

SAN JUAN COUNTY ORDINANCE NO. 10

AN ORDINANCE PROVIDING FOR RABIES CONTROL; REPORTING OF ANIMAL BITES; PROTECTION OF RESIDENTS FROM ANNOYANCE AND INJURY; PROTECTION OF ANIMALS FROM NEGLECT AND ABUSE; IMPOUNDMENT OF ANIMALS RUNNING AT LARGE; PRESCRIBING PENALTIES FOR VIOLATING THE SAME.

WHEREAS, San Juan County is required by state law to adopt and enforce an ordinance providing for the prevention and control of rabies; and

WHEREAS, the Board of County Commissioners of San Juan County also finds that it will promote the public health, safety, welfare and convenience to enact other provisions governing the keeping of animals within San Juan County.

THEREFORE BE IT ENACTED AS FOLLOWS:

SECTION 1: DEFINITIONS

As used in this ordinance, the following words and terms shall, unless the context indicates a different meaning, have the meaning given herein.

- 1.1 ABANDONMENT OF ANIMALS: The leaving of an animal off the owner’s premises without provision for care or control by another person.
- 1.2 ANIMAL: any mammal, bird, fowl or other living creature except human beings.
- 1.3 ANIMAL CONTROL OFFICER OR ASSISTANT ANIMAL CONTROL OFFICER: An officer of the San Juan County Sheriff’s Department or any other County law enforcement officer designated by the Sheriff or the County to enforce the Animal Control Ordinance.
- 1.4 ANIMAL SHELTER: Any establishment authorized by the County of San Juan, for the care and custody of impounded animals.
- 1.5 BITE: A puncture or tear of the skin inflicted by the teeth of an animal.
- 1.6 CAGE: An enclosure constructed of metal wire or other material capable of preventing escape by the animal occupying same, enclosed on top, bottom and all sides.
- 1.7 COUNTY: The area lying within the corporate boundaries of the County of San Juan and outside the boundaries of any incorporated municipality or Indian reservation.
- 1.8 DOG PACK: three or more dogs running at large together.
- 1.9 ENCLOSED LOT: any parcel of land in private ownership around the perimeter of which a wall or fence has been erected.
- 1.10 KENNEL: Any establishment or premises where more than five (5) cats and/or three (3) dogs, four months of

- age or older, are boarded or kept.
- 1.11 KENNEL PERMIT: A permit issued pursuant to Section 10 of this Ordinance.
- 1.12 LIVESTOCK: Cattle, horses, sheep and other animals commonly raised for ear milk, fiber, or work.
- 1.13 LOCAL DISTRICT HEALTH OFFICE: San Juan County Field Health Office of the Health Services Division of the State of New Mexico.
- 1.14 NUISANCE: A dog or cat shall be considered a nuisance if it: damages, soils, defiles or defecates on private property other than the owner’s or on public walks and recreation areas; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; molests, attacks or interferes with persons in the public right-of-way; chases vehicles or attacks other domestic animals.
- 1.15 OWNER: Is a person who owns, harbors, keeps, or knowingly causes or 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, provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.
- 1.16 PERSON: Any individual, household, firm, partnership, corporation, society, association and every agent and employee thereof.
- 1.17 QUARANTINE: To detain or isolate an animal suspected of being infected with rabies or other communicable disease.
- 1.18 RESTRAINT: Any animal shall be considered under restraint if it is within the real property limits of its owners or secured by a leash or lead or under the control of a responsible person and obedient to that person’s commands. Any hunting dog in lawful pursuit of game shall be presumed to be under restraint.
- 1.19 RUN: A fenced, walled or otherwise enclosed area for the use of dogs or cats comprising less than forty percent 40% of the total contiguous land area possessed by the property owner.
- 1.20 RUNNING AT LARGE: An animal off the premises of the owner and not under restraint.
- 1.21 STRAY OR ESTRAY: Any animal which has no identifiable owner.
- 1.22 VACCINATION: The vaccination of an animal with an anti-rabies vaccine approved by the Director of the Health and Environment Department and administered by, or under the supervision of a veterinarian, in an amount sufficient to provide immunity from rabies for a minimum of one (1) year.
- 1.23 VETERINARIAN: A person with a Doctor of Veterinary Medicine degree licensed to practice in the State of New Mexico.
- 1.24 VICIOUS ANIMAL: Any animal which commits an unprovoked attack upon a person, private property,

which terrorizes or attacks a person on public property or in a public place within San Juan County, except that any animal that bites, attacks or attempts to attack any person unlawfully upon its owner's or keeper's property, or which is provoked to attack, shall not be deemed a vicious animal.

- 1 .25 WILD ANIMAL: Any animal which is wild by nature and cannot normally be domesticated or controlled.

SECTION 2: ADMINISTRATION OF ORDINANCE

RESPONSIBILITY: The County Sheriff, or any other County law enforcement officer designated by the Sheriff or the County, shall have the authority to issue citations for violations of this ordinance and to perform such other duties as are prescribed herein. The Animal Control Officer(s) shall have the authority to issue citations whenever there is probable cause to believe that a person has violated this Ordinance. Neither the County Sheriff, supervisor of the Animal Control Officer(s), nor any other Animal Control Officer shall have the authority to dismiss a citation. The Animal Control Officer(s) shall be certified or subject to certification as by law and shall be approved by the County Commission. The Assistant Animal Control Officer is a person or persons designated by the appropriate authority to work under the supervision of the Animal Control Officer(s) in the enforcement of this Ordinance.

This Ordinance shall be applicable to all animals unless otherwise specifically excepted.

SECTION 3: RABIES CONTROL

- 3.1 ANNUAL VACCINATION: It is the duty of every person keeping a dog or cat over the age of three (3) months to have such animal vaccinated against rabies. All dogs and cats must be revaccinated annually. Every veterinarian who vaccinates or supervises the vaccination of a dog or cat hereunder shall issue to the owner or keeper of such animal a numbered vaccination certificate and tag. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the type of vaccine used, the date of vaccination, and the expiration date of the period of immunity.
- 3.2 VACCINATION CERTIFICATE: Every person who keeps a vaccinated dog or cat must exhibit his copy of the certificate of vaccination upon the demand of any person charged with the enforcement of this Ordinance.
- 3.3 HARBORING UNVACCINATED ANIMALS: It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein.
- 3.4 REPORTING RABIES SUSPECTS: Every veterinarian who makes a clinical diagnosis of rabies and every person who suspects rabies in a domestic or wild animal shall immediately report the same to the local District Health Office of the Health Services Division of the

Health and Environment Department, stating precisely when and where such animal was seen and, if possible, where it may be found.

- 3.5 HUMAN EXPOSURE TO RABIES: Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the animal shelter and to the local District Health Office. Every physician or other health care professional who treats a person for such bite shall report such treatment to the local District Health Office within twelve (12) hours of such treatment. Such report must specify the name and precise location of the person bitten.
- 3.6 QUARANTINE OF RABIES SUSPECTS: Any dog, cat or other animal capable of carrying rabies which has bitten a person shall be confined and observed for period of ten (10) days from the date of the bite at the animal shelter, a veterinary hospital, or an approved kennel or cage. Transportation of the animal shall be done by the owner and/or at the owner's expense, provided, however, that if the animal has a current vaccination for rabies and the area involved is not under quarantine for rabies, the Animal Control Officer may permit quarantine of such animal at the owner's home. Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the Animal Control Officer.
- 3.7 ENFORCEMENT OF THE QUARANTINE: It is unlawful to remove any animal from enforced quarantine during the period of confinement without consent of the responsible Animal Control Officer.
- 3.8 WILD ANIMAL BITES: Bites inflicted by animals other than dogs and cats must be reported by the victim, or the parents or legal guardians of the victim, and discussed with the local District Health Office for proper disposition.

SECTION 4: RABIES TAGS REQUIRED

- 4.1 PROOF OF RABIES VACCINATION: No dog or cat shall be without proof of rabies vaccination as provided for in this Ordinance.
- 4.2 CERTIFICATION AND TAGS: The current rabies tags shall be affixed to the dog or cat at all times except when the dog or cat is being kept in an approved kennel, veterinary hospital or training class. The original rabies certificate of all dogs and cats shall be retained by the owner and shall be available for inspection by any person charged with the enforcement of this Ordinance.
- 4.3 LOSS OF RABIES TAG: In the event the original rabies tag is lost, the owner shall obtain a duplicate tag from the original issuing agency, at the owner's expense.

SECTION 5: PROHIBITED ACTIVITIES

- 5.1 FALSE AND STOLEN DOCUMENTS: It shall be unlawful for any person to transfer any license or rabies to tag from one animal to another, or to make use of a stolen, counterfeit or forged license, certificate or tag, bill of sale, pedigree or registration certificate.
- 5.2 ANIMALS RUNNING AT LARGE: Any person owning or having charge, custody, care or control of any animals shall keep such animal on his premises. No animal shall be at large in or on any street, alley, sidewalk, vacant lot, public property, other unenclosed space in the County, or private property. Any animal found running at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and if observed by an Animal Control Officer shall be taken up and impounded as provided in Section 6.2(a). It shall be the duty of any County law enforcement officer to report any animals running at large to the County Sheriff's Department or to the County Security Force. Notwithstanding any provision here in, cats are not required to be leashed or confined to the owner's property.
- 5.3 ANIMALS DISTURBING THE PEACE: It is unlawful for any person to allow any animal in his possession or control to persistently or continuously bark, howl or make noise common to its species, or otherwise to disturb the peace and quiet of the inhabitants of the County, 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 County.
- 5.4 CONFINEMENT DURING ESTRUS: Any female dog or cat in the stage of estrus (heat) shall be confined to a building or other secure enclosure so that contact with a male animal of the same species shall be prevented except for intentional breeding purposes. Owners who do not comply with this section may be required to place such animal in a boarding kennel or veterinary hospital at the owner's expense.
- 5.5 PHYSICAL ABUSE: It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance, overwork or otherwise cruelly set upon any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
- 5.6 ABANDONMENT OF ANIMALS: It is unlawful to abandon any animal within the County of San Juan.
- 5.7 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 or poisonous substances. It is not the intent of this section to prohibit the use of poisonous substances for the control of rodents or vermin of significance to the public health.
- 5.8 CARE AND MAINTENANCE:
- a) 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 proper food, drink, shade, care or shelter, or to carry any animal in or leave in a vehicle in a cruel or inhumane manner, or to fail to provide necessary medical care.
 - b) Any animal habitually kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal, provided that this shall not apply to livestock as defined herein.
- 5.9 ANIMAL FIGHTS: 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 killing, maiming or destroying themselves or any other animal. The use of hunting dogs in lawful pursuit of game shall not be considered to be promoting or conducting an animal fight.
- 5.10 UNCARED FOR ANIMALS: Whenever the Animal Control Officer finds that any animal is or will be without proper care because of injury illness, incarceration or other involuntary absence of the owner or person responsible for the care of such animal, the Animal Control Officer may take up such animal for protective care, and in the event of sickness or injury, upon the advice of a licensed veterinarian, the Animal Control officer may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal. This is at the expense of the owner or person responsible for the care of such animal.
- 5.11 KEEPING OF DISEASED OR PAINFULLY CRIPPLED ANIMALS: It is unlawful for any person to have, keep or harbor an animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. The Animal Control officer may impound such diseased or painfully crippled animal in accordance with the provisions of this ordinance. All such animals impounded may be destroyed humanely as soon thereafter as is conveniently possible. In the case of destruction of such animal, the Animal Control Officer shall not be required to give any aforesaid notices provided in this Ordinance. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.

SECTION 6: IMPOUNDMENT

- 6.1 ANIMAL SHELTER OR POUND: An establishment for the confinement of dogs or other animals.
- 6.2 IMPOUNDING AND DESTRUCTION OF ANIMALS:
- (a) Any Animal Control officer may impound any animal found running at large unaccompanied by and not under the control of, the owner or handler. Any animal so impounded shall be held, redeemed, released or destroyed in accordance with the regulations of the pound maintained or used by the County, subject, how-

- ever, to the conditions of Section 3.6 of this Ordinance.
- (b) Any owner or keeper of livestock, or any law enforcement officer may kill any dog or other animal in the act of pursuing, wounding or killing any livestock or poultry, or attacking humans; or if found running in a pack and the Animal Control officer reasonably believes the dog has or will attack any livestock or poultry. There shall be no liability of the owner or keeper of livestock or any law enforcement officer in damage or otherwise for such actions.
 - (c) Any Animal Control Officer or other law enforcement officer may kill any dog or other animal in the act of pursuing, wounding or killing any large wild animal (including but not limited to deer, elk, antelope, sheep, goats, horses, burros and donkeys), with the exception of hunting dogs in lawful pursuit of game, as such use is defined in state or federal hunting regulations. There shall be no liability of any Animal Control or law enforcement officer in damage or otherwise for such killing.
 - (d) A private land owner may humanely detain for impoundment by the Animal Control Officer any animal found on his property.
 - (e) Any person attacked by a dog or other animal while such person is not engaged in any unlawful activity shall have the right to kill such animal, and any person witnessing such attack shall have the right to kill such animal, where such killing is reasonably necessary to prevent injury to the person attacked, and there shall be no liability for such killing.
- 6.3 **RIGHT OF ENTRY:** Animal Control Officers, in performance of their duties, may enter upon private property, except a private residence, for the purpose of apprehending animals running at large and stray animals. If the Animal Control Officer or his duly authorized representative shall reasonably believe that an animal is in immediate danger of death or serious injury, and the owner or keeper is not immediately available, the Animal Control Officer may enter the premises, other than a home or residence, and take any necessary action to prevent such death or serious injury.
- 6.4 **REGISTER:** The Animal Control officer, upon impounding or receiving any animal, shall register such animal by entering the breed, color, and any identifying marks or tattoos of the animal and the time and place such animal was apprehended into the registry kept for this purpose.
- 6.5 **NOTICE TO OWNER:** If the owner of an impounded animal is known, he or she must be notified as soon as practical. If the keeper of the animal is not known or cannot be contacted, notice of the impoundment shall be posted in a conspicuous place at the animal shelter or pound for a period of three (3) days.
- 6.6 **RIGHT TO REDEEM:** The owner of any animal which has been impounded under the provisions of this Ordinance shall have the right to redeem the animal

upon payment of the impounding fees, care and feeding charges, veterinary charges, and such other costs as set by the animal shelter.

- 6.7 **TIME FOR REDEMPTION:** All impounded animals with rabies or identification tags shall be redeemed within five (5) days after impoundment except as provided in Section 6.8 below; those without tags, within three (3) days after impoundment. Any animal not redeemed within the required period shall become the property of the animal shelter and may be placed for adoption upon payment of the impoundment fees, care and feeding charges, veterinary charges and such other costs as set by the animal shelter, or the animal may be humanely destroyed.
- 6.8 **DISPOSITION OF IMPOUNDED ANIMALS HELD ON COMPLAINT:** If a complaint has been filed in the Magistrate Court of the County of San Juan against the owner of an impounded animal for a violation of this ordinance, the animal shall not be released except upon the order of the Court, which also may direct the owner to pay any penalties for violation of this ordinance in addition to all impounding fees, care and feeding charges and veterinary fees.
- 6.9 **VICIOUS ANIMALS:**
- (a) It is unlawful for any person to keep or harbor a vicious animal in the County. Any person attacked by a vicious animal may take such action as provided by Section 6.0(e). After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall destroy it humanely or turn such animal over to the Animal Control Officer for destruction. Also, this does not exempt the owner or keeper from civil damages.
 - (b) It is the duty of any person who is the owner or keeper of any animal, the keeping of which is unlawful, to cause such animal to be killed. Failure to comply with this section after knowledge by the owner or keeper of the fact which renders such keeping unlawful, shall subject such owner or keeper to a fine of Twenty-Five Dollars (\$25.00) and costs, and each day's failure to comply is a separate offense.

SECTION 7: NUMBER OF ANIMALS PERMITTED

- 7.1 **RESTRICTIONS:** No person, group of persons or business entity in the County of San Juan may own, keep or harbor more than three (3) dogs of four (4) months of age or older, and/or more than five (5) cats of four (4) months of age or older for more than fifteen (15) days in any calendar year without complying with Section 10 of this Ordinance, provided that this section shall not apply to any holder of a kennel permit. Further provided that the head of any household shall be held responsible for any violation of this section by the household or any of its members. Provided further that this shall not apply to dogs used in the control of flocks or herds when accompanied by a herder or herders.

SECTION 8: INTERFERENCE WITH ANIMAL CONTROL OFFICER

It shall be unlawful for any person to interfere with, molest, hinder or prevent an Animal Control Officer or his/her duly authorized representatives in the discharge of their duties.

SECTION 9: ANIMAL CONTROL

- 9.1 RESPONSIBILITY: Any person owning or having charge, custody, care or control of any animal shall keep such animal on his premises. Any animal at large in or on any street, alley, sidewalk, vacant lot, or other unenclosed space in the County, including public and private property, is subject to impoundment as provided for in Section 6 of this Ordinance.
- 9.2 VIOLATION: Any dog found in violation of this section is declared to be a nuisance and a menace to the public health and safety of the inhabitants of the County of San Juan. The owner may be cited and held responsible for any damage done by the animal. The animal may also be impounded by the Animal Control Officer.
- 9.3 ANIMALS ON UNENCLOSED PREMISES: It is unlawful for any person to chain, stake out, graze or herd any animal on any unenclosed premises in such a manner that such animal may go beyond the property line.

SECTION 10: KENNEL PERMIT

- 10.1 Any person of those areas of San Juan County outside the limits of any incorporated municipality may obtain a kennel permit under the following conditions:
 - (a) Payment of an annual license fee of Twenty Dollars (\$20.00) at the office of the County Clerk.
 - (b) Submission of the person’s premises used for the keeping of animals to an annual inspection by the Animal Control Officer, which inspection shall be made without additional cost.
 - (c) Setback of the outer limits of any kennel or run at least twenty (20) feet from any property line, except that where more than ten (10) animals over the age of four (4) months are kept, such setback shall be at least forty (40) feet.
 - (d) Maintenance of humane conditions of shelter, exercise, food, water and sanitary standards as will suffice in the reasonable judgment of the Animal Control Officer for the species and breed of animal being kept.
 - (e) Provisions must be made for waste disposal which will prevent the spread of noxious or offensive odors.

SECTION II: PENALTY, SAVING,

REPEALING AND EMERGENCY CLAUSE

- 11.1 PENALTY CLAUSE: Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Three Hundred Dollars (\$300.00) and/or imprisonment for a period not exceeding ninety (90) days in the County jail, or both such fine and imprisonment.
- 11.2 SAVING CLAUSE: If any section, subsection, Sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.
- 11.3 REPEALING CLAUSE: Ordinance No. 10 enacted July 20, 1982, and all other Ordinances in conflict herewith are hereby repealed, effective as of September 20, 1986, except that such repeal shall not affect prosecutions then pending.

APPROVED AND ADOPTED THIS 21st DAY OF AUGUST, 1986.