

Chapter 6 - ANIMALS^[1]ARTICLE I. - IN GENERAL^[2]

Sec. 6-1. - 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:

Abandon means the leaving of animal for more than 24 hours by its owner or custodian without making effective provisions for its proper care. This shall include, but is not limited to, depositing or dropping off an animal on public property or on property other than that of the owner or custodian without prior permission of the property owner.

Animal means any living creature, domestic or wild.

Animal control officer means any person designated by the police department or the city manager as an "animal control officer," code enforcement officer, or police officer with the duties of investigation, control, and enforcement of this Code and state laws pertaining to animals.

Animal shelter means the authorized facility, established by intergovernmental agreement, and designated by the city for the boarding and care of any animal impounded under the provisions of this title or any other ordinance or law of the State of Colorado.

Backyard means the area located behind the rear plane of a residential dwelling extending to the side and rear property lines of the lot.

Backyard chicken(s) means any female breed of chicken for raising and keeping in the backyard area of approved residential uses. The term does not include any poultry such as ducks, quail, geese, pigeons, and/or turkeys.

Bodily injury means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

Butcher means to prepare animal carcasses for sale or consumption.

Chicken coop means any structure or enclosure built or used specifically for the shelter of backyard chickens.

Chicken run means a fenced area providing a roaming area for backyard chickens.

Common area means an area of land and buildings within a townhouse development, condominium project, manufactured home park, or apartment complex which is for the use and enjoyment of all residents of the project, as distinguished from land designated for their individual, private use.

Cruelty means every act of omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

Domesticated animals means animals which have been by breeding or otherwise tamed or reoriented to domestic life, including but not limited to dogs, cats, horses, mules, donkeys, cattle, sheep, swine, goats, chickens, domesticated Vietnamese potbellied pigs, and other domestic fowl and livestock.

Effective and immediate control means such direct, physical restraint achieved by leash, cord, or chain sufficient to prevent attack or uninvited contact by the animal upon a person other than the owner, to prevent entry upon public property if the animal is not on a leash controlled by a human, or to prevent entry upon private property of another without the consent of the person in possession of such private property.

Good cause shall mean to act out of necessity or take action against an animal to defend a person or property from imminent harm or damage.

Humane officer means any person designated by the Humane Society as a law enforcement officer or any person so designated by the police department or any person so designated by the city manager and who qualifies to perform such duties under state laws.

Kenel means any person engaged in the business of breeding, buying, selling, or boarding dogs and/or cats or engaged in the training of dogs for guard or sentry purposes.

Livestock means horses, mules, cattle, burros, swine, sheep, goats, poultry, and rabbits.

Mutilate shall mean to detach or destroy an animal's limb or other essential part or to otherwise cripple or maim an animal.

Neglect means 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 means any person, firm, corporation, limited liability company, organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of an animal anywhere in the city.

Person means any individual, firm, company, partnership, corporation, limited liability company, organization or other entity, and includes the term "owner" as defined in this section.

Pet shop means any person engaged in the business of breeding, buying, selling, or boarding animals of any species.

Premises means real property, buildings, and other improvements.

Running at large means an animal that is not restricted to its owner's premises or not under the effective and immediate control of a person or such animal's owner; except that, for the purposes of this definition, "owner's premises" shall not include common areas, and any animal not under the effective and immediate control of a person or such animal's owner in the common area shall be deemed to be running at large.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

Slaughter means to kill any live animal for consumption; for purposes of this definition, live animal does not include fish and crustaceans.

To own means to own, possess, keep, harbor, or lease.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for the boarding of animals or for the diagnosis and treatment of diseases and injuries of animals.

(Ord. No. 3407, § 1, 9-27-16; Ord. No. 3434, § 1, 5-9-17)

Sec. 6-2. - Purpose.

The purpose of this chapter is to establish the regulations and expectations of both owners and animals in order to maintain the health and well-being of animals, prevent damage to people or property, and to protect the public health, safety, and welfare of the residents of the city.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-3. - Strict liability.

For the purpose of prosecution for violations of any section of this chapter, it shall not be necessary in order to obtain a conviction to prove notice on the part of the owner or custodian of the animal in question that said animal was violating any of the sections of this chapter at the time and place charged, it being the purpose of this section 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.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-4. - Vaccination required.

- (a) Except as provided in subsection (b) of this section, every owner of a dog or cat over six months of age shall have such dog or cat vaccinated against rabies within seven days after the dog or cat is brought into the city, within seven days after the acquisition of the dog or cat or within seven days after the dog or cat reaches the age of six months, whichever occurs later, by a veterinarian properly licensed by the state. All owners of domesticated Vietnamese potbellied pigs shall have such pigs tested for pseudorabies and brucellosis prior to being brought into the city and shall maintain proof of such tests being performed by a veterinarian properly licensed by the state. In addition, every such pig brought into the city must be neutered or spayed before the pig reaches six months of age.
- (b) In the case of a dog or cat that was vaccinated in another state and was subsequently brought into the city from such other state, the requirement of subsection (a) of this section shall be met during the time for which such vaccination is effective, for a time period not to exceed the period of time recommended in the Compendium of Animal Rabies Control, as promulgated by the National Association of State Public Health Veterinarians, after having been vaccinated against rabies by a veterinarian properly licensed by the state from which the dog or cat was brought, and if the owner has a rabies tag for such

vaccination and a certificate of such vaccination which show substantially the information required by subsection (c) of this section and which show that no further rabies vaccination is required.

- (c) Upon vaccination as required by subsection (a) of this section, the veterinarian shall provide the owner with a rabies tag showing the month, year, and a series number of the tag and with a certificate of vaccination on a form showing the following information:
 - (1) The name, address, and telephone number of the owner of the vaccinated dog or cat.
 - (2) The date of the vaccination.
 - (3) The type of vaccination used.
 - (4) The date by which the next vaccination is required, which date shall not exceed the period of time recommended in the Compendium of Animal Rabies Control, as promulgated by the National Association of State Public Health Veterinarians, from the date of the previous vaccination, regardless of the type of vaccination used.
 - (5) The month, year, and series number of the rabies tag.
 - (6) The breed, approximate age, color, and sex of the vaccinated dog or cat.
- (d) Any person who shall violate any of the provisions of this section shall, upon conviction, be subject to a fine as provided in Section 1-8(a). Any person receiving a summons and complaint for a violation of this section may pay the standard fine for such violation at the violations bureau of the municipal court, provided that proof of valid rabies vaccination is provided at the time payment of the fine is tendered.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-5. - Attachment of tag.

- (a) The owner of a dog or cat shall attach the rabies tag provided for in Section 6-4 to the collar or harness of the dog or cat. Such tags shall remain attached to the collar or harness at all times, and the collar or harness shall be worn by the dog or cat at all times.
- (b) No person shall attach a rabies tag to the collar or harness of any dog or cat except to the dog or cat for which the rabies tag was issued.

- (c) Any person who shall violate any of the provisions of this section shall, upon conviction, be subject to a fine as provided in Section 1-8(a). Any person receiving a summons and complaint for a violation of this section may pay the standard fine for such violation at the violations bureau of the municipal court, provided that proof of valid rabies vaccination is provided at the time payment of the fine is tendered.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-6. - Commercial license required.

- (a) *License required.* No kennel, veterinary hospital, pet shop, livery, riding stable, abattoir, stockyard, hatchery, livestock auction, or other place where livestock or poultry are regularly bred, kept, offered for sale or slaughtered for commercial purposes or educational facility or laboratory regularly using animals shall engage in business in the city without obtaining a commercial license. Commercial licenses shall expire on December 31 of the year first issued and shall be renewed annually thereafter.
- (b) *Application.* Application for the license referred to in subsection (a) of this section shall be made on forms provided by the city clerk for that purpose. The applicant shall furnish the following information on the application:
 - (1) The name, business address, and telephone number of the applicant.
 - (2) The address of the premises for which the application for a license is being made and the approximate number and types of animals which will be kept on the premises.
 - (3) Copy of a lease or proof of ownership of the premises for which the application for a license is being made.
 - (4) Such other information as the city clerk reasonably deems necessary.
- (c) *Issuance of a license.* A license shall be issued by the city clerk after completion of the application provided for in subsection (b) of this section, proof of the applicant's ability to comply with the requirements of this article and with other applicable laws, including requirements for the humane care of animals, and payment of the applicable license fee pursuant to this section.
- (d)

Licensing fee. The annual fee for licenses issued pursuant to this section shall be determined from time to time by resolution of the city council. The license fee will be prorated the first year of issuance.

- (e) *Inspection of premises.* It shall be a condition of the issuance of any license pursuant to this section that animal control officers and inspectors of the city or the state shall be permitted to inspect all animals and the premises where animals are kept at any time.
- (f) No license issued pursuant to this section shall be transferable.
- (g) *Denials, suspensions, revocations.* The city may deny an application for, or suspend or revoke, any commercial business license issued pursuant to this chapter when it determines that the operation of such business by the applicant or licensee is not in compliance with state, federal, or local law or has the potential for negatively impacting the health, safety, or welfare of its residents. Without limiting the foregoing, the following shall each constitute sufficient grounds for denial, suspension, or revocation:
 - (1) The property on which the business is or will be conducted is not zoned for such business;
 - (2) Fraud, misrepresentation, false statement, or material omission made in connection with the application for the license;
 - (3) Delinquent or unpaid taxes, assessments or other financial claims of any local, state, or federal government;
 - (4) Revocation of a licensee's sales and use tax license;
 - (5) Failure to comply with the duty to supplement application information within 30 days from the date of the charge;
 - (6) A violation of any condition placed on the license;
 - (7) Conduct of the business in any unlawful or dishonest manner, included but not limited to, any violation of the provisions of this chapter, any other section of the Code, or any other federal, state, or local law.

The failure of the city to discover the existence of a ground on which an application for initial licensing or renewal of a current license should be denied shall not preclude the city from taking action to revoke or suspend a license when such condition becomes known to the city.

- (h) *Procedure and notice.*
 - (1)

Denial. The city may deny the approval of any application, including an application for renewal based upon the grounds set forth above by issuing a written notice of such denial to the applicant. The written notice shall set forth the grounds for the denial and shall be mailed via certified mail, return receipt requested, to the post office address given in the application.

- a. *Appeal of denial.* An applicant may appeal the city's decision to deny the application to the city manager or designee within 30 days of the city's decision. Appeals shall be made in writing and filed with the city clerk's office. The city shall have the burden of proving by a preponderance of the evidence that it has not exceeded its jurisdiction or abused its discretion.

(2) *Suspensions and revocations.* Before suspending or revoking any license issued pursuant to this chapter, the licensee shall be notified in writing of the alleged cause(s) for revocation or suspension and shall be afforded an opportunity to be heard.

- a. *Service of notice.* Notice shall be served not less than three days prior to the date of the hearing. Service shall be deemed complete either upon personal delivery of the written notice or five days after the date that such notice is sent by regular and certified mail, return receipt requested, to the post office address given in the application for the license. The notice shall set forth the circumstances of the alleged violation.
- b. *Hearing.* The city manager, or a designee, shall hear such statements and consider such evidence as the applicant/licensee, animal control, police officers, or any other witness shall offer relative to the denial, suspension, or revocation of the commercial license. The city shall have the burden of proof by a preponderance of the evidence. The hearing shall be an administrative hearing where the strict rules of evidence shall not be adhered to and hearsay shall be admitted. However, any decision with regard to suspension or revocation of a commercial license pursuant to this subsection shall not be based solely on hearsay evidence.

(3)

Written order. The city manager, or a designee, shall issue an order within ten business days after the hearing is concluded. Such order shall include findings of fact from the statements and evidence offered as to whether the violation occurred, and indicate the licensing agent's decision whether to suspend or revoke the license.

- (c) *Appeal to District Court.* The findings of the city manager or designee shall be final and binding upon the parties unless appealed directly to the District Court of Adams County, Colorado for judicial review of such decision pursuant to Rule 106 (a)(4) of the Colorado Rules of Civil Procedure. An appeal from the decision of the hearing officer may be taken by the applicant, the licensee, or by the city. Failure to timely appeal constitutes a waiver of any right any party may otherwise have to contest an appealable decision of the city manager or designee.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-7. - Animal at large.

- (a) It shall be unlawful for any owner of any domesticated animal to fail to prevent such animal from running at large within the city. 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.
- (b) It shall be unlawful for any owner of any domesticated animal to fail to prevent any such animal from habitually running at large. For the purposes of this section, "habitually running at large" shall be defined as any domesticated animal or cat found to be running at large by the municipal court or impounded by animal control, or a combination of both, on three or more occasions within any 12-month period.
- (c) *Violations; penalties.*
- (1) Any person who shall violate part (a) of this section shall, upon conviction, be subject to a fine as provided in Section 1-8(a).
 - (2) Any person who shall violate part (b) of this section shall, upon conviction, be subject to enhanced penalties as follows:
 - a. Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment; and

- b. Ordered to have the animal spayed or neutered by a licensed veterinarian or a licensed shelter; and
- c. Ordered to have the animal be permanently identified through the implantation of a microchip containing owner identification information by a licensed veterinarian or a licensed shelter. The microchip information shall be registered with the appropriate company responsible for maintaining such information for the microchip; and a copy of the initial registration and a receipt acknowledging completion of registration from the company shall be provided to the animal control division of the police department.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-8. - Enforcement.

It shall be the duty of the animal control officers, including any contracted animal control officers, to see that any domesticated animal found running at large in violation of the standards of Section 6-7(a) is taken and impounded in the animal shelter, and such domesticated animal or cat may be taken without the necessity of filing a complaint and shall be impounded and disposed of as provided in Section 6-9.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-9. - Impoundment of animals at large.

- (a) *Impoundment.* Any animal found running at large may be taken up by any person or by an animal control officer and impounded at the animal shelter by such person or officer. As soon as practicable after impoundment, a bona fide effort shall be made to give notice of impoundment to the owner. If, after a bona fide effort to locate the owner, he or she cannot be identified and the animal is not claimed within five days, the animal shelter may dispose of the animal. If the owner is identified and the impounded animal is not claimed by its owner within five days, the animal may be disposed of by sale, adoption, donation, or destruction at the sole discretion of the animal shelter.
- (b) *Claiming impounded animals.* Any animal impounded pursuant to this section shall be released to the owner upon payment of the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment.

The animals shelter may sell an impounded animal, which has not been claimed by its owner as indicated in Section 6-9(a), to any person. If the owner of an unclaimed animal is known, such owner shall be held responsible for any costs incurred related to the impoundment, keeping, or disposal of the animal.

- (c) *Emergency medical treatment.* Any animal control officer or police officer may, at such officer's discretion, take an injured impounded animal to a licensed veterinarian for emergency medical treatment. The owner shall be liable for payment of all such emergency treatment. Payment of medical fees may be required before the animal is released to the owner.
- (d) *Proof of ownership.* A valid rabies tag worn by any animal shall be presumptive evidence that the owner of the animal is the person registered as obtaining the rabies vaccination for such animal. The registered owner of an animal may be charged with any violation the animal committed.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-10. - Impoundment of animals habitually at large.

Any animal found running at large on three or more occasions in any 12-month period shall be impounded by an animal control officer or police officer at the animal shelter. As soon as practicable after impoundment, a bona fide effort shall be made to give notice of impoundment to the owner. Any such animal shall be held until a fact-finding dispositional hearing ("dispositional hearing") can be held in municipal court to determine its proper disposition. This dispositional hearing can take place notwithstanding any court action against any person who has been charged with a violation of Section 6-7(b), and any statement made by any person at such a dispositional hearing shall not be used as evidence in the prosecution's case-in-chief in any trial procedure.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-11. - Fact-finding dispositional hearing for animals habitually at large.

When any animal has been impounded pursuant to Section 6-7(b), the owner shall be entitled to a fact-finding dispositional hearing ("dispositional hearing") within ten days of such impoundment. The owner of the animal shall be given written notice by the police department, animal control officer, or the court, if the owner is known. Such notice may be personally served upon the owner of the animal, or sent via a certificate of mailing, at least 72 hours before said

hearing. The dispositional hearing shall be conducted as an administrative hearing, and the formal rules of evidence shall not apply. However, such rules of evidence may be used as a guide for the introduction of evidence. The court shall allow the parties to present evidence, witnesses, and have the right to cross-examination. Any and all documentary evidence and other data deemed relevant by the municipal judge shall be received in evidence. The owner shall have all rights possessed by defendants in judicial proceedings, including the right to be represented by counsel, and the right to compel attendance of witnesses. At the dispositional hearing, the court shall determine whether or not the owner has proven, by preponderance of the evidence, that the owner has put in place sufficient confinement measures, which secure the animal to avoid future at large violations. The court shall have the power to determine that the animal be further confined and to order that the owner take specific steps to prevent the animal from running at large. The court may order that any confinement or security measures be inspected by animal control. Upon a showing of proof of sufficient confinement measures, which secure the animal to avoid future at large violations, the court shall order the animal released to the owner upon the payment of the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment. The owner shall bear the costs of impounding the animal regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-12. - Injured or killed animals.

Animals injured or killed in the street shall be considered as running at large, and animal control officers may remove all said animals to the animal shelter. The owner of such animal shall be liable for boarding and impoundment costs and reasonable and necessary medical expenses incurred in the treatment of any injured animal.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-13. - Authority.

It shall be lawful for any animal control officer to go upon any property, excluding a dwelling, using such force as may be reasonably necessary, for the purpose of pursuing and catching any animal at large to be impounded. An animal control officer shall not go within the interior of a dwelling to remove an animal without a court order or the consent of an occupant of the dwelling over the age of 18 years.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-14. - Quarantine of animals.

- (a) An animal which is known to have bitten any person, or any animal which, in the opinion of a member of the police department, an animal control officer, or of any licensed veterinarian of the state, is exhibiting signs or symptoms consistent with rabies shall be closely confined by its owner in accordance with the directions of a member of the police department or an animal control officer or shall be impounded by animal control, at the election of the police department or an animal control officer, for a period of not less than ten days. It is unlawful for any person to knowingly dispose of an animal that has bitten someone, without the approval of an animal control officer or the police department. No person shall fail to prevent such animal from being closely confined in accordance with the directions of the police department or an animal control officer.
- (b) It shall be unlawful for any owner of an animal subject to examination and quarantine under this section to fail to produce the animal, on demand of any animal control officer or police officer, for examination and quarantine. If the owner of any such animal refuses to produce the animal, the owner shall be subject to immediate arrest if there shall be probable cause to believe that the animal has bitten any person and that the owner is keeping or harboring the animal upon such a demand, and the owner may be charged with a violation of this section by failing to produce such an animal. If the owner of any such animal shall willfully or knowingly secrete or refuse to produce such animal, such act shall constitute a separate and individual violation of this section.
- (c) If the owner of a quarantined animal is not determined or located, the police department or an animal control officer may order the animal to be destroyed; if, however, the owner of a quarantined animal is located, the owner shall be responsible to the city for all costs incurred for the confinement and treatment of the animal under this section.
- (d) If the animal is inoculated for rabies during the ten-day quarantine, an additional ten days of quarantine is required. Total quarantine, if so inoculated, shall be 20 days, or as dictated in the most recent version of the Colorado Rabies Compendium.
- (e)

Any person who shall violate any of the provisions of this section shall be subject to a mandatory court appearance, and upon conviction, be subject to a fine as provided in Section 1-8(a).

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-15. - Possession of wild or vicious animals.

It shall be unlawful for any person to keep or permit to be kept on such person's premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed so as to apply to a zoological garden, theatrical exhibit or circus, except that no theatrical exhibit or act shall be held in which animals are encouraged to perform through the use of chemical, electrical or mechanical devices.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-16. - Misuse of animals.

It shall be unlawful for any person to give away any live vertebrate animal as a prize for or as an inducement to enter any contest, game, or other competition or as an inducement to enter a place of amusement, or to offer such vertebrate as an incentive to enter into any business agreement whereby the vertebrate is for the purpose of attracting trade.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-17. - Aggressive animals.

(a) It shall be unlawful to possess any animal which engages in any of the following conduct within the city:

- (1) Inflicts a puncture wound, abrasion, or other wound upon a person or a domestic animal which injury does not meet the definition of bodily injury or serious bodily injury as defined in this chapter.
- (2) Without provocation, and without effective and immediate control, repeatedly snaps at or repeatedly lunges at, or approaches a person while growling and snarling at such person in a threatening manner.
- (3) Without provocation, and without effective and immediate control, chases or runs at another person while snapping or biting, growling or snarling at such person in a threatening manner.

- (4) Harasses passersby while encroaching on public and private property, including snarling and/or growling while leaning on, through, or over fences and walls.
- (b) For purposes of this section, no animal shall be deemed an aggressive animal by reason of having threatened or harassed a person when such person was engaged in any of the following acts:
 - (1) The unlawful entry into or upon the animal owner's property where such animal is kept.
 - (2) The unlawful entry into or upon the animal owner's automobile or other vehicle wherein the animal is confined.
 - (3) The attacking or molesting of another person.
 - (4) Attempting to stop an altercation between such animal and another animal.
 - (5) Deliberately and wantonly provokes such animal to bite or attack such person, another person, or another animal.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-18. - Impoundment of aggressive animals.

- (a) *Mandatory impoundment.* Upon citation of an owner for a violation of Subsection 6-17(a)(1), the allegedly aggressive animal shall be taken into custody by an animal control officer or police officer and impounded at the animal shelter if the allegedly aggressive animal has previously been the subject of a conviction, which for purposes of this section would include any deferred judgement and sentence, of any animal attack pursuant to Section 6-21. The animal shall be held in the animal shelter at the owner's expense pending final disposition of the charge against the owner or by order of the court after a fact-finding dispositional hearing pursuant to Section 6-19.
- (b) *Discretionary impoundment.* Upon citation of an owner for a violation of Section 6-17, the allegedly aggressive animal may be taken into custody by an animal control officer or police officer and impounded at the animal shelter. The animal shall be held in the animal shelter at the owner's expense pending final disposition of the charge against the owner or by order of the court after a fact-finding dispositional hearing pursuant to Section 6-19.
- (c)

Production of animal. It shall be unlawful for any owner of an animal subject to an impoundment under this section to fail to produce the animal, on demand of any animal control officer or police officer, for examination and impoundment. If the owner of any such animal refuses to produce the animal, the owner shall be subject to immediate arrest if there shall be probable cause to believe that the owner is keeping or harboring the animal upon such a demand, and the owner may be charged with a violation of this section by failing to produce such an animal. If the owner of any such animal shall willfully or knowingly secrete or refuse to produce such animal, such act shall constitute a separate and individual violation of this section.

- (d) *Fees.* The owner shall be responsible for the payment of all fees, including impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges.
- (e) Any person who shall violate any of the provisions of this section shall be subject to a mandatory court appearance, and upon conviction, be subject to a fine as provided in Section 1-8(a).

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-19. - Fact-finding dispositional hearing for aggressive animals.

When any animal has been impounded pursuant to Section 6-17, the owner shall be entitled to a fact-finding dispositional hearing ("dispositional hearing") within ten days of such impoundment. The owner of the animal shall be given written notice by the police department, animal control officer, or the court, if the owner is known. Such notice may be personally served upon the owner of the animal, or sent via a certificate of mailing in the U.S. mail, at least 72 hours before said hearing. The dispositional hearing shall be conducted as an administrative hearing, and the formal rules of evidence shall not apply. However, such rules of evidence may be used as a guide for the introduction of evidence. The court shall allow the parties to present evidence, witnesses, and have the right to cross-examination. Any and all documentary evidence and other data deemed relevant by the municipal judge shall be received in evidence. The owner shall have all rights possessed by defendants in judicial proceedings, including the right to be represented by counsel, and the right to compel attendance of witnesses. If, on the date of the hearing, the owner does not appear, the court may proceed with the hearing. At the dispositional hearing, if the court determines that the city has established, by a preponderance of the evidence, that there

is a reasonable likelihood of future injury to persons, property, or animals, the court shall order the animal to remain impounded at the owner's expense until the final disposition of any pending municipal charges. In making this determination, the court shall consider the following:

- (1) The conduct of the animal during the incident charged;
- (2) Any evidence of aggressive or violent behavior by the animal, or threats thereof;
- (3) Any prior violations by the owner of this chapter, or any municipal ordinance, or the laws of any state or political subdivision thereof which involves an animal;
- (4) Any prior violations by any other owner, involving the same animal, of any violations of this chapter or any municipal ordinance, or any laws of the state or political subdivision thereof;
- (5) Any conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal, or property;
- (6) Any evidence of any ameliorative action taken by the owner of the animal which would affect the likelihood of any danger to any person, animal, or property; and
- (7) Any other evidence relevant to the issues as determined by the court.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-20. - Violations; penalties for aggressive animals.

- (a) Any person who violates any part of Section 6-17 shall, upon conviction, be subject to penalties as follows:
 - (1) Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment; and
 - (2) Ordered to have the animal spayed or neutered by a licensed veterinarian or a licensed shelter; and
 - (3) Ordered to have the animal be permanently identified through the implantation of a microchip containing owner identification information by a licensed veterinarian or a licensed shelter. The microchip information shall be

registered with the appropriate company responsible for maintaining such information for the microchip; and a copy of the initial registration and a receipt acknowledging completion of registration from the company shall be provided to the animal control division of the police department.

- (4) Ordered to pay restitution if applicable pursuant to Section 1-8.
 - (5) Ordered to immediately notify animal control or the police department if the animal has escaped or has otherwise ceased to be in the custody of the owner.
- (b) Any person who violates any parts of this section may, upon conviction, be subject to any of the additional following sentencing requirements;
 - (1) Ordered to refrain from using any extension-style leashes.
 - (2) Ordered to refrain from tying the animal to any inanimate object.
 - (3) Ordered to keep the animal muzzled at all times that the animal is off the owner's property.
 - (4) Ordered to complete a court approved animal socialization or behavior evaluation and training, a pet management class, and/or any other treatment program that the court may deem appropriate. The owner shall bear the cost of the evaluation, program, or training.
 - (5) Ordered to comply with fencing recommendations of Animal Control or provide a separate enclosure in the rear yard of the owner's property that securely limits the animal's access to the public as determined by an animal control officer, unless the animal is under the effective and immediate control of a responsible person and restrained by a fixed leash not to exceed four feet in length.
 - (6) Ordered to post a conspicuous warning sign on the building or front portion of the property located within the city alerting others to beware of the animal.
 - (7) The owner shall be responsible for the payment of all fees, including impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-21. - Animal attacks.

- (a) It shall be unlawful to own an animal that:
 - (1) Inflicts or causes bodily injury or serious bodily injury to a person, whether on or off the premises of its owner.
 - (2) Inflicts or causes bodily injury or serious bodily injury upon a domestic animal or causes the death of any domestic animal, whether on or off the premises of its owner.
- (b) It shall be an affirmative defense to subsection (a) if:
 - (1) That, at the time of the attack, which caused serious bodily injury or bodily injury to a person, the victim of the attack was committing or attempting to commit a criminal offense against the animal's owner or owner's property; or
 - (2) That, the person who was the victim of the attack by the animal tormented, provoked, abused, or inflicted injury upon the animal.
 - (3) That, at the time of the attack by the animal, which caused bodily injury or serious bodily injury to, or the death of a domestic animal, the domestic animal was attacking the animal or its owner.
- (c) The provisions of this section shall not apply to the following:
 - (1) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties.
 - (2) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-22. - Impoundment after animal attack.

- (a) *Mandatory impoundment.* Any animal that causes serious bodily injury to a person in an unprovoked attack shall be taken into custody by an animal control officer or police officer and impounded at the animal shelter. The animal shall be held in the animal shelter at the owner's expense pending final disposition of any charges filed against the animal owner or by order of the court after a fact-finding dispositional hearing pursuant to Section 6-23.
- (b)

Discretionary impoundment. Any animal that causes bodily injury to a person, or serious bodily injury or death to any domestic animal may be taken into custody by an animal control officer or police officer and impounded at the animal shelter. The animal shall be held in the animal shelter at the owner's expense pending final disposition of any charges filed against the owner or by order of the court after a fact-finding dispositional hearing pursuant to Section 6-23.

- (c) *Production of animal.* It shall be unlawful for any owner of an animal subject to an impoundment under this section to fail to produce the animal, on demand of any animal control officer or police officer, for examination and impoundment. If the owner of any such animal refuses to produce the animal, the owner shall be subject to immediate arrest if there shall be probable cause to believe that the animal inflicted or caused bodily injury or serious bodily injury to any person or domestic animal, or caused the death of any domestic animal, and that the owner is keeping or harboring the animal upon such a demand, and the owner may be charged with a violation of this section by failing to produce such an animal. If the owner of any such animal shall willfully or knowingly secrete or refuse to produce such animal, such act shall constitute a separate and individual violation of this section.
- (d) *Fees.* The owner shall be responsible for the payment of all fees, including impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges or fact-finding dispositional hearing.
- (e) Any person who shall violate any of the provisions of this section shall be subject to a mandatory court appearance, and upon conviction, be subject to a fine as provided in Section 1-8(a).

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-23. - Fact-finding dispositional hearing after animal attack.

When any animal has been impounded pursuant to Section 6-22, the owner shall be entitled to a fact-finding dispositional hearing ("dispositional hearing") within ten days of such impoundment. The owner of the animal shall be given written notice by the police department, animal control officer, or the court, if the owner is known. Such notice may be personally served upon the owner of the animal, or sent via certificate of mailing in the U.S. mail, at least 72 hours before said hearing. The dispositional hearing shall be conducted as an administrative hearing,

and the formal rules of evidence shall not apply. However, such rules of evidence may be used as a guide for the introduction of evidence. The court shall allow the parties to present evidence, witnesses, and have the right to cross-examination. Any and all documentary evidence and other data deemed relevant by the municipal judge shall be received in evidence. The owner shall have all rights possessed by defendants in judicial proceedings, including the right to be represented by counsel, and the right to compel attendance of witnesses. If, at the hearing, the owner does not appear, the court may proceed with the hearing. At the dispositional hearing, if the court determines that the city has established, by a preponderance of the evidence, that the animal inflicted or caused serious bodily injury to any person in an unprovoked attack, the court shall order the animal to remain impounded at the owner's expense until final disposition of any pending municipal charges. At the dispositional hearing, if the court determines that the city has established, by a preponderance of the evidence, that the animal inflicted or caused bodily injury to any person in an unprovoked attack, or inflicted or caused bodily injury, serious bodily injury or death to a domestic animal in an unprovoked attack, the court may order the animal to remain impounded at the owner's expense until final disposition of any pending municipal charges. In making this determination, the court shall consider the following:

- (1) The conduct of the animal during the incident charged;
- (2) Any evidence of aggressive or violent behavior by the animal, or threats thereof;
- (3) Any prior violations by the owner of this chapter, or any municipal ordinance, or the laws of any state or political subdivision thereof which involves an animal;
- (4) Any prior violations by any other owner, involving the same animal, of any violations of this chapter or any municipal ordinance, or any laws of the state or political subdivision thereof;
- (5) Any conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal or property;
- (6) Any evidence of any ameliorative action taken by the owner of the animal which would affect the likelihood of any danger to any person, animal or property; and
- (7) Any other evidence relevant to the issues as determined by the court.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-24. - Violations; penalties for animal attack.

- (a) Any person who violates any part of Section 6-21 shall, upon conviction, be subject to penalties as follows:
- (1) Fined a sum of not less than \$500.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment.
 - (2) Ordered to have the animal spayed or neutered by a licensed veterinarian or a licensed shelter.
 - (3) Ordered to have the animal be permanently identified through the implantation of a microchip containing owner identification information by a licensed veterinarian or a licensed shelter. The microchip information shall be registered with the appropriate company responsible for maintaining such information for the microchip; and a copy of the initial registration and a receipt acknowledging completion of registration from the company shall be provided to the animal control division of the police department.
 - (4) Ordered to post a conspicuous warning sign on the building or front portion of the property located within the city alerting others to beware of the animal.
 - (5) Ordered to complete a court approved animal socialization or behavior evaluation and training, a pet management class, and/or any other treatment program that the court may deem appropriate. The owner shall bear the cost of the evaluation, program, or training.
 - (6) Ordered to pay restitution if applicable pursuant to Section 1-8.
 - (7) Ordered to immediately notify animal control or the police department if the animal has escaped or has otherwise ceased to be in the custody of the owner.
 - (8) Ordered to notify, if the owner moves out of the city during the period of court ordered supervision, the animal control department of the owner's new city and/or county that the subject animal has been the subject of an animal attack conviction.
- (b) Any person who violates any parts of this section may, upon conviction, be subject to any of the additional following sentencing requirements:
- (1) Ordered to refrain from using any extension-style leashes.
 - (2) Ordered to refrain from tying the animal to any inanimate object.

- (3) Ordered to keep the animal muzzled at all times that the animal is off the owner's property.
- (4) Ordered to provide a separate enclosure in the rear yard of the owner's property that securely limits the animal's access to the public as determined by an animal control officer, unless the animal is under the effective and immediate control of a responsible person and restrained by a fixed leash not to exceed four feet in length.
- (5) Ordered to confine the animal, when outdoors, in an escape proof enclosure. All structures must be locked with a key or combination lock when the animal is within the structure. Such structure shall have a secure bottom or floor attached to the sides of the structure, or the structure shall be embedded in the ground no less than two feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. All structures erected to house such animal must comply with all zoning and building requirements. Animal control shall inspect the structure to ensure compliance with said conditions.
- (6) Ordered to present proof that the owner has procured homeowner's or renter's liability insurance in a minimum of \$100,000.00 covering any future damage or injury caused by the subject animal during the period of court ordered supervision.

(c) *Euthanization.*

- (1) *Mandatory euthanization.* In addition to any penalties set forth in sections (a) and (b) of this section, any animal that is the subject of a prior conviction or a deferred judgment for a violation that resulted in serious bodily injury to a person, on a second or subsequent violation of Section 6-21 which resulted in a conviction or a deferred judgement involving the same animal, shall be ordered humanely destroyed upon exhaustion of any right an owner has to appeal the conviction.
- (2) *Discretionary euthanization.* In additional to any penalties set forth in sections (a) and (b) of this section, any animal that is the subject of a conviction or a deferred judgement for a violation that resulted in serious bodily injury to a person or animal, may be ordered humanely destroyed upon exhaustion of any right an owner has to appeal the conviction.

(d)

Fees. The owner shall be responsible for the payment of all fees, including impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-25. - Abandonment of an animal.

- (a) It shall be unlawful for any person to knowingly, recklessly, intentionally, or negligently abandon an animal.
- (b) Any member of the police department or an animal control officer may impound any animal reasonably believed to be abandoned pursuant to Section 6-26.
- (c) Any person who violates any part of this section shall, upon conviction, be subject to penalties as follows:
 - (1) Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-26. - Impoundment of abandoned animals.

- (a) *Impoundment.* Any animal reasonably believed to be abandoned may be taken by an animal control officer or police officer for the city and impounded at the animal shelter by such officer for a period not to exceed five days. As soon as practicable after impoundment, a bona fide effort shall be made to give notice of impoundment to the owner. In the event that the impounded animal is not claimed by its owner within five days, the animal may be disposed of by sale, adoption, donation, or destruction at the sole discretion of the animal shelter.
- (b) *Claiming impounded animals.* Any animal impounded pursuant to this section shall be released to the owner upon payment of the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment. The animal shelter may sell an impounded animal, which has not been claimed by its owner, to any person. If the owner of an unclaimed animal is known, such owner shall be held responsible for any costs incurred related to the impoundment, keeping, or disposal of the animal.
- (c)

Emergency medical treatment. Any animal control officer or police officer may, at such officer's discretion, take an injured impounded animal to a licensed veterinarian for emergency medical treatment. The owner shall be liable for payment of all such emergency treatment. Payment of the medical fees may be required before the animal is released to the owner.

- (d) *Proof of ownership.* A valid rabies tag worn by any animal shall be presumptive evidence that the owner of the animal is the person registered as obtaining the rabies vaccination for such animal. The registered owner of an animal may be charged with any violation the animal committed.
- (e) *Fees.* The owner shall be responsible for the payment of all fees, including the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-27. - Fact-finding dispositional hearing for abandoned animal.

When any animal has been impounded pursuant to Section 6-26, the owner shall be entitled to a fact-finding dispositional hearing ("dispositional hearing") within ten days of such impoundment. The owner of the animal shall be given written notice by the police department, animal control officer, or the court, if the owner is known. Such notice may be personally served upon the owner of the animal, or sent via a certificate of mailing, at least 72 hours before said hearing. If the owner does not appear for the hearing, and the animal has been impounded for at least five days, the court may order that the animal may be disposed of by sale, adoption, donation, or destruction at the discretion of the animal shelter. If the owner does appear for the dispositional hearing, it shall be conducted as an administrative hearing, and the formal rules of evidence shall not apply. However, such rules of evidence may be used as a guide for the introduction of evidence. The court shall allow the parties to present evidence, witnesses, and have the right to cross-examination. Any and all documentary evidence and other data deemed relevant by the municipal judge shall be received in evidence. The owner shall have all rights possessed by defendants in judicial proceedings, including the right to be represented by counsel, and the right to compel attendance of witnesses. At the dispositional hearing, the court shall determine whether or not the owner has proven by preponderance of the evidence the ability to house and care for the animal and prevent future, similar violations. The court shall have the power to determine that the animal be further confined, at the expense of the owner, and to order that the owner take specific steps to ensure that the animal will be provided with sufficient

care. The court may order that any orders of the court may be verified for compliance by inspection by animal control. Upon a finding that the animal will be provided with sufficient shelter and care, the court shall order the animal released to the owner upon the payment of the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment. The owner shall bear the costs of impounding the animal regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-28. - Neglect of an animal.

- (a) It shall be unlawful for any person to knowingly, recklessly, intentionally, or negligently neglect an animal within the city. The following acts or any combination thereof shall constitute neglect:
 - (1) Failure to provide an animal with sufficient food and water, proper shelter and protection from the weather to avoid harm to an animal;
 - (2) Failure to provide veterinary care when needed to prevent suffering and injury to an animal;
 - (3) To neglect an animal, as defined in Section 6-1;
- (b) Any member of the police department or an animal control officer may take necessary and appropriate steps to abate any violation of subsection (a) of this section and, further, may impound the animals affected until a dispositional hearing can be held before the judge of the municipal court.
- (c) Any person who violates parts of this section shall, upon conviction, be subject to penalties as follows:
 - (1) Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-29. - Impoundment for neglect of an animal.

- (a)

Impoundment. Upon citation for a violation of Section 6-28, the allegedly neglected animal may be taken into custody by an animal control officer or police officer and impounded at the animal shelter. The animal shall be held in the animal shelter at the owner's expense pending final disposition of the charge against the owner or by order of the court after a fact-finding dispositional hearing.

- (b) *Emergency medical treatment.* Any animal control officer or police officer may, at such officer's discretion, take an injured impounded animal to a licensed veterinarian for emergency medical treatment. The owner shall be liable for payment of all such emergency treatment. Payment of the medical fees, as provided for in Section 6-8, may be required before the animal is released to the owner.
- (c) *Fees.* The owner shall be responsible for the payment of all fees, including the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-30. - Fact-finding dispositional hearing for neglect of an animal.

When any animal has been impounded pursuant to Section 6-29, the owner shall be entitled to a fact-finding dispositional hearing ("dispositional hearing") within ten days of such impoundment. The owner of the animal shall be given written notice by the police department, animal control officer, or the court, if the owner is known. Such notice may be personally served upon the owner of the animal, or sent via a certificate of mailing, at least 72 hours before said hearing. The dispositional hearing shall be conducted as an administrative hearing, and the formal rules of evidence shall not apply. However, such rules of evidence may be used as a guide for the introduction of evidence. The court shall allow the parties to present evidence, witnesses, and have the right to cross-examination. Any and all documentary evidence and other data deemed relevant by the municipal judge shall be received in evidence. The owner shall have all rights possessed by defendants in judicial proceedings, including the right to be represented by counsel, and the right to compel attendance of witnesses. At the dispositional hearing, the court shall determine whether or not the owner has proven by preponderance of the evidence that the animal will not be at risk of further injury or mistreatment if returned. The court shall have the power to determine that the animal be further confined, at the expense of the owner, and to order that the owner take specific steps to ensure that the animal will be provided with sufficient care. The court may order that any orders made by the court be verified for compliance by

inspection by animal control. Upon a finding that the animal will be provided with sufficient shelter and care, the court shall order the animal released to the owner upon the payment of the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment. The owner shall bear the costs of impounding the animal regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-31. - Cruelty to animals.

- (a) A person commits cruelty to animals if he or she knowingly, recklessly, intentionally, or negligently:
 - (1) Cruelly treats, torments, overloads, overworks, or otherwise abuses any animal to the extent that the animal is in imminent danger of injury, sickness, or death;
 - (2) Causes or permits any dogfight, cockfight, bullfight, or other combat between animals or between humans and animals;
 - (3) Leaves an animal unattended in any manner that subjects the animal to extreme or unreasonable temperatures or conditions and thereby creates a serious risk of injury, sickness, or death to the animal;
 - (4) Without good cause, mutilates an animal;
 - (5) Without good cause, beats repeatedly or kills or attempts to kill an animal;
 - (6) Crops a dog's ear or tail or neuters an animal. This provision shall not apply to actions of a licensed veterinarian;
 - (7) Intentionally or recklessly poisons any animal or, intentionally or recklessly distributes poison in any matter whatsoever with the intent or for the purpose of poisoning any dog or cat;
 - (8) Slaughters any live animal within the city limits, except in areas zoned for such purposes;
 - (9) Butchers any animal in a public place or where the conduct may reasonably be expected to be viewed by members of the public, except in areas zoned for such purposes.
- (b)

Any member of the police department or an animal control officer may take necessary and appropriate steps to abate any violation of subsection (a) of this section and, further, may impound the animals affected until a dispositional hearing can be held before the judge of the municipal court.

(c) Any person who violates any parts of this section shall, upon conviction, be subject to penalties as follows:

(1) Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-32. - Impoundment for cruelty to an animal.

(a) *Impoundment.* Any animal reasonably believed to be a victim of cruelty may be impounded by an animal control officer or any member of the police department at the animal shelter by such officer. As soon as practicable after impoundment, a bona fide effort shall be made to give notice of impoundment. Any animal impounded pursuant to this subsection can be held until a dispositional hearing before the municipal court, or at the officer's discretion, held and released to its owner. If no dispositional hearing is required, the owner shall have five days to claim the animal. After five days the animal may be disposed of by sale, adoption, donation, or destruction at the sole discretion of the animal shelter.

(b) *Emergency medical treatment.* Any animal control officer or police officer may, at such officer's discretion, take an injured impounded animal to a licensed veterinarian for emergency medical treatment. The owner shall be liable for payment of all such emergency treatment. Payment of the medical fees may be required before the animal is released to the owner.

(c) *Fees.* The owner shall be responsible for the payment of all fees, including the impound fee, boarding fee, veterinary care charges, and any other costs associated with the impoundment regardless of the results of any municipal charges.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-33. - Fact-finding dispositional hearing for cruelty to an animal.

(a)

Dispositional hearing. When an animal has been impounded pursuant to this section, the owner shall be entitled to a fact-finding dispositional hearing within ten days of such impoundment. The owner of the animal shall be given written notice by the police department, animal control officer, or the court, if the owner is known. Such notice may be personally served upon the owner of the animal, or sent via a certificate of mailing, at least 72 hours before said hearing. The dispositional hearing shall be conducted as an administrative hearing, and the formal rules of evidence shall not apply. However, such rules of evidence may be used as a guide for the introduction of evidence. The court shall allow the parties to present evidence, witnesses, and have the right to cross-examination. Any and all documentary evidence and other data deemed relevant by the municipal judge shall be received in evidence. The owner shall have all rights possessed by defendants in judicial proceedings, including the right to be represented by counsel, and the right to compel attendance of witnesses. If on the date of the hearing, the owner does not appear, the court may proceed with the hearing. At the dispositional hearing, if the court determines that the owner has failed to establish, by a preponderance of the evidence, that the animal will not be at risk of further injury or mistreatment if returned, the court shall order the animal to remain impounded at the owner's expense until the final disposition of any pending municipal charges. In making this determination, the court shall consider the following:

- (1) The severity of the injury or risk of injury to the animal from the incident charged;
- (2) Any prior violations by the owner of this chapter, or any municipal ordinance, or the law of any state or political subdivision thereof which involves an animal;
- (3) Any conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal, or property;
- (4) Any evidence of any ameliorative action taken by the owner of the animal which would affect the likelihood of any danger to the animal;
- (5) Any other evidence relevant to the issues as determined by the court;

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-34. - Nuisance.

- (a) *Maintenance.* It shall be unlawful for any person to fail to maintain areas where animals are kept in a clean and sanitary fashion. It shall be the duty of every owner to dispose of, in a reasonable manner, any accumulation of animal excretion on premises where animals are kept, in order to prevent the attraction of flies, insects or other pests, and in order to prevent the propagation of obnoxious odors.
- (b) *Noise.* It shall be unlawful for any person or owner to keep or maintain any animal that disturbs or tends to disturb the repose of the community by unreasonable, excessive, continuous, untimely, or habitual barking, yelping, meowing, squawking, squealing, or other noise.
- (c) *Disposal of animals.* It shall be unlawful for any owner to deposit, throw, or leave, any dead animal on any public or private property within the city not owned by said person. If such body shall not forthwith be removed, the body shall be deemed a nuisance and subject to abatement by the city. The owner or keeper shall be responsible for all costs associated with the abatement of such animal.
- (d) *Animals in heat.* The owner of every female dog or cat in heat shall keep the dog or cat confined in a building or a secure enclosure in such manner that such female dog or cat cannot come into contact with another animal, except for planned breeding, and such that the animal does not create a nuisance by attracting other dogs or cats.
- (e) Any person who violates any parts of this section shall, upon conviction, be subject to penalties as follows:
 - (1) Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8(a).

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-35. - Interference prohibited.

- (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 officer 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.

(c) Any person who violates any parts of this section shall, upon conviction, be subject to penalties as follows:

(1) Fined a sum of not less than \$100.00 nor more than the maximum fine authorized by Section 1-8, or imprisoned for not more than one year, or both such fine and imprisonment.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-36. - Animals prohibited in the city.

(a) *Generally.* It shall be unlawful to keep or maintain any horse, mule, sheep, cattle, swine, goat or other livestock, rodent, chicken, pigeon, turkey, peacock, goose or other fowl within the corporate limits of the city in residential zone districts, except that no more than two ducks may be kept or maintained on any one premises, and except that backyard chickens may be kept in compliance with Section 6-53. It shall be unlawful to keep or maintain more than three adult rabbits or more than five adult hamsters, gerbils or guinea pigs on any one premises within the city. It shall be unlawful to keep or maintain more than one domesticated Vietnamese potbellied pig, weighing less than 70 pounds, on any one premises within the city. This section shall not apply to animals maintained on the premises of a farming operation, a licensed commercial enterprise, a veterinarian hospital, a pet shop, or an educational facility.

(b) *Additional conditions to prohibition.* In addition to the general prohibition of Subsection (a) of this section, the following requirements shall exist for the following zoning districts:

(1) *Agricultural district.* Subsection (a) of this section shall not apply to animals maintained in an agricultural district when the uses are approved in compliance with Chapter 18.

(2) *Residential estate district.* No more than a combined total of ten rabbits, ducks and/or chickens shall be permitted to be kept per lot. No more than a combined total of three horses, cattle, goats, llamas, and sheep shall be kept per acre of lot, with a maximum of four such animals permitted and subject to the following conditions:

- a. All manure shall be disposed of promptly so as not to constitute a health or odor problem or other condition of public nuisance; and
 - b. All livestock shall be kept within a fenced area.
- (3) *Preservation/revitalization district.* Nondomestic animals shall be permitted in a preservation/revitalization district only if kept in cages or other protective shelters and if they do not pose a public threat or nuisance.
- (c) *Wild animals.* It shall be unlawful for any wild animals to be kept or maintained within the corporate limits of the city. "Wild animal" shall be defined as any animal that customarily exists in its natural unconfined state and is usually not domesticated and shall include but not be limited to lions, tigers, cheetahs, panthers, cougars, mountain lions, ocelots, wildcats, bobcats, and other wild exotic cats; foxes, minks, skunks, and other fur-bearing wild animals; apes, monkeys, and other like primates; bears; reptiles, including all poisonous snakes, domestic and/or imported or exotic, and any nonpoisonous snake over six feet in length; alligators or crocodiles; wolves or coyotes; any hybrid or mix breed between wild animals and domestic animals; bees or bee hives other than those permitted in Article III; but such definition shall specifically exclude domestic birds, aquatic animals, insects, and reptiles that are not a health hazard or are not poisonous. Alleged domestication of any wild animal shall not affect its status. Nothing in this section shall prohibit the further classification of any animal in this section as a dangerous or vicious animal.
 - (1) Upon verbal or written notification by any member of the police department or any animal control officer, the owner, possessor, or keeper of any wild animal shall forthwith remove the animal from the city, and failure of the owner, possessor, or keeper thereof to remove the animal shall cause the animal to be subject to immediate impoundment by the police department or animal control.
 - (2) After impoundment by the city, the city may arrange for such accommodations as may be necessary, either within or without the boundaries of the city, for the safekeeping of the animal. After impoundment, disposal of the animal may, at the discretion of the police department or animal control, be arranged in accordance with the owner's wishes or may be sold or destroyed. The arrangement of disposition of the animal shall include payment to the city of the costs of impounding and keeping the animal.

- (3) It shall be unlawful for any wild animal to be running at large within the city, and such wild animal when found may be impounded or destroyed forthwith by the police department or animal control if the animal poses any threat to public health or safety, and no civil liability shall attach for the destruction thereof.
 - (4) This subsection shall not apply to animals maintained on the premises of a farming operation, a licensed commercial enterprise, a veterinarian hospital, or an educational facility, or animals in their natural habitat.
- (d) *Prairie dog.*
- (1) Prairie dogs are rodents and therefore may be regulated in accordance with this Section 6-36 when found in any zone district located within the city. Any relocation of prairie dogs within the city must be to a location approved for prairie dog relocation.
 - (2) Any development project in any zone district located within the city shall comply with the following provisions:
 - a. Any person wishing to develop any vacant land in the city where evidence of prairie dog colonies exists must include in any development project a plan for the relocation of prairie dogs in connection with the development.
 - b. Developers are required to provide the city documented evidence of efforts made to relocate prairie dogs. Relocation can only be to designated relocation sites within the city or to relocation sites located outside the city limits in accordance with the division of wildlife permitting process. Developers may contact the city development department to obtain referral and contact information on the relocation process and, if necessary, disposal information.
 - c. The developer, upon presenting documentation of good faith attempts to relocate prairie dog colonies, may dispose of the prairie dog colony through only those extermination techniques and procedures that are authorized by the department of agriculture and that are not in violation of state or federal laws.
 - d. No development permit shall be approved until documentation is submitted identifying the good faith efforts undertaken by the developer to comply with the prairie dog regulations contained herein.

(Ord. No. 3407, § 1, 9-27-16; Ord. No. 3434, § 2, 5-9-17)

Sec. 6-37. - Limitations on animals.

- (a) It shall be unlawful for any person to harbor or allow there to be more than a total of four dogs, or four cats, or a combination of dogs and cats totaling no more than four, or one Vietnamese potbellied pig; provided, however, if dogs, cats, and pigs are harbored together only a total of three dogs or three cats along with one Vietnamese potbellied pig is allowed per residential dwelling unit that such animals occupy. This subsection shall not apply to dogs or cats under three months old from the same litter of a female dog or cat harbored or allowed per residential dwelling unit. This section shall not apply to animals maintained in an agricultural district when the uses are approved in compliance with Chapter 18.
- (b) Any person who violates any parts of this section shall, upon conviction, be subject to penalties as follows:
 - (1) A fine in an amount up to the maximum fine authorized by Section 1-8, or imprisonment for up to one year, or both such fine and imprisonment; and
 - (2) Required to provide proof of compliance with the animal limits stated in this Section 6-37.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-38. - Police service dog unit.

The police service dog unit of the Thornton Police Department will be using trained police dogs. The actions of trained police dogs, when operating in connections with and under the control of the police service dog unit and while such actions are within the scope and in furtherance of the duties associated with the police service dog unit, shall be exempt from all provisions of this chapter. This provision shall not exempt the canines from the requirements to have all the canines used in connection with the police service dog unit to be vaccinated as with any other canine located within the city, pursuant to 6-4 of the Code.

(Ord. No. 3407, § 1, 9-27-16)

Sec. 6-39. - Immunity from liability.

The city and its employees, the animal shelter and its employees, and any veterinarian consulted pursuant to this chapter shall be immune from liability for any actions taken pursuant to this chapter.

(Ord. No. 3407, § 1, 9-27-16)

Secs. 6-40—6-50. - Reserved.

ARTICLE II. - LIVESTOCK AND FOWL

DIVISION 1. - GENERALLY

Sec. 6-51. - Violations and penalties.

The city council declares that animals specified in Section 6-52 running at large within the corporate limits of the city or being maintained within the corporate limits constitute a nuisance. Any person or owner of any such animal found running at large or any person or owner maintaining such animal within the corporate limits shall be subject to a fine as provided in Section 1-8(a).

(Code 1975, § 26-9; Ord. No. 1542, 3-17-86; Ord. No. 2353, § 2, 11-14-94)

Sec. 6-52. - Animals running at large.

It shall be unlawful for any owner or possessor or keeper, whether owner, bailor, bailee, lessor or lessee, of any horse, mule, donkey, cattle, sheep, swine, goat, chicken, other domestic fowl or livestock to fail to prevent such from running at large within the city.

(Code 1975, § 26-1; Ord. No. 1542, 3-17-86)

Sec. 6-53. - Backyard chickens.

It shall be unlawful for any person to possess, harbor, keep, maintain, or permit backyard chickens in any area unless the following conditions and requirements are met:

- (1) Backyard chickens are permitted on lots developed with single-family detached dwellings in the single-family detached, single-family attached, multifamily, and Eastlake residential zoning districts. The requirements in this

section shall not apply to chickens kept in accordance with Section 6-36(b) regarding agricultural, residential estate, and preservation/revitalization zoning districts.

- (2) No more than six backyard chickens are permitted per lot.
- (3) Only chicken hens (female chickens) are allowed. Roosters (male chickens) are prohibited.
- (4) Backyard chickens shall be maintained only in the backyard of the property, and a chicken coop shall be provided. The chicken coop shall meet the following requirements:
 - a. The chicken coop shall be located in the backyard. No part of the chicken coop shall be located in the side or front yard.
 - b. The chicken coop shall be setback a minimum of five feet from all side and rear property lines.
 - c. Only one chicken coop is allowed per backyard.
 - d. The chicken coop shall be fully enclosed, having a floor, walls, and roof sufficient to protect the chickens from predators.
 - e. The chicken coop shall provide adequate shelter from inclement weather conditions, including protection from sun, wind, rain, snow, hail, and extreme temperatures.
 - f. The chicken coop shall not exceed 120 square feet or seven feet in height.
 - g. A minimum of six square feet of space per chicken shall be provided in the chicken coop.
- (5) Water shall be provided onsite and shall be accessible to chickens at all times.
- (6) From dawn until dusk, chickens may be allowed to roam the entire backyard area or they may be confined to a chicken run. The backyard and/or the chicken run shall be adequately fenced such that the chicken cannot leave the property.
- (7) From dusk until dawn, chickens shall be kept within the chicken coop as protection from predators.
- (8)

Chicken coops and chicken runs shall be maintained and regularly cleaned to control dust, odor, and waste. Excrement shall be properly disposed of, and sanitary conditions maintained in order to minimize the presence of flies and other insects, and to minimize odor and potential for disease.

- (9) Electrical and heat sources shall comply with the city's Building Code.
- (10) On-site butchering or slaughtering is prohibited.
- (11) Chicken feed shall be stored in a resealable, airtight, metal and pest-proof container to discourage attracting mice, rats, and other vermin.
- (12) Chicken waste shall only be stored in resealable, airtight, and pest- and predator-proof container.

(Ord. No. 3434, § 3, 5-9-17)

Secs. 6-54—6-75. - Reserved.

DIVISION 2. - IMPOUNDMENT^[3]

Sec. 6-76. - Enforcement; notice.

- (a) The office of the state board of stock inspection commissioners and its agents may enforce this article by the taking up and impounding of any animals listed in Section 6-52 that are running at large. The city police department or animal control unit may assist the office of state board of stock inspection commissioners in the impounding of such animals. Forthwith after impounding, the state board of stock inspection commissioners' office shall give notice of the sale of the impounded animals.
- (b) Small animals impounded that the state board of stock inspection commissioners cannot or will not handle will be impounded under the same conditions as set forth for small domestic animals in Article I of this chapter.

(Code 1975, § 26-2; Ord. No. 1542, 3-17-86)

Sec. 6-77. - Contents of notice.

The notice of sale as provided in Section 6-76(a) shall contain the information provided by state law.

(Code 1975, § 26-3; Ord. No. 1542, 3-17-86)

Sec. 6-78. - Redemption of animals; costs.

The owner of the animal impounded under this division shall claim it before sale within the time specified in the notice, and costs shall be paid and the animal released according to state law.

(Code 1975, § 26-4; Ord. No. 1542, 3-17-86)

Sec. 6-79. - Disposition of unclaimed animals.

If the animal impounded under this division shall not be claimed and costs shall not be paid as provided in Section 6-78, the animal shall be disposed of according to state law.

(Code 1975, § 26-5; Ord. No. 1542, 3-17-86)

Sec. 6-80. - Disposition of sale proceeds.

The proceeds of a sale under this division shall first be applied to the payment of all the accrued costs of feeding and advertising, and any surplus shall be paid over to the treasurer of the city in which the sale is made, but if sufficient money is not realized from such sale to pay such costs, the chief of police shall so certify to the city, and such deficiency shall be paid from the unclaimed surplus received from the sale of other animals.

(Code 1975, § 26-6; Ord. No. 1542, 3-17-86)

Sec. 6-81. - Surplus of sale proceeds to owner.

When any surplus proceeds shall accrue from the sale under this division, the owner may apply to the state board of stock inspection commissioners for the purpose of claiming any such surplus proceeds.

(Code 1975, § 26-7; Ord. No. 1542, 3-17-86)

Secs. 6-82—6-100. - Reserved.

ARTICLE III. - BEES

Sec. 6-101. - Definitions.

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

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

Beekeeper shall mean the person responsible for beekeeping on a designated property.

Beekeeping shall mean the owning and breeding of bees.

Colony shall mean a collection of bees living together as a single social unit.

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

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-102. - Permits for beekeeping.

- (a) No person shall keep, maintain or allow any hive of bees on any lot or parcel of land within the city without first obtaining a beekeeping permit in accordance with this article. This requirement does not apply to feral bees not managed by a beekeeper.
- (b) An initial application for a beekeeping permit shall include the following:
 - (1) The name, address and telephone number of the applicant. The applicant shall own or reside on the subject property, or shall have the right to possession and control of the property if the property is leased.
 - (2) A site plan of the property, including the proposed location of the hive(s).
 - (3) If the applicant is not the owner of the subject property, a statement of approval signed by the owner of the property on which the hive is to be located.
 - (4) A signed statement from the applicant that he will comply with the provisions and requirements of this article.
 - (5) Receipts or documentation from the U.S. Postal Service or other mail provider demonstrating that notification was mailed to all principal residents of each property immediately adjacent to the property on which the hive(s) will be

located of the applicant's intent to keep bees. Properties with shared property lines shall be considered adjacent, however, properties located across a street or alleyway shall not be considered adjacent.

- (6) An application fee as established by resolution of the city council from time to time.
- (c) A permit will be granted in those instances in which all of the requirements in subsection (b) above have been met.
- (d) All permits granted shall be valid so long as the property owner remains the same. Beekeeping permits are not transferrable.
- (e) Such permit shall be revocable if the permittee is convicted of more than one violation of this article.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-103. - Districts permitted.

Beekeeping shall be permitted in the following areas:

- (1) Agricultural district, residential estate district, single-family detached district, and Eastlake residential district;
- (2) Lots in other districts developed with single-family detached dwelling units; and
- (3) Nonresidential zoning districts in conjunction with a community garden as regulated in Chapter 18.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-104. - Hive densities.

- (a) It shall be unlawful to keep more than the following number of hives on any lot or tract within the city, based upon the size or configuration of the lot or tract on which the hive is situated:
 - (1) One-quarter acre or less: two hives;
 - (2) More than one-quarter acre but less than one-half acre: four hives;
 - (3) More than one-half acre but less than one acre: six hives;
 - (4) One acre or larger: eight hives.

- (b) Regardless of lot or tract size, where all hives are situated at least 200 feet in any direction from all property lines of the lot or tract on which the hives are located, there shall be no limit to the number of hives.
- (c) For each two colonies authorized in subsection (a) above, there may be maintained upon the same lot or tract one nucleus colony in a hive structure not exceeding one standard 9 5/8 -inch depth ten frame hive body with no supers attached as required from time to time for management of swarms.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-105. - Hives.

- (a) Hives shall be kept in the rear yard, and shall be setback at least five feet from the rear and side property lines.
- (b) All bee colonies shall be kept in hives that can be opened for inspection.
- (c) Hives shall have removable frames, and shall be maintained in good and useable condition.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-106. - Sound beekeeping practices required.

Beekeepers shall conform to sound beekeeping practices, including but not limited to those requirements described below, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.

- (1) *Fencing of flyways.* In each instance in which any hive is situated within 25 feet of the property line of the lot or tract on which the hive 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 feet in height consisting of a solid wall or fence parallel to the property line and extending ten feet beyond the hive in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the hive. Fences shall comply with the requirements of Chapter 18.
- (2) *Water.* Each beekeeper shall provide a continuous source of water on the lot or tract where the hive is located. The water source shall be maintained so as not to become stagnant.

- (3) *Maintenance* . Each beekeeper shall not store bee comb or other similar materials on the grounds of the site where the hive is located. 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.
- (4) *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, the beekeeper shall re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
- (5) *Community gardens* . When a hive is associated with a community garden, the beekeeper shall locate the hive such that it is surrounded on all sides by a fence to secure the hive from access by unauthorized persons.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-107. - Certain conduct declared unlawful.

Notwithstanding compliance with the various requirements of this article, it shall be unlawful for any beekeeper to keep any colony or colonies in a hive that is deteriorated, dilapidated or such a worn condition so as the hive poses a public health or safety risk or interferes with the use and enjoyment of any public or private property, or to fail to comply with any requirement of this article.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-108. - Right of entry.

Pursuant to any beekeeping permit issued as authorized by this article, animal control officers ("officers") are hereby granted a right of inspection to enter upon the permittee's property, as provided herein, to ensure all requirements of this article are being met by the permittee.

- (1) *Inspection* . Whenever an animal control officer has probable cause to believe that there exists, in or upon the premises where beekeeping has been permitted, a violation of the requirements for beekeeping specified in this article, or beekeeping is being conducted in a manner that may constitute a threat to the public health and safety, such officers may contact the permittee

to request an inspection of the permittee's property where the beekeeping is being conducted. The permittee shall allow such an inspection within two business days of a request. If an officer believes there exists an imminent threat to the public health and safety on the property where beekeeping is being conducted, the permittee shall allow for immediate inspection upon a request. If a permittee refuses to allow immediate inspection, a search warrant may be issued by a court of competent jurisdiction.

- (2) *Refusal*. It shall be unlawful for a person who has been issued a permit to conduct beekeeping pursuant to this article to refuse to allow an inspection when requested by an animal control officer.
- (3) *Corrective action*. If upon any inspection, it is found that any structures associated with beekeeping or activities of a permittee who is permitted to conduct beekeeping are in violation of this article, the officer may take appropriate action to abate any such violation pursuant to Section 6-109 herein or may pursue any other remedy as authorized by the Code or any law or regulation.

(Ord. No. 3189, § 2, 2-28-12)

Sec. 6-109. - Declaration of nuisance.

The keeping of any bee colonies in the city that is not in strict compliance with the requirements of this article is declared to constitute a threat to the health and safety of the residents of the City of Thornton and is hereby declared to be a nuisance. 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 declared to be a nuisance. Any bee colonies kept in the city not in compliance with this article or otherwise declared to be a nuisance pursuant to this section may be summarily destroyed or removed from the city at the direction of the chief of police, or his designee.

(Ord. No. 3189, § 2, 2-28-12)