

TABLE OF CONTENTS
CHAPTER 4
ANIMALS AND INSECTS

Articles:

I In General

- Sec. 4-1 Definitions
- Sec. 4-2 Exceptions

II. Animals

Division 1 Generally
Reserved

Division 2 Pet Licenses

- Sec. 4-31 License required
- Sec. 4-32 Application
- Sec. 4-33 Term of license
- Sec. 4-34 License tags
- Sec. 4-35 Licensing records
- Sec. 4-36 License fees; waiver

Division 3 Rabies Control

- Sec. 4-51 Rabies vaccination required
- Sec. 4-52 Reporting animal bites; confinement
- Sec. 4-53 Destruction of rabies infected animals

Division 4 Care and Treatment of Animals

- Sec. 4-70 Improper care or treatment prohibited
- Sec. 4-71 Removal of animal waste required
- Sec. 4-72 Minimum size of pasture area for horses or ponies
- Sec. 4-73 Limitation on possession and feeding of wild or exotic animals
- Sec. 4-74 Maltreatment of performing animals prohibited
- Sec. 4-75 Vehicular accidents with animals; duties
- Sec. 4-76 Removal of dead animals required

Division 5 Control of Animals

- Sec. 4-93 Animals at large prohibited
- Sec. 4-94 Animal disturbance of peace and quiet prohibited
- Sec. 4-95 Public nuisance prohibited
- Sec. 4-96 Dangerous animals prohibited; permits; impoundment
- Sec. 4-97 Vicious animals prohibited

Division 6 Restrictions

- Sec. 4-116 Quantity of pet animals restricted
- Sec. 4-117 Sale of chickens and ducklings; quantity restricted; keeping of chickens
- Sec. 4-118 Use of animals as inducement prohibited
- Sec. 4-119 Use of poison restricted
- Sec. 4-120 Trapping restricted

Division 7 Impoundment and Reclamation

- Sec. 4-136 Authorization for capture and impoundment
- Sec. 4-137 Notice of impoundment
- Sec. 4-138 Minimum time for impoundment of unclaimed animals
- Sec. 4-139 Reclamation of certain animals restricted or prohibited
- Sec. 4-140 Impound fees
- Sec. 4-141 Adoption or disposal of unclaimed animals
- Sec. 4-142 Sterilization of adopted animals required

Division 8 Wild Birds

- Sec. 4-156 Wild bird refuge created

- Sec. 4-157 Killing or capturing wild birds restricted
- Division 9 Enforcement*
- Sec. 4-176 Enforcement personnel
- Sec. 4-177 Interference with animal control officers prohibited
- Sec. 4-178 Right of entry granted
- Division 10 Penalties*
- Sec. 4-196 Generally
- Sec. 4-197 Additional penalties or requirements for dangerous and vicious animals

III. Insects

- Division 1 Generally*
- Reserved
- Division 2 Bees*
- Sec. 4-226 Definitions
- Sec. 4-227 Certain conduct declared unlawful
- Sec. 4-228 Hives
- Sec. 4-229 Fencing of flyways
- Sec. 4-230 Water
- Sec. 4-231 General maintenance
- Sec. 4-232 Queens
- Sec. 4-233 Colony densities
- Sec. 4-234 Marking hives, presumption of beekeeping
- Sec. 4-235 Inspection
- Sec. 4-236 Declaration of nuisance
- Sec. 4-237 Enforcement

**ARTICLE I.
IN GENERAL**

Sec. 4-1. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

Animal shall mean any live, vertebrate creature, domestic or wild, excluding fish.

Animal control officer shall mean any person commissioned by the Chief of Police as a special officer who is qualified to perform animal control duties and enforce the laws of the City pertaining to animals.

Animal shelter shall mean any facility operated by a Humane Society or the City for the purpose of impounding or caring for animals held under the authority of the laws, regulations or ordinances of the State, County or City.

At large shall mean outside of a fence or other enclosure which restrains the animal to a particular premises, whether on public or private property, and not under the control, by leash or lead, of the owner or keeper. Animals tethered to a stationary object within reach of a street, sidewalk, alley, trail or other public access are deemed to be "at large."

Bodily injury shall mean physical pain, illness or any impairment of physical or mental condition.

Dangerous animal is any animal which has:

- (1) attacked or bitten a person and thereby caused bodily injury to such person; or
- (2) attacked or bitten another pet animal and thereby killed or caused serious bodily injury to such animal; or
- (3) chased, confronted or approached a person on a street, sidewalk or other property not the property of the owner, in a menacing fashion such as would put a reasonable person in fear of attack; or
- (4) exhibited a propensity, tendency or disposition to attack, cause injury or threaten the safety of persons or other animals without provocation; or
- (5) acted in a manner that causes or should cause its owner to know that it is potentially vicious.

Dwelling unit shall mean one (1) or more rooms and a single kitchen designed for or occupied as a unit by one (1) family or individual for living and cooking purposes.

Humane Society shall mean the Larimer Humane Society, Fort Collins, Colorado.

Keeper shall mean a person who has custodial or supervisory authority or control over an animal.

Leash or lead shall mean a thong, cord, rope, chain or similar device which holds an animal in restraint.

Live trap shall mean a box-style trap made of caging material designed for the live capture of animals.

Owner shall mean any person having control or purporting to have control over any animal, the person named on the licensing records of any animal as the owner, the occupant of the premises where the animal is usually kept if such premises are other than the premises of the owner as shown on the licensing record, or any person in possession of, harboring or allowing any animal to remain about their premises for a period of five (5) consecutive days or more. The parent or guardian of an owner under eighteen (18) years of age shall be deemed the owner, as defined herein. If an animal has more than one (1) owner, all such persons are jointly and severally liable for the acts or omissions of an owner under this Chapter even if the animal was in the possession of or under the control of a keeper at the time of the offense.

Performing animal exhibition shall mean any spectacle, display, act or event, including circuses, in which animals are featured for entertainment.

Pet animal shall mean any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Police officer shall mean any member of Police Services of the City or the Colorado State University Police Department commissioned as a peace officer.

Restraint shall mean: (1) secured by a leash or lead under the physical control of a responsible person, (2) tethered to a stationary object not within reach of a street, sidewalk, alley, trail or other public access or (3) within a fence or other enclosure which limits the animal to a particular premises.

Serious bodily injury shall mean bodily injury which, either at the time of the actual injury or at a later time, involves a break or fracture of one (1) or more bones of the body of the victim, or a substantial risk of death or serious permanent disfigurement, or a substantial risk of prolonged loss or impairment of the function of any part or organ of the body.

Shelter shall mean a structure or environment, adequate to the species of pet animal, which provides protection from adverse weather conditions.

Trap shall mean any mechanical device, snare, deadfall, pit or other device used for capturing, holding or killing an animal.

Vicious animal shall mean any animal which has:

- (1) attacked or bitten a person and thereby caused death or serious bodily injury to such person;
- (2) on two (2) or more occasions, attacked or bitten a person causing bodily injury to such person;
- (3) on two (2) or more occasions, killed or caused serious bodily injury to another pet animal; or
- (4) been trained for fighting or is owned or kept for the purpose of animal fighting.

(Ord. No. 160, 1986, § 1(35-1), 11-4-86; Ord. No. 60, 1995, § 1, 5-16-95; Ord. No. 130, 2002, § 7, 9-17-02; Ord. No. 083, 2004, § 1, 7-20-04; Ord. No. 138, 2009, §§2—5, 1-5-10)

Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 4-2. Exceptions.

The provisions of this Chapter are subject to such exceptions as may be provided in the Land Use Code or, if applicable, the Transitional Land Use Regulations.

(Ord. No. 160, 1986, § 1, 11-4-86; Ord. No. 51, 1997, § 8, 3-18-97)

Secs. 4-3—4-15. Reserved.

**ARTICLE II.
ANIMALS**

DIVISION 1. GENERALLY

Secs. 4-16—4-30. Reserved.

DIVISION 2. PET LICENSES

Sec. 4-31. License required.

(a) The owner or keeper of any dog or cat kept within the City shall secure from the City or the Humane Society, within fourteen (14) days of acquiring possession of said dog or cat, a license for the keeping of the same, which license shall at all times be kept current by said owner or keeper. It is a defense to a charge of violating this Section that:

- (1) The owner or keeper of the dog or cat had not yet lived in the City for thirty (30) days; or

(2) The dog or cat was four (4) months of age or less.

(b) If ownership or possession of a dog or cat licensed under this Chapter changes, the new owner or keeper shall, before taking possession of the dog or cat, obtain a new license upon presenting the old license, if available, demonstrating compliance with the vaccination requirement and paying the fee prescribed by § 4-36.

(c) This Section shall not apply to facilities licensed under Section 35-80-101 through 117, C.R.S. (Ord. No. 160, 1986, § 1(35-3), 11-4-86; Ord. No. 60, 1995, § 2, 5-16-95)

Sec. 4-32. Application.

(a) The applicant for a license under this Chapter shall apply on forms furnished by the licensing agency for the City and shall pay the fee prescribed by § 4-36.

(b) The applicant shall provide satisfactory evidence that the dog or cat has been vaccinated against rabies as required by § 4-51.

(c) The applicant shall apply for a renewal license each year. (Ord. No. 160, 1986, § 1(35-4), 11-4-86; Ord. No. 60, 1995, § 2, 5-16-95)

Sec. 4-33. Term of license.

The initial license issued under this Chapter shall be valid for one (1) year from the month of purchase. A renewal license shall validate the license for one (1) year from the previous date of expiration. (Ord. No. 160, 1986, § 1(35-5), 11-4-86; Ord. No. 60, 1995, § 2, 5-16-95)

Sec. 4-34. License tags.

(a) No person who owns or keeps a dog or cat within the City shall fail to ensure that such dog or cat at all times wears a collar or harness made of a durable material to which is attached the appropriate license tag or identification tag required by this Division.

(b) No person shall use any license or tag for any dog or cat other than the dog or cat for which it was issued.

(c) If a license tag is lost or destroyed, the license holder may obtain a duplicate tag from the City or the Humane Society upon payment of a replacement fee.

(d) Every dog or cat whose age is such that it is not required by this Chapter to be licensed shall bear an identification tag setting forth the name and address of its owner or keeper.

(e) This Section shall not apply to facilities licensed under Section 35-80-101 through 117, C.R.S. (Ord. No. 160, 1986, § 1(35-6), 11-4-86; Ord. No. 60, 1995, § 2, 5-16-95)

Sec. 4-35. Licensing records.

The Humane Society shall maintain a record of all licenses and tags issued and may designate a place at which duplicate originals of those records shall be maintained. (Ord. No. 160, 1986, § 1(35-7), 11-4-86; Ord. No. 60, 1995, § 2, 5-16-95)

Sec. 4-36. License fees; waiver.

(a) A license shall be issued after payment of the applicable fees. Fees shall be established by the City Manager upon recommendation of the operator of the animal shelter.

(b) The license fee shall be waived when the application is for a guide dog or service dog for a totally or partially blind, totally or partially deaf or otherwise physically disabled person. (Ord. No. 160, 1986, § 1(35-8), 11-4-86; Ord. No. 168, 1987, § 1, 11-3-87; Ord. No. 60, 1995, § 2, 5-16-95)

Secs. 4-37—4-50. Reserved.

DIVISION 3. RABIES CONTROL

Sec. 4-51. Rabies vaccination required.

(a) No owner or keeper of a dog or cat over four (4) months of age shall fail to have such dog or cat vaccinated against rabies when the dog or cat becomes four (4) months of age and again within twelve (12) months of the date of such initial vaccination. Thereafter, no such person shall fail to have the dog or cat vaccinated at intervals recommended by the veterinarian. If any dog or cat is found in the City without a current rabies vaccination tag affixed to its collar or harness, the owner of such dog or cat shall be presumed to have violated this Section.

(b) The inoculation required in this Section shall be made by a person legally authorized to do so as designated by the County Health Department.

(c) Rabies inoculation requirements for species other than dogs or cats shall be in accordance with the current Compendium of Animal Rabies Control published yearly by the National Association of State Public Health Veterinarians, Inc.

(Ord. No. 160, 1986, § 1(35-9), 11-4-86; Ord. No. 60, 1995, § 3, 5-16-95)

Sec. 4-52. Reporting animal bites; confinement.

(a) Any person having knowledge that an animal other than a rodent, rabbit, bird or reptile has bitten a human shall immediately report the incident to an animal control officer.

(b) If any animal is suspected of having rabies or if any animal has bitten a person and such animal has not had a current vaccination, such animal shall be confined for a period of at least ten (10) days from the date of the bite at the animal shelter or at a veterinary hospital of the owner's choice, at the expense of the owner of the animal. During the ten-day observation period, no rabies vaccine shall be administered to the animal.

(c) No animal held for observation on suspicion of rabies shall be released until the observation period is over, except as follows:

- (1) If the owner shows proof of current rabies vaccination, the animal may be released into rabies confinement at the owner's residence, at the discretion of the animal control officer; or
- (2) If the victim of the bite and the owner request that the rabies confinement be at the owner's residence and the victim agrees in writing to hold the City and the Humane Society harmless from liability for releasing the animal to the owner, the animal may be released into rabies confinement at the owner's residence, at the discretion of the animal control officer.

(d) For the purposes of this Section, *rabies confinement at owner's residence* shall mean that the animal is kept inside a secure building where no contact with animals or persons outside the owner's family can occur for a ten-day period. During such period of confinement, the animal must not be let out to relieve itself without being on a leash and handled by a person capable of physically restraining the animal. If such animal is otherwise found outside the owner's residence during the confinement period, it shall be taken and confined at the animal shelter or at a veterinary hospital of the owner's choice, at the expense of the owner, for the remainder of the confinement period.

(e) If any animal has been bitten by another animal suspected to have rabies, the owner of such animal exposed to rabies shall report such fact to an animal control officer. The animal control officer shall have the power, in the officer's discretion, to have the animal suspected of having rabies or of being exposed to rabies removed from the owner's residence to a veterinary office or hospital and placed under observation for a period of up to six (6) months at the expense of the owner, provided that the owner may elect to have such animal destroyed in lieu thereof.

(f) Notwithstanding the above, if a standard incubation period has not been established by the State Department of Health for the particular species of animal which was bitten, it shall be summarily destroyed. If the animal has been in contact with another animal or human, a necropsy shall be performed by a certified laboratory to determine rabies contamination.

(g) Any owner or keeper whose animal is confined pursuant to this Section shall pay a confinement and daily boarding fee as established by the City Manager upon recommendation of the director or operator of the animal shelter plus all actual veterinary costs incurred on behalf of the animal. Said fees and costs may be collected through court-ordered restitution or in any other manner provided by law.

(Ord. No. 160, 1986, § 1(35-10), 11-4-86; Ord. No. 60, 1995, § 3, 5-16-95; Ord. No. 083, 2004, § 2, 7-20-04)

Sec. 4-53. Destruction of rabies infected animals.

If rabies has been detected in any animal, such animal shall be summarily destroyed.

(Ord. No. 160, 1986, § 1(35-11), 11-4-86)

Secs. 4-54—4-69. Reserved.

DIVISION 4. CARE AND TREATMENT OF ANIMALS

Sec. 4-70. Improper care or treatment prohibited.

(a) No owner or keeper of an animal shall fail to provide that animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care, when necessary, and such other care as is customary and necessary for the animal's health and well-being, considering the species, breed and type of animal.

(b) No person shall beat, cruelly ill-treat, torment, overload, overwork, otherwise abuse or needlessly kill an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans, nor shall any person transport or confine an animal in or upon any vehicle in such manner as to endanger the animal's health or life.

(c) No owner of an animal shall abandon such animal.

(d) No person shall restrain or permit an animal to be improperly tethered. For purposes of this Section, *improper tethering* shall mean use of a fixed point chain or tether in a manner that is likely to cause bodily injury to the animal or endanger the health or safety of other animals or people. An animal control officer is empowered to make a prima facie determination as to whether tethering is improper, which determination may be based upon, but is not limited to, the consideration of the following factors:

- (1) using a chain or tether made of rope, twine, cord or similar material that is insufficient to restrain the animal;
- (2) using a chain or tether that:
 - a. is less than ten (10) feet in length;
 - b. does not have swivels on both ends;
 - c. is not attached to the animal by means of a properly fitting harness or collar of at least one (1) inch in width; and/or
 - d. is wrapped around the animal's neck;
- (3) using a chain or tether that is too heavy or too big for the size and weight of the animal so that the animal is prohibited from moving about freely;
- (4) allowing an animal to be chained or tethered in such a manner that the animal is not confined to the owner's property or so that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter; or
- (5) using a chain as a primary collar rather than a collar made of nylon, cotton, leather or similar material.

(Ord. No. 160, 1986, § 1(35-12), 11-4-86; Ord. No. 60, 1995, § 4, 5-16-95; Ord. No. 083, 2004, § 3A, 7-20-04; Ord. No. 138, 2009, § 6, 1-5-10)

Sec. 4-71. Removal of animal waste required.

The owner or keeper of any animal shall be responsible for the immediate removal of any feces deposited by such animal on any property, public or private, not owned or exclusively occupied by the owner or keeper. The owner or keeper of any animal shall also be responsible for the periodic removal of feces deposited by such animal on property owned or exclusively occupied by such owner or keeper so as to prevent the creation of a public nuisance within the meaning of § 4-95.

(Ord. No. 160, 1986, § 1(35-13), 11-4-86; Ord. No. 60, 1995, § 4, 5-16-95)

Cross-reference—Health and environment, Ch. 12.

Sec. 4-72. Minimum size of pasture area for horses or ponies.

Horses or ponies may be kept for the use of occupants of a lot and their guests provided that at least one-half (½) acre of pasture area is available for each horse or pony.

(Ord. No. 160, 1986, § 1(35-14), 11-4-86)

Sec. 4-73. Limitation on possession and feeding of wild or exotic animals.

(a) No person shall own, feed or possess any animal for which a state license is required unless such person possesses the appropriate license from the State Division of Wildlife.

(b) No person shall keep any wild or exotic animal within the City unless such possession is authorized by federal or state law. Notwithstanding the foregoing, in no event shall any person keep or feed the following within the City:

- (1) Bears;
- (2) Any species of feline, including exotic cat/domesticated cat crossbreeds, other than ordinary domesticated house cats;
- (3) Skunks;
- (4) Poisonous or venomous amphibians or reptiles;
- (5) Raccoons, porcupines, badgers or other similar species, except ferrets or minks, unless authorized under a state wildlife rehabilitation license;
- (6) Deer;
- (7) Any wolf, coyote or fox;
- (8) Any species of nonhuman primate, but excluding animals imported under authority of state or federal law; and
- (9) Wild geese or ducks, except as permitted under a state wildlife rehabilitation license.

(c) For the purpose of this Section, *to feed* shall mean all provision of edible or drinkable material, including without limitation bones, salt licks and water.

(d) It shall be a defense to a charge of violating this Section that a person holds a valid City circus, menagerie or carnival license under § 15-291 or that a person is feeding only squirrels or birds, other than wild ducks or geese.

(e) No person shall be subject to prosecution under Paragraph 4-73(b)(9) above unless, within one (1) year immediately preceding the date of the alleged violation, such person has been issued a written warning stating that the feeding of wild geese or ducks at the same approximate location of the alleged offense has been determined by the City's Department of Natural Resources to constitute a public health and safety concern and that such feeding is prohibited by the provisions of said Paragraph.

(f) The provisions of this Section shall not apply to animals in the possession and control of the Humane Society or animal shelter, bird rescue or education center licensed or administered by any subdivision of the state or federal government.

(Ord. No. 160, 1986, § 1(35-15), 11-4-86; Ord. No. 60, 1995, § 5, 5-16-95; Ord. No. 083, 2004, § 3B, 7-20-04; Ord. No. 143, 2006, § 4, 10-03-06)

Sec. 4-74. Maltreatment of performing animals prohibited.

It shall be unlawful for any person to put on a performing animal exhibition in which an animal is induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering to the animal.

(Ord. No. 160, 1986, § 1(35-16), 11-4-86)

Sec. 4-75. Vehicular accidents with animals; duties.

Any operator of a vehicle whose vehicle strikes a domestic animal shall stop at once and immediately report any injury or death to the animal's owner. If the owner cannot be ascertained and located, the operator shall at once report the accident to the Humane Society or Police Services.

(Ord. No. 160, 1986, § 1(35-17), 11-4-86; Ord. No. 60, 1995, § 6, 5-16-95)

Sec. 4-76. Removal of dead animals required.

If any animal dies in the possession of any person in the City, it shall be the duty of such person to cause the animal to be at once removed from the City and buried at a sanitary landfill or cremated. In case the owner or keeper of any such animal shall neglect or refuse to remove the same within ten (10) hours after its death, the City may cause the animal to be removed at the expense of such owner or keeper. Whenever the owner or keeper of any dead animal cannot be found or ascertained, it shall be the duty of an animal control officer to remove and have such animal buried or cremated.

(Ord. No. 160, 1986, § 1(35-18), 11-4-86; Ord. No. 60, 1995, § 6, 5-16-95)

Secs. 4-77—4-92. Reserved.

DIVISION 5. CONTROL OF ANIMALS

Sec. 4-93. Animals at large prohibited.

(a) All pet animals, except birds, shall be kept under restraint. It shall be unlawful for the owner or keeper of any pet animal, except birds, to permit such animal to be at large in the City, with or without the owner or keeper's knowledge. The following shall be exempt from this prohibition:

- (1) Animals under the control of a public law enforcement agency.
- (2) Animals not under restraint in a City natural area or recreation area pursuant to an applicable permit issued under Article IX or Article X of Chapter 23.
- (3) Animals under the control of City employees or contractors when used for maintenance or management activities in City recreation areas, as defined in § 23-202.
- (4) Animals in areas designated or signed permitting animals to be at large, such as dog parks.

(b) All pet birds within the City shall be kept under physical control at all times. For the purposes of this Section, *physical control* shall not require the use of a leash, lead or tether, but shall require that the owner or keeper of said pet bird be able to immediately control the bird, physically or verbally, so that the bird does not present a threat to the safety of persons or property.

(c) All female animals in heat shall be kept inside a building or within a fence or other enclosure which limits the animal to a particular premises, so that the animal cannot come into contact with a male animal except for a planned breeding. When allowed outside to relieve itself, said animal shall be under the observation of the owner or keeper.

(d) Doves and pigeons kept as pets shall be exempt from the provisions of this Division.

(e) Fences which are intended as enclosures for any animal shall be securely constructed, adequate for the purpose and kept in good repair.

(Ord. No. 160, 1986, § 1(35-19), 11-4-86; Ord. No. 60, 1995, § 7, 5-16-95; Ord. No. 29, 1999, 3-2-99; Ord. No. 84, 2002, 6-4-02; Ord. No. 083, 2004, § 4, 7-20-04; Ord. No. 138, 2009, § 7, 1-5-10)

Sec. 4-94. Animal disturbance of peace and quiet prohibited.

No owner or keeper of an animal shall permit such animal to make unreasonable noise or disturb the peace and quiet of any person by barking, whining, howling, yowling, squawking or making any other noise in an excessive, continuous or untimely fashion. For purposes of this Section, *unreasonable noise* shall mean any sound of such level and duration as to be, or tend to be, injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property. No person shall be deemed guilty of a violation of this Section unless the investigation of such violation was undertaken by the City because of a citizen complaint.

(Ord. No. 160, 1986, § 1(35-20), 11-4-86; Ord. No. 60, 1995, § 7, 5-16-95; Ord. No. 073, 2004, 5-18-04)

~~Cross-reference~~—Nuisances, Ch. 20.

Sec. 4-95. Public nuisance prohibited.

It shall be unlawful for any owner or keeper to fail to exercise proper care and control of his or her animal to prevent it from becoming a public nuisance. For the purposes of this Section, a public nuisance includes an animal that is not a dangerous or vicious animal but is otherwise a safety or health hazard, damages or destroys the property of another or creates offensive odors which materially interfere with or disrupt another person in the conduct of lawful activities at such person's home.

(Ord. No. 160, 1986, § 1(35-21), 11-4-86; Ord. No. 138, 2009, § 8, 1-5-10)

~~Cross-reference~~—Nuisances, Ch. 20.

Sec. 4-96. Dangerous animals prohibited; permits; impoundment.

(a) It shall be unlawful for any person to harbor, keep or maintain within the City any animal for which a dangerous animal citation has been issued by an animal control officer unless a permit has been issued by the Humane Society or the Municipal Judge consistent with the provisions contained in Subsection (c) below. It shall also be unlawful for any person to fail to comply with the terms and conditions of any such permit or to fail to register a dangerous animal as required herein.

(b) It is a defense to the charge of owning or keeping a dangerous animal that the person or animal that was attacked or bitten by the allegedly dangerous animal was:

- (1) other than in self-defense or defense of its young, attacking the animal or engaging in conduct reasonably calculated to provoke the animal to attack or bite;
- (2) unlawfully engaging in entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or upon a portion of the premises where the animal was properly tethered;
- (3) unlawfully engaging in entry into or upon a vehicle in which the animal was confined;
- (4) attempting to assault another person;
- (5) attempting to stop a fight between the animal and any other animal;
- (6) attempting to aid the animal when it was injured; or
- (7) attempting to capture the animal in the absence of the owner or keeper, with the exception of a peace officer, firefighter, animal control officer or other code enforcement officer in the performance of his or her duty.

(c) Dangerous animal permit.

- (1) If an animal control officer has reasonable grounds to believe that an animal is dangerous, the animal control officer may issue a summons to the owner of such animal and, in his or her discretion, may also issue a permit temporarily allowing the continued keeping of the animal within the City pending disposition of the summons so long as the owner of the animal complies with the requirements set forth in the permit. Said requirements shall include any conditions necessary to ensure that no person or animal is injured by the dangerous animal. Permit requirements may include, but are not limited to, the following:
 - a. that the animal wear a special and conspicuous form of identification (such as a blaze orange collar);
 - b. that the owner immediately notify the animal control officer in the event the animal is loose and unconfined, has attacked or injured a human being or another animal, has been sold or given to another person or has died;
 - c. that the animal, while on the property of the owner, be confined indoors or in a securely enclosed and locked structure, suitable to prevent the entry of children and designed to prevent the animal from escaping;
 - d. that the owner display one (1) or more signs approved or issued by the Humane Society on the owner's property which provide a clear warning that a dangerous animal is present on the property;
 - e. that, while off the owner's property, the animal be muzzled, restrained in a particular manner, or both, and be under the control of an adult;
 - f. that the owner attend one (1) or more educational classes on the responsible keeping of dangerous animals; and
 - g. that, upon request, the owner make the animal available for inspection by the animal control officer.
 - (2) Temporary dangerous animal permits may be made permanent, modified or rescinded only upon order of the court upon disposition of the summons issued. In making such determination, the court may receive evidence from the owner and the complainant, the animal control officer, a veterinarian, a licensed animal trainer, a Humane Society agent and any person having personal knowledge of the animal's condition. If the court finds that the animal is dangerous but decides that certain requirements set out in the permit are not necessary for the protection of the public and other animals, the court may delete or modify those requirements.
 - (3) If the owner of an animal that is the subject of a dangerous animal citation has not been issued a permit to retain the animal under Paragraph (b)(1) of this Section, or if such person fails to comply with any of the requirements imposed under a temporary permit issued under this Section, or if such animal is found at large, the Humane Society is authorized to impound the animal at the owner's expense until final disposition of any summons issued.
 - (4) If the owner of an animal determined by the court to be dangerous who believes that the animal is no longer dangerous or that certain requirements set out in the permit for the animal are no longer necessary for the protection of the public or other animals, the owner may request that the Humane Society rescind the determination that the animal is a dangerous animal or delete or modify those permit requirements; provided, however, that no such request may be made within the first twelve (12) months following the initial determination that the animal is dangerous. In reviewing the request, the Humane Society may require the owner to produce the animal for inspection, allow an animal control officer to observe the animal in its natural surroundings and submit information pertinent to the dangerousness of the animal. If the Humane Society determines that the animal still constitutes a dangerous animal but that certain requirements contained in the permit are no longer necessary, the Humane Society may delete those conditions from the permit or modify them.
 - (5) Any person to whom a dangerous animal permit has been issued, or who requests that such a permit be modified or rescinded under the provisions of this Section, shall pay a fee to the Humane Society in an amount sufficient to cover the estimated costs of issuing, modifying or rescinding such permit, as applicable. The amount of such fee and the time of payment shall be determined by the Humane Society.
- (Ord. No. 138, 2009, § 9, 1-5-10)

Sec. 4-97. Vicious animals prohibited.

- (a) No person shall harbor, keep or maintain within the City any vicious animal except as authorized by the Municipal Judge under Paragraph 4-197(6) of this Chapter. If an animal control officer has reasonable grounds to believe

that an animal is vicious, such animal shall be impounded and kept by the Humane Society, at the owner's expense, until final disposition of the citation issued to the owner for a violation of this Subsection.

(b) It is a defense to the charge of owning or keeping a vicious animal that the person or animal that was attacked or bitten by the allegedly vicious animal was:

- (1) other than in self-defense or defense of its young, attacking the animal or engaging in conduct reasonably calculated to provoke the animal to attack or bite;
- (2) unlawfully engaging in entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or upon a portion of the premises where the animal was properly tethered;
- (3) unlawfully engaging in entry into or in or upon a vehicle in which the animal was confined;
- (4) attempting to assault another person;
- (5) attempting to stop a fight between the animal and any other animal;
- (6) attempting to aid the animal when it was injured; or
- (7) attempting to capture the animal in the absence of the owner or keeper, with the exception of a peace officer, firefighter, animal control officer or other code enforcement officer in the performance of his or her duty.

(c) For the purposes of this Section, a person is lawfully upon the premises of an owner or keeper when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.

(d) No person shall return to or harbor within the City limits an animal previously determined by any court to be a vicious animal except as provided in § 4-197.

(Ord. No. 160, 1986, § 1(35-22), 11-4-86; Ord. No. 083, 2004, § 5, 7-20-04; Ord. No. 138, 2009, § 10, 1-5-10)

Secs. 4-98—4-115. Reserved.

DIVISION 6. RESTRICTIONS

Sec. 4-116. Quantity of pet animals restricted.

In no event shall any person keep at his or her premises more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owners, keeper or others and without constituting a nuisance to the occupants of neighboring properties.

(Ord. No. 160, 1986, § 1(35-23), 11-4-86; Ord. No. 60, 1995, § 8, 5-16-95)

Sec. 4-117. Sale of chickens and ducklings; quantity restricted; keeping of chickens.

(a) Chickens or ducklings younger than eight (8) weeks of age may not be sold in quantities of less than six (6) to a single purchaser.

(b) Except in those zone districts where the keeping of farm animals (as the term is defined in Section 5.1.2 of the Land Use Code) is allowed, the keeping of chicken roosters or more than six (6) chicken hens is prohibited. However, up to six (6) chicken hens may be kept per parcel of property, subject to the following requirements and subject to all other applicable provisions of this Chapter:

- (1) If a parcel has more than one (1) dwelling unit, all adult residents and the owner(s) of the parcel must consent in writing to allowing the chicken hens on the property;
- (2) Any person keeping chicken hens pursuant to this provision must first have been issued a permit by the Larimer Humane Society and have received such information or training pertaining to the keeping of chicken hens as the director of said agency deems appropriate;

- (3) The chicken hens must be provided with a covered, predator-resistant chicken house that is properly ventilated, designed to be easily accessed, cleaned and maintained, and at least two (2) square feet per chicken in size;
 - (4) During daylight hours, the chicken hens must have access to the chicken house and also have access to an outdoor enclosure that is adequately fenced to protect them from predators;
 - (5) The chicken hens must be further protected from predators by being closed in the chicken house from dusk to dawn;
 - (6) Neither the chicken house nor the outdoor enclosure may be located less than fifteen (15) feet from any abutting property line unless the owner or keeper of the chicken hens obtains the written consent of the owner(s) of all abutting properties to which the enclosure is proposed to be more closely located; in which event, the agreed-upon location shall then be deemed acceptable notwithstanding any subsequent change in ownership of such abutting property or properties;
 - (7) The chicken hens must be sheltered or confined in such fashion as to prevent them from coming into contact with wild ducks or geese or their excrement; and
 - (8) The chicken hens may not be killed by or at the direction of the owner or keeper thereof except pursuant to the lawful order of state or county health officials, or for the purpose of euthanasia when surrendered to a licensed veterinarian or the Humane Society for such purpose, or as otherwise expressly permitted by law.
- (Ord. No. 160, 1986, § 1(35-24), 11-4-86; Ord. No. 73, 1990, § 1, 7-17-90; Ord. No. 072, 2008, § 2, 9-2-08)

Sec. 4-118. Use of animals as inducement prohibited.

No person shall give away any animal as a prize for or as an inducement to enter any contest, game or other competition or as inducement to enter a place of amusement, for the purpose of attracting trade or offer any animal as an incentive to enter into any business agreement. The provisions of this Section shall not apply to facilities licensed under Sections 35-80-101 through 117, C.R.S.

(Ord. No. 160, 1986, § 1(35-25), 11-4-86; Ord. No. 60, 1995, § 9, 5-16-95)

Sec. 4-119. Use of poison restricted.

No person shall poison any animal or distribute poison in any manner with the intent to poison any animal, except that mice, rats or any rodents other than hamsters, guinea pigs and squirrels may be poisoned by the use of a poisonous substance approved for such use by the United States Environmental Protection Agency. This prohibition shall not apply to persons regularly engaged in the business of fumigation or pest extermination and licensed by the State of Colorado; provided, however, that such persons may use only fumigants to destroy prairie dogs or other burrowing rodents.

(Ord. No. 160, 1986, § 1(35-26), 11-4-86; Ord. No. 60, 1995, § 9, 5-16-95)

Sec. 4-120. Trapping restricted.

(a) No person shall use, set, place, maintain or tend any trap in the City, except that live traps may be set for the purpose of: (1) trapping animals which are at large in violation of this Chapter, so long as any animals trapped are turned over to the Humane Society as soon as possible upon discovery, or (2) trapping wild animals including but not limited to skunks, squirrels, raccoons and prairie dogs, provided that any animals trapped are released or disposed of in the manner required by the Humane Society and the Division of Wildlife. Any traps found in violation of this Subsection shall be confiscated and destroyed by an animal control officer or peace officer.

(b) Notwithstanding the provisions of Subsection (a) above, rodent snap traps baited with vegetable or dairy products may be used on private property for the purpose of catching rats or mice.

(c) In the event that the presence of a wild or domestic animal within the City creates an imminent threat of injury to persons or serious damage to property, the Chief of Police, after consultation with the Humane Society and, in the case of a wild animal, the State Division of Wildlife, may authorize the capture and disposition of said animal by such means as he or she may consider reasonably necessary; provided, however, that no firearm may be utilized in the

capture or disposition of such animal except by a peace officer trained in the use of the same under such circumstances as will not, in the judgment of said peace officer, unreasonably endanger the safety of others. (Ord. No. 160, 1986, § 1(35-27), 11-4-86; Ord. No. 60, 1995, § 9, 5-16-95)

Secs. 4-121—4-135. Reserved.

DIVISION 7. IMPOUNDMENT AND RECLAMATION

Sec. 4-136. Authorization for capture and impoundment.

Animal control officers and police officers are hereby authorized to take or capture animals deemed by them to be included in the categories listed below and impound them at an animal shelter or other appropriate location where the animals will be confined in a humane manner. Such officers may utilize a tranquilizer dart if necessary in order to capture an animal which appears to be vicious or destroy such animal if necessary to avoid a physical threat to human beings.

- (1) Animals at large, vicious or dangerous animals, animals creating a disturbance, maltreated animals and nuisance animals;
- (2) Wild or exotic animals kept in violation of § 4-73;
- (3) Animals which were being transported by a person involved in a vehicular accident when such person becomes unable to care for or maintain control over the animal as a result of the accident and there is no responsible person present to take possession of the animal;
- (4) Animals which will apparently be or have been left uncared for as a result of the death, injury, arrest, detention or other incapacitation of the owner or keeper.

(Ord. No. 160, 1986, § 1(35-28), 11-4-86; Ord. No. 138, 2009, § 11, 1-5-10)

~~Cross-reference—Police Services, § 2-504~~

Sec. 4-137. Notice of impoundment.

If, by tags or other identification attached to the animal or any other information given to the animal shelter, the owner of an impounded animal can be identified, an animal control officer or other animal shelter representative shall, immediately upon impoundment, notify the owner of such impoundment by telephone, electronic mail, U.S. mail or written notice posted conspicuously upon the owner's last known residence as shown by Humane Society records.

(Ord. No. 160, 1986, § 1(35-29), 11-4-86; Ord. No. 083, 2004, § 6, 7-20-04)

Sec. 4-138. Minimum time for impoundment of unclaimed animals.

(a) Unclaimed animals shall be kept at an animal shelter or other appropriate location for not less than five (5) days unless euthanasia prior to that time is deemed necessary or appropriate by the veterinarian advising the animal shelter personnel.

(b) A pet animal without identification, including but not limited to a microchip or collar, may be held for only three (3) days if the animal shelter supervisor determines that the shelter has no additional resources for such pet animal or determines that such pet animal is dangerous.

(c) For purposes of this Section, *days* shall mean days during which the animal shelter is open to the public.

(Ord. No. 160, 1986, § 1(35-30), 11-4-86; Ord. No. 083, 2004, § 7, 7-20-04)

Sec. 4-139. Reclamation of certain animals restricted or prohibited.

The following restrictions or prohibitions shall apply to the reclamation of the following impounded animals:

- (1) Animals that have been declared vicious or dangerous may not be reclaimed unless and until the court orders the animal released under conditions consistent with Subsection 4-197(b);

(2) If an animal was impounded on the basis of a violation of any provision of § 4-70, § 4-74 or § 4-116, then the notice required by § 4-137 shall include a statement, in writing, that the animal will be disposed of if the owner or keeper does not request a hearing with the City Manager within ten (10) days of the date of the notice. If a hearing is requested, the City Manager shall schedule it to occur within five (5) City business days and shall give notice of same to the person requesting the hearing. If, at the conclusion of the hearing, the City Manager determines that the animal was being kept in violation of any provision of § 4-70, § 4-74 or § 4-116, the City Manager may order the animal disposed of in the manner provided in § 4-141 and not returned to its owner or keeper. Alternatively, if the City Manager determines that, due to changed circumstances, the animal's health and the public health, safety and welfare will not be endangered thereby, the City Manager may order the animal returned to its owner or keeper upon payment of impoundment, boarding or veterinary fees and any other expenses incurred by the City or the animal shelter in connection with the impoundment of the animal and its subsequent care if the City Manager determines that, due to changed circumstances, the animal's health and the public health, safety and welfare will not be endangered thereby. If the City Manager determines that the animal was wrongfully impounded, the City Manager shall order the animal returned without payment of such fees or expenses. If no hearing is requested, the City Manager may order the animal disposed of in the manner provided in § 4-141.

(3) Wild or exotic animals kept in violation of § 4-73 shall not be released to the owner or any other person; provided, however, that the Humane Society may release such animals to the appropriate authorities or a zoo.

(Ord. No. 160, 1986, § 1(35-31), 11-4-86; Ord. No. 97, 1988, 8-2-88; Ord. No. 60, 1995, § 10, 5-16-95; Ord. No. 138, 2009, § 12, 1-5-10)

Sec. 4-140. Impound fees.

(a) An owner or keeper reclaiming an impounded animal shall pay an impound fee and a daily boarding fee, both as established by the City Manager upon recommendation of the operator of the animal shelter, plus all actual and necessary veterinary costs incurred on behalf of the animal. The amount of the impound fee may depend upon the type of animal involved, its age, its licensing status and whether it has been impounded more than once in a twelve-month period. No owner or keeper may reclaim an impounded animal until he or she has paid the impoundment fee, boarding fees and veterinary costs.

(b) It is unlawful for an owner or keeper of any impounded animal to fail to pay all fees and charges incurred as a result of the impoundment. Failure to reclaim an animal prior to a determination that the animal has become the property of the City or its designated animal shelter as set forth in § 4-141 of this Code shall not relieve the owner or keeper of the impounded animal of the responsibility to pay all impound fees and costs incurred prior to said determination. Payment of said fees and costs shall be due within fifteen (15) days of receipt of a written notice for fees and costs due. Notice shall be delivered in the same manner as a notice of impound as set forth in § 4-137 of this Code. The Humane Society is authorized to collect said fees as court-ordered restitution or in any other manner allowed by law or equity.

(c) An owner or keeper reclaiming an impounded animal must present satisfactory proof of vaccination for rabies and a valid license to the animal shelter prior to reclaiming the animal. An owner or keeper reclaiming an impounded animal which is not validly licensed must license the animal. If proof of vaccination and license cannot be provided, the animal shelter shall release the impounded animal to the owner or keeper with the requirement that satisfactory proof of vaccination and license shall be furnished by the owner or keeper within forty-eight (48) hours after release.

(d) The animal shelter may waive any and all fees and costs other than the vaccination and licensing which are required under the provisions of this Article if the animal shelter supervisor determines that the payment of such fees would create an undue hardship.

(Ord. No. 160, 1986, § 1(35-32), 11-4-86; Ord. No. 168, 1987, §§ 2, 3, 11-3-87; Ord. No. 60, 1995, § 11, 5-16-95; Ord. No. 083, 2004, § 8, 7-20-04; Ord. No. 138, 2009, § 13, 1-5-10)

Sec. 4-141. Adoption or disposal of unclaimed animals.

Any animal that has been surrendered to the Humane Society or not reclaimed by its owner within the period of time set forth in § 4-138 of this Code shall become the property of the City or Humane Society and may be placed for adoption in a suitable home or humanely euthanized. In disposing of unclaimed animals, it shall be unlawful for the City or Humane Society to surrender live animals to any hospital or institution of learning for use in research. It shall, however, be lawful for the City or Humane Society to donate euthanized unclaimed animals to any hospital or institution of learning for use in research or education.

(Ord. No. 160, 1986, § 1(35-33), 11-4-86; Ord. No. 083, 2004, § 9, 7-20-04; Ord. No. 138, 2009, § 14, 1-5-10)

Sec. 4-142. Sterilization of adopted animals required.

No dog or cat shall be released for adoption without being sterilized or without a written agreement from the adopter guaranteeing that such animal will be sterilized within a certain period of time after the date of release. It shall be unlawful for the adopter to violate the terms of such written agreement.

(Ord. No. 160, 1986, § 1(35-34), 11-4-86; Ord. No. 083, 2004, § 10, 7-20-04)

Secs. 4-143—4-155. Reserved.

DIVISION 8. WILD BIRDS

Sec. 4-156. Wild bird refuge created.

The area within the City is hereby made and constituted a bird sanctuary for the refuge of wild birds. All persons are urged to protect the wild birds and encourage their propagation and refuge within such sanctuary.

(Ord. No. 160, 1986, § 1(35-35), 11-4-86)

Sec. 4-157. Killing or capturing wild birds restricted.

It shall be unlawful for any person at any time in the City to shoot at, wound, kill, capture, ensnare, net, trap or in any other manner molest or injure any wild bird or in any manner molest or injure the nest, eggs or young of any such bird. The Chief of Police shall have authority to grant or deny a permit for the killing, capturing or molestation of nuisance birds with the consent or approval of the State Division of Wildlife when it is shown that the birds are, or may become, a nuisance or health hazard in any particular location in the City. The permit shall be granted or denied within five (5) working days of the date the request is made.

(Ord. No. 160, 1986, § 1(35-36), 11-4-86; Ord. No. 60, 1995, § 12, 5-16-95)

Secs. 4-158—4-175. Reserved.

DIVISION 9. ENFORCEMENT

Sec. 4-176. Enforcement personnel.

The civil and criminal provisions of this Chapter shall be enforced by those persons designated by the City.

(Ord. No. 160, 1986, § 1(35-37), 11-4-86)

Sec. 4-177. Interference with animal control officers prohibited.

No person shall knowingly interfere with, impede or obstruct any animal control officer who is attempting to discharge or is in the course of discharging an official duty, nor shall any person fail to obey the lawful order of an animal control officer.

(Ord. No. 160, 1986, § 1(35-38), 11-4-86; Ord. No. 60, 1995, § 13, 5-16-95)

Sec. 4-178. Right of entry granted.

Animal control officers and police officers are hereby authorized to enter upon any premises, excluding a dwelling unit, in the City for the purpose of impounding animals which they are authorized hereunder to impound, or for any other purpose authorized by this Chapter.

(Ord. No. 160, 1986, § 1(35-39), 11-4-86)

Cross-reference—Right of entry requirements, § 1-16.

Secs. 4-179—4-195. Reserved.

DIVISION 10. PENALTIES

Sec. 4-196. Generally.

Any person found guilty of violating any provision of this Chapter, whether by acting in a manner declared to be unlawful or by failing to act as required, shall be punished in the manner described in § 1-15.

(Ord. No. 160, 1986, § 1(35-40), 11-4-86)

Cross-reference—General penalty, § 1-15.

Sec. 4-197. Additional penalties or requirements for dangerous and vicious animals.

(a) Registration of dangerous and vicious animals. All owners of animals determined by the Municipal Judge to be vicious or dangerous animals shall, unless the animal has been ordered destroyed, annually register their animal and provide a current color photograph of the animal with the Humane Society and pay a registration fee to be set by the Humane Society. At the time of registration, each owner of any dangerous or vicious animal kept within the City shall provide proof of liability insurance in the amount of at least one million dollars (\$1,000,000.) for any acts of property damage or liability incurred by virtue of injury inflicted by such animal. Such insurance shall name the City as co-insured solely for the purpose of notice of cancellation of the policy. Upon payment of the fee, the Humane Society shall issue a current vicious/dangerous animal collar of an approved color for the purpose of identification, which collar is to be worn by the animal at all times as proof of registration. If, due to the length of the animal's hair, the collar is not visible, an approved colored lead or chain shall be used. A vicious/dangerous animal collar may be removed from a dangerous animal for grooming or purposes of other care when the animal is secured indoors or in an approved pen.

(b) In addition to the penalties provided in § 1-15, the Municipal Judge may order any animal determined to be dangerous or vicious destroyed by the Humane Society or, if not destroyed, made subject to any such conditions the Municipal Judge deems necessary to protect the public and other animals. Such conditions may include, but are not limited to, requirements that the owner of the animal shall:

- (1) within ten (10) days after sentencing, spay or neuter the animal if not already done;
- (2) have a licensed veterinarian implant an electronic identification microchip in the animal and provide the information contained in the microchip to the Humane Society;
- (3) notify the Humane Society when the animal is sold, gifted or transferred to another person, in which event the owner shall remain liable for the actions of the animal until formal notification of sale, gift or transfer is given to the Humane Society;
- (4) not have any animal violations;
- (5) ensure that such animal does not damage or destroy public or private property;
- (6) notify the Humane Society immediately if the animal is running at large;
- (7) ensure that, when such animal is on the property of the owner, such animal is:
 - a. confined within a residence and under the control of a person over the age of eighteen (18) years; or
 - b. when outdoors:

1. confined in a locked pen or other structure that provides the animal with adequate protection from the elements and that is located at least three (3) feet from any property line and at least fifteen (15) feet from any neighboring dwelling unit, that has secure sides and a secure top and either a floor made of concrete or other impervious surface or, in the absence of such a floor, sides imbedded in the ground to a minimum depth of one (1) foot; or
 2. under the control of a person over the age of eighteen (18) years and securely muzzled and harnessed or leashed on a lead not exceeding six (6) feet in length in a manner that prevents the animal from chasing, injuring or biting other animals or humans, as well as preventing damage to public or private property.
- (8) ensure that, when such animal is off the property of the owner, it is under the control of a person over the age of eighteen (18) years, securely muzzled and:
- a. confined within a residence or a locked pen or other structure that meets the requirements of Subparagraph (7)a.1. above or a locked vehicle; or
 - b. harnessed or leashed on a lead not exceeding six (6) feet in length in a manner that prevents the animal from chasing, injuring or biting other animals or humans, as well as preventing damage to public or private property;
- (9) post and maintain signs issued or approved by the Humane Society placed at each entrance to the premises where the animal is kept and on the pen or other structure in which the animal is confined; and
- (10) agree that failure to comply with any of the conditions shall result in surrender of the animal and impoundment, at the owner's expense, by the Humane Society for disposition, which disposition may include euthanasia, without further notice or hearing.

(Ord. No. 160, 1986, § 1(35-41), 11-4-86; Ord. No. 138, 2009, § 15, 1-5-10)

Cross-reference—General penalty, § 1-15.

Secs. 4-198—4-210. Reserved.

ARTICLE III. INSECTS

DIVISION 1. GENERALLY

Secs. 4-211—4-225. Reserved.

DIVISION 2. BEES*

Sec. 4-226. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Apiary shall mean a place where bee colonies are kept.

Bee shall mean any stage of the common domestic honey bee, *apis mellifera* species.

Colony shall mean a hive and its equipment and appurtenances, including bees, comb, honey, pollen and brood.

Hive shall mean a structure intended for the housing of a bee colony.

Tract shall mean a contiguous parcel of land under common ownership.

Undeveloped property shall mean any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or im-

* **Editor's note**—Ord. No. 72, 1989, adopted Apr. 4, 1989, repealed § 4-226 and enacted a new Div. 2, §§ 4-226—4-237. Former § 4-226 was derived from Ord. No. 160, 1986, § 1(35-42), adopted Nov. 4, 1986.

provements intended for human use or occupancy, and the grounds maintained in association therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-227. Certain conduct declared unlawful.

(a) The general purpose of this Division is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.

(b) Notwithstanding compliance with the various requirements of this Division, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-228. Hives.

All bee colonies shall be kept in Langstroth type hives with removable frames, which shall be kept in sound and usable condition.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-229. Fencing of flyways.

In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary. It is a defense to prosecution under this Section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least twenty-five (25) feet from the property line of the apiary tract.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-230. Water.

Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-231. General maintenance.

Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-232. Queens.

In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-233. Colony densities.

(a) It shall be unlawful to keep more than the following number of colonies on any tract within the City, based upon the size or configuration of the tract on which the apiary is situated:

- (1) One-quarter ($\frac{1}{4}$) acre or less tract size – two (2) colonies;
- (2) More than one-quarter ($\frac{1}{4}$) acre but less than one-half ($\frac{1}{2}$) acre tract size – four (4) colonies;
- (3) More than one-half ($\frac{1}{2}$) acre but less than one (1) acre tract size – six (6) colonies;
- (4) One (1) acre or larger tract size – eight (8) colonies; and
- (5) Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.

(b) For each two (2) colonies authorized under colony densities, Subsection (a) above, there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths ($9\frac{5}{8}$) inch depth ten (10) frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-234. Marking hives, presumption of beekeeping.

(a) In apiaries, the name and telephone number of the beekeeper shall be branded, painted or otherwise clearly marked upon the structure of at least two (2) hives and placed at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name and telephone number of the beekeeper. It is a defense to prosecution under this Subsection that a colony is kept on the same tract upon which the owner resides.

(b) Unless marked in accordance with Subsection (a), it shall be presumed for purposes of this Division that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract setting forth the name, address and telephone number of the other person who is acting as the beekeeper.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-235. Inspection.

The City Manager shall have the right to inspect any apiary between the hours of 8:00 a.m. and 5:00 p.m. Where practicable, prior notice shall be given to the beekeeper if he or she resides at the apiary or if his or her name is marked on the hives.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-236. Declaration of nuisance.

The keeping by any person of bee colonies in the City not in strict compliance with this Division is declared to be a menace to the health and safety of the residents of the City and is hereby declared to be a nuisance and is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is hereby declared to be a menace to the health and safety of the residents of the City and is hereby declared to be a nuisance and is prohibited. Any bee colonies kept in the City not in compliance with this Division or otherwise declared to be a nuisance pursuant to this Section may be summarily destroyed or removed from the City by the City Manager. In each instance in which a bee colony is destroyed, all usable components of the hive structure that are not damaged or rendered unhealthy by the destruction of the bees shall upon the beekeeper's request be returned to the beekeeper, provided that the beekeeper agrees to bear all transportation expenses for their return.

(Ord. No. 72, 1989, 4-4-89)

Sec. 4-237. Enforcement.

The City Manager shall be charged with enforcement of this Division.
(Ord. No. 72, 1989, 4-4-89)