

CARLSBAD

***State law reference(s)**—Municipal authority to regulate animals, NMSA 1978, § 3-18-3.

ARTICLE 1: IN GENERAL**SEC. 6-1. INSPECTION OF PREMISES WHERE ANIMALS OR FOWL ARE KEPT.**

Whenever there is reasonable cause to believe that an unhealthful or unsanitary condition exists on any private premises which might endanger the general health of the community, the environmental services officer shall have the right to enter such premises and thoroughly investigate and inspect the same and to enforce all ordinances pertaining to the general health of the community. It shall be unlawful for any person to prevent or obstruct the environmental services officer in making the inspections mentioned in this section. (Code 1974, § 5-2; Ord. No. 1013, § 5-2, 5-8-90) Cross reference(s)—Health and sanitation, ch. 22.

SEC. 6-2. KEEPING IN CITY GENERALLY.

It shall be unlawful for any person to keep any animal, fowl or reptile, other than as permitted by ordinance or this Code. Any person who lawfully keeps or maintains any animal within the city must comply in all respects with the vaccination or licensing requirements of the city. (Code 1974, § 5-1; Ord. No. 1013, § 5-1 (a), 5-8-90)

SEC. 6-3. KEEPING PET BIRDS.

Any person may keep pet birds as pets within the city, and any commercial establishment may keep pet birds for the purpose of the sale of such birds within the city. Such commercial establishments shall file a registration with the city clerk on the forms provided therefor. Such birds shall be kept in pens or cages. The keeping of such birds shall not constitute a nuisance or a health hazard. It is hereby declared the duty of the environmental services officer to determine whether such pens are maintained in a manner to protect the public health. (Code 1974, § 5-1; Ord. No. 1013, § 5-1 (b), 5-8-90)

SEC. 6-4. SALE OF BABY CHICKS, DUCKS, GEESE, TURKEYS AND RABBITS.

- (a) It shall be lawful for any commercial establishment to sell baby chickens, ducks, geese and turkeys. Such commercial establishment shall file a registration with the city clerk on the forms provided therefor. Such fowl shall be kept in pens and not permitted to run at large. The keeping of 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. It shall be the duty of the environmental services officer to determine the general health and sanitation of the community.
- (b) No chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially may 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 place.

(Code 1974, § 5-1; Ord. No. 1013, § 5-1 (c), 5-8-90)

SEC. 6-5. SANITATION REGULATIONS.

Any person who may lawfully keep any of the animals or fowl mentioned in this chapter shall provide adequate and sanitary housing facilities for such animals or fowl, and no stagnant water shall be permitted to accumulate. All structures used for the housing of such animals, fowl or pets and all yards, cages and runs provided for them shall be cleaned daily and shall be sprayed with an insecticide at intervals frequent enough to prevent the breeding of flies and other insects. All animal manure shall be, once every 24 hours, composited in a sanitary manner or otherwise removed to a lawful place for deposit. Any person who may lawfully keep any animal, fowl or pet 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, fowl or pet is hereby declared to be a nuisance and unlawful. (Code 1974, § 5-1; Ord. No. 1013, § 5-1 (d), 5-8-90) Cross reference(s)—Health and sanitation, ch. 22.

SEC. 6-6. BURIAL OR BURNING OF DEAD ANIMALS OR FOWL.

No dead horses, cows, hogs, sheep or goats shall be buried or burned within the city. Any other dead animal or fowl must be buried more than two feet below the surface of the ground and within 12 hours of death. (Code 1974, § 5-1; Ord. No. 1013, § 5-1 (e), 5-8-90)

SEC. 6-7. CRUELTY TO ANIMALS.

- (a) Cruelty to animals consists of:
- (1) Torturing, tormenting, depriving of necessary sustenance, cruelly beating, mutilating, killing or overdriving any animal;
 - (2) Unnecessarily failing to provide any animal with proper food or drink; or
 - (3) Cruelly driving or working any animal when such animal is unfit for labor.
- (b) Whoever commits cruelty to animals is guilty of a petty misdemeanor.

(Code 1974, § 5-3.1; Ord. No. 1013, § 5-3.1, 5-8-90)

State law reference(s)—Municipal authority to prohibit cruelty to animals, NMSA 1978, § 3-18-3A(l).

SEC. 6-8. ANIMALS PROHIBITED IN PECOS RIVER WHERE IT ABUTS PUBLIC PARK.

It shall be unlawful for any person to allow a dog or other dumb animal to enter or swim in the Pecos River at any point on the Pecos River abutting a public park.

(Code 1974, § 5-3; Ord. No. 1013, § 5-3, 5-8-90) Cross reference(s)—Throwing trash in Pecos River prohibited, § 22-4.



SEC. 6-9. 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 the Carlsbad City Code, as it may be amended from time to time.
- (c) In addition to the penalties stated in paragraph (2), above, a city 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 a city 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 city officer or employee shall obtain a court order permitting the entry onto the premises and the taking of such animal.

(Ord. No. 97-08, 6-10-97) Editor's note--Ord. No. 97-08, adopted June 10, 1997, did not specifically amend the Code; hence, inclusion herein as § 6-9 was at the discretion of the editor.

SECS. 6-10--6-35. RESERVED.**ARTICLE II: ANIMAL POUND
DIVISION 1. GENERALLY****SEC. 6-36. ESTABLISHMENT AND MAINTENANCE.**

An animal pound shall be established and maintained at such place as may be determined by the city council.
(Code 1974, § 5-4; Ord. No. 1013, § 5-4, 5-8-90)

SEC. 6-37. IMPOUNDMENT AUTHORIZED.

- (a) Any animal found to be running at large upon any public street, alley or other public property or upon any property other than that of the owner shall be impounded in the animal pound.
- (b) If any animal found running at large has a current annual city license tag, the poundmaster shall make a diligent effort to identify and contact the owner of such animal.

(Code 1974, § 5-10; Ord. No. 1013, § 5-10, 5-8-90)

SEC. 6-38. REDEMPTION FEES.

The owner of any animal or fowl impounded in accordance with this article may redeem the same upon paying the established impoundment fees. (Code 1974, § 5-11; Ord. No. 1013, § 5-11, 5-8-90)

SEC. 6-39. TREATMENT OF IMPOUNDED ANIMALS. During the period any animal or fowl is impounded, they shall be supplied with proper food and water to be furnished by the city and shall be treated in a humane manner. (Code 1974, § 5-12; Ord. No. 1013, § 5-12, 5-8-90)

SEC. 6-40. DISPOSITION OF UNCLAIMED ANIMALS AND FOWL. Any animal impounded in accordance with the provisions of this article not redeemed by the owner after the expiration of four days may be placed for adoption; and all such animals or fowl not placed for adoption shall forthwith be destroyed by the poundmaster. Horses, cattle, burros, swine, sheep and goats shall be disposed of in the manner provided for in any applicable laws of the state. (Code 1974, § 5-13; Ord. No. 1013, § 5-13, 5-8-90)

SECS. 6-41--6-50. RESERVED.**DIVISION 2. POUNDMASTER***

*Cross reference(s)--Officers and employees, § 2-71 et seq.

SEC. 6-51. EMPLOYMENT GENERALLY.

A poundmaster shall be employed by the city at such salary or other compensation as may be determined by the city council and shall perform all the duties prescribed by this chapter. The poundmaster shall be under the supervision and direction of the chief of police. (Code 1974, § 5-5; Ord. No. 1013, § 5-5, 5-8-90)

SEC. 6-52. RECORDS; REPORTS; DISPOSITION OF MONEY RECEIVED; RECEIPTS FOR FEES AND CHARGES.

- (a) The poundmaster shall keep a record of all animals and fowl impounded, showing in detail the date of impounding, the date and manner of disposal, the name and address of the person redeeming or adopting and the fees and proceeds, if any, received therefor.
 - (b) On the first of each month, the poundmaster shall file with the city clerk a report, containing in detail a statement of the number and kinds of all animals and fowl impounded, redeemed, adopted and destroyed and the fees and proceeds of sale collected therefor. Such report shall cover the previous calendar month. At the same time, the poundmaster shall pay the city treasurer all money received by him in connection with his activities.
 - (c) The poundmaster shall issue receipts consecutively numbered for all fees and charges collected by him and one copy shall be given to the person making payment and the duplicate copy to the city treasurer.
- (Code 1974, § 5-6; Ord. No. 1013, § 5-6, 5-8-90)

SEC. 6-53. DISPOSAL OF DEAD ANIMALS AND FOWL FROM PUBLIC PLACES.

The poundmaster shall remove and dispose of all dead animals and fowl found on any streets or other public places. (Code 1974, § 5-7; Ord. No. 1013, § 5-7, 5-8-90) Cross reference(s)--Health and sanitation, ch. 22.



SEC. 6-54. DISPOSAL OF ANIMALS AND FOWL FOR INDIVIDUALS. The poundmaster on request of the owner shall remove and dispose of any dead or live animal or fowl lawfully in the possession of such owner. (Code 1974, § 5-8; Ord. No. 1013, § 5-8, 5-8-90)

SEC. 6-55. UNLAWFUL TO INTERFERE WITH OR OBSTRUCT. It shall be unlawful for any person to obstruct or interfere with the poundmaster in the performance of his duties under this chapter. (Code 1974, § 5-9; Ord. No. 1013, § 5-9, 5-8-90)

SECS. 6-56--6-65. RESERVED.

ARTICLE III: DOGS AND CATS*

*State law reference(s)—Dogs generally, NMSA 1978, § 77-1-13.

DIVISION 1. GENERALLY

SEC. 6-66. RUNNING AT LARGE GENERALLY; COMMITTING DAMAGE OR NUISANCE.

- (a) It shall be unlawful for any person owning, harboring or having the custody, control or possession of any dog to cause or permit such dog to:
- (1) Be in or upon any public street, alley or other public place or in or upon any unenclosed premises unless such dog be continuously controlled by a competent person.
 - (2) Commit any damage or nuisance upon the property of any other person or upon a public street, alley or other public place.
- (b) Any person who shall violate the provisions of subsection (a) of this section shall be punished in accordance with section 1-6, 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 \$40.00 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 \$40.00 shall be increased by \$15.00 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 \$60.00 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 \$60.00 shall be increased by \$15.00 for each such subsequent offense, no part of which total fine shall be deferred or suspended by the judge having jurisdiction thereof.

tion thereof.

(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) Additional 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 municipal judge may order the animal destroyed in addition to all other fines and penalties which may be imposed for such violation.

(Code 1974, § 5-20; Ord. No. 1013, § 5-20, 5-8-90; Ord. No. 1017, 8-14-90) **State law reference(s)**—Municipal authority to regulate animals running at large, NMSA 1978, § 3-18-3A(2).

SEC. 6-67. VICIOUS DOGS.

- (a) It is unlawful for any person to keep any dog known to be vicious and liable to attack human beings unless such dog is securely kept so as to prevent any injury to any person.
- (b) It is the duty of any person who is the keeper or owner of such a dog which is not so restrained to cause such dog to be killed.

(Code 1974, § 5-21; Ord. No. 1013, § 5-21, 5-8-90)

SEC. 6-68. VACCINATION OF DOGS OR CATS.

- (a) Any person who owns or keeps a dog or cat over the age of three months in the city, shall have the dog or cat vaccinated against rabies as prescribed by regulation of the health and environment department. All antirabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall 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 or keeper of the dog or cat a serially numbered vaccination certificate containing the name and address of the veterinarian, the type of vaccine used, the name and address of the owner or keeper of the dog or cat, a description of the dog or cat vaccinated, the date of vaccination and the expiration date of the period of immunity. The veterinarian shall also furnish the owner or keeper with a metal tag bearing the certificate number and the expiration date of the period of immunity. The tags shall be affixed by the owner or keeper to a collar or harness and shall be worn by the dog or cat for which the certificate is issued.
- (c) All persons applying for a license for a dog or cat under the provisions of this article shall, as a prerequisite to securing a license for such dog or cat, present to the city the tag or vaccination certificate; and no license for a dog or cat within the city shall be issued unless and until such dog or cat has been vaccinated with antirabies vaccine.

- (d) Any dog or cat brought into the city shall be securely confined by the owner or keeper until vaccinated against rabies and until licensed by the city. The vaccination shall be administered and license secured within one week after the entry into the city unless the owner or keeper has a certificate of vaccination issued by a veterinarian in another city, state or foreign country and such vaccination conforms to the requirements of this state.

(Ord. No. 1013, §§ 5-22–5-24, 5-8-90)

SEC. 6-69. NOTICE TO HEALTH OFFICER OF ANIMAL BITE.

- (a) When any person is bitten by an animal, it is the duty of such person (or his parent or guardian) and of the owner or keeper of the animal to immediately notify the police department. Except as provided in subsection (b) of this section, the owner or keeper of the animal shall at his own expense securely confine it for ten days at a place designated by the environmental services officer. Every physician shall within 24 hours after his first professional attendance upon a person bitten by any animal report to the environmental services officer the name, age, sex and address of the person bitten.
- (b) If the person bitten is bitten by a dog and if the owner of the dog produces a valid and unexpired certificate of vaccination for the dog issued under section 6-68(b) evidencing vaccination at least three weeks prior to the bite, the owner shall be permitted to keep the dog at his own premises for the required period of ten days. Owner confinement shall be permitted by the district health officer if he has declared his area of jurisdiction a rabies-free area. No animal may be released from confinement except by a person designated by the chief of police.

(Ord. No. 1013, § 5-25, 5-8-90) Cross reference(s)--Health and sanitation, ch. 22.

SEC. 6-70. DOGS OR CATS BITTEN BY RABID ANIMALS.

Any dog or cat bitten by an animal known or proved to be rabid shall be killed immediately by its owner or by a police officer of the city; provided that any dog or cat which has been vaccinated at least three weeks before being bitten shall be confined for 90 days. At the end of the confinement period, the dog or cat shall be released and declared free of rabies by a licensed veterinarian. If, as determined by the veterinarian, the dog or cat develops rabies during the period of confinement, the owner or keeper shall have it killed and properly disposed of. The poundmaster employed by the city shall, upon being notified by the owner or keeper of such animal, dispose of the same at the request of such owner or keeper. (Ord. No. 1013, § 5-26, 5-8-90)

SEC. 6-71. QUARANTINE.

The environmental services officer may declare a quarantine against rabies within the city when, in his judgment, rabies exists to the extent that it is a danger to public health. Upon

such declaration, all dogs and cats within the city shall be confined on the premises of the owner or keeper, in a veterinary hospital, commercial dog kennel or the animal pound. After reasonable effort to apprehend any dog or cat running at large and uncontrolled by its owner or keeper during the period of quarantine, any police officer may kill the dog or cat and properly dispose of the body. A quarantine shall not be removed except on order of the environmental services officer. (Code 1974, § 5-27; Ord. No. 1013, § 5-27, 5-8-90)

SEC. 6-72. KEEPING UNVACCINATED OR RABID DOGS OR CATS; PROCEDURE FOLLOWING DEATH OF ANIMAL FROM RABIES.

- (a) It is unlawful to own or keep any unvaccinated dog or cat or any dog or cat which has shown any symptoms of rabies, except that if such animal has bitten a human being, the dog or cat shall be confined for a ten-day period. If the dog or cat dies during the confinement period, the head shall be immediately sent to a laboratory by the environmental services officer.
- (b) The head of any animal suspected of having died of rabies shall be immediately sent to a laboratory designated by the health services division of the health and environment department under such procedure as specified by the division.

(Code 1974, § 5-28; Ord. No. 1013, § 5-28, 5-8-90)

SEC. 6-73. DUTY OF OWNER TO KILL PROHIBITED DOGS OR CATS; PENALTY.

It is the duty of any person who is the owner or keeper of any dog or cat the keeping of which is unlawful to cause such dog or cat to be killed. Failure to comply with this section after knowledge by the owner or keeper of the fact which renders such keeping unlawful shall be punishable in conformity with the general penalty. (Code 1974, § 5-29; Ord. No. 1013, § 5-29, 5-8-90)

SEC. 6-74. VACCINATION AND LICENSING OF QUALIFIED SERVICE ANIMALS.

Every owner of a qualified service animal shall have such dog vaccinated against rabies and licensed as provided in this article. The city 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. (Code 1974, § 5-30; Ord. No. 1013, § 5-30, 5-8-90)

SEC. 6-75. IMPOUNDMENT.

- (a) All dogs or cats not maintained in accordance with the provisions of this article shall be impounded by the poundmaster in the animal pound. Any dog or cat so impounded shall be held for a period of four days. All dogs or cats not redeemed shall forthwith be placed for adoption or destroyed in accordance with the provisions of this chapter by the poundmaster. No animal shall be sold or given to or used for medical laboratory use.

- (b) The owner of any dog or cat impounded may, at any time before its disposition, redeem it by paying to the poundmaster a redemption fee, and if the redeemed dog or cat is unlicensed, the owner shall be required to purchase a license. The owner of any dog or cat confined in the animal pound for observation of rabies pursuant to this chapter may redeem such animal after confinement by paying the current fee.

(Code 1974, §§ 5-31, 5-32; Ord. No. 1013, §§ 5-31, 5-32, 5-8-90) **State law reference(s)**—Authority to provide for the impounding and disposition of animals running at large, NMSA 1978, § 3-18-3A(3).

SEC. 6-76. ADOPTION OF IMPOUNDED DOGS OR CATS.

- (a) If the owner of any impounded dog or cat refuses or neglects to redeem such animal, after notice is given as required by section 6-37(b), any interested person over the age of 18 years may adopt such animal within the time limits as set forth in section 6-75.
- (b) The city animal pound will be open to the public for the adoption of dogs or cats on Mondays, Wednesdays and Fridays from 1:00 p.m. to 5:00 p.m. Additional hours may be established as necessary.
- (c) Any dog or cat considered by the poundmaster to be suitable for adoption may be held in the shelter for a 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 person adopting a dog or cat from the poundmaster shall be required to pay the current adoption fee for each animal so adopted. Any dog or cat brought by the owner into the shelter for adoption shall be placed for adoption at once and may be kept for a maximum of ten days.
- (d) Notwithstanding subsection (c) of this section, the city may contract with qualified organizations or individuals for animal adoption services or such other services at any such terms and conditions as the city council may deem desirable in the public interest. Any such contract shall set forth specifically all applicable terms and conditions of such services and shall be subject to periodic review by the council.
- (e) All dogs and cats adopted shall be licensed and immunized against rabies as provided in this chapter at the adoptor's expense.

(Code 1974, § 5-33; Ord. No. 1013, § 5-33, 5-8-90)

SEC. 6-77. FAILURE TO LICENSE, VACCINATE, REPORT ANIMAL BITES DECLARED MISDEMEANOR. It is a misdemeanor for any person who is the owner or keeper of a dog or cat to fail to have the same licensed and vaccinated. It is a misdemeanor for any physician to fail to report a person bitten by an animal. (Code 1974, § 5-34; Ord. No. 1013, § 5-34, 5-8-90)

SECS. 6-78–6-90. RESERVED.

DIVISION 2. LICENSE*

***State law reference(s)**—Licensing, NMSA 1978, § 77-1-15.1.

SEC. 6-91. REQUIRED.

It shall be unlawful for any person to keep a dog or cat which is over three months old within the city without having paid a license fee as provided in this division. (Code 1974, § 5-14; Ord. No. 1013, § 5-14, 5-8-90)

SEC. 6-92. LICENSE YEAR; FEES.

- (a) The annual license year shall commence on January 1 of each year, and the license fees shall be set from time to time by council and a schedule of such fees is on file in the city clerk's office.
- (b) A license purchased at any time after January 1 of any license year shall require the full annual fee.
- (Code 1974, § 5-15; Ord. No. 1013, § 5-15, 5-8-90)

SEC. 6-93. ISSUANCE; RECEIPT.

The licenses required by this division shall be issued by the city clerk and a receipt issued, a copy of which shall be kept on file in the office of the city clerk. The receipt shall bear the same number as the license tag together with the name and address of the owner of the dog or cat and a description of the dog or cat so licensed. (Code 1974, § 5-16; Ord. No. 1013, § 5-16, 5-8-90)

SEC. 6-94. NEW LICENSE REQUIRED FOR ADOPTED DOG OR CAT. Any dog or cat adopted from the poundmaster will require a new license to be paid by the new owner. (Code 1974, § 5-17; Ord. No. 1013, § 5-17, 5-8-90)

SEC. 6-95. TAG—ISSUANCE; PERMANENT ATTACHMENT TO COLLAR. A dog or cat license tag shall be issued upon the payment of the license fee and shall bear a number and the year for which issued. The license tag shall be permanently affixed to a collar to be worn around the neck of the dog or cat so licensed. (Code 1974, § 5-18; Ord. No. 1013, § 5-18, 5-8-90)

SEC. 6-96. DUPLICATES.

If a dog or cat license tag is lost or stolen, the owner of the dog or cat may procure a duplicate license tag from the city clerk on payment of the fee set therefor. (Code 1974, § 5-19; Ord. No. 1013, § 5-19, 5-8-90)

SEC. 36-65. ANIMALS RESTRICTED.

Animals are not allowed upon the property of the Carlsbad municipal beach park area or in or upon Lake Carlsbad. (Code 1974, § 24-2 (d))