferrets, hamsters, guinea pigs, gerbils, rats, mice, non-poisonous arachnids, non-poisonous insects, non-venomous snakes and fish.
- JJ. "Potentially Dangerous Animal Behavior" means any of the following behaviors:
1. Without provocation, chasing or approaching a person in either a menacing fashion or having an apparent attitude of attack while the animal is off the premises of its owner;
 2. Attempting to attack a person or domestic animal while off the premises of its owner;
 3. While off the property of its owner, engaging in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent bodily injury; or
 4. Engaging in other comparable conduct.
- KK. "Premises" means a building, group of buildings and/or contiguous parcels of land under the control of a single person and used for a single purpose. Continuous parcels of land separated by a public road are considered to be separate premises. Separate buildings and adjoining buildings in a group of buildings, which are directly accessible to the public and function independently from the others, are separate premises.
- LL. "Proof of ownership" means documentation in support of a property right in an animal that includes, but is not limited to, veterinary records, rabies inoculation certificates, licenses, photographs, bills of sale, breed registries, written transfers of ownership, and verbal or written third-party verifications.
- MM. "Proper enclosure" means a place in which an animal is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of twelve and designed to prevent the animal from escaping. Such enclosure shall have secure sides and a secure top to prevent the animal from escaping and shall also provide protection for the animal from the elements. The enclosure shall be of suitable size for the animal.
- NN. "Properly restrained" means an animal that is:

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1. Kept within a proper enclosure;
 2. Controlled by a competent person by means of a leash not to exceed six (6) feet in length or other device; or
 3. Secured within or upon a vehicle being driven or parked. Properly restrained within or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons outside the vehicle.
- OO. "Provoke" means to goad, inflame, instigate, or stimulate an aggressive or defensive response by an animal, but does not include any reasonable actions by an individual that are intended to defend against the animal.
- PP. "Releasing agency" means an animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity that releases animals for adoption.
- QQ. "Relinquish or Surrender" means giving up all rights to an animal, thereby making it the property of the City of Great Falls.
- RR. "Sanitary conditions" means space free from health hazards, including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.
- SS. "Service Animal" Is defined by the United States Department of Justice 28 C.F.R. § 36.104, hereby incorporated by reference.
- TT. "Stray or stray animal" means any animal that:
1. Is at large;
 2. Appears to be lost, unwanted, or abandoned; and
 3. Whose owner is unknown or not readily available. ~~Feral cats and community cats shall not be considered Stray animals for the purposes of this chapter.~~

(Ord. 3174, 2017)

- UU. "State of good health" means freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate veterinary treatment.
- VV. "Tether" means a leash or similar device, attached to a well-fitted collar or harness of an animal, and of sufficient strength to restrain and control that animal to which it is attached.
- WW. "Use of force" is justified by a person against an animal as allowed by Montana Code Annotated Title 49, Chapter 1.
- XX. "Vaccination" means the inoculation of a dog, cat, ferret, horse or other animal with anti-rabies vaccine administered under the direction of a licensed veterinarian or with any other vaccine approved by the ~~public health officer and the~~ state veterinarian. "Current vaccination" means the inoculation of a dog, cat, ferret, horse or other animal with anti-rabies vaccine. Animals vaccinated initially will receive a booster shot one (1) year after the initial vaccination and thereafter according to manufacturers' recommendations.

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- YY. "Wild Animal" means any living vertebrate animal normally found in the wild state and for which there is no USDA approved anti-rabies vaccination. These include, but are not limited to, bears, skunks, raccoons, deer, bobcats, mountain lions, and any type of "hybrid animal."

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6.1.120 Rabies—exposure.

Animal contacts shall be subject to the following provisions:

- A. Any non-vaccinated or not currently vaccinated domestic animal that has been exposed to a confirmed rabid, or suspected rabid, animal shall be administered according to the provisions of the Administrative Rules of Montana (ARM) Title 32, Chapter 3.
- B. Any currently vaccinated domestic animal that has been exposed to a confirmed rabid, or suspected rabid, animal shall be administered according to the provisions of ARM, Title 32, Chapter 3.
- C. Any person having knowledge of an animal known to have or suspected of having rabies shall report an accurate description immediately to the state veterinarian or to a deputy state veterinarian.
- D. The Animal Control Officer shall notify the City/County Health Department and the Department of Livestock of the exposure including the bite and bitten animal. The Department of Livestock may further investigate the incident and take appropriate action including, but not limited to, destruction or further quarantines as required by this part.

~~Human exposure shall be subject to the following provisions:~~

- ~~E. Upon consideration of the discretion and advice of the Local Health Officer any domestic animal, regardless of vaccination status that bites or otherwise exposes a person to the possibility of rabies must be confined and observed in accordance with ARM Title 32.~~
- ~~F. If any sign of illness develops in the isolated animal, it is to be evaluated by a licensed veterinarian in accordance with ARM Title 32.~~
- ~~G. Any domestic animal confined and observed pursuant to this part may be vaccinated during the ten (10) day confinement period.~~

- E. Animal rabies exposure procedures include:
 - 1. If the owner of the animal is identified, the animal shall be quarantined at a veterinarian hospital at the owner's expense for a period of at least ten (10) days after the day of exposure. In the event an owner cannot be identified, the animal shall be taken and quarantined at the Animal Shelter. In the event an owner will not voluntarily release the animal for quarantine, the Animal Control authority or law enforcement officer shall obtain a court order to seize the animal and place it in quarantine at the veterinarian hospital of the authority's choice, at the owner's expense.
 - 2. If the animal is a stray and no owner is identified within twenty-four (24) hours, the animal may be euthanized and tested for rabies.
 - 3. The aforesaid procedure shall be suspended on order of the City/County Health Department where an animal exhibits symptoms of rabies.

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IF. Human exposure to a confirmed rabid, or suspected rabid, animal shall be administered according to applicable Montana State law and regulations, including but not limited to, MCA Titles 37, and 50, and ARM Title 32 **and 37**.

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JG. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) and may also be subject to the other penalties specified in 6.1.300.

(Ord. 3174, 2017)

Exhibit "C"

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6.1.130 Rabies—emergency control.

Upon the positive diagnosis of rabies infection of any animal in the City, the public health officer shall notify the City Manager, or designee, who may issue a citywide quarantine order providing for the summary destruction of all animals known to have been exposed to rabies, or all unconfined animals, or may make such other orders as it deems necessary or expedient for the protection of the public. All orders issued by the City Manager, or designee, under this section shall have the same force and effect as any City law. ~~All isolation of animals diagnosed of rabies infection shall comply with ARM Title 32.~~

(Ord. 3174, 2017)

Exhibit "D"

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6.1.250 Unattended animal in a motor vehicle.

- A. It is unlawful for any person to leave an animal unattended in a standing or parked motor vehicle in a manner that endangers the health or safety of the animal.
- B. A person may use reasonable force to remove from a motor vehicle an animal left in the vehicle in violation of subsection (A) if the person is:
 - 1. an Animal Control Officer;
 - 2. a law enforcement officer; or
 - 3. a ~~professional~~ **professionally licensed** fire and/or-rescue service person.
- C. **Persons identified in subsection (B) must be within their jurisdiction or otherwise acting within the scope of their lawful authority.**

(Ord. 3174, 2017)