

ORDINANCE 94-13

TOWN OF OPHIR, COLORADO

AN ORDINANCE ENACTING REGULATIONS FOR THE CONTROL AND LICENSING OF DOGS IN THE TOWN OF OPHIR AND REPEALING THE DOG CONTROL AND LICENSING ORDINANCE ADOPTED IN 1991 AND ALL AMENDMENTS THERETO.

WHEREAS, the General Assembly of the Town of Ophir, State of Colorado, has determined that the regulation of dogs in the Town of Ophir will promote and protect the health, safety, and general welfare of the Ophir community;

WHEREAS, the General Assembly finds that the coordination with the San Miguel County Dog Resolution will facilitate the effect and efficient administration of dog regulations in the Town of Ophir; and,

WHEREAS, the General Assembly held a public hearing on August 16th, 1994, concerning the adoption of this Ordinance 94-13;

NOW, THEREFORE, BE IT ORDAINED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR, STATE OF COLORADO, the following:

SECTION 1: DOG CONTROL AND LICENSING ORDINANCE REPEALED

The "**Dog Control and Licensing Ordinance**" adopted on the seventeenth day of October, 1991, and "**AN ORDINANCE AMENDING THE DOG CONTROL AND LICENSING ORDINANCE OF THE TOWN OF OPHIR, COLORADO**" are hereby repealed in their entirety.

SECTION 2: OPHIR DOG REGULATIONS

The regulations in this Ordinance, and in any subsequent amendments to this Ordinance, shall regulate the control and licensing of dogs within the Town of Ophir and shall be referred to as the "Ophir Dog Regulations."

SECTION 3: DEFINITIONS

For the purpose of the Ophir Dog Regulations, the following definitions shall apply:

- A. **Animal** Both domestic and wild, mammals and fowl.
- B. **Barking Dog** A dog that makes noises emanating from his throat thereby unreasonably disturbing persons residing anywhere in the Town of Ophir.
- C. **Command Leash** When the dog is within the sight of the owner and the dog is under the clear voice control of the owner.

- D. **Dog** Any animal of the canine species, regardless of sex.
- E. **Dog at Large** Any dog running at large within the Town of Ophir and not under a command leash.
- F. **Nuisance Dog** a barking dog; dog at large, stray dog, trashing dog or vicious dog.
- G. **Owner** Any person or persons owning, keeping, harboring, or responsible for a dog.
- H. **Provoked** A dog which bites or attacks a person or animal who is trespassing upon, breaking into or otherwise destroying or defacing its owner's property.
- I. **Stray Dog** Any dog which is reasonably determined to have no owner.
- J. **Trashing Dog** 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 up, crushes or injures any lawn, flower bed, plant, shrub, tree or garden or other public or private property whatsoever, or defecates thereon.
- K. **Vicious Dog** A dog that is not provoked and that bites, attacks or harms human beings or other animals either on private or public property or which in a vicious or terrorizing manner approaches any human being or other animal in an apparent attitude of attack while on either private or public property.

SECTION 3. VIOLATIONS

Barking dogs, dogs at large, stray dogs, trashing dogs, vicious dogs, and dogs not vaccinated annually against rabies by a person legally authorized to do so, are not permitted in the Town of Ophir. The owner of either a barking dog, a dog at large, a stray dog, a trashing dog or a vicious dog shall be deemed to be in violation of the Ophir Dog Regulations.

SECTION 4. PENALTIES

A. For each separate offense the penalty for any person found to have violated the Ophir Dog Regulations shall be:

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|----|-------------------------------------------------|------------------|
| 1. | First Conviction | \$ 25.00 |
| 2. | Second Conviction | \$ 50.00 |
| 3. | Third Conviction | \$100.00 |
| 4. | Fourth Conviction | \$200.00 |
| 5. | Fifth Conviction and each subsequent conviction | \$300.00; and/or |

**Imprisonment in the county jail
for not more than ninety (90) days.**

Under the terms of this section, a jail sentence is not mandatory. Any violation of this resolution which does not involve bodily injury to a human being shall be a class 2 petty offense. A monetary penalty is mandatory in all cases.

B. Any violation of the Ophir Dog Regulations which involves a bodily injury to a person 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.

SECTION 5. DOGS DESTROYED

Any dog at large, stray dog or vicious dog may be destroyed by the San Miguel County Sheriff's Department eight days after notification of the dog owner or completion of reasonable efforts to notify the owner, including posting a notice and description of the impounded dog at the Ophir Post Office.

SECTION 6. PICKING UP OF DOGS

If the enforcing officer believe that a dog is a nuisance dog he may pick it up anywhere he finds it. If the enforcing officer believes that a dog is a vicious dog and that he cannot pick the dog up without suffering probable injury he may destroy the dog. If possible, the enforcing officer shall notify the owner that he has either picked the dog up or destroyed the dog.

SECTION 7. BANISHMENT

Upon conviction the court shall order that the owner evidence immediate ability to control the nuisance dog or require the nuisance dog to be immediately removed from the Town of Ophir and San Miguel County. Failure to comply with an order of the Court shall be a violation of the Ophir Dog Regulations.

SECTION 8. NON-APPLICABILITY

The Ophir Dog Regulations 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 while actually being trained for these pursuits.

SECTION 9. DISPOSITION OF FINES AND FORFEITURES

All fines and forfeitures for violations of the Ophir Dog Regulations shall be paid directly into the general fund of the San Miguel County Treasurer.

SECTION 10. COLLAR AND TAG

A. Owners of dogs that are a resident or property owner in the Town of Ophir shall pay the annual license fee for each dog. All dogs shall wear a tag supplied by the Town of Ophir attached to a collar. Proof of annual vaccination is a condition to licensing a dog. The Town of Ophir shall issue to the owner a receipt for the payment and a tag for each dog licensed.

B. The Annual Licensing Fees are as follows:

	<u>Neutered</u>	<u>Not Neutered</u>
1. First Dog per residence	\$ 5.00	\$ 30.00
2. Second Dog per residence	\$ 10.00	\$ 60.00
3. Third and subsequent dogs per residence	\$150.00	\$150.00

C. The following dogs are exempt from the licensing fees, but must be licensed:

1. Dogs used to assist law enforcement officers;
2. Seeing-Eye dogs; and,
3. Dogs owned by owners over 60.

D. The owner shall supply all required information at the time of applying for a dog license.

SECTION 11. ENFORCEMENT

It is the duty of the San Miguel County Sheriff or his Deputies to enforce the Ophir Dog Regulations only when a citizen has signed a complaint against the owner of the offending dog; this section shall not be construed to prevent the Sheriff or his Deputies from enforcing the Ophir Dog Regulations if a citizen has not signed a complaint against the owner of the offending dog.

No dogs will be impounded by the San Miguel County Sheriff or his Deputies, unless a dog has bitten a human, in which case the dog will be confined at a kennel for ten (10) days and/or inspected by a veterinarian, at the expense of the owner.

SECTION 12. PROSECUTING ATTORNEY

Either the San Miguel County Attorney, District Attorney, or the Ophir Town Attorney shall prosecute all actions required under the Ophir Dog Regulations. Any person found guilty of violating the Ophir Dog Regulations shall pay all costs incurred by the Town of Ophir and San Miguel County in prosecuting the case and all other costs assessed by the Court.