

## Chapter 5

# STANDARD AND PENALTIES CONCERNING ANIMALS<sup>1</sup>

### SECTIONS:

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**6-5-1: Definitions:**

1. Animal means any animal whether domesticated, wild or tamed. (Ord. 4-1991, 8-6-1991)
2. Animal Control Officer means any designated peace officer or other person duly appointed by the Board of Trustees.(Ord. 4-1991, 8-6- 1991)
3. Cruelty To Animals means any act or omission such as those set out in C.R.S. 18-9-202<sup>2</sup> which causes unnecessary or unjustifiable pain or suffering to an animal. (Ord. 4-11991, 8-6-1991)

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<sup>1</sup> Ord. 4-1991 repeals Ord. 5-1985, which related to the control of domestic animals. (Ord. 4-1991, 8-6-1991)

<sup>2</sup> CRUELTY TO ANIMALS/C.R.S. 18-9-202 - CRUELTY TO ANIMALS - NEGLECT OF ANIMALS - OFFENSES. (1) A person commits cruelty to animals if he knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelty beats, needlessly mutilates, needlessly kills, carries or confines in or upon any vehicles in a cruel or reckless manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather, or abandons it.

4. Kennel is defined in the Colorado Revised Statutes 25-4-1101<sup>3</sup> which definition includes the exemptions set out in C.R.S. 25-4-1110 and as such sections be amended. (Ord. 4-1991, 8-6-1991)
5. Owner means any person who keeps, places, transports or harbors an animal within the confines of the Town of Westcliffe, Colorado. (Ord. 4-1991, 8-6-1991)
6. Vaccinated means inoculated with a vaccine and in a manner both of which are approved by the Department of Health. (Ord. 4-1991, 8-6-1991)
7. Department of Health means the Board of Trustees of the Town of Westcliffe, Colorado. (Ord. 4-1991, 8-6-1991)

#### **6-5-2: Control of Animals - Leash Required**

It shall be unlawful for any person whether an owner or not to allow an animal for which he or she is responsible to roam outside of a private premises within the boundaries of the Town of Westcliffe, Colorado unrestrained by a leash or a similar such devise designed to restrict and control the movements of the animal. (Ord. 4-1991, 8-6-1991)

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4. KENNEL/C.R.S. 25-4-1101 - KENNELS (1) "Board" means the State board of health. (2) "Boarding Kennel" means any place or premises used in whole or in part for the purpose of boarding pet animals for compensation or for profit. (3) "Breeding Kennel" means any place or premises used in whole or in part for the purpose of breeding and producing dogs or cats or both for compensation or profit. (4) "Cattery" means any place or premises used in whole or in part for the purpose of boarding or breeding domestic cats for compensation or profit. (5) "Department" means the department of health. (6) "Director" means the executive director of the department of health. (7) "Kennel" means a breeding kennel, a boarding kennel, or a cattery or any combination thereof and includes animal pounds and shelters. (8) "Pet Animal" means dogs, cats, birds, rabbits, guinea pigs, hamsters, mice, snakes, iguanas, turtles, or any other species of wild or domestic animals sold or retained for the purpose of being kept as household pets. KENNEL/C.R.S. 25-4-1110 - EXEMPTIONS FROM PART 11. (1) Except for the provisions of section 25-4-1105, the provisions of this part 11 shall not apply to: (a) A publicly or privately owned zoological park recognized as such by the Department. (b) An animal training facility which boards pet animals only for training purposes; (c) A veterinary hospital which boards pet animals being retained only for veterinary medical care; (d) A research institution using pet animals for scientific research recognized as such by the department. (e) Persons selling, exchanging or otherwise transferring their personally owned dogs or cats or the offspring thereof, the transfer by each such person to be limited to a maximum of twenty dogs or cats per calendar year. "Personally owned dogs or cats", as used in this paragraph (e), includes dogs or cats kept for exhibit, work, companionship, or protection of their owners. (f) Kennels operated for the sale of dogs not intended for the commercial pet trade, such as guard dogs, racing greyhounds, and dogs used for research;(g) A circus.

It shall be unlawful for any person to allow an animal to roam loose on a private premises unless such animal is confined to such premises in such a manner that it cannot escape. (Ord. 4-1991, 8-6-1991)

**6-5-3: Registration, Vaccination and Licensing of Animals**

The Board of Health shall from time to time publish or post vaccination requirements and licensing fees which requirements shall be adhered to and fees paid prior to the issuance of a license. (Ord. 4-1991, 8-6-1991)

In the event an owner fails to timely vaccinate, register or license an animal as required then the licensing fee shall be double the amount otherwise established by the Board of Health. (Ord. 4-1991, 8-6-1991)

**6-5-4: Cruelty to Animals**

It shall be unlawful for any person to commit cruelty to animals. (Ord. 4-1991, 8-6-1991)

**6-5-5: Kennels**

No person shall keep or maintain a kennel within the Town of Westcliffe, Colorado in violation of any provision of C.R.S. 25-4-1103 through C.R.S. 25-4-1108<sup>4</sup> inclusive.

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KENNELS/C.R.S. 25-4-1103 - LICENSE REQUIRED - FEE. (1) No person shall operate a kennel unless such person holds a valid license therefore, as required in this part 11. (2) Each application to operate a kennel shall be made under oath, upon forms supplied by the department, and shall contain the name of the applicant, the places of business for which licenses are sought, such information as may be required by the department concerning physical facilities and equipment necessary to comply with the rules and regulations promulgated by the board, and such other information as the department deems necessary in order for it or an authorized inspection agency to determine the qualifications of the applicant. Each application shall be accompanied by a nonrefundable fee of fifty dollars for each place of business for which a license is sought. Each separate place of business shall be licensed by a separate license. Licenses issued pursuant to this part 11 are not transferable. (3) The department may issue a license and certificate of inspection, by establishment name and address, without a fee to any publicly owned animal pound or shelter or any privately owned nonprofit animal pound or shelter. (4) (a) Application for licensure may be made to the department or to an inspecting agency authorized under paragraph (b) of this subsection (4). (b) All license fees collected pursuant to this part 11 by an inspection agency as authorized by the department to carry out the provisions of this part 11 and any rule or regulation promulgated pursuant thereto, shall be allocated as follows: (I) Thirty dollars of each license fee shall be retained by such inspection agency and used for expenses incurred in performing its duties pursuant to this part (II) (II) Twenty dollars of each license fee shall be transmitted to the state treasurer who shall credit the same to the general fund. (c) If a license application and fee are submitted to the department, the entire fee shall be transmitted to the state treasurer who shall credit the same to the general fund.

(Ord. 4-1991, 8-6-1991)

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25-4-1104 - KENNEL OPERATORS - DUTIES: (1) Every person licensed pursuant to this part 11 to operate a kennel shall: (a) Maintain the facilities used for the breeding or boarding of pet animals in a sanitary condition; (b) Provide adequate ventilation for the facilities used for breeding or boarding pet animals; (c) Provide adequate nutrition for, and humane care and treatment of, all pet animals in its care and control; (d) Maintain adequate heating and cooling in the facilities used for breeding or boarding pet animals; (e) Provide enough space in the area where a pet animal is kept to allow for normal postural movements of such animal; (f) Maintain accurate records of all transactions involving pet animals, which, records shall show the date, the type of pet animal involved, and the parties to such transaction. Such records shall be kept for such length of time as the board by rule or regulation shall prescribe. (g) Comply with all applicable rules and regulations promulgated by the board.

25-4-1105 - EMBARGO AND QUARANTINE ORDER - WHEN MADE: If at any time it appears to the director that any pet animal is, or was during its lifetime, infected with a disease dangerous to the public health, he may place an embargo on said pet animal and may trace, or cause to be traced, the whereabouts of said animal and determine the identity and whereabouts of any other animals which may have been in contact with, or exposed to, such disease. If the director determines that the interest of the public health requires he may: Cause any place or premises licensed pursuant to this part 11 to be quarantined for such time as the department determines to be necessary to protect the public health; prohibit the sale or require the euthanasia and the proper disposal of said animals.

25-4-1106 - RIGHT OF ENTRY - INSPECTIONS: It is lawful for any employee of the department, any employee of any county or district health department, or any other official authorized by the department, who may be charged by the director with the duty of making inspection of premises licensed pursuant to this part 11, to enter any such premises and to inspect the same and to inspect any records required to be kept by this part 11 or by the rules or regulations promulgated pursuant thereto.

25-4-1107 - SUSPENSION OR REVOCATION OF LICENSE. (1) (a) In addition to any other penalties prescribed by this part 11, the department has the power on its own action or on complaint, after an investigation and a hearing at which the licensee is afforded an opportunity to submit evidence, to suspend or revoke any license for any violation of this part 11, and sanitary or other rule or regulation adopted by the department, any public health law of this state, any other state, or the federal government pertaining to the business operation of a kennel, or any of the terms, conditions, or provisions of the license by the licensee or any of the agents or employees of such licensee. Notice of suspension or revocation, as well as any required notice of hearing, shall be in writing and shall be given by mailing the same to the licensee at the address contained in the license. No suspension shall be for a period longer than six months. When a license is suspended or revoked, no part of the fee paid therefor shall be returned to the holder. Suspension or revocation of a license may be reviewed in accordance with article 4 of title 24, C.R.S. (b) No licenses shall be withheld, denied, revoked, suspended, or refused to be issued or renewed, except in conformity with article 4 of title 24, C.R.S.

25-4-1108 - UNLAWFUL ACTS. (1) It is unlawful for any person: (a) To conduct a kennel without having obtained a license therefor from the department and in accordance with the provisions of this part 11; (b) To make a material misstatement in the application for a license to the department during an official investigation; (c) To violate any provision of this part 11 or any rule or regulation made pursuant thereto; (d) To aid or abet another in a violation of this part 11 or of any rule and regulation promulgated pursuant thereto; (e) To allow a license issued pursuant to this part 11 to be used by an unlicensed person; (f) To make any misrepresentation or false promise, through advertisements, employees, agents, or otherwise, in connection with the business operations licenses pursuant to this part 11 or for which an application for a license is pending; (g) To sell any pet animal other than a dog or cat in, by, or from a kennel unless the same is sold by a pet animal dealership licensed pursuant to part 7 of this article; (h) To refuse to permit entry or inspection in accordance with section 25-4-1106.

**6-5-6: Rabies Control**

The Board of Trustees is especially concerned with the control of infectious diseases which may be born or transmitted by diseased or infected animals and therefore adopts C.R.S. 25-4-601 through C.R.S. 25-4-615<sup>5</sup> inclusive with respect to rabid, suspected rabid or uninoculated

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25-4-601 - DEFINITIONS. (1) "County Board of Health" means the body acting as the board of health of a county under the provisions of section 25-1-608. (2) "Health Department" means any county or district health department organized and maintained under the provisions of part 5 of article 1 of this title. (3) "Health Officer" means the person appointed as the health officer of a county, city, or town under the provisions of section 25-1-610. (4) "Inoculation Against Rabies" means the administration of the antirabies vaccine as approved by the department of health. (5) "Owner" means any person who has a right of property in a dog, cat, or other pet animal, or who keeps or harbors a dog, cat, or other pet animal, or who has it in his care or acts as its custodian.

25-4-602 - NOTICE TO HEALTH DEPARTMENT OR OFFICER IF ANIMAL AFFECTED OR SUSPECTED OF BEING AFFECTED BY RABIES. Whenever a dog, cat, or other pet animal is affected by rabies or suspected of being affected by rabies or has been bitten by an animal known or suspected to be affected by rabies, the owner of the dog, cat, or other pet animal, or any person having knowledge thereof, shall forthwith notify the health department or health officer in the county, city, or town in which such animal is located, stating precisely where such animal may be found.

25-4-603 - REPORT OF PERSON BITTEN BY ANIMAL TO HEALTH DEPARTMENT OR HEALTH OFFICER.

Every physician after his first professional attendance upon a person bitten by a dog, cat, or other pet animal shall, within twelve hours, report to the health department or health officer the name, age, sex, and precise location of the person so bitten. When no physician attends, the parent or guardian of every child so bitten shall, within twelve hours after first having knowledge that the child was so bitten, make a like report to the health department or health officer; and, when no physician attends an adult so bitten, an adult or person caring for him shall make a like report to the health department or health officer.

25-4-604 - ANIMAL ATTACKING OR BITING PERSON TO BE CONFINED - EXAMINATION.

The health department or health officer shall serve notice upon the owner of a dog, cat, or other pet animal which has attacked or bitten a person to confine the animal at the expense of the owner upon his premises or at a pound or other place designated in the notice for a period designated by the department of health. The health department, health officer, or his representative shall be permitted by the owner of such dog, cat, or other pet animal to examine the animal at any time within the period of confinement to determine whether such animal shows symptoms of rabies. No person shall obstruct or interfere with the authorized person in making such examination.

25-4-605 - ANIMALS BITTEN BY ANIMALS KNOWN OR SUSPECTED OF HAVING RABIES TO BE CONFINED The health department or health officer shall serve notice in writing upon the owner of a dog, cat, or other pet animal known to have been bitten by an animal known or suspected of having rabies requiring the owner to immediately treat and confine such animal by procedures outlined by the department of health.

25-4-606 - ANIMAL TO BE CONFINED TO PREVENT SPREAD OF RABIES. Whenever the board of health of a health department or the county board of health has reason to believe or has been notified by the department of health that there is imminent danger that rabies may spread within that county or district, such board shall serve public notice by publication in a newspaper of general circulation in such county or district covered by such department requiring the owners of dogs, cats, and other pet animals specified to confine such dogs, cats, or pet animals for such period as may be necessary to prevent the spread of rabies in such county or district.

25-4-607 - ORDER OF BOARD OF HEALTH REQUIRING INOCULATION OF ALL PET ANIMALS. When it is deemed advisable in the interest of public health and safety, the board of health of an organized health department or a county board of health may order that all dogs, cats, or other pet animals in the county

animals within the boundaries of the Town of Westcliffe, Colorado. (Ord. 4-1991, 8-6-1991)

The penalties for violation of any part of the said statutes shall be as set forth herein. (Ord. 4-1991, 8-6-1991)

**6-5-7: Authority of Animal Control Officers**

Any Animal Control Officer shall have the authority to immediately impound any animal found within the boundaries of the Town of Westcliffe which is in violation of this ordinance. (Ord. 4-1991, 8-6-1991)

In the event an animal cannot be captured or becomes uncontrollable or vicious, the animal control officers are specifically authorized to employ whatever means, devices, restraints or medication including destruction of the animal which in the officer's discretion is appropriate in

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or district be vaccinated against rabies, such vaccination to be performed by a licensed veterinarian.

25-4-608 - NOTICE OF ORDER REQUIRING INOCULATION OF ALL PET ANIMALS.

The order of a board of health of a health department of a county board of health requiring inoculation of all dogs, cats, or other pet animals shall not become affective until twenty-four hours after notice of adoption of the order requiring inoculation of all dogs, cats, or other pet animals has been published in a newspaper of general circulation in the county or district.

25-4-609 - EFFECT OF ORDER REQUIRING INOCULATION OF ALL PET ANIMALS.

Section 25-4-610 and 25-4-611 shall be in force and effect only in those counties, district, or portions of counties or districts where an order requiring inoculation of all dogs, cats, or other pet animals is in effect.

25-4-610 - UNINOCULATED PET ANIMALS NOT TO RUN AT LARGE - IMPOUNDING AND DISPOSITION OF ANIMALS. It is unlawful for any owner of any dog, cat, or other pet animal which has not been inoculated as required by the order of the county board of health or board of health of a health department to allow it to run at large. The health department or health officer may capture and impound any such dog, cat, or other pet animal found running at large and dispose of such animal in accordance with local program policy. Such power to impound and dispose shall extend to any and all animals unclaimed and found or suspected to be affected by rabies, whether wild or domestic. The division of wildlife shall cooperate with and aid the health department or health officer in the enforcement of this section as it affects animals found or suspected to be affected by rabies when such animals are in its care, jurisdiction, or control.

25-4-611 - REPORT TO STATE DEPARTMENT. Each health department or health officer shall furnish information to the department of health concerning all cases of rabies and the prevalence of rabies within the county at any time such information is requested by the department of health.

25-4-612 - ENFORCEMENT OF PART 6 The health officer or health department shall enforce the provisions of this part 6, and the sheriff and his deputies and the police officers in each incorporated municipality and the division of wildlife shall be aides and are instructed to cooperate with the health department or health officer in carrying out the provisions of this part 6.

25-4-613 - LIABILITY FOR ACCIDENT OR SUBSEQUENT DISEASE FROM INOCULATION. The health department, their assistants and employees, the department of health, health officers, or anyone enforcing the provision of this part 6 shall not be held responsible for any accident or subsequent disease that may occur in connection with the administration of this part 6.

25-4-614 - PENALTIES. Any person who refuses to comply with or who violates any of the provisions of this part 6 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days for each offense.

25-4-615 - FURTHER MUNICIPAL RESTRICTIONS NOT PROHIBITED. Nothing in this part 6 shall be construed to limit the power of any municipality within this state to prohibit dogs from running at large, whether or not they have been inoculated as provided in this part 6; and nothing in this part 6 shall be construed to limit the power of any municipality to regulate and control and to enforce other and additional measures for the restriction and control of rabies.

order to protect himself and other persons and to enforce the provisions of this ordinance. (Ord. 4-1991, 8-6-1991)

**6-5-8: Penalties**

Upon conviction for the violation of any provision of this ordinance the Court shall impose the penalties set forth in C.R.S. 13-10-113<sup>6</sup>, but in no event shall any such fine be less than \$100.00. (Ord. 4-1991, 8-6-1991)

**6-5-9: Savings Clause and Severability**

In the event any portion of this ordinance is deemed to be invalid by a competent Court of Law or rendered unenforceable by an act of the Legislature then the remaining portion shall be in full force and effect and shall be severable for that purpose. (Ord. 4-1991, 8-6-1991)

This ordinance is intended to be complementary with and in furtherance of the provisions of State law regarding the matter addressed herein and is not intended to limit the

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PENALTIES. 13-10-113 - FINES AND PENALTIES. (1) Any person convicted of violating a municipal ordinance may be incarcerated for a period not to exceed ninety days or fined an amount not to exceed three hundred dollars, or both. (2) In sentencing or fining a violator, the municipal judge shall not exceed the sentence or fine limitations established by ordinance. Any other provisions of the law to the contrary notwithstanding, the municipal judge may suspend the sentence or fine of any violator and place him on probation for a period not to exceed one year. (3) The municipal judge is empowered in his discretion to assess costs against any defendant who, after trial, is found guilty of an ordinance violation. Such costs shall not exceed fifteen dollars for trial to the court and forty-five dollars for trial by jury. (4) Notwithstanding any provisions of law to the contrary, a municipal court has the authority to order a child under eighteen years of age confined in a juvenile detention facility operated or contracted by the department of institutions or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order of the court, including an order to pay a fine. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours. (5) Notwithstanding any other provisions of law, a child, as defined in section 19-1-103 (4), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of institutions or a temporary holding facility operated by or under contract with a municipal government which shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to section 19-2-204, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of institutions. (6) Whenever the judge in a municipal court of record imposes a fine for a nonviolent municipal ordinance or code offense, if the person who committed the offense is unable to pay the fine at the time of the court hearing or if he fails to pay any fine imposed for the commission of such offense, in order to guarantee the payment of such fine, the municipal judge may compel collection of the fine in the manner provided in section 18-1-110, C.R.S. For purposes of this subsection (6), "nonviolent municipal ordinance or code offense" means a municipal ordinance or code offense which does not involve the use or threat of physical force on or to a person in the commission of the offense.

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enforcement of such law within the boundaries of Westcliffe, Colorado. (Ord. 4-1991, 8-6-1991)