

ORDINANCE NO. 2370

REPEALING THE CITY ORDINANCE ON LICENSING, CONTROL AND CARE OF DOGS, ADOPTING THE MESA COUNTY RESOLUTION CONCERNING THE LICENSING, CONTROL AND CARE OF DOGS, AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. That Articles I and II of Chapter 6 of the Code of Ordinances of the City of Grand Junction are repealed.

2. That Mesa County Resolution MCM 87-72 entitled:

A RESOLUTION ANIMALS RUNNING AT LARGE; RESTRAINT OF VICIOUS DOGS; RESTRAINT OF BARKING DOGS; IMPOUNDMENT AND DISPOSITION OF ANIMALS; AND ESTABLISHING PENALTIES FOR VIOLATION OF SUCH PROVISIONS,

is adopted to replace Articles I and II of the Code of ordinances, the Resolution reading in its entirety as follows:

RESOLUTION NO. MCM 87-72

A RESOLUTION PROVIDING FOR RABIES CONTROL; LICENSING OF DOGS, RESTRAINT OF ANIMALS RUNNING AT LARGE; RESTRAINT OF VICIOUS DOGS, RESTRAINT OF BARKING DOGS, IMPOUNDMENT AND DISPOSITION OF ANIMALS; AND ESTABLISHING PENALTIES FOR VIOLATION OF SUCH PROVISIONS.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MESA, COLORADO:

Section 1 - INTENT

The Board of County Commissioners of Mesa County, Colorado, intends by adopting this Animal Control Resolution to declare as a matter of public policy that the keeping of dogs in Mesa County constitutes a potential threat to the health, safety, and welfare of the citizens of Mesa County; that the dog owners must therefore assume full responsibility and strict liability for the actions and condition of their animals and dogs; that dogs at large, barking dogs, rabid dogs, vicious dogs, and similar animals constitute a public nuisance; that the regulation of animals and the actions of their owners through administrative regulation and civil and criminal enforcement is necessary to protect the citizens of Mesa County and their property; and that the provisions of this Resolution should be liberally construed and are intended to implement the maximum statutory authority for control of rabid animals under C.R.S. 25-4-601 et seq.; control and licensing of dogs under C.R.S. 30-15-101 et seq.; control of unleashed and unclaimed animals under C.R.S. 30-15-101(1)(e); prevention of cruelty to animals under C.R.S. 35-42-108 et seq.; and for the control and abatement of public nuisances under C.R.S. 25-1-501 et seq. and C.R.S. 25-1-601 et seq.; all as amended.

Section 2 - DEFINITIONS

When used in this Resolution, the following words and terms have the following meaning:

2.1 Animal: Any living vertebrate creature, domestic or wild, including dogs but excluding stray animals as defined in C.R.S. 35-44-101(1), as amended.

2.2 Animal Control Center: The facility or facilities designated by the Mesa County Board of County Commissioners for the purposes of impounding, caring, or disposing of animals held under the authority of this Resolution or state law.

2.3 Animal Control Supervisor: The Animal Control Supervisor of Animal Regulations for Mesa County, or his designees, including Animal Regulation Officers.

2.4 Animal Regulation Officer: Any person designated by the Mesa County Board of County Commissioners or the Mesa County Health Officer; the Animal Control Supervisor; Animal Control Center personnel; the Mesa County Sheriff, Under-Sheriffs and deputies acting under authority of C.R.S. 30-15-105; and peace officers of any municipality which contracts with the County to enforce the provisions of this Resolution.

2.5 At Large: To be off the premises of the owner and not under direct physical control by the owner or a responsible agent by means of a leash. This definition does not apply to any dog while actually working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, participating in an obedience dog show or an obedience class, or while being trained for any of these pursuits. Dogs tethered to a stationary object within range of a public street, sidewalk, or right-of-way shall be deemed to be at large if their owner is not immediately present.

2.6 Board of Animal Regulation: A three-member advisory board as established by Mesa County Ordinance #3 (three) on December 8, 1981, together with such additional authority to hear administrative appeals as may be provided by Section 9 of this Ordinance.

2.7 Bodily Injury: Any physical pain, illness, impairment of physical or mental condition, or physical injury wherein the skin is broken, exterior bleeding occurs, bruising occurs, or bone, tissue or muscle damage is suffered, or emergency medical or veterinarian treatment becomes reasonably necessary for a person or animal.

2.8 County: The County of Mesa, Colorado.

2.9 Dog: Any member of the canine species.

2.9.a Dogs of Wild Extraction: A dog that is of any hereditary part related to wild canines such as but not limited to, the wolf family (canis lupus), the coyote family (canis latrans).

2.10 Harboring: The act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of at least three consecutive days.

2.11 Health Department: The Mesa County or Colorado State Health Department.

2.12 Health Officer: The Health Officer of Mesa County, or any Health Department employee or other person authorized by the Health Officer to act on his or her behalf.

2.13 Leash: A chain, cord, or tether not more than ten (10) feet in length which is securely attached to and capable of restraining the animal.

2.14 Owner: Any person, partnership, corporation, or their agent who owns, co-owns, possesses, keeps, harbors, or who has control or custody of an animal; or the person named as owner in current County licensing records or on the dog identification license or rabies tag; or any parent, guardian, or legal custodian of any unemancipated child under eighteen (18) years of age who owns, co-owns, possesses, keeps, harbors, or has control or custody of an animal. References to the masculine gender of an owner include the feminine gender.

2.15 Premises: Property owned, leased, or expressly permitted to be used by an owner; or, any confined area or locality like a residence, business, room, shop, building, or motor vehicle in which the animal's presence is authorized by the owner of the premises. The term "premises" includes the open bed of a truck.

2.16 Provocation: Harassment, teasing, threatening, striking, or attacking an animal or its owner in the animal's presence, by either a person or another animal.

2.17 Public Nuisance: An animal infected with rabies, or a dog at large, or a barking dog which disturbs the peace of humans, or a vicious dog, or an unconfined dog in estrus, shall be deemed to be a public nuisance.

2.18 Serious Bodily Injury: Bodily injury to a person or animal which involves a substantial risk of death, serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

2.19 Vaccination: The vaccination of an animal with an anti-rabies vaccine approved by the Colorado Department of Health and administered by a licensed veterinarian.

2.20 Vicious Dog: A dog which:

- a. causes serious bodily injury to a person; or which
- b. causes bodily injury to a person or animal on two or more occasions; or which
- c. is infected with rabies; or which
- d. a dog of wild extraction that on any occasion causes bodily injury by biting to a person or animal, whether or not provoked, or is known to be infected with rabies.
- e. causes bodily injury to a person or animal off the dog owner's premises; or which
- f. is at large and exhibits continuous aggressive behavior; or which
- g. has engaged in a dog fighting contest with the owner's knowledge; or which
- h. has been specifically found to be vicious by any court or jury;

provided, however, that a dog which attacks, terrorizes, or causes bodily injury to a person or animal in immediate response to objectively unreasonable provocation shall not be found to be vicious, if the dog owner establishes such facts as an affirmative defense to a charge for violation of Section 5 or to the satisfaction of the investigating Animal Regulation Officer. Any dog which is found to vicious as defined by Sections 2.20.a, 2.20.b, 2.20.c, or 2.20.d shall be destroyed in accordance with Section 9.3.a.

Section 3 - LICENSING AND VACCINATION

3.1 Licensing and Vaccination Required: No person shall own, keep or harbor in the County any dog over four months of age unless such dog is vaccinated against rabies and licensed. All dogs vaccinated at four months of age or older shall be revaccinated and relicensed one year from that date and each year thereafter. Any dog owner who moves into the County, including for purposes of this section both incorporated and unincorporated areas of the County, shall comply with this Resolution within thirty days afterwards. If any dog has bitten any person or animal within the last ten days, the owner of said dog shall report that fact to the vaccinating veterinarian or to the animal control facility, and no rabies vaccine shall be administered to that dog until after a ten-day observation period. The vaccination requirement shall not apply to any dog of wild extraction.

3.2 Certificate of License: Upon vaccination against rabies, or upon satisfactory proof of current rabies vaccination, a veterinarian or Animal Control Center shall execute and furnish to the owner of the dog upon payment of required fees a license

certificate and a license tag. Fees for licenses are:

- a. neutered dog \$2.00
- b. Unneutered dog \$5.00

Such certificates of license shall obtain the following information:

- a. the name, street address, and telephone number of the owner of the vaccinated dog;
- b. the veterinarian's name, rabies tag number and expiration date;
- c. the breed, age, color and sex of the vaccinated dog;
- d. the County license number, license year, date of issue, license fee, and licensing agent.

Vaccination of dogs of wild extraction is not required; nor is such information required in the license.

3.3 License Tags: Concurrent with the issuance and delivery of the license referred to in Section 3.2 of this Resolution, the dog owner shall cause to be attached to the collar or harness of the vaccinated dog a metal tag serial numbered and bearing the year of issuance, the name of Mesa County, and the telephone number of the Control Center. This license tag is distinct from a metal rabies tag, which the Department of Health may separately require to be issued to an owner and worn by the dog. No dog owner shall fail to place upon his dog the collar or harness to which the tag is attached, and no dog owner shall fail to insure that the dog at all times wears the collar or harness displaying the license tag, unless the dog is participating in a sanctioned dog show, or is securely confined within the owner's premises or is aiding law enforcement officers, or is actually training to hunt or retrieve game in circumstances where attachment of a license tag would constitute a clear danger to the dog.

3.4 Duplicate Tags: In the event of loss or destruction of the original license tag provided for in this section, the dog owner shall obtain as soon as possible a duplicate from the Animal Control Center for the fee of \$1.00.

3.5 Proof of Licensing: No person shall own or harbor a dog and fail or refuse to exhibit a license certificate or license tag within a reasonable time upon demand by any Animal Regulation Officer.

3.6 Harboring Unvaccinated Dogs: No person shall harbor any dog which has not been vaccinated against rabies as provided herein, or any dog which cannot be identified as having a current rabies vaccination or license tag. This section shall not apply to licensed dogs of wild extraction.

3.7 False and Stolen License Documents: No person shall possess or make use of a stolen, counterfeit or forged license certificate or license tag.

3.8 Transferability: Dog license certificates and license tags are not transferable. No person shall attach or cause to be attached any license tag to any dog other than the dog for which the tag was originally issued.

3.9 Records: The Animal Control Center and any veterinarian practicing in Mesa County shall create a record of the contents and date of issuance of each license certificate and license tag. Such records shall be deemed to be public records for purposes of admissibility in any proceeding for violation of this Resolution. Such records and the absence of entries in such records shall constitute prima facie evidence of dog ownership and compliance or noncompliance with the licensing and vaccination provisions of this Resolution.

Section 4 - DOGS RUNNING AT LARGE

4.1 Confinement by Owner: A dog owner has a duty to confine his or her dog to the owner's premises.

4.2 Dogs at Large: No dog owner shall fail to prevent his dog from being or running at large, as defined at Section 2.5. Any dog off its owner's premises shall be under leash control by its owner.

4.3 Dogs in Common and Public Areas: No dog owner shall fail to prevent his or her dog from running at large in the yard of any multiple occupancy building which is occupied by other persons; or in the common areas of mobile home complexes, apartments, or condominium developments; or in open space areas of subdivisions; or in public or county parks or fairgrounds, unless permission is posted by county or public authorities allowing dogs at large.

4.4 Confinement during Estrus: Any unspayed female dog in the state of estrus (heat) shall be confined during estrus in a house, building, or secured enclosure constructed so that no other dog may gain access to the confined animal. Owners who do not comply with this subsection may be ordered to remove the dog to a boarding kennel, veterinary hospital or the Animal Control Center. All expenses incurred as a result of such confinement shall be paid by the owner. Failure to comply with the removal order of an Animal Regulation Officer shall be a violation of this Resolution, and any unspayed female dog in estrus may be summarily impounded in the event of noncompliance with such a removal order.

4.5 Evidence of Running at Large: It shall be prima facie evidence that a dog is running at large if the dog is out of its owner's sight, or if the dog goes upon public or private property without the property owner's or manager's consent.

Section 5 - VICIOUS DOGS

5.1 Vicious Dogs Prohibited: No person shall own or harbor a vicious dog within the County, except as provided in this Resolution. Such dog shall be impounded as a public nuisance pursuant to the procedures set forth in Section 8, and shall be subject to disposition as provided by Section 9.3, 9.4 and 9.5.

5.2 Control of Dogs: No owner of a dog shall fail to prevent it from causing bodily injury to, or biting without provocation, an person or animal, protection of persons or property, unless the following conditions are met:

- a. the dog is confined to an area from which it cannot escape; or
- b. the dog is under the complete control of the handler at all times; and
- c. warning signs bearing letters not less than ten (10) inches high are conspicuously posted about the area of confinement indicating the presence of a guard dog.

Section 6 - BARKING DOGS

6.1 Barking Dogs Prohibited: No owner of a dog shall fail to prevent it from disturbing the peace and quiet of any other person by loud and persistent barking, baying, howling, yipping, crying, helping, or whining, whether the dog is on or off the owner's premises.

6.2 Provocation Defense: Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of Section 6.1.

6.3 Warning Required: No person shall be charged with a violation of Section 6.1 unless written warning as provided in Section 6.4 has been given at least seven days but not more than thirty-seven days preceding the charge.

6.4 Warning Process: The warning process to be employed shall be substantially as follows:

- a. the warning must relate to a barking incident separate from the charged violation;
- b. the Animal Regulation Officer may issue a warning after either receiving a phoned-in complaint and investigating the complaint in the field, or after receiving two phoned-in complaints from different households;
- c. all complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state, if known, the name of the dog's owner, the owner's address and telephone number, a description of the dog,

description of the offense, and the date, a time, place and duration of the offense;

d. A record or incident report shall be kept of any such complaint and investigation;

e. A warning to a dog owner shall fully cite Section 6.1 and advise the owner of penalty for the violation of Section 6.1. The warning shall also state that a complaint has been received, recite the date of the alleged offense, and conclude that the owner's dog may have disturbed the peace of another individual. The warning must be identified as being issued by an Animal Regulation Officer empowered by Mesa County to enforce the provisions of this Resolution.

6.5 Notice and Evidence of Warnings: An owner shall be deemed to have been issued and received a warning under Section 6.4 if the warning is personally served upon the owner, posted on the owner's premises, or placed in the U.S. Mail, postage prepaid and addressed to the owner of the dog according to the last address given by the owner to obtain a certificate of license or license tag.

6.6 Complainant Rights and Responsibilities:

a. The identity of a complainant(s) shall be kept confidential until a violation of this section is charged.

b. If a violation of this section is charged, the complainant(s) shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a Complaint prior to its service upon the owner.

c. No person or owner shall be convicted at trial for violation of this Section unless testimony is presented by at least two complaining witnesses, or by one complaining witness when there is only one occupied residence within three blocks or one quarter (1/4) mile in any direction. An Animal Regulation Officer may testify as a complaining witness.

Section 7 - ABANDONED, ABUSED OR NEGLECTED ANIMALS

7.1 Abandonment, Abuse or Neglect Prohibited: No owner shall abandon, physically mistreat or abuse, or neglect to provide proper care to any animal.

7.2 Warning Required: A warning process substantially similar to that set forth in Section 6.4 shall be utilized by an Animal Regulation Officer prior to charging any owner with a violation of this Section 7.

Section 8 - SEIZURE AND IMPOUNDMENT

8.1 Impoundment of Dogs Authorized: An Animal Regulation Officer

shall in his discretion be responsible for seizing and impounding any dog which is at large, or is otherwise a public nuisance; any dog required to be vaccinated against rabies; any dog off the owner's premises not wearing a current license tag; any dog required to be observed for rabies symptoms; any abandoned, abused or neglected dog; any unconfined, unspayed female dog in estrus; or any animal being kept or maintained contrary to the provisions of this Resolution. If a dog found running at large is property licensed, the Animal Regulation Officer may, in his discretion, return the dog to its owner in lieu of impounding the dog upon payment of any seizure or release fee which may be required.

8.2 Impoundment of Vicious Dogs: An Animal Regulation Officer shall forthwith investigate any credible complaint that a dog is vicious. In the event that a dog is determined by the officer to be vicious, it shall be immediately seized and impounded as a public nuisance. If impoundment of a vicious dog cannot be made with safety to the Animal Regulation Officer or other persons, the vicious dog may be summarily destroyed without notice or liability to its owner.

8.3 Notice of Impoundment and Dispositional Alternatives: When any dog has been impounded, the Supervisor shall as soon as feasible give notice in person, by letter, telephone, or service of a Citation upon the owner, of the dog's impoundment and dispositional alternatives. If the dog's owner is unknown at the time of impoundment, the Supervisor shall take all reasonable steps to identify the owner and provide such notification. If the dog's owner still cannot be established, the Supervisor may proceed with any disposition authorized by this Resolution. The Supervisor shall maintain records of the time, dates and manner of any such notification, and such records shall constitute prima facie evidence of notification or attempted notification.

8.4 Length of Impoundment:

a. Minimum Period - Except as otherwise provided herein, an impounded animal shall be held at the Animal Control Center for seventy-two (72) hours after impoundment, or for forth-eight (48) hours after notification to the owner of the animals impoundment, whichever is shorter. If the owner does not properly claim and redeem the animal within these periods of impoundment, the animal shall be subject to disposition under Section 9.

b. Sick or Injured Dog - An impounded dog which is sick or injured and in pain or contagious to other animals, and which is not identifiable to an owner is not subject to a minimal impoundment period and may immediately be humanely disposed of through euthanasia. If a sick or injured dog which is in pain or contagious to other animals is identifiable to an owner, the Supervisor shall diligently attempt to contact the owner within twenty-four (24) hours after impoundment, after which time the dog may be disposed of if still unclaimed.

c. Vicious Dog - A vicious dog shall not be released from impoundment during the pendency of any criminal proceeding for violation of Section 5 of this Resolution. If no such action has been or will be commenced, such dog shall be disposed of with Section 9.

d. Observation Period - Notwithstanding any other provision herein to the contrary, any dog, except a dog of wild extraction, or cat which is known or credibly alleged to have bitten any person shall be immediately impounded or quarantined for observation for rabies infection until ten (10) days after the date of the bite, and for such further time as deemed necessary by the Director.

e. Any dog of wild extraction, which is known or credibly alleged to have bitten any person shall be immediately impounded and shall be held for the longer of forty-eight (48) hours after notification to the owner of the animal or seventy-two (72) hours after impoundment. Unless otherwise ordered, dogs of wild extraction shall be killed by humane euthanasia, avoiding damage to the brain, and the remains tested for rabies as provided by state law.

8.5 Liability for Seizure and Impoundment Expenses:

An owner shall be obligated to reimburse the Animal Control Center for all expenses incurred as a result of seizure or impoundment of an animal. Such fees shall be assessed against the owner of any impounded animal, and shall be payable upon redemption, release or abandonment of the animal. Owners of unwanted animals and persons in custody of abandoned animals may bring in and release them to the Animal Control Center at no cost to the owner.

8.6 Removal of Impounded Animals: No owner shall remove any impounded animal from the Animal Control Center or from the official custody of an Animal Regulation Officer without the consent of the Supervisor or Officer.

8.7 Impoundment Alternatives: Nothing in this Section 8 shall be construed to prevent an Animal Regulation Officer from taking whatever action is reasonably necessary to protect his person or members of the public from injury by any animal.

Section 9 - REDEMPTION AND DISPOSITION

9.1 Redemption Fees Authorized: Any dog or animal may be claimed and redeemed from impoundment by the owner and released from the Animal Control Center only upon timely demand at the Animal Control Facility by a properly identified owner and upon payment of all seizure fees, impoundment fees, redemption fees, veterinary charges, charges for unusual care and feeding, redemption fees, and such other costs or fees as may be reasonably set by the Supervisor or as set forth in Section 11, Animal Control Center Charges and Fees Schedule.

9.2 Disposition of Impounded Animals: Any animal not properly redeemed by the end of any required impoundment or observation period shall become the property of Mesa County. The animal may then be disposed of by the Supervisor by sale, donation, adoption to a suitable owner, or by humane euthanasia.

9.3 Disposition of Vicious Dogs:

a. A dog expressly or impliedly found to be vicious by any Court, the Supervisor, or by the Animal Regulation Board, as defined by sub-sections a, b, c or d of Section 2.20 of this Resolution, shall be finally disposed of by humane euthanasia. The owner of the dog shall be assessed and shall be liable for all applicable costs and fees pursuant to Section 11.

b. The owner of a dog which is found to be vicious as defined by subsections e, f, g or h of Section 2.20 of this Resolution shall be subject to any reasonable sentencing orders or administration conditions prior to or after redemption of the dog. These orders and conditions may include but are not limited to delayed release of the dog, the posting of bond, construction of secure areas of confinement, restrictions on travel with the dog, neutering the dog, muzzling the dog, compensation of victims, restrictions on sale or transfer of the dog, destruction, and any other terms or conditions deemed necessary to protect the public or to abate a public nuisance. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and Court costs if any. In the event of non-compliance with these conditions, the dog may be summarily impounded by the Supervisor and disposed of in his discretion, or in accordance with Court order. Such disposal shall be in addition to any other civil or criminal remedies, including contempt proceedings for non-compliance with any sentencing orders or with administrative conditions for release of a vicious dog.

c. A dog found or declared not vicious shall thereupon be returned to its owner, subject to payment of redemption fees for licensing and veterinarian care, but excluding liability for boarding expenses.

d. In no event shall a dog expressly or impliedly found to be vicious in any Court proceeding be released and returned to its owner without the consent of the Supervisor.

9.4 Appeal of Vicious Dog Administrative Disposition: Where no criminal proceeding for violation of Section 5 for harboring a vicious dog is pending or will be commenced, the Supervisor is authorized to dispose of the vicious dog in accordance with Section 9.3 of this Resolution. The dog owner shall be provided with written notice of the intended disposition of the dog. A dog owner may contest the intended disposition by filing a written appeal with the Health Officer within two business days after notification of the intended disposition. In the absence of filing such a timely appeal, the Supervisor is authorized to proceed with

the intended disposition. Administrative appeal of the intended disposition shall be required before seeking judicial review of the intended disposition may be had.

9.5 Administrative Appeal Conduct and Procedure: The administrative appeal hearing shall be conducted before the Board of Animal Regulation, sitting as the Hearing Board. At the hearing on the administrative appeal of intended disposition of a vicious dog, the issues shall be limited to whether the Supervisor's determination that a dog is vicious is erroneous, or whether the intended disposition is arbitrary, capricious or in excess of the Supervisor's jurisdiction. The burden of persuasion shall be upon the owner. Hearings shall be conducted to insure simplicity of procedure and fairness to all parties. The Colorado Rules of Evidence and the Colorado Rules of Civil or Criminal Procedure may guide but shall not govern the conduct of the hearing. The dog owner, the Supervisor, and all complaining witnesses will be provided with written notice of the hearing on appeal, to be conducted within two weeks after filing the appeal. All such parties may participate in the hearing and may present testimony and argument and call and cross-examine witnesses who shall be sworn by the Hearing Board Chairman. A record shall be made of the hearing. The Hearing Board's decision shall be final for purposes of judicial review under Rule 106 of the Colorado Rules of Civil Procedure. The Hearing Board is authorized to modify any terms or conditions of redemption of a vicious dog, or to modify the intended disposition of the vicious dog, as proposed by the Supervisor.

9.6 Adoption of Dogs and Cats: No person may adopt a dog or cat from the Animal Control Center until such person has guaranteed sterilization of the dog or cat. A deposit shall be required to insure the sterilization. Transfer of ownership of the dog or cat shall not be effected until sterilization has occurred. Failure of the person adopting a dog or cat to sterilize it shall be a violation of this Resolution. Other animals may be adopted at the discretion of the Supervisor, and subject to such conditions as may be reasonably prescribed.

Section 10 - ENFORCEMENT

10.1 Enforcement Responsibility: The provisions of this Resolution shall be enforced within the County by the Supervisor of Animal Regulation, Animal Regulation Officers, and any other person however administratively assigned or titled, as authorized by the Mesa County Board of County Commissioners. Enforcement by the County employees shall be limited to unincorporated areas of the County and such additional areas as the Commissioners may designate by Contract or Resolution pursuant to C.R.S. 30-15-102(2). Animal Regulation Officers shall be deemed "peace officers" without regard to certification requirements, as authorized by C.R.S. 30-15-105. The District Attorney shall prosecute in his discretion any violation of this Resolution.

10.2 Enforcement Procedure: Whenever an Animal Regulation Officer has personal knowledge or probable cause to believe that a violation of this Resolution has occurred, he may arrest the alleged violator, and/or issue a penalty assessment notice pursuant to C.R.S. 16-2-101 et seq., and/or issue a Summons and Complaint pursuant to C.R.S. 16-2-101 et seq. and C.R.S. 30-15-102.

10.3 Penalty Assessment Procedure:

a. Upon arrest of a violator of this Resolution or with his consent, a penalty assessment notice shall be personally served upon the violator, who may be released upon terms of the notice or taken before a County Court Judge. The penalty assessment procedure may be followed when a violation of this Resolution is punishable pursuant to Sections 3, 4, 6, 7, 9.6, 10.4, 10.5 and 12 of this Resolution. In no event shall this procedure be used when a person is known to have been issued three or more penalty assessment notices for violation of this Resolution within the last two years, or in cases involving bodily injury to any person or serious bodily injury to any animal.

b. Penalty assessment notice shall consist of a Summons and Complaint on the same document sworn to by the arresting officer and verified by a complaining party, if any. The notice shall identify the offender, specify the offense and applicable fine, the amount of pending fines on the alleged violators prior offenses, identify any victim(s), briefly summarize the circumstances of the event, characterize the alleged violator's attitude. The notice shall also require that the alleged violator pay the fine or appear to answer the charge at a specified time and place.

10.4 Interference with Animal Regulation Officers: No person shall interfere with, molest, hinder, or prevent the Supervisor or any Animal Regulation Officer from discharging their duties as prescribed by this Resolution or other law.

10.5 Compliance with Impoundment Requests: No person shall refuse to immediately deliver up or release any animal to an Animal Regulation officer upon lawful demand by the Officer to seize and impound the animal.

10.6 Search and Seizure of Dogs: An Animal Regulation Officer shall have the right to enter upon private property when necessary to seize a vicious dog, or a dog that has been running at large, when in reasonable pursuit of such dogs. Authorized entry upon such property shall not include entry into a domicile or any enclosure that confines the dog except upon invitation by the property owner. In the event of an owner's refusal or failure to deliver up or release the dog, and upon presentation of a motion and an affidavit establishing probable cause that the dog is a public nuisance, a Court may issue an ex parte order requiring the owner to immediately deliver up or release the dog to an Animal

Regulation Officer. Non compliance with such order shall be grounds for proceedings to establish contempt of Court. The Court is also authorized to issue an ex parte warrant for search and seizure of a public nuisance dog or abandoned, abused, or neglected animal in order to preserve evidence or to protect the public safety and welfare. An Animal Regulation Officer seizing a public nuisance dog may impound the dog, release the dog in lieu of impoundment, and/or issue a penalty assessment notice or a Summons and Complaint to the dog owner, unless otherwise required by the Court order or this Resolution.

Section 11 - ANIMAL CONTROL CENTER CHARGES AND FEES

11.1 Charges and Fees Authorized and Required: Charges and fees for seizure, impoundment, boarding, licensing, veterinarian care, and adoption of an animal shall be cumulatively assessed to any animal owner according to the following schedules. Payment of all applicable fees shall be condition of release, redemption or adoption of any animal. These fees shall be fully assessed against an owner as a condition of sentencing or probation in any proceeding for violation of this Resolution.

11.2 Licensed Dog Wearing Current License Tag:

Boarding fee per day . . . \$3.50
Impoundment fee . . . \$15.00

11.3 Licensed Dog, Not Wearing Current License Tag:

Boarding fee per day . . . \$3.50
Impoundment fee . . . \$20.00

11.4 Unlicensed Dog:

Boarding fee per day . . . \$3.50
With tags, impoundment fee . . . \$20.00
Without tags, impoundment fee . . . \$25.00

11.5 Licensed and Unlicensed Dogs:

Seizure and release in lieu of impoundment . . . \$15.00
Second impoundment . . . \$50.00
Third impoundment . . . \$100.00

11.6 Cats:

Vaccinated . . . \$10.00
Unvaccinated . . . \$15.00

11.7 Other Animals:

Boarding fee per day - actual cost of minimum fee of . . . \$3.50
Redemption fee . . . \$10.00

11.8 Adoption Fees:

Dogs (including license tag) . . . \$10.00
Cost . . . \$5.00
Refundable neuter/spay deposit . . . \$25.00

11.9 Rabies Observation:

Boarding fee per day . . . \$5.00
After required 10-day observation period - per day . . . \$10.00

11.10 Euthanasia Fee: . . . \$10.00

11.11 Licensing:

Neutered/Spayed Dog . . . \$2.00
Intact Dog . . . \$5.00

11.12 Pick-Up Fee - Dogs or Cats: . . . \$5.00

Section 12 - VIOLATIONS AND PENALTIES

12.1 Violations without Bodily Injury: Any violation of Sections 3, 4, 5, 6, 7, 8, 9 or 10 of this Resolution and any subsections thereof which do not involve bodily injury to any person shall be a Class 2 Petty Offense, as provided in C.R.S. 30-15-102, punishable upon conviction by a fine of not more than three-hundred dollars (\$300.00), or by imprisonment in the County jail of not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.

12.2 Violations with Bodily Injury: Any violation of Sections 5 and 8 of this Resolution and any subsections thereof which involves bodily injury to any person by a dog shall be a Class 2 misdemeanor punishable as provided in C.R.S. 18-1-106 upon conviction by a fine of not less than two-hundred fifty (\$250.00) nor more than one-thousand dollars (\$1,000.00), or by imprisonment of not less than three (3) months nor more than twelve (12) months, or by both such fine and imprisonment for each separate offense.

12.3 Penalty Assessment - Fine Schedule: If the penalty assessment procedure is used by the Animal Regulation Officer or any arresting law enforcement officer, the following graduated fine schedule shall be applied for violations of any section of this Resolution which are committed or repeated by the same person within one (1) year from the date of the first offense:

First Offense . . . \$15.00
Second Offense . . . \$50.00
Third Offense . . . \$100.00

12.4 Probationary Conditions and Other Costs:

a. In addition to payment of any fine or other punishment, a violator shall be required to pay to the Animal Control Center all applicable fees and charges pursuant to Section 11, as may be requested by the District Attorney or Supervisor.

b. Suspension of any penalty or punishment may be conditioned upon compliance with any reasonable order or condition designed to protect the public or abate a public nuisance caused by an owner's animal. Such conditions may include but are not limited to those set forth in Section 9.3.

Section 13 - SEVERABILITY CLAUSE

If any provision of this Resolution or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this Resolution which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Resolution are declared to be severable.

Section 14 - LIABILITY CLAUSE

The Mesa County Board of County Commissioners, the Health Officer, Supervisor, Animal Regulation Officers, or any other employees, persons, or agents authorized to enforce the provisions of this Resolution shall not be held responsible for any accident or subsequent disease or for any loss or damages resulting from administration of this Resolution.

Section 15 - EFFECTIVE DATE AND SAFETY CLAUSE

This Resolution shall take effect thirty (30) days after publication in a local newspaper of general circulation of final approval by the Board. The Board hereby finds and declares that adoption of this Resolution is necessary for the immediate preservation of the public health, safety and welfare.

Section 16 - REPEALER

By adoption of this Resolution and upon its taking effect, Mesa County Ordinance No. 4 as adopted on July 13, 1982, Mesa County Ordinance 4(b) as adopted on November 27, 1984, and all Ordinances and Resolutions or parts thereof in conflict with this Resolution, other than Ordinance 3 as adopted on December 8, 1981, are hereby revoked and repealed in their entirety.

3. That this Ordinance be published in pamphlet form as permitted by Charter, with appropriate notice being given by the City Clerk to advise of the availability of the Ordinance for public inspection.

PASSED and ADOPTED this 20th day of January, 1988.

O.F. Ragsdale

