

ORDINANCE NO.2011-3

AN ORDINANCE REPEALING EXISTING ORDINANCES RELATING TO DOGS
WITHIN THE TOWN OF SAGUACHE AND ENACTING NEW REGULATIONS RELATING THERETO

WHEREAS, Ordinance 93-A regulated dogs and provided for their vaccination and licensing within the Town of Saguache, Ordinance 99-1 amended and further defined the provisions of Ordinance 93-A and Ordinance 2005-8 set dog license fees for the Town; and

WHEREAS, the town Board of Trustees has determined that said provisions should be updated to reflect recent legislation concerning dangerous dogs, impoundment and the keeping of dogs within the Town.

NOW THEREFORE, be it ordained by the Board of Trustees of the Town of Saguache:

- A. Ordinances 93-A, 99-1 and 2005-8 are hereby repealed.
- B. The following dog control regulations are hereby adopted for the Town of Saguache:
- C.

- 1. The maximum number of dogs which may be owned or possessed by any household unit shall be four (4).

- 2. Dangerous dog prohibited.**

- a. Dangerous dogs are a serious threat to the safety and welfare of citizens of the Town because of the number and serious nature of attacks by such dogs.

- b. As used in this Section, unless the context otherwise requires:

- Bodily injury* means any physical injury that results in severe bruising, muscle tears or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

- Dangerous dog* means any dog that:

- a. Has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal;

- b. 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

- c. Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

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

Owner or owns means any person, firm, corporation or organization owning, possessing, harboring, keeping, having financial or property interest in or having control or custody of a domestic dog, including a dangerous dog.

Serious bodily injury has the same meaning as such term is defined in Section 18-1-901(3)(p), C.R.S.

- c. A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in or has custody or control over a dangerous dog.
- d. Any person convicted of a violation of this Section shall be subject a fine not exceeding \$300 and incarceration in the County jail not exceeding 90 days or by both such fine and imprisonment. In addition, the Court may order any owner of a dangerous dog who has been convicted of a violation of this Section to:
 - i. Confine such dangerous dog in a building or enclosure designed to be escape-proof and, whenever such dog is outside of such building or enclosure, keep the dog under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, such dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.
 - ii. In addition to any other penalty set forth in this Subsection, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the Municipal Judge or a jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury or death to a person or domestic dog, the Municipal Court, pursuant to applicable provisions of Title 16, C.R.S., governing restitution, may order the defendant to make restitution in accordance with said provisions.
 - iii. In addition to the penalties set forth in this Subsection, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the Municipal Judge or a jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or dog, or for a second or subsequent violation of Subsection (c) above or resulting in a conviction, deferred judgment or deferred prosecution involving the same dog of the same owner, the Municipal Court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this Section, the owner's

dangerous dog be destroyed be euthanized by a licensed veterinarian.

- e. An affirmative defense to the violation of this Section shall be:
 - i. That, at the time of the attack by the dangerous dog which caused injury to or the death of a domestic animal, the dog was at large, was a stray and entered upon the property of the owner, and the attack began, but did not necessarily end, upon such property;
 - ii. That, at the time of the attack by the dangerous dog which caused injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;
 - iii. That, at the time of the attack by the dangerous dog which caused injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner;
 - iv. That, at the time of the attack by the dangerous dog which caused injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property and the attack began, but did not necessarily end, upon such property; or
 - v. That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused or inflicted injury upon the dog in such an extreme manner that it resulted in the attack.
- f. The affirmative defenses set forth in Subsection (e) above shall not apply to any dog that has engaged in or been trained for animal fighting, as said term is described in Section 18-9-204, C.R.S.
- g. If any dog is found in violation of this Section, it shall be taken up and impounded; provided, however, that if any dangerous, fierce or vicious dog found at large cannot be safely taken up and impounded, such dog may be forthwith slain by the law enforcement officer.

3. Running at large prohibited.

No dog owner shall fail to exercise proper care and control of his or her dog (s) to prevent them from becoming a public nuisance. It shall be unlawful for an owner to allow a dog (s) to injure or destroy any real or personal property of any description belonging to another. No person shall permit any dog (s) of which he or she is the owner, caretaker or custodian to run at large within the Town. Any such dog (s) shall be deemed to be running at large when it shall be off the

premises owned or rented by its owner and not under the immediate control of the owner, agent or employee of the owner. Any such dog (s) may be impounded by the Town. No dog (s) shall be permitted in any public place unless under the immediate control of its owner. Public places include, but are not limited to, public property, common areas of private property, parking lots, churches, cemeteries, parks, golf courses and schools. Within one (1) hour after a dog (s) escapes from either the owner or the person having custody of the dog (s), the owner or custodian of the dog (s) shall report the escape of said dog (s) to the Sheriff's Office or the Town Clerk. No person shall appear with an dog (s) upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement; nor shall any person fail to immediately remove any excrement deposited by such dog (s) from said place.

4. License required; fees.

- a. Every person owning or harboring any dog within the Town shall have it registered and licensed, shall supply all information requested by the Town Clerk concerning the dog and shall pay the Town Clerk, at the time of registration and licensing of the dog, a license fee which is on file in the Town Clerk's office for the calendar year in which the license is issued.

5. Licenses and tags.

- a. The Town Clerk shall provide for the issuance of a license to the owner or harborer of each dog (s) licensed under the provisions of this Article, containing the following information:
 - i. The name and address of the owner or harborer of the dog.
 - ii. The year and series number of the dog tag.
 - iii. The date of vaccination against rabies and date of license.
 - iv. The breed, age, color and sex of the vaccinated dog.
- b. The tag shall be made of durable material suitable to be attached to the collar or harness of the vaccinated dog. The tag shall state the year for which it is issued and the series number of the license and tag. The tag shall be prepared and distributed by the Town Clerk and shall be of a different color or shape each year.
- c. Replacement tags may be obtained from the Town Clerk.

6. Rabies Vaccination required.

- a. Rabies Vaccination shall be required for any dog placed or harbored in the Town for more than two weeks.
- b. It shall be the duty of every person who owns or harbors any dog in the Town to:
 - i. Have such dog vaccinated for rabies by a regularly licensed veterinarian of the State; or
 - ii. Submit proof of purchase of rabies vaccine, and Affidavit of vaccination by owner;
 - iii. Obtain from the Town Clerk a license for each dog.
- c. The vaccination and licensing shall be performed during the months of July 1 thru June 30 of each calendar year. Any person who acquires or harbors any dog (s) shall pay an annual license fee to the Town which shall be valid through June 30. Rabies vaccination shall remain valid for the period indicated by the vaccination serum.

7. Rabies vaccination certificate and record.

Every veterinarian performing vaccinations shall furnish the owner of any dog vaccinated a certificate of the vaccination and shall retain a record in his or her office. No license shall be issued for any dog without presenting a certificate of vaccination and payment of license fee.

8. Tag, inspection.

- a. Every owner or harborer of a dog shall attach the tag evidencing the licensing and vaccination with anti-rabies vaccine to the collar or harness of the inoculated and licensed dog. The collar or harness shall be worn by the dog at all times.
- b. The license shall be retained by the owner or harborer of the vaccinated and licensed dog for inspection by any member of the Sheriff's Office or any Town Official at any time.

9. Period of validity and license fees.

The vaccination and licensing required by this Article shall be valid until June 30 of each year, providing a valid (current) rabies certificate. Annual licensing fees shall be as follows:

\$15.00 for dogs not spayed or neutered

\$5.00 for dogs that are spayed or neutered

\$1.00 for replacement tag(s)

10. Possession restricted; lost tags.

- a. Only those persons who own or harbor a dog duly vaccinated and licensed in accordance with the provisions of this Ordinance shall be permitted to possess the licenses and tags provided for in this Ordinance. No person may affix a tag evidencing vaccination and licensing to the collar or harness of any dog, except the tag issued for that dog at the time of licensing.
- b. Lost tags shall be replaced by the Town Clerk upon payment of a fee for each replacement, which fee is on file in the Town Clerk's office.

D. Impoundment

1. Impoundment generally.

It shall be the duty of every law enforcement officer or dog control officer to apprehend, take into custody and impound, either with or without complaint, any stray dog, unlicensed dog, dog not under reasonable control of the owner or any dog found running at large contrary to the provisions of this Article. Such dog shall be confined and kept in the designated animal shelter or other suitable place. The Animal Shelter Director or other designated official, upon receiving any dog, shall make a complete registry of the breed, color and sex of the dog and whether it is licensed. If it is licensed, he or she shall enter the name and address of the owner and the number of the license tag.

2. Town Clerk duties.

The Town Clerk shall designate a place, either within or without the Town limits, where dogs impounded under the provisions of this Article may be confined and kept, as provided in this Section, and shall appoint some person to have general charge of such dogs.

3. Notice to owner.

Not later than two (2) days after the impounding of any dog, the owner shall be notified or, if the owner of the dog is unknown, written notice shall be posted for three (3) days at two (2) or more conspicuous places in the Town, describing the dog and the place and time of taking.

4. Redemption and fines.

a. Dog (s) Running at Large.

The owner of any dog so impounded may reclaim such dog upon proof of vaccination of the dog against rabies and payment of any unpaid license fees, all costs, fees and charges incurred by the Town for impoundment and maintenance of the dog, and any penalty assessment to the Town; provided, however, that the owner or person in charge of any dog running at large in violation of Section 2 of this Article shall be subject to the following fine and penalties, regardless of whether any dog has been impounded: The penalty for the first offense of allowing any dog to run at large is twenty-five dollars (\$25.00). The penalty for the second offense of allowing any dog to run at large within two (2) years following the first offense is fifty dollars (\$50.00); and the penalty for all subsequent offenses of allowing any dog to run at large within two (2) years following the second offense is one hundred dollars (\$100.00).

b. Unlicensed or unregistered dogs

Every person who is convicted of owning or harboring an unlicensed dog pursuant to this ordinance shall be guilty of a misdemeanor and upon a first conviction shall be punished by a fine of \$50.00, the costs of any rabies inoculation, the price of a dog license, \$.32 a mile for transportation to and from any veterinary clinic, and other expenses that may be incurred, by the Town of Saguache.

5. Disposition of unclaimed or infected dogs.

It is the duty of the Animal Shelter Director to keep all licensed dogs impounded pursuant to this Article for a period of six (6) days. If, at the expiration of four (4) days from the date of notice to the owner or the posting of such notice, as designated in Section 3 above, the dog has not been redeemed, it may be destroyed. Any unlicensed dog will be impounded and kept for a period of three (3) days, after which time it will be disposed of or destroyed. Any dog which appears to be suffering from or affected with mange or other infectious or dangerous disease shall not be released but may be destroyed.

E. Rabies Control

1. Quarantine.

- a. Any dog (s) which is known to have bitten or injured any person causing an abrasion of the skin, or a dog (s) which, in the opinion of a member of the

Sheriff's Office or of any licensed veterinarian of the State, appears to be inflected with rabies shall be closely confined by its owner in accordance with the directions of a member of the Sheriff's Office for a period of not fewer than fourteen (14) days.

- b. It is unlawful for any person knowing or suspecting a dog (s) of having rabies to allow the dog (s) to be taken off his or her premises or beyond the limits of the Town without the written permission of the Town Clerk. Every owner or other person, upon ascertaining a dog is rabid, shall immediately notify the Town Clerk or a Sheriff's Deputy who shall either remove the dog to the animal shelter or summarily destroy it.
- c. If the owner of the dog (s) referred to in this Section cannot be determined or located, then a member of the Sheriff's office or Authorized Town Official shall otherwise confine the dog (s) for a period of not fewer than fourteen (14) days. If the owner of the dog (s) is not determined or located or the dog (s) claimed within fourteen (14) days, the Sheriff's Deputy may order the dog (s) destroyed. All costs incurred for the confinement of a dog (s) under this Section shall be paid by the owner of the dog (s). If the dog (s) is determined to be suffering from rabies, it shall be destroyed pursuant to state law.

2. Vaccination and licensing of imported dogs.

- a. All dogs which are brought into the Town shall be in compliance with the laws and rules and regulations of the State regarding the handling of the dogs.
- b. If the imported dog remains in the Town more than two weeks, the dog shall be licensed in accordance with the provisions of Section A (3).

THE TOWN BOARD FINDS THAT THIS ORDINANCE IS NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY OF THE TOWN AND SHALL TAKE EFFECT AND BE ENFORCED FROM AND AFTER FINAL ADOPTION OF THE SAME.

DONE and SIGNED this 15th day of August, 2011.

Milton Jones, Mayor

ATTEST:

Therese Garcia, Town Clerk

CERTIFICATION

I hereby certify that the within Ordinance was introduced, read in full, approved and adopted at the regular meeting of the Board of Trustees of the Town of Saguache, Colorado on the 15th day of August, 2011, and published by title in the Saguache Crescent, a legal newspaper in the Town of Saguache on _____.

Therese Garcia, Town Clerk