

Trustee Bill No. 3  
Series of 2010  
Town of Foxfield

Introduced by  
Trustee Lisa Jones

**A BILL FOR AN ORDINANCE ADOPTING REGULATIONS  
REGARDING ANIMAL CONTROL**

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

Section 1. Trustee Bill Number 5, Series of 2006, entitled "A Bill for an Ordinance Adopting Regulations Regarding Vicious Animals" is hereby repealed in its entirety.

Section 2. Trustee Bill Number 1, Series of 1999 entitled "A Bill for an Ordinance Adopting By Reference Arapahoe County Resolution No. 818-90 and Arapahoe County Resolution No. 516-91 Regarding Animal Licensing and Control" is hereby repealed in its entirety.

Section 3. The Board of Trustees of the Town of Foxfield hereby adopts the following provisions regarding animal control within the Town of Foxfield:

**A. Definitions.**

For purposes of this Ordinance the following terms shall have the following meanings:

1) "Aggressive Dog" means a dog, without intentional provocation, engages in any of the following behaviors: a) threatens a person(s) 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; or b) injures another domestic animal while off the owner's or custodian's property; or 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.

2) "Animal Control Officer" means 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 this Ordinance.

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

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

- 5) "Bodily Injury" means an injury to a person or domestic animal caused by a dog whereby, at a minimum, the skin is broken, exterior bleeding occurs, or medical treatment by a licensed physician is reasonably necessary.
- 6) "Board" means the Board of Trustees of the Town of Foxfield, Colorado.
- 7) "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 (10') 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 feet (20') 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 feet (40') of, and immediately responsive to the voice commands of, said dog's Owner, Keeper or Possessor.
- 8) "C.R.S." means the Colorado Revised Statutes.
- 9) "Custody" means providing food, shelter, water, other sustenance or care for a dog.
- 10) "Department" means the Arapahoe County Department of Public Works and Development, Animal Control Division.
- 11) "Keeper" means a person(s) who, or whose unemancipated child (children) under the age of eighteen (18) years who reside(s) with said person(s), has temporary custody of a dog through bailment, loan, entrustment or other arrangement between Keeper and Owner.
- 12) "Director" means the Director of the Department of Public Works and Development appointed by the Arapahoe County Board of County Commissioners.
- 13) "Owner" means a person(s) who, or whose unemancipated child (children) under the age of eighteen (18) years who reside(s) with said person(s), has permanent custody of a dog through purchase, gift, adoption or otherwise.

14) "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.

15) "Pet animal" means any dog, cat, or other animal owned or kept by a person for companionship or protection or for sale to others for such purposes.

16) "Possessor" means a person(s) who, or whose unemancipated child (children) under the age of eighteen (18) years who reside(s) with said person(s), 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 she, or his or her unemancipated child (children) under the age of eighteen (18) years who reside(s) 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.

17) "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 or her agent, even if said dog is under the Control of the dog's Owner, Keeper or Possessor.

18) "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.

19) "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(s) or domestic animal(s); or

b) Any dog which has caused bodily injury to a human being or domestic animal during two or more separate episodes;

c) The control provisions of Subsection 19(a) and 19(b) shall not apply to any dog while actually working livestock, locating or retrieving wild game in season for a licensed hunter, 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 Subsections 19(a) and 19(b) of this Section A, 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 Subsections 19(a) and 19(b) of this Section A;

e) The exclusions provided for in Subsections 19(c) and 19(d) of this Section A shall be affirmative defenses.

**B. Licensing of Dogs Required.**

1) Any Owner, Keeper or Possessor of a dog commits a Class Two Petty Offense if such dog is more than 180 days old, and a current license issued by the Director or his or her authorized agent has not been acquired for such dog.

2) 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 C of this Ordinance. 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.

3) No person charged with violating this Section B shall be convicted if he or she 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.

**C. Dog Licensing Procedure.**

1) Dog licenses shall be issued by the Director or his or her authorized agent(s), subject to the following requirements:

a) 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;

b) A dog licensing fee, as provided for in Section K of this Ordinance, shall be paid to the Department.

2) Upon completion of the requirements provided for in Subsection (1) of this section C, the Department shall give to the person paying the dog licensing fee: a dog license containing the dog Owners' names and addresses, 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.

3) 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.

4) All dog licenses shall expire on December 31 of the year of issue. Renewals shall be obtained by March 1 of the following year.

5) 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.

**D. Dogs Not to Run at Large.**

1) Any Owner, Keeper or Possessor of a dog commits a Class Two Petty Offense if such dog runs at large.

2) Any Owner, Keeper or Possessor of a dog commits a Class Two Misdemeanor if such dog causes bodily injury to any person or domestic animal on two or more separate episodes while running at large.

3) Each and every day during which a violation of this Section D occurs shall be deemed a separate violation.

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

**E. Noisy Dogs.**

1) Any Owner, Keeper or Possessor of a dog commits a Class Two Petty Offense if such dog individually makes, or in combination with another dog or dogs together make, any noises which are audible from an adjacent or nearby property for a continuous twenty (20) minute period, such noises being separated by pauses, however slight, during said continuous twenty (20) minute period.

2) A Summons and Complaint for a first violation of this Section E shall not be issued. First time violators will be issued a warning, which warning shall be signed by an Animal Control Officer and at least one complaining person. Such warning shall contain the dates and times when the violation occurred, and a brief explanation of the nature of the noise complaint and a copy of this Section E. 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 either an Owner or Keeper or Possessor of the dog or dogs.

3) A Summons and Complaint for any violation of this Section E shall be signed by at least two 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 occupied residence in the immediate area of the location of the barking dog, only one complaining witness shall be required to sign the complaint.

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

**F. Aggressive Dogs**

Any person who is the Owner, Keeper, or Possessor of an Aggressive Dog, as defined in this Ordinance, commits a Class Two Petty Offense.

**G. Vicious Dogs**

1) Any person who is the Owner, Keeper or Possessor of a Vicious Dog, as defined in this Ordinance, commits a Class Two Petty Offense.

2) Any person who is the Owner, Keeper 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 Two Misdemeanor.

3) 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 or her 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.

4) 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.

5) Animal Control Officers shall immediately impound all dogs seized under Section G of this Ordinance. Any dogs impounded under Section G of this Ordinance 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 Ordinance, and should be destroyed by the Department. When a dog seized under this Ordinance 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.

6) Each and every day during which a violation of Section G occurs shall be deemed a separate violation.

#### **H. Number of Animals Allowed**

1) Any person who is the Owner, Keeper or Possessor of more than three pet animals, including, but not limited to, dogs, cats, or small animals, older than 180 days, upon residential property within the Town of Foxfield commits a Class Two Petty Offense.

2) Legally permitted and licensed kennels and/or veterinarian offices shall be exempt from the provisions of this Section H.

3) For the purposes of this Section H, each lot or parcel which is zoned residential and contains a residential structure shall constitute one 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.

4) Each and every day during which a violation of Section H occurs, shall be deemed a separate violation.

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

6) Any Summons and Complaint issued for a violation of this Section H shall be signed by at least one complaining person; which signature shall be in addition to the required signature of an Animal Control Officer, or Arapahoe County Deputy Sheriff.

## **I. Seizure and Impoundment of Dogs.**

1) 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 or her 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 owner's expense, when said dog is unrestricted on the owner's property with no owner present.

2) The Department shall impound all dogs which have been lawfully seized for Running at Large or for being a Vicious Dog.

3) 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 costs of such dog's impoundment, unless the dog has been mistreated or is a Vicious Dog.

4) If an Owner, Keeper or Possessor of a dog impounded under the provisions of this Ordinance, 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 receipt of the written or verbal notice required by Subsection 3 of this Section I, then such dog shall come under the authority of the Department for final disposition, either by adoption or destruction.

5) If an Owner, Keeper or Possessor of a dog impounded under the provisions of this Ordinance 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.

6) An Officer of the Department may exercise his or her 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 K of this Ordinance.

## **J. Enforcement and Liability**

Pursuant to C.R.S. §30-15-104, the Town of Foxfield Board of Trustees, the Board of County Commissioners of Arapahoe County, any of their assistants or employees, or any other person authorized to enforce the provisions of this Ordinance, shall not be held responsible for any accident or subsequent disease that may occur to a dog in connection with the administration of this Ordinance.

**K. Fees.**

The following fees are established for the administration of this Ordinance:

- 1) Annual License Fees
  - a) A spayed female or neutered male dog annual fee: \$12.00.
  - b) An un-spayed female or un-neutered male dog annual fee: \$24.00.
  - c) The above license fees shall be waived for one (1) dog for Owners over the age of 65 years.
- 2) Impoundment Fees
  - a) Cost to first day of impoundment: \$56.00
  - b) Subsequent daily costs for care and feeding during impoundment: \$6.00
- 3) Release in Lieu of Impoundment Fee: \$30.00
- 4) Dead Animal Pickup for Disposal Fee
  - a) Animals 0-15 pounds: \$15.00;
  - b) Animals 16-50 pounds: \$30.00;
  - c) Animals 51-100 pounds: \$50.00;
  - d) Animals exceeding 100 pounds: \$75.00.
- 5) Animal Pickup for Destruction and Disposal:
  - a) Small animals (dog, cat): \$30.00;
  - b) An additional shelter fee will apply if the animal is destroyed.

**L. Enforcement: Peace Officer Designation**

The provisions of this Ordinance shall be enforced primarily by the Department, with assistance from the Arapahoe County Sheriff's Department. For purposes of enforcement, and pursuant to C.R.S. §30-15-105, Arapahoe County

Animal Control Officers may issue Summonses and Complaints to enforce this Ordinance.

**M. Violations/Strict Liability**

Violations of any provision of this Ordinance 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 Ordinance 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 Ordinance are ones of "Strict Liability" as defined by Title 18, Article 1, C.R.S.

**N. Penalties**

1) Each violation of any provision of this Ordinance, which constitutes a Class Two Petty Offense, notwithstanding the provisions of C.R.S. §18-1.3-503, shall be punishable upon conviction by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the Arapahoe County Jail for not more than ninety (90) days, or by both such fine and imprisonment for each separate offense.

2) Any offense and repeated offenses of section G (1) shall require a mandatory court appearance. Each violation of section G (1) 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 days, or by both such fine and imprisonment for each separate offense.

3) By the authority granted in C.R.S. §30-15-102, and in addition to Subsection 1 of this Section N, 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 Director, such Penalty Assessment Procedures are utilized in relation to Class Two Petty Offense violations of this Ordinance, except for violations of section G (1) of this Ordinance, the following graduated Penalty Assessment schedule shall be applicable:

- a) First Offense \$50.00
- b) Second Repeated Offense \$100.00
- c) Third Repeated Offense \$300.00
- d) Fourth Repeated Offense \$500.00

e) Fifth and above repeated offenses, mandatory court appearance.

f) Repeated offenses shall be cumulative only within a 365 day period, counting from and including the day of the first violation.

g) "Repeated Offense" means a conviction of a person for an additional repeated violation of the same provision of this Ordinance, for which violation of said same provision such person has been previously convicted.

4) Each violation of any provision of this Ordinance, which constitutes a Class Two Misdemeanor by involving bodily injury to any person by a dog, shall be punished upon conviction as provided for in C.R.S. §18-1.3-501.

**O. 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 Ordinance.

**P. Applicability**

The provisions of this Ordinance shall apply to, and may be enforced within, all areas of the Town of Foxfield, Colorado.

Section 4. 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 5. 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 6. This ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 3 Series of 2010, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2010.

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Douglass W. Headley, Mayor

ATTEST:

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Becky Catterall, Town Clerk

Town Seal

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