



**MEMORANDUM**

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: August 19, 2021

RE: Ordinance 2021-06 Repealing and Reenacting Article 2 of Chapter 7 of the Foxfield Municipal Code Regarding Animal Control

**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 Board discussed this Ordinance at the meeting on August 5<sup>th</sup>, 2021 and listened to comments from the public. No changes were made to the proposed Ordinance.

**SUGGESTED MOTION:**

*"I move to approve Ordinance 2021-06 Repealing and Reenacting Article 2 of Chapter 7 of the Foxfield Municipal Code Regarding Animal Control"*

**ATTACHMENT:**

Exhibit A: Ordinance 2021-06 Repealing and Reenacting Article 2 of Chapter 7 of the Foxfield Municipal Code Regarding Animal Control

Trustee Bill No. 06  
Series of 2021  
Town of Foxfield

Introduced by Trustee

**A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 2  
OF CHAPTER 7 OF THE FOXFIELD MUNICIPAL CODE REGARDING  
ANIMAL CONTROL**

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF  
FOXFIELD, COLORADO:

Section 1. Article 2 of Chapter 7 of the Foxfield Municipal Code is repealed and reenacted to read as follows:

**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.

Section 2. The Town Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police powers of the Town of Foxfield, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare.

The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

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

Section 4. This ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 06 Series of 2021, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Lisa Jones, Mayor

ATTEST:

\_\_\_\_\_  
Miranda Gallivan, Town Clerk

Town Seal

\_\_\_\_\_  
Corey Y. Hoffmann, Town Attorney  
(Approved as to Form)