



VALENCIA COUNTY, NEW MEXICO

POST OFFICE BOX 1119

444 LUNA AVENUE

LOS LUNAS, NEW MEXICO 87031



VALENCIA COUNTY

ORDINANCE 2022-02

**Amending Title IX, Chapter 90 of the
Valencia County Animal Control Code**

PASSED: March 2, 2022

EFFECTIVE: April 2, 2022

CHAPTER 90: ANIMAL CONTROL

WORDS AND PHRASES DEFINED

§ 90.001 SHORT TITLE AND LEGISLATIVE INTENT.

(A) This chapter shall be known and cited as the Valencia County Animal Control Chapter.

(B) It is the intent of the County Commission that enactment of this chapter will establish procedures that will:

- (1) Assist in providing control of animals not under the jurisdiction of the State Brand Inspector or of the New Mexico Department of Game and Fish;
- (2) Provide rabies control;
- (3) Provide for reporting of animals bites;
- (4) Protect animals from neglect and abuse;
- (5) Protect residents from annoyance and injury by animals;
- (6) Establish certain fees related to the chapter; and
- (7) Prescribe penalties for violations of the chapter.

§ 90.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Shall is always mandatory and not merely a directory; the masculine includes the feminine.

ABANDON. To withdraw protection, support or help with the intent of never again claiming right or interest in.

ADOPTION. To take by choice and assume responsibility for proper care in accordance with this chapter.

ANIMAL. Dog, cat, or any other mammal, excluding man and those controlled by the New Mexico Department of Game and Fish, and the New Mexico Livestock Board, and poultry.

ANIMAL CONTROL CENTER or **SHELTER.** Any establishment authorized by the County of Valencia for the care and custody of impounded animals.

ANIMAL CONTROL OFFICER. The person who is responsible for the enforcement of this chapter and the regulations promulgated thereunder and under the supervision of Animal Control Director.

ANIMAL NUISANCES. Any dogs and/or cats habitually or continuously barking, howling, or otherwise disturbing the inhabitants of the county, or are kept and/or maintained in a manner as to disturb by noxious or offensive odors, or otherwise endanger the health and welfare of the inhabitants of the county.

BITE. The puncture or tear of the skin inflicted by the teeth of an animal.

COMMISSION. The elected governing body of the County of Valencia.

COMPETENT PERSON. A person having knowledgeable background to function in an appropriate and humane manner regarding the welfare of all animals.

CONFINED. Restrictions of an animal at all times by an owner or keeper to an escape-proof building or other enclosure away from other animals and the public.

COUNTY OF VALENCIA or **COUNTY.** Includes the land area within the boundaries of the County of Valencia, including privately owned land and state owned or federal

land, except the area within the limits of any incorporated municipality which enters into the joint powers agreement with the county for animal control.

DANGEROUS ANIMAL.

(1) An animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person and the animal are off the property of the owner of the animal;

(2) An animal which, when unprovoked, injures a person, but the injury does not result in muscle tears or disfiguring lacerations, or require multiple sutures, or require corrective or cosmetic surgery; or

(3) An animal that, because of its poisonous bite or sting, would constitute a significant hazard to the public.

GUARD DOG. A dog that is used to protect commercial property.

GUARD DOG SITE. Premises utilizing a guard dog, and which has a current guard dog permit.

HOBBY KENNEL/CATTERY. A person involved in animal activities such as, but not limited to, showing or controlled breeding of registered purebred dogs and/or cats.

HUMANE SOCIETY. Any establishment owned or operated by an organization recognized by the State Corporation Commission to be non-profit, whose sole function is to bring aid and comfort to dogs and/or cats.

INTACT ANIMAL. An animal that has not been surgically sterilized.

INTACT ANIMAL PERMIT. A permit issued to those persons who wish to maintain an intact dog or cat for some purpose other than breeding who do not wish to pay a sterilization deposit.

KENNEL, COMMERCIAL. Any establishment where dogs and/or cats are boarded or maintained under controlled conditions and is operated as a business.

LIVESTOCK. All domestic animals of the following genera: equine, bovine, ovine, caprine, and porcine.

OWNER. A person, who owns, has, keeps, harbors, or permits animal(s) to remain in, on, or about his or her premises and is responsible for the welfare and maintenance of the animal(s).

PERMITTED PREMISES. The establishment, property or site for which a valid permit has been issued by the Animal Control Director for use as a commercial kennel, humane society, pet shop, guard dog site, hobby kennel site.

PET SHOP. Any establishment owned or premises maintained for the purchase, sale, exchange or hire of animals except livestock.

QUARANTINE. The detaining and isolation of an animal suspected of contagion, for the purpose of observation.

RUNNING AT LARGE. Being neither confined by an enclosure, physically restrained by a leash, nor under voice or sound control of a competent person when off the premises occupied by the owner.

SERVICE ANIMAL. Animal trained to assist impaired person(s) and having identification from a training center, certifying or authorizing agency.

STERILIZE. Surgically rendering an animal unable to reproduce.

STRAY. Any dog or cat which shall be off and away from its home unattended without tags or other indications of ownership.

VACCINATION. Protection provided against rabies by inoculation with a recognized vaccine approved by the director of the Health Services Division of the Health and Environment Department of the State of New Mexico, and administered by or under the supervision of a licensed veterinarian.

VETERINARIAN. A person with a Doctor of Veterinary Medicine degree licensed to practice veterinary medicine in the State of New Mexico.

VICIOUS ANIMAL. (1) Any animal that kills or severely injures (so as to result in muscle tears or disfiguring lacerations, requiring multiple sutures, or require corrective or cosmetic surgery) a person or domesticated animal, but it does not include an animal that bites, attacks or injures a person or animal that is unlawfully upon its owner's premise, or that is provoked. (2) Any animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person and the animal are off the property of the owner of the animal; or (3) An animal which, when unprovoked, injures a person but the injury does not result in muscle tears or disfiguring lacerations, or require multiple sutures, or corrective or cosmetic surgery; or (4) An animal which, because of its poisonous bite or sting, would constitute a significant hazard to the public.

WORKING DAY. For the purpose of this chapter, Tuesday through Saturday, except when these days are observed as holidays.

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ADMINISTRATION OF CHAPTER

§ 90.015 ANIMAL CONTROL OFFICER.

(A) The County Commission shall appoint a competent and humane person to the position of Animal Control Director. The Animal Control Director shall be responsible for the training and certification of all employees. Only full-time employees shall be deputized.

(B) All animal control officers shall be deputized full-time employees. Animal control officers shall aid in the prevention and control of the spread of rabies within the county, including but not limited to the lawful capture and confinement of rabies suspect animals, the enforcement of quarantine orders, and the lawful destruction or confinement of animals exposed to rabies.

(C) Animal control officers shall be provided humane training to apprehend, handle, care for animals, and instruction in the ordinances and laws pertaining to animal control. Animal control officers shall also be instructed in the determination of breed of dogs and/or cats, and in the determination of the predominant breed of mixed breeds. The training must be certified before employees are deputized.

§ 90.016 ENFORCEMENT OF CHAPTER.

(A) The Animal Control Director and his or her officers, with assistance from the Sheriff's Department, are responsible for the enforcement of this chapter.

(B) There shall be no liability on the part of the Animal Control Director and his or her officers in the lawful execution of their assigned duties.

§ 90.017 AUTHORITY OF ANIMAL CONTROL OFFICERS.

(A) *Duties.* The Animal Control Director and his or her deputized officers shall have the authority to issue citations for violations of this chapter and to perform other duties as are prescribed herein. For the purpose of discharging the duties imposed by this chapter, the Animal Control Director and his or her duly appointed and deputized officers are hereby authorized and permitted to enter upon any premises, after receiving a signed and lawful complaint, and having notified residents of intent of investigation and gained their permission for the investigation, to ascertain if any provision of this chapter or any laws of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals are being violated. All citations must be honored in a court of law subject to penalties as stated herein. If, however, the owner or occupant of any dwelling objects to investigation, as above stated, a warrant for the investigation of the dwelling and premises, issued by a court of competent jurisdiction shall be in the possession of the officer(s) or deputy prior to inspection.

(B) *Impoundment.* The Animal Control Director and his or her officers or any Sheriff's deputy may impound any animal found running at large unaccompanied by and not under the control of, the owner, or of a competent person. The above named officers may impound an animal in the act of pursuing, wounding or killing livestock, poultry, or attacking a human. Seventy-two hours after attempting to notify tag owner the animal may be destroyed whether or not it wears a tag required by the State of New Mexico. There shall be no liability on the part of the animal control officers or the Sheriff's deputies in damages for the killing.

(C) *Resisting officers.* It shall be unlawful for any person to hinder, resist, or oppose the Animal Control Director or his or her duly deputized and appointed officers and/or Sheriff's deputies in the lawful performance of their duties.

§ 90.018 FILING OF COMPLAINTS.

A signed complaint alleging any violation of this chapter must be filed with the shelter by a person who has knowledge of the violation and who can identify the owner of the animal involved or the premises where the animal is located.

§ 90.019 FILING COMPLAINTS AGAINST AN ANIMAL CONTROL OFFICER.

A signed complaint must be filed with the County Manager by a person who has knowledge of an incident of cruelty to an animal or conduct unbecoming an employee of Valencia County as stated in the county's personnel chapter.

ANIMAL CONTROL AND IMPOUNDING PROCEDURES

§ 90.030 IMPOUNDING ANIMALS.

An animal shelter shall be provided for the purpose of boarding and caring for animals impounded under the provision of this chapter. It shall be the duty of the Animal Control Director and his or her deputized officers to take up and impound or cause to be impounded, any stray animals and/or any animals kept in violation of this chapter within the area defined as the County of Valencia. It is unlawful for any person, without the knowledge or consent of the owner, to hold or retain possession of any animal of which he or she is not the owner for more than 24 hours without reporting the possession of the animal to an animal control officer, giving his or her name, address, a true and

complete statement of the circumstances under which he or she took up the animal and the precise location where the animal is confined.

§ 90.031 RECORD KEEPING.

(A) The animal control officer, upon impounding or receiving any animal shall register the animal by entering the species, breed, color, and sex of the animal and the time and place the animal was apprehended, into the registry kept for this purpose. The owner shall have the right to redeem the animal within 72 hours or 3 working days upon payment of the impounding fees, care and feeding charges, veterinary charges, and any due penalties and fines. Notice of the impoundment shall be posted in a conspicuous place at the animal shelter for a period of 3 working days.

(B) The animal control facility shall maintain a record of all animals which have been impounded in the county shelter and shall maintain these records for not less than 2 years. The records shall contain at least the following information:

- (1) The manner and date of its acquisition by the animal control officer;
 - (2) The date and manner of its disposal;
 - (3) The name, address, and phone number of the person redeeming the animal;
- and
- (4) All fees received.

§ 90.032 DISPOSITION OF ANIMALS IMPOUNDED.

(A) All impounded animals shall be redeemed within 3 working days after impoundment. Any animal not redeemed within the required period shall become the property of Valencia County and may be placed for adoption or the animal will be humanely destroyed. Any dog or cat to be placed for adoption that is under 6 months of age shall be released only upon payment of the adoption fee, the sterilization deposit, and after adopting person has signed an agreement stating that the adopted animal will be sterilized when no more than 6 months of age.

(B) Any dog or cat to be placed for adoption that is over 6 months of age shall be released only upon payment of the adoption fee, the sterilization deposit, and after the adopting person has signed an agreement stating that the adopted animal will be sterilized within 30 days of the date of adoption.

(C) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian stating that the adopted animal has been sterilized.

(D) All reasonable effort must be made to place adoptable animals. This shall include, but is not limited to, public advertisement.

(E) An intact animal reclaimed by its owner shall be released without sterilization upon payment of all impoundment fees, the sterilization deposit and the owner shall sign an agreement to have the dog or cat sterilized within 30 days of release or to obtain an intact animal permit. An animal impounded 3 times or more shall be sterilized prior to release at the owner's expense.

(F) All animals shall be humanely euthanized by a licensed veterinarian, veterinary technician, or certified animal control officer as described by the New Mexico Pharmacy Board and the New Mexico Board of Veterinary Medicine.

§ 90.033 FEES.

(A) *Generally.* All fees collected through the administration of this chapter shall be deposited with the Treasurer's Office of Valencia County. Fees shall be in accordance with an approved resolution which can be amended from time to time as the Board of County Commissioners deems necessary.

(B) *Boarding fee.* A boarding fee shall be paid by the person redeeming an impounded animal. This shall be in addition to any fines or citations.

(C) *Impound fee.* An impound fee shall be charged to the owner of an impounded animal upon the first offense. A higher fee shall be charged for each offense thereafter that occurs within 1 year of a previous offense.

(D) *Quarantine fee.* A fee for quarantine or confinement of an animal shall be charged per day. Refusal to pay any of the above stated fees shall result in the dog or cat becoming the property of Valencia County. These animals shall then be treated as impounded animals.

(E) *Adoption fee.* The fee to adopt a dog or cat along with an adoption procedure shall be set forth by resolution and described in an office procedure manual.

(F) *Sterilization fee or deposit.* If not available, the state regulation for a minimum deposit shall apply. A sterilization fee shall be paid prior to the release of an animal impounded for the third time or more.

(G) *Licensing fee.*

(1) There shall be an annual fee established for each sterilized dog or cat.

(2) There shall be an annual fee established for each intact dog or cat.

(3) There shall be an annual fee to register a dangerous or potentially dangerous dog.

(4) All licenses shall be issued only upon proof of current rabies vaccination and proof if the animal has been sterilized. Senior citizens may annually register their sterilized and microchipped dogs or cats, with a current rabies vaccination, for free. In the event the license tag has been lost, a replacement tag shall be obtained.

(H) *Traps.* There shall be a deposit for all traps, refundable upon return of the trap in good condition to the Animal Control Shelter.

(I) *Permitted premises permit.* Permitted premises permits shall be issued to owner(s) as defined in § [90.080](#) upon receipt of a current inspection certificate from the Animal Control Director. Any person failing to comply with this section shall pay a fine in addition to the annual fee. Possession of a permit precludes purchase of individual animal licenses for those dogs and/or cats owned by the permit holder.

(J) *Intact animal permits.* Intact animal permits shall be issued to persons wishing to maintain an unsterilized animal reclaimed by its owner from the animal control shelter. Permit shall be revoked if animal is picked up a second time within the year.

(K) *Litter fee.*

(1) Any person who breeds, or allows dogs and/or cats to breed, who does not have a current permitted premises permit shall pay a litter fee for each litter of dogs and for each litter of cats.

(2) Fee shall be refunded if owner provides to animal control proof of sterilization of mother within 3 months of litter birth.

§ 90.034 ANIMALS AS PERSONAL PROPERTY.

That dogs, cats and other animals shall be deemed and considered as personal property, and all remedies given for the recovery of personal property and of damages for injuries thereto are hereby extended to them.

§ 90.035 RESTRAINT OF ANIMALS.

(A) Dogs and/or cats are permitted on the roadways and public areas in the county only if on a secure leash not exceeding 6 feet in length, and in the immediate physical control of the person having custody thereof. This provision does not apply when an animal is in a bona fide animal show, nor does it apply to dogs trained for the purpose of hunting and under the voice control of their owners.

(B) It is unlawful for the owner of an animal to cause, allow, or permit the animal to commit any damage or nuisance to a person, upon the property of any other person, or upon a public street, alley, sidewalk, park or other public place.

(C) A person owning or having charge, custody, care, or control over an animal, shall keep the animal upon his or her own premises within a secure enclosed pen with ample room to move freely within the pen, or in an area containing a fence or wall of sufficient height surrounding the perimeter of the property. It shall be unlawful to tether an animal as a form of confinement. This will be evaluated and decided by an Animal Control Officer.

(1) Fixed point tethering of any animal to stationary objects is permitted in limited circumstances such as picnics or gatherings in a park or open space, 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) A dog is permitted on the street and in other public places only if on a secure leash not exceeding six feet in length. Longer retractable leashes may be used, provided the person with the dog is capable of controlling the dog. All other animals must be secured in a fashion acceptable for the species of animal. A person physically capable of controlling and restraining the animal must exercise immediate custody. This section does not apply when an animal is participating in a bona fide animal show authorized by the county or appropriate authorities, nor when a dog is in an off-leash park or other designated off-leash area.

(D) Restraint Devices: A rope, chain, or other device may be used to restrain an animal, provided the following criteria are met:

(1) The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness, or other device designed for that purpose. The device and collar or harness shall be of appropriate size and weight so as to not cause sores or abrasions.

(2) The device must be at least 12 feet long unless such length would violate section 90.035, in which case it shall be both no less than eight feet long and still may not violate section 90.035. The device must be fastened so the animal can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or animal to become entangled or strangled. All chains or tethers shall have swivels on both ends.

(3) The animal must have easy access to proper and sufficient food, potable water, adequate shade, ventilation, and proper shelter.

(4) All animal feces shall be removed, and the area where the animal is confined shall be kept as required by section 90.067.

§ 90.036 LICENSING.

(A) Any person harboring or maintaining any dog or cat over the age of 3 months within the county shall obtain a license or permit from animal control on an annual basis. The animal control shelter shall keep a record of all licenses issued. A current rabies vaccination certificate shall be presented at the time of the application for the license. Licenses shall be issued at the animal control shelter. A current license tag shall be affixed to the licensed dog or cat at all times. There will be a fee of \$10 for each dog or cat without the tag refundable upon proof of license being provided to an animal control officer.

(B) No license fee shall be required for service animals owned, harbored or kept for the purpose of assisting impaired persons.

(C) All animals over the age of three months within the County are required to have a microchip implanted.

§ 90.037 SHELTER.

(A) Any person harboring or maintaining any dog or cat is required to provide adequate shelter for those animals. Adequate shelter for animals shall consist of one of the following:

(1) Inside the residence of the animal's owner.

(2) A shelter that is an enclosed structure of appropriate dimensions for the breed and size of the animal, consisting of four sides, a roof, an entryway, a floor, and suitable insulation protecting the animal from the elements. The shelter shall be structurally sound and of solid construction with no cracks, open seams or holes and the entire structure shall be leak-proof.

(B) The shelter shall be maintained as follows:

(1) The shelter shall be maintained in good repair to protect the animals from injury.

(2) The shelter shall be free of standing water or mud, and free of accumulated waste and debris.

(3) The shelter shall contain suitable bedding as appropriate to species and suitable for the breed when the outdoor temperature is below 45 degrees unless the shelter is heated.

(4) The shelter shall have adequate ventilation.

(5) The shelter shall be sufficient in size to allow each animal to stand up, turn around, lie down and stretch comfortably.

(C) A structure, including, but not limited to a garage, barn or shed, that is sufficiently insulated and ventilated to protect the animal from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a shelter as provided in the balance of this paragraph that is accessible to the animal.

(D) The areas beneath a car, truck, mobile home or machinery do not qualify as shelter.

§ 90.050 RABIES VACCINATIONS.

It is the duty of every person keeping a dog or cat over the age of 3 months to have the animals vaccinated against rabies. All dogs and cats must be vaccinated annually. Every person who keeps a vaccinated dog or cat must exhibit his or her copy of the certificate of vaccination upon the request of any person lawfully charged with enforcement of this chapter. Any unvaccinated dog or cat brought into Valencia County shall be securely confined by the owner or keeper until vaccinated against rabies. This vaccination shall be administered within 1 week of entry into the county. Any rabies vaccination performed by a veterinarian in another county, state or country must conform to the requirements of the State of New Mexico to be valid in Valencia County.

§ 90.051 ANIMAL BITES.

(A) When an individual is bitten by a dog or cat for which the owner does not have proof of rabies vaccination, it is the duty of the bite-victim or the guardian of the victim to notify the district health officer and an animal control officer within 24 hours of the bite. The owner or keeper of the animal shall immediately surrender the animal to animal control officers or Sheriff's deputies at his or her own expense. The animal control officer shall quarantine the animal securely for 10 days under the observation of the Animal Control Director or a licensed veterinarian. Absolutely no animal that has bitten any person may be rabies vaccinated within 10 days of the bite occurrence.

(B) Unvaccinated dogs or cats bitten by a known rabid animal should be destroyed immediately. If the owner is unwilling to have this done, the unvaccinated animal shall be quarantined immediately in strict confinement and isolation at the owner's expense in a manner directed by the Animal Control Director and approved by the district health officer for a 6-month period. It shall be vaccinated with an approved rabies vaccine 10 days after release if no signs of rabies exist. Should the dog or cat show signs of rabies at any time prior to vaccination, it must be immediately destroyed.

(C) If a dog or cat having a current rabies vaccination is bitten by a known rabid animal, it shall be re-vaccinated immediately and confined and isolated at the owner's expense for at least 10 days in a manner directed by the Animal Control Director and approved by the District Health Officer.

PROHIBITIVE ACTIVITIES

§ 90.065 RUNNING AT LARGE.

Any dog or cat found running at large as defined in this chapter is declared to be an animal nuisance, a menace to public health and safety, and if observed by an animal control officer or a Sheriff's Deputy shall be taken into custody and impounded.

§ 90.066 NUISANCE.

(A) All complaints regarding a dog or cat nuisance as defined in this chapter shall be filed in person at the animal shelter or by calling the animal shelter writing with an animal control officer, and shall include the name of the complainant and the name (if known) and address of the person(s) permitting the nuisance to occur and continue.

(B) An owner shall not advertise for sale, barter, exchange, or give away any dog or cat within the county unless the litter fee or permitted premises permit number is

displayed legibly in the ad, and the owner shall furnish the litter or permitted premises number to any prospective recipient requesting the number.

(C) An owner shall not sell, barter, exchange or give away any dog or cat before the age of 6 weeks. Any person who does so shall be fined \$25 per animal. The only exception to this is in the case of hand-fed orphans.

(D) A. Any animal that habitually or continuously barks, howls or otherwise disturbs the peace of the inhabitants of the county, or are kept or maintained in such a manner or in such numbers as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the county are declared to be an animal nuisance.

§ 90.067 CRUELTY TO ANIMALS AND ABANDONMENT.

(A) It shall be unlawful for any person to neglect to provide any animal in his or her charge or custody with proper food, drink, necessary shade or shelter, or to carry any animal in or upon any vehicle or trailer in a cruel or inhumane manner, or to keep any animal under unsanitary or unhealthy conditions; an animal carried in the bed of a truck must be crated or restrained so it cannot fall or jump from the truck or be strangled.

(B) Penalty of \$200 to \$500 shall be imposed upon the owner or keeper for abandonment and/or abuse, and the animal(s) shall be impounded.

(C) It shall be unlawful for any person to willfully or maliciously kill or maim any animal except that reasonable force may be employed to drive off vicious or trespassing animals.

(D) It is unlawful to poison a domestic animal or to distribute poison or toxicants in any manner with the intent of poisoning a domestic animal. Prosecutions of this section shall carry a fine of \$300 to \$1,000 for each offense and each animal.

(E) No person shall promote, stage, hold, manage, conduct, carry on, train for or attend a game, exhibition, contest or fight in which 1 or more animals are injuring, killing, maiming or destroying themselves or other animals. Any incident will incur a \$500 to \$1,000 fine.

(F) No person shall provoke, entice, or intentionally release an animal from the property of its owner for the purpose of engaging the animal in a fight or to attack a person or another animal. Any incident will incur a fine of \$500 to \$1,000, plus any applicable medical fees.

(G) It shall be unlawful for any person owning or maintaining any place for public accommodation, public entertainment or amusement, a restaurant, or who operates a public transportation facility to exclude therefrom any dog which has been trained to assist the physically impaired, provided that the dog be in the company of the physically impaired person whom it was trained to assist.

(H) Abandonment does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing unowned cats by trap, neuter and return are not deemed the owner, harbinger, keeper, holder or possessor of such cats.

§ 90.068 DOG KILLING OR INJURING LIVESTOCK AND/OR POULTRY.

(A) If any dog shall kill or injure any livestock or poultry, the owner or keeper of that dog shall be liable for all damages that may be sustained thereby, to be recovered by

the party so injured before any court having competent jurisdiction, and it shall be unlawful to keep the dog after it is known that the dog is liable to kill livestock or poultry and it shall be the duty of the owner to kill, or have killed, the dog upon order of the court after a finding that the dog has killed or injured livestock or poultry, and provided further, that it shall be the right of the owner of livestock or poultry so killed or injured by the actions of any dog to kill the dog while it is upon property controlled by the owner of the livestock or poultry.

(B) Any peace officer may impound any dog found running at large unaccompanied by and not under the control of the owner or handler, and further, the peace officer shall destroy the dog if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans. Any peace officer may kill any dog in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans whether or not the dog wears a rabies tag required by NMSA § 77-1-3. There shall be no liability of the peace officer in damages or otherwise for the killing.

§ 90.069 DANGEROUS AND VICIOUS ANIMALS.

(A) *Dangerous animals.* For purposes of this chapter a secure enclosure shall mean a fenced area or structure that is locked, capable of preventing the entry of the general public, including children, capable of preventing the escape of the animal, and clearly marked as containing a dangerous animal. The specifications for containment are outlined in the standard operating procedures of the department and subject to approval by the Animal Control Director and the County Manager.

(B) *Investigation.* Any complaint regarding a dangerous animal or vicious as defined within this chapter, whether reported by a citizen, or at the animal control officer's own instigation, shall be investigated. Investigative reports relative to these allegations shall include all information as stated in the department policies and procedures manual.

(C) *Declaration.*

(1) Based on the findings of an investigation regarding a suspected dangerous or vicious animal, the investigating officer shall make a full report and file it with the Animal Control Department. The investigating officer shall make a determination to:

(a) Declare the animal dangerous or vicious and notify the owner or custodian of that finding; or

(b) Close the case citing insufficient evidence to conclusively deem the animal dangerous or vicious at this time. Closing a case shall not prevent the case from being reopened in the future.

(2) Notification to an owner or custodian that his or her dog has been declared dangerous or vicious shall include the following information;

(a) The owner or custodian has a right to appeal a declaration;

(b) The amount of time for filing an appeal;

(c) The actual date of deadline for filing the appeal;

(d) An outline for the requirements for compliance if the animal is to remain at the residence;

(e) The amount of time for the owner or custodian to accomplish full compliance in order to keep the animal;

(f) The actual date of deadline for compliance; and

(g) A copy of the dangerous or vicious animal section of this chapter, in its entirety.

(D) *Necessary impoundment.*

(1) If the Animal Control Director, or his or her designee, determines that any owner or custodian cannot sufficiently contain his or her accused animal during the process of appeal, or the required 30-day period for compliance under this chapter, a warrant to seize the animal shall be sought pursuant to the applicable judicial process.

(2) An animal seized under this chapter shall be humanely and securely held at the county animal control shelter or authorized secure facility until the time as the owner or custodian complies with all requirements, or the owner or custodian has exhausted all rights to appeal, or otherwise directed by a court of competent jurisdiction. The confinement shall be at the expense of the owner or custodian.

(E) *Hearing.*

(1) An owner or custodian, whose animal has been seized by animal control under division (D) above, shall be entitled to a hearing, to be held not later than the thirtieth day after the date on which the animal was seized unless otherwise directed by the court.

(2) This hearing shall be held in the court issuing the warrant, or in any other court of competent jurisdiction for the purpose of appealing the dangerous or vicious animal declaration.

(F) *Redemption.*

(1) An animal that has been seized by animal control and declared, and that declaration has been upheld by the courts, if appealed, shall be returned to the owner or custodian only if the owner or custodian has met all requirements, paid all fees, and has established a secure enclosure in which to house the animal that complies with regulations set forth in the department policies and procedures manual, as well as all requirements set forth in section division (G) below. A vicious animal may not be returned to the owner.

(2) If the declaration has been reversed through appeal, by a court of competent jurisdiction, the animal shall be returned to its owner or custodian. In this case, no fee will be charged to the owner or custodian.

(3) No animal shall be returned to the owner or custodian once an order has been received by the courts to destroy the animal.

(G) *Requirements for owners or custodians of dangerous animals.* Not later than the thirtieth day after a person learns that he or she is the owner or custodian of a dangerous animal, the person shall:

(1) Register the dangerous animal with county animal control;

(2) Meet all requirements for keeping a dangerous animal as set forth in this chapter;

(3) Obtain liability insurance in the amount of at least \$100,000 to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person and provide proof of the required liability insurance coverage, or equal financial responsibility, to the Animal Control Director;

(4) Provide a secure enclosure as set forth in the department policies and procedures manual;

(5) The dangerous animal shall be controlled at all times on a leash in the immediate control of a responsible person capable of controlling the animal when not within a secure enclosure as specified herein; and

(6) Sterilize the animal.

(H) *Prohibition.* No person shall knowingly sell, offer for sale, breed, or attempt to buy a dangerous animal within the county.

(I) *Removal to another jurisdiction.* No person shall remove an animal that has been declared dangerous to another jurisdiction without the prior knowledge and approval of the Animal Control Director.

(J) *Registration.* The county animal control shelter shall annually register a dangerous animal if the owner or custodian:

(1) Presents:

(a) Proof of liability insurance or financial responsibility as required by division (G) above;

(b) Proof of current and valid rabies vaccination of the dangerous animal;

(c) Two color photographs of the animal taken within 6 months of application for registration; and

(d) Two photographs of the secure enclosure in which the dangerous animal is kept.

(2) Has the secure enclosure re-inspected by an animal control officer; and

(3) Pays an annual registration fee as set forth in the duly adopted schedule of fees.

(K) *Registration tag.* Upon completion of the requirements for registering a dangerous animal, the animal control shelter shall provide to the owner or custodian a specific registration tag. The owner or custodian must place the tag on the animal's collar and ensure that the animal wears the collar with the tag attached, at all times.

(L) *Moving to a new address.* If an owner or custodian of a registered dangerous animal moves to a new address, within the same jurisdiction, the owner or custodian, not less than 14 days after the date of the move, shall notify the animal control shelter of his or her new address.

(M) *New ownership.* If an owner or custodian of a registered dangerous animal wishes to give the animal to another person, relinquishing all further ownership or custodianship, the new owner or custodian shall be held to all standards formerly required of the previous owner or custodian. The new owner or custodian shall comply with all requirements for registering the dangerous animal in his or her name. An owner or custodian of a declared dangerous animal shall notify animal control of any attacks the dangerous animal makes on people.

(N) *Vicious animals.* The disposition of an animal deemed vicious shall be adjudicated. If the victim is a person, the animal must be seized and impounded until a judgment has been made by the court.

PERMITTED PREMISES

§ 90.080 PERMIT REQUIRED.

(A) No person shall operate a commercial kennel/cattery, pet shop, humane society guard dog site, hobby kennel/cattery or keep a dangerous animal without a valid permit issued by the Animal Control Director.

(B) A fine of \$100 will be assessed for any violations.
(Ord. passed 6-23-1997; Am. Ord. 2004-16, passed 12-15-2004)

§ 90.081 PERMIT APPLICATIONS.

Persons who wish to apply for a permit shall file on forms provided by the county. The applications shall require information sufficient to assure the Animal Control Director that the applicant and facilities are adequate to care for the animals in a manner that protects the public and the animals.

§ 90.082 PERMIT REQUIREMENTS; EXPIRATION; RENEWAL.

(A) No permit is transferable from 1 person or place to another person or place.

(B) A valid permit shall be posted in a conspicuous place at each permitted premises.

(C) A permit holder shall notify the Valencia County animal control center of any changes in operations which may affect the status of the permit and shall keep the center informed of all changes in name, address, home and business telephone numbers.

(D) Both the person in charge of permitted premises and the owner of the permitted premises shall be responsible for complying with this chapter.

(E) At each permitted premises, except hobby kennels, a current record shall be kept which describes all animals owned, purchased or received, and the final disposition of each animal.

(F) (1) Permits shall expire 1 year after the date of issuance of the permit.

(2) An application for renewal, accompanied by a current certificate of inspection issued by the Animal Control Director, shall be filed at the center 30 days before the date of expiration.

(2) Failure to renew permits as specified shall result in the expiration of the permit, or in the assessment of a late fee of \$10 in addition to the cost of renewing the permit.

§ 90.083 FACILITIES AND CARE APPLICABLE TO KENNEL/CATTERY PERMIT.

Dog and/or cat housing facilities must be structurally sound and shall be constructed of non-toxic materials. The facility shall be maintained in good repair and kept clean and sanitary at all times so as to protect animals from disease and injury. Animals maintained in pens, cages or runs for periods exceeding 24 hours must be provided with adequate space for exercise, to prevent overcrowding, and to permit adequate ventilation and temperature control to provide for the animal's comfort and health. Sufficient lighting shall be provided by either natural or artificial means. If outside housing is provided, it must be sufficient to protect the dog and/or cat from sunlight, rain, snow or cold weather detrimental to the animal's health. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors and disease hazards. Animals shall be provided with sufficient fresh clean and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily and diseased or injured animals must be provided with veterinarian care.

(Ord. passed 6-23-1997) Penalty, see [§ 90.999](#)

§ 90.084 ACCESS TO PERMITTED PREMISES.

A certified animal control officer shall be allowed to enter a permitted premise, following proper notification of permit holder or applicant, for the purpose of inspection prior to issuance of permit, renewal of permit, or for investigation of complaint as specified in [§ 90.017](#) of this chapter.

(Ord. passed 6-23-1997) Penalty, see [§ 90.999](#)

§ 90.085 SUSPENSIONS, REVOCATION OF PERMITS.

(A) (1) When the County Manager discovers that a permitted premises is in violation of this chapter, he or she shall give notice of this violation to the permit holder, operator or person in charge by means of an inspection report or other written notice.

(2) The notification shall state that failure to comply with the inspection report issued in accordance with the provisions of this chapter may result in immediate suspension or revocation of the permit.

(B) (1) Permits may be suspended for 30 days to allow permit holder to comply with the requirements of this chapter or other applicable laws, ordinances or regulations.

(2) Permits may be revoked for serious or repeated violations of the requirements of this chapter, or for violation of other applicable laws, ordinances or regulations. A permit shall be revoked for a minimum of 1 year. The permit shall be surrendered to the Animal Control Director upon suspension or revocation.

(3) (a) A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit by filing an additional application for a permit at the shelter on the form required by the County Manager.

(b) Within 5 working days after the shelter receives the application, an animal control officer shall make an inspection.

(4) If the applicant and the site are in compliance with the requirements of this chapter and all other applicable laws, regulations and ordinances, the permit shall be reinstated.

§ 90.086 GUARD DOG SITE.

(A) *Guard dog permit.* A person who wishes to use a guard dog shall first obtain a guard dog permit.

(B) *Guard dog housing.*

(1) In addition to the facilities and care standard requirements for permitted premises set forth elsewhere in this chapter, the area where the guard dog is housed, while not on duty, shall be secured in a manner which will prevent their escape.

(2) The off-duty housing area shall be kept locked when not in use.

(3) (a) Guard dog premises shall be posted with warning signs at least 12 inches long on each side.

(b) The warning signs shall state "Guard Dog" or "Guardian" and shall show a picture of an aggressive dog.

(c) The warning signs shall be posted not more than 200 feet apart on the exterior of the fences or walls surrounding the site, and shall be posted at all exterior corners of the site and every entrance to the site.

§ 90.087 EXCEPTIONS TO PERMITTED PREMISES.

The following are not required to obtain a permit:

- (A) A veterinarian hospital or clinic operated by a licensed veterinarian;
- (B) A bona fide research institution, using animals for research; or
- (C) A publicly owned animal control center or shelter.

CLAUSES

§ 90.100 ANNUAL FEE ADJUSTMENT.

All fees included in this chapter will be reviewed annually to consider changes in the cost of providing services and related increases or decrease in fees, subject to the approval of the Board of County Commissioners.

§ 90.101 PERJURY CLAUSE.

It is unlawful for any person to make any false affidavit, or knowingly swear to any document, matter or thing required to be sworn to or affirmed by the terms of Valencia County Animal Control Chapter.

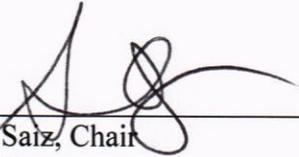
§ 90.999 PENALTY.

(A) Any person who violates any of the provisions of the Animal Control Chapter shall be deemed guilty of a misdemeanor.

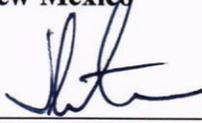
(B) Each violation of this chapter shall be punishable by a fine of no more than \$300, and/or imprisonment for no more than 90 days, or both; exceptions being those sections which carry a separate fine or penalty for the offense stated.

APPROVED, ADOPTED, AND ORDAINED on this 2nd day of March, 2022.

**Board of County Commissioners
Valencia County, New Mexico**

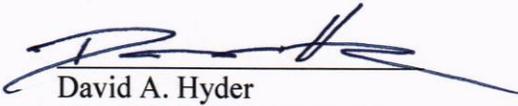


Gerard Saiz, Chair
District I



Jhonathan Aragon, Vice-Chair
District V

Troy Richardson
Commissioner, District II



David A. Hyder
Commissioner, District III



Joseph Bizzell
Commissioner, District IV

Attest:



Mike Milam
Valencia County Clerk

