

FILE

ORDINANCE NO. 988

AN ORDINANCE OF THE CITY OF ROSWELL REPEALING ORDINANCE 981; REVIVING CERTAIN SECTIONS OF ARTICLE III OF CHAPTER 8 OF THE ROSWELL CITY CODE; ESTABLISHING CRITERIA FOR THE DETERMINATION OF PUBLIC NUISANCES CREATED BY DOGS AND CATS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND FIXING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL, OF THE CITY OF ROSWELL, NEW MEXICO THAT:

1. ORDINANCE 981. Ordinance 981 of the City of Roswell is hereby repealed.
2. REVIVAL. Notwithstanding the provisions of Section E of Ordinance 981, each and every section of Article III of Chapter 8 of the Roswell City Code, December, 1973 compilation with the express exception of Section 8-47, is hereby revived and made of full force and effect.
3. PUBLIC NUISANCE. a. The City Council expressly recognizes that the mere possession of dogs and cats does not necessarily create a public nuisance. With respect to the owning, harboring or maintaining of dogs or cats, a public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either:
 - (1) injurious to public health, safety, morals or welfare; or
 - (2) interferes with the exercise and enjoyment of public rights.b. Without limitation on the foregoing criteria, public nuisances shall include the following with regard to dogs and cats:
 - (1) permitting, creating, or maintaining unsanitary conditions due to animal excrement, diseased animals, or the bodies of dead animals, which conditions affect the public health and welfare;
 - (2) permitting or causing barking, howling, whining, mewling or other animal noises to the extent that the public peace and quiet is regularly or continuously disturbed;
 - (3) permitting or causing the destruction of public property, or the destruction of private property when the property rights of a large segment of the neighboring community are affected, whether such public or private property is real, personal or mixed;
 - (4) owning, harboring, or maintaining a dog or cat which has not been inoculated against rabies or for which an appropriate license has not been acquired, pursuant to the provisions of Art. III, Chapter 8 of the Roswell City Code;
 - (5) permitting or causing an unspayed female dog or cat to run at large while in heat;

(6) owning, harboring, or maintaining a vicious dog, as defined in Section 8-40 of the Roswell City Code, and allowing such vicious dog to run loose.

c. Whoever commits a public nuisance with regard to the owning, harboring or maintaining of a dog or cat for which the act or penalty is not otherwise prescribed by law is guilty of a petty misdemeanor.

d. For purposes of § 3 of this ordinance, prior warning of a violation of any sub-section or paragraph hereof shall raise a rebuttable presumption of knowledge on the part of any person owning, harboring, or maintaining a dog or cat with respect to any and all subsequent violations of that particular sub-section or paragraph hereof, when such warning has been issued, orally or in writing, by the City Animal Warden, his deputies, the Chief of Police, any City police officer, the City Attorney, the City Manager, or any other person designated by the City Manager.

4. SEVERABILITY. If any part of this ordinance shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other part of this ordinance.

5. REPEALER. In addition to Ordinance 981 and Section 8-47 of the City Code which are hereby repealed, all ordinances, parts of ordinances, or sections of the Roswell City Code in conflict or inconsistent herewith be, and the same hereby are repealed to the extent of such conflict or inconsistency. No ordinance, part, or section of the City Code heretofore repealed shall be construed to be revived except as expressly set forth herein.

6. EFFECTIVE DATE. This Ordinance shall be and become effective on and after the fifth day following publication of the approval of this ordinance by the governing body.

PASSED, ADOPTED, SIGNED, AND APPROVED this 13th day of JANUARY, 1976.

CITY SEAL



ATTEST:

W. M. FOSTER
W. M. FOSTER, City Clerk

Jerry N. Smith
JERRY N. SMITH, Mayor