

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2023

COUNCIL BILL NO. CB23-0539
COMMITTEE OF REFERENCE:
Safety, Housing, Education & Homelessness

6 A BILL

7 **For an ordinance amending Chapter 8 of the Code to restructure and update**
8 **certain provisions and make conforming amendments to better protect,**
9 **preserve, and promote the health, safety, and welfare of animals and people**
10 **within the City and County of Denver.**

11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** Section 8-2 of chapter 8 shall be amended by adding the language underlined
13 and deleting the language stricken to read as follows:

14 **Sec. 8-2. Definitions.**

15 For purposes of this chapter, the words, phrases and terms found in this section shall be defined
16 as follows:

17 (~~a~~1) *Altered or sterilized* shall mean a dog or cat that has been spayed or neutered.

18 (~~b~~2) *Animal protection officer* shall mean an employee of the department of public health
19 and environment authorized by the executive director to enforce provisions of this chapter.

20 (~~e~~3) *Animal shelter* shall mean any business which collects stray, abandoned or owner-
21 surrendered pet animals for redemption, adoption, sale or disposal.

22 (~~d~~4) *Approved animal adoption or humane organization* shall mean any organization that
23 meets all the criteria set out in subsection 8-153.5(g) and has agreed to participate in the Denver
24 Animal Shelter animal adoption network.

25 (~~e~~5) *Attack* shall mean violent or aggressive physical contact with a person or animal, or
26 violent or aggressive behavior that confines the movement of a person, including, but not limited
27 to, chasing, cornering, or encircling.

28 (~~f~~6) *Board* shall mean the board of public health and environment of the City and County
29 of Denver.

30 (~~g~~7) *Bodily injury* means physical pain, illness, or any impairment of physical or mental
31 condition.

32 (~~h~~8) *Business* shall mean any profit or nonprofit individual, partnership, company, or
33 corporation doing business within the corporate limits of the city.

(~~l~~9) *Denver Animal Shelter* means the municipal animal shelter that is operated by Denver Animal Protection.

(~~j~~10) *Dwarf goats* shall mean Nigerian Dwarf or African Pygmy breeds of goats.

(~~k~~11) *Executive director* shall mean the executive director of the department of public health and environment or the executive director's designee.

(~~l~~12) *Keeper* shall mean any person who exercises care, custody or control over an animal, but is not an owner. A keeper must be eighteen (18) years of age or older.

(~~m~~13) *Kenel* shall mean any business which is involved with the boarding of pet animal.

(~~n~~14) *Leash* shall mean a physical restraint held by, or attached from, a person to an animal.

(~~e~~15) *Owner* shall mean any person who possesses, exercises control over, or who has a right in property over an animal. An owner must be eighteen (18) years of age or older. If a person under the age of eighteen (18) possesses, exercises control over, or has a property right in an animal, the minor's parent(s), guardian(s), or legal custodian(s) shall be deemed to be the owner(s) of such animal. If an animal has more than one (1) owner, all owners eighteen (18) years of age or older shall be jointly and severally liable under this chapter.

(~~p~~16) *Permit* shall mean to allow or let happen and shall not include a state of mind requirement.

(~~q~~17) *Pet animal* means fish, small domestic mammals, birds, reptiles, cats and dogs, not otherwise prohibited by this chapter.

(~~r~~18) *Pet grooming shop* shall mean any business which is involved in the grooming of pet animals for profit.

(~~s~~19) *Pet hospital* shall mean any business operating as a veterinary hospital or clinic which is involved in the diagnosis, treatment, or care of any pet animal.

(~~t~~20) *Pet shop* shall mean any retail or wholesale business which is involved in the selling or trading of pet animals.

(~~u~~21) *Pit bull* shall mean any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The American Kennel Club and United Kennel Club standards for the above breeds are on file in the office of the clerk and recorder, ex officio clerk of the City and County of Denver, at City Clerk Filing No. 89457.

(v22) *Run at large* shall mean any dog (1) not on the premises of the owner or keeper thereof and not controlled through use of a leash, cord or chain held by the dog's owner or keeper; or (2) on the premises of the owner or keeper, but confined in such a way as to allow the dog to have access to the public right-of-way.

(w23) *Secure enclosure* means an enclosure which meets the following requirements:

(4a) Is suitable to prevent the entry of children age ten (10) and under, and to prevent the animal from escaping;

(2b) Has secure sides and a secure top or secure sides which are of sufficient height to prevent the animal from escaping over the sides;

(3c) Has sides that are constructed at the bottom so as to prevent the animal's escape by digging under the sides;

(4d) Provides appropriate protection from the elements for the animal; and

(5e) Complies with the Denver Zoning Code.

(x24) *Secure temporary enclosure* means an enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure on its own.

(y25) *Serious bodily injury* means bodily injury which, either at the time of the actual injury or, at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, or fractures.

(z26) *Shelter* means an enclosure that is structurally sound and in good repair, provides convenient access to clean food and water, enables the animal to remain dry and clean, is constructed and maintained so that it is impervious to moisture and can be readily sanitized, is constructed so as to protect the animal from injury, and provides sufficient space to allow each animal to turn around fully, stand, sit and lie in a comfortable position.

(aa27) *Vaccination* shall mean the inoculation of a dog or cat with a vaccine licensed by the United States Department of Agriculture for use in the prevention of rabies, distemper, parvovirus, panleukopenia, Bordetella, and other diseases.

Section 2. Section 8-5 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-5. Animal-related nuisance.

(b) The county court, in addition to any penalty imposed pursuant to section 1-13, may order the owner or keeper of the animal to abate the nuisance created under subsection (a) or sections 8-18, 8-73, 8-74, or 8-81 ~~or 8-82~~ within five (5) days thereafter. Failure to abate the nuisance after the expiration of the five-day period shall be deemed a violation of this chapter of the Code.

Section 3. Section 8-7 of chapter 8 shall be amended by deleting the language stricken to read as follows:

Sec. 8-7. Interference with Denver animal protection employees.

(b) It shall be unlawful for any person to fail to obey a lawful order of an animal protection officer if such failure interferes with or hinders such animal protection officer in the discharge of his or her official duties. For purposes of this subsection, the term "lawful order" shall be strictly construed and shall include only such orders that relate directly to matters of substantial importance in the discharge of the official duties of animal protection officers. ~~It is an affirmative defense to this subsection that failure to obey the lawful order did not interfere with or hinder the animal protection officer.~~

Section 4. Section 8-9 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-9. Fees.

The ~~board~~ executive director is hereby authorized to establish, ~~by rules and regulations,~~ a reasonable amount to be assessed as the fees authorized by this chapter. The executive director may, in the executive director's discretion, waive any and all fees authorized under the provisions of this chapter, in whole or in part, where the payment of such fees is a demonstrated financial hardship, or the waiver is otherwise in the public interest. Every three (3) years, the ~~board~~ executive director may adjust the fee structure based upon the change in the Consumer Price Index for the Denver-Boulder area.

Section 5. Section 8-10 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-10. Appeal to Board of Public Health and Environment.

Any person aggrieved by a notice or order issued by the department of public health and environment under this chapter, who believes the same to be factually or legally contrary to the ordinances of the city, or the policies and regulations of the department of public health and

environment, may appeal the notice or order to the board of public health and environment within thirty (30) days of the issuance of the order or notice in the manner provided by rules of procedure of the board.

Secs. 8-1011. – 8-15. - Reserved.

Section 6. Section 8-31 of chapter 8 shall be amended by adding the language underlined to read as follows:

Sec. 8-31. Rabies vaccination required.

It shall be unlawful for any person who owns any dog or domestic cat over the age of six (6) months in the city to fail to have such dog or cat currently vaccinated for rabies by a licensed Colorado veterinarian or an individual under the supervision of a licensed Colorado veterinarian, unless such person presents to the executive director a written statement from a licensed Colorado veterinarian that vaccination for rabies would be detrimental to the health of the specific dog or cat. Booster of such vaccination shall be performed on or before the appropriate anniversary date of the initial vaccination. Any person who acquires within the city a dog or domestic cat shall have it vaccinated within thirty (30) days of such acquisition unless the dog or cat has not yet reached an age at which it is safe to vaccinate the animal; provided, however, that in any case the dog or cat must be vaccinated before reaching the age of six (6) months.

Section 7. Section 8-46 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-46. License required.

It shall be unlawful for ~~the owner or keeper of any domestic dog (Canis Familiaris) or domestic cat (Felis Catus) to own or keep, within the city, such dog or cat over the age of six (6) months without first having obtained a license for such dog or cat~~ any person who owns any dog or domestic cat over the age of six (6) months in the city to fail to have such dog or cat licensed. Dogs or cats over the age of six (6) months purchased, obtained, or otherwise acquired shall be licensed within thirty (30) days after such acquisition or, if under, within thirty (30) days after reaching six (6) months of age. Individual licenses shall not be required for dogs or cats being held for redemption or adoption by the Denver Animal Shelter, an approved shelter owned and operated by a tax-exempt humane organization or a licensed pet shop.

Section 8. Section 8-61 of chapter 8 shall be amended by adding the language underlined

1 and deleting the language stricken to read as follows:

2 **Sec. 8-61. Animal attack or bite.**

3 (a) Any owner or keeper of an animal shall be liable pursuant to this Code for the
4 behavior of such animal, and it shall be unlawful if such animal attacks or bites:

5 (1) Any person or domestic animal not on the premises of such owner or keeper;

6 (2) Any person or domestic animal upon the premises of the residence of such owner or
7 keeper or upon the premises of any business establishment not then open to the public. It is an
8 affirmative defense to this paragraph if such premises are previously posted at each entrance with
9 a prominent and conspicuous sign warning all persons, in lettering not less than two (2) inches in
10 height, of the animal and if the animal is securely confined indoors or confined in a secure
11 enclosure as defined in section 8-2(~~w23~~); or

12 (d) It shall be an affirmative defense to this section that the actual or intended victim of
13 any attack:

14 (1) Made an unlawful entry into the dwelling of the animal's owner or keeper;

15 (2) Made unlawful entry into a vehicle in which the animal was confined;

16 (3) ~~Threatened or attacked an owner or keeper of the animal;~~ Provoked, tormented,
17 abused, or inflicted injury upon the animal in such a manner as to result in the attack or bite;

18 (4) ~~Provoked, tormented, abused, or inflicted injury upon the animal in such a manner as~~
19 ~~to result in the attack or bite;~~ Used unlawful physical force against the owner or keeper of the
20 animal or acted in a way that a reasonable person would believe is the use or imminent use of
21 unlawful physical force against the owner or keeper of the animal; or

22 (5) ~~Attempted to assault another person.~~ Used unlawful physical force against another
23 person or acted in a way that a reasonable person would believe is the use or imminent use of
24 unlawful physical force against another person.

25
26 **Section 9.** Section 8-62 of chapter 8 shall be amended by adding the language underlined
27 and deleting the language stricken to read as follows:

28 **Sec. 8-62. Dangerous animals.**

29 (a) *Dangerous animal* means any animal, except an animal assisting a law enforcement
30 officer engaged in law enforcement duties, that has:

31 (2) Been previously adjudicated a dangerous animal under section 8-62 or under a
32 similar definition in another jurisdiction;

(3) Been previously adjudicated as a potentially dangerous animal under section 8-63, and the owner has failed to abide by a previously issued court order issued pursuant to this division; or

(4) Been previously adjudicated as a potentially dangerous animal under section 8-63 or similar definition by another other jurisdiction, and subsequently engaged in behavior ~~that poses a substantial threat to the public~~ described in section 8-63(a).

Section 10. Section 8-63 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-63. Potentially dangerous animals.

(a) *Potentially dangerous animal* means any animal, except an animal assisting a law enforcement officer engaged in law enforcement duties, that may be a threat to public safety as ~~may be demonstrated by any of the following behaviors:~~

(1) Causes any bodily injury less than serious bodily injury to any person, domestic animal, or livestock ~~at any place within the city;~~

(2) Without provocation, approaches any person in a menacing or terrorizing manner or in an apparent attitude of attack while off the owner's or keeper's property, ~~whether such person is in motion or standing still, and whether such person is on foot, on or in a vehicle or device which allows such person to be in motion;~~ or

(3) Attacks any person, domestic animal, or livestock who is lawfully on the owner's or keeper's property. For purposes of this section, a person is lawfully upon the premises of an owner or keeper when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.

(c) The affirmative defenses in section 8-61(d) shall also apply ~~in to~~ to this section.

~~(d) For purposes of this section, a person is lawfully upon the premises of an owner or keeper when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.~~

Section 11. Section 8-65 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-65. ~~Dangerous and potentially dangerous animal hearing.~~ – Reserved.

~~Upon motion by the city, the county court may determine ex parte whether reasonable grounds exist to find that an animal may constitute a danger to any person or persons if not~~

1 ~~impounded. If the court finds that reasonable grounds exist, the court may enter orders to have the~~
2 ~~animal seized and impounded or to extend the impoundment, until the completion of all legal~~
3 ~~proceedings to determine whether a violation of sections 8-61, 8-62, or 8-63 has occurred. If an~~
4 ~~animal is ordered to be impounded pursuant to this subsection, the owner or keeper of the animal~~
5 ~~shall have fourteen (14) days to request a hearing in the county court to review the order. The~~
6 ~~hearing shall be set within fourteen (14) days of the owner or keeper's hearing request.~~

7
8 **Section 12.** Section 8-72 of chapter 8 shall be amended by adding the language
9 underlined and deleting the language stricken to read as follows:

10 **Sec. 8-72. Keeping wild or ~~dangerous~~ hazardous animals prohibited.**

11 (a) It shall be unlawful for any person to own, possess, keep, maintain, feed, harbor,
12 transport or sell within the city any living wild or ~~dangerous~~ hazardous animal; provided, however,
13 that the following organizations or entities shall be exempt from this section:

14 (b) ~~Wild or dangerous~~ hazardous animal, for the purposes of this section, shall mean and
15 include any and all species of the following:

- 16 (1) ~~Poisonous or venomous~~ reptiles;
- 17 (2) Monitor lizards and ~~Tegu lizard~~ tegus;
- 18 (3) ~~Non-poisonous~~ venomous snakes with a length greater than six (6) feet;
- 19 (4) Crocodilians;
- 20 (5) ~~Poisonous~~ Venomous spiders;
- 21 (7) All species of nonhuman mammals except:

22 a. Domestic cat (*Felis catus*), however this exception shall not apply to any animal that
23 is the offspring (hybrid cross) of a domestic cat and any other species of cat unless the non-
24 domestic cat ancestor was of the Bengal cat (*Felis bengalensis*) species and that all ancestors of
25 the cat have lived in captivity for at least the preceding five (5) generations (~~F4~~);

26 (c) ~~Wild or dangerous~~ hazardous animal shall not include the domestic honey bee (*apis*
27 *mellifera*).

28
29 **Section 13.** Section 8-73 of chapter 8 shall be amended by adding the language
30 underlined and deleting the language stricken to read as follows:

31 **Sec. 8-73. Disposition of excrement.**

32 It shall be unlawful and deemed a public nuisance for any person who owns or keeps any
33 dog, cat, or other animal, including livestock:

(a) ~~To not to immediately remove excrement deposited by the animal upon a common thoroughfare, street, sidewalk, play area, park, or upon any private property when permission of the owner or tenant of the property has not been obtained, and such is hereby deemed to be a public nuisance and prohibited. Dog, cat, or other animal excrement shall not be placed in storm sewers, but may be placed in trash containers if contained in a closed plastic bag or other closed or airtight nonporous container.~~

(b) To dispose of animal excrement in an unsanitary manner, including placing animal excrement in storm sewers or street gutters. Animal excrement may be placed in trash containers if contained in a closed plastic bag or other closed or airtight nonporous containers; or

(c) To permit excessive excrement to accumulate on any property to the degree that it becomes offensive, injurious to health, or is the subject of complaints.

Section 14. Section 8-82 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-82. Unlawful accumulation of manure. – Reserved.

~~Any barn, pen, corral, coop, yard, or other enclosure or appurtenance thereof in which any animal, livestock or fowl shall be kept, or any other place within the city in which manure or other discharges of animals, livestock, or fowl shall accumulate, and which is maintained in any unsanitary condition, allowing an offensive odor to escape therefrom, allowing discharges to the storm drainage system of the city or providing an insect or rodent attractant, is hereby deemed a nuisance and prohibited.~~

Section 15. Section 8-83 of chapter 8 shall be amended by adding the language underlined to read as follows:

Sec. 8-83. Herding and grazing unlawful unless securely picketed or tied.

(b) The provisions of subsection (a) shall not be held to apply to any animal securely tied or staked on private property, with permission of the property owner, beyond the reach of any tree or ornamental shrub.

Section 16. Section 8-131 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-131. Cruelty to animals prohibited.

(c) It shall be an affirmative defense to subsection (a) of this section when ~~the act is a reasonable act of self defense or euthanasia under the supervision of a licensed veterinarian, or that the actual or intended victim of any attack:~~

(1) ~~Made an unlawful entry into the dwelling of the animal's owner or keeper;~~ The animal is humanely euthanized under the supervision of a licensed veterinarian; or

(2) ~~Made unlawful entry into a vehicle in which the animal was confined;~~ The person used physical force upon an animal in order to defend himself, a third person or other domestic animal or livestock from what he reasonably believes to be the use or imminent use of physical force by that animal, and he used a degree of force which was reasonably necessary for that purpose; however, this defense shall not apply to any physical force used against an animal engaged in law enforcement activities.

~~(3) Threatened or attacked an owner or keeper of the animal;~~

~~(4) Provoked, tormented, abused, or inflicted injury upon the animal in such a manner as to result in the attack or bite; or~~

~~(5) Attempted to assault another person.~~

Section 17. Section 8-132 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-132. Neglect of animals prohibited.

It shall be unlawful for any owner or keeper of any animal to fail to provide such animal with food ~~sufficient for the species, potable water, adequate shelter from the weather or veterinary care needed to prevent the animal from suffering~~ sufficient for the animal or immediate veterinary care if the owner or keeper of any animal knew or should have known that the animal was distressed, seriously ill or injured.

Section 18. Section 8-133 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-133. Abandonment.

(c) Notice prior to impoundment from place open to the public. In a place not otherwise open to public use, a conspicuous notice conforming with the requirements of section 8-150~~(b)~~(2) must be posted approximately every twenty-four (24) hours. When seventy-two (72) hours have passed, at least two (2) notices have been posted, and the animal has remained abandoned, the executive director is then authorized to impound the animal.

Section 19. Section 8-148.5 of chapter 8 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 8-148.5. Costs of impoundment, provision, and care – ~~Disposition—Procedures for impounded animals impounded due to criminal conduct~~ Right to Hearing on costs.

(a) When an animal has been impounded by Denver Animal Protection and such animal is the subject of criminal investigation or prosecution for neglect, abuse, or cruelty pursuant to state law or for charges of:

- (1) ~~c~~Cruelty to animals pursuant to section 8-131;
- (2) ~~n~~Neglect pursuant to section 8-132;
- (3) ~~a~~Abandonment pursuant to section 8-133;
- (4) ~~k~~Keeping place for fighting animals pursuant to section 8-134;
- (5) ~~u~~Unlawful animal attack or bite pursuant to section 8-61; or
- (6) ~~u~~Unlawful ownership of a dangerous animal or a potentially dangerous animal pursuant to sections 8-62 or 8-63;

~~t~~The owner or keeper of the animal must submit payment for impoundment, care, and provision costs to Denver Animal Protection in an amount determined by Denver Animal Protection to be sufficient to provide for the animal's care and provision for at least thirty (30) days, including the day on which the animal was taken into custody.

(b) The owner or keeper must file the payment:

(1) Within ten (10) days after the animal is impounded; or

(2) ~~If the owner or keeper requests a hearing pursuant to subparagraph paragraph (c) of this section, as ordered by the court, not to exceed ten (10) days from the hearing date~~ No more than ten (10) days after the hearing date, if the owner or keeper requests a hearing pursuant to subparagraph paragraph (c) of this section, as ordered by the court.

(c) Within ten (10) days after the date of impoundment, the owner or keeper may request a hearing in the county court regarding costs of impoundment, provision, or care. The owner or keeper must provide written notice of the hearing request to Denver Animal Protection and the city attorney. If the owner or keeper requests a hearing, the court shall hold the hearing within ten (10) days after the request is made except as provided in this subsection (c):

(1) If the hearing is continued, the court shall make written findings of fact and conclusions of law as to the necessity for the continuance.

1 (2) If the court determines that the facts and circumstances present good grounds to warrant
2 an additional delay, the court may allow only one continuance per party, not exceeding seven (7)
3 days per continuance.

4 (e) The executive director may, in the executive director's discretion, waive or reduce
5 any and all fees as authorized under section 8-9. If the owner or keeper fails to request a waiver,
6 request a reduction, or pay the applicable impoundment, care, and provision costs, the owner or
7 keeper forfeits the right to contest such costs and forfeits any ownership rights to the animal in
8 question.

9 (f) If, in the opinion of a licensed veterinarian or executive director, an impounded
10 animal is experiencing extreme pain or suffering or is severely injured past recovery, severely
11 disabled past recovery, or severely diseased past recovery, the animal may be ~~ethanized~~
12 disposed.

13
14 **Section 20.** Section 8-150 of chapter 8 shall be amended by adding the language
15 underlined and deleting the language stricken to read as follows:

16 **Sec. 8-150. Notification and opportunity of a hearing for owner of impounded animal.**

17 (a) Notice.

18 ~~(1)(a)~~ Upon the ~~impounding~~ impoundment of any animal, which is not the subject of a
19 criminal case, it shall be the duty of the executive director to notify the owner from whom the
20 animal was taken, if the owner is known. If the owner is not known, there shall be posted at the
21 Denver Animal Shelter and animal protection's website for a period of not less than three (3) days
22 a notice containing a description of the animal impounded. For purposes of this notification
23 requirement, a fraction of a day shall be computed as being a full day.

24 ~~(2)(b)~~ In addition to the requirements of ~~subsection (a)~~ paragraph (1) of this sub-section,
25 when an animal is impounded pursuant to subsection 8-148(a)(1) for cruelty or subsection 8-
26 148(a)(2) for neglect, if an owner or keeper is not notified at the time of impoundment, the
27 executive director shall post a conspicuous notice at the location of impoundment indicating: the
28 animal has been impounded by Denver Animal Protection, the reason(s) why the animal was
29 impounded, the time and date of impoundment, and the address and phone number where the
30 animal is impounded.

31 ~~(3)(c)~~ In addition to the requirements of ~~subsection (a)~~ paragraph (1) of this sub-section,
32 when an animal is impounded pursuant to subsection 8-148(a)(3) for abandonment, the executive
33 director shall also comply with the notice provisions of section 8-133.

1 (bd) Administrative Hearing.

2 When the executive director has impounded any animal pursuant to this article, and the
3 owner of such animal disputes the reason for impoundment, the owner of such animal may file a
4 written petition with the executive director for an administrative hearing concerning the reason for
5 impoundment no later than five (5) days after impoundment. If the owner prevails, the animal shall
6 be returned to the owner and the owner shall not be required to pay a shelter impound fee or
7 maintenance or boarding fee.

8 (c) Court Proceedings.

9 (1) When an animal has been impounded by Denver Animal Protection and such animal
10 is the subject of a criminal investigation or prosecution for neglect, abuse, or cruelty pursuant to
11 state law, or for charges of:

12 a. Cruelty to animals pursuant to section 8-131;

13 b. Neglect pursuant to section 8-132;

14 c. Abandonment pursuant to section 8-133;

15 d. Keeping place for fighting animals pursuant to section 8-134;

16 e. Unlawful animal attack or bite pursuant to section 8-61; or

17 f. Unlawful ownership of a dangerous animal or a potentially dangerous animal
18 pursuant to section 8-62 or 8-63 then the animal shall not be released from impoundment except
19 on the order of the court as provided in this section, upon stipulation of the parties or as provided
20 by section 8-153. The court may, upon making a finding that the alleged owner has failed to
21 appear for any court date, order the animal to be surrendered to Denver Animal Protection.

22 (2) Within ten (10) days after the date of impoundment, the owner or keeper may request
23 a hearing with the court to determine disposition of the animal. The request for a hearing must
24 meet the requirements of subsection (3) of this section. Failure to file, set a hearing, and have the
25 motion heard and determined as provided in this section shall constitute a waiver of the motion and
26 the owner or keeper forfeits any ownership rights to the animal in question.

27 (3) To request a hearing, the owner or keeper shall:

28 a. Provide written notice of the hearing request to Denver Animal Protection and
29 the city attorney; and

30 b. State specifically the factual and legal grounds upon which it is based, and
31 only those grounds may be considered at the hearing.

32 (4) If the owner or keeper perfects their right to a hearing, the court shall hold the hearing
33 within ten (10) days after the request is made, except as provided in this subsection (c):

1 a. If the hearing is continued, the court shall make written findings of fact and
2 conclusions of law as to the necessity for the continuance.

3 b. If the court determines that the facts and circumstances present good grounds
4 to warrant an additional delay, the court may allow only one continuance per party, not exceeding
5 seven (7) days per continuance.

6 (5) At the hearing, the court shall determine whether there was probable cause for the
7 impoundment.

8 a. The court shall temper the rules of evidence and shall not consider whether
9 any affirmative defenses may exist.

10 b. If probable cause exists for the impoundment, the animal shall not be
11 released to the owner or keeper and shall remain impounded until a trial on the merits, dismissal of
12 the charges, or upon the stipulation of the parties.

13 (6) The court may order Denver Animal Protection to return to the owner or keeper the
14 animal in-question if the animal is still in the possession of Denver Animal Protection and:



15 a. The court finds no probable cause after a hearing provided by this section;

16 b. The criminal charges are dismissed by the prosecution; or

17 c. The trier of fact, after trial, enters a verdict of not guilty for all charges related
18 to the original impoundment of the animal.

19 (7) If, in the opinion of a licensed veterinarian or executive director, an impounded
20 animal is experiencing extreme pain or suffering or is severely injured past recovery, severely
21 disabled past recovery, or severely diseased past recovery, the animal may be dispositioned
22 without a court order.

1
2 COMMITTEE APPROVAL DATE: May 10, 2023
3 MAYOR-COUNCIL DATE: May 16, 2023
4 PASSED BY THE COUNCIL: June 5, 2023

5  _____ - PRESIDENT
6 APPROVED:  _____ - MAYOR Jun 6, 2023
7 ATTEST: _____ - CLERK AND RECORDER,
8 EX-OFFICIO CLERK OF THE
9 CITY AND COUNTY OF DENVER

10 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;

11 PREPARED BY: Lee Zarzecki, Assistant City Attorney DATE: May 18, 2023

12 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
13 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.

16 Kerry Tipper, Denver City Attorney

17 BY:  _____, Assistant City Attorney DATE: May 17, 2023