

**LEA COUNTY ANIMAL CONTROL ORDINANCE
ORDINANCE No. 65**

WHEREAS, the Board of Commissioners for Lea County is authorized by Section 77-1-12 and Section 4-37-1 NMSA 1978 Comp., to provide for the regulation of animals within the boundaries of the County of Lea but without the corporate boundaries of incorporated municipalities;

WHEREAS, the Board of Commissioners for Lea County has held an open meeting, with proper notice, for the purpose of receiving comment on the proposed amendment to the Animal Control Ordinance, County Ordinance Number 17;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for Lea County, State of New Mexico that:

Section 1. DEFINITIONS

- A. Abandon – To leave a domestic animal without food, water or shelter for more than twenty four (24) hours on one's premises, or to leave a domestic animal on property other than one's own without the consent of the owner of the property where the domestic animal is left and without making provisions for the adequate feeding, watering and care of the domestic animal.
- B. Animal Shelter – Any establishment authorized by the County for the care and custody of impounded or quarantined animals.
- C. Direct Control – Any animal when not on its owner or keeper's property must be secured to a competent person by a leash of not more than six (6) feet in length.
- D. Keeper – Any person that owns, harbors, keeps or has control or custody of any animal for more than three (3) days; provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.
- E. Nuisance – Includes, but is not limited to, disturbing the peace, emitting noxious or offensive odors or otherwise endangering health and safety or becoming offensive to the inhabitants of the area.
- F. Quarantine – To detain or isolate an animal suspected of being infected with rabies.

- G. Running at Large – An animal shall be deemed to be running at large when the animal is not on the premises or property of the owner or keeper; or not under the direct control of a competent person.
- H. Stray – Any animal having no identifiable owner or keeper.
- I. Veterinarian – Any person with a valid license from a recognized authority to practice veterinary medicine.
- J. Vicious Animal – Any animal that commits an unprovoked attack upon a person or animal on private property, or that terrorizes or attacks a person or animal on public property or in a public place.
- K. Animal Control Authority – An entity authorized to enforce the animal control laws of a city, county or state, whether acting alone or in concert with other governmental authorities. In those areas not served by an animal control authority, the sheriff or municipal law enforcement shall carry out the duties of the animal control authority under the Dangerous Dog Act.
- L. Dangerous Dog – A dog that caused a serious injury to a person or domestic animal.
- M. Owner – A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of eighteen (18), that person's parent or guardian.
- N. Potentially Dangerous Dog – A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:
1. Causing injury to a person or domestic animal that is less severe than a serious injury.
 2. Chasing or menacing a person or domestic animal in an aggressive manner and without provocation.
 3. Acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.
- O. Proper Enclosure – A secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure, that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or otherwise affixing the animal to a stationary object.

- P. Serious Injury – A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.
- Q. Domestic Animal – A dog or cat.

Section 2. ENFORCEMENT OF ORDINANCE

The enforcement of this Ordinance shall be performed by the Lea County Environmental Services Department, the Lea County Sheriff's Department, any certified law enforcement officer authorized to enforce county ordinances or anyone designated by the Lea County Board of Commissioners to issue citations to enforce this Ordinance.

Section 3. RABIES CONTROL

A. RABIES VACCINATION REQUIRED

1. It is the duty of every person keeping a dog or cat over the age of three (3) months of age to have such animal vaccinated by a licensed veterinarian. After an initial one (1) year vaccination, subsequent vaccinations are required every three (3) years.
2. Any dog or cat brought in the County of Lea must be vaccinated with seven (7) days after the animal's entry into the County unless the keeper or owner has a current certificate of rabies vaccination, issued by a licensed veterinarian, which conforms to the requirements of the New Mexico Law. A written warning will be issued for failure to comply, if not vaccinated with five (5) days of written warning, citations will then be issued for failure to comply.
3. Every licensed veterinarian shall issue to the owner or keeper of vaccinated dog or cat a numbered vaccination certificate and numbered vaccinated collar tag. The certificate must contain the name and address of the owner or keeper, date of vaccination, description of the animal, type of vaccine, and date of expiration of immunity period.
4. Every person keeping or owning such animal must exhibit a copy of vaccination certificate to anyone authorized to enforce this Ordinance upon his or her demand. Every animal is required to wear an issued vaccination tag. Any lost tag must be replaced by the owner or keeper at their expense.

B. RABIES QUARANTINE

1. Every physician or licensed health care professional that treats a person for a dog or cat bite is required to report such treatment to the Lea County Environmental Services, the Lea County Sheriff's Department or anyone authorized to enforce this Ordinance. Such report must specify the name and location of the person receiving the treatment.
2. When any person is bitten by a dog or cat, that person, parent or guardian, or the owner or keeper of the dog or cat is required to report such bite to the Lea County Environmental Services, the Lea County Sheriff's Department or anyone authorized to enforce this Ordinance.
3. Any dog or cat involved in a bite incident must be quarantined at an approved animal shelter or veterinarian hospital for a period of not less than ten (10) days from the date of the bite incident at the owner or keeper's expense. The enforcement officer may, but is not required to, allow a home quarantine, if the following conditions are met; the dog or cat has a current rabies certificate, must be kept isolated from other animals, enforcement officers are allowed to inspect the premises and animal as needed, and the general area is not under a State mandated rabies quarantine. Failure of any of the above conditions will revoke home quarantine, the dog or cat will be immediately surrendered to the enforcement officer for placement at an approved animal shelter or animal hospital to complete the quarantine period.
4. Any animal bitten by another animal proven to be infected by rabies shall be immediately destroyed by either the owner, keeper or enforcement officer, unless the bitten animal has a rabies certificate of at least three (3) weeks prior to the bite, and quarantined for a period of not less than ninety (90) days. After the ninety (90) day quarantine, the animal may be released if declared to be free of rabies by a licensed veterinarian.
5. Any animal determined to develop rabies, by a licensed veterinarian or health official, during any quarantine period shall be destroyed immediately and the body shall be properly disposed of at the expense of the owner or keeper.
6. The head of any animal suspected of having died of rabies must be immediately sent by a licensed veterinarian to a designated laboratory and under such procedures as specified by the New Mexico State Board of Public Health.

C. DECLARATION OF RABIES QUARANTINE

The Lea County Board of Commissioner may declare a Quarantine Against Rabies within the County of Lea when, in its judgment, rabies exists to the extent that it is a danger to public health and safety. Upon such declaration, all dogs and cats within the County must be confined on the premises of the owner or keeper, or in a licensed veterinary hospital, or in an approved animal shelter. Dogs or cats found running at large may be destroyed, after reasonable effort has been made to capture, by the Lea County Environmental Services, the Lea County Sheriff's Department or anyone authorized by the Lea County Board of Commissioners. Bodies of such animals must be disposed of properly at the owner's expense, if owner is known or by the County if owners are not known. A Quarantine Against Rabies shall not be removed except by order of the Lea County Board of Commissioners.

Section 4. ENFORCEMENT RIGHTS, IMPOUNDMENT, REDEMPTION, NOTIFICATION OF EXOTIC ANIMALS

A. RIGHT OF ENTRY OF ANIMAL CONTROL OFFICERS

Animal control officers, in the performance of their duties, may enter upon private property, but not enter into a private residence, for the purpose of apprehending animals running at large, animals involved in bites, and stray animals.

B. IMPOUNDMENT OF ANIMALS

Animals apprehended by an animal control officer or other designated official shall be impounded at an approved animal shelter or other approved facility inside the County of Lea. The owner or keeper of impounded animals must be notified, if known to impounding officer, of the impounded animal's location.

C. REDEMPTION OF ANIMALS BY OWNER

Any impounded animal may be redeemed or reclaimed by their owner or keeper upon payment of any fees charged by the impounding facility which may include but not limited to: feeding, boarding, adoption, spay or neuter, or any fees normally charged by such facility. Any animal not redeemed, reclaimed, or owner/keeper not paying fees as required will be placed for adoption or the animal may be humanely destroyed.

D. NOTIFICATION OF EXOTIC ANIMALS

Any owner or keeper of any animal requiring a special permit from New Mexico Department of Game and Fish, New Mexico Livestock Board, United States Fish and Wildlife, United States Department of Agriculture or any other state or federal agency charged with regulating the import, ownership or confinement of any exotic animal shall contact and provide copies of all permits, locations of such animals inside Lea County and contact persons in case of loss, damage caused by, or death of said animal to Lea County Environmental Services personnel.

Section 5. OTHER PROHIBITED ACTIVITIES

A. RABIES CONTROL

1. It is unlawful for an owner or keeper of a dog or cat not to obtain rabies vaccinations as set forth in Section 3(A) 1 & 2. It is unlawful to not report animal bites as set forth in Section 3 (B) 1 & 2.
2. It is unlawful to fail to surrender an animal for rabies quarantine or remove any animal from rabies quarantine without written consent of impounding officer or to interfere with the enforced quarantine of any animal.
3. It is unlawful for any person to transfer any rabies tags from one animal to another or to make use of a stolen, counterfeit, or forged rabies certificate or collar tag.
4. It is unlawful for any keeper or owner to refuse to exhibit a copy of the certificate of vaccination upon demand by any person charged with the enforcement of this Ordinance.

B. ANIMALS RUNNING AT LARGE

It is unlawful for an owner or keeper of any animal, except cats, to permit such animals to run at large. Animals include but are not limited to; dogs, horses, goats, sheep, ducks, chickens, guinea fowl and hogs.

C. ANIMAL NUISANCE

It is unlawful for the owner or keeper of any animal(s) to keep or maintain animal(s) in such a manner to be a nuisance to the inhabitants of the area. It is unlawful for any owner or keeper of any animal to allow animals to defecate or urinate on property of others.

D. ABANDONMENT OF ANIMALS, CARE AND MAINTENANCE

It is unlawful for any owner or keeper to abandon any domestic animal within the County of Lea. It is unlawful for any owner or keeper to fail to provide any domestic animal with proper food, water, shelter, medical care or to carry or keep an animal in or upon any vehicle in a cruel manner.

E. VICIOUS ANIMALS

It is unlawful for any person to keep or harbor any vicious animal. The owner or keeper of any vicious animal must have the vicious animal destroyed. Any enforcement officer of this Ordinance may destroy any animal in the act of attacking, pursuing or wounding any person, domestic animal, livestock or poultry.

F. CONCEALMENT OF ANIMAL: INTERFERENCE WITH ENFORCEMENT OF ORDINANCE

It is unlawful for any person to conceal any animal from the officers charged with the enforcement of this Ordinance or to interfere with such officer in the discharge of their duties.

G. PHYSICAL ABUSE OF ANY ANIMAL

It is unlawful for any person to maliciously or intentionally kill (except by animal control authority in performance of their duties), torture, mutilate, injure, burn or poison any animal.

DANGEROUS DOGS

Section 6. **SEIZURE OF DOG - PETITION TO COURT**

- A. If an enforcement officer has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the enforcement officer may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- B. If an enforcement officer has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the County may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- C. After seizure, the enforcement officer shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of Section 8 of this Ordinance.

D. After seizure:

1. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for the certificate fo registration pursuant to Section 2 of this Ordinance.
2. The enforcement officer may, within fourteen (14) days after seizure of the dog, bring a petition in court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within thirty (30) days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to its owner.

E. If the owner does not admit that the dog is dangerous or potentially dangerous and the enforcement officer does not bring a petition to court within fourteen (14) days of seizure of the dog, the court shall immediately order the release of the dog to its owner.

F. If the owner admits that the dog is dangerous and transfers ownership of the dog to the County, the enforcement officer may humanely destroy the dog.

G. A determination that a dog is not dangerous or potentially dangerous shall not prevent an enforcement officer from making a subsequent application for seizure based on the dog's subsequent behavior.

Section 7. REGISTRATION AND HANDLING REQUIREMENTS FOR DANGEROUS AND POTENTIALLY DANGEROUS DOGS

A. The County shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes that:

1. The owner is able to keep the dog under control at all times.
2. A license, if applicable, has been issued pursuant to the requirements of this Ordinance.
3. The dog has a current rabies vaccination.

4. The owner has a proper enclosure for the dog.
 5. The owner has paid an annual fee of \$200 to register a potentially dangerous dog.
 6. The dog has been spayed or neutered.
 7. The dog has been implanted with a microchip containing owner identification information that is also provided to the County.
 8. The owner has entered the dog in a socialization and behavior program approved by the County.
- B. If a dog previously determined to be potentially dangerous has not exhibited any of the behaviors specified in Subsection A of Section 7 of the Dangerous Dog Act for thirty-six (36) consecutive months, the owner may request the County to lift the requirements for registration pursuant to this section. If the County has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the registration requirements of this section.
- C. The County shall issue a certificate of registration to the owner of a dangerous dog is the owner, in addition to the requirements of Subsection A of this section, establishes that:
1. The owner has paid the annual \$200.00 fee established by this Ordinance to register a dangerous dog.
 2. The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable.
 3. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination.
 4. When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four (4) feet, and the dog shall be under complete control at all times.
 5. The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle.
 6. A clearly visible warning sign with a conspicuous warning symbol indicating that there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty (50) feet, whichever is less.

- D. An enforcement officer may order the immediate impoundment or humane destruction of a dog previously determined to be a dangerous dog if the owner fails to abide by the conditions for registration, confinement or handling set forth in this section.

Section 8. EXCEPTIONS

A dog shall not be declared a dangerous or potentially dangerous dog if:

- A. The dog was used by a law enforcement official for legitimate law enforcement purposes.
- B. The threat, injury or damage was sustained by a person or domestic animal that was:
1. Trespassing upon premises occupied by the owner or the dog.
 2. Provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past provoked, tormented, abused or assaulted the dog.
 3. Committing or attempting to commit a crime.
- C. The dog was:
1. Responding to pain or injury.
 2. Protecting itself or its offspring.
 3. Protecting or defending a human being or domestic animal from attack or assault.

Section 9. PROHIBITED ACTS

- A. It is unlawful for an owner of a dangerous or potentially dangerous dog to:
1. Keep the dog without a valid certificate of registration.
 2. Violate the registration and handling requirements for the dog.
 3. Fail to notify the County immediately in either case of:
 - a. The escape of the dog.

- b. An attack by the dog upon a human being or a domestic animal.
- 4. Fail to notify the County of the dog's death within five (5) business days.
- 5. Fail to notify the County within twenty-four (24) hours if the dog has been sold or given away and provide the name, address and telephone number of the new owner of the dog.
- 6. Fail to surrender the dog to an enforcement officer for safe confinement pending a determination of the case when there is a reason to believe that the dog poses an imminent threat to public safety.
- 7. Fail to comply with special handling or care requirements for the dog that a court has ordered.
- B. Prosecution pursuant to this section requires a showing that:
 - 1. An owner knew of the propensity of a dog to inflict serious injury.
 - 2. The dog had previously been found by a court to be a dangerous or potentially dangerous dog.

Section10. PENALTIES

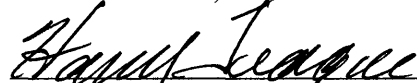
- A. Any person violating any provision of this Ordinance shall be charged with a petty misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed three hundred (\$300.00) dollars and/or imprisonment for a period not to exceed ninety (90) days, or both fine and imprisonment. Each day such violation is committed or permitted to continue shall be considered a separate offense and shall be punished as such.
- B. Minimum fines for animals running at large or being a nuisance shall be:
 - 1. First offense – minimum fine twenty five (\$25.00) dollars.
 - 2. Second offense – minimum fine fifty (\$50.00) dollars.
 - 3. Third and subsequent offenses – minimum fine one hundred (\$100.00) dollars.

Section 6. MISCELLANEOUS PROVISIONS:

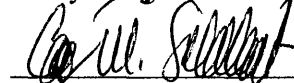
- A. Repeal and Severability - This Ordinance repeals, the Lea County Animal Control Ordinance No.17 adopted July 3, 1987 and amended May 3, 1993. If any part of this ordinance is held to be unconstitutional or invalid or otherwise in conflict with the laws of the State of New Mexico and the United States of America, the validity of the remaining portions of the Ordinance shall not be affected if such portions can stand alone.
- B. Titles - Titles given to different sections herein are meant to facilitate the convenient location of different sections of this ordinance and not to limit or fully describe the application of the entitled sections.
- C. Effective Date - This Ordinance shall be effective thirty (30) days after it has been recorded in the book kept by the Lea County Clerk for that purpose.

This Ordinance is passed, approved, signed and adopted in Open Meeting this 7th day of March, 2006.

BOARD OF COUNTY COMMISSIONERS
LEA COUNTY, NEW MEXICO



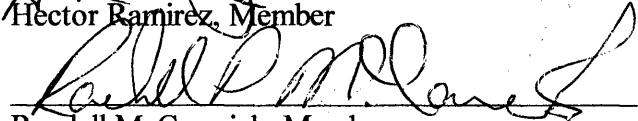
Harry Teague, Chairman



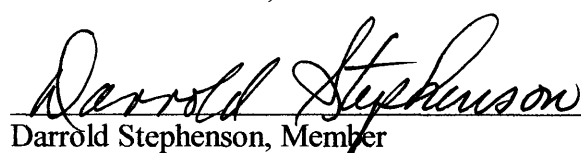
Gary Schubert, Vice-Chairman



Hector Ramirez, Member

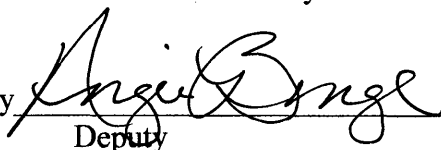


Randall McCormick, Member



Darrold Stephenson, Member

ATTEST: Melinda Hughes
Lea County Clerk

By 
Deputy



18969

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

at 10:37 MAR 7 2006 A.M
and recorded in Book _____
Page _____
Melinda Hughes, Lea County Clerk
By DJ Deputy

