

ORDINANCE NO. 08-01

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF LOGAN, STATE OF COLORADO**

**AN ORDINANCE PROHIBITING DOGS RUNNING-AT-LARGE
AND HARBORING A HABITUAL AND PERSISTENT BARKING DOG
IN THE UNINCORPORATED AREAS OF LOGAN COUNTY**

WHEREAS, the Board of County Commissioners of the County of Logan (the “Board”), pursuant to Colorado Revised Statutes §§ 30-15-101(1)(a) and 30-15-401 et seq., has the general enabling power to adopt ordinances, resolutions, rules and other regulations as may be necessary for the control and licensing of those matters of purely local concern, and to do all acts which may be necessary or expedient to promote the health, safety, and welfare of the citizens of Logan County; and

WHEREAS, the Board has specific authority pursuant to Colorado Revised Statutes §§ 30-15-101(1)(a) and 30-15-401(1)(e) to adopt an ordinance requiring that dogs be under control at all times and establishing such other reasonable regulations and restrictions for the control of dogs as the Board may deem necessary; and

WHEREAS, to provide for enforcement of any ordinance so adopted, the Board may, pursuant to Colorado Revised Statutes §§ 30-15-105 and 30-15-402.5, designate personnel to enforce the ordinance; and

WHEREAS, counties and municipalities may enter into intergovernmental agreements to provide for the control, impounding or disposition of dogs, or to provide for the accomplishment of any other aspect of a county or municipal dog control resolution or ordinance, as permitted by Colorado Revised Statutes §30-15-101(2); and

WHEREAS, dogs running-at-large, including dogs running out of their owners’ control and dogs abandoned in the unincorporated areas, often suffer from neglect and malnutrition and cause damage to the person or property of County residents; and

WHEREAS, habitual, persistent barking dogs are a nuisance and disrupt the quiet, peaceful enjoyment of property by the residents of the County; and

WHEREAS, sufficient community resources now exist to provide effective enforcement of the terms of this Ordinance and to further the purposes of this Ordinance; and

WHEREAS, the Board determines that this Ordinance is necessary for the immediate preservation of the public health, safety and welfare of the citizens of Logan County.

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

Section 1. Repeal and Re-Enactment.

The Board hereby repeals any ordinances or resolutions which concern the same subject matter of this Ordinance, and which are inconsistent with this Ordinance.

Section 2. Title

This ordinance shall be known and referred to as the “Logan County Animal Control Ordinance,” and may be cited and referred to as such.

Section 3. Purpose

The purpose of this Ordinance is to preserve and protect the public health, safety and welfare of the citizens of Logan County, Colorado, by prohibiting dogs running-at-large and habitual, persistent barking dogs in order to prevent animal suffering and damage to the person or property of the residents of Logan County, and preserve the peaceful, quiet enjoyment of property by the citizens of Logan County.

Section 4. Authority

This Ordinance is authorized by, *inter alia*, part 1 of article 15 of title 30 at section 101(1), and part 4 of article 15 of title 30 at section 401(1)(e), C.R.S.

Section 5. Interpretation

This Ordinance shall be interpreted and construed as to effectuate its general purpose to preserve and protect the public health, safety and welfare of the citizens of Logan County, Colorado, by prohibiting dogs running-at-large and habitual, persistent barking dogs in the unincorporated areas of Logan County, in order to prevent animal suffering and neglect, and protect property and the quiet, peaceful enjoyment thereof. Section headings and any cross references, if any, of this Ordinance shall not be deemed to govern, limit, modify or affect in any manner the scope, meaning or extent of the provisions of this Ordinance or any section thereof.

Section 6. Application

This Ordinance shall apply throughout the unincorporated areas of Logan County, including public, private, state, and applicable federal lands. This Ordinance shall also apply throughout any incorporated town or city which elects by ordinance or resolution to have the provisions hereof apply.

Section 7. Definitions

As used in this Ordinance, the following words have the following meanings:

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

Containing device means a pen, cage, motor vehicle or similar device which is capable of humanely holding a dog within.

Control means physical restraint by use of a leash or a containing device.

Daylight hours means one-half (½) hour before sunrise until one-half (½) hour after sunset.

Leash means a thong, cord, rope, chain or similar device which is capable of holding a dog within.

Livestock means any bovine animal, horse, mule, ass, sheep, goat, fowl or swine.

Owner means any person owning any dog, or having the same in his or her care, custody or control; or who shall cause, encourage or suffer the same to remain on his or her premises for a period of three (3) days or more.

Premises means real property owned, rented, leased, used, kept or occupied by a person.

Running at-large means off the premises of the owner and not under control of the owner.

Section 8. Running at-large

A. It is unlawful for the owner or any person having custody of any dog to allow, suffer, permit or sanction the running at-large of said dog without the accompaniment of said owner or person having custody of the dog within the County, except said portions of the County which are within the city limits of any incorporated municipality within the County which has not consented that this Ordinance apply within such municipality.

B. A dog shall be deemed to be running at-large when off or away from the premises of its owner and not under the control of such owner.

C. It shall be deemed that a dog is not under the control of its owner when the dog inflicts damage or injury to the person or property of another or by harassing, chasing or

attacking people, livestock (or worrying livestock as defined in Section 35-43-126, C.R.S.), or wildlife, except in the defense of the owner, his or her family or property.

D. Control, as defined in Section 7, above, shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter during daylight hours, assisting law enforcement officers or being trained for any of these pursuits.

Section 9. Habitual and Persistent Barking Dog

A. Harboring a Habitual and Persistent Barking Dog. A dog owner commits an offense punishable under Section 14 if he/she fails to prevent his/her dog from disturbing the peace of any person by loud, habitual and persistent barking, howling, yelping, or whining, whether the dog is on or off the owner's property.

B. Warning Notices. A County Dog Control Officer will issue a warning notice to the dog owner after receiving a complaint of a barking dog. The complainant must provide the dog owner's address, description of dog, and the date and duration of the violation. The dog owner will be allowed three days from issuance of the warning notice to correct the problem before being charged under the summons and complaint process.

C. Citations/Summons and Complaints. After the three-day grace period and within 180 days after issuance of the warning notice, a citation, or summons and complaint, may be issued if two persons from separate households have signed complaints and are willing to testify at trial. The complainants must provide the dog owner's address, description of the dog, and the date and duration of violation, but need not be reporting the same date and time of violation. In the event there is only one occupied residence in the immediate area of the location of the barking dog, only one complaining witness shall be required to sign the complaint prior to the issuance of a summons and complaint, as long as the complaining witness is willing to testify at trial.

D. Service of Warning Notices. A dog owner shall be deemed to have received and been issued a warning under this subsection if the warning was personally served on the dog owner, posted on the residence of the dog owner, or placed in the U.S. Mail, postage prepaid and addressed to the dog owner. Warning notices so served shall constitute notice to all members of that residence.

E. Second Offense. If a second complaint of a barking dog is received within 180 days of issuance of the first citation or summons and complaint, a citation or summons and complaint may be issued without issuing a warning notice.

F. Proof Required for Conviction. No person shall be convicted at trial of violating this section unless a person in the immediate area has signed a complaint and testified to the persistent, habitual, and offensive noise generated by a barking dog.

G. Exceptions. The provisions of this Section 9 shall not apply to dogs working livestock, dogs locating or retrieving wild game in season for a licensed hunter, dogs assisting law enforcement officers, or dogs being trained for any of these pursuits. Further, it shall not apply to licensed and permitted kennels, breeding, boarding and/or training facilities, or veterinary offices and hospitals, provided these facilities comply with all applicable zoning, commercial, and business regulations, laws and statutes.

Section 10. Humane Society

The Logan County Humane Society shall have the responsibility, under this Ordinance, and in accordance with a contract which shall be entered into between the Board of County Commissioners and the Logan County Humane Society, for impounding dogs found to be running at-large.

Section 11. Impoundment

A. Upon the execution of a contract between the County and the Logan County Humane Society, the Logan County Humane Society and its authorized personnel are hereby designated and authorized to impound any dogs found running at-large without accompaniment of the owner or any other person having control of the dog within any part of the County, except within the city limits of any incorporated municipality in the County that has not consented that this Ordinance apply within such incorporated municipality.

B. If any animal is found running at-large or off the premises of the owner or keeper in violation of this Ordinance, or when any such animal is followed back to the premises, it may be taken up and impounded and/or the owner or keeper of the animal may be fined as provided hereafter. Those persons who have the authority to enforce the provisions of this Ordinance (County Dog Control Officers) and who observe a dog running at large and not under control may enter upon private property (except for dwellings or any enclosed building) to take a dog into custody.

Section 12. Charges for impoundment

A. When any dog has been picked up or apprehended for impoundment pursuant to the terms of this Ordinance, notice of such impoundment shall be given to the owner, if known, who may thereupon recover possession of such dog upon payment of an impoundment fee and any actual and necessary veterinary costs incurred on behalf of the dog. No owner may recover possession of such dog until he or she has made payment of the cost of impoundment fee and veterinary costs. The impoundment fee shall be based upon the actual and necessary costs of impoundment and shall be set on an annual basis by the impounding facility.

B. In addition to the basic impoundment fees and necessary veterinary costs, any

impounded dog shall not be released until such animal has been duly vaccinated for rabies. Upon receipt of an immunization (rabies) deposit, in an amount based upon the actual and necessary costs of immunization and which is set annually by the impounding facility, such dog may be released in order that it may be immunized. Upon proof that such dog has been duly immunized within ten (10) working days after such release, the immunization deposit shall be refunded to the dog's owner.

Section 13. Adoption, sterilization and euthanasia

Any dog that has not been redeemed within five (5) days from the time of such impoundment may be put up for adoption at once in accordance with the normal procedure of the director of the impounding facility. Any owner or keeper of a dog who does not claim or redeem said dog within the five-day impounding period shall forfeit all right, title and interest in said dog. Any dog which has not been redeemed within five (5) days as herein provided, or any dog which, in the opinion of a veterinarian, is experiencing extreme pain or suffering during the five-day impounding period, may at once be humanely euthanized under the direction of the director of the impounding facility and removed and buried or cremated. No dog shall be placed for adoption or euthanized until reasonable efforts have been made to notify the owner, either orally or in writing, if the dog is experiencing extreme pain or suffering as determined by a veterinarian or if the whereabouts of such owner is known or can be ascertained from a license tag or other identification found on the dog. In cases where the dog is experiencing extreme pain or suffering, as determined by a veterinarian and the owner is identifiable, *reasonable effort* shall mean efforts to notify the owner for a period of up to twenty-four (24) hours. All impounded dogs that are not redeemed and placed for adoption shall be sterilized by a licensed veterinarian prior to release from the impounding facility. Any costs for sterilization shall be paid by the person who adopts the dog as part of an adoption fee to be determined by the impounding facility.

Section 14. Nonliability

The Sheriff, the Board of County Commissioners, their assistants and employees, the Logan County Humane Society and staff thereof, and any person enforcing the provisions of this Ordinance, shall not be held responsible for any accident or subsequent disease that may occur in connection with the administration of this Ordinance.

Section 15. Violations and penalties

A. Any violation of Sections 8 or 9 of this Ordinance, and not involving bodily injury to any person, shall be a Class 2 petty offense, as defined by Section 18-1.3-503, C.R.S. Upon conviction of a violation of Section 8 or 9 of this Ordinance, and not involving bodily injury to any person, the offender shall be punished according to the following schedule:

First Conviction: \$ 40.00 fine
Second Conviction: \$ 80.00 fine
Third Conviction: \$250.00 fine
Fourth or More Convictions: \$300.00 fine and/or imprisonment in the County Jail for not more than 90 days

B. For sentencing purposes concerning convictions for second and subsequent offenses, prima facie proof of a defendant's previous convictions shall be established when the prosecuting attorney submits to the Court the case numbers and dates of said previous convictions. The prosecuting attorney shall not be required to plead or prove any previous convictions at trial. Sentencing concerning convictions for second and subsequent offenses shall be a matter to be determined by the Court following conviction.

Section 16. Penalty assessment and schedule

Notwithstanding the provisions of Section 15 hereof, any person charged with one (1) or more of the violations of Sections 8 or 9 of this Ordinance, and not involving bodily injury to any person, shall have the option of paying the below-specified penalty assessments therefor to the County Treasurer in lieu of further proceedings or defense of such violations in court, or of appearing in court to defend such charge. If such person elects to appear in court, he or she shall be proceeded against as otherwise provided by law for the violations charged and shall be subject to the penalties provided in Section 15 hereof if convicted of such charge. In the event a person elects to pay the prescribed penalty assessment as permitted herein, such payment shall constitute an acknowledgment of guilt by such person of the offense charged and shall be deemed a complete satisfaction for such violation. Upon accepting the prescribed penalty assessment, the County Treasurer shall issue a receipt to the violator acknowledging payment thereof. The penalty assessment which may be accepted and paid by the violator under the privileges of this Section shall be as follows:

First Offense: \$ 25.00
Second Offense: \$ 50.00
Third Offense: \$200.00
Four or More Offenses: Penalty assessment shall not apply and the violator shall be prosecuted under the provisions of Sections 8 and/or 9 of this Ordinance, upon the issuance of a summons to appear.

Section 17. Bodily injury

A. It is unlawful for the owner or any person having custody of any dog to allow, suffer, permit or sanction the infliction of bodily injury upon any person by said dog while said dog is running at-large as defined by Sections 7 and/or 8 of this Ordinance. Any violation of this Section shall be a Class 2 misdemeanor as defined by Section 18-1.3-

501, C.R.S. Upon conviction of a violation of this Section, the offender shall be punished according to the following schedule.

First Conviction: Imprisonment in the County Jail for
3 months and/or \$250 fine

Second Conviction: Imprisonment in the County Jail for
6 months and/or \$500 fine

Third or More Convictions: Imprisonment in the County Jail for
12 months and/or \$1,000 fine

B. For sentencing purposes concerning convictions for second and subsequent offenses pursuant to this Section, prima facie proof of a defendant's previous convictions shall be established when the prosecuting attorney submits to the Court the case numbers and dates of said previous convictions. The prosecuting attorney shall not be required to plead or prove any previous convictions at trial. Sentencing concerning convictions for second and subsequent offenses shall be a matter to be determined by the Court following conviction.

Section 18. County Dog Control Officers

A. The Sheriff, undersheriff or any deputy sheriff, and any officer, agent or employee of the Logan County Humane Society, designated by the Humane Society if the Humane Society is under contract with the County, shall have the authority to enforce the provisions of this Ordinance and, within the meaning of 30-15-102(3), C.R.S., shall be considered County dog control officers. County dog control officers shall be included in the definition of "peace officer" set forth in 18-3-201(2), C.R.S., as amended, as it pertains to assaults upon peace officers. It shall be unlawful for any person to interfere with, hinder, or prevent any county dog control officers in the discharge of their duties as herein prescribed.

B. Whenever a County dog control officer has probable cause to believe that a violation of this Ordinance has occurred, the officer may issue a citation or summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator.

C. Nothing in this Ordinance shall be construed to prevent a county dog control officer from taking whatever action is reasonably necessary to protect his/her person, members of the public, or another animal from injury which may be caused by any dog.

Section 19. Additional Remedies

The remedies provided in this Ordinance shall be cumulative and in addition to any

other federal, state or local remedies, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any applicable state or federal statute, ordinance, rule order, or regulation.

Section 20. Safety Clause

The Board hereby finds, determines and declares that this ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Logan County, Colorado.

Section 21. Effective Date

This Ordinance prohibiting dogs running at-large and habitual, persistent barking dogs within the unincorporated areas of Logan County shall be effective immediately, and remain in effect until amended by the Board. The Board further orders that this ordinance be published in full in the Sterling Journal Advocate.

Section 22. Severability

Should any section, subsection, clause, sentence or phrase of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate the other provisions of this Ordinance which can be given effect without such invalid provision.

Section 23. Repeal of Conflicting Provisions

All former County ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.

