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Ordinance No. \_\_\_\_\_

**Ophir, Colorado**

**Dog Control and Licensing Ordinance**

WHEREAS, the general assembly of the Town of Ophir, Colorado has determined that the adoption of certain regulations concerning the control of vicious dogs, barking dogs, and dogs at large will enhance health, safety and well-being of the public and protect livestock and wildlife,

**1. Definitions**

For the purpose of this article, the following definitions shall apply:

**Dog.** The word "dog" shall refer to any animal of the canine species, regardless of sex.

**Dog, Female.** The term "dog, female" shall mean any dog of the female gender on which no alternative surgery of the genital organs has been performed.

**Dog, Male.** The term "dog, male" shall mean any dog of masculine gender, not castrated.

**Dog, Spayed Female.** The term "dog, spayed female" shall mean any female dog on which an ovariectomy or ovariohysterectomy has been performed by a licensed veterinarian.

**Dog, Neutered Male.** The term "dog, neutered male" shall mean any male dog which has been castrated by a licensed veterinarian.

**Dog, Stray.** The term, "dog, stray" shall mean any unlicensed or licensed dog found unattached or loose anywhere within the Town of Ophir.

**Owner.** The word "owner" shall refer to any person or persons owning, keeping or harboring a dog.

**Vicious Dog.** A "vicious dog" shall mean a dog that unprovokedly bites or attacks human beings or other animals either on private or public property or which in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, side roads, sidewalks or any public ground or place. Any dog that bites or attacks a person who is trespassing upon, breaking into or otherwise destroying or defacing its owner's property shall be deemed to be provoked within the meaning of this section.

**Command Leash.** "Command leash" shall mean that the dog is within the sight of the owner and is under the voice control of the owner.

**Provoked.** A dog shall be deemed "provoked" if it bites or attacks a person who is trespassing upon, breaking into or otherwise destroying or defacing its owner's property.

**Trashing Dog.** A "trashing dog" shall mean a dog that goes upon any sidewalk, street, alley, or private lands or premises without the permission of the owner of such premises or sidewalk, street, or alley and breaks, tears at, crushes or injures any lawn, flower bed, plant, shrub, tree or garden or other public or private property whatsoever or defecates thereon.

**Dog Controll Officer.** Person or persons appointed by the general assembly of the town of Ophir.

**2. License Application and Registration Required:**

- (A) The provisions of this ordinance shall apply to all the area within the Town of Ophir, Colorado.
- (B) No dog over the age of six (6) months shall be kept, harbored or maintained within the Town of Ophir, Colorado, unless the owner, keeper or person in charge of such animal shall annually pay a designated agent of the Town of Ophir for collection.
- (C) Annual License Fee Schedule for:
  - (1) First dog per residence, male or female, neutered - \$5.00.
  - (2) Second dog per residence, male or female, neutered - \$10.00.
  - (3) Third dog per residence, male or female, neutered - \$150.00
  - (4) Fourth and every dog thereafter, neutered, an additional \$150.00 respectively.
  - (5) First dog per residence, male or female, not neutered - \$30.00.
  - (6) Second dog per residence, male or female, not neutered - \$60.00.
  - (7) Third dog per residence, male or female, not neutered - \$150.00.
  - (8) Fourth and every dog thereafter, not neutered, an additional \$150.00 respectively.
- (D) Dogs exempt from licensing fees but required to be licensed:
  - (1) Dogs used to assist law enforcement officer;
  - (2) Seeing-eye dogs;
  - (3) Dogs owned by persons over 60 years of age.
- (E) The owner shall state at the time application is made for such license and upon printed forms provided for such purpose, his name and the dog's name, owner's address, total number of dogs residing at that address, breed, color, sex, age, distinctive markings, if any, and any alterations of the reproductive tracts of each dog to be licensed.

(F) The licensing provisions of this Ordinance shall not be intended to apply to dogs whose owners are non-residents temporarily within the Town, nor dogs brought into the Town for the purpose of participating in any dog show, field trial or race, nor to "seeing-eye dogs" properly trained to assist blind persons, when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place. For purposes of this ordinance, a person shall be deemed a resident, if he remains in the Town of Ophir for a period of thirty-two (32) days. With the exception of the licensing provision, this ordinance shall apply to all dogs and their owners who are within the Town limits at any and all times.

### **3. Annual Vaccination**

It shall be the duty of every person who owns or harbors any dog or dogs in the Town of Ophir, State of Colorado, to have such dog or dogs annually vaccinated against rabies by a person legally authorized to do so.

### **4. Tag and Collar**

Upon payment of the license fee as above provided in Paragraph 2 hereof, and upon the further condition that proof of the annual vaccination required by Paragraph 3 hereof has been performed upon the dog to be licensed, the designated licensing agent of the Town of Ophir shall issue to the owner, keeper, or person in charge of each dog a receipt for the payment and a tag for each dog licensed. The receipt shall contain the number of the license as shown on the tag and the date of the inoculation of the dog for which the same is issued, and the expiration date thereof which shall be one (1) year from the date of the issuance thereof, or one (1) year from the date the inoculation of such dog against rabies, whichever shall sooner occur. Said receipt shall be retained by the owner for inspection as may be reasonably required by the Town of Ophir Dog Control Officer or his authorized agents. The Ophir Dog Control Officer shall file and register copies of such triplicate certificates received as provided in Paragraph 5 hereof and retain and file the same as the official registry of all dogs vaccinated with antirabid vaccine from the Town. Every owner shall be required to provide each dog owned by him with a durable collar to which the license tag must be affixed, and shall see that the Collar and tag are constantly worn except when such dog is securely confined within any enclosure on the property of the owner, possessor or keeper of such animal. In case a dog licensing tag is lost, destroyed or mutilated, a duplicate will be issued by the Ophir Dog Control Officer or his authorized agents, or a designated licensing agent of Ophir, upon the presentation of the receipt showing the payment of the license fee for the current period and upon payment of a fee of fifty cents (\$.50) for each duplicate. Except as permitted by Paragraph 16 of this ordinance, dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or

the owner's leaving the Town before the expiration of the licensing period.

#### **5. Duty of Person Vaccinating**

It shall be the duty of each person legally authorized to perform rabies vaccinations on dogs when vaccinating any dog against rabies to fill out a triplicate certificate with the information required by law and immediately present the one triplicate copy of the owner or harbinger of the dog so vaccinated and to mail one triplicate copy to the Ophir Town Clerk within five (5) days from the date of the vaccination against rabies. The remaining triplicate copy of the certificate shall be retained by the person performing the vaccination against rabies.

#### **6. Unlawful Possession of Tags and Certificates**

Only those persons who own or harbor a dog duly vaccinated in accordance with the provisions of this division shall be permitted to possess the certificate and tag 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 vaccination.

#### **7. Dog Running at Large**

It shall be unlawful for any owner, possessor, or any person who keeps any dog to permit that animal to run at large within the Town of Ophir, State of Colorado, unless said dog is within or under the positive control of the owner, possessor, or keeper thereof. For the purpose of this paragraph, a dog shall be deemed under positive control when said dog is accompanied by its owner, possessor, keeper or his agent or servant or a member of his immediate family and within sight and hearing distance of said person. A dog shall be deemed not under positive control when said dog inflicts damage, injury (by biting, jumping upon or any other means whatsoever) to the person or property of another, public or private, or by harassing, chasing or attacking livestock or wildlife, except in the defense of the owner, his family or property; or a female in heat which is not securely confined in an enclosure capable of restricting entry by other dogs; or a dog tethered by a leash, chain or cord which blocks a public thoroughfare. Any dog not under positive control shall be deemed running at large.

##### **7.1 Barking Dogs Prohibited**

It shall be unlawful for any owner or keeper of a dog to permit such dog, by its loud and persistent or habitual barking, howling or yelping, to disturb any person or neighborhood.

##### **7.2 Keeping of Vicious Dogs Prohibited**

No person shall own, keep, possess or harbor a vicious dog within the Town of Ophir. It shall be the duty of the Ophir Dog Control Officer his assistants, deputies, authorized employees and agents,

and the San Miguel County Sheriff and his deputies to catch and take up any dog which is a vicious dog; and in the event a vicious dog cannot be caught and taken up by any such person without exposing him to danger or personal injury from the dog, it shall be lawful for said person to destroy such dog without notice to the owner or keeper thereof.

#### **8. Procedure when Dog is Exposed To or Contracts Rabies**

- (a) If a dog within the Town of Ophir is believed to have been exposed to any animal suspected of having rabies, the Ophir Dog Control Officer or his authorized agent may order such dog strictly confined and subject to veterinary observation for a period of six (6) months, in accordance with such orders and rules as he shall direct.
- (b) Every owner, keeper or possessor or other person who has ascertained or suspects that a dog is rabid shall immediately notify the Ophir Dog Control Officer or a San Miguel County Sheriff's Officer who shall either remove the dog to a place of strict and secure confinement or summarily destroy it.
- (c) Any dog not currently vaccinated against rabies that has been exposed to an animal known to have rabies may be summarily destroyed.

#### **9. Procedure when a Dog Bites a Person**

If a dog bites a person, it shall be strictly confined under the direction of the Ophir Dog Control Officer for a period of at least ten (10) days and shall be available for veterinary inspection by a licensed veterinarian and/or the Ophir Dog Control Officer or his authorized agents.

#### **10. Dog Control Officer**

The position of Dog Control Officer shall be created to enforce this ordinance. This office shall be under the direction of the General Assembly of the Town of Ophir.

#### **11. Impoundment -- Generally**

It shall be the duty of the Ophir Dog Control Officer, his assistants, deputies, and authorized employees and agents, and the San Miguel County Sheriff and his deputies to apprehend any vicious dog or dog running at large, contrary to the provision of Paragraph 7 and 7.2 of this ordinance and such dog may be impounded in a suitable animal pound or pounds as may be approved by the Town, within or without the Town limits. The person in charge of such dog shall make a complete registry of such dog upon a book kept for such purposes entering the breed, color and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and number of the licensing tag. Any dog, over the age of six (6) months, that is impounded and for which satisfactory

evidence of current rabies vaccination is not shown, may be vaccinated against rabies upon the order of the Ophir Dog Control Officer or his authorized agent, and costs thereof added to the impoundment charges against such animal and assessed against the owner, harborer or keeper thereof.

## **12. Notice of Owner; Redemption**

(a) When a dog is impounded, as provided in paragraph 11 of this ordinance, it shall be the duty of the Ophir Dog Control Officer and his authorized agents to make reasonable efforts to notify the owner, possessor, or person who harbors or keeps the same, if known, and if not known to post at the San Miguel County Courthouse and at the place of the pound and at such other place or places as may from time to time be designated by the General Assembly of the Town of Ophir a notice containing a description of such dog, and when and where caught. A charge of four dollars (\$4.00) per day is hereby made for each day, or part thereof, the dog is kept in the place of impoundment, including the day of removal, but not including the day of impounding. No dog shall be released from the place of impoundment until the owner shall have paid all charges for impounding the dog, and until the dog has been licensed and vaccinated against rabies in accordance with this ordinance.

(b) Except in the case of bodily injury, a person charged with one or more violations of this ordinance listed in subparagraph (d) shall have the option of paying a handling, processing and administrative assessment therefor to a designated County agent, the San Miguel County Dog Control Officer or his authorized agents in lieu of further proceedings in court to defend such charges as described in Paragraph 18 of this ordinance. If such person elects to appear in court, he shall be proceeded against as otherwise provided by law for the violations charged and shall be subject to the penalties provided for in said Paragraph 18 hereof if found guilty of such charges.

(c) In the event a person elects to pay the prescribed handling, processing and administrative assessment as permitted in subsection (b) hereof, such payment shall constitute an acknowledgement of guilt by such person of the offense charged and shall be deemed a complete satisfaction for such violation, and upon accepting the prescribed penalty assessment, the San Miguel County Dog Control Officer or his authorized agents shall issue a receipt to the violator acknowledging payment thereof.

(d) In addition to the impoundment fee provided for in subsection (a) above, the handling, processing and administrative assessment and the nature of the violation for which the assessment may be accepted and paid by the violator under the privileges of this section shall be as follows:

- (1) No dog license - Equal to the licensing fee for that dog.
- (2) No rabies vaccination - \$10.00.

(e) Penalties for dogs in violation, i.e., barking, trashing, trespassing, and running at large:

(1) First offense. A complaint against the dog owner is made in writing to the Dog Control Officer who in turn tries to resolve the problem with the owner.

(2) Second offense. A second complaint against the dog owner is made in writing to the Dog Control Officer who again talks to the owner. At the second complaint a certified letter is sent warning of the penalty if there is a third complaint.

(3) Third offense. A third complaint is made in writing to the Dog Control Officer. The complaint is presented for discussion before the Town officials, and if deemed necessary the dog is then impounded at the county animal control facility. The penalty is \$50.00.

(f) Additional fines of \$100 may be levied by the court when there is proof that there has been harassment or damage done to wildlife. The Court may also seek retribution for damages to livestock.

(g) Persons unable to pay fine may be required to do work by the Court, County Commissioners, County Administrator, or County Road Supervisor at a rate of the federal minimum wage.

(h) All fines collected by the Court, Agent, Sheriff's office, or County Dog Control Officer shall be deposited in the County General Fund. All fines and licensing fees collected by the Ophir Dog Control Officer shall be deposited in the Ophir General Fund.

(i) Other provisions of this paragraph 12 to the contrary notwithstanding, a person charged with owning, keeping, possessing or harboring a vicious dog shall proceed to appear in court for such offense and no administrative assessment shall be established for such violation. If the Court shall find that any dog complained of is vicious as defined in paragraph 7.2, in addition of any fine or sentence imposed, the Court may issue an appropriate order to the owner or keeper to restrain the offending dog, or he may order the dog disposed of. The failure or refusal of any party to do as so ordered shall be deemed to be a separate and distinct offense and each day's violation thereof shall subject the owner or keeper to the penalties provided for in Paragraph 17.

### **13. Disposition of Unclaimed Dogs**

It shall be the duty of the San Miguel County Dog Control Officer to keep all dogs impounded under the provisions of this division for a period of eight (8) days after the owner, if known, has been notified or reasonable efforts of notification have been made as provided in this division, or for a period of eight (8) days after the date of posting in the event that the owner is unknown. If at the expiration of such time the dog shall not have been redeemed, it may be destroyed or otherwise disposed of, at the discretion of the San Miguel County Dog Control Officer. However, any dog so



impounded shall not be released except on payment of the fees and charges as provided for in Paragraph 12 of this ordinance, as well as the regular licensing fee and inoculation against rabies performed on the dog, if any required.

#### **14. Confinement of Certain Dogs**

The San Miguel County Dog Control Officer shall not release any vicious dog unless suitable provisions are made for said dog to protect the public as may be required by the Court pursuant to subparagraph 11(g). In addition, no female dog in heat shall be released unless the owner has facilities for caring for and confining such dog.

#### **15. Release Upon Compliance with Provisions of Article**

So long as there shall be no other reason under this ordinance to retain custody of an impounded dog, it is the duty of the San Miguel County Dog Control Officer or his authorized agent to release dog from the place of impoundment in the County upon receipt of satisfactory proof of ownership thereof, upon payment of any fee due the County and of the Town of Ophir, and upon presentation of proof of vaccination for rabies and proper licensing of such dog in accordance with the provisions of this article.

#### **16. County Agents**

Agents of the Town of Ophir, as provided for in this ordinance, shall be appointed from time to time by separate ordinance of the General Assembly of the Town of Ophir. Any agent named for collection of moneys shall be bonded in such amount as shall be determined by the General Assembly of the Town of Ophir.

#### **17. Violations**

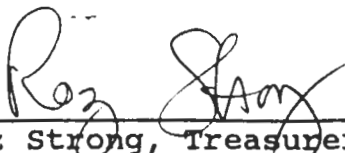
(a) Any violation of any provision of this ordinance not involving bodily injury to any person shall be a class 2 petty offense, punishable by a fine of not more than three hundred dollars (\$300) or imprisonment in the County jail for not more than ninety (90) days, or both such fine and imprisonment.

(b) Any offense involving bodily injury to any person by a dog shall be a class 2 misdemeanor, and any violation shall be punished as provided in Section 18-1-106, C.R.S. 1973, for each separate offense.

Approved by the General Assembly of the Town of Ophir at their meeting held October 17, 1991.

  
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Paul Machado, Town Manager



  
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Roz Strong, Treasurer

ATTEST:

  
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Jeannine Doucet, Town Clerk and Recorder