



Ordinance

NO. 358

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AMENDING THE SAN LUIS CITY CODE TITLE IX, CHAPTER 95 RELATING TO ANIMALS BY ADDING SECTION 95.03, PERSONAL DOG KENNELS; REPEALING ANY CONFLICTING PROVISIONS; ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR SEVERABILITY.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of San Luis, Arizona as follows:

Section 1: That Title IX, Chapter 95, of the San Luis City Code relating to Animals, be amended by adding Section 95.03, Personal Dog Kennels to read as follows:

§95.03 PERSONAL DOG KENNELS

(A) **Definitions.** For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DOG. A member of the *canis familiaris* family over the age of four (4) months.

ENFORCEMENT OFFICER. Any person delegated by the City Manager or his or her designee who is responsible for the enforcement of this Chapter and the regulations promulgated under this Chapter.

IMPOUND FACILITY. Any establishment authorized for the confinement, maintenance, safekeeping and control of Dogs and other animals that come into the custody of the Enforcement Officer in the performance of his or her official duties.

KENNEL. Either

- (1) any premise in which seven (7) to a maximum of twelve (12) Dogs of four (4) months of age or older are kept or

- (2) any premise where the business of buying, selling, breeding, grooming, training or boarding of Dogs is conducted; does not include veterinary hospitals or humane societies.

SERVICE ANIMAL. As it is defined under the provisions of Title 28 Code of Federal Regulations Chapter 1, Part 35, relating to nondiscrimination on the basis of disability in state and local government services at 28 CFR 35.104. Any Dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a Service Animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

- (B) **Interpretation.** For purposes of this San Luis City Code on personal kennels, headings and titles of sections and subsections are for convenience of reference only, and shall in no way be of any weight in interpretation of these provisions.

(C) **Personal Dog Kennel Permits.**

- (1) A permit for a Personal Dog Kennel shall be required for any person who owns, maintains or harbors seven (7) to a maximum of twelve (12) Dogs on property not zoned for kennels. The maximum allowed Dogs shall be less than twelve (12) Dogs if in the particular case the requirements of Personal Dog Kennel Permit cannot be met for that individual Dog owner. For example, a person's lot size may not be big enough for the enclosure requirements of the Personal Dog Kennel Code.
- (2) The enclosure shall meet the requirements of this Personal Dog Kennel Code.

- (3) Any person who owns, maintains or harbors six (6) or fewer Dogs over four (4) months of age is not required to obtain a Personal Dog Kennel Permit.

(D) Circumstance Personal Dog Kennel Permits not required.

- (1) Emergency: The permit provisions do not apply to emergency situations where a person or nonprofit entity boards Dogs, subject to the following conditions:
 - a. The person boarding Dogs will submit a sworn and notarized statement that they are caring for the Dogs for a maximum of thirty (30) calendar days per Dog.
 - b. This statement shall contain the name, address, and phone number of the individual or organization who provided the Dog or Dogs to the boarder.
 - c. No more than two (2) Dogs will be permitted under this emergency exception.
 - d. The boarder will provide the Enforcement Officer with the final disposition of the animal within the thirty (30) calendar days for each Dog noted on the original statement, as well as the name and contact information of the adopting party. Extensions of the time limit of thirty (30) days may be permitted at the discretion of the Enforcement Officer, but in no event shall such extension exceed six (6) months per animal.
 - e. The goal of this emergency exception is to protect the animals that are in foster care rather than to punish law abiding pet owners.
- (2) Service Animals: Any Service Animal as defined in section (A) above shall not be counted toward the six (6) Dogs allowed without a personal Kennel Permit.
 - a. The provisions of Title 28 Code of Federal Regulations Chapter 1, Part 35, relating to nondiscrimination on the basis of disability in state and local government services at 28 CFR 35.136(f) apply to inquiries about Service Animals. The Enforcement Officer shall not ask about the nature or extent of a person's disability, but may make two (2) inquiries to determine whether an animal qualifies as a Service Animal for purposes of this section.
 - i. A public entity may ask if the animal is required because of a disability and

- ii. what work or task the animal has been trained to perform.
 - b. Generally, the Enforcement Officer may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (for example, the Dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
 - c. The Enforcement Officer shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.
- (E) **Duration of Permits.** Each Personal Dog Kennel Permit shall be valid for twelve (12) consecutive months and expire on the first anniversary of the permit and shall become delinquent thirty (30) calendar days from the date of expiration. Each subsequent permit issued will be valid for a one-year period and expire on the respective anniversary date. The fee is established by resolution. A late fee shall be charged on all delinquent Personal Dog Kennel Permits, as established by resolution. No Personal Dog Kennel Permit shall be prorated or refunded nor shall the permit be transferable.
- (F) **Dogs to be Vaccinated, Licensed, and Fixed.** All Dogs covered by a Personal Dog Kennel Permit shall be vaccinated, licensed by Yuma County, and spayed or neutered. A Dog owner may apply for a waiver of the spay or neuter requirement as long as they obtain a veterinarian's written opinion that such surgery would endanger the safety of the Dog, or a certification from a veterinarian determining that the other Dogs owned by the owner or those maintained or harbored at the same address are spayed and/or neutered. At the discretion of the Enforcement Officer and upon documented proof, the spaying and neutering requirement shall not apply to Dogs registered by the American Kennel Club or by the Continental Kennel Club.
- (G) **Commercial Use of Dogs Prohibited.** At no time shall Dogs covered under this section be used for trade, business, profit or gain. There shall be no boarding or breeding of Dogs covered by this permit. All Dogs shall be the exclusive property of the permittee.
- (H) **Sanitation and Noise Elimination.** The permittee shall operate the Personal Dog Kennel in such a manner to eliminate excessive noises by day or night which disturbs the peace of any person or family, to eliminate offensive odors from the kennel and to maintain the kennel and grounds in a sanitary condition.

- (I) **Fence.** The property covered by this permit shall be surrounded by a fence of sufficient height and strength to confine the Dogs. Sufficient height and strength will be determined by an Enforcement Officer based on the Dog being confined and the provisions and the provisions of this Personal Kennel Code.

- (J) **Violations.** Any violations of this Chapter shall be cause to revoke any Dog Kennel Permit. The permit may be revoked by the Chief of Police after notice and hearing. The notice, hearing and appeal procedures shall be handled in the same manner as similar provisions set forth in §113.11 of this Code as nearly as practicable, except that for matters involving this Chapter, the Enforcement Officer shall assume the duties that the that the Chief of Police or the City Zoning Administrator is responsible for in §113.11 and the Chief of Police shall assume the duties that the City Manager is responsible for in §113.11.

- (K) **Excess of Dogs.** Any Dogs over the allotted number allowed will either be surrendered to the Enforcement Officer or to new homes found by the owner within thirty-six (36) hours after the discovery of the excess number of Dogs by Enforcement Officers. The holder of a Personal Kennel Permit shall not be bound by the same requirements governing a commercial Dog kennel.

- (L) **Inspection.** The Enforcement Officer shall, within thirty (30) calendar days before the annual renewal date for the Personal Kennel Permit, inspect the premises to confirm compliance with provisions of this chapter. In no event shall a renewal be issued unless the inspection is made and all non-compliant matters are corrected before the annual renewal date.

- (M) **Kennel Specifications.** Enclosures for Dogs must meet the following minimum requirements:
 - 1. General requirements.
 - a. Enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosures must be kept in good repair.
 - b. Enclosures must be constructed and maintained so that they:
 - i. Have no sharp points or edges that could injure the Dogs;
 - ii. Protect the Dogs from injury;
 - iii. Contain the Dogs securely;
 - iv. Keep other animals from entering the enclosure;

- v. Enable the Dogs to remain dry and clean;
- vi. Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the Dogs;
- vii. Provide sufficient shade to shelter all the Dogs housed in the primary enclosure at one time;
- viii. Provide all the Dogs with easy and convenient access to clean food and water;
- ix. Enable all surfaces in contact with the Dogs to be readily cleaned and sanitized in accordance or be replaceable when worn or soiled;
- x. Have floors that are constructed in a manner that protects the Dogs' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the Dogs' feet to pass through any openings in the floor; and
- xi. Provide sufficient space to allow each Dog to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner.

2. Space.

- a. Each Dog housed in an enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the Dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: $(\text{length of Dog in inches} + 6) \times (\text{length of Dog in inches} + 6) = \text{required floor space in square inches}$. $\text{Required floor space in inches}/144 = \text{required floor space in square feet}$.
- b. Each female Dog with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by a veterinarian. If the additional amount of floor space for each nursing puppy is less than five (5) percent of the minimum requirement for the female Dog, such housing must be approved by a veterinarian.
- c. The interior height of a primary enclosure must be at least six (6) inches higher than the head of the tallest Dog in the enclosure

when it is in a normal standing position *provided* that each Dog must be able to stand in a comfortable normal position.

3. All Dogs housed in the same enclosure must be compatible, as determined by observation. Puppies under 4 months of age may not be housed in the same primary enclosure with adult Dogs, other than with the natural mother or foster mother of the puppies. Dogs with a vicious or aggressive disposition must be housed separately.
4. Dogs that are part of a mobile or traveling show or act may be kept, while the show or act is traveling from one temporary location to another, in transport containers that comply with all requirements of Title 9 of the Code of Federal Regulation §3.14. When the show or act is not traveling, the Dogs must be placed in enclosures that meet the minimum requirements of this Personal Kennel Code.
5. Tethering of Dogs is prohibited for use as an enclosure.
6. Interpretations of Title 9 Code of Federal Regulations §3.6 may be used as a guide to interpret the above Kennel Specifications of this Personal Kennel Permit Code.

Section 2: In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, code, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this Ordinance shall govern.

Section 3: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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Section 4: The effective date of this Ordinance shall be April 1, 2017.

PASSED AND ADOPTED by the Mayor and Council of City of San Luis, Arizona, on
this _____ day of _____, 2016.

Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:

Sonia Cornelio, City Clerk

Kay Marion Macuil, City Attorney