

ANIMAL CONTROL ORDINANCES IN NEW MEXICO:

A GUIDE TO SUCCESSFUL IMPROVEMENTS



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Animal Protection of New Mexico
www.APNM.org



ANIMAL CONTROL ORDINANCES IN NEW MEXICO: A GUIDE TO SUCCESSFUL IMPROVEMENTS

INTRODUCTION

As an advocate for animals in your community, you may one day become involved in upgrading what is commonly known as the animal control ordinance in your city or county. This set of local laws may also be referred to as the animal care and control ordinance, or simply the animal ordinance.

Perhaps your community is experiencing rapid growth; animal-related problems you never noticed before are all too apparent now.

Or, maybe you see something is critically lacking in the way animals are treated in your city or county, and you want to make things better for them.

For example, you notice that many dogs in your community are chained. Or, you've been seeing more and more puppies and kittens being sold on the side of roads or in parking lots. Not only have you noticed it, you've reported it to animal control, only to be informed that it's not against the law in your area.

Imagine a public official suddenly receiving several complaints about a local pet store selling sick animals to consumers. What if that official, knowing of your interest or expertise in animal welfare, asks for your advice about a law to ban the sale of dogs and cats in pet stores?

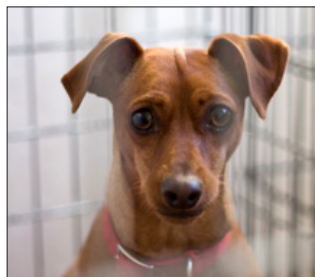
You may work for your local animal shelter and notice a sharp increase in dog and cat overpopulation due to a lack of spaying and neutering.

Assessing your local animal protection laws is a crucial step in the right direction to determine if an upgraded ordinance is indeed what's necessary. Could the problems be addressed with increased public awareness? Could the solution be that more (or different) personnel are needed to enforce the current ordinance? Could enforcement officers simply need more funding for better equipment and training?

Assuming your ordinance is the thing you want to address at this time, we hope this guide will assist you. If you've been through an ordinance upgrade in another state, but would like to know what to expect in New Mexico, we hope this guide will be of assistance, too. Or, if you've tried to improve an ordinance

in the past, but were not successful, this guide may provide a new approach for the future.

Whatever the scenario, know this much: Development of a new and improved ordinance is rarely the work of one person. It comes about when residents of a community - *and* the local government - work together to make it happen.



NEW MEXICO STATE STATUTES AND ANIMALS

The term “statute” refers to a law enacted by a legislative body of government, whether federal or state.

State statutes are the starting points for this discussion, as they provide for the comprehensive structure of animal law throughout the state. That is, the state delegates some of its authority regarding animals to state agencies and boards (such as the Game Commission, Racing Commission, Livestock Board, Board of Veterinary Medicine and Animal Sheltering Board).

Just as the state delegates some authority regarding animals to such administrative agencies and boards, it may similarly delegate certain powers to other units of government within the state, specifically, cities and counties. This is where ordinances come in.

For the purposes of updating a local animal ordinance, be aware of current state laws regarding animals. The most current online version of New Mexico State statutes is available from the New Mexico Compilation Commission, www.conwaygreene.com.

As we will see, when you review your existing animal ordinance, you may see reference to various state statutes. These references help provide clarity for law enforcement officials and the public alike.

The New Mexico Statutory Chapter 30 (Criminal Offenses), Article 18 (Animals), includes laws such as *Cruelty and Extreme Cruelty to Animals*, *Seizure of Animals* and *Dog Fighting and Cock Fighting* (NMSA 1978, § 30-18-1 through § 30-18-15).

The New Mexico Statutory Chapter 77 (Animals and Livestock) includes sections such as *Dogs and Domesticated Animals* (NMSA 1978, § 77-1-1

through § 77-1-20), the *Dangerous Dog Act* (NMSA 1978, § 77-1A-1 through § 77-1A-6) and the *Animal Sheltering Act* (NMSA 1978, § 77-1B-1 through § 77-1B-12).

NMSA 1978, § 30-18-1 provides an umbrella definition of animal cruelty and sets a range of penalties. It says cruelty consists of a person “negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or abandoning or failing to provide necessary sustenance to an animal under that person’s custody or care.” Lawful justification means “humanely destroying a sick or injured animal, or protecting another from injury or death.”

The same statute provides that a person who commits animal cruelty is guilty of a misdemeanor and can be subject to a year’s incarceration and a \$1,000 fine, sentenced pursuant to the provisions of NMSA 1978, § 31-19-1.

NMSA 1978, § 30-18-1 further provides that on the fourth or subsequent conviction of animal cruelty the offender is guilty of a fourth-degree felony and is subject to penalties of 18 months incarceration and a \$5,000 fine, sentenced pursuant to NMSA 1978, § 31-18-15.

NMSA 1978, § 30-18-1 defines extreme animal cruelty as “intentionally or maliciously torturing, mutilating, injuring or poisoning an animal, or maliciously killing an animal.” A person who commits extreme animal cruelty is guilty of a fourth-degree felony and shall be sentenced pursuant to NMSA 1978, § 31-18-15.

It is important to remember, however, that the judge who oversees a case brought to her or him by authorities usually sets penalties.

LOCAL GOVERNMENTS AND ANIMAL ORDINANCES

The term “ordinance” simply means a law enacted by a local governing body such as a city council or board of county commissioners.

Remember that while a local law may be stricter or more stringent than a state law, it may not be less restrictive. In other words, a local law may prohibit what the state does not, but it cannot allow what the state prohibits.





For the health and safety of New Mexico residents, local governments are required by state law to have, among other things, an ordinance in place to address certain animal issues such as the seizure and disposition of dogs and cats roaming at large (NMSA 1978, § 77-1-12) and the impoundment of rabies-suspect animals (NMSA 1978, § 77-1-15.1B).

Cities and counties may also expand on the state's animal cruelty statutes in their ordinances. (NMSA 1978, § 3-18-3.)

A local ordinance can help to define or refine state laws regarding animals. From the perspective of a city or county administrator, a local ordinance can address shortcomings in state law. It can also address issues that are not regulated at the state level, such as licensing, spaying and neutering and breeders' permits.

Further, local laws can be important tools to enable officers to help an animal before a bad situation becomes extreme, for instance in the case of chained dogs, animals left in hot cars, hoarding, backyard breeders and puppy/kitten mills.

PROCEEDING WITH KNOWLEDGE

Sensible and comprehensive local animal ordinances, along with effective public education and enforcement, are keys every community can use to solve animal-related problems.

Evolving needs of communities, growing populations and the enactment of new state laws represent a few of the reasons that cities and counties must revisit and update ordinances from time to time.

Changing an ordinance is rarely a simple task. It can become a huge, time-consuming feat. A reasonable estimate might be 12 -18 months. Tedious review of countless drafts may leave you thinking, "What free time?"

That being said, *before* you set out to create or revise your local ordinance, it is best to learn what the actual process will require in your own municipality or county.

Contact your city or county clerk, attorney, or manager for assistance in obtaining copies of ordinances and for guidance on the process. Knowing the requirements and timelines of the process will help you shepherd it forward to success.

Each incorporated municipality should have its own ordinance, as should each county. Find out from your city or county attorney what timelines exist for such things as legal notices to the public, periods for public comment and setting dates for public meetings of the governing body to consider an ordinance.

At this early stage, you should just be asking basic questions in order to plan ahead. For example, the city council or county commission may need to appoint an animal ordinance committee, advisory board or task force. If so, there will be rules to follow for appointing it.

The makeup of such an official committee can be helpful to your quest, or it may pose challenges. An announcement might be published asking for interested persons to apply. In this case, you may begin to see both those who support and those who oppose stronger laws to protect animals sitting on the same committee. Another possibility is that a sub-committee made up of elected officials might be required to look at the ordinance.

On the other hand, the city or county may only require that one elected official sponsor a new or revised ordinance for consideration.

DEVELOPING CORE SUPPORT

Once you have made notes about the technical requirements, put them aside for the moment and think about organizing a core group of supporters who will help on numerous levels to achieve the outcome you want - the creation and enactment of an upgraded animal ordinance.

It is likely you are already in touch with other people in your community who care about animals and are interested in working on a better ordinance.



City of Albuquerque

If you don't already know a group of like-minded residents, seek them out in animal-related activities, humane societies, in your workplace or in social situations.

As time goes on, you will want to continue to add people to your coalition of support. Explore any contacts supporters may have with any and all elected officials, city or county attorneys, district attorneys, prosecutors, judges, etc. Be creative so you can identify and cultivate more potential supporters.

Include in your network local stakeholders and others who are in a position to influence people in the community. That might be the owner of the local bank, members of a chamber of commerce or it might be the owner of the local diner. Enlist their support and their help to identify local, specific examples of why changes are needed. Do not underestimate the importance of these community members - you will need their presence and their supportive comments at public hearings held by the council or commission.

While it may be more useful for some like-minded people to step forward to serve on the official ordinance committee or task force (if one is required), others will be better suited to help as core supporters.



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Engage volunteers willing to help enlist more local support as you progress. You will probably need people with a variety of skills very soon for such things as organizing future outreach events, press/media attention, gathering signatures on petitions, recruiting other residents to testify at meetings, writing letters to council or commission members and writing letters to the editor.

Realize that it will take some time and effort to organize an effective and diverse base. For the moment, though, sit down with a comfortable number of supporters and prepare to take a preliminary look at your current ordinance.

TAKING A LOOK AT YOUR EXISTING ORDINANCE

Read through your ordinance so you will have an overview of the local laws currently affecting animal issues in your community. Keep in mind that ordinances are not created to restrict civil liberties or impose arbitrary control over residents. An effective animal ordinance provides for the protection of animals *and people by*:

- providing tools for law enforcement;
- focusing on preventing or solving problems;
- educating residents;
- setting standards for responsible behavior; and
- preventing cruelty and neglect.

It is never too early to begin the process of looking at specific details in your ordinance that are lacking or need revision, because you will need to have a grasp of what the issues are before you move to the next steps. You will soon understand why it will help you to have more people involved to help with the process!

Indeed, once the process to revise your ordinance is officially underway, if there is an official committee or advisory board assigned to the task, they will be the ones examining such details. Consider this time a head start for the moment and another way to proceed with knowledge in hand.



REVIEWING THE DETAILS

Now, take a look at some of the details in your current ordinance and jot down some notes. To begin with, does it mirror the state law? You already know it must include language related to animals running at large and rabies, for example. If those two things make up your entire ordinance, it's definitely time for an upgrade.

As you proceed, remember that the foundations of a strong ordinance are clear definitions, comprehensive care and maintenance sections, and enforceable provisions throughout.

Review your current ordinance to see if it contains weak language or no language at all relating to items such as:

- animal cruelty
- care and maintenance
- shelter and shade
- abandonment
- poisoning
- protections for livestock
- animal shelter/facility standards
- chaining/tethering
- injury to animals by motorists
- animals left in hot cars
- licensing
- spaying and neutering
- hoarding
- animal fighting and paraphernalia
- sale of animals (pet stores, puppy and kitten mills, roadside and parking lots, dyed chicks and other 'holiday' animals)
- keeping wild or exotic animals
- sterilization before adoption from shelter/follow up on sterilization deposit
- number of animals allowed before permit or inspection required.

Again, a detailed list of definitions is a must for any ordinance. Be on the lookout for insufficient or confusing definitions of such terms as:

- animal
- owner/guardian/keeper
- breeder
- kennel
- operator of animal establishments.



DON'T PANIC - YOU WON'T HAVE TO REINVENT THE WHEEL

No matter how many improvements you wish to incorporate in your local ordinance, there's no need to start from scratch. It's easy to find a good model ordinance, or existing language for a specific topic of interest. Just go to Animal Protection of New Mexico's Web site: www.apnm.org/publications/ to locate animal ordinances from cities and counties across New Mexico. It may be helpful to search for ordinances from other cities or counties comparable in population to your own.

BUILDING A NETWORK OF SUPPORT WITHIN LOCAL GOVERNMENT

Well in advance of setting the official wheels in motion to upgrade your ordinance, you need to be thinking about how to have official support in place and ready to go to work when the time is right.

Conduct some initial research on animal control issues that may have been addressed in prior meetings of your local city council or county commission. Ask Animal Protection of New Mexico for statistics on problems in your community. News articles and meeting minutes are two other good sources to explore. If possible, watch online videos of past meetings that contain discussion or votes on pertinent issues.

Simply put, you are going to need someone in authority who is not only on your side, but who will be a champion for the changes you want to see.

Determine which elected official (councilor or commissioner) will be your best advocate. Arrange to meet and ask if he or she will sponsor an animal ordinance revision. Discuss the process and strategize.

Consider organizing a meet-and-greet for your sponsor at someone's house - with your core supporters in attendance.

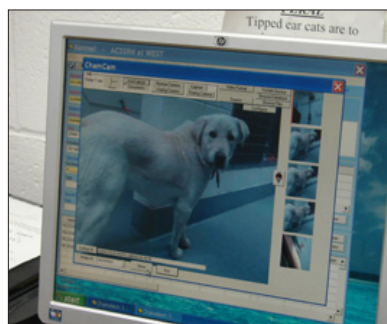
Encourage voters to let their elected officials know a better ordinance is important to them. The more you can influence policy-makers, the better chance you have of being successful.

Make sure your issues are understood. For example, educate decision-makers with information about the link between domestic violence and animal cruelty, the public safety dangers of chained dogs, the cost savings to the community when dogs and cats are sterilized, licensed, etc.

The following organizations all have information on *specific topics of importance to your community* available to download:

- Animal Protection of New Mexico - www.apnm.org
- The Humane Society of the United States - www.humanesociety.org
- The ASPCA - www.asPCA.org
- Best Friends Animal Society - www.bestfriends.org
- The Animal Legal Defense Fund - www.aldf.org

Often it is a good idea for a supportive person to provide a presentation at a council or commission meeting at the very beginning of the process. Your sponsor may indicate that public presentations are needed to demonstrate the need to form a formal advisory committee or task force to draft the new ordinance.



City of Albuquerque

Discuss with your sponsor what the best strategy will be for your community.

It may be time to begin meeting with department directors or supervisors who oversee animal control employees and enlist their enthusiastic support.

A city or county employee, such as the animal control officer, supervisor, the chief of police, or the sheriff may make presentations. One or more residents may also make them.

Presentations provide an excellent way to 'test the waters' in a public setting and generate additional support. They also serve as a polite way to say to the entire governing body, 'This issue is coming your way, so heads-up!' There may be a need to do more than one presentation over the course of several months.

MOVING FORWARD, BUILDING BRIDGES

There are important things to take into account about working with public employees and elected officials. The next sections explore some ideas that will help you make the most of those relationships, before the "official" process even begins.

WORKING WITH ANIMAL CONTROL OFFICERS

Find out who must enforce your local animal ordinance, and enlist their help, expertise and cooperation. It may not always be possible and it may require a lot of persuasion and persistence. But, if you are to be successful in your efforts to improve your local ordinance, their participation and support can be very helpful, and is often crucial.

Does your city or county have one or more designated animal control officers? Depending on the size of your community, animal control duties may be handled through local law enforcement agencies. It is also possible the duties may be assigned to another department, such as environmental services or public works.



City of Albuquerque

Most animal control officers in New Mexico are officers of the court, meaning they have the power to take testimony, issue citations and criminal complaints and present misdemeanor cases. Very few of them are certified as police officers. Most must coordinate with police agencies to obtain a search warrant or make an arrest.

Obtain or *offer to help compile* a list of calls handled by the animal control officers in the previous year, broken down into categories as much as possible. For example, list the type of complaint, type of animal, location and outcome. (If you encounter resistance, you may need to file a public records request for the information.)

Although this can be a time-consuming process, it will provide invaluable data to guide you in the quest to improve your ordinance. It can be provided to your core support group as well as any appointed committee or task force. You may also find similarly useful information through your local animal shelter, such as animal intake and euthanasia statistics. Animal Protection of New Mexico can also provide this kind of data for your city or county.



The more supporting documentation you can present about the actual problems in your community, the more convincing your argument will be for an improved ordinance. It can also show how an outcome could have been better had the local ordinance addressed a particular issue.

Animal control officers are in a prime position to help evaluate and develop an improved, strengthened ordinance because they can:

- demonstrate the difficulty with protecting animals and people without the right tools;
- demonstrate that with the right tools and support, animal issues can be brought under control and not become “hot” issues for elected officials - in short, officers can do their jobs;
- document the need for more humane treatment of animals;
- document the need for greater public safety; and
- present photographic examples and testimony of cases they have encountered.



Work with your animal control officers to create an effective presentation for use in committee meetings, one-on-one's with elected officials or public meetings.

DEVELOPING THE ORDINANCE

Finally, the time for action arrives. When the time is right, you and your sponsor, along with a couple of key people from your core support group should meet with the city/county attorney and city/county manager to share your concerns, give your suggestions and ask for their assistance in putting the process in motion.

If formal appointments must be made, your sponsor can request to address that in the next meeting of the council or commission. If no official committee need be appointed, your sponsor can follow the established procedure for proposing and preparing a new ordinance. The city or county attorney should be in the best position to help guide the process.

Roles may begin to shift if an official committee of some sort is created, but everyone involved can and should continue to help the ordinance development process progress. Attend all public meetings and contribute to them in every way possible.

Here are some suggestions for you, your core support group, official committee members, and anyone else involved in putting the draft document together:

- Strive to incorporate as much input as possible from:
 - animal control officers;
 - law enforcement agencies;
 - city or county attorneys and administrators; and
 - community stakeholders such as humane societies, senior citizens, youth groups, teachers, parents, economic development and real estate professionals, community service organizations, veterinarians, small business owners, chambers of commerce, etc.
- Be flexible as the draft develops, but don't accept vague language, which can result in enforcement problems. Use examples of good, defensible improvements already in place in other locations.
- Don't be intimidated by "long" ordinances. Ordinances must be thorough so both the public and law enforcement personnel can clearly understand what constitutes humane treatment of animals.
- Keep supportive elected officials "in the loop" throughout the drafting process – don't surprise them.
- When it comes to the section dealing with fees for such things as permits and licenses, consider the adoption of a separate resolution, rather than including fees in the ordinance itself. If the fees need to be adjusted in the future, it is much easier to do so without revisiting the entire ordinance. Public officials will appreciate this.
- Be patient with the process, do what is required and set reasonable deadlines for work as you go along.



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WORKING WITH ELECTED OFFICIALS

Once a final draft of the proposed ordinance is available, decide which supporters have the best access to the council members or commissioners within their own districts. They should then set up meetings with their elected official to provide information to them (a summary of the ordinance improvements, a copy of the final draft, letters of support from other community members, etc.), answer questions and gain their support.

Meanwhile, make sure members of the public are expressing their wishes to the decision-makers by way of:

- letters, calls, emails;
- letters to the editor and supportive editorials in the local newspaper and other media;
- flyers posted appropriately in the community; and
- outreach, with permission, at stores, malls, parks or other locations.

Make it easy for the public to help. Set up an email distribution list, a Web site, Facebook page, etc. to make available current and accurate contact information for each city councilor or county commissioner and for meeting notifications.

Organize informational meetings for each elected official on your council or commission and their constituents.



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PUBLIC HEARINGS

the time of the first council/commission meeting to consider the proposed ordinance, the councilors/commissioners should already be very familiar with the issues. Remember, you may have convinced the public and perhaps an official ordinance committee to support push for these changes, but the councilors commissioners are the only ones who

Depending on the procedural requirements for ordinances in your city or

county, there will likely be a series of public meetings that will occur before the ordinance is voted on in final form. While the ordinance is open for debate, new amendments may be proposed. Unexpected things may occur and delays can ensue.

Once the local governing body votes to accept a final proposed ordinance, the document will be made available to the public for a certain length of time to allow for comment before a final vote takes place.



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At this point, be on the lookout for people who may try to thwart all your hard work. This is the time to redouble your efforts to find even more community stakeholders who will publicly support the proposed ordinance changes. Identify and use all your connections wisely.

Consider making up a flyer to hand out to people about the importance of the new ordinance – including highlights about improvements in terms of public safety, animal protection, cost savings to taxpayers, and so forth.

Do as much work as you can *before* council/commission meetings. Work smart. Do your homework.

Always know your facts and have them straight - don't exaggerate. Make sure each supporter and potential speaker has the same, most up-to-date fact sheet. If you don't know an answer to a question, say so and follow up. Never guess - if you give out incorrect information, it hurts your credibility.

Ordinance work is often highly emotional. You will likely meet many people who will disagree with you, even among supporters. You may also encounter people who will try to undercut the good work you're doing.

Be proactive, professional and polite in all encounters. Don't allow yourself to respond emotionally in public. Staying professional in meetings brings dignity and respect to the work you do to help animals.



Make sure supporters who will speak at public meetings have some rehearsals ahead of time. (Your opposition may be doing the same.) Everyone should have clear instructions and reminders as to each meeting location, date, time, etc. They should be aware of the correct procedure for signing-in or requesting to speak.

Don't surprise elected officials with new or controversial information, especially in public meetings. Treat people how you want to be treated.



Proposed changes will have to be something that most people could *live with* (not necessarily that they even have to completely agree with). Be prepared to negotiate from beginning to end.

Ask those who resist certain changes how you might compromise and gain their support.

Listen, listen, listen (you may hear things you don't want to hear, but you'll learn a lot). Pay attention and take notes at each and every public meeting.

Don't be intimidated by the often vocal and uniformed opposition. You must build a broader, more informed and more vocal base of support.

Always be respectful of everyone speaking at public hearings, even if others' behavior is not professional. Don't get riled and don't allow yourself to be baited. Stay focused on your good work; it will eventually speak for itself.



Follow up after any and all meetings with the research and communication needed to answer any questions that may have arisen.

Remain vigilant after victories - don't fall into complacency. Stay on top of any new developments and respond accordingly.

Say thank you after every meeting. Handwritten notes are also appreciated. You want to "convert" decision-makers into animal advocates, so work with them whenever possible.

Understand the points of those who oppose what you're doing. Engage them to some extent, to understand where they'll oppose you. You might even convince them to support what you're doing. Write down their criticisms and develop arguments to refute them at the next meeting or in the next letter to the editor, etc.

KEEPING YOUR FOCUS ON LONG-TERM SUCCESS

Commit to achieving success. Realize that changes will have to be evolutionary, not revolutionary.

Stay focused on the goal: improving conditions for animals - and for people - in your community. Stay focused on the truth: know the problems in your area that the ordinance will help alleviate.

If a public hearing goes poorly or a meeting with an elected official seems negative, it is not the end of the world. It is your opportunity to respond to their criticisms and concerns with facts and compassion. Respond with a letter. Write an op-ed for the paper. Include photos of animals in bad conditions in your community.

In other words, make it very real and very obvious that your community can do better. Make it clear that people have a choice to do nothing, or stand up and do the right thing. Push, push, push until that final vote!

A successful vote in favor of the new, improved ordinance sends a strong message that animals matter in your community. It also helps as you begin to tackle ongoing associated issues, such as future needs for animal control officer training and shelter improvements.

Remember, the people who live in your community have the greatest ability to make positive changes happen. You elect your officials and you must express your wishes to them.

The best outcome of any ordinance change is not just a better ordinance, but a more engaged local government and community working to protect animals.





ABOUT ANIMAL PROTECTION OF NEW MEXICO

Animal Protection of New Mexico's mission is to advocate for the rights of animals by effecting systemic change, resulting in the humane treatment of all animals.

APNM has been working to promote the humane treatment of animals since 1979. APNM is a nonprofit, 501(c)(3) organization supported by donations, grants, and volunteers. APNM accomplishes its work through education and outreach and campaigns for change. APNM encourages people to work for animals on a daily basis, since improving conditions for animals often means that each person must become personally involved. Please become a member and be active for animals.



For more information, please contact:

Animal Protection of New Mexico
apnm@apnm.org • www.apnm.org
505-265-2322

Notes

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ANIMAL CONTROL ORDINANCES IN NEW MEXICO: A GUIDE TO SUCCESSFUL IMPROVEMENTS

Do you wish your city or county animal control ordinance could have a greater impact on crimes against animals?

Would you like to know how to create a new animal ordinance or upgrade an existing one?

Do you know how ordinances can protect animals while improving the lives of people in your community?



Animal Protection of New Mexico developed this booklet to answer these questions and many more. Animal advocates and community organizers will find the tools they need to ensure that their city and county have all the bases covered when it comes to animal care and control. By following these step-by-step instructions – drawn from actual efforts that have resulted in the passage of effective, enforceable ordinances in New Mexico – they will discover how to give local animal protection laws teeth and achieve meaningful results for the entire community.

"Bravo. I am so impressed. I think you have laid it all out in a very readable way and in a form that can be a guide for anyone taking on this enormous job. I think it states things accurately and clearly."

Theresa Welch Whatley, Senior Trial Prosecutor
Second Judicial District Attorney's Office
Albuquerque, New Mexico

