

RESOLUTION NO.

WHEREAS, the Governing Body of the City of Moriarty, New Mexico has passed Ordinance No. 119, requiring licensing, vaccination, control and protection of dogs and cats and providing for the impoundment of animals and for the assessment of fees and imposition of fines, and

WHEREAS, the ordinance provides the City Council should set fees and costs, which are subject to change;

NOW THEREFORE, the Governing Body of the City of Moriarty sets the following fees to be charged by the animal control officer and to be paid at the City Clerk's office:

1. Impoundment Fee -
 - a. Animal with current vaccination certificate \$15.00
 - b. Animal without current vaccination certificate \$25.00
2. Licensing Fee - ~~\$3.00~~ if neutered or spayed; \$5.00 if not neutered or spayed.
3. Daily feed and care of animal while impounded - \$10.00 per day (\$10.00 minimum)
4. Disposal of animal at owner's request - \$10.00 per animal
5. Veterinary or other charges - Actual cost to City

These fees and costs are in addition to any fines assessed by the Court for citations resulting from the violation of the ordinance. The Municipal Court shall require proof of payment of all fees and costs prior to ordering release of any impounded animal. Said proof of payment shall consist of a receipt issued by

the City Clerk's office indicating payment in full of all fees and costs assessed pursuant to said ordinance.

PASSED, ADOPTED and APPROVED, this 9th day of May, 1995.

ATTEST:

Karen Alarid
CLERK

[Signature]
MAYOR

ORDINANCE NO. 119

AN ORDINANCE AMENDING ORDINANCE NO. 119 AND PROVIDING FOR: RABIES CONTROL, REPORTING OF ANIMAL BITES, LICENSING OF DOGS AND CATS, PROTECTION OF RESIDENTS FROM ANNOYANCE AND INJURY, PROTECTION OF ANIMALS FROM NEGLECT AND ABUSE, IMPOUNDMENT OF ANIMALS, LICENSING FOR VIOLATION OF THIS ORDINANCE, AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the City Council of the City of Moriarty, State of New Mexico, that:

SECTION 1.

Ordinance Number 119 is hereby amended to read as follows:

SECTION 2. DEFINITIONS:

As used in this ordinance, the following words and terms shall, unless the context indicates a different meaning, have the meaning given herein. The word "shall" as used herein is always mandatory and not merely directory.

(a) ANIMAL: Any vertebrate excluding man.

(b) ANIMAL CONTROL OFFICER: Representative of the city in charge of enforcing the animal control ordinance.

(c) ANIMAL SHELTER OR IMPOUNDING FACILITIES: Any animal control center, pound, animal shelter, kennel, veterinary hospital, lot, premise or building maintained or contracted by the governing body of the City of Moriarty for the care and custody of animals.

(d) BITE: A puncture or tear of the skin inflicted by the teeth of an animal.

(e) GOVERNING BODY: The City Council of the City of Moriarty, New Mexico.

(f) KEEPER OR OWNER: Any person who owns, harbors, keeps, or has control or custody of any animal for more than six days, provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.

(g) MUNICIPALITY: That area lying within the incorporated boundaries.

(h) KENNEL: Any establishment or premises where dogs or cats are boarded or kept.

(i) PERSON: Any individual, household, firm, partnership, corporation, society, association, and every agent and employee thereof.

(j) PREMISES: Any parcel of land and the structure(s) thereon.

(k) QUARANTINE: To detain, confine, or isolate an animal suspected of being infected with rabies.

(l) RUNNING AT LARGE: An animal free of physical restraint beyond the premises or the control of the owner or keeper.

(m) STRAY OR ESTRAY: Any animal running at large.

(n) TERRORIZE: To act in a manner so as to induce the apprehension of harm.

(o) VACCINATION: The inoculation of an animal with an anti-rabies vaccine approved by the Secretary of the Health and Environment Department and administered under the supervision of a veterinarian.

(p) VICIOUS ANIMAL: Any animal which commits an unprovoked

attack upon a person on the animal owner's property, or which terrorizes or attacks a person anywhere other than on the animal owner's property.

(q) WILD ANIMAL: Any animal which by nature cannot normally be domesticated or controlled.

SECTION 3. ADMINISTRATION OF ORDINANCE

(a) RESPONSIBILITY: The animal control officer is responsible for the administration of this ordinance. Reasonable rules and regulations shall be prescribed by the Governing Body to carry out the intent and purpose of this ordinance.

(b) ENFORCEMENT: The animal control officer(s) shall have the authority to issue citations for violations of this ordinance and to perform such other duties as are prescribed herein.

SECTION 4. RABIES CONTROL

(a) ANNUAL VACCINATION: It is the duty of every person keeping a dog or cat over the age of three months to have such animal vaccinated against rabies. All dogs and cats must be revaccinated annually. Every veterinarian who vaccinates a dog or cat hereunder shall issue to the owner or keeper of the 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. The tag shall bear the certificate number and the year of vaccination, and shall be worn by the animal at all times, except as otherwise provided herein.

(b) 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.

(c) 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.

(d) 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 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.

(e) HUMAN EXPOSURE TO RABIES: Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the animal control office and to the Health Services Division. Every physician or other health care professional who treats a person for such bite shall report such treatment to the Health Services Division of the Health and Environment Department within twelve hours of such treatment. The report of this treatment must specify the name and home address of the person and the precise location of the bite on the person.

(f) QUARANTINE OF ANIMALS SUSPECTED OF HAVING RABIES: Any dog or cat which has bitten or otherwise exposed a person to rabies shall be either destroyed and the head sent to the laboratory for rabies testing or confined immediately for a period of ten (10) days at the owner's expense at a place and in

a manner designated by the animal control office and approved by the Health Services Division of the Health and Environment Department; 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. If the dog or cat shows signs of rabies during the ten (10) day confinement and observation period, it shall be destroyed and the head sent to the laboratory for rabies testing.

(g) ENFORCEMENT OF THE QUARANTINE: It is unlawful to remove any dog or cat from enforced quarantine during the period of confinement without consent of the responsible animal control officer.

SECTION 5. LICENSE REQUIRED

(a) LICENSE: Every keeper of any dog or cat three months of age or older shall procure a license from the City of Moriarty. License fees shall be paid annually not later than March 1st of each year and the full amount shall be paid for any fraction of the licensing year. Upon collection of the license fee by the municipality, a dated and numbered tag shall be issued. A record shall be maintained by the City of Moriarty stating the name and address of the owner, rabies tag number, the animal's description and the expiration date of the license.

(b) PROOF OF RABIES VACCINATION: No dog or cat shall be licensed without proof of rabies vaccination as provided in this

ordinance.

(c) CERTIFICATES AND TAGS: The current city tag and rabies tag shall be affixed to the licensed 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 city license and tag and the rabies certificate and the tag of all dogs and cats shall be retained by the owner and are non-transferrable. They shall be available for inspection by any person charged with the enforcement of this ordinance.

(d) LOSS OF LICENSE TAG: In the event the original license tag is lost, the keeper shall obtain a duplicate tag from the municipality at a cost of \$3.00.

(e) FEE: The annual license fee shall be \$3.00 for a neutered dog or cat and \$5.00 for an unneutered dog or cat. Guide dogs shall be issued a license free of charge.

SECTION 6. PROHIBITED ACTIVITIES

(a) FALSE AND STOLEN DOCUMENTS: It shall be unlawful for any person to transfer any license or rabies tag from one animal to another or to make use of a stolen, counterfeit, or forged license, certificate or tag.

(b) ANIMALS RUNNING AT LARGE: It shall be unlawful for any keeper of a dog or cat or other pet animal to permit such animal to run at large.

(c) NUISANCE: It is unlawful for a keeper to allow any animal to persistently bark, howl, or make noise or to be kept or maintained in such a manner as to disturb or otherwise endanger the health and welfare of the inhabitants of the neighborhood.

(d) 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 will be prevented except for intentional breeding purposes. Keepers who do not comply with this section may be required to place such animal in a boarding kennel or veterinary hospital at the keeper's expense.

(e) ~~PHYSICAL ABUSE~~: It is unlawful for any person to maliciously kill, maim, torture, mutilate, burn or to cruelly drive or work any animal.

(f) ABANDONMENT OF ANIMALS: It is unlawful to abandon any animal within the municipality.

(g) POISONING: It is unlawful to poison domestic animals or to distribute poison or toxicants in any manner with the intent of so poisoning.

(h) CARE AND MAINTENANCE: It is unlawful for any keeper to fail to provide an animal with proper food, drink and shelter, or to carry an animal in or upon any vehicle in a cruel or inhumane manner.

(i) ANIMAL FIGHTS: It is unlawful to cause, instigate, or promote any fight in which two or more animals are engaged for the purpose of injuring, maiming or destroying themselves or another animal.

(j) VICIOUS ANIMAL: It is unlawful for any person to keep or harbor any animal which is known, or has been adjudged to be, vicious.

SECTION 7. IMPOUNDMENT

(a) ANIMAL SHELTER: A suitable animal shelter shall be

provided for the purpose of boarding and caring for animals impounded under the provisions of this ordinance.

(b) IMPOUNDING ANIMALS: Animals kept in violation of this ordinance and stray animals shall be taken into custody by an animal control officer or other designated official and thereupon impounded.

(c) 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.

(d) REGISTER: The animal control officer, upon impounding or receiving any animal, shall register such animal by entering the breed, color and sex of the animal and the time and place such animal was apprehended into the registry kept for this purpose.

(e) NOTICE TO OWNER: If the keeper of an impounded animal is known, he or she must be notified immediately. If the keeper of the animal is not known, notice of the impoundment shall be posted in a conspicuous place at the animal shelter for a period of three (3) working days.

(f) RIGHT TO REDEEM: The keeper of any animal which has been impounded under the provisions of this ordinance shall have the right to redeem the animal upon payment of any license fees due, impounding fees, care and feeding charges, veterinary charges, and such other costs as incurred by the City in the care and maintenance of said animal or as set by the governing body.

(g) TIME FOR REDEMPTION: All impounded animals shall be redeemed within three (3) working 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 charges set forth in Section 7 (f) above, or the animal may be destroyed in a humane manner.

(h) DISPOSITION OF IMPOUNDED ANIMALS BEING HELD ON COMPLAINT: If a complaint has been filed in the municipal court of the municipality against the keeper of an impounded animal for a violation of this ordinance, the animal shall not be released except upon order of the court, which also may direct the owner to pay any penalties for violation of this ordinance in addition to all other charges.

(i) IMPOUNDING FEES: The Governing Body shall, by resolution, establish appropriate fees for impounding, care and feeding charges, veterinary fees and such other fees as may be deemed necessary.

SECTION 8. KENNELS

(a) RESTRICTIONS: No person, group of persons, or business entity in the municipality may own, keep or harbor more than five dogs of three months of age or older, or more than five cats of three months of age or older, or more than a total of five dogs and cats in any combination more than three months of age or older without obtaining a kennel license. This paragraph shall not apply to animals under the age of six months which are all a part of this same litter and which are being kept for training purposes. A maximum of two litters are allowable under this exception.

(b) LICENSE REQUIRED: Persons operating a kennel must

obtain a non-transferable kennel license, which shall be posted in a conspicuous place in the kennel. A kennel license shall expire on December 31st of each year and shall be renewed by February 1st of the following year. No kennel license may be issued without an inspection certificate issued by the animal control officer. The annual kennel license fee shall be \$100.00.

(c) FACILITIES AND CARE APPLICABLE TO KENNEL LICENSE:
Animal housing facilities must be structurally sound and shall be constructed of non-toxic materials. The facility shall be maintained in good repair and kept clean and sanitary at all times, so as to protect animals from disease and injury. Animals maintained in pens, cages, or runs for periods exceeding 24 hours must be provided with adequate space to prevent overcrowding and to permit adequate exercise according to the requirements of the species. Indoor housing shall be provided with adequate ventilation and temperature control to provide for the animals' comfort and health. Sufficient lighting shall be provided by either natural or artificial means. If outside housing is provided, it must be sufficient to protect the animal from sunlight, rain, snow, or cold weather detrimental to the animal's health. Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals, and debris. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards. Except where indicated for health, animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily. Diseased or injured animals must be

provided with veterinary care.

(d) INSPECTION: The animal control officer shall be permitted to enter, at any reasonable time, for the purpose of inspecting or reinspecting any kennel or pet shop to determine compliance with this ordinance.

(e) VIOLATIONS, SUSPENSIONS AND REVOCATIONS: A Kennel license may be denied, suspended or revoked by the animal control officer upon a determination that the operator of the kennel or pet store is in violation of this ordinance. An opportunity for a hearing on any denial, suspension, or revocation shall be provided at a time and place determined by the Governing Body. Based upon the record of such hearing, the Governing Body shall make a finding and shall sustain, modify, or rescind the action considered at the hearing. Any owner of a kennel or pet store whose license has been suspended or revoked may make application for reinstatement of the license. If, following inspection, the applicant has complied with the requirements of this ordinance, the license shall be reinstated.

(f) EXCEPTIONS: This section shall not apply to and shall not be construed to require a kennel license for:

(1) A Veterinary hospital or clinic operated by a licensed veterinarian.

(2) A bona fide research institution using animals for scientific research.

(3) A publicly owned animal control center or shelter.

(4) A bona fide animal shelter operated by an organized humane society.

SECTION 9. PENALTY, SEVERABILITY, EMERGENCY AND EFFECTIVE DATE

(a) 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 to exceed one hundred dollars (\$100.00) and/or imprisonment for a period not to exceed ninety (90) days or both such fine and imprisonment. Each day of violation shall be considered a separate offense, provided that the maximum fine to be assessed shall not exceed one thousand dollars (\$1,000.00) and the maximum period of imprisonment shall not exceed six (6) months.

(b) ADDITION TO PENALTY CLAUSE: In addition to the penalties prescribed in subsection (a) of this section the Court, upon petition or upon its own motion, may order any vicious animal to be destroyed by animal control personnel at the owner's expense.

(c) SEVERABILITY CLAUSE: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, or unenforceable, the invalidity or unenforceability of such section, subsection, sentence, clause, or phrase shall not affect any of the remaining portions of this ordinance.

PASSED, APPROVED AND ADOPTED this 23rd day of July, 1985.

ATTEST:

CITY OF MORIARTY

Karen Armijo
BY: Karen Armijo - Clerk

Elaine B. Pogue
BY: Elaine B. Pogue - Mayor