

ORDINANCE NO. 2312

INTRODUCED BY: \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 4 OF THE COMMERCE CITY REVISED MUNICIPAL CODE, COMMONLY KNOWN AS THE ANIMAL CODE TO REMOVE BREED SPECIFIC REGULATIONS AND ADDRESS DANGEROUS AND VICIOUS ANIMALS, TO AMEND ANIMAL DISTURBANCE REGULATIONS, TO AMEND PROCEDURES RELATING TO ANIMAL IMPOUNDMENT AND DISPOSITION, AND TO AMEND OTHER PROVISIONS RELATING TO THE REGULATION OF ANIMALS IN THE CITY OF COMMERCE CITY

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

**SECTION 1.** The City Council finds and determines that the passage of this ordinance is necessary for the preservation of the public health, safety, and welfare.

**SECTION 2.** Chapter 4 of the Commerce City Revised Municipal Code is amended as set forth in Exhibit A.

**SECTION 3.** Except as specifically modified herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7TH DAY OF DECEMBER 2020.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020.

CITY OF COMMERCE CITY, COLORADO

\_\_\_\_\_  
Benjamin A. Huseman, Mayor

ATTEST

\_\_\_\_\_  
Dylan A. Gibson, City Clerk

## Chapter 4 - ANIMAL CODE

### ARTICLE I. - GENERAL PROVISIONS

#### Sec. 4-1000. - Applicability.

- (a) Except as provided in subsection (b) of this section, this chapter shall apply to any and all persons who own, maintain or keep any animals within the city, and all such animals shall be owned, maintained or kept only in compliance with the provisions of this chapter.
- (b) This chapter shall not apply to:
  - (1) A bona fide publicly or privately owned zoological park;
  - (2) A bona fide research institution using animals for scientific research;
  - (3) A circus duly authorized to do business in the city; or
  - (4) When acting within the scope of their official duties and in compliance with applicable law, personnel of the city or of any police, fire or animal control agency, the Colorado Division of Wildlife, the Colorado Department of Health or any other local, state or federal agency when such persons are acting.

#### Sec. 4-1001. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal:* A living organism other than plants or bacteria. Animal includes arthropods, amphibians, reptiles, birds and mammals other than humans.

*Animal control agent:* Any person authorized by this Code or by the city manager to enforce the provisions of this chapter.

*At large:* Off the premises of the owner's real property and not physically restrained by a competent person.

*Cat:* All domesticated or feral members of the genus Felis, male or female.

*Commercial kennel:* Any establishment or parcel of property upon which a person harbors, keeps or boards more than three (3) dogs or cats or any combination thereof, and where the dogs and cats, male or female, are maintained for boarding, training, breeding or similar purposes for fee or other compensation, or where the dogs and cats are offered for sale, adoption or exchange.

*Competent person:* A human being over the age of ten (10)~~eleven~~(11) years who is capable of controlling and governing the dog or cat in question, and to whose command the dog or cat is obedient.

*Confine:* A limitation of movement of an animal by a fence or other structure or by a chain, rope or other means of sufficient strength or construction to restrain the animal in question.

*Dangerous animal:* Any animal, other than an animal used by a law enforcement officer while engaged in the performance of law enforcement duties, that has been determined by the municipal court to have: (1) attacked a person or domestic animal, thereby causing physical injury to that person or domestic animal; (2) behaved in a manner, when not on the animal owner's property, that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic animal; (3) exhibited a propensity, tendency, or disposition to attack, cause injury or threaten the safety of persons or other animals without provocation; or (4) acted in a manner that causes or should cause its owner to know that it is potentially dangerous. Dangerous animal includes any animal that has been previously determined or declared to be a dangerous animal, or received a similar designation based on similar factors, after an administrative or court hearing in this or any other jurisdiction.

*Days:* For purposes of article IV of this chapter, days, when used in reference to the redemption of an animal, shall mean only those days during which the place of impoundment is open to the public.

Exhibit A to Ordinance 2312

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*Dogs:* All members of the canine family, male or female.

*Domestic animal*~~*Household pet or pet animal:*~~ Nonendangered species of dogs, cats, ferrets, nonpredatory birds bred in captivity, fish, hermit crabs, snails, tarantulas, captive-bred domestic rabbits, domestic guinea pigs, domestic rats, domestic mice, gerbils, hamsters, chinchillas, African pygmy hedgehogs, Vietnamese pot-bellied pigs and nonpoisonous snakes, amphibians and reptiles less than three (3) feet in length measured from the tip of the nose to the tip of the tail when fully grown and any other non-endangered species of animal that is sold or retained as a household pet intended to live in or about the habitation of humans and is dependent on humans for food and shelter, but does not include ~~livestock~~~~goats, chickens~~, skunks, primates or any species of wild or exotic animals.

*Enclosure:* A fenced or walled area, having a fence or wall height of at least six (6) feet or a lesser height if a secure roof is permanently and securely attached, suitable to prevent the entry of young children and suitable to confine an animal. Enclosures shall be in the backyard of a dwelling and at least five (5) feet from any property line and at least fifteen (15) feet from any neighboring dwelling unit. This chapter shall not authorize any structures or fences not allowed pursuant to the Land Development Code, any applicable zoning ordinance, or any private covenant or development restriction.

*Game:* Animals under pursuit or taken in hunting; wild animals hunted for sport or food.

*Harbor:* Keeping and caring for an animal or providing premises to which the animal returns for food, shelter or care.

*Hobby breeder:* Any person who, at a single address within the city, harbors more than three (3) dogs or five (5) cats over the age of six (6) months that are used for breeding purposes occasionally but does not operate a commercial kennel.

*Impound:* To physically confine an animal at a licensed boarding facility or licensed animal shelter at the direction of an animal control agent.

~~*Initial registration of a pit bull:* Registration of a pit bull with the city's police department by November 1, 2005.~~

*Livestock:* Any ~~domestic~~ animal generally used for food or in the production of food including, but not limited to, horses, cattle, sheep, goats, poultry, fowl, swine or llamas.

*Mistreat:* Every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

*Muzzle:* A restraining device made of metal, plastic, leather, cloth or a combination of these materials that, when fitted and fastened over a snout, mouth and/or head, prevents a dog from biting but allows a dog room to breathe and pant. While a muzzle must prevent a dog from biting another person or animal, it must not cause injury to a dog or interfere with its vision or respiration.

*Neglect:* Failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and well-being consistent with the species, breed and type of animal.

*Owner:* Any person, partnership, or corporation owning, possessing, keeping, caring for, or otherwise having the custody or control of any animal that is subject to regulation under this chapter and shall also mean and include any person of the age of eighteen (18) years or older who knowingly permits an animal to remain on any premises possessed or controlled by him or her ~~in possession or control of premises upon which is kept any animal that is subject to regulation under this chapter.~~ The parent or guardian of an owner under eighteen (18) years of age shall be deemed the owner of an animal owned, possessed, or kept by or in the custody or control of a person under the age of eighteen (18) years. 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 another person at the time of the offense. This definition shall not be construed to grant a legal right of ownership to a person based on possession of an animal.

~~*Pit bull or pit bull terrier:* 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~~

## Exhibit A to Ordinance 2312

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~~above breeds or any dog exhibiting those distinguishing characteristics that substantially conform to the standards established by the American Kennel Club (A.K.C.) or United Kennel Club (U.K.C.) for any of the above breeds. A bill of sale or veterinary record that identifies an animal as a pit bull terrier mix shall be sufficient to establish that the animal in question is a pit bull terrier or a pit bull terrier mix for purposes of this chapter.~~

~~*Pit bull enclosure:* An outside enclosure with a lockable, childproof latch of commercial quality surrounded by a fence at least five (5) feet in height with a secure top and a concrete base to a depth not less than six (6) inches below grade.~~

*Physical injury:* Any physical contact by an animal's mouth, teeth, nails, or paws that results in pain or physical trauma of any kind, including without limitation bruising, muscle tear, broken bone, skin laceration.

*Provocation:* Any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal animal in similar circumstances to react in a manner similar to that shown by the evidence. The ordinary and reasonable use of private and public properties shall not constitute provocation.

*Rodent:* A mouse, rat, prairie dog, gopher, mole or other animal commonly known as a rodent, but shall not include a hamster, guinea pig, gerbil, rabbit or squirrel.

*Serious physical injury:* Physical injury that, either at the time of the actual injury or at a later time, involves, with respect to a person or animal: (1) a substantial risk of death; (2) a substantial risk of serious permanent disfigurement; (3) a substantial risk of protracted loss or impairment of the function of any part or organ of the body; or (4) breaks, fractures, or burns of the second or third degree.

~~*Secure temporary enclosure:* 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.~~

*Stray animal:* Any animal for which there is no identifiable owner, keeper or possessor.

~~*Vicious or dangerous animal:* An animal that at any place within the city: (a) bites or makes an unprovoked attack upon a person or other animal; (b) repeatedly lunges or charges at a person or other animal in a fierce, vicious or terrorizing manner, whether or not separated from that person or other animal by a fence; or (c) without provocation threatens to attack or terrorizes a person.~~

*Vicious animal:* Any animal, other than an animal is used by a law enforcement officer while engaged in the performance of law enforcement duties, that has been determined by the municipal court to have: (1) attacked a person or domestic animal, thereby causing death or serious physical injury that person or domestic animal; (2) attacked a person or domestic animal on two or more occasions, at any time, thereby causing physical injury to that person or domestic animal, provided different persons or domestic animals may be involved on either occasion; or (3) been trained for fighting or is owned or kept for the purpose of animal fighting. *Vicious animal* includes any animal that has been previously determined or declared to be a vicious animal, or received a similar designation based on similar factors, after an administrative or court hearing in this or any other jurisdiction.

*Wild or exotic animal:* Any species of animal, including without limitation bears, coyotes, foxes, mountain lions, opossums, raccoons, skunks, squirrels, raptors, game animals, and wolves and wolf hybrids, which normally exists in a natural unconfined state and is usually not domesticated. Alleged domestication of a wild or exotic animal shall not affect its status under this definition.

*Wolf hybrid:* The progeny of a wolf (*Canis lupus*) bred with a domestic dog (*Canis familiaris*) or the offspring of such progeny bred with either a domestic dog (*Canis familiaris*) or a wolf (*Canis lupus*). A bill of sale or veterinary record that identifies an animal as a wolf hybrid shall be sufficient to establish that the animal in question is a wolf hybrid for purposes of this chapter.

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**Sec. 4-1002. - Violations and penalties; strict liability.**

Unless specified otherwise herein as "unlawful," a violation of any provision of this chapter shall constitute a civil infraction ~~publishable as provided in chapter 1 of this Code.~~ Violations specified as "unlawful" shall be punishable as a misdemeanor. For the purpose of prosecution for violations of any section of this chapter, notice on the part of the owner or custodian of an animal that the animal was violating any of the sections of this chapter at the time and place charged shall not be necessary in order to obtain a conviction. This chapter is intended to impose strict liability upon the owner or custodian of any animal. Each separate day or any portion thereof during which such violation of this chapter occurs or continues shall constitute a separate offense, and upon conviction thereof, shall be punishable as herein provided.

**Sec. 4-1003. - Animal control agent.**

- (a) An animal control agent shall be an authorized inspector of the city for the purposes designated or required by the provisions of this chapter.
- (b) Whenever any federal or state law imposes upon the city a duty with respect to the care, custody, keeping, seizing, impoundment or control of any animal, such duty may be performed by the animal control agent.

**Sec. 4-1004. - Interference with animal control agent.**

- (a) It is unlawful for any person to take, seize or remove from the custody or possession of the city or its agents any animal that has been seized or impounded.
- (b) It is unlawful for any person to knowingly obstruct, hinder or impair any animal control agent in the performance of his or her duties, including investigation or inspection, by the use or threat of violence, force or physical interference, by knowingly providing false or misleading information or by failing to produce, for any reason, any animal the animal control agent is authorized under this code or municipal court order to inspect, investigate or impound.

**Sec. 4-1005. - Duties of animal control agent.**

- (a) In addition to any other duties that may be required or authorized by the city manager or by the ordinances of the city, an animal control agent is hereby authorized to undertake the following:
  - (1) Seize and impound any animal pursuant to the provisions of this chapter.
  - (2) Whenever probable cause exists to believe that a violation of the provisions of this chapter has been committed by any person, issue a summons to initiate proceedings in municipal court for the prosecution of such violation.
  - (3) Whenever there is reason to believe that any violation of this chapter has been committed or exists, notify the owner of the existence of such violation and demand the discontinuance or correction of such violation within the time stated within such notice.
  - (4) Enter upon private property for the purpose of seizing an animal to be impounded, or for purposes of investigating any report or observance of a violation of this chapter, if one (1) of the following conditions exists:
    - a. Where the animal control agent is in pursuit of such animal, and probable cause exists to believe that a violation of this chapter has occurred, and such animal has strayed to or taken refuge on the private property in the course of such pursuit; ~~;~~
    - b. Entry is necessary, in the judgment of the animal control agent, to remove a danger of imminent physical injury ~~bodily harm~~ to a person or animal; ~~;~~
    - c. An animal is being kept upon such private property in violation of this chapter and entry is allowed pursuant to an order of the municipal court or any other court having jurisdiction or with the permission of the owner or tenant of the property; ~~;~~ or

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- d. The animal control agent has obtained the consent of the person in possession of the property.
- (5) Seize and impound any injured animal found at large in the city when the owner cannot be immediately located. Any animal found injured on public property shall be given appropriate veterinary medical treatment and the owner of any such animal shall be liable for all expenses related to such treatment and/or impoundment.
- (6) Destroy, without notice to the owner, any animal that is at large, or that is being kept, owned or possessed in violation of this chapter, if such animal presents a danger of imminent physical injury~~bodily harm~~ to a person or domestic animal, and such animal cannot be subdued or impounded in a manner that does not subject the animal control agent or any other person to imminent physical injury~~bodily harm~~.
- (7) Destroy any animal pursuant to an order of the municipal court or any other court having jurisdiction.
- (8) Maintain a registry of dangerous animals and establish procedures for the registration of dangerous animals:
- (b) The animal control agent shall have the authority to dispose of any dead domestic animal~~household pet or pet animal~~ found at large in the city. If such dead animal has a rabies tag or other identifying tag attached, the animal control agent should make a reasonable effort to notify the owner. The owner shall be responsible for the cost of disposal.

## ARTICLE II. - VIOLATIONS GENERALLY

### Sec. 4-2000. - Mistreatment and neglect of animals generally.

- (a) It is unlawful for any person to knowingly, recklessly or negligently overdrive, overload, drive when overloaded, overwork, torture, beat cruelly, mutilate or needlessly kill any animal or to cause any of these acts or omissions to be done.
- (b) It is unlawful for any person to knowingly, recklessly or negligently carry, transport or confine in any vehicle, in a cruel and inhumane manner, any animal or to cause any such act to be done. For the purposes of this section, the term "cruel and inhumane manner" shall include, but not be limited to, the failure to provide proper food, drink or protection from the weather or to expose such animal to extreme heat or cold.
- (c) It is unlawful for any person to knowingly, recklessly or negligently capture, ensnare, net, trap or in any other manner molest or injure any animal, other than insects, mice, rats, bats or other wild rodents, or in any manner molest or injure the nest, eggs or young of any birds or fowl.
- (d) It is unlawful for any person to knowingly, recklessly or negligently deprive of necessary sustenance any domesticated animal or to fail to provide it with proper food, drink, protection from the weather and necessary medical treatment to prevent undue suffering or to cause any of these acts or omissions to be done.
- (e) It is unlawful for any person to willfully abandon any domesticated animal, whether dead or alive, within the city.
- (f) ~~It is a civil infraction for any person to~~ No person shall slaughter or butcher any domestic~~ated~~ animal within the city except in areas zoned for such purpose.
- (g) ~~It is a civil infraction for any person to~~ No person shall slaughter or butcher any wild animal in view of the general public except to the extent necessary as part of a bona fide educational class, course, seminar or the like or to the extent such activity is protected under the First Amendment to the United States Constitution.
- (h) The commission on private property of the acts described in subsections (a) through (g) of this section shall not constitute a defense of a violation charged under this section.

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- (i) Notwithstanding the provisions of this section, any animal causing damage, injury or destruction to private property may be trapped or restrained, by means of a snare or mechanical device designed not to injure or harm the animal, by the owner or occupant of such property, by such owner or occupant's agent or by an agent of the city, the State of Colorado or the United States when such person is acting within the scope of his or her official duties.

**Sec. 4-2001. - Poisoning animals.**

It is unlawful for any person to poison any animal or to distribute poison with the intent to poison any animal other than insects, mice, rats, bats or other wild rodents or to distribute such poison on public property. The distribution of any poison or poisoned food, other than that which is specifically labeled for insect, bat or wild rodent poisoning, shall be prima facie evidence of violation of this section.

**Sec. 4-2002. - Cleanliness of animal enclosures; removal of excrement.**

- (a) It is unlawful for any person to maintain or permit the maintenance of any animal enclosure or other place in the city owned or controlled by the animal's owner to the extent such area emits an offensive odor, attracts insects or rodents or creates other unsanitary conditions.
- (b) It is unlawful for the owner ~~or keeper~~ of any animal to fail to immediately remove and dispose of in a sanitary manner any excrement deposited by such animal upon a common thoroughfare, street, sidewalk, play area, park, trail or any other public property or upon private property when permission of the owner or tenant of such property has not been obtained.
- (c) It is unlawful for any person to place animal excrement in storm sewers or to dispose of excrement in any manner except by depositing it in a toilet or a receptacle ordinarily used for garbage and covered by a lid or in an otherwise lawful and sanitary manner.

**Sec. 4-2003. - Maximum number of household pets.**

Unless a hobby breeder license has been obtained ~~pursuant to the provisions of this chapter, it is a civil infraction to~~ no person shall own, keep, possess, harbor or maintain within the city on a single residential property or within a single residential unit more than four (4) dogs or cats or combination thereof ~~household pets, excluding fish,~~ over the age of six (6) months.

**Sec. 4-2004. - Disturbance.**

- (a) ~~It is a civil infraction for the~~ No owner of any animal or animals shall ~~to~~ allow such animal or animals to disturb the peace and quiet of any person by making audible sounds, including without limitation barking, howling, yelping, whining, or squawking, ~~or making some other audible sound~~ where such ~~barking, howling, yelping or other~~ audible sound is:
  - (1) ~~Loud~~ Plainly audible beyond the premises on which the animal is kept;
  - (2) Persistent, frequent or habitual, provided persistence shall be presumed if continued for more than ten (10) minutes at any time; and
  - (3) Made without provocation.
- (b) ~~Summons.~~ No summons shall be issued for a violation of this section unless:
  - (1) A written warning was served by a police officer or animal control agent for the premises or animal in question within the twelve (12) months preceding the offense, provided the warning shall have been personally served on the owner of the animal, a person over the age of eighteen (18) present on the property, or posted on the property); and
  - (2) The summons is signed by a police officer or animal control agent who personally witnessed the violation or based upon either (1) the signed, written complaints of at least two (2) witnesses from separate households who witnessed the violation and are willing to testify at trial; or (2) the signed, written complaints of at least one (1) witness who witnessed the violation and is willing to testify at trial and other competent evidence that would be admissible at trial to prove a prima facie case of a violation of this section.

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(c) ~~and a~~ No person shall be convicted for a violation of this section unless: (1) at least two (2) witnesses from separate households having firsthand knowledge testify at trial as to all elements of the violation; ~~to the loud and persistent, frequent or habitual nature of the noise.~~ (2) a ~~c~~City agents who witnesses firsthand the violation of this section and at least one (1) witness having firsthand knowledge testifies at trial as to all elements of the violation; or (3) at least one (1) witness having firsthand knowledge testifies at trial as to all elements of the violation ~~may act as the second witness to the violation~~ and other competent evidence is admitted at trial to prove a prima facie case of a violation of this section.

(ed) This section shall not apply to animal hospitals or clinics engaged in providing medical treatment to animals.

**Sec. 4-2005. - Animals at large; damage to property.**

(a) ~~It is a civil infraction for the~~ No owner of any animal ~~shall~~te fail to keep such animal on the premises of the owner unless such animal is under the control of the owner under one (1) of the following conditions:

(1) The animal is on a leash, cord or chain no longer than ten (10) feet in length, held by a competent person who is:

ia. Physically able to control the animal; and

iib. Maintaining physical control of the animal.

(2) Within a vehicle, or similarly physically confined to ensure that the animal will not escape, and without access to passersby.

(b) It unlawful for the owner of any animal to permit such animal, whether or not running at large, to destroy, damage or cause injury to any shrubbery, plants, flowers, grass, lawn, fence or other property whatsoever upon any public or private premises not owned or occupied by the owner of such animal.

(c) This section shall not apply to dogs running off leash within the physical confines of an area designated by the city as an off-leash dog park site. It shall be an affirmative defense to this section that the animal was contained entirely upon private property with the consent of the person in lawful possession of such property.

**Sec. 4-2006. - Confinement during estrus.**

~~It is a civil infraction for any~~No person ~~shall~~te own, keep, possess, harbor or maintain any unspayed female dog, cat or other animal that is in the state of estrus (heat) unless such animal is confined in a building or ~~secure~~ enclosure in such a manner that the animal cannot come into contact with other animals, except for planned breeding.

**Sec. 4-2007. - Fighting prohibited.**

(a) It is unlawful for any person to cause, instigate or encourage any animal to fight with another animal or for any person to train or keep any animal for the purpose of fighting.

(b) It is unlawful for any person to maintain a place where any animal is permitted to fight for exhibition, wager or sport.

**Sec. 4-2008. - Prohibited and regulated animals.**

(a) It is unlawful for any person to own, keep, possess, harbor or maintain within the city any vicious animal. This prohibition shall not apply to any animal being transported in a securely confined manner through the city to a destination outside the city.

(b) It is unlawful for any person to own, keep, possess, harbor or maintain within the city any dangerous animal except in accordance with the conditions established by this chapter and any additional conditions imposed by the municipal court. This prohibition shall not apply to any animal being transported in a securely confined manner through the city to a destination outside the city.



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- (ca) With the exception of livestock or as otherwise expressly set forth in this code, it is unlawful for any person to own, possess, harbor, sell or in any manner traffic in any animal that is not a domestic animal~~household pet or pet animal~~, except when in transit through the city to a destination outside the city.
- (db) ~~It is a civil infraction for any~~ Except when in transit through the city, no person shall ~~to~~ own, keep, possess, harbor or maintain any livestock within the city except when such use is allowed by the applicable zoning ordinance ~~in districts zoned in accordance with the city's land development code as "agriculture" or "public."~~
- (ee) In addition to the requirements of this chapter, Vietnamese pot-bellied pigs may be kept within the city only as follows:
- (1) At a farming operation zoned for agriculture purposes;
  - (2) At a veterinarian hospital;
  - (3) At an educational facility licensed by the State of Colorado;
  - (4) At a commercial enterprise licensed as a pet shop; or
  - (5) On any single parcel of property under the following conditions:
    - ia. Not more than one (1) such animal shall be kept on any single parcel of property;
    - ii**b.** Such animal shall be domesticated;
    - iii**e.** Such animal shall not exceed seventy (70) pounds in weight; and
    - iv**d.** Such animal shall be spayed or neutered by six (6) months of age.;

~~(5) — The owner of such animal shall comply with the provisions of article IV of this Code.~~

**Sec. 4-2009. - Guard dogs.**

- (a) It is unlawful to place or maintain on any premises any ~~dog or other~~ animal that has been specifically trained to attack for the protection of persons or property unless the animal is under complete and absolute control of the owner, or under the following conditions:
- (1) Such animal is physically confined to the premises;
  - (2) Adequate safeguards exist to prevent entry thereto by children or accidental or unintentional entry by any person; and
  - (3) The premises is conspicuously posted with warning signs bearing letters not less than two (2) inches in height declaring the danger at every door, gate or entrance thereto and at intervals of every one hundred (100) feet of fenced enclosure.
- (b) No vicious animal or dangerous animal, ~~as defined in this article~~, shall be used as a guard dog.
- (c) Any animal kept in violation of this section may be seized and impounded by an animal control agent.

**Sec. 4-2010. - Animal attacks**~~Vicious and/or dangerous animals.~~

- (a) It is unlawful for any person to own, keep, possess, harbor or maintain within the city any ~~vicious or dangerous animal~~ animal that, without provocation, attacks a person or domestic animal, thereby causing physical injury or serious physical injury to that person or domestic animal.
- (b) It is unlawful for any person to negligently or willfully cause, instigate, encourage or promote any animal to ~~aggressively~~ threaten, attack, attempt to bite or bite any person or other animal within the city; ~~provided, however, that no violation of this subsection shall be deemed to have occurred where an animal is caused or encouraged to attack any person engaged in attacking another person.~~
- (c) The owner of any ~~vicious or dangerous animal or~~ any animal that has been reported to have attacked a person thereby causing physical injury ~~bitten any person~~ shall: (i) advise the animal control agent of

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such event within twenty-four (24) hours; and (ii) on demand of an animal control agent produce such animal for impoundment pending a hearing as described in this chapterarticle.

~~(d) It is unlawful for any person to own, keep, possess, harbor, or maintain within the city any Any vicious or dangerous animal except allowed by a court of law to remain in the city shall be kept only under the following conditions:-~~

~~(1) The animal is confined in a pen with a lockable latch surrounded by a fence at least six (6) feet in height with a secure ~~to~~, and a concrete base to a depth of not less than six (6) inches below grade; or~~

~~(2) The animal is muzzled and on a secure leash under control at all times by a person at least eighteen (18) years of age or older.~~

~~(3) If the animal has attacked a human being or domestic animal or if the animal escapes or has otherwise ceased to be in the custody of the owner for any reason, unless the owner knows such animal to be physically secured and restrained or confined in the custody of another competent adult, the owner shall notify the animal control agent in person or by telephone as soon as possible but in no event later than one (1) hour after the owner's knowledge of the occurrence of either of the foregoing events.;~~

~~(4) If the animal has died or if the animal has been sold, given or otherwise transferred to the ownership or possession of another person, the owner shall notify the animal control agent, in person or by telephone within twenty-four (24) hours of the occurrence of such event and shall provide the name, address and telephone numbers of any new owner(s) and the effective date of the transfer.~~

(d) Exceptions. No violation of this section shall be found to have occurred solely based on any the following circumstances ~~No animal shall be found to be a vicious or dangerous animal under this chapter by reason of having attacked, threatened or terrorized any person or attacked any animal under any of the following conditions:~~

(1) The animal was beingis used by a policelaw enforcement officer while engaged in the performance of policelaw enforcement duties.;

(2) At the time of a ~~threat~~, behavior or attack against a domestic animal, such domestic animal was at large and entered upon the property of the alleged attacking animal's owner and the ~~threat~~, behavior or attack began on such property.;

(3) At the time of a ~~threat~~, behavior or attack against a domestic animal, such domestic animal was in the process of biting or attacking the alleged attacking~~vicious or dangerous~~ animal or its owner or any other person.

(4) At the time of a ~~threat~~, behavior or attack against a person, the person was committing or attempting to commit a criminal offense against the alleged attacking animal's owner or upon such owner's property.;

(5) At the time of the ~~threat~~, behavior or attack against a person, the person tormented, provoked, abused or inflicted injury upon the alleged attacking animal in such a manner that resulted in the threat, behavior or attack.;

(6) ~~Except as provided in subsection (b) of this section, at~~At the time of a ~~threat~~, behavior or attack against a person a domestic animal, the person or domestic animal entered into or upon a fenced or enclosed portion of the premises upon which the alleged attacking animal was kept or upon any automobile or other vehicle parked or stored upon the premises. or

(7) At the time of a ~~threat~~, behavior or attack against a person, the person was attempting to capture the alleged attacking animal in the absence of the owner or attempting to stop an animal fight involving the alleged attacking animal.

~~(f) The exceptions set forth in subsection (e) herein shall not apply to any animal that has engaged in or been trained for animal fighting as described and prohibited by state statute.~~

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~~Sec. 4-2011. – Pit bulls prohibited.–~~

~~(a) – [Prohibited.] It is unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport (except as permitted in subsection (g)(3) below) or sell within the city any pit bull except as provided herein.–~~

~~(b) – Registration.–~~

~~(1) – The owner of a pit bull shall be entitled to keep a pit bull only if such owner initially registered such pit bull with the city's police department by November 1, 2005.–~~

~~(2) – Initial registration is not transferable.–~~

~~(c) – Annual renewal of registration. Upon expiration on December 31, 2006, of the initial registration period, the registration of a pit bull kept pursuant to the provisions of this chapter shall be renewed on an annual basis as follows:–~~

~~(1) – No earlier than the first day of December each year nor later than the 31st day of January the following year, the registration of a pit bull shall be renewed and an annual registration fee paid.–~~

~~(2) – Renewal shall be permitted only upon satisfaction of the conditions set forth in this section.–~~

~~(3) – Renewal shall be made only by the holder of the registration or such individual's immediate family and is otherwise not transferable.–~~

~~Nothing in this section shall be construed to permit "renewal" of a pit bull registration for which initial registration was not previously completed.–~~

~~(d) – [Renewal compliance.] To renew the registration of a pit bull, the owner must comply with each of the following requirements:–~~

~~(1) – The owner shall pay the applicable registration renewal fee.–~~

~~(2) – The pit bull shall be current on all vaccinations required by this Code, documentary proof of which shall be presented to the police department.–~~

~~(3) – The pit bull shall have an active and working, permanently inserted, identifying computer chip, documentary proof of which shall be presented to the police department.–~~

~~(4) – The owner shall present proof to the police department that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) per dog registered, covering any damage or injury that might be caused by the pit bull. Such policy shall contain a provision requiring the insurance company to provide written notice to the police department not less than ten (10) days prior to any cancellation, termination or expiration of the policy.–~~

~~(5) – At the time of each registration renewal, the owner shall present the pit bull for inspection.–~~

~~(6) – The owner shall have on his/her property a pit bull enclosure.–~~

~~(7) – The owner shall conspicuously affix a warning sign on or near the front door of the owner's residence that notifies a visitor to the residence that a pit bull is contained on the premises.–~~

~~(8) – When a pit bull is on the property of the owner, the pit bull shall be kept under one (1) of the following conditions at all times:–~~

~~a. – Confined in a locked pit bull enclosure;–~~

~~b. – On a secure and nonextendable leash no greater than six (6) feet in length that is handled by and under the control of a person at least eighteen (18) years of age; or–~~

~~c. – Inside a residence or garage from which the pit bull cannot escape and that has all doors and windows closed and locked. For purposes of this subsection, an owner is permitted to keep a door or window open if the opening is obstructed by reinforced security bars that prevent the pit bull from exiting.–~~

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- (9) ~~At all times when a pit bull is away from the property of the owner, the owner shall keep the pit bull muzzled and on a secure and nonextendable leash no greater than six (6) feet in length that is handled by an authorized person who is capable of controlling the pit bull and is at least eighteen (18) years of age or, alternatively, in a secure temporary enclosure.~~
- (10) ~~The pit bull tag issued to the owner at the time of initial registration shall be attached at all times to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the registered pit bull. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a fee equal to the city's cost of replacement.~~
- (11) ~~The owner shall notify the police department within twenty-four (24) hours in the event that the pit bull is lost, stolen or dies.~~
- (12) ~~The owner shall notify the police department within ten (10) days of any change of the owner's address.~~
- (e) ~~Pit bull file.~~
- (1) ~~The police department shall maintain a file containing the registration numbers, photographs and names of the pit bulls and the names and addresses of the owners.~~
- (2) ~~Upon renewal of pit bull registration, the police department shall compare the new photograph of the pit bull with the most recent photograph in the file to ensure that the renewing pit bull is the same animal initially registered.~~
- (f) ~~Impoundment. Any unregistered pit bull found in the city may be immediately impounded pursuant to the provisions of this chapter.~~
- (g) ~~Exemptions. The following are exempt from the provisions of this section:~~
- (1) ~~A duly authorized agent or employee of the city acting within the scope of his/her employment with the city;~~
- (2) ~~Where a pit bull is transported from a point outside the city to a destination outside the city or from a point outside the city to a common carrier within the city which will transport the pit bull outside the city; or~~
- (3) ~~Where a person temporarily transports into and holds within the city one (1) or more pit bulls for the purpose of showing such pit bull(s) 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 receive written permission from the police department, must obtain any other permits or licenses required by city ordinance and must provide protective measures adequate to prevent such pit bull(s) from escaping or injuring the public. Any person who transports and holds such pit bull(s) for showing shall, at all times when a pit bull is being transported within the city, keep such pit bull(s) confined in a secure temporary enclosure as defined in this chapter.~~

**Sec. 4-2011. Dangerous Animals.**

- (a) The following conditions shall apply to any dangerous animal permitted to be owned, kept, possessed, harbored, or maintained within the city:
- (1) When not confined in a house or other structure from which the animal cannot escape by any egress, either (i) the~~The~~ animal shall be~~is~~ confined in a enclosure~~pen~~ with a lockable latch, surrounded by a fence at least six (6) feet in height with a secure top, and a concrete or other impervious base to a depth of not less than six (6) inches below grade; or (ii) the~~The~~ animal shall be~~is~~ muzzled and on a secure, non-retractable leash of less than ten (10) feet in length that is under control at all times by a person at least eighteen (18) years of age or older;
- (2) The owner shall register the animal with and provide a photograph of the animal to the animal control agent, renew such registration annually, and pay any fee approved by resolution of the city council for such registration and renewal;

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- (3) The animal shall wear a special and conspicuous form of identification (such as a blaze orange collar);
- (4) The owner shall procure and maintain homeowner's or renter's liability insurance in a minimum of \$100,000 covering any future damage or injury to any person or property caused by the animal while deemed a dangerous animal. Proof of such insurance shall be provided to the animal control agent annually.
- (5) ~~If the animal has attacked a human being or domestic animal or if the animal escapes or has otherwise ceased to be in the custody of the owner for any reason, unless the owner knows such animal to be physically secured and restrained or confined in the custody of another competent adult, the~~ The animal's owner shall notify the animal control agent, in person or by telephone, ~~as soon as possible but in no event~~ no later than one (1) hour after the owner's knowledge of the occurrence of ~~either an attack by the animal against a person or domestic animal resulting in physical injury or the animal becoming loose or other loss of custody of the animal by the owner, unless the owner knows such animal to be physically secured and restrained or confined in the custody of a competent adult~~ of the foregoing events;
- (6) ~~If the animal has died or if the animal has been sold, given or otherwise transferred to the ownership or possession of another person, the~~ The animal's owner shall notify the animal control agent, in person or by telephone, within twenty-four (24) hours of the occurrence of the animal's death or the animal's sale or other transfer to another owner ~~such event~~ and shall provide the name, address and telephone numbers of any new owner(s) and the effective date of the transfer.
- (7) Only one (1) dangerous animal per household shall be permitted within the city.
- (8) Any conditions imposed as a result of an administrative or court hearing in this or any other jurisdiction in connection with a previous determination, declaration, or designation that the animal is a dangerous animal, provided such conditions would be lawful in the city.
- (9) Animal control agents shall be permitted at any reasonable time to inspect the animal and the premises on which the animal is kept.
- (b) In addition to any other applicable penalties and authority, the municipal court shall have the authority to require any of the following additional conditions with respect to any dangerous animal permitted to be owned, kept, possessed, harbored, or maintained within the city:
  - (1) The implantation by a licensed veterinarian or licensed shelter of a microchip containing the owner's identification within such animal, at the cost of the owner, which microchip shall be registered and maintained.
  - (2) Spaying or neutering of the dangerous animal.
  - (3) A limitation on the locations at which the dangerous animal may be present, including without limitation a prohibition on the animal being present within the city.
  - (4) The posting of one or more signs approved by an animal welfare organization clearly visible to the general public be posted on the premises where the dangerous animal is kept using words to indicate that there is a dangerous animal present and using a non-verbal symbol to indicate that a dangerous animal is present, provided that such sign shall comply with the Land Development Code.
  - (5) Animal socialization or obedience or behavior training or other treatment program at the owner's cost.
  - (6) Pet management or other animal ownership program, at the owner's cost.
  - (7) Any enhancement of the mandatory conditions of this section deemed appropriate by the municipal court.

**ARTICLE III. - VACCINATIONS, TAGS AND LICENSES**

**Sec. 4-3000. - Vaccination and testing.**

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- (a) *Rabies.* ~~It is a civil infraction for any~~ No person shall ~~to~~ keep or possess within the city any dog, cat, or ferret~~animal~~ that has not been vaccinated against rabies or for which proof of such vaccination is not provided.
- (1) Every owner of a dog, cat, or ferret~~an animal~~ six (6) months of age or older shall have such animal vaccinated against rabies. Such vaccination shall be re-administered prior to the manufacturer's listed expiration date for the vaccine use.
  - (2) Any person moving into the city shall comply with this section within thirty (30) days after having moved into the city. If a dog, cat, or ferret~~the animal~~ has inflicted a bite on any person causing an abrasion of the skin or on another animal within the last ten (10) days immediately preceding the date of moving into the city, the owner shall report such fact to a veterinarian and no rabies vaccine shall be administered until after the ten-day observation period.
  - (3) The owner shall cause to be attached to the collar or harness of the vaccinated dog, cat, or ferret~~animal~~ a metal tag serially numbered to correspond with the vaccination certificate number and bearing the year of issuance. The owner shall ensure that such tag is worn by the dog, cat, or ferret~~animal~~ at all times.
- (b) *Vietnamese pot-bellied pigs.*
- (1) ~~It is a civil infraction for any~~ No person shall ~~to~~ keep or possess within the city a Vietnamese pot-bellied pig:
    - i~~a~~. That has not been tested for pseudorabies and brucellosis;
    - ii~~b~~. That has tested positive for pseudorabies or brucellosis; or
    - iii~~e~~. For which proof of and results from such tests are not provided.
  - (2) Prior to being brought into the city, the owner of a Vietnamese pot-bellied pig shall have such animal tested for pseudorabies and brucellosis by a veterinarian properly licensed by the State of Colorado and shall maintain proof of such tests and the results thereof.
- (c) *Distemper.* ~~It is a civil infraction for any~~ No person shall ~~to~~ keep or possess within the city any dog or cat six (6) months of age or older that has not been vaccinated against distemper.
- (1) The owner of a dog or cat shall have such animal vaccinated by six (6) months of age and revaccinated annually for the first five (5) years. After the first five (5) years, such routine vaccination shall be performed every other year.
  - (2) Every person moving into the city shall comply with this section within thirty (30) days after having moved into the city.
- (d) Other diseases.
- (1) No owner shall allow any domestic animal afflicted with a contagious or infectious disease to run at large or to be exposed in any public place whereby the health of any person or animal may be affected.
  - (2) No owner shall ship or remove from his premises the body of any deceased animal afflicted with a contagious or infectious disease except under the supervision of the animal control agent, except where any other government official is empowered to act.

**Sec. 4-3001. - Misuse of vaccination tags.**

It is unlawful for any person to create or use a counterfeit vaccination tag or use any vaccination tag for any animal other than the animal for which the tag was originally issued.

**Sec. 4-3002. - Rabies reporting and examination.**

- (a) Any veterinarian who diagnoses rabies or any person who suspects rabies in a dog, cat or other animal shall immediately report such diagnosis or suspicion to an animal control agent, the police department or the Tri-County Health Department, stating precisely where the animal may be found.

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- (b) Any animal believed to have been exposed to an animal infected with rabies may be impounded by the city. If permitted by the animal control agent, the animal may be confined by its owner in accordance with the directions of the animal control agent in lieu of impoundment by the city.
- (c) Any animal that is known to have bitten or injured any person so as to cause an abrasion of the skin may be quarantined by the city and observed for a period of ten (10) days from the date of the bite or injury. If permitted by animal control agent, the animal may be confined by its owner in accordance with the directions of the animal control agent in lieu of quarantine by the city under such conditions as the animal control agent deems appropriate. The animal control agent shall be permitted to inspect the animal at any time during such quarantine. For the purposes of this section, neither confinement by the owner nor placement of the animal at a licensed boarding facility or licensed animal shelter for the purpose of quarantine shall be deemed or constitute impoundment subject to the requirements of section 4-4002 of this Code.
- (d) Any wild animal other than a bird or reptile that has bitten a person shall be caught and submitted to a qualified laboratory for a rabies examination.

**Sec. 4-3003. - Hobby breeder—License required.**

- (a) Any hobby breeder within the city shall obtain an annual license from the city upon payment of a fee to be set by resolution of the city council.
- (b) Such license shall allow a hobby breeder to harbor, at the address identified on the license, not more than six (6) dogs or cats or combination thereof over the age of six (6) months.
- (c) In any prosecution for failure to obtain a hobby breeder license, it shall be prima facie evidence of such violation that the owner, on the date of a summons issued for the violation, harbored at a single address more than four (4) dogs or cats or combination thereof over the age of six (6) months.

**Sec. 4-3004. - Commercial kennel—License required.**

The operator of any commercial kennel within the city shall obtain an annual license from the city upon payment of a fee set by resolution of the city council. Such license shall be issued only upon providing the city proof that the address identified in the license is zoned, or a variance has been obtained, to allow for a commercial kennel at such address.

**Sec. 4-3005. - Revocation or suspension of license.**

- (a) *Authority.* The city manager may suspend or revoke any license issued pursuant to this article where the licensee or the licensee's operation is found to be in violation of any provision of this chapter, zoning law, health law or any other applicable ordinance or statute, or where the licensee or the licensee's operation is maintained in a manner detrimental to the health, safety or welfare of persons residing in the immediate vicinity, or is maintained in a manner detrimental to the health, safety and welfare of animals being kept by the licensee.
- (b) *Notice.*
  - (1) A licensee shall be notified in writing of a suspension or revocation and the grounds therefor. Such notice shall include the nature of the adverse action and shall inform the licensee of the opportunity to appeal the action.
  - (2) Notice shall be accomplished by personal service, by certified mail or by posting the property subject to the adverse action. If the notice is mailed, it shall be mailed to the address shown on the license.
  - (3) Notice shall be deemed given on the date of personal service, the date of deposit in the mail or the date of posting the property.
- (c) *Appeal.* Unless a different procedure is required by applicable law, the licensee may appeal the decision to the city's administrative hearing officer as set forth in chapter 3 of this Code.

**ARTICLE IV. - CITATIONS, HEARINGS, DISPOSITION AND IMPOUNDMENT**

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**Sec. 4-4000. - Authority of municipal court; appeals.**

- (a) Except as provided in section 4-3005, the city's municipal court is hereby authorized to conduct all hearings necessary for the proper enforcement of this chapter.
- (b) The municipal court is further authorized as follows:
  - (1) Subject to the provisions of this chapter, to order the impoundment and disposition of any animal, including without limitation the designation as a dangerous animal or a vicious animal or to order the destruction thereof, when such animal has been found by the municipal court to have been owned, kept, possessed, harbored or maintained in violation of this Code;
  - (2) To order the waiver or refund of any fee required by this chapter when it appears that such fee has been unlawfully imposed or collected;
  - (3) To extend any time period provided for in this chapter;
  - (4) To order confinement for rabies observation pursuant to the provisions of this chapter;
  - (5) To order the release of any animal impounded under the provisions of this chapter;
  - (6) To make and enforce such orders as the municipal court shall deem necessary or desirable to accomplish both the purposes and enforcement of this chapter or to correct or prevent injustice in the application of any provision of this chapter.; and
  - (7) To order an accelerated docket, in compliance with the Colorado Municipal Court Rules of Procedure, for any matter in which an animal has been impounded pursuant to the provisions of this chapter.
- (c) Appeals of the orders of the municipal court shall be in accordance with the laws of the State of Colorado. Notwithstanding the foregoing, any order of the municipal court authorizing or directing the destruction of an animal may be immediately appealed to the extent allowed by the laws of the State of Colorado.
- (d) Nothing in this chapter shall be construed to limit the authority of the municipal court to limit the original jurisdiction of the municipal court to hear and determine all cases regarding criminal, decriminalized and civil violations and offenses under the Charter, ordinances, codes, and regulations of the city; or (2) to require that any alleged violations be addressed through the process established in this chapter as a prerequisite to the municipal court's jurisdiction to hear and determine such violations and offenses.

**Sec. 4-4001. – Impoundment procedure; redemption.**

- (a) Impoundment authorized. Animals owned, kept or possessed in violation of this Code or any law of the state may be taken into custody by an animal control agent and impounded only under any one (1) or more of the following circumstances:
  - (1) The animal control agent has probable cause to believe the animal is a dangerous animal owned or kept in the city in violation of this section or any condition imposed by the municipal court or a vicious animal, or has committed any act without provocation that would allow the municipal court to determine that the animal is a dangerous animal or vicious animal;
  - (2) The animal is found at large; or
  - (3) The animal control agent has probable cause to believe the animal has been mistreated, abandoned, or neglected.
- (b) Request for impoundment and affidavit of probable cause. An animal control agent who impounds an animal pursuant to subsection (a)(1) or (a)(3) of this section shall, within twenty-four (24) hours of impoundment, complete and submit to the municipal court a request for impoundment and affidavit of probable cause.
- (c) Notice of impoundment - Service. As soon as practical, the animal control agent shall make a reasonable to give notice of impoundment to the owner. Notice of impoundment should be provided



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within twenty-four (24) hours of impoundment. The animal control agent shall be deemed to have made a reasonable effort if notice of impoundment is:

- (1) Posted at the Civic Center and in a conspicuous place at the place from which the animal is impounded, if the place is a residence;
- (2) Mailed to the owner or communicated by telephone, if the animal control agent knows of the owner's mailing address or telephone number; and

(d) Notice of impoundment – Contents. Notice of impoundment shall be written in English and Spanish and shall include at a minimum the following:

- (1) The date and approximate time of impoundment;
- (2) A description of the animal impounded, including type of animal, color, and name, if known;
- (3) The date, time, and location of any disposition hearing;
- (4) The name and telephone number of the animal control agent;
- (5) The telephone number of the municipal court;
- (6) A statement that the failure to file a petition for an impoundment hearing within seven (7) days of the date of impoundment or failure to claim the animal within five (5) days, if ordered released, shall constitute abandonment and the animal shall be subject to disposition, including destruction or adoption.

(e) Municipal court review of impoundment.

- (1) The municipal court shall, on the first regular court date following the submittal of a request for impoundment and affidavit of probable cause, review the matter ex parte and either grant or deny the request.
- (2) The request shall be granted if the affidavit of probable cause establishes any one (1) or more of the following:
  - (i) There is probable cause to believe that the animal has committed any act without provocation that would allow the municipal court to determine that the animal is a dangerous animal or vicious animal;
  - (ii) There is probable cause to believe that the animal is owned or kept in violation of this chapter or any other law; or
  - (iii) There is probable cause to believe that the animal was distressed, was in pain or suffering, or the location from which the animal was retrieved lacked food, water or protection from the elements or contained animal waste or discharges to the extent that the animal(s) contained therein were unable to stand, sit or lie down without contact with the animal waste or discharges.
- (3) If the request is denied, the animal control agent shall notify the owner, if known, and the animal shall be ordered released within twenty-four (24) hours of such denial, and the city shall pay all costs of impoundment but the owner shall be responsible for any costs of medical treatment.

(f) Impoundment hearing.

- (1) When an animal has been impounded for any reason other than being at large, the owner of such animal or the owner's representative may, no later than seven (7) days after impoundment, file a written petition with the municipal court for an impoundment hearing to determine whether the animal should remain impounded. The petition shall include the name and address of the petitioner, the date the animal was first impounded, and the date of the petition. The municipal court shall then issue a notice of hearing date, which shall be the next available court date.
- (2) An impoundment hearing pursuant to this section shall be held before the municipal court and shall not constitute the owner's first appearance in court for purposes of the Colorado Municipal Court

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Rules of Procedure. The impoundment hearing shall be informal, and the rules of evidence shall be relaxed. Any relevant facts the owner wishes to be considered shall be submitted at the hearing.

- (3) At the hearing, the burden shall be on the city to establish, by a preponderance of the evidence, except as specifically noted, that continued impoundment is proper because the animal: (i) is likely to be found at a future disposition hearing to be a vicious animal; (ii) is likely to be found at a future disposition hearing to be a dangerous animal and the owner fails to establish that the animal cannot be safely maintained, cared for, and controlled without damage to the animal or the community; (iii) is likely to be found at trial to have been as owned or kept in violation of this chapter or any other law; or (iv) the animal was likely to experiencing extreme pain and suffering when impounded and the release to the owner would not be in the best interest of the animal.
- (4) If the municipal court finds that the city has failed to meet its burden, the municipal court shall order the immediate release of the animal without conditions and the city shall pay all costs of impoundment, excluding veterinary charges.
- (5) If the municipal court finds that the city has met its burden, the municipal court shall order any of the following pending a disposition hearing or trial on any related civil or criminal proceedings: (i) the continued impoundment of the animal; (ii) the release of the animal, with the owner bearing all costs of impoundment, subject to conditions and safety measures that are not less stringent than those provided by this chapter for the maintenance of a dangerous animal; or (iii) such other arrangement for the keeping of the animal as the municipal court deems appropriate.

(g) Redemption; costs.

- (1) Any animal impounded for being at large may be redeemed by the owner or the owner's agent upon payment of the impoundment fee, care and feeding charges, rabies vaccination charges (if such animal was impounded without a valid rabies vaccination tag) and such other costs as may have been incurred by or on behalf of the city as a result of the impoundment. If any animal impounded for being at large is not redeemed within five (5) days after the provision of a notice of impoundment, the impounded animal shall be considered abandoned and may be placed for adoption or humanely dispatched or disposed of by the city or its delegate.
- (2) If an animal is impounded for any reason other than being at large or is being held pending any other civil or criminal proceedings relating to a violation of this chapter, the animal may not be released except on order of the municipal court. If a hearing has been requested by the animal's owner within the time provided by this section or if such an impounded animal is not redeemed within five (5) days after the animal has been ordered released, the impounded animal shall be considered abandoned and may be placed for adoption or humanely dispatched or disposed of by the city or its delegate.
- (3) Except where the municipal court denies a request for impoundment, the owner of an impounded animal shall be held responsible for any fees and costs incurred by the city related to the impoundment, care, and disposition of the animal regardless of whether the owner reclaims the animal.
- (4) The adoption of impounded animals shall be subject to payment of veterinary charges and, if such animal was impounded without a valid rabies vaccination tag, rabies vaccination charges incurred by or on behalf of the city as a result of the impoundment, unless such charges are waived by the city manager.

**Sec. 4-4002. – Disposition hearing; review.**

- (a) Purpose. This section shall apply to all hearings regarding the disposition of any impounded animal. Such hearings may occur independently or contemporaneously with any impoundment hearing or other civil or criminal proceedings relating a violation of this chapter.
- (b) Request for hearing. When requested by the animal control agent, the municipal court shall hold a disposition hearing to determine the proper disposition of an animal that is believed to have been owned, kept, possessed, harbored, or maintained in violation of this chapter or is believed to be a vicious animal or a dangerous animal.

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- (c) Notice of disposition hearing. Notice of a disposition hearing shall include the disposition or designation requested by the animal control agent and the date, time, and location of the disposition hearing. Notice of a disposition hearing shall be:
- (1) Posted at the Civic Center at least five (5) days prior to the hearing; and
  - (2) Mailed to the owner if the animal control agent knows of the owner's mailing address, at least five (5) days prior to the hearing;
- (d) Contents of notice of disposition hearing. Notice of a disposition hearing shall be written in English and Spanish and shall include at a minimum:
- (1) A description of the animal, including type of animal, color, and name, if known;
  - (2) The date, time, and location of the disposition hearing;
  - (3) The name and telephone number of the animal control agent;
  - (4) The telephone number of the municipal court;
  - (5) A statement that the disposition hearing may result in the designation of the animal as a vicious animal or a dangerous animal or may subject the animal to disposition, including destruction or adoption.
- (e) Hearing procedure.
- (1) A disposition hearing pursuant to this section shall be held before the municipal court and shall not constitute the owner's first appearance in court for purposes of the Colorado Municipal Court Rules of Procedure. The disposition hearing shall be informal, and the rules of evidence shall be relaxed. Any relevant facts the city or the owner wishes to be considered shall be submitted at the hearing and may include:
    - (i) Any evidence presented at any trial involving the animal;
    - (ii) The conduct of the animal during the incident charged;
    - (iii) Any other evidence of danger or violent behavior or threats thereof;
    - (iv) Any prior violations by the owner of this chapter or similar laws of any state or political subdivision thereof;
    - (v) Whether the conditions of the property where the animal will be kept would affect the potential for danger to persons, other animals or property;
    - (vi) Evidence of any corrective actions taken by the owner that would affect the potential for danger to persons, other animals or property; and
    - (vii) Any other evidence relevant to the issues to be determined by the municipal court.
  - (2) At the hearing, the burden shall be on the city to establish, by a preponderance of the evidence, that the requested disposition or designation is appropriate because: (i) the animal is a vicious animal; (ii) the animal is a dangerous animal; or (iii) the destruction of the animal is appropriate because the animal is reasonably likely to cause future injury to persons, property or animals.
  - (3) If the municipal court finds that the animal is a vicious animal, the municipal court shall order that the animal be designated as a vicious animal and either: (1) released to the owner who shall immediately remove the animal from the city to a place authorized by the municipal court and the animal control agent in such place; (2) impounded pending trial on any related civil or criminal proceedings; or (3) be destroyed in a humane manner. The court may also order the destruction of the animal in a humane manner if the municipal court finds that the animal is reasonably likely to cause future injury to persons, property or animals.
  - (4) If the municipal court finds that the animal is a dangerous animal, the municipal court shall order that the animal be designated as a dangerous animal and either: (1) impounded pending trial on

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any related civil or criminal proceedings; or (2) released to its owner subject to any conditions required by this chapter and any additional conditions deemed appropriate by the municipal court.

- (5) Notwithstanding the designation of an animal as a vicious animal or dangerous animal, the court may order the destruction of the animal in a humane manner if the municipal court finds that the animal is reasonably likely to cause future injury to persons, property or animals.
- (f) Exceptions. No animal shall be determined to be a vicious animal or a dangerous animal based on any of the circumstances identified in Section 4-2010(d).
- (g) Review of dangerous animal designation.
- (1) No more often than every twelve (12) months, and not less than one year after the initial designation, the owner of an animal designated as a dangerous animal may petition the municipal court to remove the designation or to reduce any conditions imposed by the municipal court in excess of the minimum conditions required by this chapter.
- (2) A disposition hearing pursuant to this section shall be held before the municipal court and shall not constitute the owner's first appearance in court for purposes of the Colorado Municipal Court Rules of Procedure. The disposition hearing shall be informal, and the rules of evidence shall be relaxed. Any relevant facts the city or the owner wishes to be considered shall be submitted at the hearing and may include any evidence that was submitted at the initial disposition hearing.
- (3) At the hearing, the burden shall be on the owner to establish, by a preponderance of the evidence, that the removal of the designation or the reduction of conditions is appropriate because the animal is no longer a dangerous animal or that the conditions are no longer necessary.
- (4) If the municipal court finds that the animal is no longer a dangerous animal, the municipal court shall order that the designation of the animal as a dangerous animal be rescinded. If the municipal court finds that the conditions previously imposed by the municipal court are no longer appropriate, the municipal court may reduce or increase the conditions.

~~If a named defendant is not the owner of the animal involved, and if the name and address of the owner is known to the city or the municipal court, the owner shall be notified by certified mail, return receipt requested, of the date, time, place and purpose of the hearing not less than five (5) days prior to the date set for the hearing.~~

- ~~(d) When an animal control agent submits a request for impoundment and affidavit of probable cause to the municipal court, the judge of the municipal court shall, on the first regular court date following such submittal, review the matter and either grant or deny the request. The request shall be granted if the affidavit of probable cause establishes prima facie any one (1) or more of the following:~~
- ~~(1) The animal has bitten or made an unprovoked attack upon a person or other animal; repeatedly lunged or charged at a person or other animal in a fierce, vicious or terrorizing manner; or, without provocation, threatened to attack or terrorizes a person.~~
- ~~(2) The animal exhibits the characteristics of a pit bull or pit bull terrier as herein defined.~~
- ~~(3) The animal appeared to be distressed, in pain or suffering and the location from which the animal was retrieved lacked food, water or protection from the elements or contained animal waste or discharges to the extent that the animal(s) contained therein were unable to stand, sit or lie down without contact with the animal waste or discharges.~~

~~Sec. 4-4001. — Disposition Hearings.~~

- ~~(a) In any instance where the owner of an animal has been found by the municipal court to have owned, kept, possessed, harbored or maintained such animal in violation of this Code, the municipal court may hold a hearing to determine the disposition of such animal.~~
- ~~(b) The municipal court shall order an animal impounded if the city establishes a prima facie case such animal presents a danger to any person, property or other animal pending the disposition hearing.~~

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- ~~(c) At a disposition hearing, the Colorado Rules of Evidence shall not apply, and the municipal court shall assure that evidence is offered and questioning is conducted in an orderly manner according to basic rules of fairness.~~
- ~~(d) At the disposition hearing, the municipal court shall consider the following:
  - ~~(1) Any evidence presented at any trial involving the animal;~~
  - ~~(2) The conduct of the animal during the incident charged;~~
  - ~~(3) Any other evidence of danger or violent behavior or threats thereof;~~
  - ~~(4) Any prior violations by the owner of this chapter or similar laws of any state or political subdivision thereof;~~
  - ~~(5) Whether the conditions of the property where the animal will be kept would affect the potential for danger to persons, other animals or property;~~
  - ~~(6) Evidence of any corrective actions taken by the owner that would affect the potential for danger to persons, other animals or property;~~
  - ~~(7) Any other evidence relative to the issues to be determined by the municipal court.~~~~
- ~~(e) If, at such hearing, the city establishes by a preponderance of the evidence that there is a reasonable likelihood of future injury to persons, property or animals, the municipal court may order the animal destroyed in a humane manner.~~
- ~~(f) If the municipal court determines that it is not appropriate to order the animal destroyed, the municipal court may order the animal returned to the owner to be kept under such conditions as will ensure the safety of persons, property and other animals.~~
- ~~(g) In addition to any other penalty set forth herein, the municipal court may order a vicious or dangerous animal destroyed, upon exhaustion of the owner's right of appeal, in the event that the owner is convicted of, or enters into a deferred judgment for, a violation of this chapter that resulted in physical ~~bodily~~ injury to a person or the death of a domestic animal or that is a second or subsequent violation of this Code that involves the same animal.~~

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~~Sec. 4-4002. – Impoundment and redemption.–~~

- ~~(a) *Impoundment authorized.* Animals owned, kept or possessed in violation of this Code or any law of the state may be taken into custody by an animal control agent and impounded only under any one (1) or more of the following circumstances:–~~
- ~~(1) The animal control agent has probable cause to believe the animal is a vicious animal or a pit bull as herein defined;–~~
  - ~~(2) The animal is found at large; or–~~
  - ~~(3) The animal control agent has probable cause to believe the animal has been mistreated or neglected.–~~
- ~~(b) *Injured animals.* Any animal found injured on public property shall be given appropriate veterinary medical treatment and may be impounded pending notification of the owner. The owner of any animal treated and/or impounded pursuant to this subsection shall be liable for all expenses related to such treatment and/or impoundment.–~~
- ~~(c) *Request for impoundment and affidavit of probable cause.* An animal control agent who impounds an animal pursuant to subsection (a)(1) or (a)(3) of this section shall, within twenty-four (24) hours of impoundment, complete and submit to the municipal court a request for impoundment and affidavit of probable cause. If the request is denied, the animal shall be released to the owner, if known, within twenty-four (24) hours of such denial, and the city shall pay all costs of impoundment.–~~
- ~~(d) *Notice of impoundment.* As soon as practical after impoundment, notice of impoundment of any animal shall be posted in a conspicuous place at the place of impoundment for five (5) days. If the owner is known, he or she shall be notified of the time, date and place of the impoundment by mail or by telephone.–~~
- ~~(e) *Right to impoundment hearing—pit bull, vicious or dangerous animal; additional notice.–*~~
- ~~(1) When any animal has been impounded upon suspicion of being a pit bull, or a vicious or dangerous animal, the owner of such animal or the owner's representative may, no later than seven (7) days after impoundment, file a written petition with the municipal court for an impoundment hearing to determine whether the animal is likely to be found at trial to be a pit bull, or a vicious or dangerous animal, as applicable. The petition shall include the name and address of the petitioner, the date the animal was first impounded and the date of the petition. The municipal court shall then issue a notice of hearing date, which shall be the next available court date. Where no written request for an impoundment hearing is received by the municipal court within seven (7) days after impoundment, the animal shall be considered abandoned and may be placed for adoption or humanely dispatched or disposed of in accordance with subsection (g) of this section.–~~
  - ~~(2) An impoundment hearing pursuant to this section shall be held before the municipal court and shall not constitute the owner's first appearance in court for purposes of the Colorado Municipal Court Rules of Procedure. The impoundment hearing shall be informal, and the rules of evidence shall be relaxed. Any relevant facts the owner wishes to be considered shall be submitted at the hearing. At the conclusion of the impoundment hearing, the municipal court shall make a determination, based on a preponderance of the evidence presented, as to whether the animal is likely to be found at trial to be a pit bull, or a vicious or dangerous animal, as applicable.–~~
  - ~~(3) If the municipal court determines that the animal is likely to be found at trial to be a pit bull, or vicious or dangerous, as applicable, the municipal court shall enter an order determining the disposition of the animal pending final disposition of the charges against the animal's owner or keeper and any further process as may be provided in this chapter. Such order may require, in the municipal court's reasonable discretion:–~~
    - ~~ja. Continued impoundment;–~~

- ~~ii b. Confinement upon the property of the owner subject to any safety measures ordered by the municipal court, provided such safety measures shall not be less than those provided for the maintenance of a dangerous animal within the city pursuant to this chapter; or~~
- ~~ii c. Such other arrangement for the keeping of the animal as determined by the municipal court.~~
- ~~(4) If the municipal court finds that the city has not established by a preponderance of the evidence that the animal is likely to be found at trial to be a pit bull, or a vicious or dangerous animal, as applicable, the animal shall be immediately released to the owner pending disposition of the charges against the animal's owner or keeper, and the city shall pay all costs of impoundment.~~
- ~~(5) In addition to the requirements for notice of impoundment provided in this section, when any animal has been impounded upon suspicion of being a pit bull or a vicious or dangerous animal, the notice of impoundment shall further inform the owner that failure to request an impoundment hearing as provided herein shall constitute abandonment, and the animal shall be subject to disposition as provided in this section.~~
- ~~(f) *Redemption.* Any animal impounded for any reason other than suspicion of being a vicious animal or a pit bull may be redeemed by the owner or the owner's agent upon payment of the impoundment fee, care and feeding charges, rabies vaccination charges (if such animal was impounded without a valid rabies vaccination tag) and such other costs as may have been incurred by or on behalf of the city as a result of the impoundment.~~
- ~~(g) *Disposition of unredeemed animals.*~~
- ~~(1) Unless a hearing has been requested in accordance with this section, if an impounded animal is not redeemed within five (5) days after notice of impoundment has been provided as set forth herein, the impounded animal shall be considered abandoned and may be placed for adoption or humanely dispatched or disposed of by the city or its delegate.~~
- ~~(2) The adoption of impounded animals shall be subject to payment of veterinary charges and, if such animal was impounded without a valid rabies vaccination tag, rabies vaccination charges incurred by or on behalf of the city as a result of the impoundment, unless such charges are waived by the city manager.~~
- ~~(h) *Impoundment costs.*~~
- ~~(1) If the owner of an unredeemed animal is known, such owner shall be held responsible for any costs incurred by the city related to the impoundment, care and disposition of the animal regardless of whether the owner reclaims the animal.~~
- ~~(2) The care and feeding charges and impoundment fee assessed against an animal impounded pursuant to the provisions of this chapter shall be the cost chargeable by the city or its delegate per day or any portion thereof for the feeding and maintenance of the animal.~~
- ~~(i) *Failure to produce animal.* The owner of any animal subject to impoundment under this section shall, upon demand of the animal control agent or other person authorized by this chapter, produce the animal for impoundment as prescribed in this section. It is unlawful for the owner of any such animal to fail or refuse to produce the animal on demand.~~

**\*\*END\*\***