



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 1, 2014

AGENDA TITLE:

Consideration of a motion to adopt Ordinance No. 7967 amending Sections 4-20-60, “Voice and Sight Control Evidence Tag Fees,” 6-1-16, “Dogs Running at Large Prohibited,” 6-13-2, “Voice and Sight Control Evidence Tag Required,” 6-13-4, “Voice and Sight Control Evidence Tag Requirements,” and 6-13-5, “Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations,” and adding a new Section 6-13-4.5, “Terms of Voice and Sight Control Evidence Tag,” B.R.C.1981, and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Michael D. Patton, Director, Open Space and Mountain Parks
Stephen B. Armstead, Environmental Planner, Open Space and Mountain Parks
Janet T. Michels, Sr. Assistant City Attorney

EXECUTIVE SUMMARY

The purpose of this memorandum is to present the second reading of recommended changes to the Boulder Revised Code 1981 (B.R.C.) relevant to the Voice and Sight Tag (Tag) Program. These changes result from an 18-month evaluation of the Tag Program and integrate City Council, Open Space Board of Trustees (OSBT), community and staff recommended changes. This memo covers the changes which require City Council adoption of amendments to the B.R.C (see Attachment A). The B.R.C changes involve:

1. Program Application Prerequisites:
 - a. Attendance at an information class or session, and
 - b. Verification of City of Boulder dog license or rabies vaccination;
2. Annual Program Renewal Requirement and Fee Establishment;
3. Fines;

4. Violations Affecting Suspension of Privileges; and
5. Reinstatement.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance No. 7967 ordering amending Sections 4-20-60, “Voice and Sight Control Evidence Tag Fees,” 6-1-16, “Dogs Running at Large Prohibited,” 6-13-2, “Voice and Sight Control Evidence Tag Required,” 6-13-4, “Voice and Sight Control Evidence Tag Requirements,” and 6-13-5, “Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations,” and adding a new Section 6-13-4.5, “Terms of Voice and Sight Control Evidence Tag,” B.R.C.1981, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Overall economic impacts on the business community are unknown. Businesses and organizations providing dog training services may benefit from dog guardians who seek training services to improve their ability to comply with voice and sight control requirements.
- Environmental: The Tag Program was identified in the Visitor Master Plan (VMP) as a way to increase the level of compliance with voice and sight requirements thereby reducing adverse effects to Open Space and Mountain Parks’ (OSMP) ecological and agricultural resources.
- Social: Revisions to the Tag Program are intended to support changes that will retain voice and sight control opportunities and reduce illegal or disruptive behaviors that diminish the quality of the visitor experience.

OTHER IMPACTS

- Fiscal: Budgetary impacts to the city will depend upon enrollment in the program, which is designed to be “cost-neutral” based upon enrollments of approximately 20,000 individuals and their dogs.
- Staff time: Additional and significant staff resources would be required by the proposed program changes. Those additional FTEs for OSMP are included in the “cost-neutral” projections and fee structure.

BOARD AND COMMISSION FEEDBACK

The OSBT considered staff's proposed changes to the Tag Program at a public hearing on April 10, 2013 and fee changes on May 8, 2013. All proposed changes passed unanimously with the OSBT making two changes. A change passed by split vote (two dissenting votes) regarding suspension after a single conviction of Section 6-1-20, "Aggressive Animals Prohibited," Section 8-3-5, "Wildlife Protection," or a violation of the city manager's rules involving wildlife protection authorized by section 8-3-3, "City Manager May Issue Rules." A split vote (one dissenting vote) occurred with the OSBT recommendation of suspension of voice and sight privileges following two convictions in a period of two years for the following: Section 6-1-16, "Dogs Running at Large Prohibited," Section 6-1-18, "Removal of Animal Excrement Required," Subsection 6-13-2(b), "Voice and Sight Control Evidence Tag Required," and violations of the city manager's rules not involving wildlife protection authorized by Section 8-3-3, "City Manager May Issue Rules."¹ Minutes from the meetings can be found at: <https://documents.bouldercolorado.gov/weblink8/Browse.aspx?startid=41596&row=1&dbid=0>.

PUBLIC FEEDBACK

OSMP has received over 300 comments from the public about the Tag Program and has held two open houses (May 24 and 30, 2012), as well as five public hearings for community members to provide input on the evaluation and proposed program changes. A compendium of these comments can be found at: <http://bouldercolorado.gov/links/fetch/13869>.

Attachment B contains a "timeline" of significant OSBT, council and community considerations of this matter.

BACKGROUND

The Tag Program was described in the 2005 VMP as experimental. The program was implemented adaptively (per the guiding principles of the VMP) with the objectives of improving awareness of the requirements of voice and sight control and improving compliance with voice and sight control regulations. A monitoring component was included with the implementation of the program to provide information about whether the program was successfully achieving its objectives.

Staff evaluated changes for several reasons:

- City Council identified the Tag Program among a number of overarching issues for OSMP staff review in response to concerns about the long-term sustainability of visitor services and environmental resources,
- The OSBT recommended that staff examine potential revisions to the Tag Program,
- Dog and off-leash related conflicts remain one of the top sources of conflict reported by visitors to OSMP, and
- Monitoring concluded that several compliance factors revealed results lower than standards set in the VMP and that these measures did not show decreases in indices of conflict over time.

¹ After council discussed these OSBT recommendations on June 18, 2013, staff removed strikes for violations of Section 6-1-18, "Removal of Animal Excrement Required," from the proposed ordinance.

The staff evaluation of the Tag Program was based on monitoring results and subsequent discussion with OSBT and council, as well as feedback from the public and stakeholder groups. That evaluation and feedback led to the development of program improvement options several of which require changes to the B.R.C.

OSMP and the OSBT have undergone an extensive process to review potential program revisions and provide opportunities for community input. The process has included two community open houses, four OSBT study sessions, a study session with City Council and three public hearings where the OSBT took action on recommendations to City Council. In addition, OSMP staff coordinated with the City Attorney's Office, Municipal Courts as well as the Parks and Recreation, Finance and Police departments.

The staff /OSBT proposal to City Council was modified in response to council feedback provided on May 21, 2013. Staff explained these changes in an information packet submitted to council on June 18, 2013 and found at:

<https://documents.bouldercolorado.gov/weblink8/0/doc/123061/Electronic.aspx> .

ANALYSIS

Summary of Recommended Program Changes

The recommended revisions to the Tag Program include the following changes:

1. *Information Session*: Require Tag Program participants to attend an information session ensuring greater awareness of the program requirements, goals and objectives.
2. *Proof of Rabies Vaccination*: Require current rabies vaccination for a dog's participation in the Tag Program and City of Boulder residents to provide a valid Boulder dog license as proof of vaccination and compliance with the city's license requirement.
3. *Education and Outreach Strategies*: Implement education and outreach strategies to encourage compliance with the program requirements and share information about how guardians can successfully manage dogs under voice and sight control.
4. *Modifications to Fines and Violations Causing Privilege Suspension*:
 - a. Increase fines for failure to have a voice and sight tag on an off-leash dog and for voice and sight and off-leash dog violations.
 - b. Specify dog-related violations that contribute to the loss of Tag Program privileges including violations that cause suspension of privileges after one or two convictions.
 - c. Clarify the process for reinstatement after privileges have been suspended.
5. *Participant Registration and Renewal Fees*: Revise program fees including different fees for those residing outside of the City of Boulder and Boulder County and the addition of an annual renewal fee to cover program costs.

A detailed list of recommended program improvements is available in Attachment C. Numbers 1, 2, 4 and 5 above require council action in the form of ordinance amendments.

On May 21, 2013 council requested that staff provide those specific B.R.C. changes in a form from which council could make a final decision. Therefore, staff requests council approval of the following B.R.C. amendments summarized below and provided in detail in Attachment A.

B.R.C. Section	Recommendation
4-20-60 Voice and Sight Control Evidence Tag Fees.	<ul style="list-style-type: none"> • Establishes that program application fees will be set by city manager rule pursuant to Section 8-3-3, “City Manager May Issue Rules,” B.R.C. 1981.
6-13-2 Voice and Sight Control Evidence Tag Required.	<ul style="list-style-type: none"> • Increases maximum penalties to \$100 (1st conviction), \$200 (2nd conviction), and minimum \$300 (3rd conviction) within a two-year timeframe. • Allows for affirmative defense for first violation when a lawful participant in the Tag Program inadvertently fails to display a tag on his/her dog(s).
6-13-4 Voice and Sight Control Evidence Tag Requirements.	<ul style="list-style-type: none"> • Requires valid City of Boulder dog license for city residents, or proof of vaccinations for non-residents. • Requires attendance at an informational session for all guardians prior to applying for participation in the Tag Program and within the past five years for renewing participation.
6-13-4.5 Terms of Voice and Sight Control Evidence Tag.	<ul style="list-style-type: none"> • Establishes an annual renewal requirement and a Dec. 31, 2014 enrollment deadline for current Tag Program. Participants to comply with program requirements
6-13-5 Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations.	<ul style="list-style-type: none"> • Establishes immediate suspension of privileges after one conviction of any of the following violations: <ul style="list-style-type: none"> ○ Aggressive Animal Prohibited ○ Failure to Protect Wildlife (or Livestock) • Establishes suspension after 2nd conviction within two years for any of the following violations: <ul style="list-style-type: none"> ○ Section 8-3- 3 “City Manager May Issue Rules,” pertaining to dog management specifically enacted for protection of wildlife and a dog off leash in a leash-required or dog-prohibited area. ○ Section 6-1-16, "Dogs Running at Large Prohibited," pertaining to dogs running at large on OSMP or on other city lands where voice and sight control is allowed. Excludes violations for not having possession of a leash. • Revises reinstatement by removing requirement to repay application fee, continue requiring the reinstatement fee and successful completion of an evaluation test and adds the requirement to repeat attendance of the information session. • Establishes that a guardian who has two suspensions in three years or who has three suspensions will be ineligible for reinstatement for a period of time to be determined through an administrative hearing. • Establishes a minimum one-year suspension for continued violations of Section 6-1-16, “Dogs Running at Large Prohibited,” when privileges have already been suspended.

B.R.C. Section	Recommendation
6-1-16 Dogs Running at Large Prohibited.	<ul style="list-style-type: none"> Establishes, within a two-year time frame, maximum penalties of \$100 (1st conviction), \$200 (2nd conviction), and minimum of \$300 (3rd conviction). Establishes minimum \$300 penalty for having dog off leash while under suspension. Includes violations of the city manager’s rules that affect program privilege suspension so that staff can feasibly assess prior violations.

Responses to Council Questions

The first reading memo for the March 5, 2014 council meeting resulted in questions from council members. Several of those questions and staff answers are included below. A compilation of council member Hotline questions and staff responses is available at the following link: <http://bouldercolorado.gov/links/fetch/20424> .

1. What statistics do we have that would document Code or Rule infractions on Open Space—infractions by all users?

Staff Response: OSMP tracks the number of citations issued by rangers. The following table summarizes the citations issued by rangers during 2013 for activities on OSMP.

2013 OSMP Infractions	Number
No voice and sight control tag for off-leash dog	123
Dog off-leash in leash required area	86
Dog out of voice and sight control	73
Dogs prohibited	26
Dog at large-general	12
Camping	57
Tent Structure	41
Aggressive animal	7
Failure to remove animal excrement	7
Mountain biking prohibited	4
Failure to protect wildlife	2
Hot air balloons prohibited	2
Permit required for commercial use	3
Use of horse (livery) without a permit	1
Discharging firearm	1

2. What is the annual cost of the current Green Tag program, and how does that compare to the additional proposed cost of the revised Green Tag program?

Staff Response: Implementing the existing Tag Program occurred over a two-year timeframe from 2005-2006. After program implementation, annual program operating expenses remained fairly steady. The process to make the proposed revisions to the Tag Program will follow a similar approach with implementation occurring over a two-year

period (2014-2015) then transitioning to more consistent operating expenses after implementation. The table below summarizes and compares the program implementation and ongoing annual operation expenses of the existing program with the proposed revised program. For the purposes of the cost estimate, one full time equivalent (FTE) is equal to 2,080 hours of staff time.

OSMP Costs and Staffing Needs

	Equipment, Materials and Services	Seasonal Staff (FTEs)	Standard Staff (FTEs)
Implementation Costs			
Existing Program — Implementation (2005-2006)	\$67,800	1.3 FTEs	2.6 FTEs
Proposed Revised Program — Implementation (2014-2015)	\$201,630	4.5 FTEs	3.9 FTEs
Annual Operating costs			
Existing Program — Annual Costs Post Implementation	\$3,450	-	.5 FTE
Proposed Revised Program — Annual Costs Post Implementation	\$25,190	1 FTE	.8 FTE

The OSBT and City Council both supported a cost recovery model for the Tag Program. The three-tiered fee structure based upon residency is structured to achieve cost recovery. Increased registration fees coupled with a requirement for periodic renewal were modeled to generate program revenues adequate to cover program costs. The program cost estimates used information that anticipated a 2014 start date. Costs may change in response to council-directed revisions and the later (2015) start date.

Substantial staff time is required to plan, coordinate and implement the recommended Tag Program changes. During 2014, staff will develop systems to administer the revised program and integrate information from the Tag Program with dog license information as well as to design and schedule presentations of the education session. Under the proposed recommendations, changes will become effective in 2015. After full implementation in 2015, staff predicts annual costs and staffing needs will be substantially reduced and remain relatively constant.

Implementation will be a high priority for the department, and existing staff will be assigned to assist with the Tag Program. Approximately half of the needed positions can be allocated from existing staff. Staff estimates that over the two-year time frame approximately 8.4 FTEs or \$532,000 of standard and seasonal OSMP staff time will be necessary to develop, coordinate and implement the proposed program revisions. This estimate includes approximately 4.4 FTEs (\$295,000) to prepare program changes in 2014 and 4.0 FTEs (\$237,000) for first year administration of the revised program. These costs represent the actual staff costs necessary to achieve cost recovery. Actual new seasonal positions

necessary for implementation include an additional 2 FTEs (\$87,000) in 2014 and 2.5 FTEs (\$109,000) in 2015.

Non-personnel program costs are estimated at \$201,630 for the first two years and \$25,190 annually thereafter. These expenses include revisions to the online registration and record management system and links to the city’s dog license program, space and supplies for the education sessions, new information and regulation signs, and other materials and supplies.

3. *Isn’t it true that Voice and Sight Control privileges only exist on certain Open Space land, and that Voice and Sight Control privileges do not apply to city land that is not part owned or managed by Open Space?*

Staff Response: There are three city-owned areas where voice and sight control is allowed which are *not* part of the Open Space and Mountain Parks system: areas near Boulder Reservoir, Coot Lake and the dog park at Howard Hueston Park.

4. *Is it correct to say, then, that having an unleashed dog in a city park where leashes are required does NOT count as a violation?*

Staff Response: No. Currently, this violation counts as a strike towards the suspension of privileges. Please see B.R.C. 6-13-5(a). Under the proposed ordinance, it will not count as a strike.

5. *We have heard from so many dog guardians that they fear chasing a squirrel up a tree would cause them to lose privileges for their pet, can staff draft an exception for chasing a squirrel up a tree?*

Staff Response: Staff would like to draw attention to two points regarding concerns expressed about a dog “chasing a squirrel up a tree” and the loss of voice and sight privileges. First is a clarification of wildlife protection laws, enforcement and links to suspension of privileges. Second is a clarification of the ecological significance of wildlife protection laws.

1) Wildlife Protection Laws — The importance of protecting wildlife from dogs harassing (which includes chasing) wildlife is codified in state law, which the Boulder Revised Code parallels as shown in the table below. The state statute defines “harass”. Although city code does not include this definition, rangers base their enforcement on behavior consistent with the state definition. As well, the state definition would be presented as persuasive authority to a judge or jury if a charge were to go to trial.

Colorado Revised Statutes (C.R.S.) 33-6-128. Damage or destruction of dens or nests - harassment of wildlife	Boulder Revised Code (B.R.C) 8-3-5. Wildlife Protection.
(2) Unless otherwise allowed by commission rule or regulation, it is unlawful for any person to knowingly or negligently allow or direct a dog which he owns or which is under his control to	No owner or keeper of a dog shall negligently allow or direct such dog to harass wildlife or livestock, whether or not the wildlife is actually injured by such dog, within any park, recreation area, or open space, or other

<p>harass wildlife, whether or not the wildlife is actually injured by such dog. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars.</p> <p>33-1-102 (24) "Harass" means to unlawfully endanger, worry, impede, annoy, pursue, disturb, molest, rally, concentrate, harry, chase, drive, herd, or torment wildlife.</p>	<p>property of the city, including, without limitation, any street or other right of way controlled or maintained by the city. This prohibition does not apply to any lessee of such property using a working dog to control livestock on the leasehold.</p>
--	--

In the proposed changes to the Tag Program, the first conviction of B.R.C. 8-3-5 violations after court proceedings would cause suspension of voice and sight privileges. It is important to note that charges for this violation must be for incidents where the guardian negligently allowed or directed a dog to harass wildlife or livestock. The standard for “negligence” is whether the dog guardian failed to exercise the degree of care that would be exercised by the ordinarily reasonable and prudent inhabitant of the city under the same or similar circumstances. Please see, B.R.C. 1-2-1(b). Rangers issue citations for these incidents when they determine there is negligence in dog control. Moreover, guardians charged with this violation have the right to demand a trial, where the city would be required to prove this alleged negligence beyond a reasonable doubt.

Voice and sight control per the city’s code requires that guardians must prevent their dogs from engaging in the behavior of “Chasing, harassing or disturbing wildlife or livestock.” The proposed changes to the Tag Program recommend including convictions of the voice and sight control (6-1-16) offense among those offenses where two convictions in two years would cause suspension of privileges. Rangers may issue a Voice and Sight (6-1-16) violation in addition to charges for Failing to Protect Wildlife (8-3-5) or instead of charges for 8-3-5 where incidents do not meet the negligence standard required in 8-3-5 but where the guardian was unable to use voice and sight control to prevent disturbance to wildlife.

2) Significance of Dogs Chasing Wildlife — Unlike humans and their pets, wildlife does not have the luxury of leisure time, and all activities can be crucial to their survival. Harassment or chasing disrupts required maintenance activities such as feeding, resting, tending to young, courtship or predator avoidance. It causes changes in physiology and behavior, and takes time away from these necessary activities. Dogs, which are seen as predators to wildlife, force wildlife movement. This movement causes avoidable energy expenditure and may take them outside their home territory, take them away from nests or young, advertise their location or the location of their young to a natural predator, or take them into an area where they may face a threat from other individuals of their species. This unnecessary energy expenditure may directly conflict with overwinter survival strategies, their ability to provide for their young or respond to other stressors in the environment including weather, predators or disease.

Dogs can be directly or indirectly responsible for wildlife mortality. Indirect effects may be unseen by the dog's human companion, but are nonetheless significant for wildlife. Cumulative stressors (i.e., deep snow, flooding, extreme weather, food shortages, low temperatures, disease) act to depress body condition. Harassment by dogs may be the (avoidable) difference between life and death for some animals, especially in already-stressed individuals.

Because wildlife potentially face so many cumulative challenges to their survival or ability to successfully reproduce, it is important for guardians to prevent the avoidable and additional stress of wildlife being chased or harassed by dogs. Avoiding this unnecessary stress will help give the wildlife the best chance to respond to natural challenges and survive while successfully raising offspring that will contribute to the next generation - leading to healthy wildlife populations on OSMP.

6. *Would it be possible to provide annual data on the number of trails or trail miles available by user types (hikers, bikers, horses and dogs with green tag) since the inception of the green tag program or for a period long enough to identify a trend? And as a companion set of data to this, overlaid on the same graph, the cumulative number of green tags issued for the same period?*

Staff Response: The annual total of trail miles available for hikers, bikers, horses and voice and sight control is provided below. Annual mileage totals include changes in management, new trail construction and changes to trail alignments. Mileage totals do not include trail and management changes approved in Trail Study Area plans that have not yet been implemented.

Miles of trail available on OSMP for four different activities from 2005 through 2014.

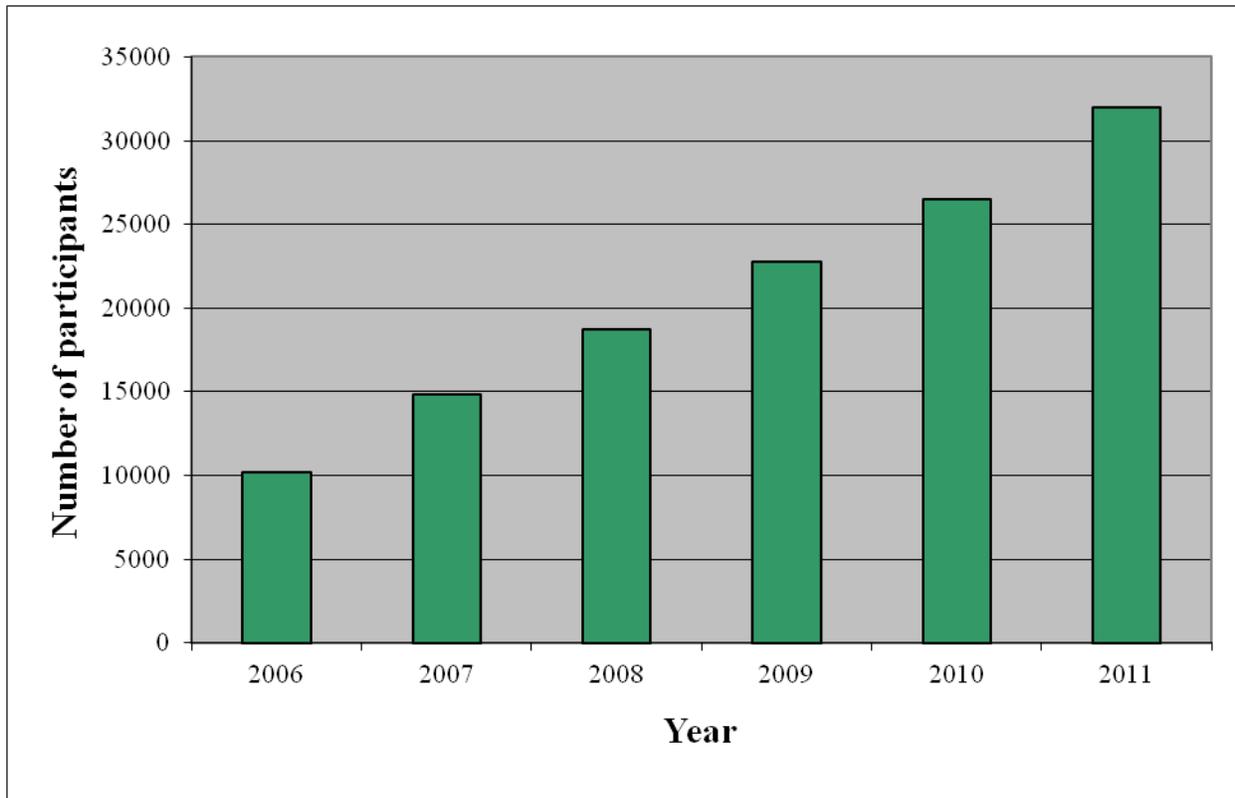
Activity	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Hikers	126	128	130	133	139	141	142	142	145	145
Bikes	35	36	37	41	48	49	49	49	52	52
Horses	120	120	124	127	133	136	136	136	139	140
Voice and Sight Control Trails	93	82	83	84	88	87	87	87	86	87

The change in voice and sight control trails from 2005 to 2006 is a result of implementing several Habitat Conservation Areas and dog management changes included in the 2005 Visitor Master Plan.

Approximately 32,000 participants from 18,000 households have registered in the Voice and Sight Program from its start in 2006 through 2011. During the same period, just over 29,000 tags have been distributed. The number of participants in the program has grown at a relatively steady rate, adding about 4,000 participants annually after the initial year, when approximately 10,000 participants registered. As of 2012, 41 percent of the households in the Tag Program are registered to mailing addresses within the City of Boulder and 59 percent are registered to addresses outside city limits.

When approved in the VMP, council wanted the program to be a one-time sign up. Consequently, the program does not include a process for updating participant information or renewing tags and it is likely that some registered participants and tags are no longer active.

Some of the tags may include replacement tags and do not accurately represent the number of dogs participating in the program. Therefore staff believes the number of participants and households registered, or tags issued, may overestimate the actual number of participants currently active in the program. Annual numbers of participation in the program were reported in the Voice and Sight Tag Program Monitoring Report after a detailed analysis of participation data. An analysis of annual numbers has not been completed for more recent years.



Number of participants in the Tag Program from the program start in 2006 through 2011.

7. *What is the reason for the proposed one-year renewal term of green tags? How will that contribute to the success of the program?*

Staff Response: Requiring a one-year renewal for voice and sight control tags is to ensure that participants are meeting the requirement that their dogs are appropriately vaccinated against rabies while providing a consistency with dog licensing requirements. City of Boulder dog licenses must be renewed annually to ensure rabies vaccinations are current. An annual renewal also supports the need to have accurate information about program participation and participants which helps in having current contact information and reporting accurate statistics on participation numbers.

8. *Some dog guardians are asking why they alone are subject to losing privileges on Open Space for serial violations. What is the staff response to that?*

Staff Response: Dog guardians have the opportunity to exercise voice and sight control privileges only after agreeing to the terms and conditions of managing a dog under voice and sight control. City staff is not aware of any other local open space or park program that allow the extensive opportunities for off-leash dogs provided by the City of Boulder. This privilege comes with a need for assurances that off-leash dogs are in fact under control when participating in the Tag Program. Program privileges are based on a guardian agreeing to the requirements of voice and sight control and complying with the program regulations. The potential for suspension of privileges is also a term of complying with the expectations of the program. The suspension of privileges has occurred with guardians who have repeatedly violated the requirements of voice and sight control or for specific circumstances of aggressive dogs. Reinstatement of privileges can be accomplished by completing a demonstration test and re-attending the education class.

The loss of voice and sight privileges does not mean that guardians can no longer be accompanied by their dogs on open space unless otherwise mandated by a judge. Even when voice and sight privileges are suspended, guardians and their *leashed* dogs are welcome on OSMP trails and properties where dogs are permitted.

Similarly, commercial use on OSMP is allowed only after a commercial use permit is obtained which dictates special terms of use. Comparable to the Tag Program, this permitted activity can and has been suspended for rule infractions or violating the terms of permits.

The City of Boulder also has services or locations where privileges can be suspended for rule violations. Examples of services include the library and recreational facilities. Additionally, the Boulder Municipal Court can issue no trespass orders for specific violations and circumstances preventing a person from returning to certain areas for a specified timeframe. Example locations include the Municipal Campus, Central Park and the Pearl Street Mall.

9. *Would it be possible to review the list of the criteria for reinstatement of a green tag at second reading?*

Staff Response: These steps are required, both in the existing ordinance and in the proposed amendments, for a suspended Tag Program privilege to be re-instated:

- (1) Payment of a supplemental fee (currently \$50) established by City Manager Rule;
- (2) Written proof of attendance at a City of Boulder sanctioned presentation on voice and sight control of a dog;
- (3) Written proof of attendance at and successful completion of a voice and sight control evaluation by a third party evaluator, described below; and
- (4) Certification by the applicant for reinstatement that he or she agrees to control any dog accompanying the guardian without a leash held by a person on certain City of

Boulder lands where voice and sight control is permitted, in the manner described in the presentation on voice and sight control of a dog.

The Voice and Sight Tag evaluation referred to in Step (3), above, includes completion of a demonstration test, the Voice and Sight Evaluation Test (VSET). The purpose of the evaluation test is to have a guardian and dog successfully demonstrate skills that indicate the ability to meet voice and sight control standards. The VSET is conducted by a third party evaluator. The test is designed to determine a dog's ability to be under voice control in off-leash situations. The primary components of the test include a demonstration of the following skills:

- Walking under voice/hand control
- Meet and greet a dog
- Meet and greet a person
- Coming when called
- Reaction to wildlife

The test is on a pass/fail basis and the dog and guardian must complete the entire test and pass each skill to successfully pass the test.

The proposed ordinance only modifies the reinstatement process by (a) removing requirement to repay the application fee and (b) requiring attendance of the education session instead of watching the voice and sight control video. There are no changes to the requirement of a reinstatement fee and successful completion of an evaluation test.

10. *Could an exception to rabies vaccination be provided for older or sick dogs, where a vet certifies that a rabies vaccination would propose a risk to the dog?*

Staff Response: The exception already exists in the code. Section 6-13-4 of the proposed ordinance requires the applicant to provide proof of current rabies vaccination as provided in Section 6-1-3, "Rabies Vaccinations." Section 6-1-3(a) provides the following waiver:

The requirements of this subsection shall not apply when the applicant produces a waiver issued by a veterinarian licensed by the State of Colorado affirming that the animal is medically unable to receive the required vaccination. This waiver must have been issued by the licensed veterinarian no more than one year before the date of the alleged violation.

11. *Does a violation for failing to remove animal excrement result in a strike against a green tag?*

Staff Response: No. A violation for failing to remove animal excrement does not result in a strike against a voice and sight control tag.

12. *If a person gets two convictions in two years for their dog not coming when called, will that count as a strike against a green tag?*

Staff Response: Yes. Voice and sight control of a dog requires that a dog come to and stay with the guardian immediately upon command by the guardian. (See, Section 6-1-2, Definitions.) When a guardian calls for a dog and the dog does not come when called, the

dog is considered “at large,” in violation of Section 6-1-16. Under the proposed amendments, a person convicted twice within two years of violating 6-1-16, on open space or city properties where voice and sight control privileges are allowed shall have his or her voice and sight tag privileges suspended.

13. *Is this suspension for two violations of section 6-1-16 specific to open space or in the entire city?*

Staff Response: It is *not* specific to open space. This regulation applies to 6-1-16 violations that occur *either* on OSMP *or* city properties where voice and sight control privileges are allowed (Boulder Reservoir, Coot Lake and the dog park at Howard Hueston Park).

14. *There are assertions that violations of dog at large not on Open Space land will apply as a strike against a green tag?*

Staff Response: It will not. Dog at large violations occurring in the city (except Boulder Reservoir, Coot Lake and the Howard Hueston dog park) will not count as strikes against a voice and sight tag.

15. *You need a green tag in some places outside of Open Space to have a dog off leash in some areas, is that correct?*

Staff Response: City code authorizes dogs to be off leash, if the dog has a voice and sight control tag, in three areas that are not OSMP land: Boulder Reservoir, Coot Lake and the Howard Hueston dog park.

16. *So if you lost your privileges there you'd lose them on Open Space property as well?*

Staff Response: Yes.

17. *You don't need a green tag at a dog park?*

Staff Response: You don't need a voice and sight tag to have your dog off leash at a City of Boulder dog park except for the Howard Hueston dog park.

NEXT STEPS

The ordinance includes a date of Jan. 1, 2015 for the new program requirements to go into effect. This date will allow for the completion of pre-change compliance monitoring and to ensure that components for implementing program revisions are in place prior to implementation.

ATTACHMENTS

- A. Ordinance No.7967
- B. Voice and Sight Tag Program Timeline
- C. Voice and Sight Tag Program Recommendations

ORDINANCE NO. 7967

AN ORDINANCE AMENDING SECTIONS 4-20-60, "VOICE AND SIGHT CONTROL EVIDENCE TAG FEES," 6-1-16, "DOGS RUNNING AT LARGE PROHIBITED," 6-13-2, "VOICE AND SIGHT CONTROL EVIDENCE TAG REQUIRED," 6-13-4, VOICE AND SIGHT CONTROL EVIDENCE TAG REQUIREMENTS," AND 6-13-5, "SUSPENSION AND REINSTATEMENT OF VOICE AND SIGHT CONTROL EVIDENCE TAGS UPON VIOLATIONS," AND ADDING A NEW SECTION 6-13-4.5, "TERMS OF VOICE AND SIGHT CONTROL EVIDENCE TAG," B.R.C. 1981, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Section 4-20-60, B.R.C. 1981, is amended to read:

4-20-60. Voice and Sight Control Evidence Tag Fees.

~~(a) An applicant for a Voice and Sight Control Evidence Tag shall pay the fee established by the city manager rule pursuant to section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981, who is a resident of the City of Boulder shall pay an application fee of \$15.00, and a nonresident shall pay an application fee of \$18.75. Additional Voice and Sight Control Evidence Tags may be provided to persons who reside in the same household as the applicant upon payment of a duplicate tag fee of \$5.00.~~

~~(b) The supplemental fee pursuant to Section 6-13-5, "Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations," B.R.C. 1981, shall be \$50.00, regardless of residency.~~

Section 2. Section 6-13-2, B.R.C. 1981, is amended to read:

6-13-2 Voice and Sight Control Evidence Tag Required.

- 1 (a) In addition to and in conjunction with the requirements of Section 6-1-16, "Dogs Running at
- 2 Large Prohibited," B.R.C. 1981, any dog guardian who desires to accompany a dog without a
- 3 leash held by a person shall apply for and obtain a Voice and Sight Control Evidence Tag
- 4 pursuant to the procedures and requirements established by this chapter.
- 5 (b) Any dog guardian who accompanies a dog without a leash held by a person shall cause such
- 6 dog to wear and visibly display a current, lawfully obtained and displayed Voice and Sight
- 7 Control Evidence Tag at all times ~~when the dog is present on open space and mountain~~
- 8 ~~parks~~ City of Boulder lands where voice and sight control is permitted under Section 6-1-16,
- 9 "Dogs Running at Large Prohibited," B.R.C. 1981.
- 10 (c) The city manager may promulgate guidelines, forms, or informational materials that are
- 11 necessary or desirable to assist with implementation of this chapter or its legislative intent.
- 12 (d) The maximum penalty for a first conviction is a fine of ~~\$50.00~~ 100.00. For a second
- 13 conviction within two years, based upon the date of the first violation, the maximum penalty
- 14 shall be a fine of ~~\$100.00~~ 200.00. For a third and each subsequent conviction, within two
- 15 years based upon the date of the first violation, the ~~maximum~~ minimum penalty shall be a
- 16 fine of not less than ~~\$200.00~~ 300.00.
- 17 (e) It is an affirmative defense to a charge of violating this Section that the dog and guardian
- 18 were currently registered participants in the Voice and Sight Control program and this charge
- 19 was the guardian's first violation for not displaying a Voice and Sight Control Evidence Tag.

Section 3. Section 6-13-4, B.R.C. 1981, is amended to read:

6-13-4 Voice and Sight Control Evidence Tag Requirements.

(a) Before a Voice and Sight Control Evidence Tag shall be issued, the applicant shall ~~certify,~~
~~under penalty of perjury, the following facts:~~

(1) Provide a valid City of Boulder dog license, or if the applicant is not a City of
Boulder resident, provide proof of current rabies vaccination as provided in Section
6-1-3, "Rabies Vaccinations," B.R.C. 1981, for each dog being registered;

(2) ~~The applicant has watched (or listened to if visually impaired) a video~~ Provide proof
of attendance, within the preceding five years, of a presentation on voice and sight
control of a dog, prepared by the city and provided to the applicant by the city or its
designated agents; and

1 (32) ~~Agree~~ ~~The applicant agrees~~ to control any dog accompanying the applicant without a
 2 leash held by a person on certain ~~open space and mountain parks~~ City of Boulder
 3 lands where voice and sight control is permitted under Section 6-1-16, "Dogs
 4 Running at Large Prohibited," B.R.C. 1981, in the manner described in the ~~video~~
 5 presentation on voice and sight control of a dog and consistent with the requirements
 6 of the Boulder Revised Code.

7 Section 4. Section 6-13-4, B.R.C. 1981, is amended by the addition of a **new section**

8 **6-13-4.5** to read:

9 **6-13-4.5 Terms of Voice and Sight Control Evidence Tag.**

10 The Voice and Sight Control Evidence tag issued under Section 6-13-4 shall be valid for a term
 11 of one calendar year and expire on December 31. Renewal of Voice and Sight Control Evidence
 12 Tags is subject to the fees established under Section 4-20-60, "Voice and Sight Control Evidence
 13 Tag Fees" B.R.C. 1981. The applicant shall apply for renewal of the Voice and Sight Control
 14 Evidence Tag no later than February 1 of the year immediately succeeding the year in which the
 15 license expired. Voice and Sight Control Evidence Tags issued prior to December 31, 2014 shall
 16 expire on December 31, 2014.

17 Section 5. Section 6-13-5, B.R.C. 1981, is amended to read:

18 6-13-5 ~~Revocation~~ Suspension and Reinstatement of Voice and Sight Control Evidence Tags
 19 Upon Violations.

20 (a) Upon a ~~third~~ conviction for any violation of ~~section 6-1-16, "Dogs Running at Large~~
 21 ~~Prohibited~~ Section 6-1-20, "Aggressive Animal Prohibited," B.R.C. 1981, or Section 8-3-5,
 22 "Failure to Protect Wildlife (or Livestock)," B.R.C. 1981, occurring on land owned by the
 23 city and constituting park land or open space land within two years of the date of the first
 24 violation, the right of the dog and guardian to display any Voice and Sight Control Evidence
 25 Tag shall be suspended automatically., but may be reinstated through the following
 26 procedures:

27 (b) Upon a second conviction within two years of the date of the first conviction for any of the
 28 following violations, the right to display any Voice and Sight Control Evidence Tag by the
 29 dog or guardian shall be suspended automatically:

30 (1) Section 8-3-3, "City Manager's Rules," B.R.C. 1981, where a rule specifically
 31 enacted for the protection of wildlife prohibits dogs and the dog is off leash;

1 (2) Section 8-3-3, "City Manager's Rules," B.R.C. 1981, where a rule specifically
2 enacted for the protection of wildlife designates a leash-required area and the dog is
3 off leash; or

4 (3) Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, occurring on open
5 space land or on other city properties where Voice and Sight Control privileges are
6 authorized by that section. A violation of Section 6-1-16, "Dogs Running at Large
7 Prohibited," B.R.C. 1981, based solely on the accompanying guardian or keeper not
8 having a leash in such person's possession, shall not be grounds for suspension of
9 Voice and Sight Control privileges.

10 (c) Any guardian who is convicted of violating Section 6-1-16, "Dogs Running at Large
11 Prohibited," B.R.C. 1981, during a period of time when privileges have been suspended shall
12 be ineligible for reinstatement for a minimum of one year.

13 (d) The right to display a Voice and Sight Control Evidence Tag may be reinstated through the
14 following procedures:

15 (1) Payment of a supplemental fee established in Subsection 4-20-60(b), by City Manager
16 Rule pursuant to Section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981, in
17 addition to the fees established by section 6-13-3, "Voice and Sight Control Evidence
18 Tag Application," B.R.C. 1981, and prescribed by subsection 4-20-60(a), B.R.C.
19 1981, for an initial application (and in addition to any fines imposed under section 6-
20 1-16, "Dogs Running at Large Prohibited," or subsection 6-13-2(d), B.R.C. 1981);

21 (2) Providing written proof of attendance at a City of Boulder sanctioned and monitored
22 showing of the video presentation on voice and sight control of a dog;

23 (3) Providing written proof of attendance at and successful completion of a voice and
24 sight control evaluation certification course approved by the City of Boulder; and

25 (4) Certification by the applicant for reinstatement that he or she agrees to control any
26 dog accompanying the guardian without a leash held by a person on certain City of
Boulder lands where voice and sight control is permitted under Section 6-1-16, "Dogs
Running at Large Prohibited," B.R.C. 1981, in the manner described in the
videopresentation on voice and sight control of a dog.

(de) Any guardian who has his or her Voice and Sight Tag suspended twice in three years or who
has three suspensions shall be ineligible for reinstatement for a period of time to be
determined at a hearing held under the provisions of Chapter 1-3, "Quasi-Judicial Hearings,"
B.R.C. 1981.

Section 6. Section 6-1-16, B.R.C. 1981, is amended to read:

1 **6-1-16 Dogs Running at Large Prohibited.**

2 (a) No person owning or keeping any dog shall fail to keep the dog on the premises of the
3 guardian or keeper unless the dog is:

- 4 (1) On a leash held by a person; or
- 5 (2) Within a vehicle or similarly physically confined and without access to passers-by.

6 (b) No person owning or keeping any dog shall fail to keep the dog on a leash held by a person
7 within any area where a rule enacted by the city manager for the protection of wildlife
8 prohibits dogs off leash.

9 (c) No person owning or keeping any dog shall fail to keep that dog from entering any area
10 where a rule enacted by the city manager for the protection of wildlife or natural resources
11 prohibits dogs.

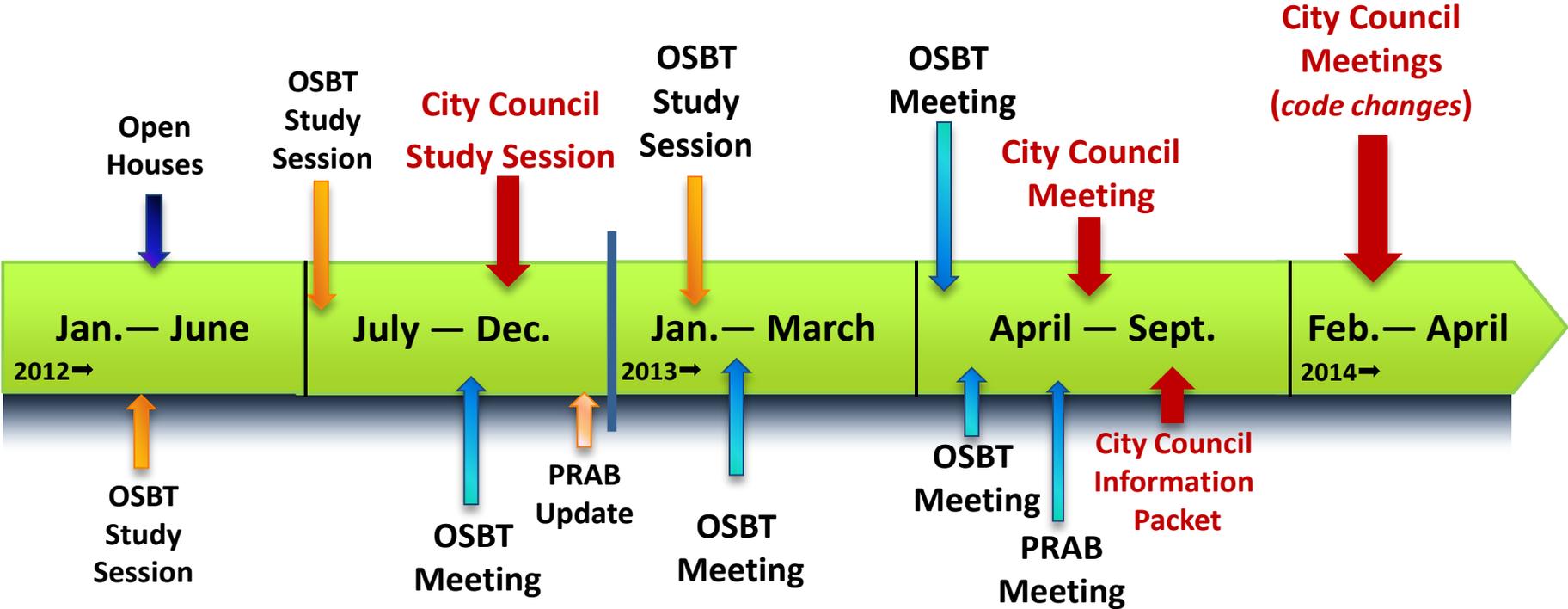
12 (bd) The maximum penalty for a first conviction of this section is a fine of \$100. For a ~~or~~ second
13 conviction within two years, based on date of violation, the maximum penalty shall be ~~is~~ a
14 fine of \$2500.00. For a third and each subsequent conviction within two years based upon the
15 date of the first violation, the minimum penalty shall be a fine of not less than \$300.00. The
16 minimum fine for a conviction under this ordinance for a guardian who has their Voice and
17 Sight Tag suspended under Section 6-13-5, "Suspension and Reinstatement of Voice and
18 Sight Control Evidence Tags Upon Violations, B.R.C. 1981 shall be \$300.00. ~~the general~~
19 penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply. The
20 maximum penalty for a first conviction occurring on land owned by the city and constituting
21 park land or open space land is a fine of \$50.00. For a second conviction within two years,
22 based upon the date of violation, the maximum penalty shall be a fine of \$100.00. For a third
23 and each subsequent conviction, the maximum penalty shall be a fine of not less than
24 \$200.00.

25 (ee) It is an affirmative defense to a charge of violation of this section that the dog was:

26 ...

Section 7. This ordinance is necessary to protect the public health, safety, and welfare of
the residents of the city, and covers matters of local concern.

Voice and Sight Tag Program Timeline 2012 – 2014



This Page Intentionally Left Blank

Voice and Sight Tag Program Recommendations

#	Recommendation
1	<p>Implement the following education and outreach strategies:</p> <ul style="list-style-type: none"> a) Increase outreach and education about training opportunities b) Support stakeholder efforts c) Create refresher videos on requirements, etiquette or issues that will be phased in based on time and cost d) Use traditional and social media to provide instructive educational information to participants e) Provide educational walks for dogs and dog guardians on a trial basis f) Improve clarity and information on signs g) Distribute palm cards explaining the Tag Program h) Increase outreach and education to visitors without dogs about voice and sight control and what to expect i) Consider under specific conditions and on well-suited OSMP properties, opportunities for special voice and sight control training events j) Encourage dog guardians to become volunteer Trail Guides and provide additional training for outreach with a dog k) Participate in more dog-related outreach events; consider organizing another “Tag Wag” type event l) Promote information on dog-prohibited trails and add this information on the OSMP Website m) Train all staff on the new regulations for informal educational opportunities
2	<p>Require proof of current rabies vaccination for all dogs to be registered in the program. City of Boulder residents are required to provide a valid City of Boulder dog license as proof of current rabies vaccination.</p> <p>Require that all dogs on OSMP lands display a valid rabies vaccination tag.</p>
3	<p>The program registration and annual renewal fees will include a graduated fee structure for residents of the City of Boulder, residents of Boulder County outside the City of Boulder, and noncounty residents.</p> <p>Program registration fees:</p> <ul style="list-style-type: none"> • City of Boulder Residents (\$13), • Boulder County residents outside the City of Boulder (\$33), • Non-Boulder County residents (\$75), and • The registration fee includes one guardian and one dog; the fee for each additional guardian in a household is (\$5) and the fee for each additional dog in a household is (\$10). <p>Annual household renewal fee:</p> <ul style="list-style-type: none"> • City of Boulder Residents (\$5), • Boulder County residents outside the City of Boulder (\$20), and • Non-Boulder County residents (\$30). <p>The additional guardian and dog registration fees will be waived for City of Boulder households who meet income criteria consistent with the City of Boulder Food Tax Rebate Program or the Parks and Recreation Reduced Rate Program.</p>

Voice and Sight Tag Program Recommendations

#	Recommendation
4	Require all program participants attend an information session. Program participants must attend a session before they can register in the program. The information session will include as part of the content a revised and updated voice and sight video. The information session must be repeated every five years.
5	<p>Increase fines for Voice and Sight Evidence Tag Required (B.R.C. 6-13-2) and Dog at Large violations (B.R.C. 6-1-16) to \$100 (maximum), \$200 (maximum), and \$300 (minimum) for first, second and third or more convictions respectively. Provide mechanism for dismissal of tickets for lawful participants who inadvertently failed to display tag.</p> <p>The bond amount for dog-related City Manager’s Rule violations (B.R.C. 8-3-3) will be increased to \$100.</p> <p>Encourage courts to order such additions to fines as watching the voice and sight video, attending the voice and sight information session, dog training, and/or demonstration testing for egregious or repeat dog-related violations consistent with the nature of the violation. Community service for dog waste violations may be particularly appropriate.</p>
6	<p>Revocation of program privileges will occur after <u>one</u> conviction of the following violations involving a dog:</p> <ul style="list-style-type: none"> • Aggressive Animal Prohibited (B.R.C. 6-1-20), • Failure to Protect Wildlife (or livestock) (B.R.C. 8-3-5), and <p>Convictions of Aggressive Animal Prohibited and Failure to Protect Wildlife violations on OSMP and other lands under the jurisdiction of the City of Boulder will be cause for revocation.</p>
7	<p>Revocation of program privileges will occur after <u>two</u> convictions in two years by a single guardian. The following violations apply:</p> <ul style="list-style-type: none"> • Dog at Large (B.R.C. 6-1-16) except for voice and sight control violations where the guardian doesn’t possess a leash. • Violations of City Manager’s Rule (B.R.C. 8-3-3) involving wildlife protection and a dog being off leash. <p>Revocation of program privileges applies to the preceding violations on all OSMP lands and other City of Boulder properties where voice and sight privileges are recognized.</p>
8	A guardian with two revocations in three years or three revocations will lose privileges for a period of time determined by the courts and may thereafter apply for reinstatement.
9	Require a minimum fine of \$300 and a minimum one-year revocation period for a guardian with revoked privileges having a dog off leash.
10	Program privileges may be reinstated after successful completion of a reinstatement process. Reinstatement from revocation must include successful completion of the voice and sight evaluation test by the revoked guardian and dog and the retaking of the information session by the revoked guardian. Reinstatement will include payment of fees for the voice and sight evaluation test and payment of a reinstatement fee.