

ORDINANCE NO. 13

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF  
ALAMOSA, COLORADO CREATING AN ORDINANCE GOVERNING  
ANIMAL CONTROL

**WHEREAS**, the Board of County Commissioners has the authority pursuant to C.R.S. §30-15-101(l)(a) to adopt an ordinance for the control and rabies vaccination of pet animals, and to establish such other reasonable regulations and restrictions as may be deemed necessary; and

**WHEREAS**, the Board of County Commissioners has the authority pursuant to C.R.S. §30-15-401(l)(e) to adopt an ordinance for the control of unleashed or unclaimed animals; and

**WHEREAS**, the sheriff and his deputies are authorized by C.R.S. §25-4-612 to assist and cooperate with the health department in capturing and impounding any dog or cat which has not been inoculated for rabies or is found running at large;

**WHEREAS**, the Board of County Commissioners finds that there is a real and present danger to the public health, safety and welfare of the citizens of Alamosa County caused by rabies, dogs running at large, vicious dogs and dangerous dogs; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners that the following rules and regulations governing animal control are hereby adopted for application in the entire unincorporated area of Alamosa County. Nothing herein shall prohibit the application of this Ordinance to incorporated municipalities which contract with the County for animal control services.

**Section 1 - Applicability of Control Provisions**

The control provisions of this Ordinance shall apply to all dogs in the entire unincorporated area of Alamosa County except for those dogs certified as assistance dogs for the physically handicapped, 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 kennels, dogs being trained in training facilities, dogs at veterinarian offices and hospitals, dogs participating in an approved 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. Nothing in this Section shall be construed to permit any exception or alteration to the leash control requirements on any public park or open space lands where leash control is required by the managing agency.

**Section 2 - Definitions**

The following definitions shall apply to the interpretation and enforcement of this Ordinance, unless the content otherwise requires:

(a) "Animal Control Division" means that section of the Alamosa County Sheriff's Department that is engaged in dog and animal control and is vested with the power and authority to enforce this Ordinance. This term shall also include the department's duly authorized officers, employees and agents.

(b) "Animal Control Officer" means any person authorized by the Board of County Commissioners or the Alamosa County Sheriff to engage in dog and animal control in Alamosa County including, but not limited to, Law Enforcement Officers.

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

(d) "Confine" shall mean to securely enclose indoors or constrain in a secure enclosure as outlined in Section 6(B) of this Ordinance.

(e) "Control" means under leash control or, when accompanied by a person, within view and hearing and under electronic or voice control.

(f) "Current" as used in connection with a rabies inoculation means in compliance with this Ordinance.

(g) "Dangerous dog" means any dog that, without provocation:

(1) has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic or wild animal; or

(2) has demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict serious bodily injury upon or cause the death of any person or domestic or wild animal; or

(3) has engaged in or been trained for animal fighting as described in C.R.S. '§8-9-204.

(h) "Dog" means any domesticated animal related to the fox, wolf, coyote or jackal.

(i) "Domestic animal" means any animal owned or kept by a person for companionship or protection or for sale to others for such purposes, or livestock, as defined in C.R.S. §35-1-102(b).

(j) "Electronic control" means the use of a device which is physically attached to the dog which is used to positively control the dog's behavior through electromagnetic signal transmitted to the device by the owner.

(k) "Injure or injury" means to do harm to; to hurt; damage; impair or wound.

(l) "Leash Control" means firmly attached to a secured tether or leash which is being held by a person who is thereby in fact able to prevent the dog from charging, chasing or otherwise disturbing or interfering with any person, domestic animal or wildlife, irrespective of the presence of any distraction or provocation.

(m) "Owner" means any person, firm, corporation or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a dog or cat. If a dog or cat has more than one owner, each shall be considered an "owner" and subject to the provisions of this Ordinance.

(n) "Premises" means the area of land surrounding the residence of the owner of the dog, which is owned, occupied or under the control of the owner of the dog, or any other confined area which is under the control or immediate supervision of the owner of the dog. "Premises" does not mean the unenclosed property of a condominium or townhouse or the common passageway, parking facility, or unenclosed common yard of an apartment building or shopping center, or any public right of way.

(o) "Running at Large" means a dog which is off of or away from the premises of its owner or keeper and not under control as more specifically set forth in Section 6 of this Ordinance. A dog that is not under control but is on private property with the permission of the owner of the property shall not be considered to be at large.

(p) "Serious bodily injury" means bodily injury which involves a substantial risk of death, a substantial risk of permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part of, or organ in, the body.

(q) "Vicious Dog" means a dog which has bitten or attempted to bite any person, without provocation, or has bitten a domestic or wild animal without being attacked or threatened with attack first.

(r) "Voice control" means immediate and reliable obedience to any voice or sound command given by the owner or handler who is thereby in fact able to prevent the dog from charging, chasing or otherwise disturbing or interfering with any person, domestic animal or wildlife, irrespective of the distance involved or the presence of any distraction or provocation.

### **Section 3 - Rabies Inoculation Required**

(a) The owner of each dog or cat in Alamosa County shall have such dog or cat

inoculated by a licensed veterinarian against rabies at three (3) months of age, one year later and a maximum of every three (3) years thereafter so as to provide inoculation during the period of effectiveness of the vaccination.

(b) Upon vaccination of a dog or cat, a licensed veterinarian shall execute and furnish to the owner a certificate of rabies inoculation which shall include the following information:

1. the name, address and telephone numbers (home and business) of the owner,
2. the name and address of the veterinarian administering the vaccination,
3. the breed, age, color, name, sex and status as to spayed or neutered of the vaccinated animal,
4. date of vaccination and expiration thereof,
5. type of vaccine used, lot number and manufacturer,
6. for a dog, the rabies vaccination tag number.

The veterinarian shall also furnish to the owner of a dog a rabies tag which shall be firmly affixed to the collar or harness of the dog.

(c) Any dog or cat that is brought into Alamosa County from another county or state must have been inoculated against rabies at least thirty (30) days but not more than thirty-six (36) months prior to importation into Alamosa County; however if the vaccine used does not meet a thirty-six (36) month period of effectiveness, the maximum acceptable inoculation period shall be twelve months. A tag denoting vaccination shall be firmly affixed to the collar or harness of the dog, and subject to the requirements set forth in this paragraph, shall be evidence of compliance with this Ordinance. Any legally acceptable certificate of vaccination issued by a legally authorized person to the owner of the dog in any municipality, county, or state shall be exchanged for a current Alamosa County rabies inoculation tag for dogs if the imported dog remains in Alamosa County more than thirty (30) days.

(d) Any dog or cat that has bitten a person so as to cause any abrasion and/or break of the skin and has no verification of a valid rabies shot may be impounded or confined in the Alamosa County \_\_\_\_\_, or any approved private veterinary hospital for observation for at least ten (10) days in order to determine whether the dog or cat has rabies. The Animal Control Officer shall give notice of such impoundment to the owner, if known. If the owner is not known, the Animal Control Division shall cause a notice of the impoundment of

the dog or cat to be published or advertised in a newspaper of general circulation. If no owner appears to claim the dog or cat within five (5) days after receipt of the notice or within seven (7) days after publication of the initial written notice and at least after the ten (10) day rabies impoundment period, if necessary, the dog or cat will be put up for adoption or humanely disposed of in accordance with local policy. Before a dog or cat can be released from the impoundment facility, it must either be inoculated for rabies or have proof of a valid rabies inoculation.

#### **Section 4- Rabies Inoculation Tag**

(a) A rabies inoculation tag shall be issued by the veterinarian who administered the vaccination to the dog. Each rabies inoculation tag shall be inscribed with the Alamosa County, Colorado, year[s] for which the tag is issued, and the tag number. Except as provided under 4(b) below, every dog must wear a collar or harness to which the rabies tag shall be firmly attached. Each rabies tag shall be worn only by the dog for which it was issued.

(b) Tags of dogs participating in sanctioned dog shows or matches, or of dogs aiding law enforcement officers or of dogs on private property with the permission of the property owner, need not be attached to the collar or harness but must be in the possession of the dog owner.

(c) Rabies tags for dogs which are brought into Alamosa County from another county or state are governed under Section 3(c) of this Ordinance, above.

#### **Section 5 - Barking Dogs**

(a) It shall be unlawful for any person owning or keeping a dog to fail to prevent such dog from disturbing the peace of any other person by loud, persistent and habitual barking, howling, yelping or making any other loud, persistent and habitual noise, whether the dog is on or off the owner's premises. Dogs guarding livestock shall not be excepted from application of this section pursuant to Section 1, Applicability of Control Provisions, unless such barking is related to the presence of a predator, unconfined animal or intruder.

(b) Provocation of the dog whose noise is complained of by a person or unconfined animal is a defense to any complaint being brought hereunder.

(c) In the event the Animal Control Officer or other person authorized to enforce this Ordinance determines that a violation of this Section has occurred, the Animal Control Officer or other authorized person shall give the violator a written warning of the violation pursuant to Subsection 5(d), below. The violator shall be entitled to a period of three (3) days after the date on which the written warning is given in order to correct the violation. If the violation persists or recurs after this 3-day period, the violator shall be subject to enforcement action under Sections

10 and 11 of this Ordinance. No enforcement action for a violation of this Section shall be taken more than one (1) calendar year after the date on which written warning for that violation is given hereunder.

(d) The warning process employed by the Animal Control Division shall be as follows:

(1) The Animal Control Division will give a written warning of the violation after any of the following circumstances occurs: a complaint which the Animal Control Division investigates, two complaints from different households, or a complaint from a single household if it is the only household within a 1/4 mile of the source of the complaint.

(2) All complainants must clearly identify themselves and either the dog complained of, the name of the dog owner or the address at which the dog is located.

(3) Such warning is sufficient if it recites Section 5(a), states that a complaint has been received, that the person's dog is disturbing the peace of another individual, and is identified as coming from the Animal Control Division.

(4) A warning is given under this Section if it is personally served on the dog's owner, posted on the owner's premises, or placed in the U.S. mail, postage prepaid, and addressed to the owner of the dog at the address contained in the rabies inoculation records or at an address based on the best information available.

(5) The Animal Control Division shall keep records of all warnings given and such records shall be prima facie evidence that such warnings were given.

(e) No person shall be convicted at trial of violating this Section unless one (1) or more witnesses testifies to the loud, persistent, or habitual nature of the noise. An Animal Control Officer may be relied upon as a witness in meeting this requirement.

## **Section 6 - Dogs Running at Large**

(a) It shall be unlawful for the owner of any dog to fail to prevent the dog from running at large in the entire unincorporated area of Alamosa County. Any dog off the owner's premises or on private property without the permission of the property owner shall be under control as defined in Section 2(e) above, inside a vehicle or similarly physically confined so that said dog is without access to passers-by. A dog is presumed to be at large if injury, damage or trespass has

occurred even if said dog is under control.

(b) It shall be unlawful for the owner of a dog to allow such dog to chase or attack any person, domestic animal or fowl or any species of wildlife.

(c) Any Animal Control Officer apprehending a dog at large may impound the dog, return the dog to the owner and/or issue a Penalty Assessment Notice or a Summons and Complaint. Said officer shall have the right to enter upon private property when it is necessary to apprehend any dog that has been running at large. Such entrance upon private property shall be in reasonable pursuit of said dog, and shall not include entry into a domicile or enclosure which confines a dog unless it be at the invitation of the owner of the premises.

### **Section 7A - Dangerous or Vicious Dogs Running at Large**

(a) It shall be unlawful for the owner of a dangerous or vicious dog to fail to prevent said dog from going off the premises of the owner unless said dog is under leash control so as to prevent it from injuring any person or property.

(b) It shall be unlawful for the owner of a dangerous or vicious dog to allow such dog to chase or attack any person, domestic animal or fowl or any species of wildlife.

(c) Provocation by a person, or attack (actual or threatened) by a domestic or wild animal shall be affirmative defenses to such offense if the actions of any person or animal provoke the dog to such an extent that a dog of normal temperament would react viciously.

### **Section 7B - Dangerous Dogs on Premises**

It shall be unlawful for the owner of a dangerous dog to fail to confine said dog on the owner's premises in a secure enclosure which meets the following requirements:

(1) The enclosure must have secure sides and a secure base so as to effectively prevent the dog from escaping by digging or climbing or any other means; and

(2) The enclosure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

This provision shall not apply to any dog which has been trained by qualified instructors for guard or police purposes.

No provision of this section relieves the owner of a dog from the obligation to comply with any local ordinance governing the humane treatment of animals, nor from the obligation to comply with any rule or regulation concerning building permit requirements or fences.

Nothing herein shall be construed so as to limit the application of C.R.S. §18-9-204.5, Unlawful ownership of dangerous dog.

## **Section 8 - Miscellaneous Offenses**

### **Confinement of Female Dogs in Heat**

It shall be unlawful for the owner of a female dog in the pro-estrus or estrus state to fail to confine such dog either in a building, secure enclosure or in a kennel so as to prevent it from attracting by scent or coming into contact with male dog or otherwise creating a nuisance, except for planned breeding.

### **Cruelty to Animals**

It shall be unlawful for a person to knowingly or with criminal negligence to overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry in or upon any vehicle in a cruel manner, or otherwise mistreat or neglect any animal or cause or procure it to be done, or having the charge and custody of any animal, fail to provide it with proper food, drink or protection from the weather, or abandon it. Any animal the subject of such cruelty may be impounded if, in the opinion of the Animal Control Officer, impoundment is necessary for the protection of the animal.

If it is determined by an Animal Control Officer that an animal is in need of medical/veterinary care, the Officer may require that the owner provide that care within 24 hours; if care is not provided in that time, the animal may be impounded so as to receive the necessary care, and released only upon payment by the owner of these and all impoundment costs. The owner may additionally be charged with cruelty under this provision.

Nothing herein shall be construed so as to limit the application of C.R.S. sections 18-9-202 or 35-42-107(2).

### **Accumulation of Feces**

It shall be unlawful for a dog owner to allow excessive dog feces to accumulate. The accumulation of dog feces shall be deemed to be excessive if there is sufficient quantity to generate odors off the premises of the dog owner.

### **Habitual Offender**

It shall be unlawful for a dog owner to violate any section of this Ordinance three or more times in any twelve month period.

## **Section 9 - Seizure and Impoundment**

(a) The Animal Control Officer may apprehend any dog found running at large, any dog required to be vaccinated against rabies which is not vaccinated and/or is not wearing a current rabies inoculation tag, any dangerous or vicious dog not properly confined, or any dog or animal being kept or maintained contrary to the provisions of this Ordinance.

(b) When an animal has been apprehended by an Animal Control Officer, he or she may take any appropriate action including: returning the animal to its owner, impounding the animal and/or issuing a Penalty Assessment Notice or Summons and Complaint.

(c) If the animal is impounded, the Animal Control Officer shall give notice of such impoundment to the owner, if known. If the owner is not known, the Animal Control Division shall cause a notice of the impoundment of the animal to be published or advertised in a newspaper of general circulation. If no owner appears to claim the animal within five (5) days after receipt of the first, unpublished notice or within five (5) days after publication of written notice, the animal will be put up for adoption or humanely disposed of in accordance with local policy. Before a dog or cat can be released from the impoundment facility, it must either be inoculated for rabies or have proof of a valid rabies inoculation, and the owner must pay the costs of impoundment, including medical/veterinarian costs and those costs incurred by the Animal Control Division. The impoundment period for dogs or cats that have bitten a person so as to cause an abrasion and/or break of the skin and have no verification of a valid rabies shot is set forth in Section 3(d), above.

## **Section 10 - Enforcement**

Personnel authorized by the Board of County Commissioners or by the Alamosa County Sheriff to engage in animal control in Alamosa County, however administratively assigned or titled, may issue Citations or Summonses and Complaints enforcing the Animal Control Ordinance without regard to certification requirements, as authorized by C.R.S. §30-15-105. Those personnel authorized to engage in animal control in Alamosa County include, but are not limited to, Animal Control Officers and Law Enforcement Officers.

## **Section 11A - Penalties for Violations Not Involving Bodily Injury to Persons**

(a) Any violation of this Animal Control Ordinance not involving bodily injury to any person shall be a Class 2 Petty Offense as provided for in C.R.S. §30-15-102(1), punishable by a fine of not more than Three Hundred Dollars (\$300.00) and/or imprisonment in the County jail for not more than ninety (90) days for each separate offense.

(b) Pursuant to C.R.S. §30-15-102(3), whenever an Animal Control Officer has

probable cause to believe that a violation of this Animal Control Ordinance has occurred, he or she 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) An Animal Control Officer may use the Penalty Assessment Procedure described under C.R.S. §16-2-201(1) for those violations listed in Subsection 11A(d), below. This statute permits an Animal Control Officer to give a person arrested for a Class 2 Petty Offense a penalty assessment notice and release him upon its terms or take him before a county court judge. The penalty assessment notice shall be a Summons and Complaint and shall contain the identification of the offender, the specification of the offense, the applicable fine and the amount of pending fines on the owner's prior offenses.

(d) The penalty assessment procedure shall incorporate the following schedule of fines:

Failure to Vaccinate or to Wear the Rabies Tag

First Offense . . . . \$25  
Second Offense . . . . \$60  
Subsequent Offenses  
Maximum Penalty . . . \$300

Barking Dog

First Offense . . . . \$35  
Second Offense . . . . \$60  
Third Offense . . . . \$100  
Subsequent Offenses  
Maximum Penalty . . . \$300

Dog at Large

First Offense . . . . \$35  
Second Offense . . . . \$60  
Third Offense . . . . \$100  
Subsequent Offenses  
Maximum Penalty . . . \$300

Vicious Dog at Large

First Offense . . . . \$70  
Second Offense . . . . \$120  
Subsequent Offenses  
Maximum Penalty . . . \$300

Un-neutered or Unspayed Dog at Large

First Offense . . . . \$70  
Second Offense . . . . \$120  
Subsequent Offenses  
Maximum Penalty . . . \$300

Failure to Properly Confine Dangerous Dog

First Offense . . . . \$70  
Second Offense . . . . \$120  
Subsequent Offenses  
Maximum Penalty . . . \$300

Female Dogs in Heat

First Offense . . . . \$35  
Second Offense . . . . \$60  
Third Offense . . . . \$100  
Subsequent Offenses  
Maximum Penalty . . . \$300

Cruelty to Animals

First Offense . . . . \$100  
Second Offense . . . . \$150  
Subsequent Offenses  
Maximum Penalty . . . \$300

Accumulation of Feces

First Offense . . . . \$35  
Second Offense . . . . \$60  
Third Offense . . . . \$100  
Subsequent Offenses  
Maximum Penalty . . . \$300

Section 11B - Penalties for Violations Involving Bodily Injury to Persons

- (a) Pursuant to §30-15-102(3), whenever an Animal Control Officer has probable cause to believe that any violation of this Ordinance involving bodily injury has been committed, he or she 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.
- (b) Any violation of this Animal Control Ordinance involving bodily injury to any

person shall be a Class 2 Misdemeanor, punishable with a minimum sentence of three months imprisonment and/or a \$250 fine, up to a maximum sentence of one year imprisonment and/or a \$1,000 fine for each separate offense.

### **Section 11C - Special Sanctions Upon Conviction of Violations Involving Bodily Injury to Persons, and Habitual Offender Violations**

In recognition of the serious nature of violations involving bodily injury to persons and habitual offenders, and in the interest of protecting and promoting public safety, the Alamosa County Animal Control Division and/or the District Attorney's Office has the authority to recommend that a special sanction be imposed against the animal owner convicted of one or more of these offenses. This recommendation will be presented to the District Court by a motion of the District Attorney as a proposed condition of sentencing upon conviction of one of these offenses. This special sanction may be in lieu of or in addition to the specified fine, at the discretion of the court. The court may take into consideration the severity of the incident, and the prior history of the animal owner and the animal when ruling on a disposition. The following is a list of available sanctions to be completed within a time specified by the court:

- (a) Construct a secure enclosure (built to the specifications of Animal Control), or confine the dog to the house or existing enclosure.
- (b) Spay or neuter the dog.
- (c) Dog obedience training.
- (d) Community Service work at an animal sheltering facility.
- (e) Euthanasia of the animal.
- (f) Require the use of a short (2') hand-held leash and/or muzzle if the dog is taken off the owner's premises.

The Animal Control Division will be responsible for conducting follow-up visits with the animal owner to ensure compliance with the court-ordered sanctions, and will report back to the court in a timely manner.

### **Section 12 - Severability Clause**

If any provision of this Ordinance, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

### **Section 13 - Liability Clause**

The Board of County Commissioners, any of its assistants or employees, and any other person authorized to enforce the provisions of this Ordinance shall not be held responsible for any accident or subsequent disease that may occur to the animal in connection with the administration of this Ordinance.

**Section 14 - Safety Clause**

This Board of County Commissioners hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public welfare, health and safety.

**Section 15 - Effective Date**

This Board of County Commissioners hereby finds, determines and declares that this Ordinance shall be published in a local newspaper of general circulation and shall take effect on January 1, 2006. Until such time, any preceding Animal Control resolution/ordinance shall remain in full force and effect.

**Section 16 - Revocation of Previous Resolution**

By adoption of this Ordinance, any Alamosa County Animal Control Resolution/Ordinance in conflict is hereby revoked as of January 1, 2006.

INTRODUCED, READ AND ORDERED published the 31st day of August, 2005, with public hearing occurring on the 26<sup>th</sup> day of October, 2003, at 9:45 a.m.

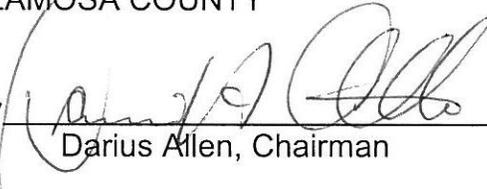
APPROVED AND ADOPTED on November 9, 2005.

EFFECTIVE on January 1, 2006.

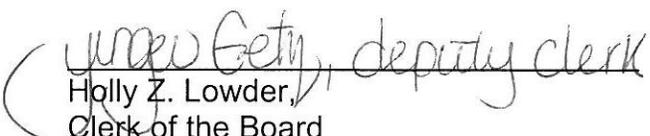
BOARD OF COUNTY COMMISSIONERS OF  
ALAMOSA COUNTY

(S E A L)

By

  
Darius Allen, Chairman

ATTEST:

  
Holly Z. Lowder,  
Clerk of the Board