

# SIERRA COUNTY

## ANIMAL CONTROL

PASSED: Nov. 19<sup>th</sup>, 2019

EFFECTIVE: Dec. 19<sup>th</sup>, 2019

**SIERRA COUNTY  
ORDINANCE 19-06**

**AN ORDINANCE PROVIDING FOR THE SEIZURE AND DISPOSITION OF  
ESTRAY, DANGEROUS AND VICIOUS ANIMALS; PROVIDING A PENALTY;  
ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 77-1-12 (1901), requires that each county “make provision by Ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on the person’s premises”; and,

**WHEREAS**, Section 7.4.2.14 NMAC 2018 provides that “county animal control ordinances shall provide for the seizure and disposition of dogs and cats that have bitten a person, vicious dogs and dogs molesting livestock”; and,

**WHEREAS**, the New Mexico Joint Powers Agreement Act, Sections 11-1-1 to 11-1-7 NMSA 1978, authorizes two or more public agencies to jointly exercise by agreement any power common to the contracting parties, subject to any of the restrictions imposed upon the manner of exercising such power of one of the contracting public agencies; and,

**WHEREAS**, the Board of County Commissioners of Sierra County and the City of Truth or Consequences executed a Joint Powers Agreement to share resources to protect the citizens of the County and to humanely treat the stray animals in the County through the joint exercise of the City of Truth or Consequences Animal Control Officers; and,

**WHEREAS**, the Sierra County Board of Commissioners finds it necessary to adopt the City’s Ordinances provide for reporting of animal bites, to protect residents from annoyance and injury by animals, and to prescribe penalties for violations of this Ordinance, to provide the requisite authority pursuant to which the common powers may be exercised.

**NOW, THEREFORE, BE IT ORDAINED** by the Sierra County Board of Commissioners as follows:

**SECTION I  
SHORT TITLE**

This Ordinance shall be known as the "ANIMAL CONTROL ORDINANCE" and shall be referred to herein as "this Ordinance".

**SECTION II  
AUTHORITY**

2.1 This Ordinance is enacted pursuant to the authority granted to counties to provide for the safety and to preserve the health of the residents of the county as set forth in NMSA 1978 4-37-1 (1975); the authority provided in NMSA 1978, Section 77-1-12 (1901), which requires that each county "make provision by Ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on the person's premises"; NMSA 1978, Section 77-1-A-1 to -6, the Dangerous Dog Act; and, Section 7.4.2.14 NMAC 2018, which provides that "county animal control ordinances shall provide for the seizure and disposition of dogs and cats that have bitten a person, vicious dogs and dogs molesting livestock, and may provide for the seizure and disposition of stray animals."

**SECTION III  
INTERPRETATION, CONFLICT AND WORD CONSTRUCTION**

3.1 INTERPRETATION & CONFLICT. The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other valid Ordinance. Where the provisions of this Ordinance conflict with other rules, regulations, agreements or other County Ordinances or resolutions, the provisions of this Ordinance shall be controlling. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements or other County ordinances or resolutions, the provisions of this Ordinance shall be controlling. To the extent not otherwise defined herein, the terms of this Ordinance are defined by, and construed in accordance with Section 77-1A-2 (2005) and, more generally, Chapter 77 NMSA 1978 and Section 7.4.2.14 NMAC 2018.

3.2 WORD CONSTRUCTION. The words used in the present tense include the future tense; words in the masculine include the feminine; and words in the singular include the plural.

**SECTION IV  
DEFINITIONS**

4.1 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal* means any vertebrate members of the animal kingdom, excluding man.

*Animal running at large* means an animal that is free of physical restraint beyond the boundaries of the premises of the owner. Animal running at large expressly does not include ranch dogs, working dogs, sporting dogs, hunting dogs, and law enforcement canines.

*Animal Control Center* or *Center* means any pound, lot, premises, and/or building maintained by the County or an entity with which the County contracts for the care and custody of animals. This shall include any private shelter contracted by the County for the purpose of maintaining care and custody of animals.

*Animal control authority* means the entity authorized to enforce the animal control laws of the County, whether acting alone or in concert with other governmental authorities. In those areas not served by an animal control authority, the sheriff shall carry out the duties of this Ordinance.

*Bite* means an actual puncture or tear of the skin inflicted by the teeth of an animal.

*Care* means responsibility for or attention to health, well-being, and safety.

*Collar* means a band, chain, harness or other suitable device worn around the neck of an animal.

*Dangerous animal* means any animal that caused a serious injury to a person or domestic animal, except that any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a dangerous animal.

*Emergency measures* means any action taken by animal control or its designated agents to preserve the health and life of an animal, including but not limited to entering vehicles or premises, with probable cause, and impounding an animal to prevent present or imminent suffering.

*Enclosed lot* means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

*Establishment* means a place of business together with its grounds and equipment.

*Estray* means any animal found running at large beyond the boundaries of the premises of the owner.

*Livestock* means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico, excluding canine and feline animals.

*Owner* means any person, partnership, or corporation, owning, keeping or harboring one or more animals, but not more than four in any combination of dogs and/or cats.

*Pet* means any dog, cat, turtle, small caged birds, aquarium fish, iguanas, caged rodents and caged snakes, pygmy goats and potbellied pigs.

*Potentially Dangerous Animal* means an animal that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors: (1) causing an injury to a person or domestic animal that is less severe than a serious injury; (2) chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or (3) acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure;

*Premises* means a parcel of land and/or the structure(s) thereon.

*Quarantine* means to detain or isolate an animal suspected of contagion.

*Responsible person for the animal* means the owner of the animal, or an adult person placed in charge of the animal in the absence or incapacitation of the owner.

*Shelter* means any establishment owned and operated by a nonprofit organization or a licensed business licensed to do business in the State of New Mexico whose sole function is to bring aid and comfort to animals, or the City of Truth or Consequences Animal Shelter.

## **SECTION V AUTHORITY OF ANIMAL CONTROL OFFICERS**

5.1 The Animal control authority shall have the authority to issue citations for violations of this Ordinance and to perform such other duties as are prescribed in this chapter. An Animal control authority shall wear a uniform and shall wear a badge identifying such officer as an animal control officer.

## **SECTION VI IMPOUNDING ESTRAYS; DISPOSITION**

6.1 It is the duty of the Animal control authority to authorize the impound in the Animal Control Center any stray or any animal kept or maintained contrary to this Ordinance, including any animal that is allegedly creating a public nuisance.

6.2 If an stray animal is wearing identification, it shall be returned to the owner and may issue a citation. If an stray animal is not wearing identification, the animal shall be confined for a 72-hour period at the Animal Control Center. The Animal Control Center may dispose of stray animals impounded under this Ordinance after the required impoundment period in accordance with the Animal Control Center's policies.

6.3 Fines for violations of this article shall be in accordance with this Ordinance.

## **SECTION VII BITING DOGS OR OTHER BITING ANIMALS**

7.1 The owner of an animal that bites a person, a person in custody of an animal that has bitten a person, and a person bitten by an animal have a duty to report that occurrence to the Animal control authority within 24 hours. An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Animal control authority. The owner of an animal shall be responsible for the costs of impoundment should the Animal control authority determine that impoundment at an animal control center is necessary.

7.2 A physician who renders professional treatment to a person bitten by an animal shall report the fact that he has rendered professional treatment to the Sierra County Sheriff's Department, the Chief of Police or an Animal Control Officer within 24 hours of his first professional attendance. The physician shall report the name, sex, and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite and other facts that

may assist the Animal Control Officer in ascertaining the immunization status of the animal.

## **SECTION VIII ANIMALS RUNNING AT LARGE**

8.1 The Animal control authority may impound any animal running at large unaccompanied by and not under the control of the owner or handler, and further, the Animal control authority shall destroy the dog if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded as provided in this Ordinance.

## **SECTION IX DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS**

9.1 If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal pursuant to the Dangerous Dog Act, NMSA 1978, Section 77-1A-1 to -6 (2005).

9.2 If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.

9.3. After seizure, the animal control authority shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the Dangerous Dog Act, NMSA 1978, Section 77-1A-1 to -6 (2005).

9.4 After seizure: (1) the owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to Section 5 of the Dangerous Dog Act; or (2) the animal control authority may, within fourteen days after seizure of the dog, bring a petition in court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within thirty days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to its owner.

9.5 If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within fourteen days of seizure of the dog, the court shall immediately order the release of the dog to its owner.

9.6 If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.

9.7 A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control authority from making a subsequent application for seizure based on the dog's subsequent behavior.

9.8 The exceptions contained in NMSA 1978, Section 77-1A-3 (2005), and the registration and handling requirements for dangerous and potentially dangerous dogs set forth in NMSA 1978, Section 77-1A-5 (2005), are incorporated by reference with the same force and effect as through fully set forth herein.

## **SECTION X ENFORCEMENT**

10.1 Duties. The Animal control authority is responsible for the enforcement of this chapter. The Animal control authority shall have the responsibility 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 authority is 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.

10.2 Impoundment; Killing. The Animal control authority may authorize the impoundment of any animal found running at large unaccompanied by and not under the control of, the owner, or of a competent person. The Animal control authority shall destroy the dog if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans.

## **SECTION XI PENALTIES**

11.1 Any person who violates any of the provisions of the Animal Control Ordinance shall be deemed guilty of a misdemeanor.

11.2 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.

## **SECTION XII SEVERABILITY**

12.1 If any article, section, subsection, paragraph, sentence, clause, phrase, provision or portion of any article, section, subsection, paragraph, sentence, clause, phrase or

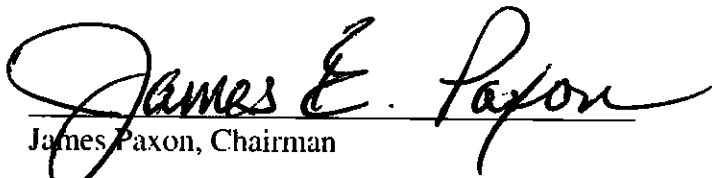
provision in this Ordinance is, for any reason, held to be unconstitutional, invalid or void, the remaining portion shall not be affected since it is the express intention of the Sierra County Board of County Commissioners to pass such article, section, subsection, paragraph, sentence, clause, phrase or provision and every part thereof separately and independently from every other part.

**SECTION XIII  
EFFECTIVE DATE**

13.1 This Ordinance shall be recorded and authenticated by the Sierra County Clerk following adoption by the Board of County commissioners. The effective date of this Ordinance shall be thirty days after the Ordinance has been recorded.

**APPROVED, ADOPTED, AND PASSED** on this 19<sup>th</sup> day of November, 2019.

**BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF SIERRA**

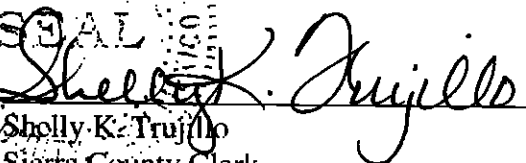
  
James Paxon, Chairman

  
Travis Day, Vice-Chair

  
Frances Luna, Commissioner

Attest:



  
Shelly K. Trujillo  
Sierra County Clerk