

VILLAGE OF TIJERAS

ORDINANCE NO. 32

AN ORDINANCE PROVIDING FOR THE CONTROL AND CARE OF ANIMALS IN THE VILLAGE OF TIJERAS AND REPEALING VILLAGE OF TIJERAS ORDINANCE NUMBER 20.

Be it ordained by the Governing Body of the Village of Tijeras, County of Bernalillo, State of New Mexico:

SECTION I. Definitions.

For the purpose of this Ordinance, the following words and phrases are defined and shall be construed as hereafter set out unless it shall appear from the content that a different meaning is intended. When not inconsistent with the context, words used in the single include the plural. The word "shall" as used herein is always mandatory and not merely directory. The masculine includes the feminine.

- A. "Animal" means any dog or cat or vertebrate member of the animal kingdom excluding humans.
- B. "Village of Tijeras" or "Village" shall include the area within the boundaries of the Village of Tijeras.
- C. "Animal Control Shelter" means any pound, lot premises, and/or building maintained by any government body or hired by the Village for the implementation of control, care and custody of animals.
- D. "Bite" means any actual puncture or tear of the skin inflicted by the teeth of an animal.
- E. "Mayor" means the Mayor of the Village of Tijeras or his designated representatives.
- F. "Enclosed premises" means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.
- G. "Establishment" means a place of business together with its ground and equipment.
- H. "Estray" means any animal found running at large.
- I. "Licensed Veterinarian" is a person with a Doctor of Veterinary Medicine Degree licensed to practice in the State of New Mexico.
- J. "Nuisance" means but is not limited to defecation, urination, disturbing the peace, emitting noxious or offensive odors or otherwise endangering or offending the well being of the inhabitants of the Village of Tijeras.
- K. The "owner" of an animal is a person who owns, harbors, or keeps, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his care, or who permits an animal to remain on or about his premises.
- L. "Person" means any individual, household, firm, partnership, corporation, company, society, association, and every officer, agent, or employee thereof.
- M. "Premises" are defined as a parcel of land and the

- structure(s) thereon.
- N. "Confinement" is to detain or isolate an animal.
- O. To "run at large" or "running at large" is to be free of physical restraint or control beyond the boundaries of the enclosed premises of the owner.
- P. "Vaccination" is protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, State of New Mexico Rabies Control Act of 1959, as amended; given in an amount sufficient to provide immunity from rabies for a minimum of one (1) year.
- Q. "Vicious Animal" means any animal which shall bite or in any other manner attack or attempt to attack any person or other animal within the Village except that any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.
- R. "Livestock" means horses, cattle, pigs, sheep, goats, rabbits and/or fowl.
- S. "Quarantine" is to detain or isolate an animal suspected of contagion.
- T. "Commercial Animal Establishment" means any establishment or premises, operating for profit, where six (6) or more dogs and/or cats or aggregate thereof, over four (4) months of age are boarded, kept, or maintained for any purpose whatsoever; it includes kennels, grooming parlors, and pet shops.
- U. "Non-profit Animal Facility" means any facility or premises, not operating for profit, where six (6) or more dogs and/or cats or aggregate thereof, over four (4) months of age are kept or maintained; it includes shelters, refuges, private hobby kennels, and hobby breeders, with the exception of State inspected veterinary hospitals. Federal inspected laboratory facilities and zoos.
- V. "Kennel" means any commercial animal establishment or premises where animals are boarded, kept or maintained.
- W. "Grooming Parlor" means any commercial animal establishment, or part thereof, or premises maintained for the purposes of offering animals cosmetological services.
- X. "Shelters" means any non-profit animal facility whose primary function is to bring aid and comfort to animals.
- Y. "Pet Shop" means any commercial animal establishment or premises or part thereof maintained for the purchase, sale, exchange or hire of animals of any type; except the term shall not include livestock auctions.
- Z. "Refuge" means any non-profit animal facility or premise operated by a person who is a member of a recognized animal humane organization, for the purpose of bringing aid and comfort to more than five (5), but

not to exceed twenty (20) animals.

- AA. "Private Hobby Kennel" means any non-profit animal facility or premise where purebred dogs or pedigreed cats are bred for personal use and enjoyment from animals privately owned or leased and the resultant offspring are neither sold for resale to commercial outlets, nor for the purposes of research, testing or laboratory experimentation.
- BB. "Hobby Breeder" means any non-profit animal facility or premise operated by a person involved in controlled breeding of animals which are registered with a recognized registry organization or who keeps a breed which is not eligible to be so registered, if this breed has been approved by the Mayor.
- CC. "Professional Animal Permit" is a permit issued pursuant to Section V, Paragraph G. and is required of persons operating kennels, grooming parlors, pet shops, refuges, shelters, private hobby kennels, or hobby breeder facilities.
- DD. "Leash" means chain, strap or cord of sufficient substance to hold under control the animal attached thereto, and shall be no longer than eight (8) feet.
- EE. "Animal Control Officer" or "A.C.O." means that person or persons designated or appointed to that position by the Mayor of the Village of Tijeras.
- FF. "Domestic Animal" means any animal of a type normally kept as a pet for the enjoyment of its owner, including dogs and cats.

SECTION II. ADMINISTRATION OF ORDINANCE/ AUTHORITY OF ANIMAL CONTROL OFFICERS

- A. The Mayor and Animal Control Officers shall have the authority to issue citations for violations of this Ordinance and to perform such other duties as are prescribed herein. Neither the Mayor nor any Animal Control Officer shall have the authority to dismiss a citation.
- B. The Animal Control Officer shall have the authority and is directed to investigate upon probable cause any alleged violation of this ordinance or any law of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals. The Animal Control Officer shall be authorized to inspect premises within the Village limits as necessary to perform his duties. If the owner or occupant of any premises objects to inspection or impoundment of any animal pursuant to law, a warrant for the inspection of said premises and impoundment shall be obtained from a court of competent jurisdiction. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection, investigation or impoundment.

SECTION III. IMPOUNDING ANIMALS.

- A. It is the duty of the Animal Control Officer to take up and impound in an animal control shelter any stray or any animal kept or maintained contrary to this

Ordinance.

- B. In addition to the provisions of this Ordinance, the procedures followed:
 - 1) to give notice to owners of impoundment;
 - 2) for the redemption of animals from impoundment;
 - 3) for collection and establishment of all fees charged and all records kept in connection with impoundment of animals; and
 - 4) for destruction of impounded animals that are not redeemed by the owner, shall be determined by the applicable Bernalillo County Ordinances which are incorporated herein by reference, unless otherwise specified in this Ordinance.
- C. The owner of any animal impounded or confined pursuant to this Ordinance shall be responsible for all costs of confinement or impoundment.

SECTION IV. PRIVATE POSSESSION OF ESTRAYS.

- A. No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner, for more than twenty-four (24) hours without first reporting the possession of such animal to the Mayor or Animal Control Officer by giving his name and address, a true and complete statement of the circumstances under which he took up the animal, a description of the animal and the precise location where such animal is confined.
- B. It is unlawful for a person taking up an animal to fail to give the notice required above, and for any person having such animal in his possession to fail or refuse to immediately surrender such animal to an Animal Control Officer upon demand thereof.

SECTION V. OWNER'S DUTIES.

- A. Rabies Vaccinations.
 - 1. It is the duty of all persons owning or keeping a dog or cat or any member of the canine or feline family over the age of three months to have such animals vaccinated against rabies in accordance with State law, which is incorporated herein by reference. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for one year and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Mayor may require other animals to receive annual rabies vaccination.
 - 2. The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination and the expiration date of the period of immunity. The veterinarian shall also furnish the owner or keeper with a metal tag bearing the certificate number and the expiration date of the period of immunity. The

tag shall be affixed by the owner or keeper to a collar or harness and shall be worn by the dog or cat for which the certificate is issued. A current rabies tag shall be affixed to each dog or cat at all times unless the dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show or is being trained by a professional trainer.

3. In general, if a non-estrays dog or cat does not have an affixed rabies tag and is deemed critically injured or critically ill by a veterinarian then a trained and certified Animal Control Officer may euthanize such animal with a report being filed with the Bernalillo County Animal Control Authorities. In extreme conditions, trained and certified Animal Control Officers may euthanize such animals provided they file a report with the Bernalillo County Animal Control Authorities.
4. It is unlawful for the owner or keeper of any dog, cat or any other member of the canine or feline family to fail to exhibit its certificate of vaccination upon demand by any peace officer, animal control officer or the Mayor.

B. Rabid Animal.

1. An animal that has rabies or is suspected of having rabies, and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall be confined at once in a secure place by the owner or person having custody or possession of the animal. Any person who has knowledge of possible rabies infection or exposure to rabies shall immediately upon learning of the infection notify the Mayor or Animal Control Officer of the place where the animal is confined or located.
2. The owner or person with custody and possession of such animal shall surrender said animal to the Animal Control Officer upon demand. The Animal Control Officer or Mayor shall then impound the animal and deal with the animal pursuant to State Law and the rules and regulations of the State Health and Environment Department or as specified herein.
3. Any animal so impounded, unless it can be destroyed sooner pursuant to law, shall be held until it is determined whether the animal has rabies or whether there is reasonable cause to believe that the animal should be destroyed or tested immediately in order to prevent possible danger to the public health or welfare or to any individual. If it is determined that the animal has rabies or should be immediately destroyed or tested, the Mayor or Animal Control Officer shall apply to a court of competent jurisdiction for an order to destroy the animal pursuant hereto and shall have the animal destroyed. The animal shall continue to be held during pendency of the proceedings. If the animal dies in the meanwhile or if it is destroyed, its head shall

be sent to the State Department of Health for examination for rabies.

C. Animal Biting a Person.

1. The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Mayor or Animal Control Officer within 24 hours.
2. The owner or person having custody or possession of an animal that bites a person or is suspected of biting a person shall surrender said animal to an Animal Control Officer or the Mayor upon demand. The Animal Control Officer or Mayor shall impound the animal and deal with it pursuant to State Law and the rules and regulations of the State Health and Environment Department or as specified herein.
3. A physician who renders professional treatment to a person bitten by an animal shall report the fact that he has rendered professional treatment to the Mayor or Animal Control Officer within 24 hours of his first professional attendance. The physician shall report the name and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite, if known, and any other facts or details that may assist the County Animal Control in ascertaining the immunization status of the animals.
4. An animal that bites a person shall be impounded and confined securely at a place specified by the Mayor or Animal Control Officer for two weeks or in accordance with the rules and regulations of the State Health and Environment Department, or a longer period of time if deemed necessary by the Mayor or Animal Control Officer. The Mayor may consent to confinement on the owner's premises, but only if the animal had current rabies vaccination at the time the bite was inflicted. The premises where the home confinement is to occur shall be inspected and approved for such purpose by an Animal Control Officer. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the Bernalillo County Manager and Mayor before consent may be given for such home confinement.
5. Any animal so impounded or confined, unless it can be destroyed sooner pursuant to law, shall be held until it is determined by a licensed veterinarian whether the animal has rabies or it is determined whether there is reasonable cause to believe that the animal should be destroyed or tested immediately in order to prevent possible danger to the public health or welfare or of the person injured or bitten. If it is determined that the animal has rabies or should be immediately destroyed or tested, the Mayor or Animal Control Officer shall apply to a court of competent jurisdiction for an order to

destroy the animal pursuant hereto and shall have the animal destroyed. The animal shall continue to be held during pendency of the proceedings. If the animal dies in the meanwhile or is destroyed, its head shall be sent to the State Department of Health for examination for rabies.

6. A person who has custody of an animal that has bitten a person shall immediately notify the Mayor and the State Health and Environment Department if the animal shows any signs of sickness, abnormal behavior or if the animal escapes confinement. If the animal dies while it is in confinement, the person having custody of the animal shall notify the Mayor and surrender the carcass of the animal to Animal Control personnel to be disposed of according to State Law or the rules and regulations of the State Health and Environment Department.
 7. Liability for animal bites. The owner of any animal which shall bite any person while such person is in or on a public place or lawfully in or on a private place including the property of the owner of such animal, shall be liable for such damages as may be suffered by the person bitten, regardless of the former viciousness of such animal or the owner's knowledge of such viciousness.
- D. Restraint of Animals.
1. Every person owning or having charge, custody, or care or control of any dog or cat shall keep such animal exclusively upon his own premises either 1) in enclosed premises or 2) on a chain or leash not less than eight (8) feet in length. Dogs are permitted on the streets or public places of the Village only if on a secure leash not exceeding six (6) feet in length and under the immediate physical control of the person having custody thereof. It is unlawful for any person to chain or stake out any animal on any unenclosed premises or to keep an animal in enclosed premises in such a manner that it may go beyond the property line.
 2. No dog or cat or other member of the canine or feline families is allowed on a public playground, swimming pool or school yard.
 3. The above provisions do not apply when such animal is participating in a bona fide animal show authorized by the Mayor and/or authorized by appropriate school authorities.
 4. Nothing in this section shall be construed to allow any dog not under physical restraint, whether for training purposes or not, to commit any act defined as unlawful in this Ordinance.
- E. Animals in Mating Season to be Confined. Any person in control of an animal in mating season shall confine it to a building or other secure enclosure so as to preclude other animals from attacking or being attracted to such female animal, and to preclude male animals from having contact with the female except for intentional breeding purposes.
- F. Number of Animals Permitted. No household or member thereof, is allowed to own, harbor or keep dogs or cats, or any combination thereof, over four (4) months of age totaling more than four (4). Any household owning dogs or cats or any combination thereof totaling more than four (4), which animals were vaccinated for rabies before the effective date of this subsection, shall be allowed to retain more than four (4) animals, but only as long as the particular animals owned on the effective date remain in the possession of said household. Exceptions include: 1) a household may have up to six (6) dogs and cats or any combination thereof provided that half of them shall be neutered; 2) this subsection shall not apply to any holder of a professional animal permit.
- G. Professional Animal Permit. Any person of the Village may obtain a Professional Animal Permit from Bernalillo County under the following conditions:
1. Payment of an annual license fee at the office of County Environmental Health, specified by the Bernalillo County government.
 2. Submission of the person's premises used for the keeping of animals to an annual inspection by the Animal Control Officers or local Veterinarian.
 3. Maintenance of humane conditions of shelter, exercise, food, water and sanitary standards in accordance with nationally recognized professional standards.
 4. Provisions must be made for waste disposal in accordance with nationally recognized professional standards which will prevent the spread of noxious or offensive odors and disease.
- H. Animal Killing or Injuring Livestock, Other Animals or Protected Wildlife - Damages.
1. If any animal shall kill or injure any livestock, protected wildlife, or other domestic animal, the owner or keeper of such animal shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction, regardless of the former viciousness of such animal or the owner's knowledge of such viciousness. It shall be unlawful to keep such animal after it is known that the animal has killed or injured livestock, other animals and/or protected wildlife.
 2. It shall be the duty of the owner to surrender the animal to the Mayor or the Animal Control Officer for impoundment and to be destroyed as provided herein.
 3. It shall be the right of any owner of livestock and/or protected wildlife or domestic animal so killed or injured by the actions of any animal to kill the animal while it is upon property controlled by the owner of the livestock, protected wildlife, or domestic animal.
 4. Any animal so impounded, unless it can be destroyed sooner pursuant to law, shall be held until

a judicial determination is made by a court of competent jurisdiction that the animal has killed or injured livestock, other domestic animals or protected wildlife and shall accordingly order that the animal be destroyed.

SECTION VI. PROHIBITED ACTIVITIES.

- A. **Animals Running at Large.** It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot, public property, or any other unenclosed place in the Village; or on private property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded. A working dog performing such acts as herding or search and rescue under the control and supervision of owner/handler shall not be considered as unleashed while performing these duties. A hunting, obedience, tracking or show dog shall not be considered unleashed while performing in the above capacities.
- B. **Animals on Unenclosed Premises.** It is unlawful for any person to chain, stake out, graze or herd any animal on any unenclosed premises or to keep an animal in enclosed premises in such a manner that such an animal may go beyond the owner's property line. Any animal maintained in violation hereof shall be impounded.
- C. **Vicious Animals.**
 - 1. It is unlawful for any person to keep or harbor a vicious, dangerous, or ferocious animal in the Village. Any person attacked by a vicious animal which is on public property may use reasonable force to repel said attack. The Mayor or Animal Control Officer may impound any animal suspected of being dangerous, ferocious or vicious to be destroyed as provided herein.
 - 2. Any animal so impounded, unless it can be destroyed sooner pursuant to law, shall be held until a judicial determination is made by a court of competent jurisdiction that an animal is vicious, dangerous, or ferocious, and accordingly shall order that the animal be destroyed. The animal shall be held during pendency of the proceedings.
- D. **Animals Disturbing the Peace.** It is unlawful for any person to allow any animal to unreasonably bark, howl or make noise common to their species, or otherwise to disturb the peace and quiet of the inhabitants of the Village, or to keep or maintain in such a manner as to disturb by noxious or offensive odors, or otherwise endanger the health and welfare of the inhabitants of the Village.
- E. **Animal Nuisances on Sidewalks, Public Parks, Alleys, and Other Places Open to the Public.** It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to commit any nuisance upon the sidewalk or

public park; or upon the floor or wall of any common hall in any multiple dwelling; or upon any entrance way, stairway or wall immediately abutting on a public sidewalk, or upon the floor or wall of any theater, shop, store, office building or other building used in common by the public; or upon any private property other than the owners of the animal.

- F. **Unlawful Use of Rabies Tag.** It is unlawful for any person to transfer any rabies tag from one animal to another. It shall be unlawful for any person to manufacture or cause to be manufactured or have in his possession or under his control a stolen, counterfeit or forged animal license tag, rabies tag, vaccination certificate or other form of licensing as required under this Ordinance.
- G. **Breaking Into the Animal Control Facilities and Vehicles.** It is unlawful for any person to break into any pound, center, or animal control vehicle wherein animals are impounded by the County of Bernalillo, or in any other way to remove or assist in the removal of any animal or equipment indigenous to such pound, center, or vehicle without lawful permission.
- H. **Dogs Trained to Assist the Blind, Deaf and/or Handicapped Allowed in Public Places.** It is unlawful for any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to debar or exclude therefrom any dog which has been trained to assist the blind, deaf, and/or handicapped provided that such dog be in the company of the blind, deaf, and/or handicapped person whom it was trained to assist in conformance with State Law.
- I. It is unlawful to own or possess in the Village any dog of the breed known as American Pit Bull Terrier. Any such dog may be impounded by the Mayor or Animal Control Officer to be destroyed as provided herein. It shall be held until a determination is made by a court of competent jurisdiction that the animal is an American Pit Bull Terrier and shall accordingly order that the dog be destroyed.
- J. It is unlawful to own or possess in the Village any animal used or that has been used or trained in the sport of animal fighting as defined in this Ordinance. Any such animal may be impounded by the Mayor or Animal Control Officer to be destroyed as provided herein. It shall be held until a determination is made by a court of competent jurisdiction that the animal is used or has been used or trained in the sport of dog fighting and accordingly shall order that it be destroyed.
- L. **Enclosure for Breeding Animals.** It is unlawful for any person to let any female animal to any male animal, except within an enclosure so arranged as to obstruct such animals completely from the view of all who have no proprietary interest in the breeding of such animals.

SECTION VII. CRUELTY TO ANIMALS PROHIBITED.

- A. **Physical Abuse.** It is unlawful for any person to will-

fully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, burn or scald with any substance, over-drive or otherwise cruelly set upon any animal except that reasonable force may be employed to drive off vicious or trespassing animals. It is unlawful to consume for food any dog and/or cat.

- B. Work Cruelty. It is unlawful for any person to drive or work any animal cruelly.
- C. Care and Maintenance. It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with adequate food, drink, shade, care, or shelter to maintain good health, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal, except horses, cattle, pigs, sheep or goats, habitually kept outside shall be provided with a structurally sound, weather-proof enclosure, large enough to accommodate the animal.
- D. Abandonment of Animals. It is unlawful for any person to abandon any animal within the Village of Tijeras.
- E. Animal Poisoning. It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin of significance to the public health.
- F. Uncared for Animals. Whenever the Mayor or Animal Control Officer finds that any animal is or will be without adequate care because of injury, illness, incarceration or other absence or neglect of the owner or person responsible for the care of such animal, he may impound such animal for protective care.
- G. Estray. In regard to any estray without an affixed rabies tag that is deemed critically ill or critically injured by a veterinarian then a trained and certified Animal Control Officer may euthanize such animal with a report being filed with the Bernalillo County Manager. In extreme conditions, trained and certified Animal Control Officers may euthanize such animals provided they file a report with the Bernalillo County Manager.
- H. Injury to Animals by Motorists.
 - 1. Every operator of a motor or self-propelled vehicle upon the streets and ways of the Village of Tijeras shall immediately upon injuring, striking, maiming or running down any animal give such aid as is reasonably able to be rendered. In the absence of the owner, he shall immediately notify the Mayor or Animal Control Officer furnishing sufficient facts relative to such injury.
 - 2. It is the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive, and upon the arrival of said person, such operator shall immediately identify himself to

the appropriate authorities. Alternatively, in the absence of the owner a person may give aid by taking the animal to a veterinary hospital or the Bernalillo County Animal Control. Such animal shall be deemed an uncared for animal within the meaning of Section VII, paragraph F of this Ordinance. Emergency vehicles are excluded from this provision.

- I. Hobbling Livestock. It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal.
- J. Keeping of Diseased or Painfully Crippled Animals. It is unlawful for any person to have, keep, or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition including starvation except as hereinafter provided. The Animal Control Officer or Mayor may impound such diseased or painfully crippled animal to be destroyed in accordance with the provisions of this Ordinance. All such animals impounded may be destroyed humanely as soon thereafter as it conveniently possible.
- K. Animal Fights; Including Fowl. It is unlawful for any person to promote, stage, hold, manage, conduct, carry on or attend any game; exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animals or to train and/or promote any of the above activities.
- L. Fowl-Impounding - Crating. It is unlawful for any person to confine any wild or domestic fowl or birds unless provisions are made by each person for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than twelve (12) hours. No person shall impound wild or domestic fowl or birds in a crate, box or other enclosure which crate, box or other enclosure does not permit each fowl or birds impounded therein to stand in a naturally erect position.
- M. Song Birds, Killing and Robbing of Nest Prohibited. It is unlawful for any person to willfully kill any song bird or to molest or rob the nest of such bird. Song birds shall include members of the Order Passeriformes (Perching Birds); some of its members include: Skylark, Nightingale, Hermit Thrush, Mockingbird, Robin, Bluebird, Warblers, Orioles, Tanagers, Finches.

SECTION VIII. SALE OF ANIMALS.

- A. Use of Public Property. No person shall display, sell or offer for sale, barter, or give away or otherwise dispose of any animal upon any street, sidewalk or public park.
- B. Rabbits or Fowl. No person shall sell, offer for sale, barter, or give away any baby rabbits or fowl under the weaning age in any quantity less than three (3). Nothing in this section shall be construed to prohibit the raising of such rabbits or fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and confinement of such animals while

they are in his possession.

- C. Premiums and Novelties. No person shall offer as a premium, prize, award, novelty, or incentive to purchase merchandise, any live animal.
- D. Turtles. No person shall offer for sale, sell, barter or give away turtles, except in conformance with appropriate federal regulations.

SECTION IX. WILD ANIMALS.

- A. "Wild or Exotic Animal" means any animal of a species that in their natural life are wild, dangerous, or ferocious, and though they may be trained and domesticated will remain dangerous to others and may injure or kill a citizen in the Village. Those animals, however domesticated, shall include but are not limited to: DOG FAMILY (canidae). All except domesticated dogs including wolf, fox, coyote, dingo, etc.; CAT FAMILY (felidae). All except the commonly accepted domesticated cats - including lions, pumas, panthers, mountain lions, wild cats, etc.; BEARS (Ursidae). All bears including grizzly bears, brown bears, black bears, etc.; WEASELS (mustelidae). All including weasels, martins, mink, solverine, wild ferrets, badgers, otters, ermine, mongoose, etc.; RACCOON (procynnidae). All raccoons including eastern raccoon, desert raccoon, ring tailed cat, etc.; PRIMATES (hominidae). All subhuman primates; PORCUPINE (arethizontidae); Skunks; Venomous or dangerous Snakes/Venomous lizards, alligators and crocodiles/Venomous fish and piranha.
- B. No person shall keep an animal of a species prohibited or protected by Federal Law or by the State of New Mexico.
- C. No person shall keep an animal which is wild, exotic, dangerous, noxious or naturally inclined to do harm, except in a zoological park, veterinary hospital, animal shelter, public shelter, public laboratory, circus, amusement show, educational facility. Adequate protection devices shall be provided to prevent any animals from escaping or injuring the public.
- D. Any provisions of this Ordinance to the contrary notwithstanding, no person shall keep wild and exotic animals in such a manner as to constitute a likelihood of harm to the animals themselves or to other animals, or to human beings, or to the property of human beings, or which constitutes a public or private nuisance.
- E. Any provision of this Ordinance to the contrary notwithstanding, no person shall receive, own or keep wild or exotic animals within Village limits without first applying for and receiving from the governing body of the Village a permit to do so. The applicant must provide evidence of knowledge and facilities for the care and feeding of the animals involved. The Animal Control Officer is permitted to enter the premises of permittee hereunder at any reasonable time for the purpose of inspection or reinspection to determine compliance with this Ordinance. The governing body of the Village

may deny, revoke or suspend a permit for failure to comply with this Ordinance. The fee for such permit shall be \$50.00 and shall be renewed annually.

SECTION X. DEAD ANIMALS.

- A. Within twenty-four (24) hours of the death of an animal, the owner shall dispose of the carcass by burial at least three feet underground in a suitable location or by other means approved by the Animal Control Officer or the Mayor.
- B. The Animal Control Officer is authorized to pick up and dispose of all dead animals immediately upon discovery.

SECTION XI. DESTRUCTION OF ANIMALS.

- A. Any peace officer or Animal Control Officer may impound any animal found running at large unaccompanied by and not under the control of its owner or handler, and further, the peace officer or Animal Control Officer shall destroy any animal if it is in the act of attacking, pursuing, injuring, or killing any person, livestock, or poultry, or other domestic animal.
- B. Any person may kill any animal which is in the act of/or which the person has just witnessed, attacking, pursuing, injuring, or killing any person, livestock, or poultry whether or not the animal wears a rabies tag required by Section 77-1-3 N.M.S.A. 1978. There shall be no liability of the person in damages or otherwise for such killing.
- C. It shall be the right of any owner of livestock and/or protected wildlife or domestic animal so killed or injured by the actions of any animal to kill the animal while it is upon property controlled by the owner of the livestock, protected wildlife, or domestic animal.
- D. Animals which cannot be brought to an animal shelter or impounded because of inability of the Animal Control Officer to extricate or capture an animal which the officer has reasonable cause to believe may be vicious, dangerous or infected with any dangerous or incurable disease or in any painfully crippled condition shall be destroyed by shooting by a peace officer at the direction of the Animal Control Officer.

SECTION XII. PENALTY, GRACE PERIOD, RESTITUTION, SAVINGS.

- A. Penalty Clause. Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction of violating the Ordinance, shall be punished by a fine not exceeding \$300.00 and/or imprisonment for a period not exceeding ninety (90) days. Each day this Ordinance is violated shall be considered a separate offense.
- B. Restitution. Notwithstanding any of the foregoing, in the event any animal damages property whether public or private, or causes injury to any person, and such damage or injury is found to have been an element of the violation of any provision of this Ordinance, the

court may in enforcing this Ordinance, in its discretion, suspend any or all fines or incarceration which may have been assessed upon the condition that the defendant make restitution within a reasonable time to the victim of said damage or injury.

- C. Savings Clause. If any of these sections, subsections, sentences, clause, or phrases of this Ordinance are for any reason held unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not thereby be affected since it is the express intent of the Village to pass each section, phrase, paragraph and word separately.
- D. Repealing Clause. Village Ordinance No. 20 is hereby repealed. Any conflict between this Ordinance and any previously enacted Ordinance not repealed herein shall be controlled by this Ordinance.

PASSED, APPROVED AND ADOPTED as Ordinance No. 32 this 14 Day of ____May____, 1984.