



MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: August 5, 2021

RE: Draft Amendment to Chapter 7 of the Foxfield Municipal Code Concerning Animals

DISCUSSION:

The Town of Foxfield has a contract with Arapahoe County for Animal Control Services and our Municipal Code section 7-2-10 is for the most part a duplicate of their code regarding animals. Arapahoe County recently updated this section of their code, therefore the Town of Foxfield also must update our code to reflect the changes made by Arapahoe County.

The most significant changes to this code section include licensing of dogs will no longer be required and the number of animals allowed section has been removed.

A redlined draft amendment of Chapter 7-2-10 of the Foxfield Municipal Code concerning animals is attached as exhibit A, along with a clean version as Exhibit B.

Staff will bring an Ordinance adopting these changes to section 7-2-10 to the next meeting.

ATTACHMENT:

Exhibit A: Redlined version of Municipal Code Concerning Animal Control

Exhibit B: Clean version of Foxfield Municipal Code Concerning Animal Control

Sec. 7-2-10. Definitions.

For the purposes of this Article, the following terms shall have the following meanings:

"Abandon" means the leaving of a pet animal without adequate provisions for the animal's proper care by its owner or keeper.

Aggressive dog means a dog which, without intentional provocation, engages in any of the following behaviors:

- a. Threatens a person by encroaching onto public property or property of another from a vehicle or from the owner's or custodian's yard through, under or over a fence;
- b. Injures another domestic animal while off the owner's or custodian's property;
- c. Approaches any person in an apparent attitude of attack or in a terrorizing or menacing manner; or
- d. Causes bodily injury to any person.

Animal ~~Control Services~~ Officer means any person authorized by the Arapahoe County Director of the Department of Public Works and Development or any person authorized by said Director, including the Arapahoe County Sheriff or a Sheriff's Deputy, to issue summonses and complaints enforcing the provisions of this Article pursuant to Section 30-15-105 and 30-15-102, C.R.S., as amended, and shall also include the Arapahoe County Sheriff and any Arapahoe County Sheriff's Deputy.

"At large" means a dog that is not under physical control or voice control, as defined in this Section 1, while on public property, or, means a dog that is on private property without the permission of the property owner or his/her agent; further, with respect to a dog on a County-owned open space, park, or trail, "at large" also means that the dog is in violation of any requirements as stated in Arapahoe County displayed signage applicable to dogs on such property (for example, designated signage may indicate that all dogs must be under physical control, or indicate that certain areas are off limits to dogs).

Attack means an assault against a person or domestic animal, whereby physical contact is made in an apparently hostile or terrorizing manner.

Bite means to seize with teeth or jaws so as to enter, grip, wound or cause a puncture to the skin.

Bodily injury means an physical injury to a person or domestic animal resulting in bruising, muscle tears, skin lacerations, or broken bones that may or may not require professional medical treatment, which may include, but is not limited to, sutures or cosmetic surgery. Such injuries may or may not result in permanent disfigurement, protracted loss or impairment of the functions of any part or organ of the body, or death caused by a dog whereby, at a minimum, the skin is broken, exterior bleeding occurs or medical treatment by a licensed physician is reasonable necessary.

"Board" means the Board of County Commissioners of Arapahoe County.

Control means:

- a. Having a dog on a leash, rope or other means of restraint so that freedom of the dog's movement is restricted within a ten-foot radius;
- b. Having a dog exclusively within the private property of the owner, keeper or possessor of a dog.

- c. Accompanying a dog on public property when said dog is at all times within twenty (20) feet of and immediately responsive to the voice commands of the dog's owner, keeper or possessor.
- d. Accompanying a dog on private property with permission of the owner of such private property, when said dog is at all times within forty (40) feet of and immediately responsive to the voice commands of said dog's owner, keeper or possessor.

C.R.S. means the Colorado Revised Statutes, ~~as amended~~.

"Cruelty to Animals" means to knowingly, recklessly, or with criminal negligence, overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry in or upon any vehicle in a cruel manner, or otherwise mistreat or neglect any animal or cause or procure it to be done, or having the charge and custody of any animal, fail to provide it with proper food, drink or protection from the weather consistent with the species, breed, and type of animal, or abandon the animal. See Sections 35-42-107(2) and 18-9-202, C.R.S., as amended.

Custody means providing food, shelter, water, other sustenance or care for a dog.

~~Department means the Arapahoe County Department of Public Works and Development, Animal Control Services Division section, for Arapahoe County Government.~~

~~Director means the Director of the Department of Public Works and Development appointed by the Arapahoe County Board of County Commissioners or his designee of Arapahoe County.~~

"Dog" means any member of the species Canis familiaris.

~~Keeper means a person who, or whose unemancipated child under the age of eighteen (18) years who resides with said person, has temporary custody of a dog through bailment, loan, entrustment or other arrangement between the keeper and owner.~~

Owner or Keeper means any person who eighteen (18) years of age or older, or whose an unemancipated child under the age of eighteen (18) years who resides with said person, or the parent or guardian of any child under the age of eighteen (18) years who owns, keeps, harbors, possesses, has custody of, or is responsible for exercising physical or voice control over a dog or other animal. has permanent custody of a dog through purchase, gift, adoption or otherwise.

Person means any natural person or individual, corporation, business trust, estate, trust, partnership, association, business or any other legal entity, but shall exclude all governments, governmental subdivisions or governmental agencies.

~~Pet animal means an animal as defined in 30-15-101(3), C.R.S., as amended, any dog, cat or other animal owned or kept by a person for companionship or protection or for sale to others for such purposes.~~

"Physical Control" means a dog is on a leash, rope or other means of physical restraint by a person physically capable of handling such dog so that freedom of the dog's movement is restricted.

Possessor means a person who, or whose unemancipated child under the age of eighteen (18) years who resides with said person, has voluntarily assumed custody of a dog or the responsibility for the control of a dog, through means other than as an owner or keeper. A person is not a possessor if he, or his unemancipated child under the age of eighteen (18) years who resides with said person, assumes temporary custody of a dog for the sole purpose of summoning animal control authorities or for the sole purpose of seeking emergency aid or medical treatment for a dog.

Running at large or runs at large means a dog that is upon public property or upon the private property of a person other than the dog's owner, keeper or possessor, when said dog is not under the control of the dog's owner, keeper or possessor; or a dog that is upon the private property of a person

other than the dog's owner, keeper or possessor, without permission from an owner of the private property or his agent, even if said dog is under the control of the dog's owner, keeper or possessor.

Serious bodily injury means an injury to a person or domestic animal caused by a dog 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 injuries that require corrective surgery.

Vicious dog means:

- a. A dog whose freedom of movement is not restricted by confinement or by attachment to a leash, rope or other means of restraint; and which dog, in a dangerous or terrorizing manner, has physical contact with a person or domestic animal, with or without causing bodily injury. Said restriction shall prevent the escape of such dog from its owner, keeper or possessor or from such owner's keeper's or possessor's property; and shall prevent such dog from attacking or injuring a human being or domestic animal.
- b. Any dog which has caused bodily injury to a human being or domestic animal during two (2) or more separate episodes.
- c. The control provisions of Subparagraphs a. and b. above shall not apply to any dog while actually working livestock or assisting law enforcement officers or while being trained for any of these pursuits. A dog owned, kept or possessed primarily as a domestic pet on residential property shall not be excluded from Subparagraphs a. and b. above and shall not be considered a guard or police dog;
- d. Episodes wherein a dog attacked, bit, caused bodily injury, caused serious bodily injury or caused death to a human being or domestic animal, when said human being or domestic animal intentionally provoked such dog's action without justifiable reason, shall be excluded from Subparagraphs a. and b. above.
- e. The exclusions provided for in Subparagraphs c. and d. above shall be affirmative defenses.

"Voice Control" means a dog is immediately and reliably obedient to any voice or sound command given by an owner or keeper who is able to prevent the dog from charging, chasing, or otherwise disturbing or interfering with any person, pet animal, livestock, or wildlife, regardless of the distance involved or the presence of any distraction or provocation.

(Ord. 3 §3, 2010; Ord. 1 §1, 2012)

Sec. 7-2-20. Licensing of dogs required.

- ~~(a) Any owner, keeper or possessor of a dog commits a class 2 petty offense if such dog is more than one hundred eighty (180) days old and a current license issued by the Director has not been acquired for such dog.~~
- ~~(b) It is the responsibility of any owner, keeper or possessor of a dog to cause such dog to wear at all times a metal tag bearing the legible number of a current dog license issued to such dog, as provided for in Section 7-2-30 of this Article. At a trial concerning a violation charged under this Section, the absence of such tag upon a dog shall be prima facie evidence that such dog was not properly licensed.~~
- ~~(c) No person charged with violating this Section shall be convicted if he produces to the Court or produces to the Director or an Animal Control Officer, where such person has been issued a penalty assessment summons and complaint, a license for the dog which was current and in effect on the date of the alleged violation concerning such dog.~~

(Ord. 3 §3, 2010; Ord. 1 §1, 2012)

~~Sec. 7-2-30. Dog licensing procedure.~~

- ~~(a) Dog licenses shall be issued by the Director subject to the following requirements:
 - ~~(1) A dog license shall not be issued until the owner, keeper or possessor of the dog to be licensed provides satisfactory evidence, acceptable to the Director, that a valid rabies vaccination certificate has been issued for such dog by a licensed veterinarian;~~
 - ~~(2) A dog licensing fee, as provided for in this Section, shall be paid to the Department.~~~~
- ~~(b) Upon completion of the requirements provided for in this Subsection, the Department shall give to the person paying the dog licensing fee: a dog license containing the dog owner's name and address; a description of the dog; the dog's rabies tag number, the date of the dog's rabies vaccination and the license number issued to the dog; and a metal tag bearing the same number of the license issued to the dog.~~
- ~~(c) The Department shall keep a record of the names and addresses of all owners, keepers or possessors who license a dog and of all dog licenses which are issued, including the information required and contained on such licenses.~~
- ~~(d) All dog licenses shall expire on December 31 of the year of issue. Renewals shall be obtained by March 1 of the following year.~~
- ~~(e) Dog license fees shall not be prorated, regardless of the month or day within the year upon which a dog license is issued or renewed.~~

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-20 Rabies Vaccination Required

- (a) Any owner or keeper of a dog commits a class 2 petty offense or a municipal offense if such dog is more than four (4) months of age and the owner or keeper is unable to provide proof when requested of a then current rabies vaccination, issued by a licensed veterinarian. A rabies certificate or tag current at the time that it is requested, and supplied by a licensed veterinarian, shall serve as proof of rabies vaccination.
- (b) An owner or keeper of a dog is exempt from the requirements of this Section 7-2-20 if the owner or keeper can produce a signed letter from a licensed veterinarian stating that such vaccination would be detrimental to the health and well-being of such dog.

Sec. 7-2-340. Dogs not to run At Large.

- (a) Any owner ~~or,~~ keeper ~~or possessor~~ of a dog commits a class 2 petty offense or a municipal offense if such dog ~~runs~~ is found to be at large.
- (b) Any owner, keeper or possessor of a dog commits a class 2 misdemeanor if such dog causes bodily injury to any person or domestic animal on two (2) or more separate episodes while running at large.
- ~~(c) Each and every day during which a violation of this Section occurs shall be deemed a separate violation.~~
- ~~(d) A violation of this Section shall not be proven solely by the uncorroborated testimony of a single witness unless the witness is an Animal Control Officer.~~
- (b) The provisions of this Section shall not apply to any dog while working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, performing search and rescue functions for an emergency services provider, or while being trained for any of these pursuits.

(c) A violation of this Section 7-3-40 shall not be proven solely by the uncorroborated testimony of a single witness unless the testimony is corroborated by the submission of photographic or video evidence, or unless the witness is an Animal Services Officer.

(d) Repeated offenses shall be cumulative only within a 365 day period, counting from the day of the last violation.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-~~450~~. Noisy dogs.

(a) Any owner ~~or~~ keeper ~~or possessor~~ of a dog commits a class 2 petty offense ~~or a municipal offense~~ if such dog individually ~~makes~~, or in combination with another dog or dogs together, makes any noises ~~or disturbances by barking, howling, yelping, whining or other utterance which are is~~ audible beyond the premises on which the dog is kept, in excess of twenty (20) consecutive minutes during the day (7 a.m. to 9 p.m.) or in excess of ten (10) consecutive minutes during the night (9:01 p.m. to 6:59 a.m.) and/or a cumulative period in excess of one-hundred twenty (120) minutes during any twenty-four (24) hour period. ~~from an adjacent or nearby property for a continuous twenty-minute period, such noises being separated by pauses, however slight, during said continuous twenty-minute period.~~

(b) No citation for a violation of this Section 7-2-40 shall be issued unless at least one written warning, signed by the Animal Services Officer and at least one complainant, has been issued to an owner or keeper of the dog or dogs that have exceeded the noise limits. Such written warning shall contain the date and time when the violation occurred and a brief explanation of the nature of the noise complaint. Once a written warning has been issued, a citation may be issued for any violations that occur seven (7) or more days after the written warning is issued without the necessity of an additional warning. A summons and complaint for a first violation of this Section shall not be issued. First-time violators will be issued a warning, which shall be signed by an Animal Control Officer and at least one (1) complaining person. Such warning shall contain the dates and times when the violation occurred, brief explanation of the nature of the notice complaint and a copy of this Section. No summons and complaint shall be issued for subsequent violations unless and until seven (7) days have elapsed between the first violation and any subsequent violations. Said initial warning shall be made by personal service of said warning to the owner, keeper or possessor of the dog.

(c) No citation shall be issued and no conviction shall occur for a violation of this Section 7-2-40 unless there are two (2) complaining witnesses from separate households who have signed such citation; except that only one (1) complaining witness shall be required to sign the citation under either of the following circumstances:

1) An Animal Services Officer or Deputy Sheriff has personally investigated the complaint of a single complainant and observed the nature and duration of the noise created by the dog and can testify as to such observations; or

2) A complainant has presented to the Animal Services Officer, at the time of the complaint, a video and/or audio recording that corroborates the alleged violation.

~~A summons and complaint for a violation of this Section shall be signed by at least two (2) complaining persons who are from separate households and are willing to testify at trial, which signatures shall be in addition to the required signature of an Animal Control Officer or an Arapahoe County Deputy Sheriff.~~

~~In the event there is only one (1) occupied residence in the immediate area of the location of the barking dog, only one (1) complaining witness shall be required to sign the complaint.~~

- (d) Repeated offenses shall be cumulative only within a 365 day period, counting from the day of the last violation.

~~A violation of this Section shall not be proven solely by the uncorroborated testimony of a single witness unless the witness is an Animal Control Officer.~~

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-50 Cruelty to Animals

An owner or keeper of an animal commits a violation of this Section, which is also a class I misdemeanor under §18-9-202, C.R.S., as amended, if he/she commits cruelty to animals.

Sec. 7-2-60. Approach in an Aggressive Manner dogs.

~~Any person who is the owner or keeper of a dog commits a class 2 petty offense or a municipal offense if such dog, while off the owner's premises and without provocation, approaches any person in an apparent attitude of attack and demonstrates aggressive behavior, including but not limited to lunging, snarling, growling, barking, or snapping. Such behavior may restrict the movement of a person, including but not limited to cornering or circling, and such behavior by such dog may, but need not, result in actual physical contact from such or possessor of an aggressive dog, as defined in this Article, commits a class 2 petty offense.~~

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-70. Vicious dogsPet Animal Causing Injury.

- (a) ~~Any person who is the owner or keeper or possessor of a vicious dog, as defined in this Article, of a pet animal commits a class 2 petty offensemisdemeanor if such pet animal, whether on or off the owner's premises and whether or not under the physical or voice control of an owner or keeper, causes bodily injury to a person.~~

- (b) ~~Any person who is the owner or keeper of a pet animal or possessor of a vicious dog, which dog has caused bodily injury to another person other than said owner, keeper or possessor or to a domestic animal during two (2) or more separate episodes, commits a class 2 misdemeanor. 2 petty offense or a municipal offense if such pet animal, causes injury to another pet animal or livestock.~~

Any owner or keeper of a dog that causes bodily injury as defined by Section 18-9-204.5, C.R.S., may be cited for ownership of a dangerous dog as provided in said law.

- (c) ~~Any Arapahoe County Animal Control Officer or Deputy Sheriff may seize any vicious dog which is running at large, either upon public property or upon private property, when an owner of such private property or his agent is not present and the dog is unrestricted on such property. The impoundment of such dog shall be at the dog owner's expense.~~
- (d) ~~After a request in writing by the Director, an Arapahoe County Deputy Sheriff may request a County or District Court to issue a search and seizure warrant in accordance with Colorado laws, for the purpose of entering upon private property to search for or to seize any vicious dog, when any person is refusing to consent to such entry or seizure.~~

- ~~(e) Animal Control Officers shall immediately impound all dogs seized under this Section. Any dogs impounded under this Section shall be under the authority of the Department until a court of proper jurisdiction reaches a final determination and issues an order that a seized dog is to be released to its owner, keeper or possessor; or is a vicious dog, as defined by this Article, and should be destroyed by the Department. When a dog seized under this Article is returned to its owner, keeper or possessor, all costs for the care of such dog while in the custody and under the authority of the Department shall be borne by Arapahoe County.~~
- ~~(f) Each and every day during which a violation of this Section occurs shall be deemed a separate violation.~~

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-80. ~~Number of animals allowed.~~ Affirmative Defense

- ~~(a) Any person who is the owner, keeper or possessor of more than four (4) pet animals, including but not limited to dogs, cats or small animals older than one hundred eighty (180) days upon residential property within the Town, commits a class 2 petty offense.~~
- ~~(b) Legally permitted and licensed kennels and/or veterinarian offices shall be exempt from the provisions of this Section.~~
- ~~(c) For the purposes of this Section, each lot or parcel which is zoned residential and contains a residential structure shall constitute one (1) residential property, and a lot or parcel that is zoned residential with no residential structure located thereon shall not be considered a residential property with a right to keep or maintain any pet animals as an accessory use.~~
- ~~(d) Each and every day during which a violation this Section occurs shall be deemed a separate violation.~~
- ~~(e) A violation of this Section shall not be proven solely by the uncorroborated testimony of a single witness unless the witness is an Animal Control Officer.~~
- ~~(f) Any summons or complaint issued for a violation of this Section shall be signed by at least one (1) complaining person, which signature shall be in addition to the required signature of an Animal Control Officer or Arapahoe County Deputy Sheriff.~~

If a dog or other pet animal is provoked into biting or attacking, which results in bodily injury, such provocation shall constitute an affirmative defense. Provocation shall be determined by one or more of the following:

- (a) That, at the time of the incident, the victim was committing or attempting to commit a criminal offense against the dog/pet animal owner or the dog/pet animal owner's property; or
- (b) That, at the time of the incident, the victim tormented, abused, or inflicted injury upon the dog or pet animal, which resulted in the incident; or
- (c) That, at the time of the incident involving the dog or other pet animal, which caused injury to or the death of another animal, the injured and/or deceased animal was at large.

~~(Ord. 3 §3, 2010; Ord. 10 §1, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-90. ~~Seizure and Impoundment and Disposition of dogs~~Animals.

- ~~(a) Animal Control Officers shall seize and impound any dog which is running at large, either upon public property or upon private property, when an owner of such private property or his agent has given~~

~~consent to an Animal Control Officer or Deputy Sheriff, to enter upon said private property and to seize such dog or to seize a vicious dog for impoundment at the dog's owner's expense, when said dog is unrestricted on the owner's property with no owner present.~~

- ~~(b) The Department shall impound all dogs which have been lawfully seized for running at large or for being a vicious dog.~~
- ~~(c) Upon the impounding of any dog, the Department shall cause written or verbal notice to be given to the owner, keeper or possessor (if known) of such dog. Any owner, keeper or possessor of an impounded dog may recover possession of such dog upon the payment for the cost of such dog's impoundment, unless the dog has been mistreated or is a vicious dog.~~
- ~~(d) If an owner, keeper or possessor of a dog impounded under the provisions of this Article refuses to claim such dog, does not claim such dog or does not pay the costs for such dog's impoundment, all within six (6) days after the receipt of the written or verbal notice required by this Article, then such dog shall come under the authority of the Department for final disposition, either by adoption or destruction.~~
- ~~(e) If an owner, keeper or possessor of a dog impounded under the provisions of this Article is unknown, said dog shall be held for a period of six (6) days, after which said dog will come under the authority of the Department for final disposition, either by adoption or destruction.~~
- ~~(f) An officer of the Department may exercise his discretion and return a dog found running at large to such dog's owner, keeper or possessor if the dog's owner, keeper or possessor first pays a "Release in Lieu of Impoundment Fee" as provided for in Section 7-3-110 of this Article.~~
- (a) Any Animal Services Officer may impound into the custody of any licensed shelter or other impound facility any dog found to be at large. An Animal Services Officer may also impound any pet animal at the direction of a law enforcement officer made in accordance with and pursuant to lawful process.
- (b) Upon the impoundment of any dog or other pet animal, the Department-Arapahoe County shall make a prompt and reasonable attempt to identify the owner or keeper of the dog or other pet animal and, upon identification of the owner or keeper, shall cause written notice to be provided to the owner or keeper of the impoundment and the location of the impoundment facility. As used herein, a reasonable attempt to identify shall mean that the Animal Services Officer checks the dog or other pet animal for any identifying information, including identification tags or imbedded microchip, and a search for social media postings related to the dog or other pet animal. Written notice may be provided by email, text message or other electronic means, personal delivery to the owner or keeper of the dog or other pet animal, or by posting the notice at the residence of the owner or keeper of the dog or other pet animal.
- (c) Dogs and other pet animals impounded pursuant to the provisions of this Section 7-2-90 Resolution or pursuant to the direction of a law enforcement officer are subject to disposition in accordance with the requirements of applicable state law, including Section 35-80-106.3, C.R.S., and 18-9-202.5, C.R.S., the requirements of the licensed shelter or other impound facility, and of any applicable order of a Court of competent jurisdiction. Such requirements may include a requirement for the payment of impound fees prior to the return of the dog or other pet animal.
- (d) In lieu of impoundment of a dog caught running at large, provided that the Animal Service Officer is able to identify and locate the owner or keeper at the time of capture, the dog may be returned directly to that owner or keeper upon payment of a "Return to Owner Fee" in the amount established as provided in Section 7-2-110 of the Foxfield Municipal Code this Resolution. Upon capture of a dog at large, the Animal Services Officer shall attempt to identify the owner by checking for an identification tag on or microchip in the dog, and if the owner or keeper is identified, the Animal Service Officer shall first make an attempt to contact the owner or keeper and return the dog in exchange for payment of the of the "Return to Owner Fee," prior to taking the dog to an impound facility.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-100. Enforcement and liability.

~~Pursuant to Section 30-15-104, C.R.S., as amended, t~~The Board of Trustees, the Board of County Commissioners of Arapahoe County, ~~and their its officers, agents, any of their assistants or~~ employees or any other persons authorized to enforce the provisions of this Article shall not be held responsible for any accident or subsequent disease that may occur to ~~a dogan animal~~ in connection with the administration of this Article.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-110. Fees.

Fees authorized under this Ordinance shall be set in such amounts as approved in a separate resolution by the Board of Trustees.

~~The following fees are established for the administration of this Article:~~

~~(1) Annual license fees:~~

- ~~a. A spayed female or neutered male dog annual fee: twelve dollars (\$12.00).~~
- ~~b. An unspayed female or unneutered male dog annual fee: twenty-four dollars (\$24.00).~~

~~The above license fees shall be waived for one (1) dog for owners over the age of sixty-five (65) years.~~

~~(2) Impoundment fees:~~

- ~~a. Cost for first day of impoundment: sixty-five dollars (\$65.00).~~
- ~~b. Subsequent daily costs for care and feeding during impoundment: ten dollars (\$10.00).~~

~~(3) Release in lieu of impoundment fee: thirty dollars (\$30.00).~~

~~(4) Dead animal pickup for disposal fee:~~

- ~~a. Animals zero (0) through fifteen (15) pounds: fifteen dollars (\$15.00).~~
- ~~b. Animals sixteen (16) through fifty (50) pounds: thirty dollars (\$30.00).~~
- ~~c. Animals fifty-one (51) through one hundred (100) pounds: fifty dollars (\$50.00).~~
- ~~d. Animals exceeding one hundred (100) pounds: seventy-five dollars (\$75.00).~~

~~(5) Animal pickup for destruction and disposal:~~

- ~~a. Small animals (dog, cat): thirty dollars (\$30.00).~~
- ~~b. An additional shelter fee will apply if the animal is destroyed.~~

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012; Ord. 02 §1, 2012)~~

Sec. 7-2-120. Enforcement/; Ppeace Officer Designation.

The provisions of this Article shall be enforced as designated by Arapahoe County ~~primarily by the Department, with assistance from the Arapahoe County Sheriff's Department.~~ For purposes of enforcement and pursuant to Section 30-15-105, C.R.S., Arapahoe County Animal Control Services Officers may issue ~~summonses and complaints to a citation to~~ enforce this Article.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-130. Violations/~~;~~ Strict Liability.

Violations of any provision of this Article shall be proven by establishing beyond a reasonable doubt that a person voluntarily acted or omitted to perform an act which such person was capable of performing, and that such act or omission was contrary to any provision of this Article constituting a violation. It shall not be necessary to prove a culpable mental state on the part of any person with respect to any material element of any violation. Any violations of this Article are ones of "strict liability," as defined by Title 18, Article 1, C.R.S.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-140. Penalties.

- (a) ~~In accordance with 30-15-102(1), C.R.S., eE~~Each violation of any provision of this Article which constitutes a class 2 petty offense or a municipal offense, notwithstanding the provisions of Section 18-1.3-503, C.R.S., shall be punishable upon conviction by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the County Jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.
- (b) Any offense and repeated offenses of Section 7-2-70 of this Article shall require a mandatory court appearance. Each violation of Section 7-2-70 shall be punishable, upon conviction, by a fine not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment in the County jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.
- (c) ~~By the authority granted in Section 30-15-102, C.R.S., and i~~In addition to Subsection (a) above, the penalty assessment procedures as provided for in Title 16, Article 2, Part 2, C.R.S., are herein adopted by reference. If, in the discretion of the Town Director, such penalty assessment procedures are utilized in relation to class 2 petty offense violations or municipal offenses of this Article, except for violations of Section 7-2-70 of this Article, the following graduated penalty assessment schedule shall be applicable:
- (1) First offense: fifty dollars (\$50.00).
 - (2) Second repeated offense: one hundred dollars (\$100.00).
 - (3) Third repeated offense: three hundred dollars (\$300.00).
 - (4) Fourth or more repeated offense: five hundred dollars (\$500.00 mandatory court appearance).
 - ~~(5) Fifth and above repeated offenses: mandatory court appearance.~~
 - (5) Each and every incident during which a violation of any section occurs shall be deemed a separate violation. Repeated offenses shall be cumulative only within a three-hundred-sixty-five-day period counting from and including the day of the first violation.
 - ~~(7) Repeated offense means a conviction of a person for an additional repeated violation of the same provisions of this Article, for which violation of said same provision of such person has been previously convicted.~~
- (d) ~~Each violation of any provision of this Article which constitutes a class 2 misdemeanor by involving bodily injury to any person by a dog or animal shall be punished upon conviction as provided for in Section 18-1.3-501, C.R.S.~~

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-150. Incorporation of state statutes.

All provisions of Title 30, Article 15, Part 1, C.R.S., to the extent applicable to the Town of Foxfield, are hereby adopted and incorporated by reference into this Article.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-160. Applicability.

The provisions of this Article shall apply to and may be enforced within all areas of the Town.

~~(Ord. 3 §3, 2010; Ord. 1 §1, 2012)~~

Sec. 7-2-10. Definitions.

For the purposes of this Article, the following terms shall have the following meanings:

"Abandon" means the leaving of a pet animal without adequate provisions for the animal's proper care by its owner or keeper.

Aggressive dog means a dog which, without intentional provocation, engages in any of the following behaviors:

- a. Threatens a person by encroaching onto public property or property of another from a vehicle or from the owner's or custodian's yard through, under or over a fence;
- b. Injures another domestic animal while off the owner's or custodian's property;
- c. Approaches any person in an apparent attitude of attack or in a terrorizing or menacing manner; or
- d. Causes bodily injury to any person.

Animal Services Officer means any person authorized by Arapahoe County to enforce the provisions of this Article and shall also include the Arapahoe County Sheriff and any Arapahoe County Sheriff's Deputy.

"At large" means a dog that is not under physical control or voice control, as defined in this Section 1, while on public property, or, means a dog that is on private property without the permission of the property owner or his/her agent; further, with respect to a dog on a County-owned open space, park, or trail, "at large" also means that the dog is in violation of any requirements as stated in Arapahoe County displayed signage applicable to dogs on such property (for example, designated signage may indicate that all dogs must be under physical control, or indicate that certain areas are off limits to dogs).

Attack means an assault against a person or domestic animal; whereby physical contact is made in an apparently hostile or terrorizing manner.

Bite means to seize with teeth or jaws so as to enter, grip, wound or cause a puncture to the skin.

Bodily injury means a physical injury to a person or animal resulting in bruising, muscle tears, skin lacerations, or broken bones that may or may not require professional medical treatment, which may include, but is not limited to, sutures or cosmetic surgery. Such injuries may or may not result in permanent disfigurement, protracted loss or impairment of the functions of any part or organ of the body, or death.

Control means:

- a. Having a dog on a leash, rope or other means of restraint so that freedom of the dog's movement is restricted within a ten-foot radius;
- b. Having a dog exclusively within the private property of the owner, keeper or possessor of a dog.
- c. Accompanying a dog on public property when said dog is at all times within twenty (20) feet of and immediately responsive to the voice commands of the dog's owner, keeper or possessor.
- d. Accompanying a dog on private property with permission of the owner of such private property, when said dog is at all times within forty (40) feet of and immediately responsive to the voice commands of said dog's owner, keeper or possessor.

C.R.S. means the Colorado Revised Statutes.

"Cruelty to Animals" means to knowingly, recklessly, or with criminal negligence, overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry in or upon any vehicle in a cruel manner, or otherwise mistreat or neglect any animal or cause or procure it to be done, or having the charge and custody of any animal, fail to provide it with proper food, drink or protection from the weather consistent with the species, breed, and type of animal, or abandon the animal. See Sections 35-42-107(2) and 18-9-202, C.R.S., as amended.

Custody means providing food, shelter, water, other sustenance or care for a dog.

"Dog" means any member of the species *Canis familiaris*.

Owner or Keeper means any person eighteen (18) years of age or older, an unemancipated child under the age of eighteen (18) years, or the parent or guardian of any child under the age of eighteen (18) years who owns, keeps, harbors, possesses, has custody of, or is responsible for exercising physical or voice control over a dog or other animal.

Person means any natural person or individual, corporation, business trust, estate, trust, partnership, association, business or any other legal entity, but shall exclude all governments, governmental subdivisions or governmental agencies.

Pet animal means an animal as defined in 30-15-101(3), C.R.S., as amended.

"Physical Control" means a dog is on a leash, rope or other means of physical restraint by a person physically capable of handling such dog so that freedom of the dog's movement is restricted.

Possessor means a person who, or whose unemancipated child under the age of eighteen (18) years who resides with said person, has voluntarily assumed custody of a dog or the responsibility for the control of a dog, through means other than as an owner or keeper. A person is not a possessor if he, or his unemancipated child under the age of eighteen (18) years who resides with said person, assumes temporary custody of a dog for the sole purpose of summoning animal control authorities or for the sole purpose of seeking emergency aid or medical treatment for a dog.

Running at large or *runs at large* means a dog that is upon public property or upon the private property of a person other than the dog's owner, keeper or possessor, when said dog is not under the control of the dog's owner, keeper or possessor; or a dog that is upon the private property of a person other than the dog's owner, keeper or possessor, without permission from an owner of the private property or his agent, even if said dog is under the control of the dog's owner, keeper or possessor.

Serious bodily injury means an injury to a person or domestic animal caused by a dog 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 injuries that require corrective surgery.

Vicious dog means:

- a. A dog whose freedom of movement is not restricted by confinement or by attachment to a leash, rope or other means of restraint; and which dog, in a dangerous or terrorizing manner, has physical contact with a person or domestic animal, with or without causing bodily injury. Said restriction shall prevent the escape of such dog from its owner, keeper or possessor or from such owner's keeper's or possessor's property; and shall prevent such dog from attacking or injuring a human being or domestic animal.
- b. Any dog which has caused bodily injury to a human being or domestic animal during two (2) or more separate episodes.
- c. The control provisions of Subparagraphs a. and b. above shall not apply to any dog while actually working livestock or assisting law enforcement officers or while being trained for any of these pursuits. A dog owned, kept or possessed primarily as a domestic pet on residential

property shall not be excluded from Subparagraphs a. and b. above and shall not be considered a guard or police dog;

- d. Episodes wherein a dog attacked, bit, caused bodily injury, caused serious bodily injury or caused death to a human being or domestic animal, when said human being or domestic animal intentionally provoked such dog's action without justifiable reason, shall be excluded from Subparagraphs a. and b. above.
- e. The exclusions provided for in Subparagraphs c. and d. above shall be affirmative defenses.

"Voice Control" means a dog is immediately and reliably obedient to any voice or sound command given by an owner or keeper who is able to prevent the dog from charging, chasing, or otherwise disturbing or interfering with any person, pet animal, livestock, or wildlife, regardless of the distance involved or the presence of any distraction or provocation.

Sec. 7-2-20 Rabies Vaccination Required

- (a) Any owner or keeper of a dog commits a class 2 petty offense or a municipal offense if such dog is more than four (4) months of age and the owner or keeper is unable to provide proof when requested of a then current rabies vaccination, issued by a licensed veterinarian. A rabies certificate or tag current at the time that it is requested, and supplied by a licensed veterinarian, shall serve as proof of rabies vaccination.
- (b) An owner or keeper of a dog is exempt from the requirements of this Section 7-2-20 if the owner or keeper can produce a signed letter from a licensed veterinarian stating that such vaccination would be detrimental to the health and well-being of such dog.

Sec. 7-2-30. Dogs At Large.

- (a) Any owner or keeper of a dog commits a class 2 petty offense or a municipal offense if such dog is found to be at large.
- (b) The provisions of this Section shall not apply to any dog while working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, performing search and rescue functions for an emergency services provider, or while being trained for any of these pursuits.
- (c) A violation of this Section 7-3-40 shall not be proven solely by the uncorroborated testimony of a single witness unless the testimony is corroborated by the submission of photographic or video evidence, or unless the witness is an Animal Services Officer.
- (d) Repeated offenses shall be cumulative only within a 365 day period, counting from the day of the last violation.

Sec. 7-2-40. Noisy dogs.

- (a) Any owner or keeper of a dog commits a class 2 petty offense or a municipal offense if such dog individually, or in combination with another dog or dogs together, makes any noises or disturbances by barking, howling, yelping, whining or other utterance which is audible beyond the premises on which the dog is kept, in excess of twenty (20) consecutive minutes during the day (7 a.m. to 9 p.m.) or in excess of ten (10) consecutive minutes during the night (9:01 p.m. to 6:59 a.m.) and/or a cumulative period in excess of one-hundred twenty (120) minutes during any twenty-four (24) hour period.

- (b) No citation for a violation of this Section 7-2-40 shall be issued unless at least one written warning, signed by the Animal Services Officer and at least one complainant, has been issued to an owner or keeper of the dog or dogs that have exceeded the noise limits. Such written warning shall contain the date and time when the violation occurred and a brief explanation of the nature of the noise complaint. Once a written warning has been issued, a citation may be issued for any violations that occur seven (7) or more days after the written warning is issued without the necessity of an additional warning.
- (c) No citation shall be issued, and no conviction shall occur for a violation of this Section 7-2-40 unless there are two (2) complaining witnesses from separate households who have signed such citation; except that only one (1) complaining witness shall be required to sign the citation under either of the following circumstances:
 - 1) An Animal Services Officer or Deputy Sheriff has personally investigated the complaint of a single complainant and observed the nature and duration of the noise created by the dog and can testify as to such observations; or
 - 2) A complainant has presented to the Animal Services Officer, at the time of the complaint, a video and/or audio recording that corroborates the alleged violation.
- (d) Repeated offenses shall be cumulative only within a 365 day period, counting from the day of the last violation.

Sec. 7-2-50 Cruelty to Animals

An owner or keeper of an animal commits a violation of this Section, which is also a class I misdemeanor under §18-9-202, C.R.S., as amended, if he/she commits cruelty to animals.

Sec. 7-2-60. Approach in an Aggressive Manner

Any owner or keeper of a dog commits a class 2 petty offense or a municipal offense if such dog, while off the owner's premises and without provocation, approaches any person in an apparent attitude of attack and demonstrates aggressive behavior, including but not limited to lunging, snarling, growling, barking, or snapping. Such behavior may restrict the movement of a person, including but not limited to cornering or circling, and such behavior by such dog may, but need not, result in actual physical contact from such

Sec. 7-2-70. Pet Animal Causing Injury

Any owner or keeper of a pet animal commits a class 2. 2 petty offense or a municipal offense if such pet animal, causes injury to another pet animal or livestock.

Sec. 7-2-80. Affirmative Defense

If a dog or other pet animal is provoked into biting or attacking, which results in bodily injury, such provocation shall constitute an affirmative defense. Provocation shall be determined by one or more of the following:

- (a) That, at the time of the incident, the victim was committing or attempting to commit a criminal offense against the dog/pet animal owner or the dog/pet animal owner's property; or
- (b) That, at the time of the incident, the victim tormented, abused, or inflicted injury upon the dog or pet animal, which resulted in the incident; or

- (c) That, at the time of the incident involving the dog or other pet animal, which caused injury to or the death of another animal, the injured and/or deceased animal was at large.

Sec. 7-2-90. Impoundment and Disposition of Animals.

- (a) Any Animal Services Officer may impound into the custody of any licensed shelter or other impound facility any dog found to be at large. An Animal Services Officer may also impound any pet animal at the direction of a law enforcement officer made in accordance with and pursuant to lawful process.
- (b) Upon the impoundment of any dog or other pet animal, Arapahoe County shall make a prompt and reasonable attempt to identify the owner or keeper of the dog or other pet animal and, upon identification of the owner or keeper, shall cause written notice to be provided to the owner or keeper of the impoundment and the location of the impoundment facility. As used herein, a reasonable attempt to identify shall mean that the Animal Services Officer checks the dog or other pet animal for any identifying information, including identification tags or imbedded microchip, and a search for social media postings related to the dog or other pet animal. Written notice may be provided by email, text message or other electronic means, personal delivery to the owner or keeper of the dog or other pet animal, or by posting the notice at the residence of the owner or keeper of the dog or other pet animal.
- (c) Dogs and other pet animals impounded pursuant to the provisions of this Section 7-2-90 or pursuant to the direction of a law enforcement officer are subject to disposition in accordance with the requirements of applicable state law, including Section 35-80-106.3, C.R.S., and 18-9-202.5, C.R.S., the requirements of the licensed shelter or other impound facility, and of any applicable order of a Court of competent jurisdiction. Such requirements may include a requirement for the payment of impound fees prior to the return of the dog or other pet animal.
- (d) In lieu of impoundment of a dog caught running at large, provided that the Animal Service Officer is able to identify and locate the owner or keeper at the time of capture, the dog may be returned directly to that owner or keeper upon payment of a "Return to Owner Fee" in the amount established as provided in Section 7-2-110 of the Foxfield Municipal Code . Upon capture of a dog at large, the Animal Services Officer shall attempt to identify the owner by checking for an identification tag on or microchip in the dog, and if the owner or keeper is identified, the Animal Service Officer shall first make an attempt to contact the owner or keeper and return the dog in exchange for payment of the of the "Return to Owner Fee," prior to taking the dog to an impound facility.

Sec. 7-2-100. Enforcement and liability.

The Board of Trustees, the Board of County Commissioners of Arapahoe County, and their officers, agents, employees or any other persons authorized to enforce the provisions of this Article shall not be held responsible for any accident or subsequent disease that may occur to an animal in connection with the administration of this Article.

Sec. 7-2-110. Fees.

Fees authorized under this Ordinance shall be set in such amounts as approved in a separate resolution by the Board of Trustees.

Sec. 7-2-120. Enforcement/ Peace Officer Designation.

The provisions of this Article shall be enforced as designated by Arapahoe County . For purposes of enforcement and pursuant to Section 30-15-105, C.R.S., Arapahoe County Animal Services Officers may issue a citation to enforce this Article.

Sec. 7-2-130. Violations/ Strict Liability.

Violations of any provision of this Article shall be proven by establishing beyond a reasonable doubt that a person voluntarily acted or omitted to perform an act which such person was capable of performing, and that such act or omission was contrary to any provision of this Article constituting a violation. It shall not be necessary to prove a culpable mental state on the part of any person with respect to any material element of any violation. Any violations of this Article are ones of "strict liability," as defined by Title 18, Article 1, C.R.S.

Sec. 7-2-140. Penalties.

- (a) Each violation of any provision of this Article which constitutes a class 2 petty offense or a municipal offense shall be punishable upon conviction by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the County Jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.
- (b) Any offense and repeated offenses of Section 7-2-70 of this Article shall require a mandatory court appearance. Each violation of Section 7-2-70 shall be punishable, upon conviction, by a fine not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment in the County jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.
- (c) In addition to Subsection (a) above, the penalty assessment procedures as provided for in Title 16, Article 2, Part 2, C.R.S., are herein adopted by reference. If, in the discretion of the Town , such penalty assessment procedures are utilized in relation to class 2 petty offense violations or municipal offenses of this Article, except for violations of Section 7-2-70 of this Article, the following graduated penalty assessment schedule shall be applicable:
 - (1) First offense: fifty dollars (\$50.00).
 - (2) Second repeated offense: one hundred dollars (\$100.00).
 - (3) Third repeated offense: three hundred dollars (\$300.00).
 - (4) Fourth or more offense: mandatory court appearance.
 - (5) Each and every incident during which a violation of any section occurs shall be deemed a separate violation.

Sec. 7-2-150. Incorporation of state statutes.

All provisions of Title 30, Article 15, Part 1, C.R.S., to the extent applicable to the Town of Foxfield, are hereby adopted and incorporated by reference into this Article.

Sec. 7-2-160. Applicability.

The provisions of this Article shall apply to and may be enforced within all areas of the Town.