

ORDINANCE NO. 11-07

INTRODUCED BY:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO ADOPTING BY REFERENCE DOUGLAS COUNTY RESOLUTIONS R-998-100 AND R-999-177 FOR THE CONTROL AND LICENSING OF DOGS AND PET ANIMALS, AND PRESCRIBING THE PENALTIES FOR VIOLATIONS THEREOF

WHEREAS, the City of Castle Pines (the "City") is a statutory municipality incorporated and organized pursuant to the provisions of Section 31-2-101, *et seq.*, C.R.S.; and

WHEREAS, Section 31-15-401(1)(m), C.R.S., authorizes the City to regulate and prohibit the running at large and keeping of animals and to provide for the regulation and control of such animals; and

WHEREAS, animal control services within the City are provided by the Douglas County Sheriff's Office pursuant to an intergovernmental agreement; and

WHEREAS, the Douglas County Sheriff's Office contracts with the Humane Society of the Pikes Peak Region to provide animal services within the County, including the City; and

WHEREAS, by Resolutions R-998-100 and R-999-177, the Board of County Commissioners of the County of Douglas adopted and published resolutions for the control and licensing of dogs and pet animals within the County ("Douglas County Animal Control Resolutions"); and

WHEREAS, Part 2 of Article 16, Title 31, C.R.S., authorizes the City to adopt by reference published compilations of regulations or standards adopted by other political subdivisions of the State upon notice and hearing as provided in Section 31-16-203, C.R.S.; and

WHEREAS, copies of said Douglas County Animal Control Resolutions, as amended hereby, are available at the office of the City Clerk for public review and inspection at 7501 Village Square Drive, Suite 100, Castle Pines, CO 80108; and

WHEREAS, the City held a public hearing, with proper notice provided, to consider adoption of such Douglas County Animal Control Resolutions as required by law; and

WHEREAS, the City Council finds that the adoption by reference of the Douglas County Animal Control Resolutions, as amended hereby, is a proper exercise of the City's police power and that it is in the best interest of the public health, safety, and welfare of the citizens of the City

to regulate and license dogs and pet animals within the City, and to prescribe the penalties for violations thereof.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO:

Section 1. Adoption by Reference. The City Council hereby adopts the Douglas County Resolutions R-998-100 and R-999-177, as published by the City of Castle Pines, 7501 Village Square Drive, Suite 100, Castle Pines, CO 80108, in 2011, by reference as if fully set out in this Ordinance. The purpose and subject matter of the Douglas County Animal Control Resolutions is to adopt regulations pertaining to the control and licensing of dogs.

Section 2. Additions, Deletions and Amendments to Resolutions R-998-100 and R-999-177, Douglas County Animal Control Resolutions. Additions, deletions, and amendments to the Douglas County Animal Control Resolutions are hereby adopted as follows:

(a) Section 1.00(1) is hereby amended to read:

(1) **Animal Control Officer** means any person empowered by the City of Castle Pines or Douglas County to enforce the provisions of this Ordinance, including personnel of the Douglas County Sheriff's Office, the Tri-County Health Department, peace officers as defined in Sections 18-3-201(2) and 30-15-105, C.R.S., and employees of any Contractor.

(b) Section 1.00(6) is hereby amended to read:

(6) **County** means the City of Castle Pines.

(c) Section 1.04(5) is hereby amended by deleting the words: "in any Class 2 misdemeanor action" and replacing them with "in accordance with this Ordinance."

(d) The title of Section 1.05 is hereby amended and subsections (1), (4) and (7) of Section 1.05 are hereby deleted and replaced with the following subsections (1) (4) and (7). Subsections (2), (3), (5), (6) and (8) of Section 1.05 are not amended hereby.

1.05 Violations

(1) It is unlawful and a violation of this Ordinance if:

(a) The owner's dog is unlicensed as provided in Section 1.01.

(b) The owner's dog runs at large in the City except in public parks where dogs are permitted to run at large within designated areas.

- (c) The owner's dog, under the control of the owner, bites a person without causing bodily injury or bites a domestic animal.
- (d) The owner's dog, whether on or off the owner's premises, approaches any person in an apparent attitude of attack and/or in a vicious or terrorizing manner.
- (e) A tag evidencing licensing and inoculation for another dog is worn by the owner's dog.
- (f) The dog owner fails to keep a vicious dog under physical control.
- (g) The dog owner possesses one or more guard dogs and fails to comply with the conditions of Section 1.02.
- (h) The dog's owner fails to prevent his or her dog, regardless of whether the dog is on or off the owner's premises, from disturbing the peace of any other person by loud, habitual, or persistent barking, howling, yelping, or whining.
- (i) An affirmative defense to the violation of subsection (c), (d) or (f) shall be:
 - (1) That, at the time of the attack by the dog which causes bodily injury to or the death of a domestic animal, the domestic animal was at large, was an stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;
 - (2) That, at the time of the attack by the dog which causes bodily injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dog or its owner; or
 - (3) That, the person who was the victim of the attack by the dog, tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.
 - (4) The affirmative defenses set forth in this subsection (i) shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in C.R.S. Section 18-9-204.

- (4) No person shall keep or harbor more than four dogs of four months of age or older on any premises, unless such dogs are kept or harbored in a kennel approved pursuant to the zoning provisions of the City.

(7) (a) Violations of each of subsections (1), (3), (4), (5) or (6) of Section 1.05 of this Ordinance shall be considered separate offenses, each of which is subject to a separate penalty. Except when otherwise prohibited herein, the penalty assessment procedure provided in Section 16-2-201, C.R.S., may be followed by the animal control officer for any such violation of such subsections of Section 1.05 of this Ordinance.

(b) The penalty schedule set forth in subsection (c) below shall apply whether the violator is issued a penalty assessment notice or a summons and complaint. The penalty assessment procedure shall not be used after a person has been charged with a third violation of the same offense within a twelve (12) month period. In no event shall a violator be fined more than Three Hundred Dollars (\$300.00) for each separate offense under subsections (1), (3), (4), (5) or (6) of Section 1.05.

(c) The penalties for any person violating subsections (1), (3), (4), (5) or (6) of Section 1.05 shall be as follows:

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| (i) First violation of Subsections (1), (3), or (4) of Section 1.05: | \$50.00 |
| (ii) Second violation of Subsections (1), (3), or (4) of Section 1.05 within a period of twelve months: | \$75.00 |
| (iii) Third and subsequent violations of Subsections (1), (3), or (4) of Section 1.05 within a period of twelve months: | \$75.00 plus an additional \$25.00 for each repeat offense after the second offense |
| (iv) First violation of Subsection (5) or (6) of Section 1.05 within a period of twelve months: | \$150.00 |
| (v) Second violation of Subsection (5) or (6) of Section 1.05 within a period of twelve months: | \$225.00 |
| (vi) Third and subsequent violation of | |

Subsection (5) or (6) of Section
1.05 within a period of twelve months: \$300.00

- (e) The title of Section 1.06 is hereby amended and subsections (1), (2), (3) and (4) of Section 1.06 are hereby deleted and replaced with the following subsections (1), (2), (3) and (4). Subsection (5) of Section 1.06 is not amended hereby.**

1.06 Violations

- (1) A dog owner commits a violation involving bodily injury to another person under this Section 1.06 if:
 - (a) The owner's dog, while unlicensed, bites a person causing bodily injury;
 - (b) The owner's dog, while running at large, bites or attacks a person, causing bodily injury;
 - (c) The owner's dog, while off the premises but under the control of the owner, bites or attacks a person, causing bodily injury; or
 - (d) The owner's dog, while on the owner's premises, bites or attacks a person, causing bodily injury.
- (2) An affirmative defense to the violation of subsection (1)(b), (c) and (d) of this Section 1.06 shall be:
 - (a) That, at the time of the attack by the dog which causes bodily injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;
 - (b) That, at the time of the attack by the dog which causes bodily injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or
 - (c) That, the person who was the victim of the attack by the dog, tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.
 - (d) The affirmative defenses set forth in this subsection (2) shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in C.R.S Section 18-9-204.

(3) Any person convicted of a violation of this Section 1.06 shall be fined not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1000.00), or imprisoned in the County jail for not less than three (3) months and not more than twelve (12) months or both.

(4) If a dog owner is twice convicted of a violation pursuant to this Section 1.06 relating to the same dog, or if a court finds a dog to be a vicious dog, the dog may be destroyed by order of the court.

(f) Section 1.07 is hereby amended to delete the words “described in this resolution as a class 2 misdemeanor” and replace them with “under Section 1.06.”

(g) Section 1.09 is hereby amended to read:

The City Council for the City of Castle Pines, any of its employees or agents, or any other person authorized to enforce the provisions of this dog control and licensing Ordinance shall not be liable for injury or disease that may occur to a dog in connection with the administration of this Ordinance.

(h) Sections 1.10, 1.11 and 1.12 are hereby deleted.

Section 3. Penalties. Penalties for violations of the Douglas County Animal Control Resolutions, as adopted by this Ordinance, are as set forth in Sections 1.05, 1.06 and 1.07 as amended hereby in Section 2 of this Ordinance.

Section 4. Liability. The adoption of this Ordinance shall not create any duty to any person with regard to the enforcement or non-enforcement of this Ordinance. No person shall have any civil liability or remedy against the City or its officers, employees or agents, for any damage arising out of or in any way connected with the adoption, enforcement or non-enforcement of this Ordinance. Nothing in this Ordinance shall be construed to create any liability or to waive any of the immunities, limitations on liability or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, Colorado Revised Statutes, or to waive any immunities or limitations on liability otherwise available to the City, or its officers, employees or agents.

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

Section 6. Repeal of Previous Ordinances. 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 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 hereby repealed prior to the effective date of this Ordinance.

Section 7. Effective Date. Except as otherwise expressly provided herein, this Ordinance shall become effective thirty (30) days after final publication.

Section 8. Authorization. The officers of the City are authorized and directed to take actions necessary and appropriate to effect the provisions of this Ordinance.

INTRODUCED, READ, AND PASSED, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 10th day May, 2011.

READ, AND PASSED, AND ADOPTED ON SECOND READING, FOLLOWING PUBLIC HEARING AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 14th day June, 2011.

CITY OF CASTLE PINES:

by Douglas J. Huff, Mayor Pro Tem
Jeffrey T. Huff, Mayor

ATTEST:

Approved as to form:

Sharon DeRouen
Sharon DeRouen, City Clerk

Linda C. Michow
Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a regular meeting of the Castle Pines City Council on May 10, 2011; published two times in the *Douglas County News-Press* on May 19, 2011 and May 26, 2011; and finally passed and adopted by the City Council on June 14, 2011 following a public hearing duly noticed in accordance with C.R.S. § 31-16-203.

Diane Spence
City Clerk or Deputy City Clerk