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ANIMALS

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Chapter 6.02

Animal Control

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6.02.010 Definitions.

As used in this Chapter, the following terms are defined as provided:

Animal means every nonhuman species of the animal kingdom, both domestic and wild.

Animal-at-large means any animal off the premises of the owner and not under the control of a person capable of controlling the animal.

Animal control officer means any person designated by the municipal government as a law enforcement officer for the purpose of enforcing the provisions of this Chapter.

Animal shelter means any facility operated by a humane society or municipal agency or its authorized agents, for the purpose of impounding animals under the authority of this Chapter or state law for care, confinement, return to owner, adoption or euthanasia.

Bite means to be seized by an animal with the teeth or jaws so that a person or animal has been nipped, gripped, wounded or pierced.

Cat means any member of the animal species *Felis catus*.

Commercial animal establishment means any pet shop, grooming shop, guard dog training facility, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, boarding or breeding kennel, or other establishment which handles live animals for profit.

Control means an animal must be on a leash not more than eight (8) feet in length controlled by a person physically competent to control the animal.

Dog means any member of the animal species *Canis familiaris*.

Domestic animal includes dogs; cats; confined domestic hares, rabbits and birds; and animals raised and/or maintained in confinement, including small, harmless pet animals, such as species of aquarium fish, cage birds and certain rodents, such as mice, hamsters and guinea pigs.

Euthanasia means a death brought about by any method which produces rapid loss of consciousness resulting in a painless death.

Guard dog means any dog that will detect and warn its owner that an intruder is present in or near an area that is being secured.

Hobbyist breeder means any person who breeds animals as a hobby, producing not more than two (2) litters in any one (1) calendar year.

Kennel or *cattery* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

Licensing authority means the municipality or any person designated by the municipal governing body to enforce the provisions of this Chapter.

Owner means any person, partnership or corporation owning, keeping, harboring, possessing, transporting or selling, or having custody or control of one (1) or more animals. Harboring an animal includes providing shelter for three (3) consecutive days or more.

Person means any individual, firm, corporation, partnership, association, trust, estate or other legal entity.

Pet means any animal kept for pleasure rather than utility, especially any animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Pet shop means any person, partnership or corporation, whether operated separately or in connection with another business enterprise, that buys, sells or boards any species of animal.

Pit bull is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, any dog displaying the majority of physical traits of any one (1) or more of the above breeds or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the Town Clerk.

Professional breeder means any person who breeds animals for profit or who produces more than two (2) litters in any one (1) calendar year.

Secure temporary enclosure is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure on its own.

Service dog means any dog that is individually trained to do work or perform tasks for the benefit of a person with a disability.

Town means the Town of Castle Rock as a municipal corporation or the territory contained therein, as the context dictates.

Vaccination means an injection of antirabies vaccine made subcutaneously or otherwise, as approved by the Colorado Department of Public Health and Environment.

Vicious animal means any animal that, without provocation, bites or attacks humans or other animals; approaches any person or other animal in a vicious or terrorizing manner or in apparent attitude of attack, whether or not the attack is consummated or is capable of being consummated; or has acted in a manner that causes or should cause its owner to know that it is potentially vicious.

Wild animal means any animal including those born or raised in captivity, except for domestic animals.

Zoological park means any facility operated by a person, partnership, corporation or governmental agency, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of animals. (Ord. 2005-15 §1, 2005; Ord. 92-27 §1(part), 1992)

6.02.020 Licensing.

A. License requirement. Any person owning, keeping or having custody of any dog or cat six (6) months of age or older within this municipality must obtain a license.

B. Application. Written application for licenses, which shall include the name and address of the applicant, description of the animal, the appropriate fee and a rabies certificate issued by a licensed veterinarian or antirabies clinic, shall be made to the licensing authority.

C. License period. If not revoked, licenses for the keeping of dogs and cats shall be valid for up to three (3) years from the date of issue of a three-year rabies vaccination or until expiration of the current rabies vaccination date, whichever is earlier.

D. Circumstances requiring license. Application for licenses must be made within sixty (60) days after obtaining a dog or cat six (6) months of age or older, or when a cat or dog in one's possession becomes six (6) months of age. This requirement does not apply to a nonresident keeping a dog or cat within the municipality for sixty (60) days or less.

E. Exceptions. License fees shall not be required for certified governmental police dogs or service dogs.

F. Additional regulations. The Town Manager may promulgate other regulations governing the issuance of licenses. Such regulations may include requirements for humane care of animals and other requirements consistent with this Chapter and other applicable law. The Town Manager may amend such regulations from time to time as is deemed desirable for the preservation of the public health and welfare and to prevent animal cruelty.

G. Tags. Upon acceptance of the license application, fee and agreement to follow all applicable regulations, the licensing authority shall issue a durable tag or identification collar, stamped with an identifying number and the month of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness. Dogs and cats must wear the identification tags issued for them, and not that of any other, at all times when off their owners' premises. The licensing authority shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public at all times.

1. Fee schedule. License fees shall be those fees published in the police department's fee schedule, as amended from time to time. Persons who fail to obtain a license as required within the time period specified in this Section shall be subjected to a fine of twenty-five dollars (\$25.00).

2. Duplicate licenses. A duplicate license may be obtained upon payment of a one-dollar replacement fee.

3. License limitation. No person may use any license for any animal other than the animal for which it was issued. (Ord. 2005-15 §2, 2005; Ord. 92-27 §1(part), 1992)

6.02.030 Reserved.

6.02.040 Reserved.

6.02.050 Commercial animal establishment; other domestic animal regulations.

A. Generally. All commercial animal establishments shall meet the following conditions:

1. Animal housing facilities shall be provided for the animals and shall be structurally sound, constructed of nontoxic materials, maintained in good repair, and designed so as to protect the animals from injury and restrict the entrance of other animals. Each animal shall be provided with adequate floor space to allow it, according to species and breed, to breathe and turn about freely and to easily eat, eliminate wastes, stand, sit and lie in a comfortable normal position and sanitary environment.

2. Electrical power shall be supplied in conformance with applicable electrical codes adequate to supply heating, ventilation and lighting.

3. Water shall be supplied at sufficient pressure and quantity to clean housing facilities and enclosures of debris and excreta.

4. Adequate food and bedding shall be provided and stored in facilities which provide protection against infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.

5. Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors and disease.

6. Washroom facilities, including sinks with hot and cold water and toilets, shall be conveniently available to maintain cleanliness among animal caretakers and for the purpose of washing utensils and equipment.

7. Each animal shall be observed daily. Reasonable efforts shall be made to separate sick, diseased or injured animals from those appearing healthy and normal. Sick, diseased or injured animals shall be removed from display and sale and kept in isolation quarters. Ventilation of quarters for sick or diseased animals shall be arranged to avoid contamination of healthy animals.

8. During the hours any store is open, there shall be an employee or keeper on duty at all times, whose responsibility shall be the care and supervision of the animals in that shop or department whether held for sale or display.

9. An employee, keeper or owner shall make provision to feed, water and provide other necessary care for animals on days the store or establishment is closed.

10. No person shall knowingly misrepresent an animal to a consumer in any way. No person shall knowingly sell a sick or injured animal. Adequate care and feeding instructions shall be given, in writing, to each animal purchaser.

11. Animals which are caged, closely confined or restrained shall be permitted to exercise daily, for an appropriate length of time as determined by their size, age and species, in an area suitable for that purpose.

12. Facilities shall be clean and sanitary at all times.

B. Indoor facilities. All commercial animal establishments having indoor facilities shall meet the following conditions, in addition to the general requirements of Subsection A and the applicable requirements of Subsection C:

1. Be sufficiently heated or cooled when necessary to protect the animals, taking into consideration their age, size and species.

2. Be adequately ventilated to provide for the health of the animals and to remove foul odors. The ventilation system shall be designed so that the volume of air within any enclosed indoor facility or part thereof shall be replaced by fresh air three (3) or more times per hour. If ventilation equipment is used, it shall be constructed in conformance with current standards of good engineering practice with respect to noise and minimization of drafts.

3. Have ample light, either natural or artificial, or both, of good quality and well distributed to provide for such illumination as is necessary to inspect and clean the facilities during the entire working period. Such lighting shall be placed to protect animals from excessive illumination, heat or burns.

4. Have interior surfaces constructed and maintained so they are substantially impervious to moisture and can be readily sanitized.

5. Contain a suitable method of drainage and be constructed to prevent accumulation of water, debris, excreta and other material. Such system shall be connected to a sanitary sewer which shall conform with municipal standards. If drains are used, they shall be maintained in a clean and sanitary condition, and a safe and effective disinfection shall be used in the cleaning of such facilities.

C. Outdoor facilities. All commercial animal establishments having outdoor facilities shall meet the following conditions, in addition to the general requirements of Subsection A and the applicable requirements of Subsection B:

1. Provide shelter from excessive sunlight, rain, snow, wind, heat, cold or other elements.

2. Contain a suitable system of ventilation and drainage, be constructed to prevent an accumulation of water, mud, debris, excreta or other material; be capable of being kept clean and sanitary; and be constructed to facilitate the rapid elimination of excess water under any weather or temperature condition.

3. Be enclosed by four (4) walls or a fence sufficient to keep animals within and to prevent the entrance of other animals.

D. Performing animal exhibits:

1. No person is permitted to exhibit any animal performance in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or probably cause physical injury, pain, suffering or irritation to any such animal.

2. All equipment used on any performing animal shall fit properly and be in good working condition. (Ord. 92-27 §1(part), 1992)

6.02.060 Disease control.

A. Diseased animals. No domestic animal afflicted with contagious or infectious disease shall be allowed to run at large or to be exposed in any public place whereby the health of man or animal may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the chief law enforcement officer or designee, to secure disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state health director is empowered to act.

B. Vaccination - dogs and cats. It shall be the duty of every owner of a dog or cat over six (6) months of age harbored in the municipality to have such a dog or cat vaccinated by a licensed veterinarian or animal health clinic. The owner of such dog or cat shall present a copy of the vaccination certificate with the dog or cat license application required by Section 6.02.020, verifying a current vaccination administered as authorized by the Colorado Department of Public Health and Environment.

C. Vaccination exemption. If a veterinarian licensed by the State issues a certificate that inoculation would be harmful to a specific dog or cat, and that failure to inoculate such animal shall not create a danger for humans or other animals, that dog or cat shall be exempt from the inoculation prescribed by this Chapter.

D. Report of animal bites.

1. Any owner whose animal bites a person shall immediately notify the animal control officer or police department of the municipality.

2. It shall be the duty of every physician and medical practitioner practicing in the municipality to report to the animal control officer or the police department the name and address of any person treated for bites or wounds inflicted by an animal, together with all available information necessary for rabies control.

3. It shall be the duty of every veterinarian practicing in the municipality to report to the animal control officer or the police department the name and address of the owner of any animal treated for bites or wounds inflicted by any other animal, together with all available information necessary for rabies control.

E. Quarantine of animals suspected of having rabies. Animals suspected of having rabies or having bitten any person or animal and having an uncertain vaccination status shall be impounded in solitary confinement and kept under observation for a period of ten (10) days. An attempt shall be made by the animal control officer to discover whether the animal has been vaccinated against rabies. If it is found that the animal has not been effectively vaccinated or there is any doubt whether the animal has in fact been vaccinated, then it shall be vaccinated on the last day of the observation period. The municipality may cause any animal which has rabies to be destroyed humanely and an autopsy performed. All expenses in connection with the provisions of this Section shall be borne by the owner of the animal.

F. Killing of certain animals which cannot be safely captured or impounded. If any vicious or dangerous animal suspected of or having rabies, found at large, cannot be safely taken up and impounded, the animal may be slain by any animal control or police officer. (Ord. 2005-15 §4, 2005; Ord. 92-27 §1 (part), 1992)

6.02.070 Cruelty to animals.

A. Cruelty. It shall be unlawful for any person to commit or cause to be committed any intentional act of cruelty, abandonment, harassment or torture to any animal, or intentionally cause any animal to be wounded, mutilated, strangled or inhumanely killed. Ownership of said animal shall not be a defense to such acts or to a violation of this Section.

B. Proper food and shelter. No owner or person with custody of an animal for more than twelve (12) consecutive hours shall fail to provide the animal with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shade or shelter space, protection from the weather, veterinary care as needed to maintain health and prevent suffering, and other humane care and treatment.

1. *Shade* shall mean protection from the direct rays of the sun during the months of May through October.

2. *Shelter* shall mean a moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat, made of durable material with a solid floor raised at least two (2) inches from the ground and with the entrance covered by a flexible, wind-proof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

3. All pens, yards or runs, or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and shall be maintained in good repair. Fences which are intended as enclosures for any animal shall be securely constructed, adequate for the purpose, and kept in good repair, in compliance with all ordinances of the municipality.

C. Abandonment. No person shall abandon any animal which they own or is in their custody. In this context, *abandon* means to leave the animal unattended for more than forty-eight (48) consecutive hours, or without food, water or shelter for more than twelve (12) hours.

D. Poisoning. No person shall expose any known poisonous substance, whether mixed with food or not, so that a reasonable person would or should know that such substance would probably cause animals to be attracted thereto, eat thereof and be poisoned thereby; provided, however, that this Subsection does not make unlawful the poisoning of rats or mice with commercial rat poison mixed with vegetable substances. This Section does not apply to any person, business or other entity regulated by the Colorado Department of Agriculture under the Pesticide Applicators' Act, Sections 35-10-101 through 123, C.R.S., and engaged in activities regulated by that Act.

E. Cropping of dog's ears or tail. No person shall crop a dog's ears or dock a dog's tail other than a licensed veterinarian.

F. Animals as prizes. No person shall give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter any place of amusement, or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

G. Confinement in vehicles. No person shall confine an animal within a parked, closed vehicle, without allowing cross-ventilation. Under no circumstances shall a person confine any animal in any parked, closed vehicle on any public street or way for more than thirty (30) minutes, or when the temperature in the vehicle may create an adverse condition to the animal. Any animal control or police officer observing an animal kept in violation of this Section may enter the vehicle and impound the animal. In addition to all other defenses and immunities provided by law, any such officer making entry for the purpose of this Section is immune from suit or liability, criminal or civil, for, caused by or arising out of such entry.

H. Protective custody.

1. Any animal found receiving inhumane treatment, as described in this Section, may be removed and impounded at the expense of the owner.

2. Any animal whose life reasonably appears to be endangered may be so removed and impounded, whether or not in the presence of its owner.

I. Exceptions to this Subsection. Nothing in this Subsection of this Article shall be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine. Nothing in this Subsection shall be interpreted as prohibiting any act done in self-defense or to defend another person. (Ord. 2005-15 §§5, 6, 2005; Ord. 92-27 §1(part), 1992)

6.02.080 Animals injured by motor vehicles.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency. (Ord. 92-27 §1(part), 1992)

6.02.090 Wild animals.

A. Prohibition on keeping - generally.

1. No person shall keep or permit to be kept any wild animal or vicious animal for display or exhibition purposes, whether done gratuitously or for a fee; provided, however, that this Section does not apply to zoological parks, performing animal exhibitions, or circuses, elsewhere regulated by the provisions of this Chapter and by state law.

2. The animal control officer has the authority to order any person or owner to release appropriately any wild animal kept or permitted to be kept in violation of this Chapter or to order the appropriate release of any infant wild animal under temporary care and deemed by such officer as capable of survival in the wild. Any person or owner refusing or neglecting to obey such order immediately is in violation of this Chapter.

B. Wildlife sanctuary.

1. *Wildlife*, as used in this Section, includes all native or naturalized wild animals, except: English sparrows, starlings, rock pigeons, black and Norway rats, common house mice and insects and spiders commonly considered as pests. The Town may, from time to time, designate certain property as a wildlife sanctuary for the refuge of all wildlife. Designation of a wildlife sanctuary shall be made by the Town Council by resolution at the request of the property owner upon a finding by the Town Council that the property is appropriate for use as a wildlife sanctuary. Upon designating any area as a wildlife sanctuary, the owner shall post the property as a wildlife sanctuary. The posting shall include the following language:

WILDLIFE SANCTUARY. NO PERSON SHALL AT ANY TIME FRIGHTEN, SHOOT AT, WOUND, KILL, CAPTURE, ENSNARE, TRAP, NET, POISON OR IN ANY OTHER MANNER KILL, INJURE OR MOLEST ANY WILDLIFE OR INJURE THE NEST, DEN, EGGS OR YOUNG OF SUCH ANIMALS. VIOLATIONS ARE SUBJECT TO A MAXIMUM PENALTY OF A ONE-THOUSAND-DOLLAR FINE AND/OR ONE (1) YEAR IN JAIL.

2. No person shall at any time within any Town-designated wildlife sanctuary frighten, shoot at, wound, kill, capture, ensnare, trap, net, poison or in any other manner kill, injure or molest any wildlife or injure the nest, den, eggs or young of such animals. All municipal, state and federal

authorities possessing wildlife control jurisdiction, authorized to kill or capture any wild animal, are exempted from this provision. Additionally, this prohibition shall not apply to any wildlife management plan adopted by the Town.

3. Any person violating this Subsection 6.02.090.B shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

C. Endangered species.

1. Possession and sale. It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, any native or foreign species or subspecies of mammal, bird, amphibian, reptile or other animal or plant or the dead body or parts thereof, which appears on the endangered and threatened species lists designated by the United States Secretary of the Interior, published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969, 16 U.S.C. 1531-43, and available from the state officer of the U.S. Fish and Wildlife Service or similar lists of designated species compiled by the Colorado Division of Wildlife pursuant to the Nongame, Endangered or Threatened Species Conservation Act, Section 33-2-101, C.R.S. This Chapter shall not be deemed to prevent the importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal or state permits, or to any person or organization licensed to present a circus.

2. Regulating the importation of certain birds. No person, firm or corporation shall import or cause to be imported into this Town any part of the plumage, skin or dead body of any species of hawk, owl, eagle or other bird of prey. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage, or by other state or federal license or permit.

3. Lists maintained by municipal clerk. The office of the municipal clerk shall maintain current editions of the Endangered Species Lists and make the same available for public inspection at all reasonable times.

4. Penalty imposed. Any product being offered for sale in violation of this Chapter may be seized by any police officer. A hearing shall be held before the municipality's chief administrative officer or his or her designee. Such product may be destroyed or in appropriate circumstances be disposed of through zoological, educational or conservation institutions. Persons violating any of the provisions of this Article shall be fined not less than one hundred dollars (\$100.00) for the first offense and not less than three hundred dollars (\$300.00) for each subsequent offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2005-15 §7, 2005; Ord. 92-27 §1(part), 1992)

6.02.100 Animals running at large.

A. Generally. Except for animals used by law enforcement for law enforcement purposes, no person shall suffer or permit any dog or wild animal of which he or she is the owner, caretaker or custodian to run at large within the municipality. Any such animal shall be deemed to be running at large when it is off the premises owned or rented by its owner and not under the control of the owner

or an agent or employee of the owner. Dogs may be off leash in a designated, enclosed dog park, if accompanied by a person capable of controlling the animal off leash. Any such animal may be impounded by the municipality.

B. Public places. Except for animals used by law enforcement for law enforcement purposes, no domestic animal shall be permitted in any public place, unless under the control of its owner. Public places include, but are not limited to: public property, common areas of private property, parking lots, churches, cemeteries, parks, schools and swimming areas. Dogs may be off leash in a designated, enclosed dog park if accompanied by a person capable of controlling the animal off leash.

C. Escaped animals. Within one (1) hour after an animal escapes from either the owner or the person having custody of the animal, the owner or custodian of the animal shall report the escape of said animal to the police department or the animal control officer. (Ord. 2005-15 §8, 2005; Ord. 2004-23 §1, 2004; Ord. 94-32 §1, 1994; Ord. 92-27 §1(part), 1992)

6.02.110 Dangerous animals.

A. Vicious animals.

1. Except for animal shelters impounding animals under the authority of this Chapter, it shall be unlawful for any person to keep or harbor any vicious animal within the municipality. It shall be an affirmative defense to charges under this Section that the actual or intended victim of any attack has made an unlawful entry into the dwelling of the animal's owner or is threatening or attacking an owner of the animal.

2. The animal control officer or any police officer may impound any animal which is reasonably believed to be vicious. Within ten (10) days of such impounding, the animal control officer must conduct a full investigation, including an opportunity for the animal's owner to present evidence of the animal's character, or release the animal to the custody of its owner. If the animal is determined to be vicious, it must be either removed from the municipality or destroyed. If the animal is found not to be vicious, it must be released to the custody of its owner.

B. Wild and dangerous animals.

1. Unlawful to own or possess. It shall be unlawful for any person to own, possess, harbor, sell or in any other manner traffic in any wild and various animals, including but not limited to the following:

- a. All poisonous snakes and other poisonous reptiles; and all nonpoisonous snakes with a length greater than six (6) feet;
- b. All species of primates;
- c. All species of canine, feline, bear and other carnivorous animals other than dogs and cats, as defined within this Chapter.

2. Exceptions. The provisions of this Section shall not be applicable to any bona fide zoological park or wildlife sanctuary, or any circus licensed by the Town.

3. At large. The animal control officer shall have the authority to apprehend any wild animal that may be at large. Such wild animal may be impounded, released in wild areas outside the municipality which are representative of the animal's natural habitat, or humanely destroyed as the animal control officer in his or her sole discretion shall determine in accordance with state law. The animal control officer is authorized to use any tranquilizer gun or other firearm to subdue or destroy any wild or dangerous animal.

4. Protection of life and property. Nothing in this Chapter shall be construed to limit or restrict a person's ability to protect life and property pursuant to Section 33-6-107(9) C.R.S., as amended, or to limit or restrict the authority of any person working for the Colorado Division of Wildlife.

5. Trapping animals. When deemed necessary by an animal control officer for the health, safety and welfare of the residents of the Town, such officers or their agents may place a humane trap on the property of a resident of the Town when the resident requests such trap for the purpose of capturing any wild or pet animal creating a nuisance in the Town. It shall be unlawful for any person to fail to monitor any trap in accordance with the written trap agreement as provided by the Town or with state law. It shall be unlawful for any person to set or cause to be set within the Town any steel-jaw leghold trap, snare or any trap other than a humane trap for the purpose of capturing any animal, whether wild or domestic. *Humane trap* means a box-type live trap which does not cause bodily harm to the animal intended to be captured or any other animal or person coming into contact with such trap.

6. Costs to be paid by responsible persons. Any reasonable costs incurred by the municipality in seizing, impounding and confining any dangerous or wild animal shall be charged against the owner of such animal. Such charge shall be in addition to any other fine or penalty provided for violating this Chapter.

C. Guard dogs. No person shall leave any guard dog unattended in any place in or out of any building unless in a locked and enclosed premises with a warning sign in a clearly visible location at the premises, so that it can be seen by any person prior to entering any place to which the dog has access, warning that a guard dog is present. No guard dog shall be left unattended in any place except inside a building or out of doors in a locked, fenced yard, with a fence adequate to prevent the dog from leaving the yard.

D. Destruction of animal too dangerous to capture. Any dangerous animal subject to impoundment under the provisions of this Section or any other animal, which because of its disposition or diseased condition, is subject to impoundment and is deemed too dangerous to apprehend, may be destroyed by a police or animal control officer. (Ord. 2005-15 §9, 2005; Ord. 92-27 §1(part), 1992)

6.02.120 Pit bulls.

It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport or sell within the Town any pit bull.

A. Exceptions. The prohibition above shall not apply in the following enumerated circumstances. Failure by the owner to comply and remain in compliance with all of the terms of any applicable

exception shall subject the pit bull to immediate impoundment and disposal, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under this Subsection.

1. The owner of a pit bull on February 1, 1993, who has applied for and received a pit bull license in accordance with Subsection B of this Section, and who maintains the pit bull at all times in compliance with the pit bull license requirements of Subsection B of this Section and all other applicable requirements of this Chapter, may keep a pit bull within the Town.

2. An animal shelter may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this Chapter.

3. Any humane society or other agency operating an animal shelter (or under contract to provide animal control) which is registered and licensed by the Town may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to contact an animal shelter and either turn the pit bull over to the animal shelter or receive permission to destroy or have destroyed the pit bull pursuant to the provisions of Subsection C.

4. Any veterinarian while treating a pit bull or holding such pit bull after treatment until claimed by the owner or released to an animal control officer.

5. A person may temporarily transport into and hold in the Town a pit bull in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest or show must obtain any other permits or licenses required by town ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the Town to and from the place of exhibition, contest or show, keep the pit bull confined in a "secure, temporary enclosure."

B. The owner of any pit bull who had owned the pit bull prior to the effective date of the ordinance enacting this Chapter shall be allowed to keep such pit bull within the Town only if the owner applies for and receives an annual pit bull license on or before March 1, 1993. As a condition of issuance of a pit bull license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with all of the following regulations:

1. The owner of the pit bull shall provide proof of rabies vaccination and shall pay an annual pit bull license fee of fifty dollars (\$50.00), in lieu of the license fee provided in Section 6.02.020 G 1.

2. The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A pit bull license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license was issued.

3. The owner must be at least twenty-one (21) years of age as of March 1, 1993.

4. The owner shall present to the Town Manager or his designee ("Manager") proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by a pit bull during the twelve-month period covered by the pit bull license. The policy shall contain a provision requiring the insurance company to provide written notice to the Manager not less than fifteen (15) days prior to any cancellation, termination or expiration of the policy.

5. The owner shall, at the owner's own expense, have the pit bull spayed or neutered and shall present to the Manager documentary proof from a licensed veterinarian that this sterilization has been performed.

6. The owner shall cause a registration number assigned by the Town Manager to be tattooed or otherwise marked on the pit bull by a person authorized by the Manager. The Manager shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owner shall notify the Manager of any change of address.

7. At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull confined. All registered pit bull dogs shall be securely confined outdoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure shall have secure sides and a secure top attached to the sides. All structures used to confine licensed pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the municipality. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure. At all times when a pit bull is away from the property of the owner, the owner shall keep the pit bull either securely leashed with a leash no longer than four (4) feet in length and muzzled or in a secure temporary enclosure.

8. The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who will then become the owner and will be subject to all of the provisions of this Section. The owner shall notify the Manager within five (5) days in the event that the pit bull is lost, stolen, dies or has a litter. In the event of a litter, the owner must deliver the puppies to an animal shelter for destruction or permanently remove the puppies from the Town and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Town a pit bull puppy born after March 1, 1993, that is more than eight (8) weeks old. Any pit bull puppies kept contrary to the provisions of this subdivision are subject to immediate impoundment and disposal pursuant to Subsection C of this Section.

9. The owner shall have posted at each possible entrance to the owner's property where the pit bull is kept a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight (8) inches by ten (10) inches in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two (2) inches in height.

C. The licensing authority is authorized to immediately impound any pit bull found within the municipal limits which does not fall within the exception listed in Subsection A, above, and the animal control officer may house or dispose of such pit bull in such manner as the Manager may deem appropriate, except as the procedures in Subsection D, below, otherwise require.

D. When the licensing authority has impounded any pit bull dog pursuant to this Section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the Manager for a hearing concerning such classification no later than seven (7) days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The Manager will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where no written request from the owner for a hearing is received by the Manager within seven (7) days of impoundment, the pit bull shall be destroyed.

The hearing, if any, will be held before the Manager or a hearing officer designated by the Manager. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The Manager or hearing officer shall make a final determination whether the dog is a pit bull based upon a preponderance of evidence. The licensing authority shall have the burden of persuasion that the animal is a pit bull. Such final determination shall be considered a final order of the Manager subject to review under Rule 106(a) (4) of the state rules of civil procedure.

If the dog is found to be a pit bull, it shall be destroyed, unless the owner produces evidence deemed sufficient by the Manager that the pit bull is to be permanently taken out of Town and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner. The procedures in sub-section 4 shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite of a vicious animal as defined in Section 6.02.110. (Ord. 92-27 §1(part), 1992)

6.02.130 Livestock.

It shall be unlawful to possess, keep, harbor, feed or stable any horse, cattle, swine (including "Vietnamese pot-bellied pigs"), sheep, goats or other hoofed livestock within the Town except:

A. For the purpose of a livestock show, contest or exhibition sanctioned by the Town or other governmental entity; or

B. When permitted under the terms of applicable zone district regulation for a transitional use in an area which has not been subject to a final subdivision plat. Permitted livestock shall be contained within a secure fence, to keep such animals from streets, parks and other public areas as well as other private premises. Any livestock off the permitted premises may be impounded by the animal control officer, and the cost of seizure, transportation and feeding shall be recoverable against the owner, as a condition to the release of such animals to the owner. If the owner should fail to pay such impoundment cost upon demand, the Town may dispose of the animals at a public or private sale and apply the net proceeds to such impoundment costs. The provisions of this Subsection shall supersede any conflicting state laws, and are to be supplemental to Section 6.02.140 B. (Ord. 92-27 §1(part), 1992)

6.02.140 Animal nuisance abatement.

A. Restrictions.

1. Generally. No animal owner shall fail to exercise proper care and control of his or her animals to prevent them from becoming a public nuisance. A public nuisance includes any of the occurrences listed in this Subsection A, as well as any other occurrence determined by the governing body or a court of competent jurisdiction or law.

2. Noise. No animal owner shall permit any animal to cause annoyance, alarm or noise disturbance for more than five (5) minutes at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.

3. Property damage. It shall be unlawful for an owner to allow an animal to injure or destroy any real or personal property of any description belonging to another. A judge may, in addition to any other penalty, order the defendant to make restitution to the party injured.

4. Excessive number of animals. It shall be unlawful for any person or persons to keep more than three (3) dogs or five (5) cats or a total of six (6) animals within the municipality, with the exception that a litter of cats or dogs, or a portion of any such litter may be kept for a period of time not exceeding three (3) months from birth. The provisions of this Section shall not apply to any commercial animal establishment.

5. Excrement. No person shall appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement; nor shall any person fail to remove any excrement deposited by such animal. This Section shall not apply to a disabled person while walking a service dog.

6. Females in heat. All female animals in heat shall be confined in a building or secure enclosure or upon leash in such manner that the animal cannot come into contact with a male animal except for planned breeding.

B. Procedures.

1. Hearing and impounding. Any person owning or having in his or her possession or under his or her control any animal constituting a nuisance in violation of this Section may be summoned before the Municipal Court to show cause why such animal should not be confined, disposed of or removed, or the nuisance otherwise abated. Upon hearing and a finding that the animal constitutes a public nuisance in violation of this Section, the court shall order the animal in question either to be confined, to be disposed of or to be removed, or such other relief as the court deems appropriate.

2. Cost of impoundment. Any person who owns any animal that has been adjudged a nuisance pursuant to this Section shall be responsible for the costs of disposal, removal or impoundment.

C. Subject to the further provisions of this Section, and only when permitted pursuant to the provisions of an applicable planned development district regulation or other zone district regulation as a use by right or use by special review, horses may be kept; provided, however, that such horses shall be contained within a secure fence. Any horses outside of the permitted premises may be impounded by the animal control officer, and the cost of seizure, transportation and feeding shall be recoverable against the owner as a condition to the release of such horse or horses to the owner. If the owner should fail to pay such impoundment costs upon demand, the Town may dispose of such horse or horses at a public or private sale and apply the net proceeds to such impoundment costs.

1. Minimum lot area for keeping of horses: Three (3) acres.
2. Allowable number of horses per lot: One (1) horse per two (2) acres. Young horses, less than six (6) months of age, shall not be counted toward the allowable numbers.
3. Appropriate locations for keeping and maintenance of horses: Horses and horse maintenance facilities shall be permitted at the outer fringes of the Town in suburban-to-rural or suburban-to-open space transition areas which are physically separated from conventional residential subdivisions by geographical features, by berms, open space buffers or streets.
4. Setbacks from any property line of a suburban area for horse-related uses: One hundred fifty (150) feet.
5. Dust control: Any person keeping horses pursuant to the provisions hereof and the owner of any lot on which such horses are kept shall institute such dust control measures as will prevent dust from impacting adjoining properties.
6. Odor control: Any person keeping horses pursuant to the provisions hereof and the owner of any lot on which horses are kept shall institute such odor control measures as will minimize the odor impact upon adjoining properties.
7. Water: Any person keeping horses and the owner of any lot on which such horses are kept shall cause manure to be periodically removed from such lot and disposed of in an appropriate manner so as to avoid excessive accumulation. On-site disposal such as composting and spreading is discouraged. Burial of manure is not permitted. Adequate drainage improvements to accommodate liquid waste must be provided.
8. Overgrazing: Due to the fragile nature of the vegetative cover in the area, grazing is not encouraged unless each horse has more than thirty (30) acres of pasture or it can be demonstrated to the satisfaction of the Town that vegetative cover will not degrade under more intense use.
9. Horses defined: The term *horses* shall include miniature horses but shall not include donkeys or mules.
10. Enforcement: In addition to the provisions set forth above, the Town reserves the right, following public notice and hearing in accordance with Title 17 of this Code, to suspend or revoke the right to keep and maintain horses within the Town. In the event of noncompliance with the conditions and restrictions of this Section, prior to scheduling such hearing, the Town shall give

notice of the reported violation to the property owner and/or other responsible party and give such violator a reasonable period to cure such noncompliance.

11. Horses may be permitted upon trails within the Town if such trails have been specifically designated by the Town for equestrian use. (Ord. 2010-31, §1, 2010; Ord. 2005-15 §10, 2005; Ord. 94-15 §1, 1994; Ord. 92-27 §1(part), 1992;

6.02.150 Impoundment.

A. Terms. All animals authorized under this Article to be impounded shall be captured by either a police or animal control officer and impounded in an animal shelter and there confined in a humane manner. Impounded animals shall be kept for not fewer than five (5) working days.

B. Notification. If, by a license tag or other means, the owner of an impounded animal can be identified, the shelter director, his or her assistants, or an animal control officer shall immediately upon impoundment notify the owner by telephone or certified mail.

C. Reclaiming. An owner reclaiming an impounded animal shall pay fees pursuant to the police department's fee schedule. Additionally, owners shall be responsible for all costs imposed by the shelter for the impoundment of the animal. Any animal not reclaimed by its owner within five (5) working days after notification is made or sent as provided in Subsection B above shall become the property of either the shelter or the Town and shall be made eligible for adoption in a suitable home or subject to humane euthanasia. No unclaimed animal shall be released for adoption without written agreement from the adopter guaranteeing that such animal will be sterilized within thirty (30) days for adult animals or by a specified date in the contract for cats or dogs under nine (9) months of age. The adopter must obtain necessary licenses and permits and agree to abide by all other provisions of this Article. (Ord. 2005-15 §11, 2005; Ord. 92-27 §1(part), 1992)

6.02.160 Enforcement.

Whenever there is any violation of any provision of this Chapter, the animal control officer, any police officer or authorized licensing authority agent finding such violation may, except as otherwise provided herein, issue a summons and complaint or citation to the owner of or person responsible for the animal to appear in the Municipal Court. In addition, the Town may seek appropriate injunctive or other equitable relief to abate or prevent the continued violation of this Chapter. Such action may be maintained in the Municipal Court, or through the state courts. (Ord. 2005-15 §12, 2005; Ord. 92-27 §1(part), 1992)

6.02.170 Penalties.

A. Nuisance and animal-at-large violations. Any person found guilty of permitting an animal to be at large, as defined in Section 6.02.100, or a nuisance, as defined in Section 6.02.140, shall be fined as follows:

1. Fifty dollars (\$50.00) for the first offense;
2. Seventy-five dollars (\$75.00) for the second offense within a twelve-consecutive-month period;

3. Not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for all offenses subsequent to the second within a twelve-consecutive-month period;

4. In addition to or in lieu of the foregoing, the defendant may be ordered to remove such animal permanently from the municipality within twenty-four (24) hours. Refusal to comply may result in the impoundment and disposal of the animal.

B. Vicious animal, commercial animal establishments and pit bull violations. Any person found guilty of keeping or maintaining a vicious animal as defined by Section 6.02.110 or found guilty of a violation of Section 6.02.050 or 6.02.120 of this Chapter may be:

1. Fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00); and

2. Ordered to remove such animal from the municipality within twenty-four (24) hours of such order, or within twenty-four (24) hours after the end of any required rabies observation period. Refusal to comply with this order may result in impoundment and disposal of the animal;

3. In addition to or in lieu of the foregoing, the defendant may be sentenced to up to one (1) year in jail.

C. All other violations. Any person, firm or corporation violating any other provision of this Chapter shall be fined not less than ten dollars (\$10.00) nor more than three hundred dollars (\$300.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 2005-15 §13, 2005; Ord. 92-27 §1(part), 1992)