

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN  
STATE OF COLORADO**

**PERTAINING TO THE WELFARE, CONTROL AND LICENSING OF DOGS**

WHEREAS, the keeping of dogs within Gilpin County has proven to be a potential hazard and annoyance to the citizens of the County, and

WHEREAS, a dog owner should assume the full and complete responsibility for the safety and actions of any dog owned, kept, harbored, or in the custody of the dog owner, and

WHEREAS, C.R.S. 30-15-404(1)(e) authorizes the Board of County Commissioners to enact an ordinance regulating unleashed dogs and dogs running at large, and

WHEREAS, C.R.S. 30-15-101 authorizes the Board of County Commissioners of any county to adopt a resolution for the control and licensing of dogs as provided therein, and

WHEREAS, this Board finds that the adoption of this dog control and licensing ordinance is necessary to preserve and protect the health, safety and welfare of the residents and citizens of the County and this ordinance shall be effective upon adoption by the Board of County Commissioners, and

WHEREAS, the County has heretofore enacted Ordinance No. 93-2 as amended by Ordinance No. 95-1, known as the "Dog Control and Rabies Licensing Ordinance," and Resolution No. 99-13, "Resolution for the Control & Licensing of Dogs," which ordinances and resolutions shall be superseded by this Ordinance, the said ordinances and resolution being repealed contemporaneously herewith by the adoption of this Ordinance,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN AS FOLLOWS:

**I. INTENT**

It is the intent of the Board of County Commissioners of Gilpin County, by adopting this Dog Welfare, Control and Licensing Ordinance, to declare as a matter of policy that the keeping of a dog in Gilpin County is a potential hazard and annoyance to the citizens of the County. A dog owner, therefore, must assume full responsibility for the safety and actions of any dog owned, kept by, harbored by, or in the custody of, the dog owner.

It is also the intent of the Board of County Commissioners to fully enforce the Colorado state statutes preventing cruelty to animals under C.R.S. sections 18-9-202 or 35-42-109(2), as amended.

**II. DEFINITIONS.**

The following words shall have the following meanings as used in this Ordinance:

- A. Sheriff means the Gilpin County Sheriff and any and all of the Sheriff's officers, deputies and/or reserves.

B. Control means the actual physical and immediate control of a dog, either by means of leash, cord or chain, except for those dogs acting as service animals within the definition of Title II Sec. 35.136 of the Americans with Disabilities Act [42 U.S.C. 12101, et seq.], that are individually trained to do work or perform tasks for people with disabilities, dogs actually working livestock, dogs lawfully locating, pursuing or retrieving wild game in season when accompanied by and under the control of a licensed hunter, dogs assisting search and rescue or law enforcement personnel, dogs housed in licensed facilities such as kennels, training facilities, or veterinary facilities, dogs participating in an obedience trial, dog show or other sanctioned event or being trained for any of the above pursuits, while accompanied by and under the control of an owner or handler.

C. County means the unincorporated portion of Gilpin County.

D. Dog means any domesticated animal related to the fox, wolf, coyote, or jackal.

E. Dog owner means any person eighteen (18) years of age or older or an emancipated minor, firm, corporation or organization who owns, possesses, keeps, harbors, or has custody of a dog, or the parent, guardian, or custodian of a child under the age of eighteen (18) years, which child owns, keeps, harbors, or has custody of a dog, or any other person who has a financial or property interest in a dog.

F. Running at large means when a dog is off the premises of the dog owner AND not under control as defined above, provided that no dog shall be deemed to be running at large when a dog is acting as a service animal within the definition of Title II Sec. 35.136 of the Americans with Disabilities Act [42 U.S.C. 12101, et seq.], that are individually trained to do work or perform tasks for people with disabilities, dogs actually working livestock, dogs lawfully locating, pursuing or retrieving wild game in season when accompanied by and under the control of a licensed hunter, dogs assisting search and rescue or law enforcement personnel, dogs housed in licensed facilities such as kennels, training facilities, or veterinary facilities, dogs participating in an obedience trial, dog show or other sanctioned event or being trained for any of the above pursuits, while accompanied by and under the control of an owner or handler.

G. Any dog injured on a state or county road and any dog trespassing on private property shall be considered to be running at large.

H. Dangerous dog means any dog that has inflicted bodily injury upon or caused the death of any person or domestic animal, or which has demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict injury upon or cause the death of any person or domestic animal or which has engaged in or been trained for animal fighting as prohibited by §18-9-204 C.R.S., excluding any dog defined in 18-9-204.5(6) C.R.S.

I. Barking dog means any dog, whether on or off the dog owner's premises, that disturbs the peace of any person by loud, habitual or persistent barking, howling, yelping or whining.

J. Harboring means occupying any premises on which an animal is kept, or to which an animal customarily returns for food, shelter or care. Persons harboring a dog shall be subject to the provisions of this Regulation applicable to dog owners.

K. Bodily Injury means any physical injury that results in severe bruising, muscle tears, skin lacerations requiring medical treatment or fracture of any bone or injury that requires corrective or cosmetic surgery.

### **III. LICENSING.**

A. All dogs over the age of six (6) months within the County of Gilpin shall have a current County dog license tag and a current rabies tag. A dog shall be considered unlicensed in the absence of either tag.

B. License tags shall be renewed in the event of residence change, ownership change, tag loss, loss of legibility due to wear or upon issuance of a new rabies tag. There shall be no fee for a dog tag or replacement.

C. Rabies tags shall be renewed and replaced upon expiration and a County license renewal shall be obtained within thirty (30) days.

D. Any dog not currently licensed as of the date of enactment of this Resolution shall be licensed by the dog's owner on or before the 15th day of September, 2016. Any dog acquired and/or brought into the County shall be licensed within thirty (30) days thereafter. The owner of any dog not licensed on or before said date shall thereafter be deemed in violation of this resolution.

E. Each application for a County dog license tag, renewal or replacement shall be accompanied by a current rabies tag or documentation (via certificate, receipt or direct FAX to the Sheriff's Office), provided by a veterinarian certifying rabies inoculation.

F. All County dog license tags shall be obtained at the office of the Gilpin County Sheriff.

G. The Gilpin County Sheriff's Department shall maintain a record of the date of issue of each dog tag issued and the number of the tag. The tag expiration shall be the same as the rabies inoculation.

### **IV. IMPOUNDMENT OF DOGS, AND TERMS AND CONDITIONS FOR RELEASE.**

A. The Sheriff may take into custody and impound any dog found without a current County license tag or found running at large.

B. The Sheriff may take into custody and impound any dangerous dog, provided that with respect to dogs which have bitten other animals, the Sheriff may utilize the confinement provision set forth in Section B2 hereof.

1. A dog impounded for biting a person shall not be released from impoundment prior to approval by a veterinarian and the Sheriff.

2. A dog that has bitten another animal may be confined by the owner for a minimum of ten (10) days as approved by the Sheriff. A dog so confined by the owner shall not be released from confinement without approval of the Sheriff.

3. The dog owner shall be responsible for all impoundment costs.

4. It shall be unlawful for the owner of a dog or any agent of the owner of a dog that has bitten a person or an animal, to destroy any such animal before it has been impounded under the direction of the Sheriff.

C. Subject to paragraph E below, if an impounded dog is not claimed within ten (10) days by the owner, the dog may be transferred of at the sole discretion of the Sheriff.

D. Notwithstanding any other provision of this regulation, if the Sheriff has reasonable grounds to believe that a dog has bitten a person causing bodily injury or may be rabid, the Sheriff shall confine or cause or require the confinement of such dog for a minimum of ten (10) days and for such additional time as the Sheriff may deem necessary in the interest of the public health, safety and welfare. If the dog owner has been cited for violation of §18-9-204.5, C.R.S. the dog may be impounded at owner's expense pending final disposition of the charge against the owner.

E. The owner of any dog impounded pursuant to this Ordinance, shall be responsible for payment of all impoundment fees and costs. Impoundment fees and costs shall include any and all costs of transporting a dog to an impoundment facility, including reimbursement of mileage at the standard mileage reimbursement rate utilized by the County of Gilpin, for all mileage incurred on County vehicles in transporting the dog, together with documented costs of County employee time in transporting the dog. All such fees shall be paid and the Sheriff must verify payment, before any dog shall be released from impoundment. In connection with any penalties assessed pursuant to Section VI of this Ordinance, the court shall order restitution to the County of any and all impoundment costs, as defined and described herein, incurred in connection with impoundment of the dog(s) which are the subject of judicial proceedings.

F. Nothing in this Ordinance shall be construed to prevent the Sheriff, any other law enforcement officer or any member of the public from taking whatever action is reasonably necessary to protect his person or members of the public from injury by any dog.

G. Nothing in this Ordinance shall be construed to prevent the destruction or the killing of dogs to prevent death or injury to livestock, human life, big game animals other than bear or mountain lion, or small game animals, birds or mammals, as more specifically provided in C.R.S. § 33-3-106, or for killing any dog running or worrying or injuring sheep, cattle or other livestock, as provided in C.R.S. §35-43-126.

H. Nothing in this Ordinance shall be construed to prevent the removal of injured or sick dogs from private or public property. Injured dogs may be euthanized if it is determined by the Sheriff or veterinarian that the dog's injuries are such that there is a poor prognosis for recovery. The animal owner shall be liable for all costs and expenses which may be incurred by the County in the treatment, impoundment and/or euthanizing of any such dog.

#### **V. DISPOSITION OF IMPOUNDED DOGS.**

A. No dog shall be disposed of prior to ten (10) days after the date of impoundment.

B. In the event a dog impounded for running at large or for lack of a license tag is not claimed within this 10-day time period, after notice to the owner of such impoundment, when the owner is known, the dog shall be deemed to have been abandoned, the owner's rights therein forfeited and the Sheriff may, at the Sheriff's sole discretion, transfer of the dog by sale, donation or euthanizing.

C. If a dog is transferred or disposed of in accordance with this Ordinance, the owner of such dog shall be obligated to pay all fees and costs associated with the disposal of the animal, which shall be in addition to any and all impoundment fees and costs including transportation costs as defined in Section IV, E of this Ordinance. In the event any dog owner who has failed to claim the owner's dog within the 10-day impoundment period nevertheless requests return of the dog prior to disposal, the owner shall be entitled to return of the dog only upon payment of all impoundment fees and other fees and costs including transportation costs, as identified in this Ordinance. In connection with any judicial proceedings commenced pursuant to this Ordinance, the Court shall order restitution by the owner of the dog, of all costs and fees of impoundment, including the transportation costs described in Section IV, E of this Ordinance.

## **VI. VIOLATIONS, PENALTIES AND ENFORCEMENT**

### **A. Class 2 petty offenses:**

1. It shall be unlawful for a dog owner to keep a dog within the County without complying with the licensing provisions set forth in Section III of this Resolution.
2. It shall be unlawful for any dog owner's dog to run at large in the County.
  - a. Mitigating circumstances - In imposing sentence for violation of this subsection VI, A, 2, in the event a dog owner provides to the Court satisfactory evidence that an adequate physical or electronic fence exists, or has been erected and is in good repair, such installation shall be considered in mitigation, after any convictions under this subsection (2).
3. It shall be unlawful for any dog owner to knowingly permit the County license tag for one dog to be affixed to the collar or harness of another dog.
4. Habitual or persistent barking dog - It shall be unlawful for any dog owner to fail to prevent the owner's dog from disturbing the peace of any person by loud, habitual or persistent barking, howling, yelping or whining, whether the owner's dog is on or off the dog owner's property.
  - a. In the event the dog owner provides evidence satisfactory to the Court, demonstrating that the dog barking, howling, yelping, or whining has been and will continue to be adequately suppressed, such evidence will be considered by the Court in mitigation after conviction of a violation of this subsection (4).

## B. Affirmative Defenses

It shall be an affirmative defense to each of the offenses described above that at the time of the alleged violation, the owner's dog or dogs were working livestock, were dogs locating or retrieving wild game in season for a licensed hunter, were dogs assisting law enforcement officers, or were dogs being trained for any of the foregoing pursuits. Further, this Ordinance shall have no application to licensed kennels, breeding, boarding or training facilities, or veterinarian offices and hospitals, so long as such facilities are in compliance with all applicable zoning, commercial and business regulations laws and statutes.

## C. Penalties:

1. All violations of this County Ordinance shall be Class 2 petty offenses. The penalty assessment procedure provided in §16-2-201 C.R.S. may be followed by the Sheriff for any violation of this Ordinance, provided that the Board of County Commissioners first adopts a graduated fines schedule pursuant to §30-15-102(1) C.R.S. Whenever the Sheriff has probable cause to believe that a violation of this Ordinance has occurred, the Sheriff may issue a citation or summons and complaint to the violator stating the nature of the violation with sufficient particularity to give notice of the said charge to the violator.

2. Except for violation of the licensing requirements set forth in Section III of this Ordinance, all persons who acknowledge guilt or are found guilty of a Class 2 infraction pursuant to this Ordinance shall be punishable by fines as follows: Subject to the exception set forth in subsection (f) below, the court shall have no discretion to suspend any fine here established. The minimum fines specified shall be mandatory.

- a. First offense - \$25.00 minimum / \$300.00 maximum fine.
- b. Second offense (any violation of this Ordinance within 12 consecutive months of the first offense) - \$150.00 minimum / \$300.00 maximum fine.
- c. Third offense (any violation of this Ordinance within 24 consecutive months of the first offense) - mandatory fine of \$300.00.
- d. Upon conviction of a first, second or third offense, the court shall have no authority under this Ordinance to imprison the offender in the county jail and punishment shall be limited to the fine(s) specified herein.
- e. Fourth offense - any dog owner convicted of a fourth violation of this Ordinance shall be deemed to be a persistent offender and in

addition to a mandatory fine of \$300.00, shall be subject to imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment.

- f. Exception to mandatory fine - In the event a dog owner has provided proof of bark suppression as described in Section VI A (4)(a) of this Ordinance or proof of confinement as described in Section VI A (2)(a) of this Ordinance, the court may suspend all or a portion of any fine in connection with that offense.

## VII. EMERGENCY CLAUSE

- A. The Board of County Commissioners finds that uncontrolled dogs pose a threat to the health and safety of Gilpin County residents, domestic animals and wildlife and it is the determination of the Board that it is necessary for the immediate protection of public health and safety that this ordinance shall become effective immediately upon adoption

INTRODUCED ON FIRST READING AND APPROVED FOR PUBLICATION IN THE *Weekly Register Call* AT LEAST 10 DAYS PRIOR TO ADOPTION ON SECOND READING, THIS 12th DAY OF April, 2016, BY A VOTE OF 3 TO 0.

  
Linda Isenhart, Chair

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APPROVED ON SECOND READING BY A VOTE OF 3 TO 0, THIS 09th DAY OF August, 2016, TO BECOME EFFECTIVE UPON THE SAME DATE.

  
Linda Isenhart, Chair

## CERTIFICATION AND ATTESTATION OF THE COUNTY CLERK

Colleen Stewart, Gilpin County Clerk, hereby certifies and attests that the foregoing ordinance was introduced and publication ordered by the Board of County Commissioners on first reading on the 12th day of April, 2016 at a regularly scheduled meeting of the Board of the County Commissioners, and approved on second reading on the 09th day of August, 2016, at a regularly scheduled meeting of the Board of County Commissioners at the Gilpin County Courthouse, Central City, Colorado and that said ordinance was published in full in the *Weekly Register Call* at least ten (10) days prior to final adoption.

  
Colleen Stewart, Clerk & Recorder