

CITY OF LEADVILLE, COLORADO
Ordinance No. 10
Series of 2017

**AN ORDINANCE AMENDING SECTIONS 6.04.010, 6.04.040, AND 6.04.050 OF
CHAPTER 6.04 OF THE LEADVILLE MUNICIPAL CODE CONCERNING ANIMAL
CONTROL**

WHEREAS, The City and Citizens of Leadville wish to create a dog friendly environment whereby the Citizens of Leadville can feel safe and can enjoy their animals, and

WHEREAS, the City Council has the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, the City Council also has the authority pursuant to C.R.S. § 31-15-401 to regulate and to prohibit the running at large and keeping of animals, including but not limited to licensing, impoundment, and disposition of impounded animals; and

WHEREAS, the City previously adopted certain regulations concerning animal control as codified in Chapter 6.04; and

WHEREAS, the City Council wishes to amend Chapter 6.04 of the Leadville Municipal Code to increase the penalties for violations of the same and add definitions in order to clarify the language in the Municipal Code; and

WHEREAS, it is in the best interest of the people of the City of Leadville to update the Leadville Municipal Code in order to better address the risks and dangers to the City's residents and the general public posed by vicious pets running at large.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, as follows:

Section 1. Section 6.04.010 entitled Definitions, is hereby amended to read in full as follows:

6.04.010 – Definitions.

As used in this chapter, unless the context clearly indicates otherwise, the following words shall be defined as follows:

"Adult dog" means any dog more than six months of age.

"Animal" means any living dumb creature.

"Animal control officer" means any person employed or appointed by the city to enforce the laws of the city pertaining to animals.

"Animal shelter" means any facility contracted by the city for the purpose of impounding or caring for animals held under the authority of the laws, regulations, or ordinances of a state, county or city.

"At large" means any animal which is off of or away from the premises of its owner, possessor or keeper and not under the control of such owner, possessor or keeper, or the agent, servant or a member of the immediate family of such person. An animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises. "Running at large" shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter, or assisting law enforcement officers or while actually being trained for any of the pursuits. Animals, other than horses, donkeys, burros, and other such working animals, tethered to a stationary object within reach of a street, sidewalk, alley, or trail are deemed to be "at large."

"Bear incident" means an occurrence within the city involving maiming or death of one or more chickens or significant damage to a chicken coop or enclosure by a bear.

"Bite" means a wound, usually a puncture or laceration, caused by the teeth. An animal bite usually results in the break in the skin but also includes contusions from the excessive pressure on body tissue from the bite.

"Bodily injury" has the same meaning as such term as defined in Section 18-1-901(3)(c), C.R.S.

"Breeder" means any person who breeds animals for profit or whose animals produce more than one litter of animals per household in one calendar year.

"Commercial animal establishment" means any pet shop, grooming shop that grooms and boards animals, guard dog facility, animal auction, riding school, stable, zoological park, circus, performing animal exhibition, boarding, or breeding kennel or other establishment which handles live animals for profit.

"Leash Control," as used in the definition of "animals running at large prohibited" means physical control of an animal by a leash, cord, or chain not more than six feet in length.

"Owner Control" means control of an animal by sight, sound, signal, or leash.

"Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

“Domestic animal” means any dog, cat, any animal kept as a household pet, or livestock.

"Euthanasia" means to produce a humane death by techniques accepted by the American Veterinary Medical Association.

"Fowl" means any birds other than chickens and domesticated birds such as parakeets and parrots, including, but not limited to ducks, geese, turkeys, pheasant and pigeons.

“Habitual Offender” means any person found guilty of an offense under ordinance 6.04 for a third time in a three year period.

"Injure" means physical pain, illness, or any impairment of physical or mental condition.

"Keeper" means a person who has custodial or supervisory authority or control over an animal.

"Leash" or "lead" means a thong, cord, rope, chain or similar device, which holds an animal in restraint.

"Licensed kennels" mean any place or premises used in whole or in part for the purposes of boarding pet animals for compensation and which is duly licensed as a boarding kennel under the provisions of Part One, Article 57, Title 12, C.R.S.

"Licensing authority" means the Colorado Department of Agriculture, for the purpose of licensing kennels.

"Livestock" includes, but is not limited to, cattle, horses, mules, burros, llamas, sheep, goats, hogs, rabbits, chickens, cats, pigs, swine, snakes or foxes.

“Owner” or “owns” means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal.

"Pet animals" mean dogs, cats, rabbits, guinea pigs, hamsters, mice, snakes, iguanas, turtles, and any other species of wild or domestic animals sold or retained for the purpose of being kept as a household pet; except that skunks, monkeys, and other subhuman primates shall not be defined as pet animals for the purposes of this title.

"Pet shop" means every place or premises where pet animals are kept for the purpose of either wholesale or retail sale and which is licensed as a pet shop under the provisions of Part One, Article 57, Title 12, C.R.S.

"Person" means any individual, firm, partnership, corporation, or association.

"Public Gathering" means any assemblage of 20 or more people in a public area.

"Serious bodily injury" has the same meaning as such term defined in Section 18-1-901(3)(p), C.R.S.

"Vicious" or "dangerous" animal means a domestic animal that:

1. Inflicts serious bodily injury or bodily injury upon, or causes the death of a person or domestic animal; or;
2. Demonstrates or has demonstrated tendencies that would cause a reasonable person to fear a real threat that the animal may inflict bodily injury or serious bodily injury upon or cause the death of any person or domestic animal; or
3. Engages in or is trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

"Non-vicious" animal:

1. A vicious animal shall not be defined as the one-time incident of an animal responding to provocation or being inappropriately approached without the owner's permission. It is still the owner's responsibility for the behavior of their animal, even in those situations.

Section 2. Section 6.04.040 entitled Animals running at large, is hereby amended to read in full as follows:

6.04.040 – Animals running at large.

- A. No person shall suffer or permit any animal of which he or she is owner, custodian, or keeper to run "at large" within the city. The city shall have the right to impound any such animal.

- B. No animal shall be permitted within 50 feet of a public gathering in a public place unless under leash control of its owner or keeper. Public places include, but are not limited to, parking lots, churches, cemeteries, parks and schools. Except when determined by the Police Department, service animals, as defined in the implementing regulations of Title II and Title III of the federal “Americans with Disabilities Act of 1990”, 42 U.S.C. sec. 12101 et seq., may be permitted in areas visibly marked "dogs prohibited" or other similar designation. In places that are not considered public gathering places, dogs may be under sight, sound and signal control.
- C. The City of Leadville shall have, at their discretion, the authority to declare public events as “dog free”.
- D. Animals on Harrison Ave, between 9th Street and 2nd Street, shall be under leash control, unless Harrison Ave has been declared “dog free” for an event.
- E. Any owner, keeper or custodian that violates the provisions of this section shall be punished as follows:
 - 1. Upon a first conviction, such person shall be assessed a penalty of twenty five dollars (\$25.00) if the animal is spayed or neutered. If the animal is not spayed or neutered the penalty shall be one hundred dollars (\$100.00). If the person presents proof that the animal has been spayed or neutered since the date of the offense the penalty shall be twenty five dollars (\$25.00).
 - 2. Upon a second conviction, such person shall be assessed a penalty of fifty dollars (\$50.00) if the animal is spayed or neutered. If the animal is not spayed or neutered the penalty shall be one hundred dollars (\$100.00). If the person presents proof that the animal has been spayed or neutered since the date of the offense the penalty shall be fifty dollars (\$50.00).
 - 3. Upon conviction for a third or subsequent offense such person shall be punished as provided in Chapter 1.20.10 of the Leadville Municipal Code.
 - 4. If the animal is determined to be vicious or dangerous by the responding officer then the offense shall be prosecuted and punishable as provided under Section 6.04.050 of this code and a court may order restitution for any damages caused by the animal and for the cost to the City to capture and confine such animal.

Section 3. Section 6.04.050 entitled Vicious animals, is hereby amended to read in full as follows:

Sec. 6.04.050 Vicious animals

- A. It is unlawful for any owner, custodian, or keeper of a vicious animal to fail to prevent a vicious animal from running at large within the city. It shall be an affirmative defense to charges under this section that the actual or intended victim of any attack has attacked an owner, custodian, or keeper of the animal.
- B. A person commits ownership of a vicious animal if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a vicious animal.
- C. The animal control officer or any police officer shall impound any animal which is reasonably believed to be vicious and is not in compliance with subsections A and B of this section.
- D. Report of Animal Bites.
 - 1. Any owner, custodian, or keeper of an animal that bites a person shall immediately notify the animal control officer or a police officer.
 - 2. It shall be the duty of every physician and medical practitioner practicing in the city to report to the animal control officer or the police department the name and address of the owner of any animal that has caused any person to be treated for bites or wounds inflicted by an animal, together with all available information necessary for rabies control.
 - 3. It shall be the duty of every veterinarian practicing within the city to report to the animal control officer or the police department, the name and address of the owner of any animal treated for bites or wounds inflicted by another animal, together with all available information necessary for rabies control.
- E. Any animal that has bitten any person or animal, and has been determined to be vicious, shall be impounded by the code enforcement officer or any other officer, for a minimum of ten days during which time proof of a current rabies vaccination shall be provided, and the Animal Shelter Manager may determine whether the animal may be released to the owner after the ten day holding period. If it is a bite by an animal that has not been determined to be vicious, the animal may be released to the owner upon proof of rabies vaccination.
- F. Animals suspected of having rabies shall be impounded in solitary confinement and under observation for a period of not less than ten (10) days. If there is doubt that the animal has been effectively vaccinated against rabies, it shall be vaccinated no earlier than the tenth day of its hold and shall not be released until vaccinated. All expenses incurred as a result of this section shall be paid by the owner, custodian or keeper of the animal before the animal is released.

- G. Any at large animal suspected of having rabies or any at large animal that has bitten a person or animal may be slain by any animal control officer or police officer if it cannot be safely captured and kenneled.
- H. Any owner, keeper or custodian that violates the provisions of this vicious animal ordinance shall be punished as follows:
1. Any person convicted of a first offense under this section shall be punished as provided in Section 1.20.010(A) of this code. Fifty percent of such fine shall be earmarked to the Animal Shelter to defray the costs associated with this ordinance. Also upon the first conviction under this vicious animal ordinance, the owner of the animal determined to be vicious shall undergo, with that animal, a training course as specified by the Animal Shelter Manager.
 2. Any person convicted of a second or subsequent offense shall be fined the maximum fine under Section 1.20.010 (A) and that fine shall not be suspended in whole or in part. Fifty percent of such fine shall be earmarked to the Animal Shelter to defray the costs associated with this ordinance.
 3. Owners convicted of a second offense under this section shall be required to provide proof of liability insurance to the court within a timeframe as ordered by the court to insure against damage or injury caused or which may be caused by such animal in an amount of at least three hundred thousand dollars (\$300,000.00) or the animal shall be surrendered to the Leadville Animal Shelter, or an animal control officer or police officer for impoundment.
 4. The disposition of any animal determined to be vicious shall be at the discretion of the Animal Shelter Manager.
 5. The court may order restitution for any damages caused by an animal under this section.
 6. (a) Upon the second or subsequent offense, the court may issue an order prohibiting ownership of the offending animal(s) within the city limits for any violation of Section 6.04.040 or Section 6.04.050 of this code.

(b) Upon the determination that an animal owner is an “Habitual Offender”, the court shall issue an order prohibiting ownership of any animal(s) within the city limits if a violation of Section 6.04.040 or Section 6.04.050 of this code resulted in serious bodily injury to or death of a person or domestic animal.

Section 3. Remaining provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 4. Codification Amendments. The codifier of Leadville’s Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 5. Severability. Should any one or more sections or provisions of this ordinance or enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 6. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this _____ day of _____, 2017.

Greg Labbe, Mayor

ATTEST:

Bethany Maher, City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on _____, 2017.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY
TITLE ONLY, with any amendments, this _____ day of _____, 2017.

CITY OF LEADVILLE, COLORADO

Greg Labbe, Mayor

ATTEST:

Bethany Maher, City Clerk

PUBLISHED in full, as amended, in The Herald Democrat, a newspaper of general
circulation in the City of Leadville, Colorado, on _____, 2017.