

# Town Of Hagerman

HAGERMAN, NEW MEXICO 88232

## NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given of the title and general summary of the subject matter contained in the Criminal Code Ordinance and New Mexico Uniform Traffic Ordinance, duly adopted and approved by the Board of Trustees of the Town of Hagerman, New Mexico on October 12, 1981. Complete copies of the Ordinances are available for public inspection during the normal business hours of the Town Clerk at Town Hall.

The title of Ordinance 109-1981 is:

AN ORDINANCE CREATING A CRIMINAL CODE FOR GENERAL OFFENSES PERTAINING TO PUBLIC ORDER AND SAFETY, PROPERTY, PUBLIC MORALS, MINORS, NUISANCES, ANIMAL CONTROL; MAKING COMMISSION OF THESE OFFENSES UNLAWFUL; PROVIDING PENALTIES; AND REPEALING ALL ORDINANCES IN CONFLICT THEREOF:

and NEW MEXICO UNIFORM TRAFFIC ORDINANCE, BY REFERENCE, INCLUDING THE CHANGES IN THE LAW PASSED BY THE 1979 LEGISLATIVE Criminal Code Ordinance on General Offenses contains;

Chapter 1. Ordinance Authority and Penalties

Chapter 2. Public Order and Safety

Chapter 3. Property

Chapter 4. Public Morals

Chapter 5. Minors

Chapter 6. Nuisances

Chapter 7. Animal Control, excluding Section 7-1-9

EFFECT AND SHORT TITLE OF ORDINANCE ON NEW MEXICO UNIFORM TRAFFIC

12-13- 1 SHORT TITLE

12-13-2 EFFECT OF HEADINGS

12-13-3 SAVINGS CLAUSE

12-13-4 ACT NOT RETROACTIVE

12-13-5 REPEAL

12-13-6 TIME OF TAKING EFFECT

The above and foregoing Ordinance was duly presented, approved unanimously and adopted at a Regular Meeting of the Governing Body of the municipality of the Town of Hagerman, New Mexico, held on the 12th day of October, 1981. This ordinance shall take effect on October 20, 1981.

RAMON A. WELBORNE, MAYOR

ATTEST: Ditta McCullough, Clerk

CHAPTER SEVEN

ANIMAL CONTROL

7-1-1	Definitions
7-1-2	Administration of Ordinance
7-1-3	Rabies Control
7-1-4	License Required
7-1-5	Prohibited Activities
7-1-6	Impoundment
7-1-7	Kennels
7-1-8	Wild and Exotic Animals
7-1-9	Domestic Livestock

7-1-1 **DEFINITIONS.** As used in this article, the following words and terms shall, unless the context indicates a different meaning, have the meaning given herein.

- (a) **ANIMAL:** Any vertebrate excluding man.
- (b) **ANIMAL SHELTER:** Any establishment authorized by the municipality for the care and custody of impounded animals.
- (c) **BITE:** A puncture or tear of the skin inflicted by the teeth of an animal.
- (d) **MUNICIPALITY:** That area lying within the incorporated boundaries.
- (e) **CHIEF OF POLICE:** The chief of police of the municipality or his or her designated representative.
- (f) **EXOTIC ANIMAL:** An animal which is rare or different from ordinary domesticated animals and is not indigenous to the State of New Mexico.
- (g) **NUISANCE:** Means, but is not limited to, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offensive to the environment of the municipality.
- (h) **KEEPER:** Any person who owns, harbors, keeps, or has control or custody of an animal for more than six days, provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.
- (i) **KENNEL:** Any establishment or premises where dogs or cats are boarded or kept.
- (j) **PERSON:** Any individual, household, firm, partnership, corporation, society, association, and every agent and employee thereof.
- (k) **QUARANTINE:** To detain or isolate an animal suspected of being infected with rabies.
- (l) **RUNNING AT LARGE:** An animal off the premises of the keeper and not under the direct control of a competent person. Direct control means connected by a secure leash not over six feet in length or some other equivalent means of direct control.
- (m) **STRAY OR ESTRAY:** Any animal that has no identifiable keeper.
- (n) **VACCINATION:** The vaccination of an animal with an anti-rabies vaccine approved by the Secretary of the Health and Environment Department and administered under the supervision of a veterinarian.
- (o) **VETERINARIAN:** Any veterinarian licensed in the State of New Mexico.
- (p) **VICIOUS ANIMAL:** Any animal which commits an unprovoked attack upon a person on private property, or which terrorizes or attacks a person on public property or in a public place.
- (q) **WILD ANIMAL:** Any animal which is wild by nature and cannot normally be domesticated or controlled.

7-1-2      ADMINISTRATION OF ORDINANCE.

(a) RESPONSIBILITY: The chief of police is responsible for the administration of this ordinance. Reasonable rules and regulations shall be prescribed by the Governing Body to carry out the intent and purpose of this ordinance.

(b) ENFORCEMENT: The chief of police or his or her designated agent shall have the authority to issue citations for violation of this ordinance and to perform such other duties as are prescribed herein.

7-1-3      RABIES CONTROL.

(a) ANNUAL VACCINATION: It is the duty of every person keeping a dog or cat over the age of three months to have such animal vaccinated against rabies. All dogs and cats must be revaccinated annually. Every veterinarian who vaccinates a dog or cat here under shall issue to the owner or keeper of the animal a numbered vaccination certificate and tag. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the type of vaccine used, the date of vaccination, and the expiration date of the period of immunity.

(b) VACCINATION CERTIFICATE: Every person who keeps a vaccinated dog or cat must exhibit his copy of the certificate of vaccination upon the demand of any person charged with the enforcement of this ordinance.

(c) HARBORING UNVACCINATED ANIMALS. It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein.

(d) REPORTING RABIES SUSPECTS: Every veterinarian who makes a clinical diagnosis of rabies and every person who suspects rabies in a domestic or wild animal shall immediately report the same to the Local District Health Office of the Health Services Division of the Health and Environment Department stating precisely when and where such animal was seen and if possible where it may be found.

(e) HUMAN EXPOSURE TO RABIES: Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the animal shelter and to the Local District Health Office. Every physician or other health care professional who treats a person for such bite shall report such treatment to the Local District Health Office within twelve hours of such treatment. Such treatment must specify the name and precise location of the person bitten.

(f) QUARANTINE OF RABIES SUSPECTS: Any dog or cat which has bitten a person shall be confined and observed for a period of ten (10) days from the date of the bite at the animal shelter, a veterinary hospital, or an approved kennel; provided, however, that if the animal has a current vaccination for rabies and the area involved is not under quarantine for rabies, the animal control officer may permit quarantine of such animal at the owner's home. Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the animal control officer.

(g) ENFORCEMENT OF THE QUARANTINE: It is unlawful to remove any dog or cat from enforced quarantine during the period of confinement without consent of the responsible animal control officer.

(h) WILD ANIMAL BITES: Bites inflicted by animals other than dogs and cats must be reported to and discussed with the Local District Health Office for proper disposition.

7-1-4      LICENSE REQUIRED.

(a) LICENSE: Every keeper of any dog or cat three months of age or older shall procure a license. License fees shall be paid annually not later than March 1 of each year and the full amount shall be paid for any fraction of the

licensing year. Upon collection of the license fee by the municipality, a dated and numbered certificate shall be issued stating the name and address of the owner, rabies tag number, and the animal's description.

(b) PROOF OF RABIES VACCINATION: No dog or cat shall be licensed without proof of rabies vaccination as provided in this ordinance.

(c) CERTIFICATES AND TAGS: The current municipality's license and rabies tags shall be affixed to the licensed dog at all times except when the dog is being kept in an approved kennel, veterinary hospital or training class. The original license and tag and the rabies certificate and tag of all dogs and cats shall be retained by the owner and shall be available for inspection by any person charged with the enforcement of this ordinance.

(d) LOSS OF LICENSE TAG: In the event the original license tag is lost, the keeper shall obtain a duplicate tag from the municipality at a cost of \_\_\_\_\_.

(e) FEE: The annual license fee shall be \$\_\_\_\_\_ for a neutered dog or cat and shall be \$\_\_\_\_\_ for an unneutered dog or cat. Guide dogs free.

#### 7-1-5 PROHIBITED ACTIVITIES.

(a) FALSE AND STOLEN DOCUMENTS: It shall be unlawful for any person to transfer any license or rabies tag from one animal to another or to make use of a stolen, counterfeit, or forged license, certificate or tag.

(b) ANIMALS RUNNING AT LARGE: It shall be unlawful for any keeper of a dog or cat or other pet animal to permit such animal to run at large. X

(c) NUISANCE: It is unlawful for a keeper to allow any animal to persistently bark, howl, or make noise or to be kept or maintained in such a manner as to disturb or otherwise endanger the health and welfare of the inhabitants of the neighborhood.

(d) CONFINEMENT DURING ESTRUS: Any female dog or cat in the stage of estrus (heat) shall be confined to a building or other secure enclosure so that contact with a male animal of the same species will be prevented except for intentional breeding purposes. Keepers who do not comply with this section may be required to place such animal in a boarding kennel or veterinary hospital at the keeper's expense.

(e) PHYSICAL ABUSE: It is unlawful for any person to maliciously kill, maim, torture, mutilate, burn, or to cruelly drive or work any animal.

(f) ABANDONMENT OF ANIMALS: It is unlawful to abandon any animal within the municipality.

(g) POISONING: It is unlawful to poison domestic animals or to distribute poison or toxicants in any manner with the intent of so poisoning.

(h) CARE AND MAINTENANCE: It is unlawful for any keeper to fail to provide an animal with proper food, drink and shelter, or to carry an animal in or upon any vehicle in a cruel or inhumane manner.

(i) ANIMAL FIGHTS: It is unlawful to cause, instigate, or promote any fight in which two or more animals are engaged for the purpose of injuring, maiming, or destroying themselves or another animal.

(j) PREMIUMS AND NOVELTIES: It is unlawful to sell, offer for sale, barter, or give away any live animal as a premium, prize, award, novelty, or incentive to purchase merchandise; it is unlawful to color, stain or dye any chicken, duckling, or fowl.

(k) TURTLES: It is unlawful to offer for sale, sell, barter or give away turtles except in conformance with appropriate federal regulations.

(l) VICIOUS ANIMAL: It is unlawful for any person to keep or harbor any vicious animal.

7-1-6

IMPOUNDMENT.

(COUNTY)

(a) ANIMAL SHELTER: A suitable animal shelter shall be provided for the purpose of boarding and caring for animals impounded under the provision of this ordinance.

(b) IMPOUNDING ANIMALS: Animals kept in violation of this ordinance and stray animals shall be taken into custody by an animal control officer or other designated official and thereupon impounded.

(c) RIGHT OF ENTRY: Animal control officers, in performance of their duties may enter upon private property, except a private residence, for the purpose of apprehending animals running at large and stray animals.

(d) REGISTER: The animal control officer, upon impounding or receiving any animal, shall register such animal by entering the breed, color and sex of the animal and the time and place such animal was apprehended into the registry kept for this purpose.

(e) NOTICE TO OWNER: If the keeper of an impounded animal is known, he or she must immediately be notified. If the keeper of the animal is not known, notice of the impoundment shall be posted in a conspicuous place at the animal shelter for a period of \_\_\_\_\_ days.

(f) RIGHT TO REDEEM: The keeper of any animal which has been impounded under the provisions of this ordinance shall have the right to redeem the animal upon payment of the impounding fees, care and feeding charges, veterinary charges, and such other costs as set by the Governing Body.

(g) TIME FOR REDEMPTION: All impounded animals shall be redeemed within \_\_\_\_\_ days after impoundment. Any animal not redeemed within the required period shall become the property of the animal shelter and may be placed for adoption upon payment of the license fee, impoundment fees, care and feeding charges, veterinary charges, and such other costs as set by the chief of police or the animal may be humanely destroyed.

(h) DISPOSITION OF IMPOUNDED ANIMALS BEING HELD ON COMPLAINT: If a complaint has been filed in the municipal court of the municipality against the keeper of an impounded animal for a violation of this ordinance, the animal shall not be released except upon order of the court which also may direct the owner to pay any penalties for violation of this ordinance in addition to all impounding fees, care and feeding charges and veterinary fees.

7-1-7

KENNELS.

(a) RESTRICTIONS: No person, group of persons, or business entity in the municipality may own, keep or harbor more than three dogs of three months of age or older, more than three cats of three months of age or older, or more than a total of five dogs and cats in any combination more than three months of age or older without obtaining a kennel license.

(b) LICENSE REQUIRED: Persons operating a kennel must obtain a non-transferable kennel license, which shall be posted in a conspicuous place in the kennel. A kennel license shall expire on December 31 of each year and shall be renewed by February 1 of the following year. No kennel license may be issued without an inspection certificate issued by the chief of police. The annual kennel license fee shall be \$\_\_\_\_\_.

(c) FACILITIES AND CARE APPLICABLE TO KENNEL LICENSE: Animal 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 to prevent overcrowding and to permit an adequate exercise according to the requirements of the

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(h) DISPOSITION OF IMPOUNDED ANIMALS BEING HELD ON COMPLAINT: If a complaint has been filed in the municipal court of the municipality against the keeper of an impounded animal for a violation of this ordinance, the animal shall not be released except upon order of the court which also may direct the owner to pay any penalties for violation of this ordinance in addition to all impounding fees, care and feeding charges and veterinary fees.

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(c) FACILITIES AND CARE APPLICABLE TO KENNEL LICENSE: Animal 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 to prevent overcrowding and to permit an adequate exercise according to the requirements of the

species. Indoor housing shall be provided with adequate ventilation and temperature control to provide for the animals' 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 animal from sunlight, rain, snow, or cold weather detrimental to the animal's health. Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals, and debris. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards. Except where indicated for health, animals shall be provided with clean, fresh, sufficient 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 veterinary care.

(d) INSPECTION: The chief of police or his agent shall be permitted to enter, at any reasonable time, for the purpose of inspecting or reinspectng any kennel or pet shop to determine compliance with this ordinance.

(e) VIOLATIONS, SUSPENSIONS AND REVOCATIONS: A kennel license may be denied, suspended or revoked by the chief of police upon a determination that the operator of the kennel or pet store is in violation of this ordinance. An opportunity for a hearing on any denial, suspension, or revocation shall be provided at a time and place determined by the Governing Body. Based upon the record of such hearing the Governing Body shall make a finding and shall sustain, modify, or rescind the action considered at the hearing. Any owner of a kennel or pet store whose license has been suspended or revoked may make application for reinstatement of the license. If, following inspection, the applicant has complied with the requirements of this ordinance, the license shall be reinstated.

(f) EXCEPTIONS: This section shall not apply to and shall not be construed to require a kennel license for:

- (1) A veterinary hospital or clinic operated by a licensed veterinarian.
- (2) A bona fide research institution using animals for scientific research.
- (3) A publically owned animal control center or shelter.
- (4) A bona fide animal shelter operated by an organized humane society.

#### 7-1-8 WILD AND EXOTIC ANIMALS.

(a) KEEPING THE FOLLOWING ANIMALS PROHIBITED:

- (1) Wild animals kept in such numbers or in such a manner as to constitute a likelihood of harm to the animals themselves or to other animals, or to human beings, or to the property of human beings, or which constitute a public or private nuisance.
- (2) Exotic or wild animals prohibited by federal or New Mexico law or regulation.

(b) PERMIT REQUIRED: No person shall receive, purchase, own, or keep wild or exotic animals without first applying for and receiving from the Governing Body and from the State of New Mexico Department of Game and Fish a permit to do so. The applicant must provide evidence of knowledge and facilities for the care and feeding of the animals involved. The chief of police is permitted to enter the premises of any permittee hereunder at any reasonable time for the purpose of inspection or reinspection to determine compliance with this ordinance. The Governing Body or the Department of Game and Fish may deny, revoke, or suspend a permit for failure to comply with this ordinance. The fee for such a permit shall be \$ \_\_\_\_\_ and shall be renewed annually. A separate permit shall be required for each species of wild or exotic animal.

*Excluded*

(a) RESTRICTIONS:

- (1) No person shall keep any domestic livestock, including, but not limited to, horses, cattle, mules, donkeys, burros, swine, goats, sheep or fowl within the municipality without first applying for and receiving from the Chief of Police a permit to do so.
- (2) No person shall keep any equine or bovine over six months of age on any premise, the overall area of which is less than one-third of an acre for each equine or bovine.
- (3) All domestic livestock shall be cared for according to accepted livestock management practice and in such manner as to not create a public nuisance.
- (4) All domestic livestock shall be kept in a secure pen or enclosure which shall not be less than one hundred yards from any inhabited dwelling, excluding the home of the owner of such animals, or currently used food service establishment, church or school.
- (5) The person in possession or control of a pen or enclosure for domestic livestock shall keep it in such a manner as to control offensive odors, insect breeding and any other conditions affecting the public health.

(b) PERMIT REQUIRED: No person shall own or keep any domestic livestock without first applying for and receiving from the chief of police a permit to do so. The chief of police or his or her representative shall be permitted at any reasonable time to enter the premises for the purpose of inspection or re-inspection to determine compliance with this ordinance. The fee for a permit shall be \$\_\_\_\_\_ and shall be renewed annually. Each species of domestic livestock shall require a separate permit. On alleged violation by any person and after reasonable notice and opportunity to be heard, the chief of police may deny, suspend or revoke any permit, and this to be in addition to penalties imposed for violation of the provisions of this ordinance.

(c) RUNNING AT LARGE UNLAWFUL:

- (1) It is unlawful for any domestic livestock, including, but not limited to, neat cattle, horses, mules, donkeys, burros, swine, goats, sheep or fowl, or other animal, to be turned loose, abandoned or to run at large within the limits of the municipality; or for any such animal to be tethered that it may roam across or into any street or public place in said municipality; and it is unlawful for any person to herd or detain such animal in any street, avenue, alley or other public place in said municipality.
- (2) The chief of police shall take up and impound every animal found running at large in violation of this ordinance and shall provide proper care and sustenance for every such animal impounded at the expense of the municipality.
- (3) Within twenty-four hours after any animal has been impounded, the chief of police shall notify the owner, possessor or keeper of such animal, that the animal has been impounded. If the owner, possessor or keeper of such animal, is not known or if his address cannot be determined, the chief of police shall cause to be posted in at least two conspicuous public places in the municipality for (5) five consecutive days a notice of impoundment with a description of the animal.



- (4) Any owner, possessor or keeper of an animal desiring to redeem such animal from impoundment shall pay the municipality the sum of \_\_\_\_\_ dollars (\$\_\_\_\_) as an impoundment fee for each animal, together with the sum of \_\_\_\_\_ dollars (\$\_\_\_\_) for each day of impoundment plus the actual cost of feeding and watering each animal impounded.
- (5) Any person who shall break or in any manner, directly or indirectly, aid in breaking into the enclosure in which any animal is impounded shall be guilty of a misdemeanor.
- (6) Any person who shall willfully or intentionally hinder or obstruct the chief of police in the discharge of his official duty under the provisions of this ordinance, shall be guilty of a misdemeanor.

(d) SALE OF UNREDEEMED ANIMALS:

- (1) If any animal impounded shall remain unredeemed for five days after being impounded, the chief of police shall give five days notice of the time and place when said animal will be sold. Said notice shall be posted in at least two conspicuous public places in the municipality for (5) consecutive days
- (2) At any time before the sale thereof, any animal impounded may be redeemed upon the payment of the penalties and costs provided for in this ordinance.
- (3) The day fixed for the sale of any unredeemed animals shall be the sixth day after the posting of the notice of the sale, except when the same would fall on Sunday, election day or any legal holiday in which case the day of sale will be the next succeeding day. At said sale, the chief of police shall sell for cash to the highest bidder, the animal advertised, and shall furnish the purchaser a Bill of Sale signed by the mayor and the municipal clerk.
- (4) The chief of police shall keep records of all sale transactions, turn over all money received to the Treasurer of the municipality, and furnish a monthly report to the Governing Body of the municipality showing all animals impounded and all animals shall be listed individually showing the amount of money collected on each, as well as the disposition of each case.

