

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF COSTILLA
STATE OF COLORADO
ORDINANCE NO. 23-01**

**AN ORDINANCE OF COSTILLA COUNTY COLORADO PROHIBITING THE
UNLAWFUL GRAZING OF LIVESTOCK.**

WHEREAS, the Local Government Enabling Act of 1974 (C.R.S. § 29-20-101) authorizes counties to regulate the use of land to provide orderly use and to protect the environment; and

WHEREAS, the Costilla County Board of County Commissioners finds that unlawful grazing of livestock (as defined below) can result and has resulted in the disorderly use of land, breach of the public peace, and significant harm to the environment; and

WHEREAS, the Costilla County Board of County Commissioners finds that there is a need to enact an ordinance prohibiting unlawful grazing in order to protect private property owners, protect the environment, and to protect the public peace;

AND, NOW, THEREFORE,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COSTILLA COUNTY, STATE OF COLORADO, THAT THE FOLLOWING ORDINANCE BE AND IS HEREBY ADOPTED:

1. Title.

This ordinance shall be known as the "Costilla County Ordinance to Address the Unlawful Grazing of Livestock."

2. Authority.

The Local Government Land Use Control Enabling Act, section 29-20-101, et seq., gives the Board of County Commissioners of Costilla County, Colorado (hereinafter the "Board"), the authority to regulate the use of land on the basis of the impact thereof on the community or surrounding areas and to plan for and regulate the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.

3. Purpose.

The purpose of this ordinance is to protect land located in the County by providing an avenue for mitigating the unlawful grazing of livestock in Costilla County and its adverse consequences to private property ownership and the environment.

4. Definitions.

- A. "Unlawful Grazing" means any person(s) who knowingly allows livestock to graze upon property in which such person(s) has no lawful right to pasture or forage livestock; and/or any person(s) who knowingly over-stocks property in which such person has a lawful right to pasture or forage livestock causing the livestock to leave such property in order to obtain the proper amount of pasture, forage, or water; and/or any person(s) who knowingly allowing livestock to unlawfully remain on roads, streets, or public highways.
- B. "Livestock" means horses, cattle, mules, asses, goats, sheep and swine, but does not include buffalo or "alternative livestock" as defined in section 35-41.5-102(1), C.R.S.
- C. "Lawful Fence" means a well-constructed three barbed wire fence with substantial posts set at a distance of approximately twenty feet apart, and sufficient to turn ordinary horses and cattle, with all gates equally as good as the fence, or any other fence of like efficiency.
- D. "Owner" means any person(s), corporation, organization, partnership, or otherwise, either having actual ownership, implied ownership or control for the care taking and welfare of livestock.
- E. "Actual Notice" means actual notice received from Costilla County Sheriff's Office either by telephone, email, or in person followed up with a written posted notice. For the purpose of calculating 'reasonable time, the date and time of said telephonic or personal communication shall control.
- F. "Reasonable time" means

- a. In regard to livestock at large on an open highway, a reasonable time shall be, once the livestock owner has received actual notice, time to prepare and lawfully drive from the local headquarters of the livestock owner to the location of the livestock.
- b. In regard to the unlawful grazing of livestock, a reasonable time shall be 48 hours, from the time of actual notice, to remove the livestock unless the landowner and livestock owners have mutually agreed upon a longer time period.

G. "Open Range" means an area in which livestock is lawfully pastured on both sides of a road or highway. In such cases, adequate warning to motorists is given by proper signage warning of livestock being on the road or highway.

5. Unlawful Grazing of Livestock Constitutes a Civil Infraction

- A. It is unlawful for any person(s) who, after a reasonable time has passed after receiving actual notice, knowingly allows the unlawful grazing of livestock; and
- B. Any person who violates this Ordinance commits a civil infraction under C.R.S. § 30-15-402(1) and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than one-thousand dollars (\$1,000.00) for each separate offense plus a surcharge of ten dollars (\$10.00), under C.R.S. § 30-15-402(2). Fines are to be set by the County Court, unless the violator wished to confess guilt and pursuant to the penalty assessment procedure within twenty-one (21) days of issuance of the ticket, pay the fine indicated plus the ten-dollar (\$10.00) surcharge.
- C. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law rule, order, or regulation. Each day of unlawful grazing shall constitute a separate violation and each grazing animal shall be a separate infraction.

D. Criminal prosecution may be brought against a violator in accordance with C.R.S. §§ 30-15-402 and 30-15-410, and under the penalty assessment procedure provided in C.R.S. §16-2-201. The Sheriff's Office is authorized to devise a ticketing system in conformance with C.R.S. § 16-2-201.

E. The penalty assessment procedure provided in C.R.S. § 16-2-201 may be followed by any arresting law enforcement officer. The graduated fine schedule for such penalty assessment procedure shall be for each individual livestock:

1. Two Hundred and Fifty Dollars (\$250.00) for the first infraction and for the first 24 hours of unlawful grazing;

2. Five Hundred Dollars (\$500.00) for the second infraction within sixty (60) days of the first infraction and for each day after the first 48 hours of unlawful grazing;

3. One Thousand Dollars (\$1,000.00) for each additional infraction within sixty (60) days of the first infraction and for each day of grazing after the first 96 hours of unlawful grazing.

F. In addition to the penalty prescribed in this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge of ten dollars (\$10.00).

G. Regardless of any penalty imposed under this Ordinance, persons convicted of a violation of this Ordinance shall be held liable for costs and attorney's fees to the county for prosecution of this ordinance.

6. Enforcement.

A. The Costilla County Sheriff's Office and the Land Use Office shall enforce the provisions of this ordinance.

B. Any peace officer or land use officer in hot pursuit of any animal(s) in apparent violation of this ordinance may enter upon private property for the purpose of enforcing this ordinance, including ascertaining the ownership of

such animal(s), or issuing a citation to the owner(s) of such animals.

C. Nothing in this section grants any peace officer or land use officer any additional authority to enter without a warrant into any dwelling or other building beyond that authority which may now exist under Colorado law.

7. Disposition of Fines.

All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to Costilla County and submitted to the Costilla County Treasurer's Office. All fines for the violation of this Ordinance received by the County shall be remitted to the Costilla County Treasurer and deposited into the general fund. All surcharge dollars shall be paid by the defendant to the Clerk of the Court and credited to the Victims and Witnesses Assistance and Law Enforcement Fund of the Twelfth Judicial District of the State of Colorado pursuant to C.R.S. § 30-15-402(2)(a). The defendant shall also pay court costs.

8. Captions.

The captions and paragraph headings used throughout this ordinance are for the convenience of reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of this ordinance.

9. Severability.

Should any section, subsection, clause, sentence, or phrase of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the other provisions of this Ordinance which can be given effect without such invalid provision.

10. Repeal of Conflicting Provisions.

All former County Ordinances, rules, resolutions, or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.

11. Publication, Safety Clause, and Effective Date.

The Board orders that this Ordinance be published in full in a public newspaper published in Costilla County, Colorado, and that a second reading and adoption shall occur no less than ten (10) days after publication.

The Board hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation and protection of the health, safety, and welfare of the citizens of Costilla County, Colorado. This is an excepted Ordinance.

This Ordinance shall be effective immediately upon adoption as an excepted Ordinance and shall remain in effect until such time as this Ordinance is amended by the Board, or enforcement is temporarily suspended by the Board.

A second publication of the ordinance after adoption shall be by title only.

INTRODUCED, AND READ on May 16, 2023, and ordered published in the Costilla County Free Press

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF COSTILLA, COLORADO



Steven Romero
Chairman, Commissioner



ATTEST:


Najondine Placek,
Costilla County Clerk & Recorder


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Costilla County Free Press.

PUBLIC HEARING HELD ON July 18, 2023.

ADOPTED ON SECOND AND FINAL READING on July 18, 2022.

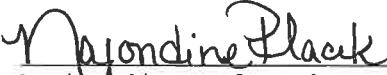
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF
COSTILLA, COLORADO.





Steven Romero,
Chairman Commissioner

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