

ORDINANCE NO. 109

AN ORDINANCE PROVIDING FOR THE CONTROL AND CARE OF ANIMALS, PROVIDING FOR THE REGISTRATION AND COLLECTION OF A LICENSE FEE AND IMPOUNDING OF ANIMALS IN THE VILLAGE OF SAN JON, NEW MEXICO AND PROVIDING FOR VIOLATION OF THIS ORDINANCE, AND REPEALING VILLAGE OF SAN JON ORDINANCE NUMBER XVII.

Be it ordained by the Governing Body of the Village of San Jon, County of Quay, 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 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 San Jon" or "Village" shall include the area within the boundaries of the Village of San Jon.

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 or 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 San Jon 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. "Stray" 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 San Jon.

K. The "owner" of an animal is a person who owns, harbors, or keeps, or knowingly keeps, 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 purpose 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 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 premises 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/Business License for Kennel is a permit 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 not longer than six (6) feet.

EE. "Animal Control Officer" or "A.C.O." means that person or persons designated or appointed to the position by the Mayor of the Village of San Jon.

FF. "Domestic Animal" means any animal of a type normally kept as a pet

SECTION II. Administration of Ordinance / Authority of Animal Control Officers.

A. 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 charges and all records kept in connection with impoundment of animals; and 4) for destruction of impounded animals that are not redeemed by the owner.

1. Notice shall be given to owners of so impounded animals only if the Animal Control Officer knows the owner or keeper of such animal and/or if the animal can be identified by the Village Registration Tag.

2. Redemption of the animals so impounded shall be \$25.00 per animal and the registration of such animal if registrations have not yet been obtained.

3. The \$25.00 will be collected by the Village Clerk and retained in the General Fund for expenses incurred by the Village. Records shall be kept of all animals impounded.

4. The animals not redeemed by the owners or keepers within forty-eight (48) hours of impoundment shall be destroyed.

SECTION IV. Private Possessions 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 tag shall be affixed by the owner or keeper to a 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-stray dog or cat does not have an affixed rabies tag and is deemed critically injured or critically ill by the Animal Control Officer he may then euthanize such animal with a report put into a file.

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 the Mayor shall order the animal to be destroyed. If the animal dies or is destroyed before a determination has been made 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 Office 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. 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.

4. Any animal so impounded or confined, unless it can be destroyed sooner pursuant to law, shall be held until it is determined by a license veterinarian, at the owners expense, whether the animal has rabies or it is determined whether there is reasonable cause to believe that the animal should be destroyed 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 destroyed the Mayor or the Animal Control Officer shall order the animal destroyed. If the animal dies before a determination has been made about rabies the head shall be sent to the State Department of Health for examination for rabies.

5. 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 of such animal.

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 six (6) feet in length. Dogs are permitted on the streets or public places of the Village only if on a secure leash not exceeding eight (8) feet in length and under 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 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 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 attacked to such 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 and 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 / business licenses for a kennel.

G. Professional Animal Permit / Business License for Kennel. Any person of the Village of San Jon may obtain a Professional Animal Permit / Business License for a Kennel thru the Village under the following conditions:

1. Payment of the annual license fee at the office of the City Clerk.
2. Submission of the person's premises used for the keeping of

inspection by the Animal Control Officers.

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 Injured Livestock, Other Animals or Protected Wildlife - Damages.

1. If any animal kills or injures 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 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 and a determination is made by the Mayor or Animal Control Officer that the animal has killed or injured livestock, other domestic animals or protected wildlife and shall accordingly order that the animal be destroyed.

I. Registration of Dogs. No person shall keep any dog in the Village of San Jon, New Mexico, after the dog has reached the age of two months unless such person shall comply with the following regulations.

1. The owner, keeper or harbinger of any dog shall cause his or her name with the name and description of the dog to be registered with the Village Clerk of said village in a book to be kept by said Village Clerk for that purpose, and shall pay each year to said clerk before any dog is registered, a registration fee of \$2.00 for each male dog and \$3.00 for each female dog, and shall keep on the neck a metallic tag or check attached thereto, said tag or check to be furnished by the Village, with the number and year of registry to be distinctly marked thereon.

2. Any person owning, keeping, or harboring any dog in the Village of San Jon in violation of the provisions of this section and upon conviction thereof shall be punished by a fine not to exceed \$25.00.

3. All registration of dogs as provided for in this ordinance shall expire on the last day of March of each year as to coincide with the annual rabies vaccinations held at the Village of San Jon.

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. If the owner or keeper of such animal does not appear within 48 hours after such impoundment, and claim the animal by paying \$25.00 for expenses herein incurred by the Village of San Jon the animal shall be

destroyed.

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.

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. **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 as required under this Ordinance.

F. **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 Village of San Jon, 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.

G. **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 person whom it was trained to assist in conformance with State Law.

H. 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.

I. **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 willfully 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/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 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.

D. Abandonment of Animals. It is unlawful for any person to abandon any animal within the Village of San Jon.

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 stray without an affixed rabies tag that is deemed critically ill or critically injured by the Animal Control Officer the animal may be euthanized.

H. Injury to Animals by Motorist. Every Operator of a Motor Vehicle upon the streets and ways of the Village of San Jon shall immediately upon injuring, striking or maiming or running down any animal notify the Mayor or the Animal Control Officer.

I. 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.

SECTION VIII. 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 IX. 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, injury, 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, poultry, or other domestic animals, 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.

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 or the Animal Control Officer.

SECTION X. 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 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. XVII 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. 109 THIS 10th DAY OF January, 19 89.

Newell Rose
Mayor Newell Rose

ATTEST:
Bobbie Rose
Bobbie Rose Village Clerk

