

VILLAGE OF EAGLE NEST

ORDINANCE NO. 1987-5

AN ORDINANCE PROVIDING FOR ANIMAL CONTROL, LICENSING OF ANIMALS; PROVIDING FOR IMPOUNDMENT OF ANIMALS AND CONFINEMENT OF BITING DOGS; PROVIDING FOR LICENSE FEES FOR ANIMALS; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE; AND REPEALING ORDINANCE NOS. 1983-12 AND 1986-7.

BE IT ORDAINED by the Governing Body of the Village of Eagle Nest, New Mexico:

SECTION 1. "DOG" OR "ANIMAL" DEFINED.

The word "dog" as used in this section shall be construed to mean any dog, bitch or whelp over three (3) months of age. The word "animal" herein shall include any cattle, horses, mules, sheep, goats or other hard hoofed animals, dogs, cats and domestic animals.

SECTION 2. LICENSE REQUIRED.

The owner, possessor or keeper of any dog within the Village shall secure a license for such dog from the Clerk-Treasurer within thirty (30) days after the dog reaches the age of three (3) months of age. New residents of the Village shall have sixty (60) days after they become residents to secure a license hereunder. A license for such dog shall be secured each year and will be renewable each year upon verification that such dog has valid rabies vaccination certificate.

SECTION 3. FEES.

The annual license fee for dogs within this Village shall be \$3.00 for males and spayed females and \$6.00 for unspayed females. All licenses expire December 31 of each year and may be renewed without penalty thru January 31, after which a penalty of \$2.50 per license will be levied.

SECTION 4. RABIES VACCINATION REQUIRED.

The owner, possessor or keeper of every dog within the Village shall have such dog inoculated against rabies within thirty (30) days after the dog reaches the age of three (3) months. Upon receipt of a rabies vaccination the owner, possessor or keeper of every dog shall secure a license for such dog from the Clerk-Treasurer.

SECTION 5. BY LICENSED VETERINARIAN.

The inoculation required by Section 4 shall be made by any veterinarian licensed to practice veterinarian medicine in this State.

SECTION 6. PREREQUISITE TO ISSUANCE OF LICENSE; FORM OF APPLICATION OR LICENSE.

Upon application for a dog license, the applicant shall exhibit to the Clerk-Treasurer a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this section. All applications for license shall be made on forms provided by the Clerk-Treasurer.

SECTION 7. TAGS ISSUANCE.

It is the duty of the Clerk-Treasurer to deliver or cause to be delivered to each person making application for a license, paying the license fee provided for in Section 3 and presenting the certificate of inoculation required by Section 6, a dog tag for each dog licensed and inoculated.

SECTION 8. POSSESSION.

Only those persons who own, possess or keep a dog licensed and inoculated in accordance with the provisions of this section shall be permitted to possess a dog tag as herein provided for.

SECTION 9. DESCRIPTION.

The dog tag provided for in Section 7 shall be of such size, shape, color and material as may be deemed expedient and suitable by the Clerk-Treasurer; such tag shall contain a number stamped thereon in numerical order beginning with number one and the words "Eagle Nest".

SECTION 10. ATTACHMENT TO DOG'S COLLAR OR HARNESS.

Every owner, possessor or keeper of a dog within the Village shall place upon such dog a collar or harness made of durable material to which the dog tag provided for in Section 7 shall be attached.

SECTION 11. TO BE WORN ONLY BY LICENSED DOGS.

No person shall affix to the collar or harness of any dog, or permit to remain so affixed, a tag evidencing licensing and rabies inoculation except the dog tag issued to that dog at the time of issuance of its license.

SECTION 12. RECORDS TO BE KEPT OF ISSUANCE; DUPLICATES; TRANSFERS.

The Clerk-Treasurer shall keep a record of the date of issue of each dog tag and the person to whom such tag is issued and the number thereof. If the dog tag is lost or destroyed, a duplicate tag may be obtained from the Clerk-Treasurer upon the payment of a fee of fifty cents (\$.50). In the event that the ownership or possession of a dog is changed, a new dog tag must be obtained and such new dog tag shall be issued by the Clerk-Treasurer upon proof being presented that the inoculation and licensing requirements of Section 6 have been complied with and upon the payment of the fee of fifty cents (\$.50).

SECTION 13. IMPOUNDMENT.

It is lawful for all police officers or Village animal control officer to impound any dog which is not wearing a dog tag and any dog which they have probable cause to believe is in violation of any of the provisions of Sections 1 thru 34, whether such dog is wearing a dog tag or not. It is lawful for any police officer or Village animal control officer to go upon private property for the purpose of catching any dog to be impounded.

SECTION 14. ESTABLISHMENT OF POUND.

The Village Council may establish a dog pound for the municipality to be operated by Village personnel, or at its election, it may contract with a public or private person or organization for the operation of a dog pound for and on behalf of the Village.

SECTION 15. FILING OF COMPLAINT IN MUNICIPAL COURT.

If a dog is impounded, the police officer or Village animal control officer shall immediately institute proceedings in the Municipal Court on behalf of the Village against the owner, possessor or keeper of such dog if known, charging the owner, possessor or keeper with a violation of the appropriate section. Nothing herein contained shall be construed as preventing the police officer, Village animal control officer or any citizen from instituting a proceeding in the Municipal Court in the Village for violation of this section where there is no impoundment.

SECTION 16. NOTICE TO OWNER OR KEEPER OF DOG.

As soon as practicable after the date of impoundment, the police officer or Village animal control officer shall send by regular mail a written notice of such impoundment to the owner, possessor or keeper of such dog if the address of such person be known. If the owner, possessor or keeper of such dog is not known or if his address cannot be determined, the police officer or Village animal control officer shall cause to be posted at the Eagle Nest Post Office for ten (10) consecutive days a notice of impoundment. Whether the notice herein provided be mailed or posted, it shall describe the dog, set forth the date of impoundment and describe the location where the dog was taken.

SECTION 17. RELEASE OF IMPOUNDED DOG; DESTRUCTION OF DOG.

If a complaint has been filed in the Municipal Court of the Village against the owner, possessor or keeper of any dog for a violation of Sections 1 thru 34, the dog shall not be released from impoundment except on order from the Municipal Judge. In addition to any penalties which may be provided for in this Ordinance, the Municipal Judge shall require such owner, possessor or keeper to pay the fees herein provided for in Section 20 and may, upon finding that such dog constitutes a nuisance or that such dog is a vicious dog or that such dog constitutes a clear and present danger to the citizens of the community, order that the dog be destroyed in a humane manner by the police officer, Village animal control officer or by persons authorized to do so by the Village Council.

SECTION 18. DISPOSAL OF DOG OF UNKNOWN OWNER OR KEEPER.

If a complaint has not been filed in Municipal Court because the owner, possessor or keeper of an impounded dog is not known or cannot be located and such dog has not been claimed within ten (10) days from the date of impoundment, not counting the first day of impoundment, the dog may be disposed of in any humane manner prescribed by the police officer, Village animal control officer or by persons so authorized to do so by the Village Council.

SECTION 19. UNLAWFUL TO ALLOW RUNNING AT LARGE OR CREATE NUISANCE.

It shall be unlawful for any person owning, harboring or having the custody or possession of any dog or cat to cause or allow such animal to:

Be at large in or on any street, alley, sidewalk, vacant lot, public property, public building or any other un-enclosed space in the Village unless such animal is on a secure leash not exceeding eight (8) feet in length or under the immediate physical control of the person having custody thereof. Animals under the immediate control of a person or those animals confined to the property of the owner, or with the permission of the owner thereof shall be considered to be under control and not running-at-large.

Commit any damage or nuisance upon the property of any person. A dog that creates a nuisance upon public or private property can be impounded after formal complaint has been filed by the aggrieved with the Municipal Court. The owner of such dog will be held liable for the actions of the dog and must answer the said charge.

Any person owning or having charge, custody, care or control of any such animal shall keep such animal on their property. Further no animal shall be allowed to be at large on any private property unless there is specific permission from the owner of that property.

Any animal found running at large in violation of this Section is declared to be a nuisance, a menace to the public health and safety, and if observed by the police officer or Village animal control officer, shall be taken up and impounded.

SECTION 20. CONFINEMENT OF ANIMALS RUNNING AT LARGE; COSTS.

If any animal, excluding dogs and cats, is found running at large contrary to the provisions of this section, the police officer or Village animal control officer shall take up and confine the animal in a secure place or other place provided for that purpose and such animal taken up and confined shall not be released until the owner or person entitled to the possession thereof shall pay to the Village the sum of Ten Dollars (\$10.00) for the taking up of such animal together with the sum of Three Dollars (\$3.00) per day for the animal so kept.

SECTION 21. INTERFERENCE WITH POLICEMEN PERFORMING DUTIES.

It is unlawful for any person to interfere with, molest, hinder or obstruct any police officer or Village animal control officer in the discharge of their official duties under Section 1 through 34.

SECTION 22. INSTIGATING OR ENCOURAGING DOG FIGHTS PROHIBITED.

No person shall cause, instigate or encourage any dog fight within the Village.

SECTION 23. MALTREATMENT.

It is unlawful for any person to unnecessarily beat, injure, kill or maltreat any animal within the corporate limits of the Village.

SECTION 24. HOGS, SHEEP AND GOATS PROHIBITED.

It is unlawful for any person to keep or harbor any hogs, sheep or goats within the corporate limits of the Village.

SECTION 25. FOWL AND RABBITS RESTRAINED.

It is unlawful for any person who owns, harbors or keeps within the corporate limits any chickens, ducks, geese, turkeys, or other domestic fowl, or any hare or rabbits, to fail to keep the same securely enclosed in a pen or building, or to permit the same to run at large or to go upon the premises of another.

SECTION 26. PREMISES KEPT CLEAN.

Any person who owns or controls any lot, barn, stable, shed, building or other place where domestic fowl or animals are kept, shall keep said building and premises in a clean and sanitary condition and shall remove all manure from the premises at least once per week.

All sheds or other shelters for such animals, or fowl shall be kept free of rodents and shall be thoroughly sprayed with insect spray and disinfected as necessary during the months of June to October, inclusive, of each year, and all animal facilities shall be kept in good repair.

SECTION 27. SALE OF ANIMALS; NOTICE OF SALE; PAYMENT OF EXCESS MONEY TO OWNER.

If the owner or person entitled to the possession of an animal does not pay the charges and take it away within five (5) days from the time it is taken into custody, the Village may sell such animal at public auction after having given at least five (5) days notice of the time and place of sale by publishing or by posting said notice in five (5) public places in the Village as well as serving a copy of said notice upon the owner or possessor of said animal, if known. Such animal may be redeemed at any time before the date of sale by payment to the officer in charge of any fees, expenses and charges herein provided.

In case an animal sold pursuant to the provisions of this section is sold for more than is sufficient to pay the fees and charges aforesaid such excess shall, by the officer making the sale, be deposited with the Clerk-Treasurer, who shall pay such excess, upon order of the Village Council to the owner of such animal or animals or to the person entitled to the possession of the same upon claim and proper proof within one (1) year from date of said sale.

If such animal is infected or cannot be sold, it may be disposed of in the manner provided for unclaimed or infected dogs.

**SECTION 28. CONFINEMENT OR MUZZLING OF DOGS DURING RABIES DANGER;
IMPOUNDING OF DOGS NOT CONFINED OR MUZZLED.**

Whenever the Mayor shall be of the opinion that any danger exists from hydrophobia in the Village or other danger exists from dogs running at large within the Village, he shall issue his proclamation requiring every owner, possessor, or keeper of any dog within the Village to confine or securely muzzle the same for such time as he may designate, during which time it is unlawful for any dog to be within the Village unless so securely muzzled with a good substantial wire or leather muzzle securely fastened and put on so as to prevent any such dog from biting. It shall be the duty of all police officers or Village animal control officer to take up and impound any dog that may be found during the time so designated by the Mayor as aforesaid unless muzzled or confined as herein provided.

SECTION 29. FEMALE DOGS IN HEAT.

Any unspayed female dog, while in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen or other enclosure shall be so constructed or situated as to prevent other dogs from gaining access to such yard, pen or other enclosure.

SECTION 30. VICIOUS DOGS.

No person shall own, keep, possess or harbor a vicious dog within the Village. As used in this section, a vicious dog is a dog that unprovokedly bites or attacks human beings or other animals either on public or private property or in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks or any public ground or place. All police officers or Village animal control officer shall take up and impound any dog which is a vicious dog. If a vicious dog cannot be caught by any police officer or Village animal control officer without such officer exposing himself to danger or personal injury from such dog, the officer may forthwith destroy such dog when no other recourse can be determined and without notice to the owner, keeper or possessor thereof.

SECTION 31. CONFINEMENT OF BITING DOGS.

The owner, possessor or keeper of any dog which has bitten or which is suspected to have bitten any person or which is suspected of having rabies shall immediately notify any police officer or Village animal control officer of such fact.

Any dog which has bitten or which is suspected to have bitten any person or which is believed to have rabies or to have been exposed to rabies shall be confined, upon order of any police officer or Village animal control officer, for a period of ten (10) days for observation. Such dog shall either be confined at the residence of the owner, possessor or keeper thereof, if such confinement can be accomplished without exposing such dog to the public, or, at the option of any police officer or Village animal control officer, such dog shall be confined at the Village pound or at a private veterinary hospital at the expense of the owner, possessor or keeper of the dog. It is unlawful for any owner, possessor or keeper of such dog to permit such dog during confinement to come into contact with the public.

**SECTION 32. DOG DESTRUCTION; KILLING OR INJURING LIVESTOCK;
AND DAMAGES.**

If a dog is in a vicious physical act of pursuing or wounding livestock or attacking humans within the Village corporate limits and the act cannot be stopped any police officer or Village animal control officer may take action to destroy such dog. Since destruction may occur whether the dog wears a rabies tag required by Section 7. There shall be no liability of the police officer or the Village animal control officer in damages or otherwise for such killing.

If any dog shall kill or injure any livestock, the owner or keeper of such dog shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction, and it shall be unlawful to keep such dog after it is known that the dog is liable to kill livestock, and it shall be the duty of the owner to kill, or have killed, the dog upon order of the court after a finding that the dog has killed or injured livestock, and provided further that it shall be the right of any owner of livestock so killed or injured by the actions of any dog to kill the dog while it is upon property controlled by the owner of the livestock.

SECTION 33. JOINT POWERS AGREEMENT AUTHORITY.

The Village of Eagle Nest shall have the power to enter into a Joint Powers Agreement upon approval of the governing body of the Village of Eagle Nest.

SECTION 34. NOTICE OR KNOWLEDGE OF VIOLATION OF SECTION NOT NECESSARY FOR PROSECUTING OF OWNER OR KEEPER; CONVICTED PENALTY.

For the purpose of prosecution for violations of this Ordinance, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Ordinance at the time and place charged. It being the purpose and intent of this Ordinance to impose strict liability upon the owner, possessor or keeper of any dog for the actions, conduct and condition of such dog.

Any person convicted of violating any section of this Ordinance can be punished by a fine not exceeding Three Hundred Dollars (\$300.00) or by imprisonment not exceeding ninety (90) days or both such fine and imprisonment.

SECTION 35. REPEAL.

Village of Eagle Nest Ordinances 1983-12, "Animal Ordinance" and 1986-7, "Animal Licensing Fees" are hereby repealed.

VILLAGE OF EAGLE NEST

By:


The Honorable Skip Finley,
Mayor

ATTEST:


Municipal Clerk

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