

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District
4

Liz Stefanics
Commissioner, District
5

Katherine Miller
County Manager

TO: Santa Fe County Board of County Commissioners

FROM: David Griscom, Economic Development Manager 

Via: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director 
Greg Shaffer, County Attorney

RE: Ordinance 2016-, Santa Fe County Local Economic Development Act (LEDA)
Support for STAR Cryoelectronics

DATE: September 13, 2016

Background

STAR Cryoelectronics is a business located at 25 A Bisbee Court, Santa Fe NM 87508, in the Community College District. The company has been in operation since 1999, and has a registered business license with Santa Fe County. STAR business niche is as a supplier of superconducting devices, control electronics, and cryogenic systems. STAR currently employs 7 people, and Dr. Robin Cantor, PhD is the President.

Project

STAR is expanding its existing operations to allow for thin-film device fabrication, including sensors, custom foundry service, and detectors for spectrometer systems. Spectrometers are used for materials analysis, and the primary market is the semiconductor industry.

Per the County's LEDA Ordinance, STAR has filled out a County LEDA application, and it is attached as Exhibit A.

County LEDA Ordinance

Per the County LEDA Ordinance (2014-7), a project or business must be a "qualifying entity" in order to receive LEDA support, and STAR is a qualifying entity under LEDA in that it is "an industry for the manufacturing, processing, or assembling of agricultural or manufactured products." (NMSA 1978, § 5-10-3(I)(1)).

Draft Ordinance and Project Participation Agreement (PPA)

Attached to this memo are the draft Ordinance (exhibit B) and draft PPA (exhibit C). The Ordinance details the findings and specific request to the County. The PPA is the agreement between the County and STAR that contains contractual language regarding the terms of the agreement. Additionally, the County and the State of NM Economic Development Dept will enter into an Intergovernmental Agreement (IGA) that will provide a framework for the terms regarding the LEDA grant.

Funding Guidelines

Internal criteria through which each economic development LEDA funding request is evaluated includes the following:

- Whether the project ties in to the SF County Economic Development Plan, and whether it is within one of the 6 identified target industries; staff has determined that the project fits in with the overall economic development strategies as presented in the Economic Development Plan;
- Whether the project is economic base in nature, meaning that >50% of revenues must come from outside NM; staff has determined that it is economic base- greater than 50% of the revenues for the business are currently derived from customers outside New Mexico, and this % will likely increase with the proposed expansion;
- Whether the total private sector investment in the LEDA project, including land, building, infrastructure, and cash, is at a level commensurate with the total cost of the project; State of NM is granting STAR \$100k in infrastructure support, and there is currently no request for direct support from Santa Fe County, other than serving as the pass-through for the State LEDA funds and administering the funds;
- Whether the entity requesting LEDA support has been in business for 3 years or longer; staff has determined from the STAR Articles of Incorporation that it has been in business since 1999;
- Whether the project is outside the incorporated areas of SF County; staff has determined that it is outside the incorporated areas, in the Community College District;
- Whether the project is in SDA 1 or not; staff has determined that the project is in SDA 1;
- Whether the project provides sufficient economic impact to the County; staff has determined that the project provides sufficient economic impact, and will include hiring an additional 11 FTEs with salaries ranging from \$25/hour to \$45/hour. Job titles include: Process Technician, Production Technician, QA Manager, Physicist, Software Engineer.

LEDA request

The applicant has requested assistance to support the costs to acquire a modular clean room, upgrade electrical power to 600A/208V three-phase, install central chilled water unit for cooling water, and add a sewer line connection at the rear of the building for waste water. **The amount requested is \$100,000, which will come from the State of NM, via the Economic Development Department's LEDA allocation. There is no financial request to SF County other than administering the State of NM LEDA support for this project.**

Security

STAR will provide a mortgage note as its security for this LEDA grant.

Staff request

Staff is recommending adoption of Ordinance 2016-, Santa Fe County Local Economic Development Act (LEDA) support for STAR Cryoelectronics.

Exhibit A: Applicant LEDA application

Exhibit B: Draft LEDA Ordinance

Exhibit C: Draft Project Participation Agreement (PPA)

ATTACHMENT NO. 1 TO PPA

SANTA FE COUNTY LOCAL ECONOMIC DEVELOPMENT ACT (LEDA)
APPLICATION FORM
(IN ACCORDANCE WITH LEDA AS PER ORDINANCE 2014-7)

Project Requirements for Financial Solvency:

A. History and Background:

1. Applicant name and contact info:
STAR Cryoelectronics, Robin Cantor, President, 505-424-6454
2. Description of project:
Expansion of clean room facilities to support thin-film device manufacturing.
3. Description of specific LEDA request of Santa Fe County:
Requesting \$100,000 to support the costs to acquire a modular clean room, upgrade electrical power to 600A/208V three-phase, install central chilled water unit for cooling water, and add a sewer line connection at the rear of the building for waste water.
4. Description of applicant's experience with the industry in which this project would best fit:
STAR Cryoelectronics has been in business over 17 years, and is a recognized leading supplier of superconducting devices, control electronics, and cryogenic systems.
5. NAICS code: 334516 - Analytical Laboratory Instrument Manufacturing
6. Disclosures including any conflicts of interest or involvement with governmental entities or their officials (explain in writing):
None
7. Is the applicant current with all property taxes due to SF County?
Yes
8. Has the applicant or any of its officers ever filed for bankruptcy? If yes, provide details:
No
9. Has the applicant or any of its officers ever defaulted on any loans or financial obligations? If yes, provide details:
No
10. Does the applicant have any loans or other financial obligations on which payments are not current? If yes, provide details:
No

B. Funding Sources for Project and timeline:

1. Aside from LEDA support from SF County, what other funding sources (public or private) is applicant pursuing?
Private (company) funding of \$25,000.
2. What is the total estimated value of assistance requested by the County?
\$100,000
3. Is a bond issuance requested, and if so, what percentage of the total project cost does the bond amount request represent? No



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SANTA FE COUNTY LOCAL ECONOMIC DEVELOPMENT ACT (LEDA)
APPLICATION FORM
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4. What is the equity investment for applicant?
\$25,000
5. Describe the security that will be provided to Santa Fe County by the applicant in return for public support (lien, mortgage, or other indenture)
Mortgage
6. Describe the schedule for project development and completion, including measurable goals and time limits for those goals.
Year 1: Complete clean room expansion and set up; one new hire
Year 2: Complete ISO certification; three new hires
Year 3: Three new hires
Year 4: Two new hires
Year 5: Two new hires

C. Business Finance Info- please provide the following:

1. Financial statements with independent audits if available, or tax returns for the past three years:
Audited financial statements for 2012, 2013, 2014 attached.
2. List type of business (C-corporation, S corporation, LLC, Partnership, etc) and attach bylaws, articles of incorporation and any other relevant documents
LLC, Certificate of Organization and Articles of Organization attached.
3. Federal tax number, NM Taxation and Revenue number and County business license number if applicable:
EIN: 85-0460916, NMCRS: 02-395842-00-1
4. Three year projected income statements:
Year 1: \$3.0M
Year 2: \$3.5M
Year 3: \$4.0M
5. Business plan complete with detailed assumptions for business and proposed project;
Include pro-forma cash flow analysis:
6. Any other document or record that pertains to the financial solvency of the qualified entity that the County deems necessary:

Cost Benefit Analysis and Community Commitment

All qualified entities seeking LEDA support from Santa Fe County will show as a part of their application how the proposed project will benefit Santa Fe County in relation to the relative costs of the project. Please provide an analysis, with both tangible and intangible costs and benefits, and include at a minimum the following:

1. What are the number and types of jobs to be created by the entity?
11 new positions within five years
2. What is the proposed pay scale and payroll proposed by the entity?

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SANTA FE COUNTY LOCAL ECONOMIC DEVELOPMENT ACT (LEDA)
APPLICATION FORM
(IN ACCORDANCE WITH LEDA AS PER ORDINANCE 2014-7)

- \$25/hr to \$45/hr for technician and engineering positions, respectively.
Current Payroll, 2016: \$716k/year
Projected payroll, 2021: \$1.32M
3. Describe efforts made or to be made by the entity to provide employment opportunities to people within the local employment pool:
Most recent new-hire is a veteran and long-time resident of Moriarity.
 4. Describe any plans for job/workforce training and/or career development for employees:
Ongoing employee training to improve production efficiency, productivity, and reduce costs.
 5. Detail estimated impacts to the local tax base:
This project will add 11 or more new high-wage jobs over the next five years. We anticipate that most of these new hires will live in the county and support the local tax base.
 6. Detail any need for additional services from the Sheriff department and Fire department as a result of this project:
None
 7. Describe efforts made or to be made by the entity to procure materials and services from local (Santa Fe) providers:
The company currently does business with several Santa Fe businesses and retailers; expenditures in 2015 totaled almost \$56,000. The company paid over \$2,000 in gross receipts taxes on the taxable purchases of these expenditures in 2015.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2016-_____

**THE STAR CRYOELECTRONICS
LOCAL ECONOMIC DEVELOPMENT ACT (LEDA) PROJECT ORDINANCE**

IT IS HEREBY ORDAINED by the Board of County Commissioners of Santa Fe County as follows:

1. **SHORT TITLE.** This Ordinance shall be cited as the "The STAR Cryoelectronics LEDA Project Ordinance" and shall be referred to herein as "the Ordinance" or "this Ordinance."

2. **AUTHORITY.** This Ordinance is enacted pursuant to N.M. Const., art. IX, Section 14(D), LEDA, and the Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7.

3. **DEFINITIONS.**

- a. "Board" means the Board of County Commissioners of the County.
- b. "County" means Santa Fe County.
- c. "EDD" means the New Mexico Economic Development Department.
- d. "LEDA" means the Local Economic Development Act, NMSA 1978, Chapter 5, Article 10.
- e. "PPA" means the Project Participation Agreement attached hereto as Exhibit A.
- f. "Project" means the plan, design, construction, and equipping of a modular clean room at the Property, to include a chilled water supply, power upgrade and electrical services, and a new sewer line.
- g. "Property" means the real property at which STAR Cryoelectronics is located: 25-A/B/C, Bisbee Court, Santa Fe, NM 87508.
- h. "STAR" means STAR Cryoelectronics, a New Mexico corporation.

4. **FINDINGS.**

- a. STAR has submitted an application for economic assistance pursuant to Section V(C) of the Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7.
- b. The Board has reviewed the application and hereby determines that the Project warrants the economic assistance set forth in this Ordinance and the PPA based upon the following, among other, factors:
 - i. STAR is a qualifying entity under LEDA, in that it is "an industry for the manufacturing, processing or assembling of agricultural or manufactured products" (NMSA 1978, § 5-10-3(I)(1));



ii. STAR is an expanding business in Santa Fe County that proposes to create 11 permanent jobs by July 1, 2021;

iii. The economic benefits of the Project, including the permanent jobs, represent adequate return on the public investment of \$100,000 in the Project; and

iv. The economic assistance to be provided under this Ordinance and PPA is permissible under LEDA, in that it represents the provision of a grant for buildings and/or infrastructure. NMSA 1978, § 5-10-3(D) (defining "economic development project" as, among other things, "the provision of direct loans or grants for land, buildings or infrastructure"):

5. **APPROVAL OF PROJECT AND PROJECT PARTICIPATION AGREEMENT.** Subject to the contingencies set forth in Section 7 of this Ordinance, the Board hereby approves of the Project and the PPA.

6. **ECONOMIC ASSISTANCE TO BE PROVIDED.** Subject to the provisions of this Ordinance and the PPA, the County shall grant to STAR \$100,000 for the Project.

7. **CONTINGENCIES.** The economic assistance to be provided under this Ordinance and the Project Participation Agreement are contingent upon the following:

a. EDD's approval of the County's application for a \$100,000 LEDA grant for the Project;

b. EDD and the County entering into an Intergovernmental Agreement, pursuant to which EDD grants \$100,000 to the County for the Project;

c. STAR granting the County a mortgage on one or more of the units comprising the Property, the appraised value of which is determined by EDD to be adequate to secure repayment of the economic assistance to be provided and other amounts that may become due under this Ordinance and the PPA; based upon one or more appraisals paid for by STAR and performed by an appraiser mutually acceptable to STAR and the County.

d. The Project receiving all necessary development permits and approvals under the Santa Fe County Sustainable Land Development Code.

e. The PPA being fully executed by both parties.

These contingencies must be met by December 31, 2016, or the County's approval of the Project and Project Participation Agreement is void.

8. **DELEGATION OF AUTHORITY TO THE COUNTY MANAGER.** The Board hereby delegates to the County Manager the authority to:

a. sign on behalf of the County all applications and other documents required to be submitted to EDD for purposes of applying for a LEDA grant for the Project;

b. execute on behalf of the County an Intergovernmental Agreement between the County and EDD pursuant to which EDD grants \$100,000 to the County for the Project;

c. execute on behalf of the County the PPA; provided, however, that the County Manager may negotiate changes to the PPA so long as the changes do not (i) change the job creation requirements for the Project; (ii) extend the deadline by which jobs must be created; or (iii) commit the County to providing any more economic assistance for the Project; and

d. negotiate on behalf of the County the mortgage to be provided by STAR to secure repayment of the economic assistance and other amounts that may become due under this Ordinance and the PPA.

9. **PROJECT ACCOUNT.** The County Manager shall cause to be established the STAR Cryoelectronics LEDA Project Account, into which shall be deposited \$100,000 and which shall account for all expenditures for the Project.

10. **SEVERABILITY.** If a provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

11. **NO EFFECT ON DEVELOPMENT APPLICATIONS.** The adoption of this Ordinance does not obligate the Board, any County committee, or County staff to approve any application for or issue any development approval or development permit under the Land Development Code or Santa Fe County Sustainable Land Development Code. Each such application shall be evaluated on its merits without regard to this Ordinance.

12. **EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days after it is recorded in the Office of the County Clerk.

PASSED, APPROVED AND ADOPTED THIS 1 DAY OF APRIL, 2016.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: _____
Miguel M. Chavez, Chairperson

ATTEST:

Geraldine Salazar
County Clerk

APPROVED AS TO FORM:

Gregory S. Shaffer
County Attorney

**LEDA PROJECT PARTICIPATION
AGREEMENT FOR
THE STAR CRYOELECTRONICS**

This Project Participation Agreement ("Agreement" or "PPA") is entered into by and between Santa Fe County, New Mexico ("the County") and STAR, a New Mexico corporation ("the Project Party" or "STAR"), as of the date it is signed by both parties.

1. Recitals.

A. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the STAR Cryoelectronics LEDA Project Ordinance.

B. Pursuant to LEDA, the County adopted the Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7, authorizing the County to consider applications for economic assistance.

C. The Project Party has submitted an application to the County for economic assistance under the Santa Fe County Economic Development Ordinance. (Attachment 1.) In the application, the Project Party has requested funding for the Project.

D. The County has adopted The STAR Cryoelectronics LEDA Project Ordinance, finding, among other things, that the Project Party is a qualifying entity as defined in Section 5-10-3(I)(1) NMSA 1978 and approving this Agreement.

2. Economic Assistance to be Provided. The County shall grant \$100,000 to STAR for the Project.

3. Substantive Contribution of the Project Party. Per the LEDA application submitted to the County and in accordance with NMSA 1978, § 5-10-10(B), the Project Party agrees to provide the following substantive contribution in exchange for the economic development assistance set forth in Paragraph 2:

- By July 1, 2021, the Project shall employ a total of ____ permanent, full time employees, as documented in biannual reports to the County as well as required filings with the New Mexico Department of Workforce Solutions. This represents an increase of eleven (11) employees over the number of employees employed by STAR as of the date of this Agreement. The eleven (11) new jobs to be created shall be technician and engineer jobs paying a minimum of \$25/hour.

4. General Terms and Conditions. The economic assistance to be provided under this Agreement is expressly conditioned upon the following general terms and conditions:

a. The Project must obtain all required Development Permits and approvals under the Santa Fe County Sustainable Land Development Code, as applicable;

b. The Project Party must obtain and continuously maintain any necessary permits and other approvals from the State and any other regulatory body necessary for the Project, including a County business license;

c. All conditions set forth in the Intergovernmental Agreement between the County and the EDD concerning the LEDA grant for the Project must be complied with. Without limiting the generality of the foregoing, all expenses for which the Project Party seeks



reimbursement under this Agreement must be capital expenditures for the plan, design, and construction of the Project that are properly reimbursable under the Intergovernmental Agreement and appropriation providing funds for the LEDA grant from EDD to the County;

d. Expenditures for which SFBC seeks reimbursement under this Agreement must be made by the earlier of the date set forth in the Intergovernmental Agreement between the County and EDD or the end of the expenditure period set forth in law for the appropriation providing funds for the LEDA grant from EDD to the County; and

e. The Project Party must be current on all federal, State, and local taxes, including, but not limited to, property taxes to the County.

5. Events of Default: Recovery of Proportionate Share of Economic Development Assistance.

a. The following are Events of Default (i) entitling the County to terminate this Agreement; (ii) causing the amounts set forth in subparagraph b of this Section 5 to be immediately due and payable; and (iii) entitling the County to execute its rights under the Mortgage:

i. The failure of STAR to create 11 new permanent, full time technician and engineer jobs by July 1, 2021, that each pay a minimum of \$25/hour;

ii. The failure of STAR to pay when due all federal, State, and local taxes, including property taxes and gross receipts taxes;

iii. The failure of STAR to annually maintain a County business license;

iv. Breach of any covenant or agreement or warranty by STAR to the County, whether such covenant, agreement, or warranty is set forth in this Agreement or the Mortgage;

v. Any attempt by STAR to sell, transfer, or otherwise encumber the Property, without first obtaining written consent of the County Manager;

vi. Abandonment of the Property by STAR;

vii. Development or use of the Property in violation of the Santa Fe County Sustainable Land Development Code;

viii. The filing, execution or occurrence of:

a) A petition in bankruptcy by or against STAR, its lessee, or operator of the Project, which remains undismissed or unstayed for sixty (60) calendar days;

b) A petition or answer seeking a reorganization, composition, readjustment, liquidation, dissolution of STAR or other relief of the same or different kind under any provision of the federal Bankruptcy Code, 11 U.S.C., which remains undismissed or unstayed for sixty (60) calendar days;

c) Adjudication of STAR as a bankrupt or insolvent, or insolvency in the bankruptcy equity sense which remains undischarged or unstayed for sixty (60) calendar days;

d) An assignment by STAR for the benefit of creditors, whether by trust, mortgage or otherwise;

e) A petition or other proceeding by or against STAR for the

appointment of a trustee, receiver, guardian, conservator or liquidator with respect to all or substantially all of STAR's property which remains undischarged or unstayed for sixty (60) calendar days; or

f) STAR's dissolution or liquidation, or the taking of possession of STAR's property by any governmental authority in connection with dissolution or liquidation; or

viii. A reasonable determination by the County that the property subject to the mortgage described in Paragraph 6 is inadequate or in danger of being impaired or threatened from any cause whatsoever.

b. Should an Event of Default occur and should STAR have not fully met its substantive contribution under Section 3 of this Agreement as of the date of the Event of Default, the following amounts shall be immediately due and payable from STAR to the County:

i. a proportionate share of the economic assistance provided through the date of the Event of Default, calculated as follows: the amount due shall equal (i) the amount of economic assistance provided through the date of the Event of Default multiplied by (ii) the recovery percentage, where the recovery percentage is equal to 1 minus the quotient derived by dividing the number of new full time jobs actually created as of the date of the Event of Default or 11, whichever is less, by 11. By way of example, if \$100,000 of economic assistance had been provided to STAR as of the date of the Event of Default and STAR had created 10 new, full time jobs as of the date of the Event of Default, the amount immediately due and payable from STAR to the County would be \$ 90,909.09; that is, $\$100,000 \times (1 - (10/11))$;

ii. interest on the amount due under Section 5(b)(i) from the date of the Event of Default through the date of payment by STAR at the prime rate on the date of the Event of Default as published by the Wall Street Journal; and

iii. any and all costs and fees incurred by the County in enforcing this Agreement or the Mortgage or collecting amounts due from STAR under this Agreement or the Mortgage, including reasonable attorney's fees.

6. Security Provided by STAR

a. Prior to receiving any funds from the County, STAR shall execute and deliver to the County a Mortgage in a form approved by the County Manager that:

i. Gives the County a security interest acceptable to EDD in one or more of the units comprising the Property, the appraised value of which is determined by EDD to be adequate to secure repayment of the economic assistance to be provided and other amounts that may become due under the STAR Cryoelectronics LEDA Project Ordinance and the PPA, based upon one or more appraisals paid for by STAR and performed by an appraiser mutually acceptable to STAR and the County. Such units in which a security interest is granted is referred to throughout the remainder of this Agreement as the "Mortgaged Property";

ii. Secures to the County the payment of all amounts due to the County under this Agreement, the Mortgage, and the STAR Cryoelectronics LEDA Project Ordinance; and

iii. Remains in effect until STAR has met its job creation goals, the amounts due to the County under this Agreement, the Mortgage, and the STAR Cryoelectronics LEDA Project Ordinance have been paid, or the Mortgage has been foreclosed upon, is released due to the County's acceptance of a substitute standby letter of credit provided in accordance with

Section 6(b) of this Agreement, or is released in accordance with Section 6(c) of this Agreement due to STAR having achieved the employment requirements set forth in Section 3 of this Agreement.

b. In the event STAR desires to sell, transfer, mortgage or develop the Mortgaged Property prior to the release of the security interest through satisfaction of the employment requirements set forth in Section 3 of this Agreement, STAR shall have the right to substitute a standby letter of credit for the security interest in the Mortgaged Property. The standby letter of credit shall be for the amount secured by the mortgage and issued by a federally insured financial institution reasonably acceptable to the County in a form acceptable to the County. In such event, the mortgage in favor of the County shall be released and proper documents shall be signed, substituting the standby letter of credit for the security interest in the Mortgaged Property.

c. At such time as STAR has satisfied the employment requirements set forth in Section 3 of this Agreement, STAR shall provide written notification to the County that such employment requirements have been satisfied, together with a proposed form release of mortgage. Upon receipt of such notice, the County may require additional information or documentation and may audit the records of STAR to determine whether the employment requirements have been satisfied; provided, however, that STAR has the burden of proving that the employment requirements have been satisfied. Within 60 days after receiving the notice, the County shall determine in writing whether STAR has satisfied its employment requirements. The County shall execute a release of mortgage releasing the Mortgaged Property from the mortgage if:

- i. The County determines that STAR has satisfied the employment requirements; or
- ii. The County fails to timely make its written determination.

7. Requests for Reimbursement. This section governs STAR's requests for reimbursement for Project costs.

a. STAR shall submit Requests for Reimbursement to the County's Economic Development Manager.

b. STAR may seek reimbursement of costs no more frequently than once per month.

c. STAR may only seek reimbursement of costs that it has already paid, as evidenced by cashed checks or other proof of payment satisfactory to the County.

d. All requests for reimbursement must be made on forms provided by the County, be submitted in accordance with procedures developed by the County, and be supported by such documentation as the County may reasonably require.

e. Submission of a request for reimbursement constitutes STAR's express representation and warranty that all conditions precedent to its reimbursement have been met and that there exists no Event of Default, as defined in Section 5 of this Agreement.

f. The County shall complete the requisite review of each request for reimbursement within fifteen days of receipt of each request. When additional documentation is necessary to support the request for reimbursement, the County shall notify STAR of the need in writing within the fifteen day review period. The County shall have an additional fifteen days to review any additional documentation supplied by STAR.

g. If the County rejects a request for reimbursement, the County shall notify STAR of the rejection and the reasons therefore. If the County approves of the request for reimbursement, reimbursement shall be mailed to STAR within thirty days of approval.

8. Term: Early Termination; Limitation on Damages.

a. This Agreement shall be effective upon the date it is executed by both parties. It shall terminate on July 1, 2021, unless the County terminates the agreement early:

- i. Due to an Event of Default as defined in Section 5 of this Agreement; or
- ii. Due to STAR having met its substantive contribution by creating 11 new full time jobs prior to July 1, 2021.

The County shall provide written notice of early termination to CHRH in accordance with Sections 15 of this Agreement.

b. In the event of early termination, the County's sole liability shall be to reimburse the Project Party for expenditures made prior to the effective date of termination that are properly reimbursable under this Agreement and the Intergovernmental Agreement between EDD and the County for the LEDA grant. WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL THE COUNTY BE LIABLE TO THE PROJECT PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, WHETHER LIABILITY FOR SUCH DAMAGES IS ASSERTED ON THE BASIS OF CONTRACT, TORT, OR OTHER THEORY, AND REGARDLESS OF WHETHER THE COUNTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES PRIOR TO EXECUTION OF THIS AGREEMENT.

9. Reporting and Review: Books and Records; Inspection and Audit.

a. By May 15 and November 15 of each year during the term of this Agreement, the Project Party will submit to the County a project report in such format and containing such information and supporting documentation as the County may reasonably require. At a minimum, each project report shall include the following: a 1-page narrative on project progress and a jobs spreadsheet listing all employees, their titles, and salaries as of the last day of the month preceding the project report. Project report must be supported by any reports and documentation from the New Mexico Department of Workforce Solutions, including form ES-903, demonstrating the headcount of the operation.

- b. In addition, the Project Party shall:
- i. maintain detailed employment records and Project expenditure records;
 - ii. permit the County to examine and audit its books and records at all reasonable times;
 - iii. furnish such additional information and statements, lists of assets and liabilities, agings of receivables and payables, inventory schedules, budgets, forecasts, tax returns, and other reports with respect to Project Party's financial condition and business operations as the County may request from time to time; and
 - iv. provide such additional information and reports as may be necessary for the County to comply with its reporting requirements to EDD.

10. Ratification. The County and the Project Party hereby ratify all actions consistent with this Agreement that the County or the Project Party or their respective agents may have taken in furtherance of the Project.

11. Miscellaneous. This Agreement binds and inures to the benefit of the County and the Project Party and their respective successors and assigns. This Agreement may be amended or modified, and the performance by any party of its obligations hereunder may be waived, only in a written instrument duly executed by the parties. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument. This Agreement is governed by and is to be construed in accordance with the substantive laws of the State of New Mexico, without giving effect to its choice-of-law principles.

12. Merger and Integration Clause. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes any prior agreements, understandings, or negotiations, whether written or oral.

13. Written Amendments Required. This Agreement may only be amended in writing, which written amendment must be duly executed by all parties.

14. Representations and Warranties of STAR. STAR hereby represents and warrants as follows:

- a. STAR is a New Mexico corporation, duly organized and in good standing;
- b. The person signing this Agreement has the authority to bind STAR to the terms hereof;
- c. This Agreement and the actions contemplated hereunder do not conflict with STAR's Articles of Incorporation, Bylaws, any agreement to which STAR is a party, any law or regulation applicable to STAR, or any court order to which STAR is bound; and
- d. Once duly executed by all parties, this Agreement shall be valid and enforceable against STAR according to its terms.

15. Notices. All notices required to be given in writing shall be sent by facsimile or regular mail, addresses as follows:

If to County:

County Manager
102 Grant Avenue
PO Box 276
Santa Fe NM 87504-0276
Facsimile: (505) 995-2740

with a copy to

County Economic Development Manager
102 Grant Avenue
PO Box 276
Santa Fe NM 87504-0276
Facsimile: (505) 820-1394

If to STAR:

In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing.

A party may change the person or address to which notice shall be sent by giving the other party written notice of such change in accordance with this paragraph.

16. Termination Clauses Related to Intergovernmental Agreement and LEDA Grant

a. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the County may immediately terminate this Agreement by giving the Project Party written notice of such termination. The County's decision as to whether sufficient appropriations are available shall be accepted by the Project Party and shall be final. The Project Party hereby waives any rights to assert an impairment of contract claim against the County or EDD or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the County or EDD.

b. This Agreement is funded in whole or in part by funds made available under an EDD Grant Agreement. Should EDD early terminate the grant agreement, the County may early terminate this Agreement by providing the Project Party written notice of such termination. In the event of termination pursuant to this paragraph, the County's only liability shall be to pay the Project Party for acceptable goods delivered and services rendered before the termination date.

17. No Commitment of County Funds. Project Party acknowledges and agrees that the LEDA grant from EDD to the County is the sole and exclusive source of reimbursement for expenditures it occurs to plan, design, or construct the on-site wastewater treatment system to treat all the Project Party's wastewater at the Property. In no event shall the County be obligated to reimburse the Project Party unless it receives LEDA grant funds from EDD with which to do so.

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MEMORANDUM

DATE: August 23, 2016

TO: Board of County Commissioners

FROM: Rachel Brown, Deputy County Attorney *RB*
Cristella Valdez, Assistant County Attorney *CV*

RE: First Public Hearing on Ordinance No. 2016-___, The Santa Fe County Animal Control Ordinance: an Ordinance Governing the Duties of Animal Owners, and Others; the Impoundment of Animals; and Issuance of Permits; Defining Offenses; Establishing Penalties Related to Animals; and Repealing Santa Fe County Ordinance Nos. 1981-7, 1982-7, 1990-8 and 1991-6 and Santa Fe County Resolution 1982-28.

On July 26, 2016, the Board of County Commissioners (“BCC”) authorized publication of title and general summary of an ordinance that proposes to repeal and replace Santa Fe County Ordinances 1981-7, 1982-7, 1990-8, and 1991-6 and Santa Fe County Resolution 1982-28 (collectively “1991 Ordinance”), which govern the licensing of animals, prohibited activities involving animals, and the administration of Animal Control Services. The Sheriff’s Department proposes to repeal these ordinances and resolutions through the adoption of a more comprehensive ordinance that provides expanded protection for both animals and the public. The proposed ordinance makes significant changes to the organization of provisions in order to differentiate between policy and prohibited activities.

The draft ordinance presented to the BCC on July 26, 2016, with proposed revisions noted using strikethroughs and underscoring, is attached hereto as Exhibit A. The proposed revisions were compiled as a result of public comment and input from the Sheriff’s Department.

Attached as Exhibit B are written public comments received in response to publication of title and general summary. The proposed revisions in Exhibit A address page one of the public comments regarding Section Seven A.1. The comment regarding Section Five E has not been incorporated because the current language is more consistent with judicial interpretation of constitutional protections against unlawful search and seizure in New Mexico. A publication regarding the public safety and humane considerations for prohibiting the tethering of dogs was also submitted to the Sheriff’s Department.

As previously noted, the most substantial differences between this draft ordinance and the 1991 Ordinance are as follows:

Section Four. Definitions.

1. The definitions section of the ordinance was expanded to include 28 new words, including: Adequate Shelter, Adequate Food, Animal Exhibitions, Breeder, Breeding, County, Cruelty, Dangerous Animal, Direct Control, Dog Park, Emotional Support Animal, Euthanasia, Grooming Parlor, Guard Dogs, Inhumane, Licensing Agent, Maim, Molest, Nuisance, Pet Shelter, Pet Shop, Public Place Quarantine, Responsible Part, Service Animal, Torture, Unsafe, and Veterinarian.

2. The definitions for Adequate Shelter and Adequate Food provide comprehensive minimum standards for animal care and enclosure sizes.

Section Five. Administration, Enforcement, and Implementation.

1. The ordinance defines the extent of Animals Services Division authorities and duties with respect to wild animals and dogs that are attacking livestock, people, or other animals.

Section Six. Rabies.

1. The ordinance expressly delineates prohibited activities with regard to rabies and rabies vaccinations. This reorganization will more effectively give notice to the public which activities constitute criminal acts and improve the ease of use of the ordinance for law enforcement and the courts.

Section Seven. Restraint of Animals.

1. The ordinance includes new provision which prohibits the chaining, attaching to trolley systems, or tethering of animals, other than livestock, as a form of confinement.

3. The ordinance requires leashes on sidewalks, streets or other public places. It also removes provisions from the 1991 Ordinance that allow for voice command as a form of restraint.

4. The ordinance expressly delineates prohibited activities in regard to restraint of animals.

Section Eight. Animal Nuisances.

1. Provisions regarding “Animals Disturbing the Peace” and “Nuisances on Sidewalks, Parks, Alleys and Public Places” have been consolidated into one section.

2. “Animals Disturbing the Peace” more specifically establishes what activity constitutes a nuisance.

3. The ordinance also expressly delineates prohibited activities in regard to animal nuisances.

Section Nine. Licenses and Permits.

1. The ordinance increases the age at which dogs are required to be licensed from three months to six months.
2. The length of time dogs may be kept in the County without a license has been reduced from 90 days to 30 days.
3. The ordinance allows owners to keep a license in their possession in lieu of affixing it to a dog's collar during herding and show activities.
4. Owners may license their dogs for a period of one year, two years, or three years instead of for just one year.
5. The ordinance creates a licensing exemption for specially trained dogs used for law enforcement purposes.
6. The types of permits that Animal Services Division may issue are expanded to include Professional Care Permits, Breeding Permits, Litter Permits, and Animal Exhibition Permits.
7. The ordinance establishes due process for revoking permits.

Section Ten. Impoundment.

1. Procedures are created for seizure of animals by warrant, in cases of emergency, and for protective care.
2. The ordinance requires impounded animals to be spayed or neutered prior to or upon their release.

Section Eleven. Prohibited Activities.

1. Incorporates the New Mexico Dangerous Dog Act, NMSA 1978, §§ 77-1A-1 to -6 and sets a fee for the registration of dogs declared dangerous under the Act.
2. The ordinance has a more comprehensive animal cruelty provision than the 1991 Ordinance.
3. The ordinance adds new prohibited activities including, "Breaking into Enclosures" and "Hindering Animal Services Officers."

Appendix A

1. License fees for unaltered dogs are increased from \$10.00 to \$25.00 and fees for altered dogs are increased from \$3.00 to \$10.00.
2. Fees for Kennel permits, now called Professional Animal Care Permits, are increased from \$50.00 to \$200.00.

3. Fines and expressly set forth for violations and those fines set forth in the 1991 Ordinance have been increased.



**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

ORDINANCE NO. 2016-__

**THE SANTA FE COUNTY ANIMAL CONTROL ORDINANCE:
AN ORDINANCE GOVERNING THE DUTIES OF ANIMAL OWNERS, AND OTHERS;
THE IMPOUNDMENT OF ANIMALS; AND THE ISSUANCE OF PERMITS;
DEFINING OFFENSES; ESTABLISHING PENALTIES; AND REPEALING SANTA FE
COUNTY ORDINANCES 1981-7, 1982-7, 1990-8 AND 1991-6 AND SANTA FE COUNTY
RESOLUTION 1982-28**

Section One. Short Title. This Ordinance shall be known and may be cited as the “Santa Fe County Animal Control Ordinance” or the “Animal Control Ordinance.”

Section Two. Authority. This Ordinance is enacted pursuant to the authority specified in NMSA 1978, §§ 4-37-3 (1975), 77-1-15.1 (1979), 77-14-4 (1909), 77-18-2 (1987).

Section Three. Purpose and Intent. This Ordinance is intended to protect animals from cruelty, neglect, and abuse; protect residents from annoyance and injury; promote the health, safety, and welfare of residents and animals; require owners to control their animals; establish a mechanism for financing the functions of licensing, permitting, and control of animals; and establish requirements for spaying and neutering animals to control the unintentional reproduction of animals, reduce the number of unwanted animals, and limit the number of animals that must be euthanized each year.

Section Four. Definitions. In this Ordinance, “shall” is always mandatory, the masculine includes the feminine, and the singular includes the plural, where appropriate. The following definitions shall apply:

- A. “abandonment” or “abandon” shall mean to intentionally desert and/or to relinquish supervision or care of an animal.
- B. “adequate food” shall mean access to the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each animal in good health. Adequate food for birds at minimum means proper feeding and furnishing water at intervals not longer than forty-eight (48) hours.
- C. “adequate shelter” shall mean, for all animals other than livestock, an enclosure large enough to accommodate the animal in a manner suitable for the species, number, age, and condition of the animal that is structurally sound; insulated; weatherproof; cleaned in a timely manner so as not to cause noxious or offensive odors to prevent the breeding of insects; free of stagnant water, unless standing water is appropriate to maintain good health; allows the animal to move around normally; and free of garbage, hazardous materials, feces, insect infestation, and other debris which may endanger the animal’s

health and safety. In addition to the aforementioned criteria, the following minimum size standards for dog, cat, and bird enclosures shall apply:

1. Dogs

- a. large dogs (more than 50 pounds), at least 10 feet by 10 feet or equivalent square footage, and at least five feet high;
- b. medium-sized dogs (36-50 pounds), at least 8 feet by 10 feet or equivalent square footage and at least five feet high;
- c. small dogs (up to 35 pounds), at least 4 feet by 6 feet or equivalent square footage and at least five feet high;
- d. no more than two dogs shall be maintained in a single cage at any time.

2. Cats

- a. Cages must provide an area of at least 9 square feet for each cat and should house no more than one cat, except for nursing mothers, young litters of kittens, or pairs of adult cats who are bonded;
- b. If colony cages are used to house cats, the following standards apply:
 - i. Separate unsterilized males from females;
 - ii. Separate nursing mothers from all others;
 - iii. Separate young kittens from adult cats (except for their mothers);
- c. House no more than fifteen adult cats or twenty kittens in a room;
- d. Include one 12-inch by 18-inch cat litter pan for every three cats.
- e. Cats must be able to move about normally.

3. Birds

- a. A box, or other enclosure shall permit each bird confined therein to stand in a naturally erect position, spread their wings fully, and perch.

D. "animal" shall mean any dog, cat, or vertebrate (excluding humans).

E. "animal exhibition" shall mean any exhibition, act, circus, ride, trade show, carnival, amusement show, performance or similar undertaking in which Animals are required to perform or participate in performances for the intended amusement or benefit of an audience, whether or not a fee is charged.

F. "Animal Services Division" shall mean that division of the County which is charged with

regulating and enforcing the laws and this Ordinance dealing with animal control within the jurisdiction of Santa Fe County.

- G. "Animal Services Officer" shall mean an employee of the County, designated as such by the Sheriff, who has the authority of a peace officer to issue citations for violations of this Ordinance and who performs other duties relating to animal services as described in this Ordinance.
- H. "animal shelter" shall mean a facility run by the County or any establishment licensed to do business in the State of New Mexico and, as appropriate, by Santa Fe County or a relevant municipality within the County, which is under contract to the County for the care and custody, impoundment, or safe-keeping of animals.
- I. "bite" shall mean a wound inflicted by the teeth of any animal.
- J. "breeder" shall mean a person involved in the breeding of animals.
- K. "breeding" shall mean to intentionally cause an animal to reproduce, especially by controlled mating and selection.
- L. "County" shall mean Santa Fe County, New Mexico, a political subdivision of the State of New Mexico.
- M. "cruelty" shall mean causing death or unjustifiable pain or suffering to an animal by an act, an omission, or neglect.
- N. "dangerous animal" shall mean any one of the following:
 - 1. An animal which, when unprovoked, causes injury to a person or domestic animal by biting or other aggressive behavior; or
 - 2. An animal which, because of its poisonous bite or sting, constitutes a significant hazard to the public.
- O. "direct control" shall mean that an owner or responsible party has an animal in control on a leash held by or attached to the owner or responsible party.
- P. "dog park" shall mean an officially designated area where dogs are allowed to exercise and run off leash in a safe, secure environment designated for that purpose.
- Q. "emotional support animal", "comfort animal" or "therapy animal" means an animal selected to accompany an individual with a disability that does not work or perform tasks for the benefit of an individual with a disability and does not accompany at all times an individual with a disability.
- R. "enclosed lot" shall mean any parcel of land or portion thereof in private ownership

around the perimeter of which a wall or fence has been erected of such a height and surety so as to retain the species of animal within the bounds for which the fence was erected or that has an effective electric fence around that portion of the property upon which the animal(s) are allowed off leash.

- S. "estrays" shall mean any animals other than livestock or cats, which are off their owner's premises, and not under the direct control of the owner or a responsible party. .
- T. "euthanasia of animals" or "euthanize" shall mean the act or practice of humanely ending the life of an animal by standards deemed acceptable under the laws and regulations of the State of New Mexico.
- U. "exotic animal" shall mean an animal that is rare or different from ordinary domestic animals or not indigenous to the State of New Mexico, including birds of prey, wolf hybrids and the offspring of wild animals crossbred with domestic dogs and cats, but not including parrots, toucans, or other tame and domesticated birds.
- V. "grooming parlor" shall mean an establishment, or part thereof, or premises maintained for the purpose of offering cosmetic services to animals for profit or fee.
- W. "guard dog" shall mean a dog that is utilized by its owner solely to protect property.
- X. "impound" shall mean the act, by an Animal Services Officer or Sheriff's deputy, of picking up and confining an animal within a shelter or other facility used by the County for the confinement of said animal.
- Y. "inhumane" shall mean causing unnecessary or intentional pain or suffering to an animal.
- Z. "kennel" shall mean any commercial establishment or other premises whether operating as a non-profit entity or for intended profit where dogs or cats are boarded, kept, or maintained.
- AA. "leash" shall mean a chain, leather strap, cord, or restraining device sufficient to hold under control the animal attached thereto. A leash shall be no longer than eight (8) feet, or twelve (12) feet for training purposes.
- BB. "licensing agent" shall mean any organization or individual authorized by this Ordinance or delegated responsibility for issuing licenses for dogs and cats within Santa Fe County whether by contract or otherwise.
- CC. "livestock" shall mean any large or small livestock, including, but not limited to horses, cattle, mules, donkeys, burros, swine, goats, sheep, and fowl, including, but not limited to, chickens, guinea hens, ducks, turkeys, geese, quail, or pigeons.
- DD. "maim" shall mean to deprive the use of the body or a body part by wounding or

the like or to cripple.

EE. "molest" shall mean to bother, interfere with, annoy, or sexually harass or abuse.

FF. "neuter" shall mean to render an animal permanently sterile and incapable of reproduction.

GG. "nuisance" shall mean, but is not limited to, defecation, urination, disturbing the peace, emitting noxious or offensive odors, destruction of property or disturbing the property of another, or otherwise endangering or offending the well-being of the inhabitants of the County

HH. "owner" shall mean a person who owns, has, keeps, harbors, or knowingly permits an animal to remain in, on, or about the person's premises. Any person who owns, has, keeps, harbors, or knowingly permits an animal to remain in, on, or about the person's premises for a period of 48 hours shall be deemed the prima facie owner for the purposes of this Ordinance, except that prima facie ownership shall not create or change a property interest in any animal.

II. "pet shelter" shall mean any establishment licensed to do business in the State of New Mexico and, as appropriate, by Santa Fe County which provides for the care and custody of animals other than livestock.

JJ. "pet shop" shall mean any commercial establishment or premises or part thereof maintained for the purchase, sale, exchange, or hire of animals of any type, including exotic animals, except that the term shall not include livestock auctions.

KK. "premises" shall mean a parcel of land owned, leased, rented, or controlled by any person. Premises include all structures, including kennels, mobile homes, apartments, condominiums, and houses, which are located on a parcel of land.

LL. "public place" shall mean an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not. .

MM. "quarantine" shall mean to detain or isolate an animal suspected of having a contagious disease.

NN. "responsible party" shall mean a person under whose care and custody an animal is placed by the animal's owner for any period of time.

OO. "running at large," shall mean to be free of Direct Control beyond an enclosed lot or the premises or vehicle of an Owner or Responsible Party.

PP. "service animal" shall mean a dog or miniature horse 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. Service Animal does not include an Emotional Support Animal, Comfort Animal, or Therapy Animal.

- QQ. "spay" shall mean to render a female animal permanently sterile and incapable of reproduction.
- RR. "torture" shall mean to inflict or cause pain or anguish, this also includes inflicting pain as punishment.
- SS. "unsafe" shall mean jeopardizing the health or welfare of another person or animal.
- TT. "vaccination" shall mean the protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, and the State of New Mexico Department of Health pursuant to NMSA 1978, § 77-1-3 as amended.
- UU. "veterinarian" shall mean a person with a doctor of veterinary medicine degree, licensed to practice veterinary medicine in New Mexico.
- VV. "vicious animal" shall mean an animal which kills or severely injures (resulting in muscle tears or disfiguring lacerations, or injuries requiring multiple sutures, or injuries requiring corrective or cosmetic surgery) a person or domesticated animal, but does not include an animal which bites, attacks, or injures a person or an animal that is unlawfully upon its owner's premises, or an animal that is provoked.
- WW. "wild animal" shall mean an animal or species that in its natural life is wild, dangerous, or ferocious and though it may be trained and domesticated, has the potential to injure or kill a person or animal. Wild animals, however domesticated, shall include but are not limited to:
1. Dog family (Canidae), all except domestic dogs, but including wolves, foxes, and coyotes;
 2. Cat family (Felidae) all except the commonly accepted domesticated cats, but including lions, pumas, panthers, mountain lions, bobcats and ocelots;
 3. Bears (Ursidae), including grizzly bears and brown bears;
 4. Weasels (Mustelidae) all except the commonly accepted domesticated ferrets, but including the weasel, marten, mink, wolverine, badger, otter, ermine, and mongoose;
 5. Raccoon (Procyonidae), including eastern raccoon, desert raccoon and ring-tailed cat;
 6. Primates (Homidae);
 7. Porcupines (Erthizontidae);
 8. Venomous snakes;
 9. Venomous lizards, alligators, and crocodiles;
 10. Venomous fish and piranha.

Section Five. Administration, Enforcement, and Implementation.

- A. The Sheriff of Santa Fe County shall be responsible for enforcement of this Ordinance as provided in NMSA 1978, § 4-37-4(A) (1975).
- B. Citations for violations of this Ordinance may be issued by a Sheriff's Deputy or an Animal Services Officer designated by the Sheriff. NMSA 1978, § 4-37-3(B).
- C. An Animal Services Officer with appropriate credentials may be commissioned by the Sheriff as a special deputy as provided by law and shall have the authority to issue citations for violations of this Ordinance and state law pertaining to animals. Such commission may be terminated by the Sheriff at any time at the Sheriff's sole discretion.
- D. For a violation of this Ordinance committed outside of the presence of a person charged with enforcement of this Ordinance, the Animal Services Division may require that the complaining party submit a completed complaint form provided by the Animal Services Division. The complaint shall include the name and address of the complainant, the name and address of the animal's owner, if known, the nature of the violation, and any pertinent details.
- E. An Animal Services Officer is authorized to enter onto and inspect premises and animals thereon within the County as necessary to perform the Animal Services Officer's duties. If the owner or occupant of the premises is absent or objects to inspection, a warrant shall be obtained from a court of competent jurisdiction prior to inspection, unless exigent circumstances exist which would cause an objectively reasonable Animal Services Officer to enter the property without a warrant, such as when an animal poses an immediate threat to the public. An Animal Services Officer shall not enter onto the premises for the sole purpose of picking up an animal which has been alleged to be running at large by a person who is not an Animal Services Officer or Sheriff's deputy.
- F. The holder of a permit under this Ordinance must allow an Animal Services Officer access to the permitted premises at any reasonable time for the purpose of inspection to determine compliance with this Ordinance. Failure to allow for such inspection is grounds for suspension or revocation of the permit.
- G. If a citation is issued under this Ordinance that requires payment of a fine, the recipient may either pay the citation or contest the citation in Magistrate Court. If the citation is not remediable by payment of a fine, the recipient shall be directed to appear in Magistrate Court.
- H. This Ordinance does not establish a duty on the part of the Animal Services Division to remove wild animals from public or private property. The Animal Services Division will respond to complaints regarding wild animals owned or kept by individuals within Santa Fe County.
- I. Animal Services Officers have the discretion to waive fees and penalties imposed by this

Ordinance for failure to obtain a license, failure to vaccinate or failure to spay or neuter when the owner of a dog, cat or ferret is cited for the first time for one or more of those offenses, provided the animal is licensed, vaccinated and spayed or neutered prior to release, except that the fees imposed by the Pet Sterilization Act, NMSA 1978, Section 77-1-20 shall not be waived.

J. Dogs Attacking or Killing.

1. An Animal Services Officer or peace officer may kill a dog that is in the act of pursuing or wounding any livestock, wounding or killing poultry, or attacking a human whether or not the dog wears a rabies tag required by NMSA 1978, § 77-1-3. Pursuant to NMSA 1978, § 77-1-9(B) (1975), there shall be no liability of the Animal Services Officer or peace officer in damages or otherwise for the killing.
2. When a dog attacks or kills any person or animal, the dog may be seized and impounded in accordance with the Dangerous Dog Act, NMSA 1978, §§ 77-1A-1 to -7. The charges incurred as a result of that impoundment shall be the responsibility of the dog's owner.

Section Six. Rabies.

A. Rabies; Vaccination Required.

1. Any owner of a dog, cat, or ferret over the age of three (3) months shall have the dog, cat, or ferret vaccinated as prescribed by NMSA 1978, Section 77-1-3 and the Department of Health regulations.
2. Any owner of a dog, cat, or ferret over the age of three (3) months shall exhibit its certificate of vaccination issued by a licensed veterinarian administering the rabies vaccine upon demand by a Sheriff's Deputy or Animal Services Officer.
3. Any owner of a dog, cat or ferret over the age of three (3) months shall securely confine the dog, cat, or ferret until it is vaccinated against rabies, which vaccination shall be administered within one week after entry into the County unless the owner has a certificate of vaccination issued by a veterinarian licensed and practicing either within New Mexico or in another state or foreign country, and the vaccination conforms to the requirements of the State of New Mexico and this Ordinance. A titer test is not an acceptable alternative to a rabies vaccination.
4. Any owner who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

B. Rabies; Harboring Rabid Dogs, Cats, and Ferrets.

1. No owner shall keep, maintain or harbor an unvaccinated dog, cat, or ferret with any symptom of rabies.
2. No owner shall fail or refuse to destroy an unvaccinated dog, cat, or ferret with symptoms of rabies as prescribed by regulations of the New Mexico Department of Health pursuant to NMSA 1978, § 77-1-10(C) (1901).
3. Any person who knows or who has reason to know that a dog, cat, or ferret has any symptom of rabies infection or has been exposed to rabies shall immediately notify the Animal Services Division and the New Mexico Department of Health. The dog, cat, or ferret shall be surrendered to an Animal Services Office, Sheriff's Deputy, or the Department of Health.
4. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

C. Rabies; Harboring an Animal That Has Bitten a Person

1. The owner or responsible party of a dog, cat, or ferret that bites a person and the person bitten by an animal shall immediately report that occurrence to the Animal Services Division.
2. The owner or responsible party of a dog, cat, or ferret that bites a person shall surrender the animal to the Animal Services Division.
3. A veterinary office or animal shelter which has custody of a dog, cat, or ferret that has bitten a person shall immediately notify the Animal Services Division if the animal shows any signs of sickness, abnormal behavior, or if the animal escapes quarantine. If the animal dies while it is in quarantine, the person having custody of the animal shall immediately notify the Animal Services Division and relinquish the body to an Animal Services Officer.
4. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

D. Rabies; Animal Biting Person – Quarantine

1. Any dog, cat, or ferret that bites a person shall be impounded for a ten (10) day quarantine. The Animal Services Division may authorize that a vaccinated dog, cat, or ferret be quarantined at the owner's expense at a veterinarian's office. Any other animal shall be handled in accordance with NMAC 7.4.2.9(C) and (D).

2. The owner of an animal shall bear the cost of impoundment as set forth in Appendix A and quarantine resulting from biting.

Section Seven. Restraint of Animals.

A. Restraint of Animals; Running at Large Prohibited.

1. Any owner or person having charge, custody, care, or control over an animal, excluding livestock, shall keep the animal from running at large by either a secure run or kennel area, an enclosure surrounding the perimeter of the property, ~~adequate training of the animal to ensure that it will not exit the property,~~ electric fence, or any other acceptable means associated with a particular species of animal. Voice command is not an acceptable means of restraint.
2. Any owner who uses electric or invisible fencing designed to confine an animal on their property shall clearly post a notice in two separate locations upon the property that such a device is in use.
3. Any person who violates this Subsection shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A. An animal, other than livestock, that runs at large shall be declared to be an estray, a nuisance, or a menace to the public health and safety, and may be picked up and impounded by an Animal Services Officer.
4. Any animal other than livestock trespassing upon private property shall be deemed prima facie not to be properly restrained, and the owner shall be in violation of this Subsection of the Ordinance.

B. Restraint of animals; Chaining, Tethering and Trolley Systems.

1. No person shall chain, attach to a trolley system, or tether by any means any animal, other than livestock, as a form of confinement, except in limited circumstances such as picnics or gatherings in a park or open space or for emergency purposes to permit an individual to render aid to a human or another animal and only when the owner is immediately present.
2. Any person who violates this Subsection of this Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$300, imprisonment for a period not exceeding 90 days, or both a fine and imprisonment.

C. Restraint; When On Street Or Public Places.

1. An owner shall keep direct control of a dog by the use of a leash when on the sidewalk, street, or other Public Places, including county parks, trails and

open spaces, unless the dog is at a designated Dog Park, is appearing in an approved show, is actively herding, or is actively hunting in accordance with New Mexico Department of Game and Fish regulations. The owner or responsible party of a dog that is actively hunting and is not under the direct control of a leash shall provide a valid State of New Mexico hunting license or permit upon demand by a Sheriff's Deputy or Animal Services Officer.

2. An owner shall secure all animals, apart from livestock and dogs, when on the sidewalk, street, or other Public Places, including county parks, trails and open spaces, in a fashion acceptable for the species of animal. Voice command is not an acceptable form of restraint.
3. An owner of a dangerous dog shall muzzle and restrain the dangerous dog by a leash no more than three (3) feet long and under the physical restraint of the owner or a responsible person. All other dangerous animals shall be maintained on the property of the owner except when removed from the property for medical care.
4. Nothing in this section shall be construed as allowing any animal under physical restraint to commit any act defined as unlawful in this Ordinance.
5. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the fine penalty set forth in Appendix A.

Section Eight. Animal Nuisances.

A. Nuisance; Animals Disturbing the Peace.

1. It shall be unlawful and a violation of this Ordinance to own, keep, or harbor any animal other than livestock which persistently or continuously barks, howls or makes noise common to their species or otherwise disturb the peace and quiet of inhabitants of the County for more than 10 consecutive minutes.
2. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$300, imprisonment for a period not exceeding 90 days, or both a fine and imprisonment. The Animal Services Officer or Sheriff's deputy may issue a warning for a first or second complaint regarding a disturbance of the peace.
3. After a third conviction of a violation of this subsection, the County may deem the animal(s), other than livestock, a nuisance and file a lawsuit in district court.

B. Nuisances; Sidewalks, Parks, Alleys, and Other Public Places.

1. It shall be unlawful and a violation of this Ordinance for the owner of an animal

to permit, either willfully or through failure to exercise due care or control, the animal to create a nuisance upon a sidewalk, park, alley, Public Place, or upon any property other than that of the owner of the animal.

2. Anyone walking an animal in a Public Place shall have in his or her possession a sanitary and disposable means of removing the animal's feces which they will disclose to an Animal Services Officer if requested to do so. The feces must be placed in a refuse container for sanitary removal.
3. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the fine set forth in Appendix A.

Section Nine. Licenses and Permits.

A. Dog License; Licenses Required.

1. Any owner of a dog six (6) months of age or older shall obtain a current license for that dog from the Animal Services Division in accordance with Section 9(B), unless the dog is not kept, harbored or maintained within the County for thirty (30) consecutive days.
2. A current license tag shall be affixed to the licensed dog at all times unless the licensed dog is appearing in an approved show or is actively herding, provided that the dog's owner shall have in their possession a valid license tag for each dog.
3. Proof of a current license shall be provided upon the request of an Animal Services Officer.
4. Pet shops and Pet Shelters with a current Professional Care Permit issued pursuant to Section 9(D) are not required to obtain licenses for animals in their custody for less than three (3) months.
5. Any owner who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the fine set forth in Appendix A.
6. Any unlicensed dog may be impounded as provided in Section 10.

B. Dog License; Licensing Procedures.

1. Licenses are valid for one (1) year, two (2) years, or three (3) years may be

obtained from the Animal Services Division or its Licensing Agent upon application and payment of the required fee set forth in Appendix A. Proof of compliance with the rabies vaccination requirements in Section 6(A) must be presented at the time of the license purchase. The Animal Services Division shall keep a record of all licenses issued and shall issue a tag for each license granted. In the event a tag is lost, the owner shall be responsible for purchasing replacement tags.

2. A license is not transferable to another dog.
3. License fees do not apply to service animals or specially trained dogs belonging to a law enforcement agency and utilized for law enforcement purposes such as drug, bomb or cadaver detection. An individual that utilizes a service animal for assistance must appear in person with the service animal at the Animal Services Division or its Licensing Agent at the time of licensing to qualify for the fee exemption. Any law enforcement agency licensing a specially trained dog must present appropriate credentials or certification for use of the dog for law enforcement purposes to qualify for the fee exemption.

C. Professional Care Permits; Permits Required.

1. Kennels, grooming parlors, pet shops, pet shelters, breeders, animal rescues, persons using a guard dog, and individuals maintaining more than a total of ten (10) cats and dogs on their property shall obtain and maintain a current Professional Animal Care permit from the Animal Services Division.
2. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

D. Professional Care Permits; Permitting Procedures.

1. Kennels, grooming parlors, pet shops, pet shelters, breeders, animal rescues, persons using a guard dog, and individuals maintaining more than a total of ten (10) cats and dogs on their property may obtain a Professional Animal Care Permit if an inspection of their property demonstrates compliance with the relevant permit standards and they pay the required fee set forth in Appendix A. For all permit applicants other than individuals maintaining more than a total of ten (10) cats and dogs or persons using a guard dog on residential property, in order to obtain a permit the applicant shall also furnish proof of a valid business license and proper zoning and other necessary development authorizations required under the Santa Fe County Sustainable Land Development Code (as amended) and any other applicable land use regulations. No Professional Animal Care Permit will be issued without the written approval of the Santa Fe County Land Use Administrator, except for those individuals maintaining more than a total of ten (10) cats and dogs on their property or persons using a guard dog on

residential property.

2. The following standards shall be complied with for a kennel, grooming parlor, pet shop, pet shelter, breeders, and animal rescues to obtain and maintain a Professional Animal Care Permit and failure to comply with these standards may result in the revocation of a permit:
 - a. Animal enclosures must be provided which allow adequate protection against all weather extremes. Floors of buildings, runs, and walls must be constructed with an impervious material to permit proper cleaning and disinfecting.
 - b. Applicants must establish that their facility meets the following minimum temperature and ventilation standards:
 - i. Each area where animals, except livestock, are housed shall utilize a mechanical ventilation system that provides ventilation, heating and cooling. Temperatures shall be maintained at a comfortable level and heating shall be used when the inside ambient temperature of the facility falls below 50 degrees Fahrenheit and cooling shall be used when the temperature of the facility rises above 85 degrees Fahrenheit.
 - ii. The inside relative humidity of the facility must be kept at a range of 30 percent to 70 percent.
 - iii. The facility shall provide adequate air flow ventilation of no less than 8 room air changes per hour for all areas where animals are housed. Ammonia levels must be less than 10 parts per million.
 - iv. Carbon monoxide shall be maintained below detectable levels in all areas of the facility.
 - c. Each animal shall have sufficient space to stand up, lie down, and turn around without touching the sides or tops of cages.
 - d. Cages are to be of material and construction that permits adequate cleaning and sanitizing.
 - e. Cages are to be radiantly heated, and shall have a resting board or some kind of bedding.
 - f. Rooms shall provide an adequate exercise area and protection from the weather.
 - g. All animal quarters and rooms are to be kept clean, dry, and in a sanitary

condition.

- h. Animal food shall be free from contamination, shall be wholesome and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition, age, and size of the animal.
- i. All animals shall have fresh, potable water in kennel cages and in common areas where the animals may be kept. Water vessels shall be mounted or secured in a manner that prevents tipping and shall be removable.
- j. No more than ten (10) dogs owned by the licensee may be on the premises at any time.

3. Guard Dogs.

The following standards shall be complied with by a person using a guard dog on a commercial or residential property to obtain and maintain a Professional Animal Care Permit and failure to comply with these standards may result in the revocation of a permit:

a. Permit applications shall include the following information:

- i. The owner's name, address and telephone number, and if applicable, the name, address, and telephone number of the commercial property or residential property where a guard dogs is to be used;
 - ii. The name, address, and telephone number of the guard dog's handler who can be reached at any time during the day or night;
 - iii. The number and breed of dogs to be used and a general description of their use;
 - iv. The location where a guard dog is to be housed; and
 - v. Any other information that the Animal Services Division requires. Permit holders shall notify the Animal Services Division if any information recorded as part of the permit application is changed during the course of the period for which the permit is issued.
- b. The Animal Services Division shall inspect the facilities where the guard dog is to be used and housed when the guard dog permit is applied for or renewed and at such additional times as the Animal Services Division determines prudent.

- c. If the inspection confirms compliance with all applicable laws and regulations, a Professional Animal Care Permit for the approved commercial or residential property shall be issued by the Animal Services Division. The permit shall be displayed at the approved commercial or residential property. An identification tag shall be affixed to the collar of each guard dog.
- d. A Professional Animal Care Permit for a guard dog is valid for one (1) year unless earlier revoked. The permit may be transferred to a new location operated by the same business entity or at which the owner resides during the permitted year. Such transfer shall not be permitted until the Animal Services Division inspects and approves the premises. Applicants for transfer must provide at least five (5) business days notice to the Animal Services Division for a permit transfer.
- e. Whenever there is a guard dog on the premises, the following minimum requirements must be maintained:
 - i. Housing shall have anti-escape fences completely surrounding it or be an anti-escape building sufficient to house and securely enclose the guard dogs.
 - ii. All gates and entrances to the premises where guard dogs are housed, used, or trained shall be locked when not in use. The enclosure surrounding the property protected by a guard dog must be secure at all times so as to prevent the dog from running at large.
 - iii. Additional measures found necessary by the Animal Services Division shall be taken to protect the public from accidental contact with any guard dog.
 - iv. Where guard dogs are used outside buildings, the property must be enclosed by at least a six-foot chain link fence or other fence of equal security, wall, or adequate wood fence, to which anti-escape devices have been added. The adequacy of the fencing shall be subject to the approval of the Animal Services Division.
 - v. In order to control noise, the Animal Services Division may require a sight barrier which breaks the dog's line-of-sight.
 - vi. In buildings where guard dogs are housed, glass doors or windows shall be adequate, or additional protective measures shall be taken

by the owner, as required by the Animal Services Division, to prevent guard dogs from jumping through the door or window.

- vii. The building and yard in which a guard dog is housed shall be posted with bilingual, English and Spanish, or visual guard dog signs, approved by the Animal Services Division that shall not be more than two hundred feet (200') apart, and shall be at all corners of the premises and at every entrance into the premises.
- f. For guard dogs transported or used in vehicles, measures approved by the Animal Services Division must be taken to protect the public from accidental contact with a guard dog.

E. Breeding; Permit Required.

1. Any owner who breeds a cat or dog shall obtain a breeder's permit from the Animal Services Division, prior to breeding the cat or dog.
2. An owner who does not have a valid breeder's permit shall not advertise, sell, barter, exchange, give away, or otherwise transfer ownership or control of any dog or cat, except that the animals can be surrendered to the Animal Shelter or Animal Services Division.
3. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

F. Breeding; Permitting Procedures.

An owner of a dog or cat intended for breeding shall purchase a single permit for the year, identifying each animal which is intended to be bred by appearance, breed, and gender, and age. A single permit may be purchased for multiple or cats. A permit application shall be available at the Animal Services Division, which will require at a minimum proof of rabies vaccination and licensing as well as a description of each cat and/or dog, by appearance, breed, and gender, and age, for which the permit is issued; and payment of the required fee set forth in Appendix A. Additional dogs and/or cats can be added to the permit over the course of the year by submitting a supplement to the original permit application providing any information about the additional animal required by the Animal Services Division.

G. Litters; Permit Required.

1. Any owner who unintentionally breeds dogs or cats and does not have a current breeder's permit must obtain a litter permit from the Animal Services Division for each litter.
2. An owner who does not have a valid litter permit shall not advertise, sell, barter,

exchange, give away, or otherwise transfer ownership or control of any dog or cat, except that the animals can be surrendered to an Animal Shelter or Animal Services Division.

4. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A. If the owner purchases a breeder's permit or litter permit within thirty (30) days of being cited for violation of this Section, no further action will be pursued against the owner for failure to obtain a litter permit for the litter.
4. If the owner surrenders the litter to an Animal Shelter, pays requisite surrender fees, and sterilizes the animal that produced the litter, the requirement to obtain a litter permit will be waived.

H. Litters; Permitting Procedures.

A single litter permit shall be purchased from the Animal Services Division for each litter. A permit application shall be available at the Animal Services Division, which will require at a minimum proof of rabies vaccination and licensing as well as information about appearance, breed, and gender, and age for which the permit is issued, and payment of the required fee set forth in Appendix A.

I. Ownership transfer of offspring; Permit Number Required.

1. An advertisement for the sale, barter, exchange, or to give away of puppies or kittens shall include a litter or breeder permit number. An owner shall furnish the litter or breeder permit number to anyone requesting the number.
2. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction shall be punished by the penalty set forth in Appendix A.

J. Wild or Exotic Animals; Permit Required.

1. No person or entity shall receive, own, harbor, maintain, or keep a wild animal or exotic animal within the limits of the County without first applying for and receiving from the Animal Services Division an Wild or Exotic Animal permit to do so, except a zoological park, veterinary hospital, animal shelter, public laboratory, circus, amusement show, or educational facility, and then only if there are adequate protective devices to prevent the animal from escaping or injuring the public.
2. No person shall harbor, maintain, or keep a wild or exotic animal in such a manner as to constitute a likelihood of harm to the animal or other animals, to humans, or to property.

3. Any person who violates this Subsection of the Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

K. Wild or Exotic Animals: Permitting Procedure.

1. A Wild or Exotic Animal Permit shall be purchased from the Animal Services Division for each wild animal or exotic animal. The applicant shall provide evidence of knowledge of and facilities for the care and feeding of the wild or exotic animal; provide proof of compliance with all applicable state and federal laws, regulations, and permitting requirements; and pay the required fee set forth in Appendix A prior to issuance of the permit.

Permit applications shall include the following information:

- a. The owner's name, address and telephone number;
 - b. The species of the animal;
 - c. The name, address, and telephone number of the exotic or wild animal's handler, if different from the owner, who can be reached at any time during the day or night; and
 - d. The location and description of where a wild animal or exotic animal is to be housed, kept, or maintained.
2. Upon receipt of the application, the Animal Services Officer shall inspect the facilities where the animal is to be housed and shall make whatever other investigations he or she deems necessary.
 3. An Animal Services Officer must be permitted to enter the premises of the permit holder or the facilities in which the wild or exotic animal is kept hereunder during working hours for the purpose of inspection or re-inspection to determine compliance with this Ordinance. Permit holders shall be notified of a inspection at least twenty-four (24) hours prior to the inspection. Wild and Exotic Animal permits shall be valid for a period of one year.

L. Animal Exhibitions; Permit Required.

1. No person shall operate an animal exhibition within the limits of the County without first applying for and receiving from the Animal Services Division a permit to do so, except a zoological park.
2. Any person who violates this Subsection of the Ordinance shall be guilty of a

misdemeanor, and, upon conviction, shall be punished by the penalty set forth in Appendix A.

M. Animal Exhibition; Permitting Procedure.

1. An Animal Exhibition shall be purchased from the Animal Services. The fee set forth in Appendix A and the required actions or document submittals described in this Subsection shall be satisfied by applicant(s) at least two weeks prior to issuance of a permit. In the event a permit is issued, failure to maintain these requirements during the permitted activity will be cause for revocation of the permit. Where documents are required below, written copies must be provided to the Animal Services Division.

Permit applications shall contain the following:

- a. A written plan for the quick and safe recapture or destruction of a dangerous wild or exotic animals in the event an animal escapes. The plan must include at minimum the following information:
 - i. The applicant's written protocols for training their staff on methods of safe recapture of an escaped wild or exotic animal;
 - ii. A description of barriers, security, signage, staffing, fencing, protocols, and other measures taken for the public's safety;
 - iii. A detailed description of containment methods for the animal(s);
 - iv. Immediate access to appropriate chemical immobilization drugs and equipment; and
 - v. Identification of staff member(s) (and as appropriate, veterinarians) who possess firearm and chemical immobilization proficiency to recapture an escaped wild or exotic animal. These personnel must be immediately available at all times that the wild animals are present within the County;
- b. A plan for providing emergency veterinary care in a timely fashion including names and contact information of available on-call veterinarians, if none are present on site;

- c. Proof of compliance with all applicable state and federal laws, regulations, and permitting requirements;
 - d. Evidence of knowledge of and facilities for the care and feeding of all animals used in the exhibition; and
 - e. The Animal Services Division must be permitted to examine the health records of all animals used in the exhibition.
2. Animal Services Officer must be permitted to enter the premises of the permit holder or the facilities in which animals are kept hereunder during working hours for the purpose of inspection or re-inspection to determine compliance with this Ordinance. Permit holders shall be notified of a inspection at least twenty-four (24) hours prior to the inspection. Animal Exhibition Permits shall be valid for a period of one year.

N. Suspension and Revocation of Permits.

- 1. All permits issued by the County under this Ordinance are subject to revocation for failure to comply with the requirements established in this Ordinance.
- 2. Notice of proposed revocation shall precede any permanent revocation of a permit issued under this Ordinance.
- 3. The notice of proposed revocation shall specify the following:
 - a. The specific violation or violations alleged, including dates and times of the alleged violation or violations, and any specific section or subsection of this Ordinance or state law that is alleged to have been violated;
 - b. A specific date by which the alleged violations shall be corrected to avoid further revocation proceedings, if the violation is of a nature that may be corrected;
 - c. A warning that failure to correct the violation or request a hearing shall result in revocation of the permit; and
 - d. Procedures for requesting a hearing regarding the alleged violation and proposed revocation of the permit.
- 4. If the period of time during which the permit holder was allowed to correct the violation passes without correction of the violation, and the permit holder has not requested a hearing as described in this Section, the Animal Services Division shall issue a notice of revocation. The revocation shall be effective thirty (30) days from service of the original notice of proposed revocation.
- 5. A permit holder may appeal the proposed revocation by requesting a hearing.

The request for hearing shall be made within five (5) days of service of the notice of proposed revocation. The request for hearing shall be in writing, sent by certified mail, return receipt requested. The request for hearing shall briefly state the reasons why the permit holder believes the revocation is not justified under the circumstances.

6. The Animal Services Division shall give written notice of the date, time, and place of the hearing to the permit holder. The date of the hearing shall be not less than ten (10) days or more than thirty (30) days from the date of service of the notice of the hearing. The Animal Services Division may designate a County employee other than one employed in the Sheriff's Department or any other suitable individual to be the hearing officer.
7. The hearing officer may uphold, modify, or reverse the permit revocation. In conducting the hearing, the hearing officer shall not be limited by formal rules of evidence; evidence may be considered which is of a type upon which responsible people are accustomed to rely in the conduct of serious affairs. Within fifteen (15) business days of the hearing, the hearing officer shall send written findings and conclusions to the permit holder, by certified mail, return receipt requested. Permit holders may be represented by counsel at the hearing.
8. A person aggrieved by the hearing officer's decision may appeal the decision as by filing a petition for writ of certiorari pursuant to Rule 1-075 NMRA.
9. Notices provided for under this subsection shall be deemed served when the notice is delivered personally or mailed by registered or certified mail, return receipt requested, to the address on record for the permit holder.
10. During the pendency of the appeal, the Animal Services Division may take such action as is deemed appropriate for the health and safety of the animals and the general public, including temporarily suspending the permit and prohibiting the permit holder from operating under the permit pending resolution of the revocation proceeding.
11. A permit holder whose permit has been revoked shall not be eligible to apply for another permit for a period of one year after the revocation of the permit.
12. Upon revocation of a permit, the permit holder shall cease operating under the permit within five (5) days of the effective date of revocation. If necessary, the permit holder shall give away, sell, or surrender all animals previously covered by the permit in compliance with relevant laws, regulations, and in a manner satisfactory to the Animal Services Division.

Section Ten. Impoundment

A. Impoundment; Violation of Ordinance and Estrays.

1. An Animal Services Officer or Sheriff's Deputy may impound a dog or cat that is found running at large and unaccompanied by and not under the control of its owner or responsible party or whose owner is in violation of any subsection of this Ordinance that provides for impoundment.
2. If an estray is wearing a license, or bears other identification tags, the Animal Services Division shall notify the owner by telephone or by hand delivering or mailing written notice to the owner's residence. The notice shall inform the owner where the impounded animal may be redeemed. All efforts to notify the owner shall be documented.
3. The Animal Services Division shall confine the animal pending notification of and response from the owner. The animal shall be held for a period of at least seven (7) days. The day the estray animal is impounded constitutes the first day.
4. After notification to the owner, any animal wearing a license or other identification tag not redeemed within seven (7) days shall be deemed forfeited by the owner and shall be eligible for adoption, transfer, or euthanasia at the discretion of the Animal Services Division
5. If an estray animal is not wearing a license and bears no other identification tags, the animal shall be impounded for five (5) days. An animal not claimed within five (5) days of the date of impoundment shall be deemed forfeited by the owner and shall be eligible for adoption, transfer, or euthanasia at the discretion of the Animal Services Division
6. To redeem an animal that has been impounded, the owner or responsible party shall pay all fines and impoundment fees set forth in Appendix A to the Animal Services Division or an Animal Services Officer. The owner or responsible party must also comply with all licensing requirements of this Ordinance
7. The owner or responsible party shall reimburse the County or the County's designated agent for all boarding, vaccination, emergency veterinary costs, or other expenses incurred by the County or an animal shelter, whether or not the animal is redeemed. The owner or responsible party and is prohibited from adopting an animal relinquished after impoundment until all costs, fines and fees are paid in full.
8. If an impounded animal is certified by a veterinarian as suffering because of sickness, injury or age, or if it is readily apparent that it is suffering due to a critical injury, it may be euthanized pursuant to Section 10(E) of this Ordinance, after the Animal Services Division gives notice or attempts to give

notice to the owner in a reasonable manner.

9. No animal that has been impounded may be adopted for purposes of breeding or sale and an individual adopting the animal must comply with NMSA 1978, Section 77-1-20, pertaining to sterilization agreements and sterilization deposits.

B. Impoundment; Seizure Pursuant to Warrant

1. If an Animal Services Officer or Sheriff's Deputy reasonably believes that the life or health of an animal is endangered due to cruel treatment, or that other violations of this Ordinance justify seizure of an animal, the officer may apply to a court of competent jurisdiction for a warrant to seize the animal.
2. If the court finds probable cause that the animal is being cruelly treated or finds probable cause that a violation of this Ordinance justifies seizure of the animal, such as where an owner is charged with an offense involving a dog killing or injuring a person or animal, the court may issue a warrant for the seizure of the animal.
3. Written notice regarding the time and location of a hearing regarding the allegations which led to issuance of the warrant shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.
4. If the owner of the animal cannot be determined, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.
5. At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice.
6. The disposition of animals impounded under this Section shall be pursuant to NMSA 1978, § 30-18-1.2 as amended.

C. Impoundment; Seizure in Cases of Emergency.

1. If an Animal Services Officer determines that the life or health of an animal is in immediate danger, or that a violation of this Ordinance poses an immediate threat to the health, safety, or well-being of an animal or a person, the Animal Services Officer may take such action as the Animal Services Officer reasonably determines to be necessary to alleviate the emergency, including impounding the animal. The Animal Services Division shall serve personal notice to the owner that the animal has been impounded and notifying the owner that he or she shall have five (5) days from the date of mailing to claim the dog. If the Animal Services Division cannot personally serve notice to the owner, the Animal Services Division shall mail notice to the owner that the animal has been

impounded and that they shall have seven (7) days from the date of mailing to claim the dog. Any owner failing to claim the dog within time set forth in the notice shall be deemed to have forfeited ownership of the dog and the dog shall become eligible for adoption, transfer, or euthanasia at the discretion of the Animal Services Division. The owner shall not be eligible to adopt the animal.

D. Impoundment Fees.

The owner of an impounded animal is responsible for impoundment fees, fees required for adoption of an impounded animal, boarding costs, and additional fees for the redemption of impounded animals as set forth in Appendix A of this Ordinance.

E. Euthanasia of Impounded Animals.

1. If an impounded animal is not redeemed within the specified time period, is not successfully adopted out, is suffering because of sickness, injury, or age as certified by a veterinarian, or is otherwise unsuitable for adoption, the animal may be euthanized under the supervision of a veterinarian by an intravenous or intracardial injection of a dose of barbiturates (sodium pentobarbital), or any other method deemed humane and painless by the veterinarian.
2. An animal which is vicious, infected with an incurable disease, or is in a painfully crippled condition, and consequently cannot be brought to an animal shelter, may be euthanized in the field by an Animal Services Officer or a veterinarian in an appropriate and reasonable manner and as humanely as possible.

F. Protective Care.

When an Animal Services Officer finds or learns that an animal is or will be without proper care because of injury, illness, incarceration, or absence of the owner or responsible party, the Animal Services Officer may impound the animal for protective care. In the event of sickness or injury of the animal, upon the advice of a veterinarian, the Animal Services Officer may take or recommend such action as called for to prevent undue pain and suffering, including euthanasia. The animal shall be held by Animal Services Division or the animal shelter and the owner shall be required to pay applicable fees. The Animal Services Division shall serve personal notice to the owner that the animal has been impounded and that they shall have five (5) days from the date of mailing to claim the animal. If the Animal Services Division cannot personally serve notice to the owner, the Animal Services Division shall mail notice to the owner that the animal has been impounded and that they shall have five (5) days from the date of mailing to claim the animal. Any owner failing to claim the animal within time set forth in the notice shall be deemed to have forfeited ownership of the animal and the animal shall become eligible for adoption, transfer, or euthanasia at the discretion of the Animal Services Division.

G. Impoundment; Release of intact animals.

1. Any unneutered dog or cat impounded by the Animal Services Division shall be spayed or neutered before being released, subject to the following exceptions
 - a. Competition dogs or cats who have participated in formal competitions within six months prior to their impound if the dog or cat has not been previously impounded for running at large;
 - b. Service animals and unretired law enforcement dogs; and
 - c. Cats or dogs which are unable to be neutered without a high likelihood of suffering serious bodily harm or death due to age or infirmity where the owner of the cat or dog has obtained written confirmation of that fact from a licensed veterinarian in the State of New Mexico.
2. In addition to receiving a citation for running at large, the owner of an unneutered dog or cat found running at large and returned to the owner rather than being impounded, shall neuter the animal and provide proof of neutering from a licensed veterinarian in New Mexico to an Animal Services Officer within seven days of return of the animal, subject to the exceptions set forth in Subsection (G)(1).

Section Eleven. Other Prohibited Activities.

A. Dangerous Dogs.

1. It shall be unlawful for any person to keep or harbor a dog declared by a court of competent jurisdiction to be a dangerous dog or is deemed dangerous by admission of the owner pursuant to the Dangerous Dog Act, NMSA 1978, §§ 77-1A-1 to -6, except in compliance with the registration and handling requirements set forth in NMSA 1978, §77-1A-5 and payment of the registration fee set forth in Appendix A.
2. When an Animal Services Officer has probable cause to believe that a dog is dangerous or potentially dangerous and poses an imminent threat to public safety, the Animal Services Officer may apply for a warrant to seize the dog and petition the court for a declaration that the dog is dangerous or potentially dangerous pursuant to NMSA 1978, § 77-1A-4.

B. Cruelty to Animals.

1. It shall be unlawful for any person to willfully or maliciously do the following to

any animal:

- a. Kill;
 - b. Maim;
 - c. Poison (other than pest control);
 - c. Disfigure;
 - e. Burn or scald;
 - f. Torture;
 - g. Kick;
 - h. Beat with a stick, chain, club, or other object; or
 - i. Molest;
2. It shall be unlawful to willfully, recklessly, negligently, or maliciously do any of the following:
- a. fail to provide adequate shelter or adequate food for any animal;
 - b. abandon any animal;
 - c. overwork or overdrive any animal; or
 - d. place or leave any animal in a condition whereby there is a substantial possibility the animal's life will be threatened.
3. A person may use reasonable force to defend against a vicious or threatening animal. Such actions shall not constitute a violation of this Subsection.
4. This subsection does not apply to:
- a. fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;
 - b. the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;
 - c. rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;
 - d. the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;
 - e. the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;
 - f. research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by

the institutional animal care and use committee of the facility; or

- g. other similar activities not otherwise prohibited by law.

C. Teasing, Annoying, or Disturbing Animals.

It shall be unlawful for any person to tease, annoy, or disturb an animal which is on the property of its owner, including within the owner's vehicle, or under the control of its owner.

D. Animal Fights.

It shall be unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, or contest in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or another animal.

E. False Report.

It shall be unlawful for any person to make a false report of an offense described in this Ordinance.

F. Animals in Vehicles.

1. It shall be unlawful for any person to keep or transport an animal in the bed of a pickup truck on roads and highways with speed limits that exceed thirty five (35) miles per hour, unless the animal is either properly restrained within a kennel, dog carrier or other enclosed pen which is securely fastened to the truck; or for dogs, if the vehicle's open bed is enclosed by stakes, racks or other similar devices which rise at least two feet, nine inches above the tops of the sides and back of the vehicle, and which are designed to prevent the dog from falling or escaping from the vehicle.
2. It shall be unlawful for any person to leave an animal in a closed vehicle for a length of time that is dangerous to the health or safety of the animal. An Animal Services Officer or Sheriff's deputy may immediately remove such an animal whose health or safety is in danger and impound the animal in compliance with Section 10(C)(1). The cost associated with impounding or retrieving the animal shall be assessed to the owner.

G. Unlawful Use of License and Tag.

1. It shall be unlawful for any person to attach a valid license tag to a dog or cat other than the animal for which the license tag was issued.
2. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in the person's possession or control a stolen, counterfeit, or forged animal license tag, rabies vaccination certificate, or other form of license required

under this Ordinance.

H. Keeping of Diseased or Painfully Crippled Animals.

1. It shall be unlawful and a violation of this Ordinance to have, keep, or harbor an animal which is afflicted with an incurable or infectious disease or which is in a painfully crippling condition. This Subsection does not apply to animals receiving adequate veterinary care for their incurable or infectious disease or painfully crippling condition.
2. An Animal Services Officer may impound a diseased or painfully crippled animal in accordance with the provisions of this Ordinance.

I. Disposal of Dead Animals.

1. Within twenty-four (24) hours of the death of an animal, the owner shall dispose of the animal's carcass in accordance with regulations promulgated pursuant to NMSA 1978, Section 77-3-4, and in the absence of applicable regulations, by:
 - a. Burying it at a depth of at least five (5) feet underground in a suitable location at least one hundred feet from any individual water supply, water course, public or community water supply, edge of unlined canal or public lake;
 - b. By cremation at a licensed pet crematorium; or
 - c. By other means approved by the Animal Services Division.

J. Breaking Into Enclosure.

It is unlawful for any person to break into or aid, directly or indirectly, in breaking into the enclosure in which any animal is trapped, impounded, or kept under authority of an Animal Services Officer or a Sheriff's deputy.

K. Hindering an Animal Services Officer.

It is a violation of this Ordinance to willfully or intentionally hinder or obstruct an Animal Services Officer in the discharge of the Animal Service Officer's official duties under this Ordinance.

L. Animals Trained to Assist the Handicapped Allowed in Public Places.

Service Animals shall be allowed in public places. It shall be unlawful for a person who owns, operates, or maintains a public place of business or conveyance into which the general public is invited to exclude a Service Animal, provided the Service Animal accompanies the individual it was trained to assist.

M. Penalties.

Any person who violates any Subsection of Section Eleven of this Ordinance shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the applicable penalty set forth in Appendix A.

Section Twelve. Notice, Savings Clause, Effective Date.

A. Notice.

All notices and other communications required to be given as provided in this Ordinance will be in writing, and unless otherwise specifically provided in this Ordinance, will be deemed to have been given if delivered in person, or mailed by certified or registered mail, postage pre-paid, and addressed to the County at the following address:

Animal Control Supervisor
Animal Services Division
Santa Fe County Sheriff's Office
35 Camino Justicia
Public Safety Complex
Santa Fe, NM 87508

B. Savings Clause and Repeal Provisions.

If any of the sections, subsections, sentences, clauses, or phrases of this Ordinance are for any reason found to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not thereby be affected since it is the express intent of the Board of County Commissioners to pass each section, phrase, paragraph, and word separately. Santa Fe County Ordinances 1981-7, 1982-7, 1990-8, 1991-6 and Santa Fe County Resolution 1982-28 are hereby repealed.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2016, by the Board of County Commissioners of Santa Fe County.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

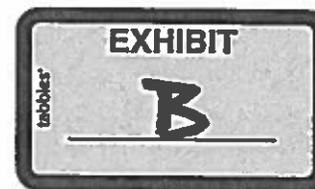
By: _____
Miguel M. Chavez, Chairperson

ATTEST:

Geraldine Salazar, Santa Fe County Clerk

APPROVED AS TO FORM:

Gregory S. Shaffer, County Attorney



From: Martha Kennedy <marthakennedy@me.com>
Sent: Wednesday, July 20, 2016 11:16 AM
To: Kathy S. Holian
Cc: tammy fiebelkorn; Linda Kastner; VJ Khalsa; Angela Stell; Diana Dorantes
Subject: New County AC Ordinance

Hello Kathy,

Thank you for letting us know about the Ordinance being introduced next Tuesday. I will be out of town, but we will have someone there to answer any questions that may come up. Do you know when the Public Meeting may be held so we at least have some lead time to get people to that??

Linda Kastner and I have a meeting scheduled on Thursday with the Animal Shelter to find out how their fencing programs will work. With summer vacations, it has been difficult to schedule things. We will make sure whoever does attend the meeting will have the information from that.

We are wondering about all the other provisions we had talked about at our meeting last month and that you agreed to put into the Ordinance. They are not in the draft you sent this morning. As a reminder, here are the changes we went over with you:

Section Five.E

This section allows ACOs to enter property without a warrant when “an animal poses an immediate threat to the public”, but not when an animal in immediate danger. This will limit reaction possibilities for injured or sick animals and should be edited.

Section Seven.A.1

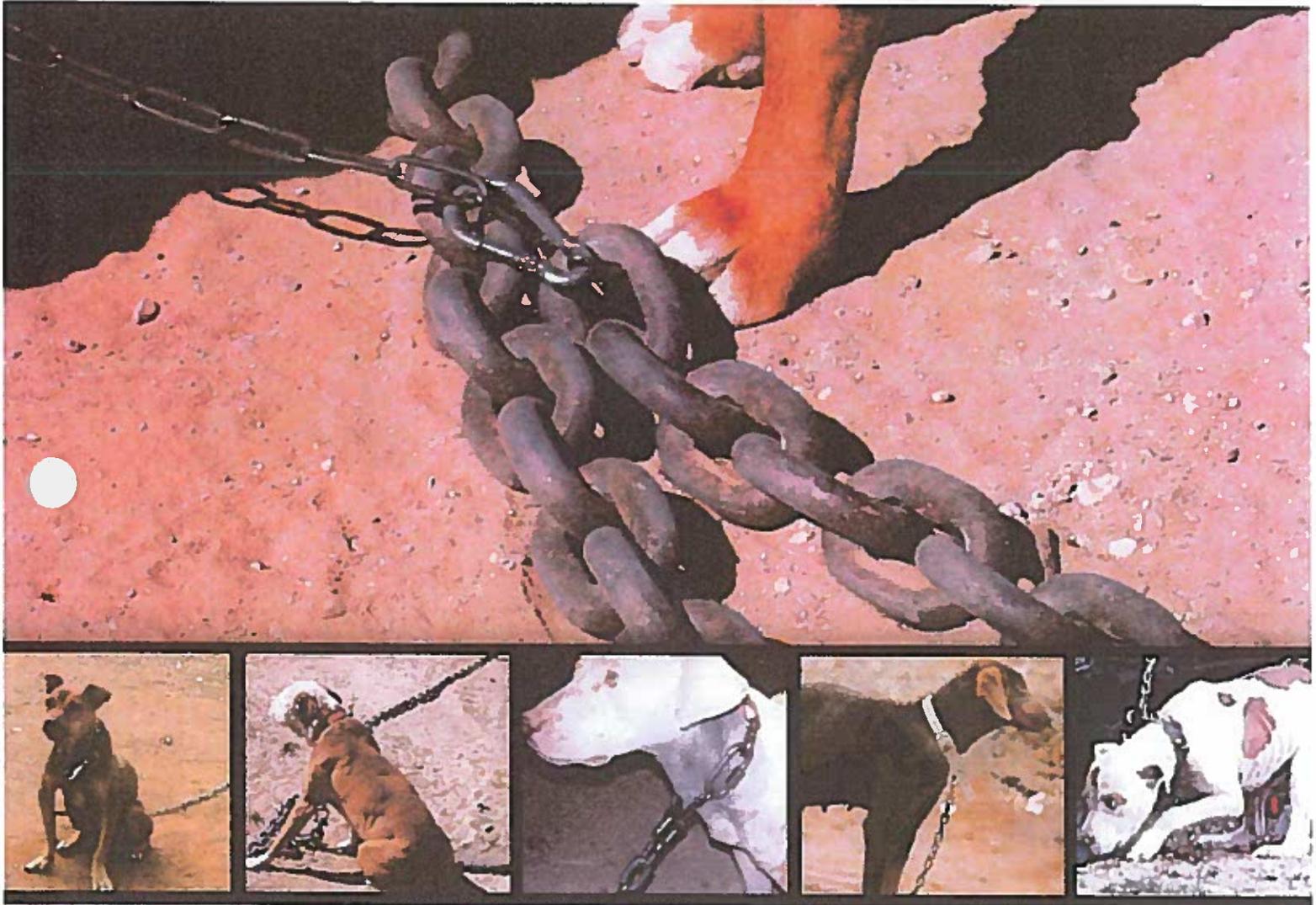
This section says you can use “adequate training of the animal to ensure that it will not exit the property”, then says that “voice command is not an acceptable means of restraint”. Those statements conflict, and the first should be removed. Nobody should be allowed to simply “train” an animal to stay on the property. Enclosures should be required.

Section Eight.A.1

This section deals with barking dogs and allows ticketing in a dog barks for more than 10 consecutive minutes. There is no time of day limitation... so, technically, a person could get a ticket for their dog barking at 3p. It seems more reasonable to have the shorter limitation during the night and a longer limitation during daytime hours.

Martha Kennedy
Chain Free Santa Fe

THE PUBLIC SAFETY AND HUMANE IMPLICATIONS OF PERSISTENTLY TETHERING DOMESTIC DOGS



NEW MEXICO DEPARTMENT OF PUBLIC SAFETY
John Denko, Cabinet Secretary

Report to the Consumer and Public Affairs Committee
January 10, 2008

Pursuant to House Memorial 19,
48th Legislature, State of New Mexico, First Session 2007

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Albuquerque, New Mexico

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THE PUBLIC SAFETY AND HUMANE IMPLICATIONS OF PERSISTENTLY TETHERING DOMESTIC DOGS

Introduction

In recent years, the common practice by many dog owners throughout New Mexico of persistently tethering dogs has come increasingly under question. Controversies arise in communities with some consistency concerning public safety and cruelty to animals. The New Mexico Legislature responded to these concerns. During the 2007 regular session of the New Mexico Legislature, the Consumer and Public Affairs Committee endorsed House Memorial 19, introduced by Representative Miguel P. Garcia, which requested that the Department of Public Safety study the public safety and humane implications of persistently tethering dogs. It was approved by unanimous House consent on February 16, 2007.

This report, in response to House Memorial 19, provides a detailed review of the practice of tethering, based on research and statewide survey results regarding both the public safety and humane implications of persistently tethering dogs. In addition, it addresses the practice in terms of resulting human deaths and injuries, local animal control ordinances, positions of animal welfare organizations and governmental agencies, state and nationwide trends in tethering laws and their enforcement, alternative methods of restraint, education, and other substantive issues. Finally, it includes recommendations of solutions that without doubt will benefit both people and dogs in New Mexico.



Taos County, New Mexico

Photo Credit 2

Tethering Defined

Tethering is the practice of chaining, tying, fastening, or restraining a dog to a ground stake or a stationary object (such as a tree, fence, car, or dog house), usually in a pet owner's yard, as a means of keeping the dog under control. The term does not refer to a dog being walked on a leash.

Risks to public safety and the inhumane treatment of dogs are widely viewed as the two primary problems with the continuous tethering of dogs, according to many studies and surveys of federal, state, and local public health and safety agencies, animal control agencies, veterinarians, animal behaviorists, professional organizations, animal welfare agencies, non-profit organizations, law enforcement officials, and the public.

Public Safety Implications

The first question to consider in the realm of public safety is how persistently tethering dogs can pose a danger to humans. Attacks on people by tethered dogs in the United States and elsewhere in the world have been documented and studied through many different methods and in many disciplines. One conclusion is that dogs tethered for long periods of time can become highly aggressive. When confronted with a perceived threat, dogs respond according to their fight-or-flight instinct. A chained dog, unable to take flight, often feels forced to fight, and attacks any unfamiliar animal or person who wanders into his or her territory.¹

Experts tend to agree that chaining increases aggression in the vast majority of dogs. For example, the American Veterinary Medical Association (AVMA) and the American Society of Plastic Surgeons have teamed up to promote responsible dog ownership, pointing out that tethering dogs contributes to aggressive behavior: "Confine your dog in a fenced yard or dog run when it is not in the house. Never tether or chain your dog because this can contribute to aggressive behavior."²



Las Cruces, New Mexico

Photo Credit 3

The Humane Society of the United States concludes that an otherwise friendly dog, when persistently chained, becomes neurotic, anxious, and often aggressive. As opposed to protecting the owner or property, a tethered dog is often fearful due to poor socialization and previous negative encounters with people or other animals. The dog realizes one thing: he cannot get away. His only recourse may be to growl, bark, lunge, or bite in self-defense. Further, a tethered dog who finally does get loose from his chain may remain aggressive, and is likely to chase and attack unsuspecting passersby.³

Children are the most common victims of dog attacks. According to dog bite statistics, 70% of fatal dog attacks and more than half of bite wounds requiring medical attention involve children.⁴ Frequently, such attacks occur when a chained dog lashes out, either in aggression or aggressive play, and injures a child who has approached him. In the period from October 2003 through September 2007, at least 175 children across the country were either killed or seriously injured by chained dogs. Details of such attacks often describe a dog unsocialized with humans and very territorial of his limited space at the end of a chain.⁵

Many arguments, therefore, exist in favor of looking seriously at the issue of tethering dogs. It remains in the public interest for dogs not to be vicious. Tethered dogs are often frustrated, frightened, or easily agitated, therefore it is

not surprising when they attack and bite.⁶ The reason is logical: dogs are social animals with a biological need for companionship, usually supplied by a human family.⁷

On a tether constantly, social contact from dogs and humans is withheld, sensory deprivation becomes the norm, and boredom, frustration, anxiety, agitation, and aggression follow in rapid succession.⁸ Dogs who are adequately socialized with humans and other animals and who are properly restrained by the use of fences and runs when they are outdoors are less of a threat to family members, passersby, law enforcement officers, public utility inspectors, telephone/cable repair persons,

postal delivery persons, and other visitors. The result will be a safer neighborhood. Communities should welcome opportunities to reduce the chance of serious injury, death, and suffering of both people and animals. Educating adults and children about specific canine behaviors and their causes, particularly with regard to chaining or tethering, could certainly reduce dog bite injury and death.

Deaths and Injuries Related to Chained/Tethered Dogs

There is no doubt that dog bites (whether from chained or unchained dogs) result in a major and costly public health problem; statistics abound to prove the point. For example, the Centers for Disease Control estimates that 4.5 million people in the United States are bitten each year, and almost half are children under the age of 12. Of these, approximately 800,000 seek medical care for dog-bite related injuries. The insurance industry estimates it pays more than \$1 billion annually in homeowners' liability claims resulting from dog bites. Hospital expenses for dog bite-related emergency visits alone are estimated at \$102 million annually.⁹

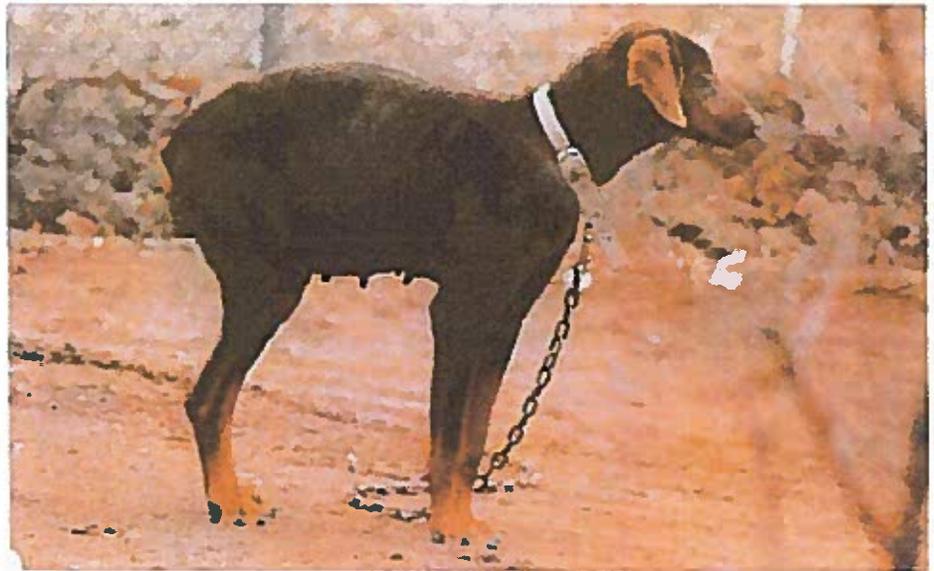
One study published in the Journal of the American Veterinary Medical Association estimates that 17% of reported dog bite injuries and deaths nationwide between 1979 and 1998 were caused by dogs restrained

(including by chaining) on their owners' property at the time of the attack.¹⁰ Although chaining is one type of restraint cited in this and other studies, analysis is complicated because exact circumstances related to serious injuries and deaths caused by dog bites/attacks may not always be reported (e.g., whether the dog was chained, otherwise restrained, unchained, abused, stray, or injured).

Another study published in Public Health Reports, a journal of the United States Public Health Service, reveals further information about the risks of chaining dogs. Author John C. Wright, PhD, identified and studied sixteen incidents involving dog bites fitting the description "severe" among 5,711 dog bite incidents reported to health departments in five South Carolina counties in a three-year period. A "severe" attack was defined as one in which the dog repeatedly bit or vigorously shook his victim, and the victim or the person intervening had extreme difficulty terminating the attack. In 8 of the 16 cases, the dog involved either was chained or broke loose from his chain to attack his victim. Of those eight, one was a fatal attack.¹¹

Karen Delise, author of the book, Fatal Dog Attacks, provides extensive details of the circumstances surrounding every fatal dog attack reported since 1965 in the United States. "While many circumstances may contribute to a fatal dog attack," Delise writes, "the following three factors appear to play a critical role in the display of canine aggression toward humans:

1. Function of the dog - (Includes: dogs acquired for fighting, guarding/protection or image enhancement)
2. Owner responsibility - (Includes: dogs allowed to roam loose, chained dogs, dogs and/or children left unsupervised, dogs permitted or encouraged to behave aggressively, animal neglect and/or abuse)
3. Reproductive status of dog - (Includes: unaltered male dogs, bitches with puppies, children coming between male dog and female dog in estrus).¹²

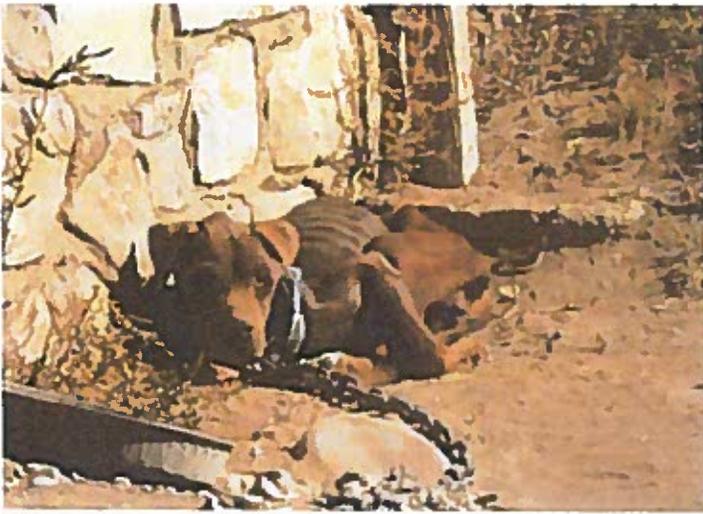


Valencia County, New Mexico

Photo Credit 4

By Delise's estimation, chained dogs have killed at least 109 persons (25% of the US dog bite/attack fatalities since 1965); of those fatalities, 99 were children who wandered into the reach of a chained or similarly restrained dog and another 11 were instances in which chained dogs broke free before attacking.¹³ In a recent telephone interview with Delise conducted by Animal Protection of New Mexico (APNM), Delise commented that while chaining does not *always* make a dog aggressive, the animal is being given fewer options in fight-or-flight circumstances, thus inviting situations that increase the likelihood of aggressive responses. While the fatal attack numbers are well documented, she noted it is more difficult to find definitive figures of serious injuries, since only those attacks reported are published. Therefore, it is important to keep in mind that all the bite-injury statistics available are really only estimates.¹⁴ Indeed, according to the National Center for Injury Prevention and Control, there is no ongoing national surveillance system for non-fatal dog bites.¹⁵

Over the past 42 years there have been seven fatal dogs attacks in New Mexico, two of which involved children who attempted to interact with chained dogs, according to the website of the National Canine Research Council (NCRC),¹⁶ on which Delise provides updates on the information provided in her book, Fatal Dog Attacks. The NCRC believes the risk of fatalities linked to chained dogs is extremely low in New Mexico itself. But Delise says it is important to consider how many variables are at work in any attack situation. The severity and ultimate outcome of



Roswell, New Mexico

Photo Credit 5

any dog attack can be greatly influenced by the presence or lack of such things as intervention, responsible supervision of children, and responsible dog ownership.

Although there may have been other unreported incidents, a search of news reports in New Mexico over the past three years points to four cases of serious injuries caused by chained dogs:

Alejandro Cardoza, 21 months old, was seriously injured in April 2007 in Deming, New Mexico. The Deming Headlight reported, "The dog was chained to a spike in the ground...Alejandro was bitten on the head and back..."¹⁷

A 20-month-old toddler in Las Cruces, New Mexico suffered injuries in May 2007 including a torn ear and puncture wounds to the side of his face, right arm, and inner thigh. The El Paso Times reported, "The dog was chained to the bumper of a truck, only feet from the front door of the boy's home."¹⁸

In July 2005, Valencia County Deputy Shannon Brady of Los Lunas, New Mexico was "attacked by a chained pit bull," according to the Valencia County News-Bulletin. She had to be placed on medical leave for several weeks to recover from several bites to her right leg and two fractures to her left elbow.¹⁹

Emma-Leigh Chambers-Allen, 4, of Los Chavez, New Mexico was seriously injured in June 2004. The Albuquerque Journal reported that she "...wandered into the yard and walked toward the dog that was tied to a tree with a

poly-nylon rope. Earlier that day the dog was allegedly provoked by neighborhood children who threw rocks and water balloons at the animal...." A broken nose, broken jaw and missing teeth were among her injuries that required reconstructive surgery.²⁰

Humane Implications

In looking at the humane implications of persistently tethering dogs, it is useful to study the mission statements and position statements of various animal welfare organizations. It is interesting to note that most animal welfare organizations, whether national or not, address the issue of tethering. The following represents only a small sampling:

The American Humane Association (AHA), a nationwide non-profit based in Denver, Colorado, is a network of individuals and organizations whose collective mission is to prevent cruelty, abuse, neglect, and exploitation of children and animals and to assure that their interest and well-being are fully, effectively, and humanely guaranteed by an aware and caring society. The American Humane Association specializes in professional education, training and advocacy, and research and evaluation. AHA believes that chaining or tethering makes dogs feel vulnerable and increases their aggression, in turn making the practice a major risk factor in dog bites. The organization also states that chaining dogs represents a serious, under-recognized form of animal cruelty. It has worked with local humane organizations to develop and support the passage of state and local laws that limit the outdoor chaining or tethering of dogs. It has also worked with allies in Tennessee,



Anthony, New Mexico

Photo Credit 6

California, and Pennsylvania to support bills limiting the length of time a dog may be chained outside and requiring basic standards of food and shelter be met.²¹

Animal Protection of New Mexico (APNM), a non-profit based in Albuquerque, New Mexico, has been working to promote the humane treatment of animals in New Mexico since 1979. APNM accomplishes its work through education and outreach, and campaigns for change. Its mission is to advocate the rights of animals by effecting systemic change, resulting in the humane treatment of all animals. APNM strives to educate people about the plight of chained dogs, as well as the dangers posed to the public by chained dogs. The organization promotes positive alternatives to chaining, and provides information and resources to help people get dogs off chains and into the lives of family members.²²

Dogs Deserve Better, a non-profit education/legislation/rescue organization based in Tipton, Pennsylvania, describes its goals in terms of the following six principles: advocate and become a voice for all dogs living chained outside; educate society to evolve a higher ethical and moral standard for the treatment of dogs living under these conditions; meet with owners of dogs chained outside to advocate on behalf of the dogs and discuss other options available to them; provide low-cost or no-cost house training for dogs whose owners wish to bring them into the home; temporarily foster and find new homes for dogs whose owners wish them to have a better life but are unwilling or unable to provide that for them. Dogs Deserve Better believes the time has come for Americans to “wake up to the dangers of chaining a dog.”²³ Founder Tammy Grimes states: “How many children have to die before people realize this is a serious and nationwide problem? The chaining of dogs has been ongoing for generations in America, and this outdated and irresponsible method of guardianship must stop...Not only is it dangerous and cruel for the dog, but it’s dangerous for any child unlucky enough to wander into the sphere created by an angry dog’s chain.”²⁴



Albuquerque, New Mexico

Photo Credit 7

The Humane Society of the United States (HSUS), a non-profit based in Washington, DC, is the nation’s largest animal protection organization and a voice against cruelty, exploitation, and neglect. Its mission statement: celebrating animals, confronting cruelty. The HSUS seeks a humane and sustainable world for all animals - a world that will also benefit people. The organization is committed to policies that set a standard and discourage or prohibit long-term tethering.²⁵

Through domestication, dogs have been bred to form strong attachments to their human family members. They thrive on interactions with their families. Without exception, people and organizations widely regarded as experts on the humane treatment of animals and animal behavior agree that a solitary life on the end of a chain is a cruel sentence for these social animals.²⁶ A dog’s desire to interact with people adds to his frustration on the end of a chain.



Bernalillo County, New Mexico

Photo Credit 8

Dogs persistently tethered are denied companionship and socialization. They soon become lonely, bored, anxious, and aggressive.²⁷

Persistently tethered dogs also lack proper exercise. They are frequently left exposed to the elements, because they are denied access to basic shelter and shade. Tethered dogs are left vulnerable to attacks by other animals, people, and vermin. They are often denied access to food and/or water. Finally, they are forced to eat, sleep, urinate, and defecate in the same limited space.²⁸

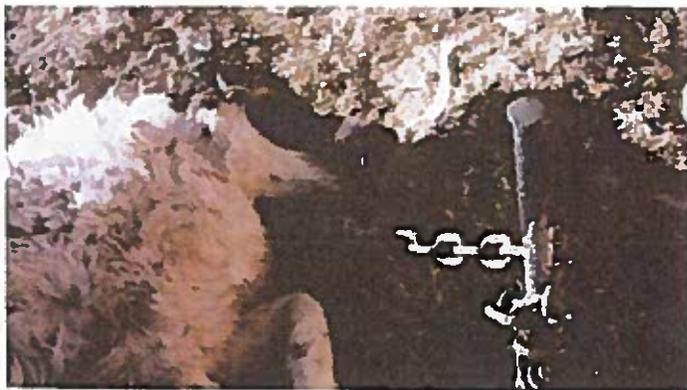
A dog's chain can easily become entangled on a post, tree, doghouse, or other stationary object, leading to injury or death. A tethered dog can easily hang himself by jumping over a fence, doghouse, car, or other nearby object.²⁹

Evidence of cruel treatment and neglect commonly seen in persistently tethered dogs by animal control officers and veterinarians includes embedded collars, chains, or cables in the neck, often to such an extent that the dog must be destroyed.³⁰ According to Dogs Deserve Better, it happens much more frequently than people think and additionally, it happens in all socio-economic levels.³¹ Dogs confined by tethering are also targets for thieves who sell stolen dogs to research facilities and organized dog-fighting operations.³²

Local Animal Control Ordinances and Tethering: Research and Informal Survey Results

Local animal control ordinances may or may not address tethering dogs. Even when not specifically using the term tethering or chaining, other state and local anti-cruelty statutes likely can be interpreted to prohibit tethering in cases where it is detrimental to the dog.³³ Thus, questions have arisen as to whether tether-specific laws are needed when such existing anti-cruelty laws can apply. For example, it is often clear to the investigating officer or other witness that a particular chained dog is being deprived of food, water, shade, or shelter.³⁴

The International City/County Management Association, a national organization for the chief appointed management executives in local government, publishes a comprehensive animal care and control guide for local governments. The publication includes the observation that local laws are very



TOP: Taos County, New Mexico, Photo Credit 9
LEFT: Photo Credit 10, RIGHT: Photo Credit 11

often passed to supplement state anti-cruelty laws, specify certain standards of animal care, and prescribe additional criminal and civil penalties. In fact, many jurisdictions across the country have found specific animal care and animal neglect problems—including perpetual tethering—worthy of special legislation.³⁵

From August through November 2007, APNM conducted an extensive review of New Mexico's municipal and county animal control ordinances to determine how many address the issue of chaining or tethering and to what extent. According to results, most municipalities and most counties in New Mexico currently do not address chaining at all. In follow up telephone interviews with New Mexico's animal control officers, however, APNM found that many of them see the need for revised laws to restrict or prohibit tethering. Whether officers witness abuse firsthand, or they are confronted with its aftermath, they are often powerless to help -- simply due to the absence of more specific laws. Officers can be further thwarted from protecting animals and the public because there are too many differing opinions among people as to what constitutes abuse, and anti-cruelty laws that do not address tethering often also do not address other types of related neglect such as companion deprivation, emotional abuse, lack of proper exercise, and

frustration that can lead to aggression. Therefore, without a law specific to chaining, an effective tool is missing that could be used when a situation arises that warrants intervention.

According to APNM's research, an animal control ordinance must encompass both public safety and humane considerations to be effective. Without both elements, public officials and administrators experience ongoing conflict with the public and potential liability. Residents are commonly concerned about public safety, property protection, and cruelty to animals. Local animal control ordinances often evolve based on efforts by law enforcement personnel and public officials to deal with such pressure.

This process has often taken a municipality or county from having an animal control ordinance absent any mention of chaining through progressively more detailed restrictions or prohibitions, with a variety of penalties imposed. Further, municipalities and counties often mimic the exact language of various sections of other municipalities' or counties' animal control ordinances -- including sections on chaining. This is an indication that, at the least, administrators are grappling with similar problems and networking among themselves to find the right solutions. They appear to be trying to find good models of comprehensive ordinances to adapt to their own needs.

APNM found that, in New Mexico, 11 out of 103 municipalities and 13 out of 33 counties address chaining or tethering in some way, from the most minimal to the most detailed restriction.

For example, the animal control ordinance in Tijeras states:

A chain must be at least 8 feet long.

By contrast, Albuquerque's animal control ordinance states:

When not accompanied by a person, chaining is prohibited as a means of outdoor confinement for more than one hour during any 24-hour period. A trolley system - consisting of a cable strung between two fixed points, with a dog on a short lead attached - can be used for up to nine hours in a 24-hour period if a city permit is obtained. When chaining is used, the chain shall weigh no more than an eighth of the animal's weight. The chain must be affixed to the animal by the use of a nonabrasive, well-fitted harness. The chain must be at least 12

feet long and fastened so the animal can sit, walk, and lie down using natural motions. It must be unobstructed by objects that may cause the chain or the animal to become entangled. It must have a swivel on both ends. The chained animal shall be surrounded by a barrier sufficient to protect the animal from at-large animals, and to prevent children from accidentally coming into contact with the chained animal.

APNM believes that a total of six municipalities and 10 counties in the state address the practice of chaining with enough detail to remediate the wide variety of situations that an animal control officer might encounter and thus are meaningful to both public safety and the humane treatment of dogs. APNM points to Albuquerque's ordinance as one example. Another good example exists in Doña Ana County, whose ordinance states:

A chain must be affixed to the animal by use of a nonabrasive, comfortably fitted collar or harness. The device must be at least 12 feet long, unless it would allow the animal to go beyond the property line, in which case it must be at least eight feet long. The device must be fastened so the animal can sit, walk and lie down comfortably, and it must be unobstructed by objects that could cause the device or animal to become entangled or strangled. Any chain or tether must have swivels at both ends. The animal must have easy access to shade, shelter, food and potable water. A dog may be restrained by a chain or tether for no more than eight hours in a 24-hour period. No chain or tether shall weigh more than an eighth of the dog's weight. The area where the animal is confined must be free of garbage and other debris that might endanger the animal's health or safety. It must be kept free of insect



Albuquerque, New Mexico

Photo Credit 12

infestation, such as anthills, wasp nests, flea, tick, or maggot infestations. It is unlawful to chain or stake out an animal on unenclosed premises in such a manner that the animal can go beyond the property line.

In talking with animal control officers, APNM focused primarily on those communities whose laws specifically make reference, either by restriction or prohibition, to the practice of chaining or tethering dogs. The officers answered questions about public awareness of such laws, compliance, and prosecution. They offered opinions about whether their local laws are effective, how they might be improved, and other insights concerning problems related to chaining.

While different, the opinions of animal control officers throughout New Mexico point to similar concerns. They recognize that to enforce and encourage responsible pet ownership and the humane treatment of animals, they must have sensible laws on the books that they can rely on as tools for effective animal control. At the same time, they understand that public education is equally important to compliance.

An animal control officer in Valencia County said, “Dogs running loose are a big problem, so officers carry chains to give to owners, even through the officers aren’t in favor of chaining.” He added, “Dogs are not lawn ornaments. People need to start thinking in terms of their animals being part of their family. A big part of the solution is education to change the way people interact with their dogs.”

A lieutenant with animal control in Albuquerque commented, “The city’s new chaining law is a very good one. People are aware of it due to lots of education. I like the fact that it is very detailed and specific, because if I have to issue citations, the violators can be prosecuted more easily.”

A five-year veteran of animal control in Cibola County commented, “Dog chaining is bad and it’s a sign of an irresponsible owner.”



Las Cruces, New Mexico

Photo Credit 13

An animal control officer in Chaves County said, “Chaining is not great, but it at least prevents dogs from leaving properties and getting shot in rural areas. We try to let people know where they can easily buy a swivel set with up to 10 feet of chain length, so at least residents can comply with what’s in our ordinance.”

A long time animal control supervisor in Doña Ana County said, “Not only is chaining torture for the dog, but the lack of socialization that results from chaining leads to increased aggression and children being attacked.”

An animal control supervisor in Carlsbad, on the job for 19 years, said, “Chaining ought to be outlawed except in extreme situations, because it promotes aggression. The dogs become frustrated and turn aggressive and it can lead to dog bites of children.”

Unfortunately, many public bodies are reluctant to make revisions to their animal control ordinances due to time-consuming legal requirements for notice, public hearings, lengthy comment periods, and additional public meetings for passage. Public administrators must communicate their intentions well in advance to allow for full participation of both the public and law enforcement officers. Once new laws are enacted, communities are well served by resulting public awareness and cooperation. Tethering guidelines, restrictions, and prohibitions can and should serve as proactive, preventative measures to protect both people and animals.

Legislation

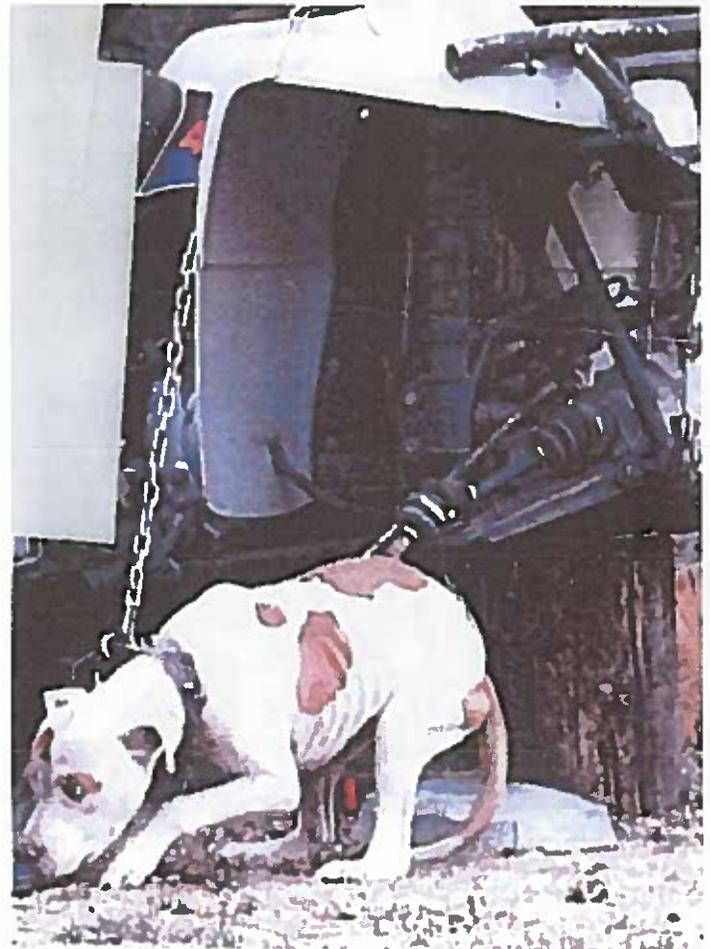
Under the Animal Welfare Act, the United States Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers and intermediate handlers. The Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), published the following final rule in the Federal Register on August 13, 1997: (Volume 62, Number 156) Rules and Regulations: "Our experience in enforcing the Animal Welfare Act has led us to conclude that permanently tethering a dog as a means of primary enclosure is not a humane practice that is in the animal's best interest. Temporarily tethering a dog due to health or other reasons would be permitted if the licensee obtains the approval of the Animal and Plant Health Inspection Service. This action will help ensure that dogs in facilities regulated under the Animal Welfare Act will be treated in a manner that is consistent with the animals' best interests."³⁶

In the same publication, APHIS's supplementary information goes on to report: "A dog attached to a tether is significantly restricted in his movement. A tether can also become tangled around or hooked on the dog's shelter structure or other objects, further restricting the dog's movement and potentially causing injury. We do not believe that a flexible tether, a tether with a swivel on the end, or other such devices would significantly improve the safety of a tether. Such devices may improve the mobility of the dog, but the possibility would still remain over time for the tether to become tangled around objects within the dog's range."³⁷

One obligation of state and local government is protecting its citizens, which includes addressing aspects of public health, environmental health/hygiene, and inspection/compliance activities. Since every state in the U.S. has laws prohibiting cruelty to animals, it can logically be concluded that protecting animals from cruel treatment also is recognized as another obligation of state and local government. Laws, education, and enforcement are key components both to public safety and the humane treatment of animals. Laws can be excellent tools to improve the lives of both humans and animals and to protect them from neglect and other forms of cruelty.

Many animal welfare organizations, residents, law enforcement officers, and administrators of local governments are asking for both state and local laws to restrict how long, if at all, and by what methods dogs may be tethered. Laws can discourage, restrict, or prohibit the use of chaining.

A September 2007 State Legislative Resources report of the AVMA says that several existing state statutes address the issue of tethering domestic dogs.³⁸ In terms of issues of interest to the AVMA State Legislative and Regulatory Affairs Department, animal welfare is consistently the most active area in state legislatures across the country. The organization tracked over 225 animal welfare bills in 2006. Many such bills expanded the acts covered under animal cruelty laws and increased the penalties for animal cruelty.³⁹ A follow-up report in mid-2007 noted that the trend toward enhanced penalties for animal cruelty continues, with 43 states now providing felony penalties for the offense.⁴⁰ Tethering may be an under-recognized form of animal cruelty, but that is changing.



Taos County, New Mexico

Photo Credit 14



Anthony, New Mexico

Photo Credit 15



Taos County, New Mexico

Photo Credit 16



Anthony, New Mexico

Photo Credit 17



Radium Springs, New Mexico

Photo Credit 18



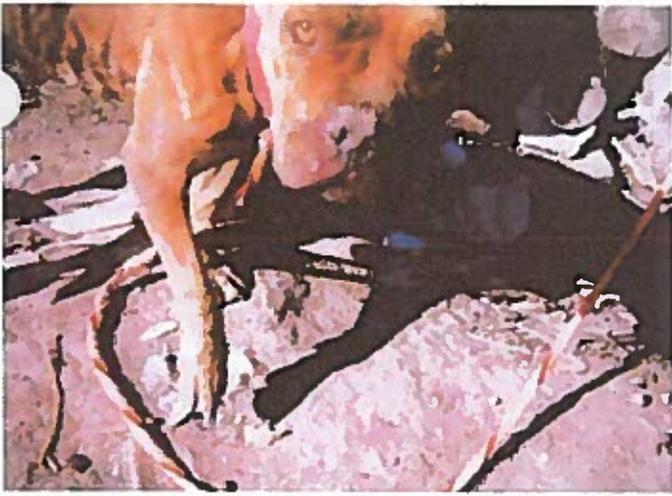
Las Cruces, New Mexico

Photo Credit 19



Taos County, New Mexico

Photo Credit 20



Taos County, New Mexico

Photo Credit 21



Albuquerque, New Mexico

Photo Credit 22



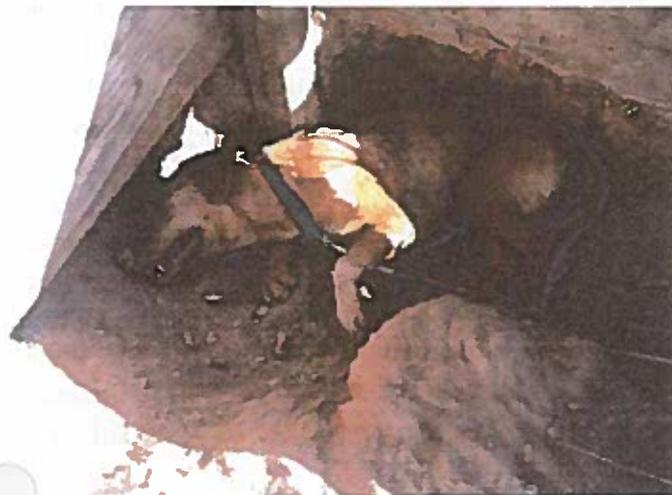
Bernalillo County, New Mexico

Photo Credit 23



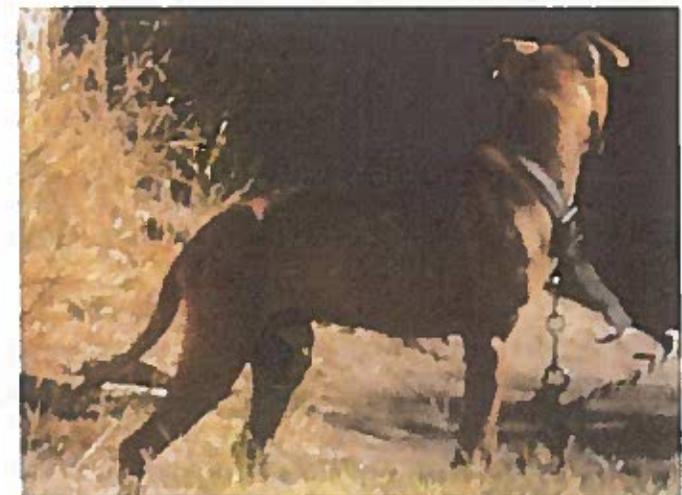
Bernalillo County, New Mexico

Photo Credit 24



Radium Springs, New Mexico

Photo Credit 25



Roswell, New Mexico

Photo Credit 26



Bernalillo County, New Mexico

Photo Credit 27

According to the Humane Society of the United States, legislation to ban or restrict the practice of chaining is gaining momentum, at both the state and local levels, all across the country.⁴¹ Several states, outlined below, have already passed laws outlawing chaining dogs as a primary means of confinement, or limiting the amount of hours per day that they may be chained, and hundreds of communities in at least 30 states have chaining ordinances.

California now prohibits a person from tethering, fastening, chaining, tying, or restraining a dog to a doghouse, tree, fence, or other stationary object, unless such restraint is for a reasonable period not to exceed three hours in a 24-hour period. Alternative methods of restraint such as a running line, pulley, or trolley system are permitted under the same law.⁴² Connecticut prohibits tethering for an unreasonable period of time. Vermont and Maine prohibit tethering when it is determined to be inhumane or detrimental to the animal's welfare and specify appropriate conditions for tethering. State statutes in Virginia, Michigan, Delaware, and the District of Columbia contain specifications regarding how to appropriately tether an animal.⁴³

Texas, Maryland, and Tennessee have also passed new tethering laws.⁴⁴ The Texas law prohibits an owner from tying up a dog outside between the hours of 10:00 p.m. and 6:00 a.m. and during extreme weather conditions. The bill also prohibits the use of a pinch-type, prong-type, or choke-type collar and stipulates a minimum length for a tether.⁴⁵ Maryland's law is much like that in Texas, but it addition-

ally includes specifications as to the circumference and fit of the dog's collar. Tennessee's law specifies that residents cannot knowingly tie, tether, or restrain a dog in a manner that results in the dog suffering bodily injury. Similar bills are being considered in Michigan, New Jersey, and Pennsylvania.⁴⁶

The website helpinganimals.com, which includes comprehensive information about tethering laws nationwide, additionally references another state statute in

West Virginia that specifically addresses tethering. Its list includes at least a dozen communities that prohibit tethering, including Austin, Texas; Little Rock, Arkansas; Carthage, Missouri; and Fairhope, Alabama. Reference is also made to at least 50 more cities that limit how long dogs can be tethered, including Los Angeles, California; New Orleans, Louisiana; Racine, Wisconsin; Topeka, Kansas; Bloomington, Indiana; and Oakland Park, Florida.⁴⁷

A relatively new initiative of Dogs Deserve Better, called Mothers Against Dog Chaining, seeks to protect children by promoting legislation to limit or prohibit tethering and by encouraging dog owners to socialize their dogs. It is led by Dogs Deserve Better founder Tammy Grimes and Crystal Sinclair, mother of Makayla Sinclair, killed at the age of two by chained dogs in Spartanburg County, South Carolina. Dogs Deserve Better continually updates statistics based primarily on news reports of children killed and/or seriously injured by chained dogs in the United States – at least 175 children since October 2003, according to its website. It goes on to comment that “(t)o take a pack animal, in need of love and socialization, and subject it to a life of neglect and isolation leaves us with a live grenade just waiting for a small child to step into its path. If this grenade – fueled by restless energy, anger, and frustration – explodes, our children pay the price, and often with their life.”⁴⁸

Outdoor Alternatives to Chaining

Humane alternatives to tethering include traditional fenced yards (with either a doghouse or pet door leading to other sheltered areas such as home or garage), large pens or kennels, cable/trolley runs, swivels, and invisible/electric fences, all with appropriate access to food, water, shade, and weatherproof shelter. Persons should consult local ordinances to determine if any particular permit, restriction, or prohibition exists for an alternative method.

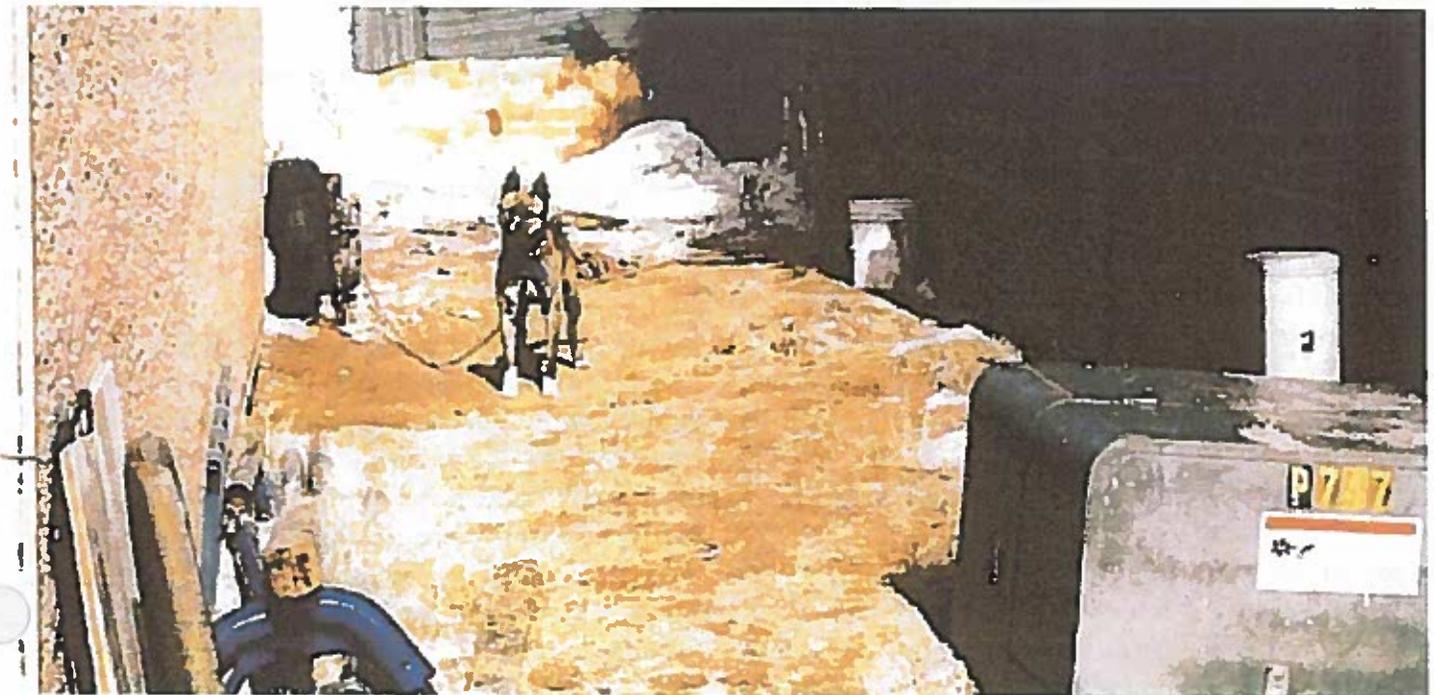
Local animal welfare organizations frequently offer assistance or resources to residents who want help building doghouses, fences, or assembling trolley systems. In January 2007, for example, Placitas Animal Rescue hosted an event to build and distribute fifty doghouses throughout Sandoval County and elsewhere.⁴⁹ People for the Ethical Treatment of Animals publishes an educational fact sheet called Legal Shelter for Your Dog, which gives specific recommendations for the health and well being of dogs who are outside some or most of the time and whose housing is substandard, as well as detailed instructions for constructing a dog house.⁵⁰

Education about alternatives to tethering is vital in New Mexico, because virtually all its municipalities and counties have ordinances prohibiting dogs running at large. In the minds of some residents, this means they have no option

other than chaining their dogs if they don't have a fenced yard, kennel, or pen and if they refuse to allow their dogs inside their own homes. Although it is clear some people who own dogs can't and won't properly provide for them, it is equally clear that many people simply need to learn what it means to be a responsible pet owner. Regardless of whether other alternatives are used, it seems experts agree that dogs should be allowed to socialize with their human family.

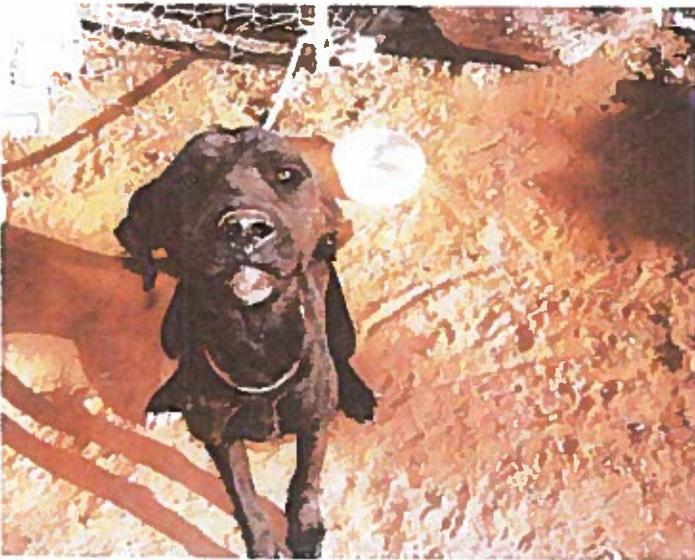
The Nature of Dogs and Their Relationship with Humans

Animal scientist Temple Grandin, PhD, talks about the nature of the human relationship with domestic animals in her latest book, Animals in Translation. Recent research indicates that humans and dogs have probably been companions for over 100,000 years. She points out that over this period of evolution, dogs have developed a lot of ability to inhibit aggression against humans, while humans have similarly developed a lot of ability to manage dog aggression.⁵¹ Yet, she also notes that it is essential to make sure domestic animals are properly socialized both to other animals and to people in order to manage aggressive tendencies. One of the worst mistakes is to rear a domestic animal in isolation.⁵²



Albuquerque, New Mexico

Photo Credit 28



Radium Springs, New Mexico

Photo Credit 29



Doña Ana County, New Mexico

Photo Credit 30

It is widely recognized that domestic dogs often fill important roles in addition to companionship and positive family experiences. In the areas of law enforcement and public safety, dogs may be trained to detect drugs, bombs, and arson, in addition to performing search and rescue missions. In the medical field, they may detect certain types of cancer and warn epileptic owners of imminent seizures. They may also serve as seeing-eye dogs, hearing dogs, and therapy dogs. Recent research examined in the British Journal of Health Psychology shows that the benefits of dog ownership include lower blood pressure, lower cholesterol, and fewer minor physical ailments. Dogs even facilitate their owners' recovery from illness.⁵³

Dogs can be relied on for protection, too, but not on the end of a chain. Rather than protecting owner or property, a chained dog will often become fearful when exposed to a potentially threatening stimulus, precisely because he cannot escape. Alternatively, he may become aggressive, a result of frustration because he cannot freely explore any perceived threat to determine whether or not it poses a danger.⁵⁴

Conclusions and Recommendations

In conclusion, several points should be emphasized:

- Chaining or tethering domestic dogs is a practice which affects public safety and health care costs, making it

worthy of attention and preventative measures in New Mexico.

- Neglect and cruelty to animals occur across all socio-economic levels in both urban and rural communities in New Mexico. The persistent chaining or tethering of dogs is increasingly being recognized as a form of animal cruelty.
- The welfare and health of domestic dogs in New Mexico can be improved by promoting responsible ownership and stewardship, meaning, among other things, educating the public about the implications of chaining or tethering and actively promoting alternatives to the practice.
- Humane remedies for New Mexico's persistently chained or tethered dogs will have a direct bearing on public safety.

Even people who love animals sometimes do not know what proper care means. People often need to be taught what is required of them in owning a dog. They often don't think about the cost of owning a dog, from food to veterinary care, nor do they consider the demands required of their time to take proper care of a dog. Helping people evaluate these realities before adding a dog to their household would likely decrease the numbers of chained, neglected, and abandoned dogs.

Education – combined with appropriate legislation – is an important key to changing how people interact with and care for dogs. Bilingual humane education programs should be developed to include instruction on the humane implications of, public safety implications of, and alternatives to persistently chaining dogs. These programs should be implemented in schools and elsewhere to encourage and promote more positive interaction between pet and family. Initiatives to promote taking dogs off chains and into the family will benefit all concerned.

Following a humane education presentation given in 2005 to an 8th grade class at Albuquerque's Washington Middle School, the students were asked to illustrate what they had learned. As evidenced by their artwork included in this report, children in New Mexico do demonstrate an understanding of and interest in the humane treatment of dogs and other animals.⁵⁵

Children and adults alike should be encouraged to think of dogs as part of the family and shown positive ways to interact with them, for example walking, running, hiking, or participating in obedience classes, agility trials, therapy programs, or search and rescue organizations. In addition, instruction and assistance in constructing or locating effective, low-cost alternatives to tethering should be considered a critical element of public awareness, whether or not mandatory regulations are imposed. Happier dogs will mean safer communities.

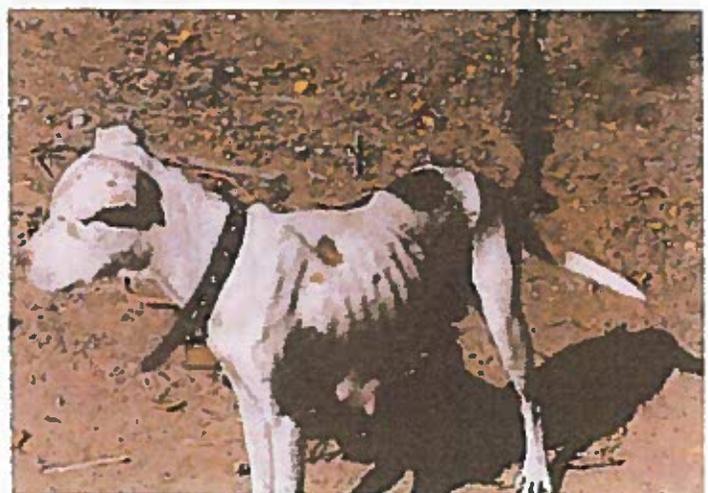
Partnerships among private sector veterinarians, non-profit organizations, educators, students, and public health professionals are important in gaining public awareness and helping people obtain resources. Such partnerships can contribute to the design and successful implementation of educational programs that address public safety as well as the humane treatment of animals. Such collaboration is effective, but it is also essential to have the cooperation of governmental authorities.

Education alone is not enough to solve certain problems. On the local level, cities and counties know that animal control is a statutory obligation of government. Sensible animal control laws combined with diligent enforcement result in communities with more responsible pet owners and communities that can enjoy enhanced reputations and the resulting improvements in regional economic development.

A comprehensive ordinance contributes immeasurably to the quality of life for community residents. However, local ordinances, by themselves, often produce unsatisfactory results.

City and county ordinances may lack language specific to tethering. Existing ordinances that *do* address chaining may contain ambiguous, even contradictory, language and local officials may be reluctant or slow to revise them. The result is compromised enforcement and prosecution.

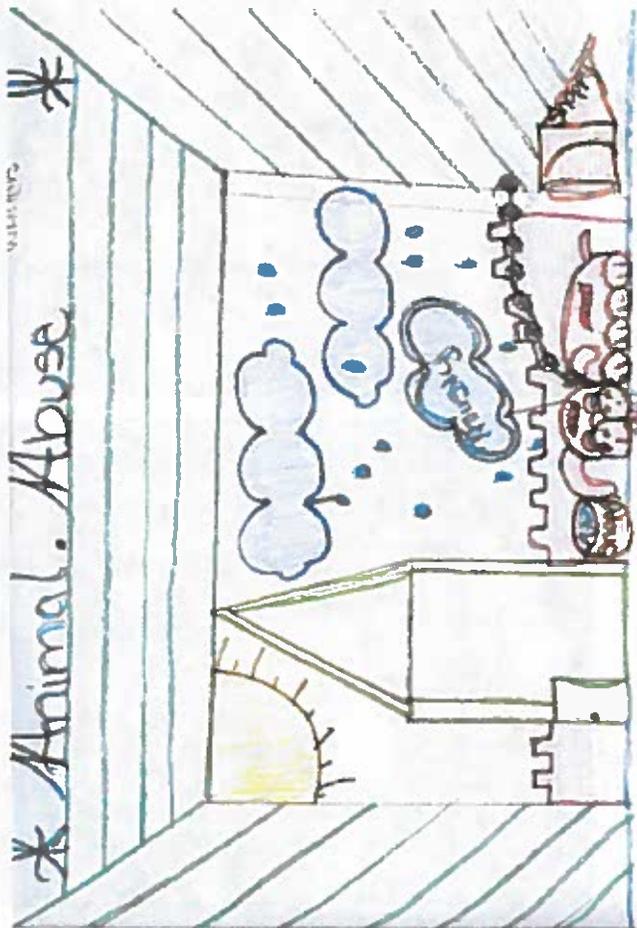
So, although networking agencies and public awareness campaigns may help people recognize the public safety and humane implications of chaining or tethering dogs, it is incumbent on government to ensure the best methods are employed consistently across the state to protect both humans and animals. Toward that end, the current trend toward state legislation to restrict or prohibit persistent chaining or tethering of domestic dogs appears to be a positive one.



Bernalillo County, New Mexico

Photo Credit 31

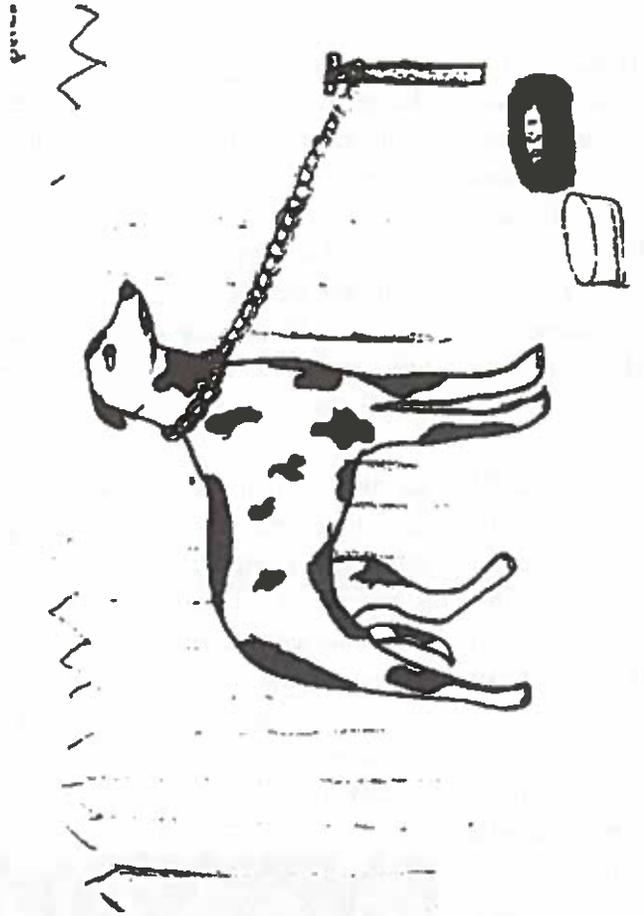
STUDENT ARTWORK



The thing that is going on in the picture

is that there are mixed words with the doghouse first

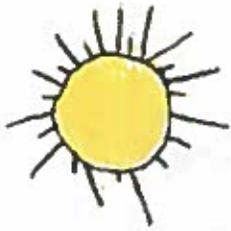
it was not so the dog was happy but he couldn't get to his
 under so then it started to rain and he couldn't get to
 the doghouse because his friend was to short and also you
 could see he was getting abused because he had all the other
 dogs all over his back!



Parent de Maltreated e los

Animales.

Stop Animal Abuse!!!



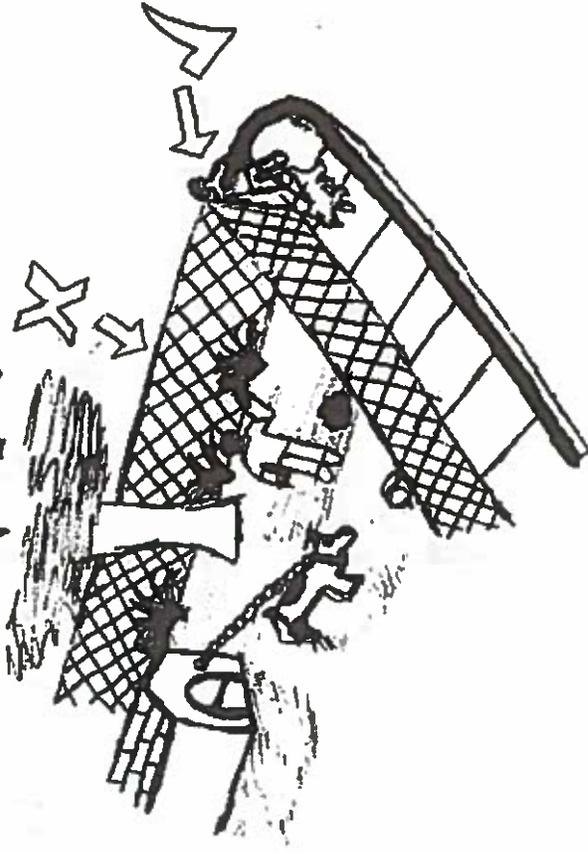
I think people should stop abusing dogs.

and if you have a dog, don't leave it alone.

Feel it. Why do you have a dog?

Just give it love. It needs love. It needs play. It needs...

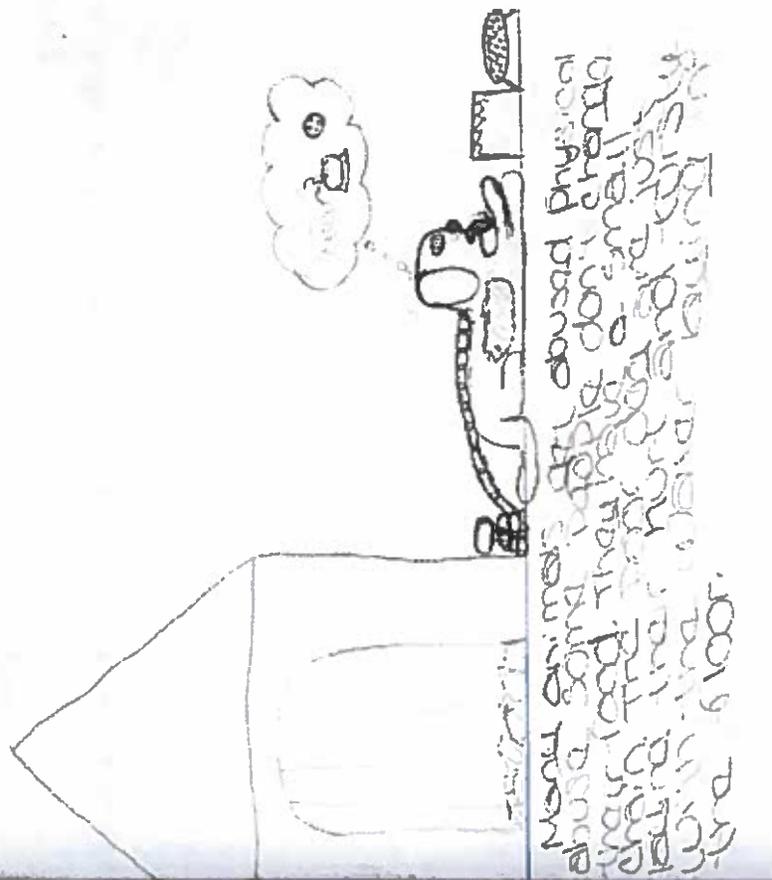
Muertes en VIDA X



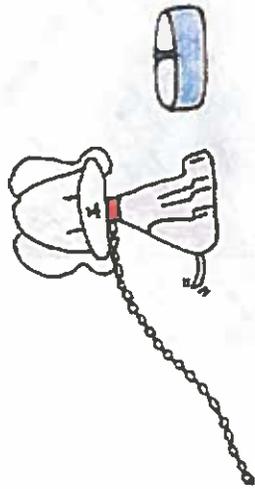
No peges a los animales si le pegas a un animal y lo maltratas estas mal de la cabeza o si te gusta maltratarlos tienes que ir con un circolo go.

No seas una de las personas que maltratan animales. Si vas a tener animales caseros son para que los cuides no para que los maltrates.

What's wrong with the dog?



NO MAS MALTRATO
A LOS
ANIMALES!



ya basta con el maltrato
los animales también sufren.

HAS TU PARTE NO
MALTRATES A LOS
ANIMALES!

Cada cabeza es un mundo!

MALTRATO NO SOLA ES USADO CONTA HUMANOS

Maltratando animales es un crimen.
Los animales tienen sentimientos
no solo son mascotas son como
parte de la familia.



Después de un
whip

ABUSED



ABUSED



This dog abuse needs to stop. Because
all of the animals have feelings. Co.
Not just because they're dogs, it's not just
they don't feel. It's not only dog abuse, it
also ALL animal abuse. So if really
needs to stop! Think about it. What if
you were an animal and people abused you?
Fair?

PHOTO CREDITS

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3. Doña Ana County Sheriff's Department, Las Cruces, New Mexico
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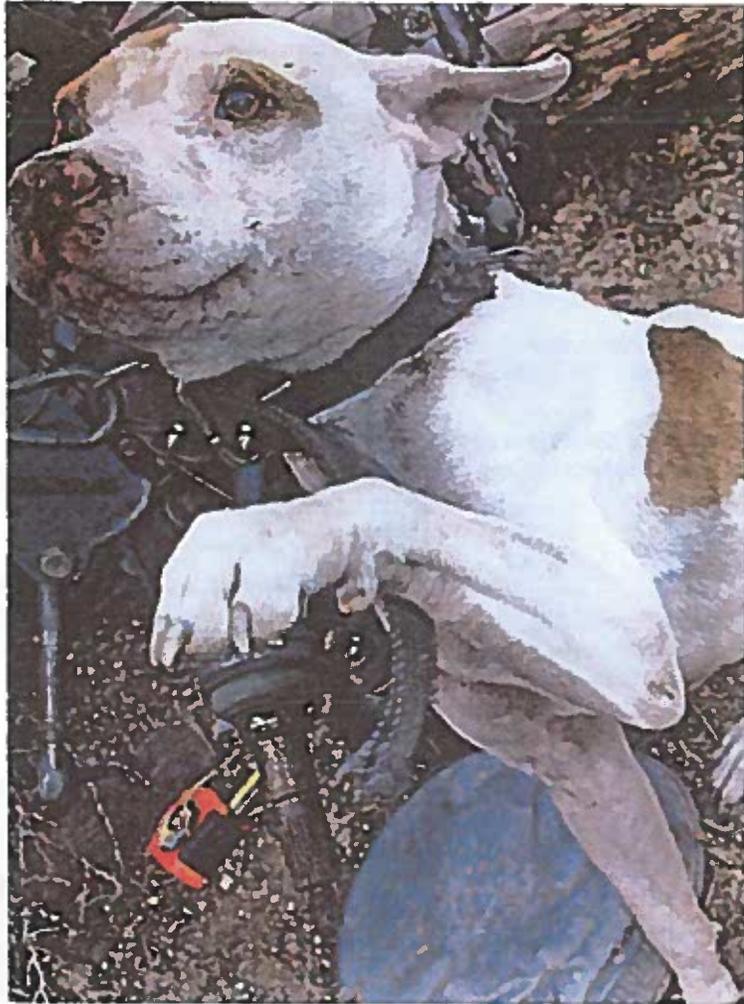
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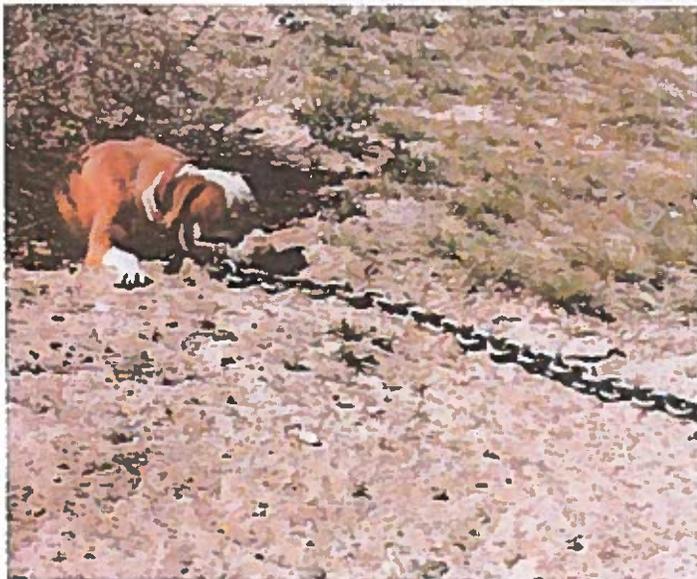
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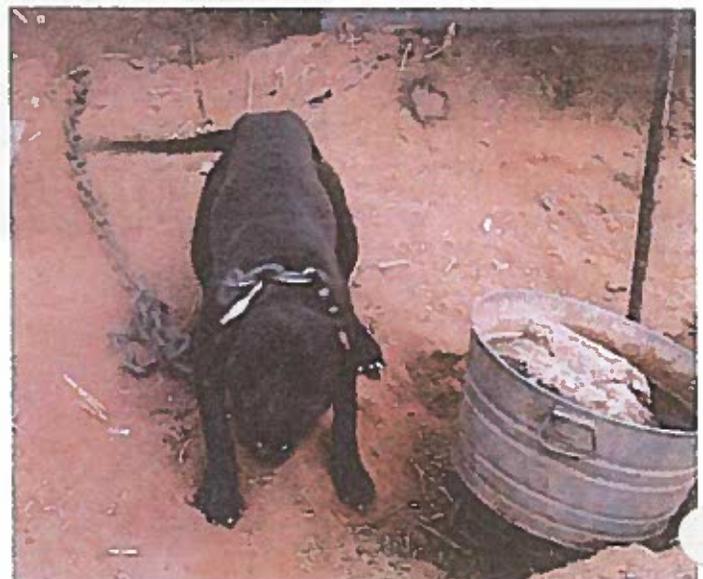
⁵⁴ Becker.

⁵⁵ Student artwork courtesy of Washington Middle School, Albuquerque, NM, 8th Grade Classroom, Patsy Cordova, Instructor.



Brazito, New Mexico

Photo Credit 32



Chaparral, New Mexico

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