

CITY OF PORTALES

PORTALES ORDINANCE No. 6 10

AN ORDINANCE REVISING, CHANGING, AND REPEALING PORTIONS OF THE PORTALES ANIMAL ORDINANCE, ORDINANCE NUMBER 569.

SECTION 1: TITLE: This Chapter, (Sections I through 35) shall be referred to as the Portales Animal Control Ordinance.

SECTION 2: All previous Ordinances set forth in Section 7-1 through 7-25 inclusive in the Portales City Code, are hereby repealed.

SECTION 3: Definitions: As used in this Chapter, the following terms mean:

- Animal: Any living creature, domestic or wild;
Animal Shelter: Any premises designated by the City for the purpose of impounding and caring for animals held under this Chapter;
Animal Control Officer: Any person designated by the City empowered to enforce Animal Control Ordinances;
Dangerous Animal:

- (1) An animal when, unprovoked, engages in behavior that requires defensive action by a person or animal when the person or animal are off the property of the Owner of the animal, or
(2) An animal which, when unprovoked, injures a person, or
(3) An animal which, because of its poisonous bite or sting, would constitute a significant hazard to the public.

Officer: The Animal Control Officer and/or any member of the Portales Police Department;

Owner: Any person, partnership, corporation, or other legal entity owning, keeping or harboring one or more animals. Any animal shall be deemed to be harbored if it is fed and/or sheltered for seventy-two (72) consecutive hours or more;

Person: An individual, partnership, company, corporation, or other legal entity;

Restraint: An animal shall be deemed to be under restraint if it is on the premises of its Owner and securely kept in a fence or other enclosure, or if off of the premises, if it is secured with a leash, rope, or chain and under the care of the Owner or other responsible person;

Veterinary Hospital: Any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries to animals.

SECTION 4: REGISTRATION REQUIRED:

No person shall own, keep, harbor, or have custody of any dog or cat over three (3) months of age unless or until the

animal is registered with the Portales City Clerk. Registration fee shall be two dollars (\$2.00) for each animal. At the time of registration, the City Clerk shall issue to the person registering, a metallic tag furnished by the City with a registration number and year of registration marked thereon. The owner and/or keeper of the animal must keep the registration tag fastened to the collar of harness of the animal and the registration tag shall be worn at all times when the animal is off the premises of its Owner and/or keeper.

SECTION 5: CERTIFICATE OF VACCINATION REQUIRED:

It shall be the duty of the Owner and/or keeper of any dog(s) and/or cat(s) kept within the City of Portales to have the animal(s) inoculated annually against rabies. The Owner and/or keeper must have proof of current inoculation at all times and provide evidence of the same to any Officer upon request.

SECTION 6: DANGEROUS ANIMALS:

It shall be unlawful to permit or allow any dangerous animal, of any kind, to be harbored and/or sheltered in the City of Portales.

SECTION 7: AUTHORIZATION TO KILL ANIMALS:

The members of the Portales Police Department are authorized to kill any animal of any kind when it is necessary for the protection of any person or property.

SECTION 8: CRUELTY PROHIBITED:

No person shall cruelly treat any animal in the City in any way. Any person who inhumanely beats, underfeeds, overloads, abandons, fails to provide adequate water, or fails to provide adequate shelter from severe heat or cold shall be deemed guilty of a violation of this section.

SECTION 9: KEEPING SICK OR DISEASED ANIMALS:

It is unlawful for any person to keep any animal which is seriously sick or injured and not provide proper veterinary care for said animal. Animal Control may impound and humanely destroy sick or injured animals, without giving notice as provided for in this Ordinance. Sick or diseased animals which pose a threat to other animals or to the public welfare, may be destroyed immediately as reasonably prudent.

SECTION 10: HOUSING DOMESTIC LIVESTOCK:

Any person desiring to keep any livestock within the City shall first obtain a permit to do so from the City. Any person desiring a permit required by the provisions of this Section shall make application therefore at the City Hall. Such application shall show:

- (a) The area of land owned or controlled by the applicant,
(b) The kind of livestock proposed to keep on such land,
(c) The location of the pen or enclosure in which such live-

stock is to be kept, and

- (d) The distance from such pen or enclosure to the nearest dwelling house of any person other than the applicant.
- (e) That the property is properly zoned for domestic livestock.

All applicants for permits must submit to an inspection by Animal Control and/or other City Officials prior to the issuance of the permit. This inspection will be limited to the immediate area where the domestic animal is to be kept. Permits required by the provisions of this Section upon approval of the application therefore, shall be issued without charge. All persons issued a permit under the provisions of this Section shall keep and maintain the pens, enclosures, and premises clean and in a sanitary condition at all times.

SECTION 11: RESIDENTIAL MULTI-ANIMAL PERMIT REQUIREMENTS:

A five dollar (\$5.00) residential multi-animal permit fee will be required annually of households having five (5) or more dogs or cats or any combination thereof, permits will be purchased yearly from the City Clerk.

SECTION 12: COMMERCIAL PERMITS:

A fifty dollar (\$50.00) fee will be required annually Of individuals boarding, raising, or selling dogs or cats for profit whether in a residence or commercial building. owners must also comply with all Zoning Laws and City Business License Laws.

SECTION 13: INSPECTIONS:

Any individual applying for a domestic livestock, residential multi-animal, or commercial permit must, as a condition of obtaining said permit, submit to an inspection of the property where the animals will be kept This inspection shall be performed by the Animal Control Officer and/or any other City official Inspections must be reasonable and limited in scope to the inspection of the condition of animals and to ensure that there is no violation of the Animal Control Act. Animal Control and/or any other City Official reserves the right to re-inspect said property for the duration of the permit if reasonable suspicion is present that a violation of the Animal Control Ordinance is occurring. Failure to comply with said inspection will result in the revocation of the permit. A permit may also be revoked if the Owner of the animals is convicted of a violation of the Animal Control Ordinance. If the permit is revoked the Owner is not eligible for a refund on the permit fee. Any person who fails to obtain a domestic livestock, residential multi-animal, or commercial permit, or who has said permit revoked must comply with all section of the Animal Control Ordinance. Failure to do so is a violation of the Ordinance. In addition to any sentence imposed by Municipal Court Animal Control Officer may seize any animals in excess of the limit imposed by this Ordinance.

SECTION 14: ABANDONMENT:

No person shall cause or allow any animal to be abandoned

within the City of Portales and it shall be unlawful for any person to abandon said animals within the City limits. Abandonment shall include, but not be limited to, leaving an animal without food and/or water and/or shelter for a period of forty-eight (48) consecutive hours or more.

SECTION 15: NUISANCE:

It shall be unlawful for any Owner to fail to exercise proper and reasonable care and control of his animals and to prevent them from becoming a public nuisance. For purposes of this section, “nuisance” shall be defined to mean, but is not limited to, excessive, continuous or untimely, loud, frequent or habitual barking, yelping, or howling; molesting passersby; chasing vehicles; attacking other domestic animals; trespassing upon school grounds or upon City or private property in such a manner as to damage said property; defecation, urination, or other acts which emit noxious or offensive odors or otherwise endanger or offend the well-being of the inhabitants of this city. No owner of an animal shall allow that animal to become a nuisance, endangering or offending the well-being of the inhabitants of this city.

SECTION 16: REMOVAL OF DEFECATION:

Any Owner or person having custody of any dog or any other animal, shall not permit said dog or any other animal to defecate on any school ground, public street, alley, sidewalk, tree bank, park, or any other public grounds or private property within the City of Portales other than the premises of the Owner or person having custody of said dog or other animal; unless said defecation is removed immediately by the Owner or person having custody of said animal.

SECTION 17: RUNNING AT LARGE:

No person shall permit any dog to run at large at any time or place within the City of Portales without being restrained in a secure fenced yard or secured with a leash, rope, or chain. It is the Owner’s obligation to insure that the animal is restrained at all times. The owner of any animal who is convicted of violating this section for the first known offense shall be punished by a fine of not less that \$50.00; for a second conviction shall be fined a fine of not less than \$75.00; and for a third conviction shall be fined a fine of not less than \$100.00. Any subsequent conviction involving the same animal may result in the removal and destruction of that animal by Animal Control. Any citizen of Portales who witnesses or is aware of a dog running loose shall call the Portales Police Department and/or the Animal Control Officer and inform them of the location of the dog and the Owner of said dog if known. In addition to capturing the dog, the Portales Police Department will notify the owner of said dog, if known, and it shall become the Owner’s obligation to assist the Police Department in any manner so directed.

SECTION 18: RIDING IN BACK OF MOTOR VEHICLES:

Any dog(s) in the back of any unattended motor vehicle, or otherwise not confined in the vehicle itself, or the cab of any pick-up shall be secured by a leash which

shall be attached firmly to the vehicle and which shall prevent said dog(s) from being able to get out of said vehicle.

SECTION 19: ESTABLISHMENT OF MUNICIPAL POUND. It shall be the duty of the City of Portales to maintain or provide for the maintenance of a municipal pound for the purpose of carrying out and enforcing the provisions of this Chapter. The Animal Control Officer shall be in charge of the municipal pound. Such a municipal pound shall include at least the following services and facilities:

- (a) adequate pickup and impounding of all stray and ownerless dogs and cats in violation of this Chapter.
- (b) group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of provisions of this Chapter.
- (c) individual isolation facilities for sick, dangerous, rabid, and suspected rabid animals.
- (d) facilities for the humane destruction of all unwanted or unclaimed animals.

SECTION 20: SEIZURE:

Any animal found in violation of the provisions of this Chapter may be impounded whether such animal shall be in the immediate presence of the Owner, Custodian, or otherwise.

SECTION 21: ALTERNATIVE ENFORCEMENT:

If the ownership of any animal found in violation of the provisions of this Chapter can be ascertained, such animal need not be impounded, but the Officer may take such animal to its Owner and cite such offending Owner for the violations of this Chapter, or may cite the Owner and require the Owner to comply with this Chapter. The failure of the Owner to comply with the Officer's request shall constitute a separate offense under this Chapter.

SECTION 22: RIGHT OF ENTRY:

The Animal Control Officer is hereby authorized to enter upon any unfenced lot, tract, or parcel of land for the purpose of chasing and impounding any animal therein found which is in violation of this Chapter.

SECTION 23: INTERFERENCE WITH ANIMAL CONTROL OFFICER: No person shall take or attempt to take any animal held by the Animal Control Officer from the possession or custody of the Animal Control Officer without first paying all the fees and expenses connected with the taking, keeping, advertising, or sale of the same, or shall interfere with the Animal Control Officer in the lawful discharge of any of his/her duties.

SECTION 24: NOTIFICATION:

Upon the impounding of any animal, it shall be the duty of the Animal Control Officer to notify the Owner of the animal impounded if the Owner is known and to keep a written record of his notification or attempts to do the same. If the Owner is not known, and the animal is not tagged as required

by Section Four of this Chapter, the Animal Control Officer shall have no duty or obligation to ascertain or learn the identity of the Owner and/or to notify the same.

SECTION 25: RIGHT TO REDEEM:

The Owner or Owners of any dogs or animal impounded hereunder, may redeem the same by paying all the costs, charges, and penalties assessed, if any, that have accrued up to the time of making the redemption and when the same are paid to said Animal Control Officer, it shall be his duty and he shall release the dog or other animal and deliver him to the Owner thereof.

SECTION 26: TIME FOR REDEMPTION:

All animals impounded under the provisions of this article shall be kept for a period of three (3) full days, not including the day it was impounded, unless sooner redeemed by their respective Owner. If the animal is tagged pursuant to Section Four hereof the Animal Control Officer shall make at least three (3) attempts to notify the Owner shown on said registration.

SECTION 27: FEES:

The following fees, in addition to any fines and/or penalties shall be charged for the impoundment of any animal under the provisions of this article:

- (a) First redemption within calendar year: \$20.00
- (b) Second redemption within calendar year: \$30.00
- (c) Third redemption within calendar year: \$40.00

Whenever any animal is impounded, an additional fee of \$5.00 shall be charged for each day or fraction thereof, for feeding and caring for such animal.

SECTION 28: REDEMPTION OF UNVACCINATED ANIMAL:

The Owner of any impounded animal which has not been vaccinated as required by Section Five of this Chapter, after satisfactory proof of ownership, may redeem his animal by paying all costs and fees and making a deposit of \$25.00 with the impounder and be allowed twenty-four (24) hours to get such animal vaccinated. If such Owner fails to procure a vaccination within 24 hours, the deposit shall be forfeited and the animal shall be impounded again. Upon presentation within said period of time of a certificate of vaccination issued under this Chapter, or a letter from a licensed veterinarian stating that the animal cannot be vaccinated at that time, but plans have been made for vaccination in the future, the deposit and animals shall be returned to the Owner.

SECTION 29: PET STERILIZATION:

- (a) Definitions: As used in this section, the following terms mean:
 - (1) Animal means a cat or dog;
 - (2) Sterilization means rendering an animal unable to reproduce, either by the spaying of a female animal or by the neutering of a male animal; and

- (3) Sterilization deposit means that portion of the adoption fee charged by the animal shelter when a person adopts an unsterilized animal; the “sterilization deposit” is refunded when the animal is sterilized.
- (b) Sterilization agreement and sterilization deposit required.
 - (1) No animal shall be released from an animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in subsection (b-3) and (b-4) of this section.
 - (2) In addition to any adoption fee charged a sterilization deposit, as may be established by the City Council from time to time, shall be imposed on the adoption of each animal from the City Animal Shelter.
 - (3) Animals less than six (6) months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six (6) months of age.
 - (4) Adult animals over the age of six (6) months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within thirty (30) days of the date of the adoption.
 - (5) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized.
 - (6) An unsterilized animal reclaimed by its Owner shall be released without being sterilized upon payment of the sterilization deposit and impound fees imposed by the shelter, and the Owner shall have signed an agreement stating he will sterilize the animal within thirty (30) days after release or will obtain a breeder permit or its equivalent as required by City Ordinance. The sterilization deposit shall be reimbursed upon presentation by the Owner of a receipt from a veterinarian that the animal has been sterilized.

SECTION 30: INJURY TO ANIMALS BY MOTORISTS: Any motor vehicle operator who strikes any animal shall immediately give first aid to the animal as is reasonably possible and shall immediately notify the Police Department or Animal Control. The operator shall immediately notify the Owner, or in the absence of the Owner, Animal Control. The operator shall remain at or near the scene until such time as the Owner or Animal Control arrives. In case of severe emergency to the animal a person may give aid by taking the animal to a veterinary hospital or Animal Control facility

SECTION 31: DOG BITES: Whenever a dog bites a person, the Owner of said dog or the victim, shall immediately notify the Police Department

which shall order the dog to be held on the Owner's premises or have it impounded for a period of two weeks. The dog shall be examined immediately after it has bitten anyone and again after the two week period. If at the end of two weeks, the veterinarian is convinced that the animal is free from rabies the dog shall be released from quarantine or from the pound as the case may be. If the dog dies in the meanwhile, its head shall be sent to the State Department of Health for examination of rabies. Failure of the Owners to comply with the Notice Requirements of this section shall result in a fine of not less than \$100.00 being imposed upon them. The Owner of any animal that has bitten any person or persons, whether provoked or not, and while not restrained on the Owners property, and/or is deemed to pose a threat to the safety and welfare of the community, may be cited into Municipal Court. If the animal is deemed to be a dangerous animal the Judge may order the animal either removed from the City limits within five (5) days or impounded by Animal Control and destroyed. If the Owner is ordered to remove the animal from the City limits and fails to do so, or removes the animal and then brings it back into the City limits, the animal shall be picked up by Animal Control and destroyed. In addition to any other fine, penalty, and/or fee imposed under this Chapter there shall be assessed against the owner of any dog who bites a person, a fine of not less than \$50.00.

SECTION 32: DOG SERVING A DISABLED MASTER: Notwithstanding any other provision of this article, a professional trained dog serving a disabled master shall not be quarantined or subject to the same strict requirements as set forth in this Chapter in the absence of evidence that he has been exposed to rabies unless:

- (a) the master fails to keep it safely confined to premises of its master or under restraint; or
- (b) to keep it available for examination at all reasonable times.

SECTION 33: PENALTIES: Any person, firm, or corporation violating any of the provisions of this Ordinance which does not set forth a fine or penalty of its own, shall be fined not less than \$25.00 and no more than \$500.00 an/or may be incarcerated for a period not to exceed ninety (90) days for each separate violation and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 34: ADDITION TO CODE: It is the intention of the City Council and it is hereby ordained , that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Portales, New Mexico, and the sections of this Ordinance may be renumbered to accomplish such intention.

SECTION 35: EFFECTIVE DATE: This Chapter shall become effective and go into full force and effect in and for the City of Portales on the ___ day of _____.