

SILVER CITY

THE ANIMAL CONTROL ORDINANCE; RELATING TO THE PROTECTION OF RESIDENTS FROM ANNOYANCE AND INJURY; IMPOUNDMENT OF ANIMALS; RABIES CONTROL; REPORTING OF ANIMAL BITES; PROVIDING FOR LICENSING, RESTRAINT, CARE AND PROTECTION; HUMANE DESTRUCTION;

PROVIDING FOR FEES; ESTABLISHING PENALTIES AND PROVIDING ENFORCEMENT WITHIN THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO.

CHAPTER 5: ANIMALS

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ARTICLE I: IN GENERAL

SECTION 5-1. TITLE

This ordinance (chapter) shall be known and may be cited as the “animal control ordinance” and shall be referred to herein as “this chapter”. (Ord. No. 774, 4-6-87) ALL SECTIONS ARE THIS ORD. REFERENCE UNLESS OTHERWISE NOTED AS ADDED OR AMENDED BY ORD. 864 OR ORD. 875.

SECTION 5-2. INTENT

It is the intent of the town council that enactment of this ordinance will protect animals from neglect and abuse and protect residents from annoyance, injury and disease by animals.

SECTION 5-3. DEFINITIONS

- (a) Animal: Any vertebrate, excluding man.
- (b) Animal control officer: Any person designated or authorized by the town council to administer and enforce the provisions of this chapter.
- (c) Animal shelter: Any facility authorized by the council for the impounding and/or caring for animals held under the authority of this chapter or state law.
- (d) Bite or bitten: A mark, puncture or tear of the skin inflicted by the teeth of an animal.

- (e) Kennel, commercial: Any commercial establishment or commercial premises where five (5) or more dogs and/or cats or aggregate thereof, over four (4) months of age are boarded, kept or maintained for any purpose whatsoever, with the exception of state inspected veterinary hospitals, pet shops, or the animal control shelter. (Amended by Ord. No. 364, 2-16-93)
- (f) Kennel, private/residential: Any premises on which are kept any total combination of between three (3) and seven (7) dogs and/or cats, which are four (4) months of age or older. This permit does not allow the holder to buy, sell or board dogs or cats, except that the holder is allowed to sell up to two (2) litters per year. Residences on which are kept a greater number of dogs and/or cats on February 26, 1993, the effective date of the most previous amendment to this ordinance, shall be exempt from these restrictions provided, however, that no such animals is later decreased the exemption is likewise decreased[sic.]. (Ord. No. 864, 2-16-93, amended by Ord. No. 875, 10-4-93)
- (g) Licensing authority: Any authorized representative of the Town of Silver City, resident county veterinarian or humane organization authorized to sell licenses and collect fees for impounding or holding of animals. This authority is responsible for the keeping of records of licensing, vaccinations and other activities as directed by the Town of Silver City, acting through its city manager.
- (h) Officer: Any animal control officer or any law enforcement officer that has jurisdiction within the Town of Silver City.
- (i) Owner: Any person who owns, harbors or keeps, or knowingly causes or knowingly permits any animal to be harbored or kept, or has an animal in his care or who permits an animal to remain on or about his premises for more than six (6) days.
- (j) Pet shop: Any commercial establishment or premises or part thereof maintained for the purchase, sale, exchange, or hire of animals of any type.
- (k) Public nuisance: Any animal which:
 - (1) Molests passersby or passing vehicles;
 - (2) Attacks and/or bites humans or other animals;
 - (3) Trespasses on school grounds;
 - (4) Is running at large; (amended by Ord. No. 864, 2-16-93)
 - (5) Damages public or private property;
 - (6) Barks, whines, or howls - quiet hours are between 9 p.m. and 7 a.m. (amended by Ord. No. 864, 2-16-93);
 - (7) Omits noxious or offensive odors; or
 - (8) Acts in any manner which annoys or may injure humans.
- (l) Running at large: An unrestrained animal off the premises of the owner.

- (m) Town: That area of land lying within the corporate boundaries of the Town of Silver City, New Mexico.
- (n) Unrestrained animal: An animal not secured by a leash or chain or not within a secure enclosure on the real property limits of its owner such that the animal cannot leave the premises.
- (o) Vicious animal:
 - (1) An animal that, unprovoked, bites or attacks a person or approaches a person in a vicious or terrorizing manner or,
 - (2) A dog that is harbored or trained for dog fighting. An animal determined to be vicious shall be humanely destroyed. (Amended by Ord. 864, 2-16-93)
- (p) Leash: A dog restraint which is not more than six (6) feet in length.
(Ord. No.875, 10-4-93)

SECTION 5-4. KEEPING OF DOGS AND CATS

Dogs and cats are permitted as follows: Two (2) dogs, two (2) cats, or one (1) dog and one (1) cat per dwelling unit. It is unlawful for any person to be the owner of, to keep, to cause to be kept, or to assist in keeping more than the maximum number of dogs, cats, or a combination thereof, except in conformance with a permit for a commercial or private residential kennel. There are, however, no number restrictions on litters up to the age of four (4) months. Dwelling units on which are kept a greater number of dogs and/or cats on February 26, 1993, the effective date of the most previous amendment to this ordinance shall be exempt from the restrictions provided, however, that no such dwelling unit shall be allowed a greater number of dogs and/or cats than are kept on the effective date of this amendment, and provided that as the number of such animals is later decreased the exemption is likewise decreased. (Ord. No. 864, 2-16-93, amended by Ord. No. 875, 10-4-93)

SECTION 5-5. ENFORCEMENT

- (a) The provisions of this chapter shall be enforced by all officers. It shall be a violation to interfere with an officer in the performance of his duties.
- (b) The city manager or his designated agent shall, following notice as required prior to the adoption of ordinances, have the power to issue reasonable rules and regulations to carry out the intent and purpose of this chapter.
- (c) Officers shall take unrestrained dogs and animals creating a public nuisance into custody by humane means including the use of tranquilizer guns, cage traps and other paraphernalia so as to effect capture without risk to the officers or other persons as may be involved.
- (d) Officers, in performance of their duties, may enter upon private property for the purpose of apprehending animals running at large, stray animals and all animals constituting a public nuisance. An officer may, for example, apprehend on private property a dog whose barking constitutes a public nuisance. However, the

officer is required first to determine whether the owner is at home and, if so, to give the owner an opportunity to quiet the animal or to otherwise correct the condition causing a nuisance. Officers are not authorized to enter a private dwelling house without a proper warrant for the purpose of apprehending an animal.

- (e) The Animal Control Officer shall have the authority and is directed to investigate, upon probable cause, any alleged violation of this ordinance or any law of the State of New Mexico relating to the care, treatment and control of and prevention of cruelty to animals. The Animal Control Officer shall be authorized to inspect premises within the city limits as necessary to perform his duties. If the owner or occupant of any premises objects to inspection or impoundment of any animal pursuant to law, a warrant for the inspection of said premises and impoundment shall be obtained from a court of competent jurisdiction. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection, investigation or impoundment. (Ord. No. 864, 2-16-93)
- (f) In emergency situations, the animal control officers are hereby authorized to humanely destroy any sick, vicious, or injured animals when such need is indicated and the owner cannot be promptly ascertained or located.

SECTION 5-6. DOGS SECURED OR ENCLOSED

All dogs when not enclosed on private property, shall be secured on a leash and under the control of a human being. When an owner's dog is not secured on a leash, the owner shall enclose his dog within a fence, high and strong enough to assure that the dog cannot escape. Each dog so enclosed shall be given ample room in order to provide the dog with adequate exercise space as determined by the Town Humane Officer. (Ord. 864, 2-16-95)

SECTION 5-7. REQUIREMENTS FOR TRANSFER OR ADOPTION OF DOGS AND CATS

- (a) No cat or dog may be given away to any town resident unless the owner is in compliance with the town ordinances relating to the keeping of dogs and cats.
- (b) The animal shelter may give animals up for adoption. No dog or cat may be released from the animal shelter to an adopting person unless such person signs an agreement that the animal will be sterilized and pays to the animal shelter a sterilization deposit of twenty-five dollars (\$25.00). The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized. Sterilization agreements shall be made as follows:
 - (1) Adoptive owners of dogs or cats less than six (6) months of age shall agree to have the adopted animal sterilized when it is no older than six (6) months of age.
 - (2) Adoptive owners of adult dogs or cats (older than six months of age) shall agree to have the adopted

animal sterilized within thirty (30) days of the date of adoption. (Ord. No. 864, 2-16-93, amended by Ord. No. 875, 10-4-93)

SECTIONS 5-9/10. RESERVED

ARTICLE II: RABIES CONTROL

SECTION 5-11. ANNUAL VACCINATION

It is the duty of every person keeping a dog or cat over the age of three (3) months to have such animal vaccinated annually against rabies by a licensed veterinarian. Every veterinarian vaccinating a dog or cat shall issue to the owner of the animal a numbered vaccination certificate containing the name and address of the owner of the animal, description of the animal vaccinated, the type of vaccine used, the date of vaccination, and the expiration date of the period of immunity and thereafter, in the case of dogs, within ten (10) days, file a copy of such certificate with the licensing authority.

SECTION 5-12. VACCINATION CERTIFICATE

Every person who keeps a vaccinated dog or cat must exhibit his copy of the certificate of vaccination upon the demand of any person charged with enforcement of this chapter.

SECTION 5-13. HARBORING UNVACCINATED ANIMALS It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein.

SECTION 5-14. REPORTING RABIES SUSPECTS

Every veterinarian who makes a clinical diagnosis of rabies and every person who suspects rabies and every person who suspects rabies in a domestic or wild animal shall immediately report the same to the animal control officer, enforcement officer or city manager, stating precisely when and where such animal was seen and, if possible, where it may be found.

SECTION 5-15. REPORTING ANIMAL BITES

Any person with knowledge that an animal has bitten a human being shall immediately report the incident to an officer or the city manager. Every physician or other health care professional who treats a person for such a bite shall report such treatment to an officer or the city manager within twelve (12) hours of such treatment. Such treatment must specify the name of the victim and a precise geographical location of where the person was bitten.

SECTION 5-16. QUARANTINE OF RABIES SUSPECTS Any dog or cat which has bitten a person shall be confined and observed at the animal control office or a veterinary hospital for a period of ten (10) days from the date of the bite. If the animal has a current vaccination for rabies, and the area involved is not under quarantine, the officer may permit quarantine of such animal at the owner's home.

Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the animal control office and the animal is kept continuously on a chain. Home confinement shall not be permitted if the animal bit while off its owners real property. If an animal is adjudged to be vicious, the town need not await the end of the quarantine period, but may humanely destroy the animal immediately after such determination is made. (amended by Ord. No. 864, 2-16-93)

SECTION 5-17. ENFORCEMENT OF QUARANTINE

It is unlawful to remove any dog or cat from enforced quarantine during the period of confinement without consent of the animal control officer who ordered the quarantine.

SECTION 5-18. OWNER'S RESPONSIBILITY

It shall be the duty of the owner of any animal identified as having bitten a person to immediately notify an officer or the city manager and, unless home confinement is authorized, to deliver and surrender said animal to the animal control office for observation within twenty-four (24) hours of the time the bite is inflicted. If said animal is not surrendered within the time limit, it shall be impounded for observation by an officer and the owner shall be cited for non-compliance. (amended by Ord. No. 864, 2-19-93)

SECTION 5-19. UNCLAIMED ANIMALS

Un-owned or unclaimed animals may be destroyed after twenty four (24) hours from the time of the bite, and the head shall be sent to state laboratory for testing.

SECTIONS 5-21/30. RESERVED

ARTICLE III: LICENSE AND TAGS; SPAYING OR NEUTERING REQUIRED

SECTION 5-31. LICENSES

Every owner of a dog or cat which has reached the age of three (3) months shall register such animal by procuring a yearly license. Registration shall be considered current and coextensive with the period for which the animal's rabies vaccination certificate is effective. Written application for a license shall be made to the licensing authority which shall include name and address of applicant, description of the animal, and refer to a rabies certificate issued by a licensed veterinarian. The original license and rabies certificate shall be retained by the owner until the date of expiration. (amended by Ord. No. 875, 10-4-93)

SECTION 5-32. RENEWAL

A license shall be renewed no later than the month of expiration of the current vaccination period for which the license has been issued.

SECTION 5-33. NOTICE TO RENEW

Known dog and cat owners will be given written notice of



vaccination expiration during the month of expiration. In the event no previous license has been obtained, a written notice will be given to a dog or cat owner upon receipt to proof of vaccination or knowledge of ownership by the licensing authority. (amended by Ord. No. 864, 2-16-93)

SECTION 5-34. CERTIFICATES AND TAGS

A current city license tag and rabies tag shall be affixed to any dog within the town at all times when off the property of the owner.

SECTION 5-35. LOSS OF TAG

In the event the original license tag is lost, the owner shall obtain a duplicate from the animal control office.

SECTION 5-36. FAILURE TO LICENSE

Should an owner fail to license his dog or cat at the time of vaccination, the animal control officer shall mail to him upon receipt of the rabies certificate at the animal control office a written notice giving the owner ten (10) days from date of notice to register the animal with the animal control authority. If after ten (10) days, and owner fails to license his dog or cat, a citation will be issued. (amended by Ord. No. 864, 2-16-93)

SECTION 5-37. NEUTERING OR SPAYING OF DOGS AND CATS

- (a) Provisions for the neutering and spaying of adopted dogs and cats within the Town of Silver City shall be in accordance with the rules and regulations of the humane society.
- (b) All dogs or cats over six (6) months of age shall be spayed or neutered within thirty (30) days of reaching that age unless:
 - (1) The owner holds a breeder's permit for the cat or dog. (amended by Ord. No. 875, 10-4-93)
 - (2) The owner has a written certificate from the veterinarian which provides a health exemption.
 - (3) The dog or cat is in the custody of a humane organization which is in the process of spaying or neutering the animal.
 - (4) The cat is feral. Such animal shall be humanely destroyed immediately under the direction of the Humane Society.
- (c) Owners of dogs and/or cats shall be exempt from the requirement that such animals be spayed or neutered so long as the owner can show that he or she owned the animal on February 26, 1993, the effective date of the most previous amendment to this ordinance. Such proof may be made by showing the animal to have been licensed before such date. (Ord. No. 864, 2-16-92)

SECTION 5-38. BREEDER'S PERMITS

- (a) A breeder's permit may be issued by the Animal Control Officer for the keeping of up to three (3) dogs, cats, or combination under the following conditions:
 - (1) The owner must be in compliance with Section 5-4

of the ordinance pertaining to the number of dogs and cats permitted.

- (2) The applicant for the permit must show a plot plan of the premises where the animals are to be kept; identify the numbers of cats and dogs which are proposed to be kept, including the numbers for which are to be kept predominately indoors and which are to be kept predominately or entirely outdoors; and identify the number and approximate location of any outdoor shelters on the premises.
 - (3) The fee for the permit shall be seventy-five dollars (\$75.00) per year, in addition to any other fees required by this chapter.
 - (4) Each holder of a breeder's permit shall comply with all provisions of this Article, and shall keep the premises for which the permit is issued free from any obnoxious, offensive, or unsanitary condition.
- (b) The breeder's permit may be revoked if any of the following conditions exist:
 - (1) The permittee has violated any Town Ordinances or New Mexico laws relating to the keeping, care or use of any animal;
 - (2) The permittee has failed to comply with any condition or requirement of the permit or has failed to pay any fee required by this Code;
 - (3) The permittee refuses to allow inspection, on forty-eight (48) hours written notice, or any animal covered by the permit or the premises in which the animal is kept; or
 - (4) The permittee has transferred, sold, or otherwise disposed of the animal for which a breeding permit was issued.
 - (c) If, after investigation, the animal control officer or other commissioned law enforcement officer concludes that there is probable cause to believe that one or more of the above grounds for revocation has occurred, he or she shall give written notice of proposed revocation to the permittee. This notice shall be served on the permittee. This notice shall be served on the permittee by first class mail or personal delivery, and a Copy shall be delivered to the Chief of Police. The notice shall specify the grounds for proposed revocation of the permit and shall specify a time and date for an informal hearing to be held before the Chief of Police or the Chief's designee. The date of the hearing shall not be less than (5) days after the notice is mailed. After the informal hearing, the permit may be continued in effect, modified, or revoked.
 - (d) The permittee may appeal the decision of the Chief of Police to the town council by written notice of the appeal within five (5) working days of the decision. (Ord. 864, 2-16-93, amended by Ord. No. 875, 10-4-93)

SECTIONS 5-39/45. RESERVED

ARTICLE IV: IMPOUNDMENT

SECTION 5-46. IMPOUNDING ANIMALS

Animals kept in violation of this chapter and stray animals shall be taken into custody by an animal control officer or other designated official and impounded.

SECTION 5-47. REGISTRY

Officers, upon impounding or receiving an animal, shall register such animal by entering the breed, color, sex, and approximate age of the animal and the time and place such animal was apprehended into the records kept for this purpose.

SECTION 5-48. NOTICE TO OWNER

If an impounded animal is wearing identification, the animal shall be confined at the animal control office for a period of four (4) days including the day of pick-up before disposal, during which time the owner shall be notified. If an animal is not wearing identification, the animal shall be impounded at the animal control office for a period of three (3) days including day of pick-up before disposal.

SECTION 5-49. TIME FOR REDEMPTION

All impounded animals shall be redeemed within the period of confinement set out in Section 5-48 herein. Any animal not redeemed within the required period shall become property of the animal shelter and may be placed for adoption or the animal may be humanely destroyed.

SECTION 5-50. RIGHT TO REDEEM

Except in the case of a vicious animal, the owner of any animal which has been impounded shall have the right to redeem the animal upon the payment of fees for impoundment, care and feeding charges and other charges as needed to satisfy the provisions of this chapter.

SECTION 5-51. VICIOUS ANIMALS

If an owner is cited for having a vicious animal, the animal shall be impounded. If the owner does not then give permission to have it destroyed, the owner will be cited and the animal will remain in custody of the animal control office until disposition of the animal is decided by the Municipal Court. An animal which is determined to be vicious shall be humanely destroyed. If the owner agrees that the animal is vicious it shall be humanely destroyed. (amended by Ord. No. 864, 2-16-93)

SECTION 5-52. ANIMALS DESTROYED; SHELTER CHARGES The owner of an animal which has been destroyed shall be charged fees and charges for each day the animal had to be maintained by the animal shelter. (Ord. No. 864, 2-16-93)

SECTION 5-53. OWNER’S RECLAMATION OF THE ANIMAL Upon reclamation of the impounded animal, the owner shall pay all fees, charges and penalties assessed by

the Animal Shelter as required under Sections 5-61 through 5-64 and Section 5-66. Otherwise, the owner shall promise to perform community service, if allowed, as under Section 5-65 of this Chapter. (Ord. No. 875, 10-4-93)

Sections 5-54/60. Reserved

ARTICLE V: FEES

SECTION 5-61. FEES AND CHARGES

(a) Annual license fees for dogs and cats are hereby established as follows:

DOGS:

Female	\$10.00
Male	\$10.00
Spayed/Neutered	\$ 2.50
Replacement	\$ 1.00

CATS:

Female and Male	\$ 1.00
Replacement	\$ 1.00

(amended by Ord. No. 864, 2-16-93)

(b) The charge for animal permits is set out in section 5-87 herein.

SECTION 5-62. LATE FEES

A late fee of ten dollars (10.00), in addition to any other fee shall be assessed against owners who have failed to vaccinate and register their dog or who have failed to renew as provided in Article III.

SECTION 5-63. IMPOUNDMENT AND BOARDING FEES

(a) The impoundment fees for dogs and cats during any twelve (12) month period shall be:

1st impoundment	\$25.00
2nd impoundment	\$50.00
3rd impoundment	\$75.00
4th impoundment	\$100.00

(amended by Ord. No. 864, 2-16-93)

(b) If an animal is impounded a fifth (5th) time during any twelve (12) month period, it shall become the property of the animal control shelter and may be humanely destroyed.

(c) In addition to the above scheduled impoundment fees, the daily boarding charges for impounded dogs and cats are as follows:

- \$3.00 per day
- \$4.00 per day following notice of impoundment to owner
- \$5.00 per day for rabies observation impounds

(d) In addition to the above impoundment fees, owners shall be charged an after-hours impoundment fee of twenty-five dollars (\$25.00) for any animal impounded between the hours of 5:00 p.m. and 7:00 a.m. on weekdays and at any time on Saturdays and Sundays. (Ord. 864, 2-16-93)

SECTION 5-64. PENALTY

In addition to, or in lieu of, any other charges, the following penalty assessments are hereby established:

- First violation of any part of this ordinance for twelve (12) month period (12 month period to commence on date of violation) \$25.00
 - 2nd violation of any part of this ordinance for twelve (12) month period \$50.00
 - 3rd violation of any part of this ordinance for twelve (12) month period \$75.00
 - 4th and subsequent violations for twelve (12) month period \$100.00
- (amended by Ord. No. 864, 2-16-93)

SECTION 5-65. COMMUNITY SERVICE IN LIEU OF CHARGES The municipal judge may substitute the cost of annual fees, impoundment costs and penalty assessments with community service. The cost of neutering or spaying may not be substituted with community service. (Ord. 864, 2-16-93)

SECTION 5-66. STERILIZATION DEPOSIT AND AGREEMENT Unsterilized dogs or cats may be reclaimed by their owners only upon payment to the animal shelter of a sterilization deposit of twenty-five dollars (\$25.00). The sterilization deposit shall be reimbursed as follows:

- (1) Upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized; or
- (2) Upon the owner’s obtaining a breeder’s permit allowing the animal to remain unsterilized.

Additionally, the reclaiming owner must sign an agreement stating that he will have the dog or cat sterilized. Sterilization agreements shall be made as follows:

- (1) Reclaiming owners of dogs or cats less than six (6) months of age shall agree to have the animal sterilized when it is no older than six (6) months of age.
- (2) Reclaiming owners of adult dogs or cats (older than six months of age) shall agree to have the animal sterilized within thirty (30) days of the date of adoption.

(Ord. No. 875, 10-4-93)

SECTION 5-67/70. RESERVED

ARTICLE VI: PROHIBITED ACTIVITIES

SECTION 5-71. FALSE AND STOLEN DOCUMENTS

It shall be unlawful for any person to transfer any license or rabies tag from one animal to another or to make use of a stolen, counterfeit or forged license or rabies certificate.

SECTION 5-72. ANIMALS RUNNING AT LARGE

It shall be unlawful for any owner or person having charge, custody, care or control of an animal to allow it to run at large within the town.

SECTION 5-73. CONFINEMENT DURING HEAT

Any female dog in heat shall be confined to a building or other secure enclosure so that contact with a male will be prevented except for intentional breeding purposes and it shall be unlawful for any person to allow otherwise. It shall be unlawful for any male dog to enter a reasonably secure area to breed with a female in heat. (amended by Ord. No. 864, 2-16-93)

SECTION 5-74. ABANDONMENT OF ANIMALS

It shall be unlawful to abandon an animal within the town. Failure to redeem impounded animals when the owner has been notified of impoundment shall be considered abandonment.

SECTION 5-75. CARE AND MAINTENANCE

It shall be unlawful for any owner to fail to provide an animal with proper food, drink, shelter, or medical attention or to carry an animal in or upon a vehicle in a cruel or inhumane manner.

SECTION 5-76. ANIMAL PROTECTION

It shall be unlawful for any person to beat, cruelly ill treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dog fight, cock fight, bull fight, or any combat between animals or between animals and humans.

SECTION 5-77. BREAKING INTO ANIMAL CONTROL BUILDINGS OR ANIMAL CONTROL VEHICLE.

It shall be unlawful for any person to break open any control office building or vehicle wherein animals are impounded or in any way assist or remove any animal.

SECTION 5-78. HOLDING OF STRAY ANIMALS

It shall be unlawful for any person, without the knowledge and consent of the owner, to hold or retain possession of any animal of which he is not the owner for more than twenty-four (24) hours without first reporting the possession of such animal to the animal control officer, giving his name and address, a description of the animal and the circumstances under which he took possession of the animal. Such persons shall immediately surrender such animal to the animal control officer upon demand for return to the rightful owner.

SECTION 5-79. KEEPING OF VICIOUS ANIMALS

It shall be unlawful for any person to keep a vicious animal.

SECTIONS 5-80/85. RESERVED

ARTICLE VII: OPERATION OF KENNELS AND PET SHOPS

SECTION 5-86. LICENSE AND PERMIT REQUIRED

Except for those persons engaged in hobby-breeding with no more than two (2) animals, it shall be unlawful for any person to operate a commercial kennel or pet shop or engage in the business of breeding animals without obtaining a city license for the operation of a business and a professional animal permit. It shall also be unlawful for any person to operate a private residential kennel without obtaining an annual permit for the operation thereof. Kennel permits shall be renewed annually on January 1 of each calendar year. (amended by Ord. No. 864, 2-16-93)

SECTION 5-87. PROFESSIONAL ANIMAL PERMITS (PERMITS FOR COMMERCIAL KENNELS) AND PERMITS FOR PRIVATE RESIDENTIAL KENNELS

- (a) Professional animal permits and permits for private residential kennels shall be issued by the animal control office on an annual basis and shall be renewed January 1 of each year. (amended by Ord. No. 864, 2-16-93)
- (b) Application for a permit shall be made at the animal control Office. Within thirty (30) working days of receipt of an application for a permit, an officer shall inspect the premises wherein the animals are kept, which may include a private residence, to determine that there are no violations. If there are no violations, the office shall approve the application and issue the permit within five (5) working days of inspection. If there are violations, no permit shall be issued until the violations are corrected.
- (c) After the permit is issued, an Officer shall be permitted to enter, at any reasonable time, the kennel or pet shop, for purposes of making inspection to determine compliance with this chapter.
- (d) Permits are not transferable from one person or place to another.
- (e) The fees for annual permits are as follows:
 - (1) Commercial kennels \$75.00
 - (2) Private residential kennels \$10.00
 (Ord. No. 864, 2-16-93)
- (f) Operators of kennels and pet shops shall post the permit in a conspicuous place.

SECTIONS 5-88/90. RESERVED

**ARTICLE VIII: MISCELLANEOUS
ARTICLE IX: ADMINISTRATION OF ORDINANCE AND PENALTIES
ARTICLE X: REPEAL AND SEVERABILITY**

THESE UNAMENDED ARTICLES ARE AS RECORDED IN TOWN OF SILVER CITY CODE OF ORDINANCES BOOK, PAGES 357 THROUGH 362

ARTICLE VIII: MISCELLANEOUS.

SECTION 5-91. KEEPING CERTAIN ANIMALS

RESTRICTED It shall be unlawful for any person to keep or harbor any cattle, horses, fowl or livestock on premises located within the corporate limits of the town, except as follows:

- (a) Veterinarian hospitals where a duly licensed veterinarian is actively engaged in, and in charge of operations.
- (b) Duly licensed wholesale or retail pet shops operated in areas where such businesses are permitted under the zoning ordinance of the town.
- (c) Small domestic animals, fish or birds, customarily kept in the home for noncommercial purposes, so long as the same shall be in a cage or other enclosure and not allowed to run at large, and so long as the same shall not constitute an animal nuisance.
- (d) Those animals for which a permit has been secured from the animal control office. Such animal shall be kept in an enclosed or fenced area located at least two hundred (200) feet from a neighboring residence, rooms or buildings used for human habitation. Before issuing such permits, the animal control officer shall determine that the keeping of such animals shall not endanger the peace, health or welfare of the inhabitants of the town, and he may make such permits subject to restrictions as to sanitary conditions, number of animals, locations of the same and such other conditions as he may deem necessary.

SECTION 5-92. GRAZING UPON PUBLIC THOROUGHFARES

It shall be unlawful for any person to picket, lead or hold any horse, cattle or other livestock on or along any street, sidewalk or alley in the town in such manner that any such animal may graze upon the grass, herbage or trees growing upon or along any of said streets, sidewalks, or alleys, or for any person to picket, lead or hold any horse, cattle or other livestock in such manner as to obstruct or impede the full use of said streets, sidewalks or alleys.

SECTION 5-93. HITCHING ANIMALS TO PUBLIC AND PRIVATE PROPERTY

It shall be unlawful for any person to hitch a horse or any other animal to any ornamental fence or railing, tree or bush, whether private or public, without the permission of the owner thereof. It shall be unlawful for any person to hitch any such animal to any lamppost or fire hydrant of this town.

SECTION 5-94. CONFINEMENT.

If any animal is found within this town contrary to the provisions of this article, an officer shall take up and confine the animal in a secure place provided for that purpose.

SECTION 5-95. REDEMPTION

Any animal taken up and confined under the provisions of this article shall not be released until the owner or person entitled to the possession thereof shall pay to the town or animal control officer, whichever has the animal in its keeping, the sum of fifteen dollars (\$15.00) for the taking up of

such animal, together with the reasonable cost of boarding the animal for each and every day such animal is kept by the officer.

SECTION 5-96. SALE OF ANIMALS; NOTICE OF SALE If the owner or person entitled to the possession of an animal confined under the provisions of this article does not pay the charges and take it away within five (5) days from the time it is taken into custody, the animal control officer may sell such animal at public auction after having given at least five (5) days notice of the time and place of such sale by publishing or by posting said notice in five (5) public places in the town, as well as serving 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, of any fees, expenses and charges herein provided.

SECTION 5-97. PAYMENT OF EXCESS PROCEEDS FROM SALE

In case an animal sold pursuant to the provisions of this article is sold for more than is sufficient to pay the fees and charges aforesaid, such expenses shall, by the officer or his assistant making the sale, be deposited with the clerk-treasurer, who shall pay such excess, upon order of the 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 six (6) months from date of said sale.

SECTION 5-98. DISPOSAL OF UNSOLD ANIMALS

In the event an animal confined under the provisions of this article is diseased or cannot be sold, it shall become the property of the animal shelter and may be placed for adoption or may be humanely destroyed.

SECTION 5-99. DEAD ANIMALS.

The bodies of any dead animals within the corporate limits of the town shall be promptly removed and shall be buried or disposed of. In case the owner of such dead animal is known, such owner shall pay the cost of such removal and burying or destruction. In case the owner is not known and cannot be ascertained, the town shall pay for the removal and burying or destruction of such dead animal.

SECTIONS 5-1001105. RESERVED.

ARTICLE IX: ADMINISTRATION OF ORDINANCE AND PENALTIES.

SECTION 5-106. CITATIONS

In addition to the power to impound animals as provided in section 5-46 of this ordinance, all officers shall have the authority to issue citations whenever there is probable cause to believe that a person has violated the ordinance. Citations may be issued in addition to or in lieu of impoundment. The citations shall:

- (a) Set forth the specific violations of the ordinance;
- (b) Set forth the fees and penalties that could be imposed;
- (c) If a grace period for correction of the violation is provided by ordinance, set out the period of time for the correction of the violation;
- (d) Contain a notice of penalty assessment which allows the violator to pay a penalty assessment instead of appearing in court as provided in Sections 5-107 and 5-108;
- (e) State that failure to pay any prescribed penalty assessment or in the alternative to appear in court to dispute the citation may result in a conviction of a misdemeanor, punishable by a fine of up to THREE HUNDRED DOLLARS (\$300.00) or imprisonment for a period not to exceed ninety (90) days, or both.

SECTION 5-107. VIOLATIONS; OPTION; EFFECT

- (a) Unless a warning notice is given to the alleged violator of any part of this ordinance, the officer shall offer the alleged violator the option of accepting a penalty assessment. The violator's signature on the penalty assessment notice constitutes an acknowledgment of guilt of the offense stated in the notice, and payment of the prescribed penalty assessment is a complete satisfaction of the violation.
- (b) Payment of any penalty assessment must be made by mail to the Silver City Animal Shelter, Post Office Box 1973, Silver City, New Mexico 88062 or be made in person at the Silver City Animal Shelter office on Highway 180 East, Silver City, New Mexico, within seven (7) days after the date of the citation. Payments of penalty assessments are timely if postmarked within the 7 day time period. The Silver City Animal Shelter shall issue a receipt when penalty assessment is paid by currency, but checks tendered by a violator for payment of penalty assessments are sufficient receipt.
- (c) No record of any penalty assessment payment is admissible as evidence in any civil action.

SECTION 5-108. FAILURE TO PAY PENALTY ASSESSMENT OR CORRECT VIOLATION DURING THE GRACE PERIOD

- (a) If a penalty assessment is not paid in accordance with this ordinance, or a violation is not corrected during the grace period provided, the alleged violator shall be prosecuted for the violations charge and in a manner as if a penalty assessment notice election had not been made by the alleged violator. However, any election to accept a penalty assessment notice shall be admissible as evidence of guilt of the alleged violation. Upon conviction of said prosecution, the court shall impose penalties as provided by ordinance for the particular offense charged.
- (b) In addition to the prosecution provided for in Section 5-108 (a), it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so as otherwise required by this ordinance.

(c) If the penalty assessment is not paid or if the alleged violation is not corrected in the grace period allowed by this ordinance, the officer shall file the citation with the Municipal Court and the citation shall thereafter be prosecuted in the manner provided for violations of the ordinances of the Town. Upon conviction, the Municipal Court shall, in its discretion, impose penalties pursuant to the penalty section of this ordinance and the Municipal Court may also assess fees and costs for the animal's impoundment payable to the animal control center, if any animal has been impounded.

SECTION 5-109. NOTICE TO APPEAR.

- (a) Whenever any alleged violator of this ordinance elects to dispute the citation, the citation shall be treated as a notice to appear and the alleged violator or his counsel shall appear at the time and place stated in the citation.
- (b) It shall be a petty misdemeanor for an alleged violator or his counsel to fail to appear at a time and place stated in the notice to appear regardless of the disposition of the offense for which the citation was issued.

SECTION 5-110. PENALTIES

Any violation of this ordinance for which a penalty is not specifically prescribed is punishable by a fine of up to THREE HUNDRED DOLLARS (\$300.00) or imprisonment for a period not to exceed ninety (90) days, or both.

SECTION 5-111-115. RESERVED

ARTICLE X: REPEAL AND SEVERABILITY.

SECTION 5-116. REPEAL OF PREVIOUS ORDINANCES This ordinance hereby repeals Sections 5-1 through 5-29 of the Code of the Town of Silver City which were included in Ordinances 533, 654 and Sections 6.214 and 6.717 of the 1963 Code.

SECTION 5-117. SEVERABILITY

The provisions of this ordinance are severable and if any part or application of this ordinance is held invalid, the remainder of its application to other situations or persons shall not be affected.

ORDINANCE NO. 913

AN ORDINANCE AMENDING ORDINANCE NO. 864 RELATING TO ANIMAL CONTROL; REDEFINING THE TERM VICIOUS ANIMAL; ESTABLISHING PENALTIES, FINES AND THE DISPOSITION OF ANIMALS THAT, UNPROVOKED, BITE OR ATTACK FOR THE FIRST TIME AND ARE NOT LIKELY TO BITE OR ATTACK AGAIN.

WHEREAS, the Grant County Humane Society and the

Western Animal Rescue organization have petitioned the Council of the Town of Silver City, to amend the animal control ordinance regarding vicious animals; and

WHEREAS, the Council of the Town of Silver City has reviewed the request, directed staff to obtain information on the issue and listened to comments of citizens; and

WHEREAS, the Council wishes to differentiate between vicious animals and animals that, unprovoked, bite or attack a person or another animal once and that are not likely to, unprovoked, bite or attack again ("first time offenders"); and

WHEREAS, the Council wishes to have vicious animals humanely destroyed but would like to allow the owners of first time offenders to keep the animals and be fined depending on the circumstances.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

1. The definition of "vicious animal" as set forth in section 5 is hereby amended to read as follows:
Vicious animal:
 - (1) an animal that, unprovoked, bites or attacks a person or another animal or approaches a person in a vicious or terrorizing manner, provided however that if the animal has no history of any other unprovoked bites or attacks of persons or other animals and the animal is not likely to, unprovoked, bite or attack another person or animal in the future, such animal shall not be considered vicious.
 - (2) A dog that is harbored or trained for dog fighting.
 - (3) An animal determined to be vicious shall be humanely destroyed.
2. Section 5-51 is amended to read as follows:

SECTION 5-51. VICIOUS ANIMALS.

If the owner of an animal that is cited for keeping a vicious animal agrees that the animal is vicious, it shall be impounded and humanely destroyed. If the owner does not agree that the animal is vicious, the animal control officer may impound the animal if he deems it necessary for the safety of the public, and he shall impound the animal if it does not have a current rabies vaccination.

3. Section 5-79 is amended to read as follows:

SECTION 5-79. KEEPING OF VICIOUS ANIMALS.

It shall be unlawful for any person to keep a vicious animal and any animal deemed vicious shall be humanely destroyed and the owner may be fined as provided herein.

4. A new Section 5-80 entitled "Animals that, unprovoked, bite or attack for the first time" shall be added to Animal Control Ordinance and shall read as follows:

SECTION 5-80. ANIMALS THAT, UNPROVOKED,

BITE OR ATTACK FOR THE FIRST TIME.

It shall be unlawful for an animal to, unprovoked, bite or attack a person or other animal or approach a person in a vicious or terrorizing manner. The owner of any such animal shall be responsible for the actions of the animal and shall pay any penalties or fines assessed as a consequence of the actions of the animal.

PASSED, ADOPTED AND APPROVED by vote of Council of the Town of Silver City, Grant County, New Mexico, this 3rd day of 1995.

ORDINANCE NO. 1082

AN ORDINANCE AMENDING SECTION 5-11 OF THE CODE OF ORDINANCES OF THE TOWN OF SILVER CITY TO AMEND THE PROVISION REGARDING VACCINATIONS AGAINST RABIES

WHEREAS, Pursuant to the provisions of Article II of Section 5-11 of the Code of Ordinances (“Code”) of the Town of Silver City (“Town”), it is the duty of every person keeping a dog or cat over the age of three (3) months to have such animal vaccinated annually against rabies by a licensed veterinarian; and

WHEREAS, The State of New Mexico has changed its regulations regarding the vaccinations of dogs and cats to prevent rabies, to allow veterinarians to use rabies vaccines that are licensed for 3-year use rather than only 1-year use; and

WHEREAS, It is in the best interest of the Town of Silver City and those veterinarians who administer rabies shots to have the ability to administer 3-year vaccinations. The 3-year vaccine has also been shown to be just as effective as the 1-year vaccine in protecting the public from exposure to rabies and may also reduce the incidence of adverse reactions to the vaccine in cats and dogs.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Silver City, Grant County, New Mexico, that Section 5-11 of the Code of Ordinances of the Town of Silver City is hereby amended to read as follows:

SEC. 5-11 RABIES VACCINATIONS

It is the duty of every person keeping a dog or cat over the age of three (3) months to have such animal vaccinated against rabies. The animal shall receive a booster within the 12-month interval following the initial vaccination. Every domestic dog and cat shall be revaccinated against rabies within 12 months if a 1-year vaccine is administered or within 36 months if a 3-year vaccine is administered with a rabies vaccine licensed by the United States Department of Agriculture and administered according to label recommendations. The “Compendium of Animal Rabies Control (CARC),” published by the National Association of Public

Health Veterinarians, Inc., shall be the reference for the route of inoculation and the type of vaccine.

Every veterinarian who vaccinates a dog or cat shall issue to the owner of the animal a numbered vaccination certificate containing the name and address of the owner of the animal. A description of the animal vaccinated, the type of vaccine used, the date of vaccination, and the expiration date of the period of immunity and thereafter, in the case of dogs, within ten (10) days, file a copy of such certificate with the licensing authority.

PASSED, ADOPTED AND APPROVED this 8th day of July 2003.

Terry Fortenberry, Mayor
(Seal)

Attest:

Jane Toomajanian, Town Clerk