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RESOLUTION 2002-31

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, FOR THE VACCINATION, CONTROL AND IMPOUNDMENT OF DOGS IN ARCHULETA COUNTY, COLORADO

WHEREAS, the Board of County Commissioners of Archuleta County, Colorado ("Board") is authorized, pursuant to C.R.S. 30-15-101, *et seq.* to adopt a resolution for the vaccination, control and licensing of dogs; and

WHEREAS, there currently exists Ordinance No. 2 regarding the control of dogs running at large, adopted by the Board of County Commissioners of Archuleta County, Colorado on May 15, 1980 and there currently exists Resolution 92-66 regarding nuisance dogs, adopted by the Board of County Commissioners of Archuleta County, Colorado on September 8, 1992 (collectively "Dog Ordinance"); and

WHEREAS, the population of Archuleta County has increased dramatically since the adoption of the Dog Ordinance; and

WHEREAS, the canine population of Archuleta County has increased substantially; and

WHEREAS, uncontrolled or unvaccinated dogs present a threat to the health, safety and welfare of the citizens of Archuleta County and their property; and

WHEREAS, the Board finds that the control and vaccination of dogs is necessary for the preservation of the health, safety and welfare of the citizens of Archuleta County; and

WHEREAS, the Board wishes to update and revise the Dog Ordinance to address in one resolution the vaccination, control and impoundment of dogs;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, AS FOLLOWS:

1. **Definitions.**

The following terms, when used herein, shall have the following meanings unless the context clearly requires otherwise:

a. "Control" shall mean a dog that is :

i. On a leash of sufficient strength to restrain the dog; or

ii. Confined in a building, fence, enclosure, motor vehicle, or other structure in such a way that it does not escape; or

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iii. Is on property possessed by its Owner and is confined thereon in such a way that it does not escape or is in the presence of its Owner, possessor, keeper, or a family member of the Owner, or any agent or employee of the Owner; or

iv. The dog is within sight and hearing distance of its Owner, possessor, keeper or a family member of the Owner, or any agent or employee thereof of the Owner, and, upon command, the dog returns to the immediate vicinity of such person, at least within four feet of such person; or

v. A dog shall be deemed not under control when the dog inflicts damage or injury by biting, jumping upon, or harasses, chases or attacks persons, vehicles, cyclists, pedestrians, equestrians, livestock, other domestic animals or wildlife. This provision shall not be applicable if the dog is acting in defense of the Owner, the Owner's family, or property of the Owner.

b. "Dog" shall mean any animal of the canine species, regardless of sex.

c. "Owner" means any person or entity owning, keeping, harboring, possessing or having custody or control of a dog. The parent or guardian of an Owner under eighteen (18) years of age shall be deemed the Owner for purposes of this Resolution.

d. "Nuisance dog" shall mean loud, habitual and persistent barking, howling, yelping or whining by a dog, sufficient to interfere with any person in the reasonable and comfortable enjoyment of life or property. Nuisance dogs are deemed to be dogs that are not under control of their Owner.

e. "Rabies Vaccination" means vaccination of a dog against rabies using a vaccine approved by the Colorado Department of Health and administered according to the recommendations of a veterinarian licensed in the State of Colorado.

f. "Running at Large" shall mean a dog that is not under control.

g. "Vicious Dog" shall mean a dog that bites or attacks a person or other animal without provocation or a dog that approaches any person or other animal in a vicious or terrorizing manner in an apparent attitude of attack, on any public or private property, except:

i. When the person is engaged in the unlawful entry into or upon the dog Owner's property or vehicle where such dog is kept or confined; or

ii. When the person is engaged in attacking or molesting another person.

2. **Application.**

The terms of this Resolution shall apply throughout the unincorporated areas of Archuleta County until repealed or amended or until replaced or superseded by any competent governmental agreement.

3. **Rabies Vaccination Required.**

3.1 The Owner of each dog in Archuleta County shall have such dog inoculated by a licensed veterinarian against rabies at three (3) months of age, one year later and a maximum of every three years thereafter. Upon vaccination, a licensed veterinarian shall issue to the Owner a certificate of rabies inoculation for each dog that has been vaccinated. The veterinarian shall also provide to the Owner of the dog a rabies tag that may be affixed to the collar or harness of the dog.

3.2 Any dog that is brought into Archuleta County from another jurisdiction must have been vaccinated against rabies at least thirty (30) days but not more than thirty-six (36) months prior to importation into Archuleta County. The Owner of such dog must present evidence of such inoculation from another jurisdiction, including a certificate issued by a veterinarian from another jurisdiction and a rabies tag and such certificate and tag shall be evidence of compliance with the provisions of this Section 3, however, such dog shall continue to be vaccinated as required herein.

3.3 Owning or possessing a dog that has not been vaccinated against rabies shall be prohibited.

4. **Prohibitions.**

4.1 Dogs shall be kept under control by their Owners at all times.

4.2 The running at large of any dog in Archuleta County is hereby prohibited.

4.3 No Owner shall willingly and knowingly permit a dog to be a nuisance dog

as defined herein. Willingly and knowingly shall be defined as the Owner of the dog having received one prior warning, verbally or in writing, given by any Enforcement Personnel described in Section 6, notifying the Owner that the dog is considered a nuisance dog.

4.4 It shall be unlawful to own or possess a vicious dog as such term is defined herein.

5. **Impoundment of Dogs.**

5.1 Any dog found to be running at large or not under control may be impounded by any person authorized by subsection 6 to enforce the provisions of this Resolution.

5.2 The impoundment facility, or its designee, shall give notice of impoundment to the Owner of the dog in the following method:

5.2.1 If the dog is wearing a collar with an identification tag attached, the impoundment facility shall call the phone number appearing thereon, or shall make other reasonable efforts to identify and notify the Owner of the dog. If the impoundment facility or its designee is unsuccessful in notifying the Owner of the dog within twenty-four hours of the impoundment of the dog, then the impoundment facility shall promptly so notify the Archuleta County Animal Control Officer or other Archuleta County designee ("County Official"). The County Official shall then be required to attempt to notify the Owner, using the methods set forth in 5.2.2 through 5.24.

5.2.2 If an address appears on the tag, the County Official shall address a letter, postage prepaid, to the address shown on the tag. Notification by letter shall be complete upon mailing.

5.2.3 If the dog has no identification or license tag, a notice of impoundment, giving the general description of the dog and the time and general location the dog was taken up, shall be posted at the impoundment facility. Notification by posting shall be complete upon posting.

5.2.4 Notification by the means described in subsections 5.2.1 through 5.2.3 shall be deemed compliance with the

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requirements of this section. Records of such notification shall be kept by the impoundment facility and the County Official.

5.2.4 If no Owner appears to claim the dog and pay the cost of the impoundment and any fines and penalties due within five days after notification is complete, the dog shall be deemed abandoned and be disposed of by placement for adoption or euthanasia, in accordance with the policies of the designated impoundment facility.

5.3 Owners claiming a dog that has been impounded shall be responsible for paying an impoundment fee and for the board and care of the Owner's dog. Impoundment fees shall be as follows:

$35.00 per dog for impoundment.
$15.00 per day per dog for boarding and care.

In addition to the impoundment fee and boarding and care, Owners must pay any actual and necessary veterinary costs incurred on behalf of the dog. Future changes to such fee schedule may be made by separate Resolution, adopted by the Board, at a regular meeting of the Board, which Resolution shall be published at least once after adoption in a newspaper of general circulation within Archuleta County.

5.4 In addition to the impoundment fees set forth above, any impounded dog shall not be released until such dog has been vaccinated for rabies or until proof that the dog has a current rabies inoculation has been received by the impoundment facility. If the dog has not been vaccinated, the impoundment facility shall receive from the Owner a vaccination deposit, in an amount based upon the actual and necessary costs of vaccination and which is set annually by the impoundment facility. Upon receipt of the deposit, the dog may be released to the Owner and upon proof that such dog has been vaccinated within ten (10) working days after such release, the vaccination deposit shall be refunded to the dog's Owner.

5.5. The impoundment facility shall be authorized to accept an impoundment fee of $25.00 per dog if the Owner of such dog will permit the dog to have a microchip implanted in the dog prior to the dog's release. The impoundment facility shall notify the County Official each month of the number of dogs that have had microchips implanted and Archuleta County shall reimburse the impoundment facility for such service.

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6. **Authorized Enforcement Personnel.**

6.1 Any peace officer is authorized to enforce the provisions of this Resolution.

6.2 Any person designated as a dog control officer by the Board of County Commissioners of Archuleta County is authorized to enforce the provisions of this Resolution.

6.3 The Board of County Commissioners of Archuleta County, their agents and employees, any impoundment facility, its agents and employees, any person authorized to enforce the provisions of this Resolution, shall not be held responsible for any accident or subsequent disease that may occur in connection with the administration or enforcement of this Resolution.

7. **Designated Impoundment Facility.**

The Humane Society of Pagosa Springs is hereby designated to operate impoundment facilities for the purposes of this Resolution and is authorized to impound dogs pursuant to the provisions of this Resolution.

8. **Issuance of Summons and Complaint.**

8.1 Whenever any person designated as authorized enforcement personnel in Section 6 of this Resolution, has probable cause to believe that any violation of Title 30, Article 15, C.R.S., as amended, has occurred, or whenever said person has probable cause to believe that any violation of any provision of this Resolution has occurred, said person may issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator.

8.2 A summons and complaint issued by a dog control officer shall contain the name of the defendant, shall identify the offense charged, including a citation of the Statute or Resolution section alleged to have been violated, shall contain a brief statement or description of the offense charged, including the date and approximate location thereof, and shall direct the defendant to appear before the Archuleta County Court at a stated time, date and place. A summons and complaint containing the information specified in this subsection shall be deemed *prima facie* compliance with the particularity requirement of subsection 8.1.

8.3 Any peace officer may issue a summons and complaint pursuant to Section

16-2-104, C.R.S., as amended, and Colorado Rules of Criminal Procedure 4.1(c)(3) for any violation of Title 30, Article 15, Part 1, C.R.S., as amended, or for any violation of this Resolution. Any summons and complaint issued pursuant to this subsection shall contain the information specified in subsection 8.2.

8.4 A summons and complaint issued for the first or second violation of the provision of this Resolution, may also contain a penalty assessment notice pursuant to Section 16-2-201, C.R.S., as amended, as the same may from time to time be amended, requiring the defendant to appear at the place, time and date specified or, in lieu thereof, to pay the specified fine in person or by mail at the place and within the time specified in the notice. Payment of the specified fine shall constitute acknowledgment of guilt of the offense charged.

8.5 If the summons and complaint charges a third violation of any provision of this Resolution, the defendant shall be required to appear before the Archuleta County Court at the place, time and date specified.

9. **Violations and Penalties**.

9.1 Violation of any provisions of this Resolution not involving bodily injury to any person shall be a Class 2 petty offense and shall be punishable as follows:

9.1.1 For the first violation, the owner shall be assessed a fine of not less than $25.00 and not more than $50.00, except that if a penalty assessment is issued as provided by 8.4 above, the fine shall be the minimum.

9.1.2 For the second offense, the owner shall be assessed a fine of not less than $51.00 and not more than $100.00, except that if a penalty assessment is issued as provided by 8.4 above, the fine shall be the minimum.

9.1.3 For the third or any subsequent offense thereafter, the owner shall be punished by a fine of not less than $150.00, but not more than $300, or imprisonment in the Archuleta County Jail for not more than ninety (90) days, or both such fine and imprisonment, for each separate offense.

9.2 Violation of any provisions of this Resolution resulting in bodily injury to any person shall be a class 2 misdemeanor and shall be punishable as provided in

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C.R.S. §18-1-106, as the same may be amended from time to time, for each separate offense, with penalties ranging from a fine of $250 to $1,000 and imprisonment for three months up to twelve months, or both a fine and imprisonment.

10. **Dogs Working Livestock, Retrieving Game and Assisting Law Enforcement Officers.**

The provisions of this Resolution relating to the control of dogs and prohibiting dogs from running at large shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter, or assisting law enforcement officers or while actually being trained for any of these pursuits. The exception contained herein for dogs actually working livestock shall not apply to any dog located within any platted subdivision within Archuleta County.

11. **Severability.**

If any part of this Resolution shall be held void or unconstitutional by a Court of competent jurisdiction, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions of the Resolution.

12. **Disposition of Fines, Fees and Forfeitures.**

All fines, fees and forfeitures for violations of the provisions of this Resolution shall be paid into the treasury of Archuleta County upon payment of said fines, fees and forfeitures.

13. **Repeal of Former Ordinances and Resolutions.**

All prior Ordinances and Resolutions on issues contained herein are repealed and no longer in force or effect.

14. **State Statutes Control.**

If any statute of the State of Colorado or the United States Government gives or confers upon any person power to deal with dogs running at large or dogs endangering persons or property, which powers are greater than those set forth in this Resolution, this Resolution shall not be construed to reduce or modify the powers granted by statute.

15. **Effective Date.**

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This Resolution shall be in full force and effect from and after the date of adoption by the Board of County Commissioners of Archuleta County, Colorado.

DONE AND ADOPTED IN PAGOSA SPRINGS, ARCHULETA COUNTY, COLORADO THIS 30th DAY OF April, 2002.

BOARD OF COUNTY COMMISSIONERS FOR ARCHULETA COUNTY

Wm M. Downey, Chair

Alden Ecker, Vice Chair

Gene Crabtree, Commissioner

ARCHULETA COUNTY ORGANIZED MAY 20 1885 COLORADO

Attest:

June Madrid by Lisa Jennings Deputy Clerk & Recorder

June Madrid, Clerk

APPROVED AS TO FORM:

Mary Deganhart-Weiss
Archuleta County Attorney

DISTRIBUTION: