

AN ORDINANCE RELATING TO AND REGULATING DOGS; PROVIDING FOR VACCINATION AND LICENSING THEREOF; PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

ORDINANCE NUMBER 239

Whereas, Colorado Revised Statutes 31-15-401(1)(m) states that the governing body of a municipality has the power to regulate and prohibit the running at large and keeping of animals, including fowl, within the municipality and to otherwise provide for the regulation and control of such animals including, but not limited to, licensing, impoundment, and disposition of impounded animals; and

Whereas, the Board of Trustees of the Town of Hugo, hereinafter referred to as the "Board" has determined that the present ordinance number 172 should be repealed so as to update the regulation of dogs within the Town of Hugo, hereinafter referred to as the "Town", in the best interests of the citizens of the Town,

THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUGO:

Section 1. **DEFINITIONS.** For the purpose of this Ordinance, certain terms and words are defined as follows:

1.1 **Dog Owners:** Every person in possession of or harboring any dog or who shall suffer any such dog to remain about their premises for the period of ten days. Every "person" shall mean any person over eighteen years of age, emancipated minor under the age of eighteen without direct adult supervision, parent, guardian, or custodian of any child under the age of eighteen, or any legal entity as defined by the State of Colorado, owing, possessing, harboring, keeping, allowing to remain on the premises, or having a financial, or property interest in, or having control or custody of a dog, aggressive dog, or dangerous dog, as defined herein.

1.2 **Dog:** Any animal of canine species regardless of sex.

1.3 **Dog, Male:** Any dog of the masculine gender, not castrated.

1.4 **Dog, Neutered:** Any male dog which has been castrated.

1.5 **Dog, Female:** Any dog of the female gender on which no alternative surgery of the genital organs has been performed.

1.6 **Dog, Spayed Female:** Any dog of the female gender on which ovariectomy or ovarhisterectomy has been performed by a licensed veterinarian and accompanied by a certificate asserting said operation has been performed.

1.7 **Dog Stray:** Any unlicensed or licensed dog found unattached or loose anywhere within the town limits.

1.8 **Aggressive Dog:** Means any dog that barks, growls, charges at, jumps upon, or has demonstrated tendencies, without provocation, in a menacing manner, that would lead a reasonable person to believe that the dog may inflict bodily injury upon or cause the death of any person or domestic animal, or has engaged in or been trained for fighting as described and prohibited in Colorado Revised Statute 18-9-204. For purposes of this definition, "domestic animal" shall mean any other dog, cat, or livestock that may be permitted to be within the Town boundaries.

1.9 **Dangerous Dog:** Means any dog that has inflicted bodily injury or serious bodily injury upon or has inflicted bodily injury or serious bodily injury upon or has caused the death of a person or domestic animal.

1.10 **Dog Bite:** means any bruising of the skin or break in the skin caused by any contact with the tooth or mouth of a dog.

1.11 **Dog Harboring:** Means the act of keeping or caring for a dog, providing premises to which a dog returns for food, shelter, or care; allowing a dog to remain on the person's property for a period of ten days, or the act of providing refuge to a dog in order to evade the impoundment of the dog by lawful authority.

1.12 **Serious Bodily Injury:** Means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or second or third degree burns requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

1.13 **Rabies:** A communicable disease of both wild and domestic animals transmittable to humans, as defined by the "Public Health Department". "Specific infectious disease of certain animals, especially dogs, and wolves, contracted by man by direct inoculation as by bite of infected animal and due to a filtrable virus" as defined in Dorland's Medical Dictionary.

1.14 **Vaccinations or Vaccination for Rabies:** Inoculation of a dog with standard rabies vaccine.

Section 2. **REGULATION OF DOGS WITHIN THE TOWN LIMITS.** The Board of Trustees hereby finds, determines, and declares:

That the following actions of dogs are detrimental to the public health, safety and welfare of the inhabitants of the Town of Hugo and the Board hereby declares that it shall be unlawful for any dog owner to allow their dog, as hereinabove defined to:

2.1 Run at large in the Town of Hugo unless said dog is under reasonable control of the owner. For the purpose of this ordinance, a dog shall be deemed under such reasonable control when said dog is accompanied by its owner, or some member of the owner's family or with some employee or agent of the owner, with the dog attached to a leash. For the purpose of this ordinance, a dog shall be deemed not under reasonable control when, (1) said dog inflicts damage or injury (by biting, jumping upon, pollution of vegetation, or by any other means whatsoever) to the person or property of anyone other than the owner, except in the defense of the owner, their family or property; (2) in the case of any unsprayed female dog not securely confined in the owner's yard, pen or other enclosure.

2.2 Menace or attack persons or vehicles.

2.3 Attack other animals.

2.4 Go upon school premises without the permission of the person in charge thereof.

2.5 Bark, whine, howl or make other noise in a manner which, under non mitigating circumstances could be considered by reasonable person/s of ordinary sensibilities, as excessive, or continuous.

2.6 Attack other animals and cause them to congregate or remain on or about any premises because of being a female in heat and because of the nature of its confinement or lack of the same.

2.7 Damage public property or private property not owned by the dog owner.

2.8 Be abandoned.

2.9 Be tied or otherwise physically fastened to any object on public property when the owner has departed from the immediate vicinity of the location where the animal has been physically fastened; or be tied or otherwise physically fastened on private property so as to create an immediate danger to the physical well-being of the animal or any person.

2.10 Defecate upon public property or private property not owned by the owner, and such excretia is not immediately removed by the owner at that time.

2.11 Be inside a building open to the public where food or beverages are prepared, stored or sold; however, this paragraph does not apply to certified service dogs

2.12 Be found unleashed in a public park, provided, however, this subsection does not apply to certified service dogs, government owned animals or animals participating in shows or exhibits authorized by the Board of Trustees.

Section 3. **OWNERSHIP OF DANGEROUS DOGS PROHIBITED.** A dog owner as defined herein, commits ownership of a dangerous dog if such person or entity owns, possesses, harbors, keeps, has a financial or property interest in or has custody or control over a dangerous dog.

3.1 The Town Marshall or Deputy Marshall in order to protect the public from a dangerous dog, shall have the authority to take and impound a suspected dangerous dog pending a hearing in Municipal Court within three business days of impoundment.

3.2 Upon conviction of owning a dangerous dog, and upon consideration of all relevant factors, including the known past history of the dangerous dog, the Municipal Court Judge, in addition to considering all other penalties available under this ordinance shall have the following additional options:

3.2.1 To order the convicted owner to make restitution to any person who suffers injury whether such injury is to the person, property, or domestic animal of the injured person. Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date the animal was injured or destroyed plus an reasonable and necessary medical expenses incurred in the treating of the person or the animal and any actual costs incurred in replacing the injured or destroyed animal or other personal property.

3.2.2. To order the owner of a dangerous dog who has been convicted of a violation of this section to 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 or a muzzle as the Court may direct.

3.2.3 To order in the event of bodily or serious bodily injury or death to a person or domestic animal, or in the event of a second or subsequent violation of this section, the dangerous dog to be immediately confiscated and placed in a public animal shelter and, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this section, to require the dangerous dog to be destroyed by lethal injection administered by a license veterinarian. The owner, in such event, shall be responsible for the costs incurred by the Town in the confiscation, impoundment, and veterinary treatment of the dangerous dog, as well as any other costs associated with the enforcement of this Code and the Court's orders.

3.2.4 To order, within ten days of the conviction, to obtain and present to the Hugo Town Marshall written proof that the owner has procured a homeowner's or renter's liability insurance policy, or a rider to an existing policy, in the minimum amount of One Hundred Thousand Dollars (1,000,000.00) to specifically cover any future damage or injury that may be caused by the subject's dangerous dog during the period of court ordered supervision, such supervision to be no less than one (1) year from the date of conviction. During the period of supervision, the owner shall provide written proof on a quarterly basis of the necessary coverage.

3.3 It shall be an affirmative defense to the charge of owning a dangerous dog if the dangerous dog, while confined to the dangerous dog owner's property, injures a domestic animal which was at large as defined by section 2.1, or injures a person who is on the dangerous dog owner's property for the purpose of attempting or committing a criminal offense, other than a petty offense, against the dangerous dog's owner or the dangerous dog owner's property, or if the injured person while on the dangerous dog owner's property tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner as to result in the dog attack.

Section 4 **OWNERSHIP OF AGGRESSIVE DOGS PROHIBITED.** Ownership of an aggressive dog as defined herein, is prohibited except under the conditions set forth in Section 4.1 below.

4.1 The Town Marshall or Deputy Marshall in order to protect the public from an aggressive dog, shall have the authority to take and impound a suspected aggressive dog pending a hearing in Municipal Court within three business days of impoundment.

4.2 A dog owner or one who harbors a dog, as defined herein, is guilty of ownership of an aggressive dog if he or she owns or harbors a dog which engages in any of the following conduct within the Town of Hugo:

4.2.1 The dog approaches any person or persons, without provocation, in a menacing and threatening manner, whether or not an attack by the dog upon the person or persons actually occurred.

4.2.2 The dog, in an attacking, menacing, or threatening manner encroaches over, through, or under a fence onto public property or the private property of another.

4.2.3 The dog inflicts a dog bite, or a puncture wound, abrasion, or other wound caused by the aggressive dog's teeth upon a person or a domestic animal in which the injury does not meet the definition of bodily injury or serious bodily injury.

4.3 Upon conviction of owning an aggressive dog, and upon consideration of all relevant factors, including the known past history of the aggressive dog, the Municipal Court Judge, in addition to considering all other penalties available under this ordinance shall have the following additional options:

4.3.1 To order, that when the dog is leashed, the owner may not use an extension style leach or leash the dog to any permanent inanimate object. Rather the dog shall be in a secure fenced area or be on a short leash under the constant supervision and surveillance of the owner.

4.3.2 The owner shall successfully complete a court approved animal obedience training, behavior modification, pet management class, and/or any other treatment program that the Court may deem to be appropriate. The owner shall bear the entire cost of all programs, classes, or trainings.

4.3.3 The owner shall, at the owner's expense, have the animal spayed or neutered and shall provide written proof from a licensed veterinarian to the Hugo Marshall's Office that the sterilization has been performed.

4.3.4 To order, within ten days of the conviction, to obtain and present to the Hugo Town Marshall written proof that the owner has procured a homeowner's or renter's liability insurance policy, or a rider to an existing policy, in the minimum amount of One Hundred Thousand Dollars (100,000.00) to specifically cover any future damage or injury that may be caused by the subject's dangerous dog during the period of court ordered supervision, such supervision to be no less than one (1) year from the date of conviction. During the period of supervision, the owner shall provide written proof on a quarterly basis of the necessary coverage.

4.3.5 To order removal of the aggressive dog from the Town of Hugo.

4.4 It shall be an affirmative defense to the charge of Ownership of an Aggressive Dog, if the aggressive dog, while confined to the aggressive dog owner's property, is aggressive to a person or domestic animal that is on the aggressive dog owner's property for the purpose of attempting or committing a criminal offense against the aggressive dog owner or the aggressive dog owner's property, or if the aggressive dog, while on the aggressive dog owner's property is tormented, provoked, abused, or inflicted injury upon, in such a manner as to result in the dog being made aggressive.

Section 5 VACCINATIONS AND LICENSING OF DOGS REQUIRED. It shall be the duty of every person who owns or harbors any dog or dogs in the Town of Hugo, Colorado, to have such dog or dogs inoculated by a regularly licensed veterinarian of the State of Colorado and to obtain a certificate from said veterinarian, setting out the fact of such vaccination and also to obtain from the Town Clerk of the Town of Hugo, Colorado, a license for each dog. The owner, possessor or keeper of any dog within the Town of Hugo shall secure a license for such dog from the Town Clerk on or before the first day of June each year or within 30 days after acquisition or within 30 days after the dog reaches the age of four (4) months. Dogs purchased, obtained or otherwise acquired subsequent to the first of June in any calendar year shall be licensed within 30 days after such acquisition, or within 30 days after the dog reaches the age of four (4) months. New residents of the Town shall have 30 days after becoming residents to secure a license hereunder. The license, which may be in the form of a receipt, shall state the name of the owner, the date of issuance and date of inoculation, and a description of the dog.

Section 6 PERSONS AUTHORIZED TO INOCULATE AND ISSUE LICENSES. Inoculation of dogs under this Ordinance may be performed by any licensed veterinarian of the State of Colorado and licenses for dogs shall be issued by the Town Clerk of the Town of Hugo, Colorado. The owner or harbinger of every dog so inoculated shall pay the veterinarian inoculating same their inoculating fee and shall pay a license fee to the Town of Hugo as follows:

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|-----|---|---------|
| 6.1 | Each neutered male or each spayed female.     | \$5.00  |
| 6.2 | Each unneutered male or each unsprayed female | \$10.00 |

6.3 Any license obtained outside the time limitations herein set forth shall bear a penalty of \$10.00, which penalty shall be in addition to the license fee and paid to the Town Clerk at the time of license purchase.

Section 7 INFORMATION ON LICENSES AND TAGS. The Town Clerk shall issue a license to the owner or harbinger of each dog, the receipt for which shall contain the following information: (a) The name and address of the owner, or harbinger of any inoculated and licensed dog; (b) The date of inoculation and date of license; (c) The year and series number of the dog tag; (d) The breed, age, color and sex of the inoculated dog. The tags shall be made of durable material suitable to be attached to the collar or harness of the inoculated dog. Such tag shall state the year for which it is issued and the series number of the license and tag. Such tag shall also be prepared and distributed by the Town Clerk.

Section 8 TAG TO BE ATTACHED TO DOG AND LICENSE RETAINED BY OWNER. Every owner or harbinger of a dog shall attach the tag evidencing the licensing and inoculation with antirabies vaccine to the collar or harness of the inoculated and licensed dog and such collar or harness shall be worn by said dog at all times. The license shall be retained by the owner or harbinger of the inoculated and licensed dog for inspection by any member of the Marshal's Office.

Section 9 REGISTRATION. The inoculation and licensing shall be valid until the subsequent June 1st.

Section 10. QUARANTINE OF DOGS. A dog which is known to have bitten or injured any person so as to cause an abrasion of the skin or a dog which in the opinion of a member of the Marshal's Office or of any licensed veterinarian of the State of Colorado, appears to be afflicted with rabies, shall be closely confined by its owner in accordance with the directions of a member of the Marshal's Office for a period of not less than fourteen (14) days.

If the owner of such dog or dogs referred to in this section cannot be determined or located, then a member of the Marshal's Office shall otherwise confine said dog or dogs for a period of not less than fourteen (14) days. If the owner of said dog is not determined, located or the dog claimed from confinement within said fourteen days, then the Marshal may order said dog destroyed. Provided, however, that all costs be paid for by the owner or owners of said dog. If, however, after fourteen days confinement, the said dog is not claimed or the owner determined or located then the cost of confinement shall be borne by the Town of Hugo. If said dog is determined, by a veterinarian, to be suffering from rabies it shall be destroyed forthwith.

It shall be unlawful for any person knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the Town without written permission of the Marshal. Every owner or other person upon ascertaining a dog is rabid shall immediately notify the Marshal who shall either remove the dog to the pound or summarily destroy it.

Section 11. IMPORTED DOGS. All dogs which are brought into the Town of Hugo shall be in compliance with the laws and rules and regulations of the State of Colorado regarding the handling of the animals, and shall have been vaccinated not less than thirty days, nor more than twelve months prior to importation. The metal tag denoting vaccination shall be firmly affixed to the collar or harness of the dog, and shall be evidence of compliance with this section.

If said imported dog remains in the Town of Hugo more than thirty days, said dog shall be licensed in accordance with the provisions of this ordinance. A certificate of vaccination issued by a licensed veterinarian to the owner or harbinger of a dog within the current year by any municipality, county or state, shall be exchanged for a current inoculation and license tag of the Town of Hugo and a transfer fee of \$1.00 imposed thereon for a male or spayed female and \$3.00 for an unsprayed female.

Section 12. UNLAWFUL POSSESSION OF LICENSES. 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 tag provided for herein. 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.

Section 13. IMPOUNDMENT GENERALLY. It shall be the duty of every member of the Marshal's Office or other dog enforcement office to impound any dog which is not wearing a dog tag as herein provided and any dog which they reasonable feel to be in violation of any of the provisions of this ordinance, whether such dog is wearing a dog tag or not. It shall be lawful for any member of the Marshal's Office or other dog enforcement officer to go upon private property for the purpose of catching any dog to be impounded.

Section 14. ESTABLISHMENT AND OPERATION OF POUND. The Town shall have the right to establish a dog pound for the Town, to be operated by Town personnel, or at their election, they may, subject to approval of the Board of Trustees, contract with a public or private person or organization for the operation of a dog pound for and on behalf of the Town.

Section 15. PROCEEDINGS IN MUNICIPAL COURT AGAINST OWNER OR KEEPER OF IMPOUNDED DOG. If a dog is impounded, it shall be the duty of a member of the Marshall's Office or other dog enforcement officer immediately to institute proceedings in the Municipal Court on behalf of the Town against the owner, possessor or keeper of such dog, if known, charging the owner, possessor or keeper with a violation of the appropriate section of this Ordinance. Nothing herein contained shall be construed as preventing the member of the Marshal's Office or other dog enforcement officer from instituting a proceeding in the Municipal Court for violation of this Ordinance where there is no impoundment.

Section 16. NOTICE TO OWNER OR KEEPER OF DOG. Not later than two (2) days after impoundment, the Marshal shall cause to be posted in a conspicuous place at the Town Hall and at one other public place for three (3) consecutive days a notice of impoundment. The notice posted shall describe the dog, set for the date of impoundment and set forth the location from which the dog was taken up. In the case of impoundment of a dog wearing the tag described in Section 6 hereof, the Marshal shall also use other reasonable means in a diligent effort to notify the owner, possessor or keeper of said dog.

Section 17. PROCEDURE FOR RELEASE OF IMPOUNDED DOG AND/OR DESTRUCTION OF DOG. If a complaint has been filed in the Municipal Court of the Town against the owner, possessor or keeper of any impounded dog for a violation of this Ordinance, then such dog shall not be released from impoundment except when requirements of this Ordinance are met. In addition to any penalties which may be provided for in this Ordinance for violation hereof, the Marshal shall require such owner, possessor or keeper to pay the fees herein provided in Section 19 hereof.

Section 18. DISPOSAL OF DOG WHOSE OWNER OR KEEPER CANNOT BE LOCATED. If a complaint has not been filed in Municipal Court because the owner, possessor or keeper of an impounded dog is not known or cannot be located and such dog has not been claimed within five (5) days for an untagged dog and ten (10) days for a tagged dog from the date of impoundment, not counting the first day of impoundment, the dog may be disposed of in any humane manner prescribed by the Marshal; provided, however, that in the case of a dog wearing a tag as described in Section 7 hereof when impounded, it may be disposed of only after ten (10) days of impoundment, not counting the first day of

impoundment, and upon the Marshal's certification of the diligent effort to notify the owner, possessor or keeper of the dog of its impoundment, and that same has been unsuccessful.

Section 19. REDEMPTION FEE. Any owner, possessor or keeper of a dog desiring to redeem such dog from the pound shall pay the Town the sum of \$10.00 as an impoundment fee together with the sum of \$10.00 for each day of impoundment for cost of care, in addition to applicable licensing fees. The owner, possessor or keeper will also provide proof of current vaccinations as provided for in the Ordinance.

Section 20. INTERFERENCE WITH MARSHAL'S OFFICE OR DOG ENFORCEMENT OFFICER IN PERFORMING DUTIES. It shall be unlawful for any person to interfere with, molest, hinder or obstruct the Marshal's Office or other dog enforcement officer in the discharge of their official duties under this Ordinance.

Section 21. MUZZLING AND CONFINEMENT. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if they deem it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on their premises unless such dog shall have a muzzle of sufficient strength to prevent it from biting any person. Any unmuzzled dog running at large during the time of the proclamation shall be seized and impounded, unless noticeable infected with rabies in which case it shall be killed by the Marshal without notice to the owner. Dogs impounded during the first two (2) days of such proclamation shall, if claimed within five (5) days be released to the owner unless said dog/s are infected with rabies, upon payment of impounding charges provided for in Section 19. If unclaimed after that period, such dog may be summarily destroyed.

Any dogs required to be confined under the provisions of the Ordinance shall be kept upon the premises of the owner of such place as to be least dangerous to persons lawfully upon said premises.

Section 22. FEMALE DOGS IN HEAT. Any unsprayed female dog, while in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure, which shall be so constructed or situated as to prevent other dogs from gaining access thereto.

Section 23. NOTICE OR KNOWLEDGE OF VIOLATION NOT NECESSARILY FOR PROSECUTION OF OWNER OR KEEPER. For the purpose of prosecution for violation of this Ordinance, it shall not be necessary in order to obtain a conviction to prove notice or knowledge of the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Ordinance at the time and place charged, it being the purpose and intent of the Ordinance to impose strict liability upon the owner, possessor or keeper of any dog for the action, conduct, and condition of such dog.

Section 24. UNLAWFUL TO POISON DOG. It shall be unlawful for any person to poison any dog or to distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog within the Town of Hugo.

Section 25. PENALTY FOR VIOLATION. Any person violating any provision of this ordinance may upon conviction, be punished by a fine of not more than One Thousand Dollars (\$1000.00) for each offense or by other alternative penalty or a combination of fine and alternative penalty felt to be reasonable by the Municipal Judge. Alternative penalty such as but not limited to having violators and their dogs complete obedience training, having their dogs muzzled as well as on a leash when off their premises and out of a fenced yard/area, having to provide proof of increased liability insurance for having an Aggressive or Dangerous Dog, or having to remove the dog from the Town of Hugo.

Section 26. ENFORCEMENT. The Provisions of this Ordinance shall be enforced by the Marshal of the Town of Hugo or by a representative appointed by the Town Clerk.

Section 27. SEVERABILITY. If one or more sections or parts of the Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

Section 28. REPEALER. All acts, orders, resolutions, ordinances, or parts thereof, or the Town that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency or conflict. Ordinance Number 172 is specifically repealed by this Ordinance.

INTRODUCED, READ, ADOPTED, AND ORDERED PUBLISHED this 13<sup>th</sup> day of January, 2014.

/S/ Patsie E. Smith

Patsie E. Smith/Mayor

/S/ Maria Nestor

Maria Nestor; Town Clerk