



Legislation Text

File #: 23-0539, Version: 1

Other/Miscellaneous Request Template (Appointments; ROW; Code Changes; Zoning Action, etc.)

Date Submitted: 5-1-2023

Requesting Agency: DDPHE
Division:

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Item Title & Description:

(Do not delete the following instructions)

*These appear on the Council meeting agenda. Initially, the requesting agency will enter a 2-3 sentence description. Upon bill filling, the City Attorney's Office should enter the title above the description (the title should be in **bold** font).*

*Both the title and description must be entered between the red "title" and "body" below. Do **not** at any time delete the red "title" or "body" markers from this template.*

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

Amends Chapter 8 and makes conforming amendments to Chapters 2 and 24 of the Denver Revised Municipal Code regarding animal safety to clarify language and to reflect current best practices meant to protect public safety, health and the environment. The Committee approved filing this item at its meeting on 5-10-2023.

Affected Council District(s) or citywide? Citywyide

Executive Summary with Rationale and Impact:

Detailed description of the item and why we are doing it. This can be a separate attachment.

In 2018 there was a complete overhaul of the Denver Revised Municipal Code Chapter 8 because much of the chapter had not been updated since the 1950s. Major portions of the code were outdated and did not reflect current best practices. In addition to updating the code language to reflect best practices, that prior amendment clarified and cleaned up language to reduce possibility of misinterpretation. During the review process, DAP convened a stakeholder group who assisted in building a more comprehensive approach to the community's concerns regarding the ordinance.

Primary updates in 2018 were as follows:

- to expand the public's ability to enforce barking dog violations by creating a lesser standard for proof which could be enforced with a civil penalty,
- adding tethering into our cruelty ordinance,
- creating a requirement to provide necessary veterinary care to animals to prevent suffering,
- adding a component to abandonment to encompass abandonment in a public place,
- making it unlawful to feed wildlife,
- creating consistent language throughout the chapter regarding terms identifying Animal Protection and its staff,
- creating a tiered approach to managing aggressive animals,
- adding needed definitions,
- and creating an ordinance that mirrored the state statute outlining an owner's obligations and rights when an animal is impounded as part of a criminal case.

Since the chapter was revised in 2018, several items have come up either in court process or in conversations with the public that makes additional revisions necessary. These revisions are intended to provide further clarity that is completely consistent with prior stakeholder meetings and intended resulting amendments to the municipal code in order to protect public safety, public health, and the environment; these updates are intended to align the letter of the ordinances with the spirit that was envisioned in 2018. This effort is truly cleaning up language and clarifying finer points of the chapter to be clearer; there is nothing in the revisions which will change rights of pet owners - if anything, their rights to contest actions of the city have been made more explicitly clear.

Denver Animal Protection requests the following changes to Chapter 8 of the Denver Revised Municipal Code:

- Section 8-2 Definitions - Added a definition of provoke which mirrors the definition in the Colorado Revised Statutes
- Section 8-7 Interference - Removed "affirmative defense" language which was redundant in the ordinance
- Section 8-9 Fees - updated section to be consistent with Denver Department of Public Health and Environment Board Rules and Regulations as well as Chapter 2 of the Denver Revised Municipal Code.
- Section 8-10 Appeal to Board of Public Health and Environment - Ordinance added to codify pet owner's rights to appeal any order or notice issued by the department and creates consistency with the Department of Public Health and Environment Board Rules and Regulations.
- Section 8-31 Rabies Required - add in language to allow vaccinations to be administered by an individual under the supervision of a licensed veterinarian. This language makes city ordinance consistent with recent update to the Colorado Veterinary Practice Act that occurred in 2022.
- Section 8-46 License Required - remove Latin terms for animals and refer to domestic dog or cat.
- Section 8-61 Animal Attack or Bite - updated affirmative defense language to reflect consistency with similar laws in the Colorado Revised Statutes. Added language to include "provoked" and "unlawful physical force" which have common legal definitions that are easily interpreted by the courts.
- Section 8-62 Dangerous Animals - Added language to include animals that have been declared dangerous in other jurisdictions being prohibited in Denver
- Section 8-63 Potentially Dangerous Animals - defined in ordinance what "lawfully on the premises of an owner or keeper" means.
- Section 8-65 Dangerous and Potentially Dangerous Animal Hearing - Repealed this ordinance in its entirety. Timelines and processes set forth are in conflict with Section 8-148.5. Sections 8-148.5 and 8-150 have, in tandem, been updated to include the intents of this section in outlining an owner's right to contest impoundment of their animal.
- Section 8-72 Keeping Wild or Hazardous Animals Prohibited - updated section name (replaced "dangerous" with "hazardous") so as not to seem to provide two definitions of "dangerous animal" in the chapter. Updated language throughout section to reflect proper uses of "poisonous" and "venomous" dependent on species.
- Section 8-73 Disposition of Excrement - This section has been combined with what is currently Section 8-82 Unlawful Accumulation of Manure so that all requirements for proper management of animal waste is in one place in the chapter.
- Section 8-83 Herding and Grazing Unlawful Unless Securely Picketed or Tied - added clarifying language that people need permission of the property owner to stake out livestock.

- Section 8-131 Cruelty to Animals Prohibited - amended affirmative defenses to be consistent with other affirmative defense language in the chapter and “physical force” language consistent with similar state statutes and affirmative defenses.
- Section 8-132 Neglect of Animals Prohibited - amended “adequate shelter from the weather” to say “adequate shelter sufficient for the animal, and amended “veterinary care needed to prevent the animal from suffering” to say “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”. These language changes make the language more concrete and easily interpreted by members of the public.
- Section 8-148.5 Costs of Impoundment, Provision and Care - Right to Hearing on Costs - There were several edits to this ordinance. They are as follows:
 - Amended subsection (b)(2) to be written in more clear language. Intent of this provision did not change at all. Still requires payment within 10 days, same as current ordinance language.
 - Amended subsection (c) to include language of intent of hearing “regarding costs of impoundment, provision, or care”.
 - Added revisions to subsection (c) to outline process for the courts, consistent with similar “probable cause” hearing language elsewhere in the Municipal Code and the Colorado Revised Statutes.
- Section 8-150 Notification and Opportunity of a Hearing for Owner of Impounded Animal - There were substantial revisions to this ordinance. They are as follows:
 - Amended subsection (a) to codify notification requirements of the department to animal owners in various circumstances, including when an animal is not the subject of a criminal investigation, when the animal is removed for cruelty or neglect, and when an animal is removed for abandonment.
 - Amended subsection (b) to codify the right of pet owners to contest the impoundment of an animal, which is not the subject of a criminal investigation, and affords the pet owner the right to an administrative hearing.
 - Amended subsection (c) for court proceedings (this section of 8-150 replaces what was formerly 8-65 and moves the hearing language that exists in 8-148.5 here as well to streamline hearing rights and process for pet owners and court officials).
 - The primary language change is that there is added language not formerly in Chapter 8 in any of the sections that if an owner fails to appear, the courts may make a determination that the owner has abandoned their animal, and the animal may be surrendered to Animal Protection. This is meant to clarify authority of the courts - many animals languish for 6 months or more because their owner requests a hearing and then never appears in court for any of the scheduled court dates.
 - Additionally, the language in subsection (c) outlines rules of procedure for court officials, consistent with other Municipal Code sections and Colorado Revised Statutes related to “probable cause” type hearings. This includes rules of evidence, outlining when release or continued impoundment is appropriate, and limits the scope of the hearing so that the entire case is not litigated twice (once at the hearing and again at trial).

Address/Location (if applicable):

Legal Description (if applicable):

Denver Revised Municipal Code (D.R.M.C.) Citation (if applicable):

Draft Bill Attached?