

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2008

COUNCIL BILL NO. 30
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 7, CHAPTER 1A, OF THE ENGLEWOOD MUNICIPAL CODE 2000, ENTITLED "DOGS AND CATS".

WHEREAS, the Englewood City Council established a citizen Task Force to address the provisions of 7-1A of the Englewood Municipal Code 2000; and

WHEREAS, a seven member Task Force was selected and began meeting in May 2007; and

WHEREAS, the task force presented their initial recommendation, in the form of a newly proposed Ordinance on September 24, 2007, following this meeting the Task Force and members of the Code Enforcement Advisory Committee met to make additional changes suggested by City Council; and

WHEREAS, the combined efforts of the Task Force and the Code Enforcement Advisory Committee (CEAC) resulted in a revised proposal that was reviewed and approved by the CEAC on January 16, 2008; and

WHEREAS, the Task Force and CEAC members reconvened and made additional changes and the CEAC reviewed and approved the changes at their April 16, 2008 meeting;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 7, Chapter 1-A, Section 1, of the Englewood Municipal Code 2000, to read as follows:

ARTICLE A. DOGS AND CATS

7-1A-1: Definitions.

For the purpose of this article, certain terms and words are herewith defined as follows:

Adjoining Owners, Residents: The owners and residents of lands that are supported by a common boundary line.

Animal Shelter: Any ~~premises~~ facility designated by the City for the purpose of boarding and caring for any animal impounded under the provisions of this article or any other ordinance or law of the State of Colorado.

Attack: Any dog or cat that, without provocation, including the definition from Section 7-1A-10(C) EMC, bites or attacks human beings, or in a vicious and terrorizing manner attacks, or approaches in an apparent attitude of attack, a person anywhere within this City, or a dog or cat that runs after and bites, barks or growls at any other animal, bicycle or any vehicle being ridden or driven upon the streets, sidewalks or any public ground or other place open to the general public within this City.

The unprovoked bite or infliction of bodily injury or serious bodily injury on any human or domestic animal.

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

Canine and Feline Breeder: Any person who, outside of his regular course of employment, is breeding purebred dogs or cats in an attempt to improve the breed through controlled propagation, thus achieving carefully desired qualities and traits.

Cat: A domesticated carnivorous mammal Felis Catus. This does not include any felidae not domesticated such as lion, tiger, wildcat, etc. which are included within the provisions of Section 7-1C-3 EMC.

Classified: Any dog or cat adjudicated as "At-Risk" or "Dangerous" shall be classified as such until declassified.

"At-Risk" Animal – any dog or cat that:

When confined is found to menace, chase, display threatening behavior or aggressive behavior otherwise threatens or endangers the safety of any person while confined; or

Repeatedly runs at large; or

While at large, is found to menace, chase, and display threatening or aggressive behavior in a manner that otherwise threatens or endangers the safety of any person or domesticated animal.

"Dangerous" Animal – any dog or cat that:

Attacks a person or domestic animal causing bodily injury or death; or behaves without provocation in a manner that a reasonable person would believe poses an imminent threat of serious bodily injury or death to persons or domestic animals; or

Continues to display behavior that caused it to be adjudicated as an "At-Risk" animal.

Declassified: A dog or cat previously classified as "At-Risk" or "Dangerous" that has complied with Section 7A-1-12J -16I.

Dog: A carnivorous domesticated mammal of the canine species, Canis Familiaris and the product of Canis Lupus having been bred with Canis Familiaris. The following are excluded from and are not a part of this definition: Jackals; foxes; and related animals; and wolves, Canis Lupus all of which come within the provisions of Section 7-1C-3 EMC.

~~*Dog or Cat, Castrated Male (Neutered):* Any male dog or cat upon which alternative surgery of the genital organs has been performed by a licensed veterinarian and accompanied by a certificate asserting such operation has been performed.~~

~~*Dog or Cat, Female (Not Spayed):* Any dog or cat of the female gender upon which no alternative surgery of the genital organs has been performed.~~

Dog or Cat, Female Spayed:—Any female dog or cat on which an ovariectomy or ovariohysterectomy has been performed by a licensed veterinarian and accompanied by a certificate asserting such operation has been performed.

Female animal with ovaries removed.

Dog or Cat, Male (Not Neutered):—Any dog or cat of masculine gender upon which no alternative surgery of the genital organs has been performed.

A castrated male animal.

Dog or Cat Owner: Any person keeping, harboring or having the full or temporary care of a dog or cat at the time any violation of this article is committed. A person having the right of property or custody of an animal, or who keeps or harbors an animal, or knowingly permits an animal to remain on or about any premises occupied, owned or controlled by that person.

Dog or Cat, Stray and/or Running at Large (private property): Any dog or cat within the City limits, outside of owner's property, unaccompanied by owner as defined herein. Not physically restrained or under reasonable control in an owner's premises or vehicle, in a manner that physically prevents the animal from leaving the premises or vehicle or reaching any public areas.

Dog or Cat, Stray and/or Running at Large (public property): Not under reasonable control and physically restrained by a capable person when on public property, or any public area, by a leash, tether or other physical device, with the exception of designated off leash parks.

Domesticated Animal: Dog or cat or any other animal kept as a household pet or as livestock.

Escape Proof Enclosure: An enclosed area that will completely confine the animal in a kennel, run, yard or other space which will adequately protect the general public from inadvertent or casual contact with the animal.

Grievous Bodily Harm: Bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.

Guard or Attack Dog: Any dog trained to attack a person, or acquired for the purpose of patrolling property or attacking any person. Also included is any dog whose actions have previously resulted in a conviction of its owner of a violation of Section 7 1A-10 EMC.

Hobby Breeder: Any person who, outside of his regular course of employment, is breeding purebred dogs in an attempt to improve the breed through controlled propagation, thus achieving carefully desired qualities and traits.

Kennels or Cattery: Any place where dogs or cats are born, bred, raised, boarded, fed or sold, for any valuable consideration, but shall not include a household which sells only the offspring of a female dog or cat maintained solely as a family pet.

Muzzle: A restraining device made of metal, plastic, leather, cloth or a combination of these materials that, when fitted and fastened over a snout/mouth/head, prevents the dog from biting but allows room for the dog to breathe and pant and must not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

Rabies: A viral encephalitis, almost always fatal to both wild and domestic animals, that may affect any warm-blooded animal but is most common in carnivores and new world bats. In the United States, foxes, skunks and raccoons are the major wild carnivore hosts, though domestic dogs and cats remain the most important source of human exposure.

Serious Bodily Injury: Bodily injury which, at the time of the actual injury or subsequently involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body, or bone breaks or fractures.

7-1A-2: Running at Large Prohibited.

- A. ~~Dogs at Large. It shall be unlawful for any owner or person having the care, custody and control of any dog to allow such dog to run at large in the City.~~

~~For the purpose of this section, a dog shall be deemed to be running at large when off or away from the premises of the owner, possessor or keeper thereof and not on a leash held by a person able to control the dog.~~

- B. ~~Paragraph A shall not apply to pilot park programs authorized by council resolution.~~
- C. ~~Dogs not under reasonable control. It shall be unlawful for the person having the care, custody and control of any dog, to not maintain that dog under reasonable control. Notwithstanding any of the provisions of Section A, a dog shall be deemed not under reasonable control when any of the following conditions occur:~~
- ~~1. The dog inflicts damage or injury by biting, jumping upon, polluting vegetation or by any other means whatsoever, to the person or property of anyone other than the owner, except where the dog acts in the defense of the owner, his family or property; or except where the dog is under the control and command of a police officer in the course of his/her duty.~~
 - ~~2. In the case of any unspayed female dog, while said dog is in estrus (in heat or in season) and not securely confined in the owner's yard, pen or other enclosure.~~
- D. ~~Cats. It shall be unlawful for any owner of a cat to allow such cat to run at large in the City and to become or create a nuisance. Notwithstanding any other provisions of this section, a cat shall be deemed to be a nuisance when any of the following conditions occur:~~

1. ~~The cat inflicts damage or injury by biting, jumping upon, polluting of vegetation or by any other means whatsoever, to the person or property of anyone other than the owner.~~
2. ~~In the case of any unspayed female cat, while said cat is in estrus (in heat or in season) and not securely confined in the owner's yard, pen or other enclosure.~~

~~7-1A-2: It shall be unlawful for any dog or cat owner to allow such animal to engage in "At-Risk" or "Dangerous" behavior.~~

7-1A-2: "At-Risk" and "Dangerous" Behavior Prohibited.

- A. It shall be unlawful for any dog or cat owner to allow such animal to engage in "At-Risk" behavior.
- B. It shall be unlawful for any dog or cat owner to allow such animal to engage in "Dangerous" behavior.

~~7-1A-3: It shall be unlawful for any dog or cat owner to allow such animal to run at large.~~

7-1A-4: Tethering.

It shall be unlawful for any dog or cat owner to tether such animal except as permitted in the Section.

1. Tethering of animals shall be limited to not more than six (6) hours in a twenty-four (24) hour period and not more than four (4) hours consecutively.
2. A tether must be not less than eight feet (8') in length, but must be such as to restrict the tethered animal from encroaching within six feet (6') of any public sidewalk, street, alley or public park, unless enclosed within a fenced area, or within two (2) feet of an unfenced property line.
3. A tether must be of adequate size and strength to effectively restrain the animal. The size and weight of the tether must not be excessive and it must be attached to the animal by a properly applied collar, halter or harness and configured so as to protect the animal from injury and prevent entanglement with other objects and/or animals.
4. Animals classified as "At-Risk" or "Dangerous" shall not be tethered at any time.

7-1A-3 5: Impoundment of Animals at Large; Notice, Disposition.

- A. Any dog or cat or dogs or cats, found running at large and/or creating a public nuisance, and any dogs or cats subjected to cruel treatment as specified in Section 7-1A-7-9 EMC, may be taken by the City and impounded in the a shelter designated by the City. Any dog or cat found running at large may be taken by the City and impounded in a shelter designated by the City.

- B. Except as hereinafter 7-1A-9 and 12G and 12H provided, impounded Dogs or cats not claimed by their owners before the expiration of six (6) business days may be disposed of at the discretion of the City. Except for dogs and cats subjected to cruelty or neglect (7-1A-9), or that are dangerous (7-1A-16), or suspected of rabies infection (7-1A-11), any impounded at large dog or cat may be claimed by and released to its owner upon payment of fines and fees at the Violations Bureau.
- C. Dogs or cats found running at large may be claimed by their owners before they are disposed of by the City except for Paragraph 7-1A-9 and 12 G and 12H below. Impounded at large dogs and cats not claimed by owner within six business days may be disposed of by the City in any suitable manner.
- D. A dog or a cat subjected to cruel treatment as specified in Section 7-1A-7 ~~9~~ EMC. Shall not be released and shall be held by the City or at a designated shelter for a period of not less than up to six (6) working days. If the owner has not submitted a claim for the animal to the Englewood Municipal Court within that six (6) working day period the animal may be disposed of at the discretion of the City. If a claim is made to the Municipal Court for the dog or cat, the animal shall be held by the City or by a shelter designated by the City until the Municipal Court Judge enters an order finding either:
- 1- A charge of cruelty to dogs and cats under Section 7-1A-7 ~~9~~ EMC can not be proven beyond a reasonable doubt. Or
 - 2- The judge finds that the care and maintenance issues under Section 7-1A-7(B) ~~9~~ EMC have been satisfactorily remedied. Under no circumstances shall this remedy provision apply to the lack of required rabies vaccination under 7-1A-7 EMC.

Evidence of current rabies vaccination is required prior to release of impounded dogs or cats.

- E. The City may transfer title dispose of any dog or cat held at the Animal Shelter to the Society for the Prevention of Cruelty to Animals after the legal detention period has expired and such dog or cat has not been claimed by its owner in any suitable manner.

When a dog or cat is found running at large and ownership of such animal is known to City personnel, such animal need not be impounded, but such personnel may cite and return the animal to the owner.

- F. When dogs or cats are found running at large and their ownership is known to City personnel, such dogs or cats need not be impounded, but such personnel may cite the owners of such dogs or cats to appear in Court or the Violations Bureau to answer charges of the violation of this article. Immediately upon impounding a dog or cat, the City shall make every possible, a reasonable effort to notify the owner of such animal and inform such owner of the conditions whereby the owner may retain custody of such animal.

- G. ~~Immediately upon impounding dogs or cats, the City shall make every possible, reasonable effort to notify the owners of such dogs or cats so impounded and inform such owners of the conditions whereby they may regain custody of such dogs or cats.~~

Impoundment fees for dogs and cats shall be set by City Council Resolution.

H. ~~Impoundment Fees for dogs and cats shall be set by Council Resolution.~~

1. ~~Dogs. Dogs impounded and not reclaimed by the owner, pursuant to subsection A hereof, may be released for adoption after payment of a forty dollar (\$40.00) adoption fee by the party adopting said animal. Fifteen dollars (\$15.00) of the forty dollar (\$40.00) adoption fee will be refunded upon presentation of proof that the dog has been neutered (spayed) by a licensed veterinarian and has received a current rabies vaccination. Neutering (spaying) and vaccination must be performed within thirty (30) days of adoption or by the time the adopted animal attains six (6) months of age.~~
2. ~~Cats. Cats impounded and not reclaimed by the owner, pursuant to subsection A hereof, may be released for adoption after payment of a twenty dollar (\$20.00) adoption fee by the party adopting said animal. Fifteen dollars (\$15.00) of the twenty dollar (\$20.00) adoption fee will be refunded upon presentation of proof that the cat has been neutered (spayed) by a licensed veterinarian and has received a current rabies vaccination. Neutering (spaying) and vaccination must be performed within thirty (30) days of adoption or by the time the adopted animal attains six (6) months of age.~~

7-1A-4 6: Number of animals maintained on premises.

No household, place or premises may have more than three (3) dogs and three (3) cats over six (6) months of age, but in no case shall there be any combination of more than four (4) such animals.

7-1A-5 7: Vaccination Required.

It shall be unlawful for any dog or cat owner to fail to vaccinate a dog or cat as required in this Section.

The owner of each dog or cat which is six (6) months of age or older shall cause said dog or cat to be vaccinated against rabies with either annual or three (3) year rabies serum. Such vaccination shall be repeated thereafter as required by the serum. Dogs or cats shall be vaccinated by any veterinarian licensed to practice veterinary medicine. A certificate of vaccination, in duplicate, shall be completed by the veterinarian, one copy to be issued to the dog or cat owner and one to be retained in the veterinarian's files.

Any dog or cat in the custody of the City shall be released to the owner of said dog or cat for a period of time not to exceed five (5) days in order to obtain the vaccination of the dog or cat.

7-1A-6 8: Poisoning Dogs or Cats.

It shall be unlawful for any person to poison any dog or cat or to distribute poison in any manner whatsoever with intent or for the purpose of poisoning any dog or cat.

7-1A-7 9: ~~Cruelty to Dogs and Cats.~~ Cruelty to or Neglect of Dogs and Cats.

A. It shall be unlawful for any person to kill, maim, disfigure, torture, torment, neglect, beat ~~with a stick~~, burn or scald with any substance, or cause a dog or cat to endure unreasonable or unjustifiable pain, suffering or injury.

B. It shall be unlawful for any person to antagonize, intimidate, threaten abuse or verbally harass any dog or cat.

B C. Care and Maintenance. It shall be unlawful for any person keeping or harboring any dog or cat to fail or refuse to provide such dog or cat with proper food, drink, shade and shelter. Proper food, drink, shade and shelter shall require that:

1. Each dog or cat shall receive an adequate daily supply of clean, fresh food suitable for ~~the nurture of the species'~~ its physical condition and age sufficient to maintain a healthy level of nutrition.
2. Each dog or cat shall, at all times, have an adequate and accessible supply of clean, fresh, potable water and such water shall be provided either free-flowing or in a clean, stable receptacle.
3. Each dog or cat housed outdoors or tethered outdoors shall have convenient access to appropriate weather and temperature-resistant shelter throughout the year. Any shelter shall be structurally sound, clean, adequately sized, and maintained in good repair to protect the dog or cat from injury and from the elements.
4. The living area for the dog or cat shall have adequate drainage such that the dog or cat shall be free to walk, sit, stretch or lie down on a dry surface. Excrement shall be removed daily.
5. If a dog or cat is housed outdoors, in addition to a shelter, it shall be provided with an enclosure to minimize risk of injury and to provide sufficient space to enable freedom of movement and exercise.
6. An animal may not be placed or confined, or allowed to be placed or confined or allowed to remain in an unattended vehicle without sufficient ventilation or under conditions or for such period of time as may be expected to endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as may be expected to cause suffering, debility or death. A Code Enforcement Officer or Police Officer who finds an animal in a vehicle in violation of this Section may enter the vehicle by using the amount of force reasonably necessary to remove the animal.

D. The City may take and impound any dog or cat found to be subjected to prohibited treatment described in this Section. If the owner has not submitted a request to reclaim the animal within six business days, the City may dispose of the animal in any suitable manner. If a claim is made by the Municipal Court for the dog or cat, the animal shall be held by the City or by a shelter designated by the City until the Municipal Court enters an order finding either:

1. Charges under this Section cannot be proven beyond a reasonable doubt, or
2. The Municipal Court finds that care and maintenance issues under Paragraphs B and C above have been satisfactorily remedied. The animal may be released upon payment of any fines, fees and impoundment costs. An animal impounded under the provisions of Paragraph A of this Section shall not be returned to its owner, but may be disposed of in any suitable manner at the discretion of the City.

7-1A-8: Restrictions and Regulations Applicable to Dogs.

7-1A-8 10-1: Removal of Excrement; Damage to Shrubbery or Plants.

- A. It shall be unlawful for any person in possession of, harboring, or in charge of any dog to refuse or fail to remove forthwith, excrement deposited by said dog upon a common thoroughfare, street, sidewalk, play area, park or upon other public property, or upon private property when permission of the owner or tenant of said property has not been obtained. It shall be unlawful for any dog or cat owner to fail to immediately remove excrement deposited by said dog or cat upon a common thoroughfare, street, sidewalk, play area, park or upon other public property and such is hereby deemed to be a public nuisance and prohibited.
- B. It shall be unlawful for any person in possession of, harboring, or in charge of any dog to refuse or fail to remove excrement deposited by said dog upon private property when permission of the owner or tenant of said property has been obtained within forty eight (48) hours after being deposited, and such is hereby deemed to be a public nuisance and prohibited. Dog excrement shall not be placed in storm sewers but shall be disposed of in a sanitary manner. It shall be unlawful for any dog or cat owner to fail to immediately remove excrement deposited by said dog or cat upon the property of another.
- C. It shall be unlawful for any dog or cat owner, possessor or person who keeps any dog to permit such dog or cat, whether or not running at large, to destroy, damage or injure any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public premises or upon any private premises owned or occupied by a person other than the owner, possessor, or keeper of such dog or cat. and the same is hereby declared to be a public nuisance and prohibited.
- D. It shall be unlawful to place dog or cat excrement in storm sewers. Dog or cat excrement but shall be disposed of in a sanitary manner.

E. Any dog or cat owner shall keep the lot, property, building or other places on the owner's property in a clean and sanitary condition, and shall It shall be unlawful to fail to remove and dispose of all excrement from the premises at least once each week every seventy-two (72) hours.

7-1A-11: Proof of current Rabies vaccination Required for dogs and cats.

A. Any dog or cat which is suspected of having rabies, or which has bitten a person or other animal and does not have a current vaccination, may be impounded in either a shelter or under the supervision of a licensed veterinarian, for observation. All fees for such impounding and observation shall be paid by the owner of such animal.

1. Any dog or cat impounded under the provisions of this Section shall be placed in a suitable facility and quarantined for a period of not less than ten (10) days at the expense of the owner. If the owner shows proof of current rabies vaccination, the animal may be released into rabies quarantine at the owner's residence. Upon request by Code Enforcement or authorized designee, the owner shall make the animal available for examination at any time within the quarantine period to determine whether the animal shows symptoms of rabies.

2. Any dog or cat impounded under the provisions of this Section shall be destroyed immediately upon determination that such dog is infected with rabies.

B. Dogs or cats known to have been bitten by or exposed to a rabid animal shall be:

1. Released upon proof of current immunization and booster injections given administered by a licensed veterinarian prior to exposure.

OR

2. Immediately destroyed upon determination by a licensed veterinarian that the dog or cat is rabid.

7-1A-8-2: Tag and Collar Required.

C. The owner of any dog or cat shall cause to be placed upon the neck of such dog or cat so owned, kept or harbored, a collar made of durable material, having attached thereto a metal tag showing that the dog or cat has a current rabies vaccination, together with an identifying number thereon corresponding to the number on the certificate of vaccination. The collar with the tag attached thereto shall be kept on such dog or cat at all times, when the animal is off the owner's property.

~~7-1A-8-3: Rabies Suspects and Biting Dogs.~~

A. ~~Any dog which is suspected of having rabies, or which has bitten a person or other animal may be impounded either in the pound or under the supervision of a licensed veterinarian, for observation. All fees for such impounding and observation shall be charged to the owner of such animal.~~

1. ~~Any dog impounded under the provisions of this section shall be placed in a suitable facility and quarantined for a period of not less than ten (10) days at the expense of the owner.~~

2. ~~Any dog impounded under the provisions of this section shall be destroyed upon determination that such dog is infected with rabies.~~

B. ~~Dogs known to have been bitten or exposed to a rabid animal shall be:~~

1. ~~Immediately destroyed upon determination by a licensed veterinarian that the dog is rabid; or~~

2. ~~Released upon proof of immunization and booster injections given by a licensed veterinarian.~~

7-1A-8 12 3: Records and Reports.

The City or authorized designee shall maintain a record of all animals impounded together with all fees collected.

7-1A-8 13 -4: Guard or Attack Dogs.

A. All persons owning, harboring, or controlling guard or attack dogs as defined in Title 5, Chapter 28 of this Code, on premises within this municipality shall contain such dogs in an enclosed area for the protection of persons or property. That enclosed area will completely confine the dog in a kennel, run, yard or other space which will adequately protect the general public from inadvertent or casual contact with these dogs. When such dogs are taken out of the enclosed area, they will be held on a suitable chain or placed in a suitable container, under the control of a responsible person, to ensure protection of the public.

B. The owner, or other persons in control, of all premises upon which guard dogs are maintained shall post signs on, over, or next to all exterior building doors, gates and other entrances, stating that such dogs are on the premises. If the attack or guard dog(s) on said premises are owned or maintained thereon by any guard or security service, the signs shall also contain the phone number of such service. No attack or guard dogs may be maintained in this municipality by such service unless the telephone for which such number is posted is manned by responsible personnel twenty four (24) hours daily. Such signs shall be posted in the same manner at each driveway or entrance way to said building and shall be black bordered with the words "BEWARE -- ATTACK-GUARD DOG ON PREMISES" written in red on a white background. Such signs shall be visible from the place of posting to the

curb of the street abutting the sign, or a distance of fifty feet (50'), whichever is the lesser.

- C. All persons owning or controlling an attack or guard dog on the premises within this municipality shall first obtain an attack or guard dog license pursuant to Title 5 of this Code.

7-1A-8 ~~14~~-5: Barking Dogs, Harboring Prohibited.

No person shall keep or harbor a dog which by loud or frequent or habitual barking, yelping, howling or whining shall cause a serious annoyance to the neighborhood or to people passing to and from upon the streets or sidewalks.

7-1A-8 ~~15~~-6: Police Dogs.

It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, mutilate, injure, disable or kill any dog used by the City in the performance of the functions and duties of the City.

~~7-1A-9: Restrictions and Regulations Applicable to Cats.~~

~~7-1A-9-1: Damage to Shrubbery or Plants.~~

~~It shall be unlawful for any owner, possessor or person who keeps any cat to permit such cat, whether or not running at large, to destroy, damage or injure any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public premises or upon any private premises owned or occupied by a person other than the owner, possessor or keeper of such cat, and the same is hereby declared to be a public nuisance and prohibited.~~

~~7-1A-10: Attack by Dog or Cat.~~

- A. ~~The owner of any dog or cat shall be responsible for any attack committed by that dog or cat against any property, real or personal, live or inanimate, or any human being. Upon being convicted thereof, the owner is subject to being punished in accordance with the penalty set forth in Section 1-4-1 of Englewood Municipal Code, 1985.~~
- B. ~~Prior attacks, if any, by the dog or cat or knowledge of the owner of the dog/cat of any such attacks are not a defense to or an element of the offense of attack by dog/cat or a prerequisite for a conviction; however, such matters may be considered in mitigation or aggravation of punishment.~~
- C. ~~When the attack occurs on the dog or cat owner's premises, it may be an affirmative defense the dog or cat was protecting such premises or the resident of such premises. However, when the attack is against a person who enters the owner's or resident's premises to conduct business or for a social visit, or by invitation of the owner or resident, there is a prima facie presumption that the dog or cat was not protecting its premises.~~

7-1A-16: "Dangerous" Animals Prohibited.

- A. It shall be unlawful for any person to own or harbor a "Dangerous" animal, except as provided in Subsection H of this Section.
- B. An owner of a dog or cat that has been adjudicated as having committed acts that would be deemed "Dangerous" as set forth in this Chapter in any other jurisdiction shall register said animal with the City as a "Dangerous animal".
- C. The owner of any dog or cat shall be responsible for any damage committed by that dog or cat against any property, real or personal, live or inanimate, or any person or domesticated animal.
- D. It is an affirmative defense to the charge of "At-Risk" or "Dangerous" animal that the person or animal that was attacked by the "Dangerous" animal was:
1. Other than in self defense or defense of others, attacking the animal or engaging in conduct reasonably calculated to provoke the animal to attack or bite; or
 2. Unlawfully engaging in entry into or upon a fenced or enclosed portion of the premises or containment within which the animal was lawfully kept; or
 3. Unlawfully engaging in entry into or in or upon a vehicle in which the animal was confined; or
 4. Harassing the animal; or
 5. Assaulting another person; or
 6. Attempting to stop a fight between the animal and any other animal; or
 7. Attempting to aid the animal when it was injured; or
 8. Attempting to capture the animal in the absence of the owner; or
 9. A veterinary health care worker, dog groomer, humane agency staff person, professional dog handler, trainer, Code Enforcement or Police Officer or other professional acting in the performance of his or her respective duties.
- E. **Exemption.** Employees or agents of the City or any local, state or federal governmental entity, using animals within the course of their duties or employment shall be exempt from the provisions of Paragraphs A, B and C above.
- F. For the purposes of this Chapter, a person is lawfully upon the premises of an owner or keeper when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent, or by the express or implied invitation of the owner of such premises or the owner's agent.

G. F. Impoundment. Any animal which has caused injury to any person or domestic animal or which has committed any behavior classified defined as "Dangerous" herein, may be seized and impounded as provided for in this Chapter. If after making every reasonable attempt to seize such animal, the Code Enforcement or Police Officer determines that the animal presents a danger to any person, property, or other domestic animal. It shall be lawful for the officer to destroy the animal without notice to the animal owner.

H. G. Impoundment Hearing. Any animal impounded pursuant to this Chapter may be held for a hearing before the Municipal Court to determine the disposition of such animal. Dogs or cats not claimed by their owners before the expiration of six (6) business days may be disposed of at the discretion of the City. The City shall notify, when ascertainable, the owner of the animal in writing of the date, time, place and purpose of the hearing. The Court may conduct such hearing at the earliest date available to the Court. If, on the date of the hearing, the duly notified owner does not appear, the Court may proceed with the hearing. The hearing may take place regardless of any pending municipal charge pertaining to the animal.

The Court may order the animal to remain impounded at the owner's expense until final disposition of any pending municipal charges. The owner shall bear all costs of impounding the animal regardless of the results of any municipal charges. If the Court determines that it is not appropriate to order the animal impounded the Court may order the animal returned to the owner and to be kept under such circumstances as will ensure the safety of persons, property or other animals.

I. H. Conditions for Keeping an Animal Classified as "Dangerous"

1. The owner of the classified animal shall comply with all of the following conditions:
 - a. The owner of the "Dangerous" animal shall pay a permit fee to be set by City Council Resolution. Said permit shall not be issued until inspection and approval of the Escape Proof Enclosure.
 - b. Only one "Dangerous" animal may be permitted, per residence.
 - c. The owner of the "Dangerous" animal shall keep current the permit for such "Dangerous" animal through annual renewal. Such permit is not transferable or renewable except by the holder of the permit or by a member of the immediate family of such permittee. A "Dangerous" animal permit tag will be issued to the owner at the time of issuance of the permit. Such permit tag shall be attached to the "Dangerous" animal by means of a collar or harness which must be worn by the animal at all times. It should be clearly visible, and shall not be attached to any "Dangerous" animal other than the "Dangerous" animal for which the permit was issued.
 - d. The owner of a "Dangerous" animal must be at least eighteen (18) years of age.

- e. The Court may require proof of liability coverage which will cover any damage or injury caused by a "Dangerous" animal.
- f. The owner of a "Dangerous" animal shall, at the owner's own expense, have the "Dangerous" animal spayed or neutered and shall present to the City Manager or designee documentary proof from a licensed veterinarian that this sterilization has been performed.
- g. The owner of a "Dangerous" animal shall, at the owner's own expense, within ten (10) business days, have a microchip containing an identification number implanted into the "Dangerous" animal. The City Manager or designee shall maintain a file containing the registration numbers and shall coordinate that list with the State. The owner shall notify the City Manager or designee of any change of address within fifteen (15) working days.
- h. The owner must confine the "Dangerous" animal in a building or enclosure designed to be escape-proof and, whenever the animal is outside of the building or enclosure, keep the animal under the owner's control by use of a leash. The owner shall post a conspicuous warning sign on the building or enclosure notifying others that a "Dangerous" animal is housed in the building or enclosure. In addition, if the conviction is for a second or subsequent offense, the "Dangerous" animal shall also be muzzled whenever it is outside of the building or enclosure.
- i. The owner shall immediately notify the City Manager or designee in the event that the "Dangerous" animal is loose, stolen, at-large, unconfined, has mauled, bitten, attacked, threatened, or in any way menaced another domesticated animal or human. The owner shall also notify the City Manager or designee in the event the "Dangerous" animal is sold, disposed of, or has died.
- j. No person applying for a "Dangerous" animal permit shall be granted a Breeders License pursuant to 5-25 EMC for such "Dangerous" animal.
- k.i. Failure to comply with any of these conditions shall may result in the impoundment of the animal, subject to disposition pursuant to 7-1A-16, Section F, EMC.

J. I. Declassification.

A declassification fee in an amount to be set by City Council Resolution will be assessed when the classification period begins. Declassification will be automatic shall occur pursuant to this Chapter. The following conditions must be met: Why not include the fee in the original fine?

- 1. Animals that have been classified as "At-Risk" for one (1) year without further violation, and two (2) years without further violation for any animal classified as "Dangerous", since the most recent citation by such animal, and those animals classified as "dangerous" since their most recent citations.

2. Written certification of satisfactory completion of approved obedience training, AKC "Canine Good Citizen" program or equivalent for the classified animal, with the owner, and
3. Any additional condition ordered by the City Manager or his designee or the Municipal Court, at the time of classification, such as written certification of satisfactory completion of approved obedience training, AKC "Canine Good Citizen" program or equivalent for the classified animal, with the owner or keeper.
4. The owner of any animal previously classified as "Dangerous" shall comply with the requirements of 7-1A-16(I)(h) (Escape proof enclosures) for the rest of its natural life.

K.J. Euthanization.

Upon a classification of "Dangerous" animal, the Court, in addition to the requirements set forth in this Chapter and the penalties set forth in the Code may hold a hearing to determine if the animal should be euthanized, and, if so, the animal shall be euthanized under the supervision of a veterinarian.

L.K. Authority for Immediate Destruction.

Nothing in this Chapter shall be construed to prevent the immediate destruction of any "Dangerous" animal when deemed necessary in the interest of public safety by the City Manager or designee. After making reasonable attempts to control an animal, if a Code Enforcement Officer or Police Officer determines that the animal presents a danger to any person or domestic animal, it shall be lawful for the officer to destroy the animal without notice to the animal owner.

7-1A-11 17: Destruction Hearing.

- A. Whenever the conduct of any dog or cat has resulted in two (2) convictions of offenses proscribed in Section 7-1A-10 EMC within a consecutive two (2) year period; or is responsible for inflicting death or grievous bodily harm upon a human being, the City of Englewood may initiate a hearing in the Englewood Municipal Court petitioning that court for an order of destruction of that dog or cat
- B. Notification will be given to the dog or cat owner, as the named respondent, of the hearing date, place, and time no later than fifteen (15) days prior to the hearing. This notice will be accompanied with information on which the hearing is based.
- C. Except as otherwise provided herein, the hearing will be conducted in accordance with the provisions of Section 1-10-1 EMC, notice and hearing procedures. The City of Englewood will have the burden of proving the allegations by a preponderance of the evidence. The respondent is entitled to be represented by counsel at respondent's expense and has the right to cross examine any witness called by the City, the right to present witnesses and evidence, and to testify or not.

- D. ~~The Municipal Court will determine at the hearing whether the dog or cat, because of its vicious propensities, presents clear or present danger to the safety of the citizens of Englewood. When the dog or cat has been the subject of two (2) convictions of attack not resulting in death or grievous bodily harm, or property damage of five hundred dollars (\$500.00) or more within a two (2) year period, or it is responsible for inflicting death or grievous bodily harm upon a human being, there is a presumption the dog or cat has vicious tendencies and presents a clear and present danger to the safety of the citizens of Englewood. This presumption can only be rebutted by clear and convincing evidence to the contrary. Upon the court's determination that the dog or cat presents a clear or present danger to the safety of Englewood citizens, the court will order the City to destroy the dog or cat forthwith.~~
- E. ~~If the dog or cat is not confined by the City, the City may petition the Englewood Municipal Court for a forthwith order to confine the animal pending the outcome of the destruction hearing, and the costs of said confinement will be assessed by the Municipal Court at the termination of the hearing.~~

7-1A-17: Destruction Hearing.

- A. Upon conviction of any offense listed in Section 7-1A-2(B) or 7-1A-16(A) EMC, the Municipal Court may consider destruction of the animal at the recommendation of the City. If the City recommends destruction, the defendant and owner of the dangerous dog or cat, if different than the defendant, and the City shall have a right to request an evidentiary hearing for a determination of whether the dog or cat should be destroyed.
- B. Upon request for a hearing and under Subsection (A), the Court may enter a forthwith order to confine the animal pending the outcome of the destruction hearing, and may assess all costs associated with the seizure, confinement and/or destruction of the animal at the termination hearing.
- C. The City of Englewood will have the burden of proving that the dog or cat, because of its "Dangerous" propensities presents a danger to the public safety. When the animal has been found to have inflicted death or serious bodily injury upon a human being, there is a presumption that the dog or cat is a danger to the public safety. The presumption may be rebutted by evidence to the contrary.
- D. Upon determination by the Court that the animal presents a danger to the public safety, the Court may order the City to destroy the animal forthwith, or may enter such other orders for disposition of the animal as necessary to protect the public safety.

Section 2. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 4. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 2nd day of June, 2008.

Published as a Bill for an Ordinance on the 6th day of June, 2008.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 2nd day of June, 2008.

Loucrishia A. Ellis