

SIERRA COUNTY

ANIMAL CONTROL

PASSED: _____, 2019

EFFECTIVE: _____, 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”; 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.

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 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 Officer means any person designated by the City of Truth or Consequences as a peace officer pursuant to the County's Joint Powers Agreement with the City, who is qualified to perform such duties under the laws of this state.

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.

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.

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.

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 of incapacitation of the owner.

Running at large or to run means to be free of physical restraint beyond the boundaries of the premises 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.

Vicious animal means any animal which bites or in any other manner attacks or attempts to attack any person or animal within the County, 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 vicious animal.

SECTION V AUTHORITY OF ANIMAL CONTROL OFFICERS

5.1 Pursuant to the County's Joint Powers Agreement with the City of Truth or Consequences, the Truth or Consequences Police Department, the City of Truth or Consequences animal control officers, and the Sierra County Sheriff's Department 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 Officer 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 Officer to take up and impound in the Animal Control Center any estray or any animal kept or maintained contrary to this Ordinance, including any animal that is allegedly creating a public nuisance.

6.2 If an estray animal is wearing identification, it shall be returned to the owner and a citation issued. If an estray animal is not wearing identification, the animal shall be confined for a 72-hour period at the Animal Control Center. The Animal Control Officer may dispose of estray animals impounded under this Ordinance the day after the required impoundment period.

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 and a person bitten by an animal have a duty to report that occurrence to the Animal Control Officer within 24 hours. The owner of an animal that bites a person shall surrender the animal to an Animal Control Officer to impound such animal for a period of observation.

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.

7.3 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 officer. The owner of the animal shall bear the cost of confinement.

7.4 A person who has custody of an animal that has bitten a person shall immediately notify the Animal Control Officer.

SECTION VIII ANIMALS RUNNING AT LARGE

8.1 It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot, or public property without the permission of the owner thereof. 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 VICIOUS ANIMALS

9.1 It is unlawful for any person to keep or harbor a vicious animal in the County. Any person attacked by a vicious animal may use necessary force to repel said attack. After a determination by a court of competent jurisdiction that an animal is vicious, the owner or keeper of such vicious animal shall surrender such animal to the Animal Control Officer, who shall destroy it humanely.

SECTION X ENFORCEMENT

10.1 Duties. Pursuant to the County's Joint Powers Agreement with the City of Truth or Consequences, the City's Animal Control Department, with assistance from the Sheriff's Department, are responsible for the enforcement of this chapter. The Animal Control Department's 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 Department's 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.

10.2 Impoundment. The Animal Control Department's 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.

10.3 Officers. It shall be unlawful for any person to hinder, resist or oppose an Animal Control Department's duly deputized and appointed officers and/or Sheriff's deputies in the lawful performance of their duties.

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 **XXX day of XXXX, 2019.**

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

ATTEST BY:

JAMES PAXON, CHAIR

TRAVIS DAY, VICE-CHAIR

FRANCES LUNA, COMMISSIONER

SHELLY TRUJILLO, COUNTY CLERK