ORDINANCE 23 – 2023

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ARCHULETA, STATE OF COLORADO

AMENDED AND RESTATED ORDINANCE 23-2023 FOR THE CONTROL OF DOGS AND OTHER PET ANIMALS IN THE UNINCORPORATED AREAS OF ARCHULETA COUNTY, COLORADO

WHEREAS, the Board of County Commissioners of Archuleta County, Colorado (the "Board") is authorized, pursuant to C.R.S. § 30-15-101, *et seq.* to adopt ordinances for the control of those matters of purely local concern; and,

WHEREAS, C.R.S. § 30-15-401(1)(e) authorizes the Board to adopt an ordinance providing for the control of unleashed and unclaimed animals in the unincorporated areas of Archuleta County; and,

WHEREAS, C.R.S. § 30-15-101, *et seq.,* authorizes the Board to adopt a resolution for the control of dogs, including provisions for requiring that dogs be kept under control as defined by the Board, defining vicious dogs and providing for the control thereof, vaccination requirements, and such other reasonable regulations and restrictions for the control of dogs as the Board may deem necessary; and,

WHEREAS, the control of dogs and the control of the spread of rabies within the unincorporated areas of Archuleta County serves the public health, welfare and safety of the residents of Archuleta County, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, that Archuleta County Resolution 2022-82 is hereby repealed upon this Ordinance becoming effective, and the following rules and regulations for the control of dogs and other pet animals are hereby adopted and shall be enforced thirty (30) days after the date of the adoption of this Ordinance on second reading.

Section 1. Applicability. This Ordinance shall be applicable to all persons who own or keep a domestic non-livestock animal within the unincorporated areas of Archuleta County, Colorado, whether care of such animal is temporary or permanent.

Section 2. Definitions. The following terms, when used herein, shall have the following meanings unless the context clearly requires otherwise:

2.1 "Abandon" shall mean the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.

2.2 "Animal" shall mean any living dumb creature, and as used in this Ordinance shall encompass domestic animals and livestock or farm animals but shall not include any human being.

2.3 "Animal Control Deputy" shall mean any law enforcement or other county personnel such as is defined in C.R.S. § 30-15-105 and shall include the Sheriff or Undersheriff of Archuleta County and/or Archuleta County Sheriff Deputies or any person duly appointed by the Sheriff, or any person duly appointed by the Board of County Commissioners to exercise the authority of the animal control deputy position vested under this Ordinance.

2.4 "Attack" shall mean to set upon forcefully, to threaten or to assault any human or other animal.

2.5 "Bite" shall mean to seize with teeth or jaws so as to enter, grip, wound or cause a puncture to the skin.

2.6 "Board" shall mean the Board of County Commissioners of the County of Archuleta, Colorado.

2.7 "Bodily injury" shall mean a physical injury which results in internal or external bruising, skin puncture, lacerations, bleeding, damage to bone, muscle, or tissue, or any other impairment of a physical condition.

2.8 "Cat" shall mean any animal of the feline species.

2.9 "Control" shall mean that:

a. The animal is under physical restraint by means of a leash or similar tether of sufficient strength that is not longer than ten (10) feet in length that is being held by a person;

b. The animal is physically restrained by being enclosed in a cage, pen, fence, building, or motor vehicle in such a way that it cannot escape; or

c. The animal is accompanied by a person whom it immediately responds to commands, be they issued audibly, mechanically, or electronically and remain within sight.

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

2.11 "Domestic Animal" shall mean any animal kept or raised for companionship or protection, or to be sold for such purposes. "Domestic animal" includes, but is not limited to cats, dogs, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, invertebrates, or any other species of animal which is intended to be a household pet. For purposes of this Ordinance, cats and dogs are domestic animals, even if such is kept for purposes of working on a farm or ranch.

2.12 "Impound" shall mean the confinement of an animal to a building or enclosure, whether indoors or out-of-doors, designed to be escape-proof.

2.13 "Livestock" or "Farm Animal" shall mean any animal kept or raised for companionship or commercial purposes, regardless of use, including but not limited to: cattle, sheep, goats, swine, horses, donkeys, mules, burros, llamas, alpacas, ducks, chickens, or other fowl. For purposes of this Ordinance, the definition of "livestock" or "farm animal" does not include cats or dogs.

2.14 "Nuisance Dog" shall mean loud, habitual, and/or persistent barking, howling, yelping or whining by a dog, which can be heard beyond the boundary of the property of such Owner for more than twenty (20) minutes at any time of the day or night whether the dog is on or off the premises of the Owner. Nuisance Dogs are deemed to be dogs that are not under the control of their Owner.

2.15 "Owner" shall mean any person or entity owning, keeping, harboring, possessing or having custody or control of an animal. The parent or guardian of an Owner under eighteen (18) years of age shall be deemed the Owner for purposes of this Ordinance. Persons who have agreed to temporarily assume responsibility for a pet animal or animal shall be deemed owners for purposes of this Ordinance. "Owner" shall not include persons who assume temporary custody of a pet animal for the sole purpose of summoning animal control authorities or to seek emergency aid or medical treatment for the pet animal if such person immediately upon assumption of custody of the pet animal contacts such authorities or seeks such treatment.

2.16 "Person" shall mean any natural person or individual, corporation, business trust, estate, trust, partnership, association, business, or other legal entity.

2.17 "Pet Animal" shall have the same meaning as Domestic Animal.

2.18 "Running at Large" shall mean a dog that is not under control. "Running at Large" shall not include dogs while working and/or guarding livestock, locating or retrieving wild game in season for a licensed hunter, police dogs assisting law enforcement officers, dogs while actually being trained for any of these pursuits, or a dog accompanied by a person to whom it immediately responds to commands.

2.19 "Vicious dog" shall mean a dog which, without provocation, threatens, attacks, bites, or causes bodily injury to any person or other animal, or, without provocation, is known to have threatened, attacked, bitten, or caused bodily injury to any person or other animal, except:

a. 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

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

Trained dogs owned or kept by and assisting a federal, state or local governmental agency in the performance of its official duties shall not be deemed vicious dogs for purposes of this Ordinance and are exempt from the requirements of this Ordinance. Livestock protection or working dogs shall not be deemed vicious for activities related to the protection or working of livestock.

2.20 "Without provocation" shall mean that a dog was not teased, tormented, or abused by a person, or threatened or attacked by another animal.

Section 3. Rabies Vaccination Required.

3.1 The Owner of each dog, cat or other domestic animal in Archuleta County shall have such domestic animal inoculated by a licensed veterinarian against rabies in accordance with C.R.S. § 25-4-607. Such inoculation and subsequent booster vaccinations shall be obtained for each animal as frequently as recommended in the annual "Compendium of Animal Rabies Prevention and Control" as promulgated by the National Association of State Public Health Veterinarians.

Any owner of a dog and/or cat older than four (4) months of age must ensure the animal is vaccinated within ninety (90) days after assuming ownership.

3.2 Any dog, cat or ferret 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, cat or ferret may 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, cat or ferret shall continue to be vaccinated as required herein.

3.3 Owning or possessing a dog, cat or ferret that has not been vaccinated against rabies shall be prohibited, including those dogs that work livestock or locate or retrieve wild game for a licensed hunter or is being trained for any such pursuits.

Section 4. Prohibitions.

4.1 Dogs shall be always kept under control by their Owners, to prevent the dog from running at large or trespassing on the property of another or on public property. Failure to do so is a violation of this Ordinance.

4.2 If a dog is working on protecting livestock, locating or retrieving wild game in season for a licensed hunter, a police dog assisting law enforcement officers, or actually being trained for any of the above listed pursuits, the dog is not considered running at large, and is not in violation of this Section 4.

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 peace officer or animal control deputy, 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.

4.5 It shall be unlawful for a Dog to be allowed to defecate on public or private property and the Owner or responsible person does not remove the waste in a timely fashion.

4.6 It is unlawful for any Owner to permit the accumulation of a Dog's feces on the property on which the Dog is kept such that it is detectable visually or odoriferously by neighbors.

Section 5. Unlawful Taking or Release of an Animal.

5.1 It shall be unlawful for any person to take or release any animal from a leash, chain, or tether, or to take or release any animal from an enclosed lot, premises, or other building unless authorized to do so by the Owner or keeper of the animal or as otherwise authorized by this Ordinance or State statute.

5.2 It shall be unlawful for any person to open or cause to be opened any closed lot, premises, gate, fence, or building or to release from a leash for the purpose of allowing or permitting a dog to run at large in violation of this Ordinance.

Section 6. Vicious Dog.

6.1 It shall be the duty of any Owner or keeper of a dog to ensure it is not a "vicious dog" as defined in Section 2.19 of this Ordinance, and ensure that it does not:

a. Worry livestock, farm animals or wildlife by chasing, cornering, or other means, such that a person observing the disturbance fears the livestock or farm animals may be attacked and/or injured by the dog.

b. Attack, bite, or otherwise cause bodily injury to any domestic animal, farm animal, livestock, or wildlife.

c. Attack, bite, or otherwise cause bodily injury to any person.

Failure to comply with this Section 6 constitutes a violation of this Ordinance.

6.2 Any dog violating this Section 6 may, to stop an attack or imminent attack, be killed by any person at the time that the behavior is occurring.

6.3 Any person having knowledge that any dog has bitten a human shall immediately report the incident to an animal control deputy. Failure to do so shall be a violation of this Ordinance.

6.4 It shall be a defense to violation of this Section 6 if the victim was: 1) attacking or provoking the dog; 2) unlawfully entering the private property upon which the dog was restrained; or 3) assaulting another person or animal at the time of the violation.

Section 7. Proestrus or Estrus Stage Dogs. The Owner or keeper of any female dog in an estrus or proestrus state shall keep such dog confined indoors or in a type of kennel which will effectively prevent male dogs from contact with the female, unless the Owner or keeper of a female dog in such condition is intentionally breeding or attempting to breed the female dog with a male dog. Such confinement shall be maintained from the beginning of the proestrus state, where there is odor and discharge, for a period of twenty-five (25) days or until she is out of the estrus condition. It shall be unlawful for the Owner or keeper of such female dog to fail to

maintain confinement of the dog through the estrus condition so as to prevent a nuisance or danger caused by the behavior of male dogs.

Section 8. Issuance of Summons and Complaint.

8.1 Whenever any person designated as an Animal Control Deputy 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 that any violation of any provision of this Ordinance 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 an Animal Control Deputy shall contain:

i. the name of the defendant;
ii. the offense charged, including a citation of the Statute or Ordinance section alleged to have been violated;
iii. a brief statement or description of the offense charged, including the date and approximate location thereof; and
iv. direction to 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 requirements of subsection 8.1.

8.3 Any peace officer may issue a summons and complaint pursuant to C.R.S. § 16-2-104, as amended, and Colorado Rules of Civil 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 Ordinance. Any summons and complaint issued pursuant to this subsection shall contain the information contained in subsection 8.2.

8.4 A summons and complaint issued for the first or second violation of the provisions of this Ordinance may also contain a penalty assessment notice pursuant to C.R.S. § 16-2-201, 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.

Section 9. Penalties.

9.1 In addition to each and all the enforcement provisions provided for herein, the following penalties shall apply:

A. The Board hereby adopts the penalty assessment procedure provided in C.R.S. § 30-15-102(1), as it may be amended, for any violation of any provision of this Ordinance not involving bodily injury to any person with the following graduated fine schedule:

First offense:	$100.00
Second offense:	$250.00
Third offense:	$500.00
Each subsequent offense:	$1,000.00

These penalties shall be imposed on the violator and not the subject dog.

B. Any violation of any provision of this Ordinance resulting in bodily injury to any person shall be a Class 2 misdemeanor and any violator shall be punished as provided in C.R.S. § 18-1.3-501 *et seq.*, as amended, for each separate offense.

9.2 This Ordinance authorizes the use of the penalty assessment procedure in C.R.S. § 16-2-201, *et seq.*, as amended, with a graduated fine schedule for violations not involving bodily injury to any person, and with the graduated fine schedule specified in subsection 9.1(A) above. In addition to any other penalty, persons convicted of a violation of this Ordinance shall be subject to a surcharge of ten dollars ($10.00) paid to the Clerk of the Court for credit to the victims and witnesses assistance and law enforcement fund for the Sixth Judicial District.

9.3 If the violator pleads guilty, no contest, is found guilty by a jury of his or her peers, or by the requisite Judge with proper jurisdiction, for all petty offenses, the penalty assessment shall be pursuant to Statute.

9.4 This Ordinance establishes that each violation is a separate violation for each dog alleged to have been in violation of this Ordinance.

Section 10. <u>Animals Subject to Impoundment or Destruction</u>.

10.1 Any vicious dog, or dog found running at large or not under control may be impounded by a peace officer or animal control deputy, at the officer's discretion, with the costs of such confinement assessed against the Owner or keeper of the dog to be collected by restitution or other legal process.

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

a. If the dog is wearing a collar with an identification tag attached or is implanted with an identifiable microchip, 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 (24) hours of the impoundment of the dog, then the impoundment facility shall promptly so notify the Archuleta County animal control deputy 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 subsections 10.2.b through 10.2.e.

b. 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.

c. 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 where the dog was taken up, shall be posted at the impoundment facility. Notification by posting shall be complete upon posting.

d. Notification by the means described in subsections 10.2.a through 10.2.c shall be deemed in compliance with the requirements of this Section. Records of such notification shall be kept by the impoundment facility and the County Official.

e. If no Owner appears to claim the dog and pay the cost of the impoundment and any fines and penalties due within five (5) days after notification is complete, the dog shall be deemed abandoned and disposed of by placement for adoption or euthanasia, in accordance with the policies of the designated impoundment facility.

10.3 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 set by the impoundment facility (which shall include a microchip implant prior to the dog's release if the Owner permits it) and boarding and care fees as set by the impoundment facility. The Owner may be required to provide proof of rabies vaccination per Section 10.4 below.

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.

10.4 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 returned to the dog's Owner.

10.5 Where, in the opinion of the Archuleta County Public Health Department or its designated representative or animal control deputy, an animal is suspected of being rabid, or where the animal has bitten a person or another animal, such deputy or his designated representative may confine the animal in accordance with C.R.S. § 25-4-604. The costs of such confinement shall be paid by the Owner or keeper of the animal to be collected by restitution or other legal process.

10.6 In the prosecution of an Owner or keeper for violation of this Ordinance, the court may, upon entry of conviction or acceptance of a guilty plea and a finding that such dog is vicious, order that such vicious dog be euthanized.

Section 11. Designated Impoundment Facility. The Board shall designate, on an annual basis, the facility that shall serve as the Designated Impoundment Facility for purposes of this Ordinance and that is authorized to impound dogs pursuant to the provisions of this Ordinance.

Section 12. Violations/Strict Liability. Violations of any provisions of this Ordinance shall be proven by establishing beyond a reasonable doubt that a person performed a voluntary act or the omission to perform an act which such person was physically capable of performing; and that such act or omission was contrary to any provision of this Ordinance constituting a violation. It shall not be necessary to prove a culpable mental state on the part of any person with respect to any material element of any violation. Any violations of this Ordinance are ones of "strict liability" as defined in C.R.S. § 18-1-502 and generally throughout Title 18, Article 1.

Section 13. Enforcement. The provisions of this Ordinance shall be enforced by any person designated as a "peace officer" as defined by Colorado Statute or an "animal control deputy" as defined above.

Section 14. Disposition of Fines. All fines for violations of any provision of this Ordinance shall be paid to the Archuleta County Treasurer immediately upon receipt and shall be deposited to the Archuleta County General Fund.

Section 15. Liability for Accident or Subsequent Disease from Impoundment. In accordance with C.R.S. § 30-15-104, neither the Board nor any of its assistants, employees, or any other persons authorized to enforce or administer any of the provisions of this Ordinance shall be held liable for any accident or subsequent disease that may occur to an animal in connection with the enforcement or administration of this Ordinance.

Section 16. State Statutes Control. If any statute in the State of Colorado or 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 Ordinance, this Ordinance shall not be construed to reduce or modify the powers granted by statute.

Section 17. Singular/Plural. The use of the singular form of any word or term used herein shall be interpreted to include the plural form of such word or term and the use of the plural form of any word or term used herein shall be interpreted to include the singular form of such word or term.

Section 18. Captions. The captions and paragraph headings used throughout this Ordinance are for the convenience of reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction or meaning of any provision to or the scope or intent of this Ordinance.

Section 19. Severability. If any provision of this Ordinance or the application thereof to any party or circumstance shall to any extent be deemed invalid or unenforceable by a court of law, the remainder of the Ordinance, or the application of such provision to parties or circumstances

other than those to which have been deemed invalid or unenforceable, shall not be affected thereby and each provision of this Ordinance shall be valid and enforced to the fullest extent permitted by law.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, STATE OF COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 19TH DAY OF MARCH, 2024.

BOARD OF COUNTY COMMISSIONERS
OF ARCHULETA COUNTY, STATE OF
COLORADO

By: */s/Veronica Medina*
Veronica Medina, Chair

I hereby certify that the above Ordinance was introduced to the Board of County Commissioners of Archuleta County, State of Colorado, at its meeting of March 19, 2024 and ordered published one time in full in *The Pagosa Sun* newspaper and on the County website onMarch 28, 2028.

ATTEST:

By: */s/Kristy Archuleta*_____
County Clerk & Recorder

FINALLY ADOPTED, PASSED, APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED PUBLISHED BY TITLE ONLY, IN *THE PAGOSA SUN* NEWSPAPER AND ON THE COUNTY WEBSITE, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS MEETING HELD ON THE 16th DAY OF APRIL 2024, BY A VOTE OF 3 IN FAVOR AND 0 AGAINST.

BOARD OF COUNTY COMMISSIONERS
OF ARCHULETA COUNTY, STATE OF
COLORADO

By: */s/Veronica Medina*
Veronica Medina, Chair

I hereby certify that the above Ordinance was finally adopted by the Board of County Commissioners of Archuleta County, State of Colorado, at its meeting of April 16, 2024 and ordered published one time by title only in *The Pagosa Sun* newspaper and in full on the County website on April 25, 2024.

ATTEST:

By: */s/Kristy Archuleta*_____
County Clerk & Recorder

Published in full on the Archuleta County website, www.archuletacounty.org on April 18, 2024.

By: */s/ Mary Helminski*
Paralegal