

Chapter 6 ANIMALS*
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*Editor’s note—Ord. No. 2008-15, adopted December 9, 2008, repealed former Ch. 6 and enacted provisions designated as a new Ch. 6 to read as herein set out in Ch. 6. Prior to inclusion of said ordinance, Ch. 6 pertained to similar subject matter. See the Code Comparative Table. **Cross reference(s)**—Health and sanitation, ch., 42. **State law reference(s)**—General authority relative to animals, NMSA 1978, Sections 4-37-1, 3-18-3; animals generally, NMSA 1978, Section 77-1-1 et seq.

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BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING CHAPTER 6, ANIMALS, ARTICLES I
2 THROUGH VIII, SECTIONS 6-30 THROUGH 6-77 OF THE
3 BERNALILLO COUNTY CODE

4 ARTICLE I. GENERAL PROVISIONS

5 Secs. 6-1--6-29. Reserved.

6 Sec. 6-30. Short title and legislative intent

7 a) This chapter shall be known and may be cited as the "Bernalillo County Animal Care
8 Services Ordinance."

9 b) It is the intent of the board of county commissioners that enactment of this chapter
10 will protect animals from neglect and abuse, will protect residents from annoyance
11 and injury, will encourage responsible ownership of animals as pets, will assist in
12 providing housing for animals in a control center and will partially finance the
13 Animal Care Services Department's functions of housing, licensing, enforcement and
14 recovery. It is the intent of the board of county commissioners to organize and utilize
15 advisory groups to assist with improving public awareness about subjects pertaining
16 to the enactment of this chapter.

17 (Ord. No. 99-4, 4-6-99)

18 Sec. 6-31. Definitions

19 For the purposes of this chapter, the following definitions shall apply unless the context
20 clearly indicates or requires a different meaning.

21 **Abandon** means to leave an animal for more than 24 hours without making effective provisions
22 for its proper feeding and care.

23 **Animal** means any vertebrate member of the animal kingdom except humans.

24 **Animal Care Services** means the staff, facility, programs, pound, lot, premises, and buildings
25 maintained by the county for the implementation of the control and care of animals.

26 **Animal Care Services Officer** means a Bernalillo County Animal Care Services officer or
27 supervisor.

28 **Animal Fighting Paraphernalia** means equipment that any reasonable person would ascertain
29 is used for animal fighting purposes which includes, but is not limited to (1) instruments
30 designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp
31 instrument, (2) items to train and condition animals to fight including, but not limited to, hides or
32 other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or

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1 handles used to pry open dog’s jaws, performance enhancing drugs or substances, or food or
2 water additives, and (3) the presence of any animal that appears to be a fighting animal alone or
3 together with animals suspected of being used as bait animals including but not limited to
4 rabbits, cats, and other dogs.

5 ***Bait Animal*** is an animal used to train and/or condition other animals to fight and includes but is
6 not limited to dogs, cats, and rabbits exposed to attack by other animals used or trained to be
7 used in fighting or to make the attacking animal more confident and aggressive.

8 ***Bite*** means an actual puncture or tear of the skin inflicted by the teeth of an animal.

9 ***Bona Fide Animal Show*** includes events sanctioned by organizations such as the American
10 Kennel Club (AKC) or North American Dog Agility Council (NADAC), generally organized by
11 local clubs, and including conformation events or performance events such as obedience, agility,
12 and tracking,

13 ***Breeding*** means permitting, either intentionally or unintentionally, a female dog or cat to
14 produce offspring.

15 ***Canine hybrid*** means

16 a) Any canine which has or had a pure wolf
17 or pure coyote as a parent or
18 grandparent; or

19 b) An animal represented by its owner to an
20 animal care services officer, law
21 enforcement officer, or to a veterinarian
22 to be the offspring, cross, mix, or hybrid
23 of a wolf or coyote within the preceding
24 two generations; or

25 c) Any animal which, because of its pure
26 wolf or pure coyote ancestry, cannot be
27 vaccinated against rabies.

28 ***Confinement*** means detainment or isolation of an animal.

29 ***County*** means the area within the jurisdictional boundaries of the County of Bernalillo,
30 including privately owned land, excluding the area within the limits of any incorporated
31 municipality or within the jurisdiction of the United States Government or the State of New
32 Mexico.

33 ***County Manager*** means the County Manager of Bernalillo County or his or her designated
34 representative(s).

35 ***Dangerous animal*** means any of the following:

36 a) An animal which, when unprovoked, engages in behavior that requires a defensive action by
37 a person to prevent bodily injury to a person or another animal which is off the property of
38 the owner of the animal in question; or

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1 b) An animal which, when unprovoked, injures a person in a manner which does not result in
2 muscle tears or disfiguring lacerations, or require extensive corrective or cosmetic surgery; or

3 c) An animal which, because of its poisonous sting or bite, would constitute a significant hazard
4 to the public.

5 ***Designee or designated representative*** means the Animal Care Services Director or other
6 appropriate staff.

7 ***Director*** means the Director of the Animal Care Services Department of Bernalillo County.

8 ***Enclosed*** means a parcel of land completely surrounded at the perimeter by a wall or fence of
9 sufficient height and strength to contain animals within, or by an electric or invisible fencing that
10 has been approved by the county manager.

11 ***Establishment*** means a place of business together with its grounds and equipment.

12 ***Grooming parlor*** means an establishment or part thereof maintained for the purposes of
13 performing cosmetological services for animals.

14 ***Guard dog*** means a dog that is used to protect a commercial property, but excludes a dog used
15 exclusively to guard livestock.

16 ***Hobby breeder site*** means a non-commercial animal facility or premises operated by a person
17 involved in controlled breeding of dogs or cats which are registered with a recognized registry
18 organization, or which are a member of a breed which is not eligible to be registered, if that
19 breed has been approved by the county manager. The resultant offspring are not sold for resale to
20 commercial outlets or for the purpose of research, testing, or laboratory experimentation.

21 ***Household*** means the collection of individuals, related or not, who reside at one street address.

22 ***Kennel*** means a commercial establishment operating for intended profit where dogs or cats are
23 boarded, kept, or maintained.

24 ***Kennel area*** is a secure space within which an animal is housed that is of sufficient height and
25 strength to contain the animal within and provide sufficient room for the animal to comfortably
26 move around within the structure.

27 ***Licensed veterinarian*** means an individual with a doctor of veterinary medicine degree who is
28 licensed to practice in the state.

29 ***Livestock*** means horses, cattle, pigs, sheep, goats, rabbits, fowl, or any other domestic animals
30 typically used in the production of food, fiber, or other products or activities defined by the
31 county manager as agricultural.

32 ***Owner*** means a person 18 years of age or older or the parent or guardian of a person under 18
33 years of age who owns, harbors, keeps an animal, has one in his care, or permits an animal to
34 remain on or about the premises owned or controlled by him.

35 ***Person*** means an individual, household, firm, partnership, corporation, company, society,
36 association or legal entity, and every officer, agent or employee thereof.

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1 ***Pet shop*** means any premises, or part thereof, open to the public which engages in the purchase,
2 sale, exchange or hire of animals of any type, except the term shall not apply to premises used
3 exclusively for the sale of livestock.

4 ***Premises*** means a parcel of land and the structures thereon.

5 ***Professional animal establishment*** means any kennel, grooming parlor, or pet shops, with the
6 exception of state inspected veterinary hospitals and federally inspected laboratory facilities and
7 zoos.

8 ***Qualified assistance animal*** means

9 a) A dog trained or being trained by a recognized school for training dogs to assist persons with
10 disabilities; or

11 b) An animal recognized as a service animal pursuant to the Americans with Disabilities Act of
12 1990; or

13 c) Any other animal approved by the governor's committee on concerns of the handicapped as
14 acceptable in public places and trained to provide some special assistance to a person with a
15 disability.

16 ***Quarantine*** means detention or isolation of an animal in order to observe for rabies.

17 ***Shelter*** means a non-profit animal facility operated by a municipality or member of a
18 recognized animal humane association for the purpose of bringing aid and comfort to six or more
19 dogs or cats, and where animals are not bred.

20 ***Show animal*** means a dog or cat, which is registered with a recognized registry organization, or
21 is a member of a breed which is not eligible to be registered if that breed has been approved by
22 the county manager, and which is involved in bona fide animal shows.

23 ***Sterilized*** means to be rendered permanently incapable of reproduction.

24 ***Stray*** means an animal found running at large.

25 ***To run or running at large*** means any animal free from physical restraint beyond the
26 boundaries of the owner's premises.

27 ***Trap, Neuter and Return (TNR)*** is the practice of humanely trapping un-owned cats, having
28 them evaluated, vaccinated, sterilized and ear-tipped by a veterinarian and returning them to the
29 location where they were trapped.

30 ***Trolley*** means a cable strung between two fixed and stable points, to which an animal on a tether
31 is attached, allowing for freedom of movement.

32 ***Vaccination*** means protection provided against rabies by inoculation with a vaccine as required
33 by § 77-1-3 NMSA 1978 (1993 Repl.).

34 ***Vicious animal*** means an animal which kills or severely injures (so as to result in muscle tears
35 or disfiguring lacerations, require multiple sutures, or extensive corrective or cosmetic surgery) a
36 person or domesticated animal. Vicious animal does not include an animal which bites, attacks or
37 injures a person or animal that is unlawfully upon its owner's premises. The provocation of an

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1 animal by a person is an affirmative defense to a charge of keeping or harboring a vicious
2 animal.

3 (Ord. No. 99-4, 4-6-99)

4 **ARTICLE II. ADMINISTRATION**

5 **Sec. 6-32. Rules and regulations**

6 Reasonable rules and regulations may be prescribed by the county manager to carry out
7 the intent and purpose of this chapter, pursuant to standards created by this chapter. The county
8 manager may delegate his powers to the director as he may deem expedient. The director may
9 delegate such powers to the duly appointed animal care services officers as he may deem
10 expedient. An animal care services officer shall wear a uniform and shall carry appropriate
11 identification. Identification is to be surrendered to the County upon cessation of employment.

12 (Ord. No. 99-4, 4-6-99)

13 **Sec. 6-33. Procedures for complaints**

14 A complaint alleging any violation of this chapter may be filed with the Animal Care
15 Services Department by a person who has personal knowledge of such violation and who can
16 identify the owner of the animal involved or the premises where the animal is located. The
17 county manager may require the complainant to provide his name and address and swear to and
18 affirm the complaint.

19 It is unlawful for any person to intentionally make a report to the County Manager, which
20 that person knows to be false at the time of making it, alleging a violation by another person of
21 any violation of the Bernalillo County Animal Care Services Ordinance.

22 (Ord. No. 99-4, 4-6-99)

23 **Sec. 6-34. Procedure for county manager and animal care services officers**

24 a) The county manager, director and animal care services officers shall have the
25 authority, and are directed to investigate upon probable cause, any alleged violation
26 of this chapter or of any law of the State of New Mexico relating to the care,
27 treatment, control and prevention of cruelty to animals.

28 b) Animal care services officers are authorized to inspect premises as necessary to
29 perform their duties. If the owner or occupant of the premises objects to inspection, a
30 warrant shall be obtained from a court of competent jurisdiction prior to inspection.
31 No warrant shall be necessary if probable cause exists to believe that there is an
32 emergency requiring such inspection or investigation.

33 c) Whenever the county manager has probable cause to believe that a person has
34 violated this chapter, the county manager may prepare a criminal complaint to be
35 filed with the appropriate court or prepare a citation for the alleged violator to appear
36 in court. The citation shall contain the name, address and telephone number, if

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1 known, of the person violating this chapter, the driver's license number of such
2 violator, if known, the code section allegedly violated, and the date and place when
3 and where such person allegedly committed the violation, and the location where
4 such person shall appear in court and the deadline for appearance. The county
5 manager shall present the citation to the person he has probable cause to believe
6 violated the code section in order to secure the alleged violator's written promise to
7 appear in court by having the alleged violator sign a copy of the citation. The county
8 manager shall deliver a copy of the citation to the person promising to appear.

9 d) If the alleged violator refuses to give his written promise to appear, the county
10 manager shall prepare a criminal complaint with the Bernalillo County Metropolitan
11 Court.

12 e) Neither the county manager, the director, nor the animal care services officer shall
13 have the authority to dismiss a citation.

14 (Ord. No. 99-4, 4-6-99)

15 **Sec. 6-35. Fees**

16 Fees for licenses and permits required pursuant to this chapter shall be established and
17 adopted through resolution adopted by the board of county commissioners.

18 (Ord. No. 99-4, 4-6-99)

19 **Sec. 6-36. County animal care services facilities**

20 a) There are established one or more county animal care services facilities which shall
21 be located in such numbers and at such sites as shall be designated by the board of
22 county commissioners.

23 b) The animal care services facilities shall be operated to provide service to the general
24 public during the hours set by the county manager.

25 (Ord. No. 99-4, 4-6-99)

26 **ARTICLE III. ANIMAL CARE SERVICES IMPOUNDMENT PROCEDURES**

27 **Sec. 6-37. Impounding animals**

28 a) An animal care services officer may take up and impound in any designated animal
29 care services facility a stray or any animal kept or maintained contrary to the
30 requirements of this chapter.

31 1) The animal may be confined in accordance with the facilities regulations.

32 2) The owner shall be responsible for all impound fees, boarding fees, and other
33 costs whether or not the animal is reclaimed.

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- 1 3) An unsterilized animal reclaimed by its owner shall be released without being
2 sterilized upon payment of at least twenty five dollars (\$25.00) for the
3 sterilization deposit and impoundment fees imposed by the shelter, and the
4 owner shall sign an agreement stating he will sterilize the animal within thirty
5 days after release or will obtain a breeder permit, intact permit, or its
6 equivalent.
- 7 4) Any stray which is not reclaimed or adopted may be humanely destroyed in
8 accordance with the impound facility's regulations.
- 9 b) An animal care services officer may take up and impound in any designated animal
10 care services facility a stray or any livestock kept or maintained contrary to the
11 requirements of this chapter.
- 12 1) The owner shall be responsible for all reclaim fees, boarding fees, and other
13 costs at time of reclaim.
- 14 2) The Animal Care Services Department may require inspection of enclosures
15 for livestock prior to reclaim.
- 16 3) The County Manager is hereby authorized to place for adoption unclaimed
17 livestock that has been impounded by the county and to execute adoption
18 papers to the purchaser at the end of a 10-day waiting period.
- 19 i) Adoption of large livestock may be done after submitting a sealed bid
20 to the Animal Care Services Department.
- 21 ii) Adoption of small livestock may be done after paying an adoption fee
22 to the Animal Care Services Department.
- 23 c) The director shall maintain, for a reasonable period of time or as required by statute, a
24 record of all animals impounded. At least the following information shall be included:
- 25 1) A complete description of the animal;
- 26 2) The manner and date of its acquisition;
- 27 3) The date, manner, and place of impoundment;
- 28 4) The impoundment number;
- 29 d) Owners requesting removal of an animal shall be required to sign an owner's release
30 at the time of impoundment.
- 31 e) If a stray animal is not wearing a current rabies tag and is deemed critically injured or
32 critically ill an animal care services officer may deliver the animal to a licensed
33 veterinarian for euthanization. A report must be filed with the county manager.
- 34 f) Whenever the county manager finds that any animal is or will be without adequate
35 care because of injury, illness, incarceration or other absence of the owner or person
36 responsible for the care of such animal, the county manager may take up such animal
37 for protective care. The owner of the animal may reclaim the animal after paying all

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1 required fees and costs imposed by the impound facility. If the animal is unclaimed at
2 the end of the protective custody period, the animal may be humanely destroyed or
3 otherwise disposed of by the impound facility.

4 **State law references:** Sterilization agreement and sterilization deposit required, NMSA 1978,
5 §77-1-20.

6 (Ord. No. 99-4, 4-6-99)

7 **Sec. 6-37A. Seizure of Animals, Excluding Livestock**

8 a) A Peace Officer or Animal Care Services Officer who reasonably believes that the
9 life or health of an animal is endangered due to violation of any provision in this
10 chapter may apply to the district court, magistrate court, or the metropolitan court for
11 a warrant to seize the animal(s).

12 b) If the court finds probable cause that the animal's life or health is endangered as a
13 result of the violation of any provision of this chapter, the court shall issue a warrant
14 for the seizure of the animal. The court shall also schedule a hearing on the matter as
15 expeditiously as possible within thirty days unless the county demonstrates good
16 cause for a later time.

17 c) Written notice regarding the time and location of the hearing shall be provided to the
18 owner of the seized animal. The court may order publication of a notice of the hearing
19 in a newspaper closest to the location of the seizure.

20 d) If the owner of the animal cannot be determined, a written notice regarding the
21 circumstances of the seizure shall be conspicuously posted where the animal is seized
22 at the time the seizure occurs.

23 **Cross Reference:** State law reference, Seizure of Animals, NMSA 1978, § 30-18-1.1
24 (1999)

25 **Sec. 6-37B. Seizure of Livestock**

26 a) A Peace Officer or Animal Care Services Officer who reasonably believes that the
27 life or health of livestock is endangered because of the violation of any provision in
28 this chapter may apply to district court, magistrate court, or the metropolitan court for
29 a warrant to seize the allegedly endangered livestock.

30 b) On a showing of probable cause to believe that the life and health of livestock is
31 endangered as a result of the violations of any provision of this chapter, the court
32 shall issue a warrant and set the matter for hearing as expeditiously as possible within
33 thirty days unless the county demonstrates good cause for a later time. Seizure as
34 authorized by this section shall be restricted to only those livestock allegedly being
35 kept in a manner that their life or health is endangered. The Animal Care Services
36 Department shall establish procedures for preserving evidence of violations of this
37 chapter.

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1 c) The court executing the warrant shall notify the Animal Care Services Department,
2 have the livestock impounded, and give written notice to the owner of the livestock of
3 the time and place of the court hearing.

4 d) After all interested parties have been given an opportunity to present evidence at the
5 hearing and if the court finds that the owner has endangered life or health of the
6 livestock by violating any provision contained in the chapter, the court shall order the
7 impoundment of the livestock until the resolution of proceedings for the ordinance
8 violations. If the court does not find that probable cause exists that the owner has
9 violated any provision in this Chapter, the court shall order the livestock returned to
10 the owner.

11 (Ord. No. 99-4, 4-6-99)

12 **Cross Reference:** State law reference, Livestock code, NMSA 1978, § 77-18-2 (1999)

13 **Sec. 6-38. Retention of strays or owner-surrendered animals**

14 a) No person shall, without the knowledge and consent of the owner, hold or retain
15 possession of any animal for more than 24 hours without first reporting the
16 possession of the animal to the Animal Care Services Department.

17 1) The report shall contain the person's name and address, a true and complete
18 statement of the circumstances under which he took up the animal, and the
19 precise location where the animal is confined.

20 2) No person having such an animal in his possession shall refuse to immediately
21 surrender the animal to an animal care services officer upon demand.

22 b) Duly incorporated humane societies or the rescue arms of accredited dog and cat
23 clubs or horse organizations capable of providing proper confinement, shelter, and
24 care for stray, lost or owner-surrendered animals shall be allowed to assume the care
25 of such animals.

26 1) The owner of a stray animal wearing a rabies tag or other form of
27 identification shall be notified that the animal has been impounded.

28 2) If the owner is not located within three working days the society may assume
29 responsibility for finding the animal a new home.

30 (Ord. No. 99-4, 4-6-99)

31 **ARTICLE IV. PERMITS REQUIRED**

32 **Sec. 6-39. General provisions**

33 a) No person shall operate a professional animal establishment, hobby breeder site, or a shelter
34 without a valid permit. A person may obtain a permit under the following conditions:

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- 1 1) Payment of an annual permit fee at the office of the Animal Care Services
2 Department. Failure to renew the permit within 30 days of the expiration date shall
3 result in the assessment of a penalty fee in addition to the cost of the permit.
- 4 2) Demonstration of a certification of zoning and land use from the Bernalillo County
5 Zoning Department.
- 6 3) Upon presenting proper identification and at a reasonable hour, a representative of the
7 Animal Care Services Department shall be allowed access to any permitted premises
8 for the purpose of inspection on an annual basis or upon reasonable notice. Permits
9 may be suspended for failure to comply with the requirements of this chapter, as well
10 as for violation of other applicable laws, regulations, and ordinances.
- 11 4) Kennel area facilities shall be structurally sound and constructed of nontoxic
12 materials. Interior floors shall be smooth, easily cleanable construction and
13 impervious to water. The premises shall be kept clean, sanitary and in good repair in a
14 manner which will protect animals from disease and injury.
- 15 5) Animals maintained in pens, cages or runs for periods exceeding 24 hours shall be
16 provided with adequate space to prevent overcrowding and to maintain normal
17 exercise according to species. Such cages holding cats must contain a litter box.
- 18 6) Posting of the permit in a conspicuous place on the premises.
- 19 7) Permits are not transferable.
- 20 8) Adequate weatherproof housing shall be provided in all permitted premises with
21 proper ventilation and temperature, and sufficient lighting and shade.
- 22 9) Outside housing shall protect animals from weather that may be detrimental to the
23 health of the animals.
- 24 10) Restraint of animals shall be accomplished by adequate fencing maintained at all
25 times to contain the animals, or by the use of tethers that are tangle-free, well-fitted,
26 and equipped with a swivel device for attachment to the animal's collar or harness.
- 27 11) Provisions shall be made for the removal and proper disposal of animal and food
28 waste, soiled bedding, dead animals and debris. Animals shall be removed from cages
29 and protected from water and cleaning agents during cleaning. Disposal facilities
30 shall be operated in a manner which will minimize vermin infestation, odors and
31 disease. Adequate drainage shall be maintained.
- 32 12) Excessive and night-time noise shall be eliminated.
- 33 13) Unsterilized adult animals shall be segregated by sex when in mating season, except
34 where otherwise indicated for health, welfare or breeding purposes. Animals shall be
35 housed in compatible groups.
- 36 14) Vicious, diseased or injured animals and animals that have bitten a person shall be
37 individually caged.

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1 15) Animals shall be provided with clean, fresh, sufficient and wholesome food and
2 water. Food and water containers shall be kept clean.

3 16) Sanitary, pest-free storage of food and bedding shall be provided.

4 17) Each animal shall be observed daily by the person in charge. Programs for disease
5 control and prevention shall be maintained and available for examination by an
6 Animal Care Services Officer. Sick, diseased, injured, lame or blind animals shall be
7 provided with appropriate veterinary care. Humane euthanasia will be provided when
8 necessary. The person in charge who suspects an animal of being rabid shall
9 immediately notify the county manager and segregate the animal.

10 **Sec. 6-39A. Professional Animal Permit, Hobby Breeder Permit, or Shelter Permit**

11 a) The number of adult dogs or cats, or any combination thereof, which a hobby breeder
12 site, or shelter site may keep is established by the following factors:

13 1) The area of the permitted hobby breeder site, or shelter site shall be limited to
14 ten percent of the total area of the premises.

15 2) Within the kennel area of a hobby breeder site, or shelter site, 75 square feet
16 of area shall be provided for each dog weighing under 30 pounds; 100 square
17 feet for each dog weighing between 30 and 59 pounds, 125 square feet per
18 dog over 60 pounds, and 25 square feet of space per cat.

19 3) In the kennel area the animal must be able to stand and walk freely and have
20 room for shelter (for outdoor facilities), food, water, and litter boxes for cats.

21 b) For shelters, the kennel area must provide at least 75 square feet of area for each dog
22 weighing under 30 pounds; 100 square feet for each dog weighing between 30 and 59
23 pounds, 125 square feet per dog over 60 pounds, and 25 square feet of space per cat.
24 In the kennel area the animal must be able to stand and walk freely and have room for
25 shelter (for outdoor facilities), food, water, and litter boxes for cats.

26 c) For shelters and hobby breeder sites, a record shall be kept of animal inventory,
27 disposition, and inoculations and shall be available for examination by an Animal
28 Care Services Officer.

29 d) Hobby breeders must continue to care for or otherwise provide for adoption, rescue or
30 some other type of sanctuary for animals no longer being used for breeding. Site
31 records must reflect compliance with this provision.

32 **Sec. 6-39B. Guard dog permit**

33 a) No person shall use a guard dog without a valid permit. A person may obtain a guard
34 dog permit under the following conditions:

35 1) Submission of an application which shall include sufficient information to
36 identify the name and address of the owner of the commercial property and

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1 the name and address of the owner of the guard dog, and payment of an
2 annual guard dog permit fee; and

3 2) The area where the guard dog is to be used shall be secured in such a manner
4 as to prevent its escape.

5 i) The doors, windows, and all openings to the outside of a building in
6 which a guard dog is on duty shall be secured to prevent its escape.

7 ii) An outdoor property holding a guard dog shall be completely enclosed
8 by a fence at least six feet in height and shall effectively contain the
9 animal at all times.

10 3) The property using a guard dog shall be posted with warning signs at least 12
11 inches long on each side.

12 i) The warning signs shall state "guard dog" and "guardia" and shall
13 show a picture of an aggressive dog.

14 ii) The warning signs shall be posted not more than 200 feet apart on the
15 exterior of the fences and walls surrounding the property and shall be
16 posted at all exterior corners of the site and at every entrance to the
17 site.

18 4) A guard dog found running at large may be impounded.

19 5) A guard dog shall have a current rabies tag and a valid license tag securely
20 affixed to its collar or harness.

21 (Ord. No. 99-4, 4-6-99)

22 **Sec. 6-39C. Waiver**

23
24 (a) The County Manager shall have the authority to grant waivers.
25

26 (b) Any person seeking a waiver pursuant to this ordinance shall file a written
27 application with the County Manager. The written application shall contain
28 information which describes the ordinance section for which a waiver is requested
29 and the reason for the waiver.
30

31 (c) In determining whether to grant or deny the application, the County Manager shall
32 balance the hardship to the applicant, the community and other persons of not
33 granting the waiver against the potential adverse impact on the animals and
34 residents affected.
35

36 (d) Waivers shall be granted by notice to the applicant and may include all necessary
37 conditions, including time limits on the permitted activity. The waiver shall not
38 become effective until all conditions are agreed to by the applicants.
39 Noncompliance with any condition of the waiver shall terminate it and subject the
40 person holding it to those provisions of this ordinance.

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- 1
2 (e) Any person seeking a waiver shall indicate in his or her application to the County
3 Manager the specific reason why he or she should not be required to meet the
4 established ordinance criteria. The applicant shall also include a written statement
5 that he or she has personally contacted all residents of properties within 400 feet of
6 the property in question and none oppose the waiver being requested.
7

8 **Sec. 6-40. Intact animal permit**

- 9 a) Any person having a stray unsterilized dog or cat returned to him or reclaiming an
10 impounded unsterilized dog or cat will obtain an intact animal permit or have the
11 animal sterilized within 60 days of return. The permit shall be issued upon payment
12 of the required permit fee and proof that they possess a current county license and
13 rabies vaccination for the animal. The permit will be renewed annually until proof of
14 sterilization has been provided to the Animal Care Services Department.
- 15 b) An intact animal permit shall be revoked without refund of the fee upon the second
16 impoundment of the animal within a 12 month period. Upon the revocation of the
17 intact permit the animal will be required to be sterilized within 30 days of reclaim.
- 18 c) An Intact Animal Permit is required to keep a dog or cat exempt from being sterilized
19 as mandated by State Law when released from an animal shelter.

20 (Ord. No. 99-4, 4-6-99)

21 **Sec. 6-41. Litter permit**

- 22 a) An owner who intentionally or unintentionally breeds a dog or cat and who does not
23 have a current professional animal permit or hobby breeder permit shall purchase a
24 litter permit for each litter. A female dog or cat shall have no more than one litter in
25 any consecutive 12 month period. If found to have more than one litter in a 12 month
26 period, a litter permit will not be issued and owner will be in violation of this section.
- 27 b) The litter permit fee shall be refunded if proof of sterilization of the reproducing
28 female is submitted to the department within 60 days after the permit is issued.
- 29 c) The owner shall not advertise, barter for, sell, or give away any puppy or kitten unless
30 the applicable permit number is displayed legibly in all advertisements. The owner
31 shall furnish the litter permit number or hobby breeder permit number to any potential
32 recipient upon request.
- 33 d) Puppies and kittens can only be bartered for, sold, given away or other transfer or
34 conveyance from the residential location listed on the litter permit or hobby breeder
35 permit. Puppies or kittens being bartered for, sold, given away or other transfer or
36 conveyance on public or commercial property even with the owner's permission are
37 in violation of this ordinance.

38 (Ord. No. 99-4, 4-6-99)

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ARTICLE V. OWNER'S DUTIES

Sec. 6-42. 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 the Animal Care Services Department within 24 hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an animal care services 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 to the county manager that he has rendered professional treatment within 24 hours of his 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 Animal Care Services 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 animal care services officer. The owner of the animal shall bear the cost of confinement.
- d) If the owner will not confine the animal, the animal care services officer may take up and impound the animal into protective custody for the period of the quarantine and the owner shall pay all related costs of the impoundment prior to reclaiming the animal.
- e) The animal care services 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 animal care services officer. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the county manager for such home confinement.
- f) If the animal shows signs of sickness, abnormal behavior, or if the animal escapes confinement, the person shall immediately notify the Animal Care Services Department. The person having custody of an animal that dies during the confinement period shall notify the Animal Care Services Department and surrender the carcass of the animal to an animal care services officer.
- g) If an officer deems it necessary to impound an animal for observation for violation of the above conditions and/or severity of the bite, the owner cannot remove the animal from observation until the observation period is complete. The owner shall bear the cost of confinement.
- h) If an officer deems it necessary, any animal over 18 months of age that has bitten a person shall be required to purchase an Intact Permit or provide proof of sterilization within 30 days of occurrence.

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- 1 i) It is unlawful for a person to keep an animal known to have bitten any person on two
2 separate incidents. The owner has a duty to destroy said animal humanely or
3 surrender such an animal to the Animal Care Services Department for proper humane
4 euthanization upon the order of the court. This does not include an animal which
5 bites, attacks, or injures a person unlawfully upon its owner's premise.

6 (Ord. No. 99-4, 4-6-99)

7 **Sec. 6-43. Animal license**

- 8 a) It is unlawful for any person to own or harbor a dog, cat, or ferret
9 over the age of three months without obtaining a license for such
10 animal. Persons who are not county residents and who keep such an
11 animal in the county for less than 30 consecutive days shall be
12 exempt from this license requirement.
- 13 b) Applications for licenses shall be made on forms provided by the
14 Animal Care Services Department. All applications shall include the
15 name of the legal owner of the animal, the mailing address and
16 physical address of the owner. It is unlawful for any person to
17 knowingly falsify information concerning animal ownership, the
18 owner's address, animal description, or any other information
19 required on the application.
- 20 c) Licenses shall be purchased for one year. A three-year license may
21 be purchased for a dog, cat, or ferret if the animal has a current
22 three-year rabies certificate, which is good for at least two-thirds of
23 the licensing period. A one-year or three-year license must be
24 renewed upon its expiration date. Failure to renew the license within
25 30 days of the expiration date shall result in the assessment of a
26 penalty fee in addition to the cost of the license.
- 27 d) A current rabies certificate must be presented at the time of applying
28 for a license.
- 29 e) Pet identification is mandatory. Identification techniques may be
30 used that reflect technological advances, such as microchip
31 technology, if owner information is obtainable by an Animal Care
32 Services Officer, Shelter, Veterinarian, or other appropriate
33 organization. Methods of identification should include one of the
34 following, but is not limited to, microchip, license tags, identification
35 tags, or tattoos applied by a veterinarian.
- 36 1) If the only means of identification used is a tag, the current
37 license tag shall be securely affixed to the collar or harness
38 which shall be worn by a dog, cat or ferret unless the animal
39 is being housed in a kennel or veterinary hospital, or
40 appearing in a bona fide animal show, or is being trained;

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1 provided, however, that the person who is training the animal
2 shall have in his personal possession a valid license tag for
3 each animal and shall immediately display the license upon
4 request by the Animal Care Services Department.

5 2) Identification methods must be kept up to date and current with owner
6 information.

7 f) License tags shall not be transferred from animal to animal.

8 g) Proof of qualification for a license for a sterilized animal can only be
9 made with a written certificate from a licensed veterinarian stating
10 that the animal has been neutered or spayed.

11 h) The license fee shall not apply to qualified service animals. All other
12 licensing requirements shall apply.

13 (Ord. No. 99-4, 4-6-99)

14 **Sec. 6-44. Number of animals allowed**

15 (a) No person or household shall own, harbor or keep more than a combined total of four
16 dogs, cats in any combination thereof over the age of three months without a valid
17 professional animal permit, hobby breeder site permit, multiple animal site permit, or
18 shelter permit.

19 (1) A household may have up to six dogs or cats or any combination thereof
20 provided that all of the animals shall be sterilized.

21 a. For number of animal (Sec. 6-44(a)(1)) purposes a medical waiver
22 certificate may be acceptable in cases when the sterilization of an
23 animal would pose a substantial threat to the health of the animal.
24 The certificate shall be on official letterhead from a licensed
25 veterinarian and shall contain the name and address of the owner
26 of the animal, a description of the animal, the medical condition
27 prohibiting sterilization, and the date upon which the animal may
28 be sterilized. A medical waiver certificate must be resubmitted
29 annually. This does not waive the unsterilized license fee.

30 (b) No person or household shall permit or allow the breeding of a dog or cat in the absence
31 of a valid hobby breeder site permit, professional animal permit or litter permit.

32 (c) No person or household may own, harbor or keep more than four canine hybrids, all of
33 which must be sterilized, and such ownership of canine hybrids shall not result in a
34 combined number of dogs, cats or canine hybrids totaling more than six.

35 (Ord. No. 99-4, 4-6-99)”

36 **Sec. 6-45. Restraint of animals**

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1 a) A person owning or having charge, custody, care, or control over an animal, including
2 livestock, shall keep the animal upon his or her own premises by either a secure run or
3 kennel area, an enclosure surrounding the perimeter of the property, on a trolley
4 device, or any other acceptable means associated with a particular species of animal.
5 Direct point chaining to stationary objects is prohibited. Any animal not deemed
6 dangerous and not within a secure enclosure may be restrained by means of a trolley
7 system, or a tether attached to a pulley on a cable run on its owner's property, subject
8 to the following conditions:

- 9
- 10 1) Only one animal may be tethered to each cable run;
 - 11
 - 12 2) There must be a swivel on at least one end of the tether to minimize tangling of
13 the tether;
 - 14
 - 15 3) The tether and cable run must be of adequate size and strength to effectively
16 restrain the animal. The size and weight of the tether must not be excessive, as
17 determined by the Animal Care Services Officer, considering the age, size and
18 health of the dog;
 - 19
 - 20 4) The cable run must be at least ten (10) feet in length and mounted either at ground
21 level or at least four (4) feet above ground level;
 - 22
 - 23 5) The tether must be at least ten (10) feet in length unless such length allows the
24 animal to move beyond the legal boundary of the property, in which case the
25 tether shall be no less than eight (8) feet in length;
 - 26
 - 27 6) The tether must be affixed to an animal by use of a non-abrasive, comfortably
28 fitted collar or harness. Prong-type, pinch-type, or choke collars shall not be
29 used;
 - 30
 - 31 7) The device must be fastened so that the animal can sit, walk, and lie down
32 comfortably, and must be unobstructed by objects that may cause the device or
33 animal to become entangled or strangled;
 - 34
 - 35 8) The animal must have easy access to adequate shelter, shade, food, and potable
36 water;
 - 37
 - 38 9) The area where the animal is confined must be kept free of garbage and other
39 debris that might endanger the animal's health or safety. Feces shall be cleaned up
40 regularly;
 - 41
 - 42 10) The area where the animal is confined must be kept free of insect infestation, such
43 as anthills, wasps' nests, flea, tick, and maggot infestations.
 - 44

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- 1 b) Any animal deemed dangerous shall be confined in a secure confinement indoors or
2 outdoors, such as in a fenced yard, locked pen or other structure, that is designed to
3 prevent the animal from escaping the confined area and young children from entering
4 the confined area, but does not include chaining, restraining, or otherwise affixing the
5 animal to a stationary object.
- 6 c) A dog is permitted on the street and in other public places only if on a secure leash not
7 exceeding six feet in length. Longer retractable leashes may be used, provided the
8 person with the dog is capable of controlling the dog. All other animals must be
9 secured in a fashion acceptable for the species of animal. A person physically capable
10 of controlling and restraining the animal must exercise immediate custody. This
11 section does not apply when an animal is participating in a bona fide animal show
12 authorized by the county or appropriate authorities.
- 13 d) Nothing in this section shall be construed as allowing any animal under physical
14 restraint to commit any act defined as unlawful in this chapter.
- 15 e) A person who uses electric or invisible fencing designed to confine an animal to his
16 property must clearly post a notice in two separate locations upon the property that
17 such a device is in use.

18 (Ord. No. 99-4, 4-6-99)

19 **State law references:** Authority to prohibit the running at large of animals, NMSA 1978, §§4-
20 37-1, 3-18-3(A)(2), 77-1-12.

21 **State law references:** Dangerous Dog Act, NMSA 1978, §§77-1A-1 to 77-1A-6

22 **Sec. 6-46. Vaccinations**

- 23 a) It is the duty of any person(s) owning or keeping a dog, cat, or domestic ferret over
24 the age of three months to have the animal vaccinated against rabies as prescribed by
25 Section 77-1-3 NMSA 1978 as amended. The county manager may require that other
26 animals have annual rabies vaccines.
- 27 b) The veterinarian administering anti-rabies vaccines to any animal shall issue the
28 owner or keeper of the animal a numbered vaccination certificate. The certificate
29 shall contain the name and address of the owner of the animal, a description of the
30 animal vaccinated, the date of vaccination, and the date immunity expires.
- 31 c) The veterinarian shall also furnish the owner or keeper with a metal tag bearing the
32 certificate number. A current rabies tag shall be affixed by the owner or keeper to a
33 collar or harness worn by the animal at all times unless the animal is being kept in an
34 approved kennel or veterinary hospital, is being trained by a professional trainer or is
35 appearing in an approved show.
- 36 d) It is unlawful for the owner of any dog, cat, domestic ferret or any other member of
37 the canine or feline family to fail to exhibit its certificate of vaccination upon demand
38 by the county manager. This subsection does not apply to any animal under control of
39 the Albuquerque Municipal Zoo or shelters.

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- 1 e) For licensing purposes a medical waiver certificate may be acceptable in cases when
2 the rabies vaccination of an animal would pose a substantial threat to the health of the
3 animal. The certificate shall be on official letterhead from a licensed veterinarian and
4 shall contain the name and address of the owner of the animal, a description of the
5 animal, the medical condition prohibiting vaccination, and the date upon which a
6 vaccination may be given. A medical waiver certificate must be resubmitted
7 annually.

8 (Ord. No. 99-4, 4-6-99)

9 **Cross references:** Health and Sanitation, Ch. 42. State law reference Rabies Control Generally,
10 NMSA §§ 77-1-5, 77-1-6, 77-1-10.

11 **ARTICLE VI. PROHIBITED ACTIVITIES**

12 **Sec. 6-47. Abandonment**

13 It is unlawful for a person to abandon an animal. Abandonment does not apply to the
14 trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by
15 trap, neuter and return is not deemed the owner, harbinger, keeper, holder or possessor of such
16 cats.

17 (Ord. No. 99-4, 4-6-99)

18 **Sec. 6-48. Admission of qualified assistance animals to public places**

19 Notwithstanding any other provision of law, a qualified assistance animal shall be
20 admitted to any building open to the public and to all public accommodations such as restaurants,
21 hotels, hospitals, swimming pools, stores, common carriers and theaters; provided that the
22 qualified assistance animal is under the control of a person with a disability or a trainer of
23 assistance animals. No person shall be required to pay any additional charges for his qualified
24 assistance animal, but shall be liable for any damage done by his qualified assistance animal.

25 (Ord. No. 99-4, 4-6-99)

26 **State law references:** Similar Provisions, NMSA 1978, §§28-11-2 through 28-11-4.

27 **Sec. 6-49. Animals disturbing the peace**

- 28 a) It is unlawful for a person to allow an animal to persistently or continuously bark,
29 howl or make noise common to their species or otherwise disturb the peace and quiet
30 of inhabitants of the county.
- 31 b) It is unlawful to keep or maintain an animal in such an unclean or unsanitary manner
32 that it disturbs others by noxious or offensive odors.

33 (Ord. No. 99-4, 4-6-99)

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1 **Cross references:** Noise By Animals and Fowl, §30-20-1; Offenses Against Public Peace and
2 Order.

3 **Sec. 6-50. Animals killing or injuring livestock or protected wildlife**

4 a) It is unlawful for a person to keep an animal known to have killed or injured livestock
5 or protected wildlife. The owner has a duty to destroy said animal humanely or
6 surrender such an animal to the Animal Care Services Department for proper humane
7 euthanization upon the order of the court.

8 b) An owner of livestock shall have the right to kill an animal that has injured or killed
9 livestock or protected wildlife while it is upon property controlled by the owner of the
10 livestock.

11 (Ord. No. 99-4, 4-6-99)

12 **State law references:** Dogs Killing or Injuring Livestock, NMSA 1978 §77-1-2.

13 **Sec. 6-51. Animals on unenclosed properties**

14 It is unlawful for a person to harbor, tether, stake out, graze, or herd an animal on an
15 unenclosed premise in such a manner that may allow the animal to go beyond the property line.

16 (Ord. No. 99-4, 4-6-99)

17 **Sec. 6-52. Animal poisoning**

18 a) It is unlawful for a person to make accessible to any animal, with the intent to cause
19 harm or death, any substance which has been treated or prepared with a harmful
20 poisonous substance.

21 b) This section does not apply to placement of such substance(s) in order to control
22 vermin of significance to the public health.

23 (Ord. No. 99-4, 4-6-99)

24 **Sec. 6-53. Animals running at large**

25 a) It is unlawful for a person to allow or permit any animal to run at large in or on any
26 alley, street, sidewalk, vacant lot, public property, other unenclosed place in the
27 county, or private property without the permission of the property owner.

28 b) An animal permitted to run at large in violation of this section is declared to be a
29 nuisance and a menace to the public health and safety. Such animal may be taken up
30 and impounded. An animal care services officer may go upon private property in
31 pursuit of an animal which is running at large unless permission to make such pursuit
32 is explicitly refused by the occupant. An officer may not enter a private building or
33 residence in pursuit of an animal.

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1 c) A working dog performing such acts as herding or search and rescue that is under the
2 control and supervision of the owner or handler shall not be considered as unleashed
3 while performing its duties. A hunting, obedience, tracking or show dog that is under
4 the control and supervision of the owner or handler shall not be considered as
5 unleashed while performing in those capacities.

6 d) It is unlawful for an owner, manager, agent, or governing board of any multiple
7 dwelling unit, including mobile home parks and gated communities, to permit any
8 animal to run at large upon the common areas of the multiple dwelling unit.

9 (Ord. No. 99-4, 4-6-99)

10 **Sec. 6-54. Injury to animals by motorists**

11 Every operator of a motor or self-propelled vehicle upon the streets and ways of the
12 county shall immediately upon injuring, striking, maiming or running down any animal provide
13 immediate notification to the county manager, furnishing sufficient facts relative to the incident.
14 Such animal shall be deemed an uncared for animal within the meaning of section 6-37(e) of this
15 chapter. Emergency vehicles are excluded from this provision.

16 (Ord. No. 99-4, 4-6-99)

17 **Sec. 6-55. Animals transported in vehicles**

18 a) It is unlawful for a person to carry an animal in or upon any vehicle in a cruel,
19 inhumane, or unsafe manner. Animals carried in the open bed of a truck must be
20 crated or restrained upon a non-metal mat so they cannot fall or jump from the truck.

21 b) If an animal care services officer determines that an animal in a closed vehicle is in
22 immediate danger of serious injury or death, the officer may enter the vehicle, by
23 whatever means necessary, and impound the animal into protective custody.

24 (Ord. No. 99-4, 4-6-99)

25 **Sec. 6-56. Animal waste**

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

29 (Ord. No. 99-4, 4-6-99)

30 **Sec. 6-57. Breaking into animal care services facilities or vehicles**

31 It is unlawful for a person to break into any pound, center, facility, or vehicle wherein
32 animals are impounded, or to in any manner remove or assist in the removal of any animal or
33 equipment from such.

34 (Ord. No. 99-4, 4-6-99)

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1 **Sec. 6-58. Care and maintenance**

- 2 a) It is unlawful for a person to fail, refuse or neglect to provide any animal in his charge
3 or custody such care and husbandry as to maintain the good health and well-being of
4 the animal. Such care and husbandry shall include, but not be limited to, adequate
5 food appropriate to species, potable water, adequate living area, professional
6 veterinary care and necessary grooming to maintain good health and protection from
7 extreme weather elements. Animals shall be provided adequate space to prevent
8 overcrowding and to maintain normal exercise according to species, size and
9 temperament.
- 10 b) Any animal, except horses, cattle, pigs, sheep or goats, habitually kept outside shall
11 be provided with a structurally sound, weatherproof enclosure, large enough to
12 accommodate the animal.
- 13 c) For livestock being kept on one acre or less, it is unlawful for a person to fail, refuse
14 and/or neglect to provide any livestock in his charge or custody with such care and
15 husbandry as to maintain the good health and well-being of the animal. Such care
16 and husbandry shall include, but not be limited to, nutritious food in sufficient
17 quantity provided daily, fresh clean potable water available at all times, clean
18 adequate space, necessary veterinary care, necessary hoof care, and a proper shelter
19 or protection from weather.

20 (Ord. No. 99-4, 4-6-99)

21 **Sec. 6-59. Confinement of female dogs or cats in mating season**

- 22 a) A person in control of a female dog or cat in mating season shall confine such dog or
23 cat so as to prevent other dogs or cats from attacking or being attracted to such female
24 animal, except for intentional breeding purposes.
- 25 b) It shall be unlawful to maintain a female dog or cat in mating season in any manner
26 that creates a public nuisance.

27 (Ord. No. 99-4, 4-6-99)

28 **Sec. 6-60. Cruelty to animals**

- 29 a) It is unlawful for a person to recklessly, willfully or maliciously kill, maim, disfigure
30 or torture; beat with a stick, chain, club or other object; mutilate, burn or scald with
31 any substance, overwork, torment, harass or otherwise cruelly set upon any animal,
32 except that reasonable force may be used to drive off vicious, dangerous or
33 trespassing animals.
- 34 b) It is unlawful for a person to fail to provide necessary sustenance, fail to provide
35 necessary basic or emergency medical care, maintain an animal in an enclosed
36 environment without adequate provisions to prevent pain or suffering, and perform
37 procedures such as ear-cropping, de-barking, tail docking on an animal, or otherwise

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1 endanger an animal's well-being. Procedures completed by a licensed veterinarian in
2 accordance to their standard practices shall not be considered cruelty.

3 (Ord. No. 99-4, 4-6-99)

4 **Sec. 6-61. Fights**

5 a) It is unlawful for a person to promote, stage, hold, manage, conduct, carry on or
6 attend any game, exhibition, contest or fight in which one or more animals are
7 engaged for the purpose of injuring, killing, maiming or destroying themselves or any
8 other animal.

9 1) It is unlawful for any person to sell, receive, possess, transport, loan, or give
10 away any animal fighting paraphernalia.

11 2) It is unlawful for any person to raise, train, condition, sell, receive, possess,
12 transport, loan, or give away animals for fighting purposes whether or not the
13 fight is to be conducted inside or outside the jurisdiction of Bernalillo County.

14 3) No person shall provoke or entice an animal from the property of its owner for
15 the purpose of engaging the animal in an animal fight.

16 b) Nothing in this section shall prohibit a person from engaging in legal hunting
17 practices as allowed by state wildlife authorities.

18 (Ord. No. 99-4, 4-6-99)

19 **State law references:** Dog Fighting and Cockfighting, NMSA 1978 §30-18-9)

20 **Sec. 6-62. Fowl; impounding or crating**

21 It is unlawful for a person to confine any wild or domestic fowl or birds unless provisions
22 are made by such person for the proper feeding and the furnishing of water to such fowl or birds
23 at intervals not longer than 12 hours. No person shall impound wild or domestic fowl or birds in
24 a crate, box or other enclosure unless such fowl or bird is in a natural erect position unless such
25 position causes injury or damage to the fowl or bird.

26 (Ord. No. 99-4, 4-6-99)

27 **Sec. 6-63. Hobbling**

28 a) It is unlawful for any person to hobble, chain, or stake livestock or other animals by
29 any means which may cause injury or damage to said animal.

30 b) It is unlawful for any person to hobble, chain, or stake livestock or other animals so
31 that they become entangled or are prevented access to any and all care and
32 maintenance items required by section 6-58 of this chapter.

33 (Ord. No. 99-4, 4-6-99)

34 **Sec. 6-64. Interference with the county manager in the performance of his duties**

**CONTINUATION PAGE 24, AN ORDINANCE AMENDING CHAPTER 6, ANIMALS,
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- 1 a) No person shall attack, assault or in any way threaten or interfere with the county
2 manager in the performance of the duties required by this chapter.
- 3 b) No person shall conceal one's true name or identity or disguise oneself with the intent
4 to obstruct due execution of the law or with the intent to intimidate, hinder or
5 interrupt an Animal Care Services Officer in the legal performance of his or her
6 duties.
- 7 c) No person shall interfere with or tamper with any equipment used by Animal Care
8 Services Officers, including release of animals contained in such equipment.
- 9 d) No person shall engage in conduct that would agitate, obstruct, oppose, or distract an
10 Animal Care Services Officer in the legal performance of his or her duties.

11 (Ord. No. 99-4, 4-6-99)

12 **Sec. 6-65. Keeping a seriously sick or injured animal**

- 13 a) It is unlawful for a person to have, keep or harbor an animal which is seriously sick or
14 injured, including starvation, without providing proper veterinary care.
- 15 b) The county manager may require the owner to provide a letter of health evaluation
16 from a licensed veterinarian describing the condition of the animal and the treatment
17 provided. The Animal Care Services Department may utilize a standard body scoring
18 system to evaluate the condition of an animal.
- 19 c) In the absence of proper veterinary care, the county manager may impound such a
20 seriously sick or injured animal in accordance with the provisions of this chapter.
- 21 d) Any such animal impounded may be destroyed humanely or otherwise disposed of
22 according to the normal procedures of the impound facility as soon thereafter as is
23 conveniently possible.

24 (Ord. No. 99-4, 4-6-99)

25 **Sec. 6-66. Sale and display of animals**

- 26 a) A person shall only sell, offer for sale, barter, give away or otherwise dispose of an
27 animal at the physical address listed on the appropriate permit issued by the County
28 Manager. Shelters shall be allowed off-site adoption events, with permission of site
29 owner and while preserving appropriate care and maintenance of animals.
- 30 b) No person shall offer for sale, sell, barter or give away turtles except in conformance
31 with the appropriate federal regulations.
- 32 c) No person shall offer an animal as a prize, giveaway or award for a contest, game,
33 sport or as an incentive to purchase merchandise.
- 34 d) Animal exhibits.

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1) No person shall operate, conduct, or maintain a permanent or temporary commercial animal show, circus, animal exhibition, animal ride, petting zoo or carnival without first having obtained a permit from the Animal Care Services Department. Conditions for permit approval include provisions for the humane care and treatment of the animals and the protection of public safety. Permits shall not be issued upon verification that within the preceding 12 months the applicant has been convicted of charges of animal cruelty, abuse, or neglect, or has violated the Federal Animal Welfare Act.

2) No person shall operate, conduct or maintain any animal exhibit under conditions that pose a danger to the public or the animals. Specific requirements shall be available upon request to the Animal Care Services Department.

3) The following are exempt from the requirements of this section:

i) Individuals or groups holding a State of New Mexico regulated permit or a federally regulated permit.

ii) Events sponsored by a municipal zoo or aquarium facility.

iii) Competitive sporting events.

4) Persons involved in these exempt activities shall comply with all other applicable sections of this chapter.

e) Sale of live cats and dogs at pet stores.

The sale of live cats and dogs at pet stores is prohibited unless the store has an approved hobby breeder permit.

(Ord. No. 99-4, 4-6-99)

Sec. 6-67. Sterilization agreements/contracts

It shall be unlawful for a person to possess any unsterilized animal when such animal is required to be sterilized under the terms of any applicable sterilization agreement or contract originating from any municipal or non-profit shelter.

(Ord. No. 99-4, 4-6-99)

Sec. 6-68. Unlawful use of rabies tag

It is unlawful for any person to remove or transfer any rabies tag from one animal to another. It is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control a stolen, counterfeit or forged animal license tag, rabies tag, vaccination certificate or other form of licensing or permitting required under this chapter.

(Ord. No. 99-4, 4-6-99)

Sec. 6-69. Vicious or dangerous animals

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1 a) It is unlawful for any person to keep or harbor a vicious animal. When an animal care
2 services officer has probable cause to believe that an animal is vicious, the officer
3 may take up and impound the animal into protective custody awaiting appropriate
4 court proceedings. Following judicial determination that an animal is vicious, the
5 court having jurisdiction over the enforcement of this chapter, shall, in addition to any
6 fine or imprisonment imposed for violation of this section, order the owner or keeper
7 of such vicious animal to destroy it humanely or turn such animal over to the county
8 manager or for destruction.

9 b) It shall be unlawful to maintain a dangerous animal in a manner which constitutes a
10 threat to any person or other animal.

11 c) Any dog that is deemed dangerous by admission of owner or by court determination
12 shall register the dog with Animal Care Services by obtaining a Dangerous Dog
13 Permit. The owner shall comply with all registration and handling requirements as
14 listed in the New Mexico State Statute 77-1A-5.

15 (Ord. No. 99-4, 4-6-99)

16 **State law references:** Vicious Animals, NMSA 1978 §77-1-10)

17 **ARTICLE VII. WILD ANIMALS; CANINE HYBRIDS**

18 **Sec. 6-70. Wild animals**

19 a) It shall be unlawful for a person to own, harbor, keep or exhibit on any private or public
20 property in the county any wild animal of a species that in its natural life is dangerous or
21 ferocious. Such animals, though they may be trained and domesticated, remain a danger to
22 others, and include:

23 1) Wolves, foxes, coyotes, dingoes, and other members of the non-domestic canine
24 families.

25 2) Lions, pumas, panthers, mountain lions, wild cats, and other members of the non-
26 domestic feline families.

27 3) All bears (ursidae), including grizzly bears, black bears, brown bears, etc.

28 4) Raccoons (procynnidae), including eastern raccoon, desert raccoon, ring tailed cat,
29 etc.

30 5) Primates (hominidae), including all non-human great apes other than qualified service
31 animals.

32 6) Skunks.

33 7) Bats.

34 8) Non-indigenous poisonous snakes.

35 9) Alligators, crocodiles, caimans, or poisonous lizards.

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1 10) Venomous fish and piranha.

2 11) Elephants (elephantidae).

3 b) This section shall not apply to municipal zoos and aquarium facilities, veterinary facilities, or
4 individuals or organizations holding a State of New Mexico regulated permit or a federally
5 regulated permit.

6 c) Any person who lawfully holds or keeps a wild animal as defined in this section in the
7 unincorporated areas of the county prior to April 6, 1999, may maintain that individual
8 animal until its death under the following conditions:

9 1) Submission of an application for a wild animal permit to the county within 60 days of
10 the effective date of this chapter and payment of the annual permit fee.

11 2) Provision of adequate facilities to prevent the animal from escaping, injuring the
12 public, or creating a public nuisance.

13 3) Compliance with all applicable requirements set forth in this chapter.

14 4) No additional wild animals may be added to the premises by acquisition or breeding
15 as of April 6, 1999.

16 (Ord. No. 99-4, 4-6-99)

17 **State law references:** Predatory Wild Animals, NMSA 1978, § 77-15-1 et seq.

18 **Sec. 6-71. Canine hybrids**

19 a) No person shall purchase, sell, offer for sale, or advertise for sale any animal that is
20 represented to be the offspring, cross, mix, or hybrid of a wolf or coyote.

21 b) No person shall possess a canine hybrid without a valid canine hybrid permit. A
22 person may apply for such a permit under the following conditions:

23 1) Submission of a permit application.

24 2) Submission of written proof from a licensed veterinarian that all animals over
25 the age of six months for which a permit is requested have been spayed or
26 neutered.

27 3) All owners of permitted property shall grant reasonable access to permitted
28 premises. Upon presenting proper identification and at a reasonable hour, a
29 representative of the Animal Care Services Department shall be allowed
30 access to any permitted premises for the purpose of inspection. Permits may
31 be suspended for failure to comply with the requirements of this chapter, as
32 well as for violation of other applicable laws, regulations, and ordinances.

33 4) Payment of the annual permit fee.

34 c) A permit shall not be issued until the applicant provides an adequate physical
35 enclosure that completely and effectively confines all animals to the property of the
36 owner. An animal care services officer shall determine the adequacy of the enclosure.

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1 1) A minimum livable area of 400 square feet must be provided for up to two
2 canine hybrids, with an additional 100 square feet per animal for each
3 additional hybrid. An exception to this subpart may be granted if the animal
4 owner submits a written plan of adequate housing and exercise to the Animal
5 Care Services Department and such plan is approved by the department.

6 2) Permanent chaining or tethering may not be used as the sole method to
7 contain a canine hybrid to the property of the owner.

8 d) A canine hybrid permit will not be issued for the ownership of more than four canine
9 hybrids.

10 e) Each canine hybrid must wear a collar or harness displaying an identification tag
11 bearing the name, address, and phone number of the owner at all times while it is on
12 and off of the owner's premises. While off of the owner's premises the hybrid shall be
13 on a secure leash not more than six feet in length and in the immediate custody of a
14 person physically capable of controlling and restraining the animal.

15 f) Nothing in this section shall relieve the holder of a permit from complying with all
16 other applicable sections of this chapter.

17 (Ord. No. 99-4, 4-6-99)

18 **ARTICLE VIII. PENALTIES**

19 **Sec. 6-72. Penalty**

20 Except as provided in this chapter, violations of this chapter are punishable as provided in
21 § 1-6 of the Bernalillo County Code.

22 (Ord. No. 99-4, 4-6-99)

23 **Sec. 6-73. Suspensions, revocations of permits**

24 a) When the county manager discovers that a permitted premises is in violation of this
25 chapter, he shall give notice of the violations to the permit holder, operator or person
26 in charge by means of an inspection report or other written notice. The notification
27 shall:

28 1) Set forth each specific violation.

29 2) Establish a specific and reasonable period of time for the correction of the
30 violation.

31 3) State that failure to comply with a notice issued in accordance with the
32 provisions of this chapter may result in immediate suspension or revocation of
33 the permit.

**CONTINUATION PAGE 29, AN ORDINANCE AMENDING CHAPTER 6, ANIMALS,
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1 4) State that an opportunity for appeal from a notice or inspection findings will
2 be provided if a written request for a hearing is filed with the county manager
3 within five days of receipt of the notice.

4 b) Notices under this section shall be deemed properly served and received when the
5 original inspection report or other notice has been personally served on the person in
6 charge, or sent by registered or certified mail to the last known address of the permit
7 holder.

8 c) Permits may be suspended for failure of the holder to comply with the requirements
9 of this chapter or other applicable laws, ordinances or regulations. The suspension
10 may be lifted when the county manager determines the violations have been
11 corrected.

12 d) Permits may be revoked for serious or repeated violations of the requirements of this
13 chapter, or for violation of other applicable laws, ordinances or regulations. A permit
14 shall be revoked for one year. The permit shall be surrendered to the county manager,
15 upon suspension or revocation.

16 1) A person whose permit has been suspended may apply for an inspection of the
17 premises for the purpose of reinstating the permit. If the applicant and the site
18 are in compliance with the requirements of this chapter and all other
19 applicable laws, ordinances and regulations, the permit shall be reinstated.
20 The reinstated permit shall expire on the date of expiration of the previously-
21 suspended permit.

22 2) If an exotic or wild animal permit is suspended or revoked, all animals
23 received, purchased, owned or kept under the authority of the permit shall be
24 surrendered to the county manager for impoundment. After a period of at least
25 seven days, if the violations of this chapter which resulted in suspension or
26 revocation of the permit have not been corrected, the county manager may sell
27 or dispose of the animal(s) as provided in this chapter. The applicant may
28 appeal the suspension or revocation in the manner provided in section 6-74 of
29 this chapter.

30 (Ord. No. 99-4, 4-6-99)

31 **Sec. 6-74. Appeal procedures for permit denial, suspension or revocation**

32 a) A person whose application for a permit or permit renewal has been approved on
33 condition or denied and a permit holder whose permit has been suspended or revoked,
34 may submit to the county manager a written request for a hearing. The written request
35 must be received within five days of the applicant's receipt of the written notice from
36 the county. The hearing shall be conducted within a reasonable time after the county
37 manager receives the request for a hearing.

38 b) Hearings shall be conducted by a hearing officer at a time and place designated by the
39 county manager and shall be recorded. All witnesses shall be sworn or affirmed.

CONTINUATION PAGE 30, AN ORDINANCE AMENDING CHAPTER 6, ANIMALS, ARTICLES 8 THROUGH VIII, SECTIONS 60-30 THROUGH 60-77 OF THE BERNALILLO COUNTY CODE

1 Written notice of the time and place of the hearing shall be mailed to the applicant
2 and the county manager.

3 c) The applicant shall be afforded a fair hearing which provides the basic safeguards of
4 due process which shall include:

5 1) The opportunity to examine before the hearing and, at the expense of the
6 applicant, to copy all documents, records and regulations of the county
7 manager that are relevant to the hearing. Any document not made available by
8 the county manager, after written request by the applicant, may not be relied
9 upon by the county manager at the hearing.

10 2) The right to be represented by counsel or other persons chosen as his
11 representative.

12 3) The right to present evidence and arguments in support of his appeal to
13 controvert evidence relied on by the county manager, and to confront and
14 cross-examine all witnesses on whose testimony or information the county
15 manager relies.

16 4) A decision based solely and exclusively upon the facts presented at the
17 hearing.

18 d) The hearing officer shall prepare a written report of his findings and decision within
19 ten days after the hearing and shall provide copies to the parties.

20 (Ord. No. 99-4, 4-6-99)

21 **Sec. 6-75. Severability clause**

22 If any section, paragraph, sentence, clause, word or phrase of this chapter is for any
23 reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision
24 shall not affect the validity of the remaining provisions of this chapter. The commission hereby
25 declares that it would have passed this chapter and each division, section, paragraph, sentence,
26 clause, word or phrase thereof irrespective of any provision being declared unconstitutional or
27 otherwise invalid.

28 (Ord. No. 99-4, 4-6-99)

29 **Sec. 6-76. Compilation**

30 This chapter shall be incorporated in and compiled as part of the Revised Ordinances of
31 the Bernalillo County Code.

32 (Ord. No. 99-4, 4-6-99)

33 **Sec. 6-77. Effective date**

34 This chapter shall take effect 180 days after final adoption by the county commission.

35 (Ord. No. 99-4, 4-6-99)

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**CONTINUATION PAGE 32, AN ORDINANCE AMENDING CHAPTER 6, ANIMALS,
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BERNALILLO COUNTY CODE**

1 **DONE** this ____ day of _____, 2008.

2
3

4 **APPROVED AS TO FORM**

BOARD OF COUNTY COMMISSIONERS

5 _____
6 County Attorney

_____ Alan B. Armijo, Chair

7 _____
8 _____

_____ Deanna Archuleta, Vice Chair

9 _____
10 **ATTEST**

_____ Teresa L. Córdova, PhD, Member

11 _____
12 _____

_____ E. Tim Cummins, Member

13 _____
14 Maggie Toulouse, County Clerk

_____ Michael Brasher, Member

15