

**ORDINANCE NO. 5**

Series 2003

May 6, 2003: Introduced as Council Bill 05-03 by Councilmember Doug Tisdale, seconded by Councilmember Bonnie Blum, and considered by the title only on first reading. Passed with a vote of 4 yes and 1 no.

June 17, 2003: Considered in full text on second reading. Passed with a vote of 4 yes and 1 no. Designated as Ordinance No. 5, Series 2003.

**A BILL FOR AN ORDINANCE  
OF THE CITY OF CHERRY HILLS VILLAGE REPEALING  
CHAPTER 1 OF TITLE 9 OF THE CITY CODE AND  
ENACTING A NEW CHAPTER 1 OF TITLE 9,  
ALL PERTAINING TO ANIMAL CONTROL**

WHEREAS, the City of Cherry Hills Village is a home rule municipal corporation organized in accordance with article XX of the Colorado Constitution; and

WHEREAS, the City of Cherry Hills Village is authorized to regulate and control animals within the boundaries of the City pursuant to its home rule charter, general police powers and Section 31-15-401, Colorado Revised Statutes; and

WHEREAS, the City previously has regulated animals pursuant to Chapter 1 of Title 9 of the City Code; and

WHEREAS, the City Council desires to establish comprehensive and reasonable regulations for the control of animals, including but not limited to, registration of dogs, prohibiting and punishing cruelty to animals, animals running at large, and impoundment and disposition; and

WHEREAS, the City Council finds that such animal control matters are in the interest of and are necessary in order to preserve and protect the public health, safety, and welfare of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Chapter 1 of Title 9 of the City Code for the City of Cherry Hills Village, entitled "Animal Control" is hereby repealed in its entirety.

Section 2. The City Code for the City of Cherry Hills Village, Colorado, is hereby amended by the addition of a new Chapter 1 of Title 9, to read in full as follows:

**CHAPTER 1**

**ANIMAL CONTROL**

**SECTION:**

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9-1-1: GENERAL:

9-1-1-1: **Authorization:** This chapter is enacted pursuant to the general police power, the home rule charter of the City of Cherry Hills Village, and Section 31-15-401, Colorado Revised Statutes.

9-1-1-2: **Purpose and Intent:** The purposes of this chapter are to promote the public health, safety, and general welfare of the citizens of the City of Cherry Hills Village and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

9-1-1-3: **Definitions:**

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

*Aggressive dog* means any dog that, without intentional provocation, engages in any of the behaviors listed in section 9-1-4-4(B).

*Animal* means any live vertebrate creature, domestic or wild. As used in this chapter, animal excludes humans.

*Animal control officer* means any person designated by the City to enforce the provisions of this chapter or any other ordinance or law of the state pertaining to animals and shall include police officers.

*Animal Shelter* means any impounding entity designated by the City as the facility for the boarding and disposition of any animal impounded under the provisions of this chapter or any other ordinance or law of the state. The City may designate other facilities as necessary for the boarding of impounded livestock, wildlife, or exotic species that may need to be confined safely or humanely.

*Attack* means any violent or hostile physical contact with a person, or domestic animal, or any violent or hostile behavior that confines the movement of a person or domestic animal, including, but not limited to, chasing, cornering, or encircling.

*Bodily injury* means physical injury that results in bruising, skin pain, or any impairment of physical condition.

*Bodily injury – serious* means any physical injury consisting of muscle tears, broken bones or disfiguring lacerations requiring professional medical treatment, multiple sutures or cosmetic surgery.

*City* means the City of Cherry Hills Village.

*Code* means the City of Cherry Hills Village municipal code.

*Commercial* means carried out for monetary gain.

*Common areas* include, but are not limited to, City parks, bridle and recreation paths, trails, or play areas, clubhouses and other recreational facilities that are open to the public.

*Domestic or pet animal* means dogs, cats, rodents, birds, reptiles, fish, pot-bellied pigs, and any other species of animal which is sold or retained as a household pet, but does not include skunks, nonhuman primates, and other species of wild, exotic, or carnivorous animals that may be further restricted in this chapter.

*Exotic animal* means any live monkey, alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat, member of the canine species other than domestic dog, or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals.

*Feral* means wild or has escaped from domestication and become wild.

*Guard dog* means any dog used or trained for the protection of persons or property by attacking or threatening to attack any person found within an area patrolled by such dog.

*Harbor* means the act of keeping or caring for an animal, or providing premises to which the animal returns for food, shelter, or care.

*Kennel* means any establishment or place where one or more animals, either temporarily or permanently, are bred, born, raised, boarded, trained, kept, or fed for money or any other consideration, or for sale.

*Keeper* means any person who is in possession of or is keeping, harboring, or caring for any animal.

*Livestock* means animals commonly regarded as farm animals, including, but not limited to, cattle, horses, goats, llamas, ostriches, swine, alpacas and sheep, but excluding pet animals such as rabbits, poultry, and domestic fowl.

*Mistreatment* means an act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain and suffering.

*Nuisance animal* means any animal that unreasonably annoys humans, causes damage to property other than the owners, or endangers the life or health of persons.

*Nuisance dog or cat* means any such animal that, without intentional provocation, engages in any of the behaviors listed in Section 9-1-4-4(A) or Section 9-1-4-4(D).

*Owner* means any person over eighteen (18) years of age that has right of property in an animal or who harbors such animal or allows such animal to remain about his premises. The parent, or guardian, or legal custodian of any child under the age of eighteen (18) years who owns, keeps, harbors, has custody of, or cares for an animal shall be deemed to be the owner of such animal.

*Person* means any person, firm, corporation, association, partnership or other entity.

*Possess*, or any derivation thereof, means exercising physical control over any animal.

*Poultry*, means any domesticated bird, including but not limited to, chickens, turkeys, ducks and geese.

*Quarantine* means the confinement for a minimum of ten (10) days of an animal which has bitten a person.

*Rabbits, poultry, and domestic fowl* includes rabbits, pigeons, peacocks, chickens, chicks, capons, ducks, geese, turkeys, doves, squabs, and all similar domestic fowl other than pet animals.

*Stray animal* means any animal, with or without a rabies or a City registration tag, found unattended or running at large anywhere within the City.

*Tether* means to tie up or chain to a fixed or heavy inanimate object so as to restrict the free movement of an animal to a distance no greater than the length of its leash or chain.

*Trap* means any mechanical device or snare that seeks to hold, capture or kill an animal.

*Trap - humane* means a box-type live trap which does not cause bodily harm to the animal intended to be captured or any other animal or person coming in contact with such trap.

*Trapping* means the setting or laying or otherwise using of a trap.

*Vaccination or vaccination for rabies* means the inoculation of a dog or cat with a vaccine licensed by the United States Department of Agriculture for use in the prevention of rabies.

*Veterinarian* means a person licensed by the State of Colorado to practice veterinary medicine.

*Vicious dog* means any dog that engages in any of the behaviors listed in section 9-1-4-4(C) of this chapter.

*Wild animal* means all species of animals which exist in their natural, unconfined state and are usually not domesticated.

**9-1-1-4: Duties and Powers of Animal Control Officer:**

- A. The City Manager may appoint or the City Council may contract for an animal control officer. The animal control officer shall have authority to enforce any ordinance of the City relating to animals.
- B. Animal control officers are hereby designated as peace officers and shall be authorized to issue, sign, and serve summonses and complaints in order to enforce the provisions of this chapter, or any other provision of this Code or state law pertaining to animals, and to make all determinations within the discretion required by the provisions of this chapter or other applicable law.
- C. An animal control officer or police officer may enter upon private property to capture any animal to be impounded for, or to investigate any report of, a violation of this chapter if:
  - 1. the officer has obtained consent of the person in possession of the property;
  - 2. the officer has obtained a search warrant pursuant to Rule 241 of the Colorado Municipal Court Rules;
  - 3. the officer is in pursuit of an animal which is or has been running at large, provided the officer does not enter into any enclosed building or structure;
  - 4. the officer is in pursuit of an animal which the officer has probable cause to believe has bitten a person, provided the officer does not enter into any enclosed building or structure; or
  - 5. the officer is attempting to abate a continuing violation of any provision of this chapter when the owner of the property is not available, provided the officer does not enter into any enclosed building or structure.
- D. Notwithstanding subsection C(2) of this section, if the animal control officer has reasonable cause to believe that the keeping or maintaining of any animal is so hazardous, unsafe, or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the animal control officer shall have the right immediately to enter and inspect the property or vehicle in or upon which the animal is kept, and may use any reasonable means required to effect such entry and make such inspection, whether the property or vehicle is occupied or unoccupied and whether permission to inspect has been obtained or not. If the property or vehicle is occupied, the animal control officer shall first present proper credentials to the owner or occupant of the property or vehicle and demand entry, explaining his reasons therefor and the purpose of the inspection. Such entry shall be solely for the purpose of abating the violation and no evidence obtained during or as a result of such entry shall be admissible for purposes of prosecution.
- E. No person shall fail to allow or refuse entry to an animal control officer requesting entry for the purpose of inspection pursuant to this section.

**9-1-1-5: Prohibited and Restricted Animals:**

**A. Prohibited Animals:**

1. It shall be unlawful for any person to own, have custody of, sell, or trade in any of the following species of animals:
  - a. All poisonous snakes, poisonous reptiles, and nonpoisonous snakes with a length greater than six feet;
  - b. Non-human primates;
  - c. Any species of feline other than ordinary domesticated house cats;
  - d. Bears of any species;
  - e. All crocodilians;
  - f. Raccoons, porcupines, skunks, badgers, or other like species;
  - g. Foxes, wolves, coyotes, or other species of canines other than dogs; or
  - h. Any other animal that is not indigenous to the State of Colorado, or is not classified as a domestic animal.
2. Alleged domestication of any prohibited animal shall not be a defense to a violation of this section 9-1-1-5. Any animal that is not domesticated shall be presumed to be a prohibited animal until proven otherwise by a preponderance of the evidence to the satisfaction of the Municipal Court.
3. Nothing in this section shall prohibit the bona fide activities of any wildlife rehabilitator licensed by the Colorado Division of Wildlife, so long as such licensee complies with all applicable Code and zoning ordinance provisions.

**B. Restricted Animals:**

1. **Restraint of Guard Dogs:** It is unlawful to place or maintain a guard dog in any area for the protection of persons or property unless the following conditions are met:
  - a. **Confinement:** The dog must be confined in a building, compartment or fenced enclosure. If the enclosure is a fence: (i) the fence must be at least six feet in height; (ii) in conformance with the City's Zoning Code; and (iii) fencing materials shall not have openings with a diameter of more than two inches, and, in the case of wooden fences, gaps between wooden slats shall not be more than two inches. The enclosure must have gates and entrances thereto securely closed and locked and all fences properly maintained and escape-proof.
  - b. **Physical Control:** At all times such dog is not confined within its enclosure, the dog must be restrained by means of a leash, cord, or chain not exceeding four (4) feet in length, held by a person who is at least eighteen years of age and is physically able to control said dog.

- c. **Signs:** The owner or keeper of a guard dog must post signs on all exterior building doors, gates and other entrances, stating that a guard dog is on the premises.

**9-1-1-6: Exemptions for Police Dogs:** Police dogs used by a law enforcement agency in the performance of its functions and duties shall be deemed exempt from the provisions of this chapter.

**9-1-2: CARE AND TREATMENT OF ANIMALS:**

**9-1-2-1: Improper Treatment of Animals:**

- A. **Cruelty:** It shall be unlawful for any person to commit or cause to be committed any intentional act of mistreatment, abandonment or harassment to any animal, exclusive of any act constituting aggravated cruelty as set forth in Section 18-9-202(1.5), C.R.S. Ownership of said animal shall not be a defense to such acts or to a violation of this section.
- B. **Neglect:** It shall be unlawful for the owner or keeper of any animal to deprive such animal of adequate nutrition, potable water at all times, proper protection from the elements and extreme temperatures, opportunity for exercise, adequate veterinary care, grooming, socialization, or otherwise neglect such animal in any manner as to endanger its health or cause it to suffer.
- C. **Unsafe Tethering:** It shall be unlawful for the owner or keeper of any animal to tether the animal in such a manner that the animal may become entangled and unable to reach shelter or water, or in such a manner that the animal may be injured, strangled, or otherwise caused to suffer.
- D. **Unsafe Transporting:** It shall be unlawful for any person to transport or confine an animal in a motor vehicle in such a manner as to permit injury or endanger the life of said animal. For purposes of this section, endangering the life of an animal includes:
  - 1. transporting any animal in an open truck or any vehicle in such a manner as to permit the animal to jump or be thrown therefrom by acceleration, sudden movement or accident involving the vehicle; or
  - 2. confining or transporting any animal in such a way that the animal is exposed to extremes in temperature or weather conditions.
- E. **Poisoning Dogs, Cats or Other Domestic Animals:** It shall be unlawful for any person to poison any dog, cat, or other domestic animal or to knowingly distribute or set out poison or any other toxicant within the City that causes the poisoning of such animal. The distribution or setting out of any poison, toxicant, or poisoned meat or food, other than those specifically for insect, rat, mouse, or other rodent poisoning, shall be prima facie evidence of a violation of this section. This section shall not apply when a dog, cat or other domestic animal is being destroyed by a licensed veterinarian, an animal control officer, or police officer who is acting within the scope of his or her official duties.

**9-1-2-2: Trapping Prohibited:** No person shall do any trapping anywhere in the City, except in the following circumstances:

- A. Use of a trap specifically designed to kill rats, mice, gophers or moles, when such trap is used with the express consent of the owner or adult occupant of the property on which the trap is set; or
- B. Use of humane traps for the control of nuisance animals under the following conditions:
  - 1. Traps must be used with the express consent of the owner or adult occupant of the property where the trap is set.
  - 2. Traps employed by a professional trapping or pest control company must have a tag identifying the company's name and telephone number attached
  - 3. Traps must be checked and tended at least once daily and animals captured in humane traps must be released within twenty-four (24) hours of capture.
  - 4. Traps set in the open must be covered to provide shade and protection from extreme weather conditions.
- C. Use of traps by a public official or agency or its designee when such person is acting within the scope of his or her official duties, provided that if such trapping involves taking wildlife with any leghold trap, any instant kill body-gripping design trap, or by poison or snare, such trapping shall have been determined by the Tri-County Health Department to be necessary for the purpose of protecting human health or safety and Tri-County Health Department shall have requested and designated such designee to undertake such activity for such purpose on its behalf.

**9-1-2-3: Livestock – Running at Large Prohibited:** It shall be unlawful for any owner or keeper of livestock to permit the same to run at large within the City. Said livestock shall be deemed to be running at large when:

- A. off of or away from the premises of the owner or keeper thereof, and
- B. not under the control of such owner or keeper, or his agent or servant or member of his immediate family, either by rope, cord or chain.

**9-1-2-4: Grazing and Herding Animals Restricted:** It shall be unlawful for the owner or keeper of any livestock to herd or graze said livestock upon or in any street, alley or other public way or place in the City, or upon any vacant premises or unenclosed premises in said City, whether said livestock are attended by any person or not. This section shall not apply to any livestock securely tied or staked on private property, beyond reach of any public place or other person's property. Any livestock found grazing or being herded within the City in violation of this section shall be deemed to be running at large.

**9-1-2-5: Fencing Unneutered Male Animals:** The owner or keeper of any stallion, ram, boar or bull which is more than sixteen (16) months of age and unneutered, in addition to complying with the other provisions of this chapter, shall keep said animal within a fence or similar enclosure of at least six (6) feet in height and of such sturdy construction so as to be escape proof.



**9-1-3: HEALTH AND SANITATION REQUIREMENTS:**

**9-1-3-1: Removal of Excrement:**

- A. No owner or keeper of any dog shall cause or allow such animal to soil, defile or defecate on any public property, any street, sidewalk, or public way, common area or common grounds owned jointly by members of a homeowners or condominium association, or upon private property other than that of the owner or keeper, unless such owner or keeper immediately removes and disposes of all feces deposited by such animal.
- B. Animal excrement shall not be placed in storm sewers or street gutters, but shall be disposed of in a sanitary manner.
- C. No owner or keeper of any animal shall permit excessive excrement to accumulate on the property of the owner or keeper, or on the property of others so as to cause or create an unhealthy, unsanitary or offensive living condition on the owner's or keeper's property or to abutting property of others.

**9-1-3-2: Death of Animals:**

- A. An owner or keeper shall dispose of any dead animal found on the owner's or keeper's property within twenty-four (24) hours of death or discovery of such dead animal by the following methods: burial, incineration in a state approved facility, rendering, or other state approved means. No dead animal shall be buried within the City limits, or dumped or abandoned on any public or private property.
- B. The City shall be responsible for disposal of any dead wild animal found upon any City streets, sidewalks or any other public property.

**9-1-3-3: Sale of Animals:**

- A. No person shall engage in the commercial business of breeding, buying, selling, trading, or boarding of cats or dogs upon residentially zoned property within the City.
- B. No person shall display any animal in a public place for the purposes of selling or giving the animal away. "Public place" shall include, but is not limited to, streets, highways, parking lots, sidewalks, common areas, parks, and recreational trails. This section shall not apply to a registered rescue group or animal welfare society.

**9-1-4: DOGS AND CATS:**

**9-1-4-1: Registration and Vaccination Requirements – Dogs:**

- A. Registration Required: No person shall own, keep, or harbor any dog within the City unless such dog is registered as provided in this section.
- B. Application: Application for such registration shall be made by the owner on a form to be provided by the Chief of Police or his or her designee within ten (10) days, exclusive of Saturdays, Sundays and legal holidays, after acquiring any dog or within ten (10) days after a dog becomes six months of age; provided that any owner moving to the City or becoming a resident as a result of annexation, shall have until ten (10) days after moving or annexation to obtain such registration. Annual renewal of registration of the dog by the owner shall be obtained between January 1 and February 28 of each year.

- C. **Proof of Vaccination:** All owners registering a dog over the age of six months with the City must show to the satisfaction of the Chief of Police or his or her designee that the dog has been vaccinated against rabies by a veterinarian, unless such owner presents a written statement from a veterinarian that vaccination against rabies would be detrimental to the health of such dog. Such vaccination shall be repeated, as necessary, when the current vaccination expires as required by the State of Colorado.
- D. **Registration Fees:** The registration fee shall be ten dollars (\$10.00), which fee must be paid to the City at the time of submission of the registration form.
- E. **Tags:** Upon acceptance of a completed registration form, and payment of the registration fee, the City shall issue a registration tag for each dog registered. Every dog for which the owner is required to obtain a registration tag must wear a valid registration tag at all times when the animal is off the premises of the owner or keeper. Every dog discovered off the owner's or keeper's property not wearing the required registration tag shall be presumed not to have been registered as required by this section.
- F. **Failure to Register; Attach Tag:** Failure to register a dog as required herein, or failure to cause the dog to wear the registration tag, except as herein provided, shall constitute a violation of this chapter. In addition, no dog impounded pursuant to section 9-1-5 shall be released to its owner or keeper unless and until a registration tag, as described in this section, has been issued to said dog.

**9-1-4-2: Vaccination Required – Cats:** The owner or keeper of a cat within the City limits shall have the cat vaccinated against rabies by a veterinarian on or before the cat reaches the age of six (6) months and shall have the vaccination repeated annually thereafter. A certificate of vaccination in duplicate shall be completed by the veterinarian, one copy to be issued to the cat owner or keeper and one to be retained in the veterinarian's files.

**9-1-4-3: Control of Dogs – Running At Large:** No owner or keeper of any dog shall allow such dog to run at large on public or private property within the City as provided herein. For purposes of this section, a dog shall be deemed to be running at large under the following circumstances:

- A. The dog is on the property of another without the prior consent of such other person.
- B. The dog is on any property other than that of the owner or keeper and is not restrained by means of a leash, cord, or chain held by a person who is physically able to control said dog.
- C. Any stray or injured dog on public or private property of another shall be deemed to be running at large and shall be impounded. An animal control officer or police officer may transport an injured dog in need of medical attention to a veterinarian for medical treatment, or, if the dog is severely injured, may humanely destroy such animal. The owner, if ascertainable, shall be notified of such action. The owner of any such dog shall be liable for all expenses incurred including but not limited to fees incurred for impoundment, treatment and disposition.

9-1-4-4: **Prohibited Acts:**

A. **Nuisance Dogs:** Any dog exhibiting behavior set forth in this section is hereby declared to be a nuisance dog. It shall be unlawful, and is prohibited within the City, for any owner or keeper of a dog to allow said dog to:

1. Create a disturbance by persistent or habitual barking, howling, yelping, or other unreasonable noise that unreasonably interferes with or disturbs the peaceful and ordinary activities of a resident of this City.
  - a. For purposes of this section, it shall not be a defense in prosecution that a dog's barking, howling or other unreasonable noise was provoked by a person's ordinary or reasonable use of public roadways, sidewalks, recreation trails or the Highline Canal Trail.
  - b. No summons and complaint shall be issued nor shall there be a conviction for a violation of this section unless there are two (2) or more complaining witnesses from separate households who shall have signed such complaint. This requirement shall not apply where:
    1. An animal control officer or police officer who has personally investigated the complaint of a single complainant and observed the nature and duration of the noise created by the dog may testify to his/her observations. Said testimony shall satisfy the requirement for the second complaining witness; or
    2. A complainant presents to the animal control officer or police officer at the time of the complaint other credible corroborative evidence of the alleged violation (such as audiotape or videotape).
2. Cause offensive or noxious odors, exhibit any other conduct, or create any other condition which disturbs the peace, safety, or comfort of a neighborhood.
3. Cause damage to or destruction of any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public or private premises owned or occupied by a person other than the owner or keeper of such animal.
4. It shall not be a defense to a violation of this section that the dog owner or keeper was not available to remedy such violation.

B. **Aggressive Dogs:** It shall be unlawful for any owner or keeper of a dog to permit or allow said animal, without provocation, to:

1. harass persons by encroaching onto public property or private property from the owner's or keeper's yard through or over a fence;
2. approach any person in a threatening manner while off the property of the owner or keeper; or
3. attack or injure another domestic animal while off the owner's or keeper's property.

- C. **Vicious Dogs, Harboring Prohibited:** No one shall keep, possess, or harbor a vicious dog within the City. For the purposes of this section, a "vicious dog" shall be defined as a dog that:
1. without provocation, causes bodily injury or serious bodily injury or the death of a person, domestic animal or livestock; or
  2. has been previously determined by any court to be currently listed as a vicious dog; or
  3. has engaged in or been trained for animal fighting as described in Section 18-9-204, C.R.S.
  4. It shall be an affirmative defense to charges under this section if:
    - a. the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
    - b. at the time the person was committing a crime or offense upon the property of the owner or keeper of the dog;
    - c. the person was teasing, tormenting, abusing or assaulting the dog;
    - d. the dog was attacked or menaced by the domestic animal, or the domestic animal was on the property of the owner or keeper of the dog;
    - e. the dog was responding to pain or injury; or
    - f. the person or domestic animal was disturbing the dog's natural functions such as eating or sleeping.
- D. **Nuisance Cats:** It shall be unlawful for any owner of a cat within the City limits to allow such cat to become or create a nuisance. A cat shall be deemed to be a nuisance when the cat has been abandoned or is known to be living in a wild state with no known rabies vaccination record or when the cat inflicts damage or injury, by any means, to the person or property of anyone but the owner or keeper.
- E. **Interference with Police Dogs Prohibited:** It shall be unlawful for any person to interfere with any dog used by the police department of the City in the performance of the functions or duties of said department, or to interfere with, meddle with, or harass any such dog while said dog is being used by the police department or any officer or member thereof in the performance of any of the functions or duties of said department or of such officer or member.

**9-1-4-5: Reporting of Dog and Cat Bites and Confinement:**

- A. **Confinement of Dogs and Cats Which Have Bitten Persons:** The owner or keeper of any cat or dog that has bitten any person so as to cause an abrasion of the skin shall immediately notify an animal control officer or a police officer. Any such animal shall be immediately quarantined for a period of ten (10) days or longer on the advice of the attending veterinarian or the County health department. No person shall remove an animal from quarantine during the quarantine period. The animal control officer shall determine, in his or her discretion, the location of quarantine for any animal. If not quarantined on the premises of the owner or keeper, confinement will

be at the animal shelter, or in any veterinary hospital or kennel. Such quarantine shall be at the sole expense of the owner or keeper.

- B. **Owners Required to Produce Animals Which Have Bitten Persons:** The owner or keeper of any dog or cat that has been reported as having inflicted a bite which caused an abrasion of the skin of any person shall, on demand of the animal control officer, produce said animal for examination and confinement, as prescribed in this section. If the owner or keeper of any such animal has refused to produce the animal, the owner or keeper shall be subject to immediate arrest if there is probable cause to believe the animal has inflicted a bite upon a person and that the owner or keeper is in possession of the animal and is willfully hiding or refusing to produce the animal upon such demand. Such person shall be taken before a Judge of the Municipal Court, who may order the immediate production of the animal. If the owner or keeper of any such animal shall willfully or knowingly hide or refuse to produce the animal, each day of refusal to produce the animal shall constitute a separate violation. It shall be unlawful to give away, sell, or to remove any such animal from the city or to destroy such animal before it can be properly confined by the animal control officer.
- C. **Treatment of Bites to be Reported by Physician:** Every physician and other medical practitioner who treats a person or persons for bites inflicted by a dog or cat shall report such treatment to an animal control officer within twenty-four (24) hours, giving the name, address, and telephone number of such person or persons.
- D. **Veterinary and Additional Owner Responsibilities:** The owner or keeper of any dog or cat shall inform the veterinarian before any rabies inoculation is given whether the dog or cat is under bite confinement or has inflicted a bite on any person within the last ten (10) days. It shall be the responsibility of any veterinarian to vaccinate any dog or cat over six (6) months of age that is presented in good health and has not inflicted a bite upon a person in the preceding ten (10) days.
- E. **Disposition of Rabies-infected Animals:** Animals known to have been bitten by or exposed to a rabid animal shall be immediately destroyed, or released upon proof of current rabies immunization and "booster injection" given by a licensed veterinarian at the expense of the owner or keeper. The owner or keeper of any animal released under this section shall be required to keep said animal under quarantine for a period of six (6) months or as may be determined necessary by the County public health officer.

**9-1-5: IMPOUNDMENT; DISPOSITION; FEES:**

**9-1-5-1: Impoundment:** In addition to any other remedies provided in this chapter, an animal control officer or police officer may seize, impound and humanely confine to an animal shelter or other impoundment facility, inside or outside the jurisdictional limits of the City, any animal that exhibits behavior in violation of this chapter.

**9-1-5-2: Notice of Impoundment:** Upon the impoundment of any animal, the police or animal control officer shall make a reasonable effort to ascertain ownership of any impounded animal and shall make a reasonable effort to notify the owner, either verbally or in writing, of such animal so impounded. In the event ownership of an impounded animal cannot be reasonably determined, notice may be posted on the main entrance to the Village Center of Cherry Hills Village, 2450 East Quincy Avenue, Cherry Hills Village, Colorado. The posted notice shall include a description of the animal, the

time and place of taking, the place of impoundment, and the date by which said animal must be claimed.

**9-1-5-3: Redemption of Impounded Animals:** Any owner or keeper of any animal impounded pursuant to this chapter may reclaim his or her animal from the impounding facility upon payment of all incurred fees for impoundment, boarding, euthanasia, disposal, veterinary and all other services as needed. Failure of the owner or keeper of any impounded animal to claim such animal from the animal shelter or impoundment facility shall not relieve the owner or keeper of all applicable charges and fees incurred by the impoundment facility. In addition, any dog owned or kept within the jurisdictional boundaries of the City shall be released only upon compliance with, and payment of the fees imposed by section 9-1-4-1(D) hereof and any cat owned or kept within the jurisdictional boundaries of the City shall be released only upon compliance with section 9-1-4-2.

**9-1-5-4: Disposition:** Whenever an animal has been impounded, the animal shall be impounded in a humane manner for a period of not less than five (5) days following the date of impoundment except as otherwise set forth in this section. Any animal so impounded which is not claimed within said five day period, may be disposed of by adoption, donation, or destruction at the discretion of the animal control officer.

**9-1-5-5: Summons Hold Status:** Any animal impounded or held as evidence pursuant to a "summons hold" shall not be released to the owner or keeper prior to service of a summons and complaint upon the animal owner or keeper.

**9-1-5-6: Vicious Dog Impoundment:** A vicious dog shall be subject to mandatory impoundment if the victim of the offense has suffered bodily or serious bodily injury, if the animal has been engaged in or been trained for fighting, or if the dog otherwise presents a clear and present danger to the public health or safety. A vicious dog shall remain impounded unless otherwise ordered released by the Municipal Judge. The Municipal Judge shall order any owner or keeper who has entered into a deferred judgment or deferred prosecution to make payment to the impound facility for all impoundment fees, boarding costs, and any reasonable and necessary medical expenses incurred during the impoundment of the dog.

**9-1-5-7: Guard Dog Impoundment:** A guard dog found running at large shall be impounded and shall not be ordered released by the Municipal Judge until the owner or keeper of said dog has taken appropriate corrective action to ensure the dog's enclosure is escape-proof.

**9-1-5-8: Breaking Into Impound Facility; Interfere with Police:** It shall be unlawful for any unauthorized person to break, open, assist, or attempt to break or open, any impoundment facility, pen or enclosure, public or private, with the intent to release any animal impounded by or on behalf of the City.

**9-1-5-9: Immediate Destruction:**

- A. Nothing in this chapter shall be construed to prevent the immediate destruction of any vicious dog or other vicious animal when deemed necessary in the interest of public safety by the animal control officer or police officer under circumstances where a significant and immediate threat to the health or safety of a person or another animal exists.
- B. Nothing in this chapter shall be construed to prevent the immediate destruction of any domestic or wild animal when a veterinarian, animal control officer, or police officer has determined that such animal is

critically ill or injured, is suffering extreme pain, or has a poor prognosis for recovery.

**9-1-6: ENFORCEMENT; PENALTIES:**

**9-1-6-1: Prosecution for Violations:**

**A. It shall be a violation of this chapter to:**

1. Fail to comply with any provision of this chapter;
2. Fail to comply with any lawful order of an animal control officer or police officer unless such order is lawfully stayed or reversed;
3. Intentionally interfere with, hinder, harass, molest, injure, or obstruct any animal control officer or police officer in the discharge of his official duties under this chapter or other applicable law;
4. Fail to comply with any special sanctions imposed pursuant to section 9-1-6-1(E), or pay any fines, civil penalties or costs imposed by the Municipal Court or any fees and charges imposed by the animal shelter or impoundment facility arising from impoundment of an animal.

**B. Penalty:** The owner of an animal shall be subject to escalating penalties, as provided below, for each violation of this chapter, whether the subject animal is the same animal, a different animal or various animals belonging to the said owner. The maximum fine shall not exceed one thousand dollars (\$1,000.00) for any one offense, each day constituting a separate offense. Except as otherwise provided herein, any violation of this chapter shall be punishable by a fine of not less than twenty-five dollars for the first violation, not less than fifty dollars (\$50.00) for the second violation, and a mandatory court appearance and fine of not less than seventy-five dollars (\$75.00) for the third and for each subsequent violation for the same offense. Notwithstanding the foregoing, any violation for aggressive dog (section 9-1-4-4 (B)); vicious dog (section 9-1-4-4(C)); prohibited animal (section 9-1-1-5(A)); restricted animal (guard dog) (section 9-1-1-5(B)); cruelty (section 9-1-2-1(A)); neglect (section 9-1-2-1(B)); or poisoning (section 9-1-2-1(E)), shall require a court appearance and shall be punishable by imprisonment not exceeding the limit established in Section 1-4-1(A) of the Code and/or a fine of not less than one hundred dollars (\$100.00) for the first violation, not less than two hundred fifty dollars (\$250.00) for the second violation, and not less than five hundred dollars (\$500.00) for the third and for each subsequent violation for the same offense. As part of any penalty for a third violation of a vicious dog offense, where each offense concerns the same dog, the Court shall order destruction of the dog in addition to, and not in lieu of, any fine imposed. No portion of any minimum fine may be suspended or held in abeyance by the Municipal Court. The Municipal Court is authorized to adopt a fine schedule in accordance with this section.

**C. Strict Liability:** For the purpose of prosecution for violations of any section of this chapter, it shall not be necessary in order to obtain a conviction to prove notice on the part of the owner or keeper of the animal in question that said animal was violating any provision of this chapter at the time and place charged, it being the purpose of this section to impose strict liability upon the owner or keeper of any animal.

- D. **Separate Offense:** Each separate day or any portion thereof during which a violation of this chapter occurs or continues shall constitute a separate offense, and upon conviction thereof, shall be punishable as herein provided.
- E. **Special Sanctions:** The animal control officer, or the City attorney or his designee, may recommend that one or more special sanctions be levied against any animal owner or keeper convicted of any violation of this chapter or pursuant to a deferred judgment or deferred prosecution. This recommendation may be presented to the Municipal Court as a proposed condition of sentencing upon conviction or as a condition of deferred judgment or deferred prosecution, and may be in lieu of or in addition to the penalties specified herein. The Municipal Court may take into consideration the severity of the incident, the prior history of the owner or keeper, and the recommendation of the animal control officer or City attorney. Special sanctions include, but are not limited to the following:
1. confinement of an animal in a secure enclosure in compliance with the zoning ordinance;
  2. spaying or neutering of the animal(s);
  3. obedience training/behavior modification for the animal;
  4. responsible pet ownership class for the owner or keeper;
  5. community service work for the owner or keeper;
  6. microchipping of animal;
  7. euthanasia of the animal(s);
  8. ban on owning or maintaining other animals in the City for a specified period;
  9. use of humane training devices for behavior modification of the animal;
  10. inspections of premises where animal(s) is kept in cases of neglect or cruelty;
  11. restitution for costs of care rendered or shelter given at the City's designated animal shelter, costs of veterinary care, and costs of medical treatment; and
  12. treatment or counseling program(s) for the animal or owner.

The provisions of this section shall not in any way limit the power of the Municipal Court, on its own motion, to impose any other sanction or measure, as it deems appropriate.

**9-1-6-2: Destruction or Seizure on Court's Order:**

- A. If a complaint has been filed in the Municipal Court of the City against the owner or keeper of an animal for violation of this chapter, the Municipal Judge may, upon making a finding that the animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner. Surrender of an animal by the owner or keeper or destruction of any animal shall not relieve or render the owner or keeper immune from the jurisdiction or decision of the court, or to the



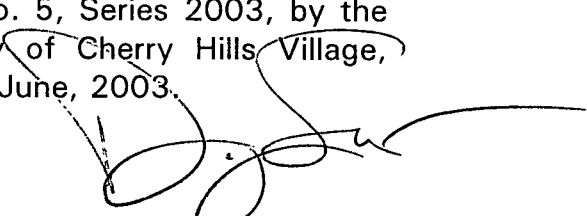
fees, fines, or penalties which may result from a violation or violations of this chapter.

- B. If an affidavit has been submitted to the Municipal Court Judge which satisfies the Judge that an animal is located within the City which is the subject of a violation of this chapter, and that the animal either possesses a clear and present danger to the health, general welfare, or safety of other persons or animal or is suffering extreme neglect or cruelty, the Municipal Judge may order the animal seized by a designated officer or employee of the City pursuant to Rule 241 of the Colorado Municipal Court Rules. The owner or keeper may request a hearing concerning any such order for seizure entered pursuant to this section by filing an appropriate motion pursuant to Rule 241 (e) of the Colorado Municipal Court Rules. Whenever an animal is seized by order of the Municipal Court or other court having jurisdiction, the animal shelter shall not adopt, donate, or euthanize the animal unless such action is permitted by a subsequent order of the same court which ordered the initial seizure. Any animal held pursuant to court order may be disposed of by the animal shelter if unclaimed by the owner or keeper more than three (3) days following issuance of a court order authorizing the release of the animal. The animal owner or keeper shall be liable for all expenses arising from the impoundment and boarding of any animal under a seizure order until the animal is released or otherwise disposed of.
- C. Whenever an animal is seized or impounded pursuant to this chapter, the animal owner or keeper may be summoned before the Municipal Court on the next scheduled court date following the seizure to answer any charges arising incident to the seizure. Trials involving charges resulting in animal seizures shall be given priority on the Municipal Court docket in order to minimize the expense to animal owners or keepers for impoundment and boarding of seized animals.

**9-1-6-3: Immunity from Liability:** The City and its agents and employees, the animal shelter or boarding facility and its agents and employees, and any veterinarian consulted pursuant to this chapter shall be immune from liability for any actions taken pursuant to this chapter.

Section 3. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.


Adopted as Ordinance No. 5, Series 2003, by the  
City Council of the City of Cherry Hills Village,  
Colorado this 17<sup>th</sup> day of June, 2003.

  
Doug Scott, Mayor

ATTEST:

  
Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:

  
Robert C. Widner, City Attorney