

RESOLUTION NO. 2019-14

**A RESOLUTION REGARDING THE LICENSING, KEEPING, AND CONTROL OF
DOGS AND OTHER ANIMALS IN CLEAR CREEK COUNTY**

WHEREAS, pursuant to C.R.S. §18-9-204.5, the Clear Creek County Board of County Commissioners (hereinafter referred to as the “Board”) has the authority to regulate the ownership of dangerous dogs; and

WHEREAS, pursuant to C.R.S. §30-15-101(1)(a), the Board has the authority to enact a resolution for the control and licensing of dogs and other animals; and

WHEREAS, in order to protect the health, safety, and welfare of the citizens of Clear Creek County, the Board has determined it necessary to provide for the control and regulation of dogs and other animals within Clear Creek County; and

WHEREAS, in order to protect the health, safety, and welfare of the citizens of Clear Creek County, the Board has determined it necessary to provide for the licensing of dogs located in Clear Creek County, and

WHEREAS, due to costs associated with the control and impoundment of animals within Clear Creek County, the Board has determined it is in the best interest of Clear Creek County to provide for certain fees associated with the control, licensing, impoundment, and disposal of animals; and

WHEREAS, on May 20, 2009, the Board adopted Resolution No. 09-45 for the foregoing purposes; and

WHEREAS, the Sheriff’s Office, which is administering the Animal Shelter and Animal Control departments, recommends making changes in adoption fees and in the summons process related to barking dog offenses, and, for purposes of efficiency and clarity, the Board has determined Resolution 09-45 should be repealed, and the provisions updated and then reenacted as a single resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CLEAR CREEK COUNTY
BOARD OF COUNTY COMMISSIONERS, AS FOLLOWS:**

Section 1. Intent

It is the intent of the Board in adopting this Resolution to declare as a matter of public policy that the keeping of animals, including, but not limited to dogs, in Clear Creek County is potentially hazardous and annoying to other citizens of Clear Creek County and that the animal owner, therefore, must assume full responsibility for all animals in the owner’s possession.

Section 2. Definitions



Unless otherwise specified, the following terms have the following meaning as used throughout this Resolution.

- a. "Abandon" means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of the animal.
- b. "Animal" means any living dumb creature.
- c. "Animal Control Officer" means any person empowered by Clear Creek County to enforce the provisions of this regulation including Shelter personnel.
- d. "Control" means physical control of an animal, by means of a leash, cord, or chain no longer than ten feet in length.
- e. "Dog" means any domesticated animal related to the fox, wolf, coyote, jackal, or other animal of the canine species.
- f. "Domestic animal" means any dog, cat, or other animal kept as a household pet, or livestock.
- g. "Disposal" or "Disposition" means adoption of an animal; return of an animal to the owner; release of an animal to a rescue group licensed pursuant to article 80 of Title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of Title 35, C.R.S.; or to a rehabilitator licensed by the Division of Wildlife; or the United States Fish and Wildlife Service; or euthanasia.
- h. "Euthanasia" means to produce a humane death by techniques accepted by the American Veterinary Medical Association.
- i. "Livestock" means bovine, camelids, caprine, equine, ovine, porcine, and poultry.
- j. "Owner" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal.
- k. "Running-at-large" means when an animal is off the owner's premises and not under the owner's control.
- l. "Shelter" means the Clear Creek/Gilpin Animal Shelter.

Section 3. Regulations specific to the licensing of dogs

- a. It is unlawful for any dog owner to keep a dog within Clear Creek County without complying with the licensing provisions of this Resolution.



b. All dogs, located in Clear Creek County and over the age of six months shall be licensed by the County as follows:

- (1) All dogs currently licensed by the County as of the date of the enactment of this Resolution shall be relicensed on or before the expiration date of the dog's current County license.
- (2) All dog licenses shall be renewed annually. The fee shall be \$15.00 for a dog license for all spayed or neutered dogs and dogs officially designated as service dogs. For all other dogs, the annual licensing fee shall be \$30.00.
- (3) All applications for licenses, including renewals, submitted pursuant to this Resolution shall be accompanied by a certification of inoculation by a licensed veterinarian, certifying that the dog has been inoculated against rabies for the then current calendar year. All applications for licenses shall be made on forms provided by the Shelter.
- (4) Upon presentation of a certificate of inoculation for rabies and payment of the applicable fee, the Shelter shall issue or cause to be issued a license certificate and tag to the owner for each dog licensed.
- (5) No refund shall be made on any dog license fee for any reason whatsoever.
- (6) The Shelter shall keep a record of the date of the issue of each dog tag and the number thereof. If the dog tag issued under this regulation is lost or destroyed, the owner shall obtain a duplicate tag from the Shelter, and the Shelter may charge a fee for the issuance of such duplicate license.

c. Penalties for unlicensed dogs: \$50.00 per unlicensed dog.

Section 4. Regulations specific to dogs running-at-large, incorrect license tags, obstruction of Animal Control Officers

- a. It is unlawful for an owner to allow a dog to run-at-large in Clear Creek County. It shall be an affirmative defense to this offense that the dog was actually working livestock; locating or retrieving wild game in season for a licensed hunter; assisting law enforcement officers, ski patrol, or other rescue personnel; or actually training for any of these specific purposes at the time the animal was running-at-large.
- b. It is unlawful for any owner to knowingly permit a license tag for one dog to be affixed to another dog.
- c. It is unlawful for any person to interfere with, molest, hinder, or obstruct an Animal Control Officer, knowing him to be an Animal Control Officer, from discharging his or her duties under this Resolution.



d. Penalties for dog-at-large violations

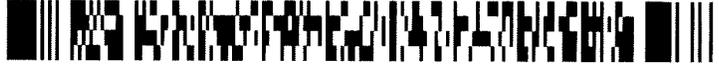
(1) The Board intends for violations of this Section 4 to be tracked by incidents-per-owner and not by dog. For example, where an owner has three dogs and each dog is found running-at-large during the same incident, the owner will be deemed to have committed his first violation of this Section 4 and be cited for three counts. Conversely, where an owner has two dogs (A and B) and dog A is found running-at-large and within a six month period dog B is found running-at-large, the owner shall be deemed to have committed his first violation for dog A and his second violation for dog B.

Violations of paragraph (a) of this Section 4 shall be punishable as follows:

- (A) First violation in any six month period - \$100.00 per dog
- (B) Second violation in any six month period - \$150.00 per dog
- (C) Third violation in any six month period - \$300.00 per dog
- (D) The fine shall increase by \$150.00 per dog for violations four through six and \$200.00 per dog for all subsequent violations.

Section 5. Rules and regulations specific to barking dogs

- a. It is unlawful for any dog owner to allow such dog to disturb the peace or quiet of any other person by loud, habitual, persistent, or repetitive barking, yelping, howling, whining, or other vocal sound whether the animal is kept indoors or outdoors or is on or off the owner's premises.
- b. A written warning or summons may be issued if a complaining witness is willing to sign a written statement. Any officer may give a warning or summons based upon reasonable circumstances if a violation has occurred in their presence.
- c. The written warning/summons process as referenced by paragraph (b) of this section 5 will occur as follows:
 - (1) The written warning must relate to a specific instance of behavior violating paragraph (a) of this section 5.
 - (2) The Animal Control Officer/Department of Clear Creek County Sheriff's Office shall obtain as much information as possible from the complainant, including, but not limited to:
 - (A) The dog owner's name, address, and phone number;
 - (B) A clear description of the dog;
 - (C) A description of the alleged offense;
 - (D) The time, date, place, and duration of the alleged offense.



- (3) The Animal Control Officer has the discretionary authority to issue a written warning if, in the sole determination of the Animal Control Officer, there is sufficient evidence to warrant the issuance of such written warning.
 - (4) The written warning must contain the following language, "Pursuant to Clear Creek County Resolution 2019-14, Section 5(a), a dog owner commits a class 2 petty offense if he/she allows his/her dog to disturb the peace or quiet of any other person by loud, habitual, persistent, or repetitive barking, yelping, howling, whining, or other vocal sound whether the animal is kept indoors or outdoors or is on or off the owner's premises."
 - (5) The written warning shall be served on the owner in one of the following ways: via personal service on the owner; posted on the owner's premises; or placed in the U.S. Mail postage prepaid and addressed to the owner.
 - (6) Issuance of a citation for prior violation of paragraph (a) of this section (5) shall constitute a warning for purposes of paragraph (b) of this section (5). The Animal Control Division shall keep records of all written warnings given and such records shall be prima facie evidence that such warnings were issued and received by the owner.
- d. This section (5) shall not apply to a commercial or public kennel, a commercial or public shelter, a veterinarian's office, or a hospital.

Section 6. Regulations specific to impoundment of animals

a. Impoundment of animals

- (1) An Animal Control Officer may take into custody and impound at the Shelter any animal found running-at-large or without a license tag.
- (2) Pursuant to section 9 of this Resolution, an Animal Control Officer may also impound an animal that has bitten a person or other domestic animal.
- (3) Notwithstanding the provisions of section 9 of this Resolution, if an Animal Control Officer has reasonable grounds to believe that an animal has bitten a person, causing bodily injury, or may be rabid, the Animal Control Officer shall order the animal impounded for a minimum of ten days, and such further time as the Animal Control Officer determines necessary at his discretion even though claimed by the owner.
- (4) Nothing in this regulation shall be construed to prevent an Animal Control Officer or any other law enforcement officer from taking whatever action is reasonably necessary to protect his person or members of the public from injury.



b. Disposition of impounded animals

- (1) No animal shall be disposed of prior to five business days after the date of acquisition by the Shelter.
- (2) Except as otherwise provided by this Resolution, if an impounded animal is not claimed by its owner within five business days of acquisition by the Shelter, the animal automatically becomes property of the Shelter and may be disposed of at the sole discretion of the Animal Control Officer, by adoption, sale, donation, or otherwise; except that the Animal Control Officer may determine that an animal without identification, including but not limited to a microchip or license tag, may be disposed of in three business days if the Animal Control Officer determines the Shelter has no additional resources for such animal or determines that such animal is dangerous.
- (3) In the event the Animal Control Officer destroys an animal determined to be dangerous, such destruction shall not occur prior to completion of rabies quarantine of the animal, in situations where the Animal Control Officer determines such quarantine is necessary.
- (4) For purposes of this section, "business days" means days during which the Shelter is open to the public.

c. Impoundment fees

- (1) The owner is responsible for all impoundment fees and all impoundment fees must be paid prior to an animal's release from impoundment.
- (2) The impoundment fee for the first impoundment of an animal shall be \$50.00. The impoundment fee for the second impoundment of the same animal, who, at the time of the first and second impoundment is owned by the same Owner, shall be \$60.00. The impoundment fee for the third and all subsequent impoundments of the same animal, who, at the time of all impoundments was owned by the same Owner, shall be \$70.00 for the third impoundment and an additional \$10.00 for each subsequent impoundment thereafter. In addition, a fee of \$15.00 per day shall be assessed for each day, after the first day, an animal remains impounded at the Shelter.

Section 7. Adoption – fees

The following fees, which include the costs of spaying or neutering procedures and the distemper vaccination, apply to the adoption of animals by the Shelter:

The fee for the adoption of a kitten or cat is	\$60.00
The fee for the adoption of a puppy or adult dog is	\$100.00
The fee for the adoption of senior age dog (6+ years old) is	\$75.00



Section 8. Violations – penalties

Unless otherwise specified herein, violations of the provisions of this Resolution carry the following penalties:

a. Class 2 petty offenses

Unless otherwise provided by this Resolution, any violation of any provision of this Resolution not involving bodily injury to any person shall be a class 2 petty offense, and, notwithstanding the provisions of C.R.S. §18-1.3-503, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the Clear Creek County jail for not more than ninety days, or both such fine and imprisonment for each separate offense.

b. Class 2 misdemeanors

Unless otherwise provided by this Resolution, any violation of any provision of this Resolution involving injury to a person by an animal shall be a class 2 misdemeanor, and shall be punishable by a fine of not less than two hundred and fifty dollars and not more than one thousand dollars, or by imprisonment of not more than twelve months and not less than three months, or any combination of fine and imprisonment within the parameters set forth in this paragraph (b).

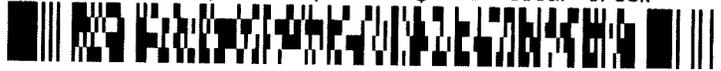
Section 9. Regulations specific to the unlawful ownership of dangerous and aggressive dogs

a. Definitions - As used in this Section 9, the following words shall have the following meanings:

- (1) "Aggressive dog" means a dog that demonstrates tendencies and/or acts in a manner that would cause a reasonable person to believe that the dog may inflict bodily injury or serious bodily injury upon or cause the death of any person or domestic animal.
- (2) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, skin lacerations, or a skin puncture wound whether or not the injury requires professional medical treatment.
- (3) "Dangerous dog" means any dog that: (A) Has inflicted bodily injury or serious bodily injury upon or causes the death of a person or domestic animal; or (B) Has been deemed by a court of record within the State of Colorado to be a vicious or dangerous dog and does not comply with the conditions imposed on such dogs by applicable law and/or court order; or (C) Engages in or is trained for dog fighting as described and prohibited in section 18-9-204, C.R.S.



- (4) "Serious bodily injury" means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.
- b. A person commits the crime of ownership of a dangerous dog if such person owns, possesses, harbors, keeps, or has custody and control over a dog, within Clear Creek County, that:
- (1) Inflicts or causes bodily injury or serious bodily injury upon a person; or
 - (2) Inflicts or causes bodily injury or serious bodily injury upon a domestic animal or causes the death of a domestic animal;
 - (3) Has been determined by a court of record within the State of Colorado to be a vicious or dangerous dog and does not comply with the conditions imposed by applicable law for ownership of the animal.
 - (4) Engages in or has been trained for dog fighting as described and prohibited in section 18-9-204, C.R.S.
- c. A person commits the crime of ownership of an aggressive dog if such person owns, possesses, harbors, keeps, or has custody and control over a dog, within Clear Creek County, that:
- (1) Approaches any person, without provocation, in a menacing manner, whether or not an attack actually occurs; or
 - (2) In an attacking manner encroaches over, through, or under a fence onto the public or the private property of another; or
 - (3) Inflicts a puncture wound, abrasion, or other wound caused by the dog's teeth upon a person or a domestic animal which injury does not meet the definition of bodily injury or serious bodily injury; or
 - (4) Is not being kept in compliance with the conditions imposed by law if the dog has been determined by a court of record within the State of Colorado to be an aggressive dog.
- d. Affirmative Defenses
- (1) Affirmative defenses to a charge of a violation of paragraphs (b) and/or (c) of this section (9) shall be:



- (A) That, at the time of the attack by the dangerous dog which caused injury to or the death of a domestic animal, the domestic animal was at large and entered upon the property of the dangerous dog owner and the attack began, but did not necessarily end, upon such property;
 - (B) That, at the time of the attack by the dangerous dog which caused injury to or the death of a domestic animal, the domestic animal was biting or otherwise attacking the dangerous dog or its owner;
 - (C) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the owner of the dangerous dog, and the attack did not occur on the owner's property;
 - (D) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the dangerous dog owner's property or to the property itself and the attack began, but did not necessarily end, upon such property; or
 - (E) That the person, who was the victim of the attack by the dangerous or aggressive dog, tormented, provoked, abused, or inflicted injury upon the animal in such an extreme manner which resulted in the attack or threat of attack.
- (2) The affirmative defenses set forth in subparagraph (1) of this paragraph (d) shall not apply to any dog that has engaged in or been trained for animal fighting as that term is described in section 18-9-204, C.R.S.

e. Penalties

- (1) Any owner who violates paragraph (b) of this section 9 and whose dog inflicts bodily injury upon any person commits a class 3 misdemeanor. An owner whose dog commits a second or subsequent violation commits a class 2 misdemeanor.
- (2) Any owner who violates paragraph (b) of this section 9 who dog inflicts serious bodily injury upon a person commits a class 3 misdemeanor. Any owner whose dog commits a second or subsequent violation commits a class 6 felony.
- (3) Any owner who violates paragraph (b) of this section 9 whose dog causes death of a person commits a class 5 felony.
- (4) Any owner who violates paragraph (b) of this section 9 whose dog injures or causes the death of a domestic animal commits a class 3 misdemeanor. Any



owner who commits a second or subsequent violation commits a class 2 misdemeanor.

- (5) Any owner who violates paragraph (b) of this section 9 and whose animal damages or destroys the property of another person commits a class 1 petty offense.
- (6) Any owner who violates paragraph (c) of this section 9 commits a class 2 petty offense.

f. Impoundment of dangerous and aggressive dogs

- (1) Mandatory impoundments – An Animal Control Officer shall take into custody a dangerous dog:
 - (A) Upon issuance of a citation to an owner for a violation of Section 9(b) where the victim of the offense is a person who has suffered serious bodily injury, the dangerous dog shall be taken into custody and placed at the Shelter pending final disposition of the charge against the owner.
 - (B) Where an owner has failed to comply with restrictions imposed by applicable state statutes, local ordinance, or court order for the possession of a dog determined to be dangerous or aggressive by a court within the State of Colorado.
 - (C) Where the dog has been engaged in or been trained for animal fighting as that term is described in section 18-9-204, C.R.S.
 - (D) Upon issuance of a citation to an owner for a violation of Section 9(b) where the victim of the offense is a person who has suffered bodily injury, the dangerous dog shall be taken into custody and placed at the Shelter pending final disposition of the charge against the owner. However, the Animal Control Officer has the discretion to allow a mandatory impoundment to occur on the owner's property, if, in the opinion of the Animal Control Officer, the owner's property has the necessary facilities to ensure the complete containment of the dog on the owner's property throughout the pendency of the case against the owner.
- (2) Discretionary impoundments – An Animal Control Officer may take into custody a dangerous dog:
 - (A) Upon issuance of a citation to an owner for a violation of Section 9(b) where the victim of the offense is a domestic animal, the dangerous dog may be taken into custody and placed at the Shelter pending final disposition of the charge against the owner.



- (B) Upon issuance of a citation to an owner for a violation of Section 9(c) the aggressive dog may be taken into custody and placed at the Shelter pending final disposition of the charge against the owner.
 - (C) A dangerous or aggressive dog shall remain impounded unless otherwise ordered released by the court.
 - (D) The Animal Control Officer has the discretion to allow a discretionary impoundment to occur on the owner's property, if, in the opinion of the Animal Control Officer, the owner's property has the necessary facilities to ensure the complete containment of the dog on the owner's property throughout the pendency of the case against the owner.
- (3) Costs associated with impoundments of dangerous or aggressive dogs – The owner shall be responsible for the payment of all costs of care and board for an impounded dangerous or aggressive dog for the entire time the dog is impounded, whether or not the dog is redeemed by the owner. Costs of impoundment shall be calculated pursuant to Section 6(c)(2) of this Resolution. Prior to final disposition of all cases involving charges under Section 9(b), the court shall order the owner to make payment to the Shelter for all impoundment fees, boarding costs, and any reasonable and necessary medical expenses incurred by the Shelter during the impoundment of the dangerous or aggressive dog.

g. Restitution

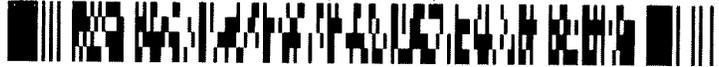
- (1) The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution regarding a violating of this section 9 to make restitution to the appropriate person(s) in the event the attack causes death, serious bodily injury, or bodily injury pursuant to the applicable provisions of title 16, C.R.S., governing restitution.
- (2) The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution to make restitution to the injured or dead domestic animal's owner pursuant to the applicable provisions of title 16, C.R.S., governing restitution. Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in treating the domestic animal and any actual costs incurred in replacing the injured or destroyed domestic animal.
- (3) Any owner whose animal damages or destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.

h. Conditions to be imposed on continuing ownership of dangerous dogs



The court shall order any owner of a dangerous dog who has been convicted of a violation of paragraph (b) of this section 9 to:

- (1) Within thirty calendar days of the final disposition of the case and solely at the owner's expense, have the dangerous dog spayed or neutered. The owner shall provide proof to the Clear Creek Animal Control that the sterilization has been performed within five calendar days of sterilization.
- (2) Within thirty calendar days of the final disposition of the case and at the owner's sole expense, have a microchip containing identification information implanted into the dog. The owner shall provide Clear Creek Animal Control with proof of the microchip implementation and shall produce the dog to Clear Creek Animal Control for verification of the microchip implementation. Clear Creek Animal Control shall maintain records containing the registration number and name of the dangerous dog and the name and address of the owner. The owner shall be responsible for notifying Clear Creek Animal Control of any change in address, ownership, death, or change in ownership of the dangerous dog.
- (3) Confine the dangerous dog in a secure building or enclosure designed to be escape-proof. An underground electric fence does not comply with the requirements of this subparagraph (3).
- (4) Keep the dangerous dog under the owner's control by the use of a leash that is no longer than six feet in length, whenever the dog is outside of the secure building or enclosure.
- (5) Post a conspicuous warning sign on the building or enclosure notifying others that a dangerous dog is housed in the building or enclosure.
- (6) If the conviction is for a second or subsequent offense, the dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.
- (7) Prior to the dangerous dog receiving any service treatment, disclose in writing to any provider of the service or treatment, including but not limited to, a veterinary health care worker, dog groomer, humane agency staff, professional dog handler, or dog trainer, each acting in the performance of his or her respective duties, that the dangerous dog has been the subject of a conviction of a violation of this section.
- (8) Prior to a change, transfer, or termination of ownership or control of the dangerous dog, disclose in writing to the prospective transferee that the dangerous dog has been the subject of a conviction of a violation of this section.



- (9) Immediately notify Clear Creek Animal Control or the local police department in the event the dangerous dog is at-large, stolen, or has acted in a dangerous or aggressive manner.
- (10) At its discretion, the court may order the owner/dangerous dog to complete obedience training, behavior modification training, pet management classes, and/or any other treatment the court deems appropriate, within the time frame the court deems appropriate. The owner shall be required to pay all costs associated with required training and/or classes. The court shall consider the recommendation of the Animal Control Officer when determining the appropriateness of a particular provider of obedience training, behavior modification training, pet management classes, and/or any other treatment.

i. Conditions to be imposed on continuing ownership of aggressive dogs

- (1) Upon conviction or entry of a plea of guilty or no contest or entry into a deferred judgment to a charge of possession of an aggressive animal, the court shall order that the animal subject to the charge shall only be possessed upon the owner's compliance with the following conditions:
 - (A) The owner shall, at the owner's expense, have a microchip containing an identification number implanted into the animal and provide such information to the Clear Creek Animal Control. The owner shall provide Clear Creek Animal Control with proof of the microchip implementation and shall produce the dog to Clear Creek Animal Control for verification of the microchip implementation. Clear Creek Animal Control shall maintain records containing the registration number and name of the aggressive dog and the name and address of the owner. The owner shall be responsible for notifying Clear Creek Animal Control of any change in address, ownership, death, or change in ownership of the aggressive dog.
 - (B) An extension style leash shall not be used upon such dog.
 - (C) The dog shall not be leashed to any inanimate object when off the owner's property.
- (2) In addition to the conditions described in subparagraph (1) above, the court may order that a dog subject to the charge shall only be possessed by the owner upon the owner's compliance with the following conditions:
 - (A) Community service work at an animal shelter.
 - (B) Successful completion of obedience training, behavior modification training, pet management classes, and/or any other treatment pursuant to Section 9(h)(10).



- (C) The owner shall, at the owner's sole expense, have the dog spayed or neutered and shall provide proof to Clear Creek Animal Control that the sterilization has been performed.

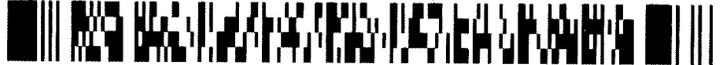
j. Confiscation and destruction of dangerous dogs

For a second or subsequent violation of paragraph (b) of this section 9, resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court may order that the dangerous dog be immediately confiscated and placed in the Shelter and that upon exhaustion of any right an owner has to appeal a conviction based on a violation of this section (9), the dangerous dog be destroyed by euthanasia administered by a licensed veterinarian. In the event the court orders euthanasia, the court shall order the owner to pay all costs associated with euthanizing the dangerous dog.

k. Due process hearing – This section establishes a due process hearing pending trial.

- (1) Within ten days after a dog is seized by an Animal Control Officer pursuant to paragraphs (b) or (c) of this section 9, the owner may petition the county court for a hearing to request the return of the dangerous dog during the pendency of the case. The court shall conduct such hearing at the earliest date available to the court. At the hearing the formal rules of evidence shall not apply. If, on the date of the hearing, the owner does not appear, the court may proceed with the hearing. The court shall allow the parties to present evidence, witnesses, and have the right of cross-examination. The court shall consider as applicable the following:

- (A) The conduct of the animal during the incident charged;
- (B) Any evidence of dangerous, aggressive, or violent behavior by the animal or threats thereof;
- (C) Any prior violations by the owner of this title or any municipal ordinance, or the laws of any state or political subdivision thereof which involves another animal;
- (D) Any prior violations by any other owner, involving the same animal, of any violations of this title or any municipal ordinance, or any laws of the state or political subdivision thereof;
- (E) Any conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal or property;
- (F) Any evidence of any ameliorative action taken by the owner of the animal which would affect the likelihood of any danger to any person, animal or property; and



(G) Any other evidence relevant to the issues as determined by the court.

(2) If, at the hearing, the County establishes by a preponderance of the evidence that there is a reasonable likelihood of future injury to persons, property, or animals, the court shall order the animal to remain impounded at the owner's expense until final disposition of any pending charges.

1. Exceptions

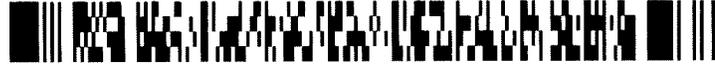
The provisions of this section 9 shall not apply to the following:

- (1) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;
- (2) To any dog that inflicts bodily or serious bodily injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, or trainer each acting in the performance of his or her respective duties, unless the owner has been previously convicted of a violation of paragraphs (b) and/or (c) and the owner has failed to comply with any conditions imposed by the court related to such conviction; or
- (3) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.

Section 10. Regulations specific to cruelty to animals – aggravated cruelty to animals – neglect of animals – offenses

a. Definitions - As used in this section 10, the following words shall have the following meanings:

- (1) “Mistreatment” means every act of omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.
- (2) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.
- (3) “Sexual act with an animal” means an act between a person and an animal involving direct physical contact between the genital of one and the mouth, anus, or genitals or the other. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subparagraph (8) shall be construed to prohibit accepted animal husbandry practices.
- (4) “Serious physical harm” – means any of the following:



- (A) Any physical harm that carries a substantial risk of death;
 - (B) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or
 - (C) Any physical harm that causes acute pain of a duration that results in substantial suffering.
- b. A person commits cruelty to animals if he or she: knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance; unnecessarily or cruelly beats; allows to be housed in a manner that results in chronic or repeated serious physical harm; carries or confines an animal in or upon any vehicle in a cruel or reckless manner; engages in a sexual act with an animal; recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal; 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, veterinary care, and protection from the weather consistent with the species, breed, and type of animal involved, or intentionally abandons the animal. Ownership of an animal is not a justifiable defense to a charge under this paragraph (b).
- c. A peace officer, including an Animal Control Officer, may take possession of and impound an animal that the officer has probable cause to believe is a victim of a violation of paragraph (b) of this section (10) or is a victim of a violation of section 18-9-204, C.R.S. (animal fighting), and as a result of the violation is endangered if allowed to remain with the owner or custodian.
- d. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this section 10 is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.
- e. Penalties
- (1) Except as otherwise provided in this paragraph (e) of this section 10 a violation of paragraph (b) of this section 10 is a class 1 misdemeanor.
 - (2) A second or subsequent conviction under the provisions of paragraph (b) of this section 10 is a class 6 felony. A plea of *nolo contendere* accepted by the court shall be considered a conviction for the purpose of this section.
 - (A) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this subparagraph (2) to probation, the court shall, in addition to any other condition of probation imposed, order that:



- (I) The offender be committed to county jail for ninety days, pursuant to section 18-1.3-201(1), C.R.S.; or
 - (II) The offender be subject to home detention for no fewer than ninety days, pursuant to section 18-1.3-105(3), C.R.S.
- (B) In any case where the offender is committed to the county jail or placed in home detention, the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, C.R.S., including, but not limited to, the cost of care.
- (C) Aggravated cruelty to animals is a class 6 felony, except that a second or subsequent conviction of the offense of aggravated cruelty to animals is a class 5 felony. A plea of *nolo contendere* accepted by the court shall be considered a conviction for the purposes of this subparagraph (C).
- (3) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.
- (4) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.
- (5) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.
- (6) Nothing in paragraphs (3), (4), and (5) of this section (10) shall preclude the court from ordering treatment in any appropriate case.
- (7) Paragraphs (3), (4), (5), and (6) of this section (10) do not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operated under rules set for the by the state of federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

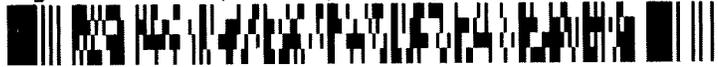


f. Forfeiture of animals

- (1) Upon the motion of the prosecuting attorney or upon the court's own motion, after the conviction of a defendant for a violation of this section 10, the court may order the forfeiture of any animal owned by or in the custody of the defendant that was abused, neglected, mistreated, injured, or used by the defendant during the course of the criminal episode that gave rise to such conviction.

- (2) (A) If an animal is the subject of a motion made under subparagraph (1) of this paragraph (f) and is not owned by the defendant, the court may nevertheless enter an order of forfeiture of the animal if the court finds that:
 - (I) The owner of the animal is unknown; or
 - (II) The owner of the animal is known by cannot be located.

- (B) Any person who contests a motion brought under this section shall establish such person's standing as a true owner of the animal. The factors to be considered by the court in determining whether such person is a true owner shall include but shall not be limited to the following:
 - (I) Whether the person was the primary user, custodian, or possessor of the animal;
 - (II) Whether there is evidence that ownership of the animal is vested in the person;
 - (III) Whether consideration was paid for the purchase of the animal, and, if so, how much of the consideration was furnished by the person.
 - (IV) If the court determines that a person other than the defendant is the true owner of the animal, the court may not enter an order forfeiting the animal under this section unless the court finds:
 - (a) The true owner was involved, knew, or reasonably should have known of the criminal episode described in paragraph (b) of this section (10) and failed to take all reasonable steps available to him or her to prevent it; or
 - (b) Ownership of the animal was conveyed to the true owner in order to avoid a forfeiture.



- (C) An order of forfeiture entered pursuant to this paragraph (f) of this section (10) shall provide for the immediate disposition of the forfeited animal by any means described in paragraph (b) of section (6) other than return to the owner.
- (D) The owner or custodian of an animal that is the subject of a motion brought under this paragraph (f) shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall Clear Creek County or the Shelter be liable for such cost.
- (E) The court in its discretion may order a forfeiture authorized by this section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

g. Affirmative defenses

- (1) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, livestock, a person's domestic animals, or a person.

Section 11. Financial bonding requirements

- (a) Whenever an animal has been impounded pursuant to this Resolution, except pursuant to paragraphs (a)(1) of section 6, an owner may prevent disposition of the animal by the Shelter by posting a bond with the county court in an amount sufficient to provide for the animal's care and keeping including reasonable veterinary care and treatment at the impound agency for at least thirty days, including the day on which the animal was taken into custody. Such bond shall be filed with the county court within ten days after the animal is impounded.
- (b) At the end of the time for which expenses are covered by the bond, if the owner desires to prevent disposition of the animal, the owner shall post a new bond with the court within ten days before the prior bond's expiration. However, the court shall order the immediate disposition of the animal by euthanasia if, in the opinion of a licensed veterinarian the animal is experiencing extreme pain or suffering.
- (c) At the end of the time of which expenses are covered by the bond, the impound agency may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner shall be liable for the cost of the care, keeping, or disposal and including reasonable veterinary care and treatment of the animal regardless of the results of any county court charges or any due process hearing.
- (d) An animal that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge under section 9 or section 10 of this Resolutions shall be deemed abandoned and may be disposed of as the Shelter deems proper.



Section 12. Disposal of dead animals

- (a) It is unlawful for the owner of any animal which dies to dump or abandon such animal on any public or private property. All animals which die or are killed shall be disposed of within twenty-four hours of their death by burial on private property with the permission of the person who owns or is in control of the property or shall be transported to an animal shelter or other suitable facility for proper disposal by their owners, keepers or possessors. All animals must be buried at least two feet underground. But, no dead animal may be buried or placed in any body of water or seasonal creek, pond, or other similar water source, nor shall any dead animal be buried less than 150 feet down gradient from any body of water or seasonal creek, pond, or other similar water source.
- (b) The Shelter will dispose of dead animals weighing less than 120 pounds. For dead animals weighing less than 120 pounds, the Shelter will charge the current rate of the vendor used by the Shelter for this service.
- (c) Violations of this section 12 shall be determined pursuant to paragraph (a) of section 8.

Section 13. Disposition of fines and forfeitures

All fines and forfeitures for the violation of this Resolution and all monies collected by the County for licenses or otherwise shall be paid into the treasury of the County.

Section 14. Liability for accident or subsequent disease from impoundment

The Board, its officers, agents, employees, assistants, and all other persons authorized to enforce the provisions of this Resolution shall not be held responsible for any accident or subsequent disease that may occur to the dog in connection with the administration of this Resolution.

Section 15. Animals impounded from other municipalities

Municipalities within Clear Creek County which impound an animal within the Shelter shall be assessed a fee of fifteen dollars (\$15.00) for each animal impounded. This fee shall serve as payment for the service of a summons upon the Owner by an Animal Control Officer. Any officer of any municipality of Clear Creek County who delivers an animal to the Shelter shall attach to the cage in which the animal is placed a duly executed summons directed to the Owner along with an impoundment card provided by the Shelter.

Section 16. Severability

Should any section, clause, sentence or part of this Resolution be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not effect, impair or invalidate the Resolution as a whole or any part thereof, other than the part so declared to be invalid.



Section 17. Certification

The Clear Creek County Clerk and Recorder shall certify to the passage of this Resolution and shall have on file copies of this Resolution for inspection by the public during business hours.

Section 18. Effective Date

This Resolution is effective immediately upon adoption by the Board of County Commissioners for Clear Creek County and shall apply to offenses occurring or committed on or after said date of adoption.

Section 19. Repeal of Resolution 09-45

Resolution 09-45 is repealed effective the Effective Date.

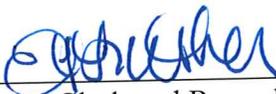
ADOPTED this 7th day of May, 2019, at a regularly scheduled meeting of the Clear Creek Board of County Commissioners.


Sean C. Wood, Chairman

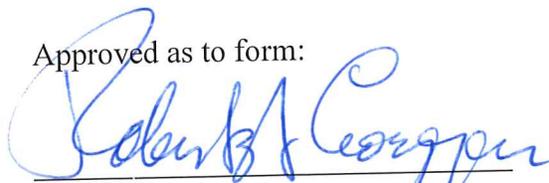

Randy Wheelock, Commissioner


George Marlin, Commissioner

ATTEST:


Deputy Clerk and Recorder
For Brenda L. Corbett
Clear Creek County Clerk and Recorder

Approved as to form:


Robert W. Loeffler, County Attorney