

NO.

**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 Chapter 95, 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.

**COMMERCIAL KENNEL.** Any premises in which four or more Dogs three months of age or older are kept where the business of buying, selling, breeding, grooming, training or boarding of dogs is conducted; does not include veterinary hospitals or humane societies.

**DOG.** A member of the *canis familiaris* family over the age of three (3) 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.** An enclosed area in which a person keeps, harbors or maintains dogs under controlled conditions.

**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) Personal dog kennel permits.**

- (1) A permit for a personal dog kennel shall be required for any person who owns, maintains or harbors more than six (6) Dogs on property not zoned for commercial or agricultural use.
- (2) Any person who owns, maintains or harbors six (6) or fewer Dogs over three (3) months of age is not required to obtain a personal dog kennel permit.
- (3) The provisions of Title 9 Code of Federal Regulation relating to primary enclosures for dogs at 9 CFR § 3.6 shall apply and be required when granting personal dog kennel permits. The kennel shall 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.

**(C) 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, 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 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. The Enforcement Officer shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.
  - c. 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).

- (D) Each personal dog kennel permit shall be valid for 12 consecutive months and expire on the first anniversary of the permit and shall become delinquent 30 calendar days from the date of expiration. Each subsequent permit issued will be valid for a 1-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.
- (E) All dogs covered by a personal dog kennel permit shall be vaccinated, licensed 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.
- (F) 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.
- (G) 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.
- (H) 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 size of the dog being confined and the provisions of Title 9 Code of Federal Regulation relating to primary enclosures for dogs at 9 CFR § 3.6.
- (I) 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.

(J) 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.

(K) 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.

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

**Section 4:** 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.

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

\_\_\_\_\_  
Gerardo Sanchez  
Mayor

ATTESTED:

APPROVED AS TO FORM:

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Sonia Cornelio, City Clerk

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Kay Marion Macuil, City Attorney