

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

ORDINANCE NO. 2017 – 1

AN ORDINANCE AMENDING ORDINANCE NO. 1991-6, THE SANTA FE COUNTY ANIMAL CONTROL ORDINANCE, TO INCREASE FEES; PROHIBIT FIXED POINT TETHERING; CONFORM RABIES VACCINATION REQUIREMENTS TO STATE LAW AND REGULATIONS; SET FORTH A PROCESS FOR REVOCATION OF PERMITS ISSUED; INCORPORATE THE DANGEROUS DOG ACT, NMSA 1978, §§ 77-1A-1 to -6; AND ESTABLISH PENALTY PROVISIONS THAT COMPORT WITH STATE LAW

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT ORDINANCE NO. 1991-6 IS HEREBY AMENDED AS FOLLOWS:

Section 1. Article 1, Section 1-2(T) is hereby repealed and replaced with the following:

- “T. “vaccination” means 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.”

Section 2. Article 4, Section 4-1, is hereby repealed and replaced with the following:

“4-1 Rabies Vaccination

- A. 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 New Mexico Department of Health regulations.
- B. 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 Control Officer.
- C. 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.”

Section 3. Article 5, Section 5-2, is amended to amend the title and repeal and replace section A as follows:

A. The title is repealed and replaced with the following: “5-2 Unattended Animals on Private Property.”

B. Section A is repealed and replaced with the following:

“It shall be unlawful to tether an unattended dog as a form of confinement on private property. “Unattended” for purposes of this section means the owner or other person having charge, custody, care, or control over the dog is not immediately present.”

Section 4. Article 5, Section 5-4 is repealed and replaced with the following:

“5-4 Vicious Animals; Dangerous Dogs

A. It is unlawful for any person to keep or harbor a known vicious animal in the County. Any attack by a vicious animal or any animal displaying traits of a vicious animal may be repelled by the use of reasonable force. After a judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this Ordinance, upon hearing of such complaint, may, in addition to any fine or imprisonment which may be imposed for violation hereof, order the Animal Control Officer to have such animal destroyed as set forth in Section 3-4 of this Ordinance.

B. When an Animal Control Officer has probable cause to believe that a dog is dangerous or potentially dangerous and poses an imminent threat to public safety, the Animal Control 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.

C. Any owner of a dog declared by a court of competent jurisdiction to be a dangerous or potentially dangerous dog or is deemed dangerous or potentially dangerous by admission of the owner pursuant to the Dangerous Dog Act, NMSA 1978, §§ 77-1A-1 to -6, shall comply with all the registration and handling requirements as set forth in NMSA 1978, §77-1A-5 and pay the registration fee set forth in Appendix A.”

Section 5. Article 6, Section 6-12(A) is repealed and replaced with the following:

- “A. Three or more violations of any one or any combination of Section 6 offenses shall constitute an act of cruelty, punishable as set forth in Section 11-1 and Appendix A.”

Section 6. Article 7, Section 7-2 is hereby amended to add the following as a final sentence to that Section:

- “Revocation of a permit shall follow the procedures set forth in Section 10-1(G).”

Section 7. Article 10, Section 10-1, is amended to add the following:

- “G. All revocations of permits issued pursuant to this Ordinance shall follow the procedures set forth below:
1. Notice of proposed revocation shall precede any permanent revocation of a permit issued under this Ordinance.
 2. 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.
 3. 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 Control

Division shall issue a notice of revocation. The revocation shall be effective thirty (30) days from service of the original notice of proposed revocation.

4. 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.
5. The Animal Control 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 Control 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.
6. 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.
7. 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.
8. 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.
9. During the pendency of the appeal, the Animal Control 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.

10. 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.
11. 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 Control Division."

Section 8. Article 11, Section 11-1 is hereby repealed and replaced with the following:

"11-1 Penalty Clause

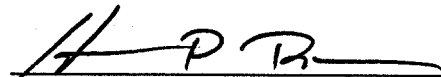
Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction of violating this Ordinance, shall be punished by a fine not exceeding \$300 and/or imprisonment for a period not exceeding 90 days. Fines for violations of specific sections of this Ordinance may be set forth in Appendix A. However, the fines set forth in Appendix A shall not preclude punishment by imprisonment as provided in this Section. Each day this Ordinance is violated shall constitute a separate offense."

Section 9. Appendix A is hereby replaced with the document identified as Appendix A attached hereto as Exhibit 1.

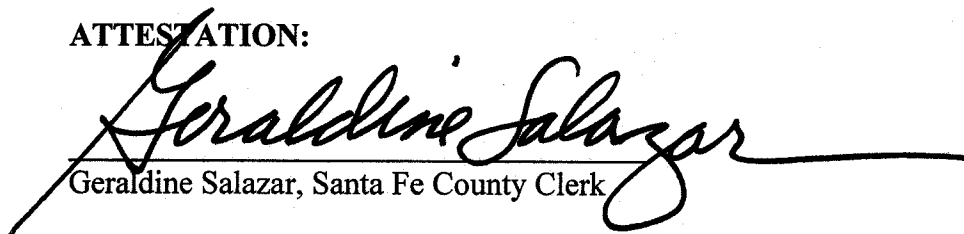
Section 10. EFFECTIVE DATE. This Ordinance shall take effect thirty days after it is recorded by the County Clerk, pursuant to NMSA 1978, § 4-37-9, except that Section 3 of this Ordinance shall not take effect until six months after recordation.

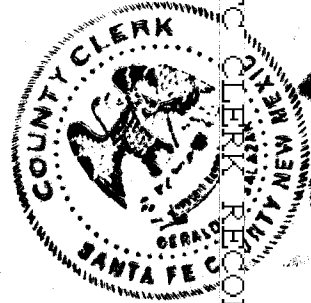
PASSED, APPROVED, AND ENACTED this 31st day of January, 2017, by the Board of County Commissioners of Santa Fe County.

BOARD OF COUNTY COMMISSIONERS

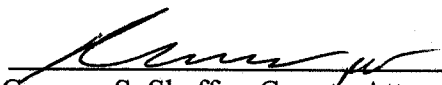

Henry P. Roybal, Chair

ATTESTATION:


Geraldine Salazar, Santa Fe County Clerk



APPROVED AS TO FORM:


Gregory S. Shaffer, County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 8

I Hereby Certify That This Instrument Was Filed for
Record On The 1ST Day Of February, 2017 at 09:20:22 AM
and Was Duly Recorded as Instrument # 1816459
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

REC'D CLERK RECORDED 02/01/2017

APPENDIX A

SFC CLERK RECORDED 02/01/2017

LICENSING FEES	
Altered Dogs	\$10.00 annually
Unaltered Dogs	\$25.00 annually
Duplicate Tag	\$5.00
PERMIT FEES	
To operate a cat kennel annually	\$50.00
To operate a Kennel able to house 20 dogs or less	\$50.00
To operate all other Kennels	\$200.00
To keep an exotic animal annually	\$200.00
To keep a potentially dangerous or dangerous dog	\$200.00
IMPOUNDMENT FEES	
1 st impoundment	\$10.00
2 nd impoundment	\$20.00
3 rd impoundment	\$40.00
4 th impoundment	\$80.00
Subsequent impoundments	The fee shall be double the previous impoundment
FEE FOR RETRIEVAL OF ANIMAL CARCASS BY ACO - \$50.00	
FINES FOR VIOLATIONS OF THIS ORDINANCE	
No Rabies Vaccination	\$15.00 + proof of vaccination
Restraint of Animals/Running at Large/Trespassing/Nuisance/Disturbing the Peace	
1 st Offense in calendar year	\$25.00
2 nd Offense in calendar year	\$60.00
3 rd Offense and each offense thereafter in calendar year	\$100.00
Neglect/Care/Maintenance	
1 st Offense	\$50.00
2 nd Offense	\$200.00

APPENDIX A

3 rd Offense and each offense thereafter	\$300.00
Cruelty	
1 st Offense	\$50.00
2 nd Offense	\$200.00
3 rd Offense and each offense thereafter	\$300.00
All Other Fines	\$200

- a. In addition to the fines due to the County, the pet owner shall also be responsible for any and all boarding fees accrued at the shelter and the state spay/neuter deposit if applicable