

**GRANT COUNTY, NEW MEXICO
ORDINANCE NO. O-16-04**

2016 GRANT COUNTY ANIMAL CONTROL ORDINANCE

PREAMBLE

WHEREAS, it is the intent of the Board of County Commissioners of Grant County that adoption of this ordinance will help protect animals from neglect and abuse, protect residents from annoyance and injury, promote the health, safety and welfare of residents and animals, and assist in providing control and recovery of animals;

WHEREAS, nuisances caused by domestic animals continue to be a problem in Grant County;

WHEREAS, NMSA (1978) § 4-37-1, et seq. provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to preserve the health and to provide for the safety, order, comfort and welfare of the citizens and animals of the county;

WHEREAS, NMSA (1978) § 77-1-1, et seq. establishes standards for the management of domestic animals and further requires that each county shall make provision by ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on their premises, and requires that each county shall provide for the impoundment of rabies suspect animals and shall designate a part-time or full-time animal control officer who shall enforce animal control laws, orders, ordinances and regulations; and

WHEREAS, the Board of County Commissioners of Grant County has determined that the health, safety and general welfare of the residents of Grant County would be best served by the adoption of a new animal control ordinance.

NOW THEREFORE BE IT ORDAINED THAT THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY DOES HEREBY ADOPT AN ANIMAL CONTROL ORDINANCE FOR GRANT COUNTY AS FOLLOWS:

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ARTICLE I – GENERAL PROVISION

Section 1-1 Short Title and Legislative Intent

This Ordinance may be cited as the “Grant County Animal Control Ordinance” and is referred to hereinafter as “this Ordinance.”

It is the intent of the Board of County Commissioners that enactment of this Ordinance will protect animals from neglect and abuse, protect residents from annoyance and injury, encourage responsible ownership of animals as pets, regulate and prohibit the running at large of any animal within the unincorporated area of Grant County, provide for the impounding and disposition of animals found running at large, and assist in providing housing for animals in an animal shelter. It is the intent of the Board of County Commissioners to organize and utilize advisory groups to assist with improving public awareness about subjects pertaining to the enactment of this Ordinance.

ARTICLE II – ADMINISTRATION

Section 2-1 Enforcement Authority

- A. The Animal Control Officer(s) (ACO), the Code Enforcement Officer(s), and/or any other peace officer with jurisdiction in Grant County, New Mexico, including any deputy from the Grant County Sheriff’s Office, shall have the authority to enforce this ordinance, and hereinafter will be referred to as the Authorized Officers.
- B. It shall be a violation to interfere with an officer in the performance of his/her duties. Interference shall include, but is not limited to, hiding, chasing off, or hindering an officer from capturing an animal, or giving an officer false and inadequate information.
- C. Authorized Officers shall be concerned primarily with the health and safety of the citizens of the County as affected by animals and with the health and safety of animals within the County limits.
- D. An Authorized Officer shall have the authority to investigate, upon probable cause, any alleged violation of this ordinance or any law of the State of New Mexico that relates to the care, treatment, and control of animals and to the prevention of cruelty to animals.
- E. Authorized Officers are authorized to enter onto and inspect premises and animals thereon within the County as necessary to perform their duties. If the owner or occupant of the premises objects to inspection a warrant shall be obtained from a court of competent jurisdiction prior to inspection, unless it appears to the Authorized Officer that probable cause exists of an emergency nature requiring such inspection.
- F. An Authorized Officer who has probable cause to believe that a person has violated this ordinance or any law of the State of New Mexico that relates to the care, treatment, and control of animals and to the prevention of cruelty to animals, shall have the authority to issue a citation to the alleged violator and/or to prepare a criminal complaint to be filed with the appropriate court.
- G. An Authorized Officer, or another designated representative of the county, may move to dismiss any citations, criminal complaints, or fees provided the animal owner enters an

agreement with the county to correct the unlawful conduct at issue, or provided that the county determines that there was no violation of this ordinance.

Section 2-2 Authority of County Manager

The County Manager or his/her designated agent shall have the power to issue reasonable rules and regulations to carry out the intent and purpose of this ordinance.

Section 2-3 License and Permit Fees

Fees for licenses and permits required by this Ordinance shall be established and adopted through resolution by the Board of County Commissioners.

Section 2-4 Procedures for Complaints

A complaint alleging any violation of this Ordinance may be filed with an Authorized Officer 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 Authorized Officer may require the complainant to provide his or her name and address and swear to and affirm the complaint. It is unlawful for any person to intentionally make a report which that person knows to be false at the time of making it. If the County finds probable cause for the violation of this Ordinance after conducting an investigation of the complaint, the County may give notice of the violation(s) by means of an inspection report, citation, or other written notice.

ARTICLE III - DEFINITIONS

Unless otherwise specified, the following definitions shall apply as stated in this Ordinance.

ABANDON: To leave a domestic animal without food, water or shelter for more than 24 hours on one's premises, or to dump or leave off 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 shelter, feeding and watering of the animal.

ALTERED: An animal that is incapable of reproduction.

ANIMAL: Any member of the animal kingdom, as set forth in the preamble, excluding human beings.

ANIMAL CONTROL AGENCY: An agency designated by Grant County to handle animal control matters, including but not limited to issuing required permits and licenses pursuant to this Ordinance.

ANIMAL FIGHTING: An organized event involving one or more animals, where the sole intent, purpose or end result is of one animal inflicting injury on or killing another animal. This shall be deemed a cruelty as set forth in Section 5-11.

ANIMAL RESCUE: Any person, group or facility who accepts six (6) or more companion animals for the purpose of finding a permanent adoptive home for the animals and may use a system of fostering in private homes, or boarding or keeping in licensed pet animal facilities, and where animals are not bred. Multiple Animal Site Permit required.

ANIMAL SHELTER: A non-profit animal facility operated or authorized by the County or member of a recognized animal humane association for the purpose of housing and bringing aid and comfort to six (6) or more dogs or cats, and where animals are not bred.

BITE: Any abrasion, scratch, puncture or tear of the skin caused by the teeth of an animal.

CANINE HYBRID: The offspring of a wild wolf or coyote and a domestic dog.

CATTERY: A sanctuary that houses domesticated/feral cats. All animals must be sterilized, and the facility must be enclosed. Multiple Animal Site Permit required.

COMMERCIAL KENNEL: Any establishment, building, premise, or portion thereof operating for intended profit where dogs and cats are kept and the business of buying, selling, boarding, breeding, training, grooming of dogs and cats is conducted. Owners must also comply with county business license laws. A commercial kennel does not include veterinarian clinics federally inspected laboratory facilities, zoos or animal shelters. Kennel Permit required.

CONFINEMENT: Restriction of an animal at all times by an owner/keeper to an escape proof building or other enclosure away from the public or other animals.

COUNTY: The unincorporated areas within the jurisdictional boundaries of Grant County.

CRUELTY: Causing death or unjustifiable pain or suffering to an animal by an act, an omission, or neglect.

DANGEROUS ANIMAL: Any animal, when unprovoked that engages in behavior that reasonably requires a defensive action to prevent bodily injury to a person, domestic animal or livestock. Or an animal that when unprovoked, inflicts a bodily injury that is less than a serious injury to a person, domestic animal, or livestock. Any animal that bites, attacks or attempts to attack a person or animal upon its owners/keepers property, or which is provoked to attack shall not be deemed dangerous. Dangerous Animal Permit required.

DOMESTIC ANIMAL: A species of animal that has been domesticated to serve as a companion animal to humans, or a work animal for humans. For the purpose of this ordinance, domestic animal shall be limited to Canines and Felines.

DOMESTIC BIRD: Includes domestic birds raised as pets such as finches, parakeets, parrots etc., but does not include fowl, which is considered domestic livestock.

EMERGENCY MEASURES: Any action taken by Authorized Officers to preserve the health and/or life of an animal or human being, including, but not limited to, entering vehicles or on premises with probable cause, and impounding an animal to prevent present or imminent suffering.

ENCLOSURE/ENCLOSED: An area completely surrounded at the perimeter, by a wall, fence, or animal pen of sufficient height and strength to contain animals within. Or by an electric or invisible fencing that has been approved by an Authorized Officer.

ESTRUS/HEAT: The period of fertility as it relates to a female animal also known as in season or in heat.

EUTHANIZE: The act or practice of humanely ending the life of an animal.

EXOTIC ANIMAL: Any rare animal that is different from ordinary domestic animals or not indigenous to the State of New Mexico. Exotic animals are regulated by New Mexico Department of Game and Fish.

EXTREME CRUELTY: A person is guilty of Extreme Cruelty to Animals if a person intentionally or maliciously tortures, mutilates, injures, poisons, or kills an animal. Extreme Animal Cruelty is governed by NMSA (1978) § 30-18-1, et seq. and is a Fourth Degree Felony.

FERAL CAT/DOG: An individual animal of a domesticated species that is not behaviorally compatible with humans and therefore not suitable to serve as a pet, a companion or work animal. Feral cats include all cats that by physical aspect and behavior are deemed to be un-owned and can be trapped for the purpose of improving public health and limiting reproduction.

GROOMING PARLOR: Any establishment, or part thereof, or premises maintained for the purpose of offering bathing, clipping, or combing of animals for which a fee is charged. Kennel Permit required.

GUARD DOG: A dog that is used to protect commercial property, but excludes a dog used exclusively to guard livestock. Guard Dog Permit required.

HARBOR: To allow stray animal(s) to remain on one's premises by feeding them without making effective provisions as required by this Ordinance for their restraint, rabies vaccinations, socialization or other care (for example, a person allowing a stray cat to live under a shed while eating left over pet food/trash.).

HOUSEHOLD: The collection of individuals, related or not, who reside at one street address.

IMPOUND: The act, by an Authorized Officer, of picking up and confining an animal to a shelter or other facility used by the County for the confinement of said animal.

INSPECTION: A visual check by an Authorized Officer, of any premises to ensure that no health, safety, nuisance or other code violation exists.

INTACT: A dog or a cat over six months old that has not been altered. Intact Animal Permit required.

KENNEL: Any establishment or premises where six (6) or more animals, excluding livestock, guard dogs, and litters under six (6) weeks of age, are boarded, bred, kept, bought, sold or traded, except that Animal Shelters, Catteries, Sanctuaries, and veterinary hospitals are not kennels. Kennel Permit required.

LAWFUL JUSTIFICATION: A defense to a charge of Animal Cruelty is humanely euthanizing a sick or injured animal or protecting a person or animal from death or injury due to an attack by another animal as described in this Ordinance and the New Mexico Cruelty to Animal's Act, NMSA (1978) § 30-18-1.

LEASH: Any strap, chain, rope, or cable sufficient to hold under control the animal attached thereto, and no longer than eight (8) feet in length.

LICENSING AUTHORITY: Any authorized representative of Grant County or any humane organization authorized by Grant County to sell licenses and collect fees for impounding or holding of animals. This authority is responsible for the keeping of suitable records of licensing and other activities as directed by the County Manager.

LIVESTOCK: Horses, cattle, pigs, sheep, goats, rabbits, fowl, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined by the County Manager or his/her designee as agricultural. Violations are to be referred to the State Livestock Inspector.

MICRO CHIP: A passive electronic device that is injected into an animal by means of a hypodermic-type syringe device that contains a unique and original number that is read by an electronic scanning device for the purpose of animal identification and recovery by the animal's owners.

NEGLECT: Failure to provide adequate care and maintenance such as food, water, shelter, shade, grooming, and veterinary care.

NEUTER: To render a male animal permanently sterile and incapable of reproduction. A vasectomy is not an acceptable form of neutering. Proof of neutering, if not apparent upon visual inspection, may be made by a notarized statement or affidavit from a veterinarian.

NUISANCE ANIMAL: Includes, but is not limited to, defecation, urination upon public or private property other than the owners property unless immediately removed, disturbing the peace, emitting noxious or offensive odors, destruction of public or private property, unreasonably disturbs humans, or otherwise endangering or offending the wellbeing of the inhabitants of Grant County. See Section 5-1.

OWNER/KEEPER: Any person, eighteen (18) years or older, or the parent/guardian of persons under eighteen (18) years, who owns, keeps, or harbors or knowingly permits an animal in his/her

care for seven (7) or more days, or who permits an animal to remain on or about his/her premises. This definition shall also apply to "keeper" as used in this ordinance.

PERMIT: A document evidencing approval by the county to conduct a certain activity with an Animal.

PET SHOP: Any premises or part thereof, open to the public that engages in the purchase, sale, exchange or hire of animals of any type except the term shall not include livestock auctions. Kennel Permit Required.

PREMISES: A parcel of land owned, leased, rented, or controlled by any person, legal or natural. Premises include all structures, including kennels, mobile home, apartments, and houses which are located on a parcel of land.

QUALIFIED ASSISTANCE ANIMAL/SERVICE ANIMAL: A dog trained or being trained by a recognized school for training dogs to assist persons with disabilities; an animal recognized as a service animal pursuant to the Americans with Disabilities Act of 1990; or any other animal approved by the governor's committee on concerns of the disabled as acceptable in public places and trained to provide some special assistance to a person with a disability as set forth in NMSA (1978) § 28-11-1.1, et seq.

QUARANTINE: To detain or isolate an animal suspected of being infected with rabies or other contagious diseases.

RABIES VACCINATION: Protection provided against rabies by inoculation with a vaccine recognized and approved by the State of New Mexico Department of Health NMSA (1978) § 77-1-3.

RECLAIM: The retrieval of a domestic animal from the Grant County Animal Control Agency by its owner or responsible person.

RESPONSIBLE PERSON: A person 18 years of age or older or the parent/guardian of a person under 18 years of age who has been entrusted by the owner with the care and/or custody of an animal for any period of time.

RESTRAINT: To keep an animal under the immediate control of an owner or a responsible person on a leash or keep an animal securely confined to an owner's property within a penned area, securely fenced yard or within a building, as set forth in Section 4-7 of this ordinance.

RUNNING AT LARGE: An animal not under the immediate control/restraint of owner or not confined to owners property.

RURAL AREAS: Areas in Grant County outside of incorporated towns or villages where few people are likely to gather. This does not include trailer parks or sub-divisions located in rural areas.

SANCTUARY: A location where six (6) or more animals are brought to live and be protected for the rest of their lives or to live until adopted, where animals are not bought, sold, bred or traded. Multiple Site Animal Permit required.

SECURE FENCE: A visible protective or confining barrier that prevents any animal, including guard dogs, from escaping the property on which the animal is being restricted. The secure fence shall also reasonably protect the animal within the fence from other animals or people coming into contact with the restrained animal. This includes a dog run type structure. May also include electric or invisible fence that effectively contains the animal.

SHELTER: An enclosure/structure that is structurally sound and in good repair, provides convenient access to clean food and water, enables the animal to remain dry and clean, is constructed and maintained so that it is impervious to moisture and can be readily sanitized, is constructed so as to protect the animal from injury, and provides sufficient space to allow each animal to turn around fully, stand, sit and lie in a comfortable position.

SPAY: To render a female animal permanently sterile and incapable of reproduction.

STERILIZATION: To render an animal permanently sterile and incapable of reproduction by spaying females or neutering males.

STRAY ANIMAL: Any animal running at large.

TETHER: A chain, leash or cable to which an animal is fastened so that it can range only within a set radius.

VERBAL CONTROL: An animal that responds immediately to audible commands, such as animals trained for use as a working stock dog, search and rescue, police and border animals, hunting dog or dogs participating in a bona fide dog show.

VICIOUS ANIMAL: An animal that, without provocation, kills or severely injures (so as to result in muscle tears or disfiguring lacerations, require multiple sutures, or corrective or cosmetic surgery) a person or domesticated animal, but does not include an animal which bites, attacks or injures a person or an animal that is unlawfully upon its owner's premises, or while protecting its owner.

WILD ANIMAL: An animal or species that is untamed or domesticated in its natural state and though trained is still dangerous to persons or animals and has the potential to injure or kill a person or animal. Regulated by New Mexico Game & Fish Department.

ARTICLE IV – OWNER'S RESPONSIBILITIES

Section 4-1 Licensing

- A. Licensing Period: The owner of a dog or cat, which has reached the age of three (3) months, when rabies vaccinations are required by state statute, shall procure a county license, to run

concurrently with either a 1 year or a 3 year rabies vaccination. Applications for licensees shall be made to the Grant County animal control agency, which shall include name and address of applicant, breed, sex, description of the animal and a rabies certificate issued by a licensed veterinarian.

- B. New Residents: New residents of the County shall procure any necessary license, within thirty (30) days of taking up residence in Grant County, a county license by providing proof of rabies vaccination to the licensing authority and paying the licensing fee.
- C. Affixing Tags: The current license and rabies tags shall be affixed to a collar and worn at all times. The original license receipt and rabies certificate shall be retained by the owner/keeper.
- D. Replacement Tags: In the event the original tag is lost, the owner/keeper may obtain a replacement tag from the Grant County animal control agency upon payment of replacement fee.
- E. Failure to license an animal under this Section shall be subject to the penalty provision of Section 7.2.

Section 4-2 Rabies Vaccinations

- A. Rabies Vaccination: It is the duty of every owner/keeper of a dog, cat or ferret over the age of three (3) months to have such animal vaccinated against rabies. The animal shall receive a booster within the 12-month interval following the initial rabies vaccination. Every domestic dog and cat shall be revaccinated against rabies within 12 months if a 1-year vaccine is administered or within 36 months if a 3-year vaccine is administered with a rabies vaccine licensed by the United States Department of Agriculture and administered according to label recommendations. The "Compendium of Animal Rabies Control (CARC) published by the National Association of Public Health Veterinarians Inc. shall be reference for the route of inoculation and the type of vaccine. Every veterinarian who vaccinates a dog or cat in Grant County shall issue to the owner or keeper of the animal, a numbered vaccination certificate containing the name and address of the owner of the animal, a description of the animal vaccinated, and the expiration date of the period of immunity. Veterinarians who vaccinate such dog or cat must also provide a copy of the vaccination certificate to the Grant County animal control agency. Any person who keeps a vaccinated dog or cat must exhibit their copy of the certificate of vaccination upon the demand of any Authorized Officer charged with the enforcement of this Ordinance.
- B. Failure to vaccinate an animal in accordance with this Section shall be subject to the penalty provision of Section 7.2.

Section 4-3 Sterilization

- A. No animal shall be released from an animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in Subsection B or sterilization be performed as set forth in C and D of this section.
- B. In addition to any adoption fee charged, a sterilization deposit of at least twenty-five dollars (\$25.00) shall be imposed on the adoption of each animal from an animal shelter.

- C. Animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six months of age.
- D. Adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within thirty days of the date of adoption.
- E. The sterilization deposit shall be reimbursed only upon presentation of the receipt from a veterinarian that the adopted animal has been sterilized.
- F. An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the twenty-five dollars (\$25.00) minimum for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he/she will sterilize the animal within thirty days after release or will obtain an intact animal permit. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.
- G. Failure to comply with the sterilization agreement or show proof of the intact animal permit within specified time shall be a violation of this ordinance, and shall be subject to the penalty provision of Section 7.2.

Section 4-4 Care and Maintenance of Animals

- A. An owner of an animal shall provide said animal with proper care and maintenance including but not limited to adequate food, water, shade, appropriate shelter, and proper grooming.
- B. Any animal habitually kept outside shall be provided by its owner with a shelter as defined in this Ordinance. Premises must be kept free of garbage, hazardous materials, feces, insect infestation, and other debris, which may endanger the animal's health and safety.
- C. Animals will be provided adequate grooming as to prevent excessive matting, imbedded objects, overgrown nails, infestation of parasites, and to prevent interference with hearing and/or sight.
- D. An owner must provide an injured or sick animal with adequate veterinary care so as to reduce its suffering. It is unlawful for any person to have, keep or harbor any animal, which is infected with any dangerous, incurable and/or painfully crippling condition except for animals under veterinary care. The Authorized Officer may apply to the appropriate court in the county where the animal is located for a warrant to seize the animal as set forth in the state statutes. This section shall not be construed to include veterinary hospitals.
- E. Failure to provide care for and maintenance of an animal in accordance to this Section shall be subject to the penalty provision in Section 7.2.

Section 4-5 Care and Maintenance in Kennels and Multiple Animal Sites

All kennels, pet shops, refuges, catteries, rescues, sanctuaries, or grooming parlors as defined in Article III Definitions, shall, in addition to the other provisions of this Ordinance, comply with the minimum standards of this Section. Failure to meet these standards shall be grounds for denial of a permit and shall be subject to the penalty provision in Section 7-2. The following standards must be met:

- A. Animal housing facilities shall be constructed of nontoxic materials and in a structurally sound design.
- B. The facility shall be kept in good repair and kept clean and sanitary at all times, so as to protect animals from disease and injury.
- C. 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. The minimum area guidelines shall be 25 square feet per cat, 75 square feet per dog weighing under 30 pounds, 100 square feet per dog weighing 31 to 59 pounds, and 125 square feet per dog over 60 pounds.
- D. Indoor facilities shall be sufficiently temperature controlled, ventilated and lighted to provide for the animals' comfort and health.
- E. Outside housing shall be made to protect animals from sunlight, rain, snow or cold weather that may be detrimental to an animal's health. Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals and debris.
- F. Facilities shall be provided and so operated as to minimize vermin infestation, odors, and disease hazards.
- G. Animals shall be removed from cages and protected from water and cleaning agents during cleaning.
- H. Cages holding cats must contain litter boxes. Animals shall be provided with clean, fresh, sufficient and wholesome food and water in clean containers.
- I. Each animal shall be observed daily by the animal caretaker in charge or his representative. Sick, diseased, injured, lame or blind animals shall be provided with proper veterinary care.
- J. A fence of no less than six (6) feet shall surround the entire premises of all breeding, boarding facilities.
- K. Containment areas for catteries must be fully enclosed including roofs on all pens.
- L. All animals must be contained inside or in individual kennels in a manner so as not to disturb neighbors.

Section 4-6 Transporting of Animals

- A. Dogs may be transported in the open back of a truck if they are protected from excessive heat from the sun, inclement weather, and ambient heat from the truck bed. The bed of the truck must be in such condition as to keep dogs safe during transport. Failure to transport animals in accordance with this Section shall be subject to the penalty provision in Section 7.2.

Section 4-7 Restraint and Confinement of animals

- A. When off an owner's property an animal must be on a leash no more than 8 feet long.
- B. In rural, sparsely populated areas of Grant County an animal may be off leash if it is under the supervision of the owner/handler and is trained to respond to verbal control.
- C. Restraint on their owner's premises may be within a penned area, fenced yard, within a building or under control of a responsible person or an owner.
- D. Tethering an animal on one's property is permitted, provided the following criteria are met:

- (1) The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness.
 - (2) Any tether shall have swivels at both ends.
 - (3) The tether must be long enough to provide the dog with adequate exercise and is secured in such a way as to prevent tangling, choking or strangling.
 - (4) The tether shall not allow the animal to enter onto another's property.
 - (5) The tether shall not weigh more than 1/8 of the animal's weight.
 - (6) Tethering an animal must be done humanely as not to cause behavioral or physical changes and/or cruelty to the animal.
 - (7) Ropes may not be used to tether an animal.
 - (8) An animal shall not be tethered longer than two hours at a time.
 - (9) An owner shall ensure that a tethered dog does not become a nuisance-barking dog as defined in Section 5-1 of this Ordinance.
- E. Any area where an animal is confined:
- (1) The animal must have easy access to food, potable water, shade in the summer and adequate shelter as defined in Article III Definitions.
 - (2) The animal must be able to sit, stand, lie down comfortably and be provided with adequate exercise.
 - (3) The area must be kept free of feces, insect infestations, such as ant hills, wasps' or bees' nests, fleas, ticks or maggots, garbage or any other debris which may endanger the animal's health or safety.
- F. A person who uses electric or invisible fencing designed to confine an animal to his property must clearly post a notice in two separate locations upon the property that such a device is in use.
- G. Nothing in this section shall be construed as allowing any animal under physical restraint to commit any act defined as unlawful in this ordinance.
- H. Failure to properly restrain or confine an animal under this Section shall be subject to the penalty provision of Section 7-2.

Section 4-8 Deceased Animals

- A. Within twenty-four hours (24) of death of a cat or dog, the owner shall dispose of the carcass by burial at least three (3) feet underground in a suitable location, or by other means approved by the Authorized Officer.
- B. Within twenty-four (24) hours of the death of a livestock animal, or at the discretion of the Authorized Officer, the owner shall dispose of the carcass in a manner that protects the health, welfare, and safety of the residents of Grant County.
- C. At his discretion, the Authorized Officer is authorized to pick up and dispose of all dead animals immediately upon discovery or notification. The Authorized Officer is not responsible for picking up or disposal of domestic livestock or wild animals, or animals killed on interstate highways, state, or county roads but may do so at his/her discretion. If the owner of any such dead animal is known, such owner shall pay the cost as determined by the Grant County Animal Control Agency, of such removal and disposal. An animal carcass picked up under this Section of the Ordinance shall be disposed of by the County

in whatever way is determined to be the most feasible to protect the health, safety, and welfare of the residents of the County and in such a manner as to minimize expense to the Authorized Officer and the County.

Section 4-9 Canine Hybrids

- A. A canine hybrid will be recognized as such if it is publicly acknowledged by its owner as being the offspring of a wild wolf or coyote and a domestic dog. No animal will be judged to be hybrid based strictly on its appearance.
- B. Canine hybrids shall be regulated as to the domesticated class of parent, except as set forth in this section.
- C. Canine hybrids shall not be bred. This must be accomplished by sterilization or by keeping male and female canine hybrids housed separately at all times.
- D. Canine hybrids must have current rabies vaccinations and licensing.

Section 4-10 Permits Required

- A. Dangerous Animal Permit: documentation required for a person to keep an animal which has been deemed "dangerous" through judicial determination.
- B. Guard Dog Permit: documentation required for the use of a dog to protect commercial property, but excludes a dog used exclusively to guard livestock.
- C. Intact Animal Permit: documentation required for an owner of a dog/cat that was impounded for running at large, to allow the owner to keep the animal in a non-sterilized state.
- D. Kennel Permit: shall mean documentation required for an establishment or part thereof where dogs, cats, or other animals are boarded, bred, kept, bought, sold, traded, let for hire, groomed or trained for a fee. Includes but is not limited to kennels, pet shops, and groomers.
- E. Litter Permit: documentation authorizing a person to breed a dog or cat. The owner/keeper shall purchase one permit per female. Litter permits are limited to one litter per year per household. An owner must have a Litter Permit available for inspection when giving away or selling cats and/or dogs. Any advertisement or posting for the sale of or giving away of cats and/or dogs shall state the owner's Litter Permit number.
- F. Multiple Animal Site Permit: documentation required for an animal facility or premises, not operating for profit, where more than six (6) animals, over three (3) months of age are kept or maintained, and where no animals are bred, to include animal rescues, catteries and sanctuaries with the exception of State or Federal inspected veterinary hospitals, laboratory facilities and zoos.

Section 4-11 Regulations When Permits Are Required

- A. All permits will be issued by the Grant County Animal Control Agency.
- B. Each permit must be renewed annually from the date of purchase and a new permit fee paid.
- C. Upon presentation of proper identification, and at any reasonable time, the Authorized Officer shall be allowed to enter any permitted premises for the purpose of making

inspections to determine compliance with this article. The person in charge of the permitted premises shall be allowed to accompany the Authorized Officer on the inspection.

D. Dangerous Animal Permit:

1. Owners of dangerous animals must obtain a Dangerous Animal Permit, including dangerous dogs in accordance with the New Mexico Dangerous Dog Act, NMSA (1978) Section § 77-1A-1, et seq. All dangerous dogs must be sterilized, micro chipped, and licensed.
2. All dangerous animals must be securely confined in escape-proof locked structures as approved by the Authorized Officer, and the owner must post signs warning people to remain a safe distance from said animals.
3. All dangerous animals shall be maintained exclusively on the Owner's property except for medical treatment or examination. When outside the confinement area the animal must be on a leash no longer than four (4) feet and under the control of a person physically capable of controlling the animal. The animal must be muzzled with a muzzling device sufficient to prevent such dog from biting persons or other animals. Any Authorized Officer who determines that the present conditions of confinement for a dangerous dog do not meet the above standards, or has probable cause to believe that a dog is vicious, and that a present substantial danger to the public exists, may take control of and impound the dog into protective custody pending further Court action.

E. Guard Dog Permit:

1. Anyone using or keeping a dog for the sole purpose of guarding a property and neither as a pet nor for hunting uses, must obtain a Guard Dog Permit and follow the restrictions set forth below in addition to all other applicable provisions of the Ordinance.
2. The enclosure surrounding the property protected by a guard dog must be secure at all times so as to prevent the dog from running at large unless the owner complies with Section 4-7.

F. Intact Animal Permit:

In order to maintain an unsterilized dog or cat, an owner shall obtain an intact animal permit. Such a permit shall be issued at the request of the owner of an impounded unsterilized dog or cat upon payment of the required fee and proof that they possess a current license and rabies vaccination for the animal. An intact animal permit shall be revoked without refund of the fee upon the third impoundment of the animal within a twelve (12) month period. Upon revocation of the intact animal permit, the owner of the animal will be required to have the animal sterilized within thirty (30) days of reclaim.

G. Kennel Permit:

No person shall operate a kennel, pet shop, or grooming parlor, as defined in Article III Definitions, without a valid Kennel Permit. A person may obtain a permit under the conditions set forth in Section 4-5 of this Ordinance, after satisfactorily passing a pre-permit inspection, payment of the appropriate permit fee, and proof of current vaccinations and proper licensing. The operator shall post the permit in a conspicuous place on the premises. Permits are not transferrable.

H. Litter Permit:

An owner who intentionally or unintentionally breeds a dog or cat that does not have a current kennel permit shall purchase a litter permit prior to the birth of the litter or by close

of business of the subsequent business day after the birth of the litter. A litter permit is required for each litter.

I. Multiple Animal Site:

No person shall operate a Multiple Animal Site, including but not limited to animal rescues, catteries, and sanctuaries without a valid Multiple Animal Site Permit. A person may obtain a permit under the conditions set forth in Section 4-5 of this Ordinance, after satisfactorily passing a pre-permit inspection, payment of the appropriate permit fee, and proof of current vaccinations and proper licensing. The operator shall post the permit in a conspicuous place on the premises. Animals at a Multiple Animal Site shall not be bred. Permits are not transferrable.

ARTICLE V – PROHIBITED ACTIVITIES

Section 5-1 Public Nuisances

It is unlawful for any owner to keep or maintain on their premises any animal in such a manner as to disturb others by noxious or offensive odors, or otherwise endanger or offend the environment or health, safety or welfare of the inhabitants of Grant County, including domestic birds, that:

- A. Damage, trespass, disturb trash/rubbish, or defecate/urinate on public or private property of anyone other than the owner/keeper, without thoroughly and immediately removing and disposing of the feces.
- B. Emit noxious or offensive odors or attracts insects/rodents.
- C. Harass pedestrians, bicyclists, vehicles, or legally restrained animals, while in the owner's presence, whether restrained or unrestrained.
- D. Harass passersby by encroaching on public or private property, including behaving aggressively while leaning over walls or out of motor vehicle.
- E. Unattended animals tied in public places or in the common ground of apartment complexes and mobile home parks.
- F. Fail to confine a female animal during while in heat.
- G. Barking/noise disturbing the peace; a domestic animal whose loud, excessive, habitual noise such as barking, howling, yelping, or whining is in a manner which is sufficient enough to interfere with any person in the reasonable and comfortable enjoyment of life and property shall be considered a public nuisance unless agitated into making that noise by other animals (dogs, cats, wildlife) or strangers near the animals. No person shall be charged for violating this Subsection unless two or more witnesses from different households confirm to the loud and persistent/habitual nature of the noise, or unless there is other evidence corroborating the complaint.
- H. Failure to comply with this Section shall be subject to the penalty provision of Section 7-2.

Section 5-2 Animal Waste

It is unlawful to permit a companion animal to defecate on public or private property other than the property of the owner of the animal unless such waste is immediately removed and properly disposed of by the person having custody of the animal.

Failure to comply with this Section shall be subject to the penalty provision of Section 7-2.

Section 5-3 Animals Biting Persons

- A. The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to an Authorized Officer within 24 hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an Authorized Officer if the officer deems it necessary to impound said animal for a period of observation.
- B. A physician who renders professional treatment to a person bitten by an animal shall report it to an Authorized Officer that he/she has rendered professional treatment within 24 hours of his/her first professional attendance. The physician shall report the name and address of the person bitten as well as the type and location of the bite. The physician shall report the name and address of the owner of the animal that inflicted the bite, if known and any other facts or details that may assist the Authorized Officer in ascertaining the immunization status of the animal.
- C. An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Authorized Officer. The owner of the animal shall bear the cost of confinement.
- D. An Authorized Officer may take up and impound the animal into protective custody for the period of the quarantine and the owner shall pay related costs of the impoundment prior to reclaiming the animal.
- E. An Authorized Officer may consent to confinement of the animal on the owner's premises. The premises where the home confinement is to occur shall be inspected and approved for such purpose by the Authorized Officer.
- F. If the animal shows signs of sickness or abnormal behavior, or if the animal escapes confinement, the person shall immediately notify the Authorized Officer. The person having custody of an animal that dies during the confinement period shall notify the Authorized Officer and surrender the carcass of the animal immediately to an Authorized Officer.

Section 5-4 Abandonment

It is unlawful for a person to intentionally abandon an animal. Abandoned animals will be impounded as set forth in Section 6-1.

Section 5-5 Dangerous or Vicious Animals

It shall be unlawful to maintain or harbor a vicious/dangerous animal in a manner which constitutes a threat to any person or other animal. Any person attacked by a vicious/dangerous animal may use reasonable force to repel the attack.

- A. Dangerous: All dangerous animals must be securely confined as described in Section 4-11. Any Authorized Officer who determines that the present conditions of confinement for a dangerous animal do not meet the afore described standards, or has probable cause to believe that an animal is vicious, and that a present substantial danger to the public exists,

may take control of and impound the animal into protective custody pending further Court action.

- B. Vicious: It is unlawful for any person to keep or harbor a vicious animal. When an Authorized Officer has probable cause to believe that an animal is vicious, the officer may impound the animal into protective custody awaiting appropriate court proceedings. Following judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this Ordinance, upon hearing of such complaint, may, in addition to any fine or imprisonment which may be imposed for violation hereof, order the Authorized Officer to have such animal humanely euthanized.
- C. An Authorized Officer who learns of a stray vicious or dangerous animal within the County, which is a threat or potential threat to human life, is authorized to euthanize said stray vicious or dangerous animal if he/she is unable to capture said animals without any substantial danger to him or others.

Section 5-6 Unlawful Use of Rabies Vaccination Certificates

It shall be unlawful to remove any rabies vaccination tag from one domestic animal to another, or manufacture or cause to be manufactured or to possess or control a stolen, counterfeit or forged animal vaccination certificate or tag.

Section 5-7 Hindering an Authorized Officer

- A. No person shall attack, assault or in any way threaten or interfere with an Authorized Officer in the performance of the duties required by this Ordinance.
- B. No person shall conceal one's true identity or disguise oneself with the intent to obstruct due to execution of the law or with the intent to intimidate, hinder or interrupt an Authorized Officer in the legal performance of his/her duties.
- C. No person shall interfere with or tamper with any equipment used by an Authorized Officer, including the release of animals contained in such equipment.
- D. No person shall engage in conduct that would agitate, obstruct, oppose, or distract an Authorized Officer in the legal performance of his/her duties.

Section 5-8 Chained Animals

It is unlawful for any person to chain or stake any animal except as defined in Section 4-7.

Section 5-9 Running at Large

It is unlawful for a person to allow or permit any animal to run at large in or on any street, sidewalk, vacant lot, public property or other unenclosed place in the County or private property without permission of the property owner. The presence of any uninvited dog or cat upon public property or the private property of any person other than its owner shall be prima facie evidence that the owner has violated the provisions of this section, and shall make such animal liable to surrender to an Authorized Officer. Violations of this section are subject to penalty under 7.2

Section 5-10 Neglect Care and Maintenance

It shall be unlawful for any owner of any animal to fail, refuse or neglect to provide said animal with proper care and maintenance as defined in Section 4-4 and 4-5 of this Ordinance.

Section 5-11 Animal Cruelty

It is unlawful to engage in conduct constituting cruelty to animals. Cruelty to animals consists of a person:

- A. Negligently mistreating, injuring, or tormenting an animal, or killing an animal without lawful justification; or
- B. Abandoning or failing to provide necessary sustenance to an animal under that person's custody or control.
- C. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of NMSA (1978) § 31-19-1. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of NMSA (1978) § 31-18-15.

ARTICLE VI – IMPOUNDMENTS/QUARANTINE

Section 6-1 Impounding of Animals

- A. An Authorized Officer may impound or cause to be impounded any animal kept in violation of this Ordinance and any stray animal.
- B. If the owner or keeper of the animal impounded is known, notification must be attempted. If the owner or keeper of the animal is not known or if his/her address cannot be reasonably determined the Authorized Officer has no duty to give notice to the owner.
- C. Where an Authorized Officer discovers that an animal is or will be without proper care due to injury, illness, incarceration or death of the owner, the Authorized Officer may take emergency measures and enter onto the property or premises where said animal is located to provide protective care for the animal or to remove the animal into protective custody. Animals taken into protective custody shall be held as strays as set forth in this ordinance. In the event the animal is or becomes sick or injured the officer may take such action as is necessary to prevent undue pain and suffering, including humane euthanasia of the animal if deemed necessary.
- D. The Authorized Officer shall have the authority to impound any animal subjected to cruelty, neglect or abandonment. The animal may not be returned to its owner before a hearing in court if, in the opinion on the Authorized Officer, the harm to the animal is severe and likely to recur. The owner will be responsible for all expenses incurred by the animal while at the Animal Control Agency.

Section 6-2 Notice requirements of Impounded/Stray Animals

- A. Animals bearing identification shall be confined at the Grant County Animal Control Agency for 5 business days. If contact is made with the owner, he/she will have forty-eight (48) hours to reclaim the animal or it shall become the property of the contracted Animal

Control Agency. If the animal is suffering because of sickness, injury or age related disabilities, it may be humanely euthanized at any time, as set forth in this Ordinance.

- B. Animals bearing no identification shall be impounded at the Animal Control Agency for four (4) business days. The Animal Control Agency is not required to supply any emergency veterinarian care to unidentified critically ill or injured animals and they may be humanely euthanized at any time before or after entering the agency.
- C. Wherever the Authorized Officer finds an animal injured, or in a condition deemed to be in danger of loss of life, the Authorized Officer may impound the animal(s) and notification will be posted/left at the premises where the animal was impounded.

Section 6-3 Reclaiming Impounded/Stray Animals

- A. Any owner/keeper who claims an animal from the agency must provide a personal photo ID, proof of ownership, current rabies vaccination, city/county license and proof of neutering/spaying upon claiming said animal. If current rabies vaccination cannot be produced, the owner must purchase a rabies vaccination coupon from the agency, must vaccinate the animal within five (5) working days and furnish proof to the Authorized Officer.
- B. No unaltered animal shall be released from an animal shelter unless a sterilization agreement has been signed and deposit has been paid as set forth in NMSA (1978) § 77-1-20.
- C. The owner/keeper shall be responsible for all scheduled fines, fees or other costs to be paid to the contracted agency. Fees may include but not be limited to boarding, vaccination(s), spay/neuter deposit, emergency veterinary costs, or any other expenses incurred by the County or Grant County Animal Control Agency under the provisions of this Ordinance.
- D. If the animal is deemed to be feral or wild, or deemed dangerous by the agency, it may be humanely euthanized at any time by a certified officer before or after entering the Animal Control Agency when such need is indicated and the owner cannot be promptly ascertained or located.

ARTICLE VII – PENALTIES

Section 7-1 Penalty for Misdemeanor Violation

- A. It is a misdemeanor for any person to violate any provision of the Grant County Animal Control Ordinance.
- B. Unless another penalty is specified in another section of this Ordinance, every person convicted of a misdemeanor for violation of any provision of the Grant County Animal Control Ordinance shall be punished by a fine of not more than three hundred dollars (\$300) or by imprisonment for not more than ninety (90) days, or both.
- C. A Court of competent jurisdiction may in addition to any of the relief requested permanently ban an individual from owning or possessing any animal for any period of time within the jurisdiction of said Court.
- D. A Court of competent jurisdiction may allow community service in lieu of payment of past due fees in excess of \$300.

- E. A Court of competent jurisdiction may also suspend a permit for failure of holder to comply with the requirements of this Ordinance, or of other applicable laws, ordinances or regulations. The suspension may be lifted once the violations have been corrected as confirmed by an Authorized Officer.
- F. A Court of competent jurisdiction may also revoke a permit for serious or repeated violations of this Ordinance, or of other applicable laws or regulations. The revocation shall last for no more than one year.

Section 7-2 Penalty Assessment Misdemeanors; Definition; Schedule of Assessments

- A. As used in the Grant County Animal Control Ordinance, "penalty assessment petty misdemeanor" means violation of any of the following listed sections in the Grant County Animal Control Ordinance, except as provided in Subsection B of Section 7-1, the listed penalty assessment is established:

| COMMON NAME OF OFFENSE ASSESSMENT | SECTION VIOLATED | PENALTY |
|--|---------------------|---------|
| Failure to Obtain a License | 4-1 | \$25.00 |
| Rabies Vaccinations | 4-2 | \$25.00 |
| Sterilization | 4-3 | \$50.00 |
| Care and Maintenance of Animals | 4-4 | \$50.00 |
| Care and Maintenance of Kennels and Multiple Animal Sites | 4-5 | \$50.00 |
| Transporting of Animals | 4-6 | \$25.00 |
| Restraint and Confinement of Animals | 4-7, 5-9 | \$25.00 |
| Failure to Obtain a Permit | 4-11 | \$25.00 |
| Public Nuisance | 5-1 | \$25.00 |
| Animal Waste | 5-2 | \$25.00 |

- B. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety (90) days.

ARTICLE VIII – EFFECTIVE DATE

This Ordinance shall take effect thirty days after the ordinance has been recorded in the book kept by the county for that purpose in the Grant County Clerk's Office.

PASSED, APPROVED, AND ADOPTED, this 15th day of September 2016.



**BOARD OF COUNTY COMMISSIONERS
GRANT COUNTY, NEW MEXICO**


Brett Kasten, Chairman


Robert Zamarripa, Clerk

Gabriel Ramos, Member



Ron Hall, Member

Commissioner Hall then moved that the ordinance as filed with the County Clerk at this meeting be passed and adopted. Commissioner Kasten seconded the motion.

The question being upon the passage and adoption of the ordinance, the motion was voted upon with the following result:

Those Voting Yea: Hall, Kasten

Those Voting Nay: 0

Those Absent: Commissioner Ramos

The Chairman thereupon declared that at least a majority of all the members of the Board having voted in favor thereof, the motion was carried and the ordinance duly passed and adopted.

After consideration of matters not relating to adoption of the Ordinance, the meeting on motion duly made, seconded and unanimously carried, was adjourned.

Brett Kasten
Brett Kasten, Chairman

[SEAL]

Attest:
Robert Zamarripa
Robert Zamarripa, County Clerk

EXHIBIT A

(Attach Affidavit of Publication of Notice of
September 15th, 2016 Meeting as published
in the Silver City Daily Press)