

**ORDINANCE NO. 666-11**

**AN ORDINANCE REGULATING DANGEROUS DOGS**

**WHEREAS**, the board of trustees finds that dangerous dogs are a serious and widespread threat to the safety and welfare of citizens throughout the town of Fowler; and

**WHEREAS**, C.R.S. §31-15-401(1)(m)(1) grants municipalities the power to provide for the regulation and control of animals; and

**WHEREAS**, it is necessary to regulate and control dangerous dogs to protect the health, safety and welfare of Fowler residents.

**NOW THEREFORE BE IT ORDAINED BY THE TOWN OF FOWLER BOARD OF TRUSTEES AS FOLLOWS:**

- a. As used in this ordinance, unless the context otherwise requires:
  1. "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.
  2. "Dangerous dog" means any dog that:
    - A. Inflicts bodily injury upon a person or causes the death of a domestic animal; or
    - B. Demonstrates tendencies that would cause a reasonable person to believe that the dog may inflict bodily injury upon any person or domestic animal; or
    - C. Engages in or is trained for animal fighting.
  3. "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.
  4. "Domestic animal" means any dog, cat, any animal kept as a household pet, or livestock.
  5. "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, as the term is defined in paragraph "4" of this ordinance, including a dangerous dog as the term is defined in paragraph "2" of this ordinance.
- b. A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.
- c. Penalty. Any person who violates paragraph "b" of this ordinance shall upon conviction thereof, be punished by a fine not exceeding one-thousand dollars (\$1,000.00).

1. The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution to make restitution to the injured or dead domestic animal's owner.
  - A. Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.
  - B. Any owner whose dog damages or destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.
2. The court shall order any owner of a dangerous dog who has been convicted of a violation of paragraph “b” of this ordinance to:
  - A. Confine the dangerous dog in a building or enclosure designed to be escape-proof and, whenever the dog is outside of the building or enclosure, keep the dog under the owner's control by use of a leash. The owner shall post a conspicuous warning sign on the building or enclosure notifying others that a dangerous dog is housed in the building or enclosure. In addition, if the conviction is for a second or subsequent offense, the dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.
  - B. Immediately report to the Fowler town clerk in writing any material change in the dangerous dog's situation, including but not limited to a change, transfer, or termination of ownership, change of address, escape, or death;
  - C. At the owner's expense, permanently identify the dangerous dog through the implantation of a microchip by a licensed veterinarian or a licensed shelter. A veterinarian or licensed shelter that implants a microchip in a dangerous dog shall report the micro chipping information to the town clerk within ten days after implantation of the microchip.
  - D. Prior to the implantation of the microchip, pay a nonrefundable dangerous dog microchip license fee of fifty dollars to the town clerk;
  - E. Prior to the dangerous dog receiving any service or treatment, disclose in writing to any provider of the service or treatment, including but not limited to a veterinary health care worker, dog groomer, humane agency staff person, pet animal care facility staff person, professional dog handler, or dog trainer, each acting in the performance of his or her respective duties, that the dangerous dog has been the subject of a conviction of a violation of this ordinance;
  - F. Prior to a change, transfer, or termination of ownership of a dangerous dog, disclose in writing to the prospective owner that the dangerous dog has been the subject of a conviction of a violation of this ordinance.

3. In addition to any other penalty set forth in this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury the court shall order the defendant to make restitution.
  4. In addition to the penalties set forth above upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury to a person or death to a domestic animal or for a second or subsequent violation of paragraph (b) of this ordinance resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court shall order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this ordinance, the owner's dangerous dog be destroyed by euthanasia administered by a licensed veterinarian.
- d. An affirmative defense to the violation of this ordinance shall be:
1. That, at the time of the attack by the dangerous dog which causes 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 dangerous dog which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;
  3. That, at the time of the attack by the dangerous dog which causes injury to 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;
  4. That, at the time of the attack by the dangerous dog which causes injury to 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
  5. That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.
  6. The affirmative defenses set forth above shall not apply to any dog that has engaged in or been trained for animal fighting.
  7. Upon taking an owner into custody for an alleged violation of this section or the issuing of a summons and complaint to the owner, the owner's dangerous dog may be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition, in the event the court sets bail for an owner's release from custody pending final disposition, the court may require, as a

condition of bond, that the owner's dangerous dog be placed by the town, at the owner's expense in a location selected by the town including a public animal shelter, licensed boarding facility, or veterinarian's clinic, pending final disposition of the alleged violation of this section. The owner shall be liable for the total cost of board and care for a dog placed pursuant to this subsection 7.

- e. The provisions of this ordinance shall not apply to the following:
  - 1. To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;
  - 2. To any dog that inflicts bodily injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, or trainer each acting in the performance of his or her respective duties, unless the owner is subject to a court order issued pursuant to this ordinance and the owner has failed to comply with paragraph 2 of this ordinance.
- f. Conflicts. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed or amended to the extent necessary to conform to this ordinance.
- g. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court, such decision shall not affect the validity of the remaining portions of this ordinance.
- h. Emergency Clause. The Board of Trustees of the town of Fowler, Colorado, hereby finds, determines, and declares that this action is necessary for the preservation and protection of the public health, safety, and general welfare and shall become effective immediately upon publication thereof.

**PASSED, ADOPTED, APPROVED** and ordered published the 14th day of November, 2011.

TOWN OF FOWLER, COLORADO

**DATED** this 14th day of November, 2011.

**By Patrick Christensen, Jr.**  
Mayor

**ATTEST:**  
Shawn Pagnotta  
Town Clerk

1.