

**CITY OF SUNLAND PARK**

**ORDINANCE 06-06**

**AN ORDINANCE REPEALING IN ITS ENTIRETY CHAPTER 2 “ANIMAL CONTROL” OF TITLE 5 OF THE SUNLAND PARK CITY CODE AND REPLACING IT WITH THE ENACTMENT OF A NEW CHAPTER 2 “ANIMAL CONTROL” REGULATING THE OWNERSHIP, CONTROL, REGISTRATION, LICENSING, HOUSING, VACCINATION, HEALTH, SAFETY AND CARE OF ANIMALS; THE IMPOUNDING AND DISPOSITION OF ANIMALS RUNNING AT LARGE; AND THE PREVENTION OF CRUELTY TO ANIMALS.**

WHEREAS, the GOVERNING BODY did hold a duly noticed Public Meeting;  
and

WHEREAS, the GOVERNING BODY did consider testimony from staff and the public before reaching its decision; and

WHEREAS, the GOVERNING BODY does make the following finding:

1. That it is in the best interest of the public at large that the ownership, control, registration, licensing, housing, vaccination, health, safety and care of animals, the impounding and disposition of animals running at large, and the prevention of cruelty to animals be regulated for the protection of the health, safety and general welfare of the public; to reduce animal nuisances; to protect the citizens of the City and their property; to provide for the control of dangerous or vicious animals; to outlaw animal fighting, and to otherwise prevent cruelty to animals.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SUNLAND PARK: that in consideration of the aforementioned findings and testimony, it hereby ordains that it does hereby approve that the ownership, control, registration, licensing, housing, vaccination, health, safety and care of animals, the impounding and disposition of animals running at large, and the prevention of cruelty to animals be regulated as set forth in this ordinance and that said ordinance be added to Title 5 “Police Regulations” of the Sunland Park City Code as a new chapter titled Chapter 2 “Animal Control”, replacing the repealed Chapter 2, and enacted to read as follows:

**CHAPTER 2**

**ANIMAL CONTROL**

**SECTION:**

5-2-1:	Short Title
5-2-2:	Authority, Purpose, And Goals
5-2-3:	Definitions
5-2-4:	Joint Agreement With Animal Humane Society
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5-2-10:	Disturbing Peace-Prohibited-Nuisance
5-2-11:	Impounding Strays; Procedures
5-2-12:	Livestock, Other Animals
5-2-13:	Licensing And Vaccinations Required
5-2-14:	Rabid Animals
5-2-15:	Vicious Or Dangerous Animals
5-2-16:	Destruction Of Animals
5-2-17:	Housing Of Animals
5-2-18:	Wild Animals; Registration Required
5-2-19:	Service Animals Allowed In Public Places
5-2-20:	Restraint Of Animals
5-2-21:	Penning Female Animals
5-2-22:	Prohibited Acts And Conditions
5-2-23:	Cruelty To Animals Prohibited
5-2-24:	Permitted Premises
5-2-25:	Violation Penalty
5-2-26:	Repealing Certain Chapter Of Sunland Park City Code
5-2-27:	Severability
5-2-28:	Repealer
5-2-29:	Effective Date

**Section 1. SHORT TITLE.** This Ordinance may be cited as the “Animal Control Ordinance of the City of Sunland Park”.

**Section 2. AUTHORITY, PURPOSE AND GOALS.**

**AUTHORITY:** This Ordinance is adopted pursuant to the enabling provisions of Section 3-17-1 and Section 3-18-3, NMSA, 1978, as amended.

**PURPOSE:** The purpose of this ordinance is to establish regulations and general guidelines for the ownership, control, registration, licensing, housing, vaccination, health, safety and care of animals, the impounding and disposition of animals running at large, and the prevention of cruelty to animals.

**GOALS:** The goals of this ordinance are to:

- protect the citizens of the City and their property;
- regulate, restrain and prohibit the running at large of any animal within the boundary of the City;
- regulate the ownership, control, registration, and licensing of animals;
- encourage the vaccination of all animals;
- protect the health and safety of animals;
- reduce animal nuisances;
- provide for the control of dangerous or vicious animals; and
- prohibit the cruelty to animals.

**Section 3. DEFINITIONS.** The following words, terms, phrases, and their derivations shall have the following meanings:

- (a) **“Abandoned”** means where an owner has relinquished all right, title, claim and possession of an animal with the intent of not reclaiming it or resuming its ownership, possession or enjoyment.
- (b) **“Adoption”** means to take possession by choice and assume responsibility for proper care and keeping of an animal in accordance with this Ordinance.
- (c) **“Animal”** means a dog, cat, poultry, bird, reptile, insect, arachnid, fish or any other vertebrate, excluding the human species and those animals under the jurisdiction of the New Mexico Department of Game and Fish.
- (d) **“Animal Control Center or Animal Control Shelter”** means any establishment or facility authorized by the City of Sunland Park, New Mexico, for the care and custody of impounded animals.
- (e) **“Animal Control Officer”** means the person(s) appointed by the Mayor pursuant to Section 5 of this Ordinance to assume and carry out the powers, authority, duties and responsibilities delegated to him or her by the governing body of the City of Sunland Park, New Mexico, in Section 6 of this Ordinance.
- (f) **“Apiary Operation”** means the conduction of any activity where bees are raised or kept for their honey or pollination.
- (g) **“Arachnid”** means any of the various eight-legged arthropods, such as, but not limited to, spiders, scorpions, mites and ticks.
- (h) **“Arachnid Operation”** means the conduction of any activity where arachnids are raised or kept.
- (i) **“Astray”** means any animal which shall be off and away from its home unattended and running at large within the City.

- (j) “**Bite**” means any puncture or tear of the skin inflicted by the teeth of an animal.
- (k) “**City**” means the land area within the boundaries of the City of Sunland Park, New Mexico, as may be extended by future annexations from time to time, including privately owned land and city, state and federal owned land.
- (l) “**Confinement**” means the restriction of movement of an animal to the premises of its owner, or to the premises of one charged with the care and control of the animal.
- (m) “**Council**” means the governing body of the City of Sunland Park, New Mexico.
- (n) “**County**” means the County of Dona Ana, New Mexico.
- (o) “**Guard Dog**” means a dog that is used to defend, patrol, secure, or protect property or persons.
- (p) “**Hobby Breeder**” means a small-scale dog or cat breeder who owns no more than three (3) breeding female dogs or cats (older than six (6) months), that are registered with a recognized registry organization or association.
- (q) “**Impoundment**” means the taking into custody of a stray, vicious animal or an animal alleged to be vicious, by an Animal Control Officer, Municipal Police Officer, or duly authorized designee, and the detention of the animal in the Animal Control Center.
- (r) “**In Season or In Heat**” means a period of time during which a female animal is capable of being impregnated or conceiving.
- (s) “**Insect**” means any of a class of usually winged invertebrate animals, such as, but not limited to, flies, beetles, moths, bees, wasps, butterflies, grasshoppers, lice, and fleas, having three pair of legs and a three-segmented body.
- (t) “**Insect Operation**” means the conduction of any activity where insects are raised or kept.
- (u) “**Kennel**” means any person, joint venture, partnership, limited liability company, corporation or other business entity that is engaged in the maintenance and shelter of animals not their own for profit, or that is engaged in breeding and sale of animals for profit.
- (v) “**Leash**” means a chain, strap or cord of sufficient substance to hold under control the animal attached thereto and shall be no longer than eight (8) feet.
- (w) “**Livestock**” means horses, cattle, pigs, sheep, goats, rabbits and/or poultry.

- (x) **“Municipal Police”** means the police department of the City of Sunland Park, New Mexico.
- (y) **“Nuisance”** means, but is not limited to, defecation, urination, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offending the well-being of the inhabitants of the City of Sunland Park, New Mexico.
- (z) **“Owner”** means a person who owns, possesses, harbors, keeps, or has custody or control, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his care, or who permits an animal to remain on or about his premises.
- (aa) **“Petshop”** means any person, joint venture, partnership, limited liability company, corporation or other business entity that is engaged in the buying and selling or grooming of animals for profit.
- (bb) **“Premises”** means a parcel of land and the structures thereon.
- (cc) **“Reptile”** means any of various cold-blooded, egg-laying vertebrates, such as, but not limited to, snakes, crocodiles, lizards, frogs, turtles, iguanas, gekos, salamanders, newts, and toads.
- (dd) **“Run or Running at Large”** means to be free of physical restraints and go beyond the boundaries of the premises of the owner.
- (ee) **“Service Animal”** means an animal which has been trained by a recognized service animal trainer to assist a blind person, a hearing impaired person, or a mobility impaired person. The term shall also include an animal that is deemed necessary by a physician licensed to practice medicine in the State of New Mexico. The term shall also include an animal which has been trained and used by law enforcement for legitimate law enforcement purposes.
- (ff) **“Veterinarian”** means a person with a Doctor of Veterinary Medicine degree licensed to practice in the State of New Mexico.
- (gg) **“Vicious or Dangerous Animal”** means any of the following:
- (i) Any animal which kills or severely injures (so as to result in muscle tears or disfiguring, laceration, require multiple sutures, corrective or cosmetic surgery) a person or domesticated animal within the City. It does not include an animal which bites, injures, attacks or attempts to attack any person or animal, which is unlawfully or without permission upon its owner’s or keeper’s premises or which is provoked to attack or attempt to attack;

- (ii) Any animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or domesticated animal within the City when the person and the domesticated animal are off the owner's or keeper's property; or
- (iii) Any animal which, because of its poisonous bite or sting, would constitute a significant hazard to persons or domesticated animals within the City.

No animal which bites, injures, attacks, or attempts to attack any person or animal, which is unlawfully or without permission upon its owner's or keeper's premises, or which is provoked to attack or attempt to attack, or which is responding to pain or injury, protecting itself or its offspring, or protecting or defending a human being, shall be deemed a vicious animal.

- (hh) **"Wild Animal"** means any of the various warm- or cold-blooded vertebrates, insects, or arachnids living in a natural state, not domesticated, bred or raised, including exotic species.

**Section 4. JOINT AGREEMENT WITH ANIMAL HUMANE SOCIETY.** The Mayor is authorized, with the consent of the governing body, to execute on behalf of the City a joint powers agreement for animal control services with the Animal Humane Society or an equivalent organization so as to accomplish the purposes of this Ordinance.

**Section 5. ANIMAL CONTROL OFFICER.** The governing body of the City shall delegate the powers, authority, duties and responsibilities set out in Section 6 to the Animal Control Officer, Municipal Police, or any duly authorized designee appointed by the Mayor, with the consent of the governing body, to protect the citizens of the City and their property.

**Section 6. ANIMAL CONTROL AUTHORITY.**

- A. Authority Granted To The Animal Control Officer, Municipal Police, Or Duly Authorized Designee.
  - 1. Duty to Protect The Health And Safety Of The Public. The Animal Control Officer, Municipal Police, or duly authorized designee shall be concerned with the health and safety of the citizens of the City as affected by animals and to protect the citizens of the City and their property.
  - 2. Methods Authorized. The Animal Control Officer, Municipal Police, or duly authorized designee shall be authorized to use such methods, means and equipment as are reasonably necessary to bring strays and other animals under control and to enforce the provisions of this Ordinance.

3. Entry on Premises Authorized. For the purposes of discharging his or her duties imposed by this Ordinance, the Animal Control Officer, Municipal Police, or duly authorized designee shall be authorized to enter upon any manned premises if he or she has reasonable cause to believe a violation of this Ordinance has been committed; or if any provisions of this Ordinance or any of the laws of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals has been or are being violated.
  4. Entry On Private Land With A Search Warrant. If, however, the owner or occupant of any dwelling or premises objects to inspection, as stated in this section, a search warrant for the inspection of the dwelling and premises shall be obtained and presented by the Animal Control Officer, Municipal Police, or duly authorized designee. A search warrant will be obtained from the municipal court prior to inspection, when permission is denied.
- B. Authority Of The Animal Control Officer, Municipal Police, Or Duly Authorized Designee To Enter Private Land Without A Search Warrant.
1. Entry On Private Land Without A Search Warrant. For the purpose of discharging his or her duties imposed by this Ordinance, the Animal Control Officer, Municipal Police, or duly authorized designee shall be authorized and it is declared to be their duty to enter upon private land without a search warrant for the purpose of fresh pursuit or for impounding of any animal found running at large.

**Section 7. ANIMALS TO BE PERSONAL PROPERTY.** Dogs, cats and other animals shall be declared, deemed and considered personal property of the owner thereof, and all remedies given for the recovery of personal property and of damages for injuries thereto shall be extended to the owners thereof.

**Section 8. ANIMALS RUNNING AT LARGE.**

- A. Duty To Keep Animal On Owner's Premises or Leashed. Any person owning or having charge or control of any animal shall keep such animal on his or her premises. No animal shall be running at large or unleashed on any street, alley, side walk, vacant lot, public property (including public parks), or non-enclosed space on private property not that of the owner of the animal.
- B. Animals Running At Large Declared Nuisance And Menace To Public Health And Safety. Any animal found running at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and, if

observed by the Animal Control Officer, Municipal Police, or duly authorized designee shall be taken up and impounded. Cats are not required to be leashed but shall be required to remain confined within the owner's premises.

- C. Unlawful To Chain Or Stake An Animal On Unenclosed Premises. It is unlawful for any person to chain or stake any animal on any unenclosed premises in such a manner that such animal may go beyond the property line.

**Section 9. ANIMAL FIGHTING PROHIBITED.** It is unlawful for any person to promote, stage, hold, conduct, carry on, or attend any game, exhibition, or fight in which one or more animals is engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal, or to train or breed any animals for such purpose, and/or to promote any of the activities in this section.

**Section 10. DISTURBING PEACE-PROHIBITED-NUISANCE.**

- A. Animal Nuisance Prohibited. Any animal that habitually or continuously barks, howls or otherwise disturbs the peace of the inhabitants of the City, or is 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 City are declared to be an animal nuisance and shall be prohibited. Complaints filed pursuant to this section may be filed in writing with the Animal Control Officer, Municipal Police, or duly authorized designee and shall include the name of the complainant and the name and address of the person(s) permitting the nuisance to occur and to continue.
- B. Total Number Of Dogs And Cats Permitted. A person or household shall own, harbor, or keep no more than the total number of dogs and cats over the age of six (6) months permitted in the following schedule based on total acreage owned:

<u>Total Number of Dogs and Cats (in any combination thereof)</u>	<u>Acreage</u>
three (3) dogs or three (3) cats	one-half (1/2) acre or less
four (4) dogs or four (4) cats	more than one-half (1/2) acre up to one (1) acre
five (5) dogs or five (5) cats	more than one (1) acre up to two (2) acres
six (6) dogs or six (6) cats	more than two (2) acres



If a person or household desires to own more than the total number of dogs and cats permitted immediately above, such person or household must first qualify as a kennel, guard dog operation, or hobby breeder operation as defined in this Ordinance and obtain from the City a permit in accordance with Section 24 of this Ordinance to operate a kennel, guard dog operation or hobby breeder operation and be subject to the regulations thereof and the regulations set out in Title 3, "Business and License Regulations" and Title 10, "Zoning Regulations", of the Sunland Park City Code.

- C. Private Criminal Complaints. Private criminal complaints may be filed in municipal court by citizens affected by any animal that may be determined a nuisance under Section 10.A. above. All complaints filed pursuant to this section shall be in writing, stating the name and address of the complainant and the person(s) permitting the nuisance to occur and to continue.

**Section 11. IMPOUNDING STRAYS; PROCEDURE.**

A. Impounding Strays.

1. Duty To Impound. It is declared to be the duty of the Animal Control Officer, Municipal Police, or duly authorized designee to take up and impound or cause to be impounded any astray animals found in the City.
2. Astray Animals Displaying License Or Other Identification. If the astray animal is wearing a license or bears other visual identification, the Animal Control Officer, Municipal Police or duly authorized designee will attempt to notify the owner or his or her agent or representative of the animals impoundment. If after one (1) business day the owner or his or her agent or representative has not claimed the animal, the animal may be adopted, sold or euthanized in a humane manner in that order of priority while in the physical possession of the Animal Control Officer, Municipal Police, or duly authorized designee.
3. Astray Animals Not Displaying License Or Other Identification. If the astray animal is not wearing a license or other visual identification, and after one (1) business day no one has appeared to claim the animal, the animal may be adopted, sold or euthanized in a humane manner in that order of priority while in the physical possession of the Animal Control Officer, Municipal Police, or duly authorized designee.
4. City Not Liable For Disposition Of Unclaimed Animal After Notification. If the Animal Control Officer, Municipal Police, or duly authorized designee notified the owner or his or her agent or

representative of the impoundment of the owner's animal and if the owner or his or her agent or representative has not appeared to claim the animal after one (1) business day, as specified in this section, then the City or its duly authorized agents and representatives shall not be held liable to the owner of the animal for the adoption, sale or euthanization of the impounded animal.

5. City Not Liable For Disposition Of Unclaimed Animal Where Notification Not Possible. If the Animal Control Officer, Municipal Police, or duly authorized designee is unable to notify the owner because the animal does not have a license or other visual identification and the animal is not claimed within one (1) business day, then the City or its duly authorized agents and representatives shall not be held liable to the owner of the animal for the adoption, sale or euthanization of the impounded animal.
6. Claiming of Astray Animal. The astray animal may be claimed from the pound by its owner or his or her agent or representative by payment to the City for the impounding fee, transportation fee, quarantine fee, microchip fee, and payment of the license fee for the current year (if the animal was unlicensed and a license is required), payment of vaccination charges (if necessary), and any medical expenses incurred by the impounding authority. The aforementioned fees shall be those established by City Resolution, as may be amended from time to time. Any astray animal which is not claimed by its owner or his or her agent or representative within one (1) business day, as specified in this section, may be adopted by another person through the Animal Humane Society by payment to the City of the license fee for the current year (if the animal was unlicensed and a license is required), payment of vaccination charges (if necessary), and any medical expenses incurred by the impounding authority.
7. Records Maintained. The City shall maintain a record of all animals impounded for a reasonable period of time. The record shall contain at least the following information:
  - (a) Description of the animal;
  - (b) Manner, place and date of its acquisition;
  - (c) Date and manner of its disposal;
  - (d) Name, address, and phone number of person claiming the animal;
  - (e) Copy of proof of identification of person claiming the animal (such as, but not limited to, copy of a valid driver's license, social security card, passport, utility bill);
  - (f) All fees received; and
  - (g) Medical expenses for the animal.

8. Public's Duty to Report Astray Animals. Any person finding any astray animal shall notify the Animal Control Officer, Municipal Police, or duly authorized designee as soon as possible, and shall surrender the astray animal to the Animal Control Officer, Municipal Police, or duly authorized designee upon demand.

**Section 12. LIVESTOCK, OTHER ANIMALS.**

- A. Prohibition. It is unlawful for any person to permit livestock or other animals to stray, wander or graze upon or along any traveled portion of any highway or public way normally used by motor vehicles.
- B. Owners Or Custodians Responsible. Owners or custodians of livestock or other animals shall be guilty of a misdemeanor, punishable by a penalty as provided in Section 25 of this Ordinance, upon conviction for violation of this section.
- C. Keeping Of Livestock And Other Farm Animals. The owning, possessing, keeping or harboring of livestock and other farm animals shall also be regulated by Title 10, "Zoning Regulations", of the Sunland Park City Code. Nothing in this section shall be construed to prohibit the owning, possessing, keeping or harboring of livestock and other farm animals as prescribed or allowed in Title 10, "Zoning Regulations, of the Sunland Park City Code unless the livestock or other farm animals are declared or determined to be a nuisance or vicious or dangerous under the provisions of this Ordinance.

**Section 13. LICENSING AND VACCINATIONS REQUIRED.**

- A. Vaccinations. All dogs and cats shall be vaccinated as required by State law. It shall be the responsibility of the owner to comply with the regulations prescribed by the New Mexico Department of Health. Dogs and cats over the age of four (4) months must be vaccinated against rabies and so tagged by a licensed veterinarian. Upon demand by the Animal Control Officer, Municipal Police, or duly authorized designee, the owner or his or her agent or representative must present evidence or certificate of vaccination for dogs and cats owned by him or her.
- B. Licensing. Any person harboring or maintaining any dog or cat over the age of six (6) months shall obtain a license for each such dog or cat. Persons who are visiting or temporarily remaining within the City for less than thirty (30) consecutive days shall be exempt from this licensing requirement. Licenses may be issued only by the Animal Control Officer, Municipal Police, or duly authorized designee. Licenses shall expire one (1) year after the date of issuance of the license. The Animal Control

Officer, Municipal Police, or duly authorized designee shall keep a record of all licenses issued. A current rabies vaccination certificate shall be presented at the time of application for the license.

1. Affixing Tags. A current license tag number shall be affixed to the licensed dog or cat at all times in a reasonable manner.
2. Fees. The annual license fee shall be three dollars (\$3.00) for each neutered or spayed dog or cat, and ten dollars (\$10.00) for each unspayed or unneutered dog or cat. Any person seeking to obtain a license for a neutered or spayed dog or cat shall furnish written proof from a licensed veterinarian that such dog or cat has been neutered or spayed. In the event a tag is lost, a replacement tag shall be obtained for a charge of one dollar (\$1.00). Each kennel or petshop with ten (10) dogs or more in possession shall pay an annual fee of fifty dollars (\$50.00) in lieu of licensing individual dogs, and such fee will cover all dogs kept by such business during the year.
3. Breeder Fees. The owner who intentionally or unintentionally breeds dogs or cats must have a current hobby breeder's license or shall pay a litter fee of twenty-five dollars (\$25.00) for each litter. The twenty-five dollar (\$25.00) fee may be refunded at the time proof of sterilization of the female dog or cat is submitted and verified by the Animal Control Officer, Municipal Police, or duly authorized designee but no later than two (2) months from the time the female dog or cat delivers a litter. Each hobby breeder shall pay an annual fee of fifty dollars (\$50.00) in lieu of fees for individual litters, and such fee will cover all litters during the calendar year. An owner shall not advertise, sell, barter, exchange, or give away any dogs or cats within the City boundaries unless the litter fee is displayed legibly. An owner shall furnish the litter fee or hobby breeder permit number to any prospective recipient requesting the number. Each hobby breeder shall be subject to the regulations of this Ordinance and the regulations set out in Title 3, "Business and License Regulations" and Title 10, "Zoning Regulations", of the Sunland Park City Code.

#### **Section 14. RABID ANIMALS.**

- A. Reporting Animals Showing Symptoms of Rabies. It is unlawful to keep any unvaccinated dog, cat, ferret or any animal which has shown any symptom of rabies. Animals showing symptoms of rabies shall be reported to the Animal Control Officer, Municipal Police, or duly authorized designee who shall then impound and confine the animal and

send a sample for testing to determine whether the animal is infected with rabies. If the test results show that the animal is infected with rabies, the animal shall be destroyed. If the animal has been determined not to be infected with rabies, the animal shall be returned to its owner or his or her agent or representative. However, if the animal has been determined not to be infected with rabies but has bitten a human being, a determination of whether the animal is vicious shall be conducted in accordance with Section 15 of this Ordinance. If the animal is determined not to be vicious, the animal shall be returned to its owner or his or her agent or representative. If the animal dies during the confinement period, all necessary laboratory inspections will be conducted by the district health officer.

- B. **Interference With Officers.** It shall be unlawful for any person to interfere with the Animal Control Officer, Municipal Police, or duly authorized designee in the execution of the provisions of this section.

**Section 15. VIOIOUS OR DANGEROUS ANIMALS.**

- A. **Definition.** A vicious or dangerous animal is one as defined in Section 3 of this Ordinance.
- B. **Determination of Viciousness.** The municipal court shall conduct a hearing to determine if the animal is vicious or dangerous as defined in Section 3 of this Ordinance. If the court determines, by clear and convincing evidence, that the animal is vicious or dangerous, the court may impose a fine or imprisonment or both of the owner of the animal and shall order the animal destroyed in accordance with Section 16 of this Ordinance.
- C. **Owning Or Keeping Vicious Animals Prohibited.** It shall be unlawful for any person to own, keep, or harbor a vicious, dangerous, or ferocious animal in the City.
- D. **Keeping Of Animals Or Trained Animals Liable To Attack And Injure Human Beings Or Other Animals Prohibited Unless Securely Kept.** It shall be unlawful for any person to keep any animal or any trained animal liable to attack and injure human beings or other animals, unless such animals are securely kept so as to prevent injury to any persons or other animals. This section shall not apply to animals that are used by law enforcement for legitimate law enforcement purposes.
- E. **Repelling Attack By Animal.** Any attack by any animal may be repelled by the use of reasonable force.

**Section 16. DESTRUCTION OF ANIMALS.**

- A. Request To Destroy Or Turn Over Vicious Or Dangerous Animal. The Animal Control Officer, Municipal Police, or duly authorized designee may request the owner or keeper of a vicious or dangerous animal to destroy it humanely or turn such animal over to the Animal Control Officer, Municipal Police, or duly authorized designee for humane destruction.
- B. Failure Or Refusal To Destroy Or Turn Over Vicious Or Dangerous Animal. Should the owner or keeper of the vicious or dangerous animal fail or refuse to humanely destroy or turn the animal over to the Animal Control Officer, Municipal Police, or duly authorized designee, the Animal Control Officer, Municipal Police, or duly authorized designee shall cause a complaint to be brought in municipal court against such owner or keeper for failure or refusal to humanely destroy or turn the vicious or dangerous animal over.
- C. Animals Wounding, Injuring, Or Killing Livestock Or Other Animals In The Presence Of The Animal Control Officer, Municipal Police, Or Duly Authorized Designee. The Animal Control Officer, Municipal Police, or duly authorized designee shall have the authority to destroy an animal if it is in the act of wounding, injuring, or killing livestock or other animals or in the act of attacking a human being. There shall be no liability on the Animal Control Officer, Municipal Police, or duly authorized designee in damages or otherwise for such destruction.
- D. Animals Wounding, Injuring, Or Killing Livestock Or Other Animals Not In The Presence Of The Animal Control, Municipal Police, Or Duly Authorized Designee.
  - 1. Any person having knowledge that an animal has wounded, injured, or killed livestock or other animals shall report this to the Animal Control Officer, Municipal Police, or duly authorized designee. Upon receiving such report or notice, the Animal Control Officer, Municipal Police, or duly authorized designee having reason to believe that the animal did wound, injure, or kill livestock or other animals shall impound such animal. A complaint shall then be filed with the municipal court and a hearing shall then be had within a reasonable period of time to determine whether the animal did wound, injure, or kill livestock or other animals.
  - 2. Should the municipal court find that the animal in question did wound, injure, or kill livestock or other animals, it shall order the Animal Control Officer, Municipal Police, or duly authorized designee to have the animal destroyed in a humane manner.

- E. Destruction Of Dogs Or Cats Running In Packs. The Animal Control Officer, Municipal Police, or duly authorized designee shall be authorized to destroy in a humane manner any astray dogs or cats within the City, which are running in packs and who are potentially dangerous to humans, livestock, or other animals, as reasonably determined by the Animal Control Officer, Municipal Police, or duly authorized designee.

**Section 17. HOUSING OF ANIMALS.** Housing facilities for animals shall be structurally sound and constructed of nontoxic materials. Interior floors shall be smooth and easily cleanable and impervious to water. The premises shall be kept clean, sanitary and in good repair in a manner which will protect the animals from overcrowding, disease, and injury. Animals shall be provided the adequate space to allow each animal to turn about freely, to stand, sit, and lie in a comfortable normal position, and to walk in a normal manner. Outside housing shall protect the animal from weather conditions (such as sunlight, rain, snow or cold or hot weather) that may be detrimental to the health of the animals. Animals maintained in pens, cages, or runs for periods exceeding twenty-four (24) hours must be provided with adequate space for exercise for the comfort and health of the animal. Sufficient lighting shall be provided by either natural or artificial means. 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 shall be provided with care from a licensed veterinarian. This section shall apply to all owners or keepers of animals in the City, including the general public, kennels, guard dog operations, and hobby breeder operations.

**Section 18. WILD ANIMALS.** No person shall keep, harbor or maintain any poisonous reptiles, dangerous carnivorous wild animals, or dangerous or poisonous insects or arachnids whether they are trained or not, without having first registering such reptiles, insects, arachnids, or other animals with the Animal Control Officer, Municipal Police and duly authorized designee.

**Section 19. SERVICE ANIMALS ALLOWED IN PUBLIC PLACES.** It shall be unlawful for any person owning or maintaining any place or public accommodation, public entertainment or amusement, restaurant, hotel, hospital, swimming pool, store, theater, or who operates any public transportation facility to exclude therefrom any Service Animal as defined in Section 3 of this Ordinance; provided, that such Service Animal be in the company of the person for whom it was trained to assist.

**Section 20. RESTRAINT OF ANIMALS.**

- A. Penning On Premises. All persons owning or having charge, custody, care or control of any animal shall keep such animal properly and securely penned in his or her own premises.

- B. Leashed Dogs. Dogs shall be permitted on the streets or public places of the City only if they are secured on a leash not over eight (8) feet in length, under the immediate physical control of the person having custody thereof. The determination of whether the dog is under the immediate physical control of a person having custody thereof shall be determined by the Animal Control Officer, Municipal Police, or duly authorized designee, as to what he believes to be reasonable under the circumstances.
- C. Animals Not Under Immediate Control. Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of a competent person and shall be reported for impounding to the Animal Control Officer, Municipal Police, or duly authorized designee.
- D. Dogs Not Allowed At City Sponsored Events. Dogs shall not be allowed at City sponsored events. This restriction shall not apply to Service Animals as defined in Section 3 of this Ordinance or to animals which are authorized to participate in such events.

**Section 21. PENNING FEMALE ANIMALS.** The owner of a female animal shall cause such animal when in season or in heat to be penned or enclosed during such period of time in a house, building or secure enclosure so that other animals are not attracted to the animal in a manner that will preclude occurrence of a public nuisance, but not tied. Such enclosure shall be constructed so that no other animals may gain access to the confined animal, except for intentional breeding purposes.

**Section 22. PROHIBITED ACTS AND CONDITIONS.** It shall be unlawful for any person to hinder, resist, or oppose the Animal Control Officer, Municipal Police, or duly authorized designee in the performance of his or her duties or to secret any animal from him or her that requires attention.

**Section 23. CRUELTY TO ANIMALS PROHIBITED.**

- A. Killing Or Beating Animals Prohibited. It shall be unlawful for any person to willfully or maliciously kill, destroy, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn, or scald with any substance, overdrive, or otherwise cruelly set upon any animal except that reasonable force may be employed to drive off vicious, dangerous, or trespassing animals. It shall be unlawful to poison dogs, cats other domesticated animals.
- B. Overworking Animals Prohibited. It shall be unlawful for any person to drive to work any animal cruelly when such animal is unfit for labor.



- C. Slaughtered Wild Animals Excepted. The slaughtering of animals for food or the killing of wild animals, such as authorized by law, shall not be a violation of this section.
- D. Duty To Provide Food And Shelter. It shall be unlawful for any person to fail, refuse or neglect to provide any animal in his or her custody as owner or otherwise, with proper food, drink, shade, shelter, care, medical treatment or to carry any animal in or upon any vehicle in a cruel or inhumane manner, or to keep any animal under unsanitary or unhealthful conditions.
- E. Animals Without Proper Care. Whenever the Animal Control Officer, Municipal Police, or duly authorized designee finds that any animal is without proper care, because of injury, illness, confinement or voluntary absence of the owner or person responsible for the care of such animal, the Animal Control Officer, Municipal Police, or duly authorized designee may impound such animal for protective care. In the event of sickness or injury of the animal, upon the advice of a licensed veterinarian, the Animal Control Officer, Municipal Police, or duly authorized designee may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal.
- F. Abandoning of Animal Prohibited. It shall be unlawful for any person to abandon any animal in the City.
- G. Discharging Firearms Or Fireworks At Any Animal Prohibited. It shall be unlawful for any person to fire any BB gun, firearm or firework in the vicinity of an animal unless used to repel an attack by an animal on a human being, livestock or other animal or unless otherwise permitted pursuant to Section 16.C. and Section 16.E. of this Ordinance.
- H. Animals On Unenclosed Premises. It shall be unlawful for any person to stake out, graze, or herd any animal upon any unenclosed private lot or parcel of land in a manner that such animal may be or go beyond the boundary of such lot or land.
- I. Keeping Of Infected Or Painfully Crippled Animals. It shall be unlawful for any person to have, keep, or harbor any animal which is known or believed to be infected with a dangerous or communicable disease or is painfully crippled, wounded, or injured. All such animals shall be reported to the Animal Control Officer, Municipal Police, or duly authorized designee who will make proper disposition of the animal. This section shall not be construed to include veterinary hospitals in which animals are being treated.

**Section 24. PERMITTED PREMISES.**

- A. Permit Required.
1. No person shall operate a kennel, guard dog operation, hobby breeder operation, apiary operation, arachnid operation, or insect operation without a valid permit issued by the Animal Control Officer, Municipal Police, or duly authorized designee.
  2. No person shall operate a kennel, guard dog operation or hobby breeder operation without also obtaining a valid business license issued by the City pursuant to Title 3, "Business and License Regulations" of the Sunland Park City Code.
  3. A minimum fine of one hundred dollars (\$100.00) will be assessed for any violations.
- B. Permit Applications. Persons who wish to apply for a permit shall file using forms provided by the Animal Control Officer, Municipal Police, or duly authorized designee. The application shall require information sufficient to assure the Animal Control Officer, Municipal Police, or duly authorized designee that the applicant and facilities are adequate, in compliance with Section 17 of this Ordinance, to care for the animals in a manner that protects the public and the animals and located in an area zoned by the City for such proposed use or facilities in compliance with the regulations set out in Title 10, "Zoning Regulations", of the Sunland Park City Code.
- C. Permit Requirement. No permit is transferable from one person or place to another person or place. A valid permit shall be posted in a conspicuous place at each permitted premise. A permit holder shall notify the Animal Control Officer, Municipal Police, or duly authorized designee of any changes in operations which may affect the status of the permit and shall keep the Animal Control Officer, Municipal Police, or duly authorized designee informed of any changes in name, address, home and business telephone numbers. Both the person in charge of the permitted premises and the owner of the permitted premises shall be responsible for complying with this section. At each permitted premises a current record shall be kept which describes all animals owned, purchased or received, after the date of issuance of the permit. An application for renewal, accompanied by a current certificate of inspection issued by the Animal Control Officer, Municipal Police, or duly authorized designee shall be filed with the Animal Control Officer, Municipal Police, or duly authorized designee at least thirty (30) days but no more than sixty (60) days before the date of expiration. Failure to renew the permit as specified shall result in the expiration of the permit, or in the assessment of a late

fee of ten dollars (\$10.00) for each day in violation after the date of expiration in addition to the cost of renewing the permit.

- D. Facilities And Care Applicable To Kennels, Guard Dog Operations, Hobby Breeder Operations, Arachnid Operations, And Insect Operations. Housing facilities for animals applicable to kennels, guard dog operations, hobby breeder operations, arachnid operations, or insect operations shall be constructed, repaired and maintained in compliance with Section 17 of this Ordinance and Title 9, "Building Regulations" of the Sunland Park City Code.
- E. Access To Permitted Premises. The Animal Control Officer, Municipal Police, or duly authorized designee shall be allowed to enter the premises, following notification to the permit holder or applicant for the purpose of inspection prior to issuance of permit, renewal of permit, or for investigation of a complaint.
- F. Suspensions and Revocations of Permits. When the Animal Control Officer, Municipal Police, or duly authorized designee discovers that a permitted premises is in violation of this section or Title 3, "Business and License Regulations" or Title 9, "Building Regulations" or Title 10, "Zoning Regulations", of the Sunland Park City Code, he or she shall give written notice of this violation to the permit holder, operator, owner or person in charge by means of an inspection report or other written notice. The notification shall state that failure to comply with the provisions of this section may result in immediate suspension or revocation of the permit. Permits may be suspended for thirty (30) days to allow the permit holder to comply with the requirements of this section or other applicable laws, ordinances, or regulations. A permit shall be surrendered to the Animal Control Officer, Municipal Police, or duly authorized designee upon suspension or revocation. 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 on a form required by the Animal Control Officer, Municipal Police, or duly authorized designee. Within five (5) business days after the application is received by the Animal Control Officer, Municipal Police, or duly authorized designee, he or she shall conduct an inspection of the premises proposed to be permitted or re-permitted. If the applicant and the site are in compliance with the all the applicable requirements of this section and all other applicable laws, regulations, and ordinances, the permit shall be reinstated.
- G. Guard Dog Operation. A person who wishes to conduct a guard dog operation or business shall first obtain a guard dog permit in accordance with this section and shall be subject to any and all other requirements therein applicable. In addition to the facilities and care standard

requirements of permitted premises set forth in this section, the area where the guard dog is housed, while not on duty, shall be secured in a manner which will prevent their escape. The off duty housing area shall be kept locked when not in use. Premises where guard dogs are on duty or in use shall be posted with warning signs at least twelve (12) inches long on each side. The warning sign shall state "Guard Dog" or "Guardian" and shall show a picture of an aggressive dog. The warning signs shall be posted not more than two hundred (200) feet apart on the exterior of the fences or walls surrounding the site where such guard dogs are on duty or in use, and shall be posted at the exteriors corners of said site and every entrance of said site.

- H. Apiary Operations, Arachnid Operations, And/Or Insect Operations. A person who wishes to conduct an apiary operation, arachnid operation, and/or insect operation or business shall first obtain a permit from the Animal Control Officer, Municipal Police, or duly authorized designee. To qualify for such a permit, the person must demonstrate in the form of certification, training, or education to the Animal Control Officer, Municipal Police, or duly authorized designee that such person or his or her agents or representatives have the requisite or necessary knowledge, skill, or experience for the identification and handling or controlling of such animals.
- I. Exceptions to Permitted Premises. The following are not required to obtain a permit under this section but shall remain subject to the regulations set out in Title 3, "Business and License Regulations", Title 9, "Building Regulations", and Title 10, "Zoning Regulations", of the Sunland Park City Code:
  - 1. A veterinarian hospital or clinic operated by a licensed veterinarian.
  - 2. A bona fide research institution, using animals for research.
  - 3. A publicly owned Animal Control Center or Shelter.

**Section 25. VIOLATION PENALTY.**

- A. Any person who shall violate any provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both. Each day of a violation shall be considered a separate offense.
- B. Citations may be issued to the custodian or owner of the animal in violation. The impounding fee shall be twenty-five dollars (\$25.00) for

the first impoundment within a twelve (12) month period, fifty dollars (\$50.00) upon a second impoundment within the same twelve (12) month period, seventy-five dollars (\$75.00) upon the third impoundment within the same twelve (12) month period, and three hundred dollars (\$300.00) upon every impoundment after the third impoundment within the same twelve (12) month period. The fee for an animal with no license tag shall be ten dollars (\$10.00).

- C. It shall be the duty of any person who is the owner or the keeper of any vicious or dangerous animal, the keeping of which is unlawful, to cause such animal to be destroyed in accordance with Section 16 of this Ordinance. Failure to comply with this section shall subject such owner or keeper to a minimum fine of ten dollars (\$10.00) plus costs. Each day's failure to comply shall be considered a separate offense.

**Section 26. REPEALING CERTAIN CHAPTER OF SUNLAND PARK CITY CODE.**

Chapter 2 "Animal Control" of Title 5 "Police Regulations" of the Sunland Park City Code is hereby repealed in its entirety and replaced by this Ordinance.

**Section 27. SEVERABILITY.**

Should any section, paragraph, clause or provision of this Ordinance for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 28. REPEALER.**

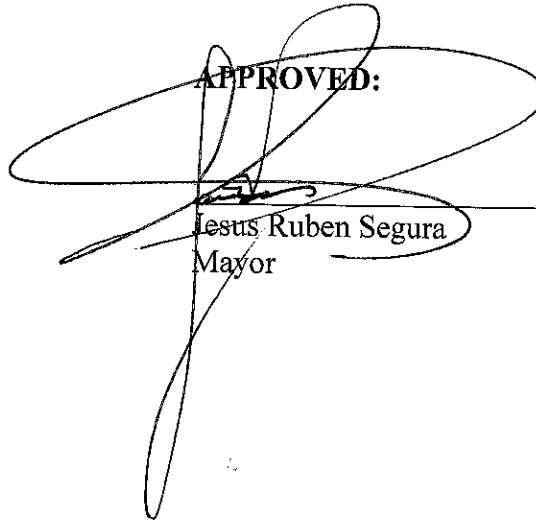
All ordinances or resolutions or parts thereof, inconsistent with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency or conflict. This repealer shall not be construed to revive any ordinance or resolution or part thereof, heretofore repealed.

**Section 29. EFFECTIVE DATE.**

This ordinance shall become effective five (5) days after publication as provided by law.

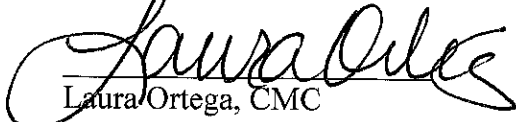
**PASSED, ADOPTED AND APPROVED THIS 18<sup>th</sup> DAY OF April 2006**

**APPROVED:**



Jesus Ruben Segura  
Mayor

**ATTEST:**



Laura Ortega, CMC  
City Clerk

{SEAL}

**ROLL CALL VOTE:**

Mayor Pro-Tem Juan Antonio Fuentes	<u>aye</u>
Councilor Maricela Monsivaiz	<u>aye</u>
Councilor Connie Ordonez-Resendiz	<u>nay</u>
Councilor Gabriela Buso	<u>aye</u>
Councilor Yvette Cortez	<u>aye</u>
Councilor Elizabeth Martinez	<u>aye</u>

## PUBLIC NOTICE

Notice is hereby given that the City Council of the City of Sunland Park, New Mexico will adopt the following ordinance at a regular meeting held on Tuesday, March 21, 2006 at 7:00 p.m. in the City Council Chambers located at 1000 McNutt Road, Sunland Park, New Mexico.

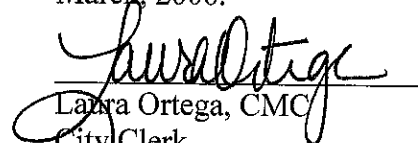
### **AN ORDINANCE REPEALING TITLE 5, CHAPTER 2, SECTIONS 5-2-1 TO 5-2-16 AND RECOGNIZING THAT TITLE 10, CHAPTER 5C WILL CONTROL THE REGULATION OF THE KEEPING OF FARM ANIMALS.**

Copies of the proposed ordinance are available at the City Clerk's office located on 1000 McNutt Road, Sunland Park, New Mexico during business hours 8:00 a.m. to 5:00 p.m.

#### **POSTED:**

Office of the City Clerk  
U.S. Post Office  
Motor Vehicle Division  
Sunland Park Grocery  
Santa Teresa Post Office  
Public Health Office

Filed in the Office of the  
City Clerk on this 7th day of  
March, 2006.

  
Laura Ortega, CMC  
City Clerk

**PUBLIC NOTICE**

Notice is hereby given that the City Council of the City of Sunland Park, New Mexico adopted the following ordinance at a regular meeting held on Tuesday, April 18, 2006 at 7:00 p.m. in the City Council Chambers located at 1000 McNutt Road, Sunland Park, New Mexico.

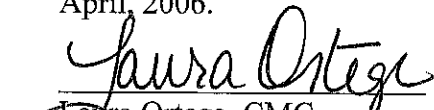
**AN ORDINANCE REPEALING TITLE 5, CHAPTER 2, SECTIONS 5-2-1 TO 5-2-16 AND RECOGNIZING THAT TITLE 10, CHAPTER 5C WILL CONTROL THE REGULATION OF THE KEEPING OF FARM ANIMALS.**

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**POSTED:**

Office of the City Clerk  
U.S. Post Office  
Motor Vehicle Division  
Sunland Park Grocery  
Santa Teresa Post Office  
Public Health Office

Filed in the Office of the  
City Clerk on this 21st day of  
April, 2006.

  
\_\_\_\_\_  
Laura Ortega, CMC  
City Clerk