

BY AUTHORITY

ORDINANCE NO. **4139**

COUNCILLOR'S BILL NO. **30**

SERIES OF 2022

INTRODUCED BY COUNCILLORS
DeMott, Emmons

A BILL

FOR AN ORDINANCE AMENDING TITLE VI, CHAPTER 7 OF THE WESTMINSTER MUNICIPAL
CODE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VI, Chapter 7, W.M.C., is hereby AMENDED to read as follows:

6-7-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

Abandon shall mean leaving of an 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 shall mean any living dumb creature, domestic or wild.

Animal management officer shall mean an employee or agent of the City authorized by the chief of police to enforce the provisions of this chapter.

Animal shelter shall mean any premise designated by the City for the purpose of boarding or the caring of any animal impounded under the provisions of this chapter or any other ordinance of the City or law of the state.

Bee shall mean the hymenopterous insects in the genus *Apis*, especially *Apis mellifera*, primarily distinguished by honey and wax production in colonial, perennial, docile hives, when the hives are intentionally initiated and maintained on residential property for honey production. Bee shall not refer to naturally occurring bee colonies, mason bees, or other bee species that are not intentionally kept for honey production.

Cat shall mean a domestic cat (*felis catus*) regardless of gender that can be vaccinated against rabies.

Chicken shall mean a domestic fowl kept for its eggs or meat, excluding ducks, geese, pigeons, turkeys, pea fowl, and guinea hens.

Common area shall mean and include areas such as but not limited to the yards, grounds, garden areas, play areas, clubhouses, swimming pools, walkways, common garage areas, entryways, hallways, and driveways of condominiums, townhouses, apartment complexes, motels, hotels and mobile home parks.

Countywide Licensing Administrator shall mean the entity to which authority to issue dog licenses for all dogs within the City, regardless of county of residence, and to collect fees for said licenses has been delegated by the parties to the animal shelter/dog licensing/funding intergovernmental agreement, dated August 15, 2012, as may be amended from time to time.

Custodian shall mean any person who has responsibility for or looks after an animal.

Dog shall mean a domestic dog (*canus lupus familiaris*) regardless of gender that can be vaccinated against rabies.

Dog license shall mean current indication that the dog has been registered with the countywide licensing administrator within the previous 365 days.

Domestic animal shall mean domesticated or household dogs, cats, rabbits, guinea pigs, hamsters, rats, mice, ferrets, birds, reptiles, amphibians, and invertebrates, commonly found in a pet store and intended to live and breed in a tame condition. It shall also include pot-bellied pigs and expressly does not include bees or chickens.

Endangered species shall mean any species of animal, bird or reptile that is currently listed as endangered by the United States Department of Interior or the Colorado Department of Natural Resources.

Exotic animals shall mean a rare or unusual animal or pet kept within human households and not commonly thought of as a pet.

Feral shall mean an animal that has escaped from domestication and returned, partly or wholly, to a wild state.

Fowl shall mean ducks, geese, pigeons, turkeys, pea fowl, guinea hens, and the like. For purposes of this title, fowl expressly does not mean chickens.

Guard dog shall mean any dog disciplined through special training to protect persons or property by attacking or threatening to attack any person found within the enclosed area patrolled by such dog.

Harboring shall mean the act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care.

Household shall mean those people living together in the same dwelling.

Humane trap shall mean a box-type trap that does not cause bodily harm to the animal intended to be captured or to any other animal or person coming in contact with such trap.

Kennel shall mean premises where more than five non-livestock animals, excluding offspring not exceeding four months of age belonging to one of the adult animals, are kept for any purpose, including boarding, foster care or training. The term "kennel" does not include pet shop.

Livestock shall mean any animal commonly kept or harbored, as a source of food, hides, income through agricultural sale, as a pack animal or draft animal or for use as transportation. Livestock includes, but is not limited to, horses, mules, sheep, goats, cattle, swine, ducks, geese, pigeons, turkeys, pea fowl, and guinea hens. In the event of uncertainty concerning whether a particular animal is a species of livestock, the presumption shall be that such animal is a species of livestock until the owner of such animal proves by a preponderance of the evidence to the satisfaction of the municipal court that the animal is not a species of livestock.

Owner shall mean any person who has right of property in an animal or harbors an animal or allows an animal to remain about his premises for a period of 72 hours or longer; claims responsibility for an animal; or is declared by court decree to be the responsible party for an animal or the authorized agent of any such person. The parent or guardian of any minor claiming ownership of an animal shall be deemed to be the owner of the animal for purposes of this chapter.

Person shall mean any natural person, corporation, partnership, association, or other entity.

Pet shop shall mean an establishment engaged in the business of breeding, buying or selling animals, other than livestock, in commercial, wholesale or retail trade.

Potbellied pig shall mean a pig ~~registered with a bona fide potbellied pig registry and~~ weighing less than 95 pounds.

~~*Potentially dangerous animal* shall mean any animal that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:~~

- ~~(1) Causing an injury to a person or domestic animal that is less severe than a serious injury;~~
- ~~(2) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner; or~~
- ~~————(3) Acting in a highly aggressive manner while encroaching onto public or private property, from a vehicle, or from the owner's yard through, on or over a fence.~~

Prohibited animal shall mean any animal that is ordinarily found in an unconfined state and is usually not kept as a household pet, including, but not limited to, lions, tigers, cheetahs, panthers, leopards, cougars, mountain lions, ocelots, any wild members of the genus felis, lynx, bobcats, foxes, minks, skunks, raccoons, bears, nonhuman primates, wolves and coyotes; poisonous or venomous snakes and lizards; lethal toads and arachnids (spiders, scorpions, and tarantulas), crocodilians and nonpoisonous snakes over six feet in length. "Prohibited animal" shall not include domestic ferrets (*mustelia furo*), rabbits, dogs, cats, and small rodents. Alleged domestication of any prohibited animal shall not affect its status under this definition. In the event of uncertainty whether a particular animal is a prohibited animal, it shall be presumed prohibited until proven not prohibited by a preponderance of the evidence to the satisfaction of the municipal court.

Proper enclosure shall mean secure confinement indoors or secure confinement in a locked pen, fenced yard, or structure measuring at least six feet in width, 12 feet in length, and six feet in height, capped with secure sides and constructed at the bottom so as to prevent escape by digging, which provides proper protection from the elements for the animal, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property. The proper enclosure must comply with all zoning and building ordinances/regulations of the City, be kept in a clean and sanitary condition, and be approved by an animal management officer, and such approval shall not be unreasonably withheld.

Rabies vaccination shall mean inoculation of a domestic animal with an anti-rabies vaccine approved by the Colorado Department of Health and administered by a licensed veterinarian. The vaccination shall be valid for the period of time specified in writing by the veterinarian for the specific vaccine used.

Responsible person shall mean a person at least 18 years old who is familiar with the animal, and has the size, strength, and experience to be able to keep the animal under complete control at all times.

Running at large shall mean an animal off the premises of the owner and not under the physical control of the owner.

Serious injury shall mean death or any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or requires corrective or cosmetic surgery.

Shelter shall mean a moisture-proof structure made of durable material that allows retention of body heat and is of suitable size to accommodate the animal.

Stray animal shall mean any animal for which there is no identifiable owner.

~~*Vicious animal* shall mean any animal that:~~

- ~~(1) Causes a serious injury or death to a person or domestic animal; or~~
- ~~(2) Has a previous potentially dangerous animal conviction and continues to engage in behavior that poses a threat to public safety as described in this chapter's definition of potentially dangerous animal; or~~
- ~~(3) Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.; or~~

~~(4) Has a demonstrated history of behavior that would cause a reasonable person to believe that the animal may inflict serious injury or death upon any person or domestic animal.~~

Wild animal shall mean all wildlife, including but not limited to, raptors, furbearers, all game animals, non-domesticated waterfowl, and all other species of animals, which exist in their natural, unconfined state and are usually not domesticated.

6-7-2. - Rabies Control.

(A) *Vaccinations:* It shall be ~~unlawful~~ a civil infraction for any owner of a dog or cat four months of age or older to fail to have such animal vaccinated against rabies. All dogs and cats shall be vaccinated at four months of age and revaccinated thereafter at the expiration of the validity of the vaccine used, as shown on the written document prepared by a licensed veterinarian. The vaccination shall be valid for the period shown on the document. Any person moving into the City from a location outside the City shall comply with this section within 30 days after having moved into the City by having the animal vaccinated or showing proof of current, valid vaccination. If the dog or cat has inflicted a bite on any person or another animal within the last ten days, the owner of said animal shall report such fact to a veterinarian, and no rabies vaccine shall be administered until after the required observation or quarantine period.

(B) *Proof of Vaccination:* It shall be ~~unlawful~~ a civil infraction for any person who owns a vaccinated animal to fail or refuse to exhibit ~~his~~ a copy of the certificate of vaccination upon demand to any person charged with the enforcement of this chapter. A current rabies tag, if provided by the veterinarian administering the vaccine, shall be attached to a collar, harness or other device and shall be worn by the vaccinated dog or cat at all times. The requirement for a dog to display a current rabies tag shall not apply to a dog that is displaying a current dog license tag affixed to a collar, harness or other device worn on the dog in compliance with Section 6-7-4, W.M.C.

(C) *Harboring Unvaccinated Dogs and Cats:* It shall be unlawful for any person to harbor any dog or cat that has not been vaccinated against rabies, as provided herein, or that cannot be identified as having a current vaccination certificate.

(D) *Non-transferability:* Vaccination certificates and tags are not transferable and cannot be used for any animal other than the animal that received the vaccination and for which the certificate was originally issued.

(E) *Exceptions:* No person charged with violating Subsections 6-7-2(A), 6-7-2(B) or 6-7-2(C), W.M.C., shall be ~~convicted~~ adjudicated guilty if he produces in Court a bona fide and valid certificate of vaccination that was in full force and effect, as required by Subsection 6-7-2(A), W.M.C., at the time of the alleged violation.

(F) Any person who violates this section shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00.

6-7-3. - Reporting Animal Bites.

(A) *Duty to Report:* It shall be ~~unlawful~~ a civil infraction for any person having knowledge that an animal has bitten a human to fail to immediately report the incident to the Westminster Police Department, the Animal Management Officer, or to the Colorado Department of Health. Every physician or other medical practitioner who treats a person for such bites shall, within 12 hours, report such treatment to the Westminster Police Department, the Animal Management Officer, or the Colorado Department of Health, giving the name and precise location of the bitten person and such other information as the officer or agency may require.

(B) *Exclusions:* Bites to humans from rodents, rabbits, birds and reptiles are excluded from the reporting requirements of this section, unless otherwise specified by the Colorado Department of Health.

(C) *Suspected Rabies:* It shall be unlawful for any veterinarian who clinically diagnoses rabies, or any person who suspects rabies in an animal, to fail to immediately report the incident to the Westminster Police Department, the animal management officer, or to the Colorado Department of Health, stating precisely where such animal may be found. If a known or suspected rabid animal bites or attacks another animal, such shall also be reported as required above.

(D) *Confinement of Animals:* Any animal capable of transmitting or carrying the rabies virus that has bitten a person shall immediately be confined to be observed for symptoms of rabies unless the animal is submitted to a laboratory for analysis. An Animal Management Officer shall determine the length of time that said animal must remain in confinement based upon the guidelines and requirements of the Colorado Department of Health. The procedure and place of observation or analysis shall be designated by the investigating officer or responsible agency. If the animal is not confined on the owner's premises, confinement shall be by impoundment in the City animal shelter, a pet shop with a class B license, or at any veterinary hospital of the owner's choice within the City of Westminster. Such confinement shall be at the expense of the owner. Stray animals whose owners cannot be located shall be confined as designated by the City. The owner of any animal that has been reported to have inflicted a bite on any person shall on demand produce said animal for impoundment in compliance with section 6-7-9, W.M.C., as prescribed in this section or for laboratory analysis. Refusal to produce said animal constitutes a violation of ~~this~~ section 6-7-9(E), W.M.C., and each day of such refusal shall constitute a separate and continuing violation.

(E) *Removal of Animals From Confinement:* It shall be unlawful for any person to kill, remove or release any animal that has been confined, impounded, or is in the custody of the City or its agents as authorized under this chapter, without the consent of the City or the impounding agency.

(F) Any person who violates subsection A shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00. Any person who violates subsections (C) or (E) shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.

6-7-4. - Dog Licensing.

(A) *Dog License Required:*

(1) It shall be ~~unlawful~~ a civil infraction for any owner of any dog being kept in the City of Westminster, including both Adams and Jefferson Counties, over the age of four months, or within 30 days of acquisition of said dog, whichever occurs last, to fail to obtain a license for such animal as required by this section. Any dog present in the City that has been kept or harbored in the City for 30 days or more within the prior 365-day period shall have a current dog license.

(2) The countywide licensing administrator will administer the City of Westminster's Dog License program and distribute the dog license tags. Application for a dog license shall be made to the countywide licensing administrator or to such agents as designated by the administrator. Dog Licenses and tags shall be issued, renewed, replaced and expired in accordance with the countywide administrator's requirements, including, but not limited to, proof of current rabies vaccination and reduced dog license fee if the dog is spayed or neutered.

(3) A dog owner may request an exemption to these dog license provisions if, for medical reasons the dog cannot be vaccinated. In this event, a dog owner must submit an affidavit from a licensed veterinarian stating the reasons why the dog is unable to be vaccinated.

(4) It shall be ~~unlawful~~ a civil infraction for a dog owner to fail to renew a dog license once every 365 days.

(5) The dog license fee, including the fee for replacement licenses, shall be in amounts as set by the countywide licensing administrator.

(6) It shall be ~~unlawful~~ a civil infraction for an owner of an assistance or service dog to fail to obtain a dog license as required by this section. An individual with a disability who owns a service dog is exempt from the annual license fees.

(7) Any dog owner or any entity exempt from the countywide licensing administrator's dog license requirements shall be exempt from the provisions of this section.

(B) *Dog License Tag to be Displayed:* It is unlawful for any person to harbor any dog that must be licensed per Subsection 6-7-4(A), W.M.C., which is not displaying a current dog license tag affixed to a collar, chain, or harness worn on the dog.

(C) *Dog License Tag Not Transferable:* It is unlawful for any person to affix to the collar, chain, or harness of any dog, or permit to remain affixed, a dog license tag for any other dog or to display such a tag to an animal management officer or peace officer.

(D) Any person who violates this section shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00.

6-7-5. Animals Running At Large

(A) *Animals Running at Large Prohibited:*

(1) It shall be ~~unlawful~~ a civil infraction for any ~~animal's owner or custodian of an animal~~ to fail to restrain the animal by physical means from running at large. Running at large means an animal, off the premises of the owner or custodian, not under the effective and immediate physical control of the owner or custodian by means of a leash, cord or chain of reasonable length to prevent an attack or uninvited contact by the animal upon another person or animal. Animal at large includes unattended animals chained or tied in public places or in common areas. Nothing in this section shall apply. In addition to being a violation of this section, an animal running at large is declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code. This subsection (A)(1) shall not apply to dogs running off-leash at an off-leash dog site as established in Section 13-1-3(Z), W.M.C.

(2) Neutering/spaying required. There is a rebuttable presumption that an animal is intact, meaning not spayed or neutered, unless competent evidence is presented to overcome this presumption. Any intact animal in violation of subsection (A)(1) above shall be subject to the elevated fines and penalties described in subsection (A)(4) below unless the owner, custodian, or competent member of the owner's family provides written documentation from a licensed veterinarian affirming that the spay or neuter procedure would be unreasonably harmful or dangerous to the health of the animal. Subject to the discretion of the municipal court, it may be unlawful for any owner of an animal running at large to allow the animal to remain in a non-neutered or unspayed condition.

(3) The Municipal Court may reduce the elevated fines for an intact animal in violation of subsection (A)(1) if the owner, custodian, or competent member of the owner's family provides written proof to the Court that the animal running at large was spayed or neutered at any time before trial. It shall be the burden of the owner to prove that the animal is neutered or spayed by the production of a veterinarian's opinion or other documentary evidence.

(4) Any violation of this subsection is punishable by a fine up to \$500.00. Any violation of this subsection shall be punished in accordance with the following minimum penalties:

<u>Minimum Fines and Penalties for Animal at Large</u>		
	<u>Spayed or Neutered Animal</u>	<u>Intact Animal</u>
<u>1st Offense within 5 years</u>	<u>\$75.00</u>	<u>\$225.00</u>
<u>2nd Offense within 5 years</u>	<u>\$150.00</u>	<u>\$300.00</u>
<u>3rd or Subsequent Offense within 5 years</u>	<u>\$250.00 + must show proof animal was microchipped</u>	<u>\$300.00 + must show proof animal was microchipped and spayed or neutered</u>

The minimum monetary fines stated in this subsection may not be suspended by the Municipal Court. To determine whether a person has multiple violations within a 5-year period the Municipal Court shall consider whether anyone within the person's household was charged with a violation of this subsection regardless of whether that violation involved the same animal. The 5 year time period shall be based on the date of violation for each offense.

(5) Any animal found running at large by Animal Management may be impounded pursuant to W.M.C. 6-7-9. Any animal impounded by animal management for a third or subsequent violation of this section within a 12 months period, regardless of whether charges were filed, should be impounded and not released until a dispositional hearing can be held.

(B) *Confinement During Estrus:* It shall be unlawful for any owner to fail to securely confine any unspayed female dog or cat in the state of estrus (heat), in a house, building or secure enclosure, in such a manner that such female dog or cat cannot come in contact with another animal except for planned breeding, and such that the animal does not create a nuisance by attracting other dogs or cats. When outside on the property of the owner for metabolic waste elimination, the animal must be physically restrained on a hand-held leash. Owners who do not comply may be ordered to remove the dog or cat in heat to a boarding kennel, veterinary hospital or animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner of the dog or cat. Failure to comply with the removal order shall be a violation of this section and the dog or cat shall then be impounded as prescribed in this chapter.

(C) *Sick or Injured Animals:* Sick or injured animals found on public or private property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the animal is significantly injured or sick such that recovery is improbable, the animal may be euthanized, without liability to the City, animal shelter, their employees, officers, or agents, or to any veterinarian examining, diagnosing, or treating the animal. An Animal Management Officer or ~~police~~ Peace Officer may humanely destroy any animal the officer reasonably believes to be so sick or injured that recovery is improbable, even if veterinary care could be provided, in order to avoid further pain and suffering by the animal, without liability to the City or the officer. If the injured animal is treated or impounded, the owner of such animal shall be liable for all expenses of the treatment or impoundment.

6-7-6. - Removal of Animal Excrement; Damage to Property.

It shall be ~~unlawful~~ a civil infraction:

(A) For any owner or custodian of any animal to refuse or fail to remove promptly excrement deposited by said animal upon any common thoroughfare, street, sidewalk, play area, park, other public property, or any private property when permission of the owner or tenant of said property has not been previously obtained, and such is hereby declared to be a public nuisance.

(B) For any owner or custodian of any animal to permit said animal, whether or not it is running at large, to destroy, damage or injure any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public premises or private premises owned or occupied by a person other than the owner of said animal, and such is hereby declared to be a public nuisance.

(C) To place animal excrement in storm sewers, or to dispose of excrement in any manner except by depositing it in a toilet or a receptacle ordinarily used for garbage and covered by a lid, or in an otherwise lawful and sanitary manner.

(D) To fail to promptly remove promptly all the accumulation of fecal wastes to the extent it creates an unsanitary or unhealthy condition or obnoxious odor from private premises, including the premises of the owner of an animal or any other person consenting to the deposit of such waste on his or her premises, or to fail to place such waste in a closed fly-tight container or to fail to remove the contents of said containers from the City as necessary to prevent such contents from becoming a nuisance.

(E) ~~To fail to maintain the premises upon which animals are kept in a clean and sanitary condition, which premises shall be subject to inspection at all reasonable hours by city representatives. Any person who violates this section shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00.~~

6-7-7. - Disturbance.

(A) It shall be ~~unlawful~~ a civil infraction for any owner or custodian of any animal to allow the animal to disturb any person by barking, howling, yelping, or other audible sound that is unreasonably loud and persistent. In addition to being a violation of this section, the same is hereby declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

(B) (1) No person shall be charged with violating this section unless a written warning was ~~given to the owner or person in custody of the animal~~ issued by an Animal Management Officer or police officer within the 12 months preceding the first date alleged as a date of violation in the complaint. A warning is ~~given~~ issued under this subsection if it is personally given to ~~the~~ any owner or occupant of the property or a person ~~in~~ with custody of the animal; ~~A warning may also be issued by or it is posted~~ it upon the property of the owner or person in custody of the animal or ~~if it is~~ mailed first-class to such person. Such records are prima facie evidence that such warnings were given.

(2) No summons shall be issued and no person shall be convicted at trial for violating this section unless two or more witnesses from different households testify to the unreasonably loud and persistent ~~or loud and habitual nature of the noise, or unless there is other evidence corroborating the testimony of a single witness.~~ An ~~A~~ animal ~~M~~management ~~O~~fficer or a police officer ~~who~~ can corroborate the elements in this section, and may ~~issue summons and~~ testify as the second witness. The elements of this section may also be established by a single witness when video evidence is presented to corroborate the unreasonably loud and persistent noise. If video evidence is being used in place of the second witness, the video must be a minimum of 5 uninterrupted minutes in length.

(C) Any person who violates any of the provisions of Subsection (A) of this Section shall, upon conviction, be guilty of a civil infraction and punished by a fine of up to \$500.00.

6-7-8. Vicious and Potentially Dangerous Animals

(A) *Owner Responsibility and Liability:* Any owner or custodian of a vicious animal or potentially dangerous animal shall be jointly and severally responsible with all other owners or custodians of such animal for compliance with the requirements of this section. For the purpose of prosecution for violation of this section, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner of the vicious animal or potentially dangerous animal that said animal was violating any of the provisions of this section.

(B) Any owner or custodian of an animal shall be criminally liable for any animal's behavior meeting the definition of potentially dangerous animal. Any animal exhibiting behavior set forth in this subsection is hereby declared to be a potentially dangerous animal.

(1) Causing bodily injury to any person or domestic animal;

(2) Chasing or menacing a person or domestic animal in an aggressive manner;

(3) Acting in an aggressive manner while encroaching onto public or private property, from a vehicle, or from the owner's yard through, on or over a fence.

(C) *Requirements for Possession of a Potentially Dangerous Animal:* It shall be unlawful for any person to own, possess, keep, harbor, or have custody or control of a potentially dangerous animal, except in compliance with all of the following requirements:

(1) The owner shall be 18 years of age or older.

(2) The owner shall not permit a potentially dangerous animal to be outside a proper enclosure on the owner's property unless such animal is under the physical control of a responsible person and restrained by a lead not exceeding ~~four~~ six feet in length.

(3) The potentially dangerous animal and owner shall complete a ~~socialization training~~ and/or behavior program approved by the an Animal Management Officer, an animal evaluation may be ordered at the discretion of the Court.

(4) The potentially dangerous animal shall be spayed or neutered by a licensed veterinarian or a licensed shelter. This requirement may be waived at the discretion of the Court if the owner provides written documentation from a licensed veterinarian affirming that the spay or neuter procedure would be unreasonably harmful or dangerous to the health of the animal.

(5) The potentially dangerous animal shall be permanently identified through the implantation of a microchip containing owner identification information by a licensed veterinarian or a licensed shelter. The microchip information must be registered with the appropriate company responsible for maintaining such information for the microchip, this information must be kept up to date.

(6) The owner of a potentially dangerous animal shall notify the Animal Management Officer in person or by telephone as soon as practicable, but no later than one hour after owner's knowledge of the occurrence of either of the following events:

(a) The animal has escaped or has otherwise ceased to be in the custody of the owner or a custodian for any reason, ~~unless the owner knows such animal to be physically secured and restrained or confined in the custody of another competent adult;~~ or

(b) The animal has attacked a human being or domestic animal.

(7) The owner of a potentially dangerous animal shall notify the Animal Management Officer in person or by telephone within 24 hours of the occurrence of any one of the following events:

(a) The animal has been sold, given, or otherwise transferred to the ownership or possession of another person, including the name, address, and telephone numbers of the new owner and the effective date of the transfer; or

(b) The animal has died.

(8) The Court may add additional requirements at its discretion when the Court finds such requirements are necessary to protect the safety of the dog, owner, or the community. These requirements may include the use of a muzzle when the dog is outside the owner or custodian's property or require any enclosure where the animal may be housed to be approved by an Animal Management Officer.

(9) The Municipal Court may make special findings declaring that the animal in question cannot reasonably complete one or more of the above requirements do to age, illness, or physical impairment.

(D) Any owner or custodian of an animal shall be criminally liable for any animal's behavior meeting the definition of vicious animal. Any animal exhibiting behavior set forth in this subsection is hereby declared to be a vicious animal.

(1) Causing a serious injury or death to a person or domestic animal; or

(2) Commits any offense meeting the definition of potentially dangerous animal under Section 6-7-8(B), W.M.C. when the animal has a previous conviction for potentially dangerous animal under Section 6-7-8(B), W.M.C.; or

(3) Engaged in or was trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S..

(CE) *Requirements for Possession of a Vicious Animal* : In addition to satisfying the requirements for possession of a potentially dangerous animal pursuant to Section 6-7-8(BC), W.M.C., it shall be unlawful for any person to own, possess, keep, harbor, or have custody or control of a vicious animal, except in compliance with all of the following requirements:

(1) Notwithstanding Section 6-7-8(BC)(2), W.M.C., the owner shall not permit a vicious animal to be outside a proper enclosure on the owner's property, unless such animal is caged or under the physical control of a responsible person, properly muzzled, and restrained by a lead not exceeding four feet in length. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any ~~human-being~~ person or animal.

(2) The owner of a vicious animal shall maintain at all times either a policy of insurance or a surety bond in a minimum amount of \$100,000.00 to cover claims for any personal injuries or property damage inflicted by the vicious animal. The insurer or surety, as the case may be, shall be required to provide the Animal Management Officer with 30 days prior written notice of any cancellation, termination or expiration of the policy of insurance or surety bond, respectively.

(3) Any enclosure where the animal is housed shall be inspected an Animal Management Officer. The Animal Management Officer must approve any enclosure, and may require improvements or additions to any enclosure prior to approval.

~~(D) *Impoundment; Nuisance Declared:* Any animal which has exhibited behavior that would cause a reasonable person to believe that the animal is a vicious animal or a potentially dangerous animal may be summarily impounded when the Animal Management Officer reasonably believes the animal is a present threat to the health or safety of the community. Such animal is hereby declared to be a public nuisance, which may be abated by the court in proceedings brought under the procedures established in this Code for the abatement of nuisances. If impoundment of said animal cannot be made with safety to the Animal Management Officer or other persons, the animal may be destroyed by and Animal Management Officer or peace officer without notice to the owner or harborer.~~

(EF) *Exceptions:* No animal shall be found to be a vicious animal or potentially dangerous animal under this chapter if:

(1) The animal is used by a peace officer while the officer is engaged in the performance of ~~peace officer~~ their duties.

(2) At the time of the threat, behavior, or attack against a ~~domestic~~ another animal, ~~said the other animal was at large and~~ entered upon an enclosed area on the real property of the owner where the subject animal was confined without restraint, and the threat, behavior, or attack began, but did not necessarily end, ~~upon such property within the enclosed area.~~

(3) At the time of the threat, behavior, or attack against ~~another a domestic~~ another animal, ~~said the other~~ animal was biting or otherwise attacking the ~~dangerous~~ subject animal or its owner.

(4) A person unlawfully entered the owner or custodian's real property where the animal was confined.

(5) A person unlawfully entered into or upon the animal owner or custodian's automobile or other vehicle where the animal was confined.

(46) ~~At the time of the threat, behavior, or attack against a person, the victim was committing or attempting to commit a criminal offense against the animal's owner, and the threat, behavior, or attack did not occur on the owner's property. A person was attacking or molesting another person, however, it shall not be a defense to this section if the owner or custodian encouraged the subject animal to attack.~~

~~(57) At the time of the threat, behavior, or attack against a person, the victim was committing or attempting to commit a criminal offense against a person on the owner's property or the property itself and the threat, behavior, or attack began, but did not necessarily end, upon such property. A person was attempting to stop an altercation between the subject animal and another animal.~~

~~(68) At the time of the threat, behavior, or attack against a person, the victim tormented, provoked, abused, or inflicted injury upon the animal in such an extreme manner that it resulted in the threat, behavior, or attack. A person deliberately and wantonly provoked the subject animal to bite or act in an aggressive manner toward the provoking person, another person, or an animal.~~

~~(79) The exceptions set forth in this Subsection 6-7-8(EE), W.M.C., shall not apply to any animal that has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.~~

6-7-9. - Impounded Animals.

~~(A) *Impoundment:* If it is determined by an Animal Management Officer or Peace Officer that there is probable cause to believe that an animal is owned or harbored in violation of this chapter or any other ordinance, regulation, or state statute or regulation, the animal may be taken into custody by an Peace Officer or Animal Management Officer or other designated official and impounded in the animal shelter. For purposes of this section, the filing of charges is at the discretion of the Animal Management Officer or Peace Officer. Stray animals may be similarly impounded.~~

~~(1) A Peace Officer or Animal Management Officer may impound in the animal shelter any animal which is under the control of a person at the time of that person's incarceration or detention if it reasonably appears to the Peace Officer or Animal Management Officer that such person is unable to immediately provide a responsible alternative custodian for the animal.~~

~~(2) A Peace Officer or Animal Management Officer may impound any animal when there is probable cause to believe that the animal, owner, or custodian was involved in a violation of this chapter. The issuance of a summons or citation is not a prerequisite for impoundment. A Peace Officer or Animal Management Officer shall impound the subject animal when a summons or citation is issued to an owner for charges under W.M.C. 6-7-8 (C) vicious animal or W.M.C. 6-7-13(A) cruelty to animal. If at the time a determination to impound the animal is made, the subject animal is not immediately available to the Peace Officer or Animal Management Officer for impoundment, then the owner shall produce the subject animal at the direction of the Animal Management Officer or Peace Officer within a time given by the Officer, if no time is specified by the Officer, then production shall occur within 24 hours of receipt of the summons or citation. Failure to produce the subject animal as directed shall constitute a violation of subsection F below.~~

~~(B) *Quarantine:* An Animal Management Officer shall seek to impound in the animal shelter or confine to a veterinary hospital, for a period of at least ten days for rabies observation, any animal that bit any person or animal. Any animal that is inoculated against rabies may, at the discretion of the Animal Management Officer, be confined to the premises of the owner or custodian for a period of at least ten days. The Animal Management Officer shall take into consideration the history of animals running at large in the owner or custodian's household when determining whether confinement on the premises of the owner or custodian is appropriate.~~

~~(BC) *Disposition of Impounded Animals:* As soon as practicable after impoundment, a bona fide effort shall be made to an Animal Management Officer, Peace Officer, or other designated official shall give notice of impoundment to the owner, if such person is known. The notification shall be given by a method calculated to reach the owner promptly, and may be made in person or by telephone, or, if more direct methods are unavailable or have failed, by facsimile, by electronic mail, or by regular or certified mail to the address last known to Animal Management Officer, Peace Officer, or other designated official. If the owner is not known an Animal Management Officer, Peace Officer, or other designated official shall make a reasonable effort to determine the owner and give notice of the impoundment.~~

(1) Except those animals subject to a court hold, any impounded animal shall be released to the owner upon payment of the impoundment fee fees assessed by the animal shelter, boarding fee, veterinary care charges, and any other costs associated with impoundment. If such animal is not redeemed within the time period contained within Section 35-80-106.3, C.R.S., it shall be considered abandoned and may be euthanized or placed for adoption at the discretion of the animal shelter. The failure of the owner to redeem an animal shall release the City and the animal shelter, and their officers, employees, and agents, from any and all liability for the animal's subsequent euthanization or adoption. The owner's failure to appear for a court date for an impound hearing, or a Municipal Court case that resulted in the impoundment of the animal, shall be deemed an act of abandonment. The animal being held will be found abandoned after the time period contained in Section 35-80-106.3, C.R.S. unless the owner personally appears in Court before the time established in 35-80-106.3, C.R.S. Personal appearance of the owner can be waived for good cause.

(C) Disposition of Impounded Animal Being Held Pending Court Proceedings: If an animal is impounded, and is being held pending Court proceedings for a ~~any~~ violation of W.M.C. § 6-7-8(B), potentially dangerous animal, 6-7-8(C), vicious animal, 6-7-10(E) care of animals in kennel, 6-7-11(D) care of animals in pet shop, 6-7-12(C) prohibited endangered and exotic animals, or 6-7-13 (A), (C), or (F), cruelty to animal, neglect of animal, and fighting of animal, the provisions of this chapter, the animal may not be released except on the order of the court. The owner may prevent forfeiture of the animal to the shelter if within ten days of impoundment the owner either: (1) files a payment for impoundment, care, and provision with the Court in an amount determined by animal management or the shelter to be sufficient to provide for the animal's care for at least thirty days, including the day the animal was taken into custody; or (2) requests an impoundment hearing in writing, including whether the owner is disputing whether the cost of impoundment, care, or provision is reasonable, with the Westminster Municipal Court. At the time the request is made, the owner must provide a copy of request for impoundment hearing to the prosecuting attorney. If the owner does not indicate on their written request that they are disputing the reasonableness of the cost of impoundment, care, and provision, the owner shall be presumed to have accepted the amount as reasonable. The Court shall hold the hearing within ten days after the request for hearing. If the tenth day falls upon a day the Court is not regularly in session, then the hearing shall take place on the next day the Court is regularly in session.

(1) At the hearing the court shall determine, as appropriate:

(a) Whether the impoundment, care, and provision cost as determined by the Shelter is fair, reasonable, and necessary. The costs shall be specifically itemized by the Shelter before the hearing, and shall include, at minimum, an accounting of the costs of upkeep and veterinary services.

(b) Whether there was sufficient probable cause for the impoundment or any associated contact directly related to the subject animal's impoundment.

(2) If the Court finds probable cause for impoundment or the associated contact existed and the owner elects not to pay the reasonable impoundment, care, and provision costs to prevent disposition, the animal shall be released into the care of the Shelter and may be disposed of pursuant to the Shelter's policies and procedures.

(3) If the Court finds probable cause for impoundment or the associated contact existed and the owner elects to pay the reasonable impoundment, care, and provision costs the animal shall be held at the Shelter until further order of the Court.

(a) If the owner desires to prevent forfeiture of the subject animal to the shelter he or she must file a new payment for care and provision to pay for a minimum of thirty additional days at least ten days before the previous payment expires.

(b) If the owner fails to timely file an additional payment as described above, the animal shall be deemed forfeited to the shelter. In compliance with subsection (C) above the owner shall be responsible for any additional costs for the care, provision, or disposal of the subject animal.

(DE) Forfeiture of Animal After Conviction: The court may order the forfeiture of an animal as a consequence of conviction for violation of any of the following charges in this chapter:

- (1) 6-7-8(B), “potentially dangerous animal”
- (2) 6-7-8(C), “vicious animal”
- (3) 6-7-10(E), “care of animals in kennel”
- (4) 6-7-11(D), “care of animals in pet shop”
- (5) 6-7-12(C), “Prohibited Endangered and Exotic Animals”
- (6) 6-7-13 (A), “cruelty to animal”
- (7) 6-7-13(C), “neglect of animal”
- (8) 6-7-13(F), “fighting of animal”

Upon conviction for any of the charges listed above, the court shall have authority to order, as part of a sentence, the forfeiture of any animal involved in the violation or violations proven if the animal has not already been forfeited pursuant to some other provision of this chapter. If at the time the court orders forfeiture the subject animal is not immediately available to the Animal Management Officer for impoundment, then the owner shall produce the subject animal at the direction of the Animal Management Officer within 24 hours of the order. Failure to produce the subject animal as directed shall constitute a violation of subsection F below.

In determining whether an animal shall be forfeited under this section the Municipal Court shall consider the following factors in relation to the health and safety of the community and the animal involved:

- (1) Whether the animal attacked another animal, including human beings, and the nature of that attack;
- (2) The existence of any provocation or other extenuating circumstances relevant to the animal’s behavior;
- (3) The apparent ability of the owner to properly care for the animal including corrective actions taken to lessen the chances of a future violation of the animal code;
- (4) Whether the animal was involved in other incidents, including incidents of animal at large;
- (5) Past allegations of improper care involving the animal, owner, or caregiver;
- (6) Any expert evaluation in regard to the animal or owners care, treatment, or disposition;
- (7) Any other factor the court determines is relevant to the health and safety of the community or animal.

If the animal is said animal to be euthanized, it shall be euthanized in a humane manner in compliance with the policies of the shelter. if, after a judicial hearing, it finds that: (1) such animal is vicious and that it represents a clear and present danger to the citizens or other animals in the community; or (2) the animal is experiencing extreme pain or suffering. Any animal that remains unclaimed for five days after its release has been ordered by the court may be euthanized or placed for adoption at the discretion of the animal shelter. The owner shall be liable for the costs of the care, keeping or disposal of the animal.

(EF) Failure to Produce Animal: The owner or custodian of any animal subject to impoundment under ~~paragraph (A) of this section shall produce the subject animal at the direction of the Animal Management Officer or Peace Officer within 24 hours of receipt of the summons or citation or upon order of the Court. Shall, on demand of an Animal Management Officer, or other person who may be so authorized by this chapter, produce the animal for impoundment as prescribed in this section.~~ It shall be unlawful for the owner of any such animal to fail or refuse to produce the animal as directed on demand. Failure to produce an animal is a criminal offense, punishable by a fine or imprisonment or both, as provided in Section 1-8-1, W.M.C.

6-7-10. - Kennels.

(A) Operation of Kennel Requirements: It shall be ~~unlawful~~ a civil infraction to maintain or operate a kennel without first obtaining a license from the City. A kennel may not be located within a residentially zoned district, or the residential area of a PUD zone district unless specifically allowed in the PUD.

(B) *Licenses: Issuance; Renewal:* Kennel licenses shall expire on the 31st day of December each year. No kennel license shall be issued until an inspection certificate has been issued by an Animal Management Officer or designee. The license issued shall specify the maximum number of animals permitted. It shall be ~~unlawful~~ a civil infraction for the licensee to keep any number of animals in excess of the maximum specified on the license. All applicants for a kennel license within the City, if required to be licensed by the Colorado Department of Health or the Colorado Department of Agriculture, must have a valid license issued by said department to qualify for licensing by the City. The possession of a State license, however, shall not in itself assure that a city license will be granted to anyone. Standards and regulations affecting kennels may be adopted by the City that are more restrictive than applicable state standards.

(C) *Revocation or Suspension of Licenses:* The City Manager may suspend or revoke the license of any person operating a kennel licensed under this chapter that is in violation of any provision of this chapter, zoning law, health law, or any other applicable ordinance or statute, or who maintains the kennel in such a manner as to be detrimental to the health, safety or welfare of persons residing in the immediate vicinity, or detrimental to the health, safety and welfare of animals being kept by the licensee. Such suspension or revocation shall follow the procedures established in Title V, Chapter 1 of this Code.

(D) *Exceptions:* The following must possess a current kennel license issued by the City, but are not required to pay any fee for such license:

- (1) A veterinary hospital operated by a veterinarian currently licensed by the State of Colorado.
- (2) A bona-fide publicly or privately owned zoological park.
- (3) A bona-fide research institution using animals for scientific research.
- (4) A publicly owned animal shelter.
- (5) A bona-fide animal shelter operated by an organized humane society.
- (6) Schools.

(E) *Care of Animals:* It shall be unlawful for any person who operates a kennel to fail to maintain the facilities in a sanitary condition, to fail to provide proper heating and ventilation, space appropriate to the size, weight and species of animal, adequate nutrition, and humane care and treatment for all animals in his care.

~~(F) Any person who violates subsections (A) or (B) shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00. Any person who violates subsection (E) shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.~~

6-7-11. - Pet Shops.

(A) It shall be ~~unlawful~~ a civil infraction to own or operate a pet shop without having obtained a valid class "A" or class "B" pet shop license from the City.

(1) A CLASS "A" license shall not entitle the licensee to sell or offer for sale any exotic animals. A pet shop with a CLASS "A" license shall be confined in a building that is totally enclosed, and all pet shop animals shall be confined exclusively within that building. The pet shop may not have outside runs or pens and none of the pet shop animals may be harbored outside the building at any time for any reason.

(2) A class "B" license shall entitle the licensee to sell or offer for sale any exotic animals. At the request of the City, a pet shop with a class "B" license shall board any impounded exotic animals. Reimbursement for board of such animals shall be at the rates established in this chapter. Impounded

animals shall be clearly identified and kept separate from other pet shop animals. The licensee shall provide written notice to the animal management officer of any release or disposition of any impounded animal. A class "B" pet shop may have an outside run or pen to be used solely for harboring reptiles, so long as the outside run or pen is fully enclosed and secure. Prior to issuance of a class "B" license, the applicant shall provide a bond, issued to the City by a qualified corporate surety licensed to do business in the State of Colorado in a penal sum not less than \$10,000.00, conditioned upon the faithful boarding of impounded animals pursuant to this chapter and regulations issued by the Chief of Police.

(B) *Licenses; Issuance; Renewal Requirements:* Pet shop licenses shall expire on the 31st day of December of each year. No pet shop license shall be issued until an inspection certificate has been issued by the Animal Management Officer or his designee. All applicants for a pet shop license within the City, if required to be licensed by the Colorado Department of Health, must have a valid license issued by said Department to qualify for licensing by the City. The possession of a state license, however, shall not in itself assure that a city license will be granted to anyone. Standards and regulations affecting pet shops may be adopted by the City that are more restrictive than applicable state standards.

(C) *Revocation or Suspension of Licenses:* The City Manager may suspend or revoke the license of any person operating a pet shop licensed under this section that is in violation of any provision of this chapter, zoning law, health law or any other applicable law of the City or of the State of Colorado, or who maintains the pet shop in such a manner as to be detrimental to the health, safety or welfare of persons residing in the immediate vicinity or detrimental to the health, safety, and welfare of animals being kept by the licensee. Such suspension or revocation shall follow the procedures established in Title V, Chapter 1 of this Code.

(D) *Care of Animals:* It shall be unlawful for any person who operates a pet shop to fail to maintain the facilities in a sanitary condition, to fail to provide proper heating and ventilation, space appropriate to the size, weight and species of animal, adequate nutrition, humane care and treatment for all animals in his care, and to fail to take reasonable care to release for sale, trade or adoption only those animals that are free of disease or injuries.

(E) Any person who violates subsection (A) shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00. Any person who violates subsection (D) shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.

6-7-12. - Restrictions on Sale and Possession of Animals.

(A) *Animals in Residential Districts:*

(1) It shall be ~~unlawful~~ a civil infraction for anyone to knowingly possess, harbor, keep, maintain, or permit on any property within the city zoned for residential use more than ten domestic animals, of which no more than ~~three~~ four shall be ~~a combination of~~ dogs or cats over the age of four months; or more than the number of bee hives allowed in Subsection 6-7-12(H), W.M.C.; or more than the number of female chickens allowed in Subsection 6-7-12(I), W.M.C. For purposes of this subsection any animal being kept as an emotional support animal or ADA service animal shall count toward the pet limits established in this subsection.

(2) In addition to being a violation of this section, the same is hereby declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

If the keeping of animals under this subsection (A) is in conflict with any provision of this chapter concerning exotic, endangered, or prohibited animals, or any state or federal statute or regulation, such other provision, statute or regulation shall control. This subsection (A) shall not include fish.

(B) *Animals Limited:*

(1) It shall be ~~unlawful~~ a civil infraction to keep or maintain livestock in residential, business, commercial, and industrial zoned districts, and planned unit developments unless specifically allowed in

the PUD, excepting that livestock shall be permitted in parcels zoned 0-1 or in parcels of ten acres or more in size in all zoning districts prior to commencement of construction on the parcel. In any case, the number of animals kept in a PUD shall not exceed the number permitted by the provisions of the official development plan. Livestock, excluding fowl, shall have one-half acre of pasture available for each animal.

(2) It shall be ~~unlawful~~ a civil infraction to keep or maintain bees or chickens within the city except in lots zoned 0-1; or in lots of ten acres or more in size in all zoning districts prior to commencement of construction; or in single-family detached residential lot pursuant to the requirements of Subsection 6-7-12(H) and Subsection 6-7-12(I), W.M.C, unless specifically prohibited by the lot's applicable official development plan. In addition to being a violation of this chapter, the keeping of bees or chickens in violation of this chapter is declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

(C) *Prohibited Endangered and Exotic Animals:* It shall be unlawful for any person to import, offer for sale, sell, keep, maintain, harbor or permit anywhere in the City any prohibited animal, or endangered species as defined in this chapter. It shall be unlawful for any person to offer for sale, sell, or permit the sale of any exotic animal unless in a pet shop with a class "B" license.

(D) *Federal and State Statutes and Regulations:* It shall be ~~unlawful~~ a civil infraction for any person to import, offer for sale, sell, keep, possess or willfully maintain, harbor or permit in the City any animal in violation of any state or federal statute or regulation.

(E) *Exceptions:* The prohibitions in subsections (B) and (C) of this section shall not apply to any of the following:

- (1) A bona fide publicly or privately owned zoological park.
- (2) A bona fide research institution using animals for scientific research.
- (3) A circus duly authorized to do business in the city.
- (4) A veterinary hospital operated by a veterinarian currently licensed by the State of Colorado.
- (5) Wildlife rehabilitators, falconers, or scientific collection permit holders who are currently licensed by Colorado Parks and Wildlife.

(F) *Potbellied Pigs:* It shall be ~~unlawful~~ a civil infraction for any person to possess, harbor, keep, maintain or permit at his dwelling within the City any potbellied pig or any pig purporting to be a potbellied pig, unless the owner complies with the requirements of this section. It shall be unlawful for any owner to fail to comply with these requirements.

(1) ~~The pig must be registered through a bona fide potbellied pig registry.~~ (2) The owner of any potbellied pig four months of age or older shall obtain a permit issued by the City of Westminster for the pig. Upon proof of ~~registration through a bona fide potbellied pig registering and proof of spay or neutering,~~ the City shall issue a permit.

~~(3)~~ An identification tag with the owner's name and phone number shall be attached to a harness and worn by the pig at all times when not on the owner or custodian's property.

~~(4)~~ ~~A potbellied pig shall be neutered prior to four months of age.~~

~~(4)~~ A potbellied pig shall not exceed 95 pounds in weight.

~~(5)~~ No more than one potbellied pig shall be permitted on any residential property.

~~(6)~~ A potbellied pig kept on residential property shall be kept as a pet for personal enjoyment, and not kept or raised for breeding, sale, or human consumption.

(G) *Public Sale of Animals:* It shall be unlawful for any person to knowingly sell an animal ~~follows:~~

(1) From a public highway, street, park or any public property adjacent to a public highway, street or park; or

(2) From any commercial private property without the express written consent of the owner or lessee of the property; or

(3) That is weak, sick, or un-weaned; or

(4) That is a cat or dog fewer than eight weeks of age.

(H) *Bees:* It shall be ~~unlawful~~ a civil infraction for any person to possess, harbor, keep, maintain or permit on his property within the City bees or bee hives, unless the owner or occupant of the property complies with the requirements of this chapter. It shall be unlawful to fail to comply with these requirements.

(1) The intentional keeping of bees shall require a permit issued pursuant to this chapter, and such permit shall be issued only to the owner or occupant of the property where the bees are to be kept.

(2) Bees may only be kept in a hive located in the rear yard of a single-family detached property with an existing residence.

(3) The maximum number of hives per single-family detached lot shall be allowed as follows:

(a) One-quarter acre or less: two hives;

(b) More than one-quarter acre up to and including one-half acre: four hives;

(c) More than one-half acre up to and including three-quarters of an acre: six hives;

(d) More than three-quarters of an acre: eight hives.

(4) At all times, bees must be provided with a properly designed beehive meeting the following requirements:

(a) All hives shall provide a secure design, sufficient to protect the bee colony from predators;

(b) All hives shall provide adequate shelter from inclement weather conditions, including protection from sun, wind, rain, snow, hail, and extreme temperatures;

(c) Each hive shall not exceed a maximum gross floor area of nine square feet;

(d) Each hive shall not exceed six feet in height, as measured from the ground, excluding the roof element, which may cause the hive's total height to measure not more than seven feet from the ground;

(e) Each hive shall be set back from all rear yard property lines by a minimum of ten feet.

~~(65)~~ A six-foot tall flyaway barrier or privacy fence within the rear yard shall be erected and maintained in good condition at all times.

~~(76)~~ A fresh water supply for the bees shall be maintained in the rear yard of the property at all times, in a location readily accessible to all bees kept in the rear yard of the property.

~~(87)~~ Honeycomb that is removed from a hive must immediately be moved away from the hive and enclosed in a bee-proof and predator-proof location, building, or storage container.

~~(98)~~ Unused hive components, beekeeping equipment, and supplies associated with beekeeping must be enclosed in a bee-proof location, building, or storage container and inaccessible to bees.

~~(109)~~ Aggressive or Africanized bees are prohibited.

~~(110)~~ In addition to being a violation of this chapter, the keeping of bees in violation of this chapter is declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

(I) *Chickens:* It shall be ~~unlawful~~ a civil infraction for any person to possess, harbor, keep, maintain or permit on his property within the City any chickens, unless the owner or occupant of the property complies with the requirements of this chapter. It shall be unlawful to fail to comply with these requirements.

(1) The keeping of chickens shall require a permit issued pursuant to this chapter, and such permit shall only be issued to the owner or occupant of the property where the chickens are to be kept.

(2) Chickens may only be kept in the rear yard of a single-family detached property with an existing residence and with a proper chicken coop meeting the following requirements:

(a) A coop shall be fully enclosed, having floors, walls, and roofs sufficient to protect the chickens from predators;

(b) Each coop shall provide a minimum of six square feet of living space per chicken;

(c) A coop shall provide adequate shelter from inclement weather conditions, including protection from sun, wind, rain, snow, hail, and extreme temperatures;

(d) Each coop shall not exceed a maximum gross floor area of 120 square feet;

(e) A coop shall not exceed six feet in height as measured from the ground;

(f) A coop shall be set back from all rear yard property lines by a minimum of ten feet;

(g) Only one coop is allowed per rear yard.

(3) Only hens (female chickens) are permitted.

(4) The maximum number of chickens per single-family detached lot shall be as follows:

(a) Lots up to two acres: six chickens;

(b) Lots more than two acres: 12 chickens.

(5) Chickens shall be securely kept within a coop in the rear yard from dusk until dawn. If allowed to roam within the enclosed rear yard at any time from dawn until dusk, chickens shall be rendered unable to fly.

(6) A rear yard with chickens shall be fully screened by a privacy fence a minimum of six feet in height located on or inside all property lines of the rear yard; except that lots opening to city-owned open space are not required to erect a privacy fence along the property line shared with the City.

(7) Animal 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.

(8) A fresh water supply for the chickens shall be maintained in the rear yard property at all times, in a location readily accessible to all chickens.

(9) Chicken feed shall be enclosed in a re-sealable, airtight, vermin-proof container.

(10) The slaughtering of chickens is permitted only indoors and slaughtering shall be limited only to those chickens allowed by permit for the specific property. Entrails and remains shall be disposed of properly. The slaughtering of chickens outdoors is prohibited.

(11) In addition to being a violation of this chapter, the keeping of chickens in violation of this chapter is declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

(J) Any person who violates subsection (A), (B), (D), (E), (F), (H), or (I), shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00. Any person who violates subsection (C) or (G) shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.

6-7-13. - Care and Treatment.

(A) *Cruelty to Animals:* It shall be unlawful for any person knowingly, recklessly or with criminal negligence to overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry or confine in or upon any vehicle in a cruel or reckless manner, or allow to be housed in a manner that results in chronic or repeated serious physical harm of any animal. Neglect of an animal resulting in the death of the animal shall constitute cruelty. Ownership of the animal or the commission of such acts on private property shall not be a defense to prosecution for violation of this section.

(B) *Poisoning:* It shall be unlawful for any person to knowingly poison any domestic animal or livestock, or to knowingly distribute poison or toxicants on public or private property in any manner whatsoever that causes the poisoning of any domestic animal or livestock. This provision shall not apply to the extermination of undesirable pests as defined in Articles 7, 10, and 43 of Title 35, C.R.S.

(C) *Neglect of Animals:* It shall be unlawful for the owner or ~~any person entrusted with the care~~ custodian of any animal or bees to deprive or fail to provide such animal or bees of adequate and wholesome food, water, or protection from the weather as shall be consistent with the keeping of the species, breed, and type of animal or bees involved; to fail to provide the animal with proper protection from extremes in temperatures; to fail to provide the animal with an opportunity for exercise; to fail to provide the animal with adequate veterinary care; or to otherwise neglect the animal or bees in such a manner as to endanger its health or cause it to suffer or die.

(1) For purposes of this subsection it shall be a rebuttable presumption that any animal that is found to be at large 3 times or more during a 12-month period is being neglected in a manner such as to endanger its health.

(D) *Sanitation:* It shall be unlawful for the owner or custodian of any animal or bees to fail to maintain the premises upon which animals or bees are kept in a clean and sanitary condition, which premises shall be subject to inspection at all reasonable hours by city representatives.

(E) *Abandoning Animals:* It shall be unlawful for any person to knowingly abandon an animal by leaving the animal with intent not to return within a reasonable time. Abandonment includes, but is not limited to, the dumping of an animal from a moving or stationary motor vehicle. This section shall not apply to voluntary relinquishments to the animal shelter, an animal management officer or to a licensed veterinarian.

(F) *Confinement of Animals:* Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area as well as adequate shelter, food, and water. If the animal is restricted by a leash, rope, chain or cable, it shall be affixed in such manner that it will prevent the animal from becoming entangled or injured, and permit access to adequate shelter, food and water.

(G) *Display or Sale of Dyed or Immature Animals:* It shall be unlawful for any person to possess, display, sell, barter or give away, dyed, colored or in any way artificially treated baby chicks, ducklings, fowl, rabbits or any other animal as pets, playthings, novelties, gifts or for any other purpose.

(H) Fighting Animals: It shall be unlawful for any person to cause, sponsor, instigate, allow or encourage any animal to fight with another of its own species or with another of a different species. It shall be unlawful for any person to train, breed or keep any animal for the purpose of fighting. It shall be unlawful for any person to maintain a place where animals are permitted to fight for exhibition, wager or sport.

(I) Feeding of Wild Animals: It shall be unlawful a civil infraction to knowingly place or provide food for any wild animal. This prohibition shall not apply to squirrels or birds.

(J) Animal in Vehicle: It shall be a civil infraction for any owner or custodian to leave or confine the animal in any unattended motor vehicle under conditions that endanger the health or well-being of the animal due to heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(1) For purposes of this section it shall be a rebuttable presumption that the conditions inside a vehicle pose a danger to the health or well-being of an animal if the outdoor temperature is over 80 degrees Fahrenheit or under 32 degrees Fahrenheit according to the National Weather Service.

(K) Any person who violates subsections (I) or (J) shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00. Any person who violates subsections (A) – (H) shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.

6-7-14. - Capturing Animals.

(A) An Animal Management Officer or peace officer is authorized to enter in or upon private property, including motor vehicles and fenced areas but not private buildings, to apprehend an animal running at large, a vicious animal, an animal suspected of being infected with rabies, or an animal that the officer reasonably believes is neglected, sick or injured such that the animal faces a serious risk of death or substantially suffering.

(B) An Animal Management Officer or peace officer is authorized to use tranquilizer guns, humane traps or other suitable devices to subdue or apprehend a stray animal, pet animal running at large, or wild animal, and is authorized to destroy an animal that the officer reasonably believes to be an immediate danger to the officer or to the public.

(C) An Animal Management Officer or peace officer is authorized to place a humane trap on private property for the purpose of capturing a stray animal, wild animal, or pet animal running at large, when requested to do so by the owner or possessor of the property.

(D) It shall be unlawful for any person to set or cause to be set any steel-jaw leg hold trap, snare, or any trap other than a humane trap for the purpose of capturing an animal, whether wild or domestic, excepting a licensed or recognized business that has been given permission by Colorado Parks and Wildlife, the Colorado Department of Health, or the animal management officer to trap problem wildlife. Any trapping authorized under this chapter must be in compliance with the Colorado Constitution and Statutes.

(E) Any person who violates subsection (D) shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.

6-7-15. - Fees.

Fees for permit, license, impound, adoption, and other services rendered under this chapter shall be as listed below. Fees are in addition to any fines or penalties imposed in court proceedings.

(A) Licenses..... Fees

Kennel license\$25.00

Pet shop license—Class "A"25.00

Pet shop license—Class "B"500.00

(B) Impound fees, boarding fees, adoption fees, relinquishment fees and fees for veterinary care shall be as established by the animal shelter.

(C) The fee for a bee permit, a chicken permit, or a pot-bellied pig permit shall be set by the City Manager or his designee in an amount to cover the costs of administering the permit program.

6-7-16. - Interference.

(A) It shall be unlawful for any person, by using or threatening to use, violence, force, or physical interference, or obstacle, to knowingly obstruct, impair, or hinder an Animal Management Officer or peace officer in the discharge of his duties as herein prescribed.

(B) It is no defense to a prosecution under this section that the Animal Management Officer or peace officer was acting in an illegal manner, if he was acting in the regular course of assigned duties and in good faith based upon surrounding facts and circumstances.

(C) It shall be unlawful for any person to refuse to reveal his correct name, address, and date of birth when requested to do so by an Animal Management Officer or peace officer engaged in any of his duties prescribed herein.

(D) Any person who violates this section shall, upon conviction, be guilty of a criminal offense, and shall be punished by a fine or confinement as specified under Section 1-8-1.

6-7-17. - Penalties.

~~(A) The following provisions of this chapter are hereby deemed criminal violations of this Code. Any person who violates any of the provisions of this chapter listed in this subsection (A) shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or by confinement in jail, or by both such fine and imprisonment as specified in Section 1-8-1, W.M.C., subject to any recommended minimum fines:~~

Section 6-7-3	Animal bites
Sections 6-7-8(B) and (C)	Vicious animals and potentially dangerous animals
Section 6-7-9(D)	Failure to produce animal
Section 6-7-10(E)	Care of animals
Section 6-7-11(D)	Care of animals
Section 6-7-12(G)	Sale of animals
Section 6-7-13(A) — (I)	Care and treatment
Section 6-7-16	Interference

~~(B) The Animal Management Officer, or the City Attorney or his designee, may recommend that one or more special sanctions or conditions be levied against any owner convicted of a violation pursuant to Subsection 6-7-8(B) or 6-7-8(C), W.M.C. This recommendation may be presented to the Municipal Judge as a proposed condition of sentencing upon conviction and may be in lieu of or in addition to the requirements and penalties specified in this chapter. Proof that a recommended sanction or condition has been previously satisfied or would not serve its intended purpose may be presented to the municipal judge for consideration in sentencing.~~

~~(C) If the Animal Management Officer, or the City Attorney or his designee, recommends destruction of the animal in an expeditious and humane manner, or permanent removal of the animal from the City, the Municipal Judge shall conduct a judicial hearing to determine the disposition of the animal. At such judicial hearing, the Municipal Judge may take into consideration the severity of the incident, the prior history of~~

~~the owner and/or animal, and the recommendation of the Animal Management Officer, City Attorney, or an animal behavior professional. The provisions of this paragraph shall not in any way limit the power of the Municipal Judge, on his own motion, to impose special sanctions as he deems appropriate.~~

(DB) The failure or refusal to produce an animal pursuant to Subsection 6-7-9(D), W.M.C., shall subject the owner to immediate arrest, should probable cause exist to believe that the owner is harboring or keeping the animal and refuses to produce it upon such demand. Upon arrest, the owner shall be held to appear before the Municipal Judge, who may order the immediate production of the animal. Each day of such willful refusal to produce the animal shall constitute a separate violation and offense.

~~(E) — All violations of this chapter not listed in subsection (A), above, are hereby deemed civil infractions of this Code and, upon conviction thereof, may be punished by a recommended fine.~~

(FC) Recommended minimum fines: Recommended minimum fines upon conviction may be imposed as listed below:

(1) First offense—Recommended fine of not less than \$75.00. Second and subsequent offenses—Recommended fine of not less than \$100.00:

6-7-2(B)	Refusal to provide proof of vaccination
6-7-2(C)	Harboring unvaccinated dogs and cats
6-7-2(D)	Non-transferability—Vaccination certificates or tags
6-7-3(A)	Duty to report animal bite
6-7-3(C)	Failing to report suspected rabies
6-7-3(D)	Refusal to produce animal
6-7-3(E)	Removal of animals from confinement
6-7-4(B)	Failure to display dog license tag
6-7-5(B)	Failure to confine
6-7-6(A)	Removal of animal excrement
6-7-6(B)	Damage to property
6-7-7(A)	Disturbance
6-7-7(C)	Failure to exercise control
6-7-10(E)	Failure to care for animals
6-7-11(D)	Failure to care for animals
6-7-12(F)	Potbellied pig requirements
6-7-12(H)	Bee keeping requirements
6-7-12(I)	Chicken husbandry requirements
6-7-13(D)	Sanitation
6-7-13(F)	Confinement of animals
6-7-19	Bee permitting
6-7-20	Chicken permitting

(2) First offense—Recommended fine of not less than \$100.00. Second and subsequent offenses—Recommended fine of not less than \$150.0:

6-7-2(A)	Failure to have dog or cat inoculated
6-7-4(A)	Failure to have dog licensed
6-7-4(C)	Transfer of dog license tag

6-7-9(D)	Failure to produce animal
6-7-10(A)	Unlicensed kennel
6-7-11(A)	Unlicensed pet shop
6-7-12(A)	Animals in residential districts limited
6-7-12(B)	Livestock limited
6-7-12(C)	Prohibited, endangered and exotic animals
6-7-12(D)	Federal or state prohibited animals
6-7-12(G)	Sale of animals
6-7-13(A)	Cruelty to animals
6-7-13(B)	Poisoning animals
6-7-13(C)	Neglect of animals
6-7-13(E)	Abandoning animals
6-7-13(G)	Displaying or sale of dyed or immature animals
6-7-13(H)	Fighting animals
6-7-13(I)	Feeding of wild animals
6-7-16	Interference

(3) Reduced fine for neuter or spay:

~~6-7-5(A) — Animals running at large: First offense—A recommended fine of not less than \$275.00, except that if the animal has been neutered or spayed, the fine may be reduced to \$75.00. Second and subsequent offenses—Recommended fine of not less than \$300.00, except that if the animal has been neutered or spayed, the fine may be reduced to \$100.00.~~

6-7-8(B) Requirements for possession of a potentially dangerous animal: First offense—A recommended fine of not more than \$300.00, except that if the animal has already been neutered or spayed, the fine may be reduced to \$100.00.

6-7-8(C) Requirements for possession of a vicious animal: First offense—Recommended fine of not less than \$300.00, except that if the animal has already been neutered or spayed, the fine may be reduced to \$200.00.

(4) Any other section hereof not specifically listed above:

First offense—Recommended fine of not less than \$50.00.

Second and subsequent offenses—Recommended fine of not less than \$75.00.

(G) An animal management officer may, in his or her professional judgment, determine that bees are aggressive or africanized, as prohibited by Subsection 6-7-12(H)(10), and may pursue summary abatement of a hive or bees to prevent imminent danger of serious injury to persons or property, as authorized by Section 8-4-4, W.M.C.

6-7-18. - Guard Dogs.

It shall be ~~unlawful~~ a civil infraction to place or maintain a guard dog in any area for the protection of persons or property unless the following conditions are met:

(1) The dog is physically confined to a specific enclosed area that is adequately built or constructed to ensure that the dog will not escape; or

(2) The dog is under the complete and absolute control of the handler at all times; and

(3) Warning signs are conspicuously posted indicating the presence of the guard dog and such signs will include a current telephone number where some person responsible for controlling the guard dog can be reached at all times; and

(4) The dog has a current dog license.

Any person who violates this section shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00.

6-7-19. - Bee Permitting.

(A) *Bee Permit Required.* It shall be ~~unlawful~~ a civil infraction for any owner or keeper of bees to fail to obtain a permit as required by this chapter prior to the arrival of the bees on the property. It shall be unlawful to own, keep, maintain or allow on property within the City bees in a manner that violates the provisions of this chapter.

(B) *Permit Requirements.* At the time of applying for a permit, an owner or occupant of qualifying residential property, as defined in Subsection 6-7-12(B)(2), W.M.C., shall provide the following to the City in such form as may be reasonably required by the City:

(1) Permit fee;

(2) Complete permit application;

(3) Rear yard plot plan showing location of setbacks, fencing, fly away barriers, water supply, and hives;

(4) The owner or occupant's signed acknowledgement that he or she shall be the permit holder and acknowledgement that the permit holder shall be responsible to reimburse the City for bee-related nuisance abatement costs as may be assessed pursuant to Section 8-4-4, W.M.C.;

(5) The permit holder's signed consent to the City's, or an agent of the City's, entry into and inspection of the rear yard at all reasonable hours to confirm compliance with this chapter;

(6) The permit holder's signed acknowledgement of his or her personal liability for injury or damage to persons or property caused by the permit holder's bees;

(7) If the permit holder is the occupant of rental property, the permit holder shall provide the name and contact information of the property owner; and

(8) Such other information as may be reasonably required by the City.

(C) *Permit Revocation.* A bee permit may be denied, cancelled, or revoked for any violation of the provisions of this chapter related to the keeping of bees.

(D) Any person who violates this section shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00.

6-7-20. - Chicken Permitting.

(A) *Chicken Permit Required.* It shall be ~~unlawful~~ a civil infraction for any owner of a chicken to fail to obtain a permit as required by this chapter prior to the arrival of a chicken on the property. It shall be unlawful to own, keep, maintain or allow on property within the City a chicken in a manner that violates the provisions of this chapter.

(B) *Permit Requirements.* At the time of applying for a permit, an owner or occupant of qualifying residential property, as defined in Subsection 6-7-12(B)(2), W.M.C., shall provide the following to the City in such form as may be reasonably required by the City:

- (1) Permit fee;
- (2) Complete permit application;
- (3) Rear yard plot plan showing location of setbacks, fencing, coop, and water supply;
- (4) The owner or occupant's signed acknowledgement that he or she shall be the permit holder;
- (5) The permit holder's signed acknowledgement of owner's personal liability for injury or damage to persons or property caused by the permit holder's chickens;
- (6) The permit holder's signed consent to the City's, or an agent of the City's, entry into and inspection of the rear yard at all reasonable hours to confirm compliance with this chapter;
- (7) If the permit holder is the occupant of rental property, the permit holder shall provide the name and contact information of the property owner; and
- (8) Such other information as may be reasonably required by the City.

(C) *Permit Revocation.* A chicken permit may be denied, cancelled, or revoked for any violation of the provisions of this chapter related to the care, keeping or maintenance of animals.

(D) Any person who violates this section shall, upon conviction, be guilty of a civil infraction and liable for a fine of up to \$500.00.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of July, 2022.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 8th day of August, 2022.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office