



CITY OF FLORENCE

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**CITY OF FLORENCE
COMMITTEE MEETING
AGENDA
July 1, 2019
5:15 P.M.**

5:15 P.M.

POLICE REPORT

*Workshop regarding animal care standards

5:30 P.M.

GENERAL GOVERNMENT

5:45 P.M.

WATER REPORT

 KeyCite Red Flag - Severe Negative Treatment
Enacted Legislation Amended by 2019 Colo. Legis. Serv. Ch. 137 (H.B. 19-1092) (WEST),

West's Colorado Revised Statutes Annotated
Title 18. Criminal Code (Refs & Annos)
Article 9. Offenses Against Public Peace, Order, and Decency (Refs & Annos)
Part 2. Cruelty to Animals (Refs & Annos)

C.R.S.A. § 18-9-202

§ 18-9-202. Cruelty to animals--aggravated cruelty to animals--service animals

Effective: April 4, 2019

Currentness

(1)(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal or a certified police working dog or police working horse if he or she violates the provisions of subsection (1) of this section with respect to a service animal, certified police working dog, or police working horse, as those terms are defined in [section 18-9-201\(2.3\)](#), [\(2.4\)](#), and [\(4.7\)](#), whether the service animal, certified police working dog, or police working horse is on duty or not on duty.

(1.6) Repealed by [Laws 2016, Ch. 236, § 2](#), eff. [June 6, 2016](#).

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of [section 18-9-204](#) and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)(a) Except as otherwise provided in subsection (2)(b) of this section, cruelty to animals, or cruelty to a service animal or certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, is a class 1 misdemeanor.

(a.5)(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title 18, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, or cruelty to a service animal or a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, is required to pay a mandatory minimum fine of one thousand dollars and is required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This subsection (2)(a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when the treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 32 of title 44, the treatment of animals involved in research if the research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

- (A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or
- (B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.
- (III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.
- (c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.
- (d)(I) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, the court shall order him or her to make restitution to the agency or individual owning the service animal for any veterinary bills and replacement costs of the service animal if it is disabled or killed as a result of the cruelty to animals incident.
- (II) If a person is convicted of cruelty to a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, the court shall order him or her to make restitution to the agency or individual owning the certified police working dog or police working horse for all expenses, including any immediate and ongoing veterinary expenses related to the incident, and replacement costs for the certified police working dog or police working horse if it is permanently disabled or killed as a result of the cruelty to animals incident. If the court finds that the person who is convicted of cruelty to a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section did so with malicious intent, the person shall additionally make restitution to the agency or individual owning the certified police working dog or police working horse for all training and certification costs related to the certified police working dog or police working horse.
- (2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.
- (3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

Credits

Amended by Laws 1977, H.B.1654, § 58; Laws 1990, H.B.90-1234, § 5, eff. July 1, 1990; Laws 1992, H.B.92-1155, § 1, eff. April 29, 1992; Laws 1997, H.B.97-1181, § 2, eff. July 1, 1997; Laws 2000, Ch. 282, § 2, eff. Sept. 1, 2000; Laws 2000, Ch. 317, § 1, eff. Sept. 1, 2000; Laws 2002, Ch. 318, § 204, eff. Oct. 1, 2002; Laws 2002, Ch. 322, §§ 22, 25, 26, eff. July 1, 2002; Laws 2003, Ch. 134, § 9, eff. April 17, 2003; Laws 2003, Ch. 199, § 30, eff. July 1, 2003; Laws 2003, Ch. 330, § 2, eff. July 1, 2003; Laws 2004, Ch. 168, § 2, eff. April 21, 2004; Laws 2007, Ch. 197, § 5, eff. July 1, 2007; Laws 2011, Ch. 81, §§ 2, 3, eff. Aug. 10, 2011; Laws 2012, Ch. 248, § 5, eff. June 4, 2012; Laws 2016, Ch. 236, § 2, eff. June 6, 2016; Laws 2018, Ch. 19, § 2, eff. March 7, 2018; Laws 2018, Ch. 26, § 12, eff. Oct. 1, 2018; Laws 2019, Ch. 75, § 2, eff. April 4, 2019.

Notes of Decisions (27)

C. R. S. A. § 18-9-202, CO ST § 18-9-202

Current through legislation effective May 13, 2019 of the 2019 Regular Session. Some statute sections may be more current. See credits for details.

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Chapter 6.04 - DOGS

Sections:

6.04.010 - Definitions.

For all purposes of this chapter, the following words shall be defined as follows:

- A. "Animal Control Officer" means any person employed by the City or County of Fremont to enforce the provisions of this chapter, and all police officers of the City of Florence.
- B. "City" means the City of Florence, Colorado.
- C. "Destructive dog" means any dog which has at any time prior injured any type of property belonging to any person or entity other than the owner of the dog, or any dog which the owner thereof knows or should know has destructive tendencies.
- D. "Dog" means any dog whether male or female excepting puppies which have not yet been weaned.
- E. "Dog kennel" means any collection of four (4) or more dogs owned by one (1) person at one (1) time and kept at the same location.
- F. "Noisy dog" means any dog that barks, yelps or howls loudly and at frequent intervals, or continuously or for long periods of time.
- G. "Owner" means any person who owns, keeps, harbors or possesses a dog in the City, and shall also mean and include any and all persons who own, keep, harbor or possess a dog which at any time runs at large within the City, whether such person is a resident or nonresident of the City; except that "owner" shall not mean nor include any person or persons owning, keeping, harboring or possessing a dog when such person or persons are merely traveling through the City or visiting or sojourning in the City for a period of less than one (1) month.
- H. "Pound" means the enclosure provided by the City for keeping dogs or a humane shelter not operated by the City but used by the City for impounding animals.
- I. "Run at large" or "running at large" means any dog when off or away from the premises of the owner, possessor or keeper and not under the control thereof by means of a leash no more than ten (10) feet in length or under voice command.
- J. "Nefarious dog" means any vicious or destructive dog that bites or bites at any person or other living animal, or otherwise attacks any person or other living animal in a dangerous, threatening or terrorizing manner.

(Ord. 11-2000 § 1, 2000; Ord. 26-78 § 1, 1979).

(Ord. No. 9-2016, § 1, 4-18-2016)

6.04.020 - License required.

All dogs in the City shall be licensed and registered by their owners. Applications for licenses shall be made to the City Clerk who shall issue licenses and tags. Dog licenses issued by the City Clerk shall continue valid for a period of two years from the date of issuance. Applications for dog licenses must be submitted to the City Clerk during the last month prior to the expiration of any prior valid license except as provided in this section. An owner who acquires a dog not previously licensed and registered must, within thirty (30) days, license and register such dog. Further, the owner of a newborn dog must license and register the same within thirty (30) days after the dog reaches the age of four months.

(Ord. 4-82 § 2, 1982).

6.04.030 - License application fee.

Applications to license and register dogs shall be submitted to the City Clerk. Applicants shall submit a certificate from a licensed veterinarian which indicates that the dog to be licensed has been inoculated with an antirabies vaccine within the previous two (2) years. Applicants shall further submit the name and address of the dog owner together with the name, breed, color, and sex of the dog. Applicants shall pay to the City Clerk a license fee in the sum of twenty-five dollars (\$25.00) for neutered male or spayed female dogs and fifty dollars (\$50.00) for dogs which have not been spayed or neutered.

(Ord. 4-82 § 3, 1982).

(Ord. No. 9-2016, § 2, 4-18-2016)

6.04.040 - Change in ownership.

Whenever the ownership of a dog changes, the new owner shall, within thirty (30) days of the change, register the dog and pay the fees as provided by Section 6.04.030.

(Ord. 26-78 § 4, 1978).

6.04.050 - Tag issuance.

Upon submission of a proper application to license and register a dog, the City Clerk shall issue to the applicant a metal tag for the dog licensed. The tag shall be numbered and shall bear the date of anti-rabies inoculation, which date shall be deemed to be the date of issuance of license for the purposes of this chapter. The City Clerk shall keep registration records indicating the tag number and date of issuance of license for all dogs. All licensed dogs shall wear a tag at all times on a collar around the dog's neck of sufficient strength to restrain the dog. If lost, a duplicate tag shall be purchased from the City Clerk at a cost of one dollar (\$1.00).

(Ord. 4-82 § 4, 1982).

6.04.060 - Registration exemptions.

No dog shall be required to be registered if it belongs to a nonresident of the City who has been within the City for fewer than thirty (30) days, nor for any dog brought into the City for purposes of participating in a dog show nor for any dog less than four (4) months of age. Seeing Eye dogs used to assist blind persons shall be registered as required in this chapter, but no fee shall be charged therefor.

(Ord. 26-78 § 6, 1978).

6.04.070 - Kennels.

Any person or entity keeping four (4) or more dogs at one time in one (1) place shall be deemed to be operating a kennel. No person or entity shall maintain a kennel within the City without first having received a license therefor. Application for such a license shall be made to the City Clerk and shall state the name of the applicant, location of the kennel, number of dogs to be kept therein and shall have the names of all persons residing within one thousand (1,000) feet of the proposed location stating that they consent thereto. Upon the payment of fifty-five dollars (\$55.00) by the applicant, the City Clerk, if he finds the application to be in order, shall issue a license to the applicant, good for one (1) year from the date of issuance. No person shall maintain within the City a kennel having more than twenty-five (25) dogs.

(Ord. 26-78 § 7, 1978).

6.04.080 - Dogs at large prohibited.

No person shall permit any dog under his care to run at large within the City.

(Ord. 26-78 S8, 1978).

6.04.090 - Biting dogs—Dogs suspected of rabies.

Any dog which is known to have or is suspected of having bitten or injured any person so as to cause an abrasion of the skin, or any dog which in the opinion of the health officer or any licensed veterinarian of the State of Colorado appears to be infected with rabies, shall be impounded at the expense of the owner thereof, closely confined, as directed by the health officer, for a period of fourteen (14) days; and if during such period such dog displays symptoms of illness, its disposition shall be determined by the Health Officer. A dog which is known to have been exposed to an animal infected with rabies shall be impounded at the expense of the owner thereof, and the disposition of such dog shall be made as directed by the Health Officer, or, when permitted by the Health Officer, shall be closely confined by its owner in accordance with the directions of the Health Officer for a period of not less than six (6) months from the date of exposure. If the owner of any such dog cannot be determined or located, then such dog shall be confined under the

direction of the Health Officer, and if such dog is not claimed from the Health Officer, the officer may order such dog destroyed. In case such dog is claimed by the owner thereof, the cost of such confinement shall be paid by the owner before such dog is released.

(Ord. 26-78 § 9, 1978).

6.04.100 - Noisy dogs.

No person or entity shall keep a noisy dog upon any premises within the City. Any dog which continually disturbs any person by means of continuous noise shall be deemed to be a nuisance. Upon complaint made to the Animal Control Officer, the Animal Control Officer shall investigate the matter and if he finds the complaint to be sustained he shall file a complaint against the person keeping such animal in Municipal Court. If any person is convicted of keeping a noisy dog twice in any one (1) year period, he shall be fined a minimum of one hundred fifty dollars (\$150.00).

(Ord. 26-78 § 10, 1978).

6.04.110 - Nefarious dogs prohibited.

No person or entity shall keep a nefarious or destructive dog within the City. Upon complaint made to the Animal Control Officer, the Animal Control Officer shall investigate the matter and if he or she finds the complaint to be sustained, shall file a complaint against the person keeping such an animal in Municipal Court. If any person is convicted of keeping a nefarious or destructive dog twice in any one-year period, he or she shall be fined a minimum of one hundred fifty dollars (\$150.00).

(Ord. 26-78 § 11, 1978).

(Ord. No. 9-2016, § 3, 4-18-2016)

6.04.120 - Nefarious dogs—Impoundment.

The Animal Control Officer shall impound any dog running at large, or which is proven, in the manner provided in Section 6.04.110, to be a nefarious or destructive dog, even though such dog is under the direct supervision and control of a person while it is off the premises occupied by its owner. The Animal Control Officer shall also impound any dog proven to be a noisy dog in the manner provided in Section 6.04.100 upon any complaint made to the Animal Control Officer as to any such dog subsequent to an initial complaint made pursuant to Section 6.04.100. The City shall have the authority to contract with the Fremont County Humane Society or other third party contractor to provide facilities for impoundment provided for in this section.

(Ord. 26-78 § 12, 1978).

(Ord. No. 9-2016, § 4, 4-18-2016)

6.04.130 - Nefarious dogs—Destruction.

The Animal Control Officer or other police officer may kill any nefarious dog running at large, at any time or place, when there is a grave and imminent danger of its doing harm or injury to any person; and if a dog which proves to be nefarious or destructive is impounded, the Animal Control Officer or Fremont County Humane Society may authorize the euthanasia of the subject dog after ten (10) days from the date of notice to the owner or keeper that the dog is impounded pursuant to Section 6.04.140, unless the owner shall dispose of such dog within ten (10) days after the impounding in such manner that the inhabitants of the City shall be assured that any such dog shall no longer molest the inhabitants of the City.

(Ord. 26-78, § 13, 1978).

(Ord. No. 9-2016, § 5, 4-18-2016)

6.04.140 - Impounded dogs—Notification of owner.

The Animal Control Officer shall list with the City Clerk all dogs impounded giving the names of the owner, if known, and if not known, the tag number of the dog, and a description thereof. The City Clerk shall then make no less than two (2) attempts on separate days but within five (5) days of receiving such list to notify the owner of the dog that the dog is impounded.

(Ord. 26-78 § 14, 1978).

6.04.150 - Impounded dogs—Redemption.

Any dog impounded other than a noisy, vicious or destructive dog, may be redeemed by the owner thereof upon payment to the City of those fees set forth in Chapter 6.12 of this code. Any dog not redeemed within ten (10) days may be disposed of as directed by the City Manager or by such other person as the Council may designate.

(Ord. 26-78 § 15, 1978).

6.04.160 - Violation—Penalty.

Any person, firm or corporation who violates any section of this chapter shall be considered to have committed a civil infraction and not a crime, and shall be subject to a fine not exceeding four hundred ninety-nine dollars (\$499.00) for each such infraction. Each day upon which such infraction continues shall constitute a separate infraction.

(Ord. 21-94 § 1, 1994).

Sections:

6.16.010. - Poisoning.

It is unlawful for any person to poison any dog or other animal, or to distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog or other animal.

(Ord. 570 Art. V § 1, 1974).

6.16.020 - Abandoning.

It is unlawful for anyone to abandon or turn loose any dog or other animal within the City of Florence.

(Ord. 570 Art. V § 2, 1974).

6.16.030 - Striking with vehicle.

It is unlawful for anyone to fail to stop and attend any dog or other animal if anyone strikes it with a vehicle. It is unlawful to in any way maim or harm such animal.

(Ord. 570 Art. V § 3, 1974).

6.16.040 - Cruelty and fighting.

It is unlawful for any person within the City of Florence to treat any animal or fowl in a cruel or inhumane manner, or to suffer any animal or fowl to fight upon exhibition, in violation of the laws of the State of Colorado.

(Ord. 570 Art. V § 4, 1974).

6.16.050 - Cats.

The provisions of this chapter shall be construed to include cats.

(Ord. 570 Art. IV § 5 (part), 1974).