

ROSWELL

**CHAPTER 5: ANIMALS AND FOWL\***

\*Cross reference -- Nuisance, Ch. 19; State law reference -- Municipal authority to regulate animals, NMSA 1978, § 3-18-3.

**ARTICLE 1: IN GENERAL**

**SEC. 5-1. CRUELTY TO ANIMALS; MISDEMEANOR.**

- (a) Cruelty to animals consists of:
  - (1) Physical abuse. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise injure any animal; except that reasonable force may be employed to drive off vicious or trespassing animals.
  - (2) Working cruelty. It is unlawful for any person to drive or work any animal cruelly or work any animal when such animal is unfit for labor.
  - (3) Neglect. It is unlawful for any person to fail or refuse to provide any animal in his charge or custody with proper food, drink, air, light, shade, shelter or protection from the weather; or to carry any animal in or upon any vehicle without proper ventilation or in any cruel, inhumane or unsafe manner.
  - (4) Abandonment. It is unlawful for any person to abandon any animal within the City of Roswell. Wherever an animal is or will be without proper care because of injury, illness, incarceration or other absence of its owner for a period of over twenty-four (24) hours, the animal control officer or his representative may take up such animal for protective care under proper court order.
  - (5) Poisoning and trapping. It is unlawful for any person to make accessible to any animal, with the intent of harming or killing, a substance which has been treated or prepared with harmful or poisonous material. No person shall use or set a steel leg-hold trap within the city. This section shall not prohibit the eradication of vermin which are a threat to public health.
  - (6) Injury by motor vehicle. Any motor vehicle operator who strikes or runs down any animal shall immediately notify the animal control officer. The operator, or a passenger, shall immediately notify the animal's owner or the animal control officer, furnishing the facts surrounding the accident and the injuries sustained by the animal. The operator shall remain at or near the scene until such time as the owner or the animal control officer arrives. In the case of a severe injury or emergency to the animal, a person may give aid by taking the animal to a veterinary hospital or to the animal control center. Emergency vehicles are excluded from this provision.

- (7) Hobbling. It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to the animal.
- (8) Keeping sick or diseased animals. It is unlawful for any person to own any animal which is seriously sick or injured and not provide proper veterinary care for said animal. The city animal control officer may impound and humanely euthanize sick or injured animals without giving notice, as provided in the impoundment sections of this chapter. This section shall not be construed to include veterinary hospitals or animals under veterinary care.
- (9) Dogfights. No person shall cause, instigate, encourage or attend any dogfight within the city.
- (b) Penalty. Except as herein otherwise provided, any person who willfully or maliciously and unlawfully commits any of the acts described herein as cruelty to animals shall be guilty of a misdemeanor.  
(Code 1962, H 8-4, 8-45, 8-46; Ord. No. 1180, § 1, 5-10-88)  
**State law references**—Cruelty to animals, NMSA 1978 § 30-18-1; dog fights, NMSA 1978 § 30-18-9; municipal authority to prohibit cruelty to animals, NMSA 1978, § 3-18-3(A)(A).

**SEC. 5-2. KEEPING VENOMOUS REPTILES.**

- (a) As used in this section the term “venomous reptile” shall mean any snake, serpent or reptilia species of a variety known to be deadly or poisonous to humans or animals, if bitten or otherwise attacked.
- (b) Keeping of venomous reptiles consists of knowingly keeping, harboring or maintaining any venomous reptile in a live state within the city and shall be unlawful, except:
  - (1) In an established zoo, museum or licensed establishment open to the public, or
  - (2) In any place or manner as the governing body shall otherwise permit.
 (Code 1962, §§ 8-58, 8-59)

**SEC. 5-3. DISPOSITION OF DEAD ANIMALS.**

The animal control facility shall provide for pickup and disposition of dead animals within the city as its capabilities may permit. When the animal control facility is unable to provide for the disposition of a dead animal, its owner or other person in charge of the animal shall dispose of the animal as directed by the animal control officer. The animal shall be disposed of within twelve (12) hours after its death. (Code 1962, § 8-11; Ord. No. 1180, § 2, 5-10-88)

**Secs. 5-4—5-15. Reserved.**

**ARTICLE II: LIVESTOCK**

**DIVISION 1. GENERALLY**

**SEC. 5.16. RUNNING AT LARGE.**

- (a) It shall be unlawful for any horses, cattle, burros, swine, sheep or goats to run at large or be loose within the city.
- (b) It shall be unlawful for any owner or any person in charge of the same to permit chickens, turkeys, ducks, geese, guineas or other fowl to run at large in the city. All owners of or persons in charge of such fowl shall keep such fowl safely within a secure enclosure, so as to prevent destruction of lawns, gardens, flower beds or any other like improvements within the city.
- (c) Any person who shall find any animal running at large contrary to the provisions of this section may take up and deliver such animal to the city.

(Code 1962, §§ 8-6, 8-7, 8-17)

**SEC. 5-17 LEADING, DRIVING, ETC., THROUGH STREETS, ETC.**

It shall be unlawful for any person to ride, drive or lead any horse, mule, cattle, burro, hog, sheep, or goat through or over any street or alley in the city without having such animal under complete control and securely fastened with a rope or halter. If any person shall ride, drive or lead any such animal as aforesaid without having the animal securely fastened or if any such animal while being so ridden, driven or lead shall break any tree or shrub or go upon or injure the property of another or shall injure any person, the person so riding, driving or leading such animal shall be guilty of a violation of this section, and the owner of such animal shall be liable to the person injured or to the owner of the property injured for all such damages.

(Code 1962, § 8-10)

**SECS. 5-18—5-30. RESERVED.**

**DIVISION 2: KEEPING**

**SEC. 5-31. DEFINITIONS,**

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Fowl: Turkeys, geese, guineas, chickens, pigeons and all other domestic fowl, except pets confined to the proper residence.

Livestock: Horses, mules, burros, cows, goats, sheep, swine, and all other animals, domesticated or undomesticated, excepting dogs and cats. (Code 1962, § 8-19)

**SEC. 5-32. CIVIL REMEDIES UNAFFECTED.**

Nothing in this division shall prohibit an action against a person keeping animals for a nuisance in fact.

(Code 1962, § 8-22; Ord. No. 1042, § 1, 8-12-80)

**SEC. 5-33. PROHIBITED; NUISANCE DECLARED.**

The keeping, harboring, confining or maintaining of any animals classified as livestock or fowl within the city is hereby

declared to be a nuisance and unlawful, except in areas classified as Rural-Suburban (R-S) under the zoning ordinance. Exception: Rabbits may be kept within those areas that are zoned R-1, R-2, R-3 providing there are no more than three (3) rabbits, which must be of the same sex, and are permanently housed in a cage that prevents their escape, The residence where the rabbits are housed is subject to applicable provisions of the Roswell Municipal Code Chapter 5 and specifically:

- (1) No person shall offer this animal as a prize, award, novelty, or incentive.
- (2) It shall be unlawful for anyone to willfully allow rabbits to run at large upon their premises or within the city limits.
- (3) Cages or secure enclosures shall be located ten (10) feet from the nearest property line, and must also conform to zoning and building requirements,
- (4) All housing, pens, cages or facilities shall be structurally sound, maintained in good repair, adequately spaced, weatherproof, ventilated, sufficiently shaded, easy to be kept clean, sanitary, and of nontoxic materials.
- (5) Animals shall be provided with clean, fresh, and sufficient amount of water, wholesome and adequate food.
- (6) This exception applies only to domesticated rabbits and excludes all other rabbits, commonly referred to as wild rabbits (i.e. Cottontail rabbits and jackrabbits).

(Code 1962, § 8-20(a); Ord. No. 1180, § 3, 5-10-88: Ord. No. 1253, § 1, 8-11-94) Cross reference-Nuisances generally, Ch. 19.

**SEC. 5-34. PIGEONS**

- (a) Nothing in this division shall be construed as prohibiting the keeping of homing pigeons, defined as antwerp messenger or homing pigeons, also commonly called “carrier pigeons” and bearing upon a leg a seamless band or ring with the name or initials of the owner or an identification or registration number stamped thereon,
- (b) The keeping of homing pigeons shall be subject to the following regulations:

- (1) No more than forty (40) homing pigeons shall be kept or harbored on any lot or tract of land within the limits of the city
- (2) Homing pigeons shall at all times be kept confined in proper cages or lofts except when released for necessary exercise and training under restraint and control of their owner. Such pigeons shall not be permitted to alight upon buildings and property of others.
- (3) Cages or lofts for homing pigeons shall be located at least ten (10) feet from the nearest property line and shall be in conformity with applicable zoning and building requirements.

(Code 1962, § 8-22, Ord. No. 1042, § 1, 8-12-80)

**SEC. 5-35. VIETNAMESE PIGS; EXCEPTION TO PROHIBITED NUISANCES.**

Swine commonly referred to as Vietnamese pigs, or Asian

potbellied pig, or potbellied pigs are viewed as pets. A person may maintain within the city limits such animals subject to the following restrictions:

- (1) There cannot be more than one (1) animal of this classification on the property at one time;
- (2) The weight of the pig cannot exceed one hundred (100) pounds;
- (3) Owner is required to obtain and maintain current license (dog licenses will be -used) for the pig. The owner shall present at the time of licensing the registration papers, an annual certificate of health (indicating the absence of pseudorabies, brucellosis, and leptospirosis), and proof of current inoculation against leptospirosis;
- (4) Be subject to applicable provisions of the Roswell Municipal Code Chapter Five,  
(Ord. No. 1235, § 1, 3-11-93)

**SECS. 5-30–5-45. RESERVED.**

**DIVISION 3. IMPOUNDMENT\***

\*State law reference- Municipal authority to impound animals. NMSA 1978, § 3-18-3(A)(3).

**SEC. 5-46. DISPOSITION OF IMPOUNDED ANIMALS.** When any animal found running at large is impounded, its disposition shall be determined using the provisions of sections 5-101 through 5-108 of this Code, the same as if the animal were a dog or cat. (Code 1962, § 8-12; Ord, No. 1180, § 4, 5-10-88)

**SEC. 5-47. REDEMPTION GENERALLY.**

The owner of an animal which has been impounded by the city may redeem it by presenting proof of ownership and paying to the city the required impoundment fees, (Code 1962, §§ 8-12, 8.13)

**SEC. 5-48, FEES.**

No owner of an animal which has been impounded pursuant to the provisions or this article shall be permitted to redeem the animal from the city unless he pays to the city the sum of ten dollars (\$10.00), plus the cost of caring for and feeding the animal. (Code 1962, § 8-15)

**SEC. 5-49. SALE AND REDEMPTION AFTER SALE.**

- (a) Upon the sixth day after the day of posting of the required notice, if the animal remains unclaimed and the required impoundment fees unpaid, the animal control officer shall sell the animal or cause it to be sold, at public sale in the city, subject, however, to the right of the owner to redeem it as herein provided, and shall pay out of the proceeds of the sale all impoundment fees for the animal and the remainder, if any, the animal control officer shall pay over to the city clerk and take his receipt therefor.
- (b) The animal control officer shall execute and deliver in

the name of the city a good and sufficient bill of sale, to the purchaser of any such animal so sold under this article. The owner of any animal sold may, at any time within thirty (30) days after the sale, by appearing and making satisfactory proof of the ownership of such animal, have the right to redeem the animal from the purchaser thereof by paying the purchase price and a reasonable compensation to such purchaser, not to exceed one dollar (\$1.00) per day, for the care and maintenance of the animal for the actual time it has been kept by such purchaser, and, the owner complying herewith, shall also have the right to receive from the city the amount received by the city from the sale of the animal, less the required impoundment charges. All bills of sale executed and delivered by the city to the purchasers of impounded animals shall expressly provide for the right of redemption of the animals by the owner.

(Code 1962, § 8-12)

**SEC. 5-50. BREAKING INTO POUND, ETC.**

No person shall break open any pound wherein any animals are impounded, or remove or aid in the removal of any animals so impounded without having paid all the costs, charges and expenses provided in this article, or hinder, delay or obstruct any person driving to the pound any animal under the provisions of this article. (Code 1962, § 8-16)

**SECS. 5-51—5-60. RESERVED.**

**ARTICLE III: DOGS AND CATS  
DIVISION 1. GENERALLY**

**SEC. 5-61. DEFINITIONS.**

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

Cat: Any domesticated feline of the housecat variety over three (3) months of age.

Dog: Any dog, bitch or whelp over three (3) months of age

Impoundment: An animal is taken into custody by the animal warden, his agents or representatives or a police officer by reason of a violation of city ordinances.

Kennel: Any premises providing accommodations for four (4) or more dogs boarded and maintained as a licensed commercial enterprise for board and keep, sale, raising or breeding, except veterinary hospitals.

Owner: Any person owning, keeping, possessing or harboring a dog or cat within the city, except licensed kennels or veterinary hospitals.

Unlicensed dog: Any dog found without current paid license and tag as required in this article.

(Code 1962, § 8-23)

**SEC. 5-62. LIABILITY FOR VIOLATIONS.**

For the purpose of prosecution for violations of this article,

proof of notice or knowledge on the part of any owner, possessor or keeper of a dog that such dog was violating any of the provisions hereof at the time and place charged, shall not be required to support a conviction, it being the purpose and intent of this article to impose strict liability upon any such owner, possessor or keeper of any dog for its actions, conduct and condition. (Code 1962, § 8-48)

**SEC. 5-63. ANIMAL CONTROL FACILITY.**

The city manager is authorized to establish an animal control facility on behalf of the city, to be operated by city personnel or, the manager may, subject to the approval of the governing body, contract with a public or private person or organization for operation of the facility for and on behalf of the city. (Code 1962, § 8-24)

**SEC. 5-64. INTERFERENCE WITH ENFORCEMENT.**

It shall be unlawful for any person to interfere with, hinder, molest or obstruct any animal control officer or police officer in the discharge of official duties under this article. (Code 1962, § 8-25)

**SEC. 5-65. RABIES VACCINATION.**

The owner, possessor or keeper of every dog or cat within the city shall have such animal inoculated against rabies by a veterinarian licensed in the state between January 1 and March 1 of each year. Animals acquired or brought into the city after the first day of March in any calendar year shall be inoculated within thirty (30) days thereafter. (Code 1962, § 8-32) **State law reference**—Rabies inoculations, NMSA 1978, § 77-1-3.

**SEC. 5-66. RUNNING AT LARGE.**

- (a) It shall be unlawful for any owner, possessor or keeper of any dog in the city to permit such animal to run at large within the city. A dog shall be deemed to be running at large when off or away from the premises of the owner, possessor or keeper or his agent or servant or a member of his immediate family, uncontrolled either by leash, cord or chain, not more than ten (10) feet in length.
- (b) It is unlawful for any owner, possessor or keeper of any cat in the city to permit it to run at large within the city. (Code 1962, §§ 8-39, 8-48.1) **State law reference**—Municipal authority to prohibit the running at large of animals, NMSA 1978, § 3-18-3(A)(2).

**SEC. 5-67. CONFINEMENT OF FEMALE DOGS AND CATS IN HEAT.**

- (a) Any female dog or cat while in heat shall be securely confined during such period in the owner’s yard, pen or other enclosure. Such yard, pen or enclosure shall be so constructed or situated as will prevent other dogs or cats gaining access thereto.
- (b) The owner or keeper of a female dog or cat in heat shall be prima facie presumed to be in violation of this section where:

- (1) Such female dog or cat is found running at large, or
- (2) Such female dog or cat shall be not securely confined as will prevent other dogs and cats gaining access thereto.

(Code 1962, § 8-26)

**SEC. 5-68. PUBLIC NUISANCES.**

- (a) With respect to the owning, harboring or maintaining of dogs or cats, a public nuisance shall consist of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which either:
  - (1) Is injurious to public health, safety, morals or welfare; or
  - (2) Interferes with the exercise and enjoyment of public rights.
- (b) Without limitation on the foregoing criteria, public nuisances shall include the following with regard to dogs and cats:
  - (1) Permitting, creating or maintaining unsanitary conditions due to animal excrement, diseased animals or the bodies of dead animals, which conditions affect the public health and welfare.
  - (2) Permitting or causing barking, howling, whining, mewling or other animal noises to the extent that the public peace and quiet is regularly or continuously disturbed.
  - (3) Permitting or causing the destruction of public property or the destruction of private property when the property rights of a large segment of the neighboring community are affected, whether such public or private property is real, personal or mixed.
  - (4) Owning, harboring or maintaining a dog or cat which has not been inoculated against rabies or for which an appropriate license has not been acquired pursuant to the provisions of this article.
  - (5) Permitting or causing an unspayed female dog or cat to run at large while in heat.
  - (6) Owning, harboring or maintaining a vicious dog, as defined in section 5-69, and allowing such vicious dog to run loose.
- (c) Whoever commits a public nuisance with regard to the owning, harboring or maintaining of a dog or cat shall be guilty of a misdemeanor.
- (d) For the purposes of this section, prior warning of violation of any subsection or paragraph hereof shall raise a rebuttable presumption of knowledge on the part of any person owning, harboring or maintaining a dog or cat with respect to any and all subsequent violations of that particular subsection or paragraph, when such warning has been issued, orally or in writing, by an animal control officer, a police officer, the city attorney, the city manager or any other person designated by the city manager. (Code 1962, § 8-28.1) **Cross reference**—Nuisances generally, Ch. 19. **State law reference**—Municipal authority to define, abate and prohibit nuisances, NMSA 1978, § 3-18-17(A).

**SEC. 5-69. VICIOUS DOGS.**

- (a) It shall be unlawful for any person, owning, possessing or keeping any dog within the city which is known to be vicious or dangerous to persons, to permit it to run loose in such manner as to endanger life or limb of any person lawfully upon public or private property.
- (b) For the purposes of this section a vicious dog is a dog that without provocation bites or attacks human beings or other animals or, in a vicious or terrorizing manner approaches any person in apparent readiness and attitude of attack.
- (c) Animal control officers or police officers shall cause vicious dog to be impounded. In the event a vicious dog cannot be impounded without danger of personal injury from such dog, the impounding officer may destroy the dog without notice to the owner, possessor or keeper thereof.

(Code 1962, § 8-40) **State law reference**—Vicious dogs, NMSA 1978, § 77-1-10.

**SECS. 5-70-5-85. RESERVED.**

**DIVISION 2. DOG LICENSE**

**SEC. 5-86. REQUIRED.**

The owner, possessor or keeper of any dog within the city shall procure a license for such dog from the animal control officer on or before the first day of March in each year or within thirty (30) days after the dog reaches the age of three (3) months. Dogs acquired after the first day of March in any calendar year shall be licensed within thirty (30) days after such acquisition. New residents of the city shall have thirty (30) days after becoming residents to procure licenses for their dogs.

(Code 1962, § 8-29)

**SEC. 5-87. APPLICATION.**

Upon making application for a dog license, the applicant shall exhibit to the animal control officer a certificate from a licensed veterinarian that the dog for which the license is sought has been inoculated against rabies in accordance with law. Forms for the application for a license shall be provided by the clerk-treasurer. (Code 1962, § 8-31)

**State law reference**—Rabies vaccination, NMSA 1978, § 77-1-3.

**SEC. 5-88. FEE.**

The annual license fee for dogs within the city shall be four dollars (\$4.00) for males and spayed females and five dollars (\$5.00) for unspayed females. No license fee shall be charged for dogs trained to assist the deaf or blind. License fees herein provided shall not be prorated.

(Code 1962, § 8-30; Ord. No. 1170, § 1, 6-9-87)

**SEC. 5-89. TAGS.**

- (a) It shall be the duty of the animal control officer to

deliver or cause to be delivered to each person making application for a dog license a dog tag for each dog licensed and inoculated upon payment of the license fee and presentation of a valid certificate of inoculation as required by ordinance.

- (b) Only those persons who own, possess or keep a dog duly licensed and inoculated as required by ordinance shall be permitted to possess a dog tag.
- (c) Dog tags shall be of such size, shape, color and material as may be deemed suitable by the clerk-treasurer; provided, that the color of the tag shall be changed each year. Each tag shall bear a number engraved thereon in successive numerical order, commencing with number one, together with the year of issue in bold and legible figures and the name of the city spelled out thereon.
- (d) Every owner, possessor or keeper of a dog within the city shall place upon such dog a collar or harness of durable material to which the dog tag shall be attached.
- (e) No person shall affix to the collar or harness of any dog or permit to remain so affixed any tag evidencing licensing and rabies inoculation, except the bona fide tag issued to the particular dog at the time of issuance of its license.
- (f) It shall be the duty of the animal control officer to maintain or cause to be maintained accurate records reflecting the date of issuance of all dog tags; the name and address of the person to whom such tag is issued, the number thereof and approximate age, color and breed of dog for which license is issued. If the dog tag is lost or destroyed a duplicate tag may be had from the animal control officer upon payment of a fee of fifty cents (\$0.50). In the event ownership or possession of a licensed dog shall be changed, a new dog tag must be obtained from the animal control officer upon proof of compliance with the licensing requirements of this article and payment of the fee of fifty cents (\$0.50).

(Code 1962, §§ 8-33-8-38)

**Secs. 5-90-5-100. Reserved.**

**DIVISION 3. IMPOUNDMENT**

**SEC. 5-101. AUTHORIZED.**

Animal control officers or police officers may impound any dog or cat reasonably believed to be in violation of any city ordinance.

(Code 1962, §§ 841, 8-48.2)

**SEC. 5-102. PROCEEDINGS AGAINST OWNER OR**

**KEEPER.** When a dog or cat is impounded the animal impounding officer or his authorized representative shall institute proceedings in the municipal court on behalf of the city against the owner, possessor or keeper of impounded animal, if known, charging such owner, possessor or keeper with a violation of the appropriate ordinance. This section shall not prevent institution of proceeding in the municipal court for any violation where there has been no impound-

ment. (Code 1962, § 8-42)

**SEC. 5-103. NOTICE TO OWNER.**

As soon as practicable after impoundment of a dog or cat, the animal control officer shall cause to be posted in a conspicuous place in the office of the animal control facility for three (3) consecutive days a notice of impoundment, which notice shall set forth a general description of the dog or cat impounded, the location where it was taken and the date of impoundment. (Code 1962, §§ 8-43, 8-48.2)

**SEC. 5-104. REDEMPTION.**

(a) Any owner, possessor or keeper of a dog, desiring to redeem it from the custody of the animal control facility, shall pay to the animal control officer the sum of ten dollars (\$10.00) as an impoundment fee, which fee shall increase by ten dollars (\$10.00) for each subsequent redemption, together with the sum of four dollars (\$4.00) for each day of impoundment for care and feeding of the dog, plus any unpaid license or inoculation fees therein.

(b) Any owner, possessor or keeper of a cat, desiring to redeem it from the custody of the animal control facility, shall pay to the animal control officer the sum of seven dollars and fifty cents (\$7.50) as an impoundment fee, which fee shall increase by five dollars (\$5.00) for each subsequent redemption, together with the sum of two dollars (\$2.00) for each day of impoundment for care and feeding.

(Code 1962, §§ 8-27, 8-48.2; Ord. No. 1170, § 2, 6-9-87)

**SEC. 5-105. ADOPTION.**

(a) Any dog or cat which has not been redeemed by its owner within four (4) days of its impoundment may be adopted by another person upon payment to the city of the redemption fees for the animal, any applicable license fees and the sum of two dollars (\$2.00), in the case of cats, and four dollars (\$4.00), in the case of dogs, for each day of impoundment for care and feeding.

(b) The animal control officer shall execute and deliver in the name of the city a bill of sale to the person adopting any dog or cat under this section. The prior owner of a dog or cat may, within thirty (30) days after the sale, redeem the dog or cat from the adoptive owner upon satisfactory proof of ownership and payment of the adoption costs and other associated expenses incurred by the adopting owner. All bills of sale shall expressly provide for redemption by the prior owner as set forth herein.

(Ord. No. 1170, § 3, 6-9-87; Ord. No. 1180, § 5, 5-10-88)

**SEC. 5-106. SPECIAL PROVISIONS FOR UNSPAID ANIMALS.**

No unspayed female dog or cat shall be released from impoundment by the city, except upon order of the municipal court, which court within its discretion may order such release upon:

- (1) A showing to the satisfaction of the court that such animal has commercial value for breeding purposes evidenced by competent testimony or bona fide registration documents; or
- (2) Satisfactory agreement of the owner, possessor or keeper to maintain secure confinement in good faith of the animal, subject to mandatory removal of the animal from the city or disposal thereof upon occurrence of a second impoundment; or
- (3) Satisfactory agreement of the owner, possessor or keeper to sterilize such female animal as will prevent reproduction at his own sole sale cost and expense.

(Code 1962, § 8-27(b))

**SEC. 5-107. UNCLAIMED ANIMALS.**

Any dog or cat impounded by the city which is not redeemed or adopted within seven (7) days of its impoundment shall be disposed of in any humane manner as shall be prescribed by the animal control officer or the city manager. (Code 1962, § 8-28)

**SEC. 5-108. RECORDS.**

The animal control officer shall maintain, or cause to be maintained, accurate records of the disposition, release or redemption of any dog or cat impounded by the city, reflecting a general description of the animal, the date of redemption, the name and address of the person to whom released, the dog tag number and the fees paid.

(Code 1962, § 8-27(a))

**SECS. 5-109-5-120. RESERVED.**

**ARTICLE IV: RABIES CONTROL**

**SEC. 5-121. POSSESSION, ETC., OF RABID ANIMALS.**

It shall be unlawful for any person to have, keep or harbor any animal which is known or believed by him to be infected with rabies, except as provided in this article.

(Code 1962, § 8-49)

**SEC. 5-122. ANIMALS BITING PERSONS.**

(a) If an animal bites a person, or is reported to have bitten a person, or is suspected of having bitten a person, the owner or the person having the care, custody or possession of the same shall immediately notify the police department, the animal control officer or the county health officer, and deliver and surrender the animal to a police officer of the city or to any representative of the animal control officer or the county health officer for observation for rabies.

(b) A person injured by an animal shall report such injury to the animal control officer, who shall forthwith render a full and complete report of the investigation therein.

(c) Any officer taking any animal pursuant to this section shall cause such animal to be confined in the animal control facility or at any other safe and suitable place as

the owner or keeper thereof shall direct at his own expense, which place of confinement shall be approved by a licensed veterinarian or the county health officer. In no event shall the animal be placed in any enclosure with animals of any kind. Confinement of the animal shall be continued for a period of fourteen (14) days or such other time, not less than ten (10) days, as the county health officer shall direct or deem necessary, so as to avoid all danger to life or health of the public, during which time the animal shall be observed by a licensed veterinarian or county health officer to determine whether or not it is afflicted with rabies. The animal shall not be released from confinement except upon the authorization of the county health officer and upon payment by the owner or custodian thereof of the charges for its care and feeding, together with all other expenses and costs incident to custody and observation.

- (d) It shall be unlawful for any person owning or having custody of an animal which has bitten a person within the city to remove it from the city within fourteen (14) days after it has bitten a person.

(Code 1962, §§ 8-50, 8-51, 8-53) State law reference--Notice to health officer of animal bites and confinement of animal, NMSA 1978, § 8-54)

**SEC. 5-123. CARCASS OF ANIMAL DYING OF RABIES.** The carcass of any animal which has died of rabies or has been suspected of having such disease shall be surrendered immediately to the county health officer for disposition. (Code 1962, § 8-54)

**SEC. 5-124. PROCEDURE WHEN DOGS SUSPECTED OF RABIES.**

- (a) The animal control officer shall take into custody and confine for observation, by a licensed veterinarian or the county health officer, in the manner provided for in section 5-122, any dogs at large on the public streets or property suspected of or showing any symptom of rabies. In the event the dog is infected with rabies or madness, the animal control officer or police officer, before destroying or disposing of the dog, shall first obtain authorization from the county health officer. No dog confined for observation for rabies shall be destroyed or disposed of except after the required observation and upon authorization of the county health officer.
- (b) In no event shall an officer of the city go upon private property for the purpose of taking a dog suspected of or showing symptoms of madness or rabies without first having obtained the written consent of the property owner or having obtained, upon showing of good and probable cause therefor, a proper search warrant issued for that purpose.

(Code 1962, § 8-55) State law reference--Dogs or cats bitten by rabid animals, NMSA 1978, § 77-1-7.

**SEC. 5-125. AUTHORITY OF MAYOR TO ORDER DOGS TO BE MUZZLED OR CONFINED.**

The mayor or, in his absence, the acting mayor, is hereby authorized, at his discretion and upon sufficient apprehension of danger to the public health and safety from mad dogs or when there may be rabies in the city, to issue a proclamation ordering that all dogs in the city shall, within twenty-four (24) hours after publication of such proclamation in a newspaper of the city, be safely and securely muzzled to prevent biting and be securely confined upon the premises of the owners, custodians or persons having possession of such dogs, unless such dogs shall be continuously controlled on a leash by a person over fourteen (14) years of age. Every unmuzzled dog running at large within the city during such period of quarantine shall be impounded in the animal control facility. When no case of rabies remains in the city or when the danger occasioned from the spread of rabies has passed, the mayor shall publish a notice in like manner terminating the order of quarantine.

(Code 1962, § 8-56) State law reference--Quarantines, NMSA 1978, § 77-1-10.

**SEC. 5-126. RESISTING ENFORCEMENT.**

It shall be unlawful for any person to hinder, resist or oppose the humane officer, or his duly appointed assistants or members of the city police department in the performance of their duties under this article or to conceal or secrete any dog or animal coming under the provisions of this article from the officers authorized by this article to take the same into custody. (Code 1962, § 8-57)

**ORDINANCE NO. 03-08**

AN ORDINANCE OF THE CITY OF ROSWELL PROVIDING THAT THE CODE OF ORDINANCES, CITY OF ROSWELL, NEW MEXICO, BE AMENDED BY REVISING SECTION 4-1a IN THE ROSWELL CITY CODE BY DELETING CURRENT SUBSECTION 8 ADDING TWO NEW SUBSECTIONS AND DELETING "LIVESTOCK OR OTHER" FROM SUBSECTION 4-1a(5) AND REPHRASING OF SUBSECTION 4-1b AND; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND FIXING AN EFFECTIVE DATE.

WHEREAS, New Mexico State Statute section 30-18-1 provides for felony prosecution for certain aspects of animal cruelty which is beyond the jurisdiction of the Municipal Court; and

WHEREAS, the interests of the public would be served to prosecute the physical abuse and poisoning and trapping offenses through Municipal Court; and

WHEREAS, the City Council has determined that the public

interest will best be served by deleting current subsection 4-1(a)(8) and adding new subsections 4-1(a)(8) and 4-1(a)(9) and rephrasing of subsection 4-1b.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL, OF ROSWELL, NEW MEXICO, that:

**SECTION 1.**

The Roswell City Code Section 4-1 is hereby amended to read as follows:

**SEC. 4-1. CRUELTY TO ANIMALS**

(a) Cruelty to animals consists of:

- (1) Working cruelly. It is unlawful for any person to drive or work any animal cruelly or work any animal when such animal is unfit for labor
- (2) Neglect. It is unlawful for any person to fail or refuse to provide any animal in his charge or custody with proper food, drink, air, light, shade, shelter or protection from the weather; or to carry any animal in or upon any vehicle without proper ventilation or in any cruel, inhumane or unsafe manner.
- (3) Abandonment. It is unlawful for any person to abandon any animal within the City of Roswell. Wherever an animal is or will be without proper care because of injury, illness, incarceration or other absence of its owner for a period of over twenty-four (24) hours, the animal control officer or his representative may take up such animal for protective care under proper court order.
- (4) Injury by motor vehicle. Any motor vehicle operator who strikes or runs down any animal shall immediately notify the animal control officer. The operator, or a passenger, shall immediately notify the animal's owner or the animal control officer, furnishing the facts surrounding the accident and the injuries sustained by the animal. The operator shall remain at or near the scene until such time as the owner or the animal control officer arrives. In the case of a severe injury or emergency to the animal, a person may give aid by taking the animal to a veterinary hospital or to the animal control center. Emergency vehicles are excluded from this provision.
- (5) Hobbling. It is unlawful for any person to hobble animals by any means which may cause injury or damage to the animal.
- (6) Keeping sick or diseased animals. It is unlawful for any person to own any animal which is seriously sick or injured and not provide proper veterinary care for said animal. The city animal control officer may impound and humanely euthanize sick or injured animals without giving notice, as provided in the impoundment sections of this chapter. This section shall not be construed to include veterinary hospitals or animals under veterinary care.

(7) Dogfights. No person shall cause, instigate, encourage or attend any dogfight within the city.

(8) Physical abuse. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise injure any animal; except that reasonable force may be employed to drive off vicious or trespassing animals.

(9) Poisoning and trapping. It is unlawful for any person to make accessible to any animal a substance which has been treated or prepared with harmful or poisonous material. No person shall use or set a steel leg-hold trap within the city. This section shall not prohibit the eradication of vermin which are a threat to public health.

(b) Penalty. Except as herein otherwise provided, any person who willfully or maliciously and unlawfully commits any of the acts described herein as cruelty to animals shall be guilty of a misdemeanor.

**SECTION 2. REPEALER.**

All Ordinances or parts of Ordinances in conflict or inconsistent herewith are hereby repealed to the extent only of such conflict or inconsistency. This repealer shall not be construed to revive any Ordinance or part of any Ordinance heretofore repealed.

**SECTION 3. SEVERABILITY.**

If any section, paragraph, clause or provision of this Ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not be affected any other part of this Ordinance.

**SECTION 4.**

This Ordinance shall be effective five (5) days following its publication.

PASSED, ADOPTED, SIGNED AND APPROVED the 14 day of August, 2003.