

ORDINANCE NO. 1-2021

AN ORDINANCE AMENDING THE TOWN OF ECKLEY'S ORDINANCE NO. 3 (1988),
ORDINANCE NO. 4 (1988) AND ORDINANCE NO. 5 (2008).

AN ORDINANCE PERTAINING TO ANIMAL CONTROL.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ECKLEY, COLORADO:

SECTION 1: Dogs running at large prohibited.

- A. Every person owning or having charge, care, custody or control of any dog shall keep the dog exclusively upon his own premises except that the dog may be off the premises if it is under the effective control of a person. The dog shall be construed to be under the effective control of a person as follows:
 - (1) Confinement within a vehicle, fencing, or other adequate enclosure where the dog has no access to passerby, or
 - (2) Attachment to a leash not over six feet in length and held by a person of sufficient size and strength to restrain the dog.
- B. Notwithstanding the provisions of subsection A of this section, a dog shall be deemed to be not under effective control of a person as follows:
 - (1) Every female dog in pre-estrus, estrus, or post-estrus (in heat or in season) shall be confined in a building or secure enclosure in such a manner that the female dog cannot come into contact with another male dog except for planned breeding; or
 - (2) The dog inflicts damage or injury to the person or property of someone other than its owner, custodian or possessor.
- C. Nothing herein shall restrict the ordinary uses of seeing-eye dogs or handicap helper dogs.

SECTION 2: Barking.

It is unlawful for any owner or keeper of any dog to permit the dog, by loud and persistent or habitual barking, to disturb any person or neighborhood, and the same is a public nuisance.

SECTION 3: Registration and licensing required Fees.

Every person owning or harboring any dog three (3) months of age or older within the Town of Eckley shall cause the animal to be registered and licensed and shall supply all information requested by the Town Clerk concerning the dog, and shall pay the Town Clerk, at the time of registration and licensing of the dog, a license fee of Twelve (\$12.00) per dog, for the calendar year in which the license is issued.

SECTION 4: Licenses and tags.

- A. The Town Clerk shall provide for the issuance of a license to the owner or harborer of each dog licensed under the provisions of this ordinance, containing the following information:
 - (1) The name and address of the owner or harborer of an inoculated and licensed dog;
 - (2) The year and series number of the dog tag;
 - (3) The date of inoculation and date of license;
 - (4) The sex of the dog.
- B. The tags shall be made of durable material suitable to be attached to the collar or harness of the inoculated dog. The tag shall state the year of which it is issued and the series number of the license and tag. The tags shall be prepared and distributed by the Town Clerk and shall be of different color or shape each year.

SECTION 5: Inoculation and licensing – required.

From and after October 1, 1988, it shall be the duty of every person who owns or harbors any dog or dogs in the Town of Eckley to have such inoculated by the regularly licensed veterinarian of the State of Colorado, to obtain a certificate from the veterinarian, setting out the fact of the vaccination, and to obtain from the Town Clerk a license for each dog. The vaccination and licensing shall be performed during the months of January and February of each calendar year; provided, however, that persons who acquire or harbor any dogs between March 1st and December 31st of any calendar year shall, immediately following such acquisition or upon such harboring, have the dog or dogs inoculated and licenses for the remaining portion of that calendar year.

SECTION 6: Inoculation and licensing - tags – inspection.

- A. Every owner or harborer of a dog shall attach the tag evidencing the licensing and inoculation with anti-rabies vaccine to the collar or harness of the inoculated and licensed dog. The collar or harness shall be worn by the dog at all times.
- B. The license shall be retained by the owner or harborer of the inoculated and licensed dog for inspection by any member of the Police Department, Sheriff's Department or the Code Enforcement Officer at any time.

SECTION 7: Inoculation and licensing - Period of validity.

The licensing as designated in this ordinance shall be valid for each calendar year. The inoculation is valid for a three (3) year period.

SECTION 8: Inoculation and licensing - Unlawful possession - Lost tags.

- A. Only those persons who own or harbor a dog duly vaccinated and licensed in accordance with the provisions of this ordinance shall be permitted to possess the licenses and tags provided for in this ordinance. No person may affix a tag evidencing vaccination and licensing to the collar or harness of any dog, except the tag issued for that dog at the time of licensing.
- B. Lost tags shall be replaced by the Town Clerk upon payment of a fee of two (\$2.00) dollars for each replacement.

SECTION 9: Rabies – Quarantine.

- A. Any dog which is known to have bitten or injured any person so as to cause an abrasion of the skin, or a dog which, in the opinion of a member of the Sheriff's Department, Code Enforcement Officer or of any licensed veterinarian of the State of Colorado, appears to be afflicted with rabies shall be closely confined by its owner in accordance with the direction of a member of the Sheriff's Department or Code Enforcement Officer for a period of not fewer than ten (10) days.
- B. It is unlawful for any person knowing or suspecting a dog has rabies to allow the dog to be taken off his premises or beyond the limits of the town without the written permission of the pound master. Every owner, or other person, upon ascertaining a dog is rabid, shall immediately notify the pound master, Sheriff's Department or Code Enforcement Officer, who shall either remove the dog to the pound or summarily destroy it.
- C. If the owner of the dog or dogs referred to in this Section cannot be determined or located, then a member of the Sheriff's Department or the Code Enforcement Officer shall otherwise confine the dog or dogs for a period of not fewer than ten (10) days. If the owner of the dog is not determined or located, or the dog claimed within ten (10) days, then the pound-master may order the dog destroyed. All costs incurred for the confinement of a dog under this Section shall be paid by the owner or owners of the dog. If the dog is determined to be suffering from rabies, it shall be destroyed forthwith, and handled according to regulations of the State Health Department.

SECTION 10: Inoculation and licensing – Imported dogs.

- A. All dogs which are brought into the Town of Eckley shall be in compliance with the laws and rules and regulations of the State of Colorado and the Town of Eckley regarding the handling of the animals and shall have been vaccinated no fewer than thirty days nor more than twelve (12) months prior to importation, except for pups less than three (3) months of age. Such dogs shall be vaccinated upon reaching the age of three (3) months. The metal tag denoting vaccination shall be firmly affixed to the collar or harness of the dog, and shall be evidence of compliance with this ordinance. Production of vaccination certificate shall suffice if the tag is lost.
- B. If the imported dog remains in the Town of Eckley more than thirty (30) days, the dog shall be licensed in accordance with the provisions of this ordinance. A certificate of vaccination issued by a licensed veterinarian to the owner or harbinger of a dog within the current year by any municipality, county or state shall be presented to the Town Clerk and license tag of the Town of Eckley, Colorado, and a transfer fee of one (\$1.00) to eleven (\$11.00) dollars for a dog shall be imposed thereon.

SECTION 11: Impoundment - Pound Master duties.

It shall be the duty of every Sheriff's Department Officer, Code Enforcement Officer or pound master to apprehend, take into custody and impound, either with or without complaint, any stray dog, unlicensed dog, dog not under reasonable control of the owner and any dog found running at large contrary to the provisions of this ordinance, and to confine and keep such dog in the pound or other suitable place. The pound master, or some other designated official, upon receiving any dog, shall make a complete registry of the breed, color and sex of the dog and whether it is licensed. If it is licensed, he shall enter the name and address of the owner and the number of the license tag.

SECTION 12: The Code Enforcement Officer - duties.

The Code Enforcement Officer shall provide a place, either within or without the town limits, where dogs taken up under the provisions of this ordinance may be confined and kept, as provide in this ordinance, and shall appoint some person to have general charge of such animals.

SECTION 13: Impoundment – Notice – Redemption.

- A. Not later than two days after the impounding of any dog, the owner shall be notified, or, if the owner of the dog is unknown, written notice shall be posted for three days at two or more conspicuous places in the Town of Eckley describing the dog and the place and time of taking of said dog.
- B. The owner of any dog impounded may reclaim such dog upon payment of the impoundment fees, and paying the Town Clerk a license fee and all court costs. The pound fees is Thirty (\$35.00) a day. The owner will receive a summons, and complaint shall be issued. The owner shall be tried before the municipal court of the Town of Eckley.
- C. Nothing herein shall restrict the ordinary uses of seeing-eye dogs or handicap helper dogs.

SECTION 14: Disposition of unclaimed or infected dogs.

It is the duty of the pound master to keep all licensed dogs impounded pursuant to this ordinance for a period of three days. If, at the expiration of four days from the date of notice to the owner or the posting of such notice, the dog has not been redeemed, it may be destroyed. Any dog which appears to be suffering from or affected with mange or other infections or dangerous disease shall not be released but may be forthwith destroyed.

SECTION 15: Fierce, Vicious, Aggressive or Dangerous Dogs.

- A. Defined. “Fierce, vicious, aggressive or dangerous dogs” shall mean, any dog that, without intentional provocation, bites or attacks humans or other animals, or in a fierce, vicious, aggressive, dangerous or in a terrorizing manner approaches any person or other animal in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated.
- B. Confinement. No fierce, vicious, aggressive or dangerous dog shall be kept or harbored unless such dog is confined in a building or enclosure designed to be escape-proof on the owner’s property. At all times when the fierce, vicious, aggressive or dangerous dog is off of the property of the owner, the dog shall be muzzled and either placed within a secure temporary enclosure, or secured by a leash of no longer than four (4) feet in length held by a responsible adult, who is physically capable of controlling the dog. Extension style leashes shall not be used. The dog may not be leashed to any inanimate object.

- C. Impoundment. Upon the citation of an owner for a violation of the Section 15, the dog shall be impounded pursuant to Section 13 C of this Ordinance. However, nothing in this Section 15 shall be construed to prevent the immediate destruction of any fierce, vicious, aggressive or dangerous dog when deemed necessary in the interest of public safety by the Code Enforcement Officer or any other law enforcement personnel when less drastic methods, such as tranquilizing, are not available or effective and when neither the Code Enforcement Officer, law enforcement personnel, or the dog's owner, if immediately available, is unable to restrain or control the dog so that it might be impounded pursuant to Section 13 C.
- D. Affirmative Defense. It shall be an affirmative defense to prosecution under this Section 15 if:
 - 1. The dog is under the control of law enforcement personnel; or
 - 2. The actual or intended victim of any attack has made an unlawful entry into the dwelling of the dog's owner or threatened or attacked an owner of the dog.
- E. State Law. In addition to the provisions set forth in this Section 15, owners of dangerous dogs shall remain subject to the provisions of Section 18-9-204.5. C.R.S., as may be amended, regarding the unlawful ownership of dangerous dogs, as such term is defined therein, and shall be cited for any offenses committed thereunder and prosecuted in accordance with State Law.

No biting, vicious or dangerous dog shall be harbored, kept or suffered to be kept, or suffered to be at large unless the same is securely muzzled. Whenever such biting, or vicious or dangerous dog shall be outside the enclosure of its owner or keeper without being muzzled, it shall be deemed to be a public nuisance and may be killed by any peace officer or Code Enforcement Officer, whether such dog is licensed, registered, and numbered, or otherwise.

Any person found guilty of violating this ordinance or any part thereof shall be punished upon the First (1) Conviction by a fine of not less than one hundred (\$100.00) dollars and no more than two hundred (\$200.00) dollars and on a Second Conviction shall be punished by a fine of not less than two hundred (\$200.00) and not less than three hundred (\$300.00) dollars and upon a Third Conviction or subsequent convictions shall be punished by a fine or not less than three hundred (\$300.00) dollars and not more than (\$500.00) dollars. In addition to the penalties set forth in this Section, if an owner is convicted for a violation of Section 15 hereof, the Municipal Court may order that the fierce, vicious, aggressive or dangerous dog be humanely destroyed by lethal injection or permanently removed from the Town's limits unless

the Municipal Court finds, by a preponderance of the evidence, that there exists reasonable assurance that the dog can be safely maintained, cared for and controlled without danger to the community or that the dog does not create a nuisance to the surrounding neighbors or community. In determining whether the dog can be safely maintained, cared for and controlled by its owner, the Municipal Court shall consider all relevant and reliable evidence, whether or not the evidence is admissible at trial, including, without limitation, pre-bite or post-bite behavior indicative of vicious, aggressive or dangerous tendencies regardless of impoundment status; however, the mere absence of other instances of post-bite vicious, aggressive or dangerous behavior, regardless of impoundment status, shall not be sufficient to support a finding in favor or release.

SECTION 16: Permitting animals to run at large unlawful.

It is unlawful for any person who is the owner of, or who has control or charge of any horses, cattle, sheep, swine, goats, or fowl to suffer or permit the same to run at large within the town. Any such animals found running at large may be taken up, impounded and disposed of.

SECTION 17: Keeping domestic animals and fowl within the city limits.

Premises to be kept clean. It is unlawful for any person who keeps cattle, horses, sheep, goats, or other domestic animals or fowl within the town, to permit the yard or place within which the same are kept to become foul, noisome, putrid, malodorous, unwholesome, offensive or in otherwise dangerous or detrimental to human health, comfort, or welfare. All domesticated animals or fowl are to be kept in a pinned area and not running loose.

1. Section Definitions. As used in this ordinance:

(a) The term "livestock" shall mean any goat, sheep, swine, cattle, buffalo, cattalo, horse, mule, ass, ducks, geese, turkeys, chickens, and domestic fowl.

(b) The term "animals unit" shall mean a unit of measurement used to determine the animal capacity of animals grazing and/or confined in the Town of Eckley. The animals of each species by the appropriate equivalency factor resulting totals for all animal species contained in the operation.

(c) The term "grandfather" shall mean any resident at present having livestock will not be affected unless said livestock is removed for thirty consecutive days or more.

2. The animal unit equivalency factors are as follows:

Animal Species	Equivalency Factor
All cattle, buffalo, cattalo, horses, mules and asses Over the age of 9 months	1.0
All cattle, buffalo, cattalo, horses, mules and asses Under the age of 9 months	0.25
Swine, 55 pounds and over	0.4
Swine, under 55 pounds	0.1
Sheep, goats	0.4
Turkeys, chickens, ducks, and domestic fowl	0.1
Alternative livestock	1.0

A. Livestock Density: If livestock grazing or confinement is allowed by this code, the animal density shall not be greater than one animal unit per acre, except as follows:

1. Property registered for a nonconforming use to permit grazing or confinement at a greater than one animal unit per acre.

2. Livestock located at any lawful business requiring the confinement of livestock at a rate greater than one animal unit per acre, including, but not limited to, veterinary clinics, meat processing, pack and slaughterhouses, rodeo and equine facilities, and livestock auction facilities.

B. At large: Every person owning or having charge, care, custody or control of any livestock shall keep the animal under the effective control of a person. Livestock shall be construed to be under the effective control of a person as follows:

1. Confinement in a barn, corral, or within an adequate fence, on property lawfully under the control of said person. For the purposes of the ordinance, “adequate fence” shall be a well-constructed three (3) or more, wire fence with substantial posts set at a distance of approximately twenty feet (20’) apart, and sufficient to turn the livestock intended to contain, with all gates equally as good as the fence; or, any electric fence, constructed in a manner to turn the livestock intended to be contained.

2. This subsection shall not apply to the following:

- a. Livestock used for participation in a parade.
- b. Livestock used as a means of transportation.
- c. Livestock originating from a veterinary clinic.
- d. Livestock used in lawful recreation events.

e. It shall be a defense to this subsection that the party whose livestock is at large due to the actions of a third party who does not own or have charge, care, custody, or control of said livestock.

3. Violations: Violations of any ordinance adopted pursuant to this shall be punished by a fine up to, and including, three hundred dollars (\$300.00) for each violation, but no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment. however, failure to pay a fine may result in imprisonment pursuant to Colorado Revised Statues, section 13-10-113.

SECTION 18: All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 19: If any portion of this ordinance shall be declared unconstitutional or beyond the powers of the Town of Eckley, such determination shall not affect or impair the enforcement of such provisions thereof as may be constitutional and within the powers of the Town of Eckley.

SECTION 20: That it is hereby declared that any emergency exists, and that this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and the same shall be in full force and effect five (5) days after final passage and publication as by law provided.

Each year, all fees, fines, and other charges shall be reviewed and adjusted, as necessary, through resolution by Town of Eckley Board of Trustees.

Introduced, read, and ordered published this ____ day of _____, 2021.

Published, passed and approved this ____ day of _____, 2021.

TOWN OF ECKLEY

Mayor Jessie Vance

Attest:

Aileene Vance

Town Clerk/Treasurer

