

SAN MIGUEL COUNTY ORDINANCE NO. SMC-10-10OR(B)-95

PROVIDING FOR ANIMAL CONTROL, IMPOSING FEES, CHARGES AND FINES THEREFOR, CREATING AND IMPOSING CERTAIN MISDEMEANOR PENALTIES FOR VIOLATION OF THE ORDINANCE AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, NEW MEXICO:

ARTICLE 1: GENERAL PROVISIONS

1.1 - TITLE AND LEGISLATIVE INTENT :

- A. This Ordinance shall be known and may be cited as the "San Miguel County Animal Control Ordinance." The short title to this Ordinance shall be "Animal Control Ordinance."
- B. It is the intent of the Board of County Commissioners that enactment of this Ordinance will protect animals from neglect and abuse, protect residents from annoyance and injury, promote the health, safety, and welfare of both residents and animals, and assist in providing control of animals.

1.2 - DEFINITIONS:

For the purpose of this Ordinance, the following terms, phrases, words, and derivations shall have the meaning given herein, and the word "shall" is always mandatory and not merely directory. The masculine includes the feminine. The singular includes the plural, where appropriate.

- A. "ABANDONMENT" means to desert deliberately and/or to relinquish the supervision or care of an animal.
- B. "ALTERATIONS" means to render an animal permanently sterile and incapable of reproduction.
- C. "ANIMAL" means any vertebrate member of the animal kingdom excluding man.
- D. "ANIMAL CONTROL DIVISION" means that division of the county, or the county's designated contract agent, or both, which is specifically charged with regulating and enforcing laws dealing with animal control within its jurisdiction.
- E. "ANIMAL CONTROL OFFICER" OR "A.C.O." means that person duly appointed to the position by the County Manager of the County of San Miguel.
- F. "ANIMAL CONTROL SHELTER" OR "SHELTER" means any pound, lot premises, kennel or building maintained or utilized by the county for the care and custody of animals.
- G. "BITE", means a puncture or tear of the skin inflicted by, the teeth of any animal.
- H. "DOMESTIC LIVESTOCK" means any of the large or small livestock, including, but not limited to horse, cat-

tle, mules, donkeys, burros, swine, goats, sheep, and fowl, including, but not limited to, domestic animals of the following genera: equine, bovine, ovine, caprine and porcine and fowl.

- I. "ENCLOSED LOT" means any parcel of land or portion thereof in private ownership, around the perimeter of which a wall or fence has been erected of such a height and security so as to retain the species of animal within the bounds for which the fence was erected.
- J. "ESTRAY" means any animal which is off and away from its home, unattended and running at large within the County of San Miguel.
- K. "EXOTIC ANIMAL" means rare or different from ordinary domestic animals and not indigenous to the State of New Mexico, including skunks, llamas, birds of prey, wolf hybrids and the offspring of wild animals crossbred with domestic dogs and cats, but not including parrots, toucans, or other tame and domesticated bird.
- L. "IMPOUND" means the act by an A.C.O. of taking up and confining an animal within a shelter or other facility used by the county for the confinement of said animals.
- M. "KENNEL" means any establishment or premises where dogs, cats, or other animals are boarded, bred, kept, bought, sold, traded, groomed or trained for a fee.
- N. "LEASH" means any chain, leather strap, or cord sufficient to hold under control the animal attached thereto, and shall be no longer than eight (8) feet, or twelve (12) feet for training purposes.
- O. "NEUTER" means to render a male animal permanently sterile and incapable of reproduction.
- P. "OWNER" means any person who owns, has, keeps, harbors, or knowingly permits an animal to remain in, on, or about his premises.
- Q. "PREMISES" means a parcel of land owned, leased, rented, or controlled by any person, legal or natural. Such parcel of land may include a structure, and includes such items as kennels, houses, mobile homes, apartments, condominiums, and town houses which are located on a parcel of land.
- R. "RUNNING AT LARGE" means to be free of physical restraint beyond the premises or vehicle of the owner or keeper.
- S. "SPAY" means to render a female animal permanently sterile and incapable of reproduction.
- T. "VACCINATION" means the protection provided against rabies by inoculation with anti-rabies vaccine by a licensed veterinarian, reorganized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, and the State of New Mexico Rabies Act of 1959, given in amount sufficient for one year of immunization.
- U. "VETERINARIAN" means a person with a Doctor of Veterinary Medicine degree licensed to practice veteri-

nary medicine in the State of New Mexico.

- V. "VICIOUS ANIMAL" means any animal which bites, has bitten, or in any manner attacks or attempts to attack or bites any person within the county; except any animal that bites, attacks, or attempts to attack or bite when provoked by any person trespassing upon its owners premises, shall not be deemed a vicious animal. "Vicious animal" also means any animal which, unprovoked, kills or maims any animal owned by a person.
- W. "WILD ANIMALS" means any animal or species that in its natural life is wild, dangerous or ferocious and though it may be trained and domesticated, is yet considered by this Ordinance to be dangerous to others and has the potential to injure or kill a person or other animals. Those animals, however domesticated, shall include but are not limited to:
 1. dog family, (Canidae), all except domestic dogs, including wolves, foxes, and coyotes;
 2. cat family, (Felidae), all except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, bobcats and ocelots;
 3. bears, (Ursidae), including grizzly bears and brown bears;
 4. weasels, (Mustelide), all except the commonly accepted domesticated ferrets, including the weasel, marten, mink, wolverine, badger, otter, ermines and mongoose;
 5. raccoon (Procyonidae), including eastern raccoon, desert raccoon and ring-tailed cat;
 6. primates (Homidae);
 7. porcupines (Erthizontidae);
 8. venomous snakes;
 9. venomous lizards, alligators and crocodiles;
 10. venomous fish and piranha.

ARTICLE 2: ADMINISTRATION OF ORDINANCE

2-1 ANIMAL CONTROL OFFICERS:

- A. The County Manager of San Miguel County is responsible for the administration of the provisions of this Ordinance. Powers delegated to the County Manager may be delegated by the County Manager to the duly appointed animal control officers as he may deem expedient.
- B. The County Manager of San Miguel County shall appoint animal control officers. The animal control officers shall be concerned primarily with the health and safety of the citizens of the county as affected by animals and with the health and safety of animals within the county limits.

2-2 AUTHORITY OF ANIMAL CONTROL OFFICERS: ISSUANCE OF CITATIONS.

- A. San Miguel County Animal Control Officers shall have the authority to issue citations for violations of this

Ordinance and state statutes regarding the care and control of animals, whenever there is probable cause to believe there exists a violation of this Ordinance and/or animal care and control statutes, and to perform such other/duties as prescribed by the County Manager of San Miguel County.

- B. Animal Control Officers shall have the authority to investigate upon probable cause any alleged violation of this Ordinance or any law of the State of New Mexico, which relates to the care, treatment, and control of animals and to the prevention of cruelty to animals.
- C. Animal Control Officers are authorized to enter upon and inspect premises and animals thereon within the county as necessary to perform their duties. If the owner or occupant of the premises objects to inspection, unless there appears to the A.C.O. that probable cause exists of an emergency requiring such inspection, an A.C.O. shall not enter upon the premises of the known owner for the sole purpose of taking up an animal which has been alleged to be running at large by a person who is not an A.C.O. or Sheriff's Deputy.

ARTICLE 3: ANIMAL CONTROL AND IMPOUNDING PROCEDURES

3-1 IMPOUNDING OF ANIMALS: NOTICE REQUIRED.

- A. The A.C.O. or Sheriff's Deputy may take up and impound or cause to be impounded any stray animal found in the county, and any other animal found in violation of this Ordinance or state statute.
- B. As soon as practicable after the date of impoundment, the Animal Control officer shall attempt to notify the owner of such impoundment, if the owner of such animal is not already so informed. If the owner is not known or if his address cannot be reasonably determined, the A.C.O. has no duty to give notice to the owner.
- C. All violations and fine amounts shall be reported to the shelter custodian upon the animal's impoundment.
- D. No animal that has been impounded may be adopted out for purposes of breeding or sale.

3-2 IMPOUNDING ESTRAY: NOTICE REQUIRED: REDEEMING ANIMALS.

- A. Notice:
 1. No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner, for more than twenty-four (24) hours, excluding Saturdays, Sundays, and holidays, when such person has knowledge of or could reasonably discover the owner of such animal, without first reporting the possession of such animal to the owner or, if this cannot be done, to an A.C.O.

- 2. This provision is not intended to preempt the laws of the State of New Mexico.
- B. If an impounded stray is wearing a license or bears other identification tags, the animal shall be confined at an appropriate animal shelter pending notification to the owner or authorized agent, for a period of three (3) working days. The day the stray animal is impounded constitutes day one.
- C. Upon notification, an owner or his authorized agent, shall redeem his animal within twenty-four (24) hours. Any animal not claimed by an owner with twenty-four (24) hours following notification shall become the property of San Miguel County and may be destroyed, impounded or adopted out at the discretion of the Animal Control Division.
- D. Any owner who claims an unlicensed animal from the appropriate Animal Control Center must show proof of rabies shots and proof of spaying or neutering (when applicable) upon claiming said animal. Such owner may be cited by the A.C.O. If proof of current rabies vaccination cannot be produced, the owner of the impounded animal must vaccinate the animal within three (3) working days and furnish proof of vaccination to the A.C.O.
- E. It shall be the responsibility of an owner to reimburse the county for animal boarding, emergency veterinary costs, or other expenses incurred by the county or a shelter for any animal legally impounded under the provisions of this Ordinance, whether or not the animal is redeemed.
- F. The owner of an impounded animal may claim his animal by paying the scheduled fines and impounding fees to the authorized agent of the County. An owner may elect to pay the fine under protest, request a hearing on the matter by accepting a citation from an A.C.O., appear at any arraignment in San Miguel County Magistrate Court, and participate in a trial on the matter.
- G. If an stray is not wearing a license and bears no other identification tags, the animal shall be impounded at an appropriate animal control shelter for three (3) working days, commencing from the first day of impoundment, and shall become the property of San Miguel County and may be destroyed, impounded for an additional period or adopted out, at the discretion of the Animal Control Division.
- H. If an impounded animal is certified by a licensed veterinarian as suffering because of sickness, injury, or age, then it may be destroyed, pursuant to Section 3-4 of this Ordinance, after the A.C.O. gives notice or attempts to give notice to the owner.

3-3 IMPOUNDMENT FEES:

IMPOUNDING FEES REQUIRED FOR ADOPTION OF AN IMPOUNDED ANIMAL, BOARDING COSTS AND ADDITIONAL FEES FOR THE REDEMPTION OF IMPOUNDED ANIMALS ARE DESCRIBED IN APPENDIX A, ATTACHED HERETO AND MADE AN INTEGRAL PART OF THIS ORDINANCE.

- A. Impoundment fees are described and set forth in Appendix A, attached hereto and made an integral part of this Ordinance.
- B. Fees required for adoption of an impounded animal are described in Appendix A, attached hereto and made an integral part of this Ordinance.
- C. Additional fees for impounded animals are described in Appendix A, attached hereto and made an integral part of this Ordinance.

3-4 DESTRUCTION OF ANIMALS:

- A. If an animal which is impounded under this section is not redeemed within the specified time periods, adopted out, or if such animal is suffering because of sickness, injury or age, as certified by a licensed veterinarian, then it shall be humanely and painlessly destroyed under the supervision of a licensed veterinarian, by an intravenous or intercardial injection of a dose of barbiturates (sodium pentobarbital), or any other method deemed humane by the Animal Control Division.
- B. Any animal which cannot be brought to an animal shelter because of the inability of an Animal Control Officer to extricate or capture an animal which is, in the opinion of the A.C.O., vicious or infected with any dangerous or incurable disease or in any painful crippled condition, shall be destroyed by shooting by a Public Safety Officer at the discretion of the Animal Control officer.

ARTICLE 4: OWNER’S DUTIES

4-1 RABIES VACCINATION:

- A. It is the duty of all persons owning a cat or dog over the age of three (3) months to have such animal vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for one (1) year and shall be administered by a licensed veterinarian. A certificate or tag from a licensed veterinarian shall be evidence of vaccination. A graduate veterinarian may vaccinate his own dog or cat.
- B. A veterinarian administering any rabies vaccine to any animal shall issue to the owner of the animal a numbered vaccination certificate or tag, which shall contain the name and address of the owner of the animal, a description of the animal vaccinated, the date of the vaccination and the expiration date of the period of immunity.
- C. It is unlawful for the owner of any dog or cat to fail to exhibit a certificate or tag of vaccination, upon demand, to any Animal Control Officer.

4-2 RABID ANIMAL:

Any animal that has rabies or shows signs of having rabies, and any animal bitten by another animal afflicted by rabies, or that has been exposed to such a rabid animal, shall be confined at once in a secure place by the owner. A person who knows or has reason to know that any animal is infected with

rabies or that an unvaccinated animal has been exposed to rabies shall immediately notify an Animal Control Officer of the place where the animal is confined or can be found. The owner of said animal shall surrender said animal to the Animal Control Officer upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to state law. A vaccinated animal exposed to rabies may be required to be confined on the owner's property or premises for a minimum of ten (10) days, until it is determined by an A.C.O. that there are no symptoms of rabies.

4-3 ANIMAL BITING A PERSON:

- A. The owner of an animal that bites a person and the person bitten by an animal shall both report that occurrence to an Animal Control Officer within twenty-four (24) hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an A.C.O. to impound said animal for a period of observation deemed reasonably necessary by the A.C.O. A vaccinated animal may be confined upon its owners premises during this time of observation.
- B. The owner of the animal shall bear the cost of confinement. The A.C.O. may consent to confinement on the owner's premises, but only if the owner can produce evidence of a current rabies vaccination at the time the bite was inflicted. The premises where the home confinement is to occur shall be inspected and approved for such purpose by the A. C. O. A person having custody of an animal that has bitten a person shall immediately notify the Animal Control Officer if the animal shows signs of sickness or abnormal behavior.
- C. A physician who renders treatment to a person bitten by an animal shall immediately report the fact that he has rendered such treatment to an Animal Control officer. The physician shall report the name, sex, and address of the animal that inflicted the bite, if known, and other facts that may assist the animal control officer in ascertaining the immunization status of the animal.

4-4 RESTRAINT OF ANIMALS:

- A. All persons owning or having charge, custody, or control of any animal shall keep such animal restrained to prevent damage or harm to people and property. Violation of this section will subject said owner or keeper to a fine as set forth in Appendix A.
- B. When a dog is away from its owner's premises, it must be under leash or under control of the owner. "Control" includes a dog who responds to sound commands of its owner to come to its owner on command. The owner of a dog shall not allow it to run at large or create a nuisance on another's property, be it public or private, including entering into and upon lawns, driveways, walkways, places of recreation, or amusement parks. The term "nuisance" shall include defecation or urination. Violation of this section will subject said owner or keeper to a fine as set forth in Appendix A.
- C. Any animal trespassing upon private or public property shall be deemed prima facie not to be under the immediate control of the owner or of his designee and the owner shall be in violation of Section 4-4A and 4-4B above, and subject to penalties, pursuant to Appendix A.

ARTICLE 5: PROHIBITED ACTIVITIES

5-1 DOGS RUNNING AT LARGE:

- A. It is unlawful for any owner to allow or permit any dog to run at large. Any dog permitted to run at large in violation of this Section is declared to be a nuisance and a menace to the public health and safety, and may be taken up and impounded as provided in Section 3-1, et. seq. In addition, its owner shall be subject to the penalties set forth in Appendix A.

5-2 ANIMALS ON UNENCLOSED PREMISES; CHAINED ANIMALS:

- A. It is unlawful for any person to chain or stake any animal in a cruel or inhumane manner. Where circumstances warrant and no other alternative exists for confining an animal on its owner's property, a rope, cable, or chain may be used to restrain the animal, provided the following criteria are met:
 1. The rope, chain or cable must be affixed fixed to the animal by use of a non-abrasive, comfortably fitted collar or harness;
 2. The rope, chain, or cable must be at least twelve (12) feet in length unless such length allows the animal to enter into another's property, in which case the chain shall be no less than eight (8) feet in length. The chain must be unobstructed by objects which might cause the animal to become entangled;
 3. The animal must have easy and constant access to adequate shelter, food and potable water;
 4. The area where the animal is confined must be kept free of garbage, feces, or other debris which may endanger the animal's health and safety;
 5. The area where the animal is confined must be kept free of insect infestation such as ant hills, wasp nests, fleas, lice, and maggot infestations;
 6. The animal must be tied reasonably near the owner's residence or work place and must not be left unattended for longer than a twelve (12) hour period.
- B. Invisible fencing. Where an owner maintains an invisible fence, i.e., an electrical device designed to contain animals wearing an appropriate collar within a confined area, which is in operation at all times that a dog is outdoors on the owner's premises, and within the invisible fencing, and where each owner's dog on the premises wears the applicable collar, then the provisions of Section 5-2A shall not apply, provided that the invisible fence does, in fact, retain the dog on the owner's premises.
- C. Violations of these requirements will constitute an act of neglect/cruelty, and will subject the animal to immediate control of the owner or of his designee and the owner shall be in violation of Section 4-4A and 4-4B above, and subject to penalties, pursuant to Appendix A.

diate impoundment and the owner to the penalties set forth in Appendix A.

5-3 ANIMALS TRANSPORTED OR LEFT IN VEHICLES:

5-4 VICIOUS ANIMALS:

It is unlawful for any person to keep or harbor a known vicious animal in the county. Any attack to a person, live-stock or domestic animal by a vicious animal or any animal displaying traits of a vicious animal may be repelled by the use of reasonable force, including deadly force. After a judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this Ordinance, upon hearing of such complaint, may, in addition to any fine or imprisonment which may be imposed for violation hereof, order the A.C.O. to have such animal destroyed as set forth in Section 3-4 of this Ordinance.

5-5 ANIMAL DISTURBING THE PEACE:

It is unlawful for any person to allow any animal to persistently or continuously bark, howl, or make noise common to their species, or otherwise to disturb the peace and quiet of the inhabitants of San Miguel County, New Mexico, or to keep or maintain animals in such a manner as to disturb by noxious or offensive odors, or otherwise endanger the health and welfare of another person.

5-6 ANIMAL NUISANCE ON SIDEWALKS, PUBLIC PARKS, ALLEYS, AND OTHER PLACES OPEN TO THE PUBLIC:

A. It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to commit any nuisance upon a sidewalk, or in a public park, or upon the floor or wall or any common wall or any common hall in any multiple dwelling, entryway, stairway, or wall immediately abutting on a public sidewalk; or upon the floor or wall of any theater, shop, store, office building, or other building used in common by the public; or upon any private property other than that of the animal owner.

When an animal defecates in a public place, the owner must remove the feces and dispose of it in a sanitary manner. The term nuisance shall include any defecation or urination, destruction of property or disturbing the property of another, including the rubbish or trash of a resident of San Miguel County.

B. Violations of this Section shall constitute a nuisance and shall subject the owner to the penalties set forth in Appendix A.

5-7 UNLAWFUL USE OF LICENSE TAG:

It is unlawful for any person to remove any license tag from one animal to another or to remove a license tag from an estray without lawful permission; and it is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control, a stolen, coun-

terfeit, or forged animal license tag, rabies vaccination certificate or other form of animal or premises licensing.

5-8 ANIMALS TRAINED TO ASSIST THE HANDICAPPED ALLOWED IN PUBLIC PLACES:

Animals trained to assist the handicapped, including blind or deaf persons, commonly known as service animals, shall be allowed in public places and it shall be unlawful for any person who owns, operates, or maintains any public place of business or conveyance into which the general public is invited to debar or exclude therefrom any animal which has been trained to assist the handicapped, provided such animal accompanies the handicapped person it was trained to assist.

5-9 WRITTEN COMPLAINT REQUIREMENT:

For any alleged violations of Section 5 of this Ordinance, an A.C.O. may before further action or investigation, require a complainant to submit, on a form provided by the A.C.O., a written complaint of the alleged Ordinance violation, giving the name and address of the complainant and, if available, of the owner who is in violation.

ARTICLE 6: CRUELTY TO ANIMALS PROHIBITED

6-1 PHYSICAL ABUSE:

It is unlawful for any person to willfully or maliciously kill, beat, sexually abuse, maim, poison, disfigure, burn, or scald any animal, except that reasonable force may be employed only to drive off and repel vicious or trespassing animals.

6-2 MOLESTING ANIMALS:

It is unlawful for any person to tease, annoy, disturb, or molest any animal which is on the property of its owner, or under the control of its owner.

6-3 WORK CRUELTY:

It is unlawful for any person to drive or work any animal cruelly.

6-4 CARE AND MAINTENANCE:

A. It is unlawful for any owner of an animal to fail, refuse, or neglect to provide said animal with proper and adequate food, drink, shade, shelter and ventilation. Any animal habitually kept outside shall be provided, by its owner, with a structurally sound, weather-proof enclosure large enough to accommodate the animal in a manner suitable for that species, or other shelter suitable to the species.

B. An owner must keep the premises where an animal is kept free of garbage, hazardous materials, feces, insect infestation, and other debris which may endanger the animal's health and safety.

C. An owner must provide an injured or sick animal with adequate veterinary care so as to reduce its suffering.

D. Violations of this Section of the Ordinance are punishable by fines and/or imprisonment as set forth in Appendix A.

6-5 UNCARED FOR ANIMALS; ABANDONMENT:

- A. Whenever an Animal Control Officer finds that any animal is or will be without proper care because of injury, illness, and/or incarceration or as a result of the absence of the owner or person responsible for the care of such animal, the A.C.O. may enter the property or premises where said animal is located and may take up such animal for protective care; and in the event of sickness or injury of the animal, upon the instruction of a licensed veterinarian, the Animal Control Officer may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal.
- B. It is unlawful for any person to abandon any animal in the County of San Miguel.

6-6 INJURY TO ANIMAL BY MOTORIST:

- A. Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the county shall immediately upon hitting, striking, maiming, or running down any animal, render aid to the animal as is reasonable. In the absence of the owner, said operator shall immediately notify the A.C.O., furnishing sufficient facts relative to the incident to identify the location of the injured animal, type of animal injured, and name and address of the motorist striking the animal. It is the duty of such operator to remain at or near the scene for a reasonable length of time or until such time as the appropriate authorities permit the operator to leave the scene after providing his name, address, and other relevant information as requested by the appropriate authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a licensed veterinarian or to an animal control shelter and notifying an A.C.O.
- B. Any animal struck by a motor vehicle as provided herein shall be deemed an uncared for animal within the meaning of Section 6-5 above.
- C. Emergency vehicles in the course of emergency duty are excluded from these provisions with the exception of reporting the incident.

6-7 ANIMALS FIGHTS:

It is unlawful for any person to promote, stage, hold, manage, conduct or carry on any game, exhibition or contest in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves, or any other animal.

6-8 BIRDS:

- A. It is unlawful to willfully kill or maim any bird, or to molest or rob the nest of a bird.

6-9 FALSE REPORTS PROHIBITED:

It is unlawful for any person to make a false report to a Sheriff's Deputy or an A.C.O. regarding any animal in danger or stray or regarding any supposed violation of the Ordinance.

6-10 SCOPE OF SECTION VIOLATIONS:

- A. It is expressly provided that Sections 6-1 through 6-9 shall apply equally to domestic livestock, exotic animals, and wild animals in addition to dogs and cats.
- B. Violations of Sections 6-1 through 6-11 of this Ordinance are punishable by fines and/or imprisonment as set forth in Appendix A attached hereto and made an integral part of this Ordinance.

6-11 REPEAT OFFENSE:

- A. Three or more violations of any one or any combination of Section 6 offenses of this Ordinance shall constitute an act of cruelty. A repeat offender shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding \$500.00 and/or imprisonment for a period not exceeding six (6) months.
- B. In cases of repeat offenses under Section 6 of this Ordinance, an A.C.O. shall have the authority to impound any animal subjected to cruelty, neglect or abandonment. The animal may not be returned to its owner before a hearing in Magistrate Court, if, in the opinion of the A.C.O., the harm to the animal is severe and likely to recur.
- C. In cases of repeat offenses for animals subjected to cruelty, neglect or abandonment, the A.C.O. may have such animals adopted to another owner, thereby extinguishing all property rights of the existing owner, providing the A.C.O. serves written notice upon the existing owner, informing him of the A.C.O.'s intent to have said animal adopted by another owner, and giving the existing owner three (3) business days to declare his intent to maintain ownership and pay all impoundment, boarding and veterinary costs, up to the date of the owner's declaration of intent to maintain the ownership of his animal. This intent must be stated in writing, signed by the animal's owner and delivered to the Animal Shelter keeping the animal. The statement of intent and payment of fees and costs will serve to stop any animal adoption proceedings.

ARTICLE 7: WILD OR EXOTIC ANIMALS; GUARD DOGS

7-1 KEEPING OF WILD OR EXOTIC ANIMALS:

- A. No person shall keep an animal of a species prohibited or Protected by Title 50, Code of Federal Regulations, or by Section 17-3-22, NMSA 1978, as amended.
- B. No person shall keep an animal which is wild, vicious, dangerous, noxious, or naturally inclined to do harm, except in a zoological park, veterinary hospital, animal shelter, public laboratory, circus, amusement show, or educational facility for which adequate protection devices shall be provided to prevent any animals from escaping or injuring the public.
- C. All provisions of this Ordinance to the contrary notwithstanding, no person shall keep a wild or exotic animal in such a manner as to constitute a likelihood of

harm to the animal or other animals, to human beings, to the property of human beings, or in any other manner which constitutes a public or private nuisance.

- D. All wolf hybrids shall be banned from San Miguel County.

7-2 LICENSING WILD OR EXOTIC ANIMALS:

7-3 ANIMALS USED FOR ENTERTAINMENT:

7-4 GUARD DOGS:

Anyone using or keeping a dog for the sole purpose of guarding property, and neither as a pet nor for hunting purposes, must follow the restriction set forth in this Section, in addition to all other applicable provisions of this Ordinance, as follows:

- A. The enclosure surrounding the property where a guard dog is kept must be secure at all times so as to prevent the dog from running at large, unless the owner complies with Section 5-2A;
- B. If chained, the animal must be located within ten (10) feet of the entrance of the building to be guarded, and chained in such a manner as set forth in Sections 5-2A 1 through 6 (chained animals);
- C. The owner of the guard dog shall post warning signs prominently on all sides of the premises and on the entryway to the premises, stating that a guard dog is on the premises, in both English and Spanish and at least 200 feet apart.

ARTICLE 8: DEAD ANIMALS

SEC. 8-1 DISPOSAL:

- A. Within twenty-four (24) hours of death of an animal, the owner shall dispose of the carcass by burial at least three (3) feet underground in a suitable location, or by other means approved by the A.C.O.
- B. At his discretion, the A.C.O. is authorized to pick up and dispose livestock or wild animals, or animals killed on State or Interstate highways, or other public roads.
- D. At the request of the owner, an A.C.O. may at his discretion, given the constraints of county resources, pick up the carcass of dogs and cats from the homes of the owners who are residents of the county. The fee for this service is set forth in Appendix A attached hereto and made an integral part of this Ordinance.
- E. An animal carcass picked up under this section of the Ordinance shall be disposed of by the county in whatever manner is determined to be the most feasible to protect the health, safety, and welfare of the residents of the county.

ARTICLE 9: TAMPERING

9-1 BREAKING INTO ENCLOSURE:

Any person who shall in any manner break into or aid, directly or indirectly, in breaking into the enclosure in which

any animal is impounded or kept under authority of an A.C.O. shall be guilty of a petty misdemeanor.

9-2 HINDERING AN A.C.O.:

Any person who shall willfully or intentionally hinder or obstruct any Animal Control Officer in the discharge of his official duty under the provisions of this Ordinance shall be guilty of a petty misdemeanor.

ARTICLE 10: REGULATIONS FOR KENNELS, GROOMING PARLORS, PET SHOPS, PET SHELTERS, HOBBY BREEDERS AND HOUSEHOLDS

SEC. 10-1 PERMITS; STANDARDS; REVOCATION OF PERMITS:

- A. It shall be unlawful to keep, maintain, harbor or possess upon the premises of any one household or upon the premises of any one business property, any combination of more than four (4) dogs or cats, unless the owner or person in charge thereof has obtained a permit to operate a kennel from the Animal Control Officer, or unless these animals have been neutered or spayed and are otherwise maintained in a humane and responsible manner as specified in the this Ordinance.
- B. The cost of obtaining a kennel permit is set forth in Appendix A. Each kennel license or permit must be renewed annually and a new permit fee paid.
- C. No kennel permit shall be issued until an inspection of the kennel by an A.C.O. finding compliance with this Ordinance has been completed.
- D. The A.C.O. is authorized to inspect, at any reasonable hour, any kennel holding a permit to operate. By accepting a kennel permit, the permittee is agreeing to surrender the kennel for inspection at a reasonable time upon the request of an A.C.O.
- E. All kennels, as defined herein, shall, in addition to the other provisions of this Ordinance, comply with the minimum standards of this Section. Failure to meet these standards shall be ground for denial of a permit or revocation of a permit. The following standards must be met:
 - 1. animal enclosures must be provided which allow adequate protection against all weather extremes. Floors of the building, runs and walls, must be constructed with an impervious material to permit proper cleaning and disinfection;
 - 2. building temperatures shall be maintained at a comfortable level, and adequate ventilation and adequate lighting shall be maintained at all times;
 - 3. each animal shall have sufficient space to stand up, lie down, and turn around without touching the sides or tops of cages;
 - 4. cage material and construction shall permit adequate cleaning and sanitizing;
 - 5. cages shall be heated and shall be of an impervious, washable material, and shall have a resting

- board or other appropriate bedding;
 - 6. rooms shall provide an adequate exercise area and protection from weather, and runs shall have an impervious surface;
 - 7. all animal quarters and rooms are to be kept clean and dry and in a sanitary condition;
 - 8. animal food shall be free from contamination, shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirement for the relative condition, age and size of the animals;
 - 9. all animals shall have fresh, potable water available at all times, and water vessels shall be mounted or secured in a manner that prevents tipping and be of a removable type.
- F. Any permit issued pursuant to this section may be revoked if an A.C.O. has reasonable cause to believe that the standards set forth in this section are not being met, or if the permittee or the person caring for or having control of the animals has violated any section of this Ordinance or is in violation of any zoning, health and safety, or building ordinance relating to the keeping, care or use of any animal.
- G. Number of Animals Permitted: No household or member thereof shall be allowed to own, harbor or keep dogs or cats, or any combination thereof, totaling more than four (4) animals, unless these animals have been neutered or spayed and are otherwise maintained in a humane and responsible manner as required by this Ordinance. Any household owning dogs or cats or any combination thereof totaling more than four (4) animals, which animals are licensed before the effective date of this Ordinance, shall be allowed to retain more than four (4) animals only so long as the particular animals owned on the effective date of this Ordinance remain in the possession of said household, unless these animals are neutered or spayed. Provided, further, that the head of any household shall be held responsible for any violation of this Section by the household or any of its members.

ARTICLE 11: PENALTY; GRACE PERIOD; RESTITUTION; SAVINGS CLAUSE

11-1 PENALTY CLAUSE:

Each violation of any provision of this Ordinance shall constitute a misdemeanor, and upon conviction thereof the offender shall be punished by a fine not exceeding \$300.00 and/or by imprisonment for a period not exceeding ninety (90) days. In addition to the foregoing penalties, the offender may be required to attend animal training or care school. Each day this Ordinance is violated shall constitute a separate offense.

11-2 GRACE PERIOD:

Any violations existing upon the effective date of this Ordinance shall be permitted to come into compliance with-

out penalty not later than thirty days after the effective date, but thereafter shall constitute violations subject to the penalties herein provided.

11-3 RESTITUTION:

Notwithstanding the penalties allowed by this Ordinance, in the event any animal damages property, whether public or private, or causes injury to any person or animal, and such damage or injury is found to have been a violation of any provision of this Ordinance, the Magistrate Court may, in its discretion, require the defendant to make restitution to the victim of said damage or injury.

11-4 SEVERABILITY

If any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder and the application to other persons or circumstances shall not be affected thereby.

11-5 EFFECTIVE DATE:

The effective date of this Ordinance shall be thirty (30) days after it has been recorded in the office of the San Miguel County Clerk, as required by Section 4-37-9, NMSA 1978.

MOVED, SECONDED, ADOPTED AND ORDAINED this 10th day of October, 1995, by the Board of County Commissioners of San Miguel County, New Mexico.

“APPENDIX A” TO SAN MIGUEL COUNTY ORDINANCE NO. SMC-10-100R(B)-95

The following charges, fees and fines are hereby assessed and shall be imposed under and by virtue of the provisions of the San Miguel County Ordinance:

I. SCHEDULE OF FEES, FINES AND CHARGES

A. LICENSING

- 1. Unaltered Male\$10.00
- 2. Unaltered Female\$10.00
- 3. Altered Male\$ 4.00
- 4. Altered Female\$ 4.00
- 5. Late Penalty/No License and/or Reg\$10.00
- 6. Duplicate Tags\$ 5.00

B. IMPOUND FEES

- 1. DOGS
 - a. per offense\$15.00
 - b. boarding costs (per day) or as set by animal shelter
- 2. CATS
 - a. per offense\$10.00
 - b. boarding cost (per day as set by animal shelter)
- 3. OTHER ANIMALS; reasonable to impoundment and boarding fees as determined by the A.C.O., depending on the type of animal and care required.

C. PERMIT FEES

- 1. to operate a cat kennel (per year) \$50.00
- 2. to operate a kennel able to house 20 dogs or less (per year) \$50.00
- 3. to operate all other kennels (per year) . . . \$200.00
- 4. to keep an exotic animal (per year) \$200.00

D. CARCASS REMOVAL

- 1. to remove the carcass of a dog or cat at the request of animal's owner \$ 15.00

E. FINES FOR VIOLATIONS

- 1. Running at large, trespassing, nuisances, nonrestraint, disturbing the peace
 - a. first offense (in a calendar year) \$25.00
 - b. second offense (in a calendar year) . . . \$60.00
 - c. third offense or more (in a calendar year) \$100.00
- 2. Neglect, Care and Maintenance
 - a. First Offense \$50.00
 - b. Second Offense, a maximum of . . . \$200.00
 - c. Third Offense, a maximum of \$500.00
- 3. Cruelty
 - a. First offense \$50.00
 - b. Second Offense \$200.00
 - c. Third offense or More \$500.00
- 4. No rabies vaccine \$15.00
- 5. All other fines, a maximum of \$200.00

II. MISDEMEANOR PENALTY

As provided under Article 11-1 of this Ordinance, each violation of any provision of this Ordinance shall constitute a misdemeanor, and upon conviction thereof the offender shall be punished by a fine not exceeding \$300.00 and/or by imprisonment for a period not exceeding ninety (90) days.

SECTION 3610--PERMITTED USES. A building or premises may be used for the following purposes:

- A. Ranch, farm, dairy, and rural residential activities provided that any building, pen or corral where animals are kept is at least 20 feet from an adjoining property line or from any dwelling and all structures for animals are kept clean.
- B. Display and sale of agricultural products including poultry or rabbits, raised on the premises, and products incidental to the sales activity.