

Village of Loving

County of Eddy

State of New Mexico

ORDINANCE NO. 161

AN ORDINANCE REPEALING ARTICLE 9 OF CHAPTER 6 OF THE LOVING MUNICIPAL CODE, RELATIVE TO ANIMAL CONTROL, AND, ENACTING A NEW AND COMPREHENSIVE ORDINANCE AS AUTHORIZED BY N.M.S.A., 1978, MUNICIPAL AUTHORITY TO REGULATE ANIMALS, AND HAVING THE SHORT TITLE, ARTICLE 9 OF CHAPTER 6, LOVING MUNICIPAL CODE, ANIMALS.

October 8, 2001

BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF LOVING:

Chapter

Animals*

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State law reference—Municipal authority to regulate animals, NMSA 1978. 3-18-3.

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ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

The following words, terms, and phrases, when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates a different meaning.

Animal shall mean any vertebrate member of the animal kingdom excluding humans.

Animal shelter shall mean any animal control center, pound animal shelter, kennel, veterinary hospital, lot, premise, or building maintained or contracted by a municipality or county for the care custody of animals.

Bite shall mean a puncture or tear of the skin inflicted by the teeth of an animal.

Cat shall mean any member of the feline family.

Confined shall mean restriction of an animal at all times by an owner to an escape proof building or other enclosure away from other animals and the public.

Dangerous animal shall mean any member of animal kingdom which, because of its poisonous bite or sting, would constitute a significant hazard to the public. The term shall not include native or indigenous animals naturally existing on a person's premises, or those animal kept at properly accredited, licensed, or permitted educational institutions, zoological parks, or museums.

Destroy shall mean the administration of an agent which will cause the death of an animal. Such method shall not destroy brain tissue necessary for laboratory examination for rabies.

Dog shall mean any member of the canine family.

Exposure to rabies shall mean the exposure resulting from a bite by an animal susceptible to rabies or from contact with the saliva of such animal with any break or abrasion of the skin.

Owner shall mean any person who owns, harbors, keeps, or knowingly permits an animal to be harbored or kept, or permits an animal to remain on his or her premises.

Person shall mean any individual, household, firm, partnership, company, corporation, society, or association, and every member, officer, agent, or employee thereof.

Qualified service animal shall mean any animal meeting the requirements for a qualified service animal as set forth in NMSA 1978, 28-11-1, et seq.(1989), as it may be amended from time to time.

Quarantine shall mean the strict containment of all specified animals upon the private premises of the owner, or under restraint by leash, or within a closed cage or padlock and shall include any other measures as ordered by the environmental services officer to control the spread of rabies.

Running at large shall mean free of physical restraint beyond the premises of the owner.

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Vicious animal shall mean any animal which, at any time without provocation, shall:

- (1) Bite, attack, or injure any person who was peacefully conducting himself or herself where he or she lawfully may be; or
- (2) Kill or severely injure (so as to result in muscle tears, disfiguring lacerations, multiple sutures, or corrective surgery) a domesticated animal , but it does not include an animal which bites, attacks, injures, or kills a domesticated animal which is unlawfully upon its owner's premises.

Sec. 6-2. Keeping in city generally; penalties.

It shall be unlawful for any person to own or keep any animal, other than as permitted by all applicable ordinances, laws, rules, and regulations. Any person who lawfully owns, keeps, or maintains any animal within the Village of Loving must comply in all respects with the vaccination and licensing requirements of the village. A violation of any provision of this chapter is a misdemeanor and punishable by the specific section or, if no punishment is specified by the section violated, then the punishment shall be as permitted by court of the Village of Loving. As it may be amended from time to time.

Sec. 6-3. Sanitation regulations.

(A) Any person who may lawfully own or keep any animal shall provide adequate and sanitary housing facilities for such animal, and no stagnant water shall be permitted to accumulate. All structures used for the housing of an animal and all yards, cages and runs provided for the animal shall be cleaned daily and shall be treated with pesticide at intervals frequent enough to prevent the breeding of ticks, flies and other pests and insects. Once every 24 hours, all animals feces shall be disposed of in a sanitary manner or otherwise removed to a lawful place for deposit. Any feces placed in a dumpster shall be first wrapped in plastic.

(B) Any person who may lawfully own or keep any animal within the city shall keep the same in such a manner that it will not be annoying, unpleasant or obnoxious to any other person, and failure to so keep any such animal, is hereby declared to be a nuisance and unlawful.

(C) Whenever there is reasonable cause to believe that an unhealthful, unsanitary, or dangerous condition exists on any premises at which an animal is located, the animal control officer or the officer's designee shall have the right to enter such premises and thoroughly investigate and inspect the premises, unless permission to enter and make such investigation and inspection is explicitly refused by the owner or occupant of the premises. If the owner or occupant explicitly refuses permission, the animal control officer or designee may obtain a court order permitting the entry onto the premises.

(D) It shall be illegal to obstruct or interfere with the animal control officer or designee in the performance of the duties required by this chapter.

Sec. 6-4. Keeping pet birds.

(A) A person may keep pet birds as pets within the village, and a commercial establishment may keep pet birds for the purpose of the sale of such birds within the village, subject to all applicable ordinances, laws, rules, and regulations, including but not limited to zoning ordinances. Such pet birds shall be kept in pens or cages and not

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permitted to run at large. Such pet birds shall be kept in a manner and way so as to not constitute a nuisance or endanger the general health and sanitation of the community or the health and welfare of the animal. The environmental services officer or the officer's designee shall determine the general health and sanitation of the community. The animal control officer or the officer's designee shall determine the health and welfare of the animal or animals.

(B) The term "pet birds" shall include small caged birds such as, but not limited to, parrots, cockatoos, parakeets, cockatiels, canaries, lovebirds, mynah birds, and finches. The term shall not include barn and farm animals such as, but not limited to, chickens, ducks, geese, and turkeys; falconiforms such as, but not limited to, hawks, eagles, and vultures; nor ratitae such as, but not limited to, ostriches, rheas, cassowaries, and emus.

Sec. 6-5. Sale of baby chicks, ducks, geese, turkeys, and rabbits.

(A) It shall be lawful for a commercial establishment to sell baby chickens, ducks, geese and turkeys, subject to all applicable ordinances, laws, rules, and regulations, including but not limited to zoning ordinances. Such fowl shall be kept in pens or cases and not permitted to run at large. Such fowl shall be kept in a manner and way so as not to constitute a nuisance or endanger the general health and sanitation of the community or the health and welfare of the animals. The environmental services officer or the officer's designee shall determine the general health and sanitation of the community. The animal control officer or his officer's designee shall determine the health and welfare of the animal or animals.

(B) No chicks, duckling, gosling or rabbit that has been dyed or otherwise colored artificially be sold or offered for sale, raffled, offered or given as a prize, premium, or advertising device, or displayed in any store, shop, carnival or other public places.

Sec. 6-6. Burial or burning of dead animals.

(A) the owner of a dead animal shall be responsible for properly disposing of the animal carcass. No animal shall be disposed of by burning within the village limits.

(B) A dead animal weighing between one pound and up to and including 30 pounds may be buried on the owner's property so long as it is buried at least two feet below the surface of the ground. A dead animal weighing more than 30 pounds but not less than 100 pounds may be buried on the owner's property so long as it is buried at least three feet below the surface of the ground.

(C) A dead animal weighing at or over 100 pounds may be disposed of by burial on the owner's property so long as it is buried as least six feet below the surface of the ground, or may be disposed of by any other means authorized by law.

(D) Any dead animal must be properly disposed of within 12 hours of its death. No animal shall be buried on public property or on the property of another without the explicit permission of the owner of the property.

Sec. 6-7. Injury to police dog, police horse, or fire dog.

(A) As used in this section:

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(1) *Fire dog* means a dog used by a fire department, special fire district or the state fire marshal for the primary purpose of aiding in the detection of flammable materials or the investigation of fires;

(2) *Police dog* means a dog used by a law enforcement or corrections agency that is specially trained for law enforcement or corrections work in the areas of tracking suspect apprehension, crowd control or drug or explosives detection;

(3) *Police horse* means a horse that is used by a law enforcement or corrections agency for law enforcement or correction work.

(B) Injury to a police dog, police horse or fire dog consists of willfully and with intent to injure or prevent the lawful performance of its official duties.

(1) Striking, beating, kicking, cutting, stabbing, shooting or administering poison or any other harmful substance to a police dog, police horse or fire dog; or

(2) Throwing or placing an object or substance in a manner that is likely to produce injury to a police dog, police horse or fire dog.

(C) Whoever commits injury to a police dog, police horse or fire dog when the injury causes the animal minor physical injury or pain is guilty of a petty misdemeanor.

(D) A person convicted of injury to a police dog, police horse or fire dog may be ordered to make restitution for the animal's veterinary bills or replacement costs of the animal if it is permanently disabled, killed or destroyed.

Sec. 6-8. Care and maintenance of animals.

No person or owner shall.

(1) Fail, refuse, or neglect to provide an animal of which he or she is the owner or which is in his or her charge or custody with proper food, potable water, shade, ventilation, necessary medical care, basic grooming which is necessary for the health of the animal, or shelter, which shelter shall be a weatherproof and structurally sound enclosure large enough to properly accommodate the animal.

(2) Leave an animal in an enclosed or upon a vehicle or trailer for a length of time which could result in danger or death of the animal. If the animal control officer determines that an animal in an enclosed vehicle or trailer is in immediate danger, the animal control officer may enter the vehicle by whatever means is necessary, without being liable to the owner of the vehicle or trailer, and take the animal into protective custody; or

(3) Carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. An animal carried in the open bed of a truck or other vehicle must be crated, caged, or restrained upon a non-metal mat so it cannot fall or jump from the truck or be strangled.

Sec. 6-9. Animals committing damage or nuisance.

It is unlawful for the owner of an animal to cause, allow, or permit the animal to commit any damage or nuisance upon the property of any other person or upon a public street, alley, sidewalk, park or other public place.

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Sec. 6-10. Restraint devices.

A rope, chain, or other device may be used to restrain an animal, provided the following criteria are met;

- (1) The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness.
- (2) The device must be at least 12 feet long unless such length would violate section 6-11, in which case it shall be both no less than eight feet long and still may not violate section 6-11. The device must be fastened so the animal can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or animal to become entangled or strangled.
- (3) The animal must have easy access to proper food, potable water, adequate shade, ventilation, and proper shelter.
- (4) All animal feces shall be removed, and the area where the animal is confined shall be kept as required by section 6-3.

Sec. 6-11. Animals on unenclosed premises.

It is unlawful for any person to chain, stake out, graze, or herd any animal on any unenclosed premises so any part of the animal extend onto or over a sidewalk, alley, street, or other public property or beyond the owner's property line or in a commonly held area accessible to the public.

Sec. 6-12. Keeping vicious animals.

- (a) It is unlawful for any person or owner to fail to confine a vicious animal except;
 - (1) An animal confined within an enclosed automobile, truck, or other vehicle not being used as a public conveyance.
 - (2) An animal in shipment on a public conveyance and properly confined in a shipping container conspicuously labeled "vicious animal" and constructed in such a manner as to prevent the animal from biting or attacking humans or other animals.
- (b) An owner shall not permit or allow a vicious animal to be upon a sidewalk, alley, street, park, or any other public property or the property of another without the explicit consent of the owner of the property.
- (c) Any vicious animal not confined and/or controlled as required herein shall be destroyed. If the vicious animal has bitten a person or animal shall be treated as required by all applicable laws, rules, and regulations.

Sec. 6-13. Keeping dangerous animals.

It is unlawful for the owner of a dangerous animal to maintain or dispose of it in a manner which constitutes a threat to any person or other animal.

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Sec. 6-14. Habitual animal howling, barking and other noises.

(a) it is unlawful for anyone to own, keep, or harbor any animal which habitually howls, yelps, whines, barks, or makes other noises in a manner which tends to disturb the public peace unreasonably. Any such animal shall be deemed a nuisance.

(b) Any person who violates the provisions of this section shall be punished in accordance with the terms of section 1-6 of this Code, as it may be amended from time to time.

(c) In addition to the penalties stated in subsection 6-2, above, a village animal control officer or police officer may impound any animal which is in violation of this section when such officer has probable cause to believe that:

- (1) The owner or custodian of such animal is unavailable, or unwilling, or unable to control the animal; and
- (2) Such animal will continue to disturb the public peace unreasonably.

(d) If any person refuses to let such village officer or employee enter the place where the animal is located, or refuses to let such officer or employee take possession of the animal, such village officer or employee shall obtain a court order permitting the entry onto the premises and the taking of such animal.

Sec. 6-15—6-35. Reserved.

ARTICLE II. ANIMAL SHELTER

DIVISION 1. GENERALLY

Sec. 6-36. Establishment and maintenance.

An animal shelter shall be maintained by the Carlsbad Police Department at such place or places as may be determined by the governing body of the City of Carlsbad.

Sec. 6-37. Impoundment authorized.

An animal shelter is provided for the following animals.

(1) Except as permitted in section 6-71, all owned and unowned animals susceptible to rabies which have bitten a person or exposed a person to rabies shall be impounded in the animal shelter. Such animals shall be either destroyed or confined in isolation for a period of at least ten days. If the animal dies or is destroyed during the confinement period, the carcass shall be treated as required by all applicable laws, rules, and regulations.

(2) Animals found to be running at large, abandoned animals, animals released to the village by their owners, vicious animals, and animals attacking livestock may be impounded in the City of Carlsbad Animal Shelter.

(3) Any animal not maintained in accordance with the provisions of this chapter may be impounded in the carlsbad animal shelter.

(4) If any animal found running at large has a current annual village license tag, the animal control officer shall make a diligent effort to identify and contact the owner of such animal.

(5) Animals which, in the opinion of the village, are or become sick or injured while at the carlsbad animal shelter may be destroyed.

(6) Impounded facilities may be provided for by agreement with a veterinary hospital, a kennel, an animal shelter, or in cooperation with other municipalities or counties.

Sec. 6-38. Treatment of impounded animals.

During the period any animal is impounded, it shall be supplied with proper food and potable water to be furnished by the city and shall be treated in a humane manner.

Sec. 6-39. Disposition of impounded animals.

(a) At any time prior to the disposition of an impounded animal, its owner may if the animal is eligible for release, redeem it by paying:

(1) The established impounded fees set by the City of Carlsbad;

(2) Any costs and expenses incurred;

(3) A sterilization deposit, if applicable; and

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- (4) Upon purchasing a village license, if applicable.
- (b) Any impounded animal not redeemed by its owner within four days after it becomes eligible for release may be:
 - (1) Placed for adoption;
 - (2) Disposed of as directed by any applicable law, rule, regulation; or
 - (3) Destroyed in accordance with the provisions of this chapter.
- (c) All such animals not placed for adoption shall forthwith be destroyed.
- (d) An animal is not eligible for release if:
 - (1) The animal is or is suspected of being a vicious animal, a dangerous animal, or molesting, pursuing, or wounding livestock or poultry;
 - (2) The animal is or is suspected of being rabid, exposed to rabies, or having exposed a person or animal to rabies;
 - (3) The owner has been cited with a violation of this chapter;
 - (4) The animal is being held subject to a court order; or
 - (5) As otherwise required by any applicable ordinance, law, rule, regulation, or order.
- (e) Livestock shall be disposed of in the manner provided for in any applicable laws of the state. If there are no applicable laws of the state, the livestock may be sold or otherwise disposed of according to the terms of this chapter.

Sec. 6-40. Adoption of impounded animals.

- (a) Any interested person over the age of 18 years may adopt an animal placed for adoption within the time limits as set forth in this section.
- (b) The city of Carlsbad shelter will be open to the public for the adoption of animals during the hours and days set forth by the governing body of the city of Carlsbad from time to time.
- (c) The city of Carlsbad may contract with qualified organizations or individuals for animal adoption or other animal shelter services at such terms and conditions as the governing body of the city of Carlsbad may deem desirable. At any time such a contract exists, the names and addresses of such organizations or individuals will be available at the animal shelter and the Carlsbad city clerk's office.
- (d) Any animal considered by the animal control officer to be suitable for adoption may be held in the shelter for maximum of ten full days including the mandatory retention period of four days if not redeemed by the owner during the mandatory retention period. Any animal brought by the owner into the shelter for adoption may be placed for

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adoption at once and may be kept for a maximum of ten days. Animals which, in the opinion of the city of Carlsbad, are sick, injured, or considered to be unadoptable may be destroyed.

(e) Any person adopting an animal shall be required to pay the established adoption fee for each animal so adopted, any applicable sterilization, deposit, and any costs or expenses incurred. All dogs and cats adopted from the animal shelter shall be, at the adopter's expense, immunized against rabies and licensed required.

(f) No impounded animal shall be adopted for the purpose of breeding or resale. No animal shall be sold or given to or used for medical laboratory use. Every dog or cat adopted from the animal shelter shall be spayed or neutered by a licensed veterinarian at the expense of the adopting party. The shelter may make arrangements to have all or part of the cost of altering the animal paid to the city of Carlsbad by the adopting party to insure compliance with this section. Any individual who qualifies may apply for financial assistance to help pay the cost of altering through a reduced cost spay/neuter program, if such program is available.

Sec. 6-41. Redemption of adopted animal by prior owner.

If within ten days after an animal's adoption from the animal shelter, a person claims to be the owner of such animal and provides, to the city of Carlsbad satisfaction, sufficient proof of such claim, the adopter of the animal shall return it to prior owner. The animal shall not be returned unless and until the prior owner has reimbursed the adopter for all reasonable expenses incurred for the adoption, care, and treatment of the animal, and the owner has procured a current Village of Loving for the animal, if applicable.

Sec. 6-42—6-50. Revised.

DIVISION 2. ANIMAL CONTROL OFFICER.

Sec. 6-51. Employment generally.

(a) An animal control shall be employed by the Village of Loving at such salary or other compensation as may be determined by the governing body of the Village of Loving.

(b) The animal control officer shall be deputized to enforce animal control laws, orders, ordinances, and regulations and shall perform all the duties prescribed by this chapter. The animal control officer shall prevent and control the spread of rabies within the village limits, including but not limited to the capture and confinement or disposition of rabies suspect animals, the enforcement of quarantine orders, the destruction or confinement of animals exposed to rabies, and the enforcement of pet skunk regulations.

(c) The animal control officer shall be under the supervision and direction of the chief of police .

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Sec. 6-52. Records; reports; disposition of money received; receipts for fees and charges.

(a) The animal control officer shall keep a record of all animals impounded, showing in detail;

(1) A description of the animal;

(2) The date of impounding;

(3) The manner of acquisition by the city;

(4) The date and manner of disposal;

(5) The name and address of the person redeeming or adopting the animal; and

(6) The fees, costs, and proceeds, if any, received therefor.

(b) Each month, the animal control officer shall file with the chief of police a report, containing in detail a statement of the number and kinds of all animals impounded, redeemed, adopted, and destroyed and the fees, costs, and proceeds collected therefor. Such report shall cover the previous calendar month. At the same time, the animal control officer shall pay the city treasurer all money received in connection with such activities.

(c) The animal control officer shall issue receipts consecutively numbered for all fees, costs, deposits, and charges collected by him or her and one copy shall be given to the person making payment and the duplicate copy to the city treasurer.

Sec. 6-53. Disposal of dead animals from public places.

The animal control officer shall remove and dispose of all dead animals found on any streets or other public places.

Sec. 6-54. Disposal of animals for individuals.

The animal control officer, on request of the owner and upon payment of the required fee, shall remove and dispose of any dead or live animal lawfully in the possession of such owner.

Sec. 6-55. Pursuit of animals.

In carrying out the provisions of this chapter, every deputized animal control officer is authorized to pursue a straying animal, or vicious dog, or dog molesting livestock or any animal with symptoms of rabies onto private premises unless permission to make such pursuit is explicitly refused by the occupant. If the occupant explicitly refuses permission, the animal control may obtain a court order permitting the entry onto the premises.

Sec. 6-56. Dogs, destruction by peace officer or animal control officer.

(a) Any peace officer or animal control officer may impound any dog found running at large unaccompanied by

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and not under the control of the owner or handler, and further, the peace officer or animal control officer shall destroy the dog if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans.

(b) Any peace officer or animal control officer may kill any dog in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans whether or not the dog wears a rabies tag required by law. There shall be no liability of the peace officer or animal control officer in damages or otherwise for such killing.

Sec. 6-57. Unlawful to interfere with or obstruct

It shall be unlawful for any person to obstruct or interfere with an animal control officer in the performance of his or her duties under this chapter.

Sec. 6-58. Unauthorized removal of animals.

No person shall remove or release an impounded animal from an animal control officer, an animal control vehicle, or animal shelter without proper authorization.

Secs. 6-59—6-65. Reserved.

ARTICLE III. DOGS AND CATS AND RABIES CONTROL

DIVISION 1. GENERALLY

Sec. 6-66. Dogs running at large generally; committing damage or nuisance.

(a) It shall be unlawful for the owner of any dog to cause, allow, or permit the dog to run at large in or on any public property or any other property without the permission of the owner of the property. Any dog running at large in violation of this section may be taken up and impounded by an animal control officer. A citation may be issued to the owner whether or not the dog is impounded.

(b) Any person who shall violate the provisions of subsection (a) of this section shall be punished in accordance with section 1-6 of this Code, provided however, that:

(1) With respect to any violation occurring between the hours of 6:01 a.m. and 6:00 p.m., the fine imposed shall be \$80.00 for the first offense which may be deferred or suspended by discretion of the judge; for the second and each subsequent offense which occurs within five years of the last previous offense, a mandatory minimum fine of \$80.00 shall be increased by \$25.00 for each such subsequent offense, no part of which total fine shall be deferred or suspended by the judge having jurisdiction thereof.

(2) With respect to any violation occurring between the hours of 6:01 p.m. and 6:00 a.m., a fine of \$100.00 shall be imposed for the first offense which may be deferred or suspended by discretion of the judge; for the second and each subsequent offense which occurs within five years of the last previous offense, the mandatory minimum fine of \$100.00 shall be increased by \$25.00 for each such subsequent offense, no part of which total fine shall be deferred or suspended by the judge having jurisdiction thereof.

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(3) No single fine provided by this subsection may exceed the jurisdictional limit of a fine which may be imposed by the municipal court.

(4) In addition to the above prescribed fines, the judge has discretion to imprison the violator in the county jail for a period of up to 90 days for each offense.

(c) Upon conviction for any violation of this section, when the animal has bitten any person, the judge having jurisdiction thereof may order the animal destroyed in addition to all other fines and penalties which may be imposed for such violation.

Sec. 6-67. Restraint of dogs.

(a) Dogs which are not qualified service animals shall not be allowed upon public parks, playgrounds, athletic fields.

(b) No dog shall be allowed upon streets, alleys, sidewalks, or other public property unless it is at all times on a secure leash not exceeding eight feet in length and under the immediate physical control of a person capable of controlling the dog.

(c) Dogs may be walked in the following public parks:

(d) Dogs which are not qualified service animals are not permitted in any other public park nor in any other portion of the Village Parks.

(e) Dogs being walked in those areas identified in (c) above, shall:

(1) Have current rabies tags and current city licenses, if applicable, attached to their collars or harnesses;

(2) Be on a leash at all times with such leash no longer than eight (8) feet in length, and such leash shall be held by a person capable of controlling the dog;

(3) Not be left unattended or chained or tied to an object; unattended dogs may be taken up and impounded by an animal control officer; and

(4) Not interfere with or impede the use and enjoyment of those facilities and parks by others.

(f) In addition to all other fines or penalties, the judge having jurisdiction thereof may ban a person in violation of this subsection from bringing any dog into any public park or other public place.

(g) A leash shall not be required when the dog is participating in a bona fide animal show which has been authorized by the city administrator, or the city administrator's designee.

Sec. 6-68. Dog defecation, cleanup.

No person shall allow a dog to defecate upon public property or upon any private property other than the property of the owner of the dog without thoroughly removing and properly disposing of the feces. Any feces placed in a dumpster shall be first wrapped in plastic.

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Sec. 6-69. Dog or cat in heat or season to be confined.

An owner shall confine his or her female dog or cat in heat or season so that other dogs or cats are not attracted to the animal in heat or season and so that the animal in heat or season can only come into contact with dogs or cats intended to be bred with it.

Sec. 6-70. Vaccination of dogs and cats required.

(a) The owner of any dog or cat over the age of three months shall have the dog or cat annually vaccinated against rabies as prescribed by the applicable regulations of the Department of Health of the State of New Mexico. All antirabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall also issue a serially numbered certificate and tag for each such administration.

(b) The veterinarian who administers antirabies vaccine to any dog or cat shall issue to the owner of the animal a serially numbered vaccination certificate containing:

- (1) The name and address of the veterinarian;
- (2) The type of vaccine used;
- (3) The initials of the producer of the vaccine;
- (4) The name and address of the owner of the animal;
- (5) A description of the animal vaccinated;
- (6) The date of vaccination; and
- (7) The expiration date of the period of immunity.

(c) The veterinarian who administers the antirabies vaccine to any dog or cat shall also furnish the owner with a metal tag bearing the certificate number and the expiration date of the period of immunity. The tags shall be affixed by the owner to a collar or harness which shall be worn by the animal for which the certificate is issued at all times.

(d) Any dog or cat brought into the village shall be securely confined by the owner until vaccinated against rabies and until licensed by the city. The antirabies vaccination shall be administered and license secured within one week after the entry into the city. A current certificate of vaccination issued by a licensed veterinarian in another city, state or foreign country that conforms to all applicable requirements of the city and the State of New Mexico shall be accepted as proof of vaccination.

(e) The owner of a dog or cat shall exhibit the animal's certificate of antirabies vaccination upon demand by an animal control officer.

Sec. 6-71. Animal bites on persons; notice; and procedure.

(a) When any person is bitten or exposed to rabies by an animal, it is the duty of such person or his or her parent or guardian and any person having knowledge of the whereabouts of the animal to immediately notify the police department or an animal control officer.

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(b) Every physician shall, within 24 hours after his or her first professional attendance upon a person exposed to rabies or bitten by any animal, report to an animal control officer or the police department the name, age, sex, telephone number, and address of the person bitten, as well as the type and location of the bite on the victim's body.

(c) Any animal that has bitten a person or is suspected of having exposed a person to rabies shall either be destroyed and the carcass handled as required by all applicable laws, rules, and regulations, or the animal shall be immediately confined and isolated for observation at a place and in a manner designated by an animal control officer for a period of at least ten (10) days. If the owner cannot or does not confine and isolate the animal as required, an animal control officer may seize and confine the animal. The animal's owner shall be responsible for and shall bear all costs and expenses of confinement.

(d) The animal may be confined and isolated upon the owner's premises only if the owner can prove to the city's satisfaction that the animal has a current antirabies vaccination, and the premises are inspected and approved for rabies confinement by an animal control officer. The owner of the animal shall agree to indemnify the city for any damages which may arise as a result of the animal's confinement or escape, and shall enter an indemnity agreement on a form approved and required by the city before any confinement on the owner's property.

(e) A person who has custody of an animal that has bitten a person or exposed a person to rabies shall immediately notify an animal control officer if the animal shows any signs of sickness, abnormal behavior, or if the animal escaped confinement. If the animal dies while in confinement, the person having custody of the animal shall notify an animal control officer immediately and surrender the carcass of the animal to an animal control officer.

(f) If the animal shows any signs or symptoms of rabies during its confinement and observation period, it shall be destroyed and the carcass shall be handled as required by all applicable laws, rules, and regulations.

Sec. 6-72. Animal exposed to rabies.

When circumstances indicate an animal has been bitten by a known rabid animal or exposed to rabies, or when an animal is showing signs of having rabies, the following procedures shall apply:

(1) Any person who has knowledge of such an animal shall immediately notify the police department or an animal control officer of the animal's condition and location.

(2) The owner shall immediately confine the animal and shall surrender it to an animal control officer upon demand.

(3) The animal shall be dealt with in accordance with all applicable ordinances and state laws, rules, and regulations.

Sec. 6-73. Redemption of confined animals.

The owner of any animal confined in the animal shelter for observation of rabies pursuant to this chapter may redeem such animal after confinement, if it is found to be free of rabies, by paying the established confinement fee, any costs and expenses incurred during its confinement, and obtaining a current city license, if applicable.

Sec. 6-74. Keeping an unvaccinated dog or cat or rabid animal; procedures following death of animal from rabies.

(a) It is unlawful to own or keep any unvaccinated dog or cat or any animal which has shown any symptoms of

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rabies, except that, if such animal has bitten a human being, a dog or cat may be confined as permitted by all applicable ordinances, laws, rules, and regulations. If the animal dies during the confinement period, the head shall be immediately sent to a laboratory by an animal control officer.

(b) The head of any animal suspected of having died of rabies shall be immediately sent to a laboratory designated by the Department of Health of the State of New Mexico, Division of Epidemiology, Evaluation and Planning, under such procedures as are specified by the division or its successor in authority.

Sec. 6-75. Duty of owner to destroy prohibited animals; penalty.

It is the duty of any person who is the owner of any animal, the keeping of which is unlawful, to cause such animal to be humanely destroyed. Failure to comply with this section after knowledge by the owner of the fact which renders such keeping unlawful be punishable in conformity with the general penalty provisions of this Code.

Sec. 6-76. Rabies quarantine.

The environmental services officer may declare quarantine against rabies within the village when, in his or her judgement, rabies exists to the extent that it is a danger to public health. Upon such declaration, all designated animals within the village shall be quarantined as directed by the environmental services officer. After reasonable effort to apprehend any dog or cat running at large and uncontrolled by its owner during a period of quarantine, any animal control officer or police officer may destroy the dog or cat and properly dispose of the body. The environmental services officer may order other measures as may be necessary to prevent the spread of rabies. A quarantine shall not be removed except on order of the environmental service officer.

Sec. 6-77. Failure to license, vaccinate, report animal bites declared misdemeanor.

It is a misdemeanor for any person who is the owner of an animal to fail to have the same vaccinated against rabies and licensed as required by this chapter. It is a misdemeanor for any physician to fail to report a person bitten by an animal.

Secs. 6-78-6-90. Reserved.

DIVISION 2. LICENSE

Sec. 6-91. Annual license required.

The owner of a dog or cat over the age of three months shall annually obtain a license for the animal. Persons who are not village residents and who keep a dog or cat in the village for fewer than 30 consecutive days shall be exempt from this licensing requirement.

Sec. 6-92. Licensing of qualified service dog or cat.

Every owner of a qualified service dog or cat shall have such animal licensed as provided in this article. The village shall charge no license fee for the licensing of qualified service animals. Qualified service animals shall include all categories of animals as defined in the laws of the state.

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LICENSE

Sec. 6-93. License year; fees.

(a) The annual license year shall run concurrently with the required annual rabies vaccination administered by a licensed veterinarian. The license fee shall be set from time to time by the governing body of the village. A schedule of such fees is on file in the village clerk's office.

(b) Licenses shall remain in effect during the term of the animal's antirabies certificate and shall expire on the animal expiration date of the antirabies vaccination certificate. Failure to renew a license within 15 days after the expiration of the antirabies vaccination certificate shall result in assessment of a late fee in addition to the cost of the license.

Sec. 6-94. Issuance; receipt.

(a) The licenses required by this division may be issued by either the city clerk or at other locations designated by the governing body of the village. Such other locations may include City of Carlsbad animal shelter and veterinary practice locations. Veterinarians may accept city license fee payment and may issue city license only if they have entered into a current agreement with the village to do so.

(b) The village license tags and certificates shall be serially numbered and the certificates shall contain the name and address of the animal's owner, a description of the animal, proof of rabies vaccination, and the expiration date of the license.

Sec. 6-95. Antirabies vaccination required.

No village license shall be issued unless and until the dog or cat has been vaccinated with antirabies vaccine.

Sec. 6-96. New license required for adopted dog or cat.

The person adopting any dog or cat from the city of Carlsbad animal shelter, shall obtain a village license for each animal adopted.

Sec. 6-97. Tag-Issuance; permanent attachment to collar.

A village license tag shall bear a number and the year for which issued. The license tag shall be permanently and securely affixed to a collar or harness to be worn by the dog or cat so licensed at all times. The license need not be worn when the dog or cat is confined in a commercial kennel or veterinary hospital, is appearing in a bona fide animal show, or is being trained so long as the person who is training the animal has the tag readily available in his or her personal possession and immediately displays such upon request of an animal control officer.

Sec. 6-98. Duplicates.

If a village license tag is lost or stolen, the owner of the dog or cat may procure a duplicate license tag from the village clerk on payment of the fee set thereof.

Sec. 6-99. Unlawful use of rabies vaccination certificate, tag, or village license or tag.

No person shall affix an antirabies tag or a village license tag to the collar or harness of any animal other than the animal for which the tag was properly issued. No person shall keep, manufacture, or use a stolen, counterfeit, or forged animal antirabies vaccination certificate or tag or village license or tag.

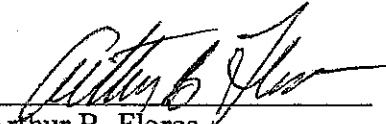
VILLAGE OF LOVING

SEPARABILITY: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

REPEALER: All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

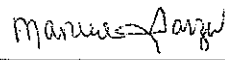
EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED, APPROVED, AND ADOPTED, this 8th day of October, 2001.



Arthur B. Flores
Mayor

ATTEST:



Manuel Garza
Village Clerk