RESOLUTION NO. 2008- 04

BOARD OF COUNTY COMMISSIONERS

OF THE

COUNTY OF SUMMIT

STATE OF COLORADO

A RESOLUTION ADOPTING RESTATED SUMMIT COUNTY ANIMAL CONTROL AND LICENSING REGULATIONS (Animal Control and Licensing Division of the Sheriff's Office)

WHEREAS, §30-15-101, et seq., C.R.S., authorizes the Board of County Commissioners to adopt regulations providing for the control and licensing of pet animals in Summit County, Colorado; and

WHEREAS, §30-15-101(1)(a)(VII), C.R.S., authorizes the Board of County Commissioners to establish such other reasonable regulations and restrictions for the control of dogs and other pet animals as the board of county commissioners may deem necessary; and

WHEREAS, The Board of County Commissioners adopted Resolution No. 03-72 on August 15, 2003, which resolution constitutes the Summit County Animal Control and Licensing Regulations of 2003 ("Animal Control Regulations"); and

WHEREAS, The Board of County Commissioners has since July 22, 1996, amended the Animal Control Regulations, by Resolution Numbers: 99-148, 01-61, 01-88, 02-51 and 03-72;

WHEREAS, The Board of County Commissioners has determined that the Animal Control Regulations, as amended, require additional amendments to adequately and effectively provide for the control of pet animals, regulate the ownership requirements for keeping a potentially dangerous or dangerous animal, and

WHEREAS, The Board of County Commissioners has determined that the numerous amendments, already effected and currently proposed, makes it unnecessarily cumbersome to administer the control and licensing of pet animals in Summit County, Colorado; and

WHEREAS, For the purpose of facilitating more effective administration of the control and licensing of pet animals in Summit County, Colorado, the Board of County Commissioners desires to repeal the Animal Control Regulations, and all amendments thereto, and restate the Animal Control Regulations in a single document titled "Summit County Animal Control and Licensing Regulations of 2008"; and

WHEREAS, The Board of County Commissioners deem it reasonable and necessary to adopt the proposed "Summit County Animal Control and Licensing Regulations of 2008" for the purpose of serving and promoting the public peace, health, safety and welfare of the citizens of and visitors to Summit County, Colorado.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SUMMIT, STATE OF COLORADO, THAT:

1. Authority. Pursuant to the provisions of C.R.S. §30-15-101 et seq., the Board of County Commissioners is authorized to adopt a resolution for the control and licensing of dogs. Pursuant to C.R.S. §30-15-101(1)(a)(VII), the Board of County Commissioners may establish such other reasonable regulations for the control of dogs and other pet animals as the Board of County Commissioners may deem necessary.

2. Repeal. Existing or parts of existing ordinances or resolutions covering the same matters as embraced in this resolution, including but not limited to Summit County, Colorado Resolution Numbers 96-98, 99-148, 01-61, 01-88, 02-51, and 03-72 are hereby repealed and all ordinances or resolutions or parts or ordinances or resolutions inconsistent with the provisions of this resolution are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or resolution hereby repealed prior to the effective date of this resolution.

3. Adoption of Summit County Animal Control and Licensing Regulations of 2008. The proposed "Summit County Animal Control and Licensing Regulations of 2008," attached hereto as Exhibit "A" and incorporated herein by this reference, are hereby approved and adopted to provide for the control and licensing of pet animals in Summit County, Colorado.

4. Penalty Assessment Procedure. Pursuant to C.R.S. § 30-15-102, the Board of County Commissioners hereby authorizes utilization of the penalty assessment procedure provided in section C.R.S. § 16-2-201 by an animal control officer or any arresting law enforcement officer for any violations of the Summit County Animal Control and Licensing Regulations of 2008.

5. Severance Clause. If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

Adopted this 26th day of February 2008.

COUNTY OF SUMMIT
STATE OF COLORADO
By and Through its
BOARD OF COUNTY COMMISSIONERS

By: _____
Thomas C. Davidson, Chairman

ATTEST:

By:_____
Cheri Brunvand, Clerk & Recorder

EXHIBIT "A"

SUMMIT COUNTY ANIMAL CONTROL AND LICENSING REGULATIONS OF 2008

Section 1. **INTENT.** It is the intent of the Board of County Commissioners in adopting the "Summit County Animal Control and Licensing Regulations of 2008" (the "Regulations") that the Pet Animal Owners be responsible for their Pet Animals conduct, that they exercise control with respect to their Pet Animals in a manner which recognizes the rights, health and safety of others in the community, and that they be held strictly liable for conduct of their Pet Animals which violates the provisions of these Regulations.

Section 2. **DEFINITIONS.** For the purposes of these Regulations, the following terms shall have the following meanings:

2.1 **"ABANDON"** means a) to fail to provide any necessary care for any Pet Animal, whether on public or private property, for any period of 24 hours or longer or b) to deposit, leave drop off or otherwise dispose of any Pet Animal on public or private property without providing necessary care. For the purposes of these Regulations, any Pet Animal is presumed to be abandoned if, after the posting or personal service of written notice describing deficiencies and such deficiencies are not corrected within 24 hours of such notice by any person other than an Animal Control officer.

2.2 **"ANIMAL"** means any living dumb creature.

2.3 **"ANIMAL CONTROL"** means the personnel and equipment of the Summit County Animal Control and Shelter Division of the Summit County Sheriff's Office assigned primarily to duties related to the enforcement of these Regulations. Regular deputies of the Summit County Sheriff's Office may perform any of the functions of Animal Control.

2.4 **"ANIMAL SHELTER"** means any and all facilities and premises authorized by Summit County to care for Animals impounded pursuant to the provisions of this and other applicable laws enforced by Animal Control.

2.5 **"ATTACK"** means aggressive behavior resulting in bodily injury, serious bodily injury, or death to another person or Animal.

2.6 **"BITE"** means the piercing, laceration, or breaking of the skin by the teeth or jaws of any Animal.

2.7 **"BODILY INJURY"** means any physical injury that results in severe bruising, muscle tears, skin lacerations or physical pain requiring professional treatment.

2.8 **"CAT"** means any Animal of the species Felis catus or any hybrid thereof.

2.9 **"CONTROL"** means supervision of, or influence over, any Animal sufficient to prevent such Animal from being in violation of any of the provisions of these Regulations.

2.10 **"COUNTY"** means the County of Summit, State of Colorado, except for the incorporated municipalities within Summit County.

2.11 **"CONVICTION"** means a finding of guilt by a court or acknowledgement of guilt by payment of fine pursuant to the penalty assessment procedure.

2.12 **"DANGEROUS ANIMAL"** means any Animal that has inflicted bodily injury or serious bodily injury upon or has caused the death of a person or Animal.

2.13 **"DOG"** means any animal of the family Canidae, regardless of sex and including but not limited to those related to the wolf, fox, coyote or any other domestic canid hybrid thereof.

2.14 **"HABITUAL OFFENDER"** means any Animal Owner who has pled guilty to, or been found guilty of, violating any provision of these Regulations three times within any twenty-four month period. For the purposes of these Regulations, any disposition of charges involving probation or deferred judgment and sentencing shall be considered to be convictions.

2.15 **"HUMANE TRAP"** means any live traps, which are designed not to cause bodily harm to the Animal intended to be captured or bodily harm to any Animal or person coming in contact with such trap.

2.16 **"IMMEDIATE CONTROL"** means control of an Animal by the physical presence of a responsible person, within (ten) 10 feet of the Animal and such responsible person does exhibit voice control over the Animal so as to prevent it from being a Public Nuisance or from being in violation of any part of these Regulations.

2.17 **"INTERESTED PARTY"** means any owner of an Animal that has been designated by an Animal Control Officer as a Dangerous or a Potentially Dangerous Animal, and any person that has observed the Animal displaying any of the characteristics set forth in Sections 2.12 or 2.27 of these Regulations

2.18 **"KENNEL-COMMERCIAL"** means any location or Premises where quantities of more than 4 dogs, or 6 cats, or an combination of more than 8 dogs and cats, which are of the age of three months or more, are kept, Owned, possessed, or otherwise allowed to reside. The purpose or outcome of keeping said animals is to provide compensation, gains or a profit, or practice for a business venture in order to constitute a "Kennel-Commercial". A Kennel under such definition, if not currently licensed as a Pet Animal Facility pursuant to Part 1, Article 80 of Title 35, C.R.S., shall be licensed as such under the Regulations and pay an annual licensing fee as determined by the Board of County Commissioners. Any veterinary hospital which boards pet animals for the purpose of veterinary care only and does not actively solicit boarding in any way is exempt from this licensing requirement.

2.19 **"KENNEL–NON-COMMERCIAL"** means any location where quantities of more than 4 dogs, or 6 cats, or any combination of more than 8 dogs and cats, which are of the age of three months or more, are kept, Owned, possessed or otherwise allowed to reside. The purpose or outcome of keeping said animals shall provide for the personal recreation, enjoyment or use by the Owner not resulting in compensation, profit, gains or practice for a business venture shall constitute a Kennel – Non-Commercial. A Kennel under such definition, if not currently licensed as a Pet Animal Facility pursuant to Part 1, Article 80 of Title 35, C.R.S., shall be licensed as such under these Regulations and pay an annual licensing fee as determined by the Board of County Commissioners.

2.20 **"MISTREATMENT"** means every act or omission, which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

2.21 **"NECESSARY CARE"** for a Pet Animal includes but is not limited to providing food, water, protection from the weather, socialization, and removal of waste from the Animal's enclosure.

2.22 **"NEGLECT"** means failure to provide food, water, protection from the weather, opportunity for exercise, socialization, or other care consistent with the needs of the species of the Animal in question.

2.23 **"OWNER"** means a person, firm, corporation, or organization possessing, keeping, having financial or property interest in, or having control or custody of any Animal including any parent, guardian or legal custodian of any unemancipated minor child under eighteen years of age who owns, possesses or keeps any animal.

2.24 **"PET ANIMAL"** means Dogs, Cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, and invertebrates, or any species of wild or domestic or hybrid Animal sold, transferred, or retained for the purpose of being kept as a household pet, except livestock, and includes any other Animal specified in 35-80-102 (10), C.R.S., as that may be amended from time to time. As used herein, "livestock" includes cattle, horses, mules, burros, sheep, poultry, swine, llama, goats, and any other animal, when used for working purposes or raised for food or fiber production on a farm or ranch. "Pet Animal" does not include an Animal used for working purposes on a farm or ranch or a Working Dog in the process of being worked.

2.25 **"PET ANIMAL FACILITY"** means any facility licensed as such pursuant to the provisions of Part 1 Article 80 of Title 35, C.R.S., not including those Kennels as otherwise defined herein.

2.26 **"PHYSICAL CONTROL"** means control of an Animal by means of a tether, or a leash no longer than six (6) feet in length, attached to the Animal and held by a responsible person; or, confinement within a locked vehicle or locked enclosure sufficient to prevent the Animal from escaping or making contact with other persons or Animals.

2.27 **"POTENTIALLY DANGEROUS ANIMAL"** means any Pet Animal or Working Dog that when unprovoked:

1. Inflicts any laceration or bruising upon a human or another Animal; or
2. Chases or approaches a person on any property other than the Owner's in a menacing fashion or apparent attitude or attack; or
3. Is a venomous Animal; or
4. Is an Animal possessing physical characteristics or demonstrated tendencies that would cause a reasonable person to conclude that the Animal is likely to inflict injury or cause the death of any person or another Animal.

2.28 **"PREMISES"** means property owned, leased, or expressly permitted for use by an Owner. "Premises" includes any confined area or locality such as a residence, business, room, shop, building, motor vehicle, including the open bed of a truck when the Animal's presence is authorized by the owner of such confined area or locality.

2.29 **"PROTECTIVE CUSTODY"** means the taking of an Animal into custody by Animal Control to prevent the Mistreatment, Neglect, or Abandonment of such Animal; or, impoundment of an Animal because of the Owner's inability to care for the animal due to incarceration, incapacitation, or transport to a medical treatment facility.

2.30 **"PROVOCATION"** means harassment, teasing, threatening, tormenting, abusing, striking at, attacking, or inflicting injury upon an Animal, or its Owner in the Animal's presence, by either a person or another Animal.

2.31 **"PUBLIC NUISANCE"** means an Animal infected with rabies, or a stray Pet Animal, or a repeatedly or continuously barking Dog which disturbs the peace of humans, or a Dangerous or Potentially Dangerous Dog not properly enclosed or restrained, or an unconfined female Dog in

estrus, or a Dog or Cat that deposits excrement on public or private property other than that of the Owner and such excrement is not promptly removed by the Owner or person responsible for the Dog or Cat, or any Pet Animal left by the Owner or keeper on a public or private property in a deceased state without removing it within a twenty-four hour period.

2.32 **"QUARANTINE"** means the confinement of an Animal for observation to detect symptoms of disease.

2.33 **"RABIES REGISTRATION"** means the vaccination of an Animal with an anti-rabies vaccine administered under the supervision of a licensed veterinarian, and the retention of a certificate of rabies vaccination by the Animal Owner.

2.34 **"SECURE ANIMAL ENCLOSURE"** means a structure that is suitable to prevent the escape of the Animal and prevents the entry of persons, including children, and other animals; having a top, bottom, all sides, and is locked. A Secure Animal Enclosure for a Dangerous Animal(s) shall be posted with signs on all sides that are visible and legible to passersby, warning of the presence of a Dangerous Animal.

2.35 **"SERIOUS BODILY INJURY"** means such injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures or burns of the second or third degree.

2.36 **"SOCIALIZATION"** means activities that enable a Pet Animal to develop or improve its ability to get along well with other Pet Animals, the Owner, or other people.

2.37 **"TETHER"** means to tie, chain, or leash any Pet Animal upon an Owner's property, or on any inanimate object other than upon the Owner's own property.

2.38 **"TRESPASS"** means the entry of an Animal upon any private property other than that of the animal's Owner or upon public property that is posted as not permitting Pet Animals.

2.39 **"WORKING DOG"** means a Dog which is actually in the process of working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, assisting in rescue efforts, is a recognized service dog or is in the process of being trained for these purposes.

Section 3. **VACCINATION OF PET ANIMALS REQUIRED.**

3.1 Owners of Pet Animals and Working Dogs which are harbored, kept, or maintained in Summit County, for which Animals the United States Department of Agriculture has licensed a rabies vaccine, shall (I) have vaccinated by or under the supervision of, a licensed veterinarian, (ii) maintain the duration of effectiveness of the vaccination, and (iii) maintain proof of current Rabies Registration for their Pet Animals and Working Dogs.

3.2 Pet Animals and Working Dogs shall be vaccinated when the animal reaches the age of three months or is licensed (if applicable), whichever occurs first, and the vaccination shall be repeated as necessary in accordance with the recommendations of the United States Department of Agriculture or vaccine manufacturer to maintain duration of the vaccination as determined valid by a licensed veterinarian.

Section 4. **ANNUAL LICENSING OF DOGS AND KENNELS.** All Dogs owned, harbored, kept, or maintained in Summit County shall be individually licensed, except for those dogs kept as part of the operation

of a licensed Pet Animal Facility under the Pet Animal Care and Facilities Act or a Kennel as defined herein which shall be licensed separately.

4.1. All Dogs over the age of three months shall have a valid Summit County Pet Animal license after the Dog has been Owned, kept, maintained, or harbored in the County for any consecutive fourteen day period or immediately upon citation for any violation of these Regulations.

4.2. A Dog license shall be valid for one year or three years depending upon duration of the rabies vaccination and is to be specified at the time of the purchase of said license. An Owner shall obtain the renewal of said Dog license or Kennel license prior to the expiration of the current Dog license or Kennel license.

4.3. A valid Dog license tag shall be attached to a collar or harness and shall be worn by the Dog at all times. If any Dog is unable to wear a collar or harness because of a permanent medical condition certified by a veterinarian, or because a Dog is worked in a capacity that makes the wearing of a collar or harness hazardous to the Dog, the Owner of the Dog must have the animal tattooed for identification purposes, or identified by implanted microchip, or in a manner approved by the Animal Control Department.

4.4. A dog license shall be comprised of and evidenced by a written license form and a current Dog license tag. A Kennel license shall be comprised of a written approved license form issued by the Animal Control Department.

4.5. The Summit County Animal Control Department and/or any agency or person designated by the Board of County Commissioners may issue a Dog license upon the receipt of the executed application and evidence of current Rabies Registration and payment of any license fees as applicable.

4.6. A Kennel License may be issued upon receipt of the proper application, proof of current Rabies Registration for all Pet Animals kept, owned or maintained at the Premises, and receipt of payment of applicable fees as determined by the Board of County Commissioners for the type of kennel operated. Prior to issuance of the Kennel License, the applicant's Premises, Kennel areas or locality where Pet Animals are maintained shall be inspected by an agent of the Animal Control Department for the purpose of determining that there is compliance with all other aspects of these Regulations as stated herein.

Section 5. **VOLUNTARY CAT IDENTIFICATION.** Owners of cats harbored, kept or maintained in Summit County are entitled to obtain an identification tag suitable to be worn on a collar or harness. Cat identification tags will be available from the Animal Control Department, and/or any agency or person designated by the Board of County Commissioners upon the receipt of the executed application and payment of the identification tag fee.

Section 6. **FAILURE TO CONTROL A PET ANIMAL.** It shall be unlawful and considered a failure to Control a Pet Animal, when:

6.1. A Pet Animal is off the Owner's Premises without the presence of a person having Immediate Control as defined in these Regulations;

6.2. A Pet Animal becomes a hazard or causes damage to any person or property;

6.3. A Pet Animal is Tethered upon any public or private property without the permission of the person owning, leasing, or otherwise controlling the property in question;

6.4. Any Pet Animal reaches past the perimeter of the Owner's Premises with its teeth or claws causing or threatening Bodily Injury or property damage to another;

6.5. A Pet Animal is allowed to defecate on public or private property and the Owner or responsible person does not remove the waste in a timely manner;

6.6. A female Pet Animal, during estrus, is not under Physical Control, confined indoors or confined within a Secure Animal Enclosure;

6.7. A Pet Animal is not under Physical Control in areas requiring the animal to be on a leash, as posted by any agency of the Federal Government, the State of Colorado, Summit County, or any other political subdivision of the State, as listed with particularity in Schedule "A," which is attached hereto and incorporated herein by this reference as it may be revised from time to time as necessary. For the purposes of this Resolution, a Pet Animal is permitted to be on leash and accompanying an owner on the paved portion of the recreational pathway in the unincorporated areas as listed in "Schedule A". In such cases, a pet Animal must be on a Tether or a leash no longer than six (6) feet in length and held by a responsible person or confined within a locked enclosure sufficient to prevent the animal from escaping or making contact with other persons or animals;

6.8. Any Pet Animal is kept or left in circumstances which constitute Mistreatment, Abandonment or in any circumstance requiring Protective Custody; or

6.9. Any Pet Animal is otherwise determined to be a Public Nuisance.

Section 7. **ANIMALS CONFINED IN UNATTENDED VEHICLES.** No vehicle owner, passenger or operator shall place or confine an Animal or allow it to be placed or confined or remain in an unattended vehicle, without sufficient ventilation or under conditions or for such period as may reasonably be expected to endanger the health or well-being of such Animal due to heat, lack of water or such circumstances as may be expected to cause suffering, disability or death.

7.1 Any Animal Control Officer who finds an Animal in a vehicle in violation of this Section 7 may enter the vehicle by using the amount of force reasonably necessary to remove the Animal. The officer is authorized to impound and dispose of such Animal in the manner provided for in Section 16 Impoundment of Animals and Section 18 Disposition of Impounded Animals.

Section 8. **INTERFERENCE WITH AN OWNER'S CONTROL OF A PET ANIMAL.** It shall be unlawful for any person to perform any act that interferes with, prevents, or hinders the efforts of an Owner to Control any of the Owner's Pet Animals.

Section 9. **INTERFERENCE WITH AN ANIMAL CONTROL OFFICER.** No person shall interfere with, molest, hinder, prevent, or obstruct an Animal Control Officer in his/her performance of duty pursuant to these Regulations.

9.1 No person shall remove any animal from the Public Custody without the consent of an Animal Control Officer.

Section 10. **DESIGNATION OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS.**

10.1 Animal Control Officers or the Court shall have the authority to and shall designate any Pet Animal or Working Dog as Dangerous or Potentially Dangerous when the preponderance of evidence is that the animal displays any of the characteristics set forth in Sections 2.12 or 2.27 of these Regulations

10.2 When an Animal has been designated by an Animal Control Officer as a Dangerous or a Potentially Dangerous Animal, the Owner has the right to request an administrative hearing to show cause as to why the animal should not be considered a Dangerous or Potentially Dangerous Animal. Such request must be made in writing within 30 days after the designation. The burden of proof shall be on the Owner to demonstrate that the behavior of the animal does not support the designation of Dangerous or Potentially Dangerous. The Board of County Commissioners or its designee shall preside at such hearing. Written requests must be made in writing and submitted by mail or personal delivery to: The Summit County Board of County Commissioners, Attn: Summit County Attorney, P.O. Box 68, Breckenridge, CO 80424.

10.3 The Board of County Commissioners may conduct or appoint an administrative hearing board to conduct an administrative hearing by acting as the animal control Administrative Hearing Board. The administrative hearing shall be conducted under the following rules of procedure:

A. The Administrative Hearing Board shall have authority to administer oaths and affirmations; rule upon offers of proof; compel testimony; receive evidence; dispose of motions relating to discovery and production of relevant documents and things for inspection, copying, or photocopying; regulate the course of the hearing; fix the time for filing of briefs and other documents; direct the parties to appear and confer to consider simplification of issues, admissions of facts, or documents to avoid unnecessary proof, and limitation of the number of witnesses; issue appropriate orders to control the subsequent course of the proceedings; dispose of motions; and control the decorum and conduct of the proceedings.
B. The Administrative Hearing Board shall have the power to issue subpoenas compelling testimony or the production of documents.
C. Unless otherwise agreed by the parties, all testimony shall be taken under oath or affirmation.
D. The hearing will not be conducted according to the technical rules relating to evidence and witnesses.
E. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this State.
F. All relevant evidence shall be admitted if it is the type of evidence on which responsible parties are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law, statute, or court rules which might make improper the admission of such evidence. Evidence which is reasonably reliable and calculated to aid the Hearing Officer in reaching an accurate determination of the issues involved may be considered.
G. Irrelevant and unduly repetitious evidence shall be excluded.
H. The Administrative Hearing Board shall be permitted at the hearing to continue the hearing for good cause, to another date, time and place.
I. In reaching a decision, administrative notice may be taken, whether before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this State, or of official records of the County, and ordinances, resolutions, rules and regulations of the county. Interested parties present at the hearing shall be informed of the matters to be noticed and these matters shall be noted in the record, referred to therein, or appended thereto.
J. Interested parties shall be given a reasonable opportunity, upon request, to refute the officially noticed matters by evidence or by written or oral presentation of authority.
K. The hearing shall be open to the public.
L. A record of the entire proceeding shall be made by tape recording.

10.4 Each interested party participating in the hearing shall have these rights, among others:

A. To call and examine witnesses on any matter relevant to the issues of the hearing.
B. To introduce documentary and physical evidence.
C. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
D. To rebut the evidence presented.
E. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

10.5 At the hearing, the following order of procedure shall be followed:

A. Presentation of those documents showing the regularity of the commencement of the proceedings and the form of notice given.
B. Presentation of evidence by Petitioner.
C. Presentation of evidence by Summit County Animal Control.
D. Presentation of evidence in rebuttal to the matters presented by the opposing party.
E. All documents or other items of physical evidence shall be marked as exhibits with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person.

10.6 Burden of Proof

A. "Burden of proof" means the responsibility of producing sufficient evidence in support of a fact or issue and favorably persuading the Administrative Hearing Board regarding that fact or issue.
B. In this hearing the burden of proof is on the Petitioner to produce sufficient evidence that the behavior of the Animal does not support the Potentially Dangerous or Dangerous Animal Designation.
C. In reaching a decision, the Administrative Board must determine whether or not the evidence presented supports upholding the Potentially Dangerous or Dangerous Animal Designation decision made by Animal Control.
D. The Potentially Dangerous Designation decision by Animal Control will be overturned only if the Administrative Board finds that it is more likely true than not that the behavior of the Animal does not support the Potentially Dangerous Designation.

10.3 Affirmative defenses. Except with respect to an Animal trained for or that has engaged in Animal fighting as that is described in §18-9-204, C.R.S., an affirmative defense to the declaration of a Potentially Dangerous or Dangerous Animal shall be that:

A. The Animal attacked was trespassing upon the Premises of the Owner, and the attack began, although it did not necessarily end, upon such Premises;
B. The Animal attacked was biting or otherwise threatening or attacking the Owner or the Owner's animal;
C. The person attacked was committing or attempting to commit a criminal offense other than a petty offense not including third degree criminal trespass as defined in 18-4-504 of the C.R.S., against a person on the Owner's Premises or against the Premises itself, and the attack which did not cause Serious Bodily Injury began, although did not necessarily end, upon such Premises;
D. The person attacked had tormented, provoked, abused, or inflicted injury upon the animal.

10.4 When an Animal Control Officer or Peace Officer reasonably believes that an Animal is Potentially Dangerous or Dangerous and is not under Proper Control, that Officer may use any available means to prevent the endangerment of any person or other animal. Such means shall include impounding the animal or immediate destruction of the animal after making every reasonable attempt to seize and impound the animal, including solicitation of assistance from the Owner if such Owner is known and available. If the Officer reasonably determines that said animal cannot be seized and impounded without exposing the officer or other persons to danger of Bodily Injury or Serious Bodily Injury, it shall be lawful for the officer to destroy said animal without notice to the Owner.

Section 11 **CONTROL OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS.** Owners of Dangerous Animal(s) or Potentially Dangerous Animals shall at all times exercise Proper Control over such animal(s).

11.1 "Proper Control of a Dangerous Animal" is:

A. While on the Owner's Premises, a Dangerous Animal shall be confined indoors or in a Secure Animal Enclosure; and
B. While off the Owner's Premises, a Dangerous Animal shall be under the Physical Control of the Owner, keeper, custodian or other responsible person, and such Dangerous Animal shall be muzzled.

11.2 "Proper Control of a Potentially Dangerous Animal" is:

A. While on the Owner's Premises, a Potentially Dangerous Animal shall be controlled by a chain, leash, or other confinement suitable to prevent the animal from leaving or reaching outside the Owner's Premises; and
B. While off the Owner's Premises, a Potentially Dangerous Animal shall be under the Physical control of the Owner or other responsible person.

Section 12. **PET ANIMAL BANS.**

12.1 Pursuant to § 30-15-105(1)(l)(VII), C.R.S., Pet Animal bans may be implemented by the Summit County Animal Control and Licensing Division Director and enforced by duly authorized personnel engaged in Animal Control where and when necessary to protect such Pet Animals from endangering, chasing, attacking, or in any other way harassing, tormenting or threatening people, livestock or wildlife.

12.2 It shall be unlawful for a Pet animal to be present in any area that has been posted for the purpose of banning Pet animals by an agency or authorized designee of the Federal government, the State of Colorado, Summit County, any municipality or any political subdivision of the State of Colorado.

Section 13. **DUTY TO REPORT ANIMAL BITES AND INJURY CAUSED BY ANIMALS.** It shall be unlawful for any medical personnel who provide treatment to a person or animal for an animal bite or injury caused by a Pet Animal to fail to report to the Summit County Animal Control Department any information known regarding the animal bite or injury. The report shall be made within 24 hours after such information is received, and shall include with the report the name, address, and telephone number of the person making the report. The report may be made by telephone to the Animal Control Office or left on voice mail or communicated by other electronic means.

Section 14. **DUTY TO PRODUCE BITING ANIMAL FOR INSPECTION OR QUARANTINE.** Upon the request of an Animal Control Officer, an Owner shall make available for inspection and/or Quarantine any Pet Animal or Working Dog which has bitten a person or is suspected of biting a person.

14.1 If the quarantine of a Pet Animal is deemed necessary, the Animal Control Department shall determine the location and place of Quarantine.

14.2 All costs of a Quarantine shall be the responsibility of the Owner.

14.3 If the Quarantine of a Pet Animal is deemed necessary, the disposition of the Animal will be at the discretion of the Animal Control Department in accordance with the requirements set forth in 16.1 – 16.2 and 16.5 of these Regulations.

Section 15. **FAILURE TO COMPLY WITH CERTAIN TERMS OF A SALES OR ADOPTION AGREEMENT OR CONTRACT.** It shall be unlawful to fail to comply with any of the terms of an adoption or fostering agreement or contract when the Animal is obtained from the Summit County Animal Shelter pursuant to such agreement or contract. Failure to comply may include any of the specifics of the adoption agreement as noted and reclamation of the animal by Summit County Animal Control may be exercised if the owner fails to comply with the agreement within 7 days of said notice of failure to comply.

Section 16. **IMPOUNDMENT OF ANIMALS.**

16.1 An Animal Control Officer may impound any Animal that is not under Control as required by these Regulations, or when it and/or its Owner is in violation of any of the provisions of these Regulations.

16.2 An Animal Control Officer may impound any Potentially Dangerous or Dangerous Animal that is not under Proper Control. An Animal Control Officer may perform such impoundment prior to notifying the Owner, if such Owner is not immediately present to exercise Proper Control of such Animal.

16.3 As soon as practical after the impoundment of any Animal, an Animal Control Officer shall make a reasonable effort to notify the Owner of the animal's location by telephone, posting of a notice at the Owner's residence, or by written notice mailed to the Owner's last known address, if the identity of the Owner is known. If needed to establish the identity of the Owner, information contained on any identification, rabies, or license tag found attached to the animal shall be used.

Section 17. **OWNER'S DUTY TO REDEEM ANIMAL AND PAY FEES.**

17.1 The Owner of any impounded Animal shall be held responsible for all the costs of Impoundment, including medical treatment and boarding, and such costs shall be fully paid prior to the release of the Animal. In addition, prior to release the Owner shall pay for the rabies vaccination or provide proof of current Rabies Registration.

17.2 Prior to release of any impounded Dog, the Owner shall pay for a Summit County Dog license or provide proof of current licensure in Summit County or in the place the Animal regularly is kept.

17.3 It shall be unlawful for any Owner to fail to make arrangements for the redemption, surrender, or disposition of any animal impounded pursuant to the provisions of these Regulations, or to fail to pay any fees associated with the redemption, surrender, or disposition of such animal.

Section 18. **DISPOSITION OF IMPOUNDED ANIMALS.**

18.1 Any Pet Animal impounded pursuant to the provisions of these Regulations, shall become the property of the Summit County Animal Control after 5 days of impoundment, after which the Animal Control Department may humanely euthanize the animal. (Pursuant to CRS 35-80-106.3) For purposes of this section, a "day" means a

24-hour period beginning on days that the shelter is open to the public, at the time of the day at, and on the date on, which the Animal was taken into Public Custody.

18.2 An impounded Pet Animal which is sick, seriously injured, or possibly contagious to other animals and is not identifiable to an Owner is not subject to a minimum impoundment period and may be euthanized immediately. In the event an impounded Pet Animal which is sick, seriously injured or possibly contagious to other animals is identifiable to an Owner, Summit County Animal Control shall diligently attempt to contact the Owner within 24 hours after the impoundment after which time the animal may be euthanized pursuant to C.R.S 35-80-106.3(1) if it is still unclaimed.

18.3 After the required time period, in lieu of having an Animal destroyed, the Summit County Animal Control Department may release any Pet Animal which is not diseased to a bona fide humane society, rescue group or to a person having no previous ownership interest in the Animal. Upon release of the Animal, the recipient shall pay a fee as established by the County, including but not limited to fees for adoption, rabies vaccinations, Dog License, and sterilization costs.

18.4 All Animals adopted from the Summit County Animal Shelter are required to be sterilized at the time of release for the purpose of adoption or transfer unless such surgery would be dangerous to the Animal due to its age or physical condition, as determined by the selected veterinarian of record. Transfer of Ownership shall not occur until sterilization of the Animal has been performed, although possession may be given to the adopting Owner upon his or her promise to have the sterilization performed by a specified date. Possession of the animal qualifies as ownership in respect to being required to control the animal so as to meet control regulations and requirements.

18.5 A list of circumstances that may allow for the waiving of this sterilization requirement are: 1) an approved shelter or rescue group accepting the animal(s) will be providing the surgery at their own expense prior to their placement of the animal, 2) medical reasons temporarily or permanently exempting the animal from surgery verified by a veterinarian, 3) temporary transfer of custody, not ownership, to a foster home in the case of an animal not medically fit as determined by the Summit County Animal Control Department, or 4) if the animal, after staying it's designated 5 day stray wait, becomes the property of the Summit County Animal Control Department, and is being considered eligible by SCAC to be returned or reclaimed by a private individual having any potential or desire for breeding the animal, said return to the potential owner will not be considered without the animal first being sterilized at that person's expense.

18.6 Nothing in this section or these Regulations shall be construed to prevent any Animal Control Officer, Animal Shelter Staff person, or Peace Officer from taking whatever action is reasonably necessary to protect himself or others from Bodily Injury or Serious Bodily Injury by any animal.

Section 19. **THREATENING OF LIVESTOCK OR WILDLIFE**

19.1 It shall be unlawful to fail to control any Pet Animal so as to prevent such Animal from endangering, chasing, pursuing, biting, attacking, or in any other way harassing, tormenting or threatening livestock or wildlife.

19.2 Any Animal threatening livestock or wildlife may be immediately destroyed at the discretion of any Animal Control Officer. If not destroyed, the Animal shall be immediately impounded.

19.3 A violation of this section shall require a mandatory court appearance by the Owner. Upon conviction, if the Animal was not destroyed at the time of the incident, the court may order it destroyed under the supervision of the Animal Control and Licensing Division of the Summit County Sheriff's Office; if the court does not order the animal destroyed, the court shall deem the animal a Potentially Dangerous Animal, and possession shall be returned to the Owner subject to the regulations applicable to Potentially Dangerous Animals under these Regulations and other state law. If the subject incident directly or indirectly caused injury or harm to livestock or wildlife, the court may order the Animal destroyed or designate it a Dangerous Animal. Upon a second conviction of a violation of this section with respect to a specific Animal, the court may order the destruction of the Animal under the supervision of the Animal Control and Licensing Division of the Summit County Sheriff's Office, except that the court shall order the destruction of the Animal, under the supervision of the Animal Control and Licensing Division of the Summit County Sheriff's Office, if the Animal directly or indirectly caused injury or harm to livestock or wildlife in both the first and second subject incidents.

19.4 Upon conviction of any violation of this section, the Owner shall be required by the court to pay restitution for any livestock or wildlife injured or killed by the Owner's Animal.

Section 20. **NUISANCE ANIMAL NOISE AND FECES.**

20.1 It is unlawful for any Owner to fail to prevent his Pet Animal from disturbing the peace of any other person by habitual or persistent barking, howling, yelping, or whining, or any other unprovoked noise, whether the Animal is on or off the Owner's property.

20.2 It is unlawful for any Owner to permit the accumulation of a Pet Animal's feces on the property on which the Animal is kept such that it is detectable visually or odoriferously by neighbors.

20.3 It is unlawful for any Owner to fail to confine Pet Animal feces, and any part thereof, within the perimeters of the property on which the Animal is kept, regardless whether such failure to confine is the result of natural causes, such as surface water flow, or other causes.

20.4 No person shall be charged with a violation of this section unless a minimum of 2 written warning(s) for separate violation(s) has been given at least seventy-two hours prior to the issuance of the citation. The name and address of the complainant shall appear on the written warning.

Section 21. **HABITUAL OFFENDER.** It shall be unlawful for any person to become a Habitual Offender as defined in these Regulations. Any person may be charged as a Habitual Offender in addition to any other charges brought pursuant to the provisions of these Regulations. Upon the conviction of an Owner as a Habitual Offender, the Owner's offending Animal(s) may be ordered removed from Summit County, along with any other penalties imposed by the Court.

Section 22. **ENFORCEMENT.** Animal Control Officers have the authority to issue a Summons and Complaint or penalty assessment to any alleged violator of these Regulations. The provisions of these Regulations may be enforced by the County Sheriff and respective deputies, the Summit County Animal Control Officers, or by any peace officer. The fine or other penalty shall be as provided in the Summit County Animal Control Resolution or as otherwise provided by law.

Section 23. **PENALTIES.** The following fines shall apply to any such violation and shall be applied either through the penalty assessment procedure of § 16-2-201, C.R.S., or by the court after conviction, in which case the court shall also assess the appropriate court costs:

A. For all violations not involving a Dangerous or Potentially Dangerous Animal:

First offense:	$ 50.00
Second offense within the 18 months:	$ 100.00
Subsequent offense within the 18 months:	$ 200.00

B. For all violations involving Potentially Dangerous Animal violations:

First offense:	$ 150.00
Second offense within the 18 months:	$ 300.00
Subsequent offenses within the 18 months:	Mandatory court appearance and mandatory minimum fine of $500.00

C. For all violations involving a charge of Habitual Offender, failing to redeem an Animal, failure to pay fines or fees, or threatening of livestock or wildlife:

Any offense:	Mandatory court appearance and mandatory minimum fine upon conviction of $300.00 plus all associated costs and restitution.

D. For all violations and subsequent convictions regarding Failure to Confine a Dangerous Animal:

Any offense:	Mandatory court appearance and a mandatory minimum fine of $500.00 plus all associated costs and restitution.

The above-stated fines are minimum penalties and all violators are subject to the general fine and imprisonment provisions of § 30-15-102, C.R.S.

Section 24. **POWER OF COURT.** In addition to any penalties which may be provided for in these Regulations, the court shall have the authority, upon making a finding that an Animal constitutes a Public Nuisance or that any Pet Animal constitutes a real and present danger to the citizens of the County, to order that the animal be destroyed in a humane fashion.

Section 25. **LIABILITY FOR ACCIDENT OR SUBSEQUENT DISEASE FROM IMPOUNDMENT.** The Board of County Commissioners, its employees, agents and persons authorized herein to enforce the provisions of these Regulations, shall not be held responsible for any accident or subsequent disease which may be suffered by a person or an animal as a result of the administration or implementation of these Regulations.

Section 26. **NOTICE AND EVIDENCE OF WARNINGS.** An Owner shall be deemed to have been issued and received an appropriate notice or warning as herein referred if the warning is personally served upon the Owner, posted on the Owner's Premises, or placed in the U. S. Mail, postage prepaid and addressed to the Owner according to the last address given by the Owner to obtain a Dog License or cat identification tag, or to such other address as may be on file for the Owner with any government agency.

Section 27. **HOT PURSUIT.** An Animal Control Officer in hot pursuit of any Animal in apparent violation of these Regulations may enter onto private property for the purposes of enforcing these Regulations, including for the purpose of effecting an impoundment, removing the Animal from the property, ascertaining the identity of the Animal and/or the current status or existence of Dog tags, or issuing a citation. This section,

however, does not grant any Animal Control Officer authority to enter into any dwelling without permission of the Owner, search warrant or Order of the Court.

Section 28. **ANIMAL CONTROL OFFICERS**

28.1 There is hereby created the position of Summit County Animal Control Officer who shall be employed by the County and appointed as such by the Board of County Commissioners, acting directly or through the County's chief administrative officer, at such compensation and such qualifications as from time to time shall be fixed by order of the Board.

28.2 Pursuant to § 30-15-105, C.R.S., personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses or complaints enforcing these Regulations. Personnel so engaged shall be included in the definition of "Peace Officer or Fireman" in § 18-3-201 (2), C.R.S., and, to the extent such personnel are empowered to do so by the laws governing the state bureau of animal protection, are hereby authorized to carry out the enforcement of the laws for the prevention of cruelty to animals pursuant to § 35-42-101, C.R.S. et seq. Nothing herein is intended to vest authority in any person so engaged to enforce any resolution or statute other than these Regulations.

Section 29. **DISPOSITION OF FINES AND FORFEITURES.** All fines and forfeitures for violation of any provisions of these Regulations and all moneys collected by the Court for licenses, restitution, or other related costs shall be deposited in accordance with procedures as approved by the County Treasurer upon receipt.

Section 30. **CAPTIONS.** The captions and paragraph headings used throughout these Regulations are for the convenience of reference only, and the words contained herein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision to or the scope of these Regulations.

Section 31. **TERMS.** For convenience, defined terms usually have been capitalized within these Regulations. Words used herein shall have their natural meaning, their statutory meaning if applicable, or the meaning set forth in the definitions, according to the context in which they appear, regardless of capitalization.

Section 32. **SEVERABILITY.** If any provisions of these Regulations or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable, the remainder of these Regulations and the application of such provision to parties or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of these Regulations shall be valid and be forced to the fullest extent permitted by law.

Section 33. **REPEALER.** Upon the effective date of these Regulations, the Summit County Animal Control Resolution of 2003, Resolution No. 03-72, shall be repealed and replaced by this Resolution. That repeal shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or occurring before the effective date of these Regulations.

Section 34. **TITLE.** These Regulations shall be known as the "Summit County Animal Control and Licensing Regulations of 2008."

Section 35. **EFFECTIVE DATE.** All provisions of these Regulations shall be effective on the 26th day of February 2008.

SCHEDULE “A”

AREAS WHERE PET ANIMALS MUST BE UNDER “PHYSICAL CONTROL” PURSUANT TO SECTION 6.7 OF THE SUMMIT COUNTY ANIMAL CONTROL AND LICENSING REGULATIONS OF 2003

1. Arapahoe Basin Ski Area

2. Willow Creek Open Space

3. Those portions of the “Summit County Recreational Pathways,” as that phrase is defined pursuant to Summit County Resolution No. 88-27, located within the unincorporated portions of Summit County, Colorado. For the purposes of this Resolution, the dogs are allowed on the paved portion of the recreational pathway provided they are in compliance with the definition of "Physical Control".