

**BEFORE THE ADMINISTRATIVE HEARING OFFICE  
FOR THE MUNICIPALITY OF ANCHORAGE**

MUNICIPALITY OF ANCHORAGE,                     )  
(ANIMAL CARE AND CONTROL)                     )  
Plaintiff,   )  
   )  
v.   )  
   )  
JONATHAN FARDIG,<sup>1</sup>                                     )  
Appellant.   )  
   )

Administrative Hearing Office No.: 25-005  
Animal Control Case No: A25-076989

**FINAL DECISION AND ORDER**

**I.     Summary of Proceeding**

On March 19, 2025, the Municipality of Anchorage Animal Care and Control (Animal Control) issued two Notices of Violation to Jonathan Fardig. Mr. Fardig requested a hearing to appeal both citations. The first citation (NOV V25-012652) alleged Mr. Fardig violated Anchorage Municipal Code (AMC) 17.10.020 on March 3, 2025, by failing to control his dog and AMC 17.10.015 by failing to pick up the dog's feces. The second citation alleged violations related to proof of rabies vaccination and a dog license, which are both correctable offenses. Animal Control Officer Nuttle agreed to void the second citation when Mr. Fardig provided him proof of compliance. Thus, the first citation was the only matter remaining for the hearing. After consideration of the evidence, notice of violation V25-012652 and a \$200 civil fine are AFFIRMED.

**II.   Evidence Considered**

The hearing was held on April 25, 2025. The hearing was recorded, and all evidence was presented on the record. Mr. Fardig was advised of his rights at the hearing, including his right to counsel, and he elected to proceed without retaining counsel. Animal Control Officer Nuttle, the complainant,<sup>2</sup> and Mr. Fardig all testified under oath. Ms. Diana Schadek was also present. Animal Control offered the following exhibits, which were admitted as evidence without objection:

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<sup>1</sup> The citation and associated animal control records misspell Mr. Fardig's name as "Farding." Mr. Fardig corrected this error during the hearing.

<sup>2</sup> Complainant's names are redacted pursuant to AMC 3.90.040.D. The complainant testified by telephone.

- Exhibit 1: Investigation Report for Case Number A25-076989
- Exhibit 2: Activity History for Case Number A25-076989
- Exhibit 3: Photograph of Dog, Buddy
- Exhibit 4: Animal Care and Control Notice, dated March 14, 2025
- Exhibit 5: Notice of Violation #V25-012652, and #V25-012653, dated March 19, 2025

### **III. Findings of Fact**

The following findings are based on a preponderance of the evidence in the record.

1. The Municipality of Anchorage Animal Care and Control is charged with enforcing Title 17 concerning animals.
2. Mr. Fardig lives at [REDACTED] Eagle River, Alaska, within the municipality of Anchorage.
3. He owns a Tan American Bulldog Mix, named Buddy.
4. The complainant lives next door to Mr. Fardig.
5. The complainant testified that she met Buddy for the first time when he was running loose on her property.
6. She said no owner was around and Buddy seemed like he wasn't a dangerous dog, so she restrained him in a kennel and called animal control for assistance in finding the owner.
7. At some point before animal control arrived, Mr. Fardig came out of his house and said Buddy was his dog.
8. After that, she said for most of last fall and early winter, Buddy would be let out of Mr. Fardig's house and would run loose on her property. She said Buddy would defecate on her lawn or near her deck repeatedly, sometimes 3 or 4 times a day. She said she is still picking up dog feces remaining in her yard to this day.
9. At some point last winter, Mr. Fardig had a guest at his house who also had a dog. The complainant said the other dog would also be left outside unattended and would defecate in her yard.
10. The complainant said she picked up a bag of dog poop and handed it to a person she identified as Mr. Fardig's girlfriend, telling her to keep Buddy off her



property. Ms. Schadek said the complainant was yelling at her and and “threw” the bag of dog poop at her.

11. Officer Nuttle said the complainant called animal control about Buddy running loose and defecating on her property. Officer Nuttle said animal control issued a “notice to comply” to Mr. Fardig, which is essentially a warning letter.

12. Mr. Fardig said he received the warning letter around the end of January 2025. After he received it, he said he made a runner, and he now only lets Buddy outside when Buddy is attached to the runner.

13. On March 3, 2025, the complainant said Buddy was again loose on her property. She said Buddy defecated in her yard and she took a photograph of Buddy when he came up to her deck. The photograph is exhibit 3. Officer Nuttle said he checked the electronic properties of the photo and believed it was taken on March 2, 2025.

14. Mr. Fardig disputed that the photo was taken in March. He said he went over to the complainant’s property after he got the warning letter in January to talk about the situation. He said Buddy was running ahead of him, not on a leash, and got to the complainant’s property before he did. He believes the complainant probably took the photograph of Buddy back in January. He does not believe Buddy has been running loose since he put the runner up. He also believes that other dogs defecate on the complainant’s property, but the complainant always blames Buddy. Finally, he said that he is in the process of putting up a fence that will keep Buddy out of the complainant’s yard.

#### **IV. Conclusions of Law**

##### **A. Jurisdiction and burden of proof**

The Administrative Hearing Officer has jurisdiction over this appeal pursuant to AMC 17.05.100, which affords the right to an administrative hearing on decisions of Animal Control, including notices of violation. Animal Control bears the burden of proving every element of each civil offense by a preponderance of the evidence,<sup>3</sup> which is the equivalent of showing that something is “probable” -i.e., more likely than not.<sup>4</sup>

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<sup>3</sup> See AMC 14.30.090C; *West v. Municipality of Anchorage*, 174 P.3d 224, 227-28 (Alaska 2007).

<sup>4</sup> See AMC 14.30.090C; *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699 (9<sup>th</sup> Cir. 2007); *Holton v. States*, 602 P. 2d 1228, 1238 & n. 17 (Alaska 1979); see also Alaska Civil Pattern Jury Instruction §2.04.

B. Animal control proved a violation of AMC 17.10.020

AMC 17.10.020 requires the owner of an animal to restrain it at all times. “Restraint” means to confine or control an animal.<sup>5</sup> “Control” means to simultaneously monitor, direct, and restrain an animal’s movements and activities, in a humane manner, so as to prevent violations of title 17.<sup>6</sup> Animals may be under control by command, confinement, leash, attachment, or harness, which are all separately defined. The point of all methods is that they must be sufficient to control an animal’s movements or activities so as to prevent violations of title 17.

In this case, there was no dispute that Mr. Fardig owns a dog named Buddy. The complainant testified that Buddy is routinely let outside by himself. He then goes into her yard and defecates on her property. She testified that Buddy has done this multiple times, and she photographed one such occasion in the photograph she sent to animal control on March 3, 2025. This proves that Buddy is not under control on those occasions.

Mr. Fardig disputed the date the photograph was taken, arguing that it was probably taken in January when he brought Buddy over to the complainant’s property to talk to her. He claimed that Buddy was under his control by command at this time. I do not believe it is likely that the photograph was taken in January. Based on the apparent animosity between the parties, I do not see any logical reason why the complainant would photograph Buddy on her property in January but then wait until March to send the photograph to animal control. It seems more likely that she would send the evidence implicating Mr. Fardig as soon as she obtained it. Regardless, the complainant testified credibly that this has been an ongoing issue and Buddy has repeatedly been let outside and has been defecating in her yard. Any of those occasions could have been charged as a separate offense. The exact date of the offense is not an essential element. Even in criminal cases, where due process protections are greater than in administrative hearings, the date of the commission of the offense is not a material element of the government’s case, so long as the offense occurs within the pertinent statute of limitations.<sup>7</sup> In *Larkin v. State*, the Court of Appeals of Alaska held that a two month variance between the date alleged in the indictment and the date shown by the evidence at trial did not require reversal of the conviction.<sup>8</sup> Similarly, although it is more likely than not that the complainant took the photograph of Buddy on her property in early March, the exact date that Buddy defecated in her yard is not essential, when it has been happening repeatedly.

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<sup>5</sup> AMC 17.05.010 (definitions).

<sup>6</sup> *Id.*

<sup>7</sup> *Larkin v. State*, 88 P.3d 153 (Alaska App. 2004).

<sup>8</sup> *Id.*



C. Animal control proved a violation of AMC 17.10.015.B

AMC 17.10.015.B prohibits an owner or custodian of an animal from permitting the animal's feces to be left on public property or another person's private property. In this case, the complainant's credible testimony was that Mr. Fardig routinely let his dog outside unattended, and the dog came onto her private property to defecate. She said she is still cleaning up feces left in her yard. The argument that another dog could have been responsible for the feces was not compelling. The complainant often saw Buddy do it and testified that she took a photograph of him on one occasion in March. This offense was proven by a preponderance of the evidence.

Under AMC 17.70.020, a person who violates Title 17 "shall" be subject to the listed civil penalties. The use of the word "shall" prevents the administrative hearing officer from reducing the amount of the fine. The fine for each offense is listed at \$100.00. Therefore, a total civil fine of \$200.00 is affirmed. Mr. Fardig should also be aware that the fine for subsequent violations of AMC 17.10.020 increases to \$200 for a second offense, and \$300 for a third. Mr. Fardig's plan to build a fence seems prudent and like a neighborly thing to do. I hope he follows through with this plan to avoid future issues.

**FINAL ORDER**

Based on the evidence presented, the undersigned orders that NOV #V25-012652 is hereby affirmed. The \$200.00 fine is due and payable to the Anchorage Animal Care and Control Center, 4711 Elmore Road, Anchorage, Alaska 99507 as of the effective date set forth below.

DATED and effective as of this 1<sup>st</sup> day of May 2025, Anchorage, Alaska.

By: 

Paul M. Ervasti  
Administrative Hearing Officer

## APPEAL RIGHTS

This decision is final. Persons may appeal this order to the Alaska Superior Court, Third Judicial District in Anchorage, Alaska within thirty (30) days of issuance pursuant to Alaska Rules of Appellate Procedure. Any person seeking reconsideration shall serve all parties with a copy of same and with proof of that service.

### Certificate of Service

I, Kathi Flanders, hereby certify that I emailed a true and correct copy of the foregoing to:

Jonathan Fardig



Animal Care and Control

on this 15<sup>th</sup> day of May, 2025

Kathi Flanders