

## EXHIBIT A

Chapter 10 of Subpart A of the La Plata County Code is repealed in its entirety and re-enacted as set forth below:

### CHAPTER 10 – ANIMALS

#### Article I – Animal Licensing, Control and Treatment

##### *Division 1. General Provisions*

##### **Sec. 10-10. Definitions**

When used in this article, the following words, terms and phrases, unless the context clearly indicates a different meaning, shall be interpreted as follows:

- I. ***Abandon(ment)*** means the failure to provide adequate provisions for the animal's proper care for a period of twenty-four (24) hours or longer; or, the leaving of an animal on public or private property without the knowledge and permission of the person or entity with whom the animal is being left.
- II. ***Altered Dog*** means a dog that is six (6) months of age or older and has been spayed or neutered.
- III. ***Animal*** means any living dumb creature, including a certified police working dog and a service animal, as those terms are defined in C.R.S. § 18-9-201, as amended.
- IV. ***Animal Control Officer*** means any person designated by the La Plata County Board of County Commissioners to enforce provisions of this Article I pursuant to C.R.S. § 30-15-105 and C.R.S. § 30-15-402.5, as amended. It shall also include any law enforcement officer/peace officer, as defined and described in C.R.S. § 16-2.5-101, as amended.
- V. ***Animas River Trail*** means the hard surface public trail and adjacent greenways designed for pedestrian, bicycle and other non-motorized use that parallels or roughly follows the Animas River through the length of the City of Durango and into surrounding non-annexed but urbanized areas.
- VI. ***Animal Shelter*** means the facilities designated by the La Plata County Board of County Commissioners to care for impounded animals pursuant to the provisions of this article.
- VII. ***At-Large*** has the following meanings in these regulations:

- A. Within an enclave or on the Animas River Trail, a dog, including a working dog, shall be deemed at-large unless under direct physical restraint, as defined in these regulations.

Alternative #1

- B. Outside of the Animas River Trail, an enclave or a dog park, a dog other than a working dog shall be deemed at-large when not under physical restraint or immediate command of the owner. A working dog, as defined in these regulations, will not be deemed at-large while performing any of the functions set forth in the definition of the same.

OR

Alternative #2

- B. Outside of the Animas River Trail, an enclave or a dog park, a dog other than a working dog shall be deemed at-large when **off the premises of the owner and** not under physical restraint or immediate command of the owner. A working dog, as defined in these regulations, will not be deemed at-large while performing any of the functions set forth in the definition of the same.

VIII. **Bite** means the piercing, laceration, avulsion or breaking of the skin by the teeth or jaws of any animal. It shall also include severe bruising, hematomas, fractures or other injuries caused by a bite that does not pierce, lacerate or break the skin.

IX. **Bodily Injury** means any physical injury that results in severe bruising, muscle tears or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

X. **Cat** means any animal of the species *Felis Domesticus* or any hybrid thereof.

XI. **Control** means adequate restraint, confinement, supervision and care of any animal sufficient to prevent the violation of any of the provisions of this Article I.

XII. **Cruelty to Animals** means, with respect to any animal, including a certified police working dog or a service animal, to:

- A. Knowingly, recklessly, or with criminal negligence overdrive, overload, overwork, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, allow to be housed in a manner that results in chronic or repeated serious physical harm, carry or

confine in or upon any vehicle in a cruel or reckless manner, engage in a sexual act with an animal, or otherwise mistreat or neglect an animal, or cause or procure it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal; or

- B. Intentionally abandon a dog or cat; or
- C. Knowingly, recklessly, or with criminal negligence torture, needlessly mutilate or needlessly kill an animal; or
- D. Perform any surgical procedures on a pet animal, including, but not limited to, ear cropping, tail docking, and dew claw removal on dogs, except as provided by the Colorado Veterinary Practice Act, C.R.S. § 12-64-101 *et seq.*, as amended, or
- E. Display, sell, offer for sale, barter or give away dyed, colored or artificially color treated chickens, ducks, other fowl or rabbits.

XIII. **Dog** means any animal of the species *Canis Familiaris* or any domesticated animal related to the fox, wolf, coyote or jackal.

XIV. **Dog Park** means an area posted by any agency of the federal government, the State of Colorado, or any political subdivision of the State for dogs to play and exercise off-leash in a controlled environment under the immediate command of their owner.

XV. **Domestic Animal** means livestock, or any pet animal. Wildlife shall not be deemed a domestic animal.

XVI. **Enclave** means an area of La Plata County that has not been annexed by the City of Durango, but which is completely surrounded by land that has been annexed by the City of Durango.

XVII. **Guard Dog** means any dog, other than a working dog, that is: (1) placed or kept upon any non-residential property or residential property used in part for any business to protect persons and property, whether or not trained for such purposes; (2) all dogs trained for protection or to attack persons placed or kept at any location within the unincorporated County, including residential properties.

XVIII. **Habitual Offender** means any person who has pled guilty to, or been found guilty of, violating provisions of this Article I three (3) or more times within an eighteen (18) month period, regardless of whether the animal involved is the same animal.

XIX. **Harbor(ing)** means the act of keeping or caring for an animal for 72 hours or more or of providing a premises to which the animal customarily returns for food, shelter or care.

XX. **Immediate Command** means supervision of a pet animal so that it is at heel or otherwise obedient to a person competent to restrain it by command. To be under immediate command, a pet animal must be within sight or hearing distance of the person competent to restrain the animal, and upon voice command, such pet animal must return to the person for the person to be gain physical restraint over the animal.

XXI. **Licensed Facility** means a kennel, boarding facility, training facility, animal shelter or rescue licensed by any state or federal governmental agency, including the Colorado Department of Agriculture and the United State Department of Agriculture.

XXII. **Livestock** means cattle, horses, mules, burros, sheep, poultry, swine, llama, and goats, regardless of use, and any other animal, other than a working dog, that is used for working purposes on a farm or ranch.

XXIII. **Mistreat(ment)** means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering of an animal.

XXIV. **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.

XXV. **Neighbor(s)** means, for purposes of these regulations, a property owner, its tenant or other agent, within 500 feet of the exterior property boundaries of the premises (as defined herein) where a dog is kept or located. Notwithstanding the foregoing, owners of vacant property are not deemed neighbors under these regulations.

XXVI. **Nuisance Barking** means loud, habitual and persistent barking, howling, yelping or whining by any dog, whether on or off the premises of the owner, that disturbs the peace of any person.

XXVII. **Owner** means any person or entity owning or having a financial or property interest in an animal, any person responsible for the animal's care or custody, or any other person keeping, harboring or in possession of such animal. This term includes the parent or

legal guardian or custodian or any un-emancipated minor under eighteen (18) years of age who owns, possesses, keeps, harbors or has control or custody of an animal.

XXVIII. **Pet Animal** means and includes any animal owned or kept by a person for companionship or protection of people or property or kept for sale to others for such purposes. This term includes, but is not limited to, mammals, birds, fish, reptiles, amphibians, invertebrates or any species of wild, domestic or hybrid animal retained for the purposes of being kept as a pet. Unless otherwise specified in these regulations, the term includes working dogs. Unless otherwise specified in these regulations, the term does not include livestock.

XXIX. **Physical Restraint** means containment of a pet animal in such a manner that the animal is confined in a building, fence, enclosure, motor vehicle or other structure in a way that it cannot escape or is under the direct control and restraint of its owner by a leash, cord or chain not more than eight (8) feet long.

XXX. **Premises** means property owned, leased or expressly permitted to be used by an owner, including any confined area or locality such as a residence, business, room, shop, building or motor vehicle. Premises includes the open bed of a truck.

XXXI. **Provoke or Provocation** means any of the following acts committed by a person:

- A. Harassing, teasing, tormenting, threatening, striking or attacking an animal or its owner in the animal's presence; or
- B. Trespassing or other unlawful intrusion onto the owner's property without the owner's consent. An animal acting in defense of its owner, the owner's family or the owner's property shall be deemed to have been provoked; or
- C. Interference with a working dog actually performing its job, as defined in these regulations.

For purposes of asserting an affirmative defense against a charge of owning or harboring a vicious animal or dangerous animal under these regulations, provocation shall also include any of the acts referenced in subsection A – C above committed by another animal.

XXXII. **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, burns of the second or third degree, or breaks or fractures.

XXXIII. ***Serious Physical Harm***, as it relates to cruelty to animals, means any of the following:

- A. Any physical harm that carries a substantial risk of death; or
- 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.

XXXIV. ***Unaltered Dog*** means a dog that is six (6) months of age or older and is not spayed or neutered.

XXXV. ***Vicious Animal*** or ***Dangerous Animal*** means any pet animal found by any court to:

- A. Have inflicted bodily injury or serious bodily injury upon or caused the death of a person, domestic animal or wildlife, without provocation; or
- B. Have demonstrated tendencies that would cause a reasonable person to believe that the animal may inflict bodily injury or serious bodily injury upon, or cause the death of, any person, domestic animal or wildlife, without provocation; or
- C. Be a dangerous dog, as defined in C.R.S. § 18-9-204.5, as amended.

An animal that injures a person intervening in an animal fight in which the animal is involved shall not be considered a vicious animal or dangerous animal with respect to injuries obtained by the intervening person(s). A working dog that injures a person, wildlife or other domestic animal, without provocation, is not exempt from being considered or charged as a vicious animal or dangerous animal, even if the working dog is not considered to be at-large under these regulations.

XXXVI. ***Wildlife*** means wild vertebrates, mollusks, and crustaceans, whether alive or dead, including any part, product, egg, or offspring thereof, that exist as a species in a natural wild state in their place of origin, presently or historically.

XXXVII. **Working Dog** means a dog that is actually working livestock; guarding livestock from predators in the presence and immediate command of the owner or on property owned, leased or expressly permitted to be used by the owner; locating or retrieving wild game in season for a licensed hunter; assisting law enforcement officers; assisting in rescue efforts; or being trained for any of these pursuits. A dog that is more than 250 yards from the nearest individual animal of the herd of livestock being worked; on property not owned, leased or permitted to be used by the owner; or that is harassing persons, domestic animals or wildlife in public rights-of-way will not be deemed to be actually working livestock or guarding livestock from predators.

**Sec. 10-11. Designated Facilities/Agencies**

- I. **Animal Shelter.** The La Plata County Humane Society is designated to care for impounded animals pursuant to the provisions of this article. All animal shelters and facilities operated by the La Plata County Humane Society are authorized to impound animals pursuant to the provisions of this article.
- II. **Licensing and Registration Agency.** The La Plata County Humane Society is designated as the County's licensing agency and shall issue dog licenses to County residents pursuant to the provisions of this article. Further, dogs that have to be registered as guard dogs and animals that have to be registered as vicious/dangerous animals under these regulations shall be registered with the La Plata County Humane Society.

**Division 2. Vaccination and Licensing**

**Sec. 10-20. Rabies Vaccinations Required for Dogs and Cats**

- I. **Vaccination.** Any person who harbors or owns any dog or cat three (3) months of age or older shall have such animal vaccinated against rabies by a veterinarian licensed by the State of Colorado, unless one of the following conditions exist:
  - A. A veterinarian licensed in Colorado may issue a written waiver exempting the dog or cat from a rabies vaccination, pursuant to C.R.S. § 25-4-607(2), as amended; or
  - B. If the dog or cat has inflicted a bite upon any person or other animal within the preceding ten (10) day period, the owner of the dog or cat shall report such fact to a veterinarian, and no rabies vaccination shall be administered until after a ten (10) day observation period has elapsed.

Vaccinations administered by a licensed veterinarian in another state, and in compliance with the schedule provided herein, will be accepted for dogs or cats of new County residents who have relocated from another state.

- II. **Booster/Re-Vaccination.** A booster vaccination shall be administered one (1) year after the initial vaccination, and then the dog or cat shall be revaccinated every three (3) years thereafter.
- III. **New Residents.** New residents to the County who harbor, own or acquire a dog or cat three (3) months of age or older shall comply with this regulation within thirty (30) days of relocating to the County.
- IV. **Non-Transferable.** Rabies vaccination certificates or signed waivers are not transferrable, and it shall be unlawful for any person to use any rabies tag, certificate or waiver for any animal other than animal for which the tag, certificate or waiver was originally issued.

#### **Sec. 10-21. Licensing of Dogs Required; License Tags**

- I. **License Required.** Any owner of a dog three (3) months of age or older that is kept or harbored in unincorporated La Plata County for thirty (30) or more days in a calendar year must procure a license for such dog in accordance with the provisions of this section. New residents to the County must license their dogs within thirty (30) days of relocating to the County.
- II. **Vaccinations.** To obtain a license, the owner must present proof of a current rabies vaccination certificate or vaccination waiver, signed by a veterinarian licensed by the State of Colorado or another state, to the designated County licensing agency.
- III. **Expiration and Renewal.** Such licenses shall expire on either an annual or tri-annual basis, depending on the duration of the rabies vaccine administered to such dog, as set forth on the current rabies vaccination certificate; or, the duration of the written waiver exempting the dog from a rabies vaccination. A dog owner must renew the license upon expiration.
- IV. **Exemptions.** Licensed facilities, as defined in these regulations, are exempt from the licensing requirements contained in this section.
- V. **License Tag.** The license tag issued to the dog owner shall be attached to the collar or

harness of the licensed dog and shall be worn at all times by the licensed dog, unless the dog is participating in an activity where attachment of the license tag would constitute a clear danger to the dog. If the license tag is lost, destroyed or otherwise damaged so as to make the tag unreadable, the owner shall obtain a duplicate license tag from the designated licensing agency within thirty (30) days.

- VI. **Non-Transferable.** Dog licenses are not transferrable, and it shall be unlawful for any person to use any license for any dog other than the dog for which the tag was originally issued.
- VII. **Fees.** The fees for licensing shall be established from time to time by ordinance of the Board of County Commissioners and are set forth in Section 10-50.

### ***Division 3. Offenses and Enforcement***

#### **Sec. 10-30. Offenses**

- I. **Rabies Vaccination.** Owners shall be liable for failure to vaccinate their dogs and cats as required by Section 10-20 or in misusing or transferring certifications for such vaccinated animals.
- II. **Licensing.** It is unlawful for the owner of a dog to fail to license the dog and/or display license tags as required by Section 10-21.
- III. **Guard Dog.** It is unlawful to, and no person shall, own or harbor a guard dog in La Plata County, except as provided in these regulations.
  - A. **Registration.** Guard dogs must be registered annually with the designated facility listed in Section 10-11 by paying the registration fee set forth in Section 10-50. The following information must be provided to the facility at the time of registration:
    - 1. Owner's name, home address and telephone numbers; and
    - 2. Dog's name, age, sex, breed and physical description; and
    - 3. The name, address and telephone numbers for an alternative person to contact regarding the dog in the owner's absence; and
    - 4. Current license information, as required by Section 10-21; and
    - 5. A description of any training given to the dog, including a list and description of commands known by the dog.

**B. *Confinement and Warning.***

1. Warning signs must be conspicuously posted around the property and enclosure where the guard dog is kept indicating the presence of a guard dog. Such signs shall display the words "Guard Dog" in letters four (4) or more inches tall, display an image of a guard dog easily understandable to children and display a telephone number where a person responsible for control of the guard dog may be reached at all times, twenty-four (24) hours per day.
2. At all times, a guard dog must be confined in an enclosed area adequate to ensure that it will not escape, or it must be under the immediate command and/or physical restraint of its owner or handler.

C. *Impoundment.* If an animal control officer has probable cause to believe that any guard dog is not being confined or controlled as required by this section, the animal may be seized and impounded.

**IV. *Animal At-large.*** It is unlawful for the owner of a dog to permit such animal to run, or be, at-large.

A. *Impounding.* Any dog found running at-large may be restrained by an animal control officer or any other person and impounded at the County's designated animal shelter.

**V. *Nuisance Barking.*** Nuisance barking is prohibited. It is unlawful to keep a dog that disturbs its neighbors by making loud, habitual and persistent barking, howling, yelping or whining noises for a continuous 20 minutes during any 24-hour period.

A. *Warning Notices.* An animal control officer may issue a written warning to a dog owner after receiving a complaint from one (1) neighbor who signs an affidavit attesting to nuisance barking. The owner will have ten (10) days after the warning is issued to correct the problem before a citation or summons and complaint can be issued. The warning shall cite this section, shall state that a complaint has been received, that the owner's dog is disturbing the peace of another, and shall identify the date and time of the disturbance, and the dog(s) accused of nuisance barking. A warning shall be considered given if it is personally served to the owner, posted on the owner's premises, or mailed by certified U.S. Mail, postage prepaid and addressed to the dog owner. Warning notices so served shall constitute notice to all members of the premises.

**B. Citation or Summons and Complaint.** After the ten-day grace period and within six (6) months after the issuance of a warning, a citation or summons and complaint may be issued to a dog owner for subsequent nuisance barking, pursuant to Section 10-32 below. No person shall be cited or charged with a violation of this section unless two (2) neighbors/complainants, who are not from the same household, sign an affidavit attesting to the nuisance barking and verifying the allegations of the complaint. If only one neighbor owns or leases property within 500 feet of the exterior property boundaries of the premises where the dog is located, then only one (1) complainant must sign the affidavit. As set forth in Section 10-10(XXV) above, owners of vacant land are not considered neighbors for purposes of these regulations and are not eligible to make a complaint.

In all cases, demonstrative evidence, such as unaltered digital and/or video recordings, is recommended from the complainants. As part of the affidavit signed by complainant(s), complainant(s) must provide the property address where the dog(s) is/are located, description of the dog(s), and date and duration of the alleged violation. Anonymous complaints will not be accepted for issuance of a warning, citation or summons and complaint.

If a second or subsequent offense of this section is charged within six (6) months of the issuance of the first citation or summons and complaint for nuisance barking, whether or not the dog is the same, a citation or summons and complaint may be issued without first issuing a warning notice.

**C. Defense.** Provocation of a dog is an affirmative defense to any charge of nuisance barking under these regulations.

**D. Exemptions.** Working dogs engaged in the activities defined in Section 10-10(XXXVII), and licensed facilities and veterinary hospitals that comply with applicable land use and licensing regulations are exempt from provisions related to nuisance barking.

**VI. Cruelty to Animals.** It is unlawful for any owner of a pet animal, including livestock, to fail to provide such animal with proper supervision, safe confinement and necessary care. Improper care and treatment, including cruelty to animals, as defined herein, is a failure to properly control and supervise such animal.

- A. *Impoundment.* If an animal control officer has probable cause to believe that any pet animal or livestock is abandoned, neglected, mistreated or has otherwise been subject to cruelty to animals, the animal may be seized and impounded.

**VII. Vicious/Dangerous Animal.** It is unlawful to, and no person shall, own or harbor a vicious animal or dangerous animal within La Plata County, except as provided in these regulations.

- A. *Registration.* A vicious animal or dangerous animal must be registered annually with the designated facility listed in Section 10-11 by paying the registration fee set forth in Section 10-50. The following information must be provided to the facility at the time of registration:

1. Owner's name, home address and telephone numbers; and
2. Animal's name, age, sex, species, breed and physical description; and
3. The name, address and telephone numbers for an alternative person to contact regarding the animal in the owner's absence; and
4. A copy of the court order finding the animal to be vicious or dangerous and any subsequent orders expanding, modifying or amending the original finding; and
5. As applicable, current license information, as required by Section 10-21.

- B. *Confinement.* It is unlawful to keep any animal that has been found by a court to be a vicious animal or dangerous animal unless such animal is confined in a manner to protect the public as follows:

1. When outside the owner's primary residence, the animal must be confined in a kennel, run or pen approved by La Plata County animal control officers or must be on a leash no longer than four (4) feet and under the direct control of a person at least eighteen (18) year of age; and
2. When outside the owner's primary residence, the animal must be confined in such a manner as complies with any additional safety restrictions ordered by the court that found the animal vicious or dangerous, unless amended by a court in our jurisdiction.

- C. *Impoundment/Destruction.* If an animal control officer has probable cause to believe that a pet animal is a vicious animal or dangerous animal, or if any animal found to be a vicious animal or dangerous animal by a court is confined in violation of this section, such animal may be seized and impounded. If impoundment cannot be

accomplished safely, animal control officers are authorized to take appropriate measures, including destruction of the animal involved, to prevent death or bodily injury to the officer, other persons, domestic animals or wildlife by vicious animals, dangerous animals or animals with rabies.

**D. *Defense.*** Provocation of an animal is an affirmative defense to any charge of owning or harboring a vicious animal or dangerous animal under these regulations.

**VIII. *Provocation.*** It is unlawful for any person to provoke, or engage in provocation of, a pet animal, including livestock.

**IX. *Habitual Offender.*** Habitual violations of these regulations are prohibited. It is a separate offense for an owner of any pet animal, including livestock, to be convicted of violating these regulations three (3) or more times during any consecutive eighteen (18) month period.

**X. *Interference with Animal Control Officer.*** It is unlawful for any person to interfere with, hinder, prevent or obstruct an animal control officer in the performance of his or her duties under these regulations.

**Sec. 10-31. Authorized Enforcement Personnel.** This article shall be enforced within the unincorporated areas of La Plata County. The provisions of this article may be enforced by any peace officers described in C.R.S. § 16-2.5-101, as amended, or any other person or position designated by the Board of County Commissioners as animal control officers pursuant to C.R.S. § 30-15-105, as amended. The District Attorney for the Sixth Judicial District shall prosecute violations of this Article I at his/her discretion. The District Attorney or a peace officer may refer individuals to mediation prior to issuance of a summons and complaint.

#### **Sec. 10-32. Issuance of Citations or Summons and Complaint**

**I. *Probable Cause.*** Whenever a violation of this article is committed in an animal control officer's presence or, if not committed in his presence, when an animal control officer has probable cause to believe the violation has been committed, the animal control officer may issue a citation or a summons and complaint to the violator, pursuant to the provisions of this Section 10-32, stating the nature of the violation with sufficient particularity to give notice of said charges to the violator.

Notwithstanding the foregoing, a violation of section 10-30(V) regarding nuisance barking must be witnessed by two (2) neighbors/complainants, who are not from the

same household and who sign an affidavit attesting to the nuisance barking and verifying the allegations of the complaint. If only one neighbor is located within 500 feet of the exterior boundaries of the premises where the dog is located, then only one (1) complainant must sign the affidavit.

- II. ***Citation/Penalty Assessment.*** Pursuant to C.R.S. §§ 30-11-101(2), 30-15-102(1) and 30-15-402(1), as amended, any designated animal control officer or any arresting law enforcement officer is authorized and directed to utilize the penalty assessment notice/procedure provided for in C.R.S. § 16-2-201, as amended, for any violation of this article not involving bodily injury to a person, cruelty to animals, vicious animals or dangerous animals, and/or a habitual offender. Any violation of this article involving bodily injury to a person, cruelty to animals, vicious animals or dangerous animals, and/or a habitual offender will result in issuance of a summons and complaint requiring the alleged offender to appear before a specified county court to answer the charge(s) without the option of paying a fine in lieu of appearing.
- A. ***Penalty Assessment Notice.*** A penalty assessment notice issued pursuant to this Section 10-32(II) shall be a summons and complaint and shall contain the following information: identification of the alleged offender; specification of the offense(s) charged, including a citation of the statute(s) or ordinance section(s) alleged to have been violated; specification of the applicable fine(s); a brief statement or description of the offense(s) charged, including the date and approximate location thereof; and a requirement that the alleged offender pay the fine **or** appear before a specified county court to answer the charge(s) at a specified date, time and place. A duplicate copy shall be sent to the clerk of the county court of the Sixth Judicial District.
- B. ***Payment of Fine/Trial.*** If the person given a penalty assessment notice chooses to acknowledge his guilt, he may pay the specified fine in person or by mail at the place and within the time specified in the notice. If he chooses not to acknowledge his guilt, he shall appear in court as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be no less than the amount specified in the notice for the offense of which he was found guilty (see Section 10-33(I) below) and no more than one thousand dollars (\$1,000) per offense, together with customary court costs that may be assessed against him and any restitution ordered by the court to be paid. Upon conviction, the offender may also face imprisonment in county jail for not more than 90 days, as determined by the court.
- III. ***Summons and Complaint.*** When any violation of this article involves bodily injury to a person, cruelty to animals, vicious animals or dangerous animals, a habitual offender, or

when the penalty assessment procedure described in Section 10-32(II) is not otherwise used, a summons and complaint shall be issued requiring the alleged offender to appear before a specified county court to answer the charge(s) without the option of paying a fine in lieu of appearing.

- A. *Contents/Filing with Court.* The summons and complaint shall contain the following information: identification of the alleged offender; specification of the offense(s) charged, including a citation of the statute(s) or code section(s) alleged to have been violated; a brief statement or description of the offense(s) charged, including the date and approximate location thereof; and a requirement that the alleged offender appear before a specified county court to answer the charge(s) at a specified date, time and place. A copy of a summons and complaint shall be filed immediately with the county court before which appearance is required, and a second copy shall be given to the District Attorney or Deputy District Attorney for the County.
- B. *Mandatory Court Appearance.* A summons and complaint requiring the alleged offender to appear before a specified county court without the option of paying a fine in lieu of appearing shall be issued to anyone who is:
1. Charged with a violation involving bodily injury or serious bodily injury to any person; or
  2. Charged with cruelty to animals; or
  3. Charged with owning or harboring a vicious animal or a dangerous animal; or
  4. A habitual offender or alleged habitual offender charged with a third or subsequent violation of any provision of this article within eighteen (18) months of the date of the first conviction for a violation.
- C. *Punishment for Offenses.* Upon conviction, violations of this article not involving bodily injury to a person shall be punishable as set forth in Section 10-33(I) below. Violations of this article involving bodily injury to a person shall be punishable as set forth in Section 10-33(II) below.

### **Sec. 10-33. Punishment for Offenses/Violations**

- I. ***Violations Not Involving Bodily Injury to Any Person.*** Any violation of this article not involving bodily injury to any person shall be a class 2 petty offense and shall be punishable, upon conviction, by a fine of not less than the amount set forth in the fine schedule in this subsection and not more than one thousand dollars (\$1,000) per offense, pursuant to C.R.S. § 30-15-102(1), as amended, or by imprisonment in the county jail for

not more than 90 days, or by both such fine and imprisonment, for each separate offense. Restitution and court costs may also be ordered by the court for conviction of any offense.

A. *Fine Schedule.* The following graduated fine schedule shall be applied for violations of this article when bodily injury to any person is not involved:

<b>Section</b>	<b>Violation</b>	<b>Number of Offenses in an 18-month period</b>	<b>Fine</b>
10-30(I)	Failure to Vaccinate; Misuse of Certification or Waiver	First Offense Second Offense Third and Subsequent Offense	\$ 40 \$ 80 \$ 80 + court appearance
10-30(II)	Failure to License; Tag not Affixed	First Offense Second Offense Third and Subsequent Offense	\$ 40 \$ 80 \$ 80 + court appearance
10-30(III) (A) and 10-30(VII) (A)	Failure to Register a Guard Dog; Failure to Register a Vicious Animal or Dangerous Animal	First Offense Second Offense Third and Subsequent Offense	\$ 40 \$ 80 \$ 80 + court appearance
10-30(IV)	Animal At-large	First Offense Second Offense Third and Subsequent Offense	\$ 40 \$ 80 \$ 120 + court appearance
10-30(V)	Nuisance Barking	Warning Notice* (* 6 month timeframe) First Offense Second Offense Third and Subsequent Offense	N/A \$ 50 \$ 100 \$ 250 + court appearance

10-30(III) (B)	Failure to properly confine and/or warn of a guard dog	First Offense Second Offense Third and Subsequent Offense	\$ 50 + court appearance \$ 100 + court appearance \$ 250 + court appearance
10-30(VI)	Cruelty to Animals	First Offense Second Offense Third and Subsequent Offense	\$ 250 + court appearance \$ 500 + court appearance \$1,000 + court appearance
10-30(VII) (B)	Vicious/Dangerous Animal harboring/failure to control (for offenses not involving bodily injury to a person)	First Offense Second Offense Third and Subsequent Offense	\$ 250 + court appearance \$ 500 + court appearance \$1,000 + court appearance
10-30(VIII)	Provocation	First Offense Second Offense Third and Subsequent Offense	\$ 50 \$ 100 \$ 250 + court appearance
10-30(IX)	Habitual Offender	Each Offense	\$ 500 + court appearance
10-30(X)	Interference with Animal Control Officer	First Offense Second Offense Third and Subsequent Offense	\$ 250 \$ 500 \$1,000 + court appearance

II. **Offenses Involving Bodily Injury to Any Person.** It shall be unlawful for any owner of a dog or other pet animal to inflict bodily injury on any person, except when the person injured intervenes in an animal fight in which the animal is involved or when the person injured provokes the animal involved. Any violation of this article that involves bodily injury to any person by a dog or other pet animal shall be a class 2 misdemeanor, and any

violator shall be punished as provided in C.R.S. § 18-1.3-501, as amended, for each separate offense. Restitution and court costs may also be ordered by the court for conviction of any offense.

- III. ***Disposition of Penalties.*** All fines and penalty assessments for violations of the provisions of this article shall be paid into the treasury of the County as such fines and penalties are collected.

***Division 4. Impoundment; Disposition***

**Sec. 10-40. Impoundment Authorized.** In accordance with the provisions of this Chapter 10, animal control officers may, in their discretion, seize and impound pet animals, including livestock:

- I. At-Large; or
- II. Appearing to be sick or injured, whose owner cannot be identified or located; or
- III. Suspected, based on probable cause, to be a guard dog not kept in accordance with these regulations; or
- IV. Suspected, based on probable cause, or found to be a vicious animal or dangerous animal not kept in accordance with these regulations; or
- V. Abandoned, neglected, mistreated or otherwise suffering from cruelty to animals; or
- VI. Otherwise being kept in violation of these regulations.

No person shall refuse to immediately deliver up or release any animal to an animal control officer upon lawful demand to seize and impound the animal.

An animal control officer shall have the right to enter upon private property when necessary to seize an animal described above. Authorized entry shall not include entry into a domicile, enclosed building or structure, or any enclosure that confines the dog on private property without consent of the owner or resident of the property or an order from the court. If an owner refuses or fails to deliver or release an animal or if an owner cannot be found, and upon presentation of a motion and an affidavit establishing probable cause that the animal is (1) sick or injured, (2) a vicious animal or dangerous animal, or (3) is abandoned, neglected, mistreated or otherwise suffering from cruelty to animals, a court may issue a warrant for search and seizure to preserve evidence or protect the public's and/or animal's safety and welfare, pursuant to Crim. P. Rule 41(b), as amended.

**Sec. 10-41. Notice; Period of Impoundment**

- I. *Notice.*** When any animal has been impounded in accordance with the provisions of this Chapter 10, personnel from the animal shelter or other impound facility shall make reasonable efforts to notify the owner by telephone, posting a notice at the owner's residence, or by written notice mailed to the owner's last known address. If the animal's owner is unknown, notice of impoundment giving a general description of the animal and the time and general location the animal was picked up from will be posted at the shelter or impound facility. Records of notification, including the times, dates and manner of notifications shall be kept by shelter or impound facility personnel, and such records shall be prima facie evidence of notification or attempted notification.
- II. *Period of Impoundment.***
- A. *Minimum Period; Generally.*** Except as otherwise set forth in this subsection II, if no owner appears to claim an impounded animal and pay the costs and fees of impoundment and boarding, together with any fines or penalties due, within five (5) days after notification, the animal shall be deemed abandoned and may become available for adoption or otherwise disposed of at the discretion of the animal shelter or impound facility.
- B. *Sick or Injured Animal.*** An impounded animal, including an animal impounded on suspicion of animal cruelty or suspicion of being a vicious or dangerous animal, that is critically injured or ill and in pain or contagious to other animals is not subject to the minimum impoundment period. Such animal may immediately be humanely euthanized **if** (1) in the opinion of a veterinarian the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery and it is in the animal's best interest to be euthanized; **and** (2) the shelter or impound facility has exhausted reasonable efforts to contact the owner. For animals with identification, the animal shelter or impound facility shall make reasonable efforts to contact the owner for up to twenty-four (24) hours.
- C. *Vicious Animal or Dangerous Animal.*** An animal suspected or found to be a dangerous animal or vicious animal will not be released from impoundment to its owner during pendency of any proceedings for violations of this article unless ordered by the court or approved by the director of the animal shelter or impound facility.

Within ten (10) days after an animal is impounded under Section 10-40, the owner

may prevent disposition of the animal by the animal shelter or impound facility by: (1) filing a payment for impoundment, boarding and care costs with the county court in an amount determined by the shelter or impound facility to be sufficient to provide for the animal's care and provision for at least thirty (30) days, including the day on which the animal was taken into custody; or (2) requesting a hearing in the county court. Notice of a request for a hearing must be provided to the District Attorney and shelter or impound facility. At the hearing, the court shall determine, as appropriate, whether costs associated with impoundment, boarding and care, as determined by the shelter or impound facility, are fair, reasonable and necessary and whether there was sufficient probable cause for impoundment. If probable cause for impoundment is found, the animal's owner shall file payment of the costs determined reasonable at the hearing. A warrant issued in accordance with Crim. R. Pro. 41(b) authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment.

At least ten (10) days prior to the end of the time for which expenses are covered by an initial or any subsequent payment by the owner, the owner must file a new payment with the court for the continued impoundment, boarding and care of the impounded animal.

Failure to file payment for the costs of impoundment, boarding and care as set forth in this section results in forfeiture of the right to contest such costs and to any ownership rights in the animal in question. Such animal shall be deemed released to the animal shelter or impound agency for disposition as it deems appropriate, unless there is an order from the court prohibiting disposition.

- D. *Animal Cruelty.* Any animal impounded due to suspicion of animal cruelty shall not be released from impoundment to its owner during the pendency of any proceeding for violations of this article unless ordered by the court or approved by the director of the animal shelter or impound facility.

Within ten (10) days after an animal is impounded under Section 10-40, the owner may prevent disposition of the animal by the animal shelter or impound facility by: (1) filing a payment for impoundment, boarding and care costs with the county court in an amount determined by the shelter or impound facility to be sufficient to provide for the animal's care and provision for at least thirty (30) days, including the day on which the animal was taken into custody; or (2) requesting a hearing in the county court. Notice of a request for a hearing must be provided to the District Attorney and shelter or impound facility. At the hearing, the court shall determine, as appropriate,

whether costs associated with impoundment, boarding and care, as determined by the shelter or impound facility, are fair, reasonable and necessary and whether there was sufficient probable cause for impoundment. If probable cause for impoundment is found, the animal's owner shall file payment of the costs determined reasonable at the hearing. A warrant issued in accordance with Crim. R. Pro. 41(b) authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment.

At least ten (10) days prior to the end of the time for which expenses are covered by an initial or any subsequent payment by the owner, the owner must file a new payment with the court for the continued impoundment, boarding and care of the impounded animal.

Failure to file payment for the costs of impoundment, boarding and care as set forth in this section results in forfeiture of the right to contest such costs and to any ownership rights in the animal in question. Such animal shall be deemed released to the animal shelter of impound agency for disposition as it deems appropriate, unless there is an order from the court prohibiting disposition.

- III. ***Liability for Expenses.*** An owner shall be obligated to reimburse the animal shelter or impound facility for all expenses incurred as a result of seizure and impoundment of an animal when the owner pleads or is found guilty, accepts a plea agreement, deferred sentence or diversion. Notwithstanding the foregoing, any animal impounded on suspicion of: (1) being a vicious or dangerous animal that is found not guilty by a court of being dangerous or vicious, or (2) cruelty to animals where the owner is found not guilty by the court of animal cruelty, shall be returned to its owner subject to payment of fees for medical care, but without liability to boarding and impound fees.

**Sec. 10-42. Disposition of Impounded Animals.** Any animal not properly redeemed by the end of any required impoundment or observation period shall become the property of the animal shelter or impound facility. The animal may then be disposed of by the shelter or impound facility by adoption, transfer to another licensed shelter or rescue group or humane euthanasia.

**Sec. 10-43. Destruction of Vicious Animals and Animals with Rabies.** Nothing in this Part 4 shall be construed to prevent animal control officers from taking whatever action is reasonably necessary to protect themselves and the public from injury by any animal. Animal control officers are authorized to take appropriate measures, including destruction of the animal involved, to prevent death or bodily injury to the officer, other persons, domestic animals or wildlife by vicious animals, dangerous animals or animals with rabies. Destruction of a vicious

animal or animal with rabies, without notice to its owner, is authorized under this section only when no other means, including impoundment, can be employed to prevent death or injury.

***Division 5. Charges and Fees***

**Sec. 10-50. La Plata County Humane Society Charges and Fees**

I. Charges and fees for registration, licensing, impounding, boarding and providing care for animals pursuant to the provisions of this article shall be cumulatively assessed according to the following schedule and shall be paid to the La Plata County Humane Society. Payment of all applicable charges and fees may condition the release or redemption of an animal. All fees charged shall be required regardless of any criminal fine, fee or penalty levied by an animal control officer of the County court for violation of this article. Any dog that is impounded must be licensed by its owner as a condition of release and redemption.

A. *Registration Fees* (per animal):

- 1. Guard dog .....Reserved
- 2. Vicious animal / Dangerous animal.....Reserved

B. *License Fees* (per animal):

- 1. One Year, altered dog .....\$ 15.00
- 2. One year, unaltered dog.....\$ 30.00
- 3. Three year, altered dog.....\$ 40.00
- 4. Three year, unaltered dog.....\$ 80.00
- 5. Lost Tag Replacement .....\$ 5.00

License fees shall be waived for service dogs, law enforcement agencies and senior citizens over the age of 62, provided that such dog is spayed or neutered. If the dog is not spayed or neutered, license fees shall apply.

C. *Impound Fees* (per animal):

- 1. Dog, licensed .....\$ 40.00
- 2. Dog, unlicensed .....\$ 60.00
- 3. Cat .....\$ 30.00
- 4. Other Animals.....\$ 40.00

The fees above are applicable to the first impoundment of an animal in a calendar year. An additional \$20.00 fee will be incurred for each subsequent impoundment in a calendar year. (Example: A second impoundment will incur an additional \$20.00 charge, and a third impoundment will incur an additional \$40.00 charge). This fee is applicable whether the animal is impounded by an animal control officer or brought to the shelter by a civilian.

D. *Boarding Fees* (per animal):

To help defray the costs and administrative expenses incurred for boarding impounded animals, daily boarding fees shall be charged in addition to impound fees, as follows:

1. Dog, altered .....	\$ 20.00
2. Dog, unaltered .....	\$ 25.00
3. Cat .....	\$ 20.00
4. Other Animals.....	\$ 20.00 or the actual cost, whichever is greater
5. Vicious Animals .....	\$ 25.00 or the actual cost, whichever is greater

E. *Medical Care*: In addition to other fees, all actual, reasonable costs and expenses of necessary veterinary treatment and medical care for any animal impounded shall be charged to the owner.

***Division 6. Additional Provisions***

**Sec. 10-60. Applicability of Other Laws**

This article shall in no way limit application and enforcement of any statutes of the State of Colorado or federal government, but shall be in addition thereto.

**Sec. 10-61. Captions**

Captions and headings used throughout this article are for convenience only and shall not be deemed to define, limit, add to or modify the construction or meaning of any provision or the scope of this article.

**Sec. 10-62. No Liability for Enforcement**

The Board of County Commissioners, their agents or employees, animal control officers and animal shelter employees shall not be held responsible for any accident or subsequent disease that may occur to an animal in connection with the administration or enforcement of this article.

**Sec. 10-63. Severability**

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

DRAFT