

RESOLUTION NO. _____ It was moved by Commissioner _____ and seconded by Commissioner _____ to adopt the following Resolution.

WHEREAS, Title 30, Article 15, Part 1, Colorado Revised Statutes (“C.R.S.”) authorizes the Board of County Commissioners to adopt a resolution containing reasonable regulations and restrictions for the control, licensing and impoundment of dogs and other pet animals as the Board deems necessary; and

WHEREAS, Section 30-15-401 (1) (e), C.R.S., authorizes the Board of County Commissioners to adopt an ordinance to control unleashed or unclaimed pet animals; and

WHEREAS, by prior action on March 21, 2006, the Board adopted Resolution No. 060261 which established animal control regulations for Arapahoe County; and

WHEREAS, on February 5, 2013, the Board adopted Resolution No.130104 which amended the animal control regulations in regard to noisy dogs; and

WHEREAS, on April 28, 2020, the Board adopted Resolution No. 200224 which amended the animal control regulations; and

WHEREAS, the Board now desires to further amend and to reissue the animal control regulations to update the penalties that may be issued thereunder to comply with amendments adopted in the Colorado Revised Statutes relating to penalties for petty offenses and misdemeanors and to regulate the accumulation of pet animal feces and urine; and

WHEREAS, the Arapahoe County Department of Public Works and Development, Animal Control Section, has recommended that the Board of County Commissioners of Arapahoe County adopt this Resolution; and

WHEREAS, based upon evidence and testimony submitted, the Board of County Commissioners of Arapahoe County concurs with said recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Arapahoe County pursuant to the authority of Section 30-15-101, *et seq.*, C.R.S., that the following amended regulations regarding the control, licensing, and impoundment of dogs and other pet animals are hereby adopted:

ARAPAHOE COUNTY ANIMAL SERVICES
RESOLUTION No. _____

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Section 1: Definitions

As used in this Resolution, the following words shall have the following meanings:

- A. "Abandon" means the leaving of a pet animal without adequate provisions for the animal's proper care by its owner or keeper.
- B. "Animal Services Officer" means any person authorized by Arapahoe County to enforce the provisions of this Resolution, 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.
- C. "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).
- D. "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.

- E. "Board" means the Board of County Commissioners of Arapahoe County.
- F. "C.R.S." means the Colorado Revised Statutes.
- G. "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.
- H. "Department" means the Department of Public Works and Development, Animal Services Section, for Arapahoe County Government.
- I. "Director" means the Director of the Department of Public Works and Development appointed by the Board of County Commissioners of Arapahoe County.
- J. "Dog" means any member of the species *Canis familiaris*.
- K. "Owner" or "Keeper" means any person eighteen (18) years of age or older, an emancipated child under the age of eighteen (18) years, or the parent or guardian of any child under the age of (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.
- L. "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.
- M. "Pet Animal" means an animal as defined in 30-15-101(3), C.R.S., as amended.
- N. "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.
- O. "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.

Section 2: Rabies Vaccination Required

- A. Any owner or keeper of a dog commits a petty 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 2 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.

Section 3: Dog At Large

- A. Any owner or keeper of a dog commits a petty offense if such dog is found to be at large.
- B. The provisions of this Section 3(A) 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 3 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.

Section 4: Noisy Dogs

- A. Any owner or keeper of a dog commits a petty 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 4 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 4 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.

Section 5: Pet Animal Feces or Urine

- A. Any owner or keeper of a pet animal commits a petty offense if the pet animal's owner or keeper allows excessive animal feces or urine to accumulate. The accumulation of animal feces or urine shall

be deemed to be excessive if there is sufficient quantity to generate odors off the premises of the pet animal's owner or keeper or, if in the judgment of the Animal Services Officer, the accumulation of feces or urine is detrimental to the health and well-being of neighbors or the animals.

- B. Any owner or keeper of a pet animal commits a petty offense if the pet animal's owner or keeper fails to clean up and remove the pet animal's feces on any property, public or private, that is not the premises of the owner or keeper.
- C. Repeated offenses shall be cumulative only within a 365 day period, counting from the day of the last violation.

Section 6: Cruelty to Animals

An person commits a class 1 misdemeanor under §18-9-202, C.R.S., as amended, if he/she commits cruelty to animals.

Section 7: Approach in an Aggressive Manner

Any owner or keeper of a dog commits a petty 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 dog.

Section 8: Pet Animal Causing Injury

- A. Any owner or keeper of a pet animal commits a class 2 misdemeanor 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 owner or keeper of a pet animal commits a petty offense if such pet animal, causes injury to another pet animal or livestock.
- C. Any owner or keeper of a dog that causes bodily injury, serious bodily injury, or death as defined by Section 18-9-204.5, C.R.S., to a person, domestic animal or livestock may be cited as appropriate under Section 18-9-204.5, C.R.S., for ownership of a dangerous dog.

Section 9: 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.

Section 10: 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, the Department 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 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 Services 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 12 of 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 Services 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.

Section 11: Enforcement/Liability

Pursuant to §30-15-104, C.R.S., as amended, the Board of County Commissioners of Arapahoe County, its officers, agents, employees, and any other persons authorized to enforce the provisions of this Resolution shall not be held responsible for any accident or subsequent disease that may occur to an animal in connection with the administration of this Resolution.

Section 12: Fees

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

Section 13: Enforcement/Peace Officer Designation

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

Section 14: Violations/Strict Liability

Violations of any provision of this Resolution 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 Resolution 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 defined and enforced under this Resolution. Any violations of this Resolution are ones of "Strict Liability" as defined by Title 18, Article 1, C.R.S.

Section 15: Penalties

- A. In accordance with 30-15-102(1), C.R.S., each violation of any provision of this Resolution, not involving bodily injury, constitutes a petty offense punishable in accordance with Section 18-1.3-503(1.5), C.R.S., except that the fines set forth in the graduated fine schedule in Section 15, Subpart D, of this Resolution shall apply for first and repeat offenses by the same individual.
- B. Any offense and repeated offenses of Section 8, subpart A, of this Resolution, shall require a mandatory court appearance and shall be punishable, upon conviction, as a class 2 misdemeanor in accordance with Section 18-1.3-501, C.R.S., except and unless bodily injury, serious bodily injury, or death results as defined in Section 18-9-204.5, C.R.S., and the person is cited for ownership of a dangerous dog under such law; in which case the penalties shall be as set forth in Section 18-9-204.5, C.R.S.
- C. Any offense and repeated offenses of Section 8, Subpart B, of this Resolution shall constitute a petty offense and shall be punishable in accordance with Section 18-1.3-503, C.R.S., except and unless bodily injury, serious bodily injury, or death results as defined in Section 18-9-204.5, C.R.S., and the person is cited for ownership of a dangerous dog; in which case the penalties shall be as set forth in Section 18-9-204.5, C.R.S.
- D. By the authority granted in §30-15-102(1), C.R.S., and in addition to Subsection A. of this Section 15, the penalty assessment procedures as provided for in §16-2-201, C.R.S., are herein adopted by reference. If, in the discretion of the Director, such penalty assessment procedures are utilized in relation to the petty offense violations of this Resolution, except for violations of Section 8 of this Resolution, the following graduated penalty assessment schedule shall be applicable for first time and repeat offenses of this Resolution:
 - 1) First Offense \$50.00
 - 2) Second Offense \$100.00
 - 3) Third Offense \$300.00
 - 4) Four or more offenses, mandatory court appearance
 - 5) Each and every incident during which a violation of any Section in this Resolution occurs shall be deemed a separate violation

Section 16: Disposition of Fines

All fines collected for convictions of violations of this Resolution, and all monies collected for services provided, or otherwise pursuant to this Resolution, shall be paid into the Treasury of Arapahoe County by depositing such monies, as collected, into the General Fund of Arapahoe County.

Section 17: Incorporation of Colorado Statutes

All provisions of Title 30, Article 15, Part 1, C.R.S., are hereby adopted and incorporated by reference into this Resolution.

Section 18: Severability

If any of the provisions of this Resolution are determined by a court with proper jurisdiction to be invalid, such determination shall not affect the remaining provisions of this Resolution.

Section 19: Applicability

The provisions of this Resolution shall apply to, and may be enforced within, all areas of unincorporated Arapahoe County. It shall also apply to, and may be enforced within, any municipality that adopts the provisions of this Resolution, or any portion thereof, for purposes of enforcement within such municipality. The provisions of this Resolution are not intended to and shall not be enforced in a manner that makes the operation of any agricultural operation a nuisance in violation of Sections 35-3.5-101, et seq., Colorado Revised Statutes.

Section 20: Prior Resolutions Repealed

All prior Animal Services Resolutions heretofore adopted by the Board are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any repealed Animal Control Resolution and prior to the effective date of this Animal Services Resolution which date shall be _____.

The vote was:

Commissioner Baker, ___; Commissioner Campbell, ___; Commissioner Holen, ___; Commissioner Summey, ___; Commissioner Warren-Gully, ___.

The Chair declared the motion carried and so ordered.