

McKINLEY COUNTY

ANIMAL CONTROL ORDINANCE

GALLUP - McKINLEY COUNTY
ANIMAL CONTROL DIVISION

MARCH 1992

Wherever it states City in this Ordinance it should and will apply to McKinley County as this ordinance is a City, County Ordinance.

METRO ANIMAL CONTROL
Gallup/McKinley County
863-1309

ORDINANCE

ADOPTING AN ANIMAL CONTROL ORDINANCE FOR THE CITY OF GALLUP/McKINLEY COUNTY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GALLUP, McKINLEY COUNTY, NEW MEXICO.

Section 1. Chapter 2 (ANIMALS) of Title VI (POLICE REGULATIONS) of the municipal code of the City of Gallup is amended to read:

“6-2-1: SHORT TITLE AND LEGISLATIVE INTENT. This ordinance shall be known and may be cited as the “Metro Animal Control Ordinance.”

It is the intent of the City Council/County Commission that enactment of this ordinance will protect animals from neglect and abuse, will protect residents from annoyance and injury, will assist in providing housing for animals in a control center, and will partially finance the Metro Animal Control Center functions of licensing and recovery.

6-2-2. DEFINITIONS. For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the singular include the plural. The word “shall” as used herein, is always mandatory and not merely discretionary. The masculine includes the feminine.

- (A) “Animal” means any vertebrate member of the animal kingdom other than humans.
- (B) “Animal Exhibit” means any traveling animal show, petting zoo, circus, pony ride, animal act, or any premises operated for the purposes of showing any animal.
- (C) “Animal Control Center” or “Center” means any pound, lot, premises, or building maintained for the care and custody of animals.

- (D) “Anti-Escape Device” means any housing, fencing, or other device which prevents a guard dog from leaving the protected property.
- (E) “Bite” means a puncture or tear of the skin inflicted by the teeth of an animal.
- (F) “Center” means the Metro Animal Control Center and the Humane Officers employed there in.
- (G) “Commercial Property” means:
 1. any land or buildings identified for or used for business purposes including temporary sites.
- (H) “Dangerous Animals” means animals which, because of their poisonous bite or sting, their size, their propensity to viciousness or aggressiveness would constitute a significant hazard to the citizens of Gallup and McKinley County.
- (I) “Enclosed Lot” means any land or portion thereof surrounded by a wall, fence or barrier.
- (J) “Establishment” means a place of business together with its grounds and equipment.
- (K) “Exotic Animals” means animals not normally considered domesticated, and shall include, but not be limited to:
 1. Class Reptilia: Order Phidia (such as racers, boas, water snakes, and pythons) and Order Loricata (such as alligators, caymans and crocodiles).
 2. Class Aves: Order Falconiforms (such as hawks, eagles, and vultures) and Subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus).
 3. Class Mammalia: Order Carnivora: Family Felidae (such as ocelots, lions, tigers, jaguars, leopards and cougars), except commonly accepted domesticated cats; the Family Canidae (such as wolves, dingos, coyotes, jackals and hybrids produced by breeding these canids with domesticated dogs), except domesticated dogs; Family Mustelidae (such as weasels, martins, mink, badgers); Family Procyonidae (raccoon); Family Ursidae (such as bears); and Order Marsupialia, (such as kangaroos and common opossums); Order Edentata (such as sloths, anteaters, and armadillos); Order Proposcididae (elephants); Order Primata (such as monkeys, chimpanzees, and gorillas); Order Rodenta (such as porcupines); and Order Ungulata (such as antelope, deer, bison, and camels).
- (L) “Grooming Parlor” means any establishment maintained for the purposes of performing cosmetological services for animals.
- (M) “Guard Dog” means any dog that is used to protect commercial property.
- (N) “Handler” means a person who is responsible for and capable of controlling the actions of a guard dog.
- (O) “Heat” means a regularly recurring state of sexual excitability during which the female is capable of attracting or accepting the male or is capable of conceiving.
- (P) “Hobby Breeder” means any person involved in con-

trolled breeding of dogs and cats which are registered with a nationally recognized animal registry organization or a breed approved by the Center.

- (Q) "Household" means any social or family unit comprised of those living in the same dwelling or on the same premises.
- (R) "Annual Fee Adjustment" means an index (CPI) by which established fees are either increased or decreased relative to increase or decrease of inflation. 1992 will be used as the base for the Consumer Price Index.
- (S) "Kennel" means any establishment where animals are boarded, kept, or maintained, except guard dogs sites, state inspected veterinary hospitals, pet shops, grooming parlors, refuges and shelters.
- (T) "Licensed Veterinarian" is a person who is a Doctor of Veterinary Medicine licensed to practice in the State of New Mexico.
- (U) "Livestock" means cattle, horses, mules, donkeys, swine, sheep or goats.
- (V) "Metro" means that area lying within the corporate boundaries of the City of Gallup and the County of McKinley.
- (W) "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.
- (X) "Owner" of an animal is a person who owns, harbors, or keeps or knowingly causes or knowingly permits an animal to be harbored or kept, or has an animal in his car, or who has permitted a stray animal to remain on or about his premises for at least fourteen (14) days.
- (Y) "Permitted Premises" means the establishment, household, property or site which has been validly permitted by the Center for use as a kennel, grooming parlor, pet shop, refuge, shelter, hobby breeder site, animal exhibit site, exotic animal site or premises where guard dogs are on duty, livestock trading establishments and flea markets.
- (Z) "Person" means any individual, household, firm, partnership, corporation, company, society, association, and legal entity and every officer, agent or employee thereof.
- (AA) "Person in Charge" means the individual present in an establishment who is the apparent supervisor of the establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.
- (BB) "Pet Shop" means any establishment or premises maintained for the purchase, sale, exchange, or hire of animals except livestock.
- (CC) "Quarantine" means the detaining and isolation of an animal suspected of contagion.
- (DD) "Refuge" means any establishment owned or operated by a nonprofit organization, whose sole function is to bring aid and comfort to more than four, but not to exceed twelve (12) animals.
- (EE) "Shelter" means any establishment whose sole func-

tion is to bring aid and comfort to more than twelve (12) animals.

- (FF) "Stray" means free of physical restraint beyond the boundaries of the premises of the owner.
- (GG) "Stud Horse" means any male horse of breeding age (over one year).
- (HH) "Vaccination" means an inoculation with an anti-rabies vaccine recognized and approved by the State of New Mexico and/or a licensed Veterinarian given in an amount sufficient to provide immunity from rabies for a minimum of one year.
- (II) "Vicious Animal" means any animal which bites, or in any other manner attacks or attempts to attack a person or animal, except any animal that bites or attacks any person or animal unlawfully upon its owner's premise, or which is provoked to attack.

6-2-3: ADMINISTRATION OF ORDINANCE.

- (A) Rules and Regulations. Reasonable rules and regulations may be prescribed by the Center to carry out the intent and purpose of this ordinance, pursuant to standards created by this ordinance.
- (B) Procedure for Complaints. A Complaint alleging any violation of this ordinance must be registered by a person who has personal knowledge of such violation and who can identify the owner of the animal involved or the premises where the animal is located. The Center may require the complaint to be sworn to or affirmed.

6-2-4: ESTABLISHMENT OF AN ANIMAL CONTROL CENTER; ANIMAL IMPOUNDING PROCEDURES.

- (A) Establishment of the Metro Animal Control Center. The Center shall be kept open to the general public for the transaction of business during the hours as set by the Center.
- (B) Impounding Strays; Records to be Kept; Redemption Fees; Notice Required:
 1. If a stray animal is wearing a license, rabies tag, or other identification, the animal shall be confined at the Center for a period of at least five (5) days, during which time an attempt shall be made to locate and notify the owner. If a stray animal is not wearing any identification, the animal shall be impounded at the Center for at least four (4) days. The Center may dispose of such impounded stray animal on the day following the required impoundment period. The animal may be placed in an adoptive home, may be sold, or may be destroyed in a humane fashion, as the Center deems proper.
 2. No dog or cat that has been impounded at the Center will knowingly be sold for the purpose of breeding or resale. No dog adopted from the Center will be leased or rented to another party. The adopting party shall have every dog and cat they adopt from the Center spayed or neutered by a licensed veterinarian.
 3. Any stray livestock which is not reclaimed within five (5) days after impoundment may be sold or

- destroyed.
4. The Center is hereby authorized to sell any animal that has come into the custody of the Center and may be sold under the provisions of this ordinance and to execute a bill of sale to the purchaser.
 5. The owner reclaiming a dog or cat shall pay an impoundment fee of \$25.00 upon the first impoundment within a twelve (12) month period, \$35.00 upon the second impoundment within said time period, \$75.00 upon the third impoundment within said time period, and the owner shall reimburse Metro Animal Control Center for animal boarding, medical and maintenance costs. Impound fee for intact dogs and cats \$75.00, \$50.00 will be refunded if the animal is spayed or neutered within 30 days, second offense \$100.00, third offense \$150.00. The owner reclaiming any animal other than a dog or cat shall pay an impoundment fee established by the Center and shall reimburse the Metro Animal Control Center for animal boarding, medical and maintenance costs. Impoundment fee for horses and cattle \$50.00, sheep and goats \$50.00 per MAC transport vehicle. Should the lawful owner of an animal elect not to reclaim the animal, the owner will still be responsible for all fees and charges incurred by the pickup, impoundment, and care of that animal.
 6. A record of all animals in the control of the Center shall be maintained for a reasonable period of time. The record shall contain at least the following information:
 - a. description of the animal;
 - b. the manner and date of its acquisition by the Center;
 - c. the date and manner of disposal;
 - d. the name and address of the party adopting or purchasing the animal; and
 - e. all fees received.

6-2-5: OWNER'S DUTIES.

(A) Rabies Vaccinations.

1. The owner of any dog or cat over the age of three (3) months, shall have the animal vaccinated against rabies. The rabies vaccination shall be administered by a licensed veterinarian and evidenced by a rabies vaccination certificate. The Center may also require animals other than dogs or cats to receive annual rabies vaccinations.
2. The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal rabies vaccination certificate and tag, each containing the same number. The certificate shall contain the name and address of the owner of the animal, a description of the animal, the date of vaccination, shall be released to the Center upon demand.

(B) Rabid Animal or Animal Biting a Person

1. An animal having rabies or showing signs of rabies, or any animal bitten by a rabid animal, or any animal exposed to rabies, shall be immediately put in a secure place by the owner. Any person who has knowledge of a rabies infection of any animal or exposure to rabies shall immediately notify the Center of the location of the affected animal. These animals shall be surrendered by the owner to the Center upon demand. The animal shall be dealt with in accordance with State law.
2. It is the duty of the owner of an animal that bites a person, and of the person bitten by an animal, to report the bite to the Center within twenty-four (24) hours after the bite occurs. If deemed necessary by the Center the owner shall surrender said animal to the Center for impoundment, quarantine, observation, or destruction and rabies testing.
3. A physician who renders professional treatment to a person bitten by an animal shall report the bite to the Center or law enforcement agency within twenty-four (24) hours of such treatment. The physician shall report the name, sex, and address of the person bitten, as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal, if known, and any other facts that may assist the Center in locating the animal involved in the bite, and in ascertaining the immunization status of that animal.
4. An animal that has bitten a person shall be confined securely at a place and for a period of time deemed necessary by the Center as determined by the State. The owner of the animal shall be responsible for and bear the cost of confinement. The Center may consent to confinement on the owner's premises only if the animal has had a rabies vaccination within the year prior to the bite. The confinement premises shall be inspected and approved for such purpose by the Center. The owner of the animal shall enter into an indemnity agreement on a form approved and prescribed by the Center before consent may be given for such confinement.
5. A person who has custody of an animal that has bitten a person shall immediately notify the Center if the animal shows any signs of sickness, abnormal behavior, or if the animal escapes confinement. If the animal dies while it is in confinement, the person having custody of the animal shall notify the Center and surrender the carcass of the animal to the Center.

(C) Restraint of Animals.

1. No person shall allow any dog or cat upon a public playground, on the premises of a public swimming pool, municipal golf course, or upon a school yard.
2. No person shall allow any dog or cat upon the streets or public places of the City unless on a secure leash not exceeding eight (8) feet in length, and under the immediate physical control of the

owner.

3. The above provisions do not apply when an animal is in a bona fide animal show authorized by the Center or authorized by appropriate school authorities, or upon any public park designated by the Center as an exercise ground for dogs.
- (D) Female Dogs or Cats in Heat to be Confined. The owner of any female dog or cat in heat shall confine the animal so that other dogs or cats are not attracted to it. Impound fee for in-heat female shall be \$75.00 first offense, \$100.00 second offense and \$150.00 third offense.
- (E) License Required.
1. It is unlawful for any person to own or harbor a dog or cat over the age of three (3) months without obtaining a license for such animal. Persons who are not City residents and who keep dogs or cats in the City for less than thirty (30) consecutive days shall be exempt from this licensing requirement.
 2. Application for licenses shall be made on forms provided by the Center, participating veterinarian hospitals, or at other locations designated by the Center.
 3. Licenses shall expire on the 31st day of December each year and failure to renew the license within thirty (30) days after the expiration shall result in assessment of a penalty of \$1.00 per month in addition to the cost of the license.
 4. A current license tag shall be securely affixed to the collar or harness which shall be worn by all dogs or cats, unless the dog or cat is being kept in a permitted kennel or veterinarian hospital, or appearing in an approved dog or cat show, or is being trained provided that the person who is training the dog or cat shall have in his personal possession the valid license tag for each dog or cat being trained and shall immediately display such upon request by the Center.
 5. Lifetime licenses issued to sterilized dogs or cats prior to the effective date of this subsection, shall not expire unless the rabies vaccination period has lapsed.

6-2-6: PROHIBITED ACTIVITIES.

- (A) Number of Animals Permitted. No person or household shall own, harbor or keep more than three (3) dogs and three (3) cats over the age of three (3) months. This limit shall not apply to any permitted premises. County residents may apply for permission to keep more than the above number with approved facilities.
- (B) Animals Running at Large. It is unlawful for any owner to cause or allow an animal to run at large in or on any public property, vacant lot, or unenclosed private property in the City. Any animal found running at large shall be taken up and impounded. This shall include any horse, mule, burro, cattle, sheep, goat, swine or domestic fowl. Grazing animals on all maintained highways and roadways in the City will be impounded. Any male equidae roaming at large shall be considered a danger-

ous nuisance and the owner will be responsible for any and all damage to public or private property caused by said animal.

- (C) Animals on Unenclosed Premises. It is unlawful for any person to chain, stake out, graze, or herd any animal on any unenclosed premises so that the animal may go beyond the property line. Any chained animal must have a chain of at least twelve (12) feet in length and have ready access to food, water and shelter.
- (D) Enclosure for Breeding Animals. Animals brought together for breeding purposes shall be kept within an enclosure that obstructs such animals from public view.
- (E) Vicious Animals. It is unlawful for any person to keep or harbor a vicious animal. Any vicious animal shall be humanely destroyed by its owner or surrendered to the Center for humane destruction.
- (F) Animals Disturbing the Peace. It is unlawful for any person to allow any animal in his possession or control to persistently or continuously bark, howl or make noise common to their species or otherwise to disturb the peace and quiet of the inhabitants of the City or to keep or maintain said animals in such a manner as to produce noxious or offensive odors, or to otherwise endanger the health and welfare of the inhabitants of the City.
- (G) Animal Nuisances. It is unlawful for any owner to permit an animal, either willfully or through failure to exercise due care or control, to defecate or urinate upon public property or upon any private property other than the premises of the owner of the animal.
- (H) Unlawful Use of Rabies Tag. It is unlawful for any person to use any rabies tag except for the animal for which the rabies tag was issued. It shall be unlawful for any person to keep, manufacture or use a stolen, counterfeit, or forged animal rabies tag, rabies vaccination certificate, or other form of licensing as required under this ordinance.
- (I) Unlawful Retention of Stray Animals. No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal which he does not own, for more than twenty-four (24) hours, without first reporting the possession of such animal to the Center giving his name and address, a description of the animal, the circumstances under which he took up the animal and the current location of the animal. He shall immediately surrender such animal to the Center upon demand.
- (J) Interference with the Center in the Performance of Duties. It is unlawful for any person to attack, assault, or in any way physically threaten or interfere with the Center in the performance of those duties required to enforce this ordinance.
- (K) Dogs Trained to Assist the Blind or Deaf Allowed in Public Places. It is unlawful for any person owning, operating, or maintaining any public place of business to bar or exclude therefrom any dog which is being used to assist the blind or deaf.

6-2-7: CRUELTY TO ANIMALS PROHIBITED.

- (A) Physical Abuse. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise cruelly set upon an animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
- (B) Work Cruelty. It is unlawful for any person to drive or work any animal cruelly.
- (C) Care and Maintenance. It is unlawful for any person to:
 1. fail, refuse, or neglect to provide any animal in his charge or custody with proper food, drink, shade, or shelter; or
 2. carry any animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in the bed of trucks shall be crated or restrained so that they cannot fall or jump from the truck.
- (D) Abandonment of Animals. It is unlawful for any person to abandon any animal within the City. Owners of unwanted animals may turn over said animals to the Center for adoption, or to be destroyed in a humane fashion in compliance with this ordinance.
- (E) Animal Poisoning and Trapping.
 1. It is unlawful for any person to make accessible to any animal, with the intent of harming or killing, a substance which has been treated or prepared with a harmful or poisonous material.
 2. This section shall not prohibit the eradication of vermin which are a threat to public health.
- (F) Uncared for Animals. Whenever the Center finds that an animal is or will be without proper care because of the injury, illness, incarceration, or other absence of the owner of such animal, the Center may take up such animal for protective care. While the animal is in protective custody, upon the advice of a licensed veterinarian, the Center may take such action as necessary to prevent undue pain and suffering to the animal including the humane destruction of the animal. If an animal remains in protective custody for five (5) days, it becomes the property of the City and the Center may place the animal for adoption, or otherwise dispose of it in accordance with the provisions of this ordinance.
- (G) Injured Animals. Any motor vehicle operator who strikes or runs down any animal shall immediately give notice to the Center or appropriate law enforcement agency. Any person seeing a sick or injured animal should call the Center or appropriate law enforcement agency.
- (H) Hobbling Livestock. It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to the animal.
- (I) Keeping of Sick or Diseased Animals. It is unlawful for any person to own any animal which is seriously sick or injured and not provide proper veterinary care for such animal. The Center may impound and humanely destroy sick or injured animals in accordance with the provisions of this ordinance, without giving notice as provided in the impound section of this Ordinance. This section shall not be construed to include animals under

active veterinary care or veterinary hospitals.

- (J) Animal Fights.
 1. It is unlawful for any person to promote, stage, hold, manage, conduct, carry on, train for, or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves, or any other animal.
 2. It is unlawful for any person to provoke or entice any animal from the property of its owner, for the purpose of engaging any animal in an animal fight.
- (K) Fowl Impounding - Crating. It is unlawful for any person to confine any wild or domestic fowl or birds, unless provisions are made for the proper feeding and watering of such fowl or birds at intervals not longer than twelve (12) hours and so that the fowl or birds can stand in a naturally erect position.
- (L) Song Birds - Killing and Robbing of Nest Prohibited. It is unlawful for any person to willfully kill any song bird, or to destroy or rob the nest of such bird.

6-2-8: SALE OF ANIMALS - FLEA MARKETS AND LIVESTOCK TRADERS.

- (A) Use of Public Property. No person shall display, sell or offer for sale, barter, give away or otherwise dispose of any animal upon any street, sidewalk or public park.
- (B) Rabbits or Fowl. No person shall sell, offer for sale, barter or give away any rabbits or fowl under four (4) weeks of age in any quantity less than six (6). Nothing in this section shall be construed to prohibit the raising of such rabbits and fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his possession. Anyone selling or dealing in animals must apply for a permit and comply with the specific regulations set forth.
- (C) Premiums and Novelties. No person shall offer any live animal as a premium, prize, award, novelty or incentive to purchase merchandise.
- (D) Turtles. No person shall offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.
- (E) No person shall offer for sale, sell, barter, or give away any exotic animal except as provided herein.

6-2-9: PERMITTED PREMISES.

- (A) Permit Required.
 1. It is unlawful for any person to operate a kennel, grooming parlor, pet shop, refuge, shelter, or hobby breeder site without a valid permit issued by the Center.
 2. No person shall receive, purchase, own or keep any exotic animal without first obtaining a valid permit issued by the Center.
 3. No person shall keep, conduct or operate any animal exhibit without first obtaining a valid permit issued by the Center.

4. The Center shall collect fees for inspections related to the issuance, renewal, and maintenance of such permits.
- (B) Permit Applications.
1. An application for a permit shall be filed on forms provided by the Center and shall require such information as to assure the Center that the applicant has the proper knowledge and facilities to care for the animals in a manner that protects the public and the animals.
 2. A certificate of compliance with applicable Zoning Ordinances shall be filed along with the application.
 3. Proof of compliance with all applicable state and federal permit requirements shall be filed along with the application.
- (C) Permit Approval, Appeals.
1. Within thirty (30) working days of receipt of an application for a permit, the Center shall inspect the application and the premises to determine whether they comply with the standards established in this ordinance.
 2. Within thirty (30) days after the inspection required for any permit, the Center shall approve, approve with conditions, or deny the permit application. The Metro Authority Board shall approve an application only if it determines that:
 - a. the standards established will not result in activity which presents a danger to the public health, safety or welfare or which presents a danger or nuisance to the neighborhood.
 - b. the issuance of a permit will not result in activity which presents a danger to the public health, safety or welfare or which presents a danger or nuisance to the neighborhood.
 3. Should any affected party wish to appeal the Board's decision on a permit application, the party may request a hearing. A written request for hearing must be filed at the Metro Animal Control Center within five days of receipt of the Board's decision.
 4. The hearings provided for in this section shall be conducted by the Board at a time and place designated by it. Based upon the record of such hearing, the Board shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. The Board shall provide a written report of the hearing decision to the party requesting the hearing. This subsection is not intended to preclude the institution of court action as provided elsewhere in this ordinance.
- (D) Permit Requirements, Expiration, Renewal.
1. All permits except guard dog permits are not transferable from one person or place to another person or place. Guard dog permits may be transferred to a new location operated by the same person during the permit year providing that advance notice of at least five (5) working days shall be given to the Center for each transfer. Permit transfers shall not be effective until the Center has inspected and approved the facilities at the new location and the information required on the permit application has been recorded.
 2. A valid permit shall be posted in a conspicuous place at every permitted premises.
 3. A permit holder shall notify the Center of any changes in his operations which may affect the status of his permit and shall keep the Center apprised of any change in name or location of the activities covered by the permit.
 4. Persons in charge of any permitted premises as well as owners of permitted premises shall be responsible for complying with this ordinance.
 5. There shall be kept at each permitted premises a record of all animals owned, purchased or received, and a record of their final disposition.
 6. Permits shall expire one year after the date of issuance, and an application for renewal shall be filed thirty (30) days before the date of expiration. Application and inspection procedures and fees for permit renewals shall be the same as those for new applications except that the petition process shall not be required. Failure to renew permits as specified shall result in the assessment of a penalty fee in addition to the cost of the permit One (\$1.00) Dollar per month.
- (E) Facilities and Care Standards for Permitted Premises.
1. Animal housing facilities shall be structurally sound and shall be constructed of non-toxic materials. Interior floors shall be smooth, easily cleanable construction and impervious to water. The facility shall be kept clean, sanitary and in good repair so as to protect animals from disease and injury.
 2. Animals maintained in pens, cages, or runs for periods exceeding twenty-four (24) hours shall be provided with adequate space to prevent overcrowding and to maintain normal exercise according to species.
 3. Indoor housing shall be provided in all permitted premises with proper ventilation and temperature, and with sufficient lighting provided by either natural or artificial means.
 4. Outside housing shall protect animals from weather that may be detrimental to the animals' health.
 5. Provisions shall be made for the removal and proper disposal of animal and food waste, soiled bedding, dead animals, and debris. Disposal facilities shall be operated so as to minimize vermin infestation, odors, and disease.
 6. Adult animals shall be segregated by sex, except where otherwise indicated for health, welfare, or breeding purposes.
 7. Vicious, diseased, injured animals or animals that have bitten a person shall be individually caged.
 8. Animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and

water containers shall be kept clean.

9. Each animal shall be observed daily by the person in charge. Sick, diseased, injured, lame, or blind animals shall be provided with proper veterinary care. The person in charge who observes an animal which is suspected of being rabid shall immediately notify the Center and segregate such animal.
10. Refuges shall be required to have all their dogs and cats spayed or neutered.
11. The number of adult dogs or cats, or any combination thereof, which any holder of a permit or hobby breeder may keep shall be limited:
 - a. In a residential area, hobby breeding kennel area shall be limited to ten percent (10%) of the total area of the premises.
 - b. Within the kennel area of a hobby breeding site, there shall be 75 square feet for each animal under 30 pounds, 100 square feet for each animal from 30-59 pounds, and 125 square feet for each animal 60 pounds or more.

F. Access to Permitted Premises.

1. The Center upon presentation of proper identification shall be permitted to enter, at any reasonable time, any permitted premises, for the purpose of making inspections to determine compliance with this ordinance. The person in charge shall be given an opportunity to accompany the Center director on his inspection. The Center shall be permitted to examine any records pertinent to the origin and care of any animals located at or emanating from any permitted premises.
2. Whenever an inspection is made of a permitted premises the findings shall be recorded on an inspection report from which shall summarize the requirements of this ordinance. A copy of the inspection report shall be furnished to the person in charge. The inspection form shall be signed by both the Center and the person in charge.

6-2-10: EXOTIC ANIMALS.

- (A) Prohibited Exotic Animals. No person shall own, harbor, or keep any species prohibited by Federal and/or New Mexico law, bats, or skunks.
- (B) New Animal Addition. The addition of new exotic animals in a collection by the reproduction of members of the collection or by replacement in the same number and zoological species as the members replaced does not require an additional permit during the year, provided the Center is notified in writing within thirty (30) days of the addition of any new animal.
- (C) Consolidation of the Exotic Animal Permit. If during the preceding year, more than one initial permit has been issued to the applicant, such permits may be consolidated so that only one renewal permit is required; provided, however, that the renewal date for the consolidated permit shall be one year from the date of issuance of the initial permit.
- (D) Health Requirements. Exotic animal owners must sub-

mit a health certificate from a qualified veterinarian to the Center within fourteen (14) days of acquisition of the animal. The health certificate must state that the animal is in good health and has been properly vaccinated if necessary.

(E) Exotic Animal Permit Requirements.

1. Along with all the facilities and care standard requirements for permitted premises in this ordinance, exotic animals shall also be kept and cared for so that they do not endanger the safety of any person or property.
2. The holder of an exotic animal permit must notify the Center when changing his residence or location of the animal, or selling or otherwise disposing of the animal for which the permit was issued.

(F) Impoundment. The Center may impound any exotic animal for failure to comply with this ordinance, using the impound procedures set out in this ordinance or using a procedure which is most likely to protect the public in the case of a dangerous exotic animal.

(G) Exclusion Section. Notwithstanding the above, zoological parks, veterinary hospitals, humane society shelters, public laboratories, circuses, sideshows, and educational or scientific facilities are excluded from the provisions of this Subsection provided that protective devices adequate to prevent such animals from escaping or injuring the public are provided.

6-2-11: ANIMAL EXHIBITS.

- (A) All animal exhibit permits issued by the Center shall be for a specific period of time, but not to exceed one year.
- (B) Upon the filing of each application hereunder, either for an original animal exhibit permit or renewal, the Center shall make such investigations as it deems proper. The Center shall then issue a permit to the applicant if it is found that:
 1. The animals or the conduct or operation of the business for which the permit is requested will not constitute a menace to the health, peace, or safety of the community.
 2. The premises and establishment where animals are to be kept is maintained in a clean and sanitary condition, that the animals will not be subject to suffering, cruelty, or abuse, and the applicant has not had a permit revoked within one year prior to the date of application.

6-2-12: GUARD DOG FACILITIES.

- (A) Along with all the facilities and care standard requirements for permitted premises in this ordinance, the area where guard dogs are housed while not on duty must be secured so as to prevent the escape of the guard dogs and shall be kept locked when not in use.
- (B) The premises where guard dogs are on duty outside of buildings, must be enclosed by at least a six-foot fence to which antiescape devices have been added.
- (C) In order to control noise, a barrier which breaks the dog's line-of-sight may be required.

- (D) The buildings where guard dogs are on duty must be secured so as to prevent their escape through doors, windows or other openings to the outside.
- (E) The guard dog premises must be posted with warning signs at least twelve (12) inches square. These signs shall state "Guard Dog" and "Guardia" and contain a picture of an aggressive dog. These signs shall be posted not more than two hundred (200) feet apart, and shall be posted at all corners of the premises, and at every entrance to the premises.
- (F) Vehicles used to transport guard dogs or vehicles being protected by guard dogs shall be secured so that the public is protected from injury, shall be constructed so that the guard dogs are transported in a safe, humane manner and shall be posted with warning signs in a conspicuous place.

6-2-13: SUSPENSIONS, REVOCATIONS OF PERMITS.

- (A) If the Center discovers that a permitted premises is in violation of this ordinance, he shall give notice of these violations to the permit holder, operator, or person in charge by means of an inspection report or other written notice. The notification shall:
 - 1. Set forth specific violation(s).
 - 2. Establish a specific and reasonable period of time for the correction of the violation(s).
 - 3. State the failure to comply with any notice issued in accordance with the provisions of this ordinance may result in immediate suspension of the permit.
 - 4. State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Board within five (5) days.
- (B) Notices under this section shall be properly served when the original of the inspection report or other notice has been personally served on the person in charge, or such notice has been sent by registered mail to the last known address of the permit holder.
- (C) Permits may be suspended for failure of the holder to comply with the requirements of this ordinance or of other applicable laws, ordinances or regulations. The suspension may be lifted when the Board determines the violations have been corrected.
- (D) Permits may be revoked for serious or repeated violations of any of the requirements of this ordinance, or of other applicable laws, ordinances or regulations. The revocation of a permit shall last for a period of one year. The permit shall be surrendered to the Center upon suspension or revocation.
 - 1. Any person whose permit has been suspended may make application for an inspection for the purpose of reinstatement of the permit. Within five (5) working days following a request for a reinstatement, the Center shall make an inspection. If the applicant is complying with the requirements of this ordinance and other applicable laws, regulations, and ordinances, the permit shall be reinstated.

- 2. Any person whose animal permit has been suspended, must surrender all animals to the Center for impoundment as provided for in the impoundment section of this ordinance. If, after a period of at least seven (7) days, the reasons for which the permit was suspended have not been rectified, the Center may sell or dispose of the animal(s) as provided herein.

6-2-14: APPEAL PROCEDURES FOR PERMIT DENIAL, SUSPENSION, OR REVOCATION.

- (A) Any person whose application for a permit or permit renewal has been denied, or any permit holder whose permit has been suspended or revoked, may submit to the Center a written request for a hearing, provided that the written request is received at the Metro Animal Control Center within five (5) working days after the permit denial, permit renewal denial, permit suspension, or permit revocation. The hearing shall be conducted within a reasonable time of receipt of the request.
- (B) Hearings shall be held before the Metro Authority Board, at a time and place designated by the hearing officer. A written notification specifying the time, place, and the procedures governing the hearing shall be mailed to the grievant and to the Center. The grievant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:
 - 1. The opportunity to examine and copy before the hearing and at the expense of the grievant, all documents, records and regulations at the Center that are relevant to the hearing. Any document not made available by the Center after written request by the grievant, may not be relied on by the Center at the hearing;
 - 2. The right to be represented by counsel or other persons chosen as his or her representative;
 - 3. The right to a closed hearing unless the grievant requests a public hearing;
 - 4. The right to present evidence and arguments in support of his/her grievance, to controvert evidence relied on by the Board, and to confront and cross-examine all witnesses on whose testimony or information the Board relies; and
 - 5. A decision based solely and exclusively upon the evidence presented at the hearing.
- (C) The Board may render a decision without proceeding with the hearing if the hearing officer determines that the issue has been previously decided in another proceeding. If the grievant to the Center fails to appear at a scheduled hearing, the Board may postpone the hearing for a period of no more than five (5) business days or may determine that the absent party has waived his right to a hearing. Both parties shall be notified of such determination.
- (D) At the hearing the grievant must first show an entitlement to the relief sought, and the Center must then justify its act or failure to act. The hearing shall be con-

ducted informally, but all persons present shall be orderly and witnesses shall be sworn. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings, or other appropriate action. Oral or documentary evidence pertinent to the fact and issues raised by the grievance may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

- (E) The complainant or the grievant may arrange for a transcript of the hearing (in advance and at the expense of the party making the arrangement).
- (F) The Board shall prepare a written decision together with the reasons therefor, within ten (10) days after the hearing with copies of the grievant and the Board.

6-2-15: LICENSE AND PERMIT FEES.

(A) License Fees:

1. The annual license fee for each unneutered or unspayed dog or cat shall be \$25.00, \$20.00 will be refunded if proof of spaying or neutering is provided to the Center within forty-five (45) days.
2. The annual license fee for each unneutered or unspayed dog or cat which is owned by a person sixty-two (62) years of age or older shall be \$25.00 annually, \$22.00 will be refunded if spayed or neutered within forty-five (45) days.
3. For each neutered or spayed dog or cat, and for each dog or cat for which neutering or spaying has been certified as a surgical risk, the annual sterilized license fee shall be \$5.00. Proof of qualification for sterilized license can only be made with a written certificate from a licensed veterinarian stating that the animal has been neutered or spayed or that neutering or spaying would be a surgical risk for the animal due to the animal's age or condition.
4. The license fee shall not apply to specially trained dogs owned, harbored or kept for the purpose of assisting the blind or the deaf.
5. Replacement license tags shall be sold at the cost of \$1.00 each.
6. The penalty fee for late license renewal shall be \$1.00 per month.

(B) Permit Fees:

1. The fee for a new permit shall be \$35.00. Shelters shall be exempt from this fee.
2. Whenever a new zoological species or collection is acquired by an exotic animal permit holder, a new fee shall be paid.
3. The annual renewal fee for an exotic animal permit shall be \$35.00
4. The guard dog permit fee shall be \$35.00.
5. The penalty fee for late permit renewal shall be \$5.00.
6. Permit fee for pet shops, kennels, flea market vendors, livestock traders, refuge permits shall be \$35.00.

6-2-16: ANNUAL FEE ADJUSTMENT.

All fees included in this ordinance will be adjusted annually on July 1 to reflect changes in the CPI, "all commodities". The base year will be the first quarter of 1992.

6-2-17: PENALTY CLAUSE.

Any person who violates any of the provisions of this ordinance shall upon conviction thereof, be punishable by a fine not exceeding \$500.00 and/or imprisonment for a period not exceeding ninety (90) days except that the first violation of the rabies vaccination requirement or the City license requirement sections of this ordinance shall be punished by a penalty by Metro Animal Control of \$15.00. A second violation of this ordinance within any period of one (1) year shall require an appearance before the Municipal Court. Each day this ordinance is violated shall be considered a separate offense.

6-2-18: HUMANE OFFICER

Humane officers shall have the authority in the City to issue citations for violations of this Ordinance and to perform other such duties as prescribed herein. They shall be considered law enforcement officers and are exempt from payment of municipal court filing costs.

6-2-19: PERJURY CLAUSE.

It is unlawful for any person to make any false affidavit, or knowingly swear or affirm falsely to any document, matter or thing required by the terms of the Metro Animal Control Ordinance to be sworn to or affirmed.

SECTION 2. REPEALER:

Chapter 3 (DOGS) (Sections 6-3-1 through 6-3-12) of Title VI (POLICE REGULATIONS) of the municipal code of the City of Gallup, New Mexico is repealed and shall be marked "RESERVED".

Section 3. This ordinance shall become effective after its passage and publication by title and summary as provided by law.

PASSED, ADOPTED and APPROVED this 24th day of March, 1992.

SECTION 4. This ordinance shall become effective after its passage, and publication, and recording as provided by law.

PASSED, ADOPTED and APPROVED this 23rd day of April, 1992.