

**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, and must be an adequate space for exercise and to sit, hop, stand or rear upon on its hind legs, run jump, and play with other dogs;
- b. medium-sized dogs (36-50 pounds), at least 8 feet by 10 feet or equivalent square footage, and at least five feet high, and must be an adequate space for exercise and to sit, hop, stand or rear upon on its hind legs, run jump, and play with other dogs 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, and must be an adequate space for exercise and to sit, hop, stand or rear upon on its hind legs, run jump, and play with other dogs 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. “commercial kennel” shall mean any commercial establishment whether operating as a non-profit entity or for intended profit where dogs or cats are board, kept, or maintained.
- M. “County” shall mean Santa Fe County, New Mexico, a political subdivision of the State of New Mexico.
- N. “cruelty” shall mean causing death or unjustifiable pain or suffering to an animal by an act, an omission, or neglect.
- O. “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.
- P. “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.

- Q. “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.
- R. "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.
- S. “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.
- T. “estrays” shall mean any animals other than livestock ~~or cats~~, which are running at large, off their owner’s premises, and not under the direct control of the owner or a responsible party.
- U. “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.
- V. “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.
- W. “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.
- X. “guard dog” shall mean a dog that is utilized by its owner solely to protect property.
- Y. “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.
- Z. “inhumane” shall mean causing unnecessary or intentional pain or suffering to an animal.
- AA. “kennel area” shall mean a secure enclosure within which an animal is housed, that is of sufficient height and strength to contain the animal.
- BB. “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.

~~CC. 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.

~~DD. 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.

~~EE. DD.~~ “maim” shall mean to deprive the use of the body or a body part by wounding or the like or to cripple.

~~FF. EE.~~ “molest” shall mean to bother, harass, interfere with, annoy, or sexually harass or abuse.

~~GG. FF.~~ “neuter” shall mean to render an animal permanently sterile and incapable of reproduction.

~~HH. 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

~~II. HH.~~ “owner” shall mean a person who owns, has, keeps, or harbors an animal. ~~or knowingly permits an animal to remain in, on, or about the person’s premises. Any person who owns, has, keeps, or 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.~~

~~JJ. H.~~ “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.

~~KK. J.~~ “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.

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

~~MM. 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.

~~NN. MM.~~ “quarantine” shall mean to detain or isolate an animal suspected of having a contagious disease.

~~OO. 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.

~~PP. 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.

~~QQ. 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.

~~RR. QQ.~~ “spay” shall mean to render a female animal permanently sterile and incapable of reproduction.

~~SS. RR.~~ “torture” shall mean to inflict or cause pain or anguish, this also includes inflicting pain as punishment.

~~TT. SS.~~ “unsafe” shall mean jeopardizing the health or welfare of another person or animal.

~~UU. 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.

~~VV. UU.~~ “veterinarian” shall mean a person with a doctor of veterinary medicine degree, licensed to practice veterinary medicine in New Mexico.

~~WW. 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.

~~XX. 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~~ under the following limited

circumstances:

- a. A dog may be confined by tether to a fixed point temporarily for a reasonable time period 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 or a responsible party is immediately present and outdoors with the dog at all times while it is tethered. Any person who restrains a dog by means of a tether in accordance with this Subsection, shall comply with the following:
  - a. A tether used to restrain a dog shall be at least 10 feet in length;
  - b. The tether must be affixed to a dog by use of a non-abrasive, comfortably fitted harness;
  - c. There must be a swivel on at least one end of the tether to minimize tangling of the tether;
  - d. Chains shall not be used to tether any dog;
  - g. The device must be fastened so that the dog can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or dog to become entangled or strangled; and
  - h. The dog must have easy access to adequate shelter, shade, food, and potable water; or
- b. A dog may be confined by the use of a trolley system or a tether attached a pulley on a cable run as a secondary form of confinement only when the dog is kept in a secure run or kennel area or an enclosure that limits access to the dog by other animals and prevents the public from accidentally encountering the dog. Any owner who restrains a dog by means of a trolley system or a tether attached to a pulley on a cable run under one of the aforementioned exceptions in accordance with this Subsection, shall comply with the following:
  - a. Only one dog may be tethered to each cable run;
  - b. There must be a swivel on at least one end of the tether to minimize tangling of the tether;
  - c. The tether and cable run must be of adequate size and strength to effectively restrain the dog. The size and weight of the tether must not be excessive, as determined by the Animal Services Officer, considering the age, size, and health of the dog;

- d. The cable run must be mounted either at ground level or at least four (4) feet above ground level and shall be an adequate length to allow the dog to move within the entire enclosed space without allowing the animal to move beyond the boundary of the enclosure;
  - e. The tether must be at least ten (10) feet in length unless such length allows the animal to move beyond the boundary of the secure run, kennel area, or enclosure surrounding the perimeter of the property, in which case the tether shall be an adequate length to allow the dog to move within the entire enclosed space without allowing the animal to move beyond the boundary of the enclosure;
  - f. The tether must be affixed to a dog by use of a non-abrasive, comfortably fitted harness;
  - g. The device must be fastened so that the dog can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or dog to become entangled or strangled; and
  - h. The dog must have easy access to adequate shelter, shade, food, and potable water.
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.
3. The provisions of this Subsection shall come into effect six (6) months following the final adoption of this Ordinance. During such time period, the Animal Services Division shall make efforts to inform dog owners of such provisions, and encourage dog owners to provide their animals with alternative forms of restraint that are preferable to chaining and tethering prior to such provisions coming into effect.

### **C. Restraint; When On Street Or Public Places.**

1. An owner or responsible party shall keep direct control of a dog by the use of a leash when present with the dog 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, participating in search and rescue activities, performing law enforcement activities, or otherwise assisting law enforcement. 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. Commercial 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.
3. The provisions of this Subsection shall come into effect six (6) months following the final adoption of this Ordinance.

#### **D. Professional Care Permits; Permitting Procedures.**

1. Commercial 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 commercial kennel, grooming parlor, pet shop, pet shelter, breeders, ~~and~~ animal rescues, ~~and~~ individuals maintaining more than a total of ten (10) cats and dogs on their 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. Animal enclosures ~~must be provided~~ which allow adequate protection against all weather extremes must be provided. 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. Animals may be housed in areas with ambient temperatures below 50 degrees Fahrenheit and above 85 degrees Fahrenheit for medical purposes upon the written recommendation of a licensed veterinarian.
    - 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 areas or 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, except for those individuals permitted to maintain more than a total of ten (10) cats and dogs on their property.

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.

4. The provisions of this Subsection of shall come into effect six (6) months following the final adoption of this Ordinance.

#### **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 before the puppies or kittens in the litter reach a stage in development in which their eyes open.
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. Before the puppies or kittens in the litter reach a stage in development in which their eyes open, an owner must declare to the Animal Services Division that the litter will be surrendered. However, the litter shall not be surrendered until the litter is at least six (6) weeks of age.

### **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 for a second or subsequent offense 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;~~
  - a.b. Service animals and unretired law enforcement dogs; and
  - b.e. 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 for a second or subsequent offense 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; or
  - e. otherwise unnecessarily cause an animal to suffer physical harm.
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 area, 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.

**C. Effective Date.**

This Ordinance shall take effect thirty (30) days after final adoption and as provided in



Sections Seven (B)(3) and Nine (D)(4).

**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

OCTOBER 2016 DRAFT