

CHAPTER 10

Health and Animals

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ARTICLE 1

Dog Control

Resolution No. 79-40

August 31, 1979

WHEREAS, the General Assembly has authorized the Board of County Commissioners of the County of Otero and State of Colorado for the control and licensing of dogs pursuant to Section 30-15-101, C.R.S.; and

WHEREAS, the Board of County Commissioners of the County of Otero and State of Colorado has determined that for the public peace, health and welfare of the inhabitants of the County of Otero, State of Colorado, the enactment of some measure of control within the unincorporated limits of the County of Otero, State of Colorado, for the control and licensing of dogs is necessary;

NOW, THEREFORE, BE IT RESOLVED that the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AND STATE OF COLORADO do hereby adopt the following resolution which shall hereafter be entitled "The Otero County Dog Control Resolution"

1.1 Definitions.

A. "At large" means any dog not confined to the premises of the owner or within a house or building, or enclosed or restrained on the premises of the owner or within the immediate control of its owner if the same is not otherwise confined.

B. "Dogs," when used herein, includes animals of all ages, both female and male, which are members of the canine or dog family.

C. "Owner" means every person, firm or partnership or corporation owning, keeping or harboring a dog within the unincorporated limits of the County.

D. "Kennel" shall be defined as any place or premises upon which any person, firm or corporation owns, keeps or harbors more than four (4) dogs over six (6) months old within the unincorporated limits of the County of Otero, State of Colorado.

1.2 Number Limitations.

It is unlawful for any person, firm, or corporation to own, keep or harbor more than four (4) dogs over six (6) months old within the unincorporated limits of the County of Otero, State of Colorado, without having first obtained a kennel license as provided for hereinafter. The keeping of more than four (4) dogs on the premises of the owner over the age of six (6) months old shall be prima facie evidence of a violation of this Section, and the burden of proof shall be upon the owner to show the ages of such dogs. This limitation shall not apply to the proprietors of dog hospitals and veterinarians when dogs are kept upon the premises used by such dog hospitals and veterinarians as their normal place of business.

1.3 Registration.

Any person owning, possessing or keeping a dog or dogs shall be required to register such dog or dogs with the Otero County Sheriff's Department at La Junta, Colorado, and obtain therefor a license, and unless and until the owner of such dog or dogs shall exhibit to the Otero County Sheriff's Department a valid rabies vaccination certificate indicating that the dog or dogs have been vaccinated against rabies by a licensed veterinarian, no license shall be issued. The fee to be paid for such license for each dog shall be as set forth

hereinafter. All dogs under the age of six (6) months shall be exempt from the rabies vaccination and licensing procedure.

1.4 Confinement.

At all times when not confined upon the premises of the owner or within a house or building, or enclosed or restrained, located upon the premises either by leash or other means, or confined within an automobile when away from the premises of the owner, the dog shall be within the control of the owner. "Control" shall be defined as being a proximity within the call of the owner and under the physical control of the owner so that the owner may exercise verbal or physical commands which are effective to control the dog at all times. The control provisions of this Section shall not apply to dogs while actually working livestock, locating or retrieving wild game in season for a licensed hunter or assisting law enforcement officers, or to dogs being actually trained for any of these pursuits.

1.5 Vicious dog.

A vicious dog shall be recognized as a dog that unprovokedly bites or attacks humans or other animals, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, or a dog whose present or prior owners have been notified of the viciousness of the same dog, or who has been found to be a vicious dog by any court or jury.

1.6 Barking and Howling Prohibited.

It is unlawful for any person, firm or corporation to keep on its premises or under its control any dog which, by loud and frequent barking and howling, disturbs the peace and quiet of any person who may reside within a reasonable proximity of the place where the dog is kept.

1.7 Provoking a Dog.

It shall be unlawful for any person to provoke a dog, causing that dog to bite or attack humans or other animals, or to cause the dog to bark, howl or otherwise disturb the peace and quiet of any person.

1.8 Impoundment.

The County shall provide a place for impoundment of any and all dogs which shall be taken into custody by reason of violation of this resolution and the dog control officer or designated personnel shall take into custody any dog found to be in violation of this resolution within the unincorporated territory of the County of Otero and shall impound that dog in the animal shelter or such other place as the dog control officer may designate for the purpose of impoundment. Such impounded dog shall be held for a period not exceeding ten (10) days, at the end of which time the dog shall be destroyed unless custody of the dog is released prior thereto under the following conditions. During the first six (6) days of such impoundment, the dog control officer of the County of Otero shall make diligent effort to determine the owner of such dog and notify him of such impoundment. If the owner of such dog fails or refuses to claim and repossess such dog by the payment of the proper fee as described herein within the first six (6) days of such impoundment, then the dog control officer may deliver custody and possession to any person other than the owner upon the payment of the fee as prescribed herein between the sixth day of impoundment and the tenth day of impoundment.

1.9 Reclaiming Impounded Dog – Fee.

Any person owning, possessing or keeping a dog which has been impounded may claim and retrieve such dog from the County of Otero animal shelter by the payment of the fee prescribed hereinafter if the dog has

been vaccinated within the year next preceding such impoundment and is currently licensed as required by this resolution. If the dog has not been vaccinated within the year next preceding and has no current license as required, the owner shall pay to the dog control officer sufficient amounts to have a vaccination performed upon the dog, pay the licensing fee for the dog and shall pay the impoundment fee, plus an additional charge of ten dollars (\$10.00). The burden of proof as to vaccination and licensing shall be upon the party attempting to claim the dog from the dog control officer.

1.10 Disposal of Dog.

It shall be unlawful for any person to dispose of any dog upon any property of any person or town, city or county property within the County of Otero, either dead or alive. Any person violating this Section shall pay a penalty in accordance with the schedule of fees and penalties set forth hereinafter.

1.11 Free Disposal.

The County of Otero shall provide a free disposal service for all persons wishing to dispose of dogs. In order to dispose of a dog, application must be made to the dog control officer as designated by Otero County, deliver the dog to the disposal facility and sign an affidavit that such person is the owner of the dog and does otherwise have the authority to have the dog disposed of. Once the affidavit is received, the dog shall be disposed of in a manner to be determined by the dog control officer.

1.12 Pen and Premises – Sanitary Requirements.

It is unlawful for any person, firm or corporation keeping or harboring dogs to fail to keep the premises where such dogs are kept free from offensive odors to the extent that such odors are disturbing to the persons residing within reasonable proximity to the premises. It is unlawful to allow premises where dogs are kept to become unclean and a threat to the public health by failing to diligently and systematically remove all animal waste from the premises.

1.13 Collar.

Every owner shall place upon each dog a collar or harness to which the tag designating the license and the vaccination shall be placed.

1.14 Harboring Vicious Dog.

It shall be unlawful for any person, firm or corporation to harbor a vicious dog.

1.15 Guard Dogs.

It is unlawful to place or maintain guard dogs in any area for the protection of persons or property unless the following conditions are met:

- (a) The dog shall be confined to an enclosed area adequate to ensure that it will not escape; or
- (b) The dog shall be under the complete control of a handler at all times; and
- (c) That the guard dogs be registered with the dog control officer at the Otero County Sheriff's Department; and

(d) Warning signs shall be conspicuously posted, indicating the presence of guard dogs, and such signs shall plainly show a telephone number where some person responsible for controlling the guard dogs can be reached at all times; and

(e) A dog which is not a trained guard dog, but merely an owner's dog guarding a property in the owner's absence and which dog has not been subject to professional guard training shall not be considered a guard dog under the terms of this Section when that dog is on the owner's property and the owner is absent.

1.16 Dog Observation.

Any dog which has bitten a person shall immediately be taken to the dog control officer, where that dog shall be impounded for observation for a period of twelve (12) days to determine whether that dog has any disease which may be transferred to the person bitten. Such impoundment shall be at the expense of the owner. It shall be unlawful for persons whose dogs have bitten a person to fail to deliver that dog to the dog control officer and failure to do so shall result in a penalty as provided in this Section. If the dog is found to have bitten a person, unprovokedly, a second time, then after the period of observation and impoundment, the owner of that dog shall maintain that dog on a leash at all times thereafter and failure to do so shall cause the owner thereof to be guilty of harboring a vicious dog.

1.17 Reasonable Protection.

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

1.18 Female Dogs.

All persons having dogs within the unincorporated territory of the County of Otero and State of Colorado shall be required to confine bitches they own or have custody of during the breeding season.

1.19 Dog Control Officers.

Personnel engaged in dog control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing this county dog control resolution without regard to the certificate requirements of Part 6 of Article II of Title 24, C.R.S. Personnel so engaged shall be included within the definition of "peace officer or fireman engaged in the performance of his duties" in Section 18-3-201(2), C.R.S. The Board of County Commissioners of the County of Otero do hereby designate the Otero County Sheriff's Department and the personnel thereunder for the purposes of providing the personnel to carry out and enforce this resolution.

1.20 Enforcement.

The Otero County Sheriff's Department, health officer, dog control officer or other peace officer, or designated employee or persons employed by such department or any other person damaged, harmed, inconvenienced or injured in any way whatever by any violation of this resolution may swear out an affidavit for a warrant for the arrest of the alleged violator. In addition thereto, the dog control officer having personal knowledge of any violation described herein may issue a citation or summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of such charge to the violator.

1.21 License Fees, Impoundment Fees and Penalties.

The following schedule of fees shall be the fees to be paid upon the licensing of any dog or the claiming of any dog upon impoundment:

- (a) Dogs under six (6) months of age: no fee.
- (b) Male dogs: three dollars (\$3.00).
- (c) Female dogs: seven dollars and fifty cents (\$7.50).
- (d) Neutered male dogs: two dollars (\$2.00).
- (e) Spayed female dogs: two dollars (\$2.00).
- (f) Reclaiming impounded dogs, charge per day or any part thereof: four dollars (\$4.00).
- (g) Harboring a vicious dog: one hundred dollars (\$100.00).
- (h) Misuse of dog license: twenty-five dollars (\$25.00).
- (i) Misuse of vaccination certificate: twenty-five dollars (\$25.00).
- (j) Allowing a dog out of control: first offense, fifteen dollars (\$15.00); second offense, thirty dollars (\$30.00); additional repeat offenses, one hundred dollars (\$100.00).
- (k) Any offense involving bodily injury to any person by a dog shall be a Class II misdemeanor, and any violator shall be punished as provided in Section 18-1-106, C.R.S., for each separate offense.
- (l) Violation of guard dog provisions: one hundred dollars (\$100.00).
- (m) Court costs: All court costs assessed by the Court shall be in addition to any penalties set forth herein.
- (n) Kennel license: ten dollars (\$10.00), plus two dollars (\$2.00) for each dog used for breeding.
- (o) Noncompliance with sanitary requirements for kennel: fifty dollars (\$50.00).
- (p) Nonconfinement of bitches: twenty-five dollars (\$25.00).
- (q) Harboring a barking and howling dog: twenty dollars (\$20.00).
- (r) Operating a kennel without a license: one hundred dollars (\$100.00).
- (s) Illegal disposal of dog: fifty dollars (\$50.00).
- (t) Penalty for provoking a dog: fifty dollars (\$50.00).
- (u) Any and all other offenses for which a fine or fee is not provided for herein shall be a minimum of twenty-five dollars (\$25.00) and a maximum of three hundred dollars (\$300.00).

1.22 Disposition of Fines and Forfeitures.

All fines and forfeitures for the violation of this resolution and all monies collected by the County of Otero, State of Colorado, for licenses or otherwise shall be paid directly to the Otero County Sheriff's Department, and such monies shall be remitted to the Otero County Treasurer at least monthly.

1.23 Prosecution of Violators.

The County Attorney is authorized to represent the Board of County Commissioners of the County of Otero and State of Colorado in the prosecution of any offense or violation alleged of this resolution. All violations of this resolution shall be prosecuted in the County Court of the County of Otero. All offenses other than those offenses determined to be a Class II misdemeanor shall be considered as civil offenses in nature and not subject to a jail sentence. All Class II misdemeanor offenses shall be prosecuted by the office of the District Attorney in accordance with statutes governing said offense.

1.24 Liability for Accident or Subsequent Disease From Impoundment.

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

1.25 Severability.

Should any sections, clause, sentence or part of this resolution be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the resolution as a whole or any part thereof, other than the part so declared to be invalid.

1.26 Effective Date.

This resolution shall become effective on the 1st day of January, 1980.

ARTICLE 2

Impoundment of Dogs

Resolution No. 92-6

April 6, 1992

A RESOLUTION AMENDING RESOLUTION NO. 79-40 REGARDING THE CONTROL AND LICENSING OF DOGS PURSUANT TO 1973 C.R.S. 30-15-101.

WHEREAS, the Board of County Commissioners of the County of Otero and State of Colorado has previously enacted Resolution No. 79-40; and

WHEREAS, the Board of County Commissioners of the County of Otero and State of Colorado in its judgment deems it in the best interest of the County of Otero to amend said resolution.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AND THE STATE OF COLORADO AS FOLLOWS:

Section 1.8 of Resolution No. 79-40 is hereby amended to read as follows:

1.8 Impoundment.

The County of Otero shall provide a place for impoundment of any and all dogs which shall be taken into custody by reason of violation of this resolution and the dog control officer or designated personnel shall take into custody any dog found to be in violation of this resolution within the unincorporated territory of the County of Otero and shall impound that dog in the animal shelter or such other place as the dog control officer may designate for the purpose of impoundment. Such impounded dog shall be held for a period of not exceeding four (4) days, at the end of which time the dog shall be destroyed unless custody of the dog is released prior thereto under the following conditions. During the first two (2) days of such impoundment, the dog control officer of the County of Otero shall make diligent effort to determine the owner of such dog and notify him of such impoundment. If the owner of such dog fails or refuses to claim and repossess such dog by the payment of the proper fee as described herein within the first two (2) days of such impoundment, then the dog control officer may deliver custody and possession to any person other than the owner upon the payment of the fee as prescribed herein between the second day of impoundment and the fourth day of impoundment.

ARTICLE 3

Smoking in Courthouse

Ordinance No. 93-1

April 12, 1993

AN ORDINANCE OF OTERO COUNTY, COLORADO, PROVIDING FOR THE ADOPTION OF A POLICY CONCERNING SMOKING IN THE OTERO COUNTY COURTHOUSE BUILDING.

WHEREAS, the Surgeon General of the United States has concluded that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy; and

WHEREAS, the Surgeon General of the United States has also determined that secondhand smoke can cause acute and chronic lung disease, carcinoma of the lungs, and that certain medical conditions may be aggravated by the presence of environmental tobacco smoke; and

WHEREAS, the cost to employers for providing health care to employees who smoke and to nonsmoking employees who are exposed to secondhand smoke is increasing dramatically each year; and

WHEREAS, smoking tobacco or any other weed or plant is a cause of material annoyance and discomfort to those present in confined areas; and

WHEREAS, the Board of County Commissioners of Otero County deems it advisable to promote and protect the public safety and general welfare to prohibit smoking in the Otero County Courthouse Building.

WHEREAS, Section 25-14-101, et seq., C.R.S., authorizes counties to adopt an ordinance to regulate smoking.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, COLORADO:

Section 1. Title.

This Ordinance shall be known as the Otero County No-Smoking Ordinance.

Section 2. Intent.

The Board of County Commissioners finds, determines and declares that the smoking of tobacco or of any other plant or weed is a form of pollution that threatens the health, safety and welfare of the public. The Board of County Commissioners deems it necessary and appropriate to prohibit smoking in the Otero County Courthouse building, except as smoking is otherwise permitted in designated smoking-permitted areas as set forth herein.

Section 3. Definitions.

"Smoke" or "smoking" means the possession of a lighted cigarette, cigar or pipe containing tobacco or other organic burning matter, regardless of its composition, or the lighting of such cigarette, cigar or pipe by any person.

Section 4. Smoking prohibited.

It shall be unlawful for any person to smoke in the County Courthouse building, which building is located at 13 West Third Street, La Junta, Colorado, except in specifically designated "smoking-permitted" areas.

Section 5. Smoking-permitted areas.

The Board of County Commissioners of Otero County may designate certain areas of the Otero County Courthouse building as "smoking-permitted" by resolution without further amendment of this Ordinance.

Section 6. Posting of signs.

Signs will be posted in and about the courthouse building which shall notify all persons of this ordinance. To advise persons of the existence of smoking-permitted areas, signs will also be posted. All signs shall have letters no less than one (1) inch high or symbols of no less than three (3) inches high.

Section 7. Penalty.

Any person found guilty of a violation of this Ordinance shall be punished by a fine of not more than twenty-five dollars (\$25.00). In determining the penalty to be imposed, the Judge shall consider the frequency and duration of the violation, whether it was knowing or not and other relevant factors.

Section 8. Severability.

If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 9. Effective date.

This ordinance shall become effective on April 19, 1993.

ARTICLE 4

Destructive Rodent Pests

Ordinance No. 99-1

May 10, 1999

AN ORDINANCE PROHIBITING THE RELEASE OR IMPORTATION OF DESTRUCTIVE RODENT PESTS INTO OTERO COUNTY, COLORADO

WHEREAS, the Board of County Commissioners of Otero County, Colorado, hereby finds and determines that certain destructive rodent pests are injurious, detrimental and damaging to the County and its inhabitants due to injury and damage to crops, land and the environment, and further impose significant risk to public health due to disease and further constitute a public nuisance; and

WHEREAS, pursuant to Senate Bill 99-111, as codified in Part 2 of Article 7 of Title 35, C.R.S., the Board of County Commissioners is expressly authorized to control the release of destructive rodent pests into Otero County.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Otero County, as follows:

Section 1. Unlawful act; exceptions.

It shall be unlawful for any person, firm, corporation or entity to release any destructive rodent pests into Otero County without the prior approval of the Board of County Commissioners by resolution duly adopted after application to the County for such prior approval. Prior approval by the Board of County Commissioners will not be required in the following circumstances:

- (1) Transporting destructive rodent pests through Otero County without releasing such destructive rodent pests; or
- (2) Confining destructive rodent pests indoors or in cages or similar enclosures and using such destructive rodent pests for scientific purposes or as food for human or animal consumption; or
- (3) Keeping destructive rodent pests indoors or in cages or similar enclosures as pets; or
- (4) Releasing destructive rodent pests into the area in which such destructive rodent pests were originally taken into captivity.

Section 2. Definition.

For purposes of this ordinance, "destructive rodent pests" are described as and shall include, but not be limited to, prairie dogs, ground squirrels, pocket gophers, jack rabbits and rats or any other destructive rodent pests as declared and determined by the Board of County Commissioners which pose a threat to agriculture, horticulture, livestock or human health, all as determined in the discretion of the Board of County Commissioners.

Section 3. Penalty.

Any person, firm, corporation or entity who violates the provisions of this Ordinance, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) for each destructive rodent pest released into Otero County; and the release of each individual destructive rodent pest shall be considered

a separate offense for purposes of this Ordinance. The penalty assessment procedure provided in Section 16-2-201, et seq., C.R.S., may be followed by any law enforcement officer for such violation. The provisions of Section 30-15-402(2), C.R.S., authorizes a surcharge of ten dollars (\$10.00) to be imposed upon any person, firm, corporation or entity convicted of violation of this Ordinance, in addition to the above authorized fine, and shall be mandatorily imposed upon any person, firm, corporation or entity convicted of a violation of this Ordinance.

Section 4. Jurisdiction.

Pursuant to the provisions of Section 30-15-410, C.R.S., the County Court in and for Otero County, Colorado, shall have exclusive jurisdiction to hear and determine the alleged violation of this Ordinance, and the County Attorney shall appear on behalf of the Board to prosecute any alleged violation.