

TITLE 6

Animals

Chapter 6.04

Animal Control

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Chapter 6.04

Animal Control

6.04.010 Title.

This Chapter shall be known as the "Town Animal Control Ordinance of 1994." (Ord. 94-17 §1(part))

6.04.020 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

Abandon(ed) means to deposit, leave, drop off or otherwise dispose of any living domestic animal without providing immediate humane care on any public or private property.

Animal means any living vertebrate creature, domestic or wild, including cats and dogs, but excluding stray animals as defined in Section 35-44-101, C.R.S.

Animal Control means the Community Service Officer of the Town or his or her designated representative.

Bite means to seize with the teeth or jaws so that a person or animal has been nipped, gripped, wounded or the skin pierced.

Cat shall refer to any animal of the feline species, regardless of sex.

Construction site means any lot, parcel or tract of land on which, according to this Code, work is being performed by persons required to register as a contractor with the Town.

Control means physical restraint or influence over a cat or dog by means of a leash, cord or chain no longer than ten (10) feet in length.

Conviction means a finding of guilt by a court or acknowledgement of guilt by payment of a fine pursuant to the penalty assessment procedure.

Council is the Town Council.

County means the county of Eagle, state of Colorado.

Cruelty occurs when a person knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, socialization or protection from the weather or abandons it.

Damage means loss or harm resulting from injury to person or property.

Dangerous dog means any dog that according to the records of the appropriate authority:

- a. Has inflicted serious bodily injury upon a human being, without provocation, while on public or private property;
- b. Has killed a domestic animal without provocation while off the owner's property;
- c. Whose owner has been convicted of a violation of Section 6.04.140, or the equivalent in another jurisdiction;
- d. Has been previously found to be potentially dangerous, the owner having received notice of such, and the dog again bites, attacks or endangers the safety of humans or domestic animals; provided, however, that dogs shall not be deemed dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was abusing or assaulting the dog or was committing or attempting to commit a crime; or
- e. Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

Dog refers to any animal of the canine species, regardless of sex, including dogs of wolf extraction, and a dog that is of any hereditary part related to wild canines, such as but not limited to the wolf family (*canis lupus*) and the coyote family (*canis latrans*).

- a. *Female dog* means a dog of the female gender on which no alternative surgery (e.g. ovariectomy or ovariohysterectomy) has been performed. (Intact)
- b. *Spayed female dog* means a female dog on which an ovariectomy or hysterectomy has been performed by a licensed veterinarian.
- c. *Male dog* means a dog of the male gender which has not been castrated. (Intact)
- d. *Neutered male dog* is a male dog which has been castrated.

Dog or cat owner means a person, or any parent, guardian or legal custodian of any unemancipated child under eighteen (18) years of age who owns, co-owns, possesses, controls, maintains, keeps or harbors a dog or cat or knowingly permits, or intends to permit, a dog or cat to remain for seven (7) consecutive days on or about property or premises owned, controlled or occupied by him or her; a *kennel* is not a *dog or cat owner* within the purview of this definition.

Dog or cat tag means a metal tag stating vaccination against rabies, serial numbered and bearing the year of issuance.

Habitual offender means any pet animal owner/keeper whose pet has been found, by the court, to have been kept in violation of this Title of this Code three (3) times within any twelve-month period.

Harbor or keep means to feed and care for any dog or cat upon the premises or to permit any dog or cat to be fed and cared for on the premises. The occupant of any premises to which a dog or cat is kept or to which the animal customarily returns daily for food, shelter and/or care is presumed to be harboring said animal within the meaning of this Chapter, and said person shall be subject to the applicable provisions of this Chapter. No person is deemed to *harbor or keep* any animal that has been

reported to the Community Service Officer and is actively assisting in efforts to impound or confine said animal.

Keeper means any person who keeps or harbors a dog or cat for less than seven (7) days.

Kennel means a person, entity or operation which is required to be licensed or permitted by the State and/or Eagle County, pursuant to applicable laws and regulations, and which keeps and maintains dogs or cats for sale, resale, boarding, breeding, show, hunting or other commercial or recreational purposes.

Mistreatment includes every act or omission which causes or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

Neglect means failure to provide food, water, protection from the elements, opportunity for exercise, socialization or other care normal, usual and proper for an animal's health and well-being.

Potentially dangerous dog means any dog that when unprovoked:

- a. Inflicts a bites on a human or a domestic animal either on public or private property;
- b. Chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; or
- c. Chases or approaches a person upon private property other than the owner's in a menacing fashion or apparent attitude of attack.

Premises means property owned, leased or expressly permitted to be used by an owner; or, any confined area or locality like a residence, business, room, shop, building or motor vehicle in which the animal's presence is authorized by the owner of the premises. The term *premises* includes the open space bed of a truck.

Proper enclosure of a dangerous dog means while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, a locked gate and shall also provide protection from the elements. There shall be posted signs, which are legible to passersby, warning of the dangerous dog's presence.

Proper restraint of a potentially dangerous dog means:

- a. While on the owner's property, a potentially dangerous dog shall be restrained by chain, leash or other confinement suitable to prevent the animal from leaving the owner's property; or
- b. While off the owner's property, a potentially dangerous dog shall be under physical restraint of the owner or other responsible person.

Provocation means harassment, teasing, threatening, striking or attacking an animal or its owner in the animal's presence, by either a person or another animal.

Public nuisance means an animal infected with rabies, or stray cat, or a barking dog which disturbs the peace of humans, or a dangerous or potentially dangerous dog, an unconfined dog in estrus or a dog

or cat that deposits excrement in public or private property that is not subsequently and promptly removed by the responsible party.

Rabies means a communicable disease of both wild and domestic animals transmittable to humans, as defined by the United States Department of Agriculture.

Running at large means when a dog or cat enters the property of another person without authorization of that person, or when it enters public property, and is not under the control of the dog or cat owner, other responsible person or an employee or agent of the owner, either by leash, cable or chain not more than ten (10) feet in length.

Secure animal enclosure means a structure which is suitable to humanely keep and to prevent the escape of an animal, and has a top, bottom and all sides, which shall not be construed to mean the open bed of a truck.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Town means the Town of Avon, State of Colorado.

Vaccination, inoculation or vaccination for rabies means the inoculation of a dog with an anti-rabies vaccine approved by the Colorado State Department of Public Health and Environment and administered by a licensed veterinarian for use in the prevention of rabies, which is deemed current by reference to the expiration date noted on the vaccination certificate or published duration as indicated by the manufacturer. (Ord. 98-3 §I; Ord. 96-14 §1; Ord. 94-17 §1(part))

6.04.030 Annual cat vaccination required.

(a) It is unlawful for a cat owner to fail to have currently vaccinated or inoculated against rabies each cat which he or she maintains, keeps or harbors within the Town for more than thirty (30) consecutive days.

(b) A license is not required for cats; however, every cat so maintained, kept or harbored within the Town for more than thirty (30) consecutive days must be currently vaccinated against rabies, and a certificate as to the date administered and expiration, identifying the type of vaccine, administering veterinarian and business address, must be presented for inspection upon the request of any duly authorized person. (Ord. 07-02 §1; Ord. 94-17 §1(part))

6.04.040 Attachment of cat tag to collar or harness.

No cat owner shall fail to place upon his or her cat a collar or harness to which a cat tag is attached. Said collar or harness must be worn by the cat at all times, except when the cat is securely confined within any enclosure on the property of the owner, possessor or keeper of such an animal. (Ord. 07-02 §2; Ord. 94-17 §1(part))

6.04.045 Dog license required.

(a) It shall be unlawful for any owner of a dog harbored, kept or maintained in the Town to fail to have the dog currently licensed.

(b) All dogs over the age of three (3) months shall have a valid Eagle County Pet Animal license after the dog has been kept, maintained or harbored in the Town for any consecutive thirty-day period or immediately upon citation for any violation of this Code.

(c) A valid dog license tag shall be attached to a collar or harness and shall be worn by the dog at all times. It shall be a defense to prosecution under this Subsection that the owner or responsible party can produce a certification by a veterinarian that the dog cannot wear a collar or harness because of a permanent medical condition or that the dog was working in a capacity that made the wearing of a collar or harness hazardous to the dog. (Ord. 07-02 §3)

6.04.050 Kennel regulations.

Dogs or cats kept or maintained by a licensed kennel shall be required to be inoculated against rabies pursuant to the provisions of this Chapter while they are within the confines of the kennel premises; however, current rabies vaccinations and applicable certificates for each dog or cat over four (4) months of age shall be presented for inspection upon request of an authorized officer. (Ord. 94-17 §1(part))

6.04.060 Control.

(a) It is the duty of any owner or keeper of a dog or cat to keep such dog or cat under control, as herein defined, so as to prevent the dog or cat from:

- (1) Running at large;
- (2) Becoming a danger to persons or property;
- (3) Trespassing on the property of another;
- (4) Being a public nuisance as defined in Section 6.04.230.

(b) Animal Control has the authority to and shall deem any animal that displays any characteristics of a dangerous or potentially dangerous dog, and shall notify the owner through posted notices.

(c) It is unlawful for:

(1) A dog or cat to not be under control at all times.

(2) A dog to not be under control in instances which shall include, but not be limited to, when said dog bites or damages a person or property of anyone other than the owner. Animal Control has the authority to and shall deem any dog that bites a human or domestic animal as potentially dangerous and shall notify the owner through posted notice.

(3) A dog to not be under control in instances which shall include, but not be limited to, when said dog inflicts severe bodily injury or damage to the person or property of anyone other than the owner. Animal Control shall deem any dog that inflicts severe bodily injury to a human or domestic animal as a dangerous dog and shall notify the owner through posted notice.

(d) No dog owner shall fail to confine any female dog in the state of estrus (heat). The dog shall be confined during estrus in a house, building or secure enclosure constructed so that no other dog may gain

access to the confined animal. Owners who do not comply with this Subsection may be ordered to remove the dog to a boarding kennel, veterinary hospital or the county Animal Control center. All expenses incurred as a result of such confinement shall be paid by the owner. Failure to comply with the removal order of the Animal Control officer shall be a violation of this Chapter, and any unspayed female dog in estrus may be summarily impounded in the event of noncompliance with such removal order.

(e) It is unlawful for a dog owner to leave within the open portion of a vehicle parked on public property a dog which is creating a danger to persons or property, or both, in the immediate vicinity thereto.

(f) It is unlawful to leave any domestic companion animal confined within a vehicle so as to place said animal in undue stress or danger of extremes in temperatures. Any authorized officer finding such to be existent may take whatever reasonable means necessary to remove said animal from the vehicle and place said animal into "protective custody."

(g) It is unlawful for a person to abandon or leave unattended an animal owned by him or her or which has been under his or her control or in his or her possession. An animal which has been left unattended for more than twenty-four (24) hours after posted notice of abandonment by Animal Control shall be considered abandoned and may be impounded by Animal Control, exercising whatever reasonable means necessary to accomplish such impoundment.

(h) Procedure for notice of abandoned animals. Animal Control shall post a warning notice in a conspicuous place such as the entry area to the property, door or near the animal. It shall state: animal type; sex and color; time and date of posting; Animal Control's phone number; and the deadline for notifying Animal Control. Time shall begin to elapse at the time Animal Control posts notice. Animal Control may provide food and water for said animals.

(i) Dogs in common and public areas. No dog or cat owner shall fail to prevent his or her dog or cat from running at large in the yard of any multiple occupancy building which is occupied by other persons; or in the common areas of mobile home complexes, apartments or condominium developments; or in open space areas of subdivisions; or in public or Town parks or fairgrounds, unless permission is posted by the Town or public authorities allowing dogs or cats at large on said property.

(j) Any animal obtained by Animal Control through a request from a governmental agency shall be deemed not under control and may be impounded and subject to disposition as provided by Section 6.04.070.

(k) It is unlawful for a dog owner or keeper to allow his or her dog to enter or remain on a construction site unless it is restrained by a leash, chain or cable of no more than ten (10) feet in length, or it is contained in a secure animal enclosure. (Ord. 96-14 §2; Ord. 94-17 §1(part))

6.04.070 Impounding of dogs and cats.

(a) It shall be the duty of Animal Control to apprehend any dog or cat running at large or not under control as defined in the provisions of Section 6.04.020 hereof, or not duly vaccinated, and upon receiving any dog or cat, to make a complete registry entering breed, sex and color of such dog or cat, and whether it is licensed. If licensed, he or she shall enter the name and address of the owner and the date and number of the dog or cat tag.

(b) When any dog or cat has been impounded, Animal Control shall as soon as feasible give notice in

person, by letter sent to the owner's last known address, telephone or service of a summons upon the owner, of the dog's or cat's impoundment and dispositional alternatives. If the dog or cat owner's identity or whereabouts are unknown at the time of impoundment, Animal Control shall take all reasonable steps to identify the owner and provide such notification. If the dog or cat owner's identity or whereabouts still cannot be established, Animal Control may proceed with any disposition authorized by this Chapter. Animal Control shall maintain records of the time, dates and manner of any such notification, and such records shall constitute prima facie evidence of notification or attempted notification. The owner of said impounded dog or cat may reclaim said dog or cat upon payment of all costs and charges incurred by the Town for impounding and maintenance of said dog or cat and upon presentation of a copy of the Town summons alleging the Animal Control violation. The charges and fees as listed in Section 6.04.170 shall be paid to Animal Control for impounding any dog or cat.

(c) All impoundments will be kept on record for a period of twenty-four (24) months from the date of the first impoundment. (Ord. 94-17 §1(part))

6.04.080 Dangerous and potentially dangerous dogs.

(a) Impoundment and court appearance; locked premises.

(1) Any dangerous dog that has been found running at large may be impounded, and the owner is subject to a mandatory court appearance. If the dangerous dog injures a human or other domestic animal more than once, Animal Control has the authority to impound the dog at the owner's expense, until the owner appears on a mandatory court appearance (protective custody). The court may order the dog to be destroyed.

(2) It is unlawful for any owner of a dangerous dog to keep the same unless it is confined in a locked premises and does not interfere with the public thoroughfares, including sidewalks, bike paths and public easements. The premises must be sufficiently constructed to contain said dog and must post at each entrance and exit of the enclosure, "Beware of Dog," or similar advisement.

(b) Any potentially dangerous dog that has caused no human injury or domestic animal injury and has been found running at large shall be impounded.

(c) It shall be the duty of any police officer or the Community Service Officer to impound any such animal that is in violation of this Section, which shall constitute a separate offense in addition to a violation of Section 6.04.060. A violation of this Section shall require a mandatory court appearance.

(d) Any dog that has been previously deemed dangerous by appropriate notification and while in violation of this Section is found to have caused bodily injury to a person or animal, or threatened or endangered wildlife or livestock, or both, and repeats such incident or commits another violation of this Chapter, shall automatically constitute a directive for impoundment and protective custody and a petition for a court order for the destruction of said dog under the supervision of the Community Service Officer.

(e) It shall be the duty of any police officer or the Community Service Officer to seize and impound any dangerous or potentially dangerous dog. After making every reasonable attempt to seize and impound such animal, including the solicitation of assistance from the owner if said owner is known and available, if the officer determines that said animal cannot be seized without exposing the officer or other persons to danger or personal injury and if the officer or other person is in apparent immediate danger, it shall be lawful for the officer to destroy said animal without notice to the animal's owner, keeper or possessor.

(Ord. 94-17 §1(part))

6.04.090 Quarantine of dogs and cats.

(a) A dog or cat that does not have a current rabies vaccination and is known to have bitten or injured any person so as to cause a puncture or abrasion of the skin shall be quarantined for no less than ten (10) days from the date of the bite at the expense of the owner. The place of confinement of said animal shall be the county shelter or a licensed veterinarian hospital at the expense of the owner.

(b) A dog or cat that is currently vaccinated and is known to have bitten or injured any person so as to cause a puncture or abrasion of the skin shall be quarantined for no less than ten (10) days from the date of the bite at the expense of the owner. The place of confinement shall be the county animal shelter or a licensed veterinarian hospital, or, if the owner has an enclosure on the owner's property that would adequately contain the animal at all times of the required quarantine period, the Community Service Officer, at his or her discretion, may place said animal under quarantine on the owner's property; provided that the owner keeps said animal confined without exposure to any other animals and the Community Service Officer shall from time to time check the animal's health and behavior; and if, at any time, the owner of said animal does not comply with the provisions of the confinement of said animal, the Community Service Officer shall move the animal to the Town animal shelter for the remainder of the quarantine period at the owner's expense.

(c) If at any time during the quarantine of a vaccinated or an unvaccinated animal, said animal becomes ill or displays symptoms of rabies, said animal shall immediately be examined by a licensed veterinarian and may be destroyed and a medical test conducted to determine if the animal was rabid, having thus exposed the bite victim to rabies. If said animal dies while under quarantine, a medical test shall be conducted to determine whether the subject animal was suffering from rabies at the time of death. All tests are conducted at the expense of the animal's owner.

(d) If the owner of an animal referred to in Subsection (c) of this Section cannot be determined or located, then the Community Service Officer shall confine said animal at the county animal control shelter for a quarantine period of not less than ten (10) days from the date of bite. If the owner of said animal is not determined or located, or if the animal is unclaimed by the end of the quarantine period, the Community Service Officer may order said animal destroyed. If said animal is suspected by a licensed veterinarian to be suffering from rabies, said animal shall immediately be destroyed. (Ord. 94-17 §1(part))

6.04.100 Disposition of unclaimed, diseased or dead animals.

(a) With respect to an animal which has been impounded or quarantined pursuant to the provisions of Section 6.04.080 or 6.04.090 hereof and has not been claimed, released or disposed of in accordance with said sections, the Community Service Officer shall keep those animals in the county animal shelter or other suitable place for not less than five (5) days, and cats for not less than seventy-two (72) hours, after which said officer may have said animal destroyed, except as herein provided.

(b) Release; sterilization.

(1) After the required time period, in lieu of having said animals destroyed, the Community Service Officer may release any such animal, if unclaimed and not diseased, to a bona fide humane society; or with respect to a stray animal, to a person having no previous interest in said animal in accordance with the provisions of this Chapter. Upon release of said animal, the recipient shall pay all required fees.

(2) All animals adopted from the county animal shelter are required to be sterilized at the time of adoption. Transfer of absolute ownership of the dog or cat shall not be effected until sterilization has occurred, unless such surgery would be dangerous to the animal due to its age or physical condition, as determined by the selected veterinarian of record. In said circumstances the terms of the adoption contract shall specify a date by which sterilization is performed. Nothing hereinabove shall place responsibility or liability for the animal's actions upon the Town or County for any incident arising during that period of delay in transfer of absolute ownership. Failure of the person adopting a dog or cat to sterilize it is a violation of this Chapter.

(c) An impounded animal which is sick, injured, in pain or contagious to other animals, and which is not identifiable to an owner, is not subject to a minimal impoundment period and may immediately be euthanized. If a sick or injured animal which is in pain or contagious to other animals is identifiable to an owner, the Community Service Officer shall diligently attempt to contact the owner within twenty-four (24) hours after impoundment, after which time the animal may be euthanized if still unclaimed.

(d) No animals that become property of the Town shall be released for animal research or experimentation.

(e) When recovering or disposing of dead animals, Animal Control shall take whatever reasonable and appropriate action is required to protect the health, safety and welfare of the community, including but not limited to disposal of the dead animal without unnecessary delay. If the dead animal has a current license tag intact, the Community Service Officer shall make reasonable efforts to notify the owner before disposing of the animal. Reasonable fees for time and expenses may be charged to an owner of such deceased animal.

(f) Nothing in this Section shall be construed to prevent the Community Service Officer from taking whatever action is reasonably necessary to protect his or her person or members of the public from injury by any animal. (Ord. 94-17 §1(part))

6.04.110 Quarantine and destruction of rabid domestic animals.

(a) Where, in the reasonable discretion of the Community Service Officer or any police officer, an animal suspected of rabies is endangering the life or person of another, or inflicting death or injury to livestock or wildlife, said animal may be immediately destroyed.

(b) Isolation; unvaccinated dog or cat bitten by rabid animal must be destroyed or quarantined.

(1) When bitten by a rabid animal or exposed to a rabid animal, an unvaccinated dog or cat shall be destroyed immediately, unless the owner objects, in which case the animal shall be placed in strict isolation for a period of six (6) months and vaccinated for rabies one (1) month before being released from isolation. The isolation shall be supervised by a veterinarian licensed in the State. All expenses of said quarantine are to be borne entirely by the animal's owner.

(2) It is unlawful for any dog or cat owner to fail to have any unvaccinated dog or cat, bitten by a rabid animal, so destroyed or quarantined. Each day said owner fails to comply with the provisions of this Section shall constitute a separate offense.

(c) Revaccination; confinement.

(1) In any case where a rabid animal bites a dog or cat with a current rabies vaccination, the owner of the dog or cat shall obtain the immediate revaccination of said dog or cat by a licensed veterinarian and shall see that said animal is confined for a period of ninety (90) days.

(2) It is unlawful to fail to have a dog or cat, bitten by a rabid animal, revaccinated or to fail to confine said dog or cat for ninety (90) days. Each day said owner fails to comply with the provisions of this Section shall constitute a separate offense. (Ord. 94-17 §1(part))

6.04.120 Affirmative defense.

An affirmative defense to the violation of dangerous dog or potentially dangerous dog attacking shall be:

(1) That at the time of said attack by the dog which causes injury or death of a domestic animal, such domestic animal was at large and entered upon the property of the owner of subject dog where the attack began;

(2) That, at the time of said attack by the dog which causes injury or death of a domestic animal, said domestic animal was biting or otherwise attacking the dog or its owner or responsible companion and the dog was otherwise conforming to the requirements of law as pertains to control;

(3) If a dog is provoked into biting or inflicting bodily injury or damage to the person or property of anyone other than the owner, such provocation shall constitute an affirmative defense that may be pled by an owner who is in violation of this Chapter on account of said biting;

(4) Any other conditions or defenses as outlined in Section 18-9-204, 5(3)(h), C.R.S., known as "The Dangerous Dog Law." (Ord. 94-17 §1(part))

6.04.130 Interference with Community Service Officer.

It is unlawful for any person to interfere with, molest, hinder, prevent or obstruct the Community Service Officer in the discharge of his or her duties under this Chapter. Anyone so interfering, molesting or hindering is subject to arrest for obstructing a peace officer pursuant to Section 9.04.060 of this Code. (Ord. 94-17 §1(part))

6.04.140 Threatening of wildlife and livestock.

(a) It is unlawful to allow a dog to run after, chase, pursue, bite, snap at, worry, attack or otherwise threaten wildlife or livestock, or both. In the event any dog is found to be threatening wildlife or livestock or both as described, said dog may immediately be destroyed at the discretion of any police officer or the Community Service Officer. In the event said dog cannot be immediately destroyed, it shall be the duty of any police officer or the Community Service Officer to impound such dog. A violation of this Section, whether or not said dog has been destroyed or claimed from impound, shall constitute a mandatory court appearance of the owner; and if convicted of a violation of this Section, the owner will be required to pay restitution for any animal or animals harmed by said dog, in addition to court fines and court costs. If the dog was not destroyed at the time of the incident, the court may order the dog destroyed under the supervision of the Community Service Officer. If the dog is not ordered destroyed, the court may deem said dog dangerous and the owner may thereby be permitted to keep the dog as provided in Section 6.04.080(a).

(b) Upon a second conviction of a violation of this Section the court may enter an order commanding the destruction of said dog under the supervision of the Community Service Officer. (Ord. 94-17 §1(part))

6.04.150 Dog or cat bite.

In the event any dog or cat is found to have caused bodily injury to any human, said dog or cat will be impounded as described in Section 6.04.070 and the owner will be in violation of this Chapter. The Community Service Officer may petition the Municipal Court for an order for destruction of the dog or cat and for an appropriate rabies examination at the dog or cat owner's expense. (Ord. 94-17 §1(part))

6.04.160 Violations and penalty assessments.

(a) Any person who violates any provisions of this Chapter, upon conviction thereof, shall be punished for such offense in accordance with the provisions of Section 1.08.010 of this Code, plus the customary court costs as applicable.

(b) The Municipal Court may establish a penalty assessment procedure and make provision for a schedule of penalty assessments.

(c) For purposes of determining the proper fine (penalty assessment) for violations of this Chapter which do not result in bodily injury to any person, only those convictions (admissions of guilt) occurring within twelve (12) months of the date of the offense for which the fine (penalty assessment) is now being imposed shall be considered. This twelve-month limitation shall not apply to what evidence may be introduced in aggravation of any sentencing for any violation of this Chapter which does result in bodily injury to any person nor shall any time limitation apply to the provisions of Section 6.04.140 of this Chapter. (Ord. 94-17 §1(part); Ord. 04-05 §1)

6.04.170 Charges and fees.

Charges and fees of seizure, impoundment, boarding, licensing, veterinarian care and adoption of an animal shall be cumulatively assessed to any animal owner based upon the actual amount of such fees incurred by the Town pursuant to contracts entered into by it. (Ord. 94-17 §1(part))

6.04.180 Destruction of dangerous dogs.

(a) In addition to any other penalty, if it is found by the court or a jury that any dog complained of is a dangerous dog, the court may, if it finds it is in the best interest of the public, order the dog destroyed at the owner's expense. Such destruction shall not occur prior to the completion of observation of the dog for rabies when necessary.

(b) In the event the dog owner is twice convicted of an offense relating to the same dog, the court may order the dog destroyed and require that the owner, as a condition of probation, refrain from owning or harboring any dog at any premise for a period of one (1) year. (Ord. 94-17 §1(part))

6.04.190 Failure to appear.

If a person upon whom a summons and complaint (penalty assessment notice) fails to appear in person or by counsel at the time and place specified therein and has not paid the specified fine in person or by mail at the place and within the time specified in the penalty assessment notice, the Municipal Court may issue a

bench warrant for his or her arrest. (Ord. 94-17 §1(part))

6.04.200 Failure to redeem, comply or pay fines or fees.

(a) If a person "duly notified" fails to make arrangements for the redemption or surrender of any animal under his or her care, custody or control, regardless of ownership, said person shall be charged with a violation of this Section and brought before the court which shall at such time assess the fine provided and recover all costs accumulated.

(b) Any violation under this Chapter that involves failure to comply, pay fines, meet stipulations of contract, payment schedules or as otherwise outlined will constitute a violation under this Section. (Ord. 94-17 §1(part))

6.04.210 Muzzling and confinement.

Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Town Council, if it deems necessary, shall issue a proclamation ordering every person owning or keeping a dog or cat to confine it securely on his or her property or premises, and any such dog shall have a muzzle of sufficient strength to prevent it from biting any person. Any dog or cat running at large during the time of proclamation shall be seized and impounded, and if displaying propensities which are an apparent immediate danger to the Community Service Officer or any other person, shall be destroyed by the Community Service Officer. Any dog or cat impounded during such proclamation is considered to have been exposed to a rabid animal, and said impoundment and release shall fall under the provisions of Section 6.04.070. (Ord. 94-17 §1(part))

6.04.220 Liability for accident or subsequent disease from impoundment.

The Town, its employees or agents, or persons authorized herein to enforce the provisions of this Chapter shall not be held responsible for any accident or subsequent disease which may be suffered by a dog or cat as a result of the administration or implementation of this Chapter. (Ord. 94-17 §1(part))

6.04.230 Public nuisance.

(a) It is unlawful and declared to be a public nuisance for any dog or cat owner or other responsible person to allow his or her dog or cat to excrete body waste upon public or private property and when the responsible person does not promptly remove same.

(b) It is unlawful and declared to be a public nuisance for any dog owner to fail to prevent his or her dog from disturbing the peace of any other person or neighborhood by loud, habitual, untimely and persistent barking, howling, yelping or whining, whether the dog is on or off the dog owner's premises. It shall be the duty of the Community Service Officer and his or her deputies to impound said dog if the officer is unable to contact the owner, and determines that the barking is disturbing the peace of the neighbors, and said officer has a signed complaint.

(c) Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of this Section.

(d) Complainant rights and responsibilities. If a violation of this Section is charged, the complainant shall verify in writing the allegations of the complaint prior to its service upon the owner. (Ord. 94-17

§1(part))

6.04.235 Habitual offender.

Upon the conviction of an owner/keeper as a habitual offender, the court shall order the animal involved in the violations to be permanently removed from the Town. (Ord. 98-3 §II)

6.04.240 Unlawful taking or release.

(a) It is unlawful for any person to take any dog or cat from an enclosed lot, vehicle, premises or other building and deliver the dog or cat to the impoundment facility unless authorized to do so by the owner or the keeper of the dog or cat or as authorized by this Chapter.

(b) It is unlawful for any person to open or cause to be opened any closed vehicle, premises or building or release from a chain any dog or cat for the purpose of allowing said dog or cat to run at large.

(c) It is unlawful for any person to remove any animal from any Town vehicle, or from the custody of the Community Service Officer, without the consent of the Community Service Officer. Such action will be considered as an obstruction and charged accordingly. (Ord. 94-17 §1(part))

6.04.250 Abandonment, cruelty to animals or neglected dogs.

No person shall physically or cruelly mistreat or neglect to provide proper amounts of food and water, or neglect to provide proper shelter to any animal. (Ord. 94-17 §1(part))

6.04.260 Enforcement.

The provisions of this Chapter shall be enforced by the Police Department, the Community Service Officer or his or her authorized representative, or by both. (Ord. 94-17 §1(part))

6.04.270 Hot pursuit.

(a) The Community Service Officer or any police officer in hot pursuit of any dog or cat in apparent violation of this Chapter may enter onto private property for the purposes of enforcing this Chapter, including the impoundment of the dog or cat, removal of the dog or cat, ascertaining the identity of the dog or cat, the currency or existence of dog or cat tags or issuing a citation.

(b) This Section does not grant the Community Service Officer or any police officer any additional authority to enter into any dwelling or other building designed for human occupancy other than that authority which may now exist under Colorado law. Any warrant requirements for entry into any dwelling or other building designed for human occupancy is observed. (Ord. 94-17 §1(part))

6.04.280 Community Service Officer.

Personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing this Chapter. Personnel so engaged shall be included in the definition of "peace officer or fireman" in Section 18-3-201 (2), C.R.S., and, to the extent such personnel are empowered to do so by the laws governing the state bureau of animal protection, are authorized to carry out the enforcement of the laws for the prevention of cruelty to animals pursuant to Sections 35-42-101,

C.R.S., et seq. (Ord. 94-17 §1(part))

6.04.290 Captions.

The captions and paragraph headings used throughout this Chapter are for the convenience of reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision to or the scope of this Chapter. (Ord. 94-17 §1(part))