

ORDINANCE NO. 12-01

ELK MOUNTAIN MUNICIPAL CODE

AN ORDINANCE CREATING PROVISIONS TO DEAL WITH ANIMALS IN THE ELK MOUNTAIN MUNICIPAL CODE AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH

Section 1. NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF ELK MOUNTAIN, CARBON COUNTY, WYOMING that Title 5, Chapters 3, 3A, and 3B of the Elk Mountain Municipal Code, previously and incorrectly identified as Chapter 5, shall be amended, replaced, and superseded in its entirety after passage and publication to read as follows:

Chapter 3: ANIMAL CONTROL

- 5-3-1: RUNNING AT LARGE PROHIBITED
- 5-3-2: DEFINITIONS
- 5-3-3: JURISDICTION -- ADMINISTRATION
- 5-3-4: NUISANCE
- 5-3-5: LICENSE REQUIRED -- FEE
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- 5-3-7: RABIES VACCINATION REQUIRED
- 5-3-8: PAYMENT OF FEES -- VACCINATION CERTIFICATE; TAG ISSUANCE
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- 5-3-10: UNLICENSED DOG PROHIBITED
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- 5-3-21: DESTRUCTIVE ANIMAL
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- 5-3-24: REVOCATION OF LICENSE
- 5-3-25: MOLESTATION OR TEASING PROHIBITED
- 5-3-26: LOOSING OF STRAYS
- 5-3-27: KEEPING A KENNEL PROHIBITED
- 5-3-28: NEW RESIDENTS -- COMPLIANCE
- 5-3-29: CLASSIFICATION PROCEDURE FOR “AT-RISK” DOGS
- 5-3-30: SANCTIONS FOR OWNING AN “AT-RISK” DOG – IMPROPER CONFINEMENT AND CONTROL OF AN AT-RISK DOG PROHIBITED
- 5-3-31: CLASSIFICATION PROCEDURE FOR “DANGEROUS” DOGS
- 5-3-32: SANCTIONS FOR OWNING A “DANGEROUS” DOG – UNSECURE CONFINEMENT AND IMPROPER CONTROL OF A DANGEROUS DOG PROHIBITED
- 5-3-33: VIOLATION -- PENALTY
- 5-3-34: REQUEST FOR HEARING -- REVOCATION OF LICENSE – BEHAVIORAL CLASSIFICATION
- 5-3-35: PREVIOUS ORDINANCES REPEALED
- 5-3-36: SEVERABILITY
- 5-3-37: APPLICABILITY
- 5-3-38: SAFETY CLAUSE

5-3-1 **RUNNING AT LARGE PROHIBITED:** It is unlawful for an owner to allow his/her animal to be at large.

5-3-2 **DEFINITIONS:**

1. “Animal” is any living creature, domestic or wild.
 2. “Animal Shelter” is any premises designated by the town council of the Town of Elk Mountain, Wyoming, for the purpose of impounding and caring for animals held under authority of this code.
 3. “At-Large” means all animals are deemed to be at large if they are off the premises of their owner; further than twenty (20) feet from owner when walked unleashed; on private property; not under restraint, voice command, whistle command, or body signal command of their owner.
 4. “Citation” means a notice provided to persons whose animals have violated any provision of this code. This notice shall include the name of the owner; a description of the animal; a recital of the section violated; the facts that support the violation; the amount of bond fine; and signature of the issuing special municipal officer, mayor or other designated employee.
 5. “Misdemeanor” is a crime of less degree than a felony.
 6. “Commercial Purposes” are activities that have a primary purpose of making a profit.
 7. “Livestock” means animals kept or raised for use and/or profit, including fowl and rabbits.
 8. “Puppy” means a canine less than 12 months of age, male or female.
 9. “Habitual Nuisance” means any animal acting as a nuisance repeatedly, demonstrating the nature of a habit.
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10. “Owner” includes the legal owner or any person having the care, custody, or control of any animal.
 11. “Person” is an individual, partnership, company, corporation, or other entity.
 12. “Secured” means confined effectually.
 13. “Veterinary Clinic” is any establishment maintained and operated by a licensed veterinarian for the boarding of animals or the diagnosis and treatment of diseases and injuries of animals.
 14. “Working Dogs” means any dog commonly understood to be a trained helpmate to a handicapped individual or any dog whom works livestock in its daily activity.
 15. “Obedient Dog” means any dog complying with or submissive to authority. Such dog is willing to obey, submissive to restraint, control, or command. Such dog is not aggressive to person(s) or domestic animal(s) in any place where the person(s) or domestic animal(s) is legally entitled to be.
 16. “Voice Command, Whistle Command, Body Signal Command” are actions used by a competent person to command an animal to obey.
 17. “Vicious Animal” means any animal that manifests a disposition to bite or attack person(s) or other domesticated animal without provocation; any animal that has bitten or attacked person(s) or other domesticated animal at any place where that person or other domesticated animal is legally entitled to be.
 18. “Unruly” means not readily ruled, disciplined or manageable.
 19. “Ferocious” means any exhibition or tendency to fierceness and unrestrained violence and brutality.
 20. An “At-Risk dog” is one that menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person; causes physical injury to any domestic animal while at large; repeatedly runs at-large.
 21. A “Dangerous dog” is one that has previously been classified as at-risk and exhibits escalating aggressive behaviors that result in further complaints; a dog that without provocation, inflicts severe injury on a human being; a dog that menaces, maims, or kills domestic animals when off its owner’s property; a dog that is used in the commission of a crime.

- 22. "Dog" means an adult canine over twelve (12) months of age, male or female.
- 23. "Kennel" means any facility maintained upon any premises for the purpose of keeping a caring for more than four (4) adult dogs.

5-3-3 **JURISDICTION -- ADMINISTRATION**

- A. It is declared to be the policy of the Town of Elk Mountain, that the mayor, town council, and special municipal officer shall have jurisdiction for the purpose of regulating animals within the corporate limits of the town and preventing, abating, and removing nuisances or annoyances and offensive matters created by the keeping or maintaining of such animals.
- B. Administration of this ordinance shall be coordinated by the special municipal officer with oversight from the governing body of the Town of Elk Mountain.

5-3-4 **NUISANCE:**

For the purpose of this section, any (1) of the following circumstances, but not limited to the following circumstances, shall be considered a public nuisance:

- A. Premises which have an offensive odor, an excessive number of flies or other insects, or other wise in an unsanitary condition;
- B. The failure of the defendant to keep his or her dog or other animal on his or her own premises;
- C. Excessive, continuous noise from barking, or noise from other animals at unreasonable hours or for unreasonable periods;
- D. For the purpose of this section it shall be considered a public nuisance when a domestic animal trespasses on public or private property; is at large; damages, soils or defecates on private or public property; causes garbage, which has previously been placed in a garbage or refuse container, to be strewn or deposited on private or public property; habitually, constantly, or frequently disturbs the sleep, rest, tranquility, or peace of any neighborhood or person; chases pedestrians, bicyclists, or motor vehicles; attacks other domestic animal(s) in such a way that either it or its tethers obstruct any part of a public road, alley, or pedestrian walkway; any animal which creates offensive odors disturbing to any neighbors and/or persons.

5-3-5 **LICENSE REQUIRED -- FEE:** It shall be the duty of every person owning, keeping, or having possession of any dog within the corporate limits, to pay to the town a license fee of three dollar (\$3.00), per year, for each neutered male and spayed female dog, and ten dollars (\$10.00), per year, for each unaltered dog on or before July 1st of each year. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed and worn. Every owner shall be required to license each dog within forty-five (45) days of owning such dog and license each puppy over five (5) months of age.

5-3-6 **LICENSE --EXCEPTION:** The provisions of this chapter requiring the licensing of dogs shall not apply to the following:

- A. Dogs owned by, in custody of, or under the control of, persons who are not residents of the Town of Elk Mountain, traveling through the town or temporarily sojourning for a period not to exceed sixty (60) days.
- B. Dogs brought to the town exclusively for the purpose of entering any dog show or exhibition and which are actually entered in or kept at such show or exhibition.

- C. Dogs duly and properly trained to aid or assist blind persons, when such dogs are actually being used by blind person, for the purpose of aiding or assisting such blind persons' in traveling from place to place.
- D. Animal Hospital or Mobil Clinic, operated by a graduated veterinarian, duly licensed by the state board of veterinary examiners.

5-3-7 **RABIES VACCINATION REQUIRED:** All dogs over the age of five months must be vaccinated for rabies and a copy of the vaccination certificate must be presented with the license application.

5-3-8 **PAYMENT OF FEES -- VACCINATION CERTIFICATE; TAG ISSUANCE:**

- A. The office of the town clerk shall be the place where persons owning, keeping, or having possession of any dog covered by this chapter, shall pay the license fee provided in this chapter. Such persons shall produce a certificate, by a licensed veterinarian, providing proof that the dog has been vaccinated for rabies for a period equal to that of the term of the license applied for, as well as, documentation showing proof of spaying or neutering of the animal.
- B. Owners shall provide a clear and current photograph of their dog to the town clerk. The photograph will be filed to enable the special municipal officer or other designee to better identify an animal, should it be missing identification.
- C. Upon the payment of the license fee, documented proof that the dog has been vaccinated for rabies, and upon receipt of photograph, the town clerk shall provide the applicant with a license tag, upon which shall be a number and the year during which it is issued. This tag shall be attached to the collar or harness of the dog for which it is issued.
- D. Such tag shall not be transferable, from one dog to another and no refund shall be made on any dog license fee.

5-3-9 **RECORDS REQUIRED:**

The town clerk shall keep a permanent record of all licenses issued under the terms of this chapter. Each record shall show the name and address of all persons being issued a license tag, the number of the license issued, the date, the amount paid, a description of animal, and photograph of animal.

5-3-10 **UNLICENSED DOG PROHIBITED:** It is unlawful for any person to own, keep, or have in his/her possession, in the town, on the premises owned or occupied by him/her, or in any other place, any dog over five (5) months old for which a license for the current year has not been obtained, provided in this chapter.

5-3-11 **IMPOUNDMENT:**

- A. Enforcement: A special municipal officer or other designee may impound any unlicensed at-large animal or any animal that has bitten any person

in any place, public or private, without provocation, into a secure pen, pound or other place provided for that purpose at the owner's expense. The animal may be tested for rabies at the nearest available veterinary clinic at the owners expense. Dogs deemed "dangerous" by the town council that repeat the behavior that earned the designation may be impounded and euthanized at the owner's expense.

Any unlicensed dog at-large may be held in a municipal pen or held at the nearest available animal shelter for seventy-two (72) hours, after which time if the unlicensed dog is not claimed the animal may be disposed of. If the owner can not be located, a picture of impounded animal will be posted in designated public areas within the town. If the owner redeems the animal before it is destroyed, the owner must pay any fees associated with the capture, transport, care and impoundment of the animal.

- B. Redemption Fee: No animal so impounded shall be released until the owner has paid a fee as determined from time to time by resolution of the town council for the impoundment and care of the type of animal so impounded, as set forth in section A above. The owner or agent of any impounded animal may have the privilege of claiming such animal within two (2) days after it is impounded, unless severe weather conditions require animal to be transported to animal shelter.
- C. Impoundment Record: Immediately upon impounding any such animal, the special municipal officer, or other designated employee, shall record in the book to be provided by the town and by him/her kept for that purpose, a description of the animal. The record shall state the sex, color, breed, estimated age, distinguishing marks, if any, and the date and hour of impounding. Upon final disposition of such animal, the record shall show such disposition.

5-3-12 **TRANSPORT OF UNREDEEMED ANIMALS:**

- A. Notice: A special municipal officer or other designated employee will arrange transport of any unredeemed animal to nearest animal shelter upon giving two (2) days notice to owner, or person in charge of the impounded animal, of the time and place of transport. The notice shall describe the animal with reasonable accuracy and give the estimated date of transport and the location the impounded animal will be transported to. Any such animal may be redeemed at any time before transport to animal shelter by payment of the fees and charges accrued in the capture, impoundment, and care of the animal. If the animal is unlicensed, the owner must license the animal before the animal is redeemed.

5-3-13 **CRUELTY TO ANIMALS – MAIMING – POISONING – KILLING -- MISTREATING**

- A. No owner shall commit any act, omission or neglect whereby the willful and malicious infliction of pain or suffering upon an animal is caused, permitted or allowed to continue when there is a reasonable remedy or relief.
- B. Abandonment of any animal is considered cruelty.
- C. No person shall willfully kill, maim, or disfigure any animal, except as affirmatively provided in this code.
- D. No person shall be allowed, other than a law enforcement officer or special municipal officer actively engaged in the performance of his/her duty, to kill or cause to be killed, any animal which has been registered and licensed as provided by this title, without the consent of the owner, or possessor thereof.

- E. In the event the special municipal officer finds an animal to be in immediate need of care and the owner cannot be located, he/she may have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense. All reasonable costs incurred for treatment of the animal shall be reimbursed to the town by the owner. No animal shall be repossessed by the owner until such costs have been reimbursed to the town.

5-3-14 **REMOVAL AND DISPOSAL OF DEAD ANIMALS:** It shall be the duty of every owner, of any animal, which shall in any manner, come to its death within the town, to immediately remove the body or carcass of the animal and dispose of it in a legal manner.

5-3-15 **MUNICIPAL PARK:** No person shall ride or permit any horse or other livestock to remain within a municipal park unless provision has been made with the town council.

5-3-16 **MAINTAINING POISONOUS OR VICIOUS ANIMAL OR WILDLIFE:**

- A. No person shall keep, feed, harbor or allow to stay about the premises occupied by such person any vicious, unruly or ferocious animal, or permit such animal to be at-large or insecurely confined.
- B. Poisonous or venomous biting or injecting species of amphibian or reptile, including snakes, shall not be brought into, kept, maintained, offered for sale or barter, or released within the town.
- C. No person shall keep or cause to be kept any big game animal, exotic species, fur bearing animal, game bird, predatory animal, protected animal, small game animal, trophy game animal or wildlife as the same are defined in Wyoming Statute § 23-1-101

5-3-17 **WORKING DOGS AND DOGS UNDER VOICE, WHISTLE, OR BODY**

COMMAND: No dog working livestock in its daily activity shall be deemed at-large. Obedient and properly trained dogs under voice, whistle, or body command of their owner may be exercised unleashed if dog remains docile, within twenty (20) feet of owner and off private property at all times. All dogs must be leashed during private or public events held at Centennial Park and at designated events and locations. A dog behaving as a habitual nuisance while walked unleashed may result in the dog being classified as "at-risk." "At-risk" and "Dangerous" dogs may not be unleashed when away from the owner's property within the Town of Elk Mountain.

5-3-18 **INTERFERENCE:** No person shall interfere with, hinder, or molest any agent of the Town of Elk Mountain in the performance of any duty as herein provided.

5-3-19 **SEVERE WEATHER -- SAFE IMPOUNDMENT:** Shall climate conditions be too severe to safely impound an animal in a municipal pen or enclosure, and the owner has been notified and failed to redeem said animal immediately, the special municipal

officer or other designated employee may contact the nearest animal shelter for immediate transport of unredeemed animal.

- 5-3-20 **ANIMAL WASTE RESPONSIBILITY:** It shall be the responsibility of the owner of every dog, cat, or other animal, to removal excreta deposited on public and recreational areas, or private property, other than that of the owner.
- 5-3-21 **DESTRUCTIVE ANIMAL:** It shall be a violation of this ordinance for any person to allow an animal which they own, keep or have possession of, to damage, destroy, mutilate, ravage, or deface any property or animal.
- 5-3-22 **DEPRIVE A COLLAR – TRANSFER TAG:** It shall be unlawful to put a registered tag on any dog not licensed. It shall be unlawful to deprive a registered dog of its collar or tag.
- 5-3-23 **FAILURE TO RENDER ASSISTANCE TO INJURED ANIMAL:** Any person, who injures an animal as a result of an accident with a motor vehicle, shall stop and render assistance to the animal, as may be necessary, and shall immediately report such accident and injury to the animal owner and special municipal officer, town clerk, or mayor. Failure to stop and render assistance and to immediately call the owner and special municipal officer, town clerk, or mayor shall be a violation of this ordinance.
- 5-3-24 **REVOCAION OF LICENSE:** The Town of Elk Mountain may revoke any license if:
- A. The person holding the license refuses to comply with this ordinance, the regulations promulgated by the Town of Elk Mountain or any other law governing the protection and keeping of animals.
 - B. If an applicant is shown to have withheld or falsified any material information on the application, the Town of Elk Mountain may refuse to issue or may revoke a license.
- 5-3-25 **MOLESTATION OR TEASING PROHIBITED:** It is unlawful for any person to tease, abuse, or otherwise molest any dog or cat under any enclosure, on private property, or on the streets of town.
- 5-3-26 **LOOSING OF STRAYS:** No person shall abandon or in any manner turn loose any dog or cat to stray upon the streets of the town.
- 5-3-27 **KEEPING A KENNEL PROHIBITED:** No person shall maintain any kennel for the purpose of breeding, selling, or boarding dogs or cats within the town.
- 5-3-28 **NEW RESIDENTS, COMPLIANCE:** A new resident to the Town of Elk Mountain will be allowed forty-five (45) days after residency, to comply with licensing requirements of this title.
- 5-3-29 **CLASSIFICATION PROCEDURE FOR “AT-RISK” DOGS SANCTIONS FOR OWNING AN “AT-RISK” DOG:** The special municipal officer or other designated employee shall investigate the circumstances of any complaint filed against a dog alleged to be “at-risk” and notify the dog owner of the charge. The results of the investigation will be

reported to the town council and to the dog owner. If the council deems the dog to be “at-risk”, the dog owner has the option of requesting a hearing, to be made in writing and delivered to the town clerk within ten (10) days from the date the town council had made its determination. Failure to request a hearing within ten (10) days of the town council’s determination shall be considered a waiver of that right, and deemed the owner’s acceptance of the designation. Any hearing or subsequent appeal shall be performed as set forth in section 5-3-34.

5-3-30 SANCTIONS FOR OWNING AN “AT-RISK” DOG – IMPROPER CONFINEMENT AND IMPROPER CONTROL OF AN AT-RISK DOG PROHIBITED: An owner shall provide secure fencing to keep an “at-risk” dog confined on his/her own property. When off the owner’s property, the dog must be kept on a secure leash of no more than four (4) feet in length and under control of a legally responsible person. It shall be unlawful for an owner to improperly confine or control their “at-risk” dog.

5-3-31 CLASSIFICATION PROCEDURE FOR “DANGEROUS” DOGS: The special municipal officer or other designated employee shall investigate the circumstances of the complaint and notify the dog owner of the charge. The officer will then report the results of the investigation to the town council and to the dog owner. If the council deems the dog to be potentially “dangerous”, the dog owner has the option of filing an appeal with the town council and requesting a hearing. Depending on the circumstances, the dog may be impounded pending disposition of the case.

5-3-32 SANCTIONS FOR OWNING A “DANGEROUS” DOG – UNSECURE CONFINEMENT AND IMPROPER CONTROL OF A DANGEROUS DOG PROHIBITED: A “dangerous” dog may be returned to the owner or may be destroyed depending on the outcome of the investigation. The town council may require a behavioral evaluation of the dog and require the owner to attend a responsible ownership class to retain the dog license. If the dog is returned to the owner, the owner must:

- A. Confine the dog behind a locked fence of sufficient height and materials with a top to securely contain the dog and prevent trespass. Confinement must be sufficient to prevent children from coming into contact with the dog. When off the owner’s property, a “dangerous” dog must be restricted by a leash of no more than four (4) feet in length, must be under the control of a legally responsible person, and may be required to wear a muzzle. It shall be unlawful for any owner of a “dangerous dog” to provide insecure confinement of such dog.
- B. When traveling, confine the dog in a crate in a closed, locked vehicle to prevent opportunities for escape and in a manner sufficient to prevent children from coming into contact with the dog through an open window in the vehicle. It shall be unlawful for any owner of a dangerous dog to provide unsafe transport of such dog.

5-3-33 VIOLATION – PENALTY: A violation of any section in this chapter shall be a general misdemeanor, unless specific penalties are provided in this section.

ORDINANCE SECTION	OFFENSE		FINE
5-3-1 & 5-3-4	At-large Prohibited / Nuisance	1 st offense 2 nd offense 3 rd & subsq. offenses	Warning Warning \$30.00 “At-risk” dog designation may be imposed when applicable.
5-3-5	License Required	1 st offense	\$30.00

5-3-10		2 nd offense	\$45.00
		3 rd & subsq. offenses	\$60.00
5-3-21	Destructive Animal	1 st offense	\$50.00
		2 nd & subsq. offenses	\$100.00 "At-risk" or "dangerous" dog designation may be imposed.
5-3-22	Transfer of Tag	1 ST offense	\$100.00
		2 nd & subsq. offenses	\$150.00 and revocation of license
5-3-23	Failure to Render Assistance		\$100.00
5-3-27	Keeping Kennel Prohibited		\$100.00
5-3-30	Improper Confinement / Control of "At-Risk" Dog	1 st offense	\$45.00
		2 nd offense	\$60.00
		3 rd offense	\$75.00 "Dangerous" dog designation may be imposed.
5-3-32	Unsecure Confinement and Improper Control Of "Dangerous" Dog		\$100.00 "Dangerous" dog may be destroyed.

5-3-34 REQUEST FOR HEARING -- REVOCATION OF LICENSE – BEHAVIORAL CLASSIFICATION

- A. A request for hearing upon the revocation of a license, or upon an "at-risk" or "dangerous" dog classification shall be made in writing and delivered to the Town clerk within (10) days from the date the notification was sent to the licensee. Such request shall specify the license concerning which the request is made, the requesting party's name, address, phone number and the nature of the interest held by the requesting party.
- B. In the event a hearing is not requested, the town council may revoke the license or uphold a behavioral designation.
- C. In the event a request for hearing is filed, a hearing shall be held before an individual hearing examiner, to be appointed and designated by the town council to act as hearing examiner.
- D. At such hearing, all parties shall be afforded an opportunity to present evidence, to cross examine and present argument; provided that all persons testifying shall be sworn; irrelevant, immaterial or unduly repetitious evidence shall be excluded; and the decision of the hearing examiner shall be based upon the type of evidence commonly relied upon by the Wyoming State Courts.
- E. At or after such hearing, and in the event of confirmation that the revocation, or the classification, is confirmed, the hearing examiner shall order the mayor or his agents to revoke the license or effect the classification. In the event the revocation or classification is confirmed, administrative costs may also be assessed by the hearing officer at the hearing. If the hearing officer reverses the town council's initial determination, the revocation or classification shall be

denied and costs shall not be assessed. The decision of the hearing officer shall be a Final Determination.

- F. Appeals from the hearing examiner may be made to the Carbon County District Court, Second Judicial District, under the rules of appellate procedure as found in the Wyoming Court Rules in effect at that time, and within the time required by the Wyoming Rules of Appellate Procedure.
- G. In the event a request for hearing , as provided, is not timely filed, the right to a hearing shall be considered to have been waived.

5-3-35 **PREVIOUS ORDINANCES REPEALED:** All ordinances or parts of ordinances in the Town of Elk Mountain, Wyoming are hereby repealed to the extent inconsistent herewith.

5-3-36 **SEVERABILITY:** If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

5-3-37 **APPLICABILITY:** This ordinance shall be in full force and effect upon its passage and publication.

5-3-38 **SAFETY CLAUSE:** The governing body of the Town of Elk Mountain hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the Town of Elk Mountain and the inhabitants thereof.

This ordinance shall take affect and be in full force after passage and approval.

**APPROVAL AND PASSED THIS _____ DAY OF _____, 2012 ON FIRST READING.
APPROVED AND PASSED THIS _____ DAY OF _____, 2012 ON SECOND READING.
PASSED, ADOPTED AND APPROVED THIS _____ DAY OF _____, 2012 ON THIRD AND
FINAL READING.**

TOWN OF ELK MOUNTAIN

Mayor

ATTEST:

Town Clerk

Posted: