

CITY OF DEMING ANIMAL CONTROL ORDINANCE

CHAPTER 2 ANIMAL CONTROL

6-2-1: DECLARATION OF POLICY:

It is the sole intent, purpose, and policy of the city to promote the protection of the public health, safety, peace, and general welfare by the regulation of animals as provided in this chapter. The provisions stated are to be construed liberally, according to the fair import of their terms, in order to effectuate this policy. The provisions of this chapter and other city ordinances are cumulative law, and this chapter does not prevent enforcement of any other code provision or city ordinance that regulates any area covered by this chapter. (Ord. 1067, 9-9-2002)

6-2-2: ANIMAL CONTROL AND A SHELTER FOR DOMESTIC ANIMALS:

Deming-Luna County Humane Society, under an annually negotiated agreement with the city of Deming, assists in both animal control and the city shelter for dogs, cats, and potbellied pigs. The not for profit organization, at their own expense, is allowed to keep adoptable animals longer than mandated minimums, operate a pet cemetery for public use, arrange adoptions, and use the shelter office as their headquarters. (Ord. 1067, 9-9-2002)

6-2-3: DEFINITIONS:

The following terms, words, and phrases as used in this chapter are hereby defined as follows:

ABANDONMENT: To leave an animal without food, water or shelter for more than twenty four (24) hours on one's premises or to dump or leave off a domestic animal on property other than one's own without permission.

ANIMAL: Any living vertebrate creature or invertebrate creature. This chapter includes: domestic animals, dogs, cats, and potbellied pigs and other animals such as livestock, fish, fowl, reptiles, birds, and exotic or endangered species.

ANIMAL CONTROL OFFICER: A person given the responsibility of enforcing the provisions of this chapter in regard to animals in violation of regulations, pick up of dead animals, calls by owners for pick ups, nuisance calls, and twenty four (24) hour a day response to emergency calls (7 days a week). Enforcement of these chapter provisions shall be provided by either animal shelter employees or city law or code enforcement officers.

ANIMAL SHELTER: A facility authorized to house, care for, and dispose of animals. The animal shelter must accept all dogs, cats, and potbellied pigs brought to the shelter. The shelter manager and staff maintains records of each animal that enters, issues licenses, collects fines, etc.

CURRENT ANIMAL SHELTER FEE SCHEDULE: A schedule of fees recommended by the Deming-Luna

Humane Society and adopted by the Deming city council for purposes of this chapter.

DANGEROUS ANIMAL: Any animal which, when unprovoked, engages in behavior that requires defensive action by a person to prevent bodily injury to a person or other animal when off the property of the owner of the attacking animal; or any animal which, when unprovoked, injures a person to a minor degree.

FEES, PERMITS, AND ANIMAL LICENSES: All fees, permits, and animal licenses in this chapter are to be paid at the animal shelter.

FINES: Fines assessed will processed through the municipal court system.

GUARD DOGS: A dog that is used to protect a private or commercial property.

HUMANE EUTHANASIA: The only methods of euthanasia used shall be those certified by the Humane Society of the United States as painless, rapid, and minimizing fear and trauma in the animal.

INTACT ANIMAL: An animal which has not been sterilized.

KEEPER: Any person who owns, keeps or has control or custody of an animal for more than six (6) days; provided that this term shall not apply to veterinary clinics or professional kennel owners temporarily maintaining on their premises animals owned by others.

KENNEL - RESIDENTIAL: Premises on which dogs, cats, or potbellied pigs or any combination thereof with five (5), but no more than seven (7) in number, four (4) months or older, are kept without the intention of buying, selling, breeding, or boarding animals.

LICENSES AND PERMITS: Annual licenses for pets. Intact animal permits. Premises inspection for guard dogs and kennels.

LIVESTOCK AND OTHERS: Animals such as bovines, equines, sheep, pigs, goats, rabbits, rodents, reptiles and fowl.

NUISANCE: Includes, but is not limited to, defecation, disturbing the peace by persistently barking, howling or making noise, emitting noxious or offensive odors or harassment of or endangering area residents, pets or domestic animals.

OWNER: A person who has title to, possession of, custody or control of an animal. Any adult who causes or permits a minor child in his household to harbor or keep an animal.

OWNER RESPONSIBILITY: On owner's premises, animals must be within a penned area, fenced yard, or within a building. All must have access to food, water and shelter. For dogs, tether chains must be tangle proof at both ends and at least twelve feet (12') long to allow exercise and not weigh more than one-eighth (1/8) of the dog's weight.

PET: Any animal kept and maintained by a person for non-



commercial purposes.

PREMISES: Any place where animals are kept or sheltered.

QUARANTINE: To detain or isolate an animal suspected of being infected with rabies or other disease which represents a health risk to the public or other animals.

RABIES INOCULATIONS: By law, all animals are required to have annual rabies inoculations and to wear the tags issued.

RUNNING AT LARGE: An animal shall be deemed to be running at large when it is off the premises of the keeper, and not under direct control of a competent person.

STRAY: Any animal which is not physically restrained or controlled and has no identifiable keeper.

VACCINATION: A protection against rabies by inoculation with antirabies vaccine to provide protection for a minimum of one year.

VETERINARIAN: A doctor of veterinary medicine licensed by the New Mexico board of veterinary medicine.

VICIOUS ANIMAL: Any animal which has bitten, exhibits a tendency to bite, or in any manner attacks, attempts to attack or bite any person except that any animal that exhibits such behavior when provoked by a person trespassing upon its owner's or custodian's premises shall not be deemed a vicious animal. Additionally, any animal which kills or maims any other animal when unprovoked shall also be defined as a vicious animal. (Ord. 1067, 9-9-2002)

6-2-4: ENFORCEMENT:

The staff of the animal shelter and the animal control officer(s) employed by the Deming-Lung County Humane Society and city code and law enforcement officers shall have the authority to issue citations for violations of this chapter. (Ord. 1067, 9-9-2002)

6-2-5: ANIMAL CONTROL OFFICERS AND DUTIES:

Animal control officer(s) will be available during the hours the shelter is open to the public. In addition, animal control will respond at any time, day or night, to emergency calls from the hospital reporting animal bites and from law enforcement officers reporting injured animals, dangerous/vicious animals, and situations needing special services from those trained to care for animals. Calls of a non-emergency nature received outside business hours will be acknowledged as soon as the shelter opens.

- A. **Competent Personnel:** Every effort should be made to appoint competent, reliable persons to enforce the provisions of this chapter. Such persons shall be trained as to their responsibilities in animal control and in the use of such equipment as shall be deemed necessary to carry out their duties.
- B. **Safety Precautions:** All persons dealing with animals should have the proper protective gear (heavy gloves, catch loops, etc.) and be trained in the use of such equipment as shall be deemed necessary to carry out their duties. Self-protection comes first. Protective devices and equipment should be readily available both

in the shelter and all vehicles used in animal control. Second in importance is concern for and attention to the well being and health of both animals and citizens.

- C. **Citations:** Animal control officers shall be authorized by the city to issue warnings and citations to keepers and other persons in violation of any provision of this chapter.
 - 1. **Complaint:** Complaints alleging any violation of this chapter must be filed with the animal control officer or the shelter by a person who has personal knowledge of such violation and who can identify the keeper of the animal involved or the premises where the animal is located. The complainant may be required to provide his name and address and affirm the complaint.
 - 2. **Complaint Follow Up:** The investigating animal control officer will notify the keeper of the animals that a complaint has been filed. When violations warrant it, a written report with name, address, and details of the offense will be prepared to issue a citation for the offense or to file a complaint through the courts. A copy will be sent to the offender.
 - 3. **Concealment:** It shall be unlawful for any person to conceal any animal or otherwise interfere with the animal control officer while carrying out his/her designated duties.
 - 4. **Impoundment:** Animal control officers must bring animals for impounding to the shelter. Outside shelter office hours, the animals are to be put in the drop pens provided. Dead animals for disposal are to be taken directly to the approved site provided by the city. Officers must submit a report on each animal handled with all information known (i.e., any tags attached, description of the animal, name of owner if known, location of pick up, etc.).
- D. **Authorized Entry Of Premises:**
 - 1. For the purpose of discharging their duties imposed by this chapter, the animal control officer is hereby authorized and directed to enter upon any premises after having received a complaint, for the purpose of inspecting to ascertain if any provisions of this chapter or any laws of the state of New Mexico relating to the care, treatment, control and prevention of cruelty to animals are being violated.
 - 2. An animal control officer who personally views a "violation" may enter a vehicle or premises without a complaint having been received. A full report will be filed of the circumstances.
 - 3. If, however, the owner or occupant of any dwelling objects to inspection, as above stated, a warrant will be obtained from a court of qualified jurisdiction prior to inspection.
- E. **Emergency Measures:** Any animal control officer discovering a violation of this chapter which endangers an animal is authorized to take emergency measures and/or otherwise remove the animal, at the owner's

expense, until the violation is corrected or resolved to prevent further suffering of or cruelty to the animal.

- F. Dog Bites: When notified of a biting dog incident, animal control officers interview victims and law officer(s) in charge; attempt to identify the owner; and remain at the hospital until the investigation is complete. When necessary, the animal(s) is taken into custody for isolation and quarantine. If taken to the animal shelter a copy of the report should be on file there. (See subsection 6-2-10F of this chapter.)
- G. Emergency Calls: Emergencies include vicious animals in threatening situations, dogfights in progress, dog bites, animals being actively abused, injured animals whose owner is unknown and when vehicle accidents involve animals that must be taken to the shelter. Dial 911 calls without name, address, phone number and location of the emergency may be ignored.
- H. Nonemergency: Nonemergency calls include animal pick ups, strays, nuisance barking, and dead animals that are not obstructing traffic. When two (2) or more reports of the same violation, such as animals in packs, are received, animal control will set up special patrols to remedy the problem. Calls without name, address, and phone number will be ignored. Law officers on duty and citizens are asked to move dead animals off roadways. These calls may be made to the shelter or through central dispatch.
- I. Patrol: Animal control is to patrol the streets of Deming on a regular basis with a focus on different areas daily. Neighborhoods that have a large number of dogs and many complaints are regularly checked. During the longer summer days there is a need for extra patrols in early morning and later evening. Any time an ACO vehicle is away from the shelter, the driver is considered on patrol and available to take calls.
- J. Destruction: The animal control officer may authorize the immediate destruction of any threatening animal that cannot be caught and/or may be subject to quarantine in the event that it is necessary to protect the life or safety of any person or animal. (Ord. 1067, 9-9-2002)

6-2-6: ANIMAL SHELTER:

- A. Facility: The facility owned by the city of Deming for impounding dogs, cats, and potbellied pigs shall be kept open to the general public forty (40) hours per week as posted at the shelter. The shelter is open to the public from nine o'clock (9:00) A.M. to five o'clock (5:00) P.M. except on Tuesday mornings, Saturday afternoons and Sundays. The shelter is required to accept all animals brought to the shelter by individuals or animal control. It is the only facility for quarantine in Luna County. The shelter shall:
 - 1. Be maintained according to standards set by the American Humane Society for cleanliness and safety;
 - 2. Provide food, water and care for the animals;
 - 3. Make every effort to find the owner of any animal

in protection.

- B. Competent Personnel: To staff the shelter and assure the employees are properly trained the board of Deming-Luna County Humane Society employs a manager who interviews and hires additional personnel and schedules their hours to cover seven (7) days a week. Employees are cross trained in all phases of the operation and given opportunity for continuing education training at seminars, etc., available.
- C. Agreement: The Deming-Luna County Humane Society, under annually negotiated agreements with the county of Luna and the city of Deming, manages both the city shelter for dogs, cats, and potbellied pigs and animal control. The not for profit organization uses the shelter office as their headquarters to dispense educational information on the need for spay/neuter, the proper care needed for animals, etc. In addition, at their expense, the society is allowed:
 - 1. To keep adoptable animals longer than mandated minimums;
 - a. Generally: Any person who desires to adopt an dog or cat may file an application for pet ownership. Animals will be available as soon as the required confinement period ends. Prospective adopters must have proper facilities to care for the animal.
 - b. Adoption Fee: The adoption fee will include payment for the antirabies vaccine which will be remitted to the veterinarian who redeems the certificate.
 - 2. To require that all animals adopted at the shelter be spayed or neutered;
 - a. The adoption fee includes a deposit toward spay and neuter which will be remitted to the veterinarian who affirms the surgery has been done.
 - b. If verification of the spay/neuter operation has not been received within sixty (60) days the animal may be repossessed by the society.
 - 3. To operate a pet cemetery for public use. The cemetery is platted and records are kept of all lots. Spaces may be purchased in advance of need. Burial plot purchase includes a small name marker;
 - 4. To accept donations of all kinds to offset the expenses above the stipends received for services from the city and county.
- D. Records: Shelter management shall maintain, for a reasonable period of time or as required by statute, a record of all animals impounded. At least the following information shall be included:
 - 1. A complete description of the animal;
 - 2. The manner and date of its acquisition;
 - 3. The date, manner, and place of impoundment;
 - 4. The impoundment number;
 - 5. The date and manner of disposition of said animal.
- E. Disposition Of Animals: An animal not adopted or reclaimed at the end of the protective custody period



may be transferred to another facility able to offer extended care, or humanely euthanized.

1. Euthanasia: The only methods of euthanasia used shall be those certified by the Humane Society of the United States as painless, rapid, and, to the fullest extent possible minimizing fear and trauma in the animal;
 2. Disposal: The city will provide space for all dead animals from the shelter and those brought in by animal control.
- F. Fees, Licenses And Permits: All fees, licenses, permits and deposits shall be made at the animal shelter.
- G. Fines: Fines assessed will be processed through the municipal court.
- H. Daily Handling Fee: The owner of an animal confined at the shelter shall be charged a handling fee for each day or fraction of a day the animal is confined. (See current animal shelter fee schedule.)
- I. Quarantine Costs: The owner of a dog, cat, or potbellied pig impounded on order of an animal control officer for ten (10) day quarantine at the shelter shall be liable for double the regular impoundment fee, the daily handling fee for each day or fraction of a day the animal is confined; and any veterinary expenses necessary for the animal whether or not the owner chooses to reclaim the animal. The owner must sign a letter releasing the animal to the shelter if it is not to be reclaimed. Daily handling rates will be charged for any days the animal remains after release from quarantine. Animal control may issue a citation for failure to comply. (See current animal shelter fee schedule.)
- J. Guard Dogs: All sites where guard dogs are used must have an inspection permit allowing periodical inspections by shelter or animal control personnel to assure that the facilities meet specifications and that animals are properly housed, supplied with ample shelter, food, and water, and show no signs of cruelty or abuse. The annual fee is payable at the shelter. (See current animal shelter fee schedule.) Special housing requirements are:
1. In addition to the standard facilities and care requirements for permitted premises set forth elsewhere in this chapter, the area where the guard dog is housed while not on duty shall be secured in a manner which will prevent the escape of the animal. The off duty housing area shall be kept locked when not in use.
 2. When a dog is on duty outside a building, the premises must be enclosed by a secure fence adequate to enclose the dog and to which anti-escape devices have been added.
 3. The doors, windows and all other openings to the outside of a building where a guard dog is on duty must be secured to prevent its escape.
 4. Guard dog premises shall be posted with warning signs.
 5. Vehicles used to transport a guard dog(s) and vehi-

cles being protected by a guard dog(s) shall be secured so the public is protected from injury, and shall be constructed or modified to ensure that the guard dog is transported in a safe, humane manner. (Ord. 1067, 9-9-2002)

6-2-7: LICENSES AND PERMITS REQUIRED:

- A. Annual License: Any person who shall keep or harbor any dog on his premises shall pay a city license fee per annum for each spayed or neutered dog, and a different fee per annum for each intact dog so kept or harbored on such premises. Licenses are available throughout the year but must be renewed on or before January 1 annually. The animal shelter shall issue all licenses and retain fees collected. (See current animal shelter fee schedule.)
- B. Intact Animals: If an additional fee is paid at the time the annual license is issued the shelter will register the animal as breeding stock. If impounded, said animal will not have to be sterilized before being redeemed. (See current animal shelter fee schedule.)
- C. Guard Dogs: All sites where guard dogs are used must have an inspection permit. The fee is payable at the shelter. (See current animal shelter fee schedule.) (Ord. 1067, 9-9-2002)

6-2-8: IMPOUNDMENT:

- A. Grounds For Impoundment: An animal control officer is hereby authorized and directed to impound any of the following animals:
 1. Any dog that does not exhibit evidence of vaccination as required by this chapter.
 2. Any animal other than a cat that is found to be running at large.
 3. Any animal, dog or cat, that is subject to quarantine as provided in this chapter.
 4. Any animal found to be in violation of any of the provisions of this chapter.
- B. Redemption/Impoundment: Owners may redeem or impound their animals.
 1. Owners requesting impoundment of an animal shall be required to sign a release. Such owner will still have to pay the impounding fee. (See current animal shelter fee schedule.)
 2. The owner of any animal impounded at the shelter may reclaim the animal after paying all required fees imposed by the impound facility.
 3. Any expenses incurred by the impoundment of any animal shall be paid by the owner even if the owner does not reclaim the animal including payment of any and all veterinary expenses incurred for the welfare of the animal.
 4. The owner of any impounded dog or cat that has not been vaccinated against rabies as required by this chapter may redeem the animal by paying for the vaccination plus any other charges at the animal shelter. If such owner fails to procure a vaccination



certificate within four (4) days (96 hours), the paid vaccination fee shall be forfeited and the animal may be impounded again.

5. The New Mexico sterilization act mandates that 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. The surgery for adult animals will either be done before the animal is released or at an appointment made for the surgery at adoption. Puppies and kittens by six (6) months of age and older cats and dogs within thirty (30) days of adoption. The voucher received for the deposit will be accepted by the doctor doing the surgery as partial payment and reimbursed by the shelter. If verification of spay/neuter is not received within the appointed time the owner will be given a citation for violating this chapter and the animal may be redeemed by the shelter.
6. Intact animals impounded at the shelter must be spayed or neutered before they can be reclaimed unless they were registered as breeding stock when issued a city license. It may be released after impoundment fees are paid plus a sterilization deposit and an appointment made for the surgery. (See current animal shelter fee schedule.) The voucher received for the deposit will be accepted by the doctor doing the surgery as partial payment and reimbursed by the shelter. If verification of spay/neuter is not received within the appointed time the owner will be given a citation for violating this chapter and the animal may be redeemed by the shelter.
7. The day following the required impoundment period the animals become the property of the shelter. (Ord. 1067, 9-9-2002)

6-2-9: IMPOUNDMENT AND QUARANTINE FEES:

In addition to impoundment costs, owners are responsible for all shelter fees accrued and subject to all chapter requirements for ownership.

- A. The owner of an animal impounded within the animal shelter shall pay a graduated impoundment fee from the second to fourth impoundment. An animal that is impounded on more than four (4) occasions in any twelve (12) month period shall not be released to the owner thereof without the prior written approval of the animal control officer. Any reimpositionment fee for such animal shall be double the highest fee paid. (See current animal shelter fee schedule.)
- B. The owner of a dog, cat, or potbellied pig impounded on order of an animal control officer for ten (10) day quarantine at the shelter because of aggressive behavior shall be liable for double the regular impoundment fee. If the animal does not have a current rabies certificate that cost will be added. (Ord. 1067, 9-9-2002)

6-2-10: RABIES CONTROL:

- A. Vaccination Required: It shall be unlawful for any person to own any dog or cat over three (3) months of age within the city limits that is not immunized against rabies. Each animal must have the antivirus inoculation annually.
- B. Rabies Metal Certificate: Dogs must wear the metal vaccination tag securely attached to a collar or harness.
 1. The metal tag described above must contain the following information:
 - a. The year of vaccination;
 - b. A certificate number; and
 - c. The name, address, and phone number of the vaccinating veterinarian or veterinary clinic.
 2. In addition the owner must have in his possession a paper certificate validating current inoculation with the following information:
 - a. The name and address of the owner;
 - b. The telephone number of the owner;
 - c. A description of the animal;
 - d. The date of vaccination;
 - e. The number of the metal certificate, if any;
 - f. The kind of vaccine used; and
 - g. The signature of the administering veterinarian.
- C. Unlawful Use Of Metal Certificate: It shall be unlawful for any person to attach the a metal vaccination certificate or tag which was issued to a dog to the collar or harness of any other dog.
- D. Lost Metal Certificate: In the event that a metal certificate is lost, a duplicate may be obtained upon the presentation of a valid paper certificate of vaccination and the payment of a replacement fee. (See current animal shelter fee schedule.)
- E. Animal Quarantine: It shall be unlawful for the owner of any animal subject to quarantine under this section to fail to immediately surrender possession of such animal to any animal control officer upon request for purposes of supervised quarantine. Unless more stringent regulations have been promulgated by the New Mexico department of health, the following provisions shall apply:
 1. Reason For Quarantine: Any dog or cat that has bitten, scratched, or otherwise attacked a person or animal without provocation shall:
 - a. Either be impounded at an animal shelter or a veterinary hospital or an approved kennel within five (5) miles of the city limits and observed for a period of ten (10) days from the date of the bite; or
 - b. If the animal has a current vaccination for rabies and the area involved is not quarantined for rabies, the animal control officer may permit quarantine of such animal at the keeper's home after inspecting the premises.
 2. Owner's Duties If Home Quarantine Is Allowed: It shall be unlawful for the owner to fail to immediately confine said animal in such a manner that



absolutely prevents the escape of such animal and to fail to prevent said animal from contacting any other person or animal. The owner of said animal shall further be required to obtain the same veterinary supervision of the animal and otherwise comply with the same conditions of release from quarantine as would be required in a veterinary hospital or at the animal shelter.

3. Observance: If observance of the animal by animal control is denied or prevented, the animal shall immediately be confined at the animal shelter for the remainder of the quarantine period.
 4. Report Changes Or Escape: It shall be unlawful for the owner allowed home quarantine to fail to immediately report and otherwise notify the animal control division of the city should the animal escape and report any changes in such animal's condition.
- F. Quarantine Report: Report of animal control officer for quarantine shall specify each of the following:
1. The name and address of any victim;
 2. The name and address of the owner of the animal;
 3. The reason for the confinement of such animal;
 4. A description of the animal; and
 5. Place where such animal is confined and any other data which may aid animal control or the shelter.
- G. Rabies Occurrence:
1. If, as determined by the veterinarian, a dog or cat proves to be rabid during the period of confinement, animal control and/or the shelter shall have it humanely destroyed at the owner's expense and properly dispose of the body.
 2. The head of any animal suspected of having died of rabies shall be immediately sent to a laboratory designated by the state board of public health under such procedure as specified by the state board of public health.
 3. If any dog or cat is bitten by an animal proved to be rabid, the owner or keeper shall have it humanely destroyed and properly dispose of the body; unless the bitten dog or cat has been vaccinated at least three (3) weeks before being bitten then the animal shall be confined for ninety (90) days. At the end of the confinement period, the dog or cat shall be released if declared free of rabies by a licensed veterinarian.
- H. Declaration Of Quarantine: The city council may declare a quarantine against rabies within the city when, in its judgment, rabies exists to the extent that it is a danger to public health. Upon such declaration, all dogs and cats within the county shall be confined on the premises of the keeper, in a veterinary hospital, in a commercial kennel, or in the animal shelter. After reasonable effort is made to apprehend any dog or cat found running at large, it may be humanely destroyed by any animal control officer who shall also properly dispose of the remains. A quarantine shall not be removed except on order of the city council. (Ord.

1067, 9-9-2002)

6-2-11: OWNER RESPONSIBILITY:

- A. Limits: No more than four (4) animals (any combination of dogs, cats and potbellied pigs) may be kept at one residence.
- B. Kennel - Residential: Owners with five (5) but not more than seven (7) cats or dogs or potbellied pigs or any combination thereof shall be considered as a private residential kennel. Such owner may qualify by paying an annual registration fee at the shelter and permit access to property for periodic inspections by shelter or animal control to ensure that such owner complies with the provisions of this chapter.
 1. Permits may be revoked for serious or repeated violations of the requirements of this chapter.
 2. There is no provision for more than seven (7) animals to be kept at any private residence. Veterinary clinics, pet shops, and city licensed businesses who deal in animals are excluded.
- C. Mating Season: Keepers of female dogs or cats in heat must confine the animal(s) within a building or enclosure in such a way as to prevent attack by male dogs or cats and so as not to constitute a nuisance by attracting male animals.
- D. Restraint Of Animals: A person owning or having charge, custody, care, or control over a dog or cat shall keep the animal upon his own premises by either a secure dog run or kennel, an enclosure surrounding the perimeter of his property, or (for a dog only) on a chain not less than twelve feet (12') in length anchored with a swivel device and a second swivel device attaching the chain to the animal's nonabrasive collar or harness. Area must be clear of obstacles which many entangle animal and chain. No chain or tether shall weigh more than one-eighth (1/8) of the dog or puppy weight.
- E. Off Premises: When off the premises, dogs must be restrained by a leash not exceeding six feet (6') in length. An exception is when the owner or keeper physically carries or holds said animal in his hands. Nothing in this section shall be construed as allowing any animal under physical restraint to commit any act defined as unlawful in this chapter.
- F. Pet Shops: City licensed pet shops and animal related businesses may carry animals and birds providing the stock does not include species not allowed in the city (i.e., wild animals, reptiles, roosters, ratites, and cross-breeds with wild animals). Pet shops and animal related businesses shall be subject to ordinance compliance inspections.
- G. Animal Disposal: Within twenty four (24) hours of death of an animal, the owner shall dispose of the carcass by burial at least three feet (3') underground in a suitable location, or by other means approved by the animal control unit. There will be a fee if animal control is called to pick up the dead animal for disposal. (See current animal shelter fee schedule.) (Ord. 1067,



9-9-2002)

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6-2-12: COMMERCIAL KENNELS AND BOARDING:

Commercial kennels and boarding facilities are unlawful within the city limits. (Ord. 1067, 9-9-2002)

6-2-13: IMPOUNDMENT RESTRICTIONS:

The city has no facilities for impounding such animals as livestock, horses, sheep, pigs, goats, birds, reptiles, wild animals or fowl. The shelter or animal control will assist in finding a local person who might help or recommend a state or federal agency to contact.

- A. Livestock: It shall be unlawful for four-legged hoofed animals to remain on a premises within the city limits for more than twenty four (24) hours.
- B. Livestock Exception: Animals for school sponsored vocational, agricultural or activities such as Future Farmers of America may be kept at one location for the purpose of raising, showing and selling them at agricultural fairs and exhibits. Up to three (3) lambs or one calf are allowed. The keeping of such animals shall comply with the following minimum standards:
 - 1. Shelter and confinement area shall be a minimum of thirty feet (30') from the living quarters of any adjacent landowner;
 - 2. The standards in section 6-2-14, "Animal Care And Protection", of this chapter are followed;
 - 3. The animals are attended daily with periodic inspection by the vocational agricultural instructor and the county extension agent; and
 - 4. Lambs shall be contained in pens within a five foot (5') high enclosure, with the bottom four feet (4') being solid material.
- C. Other Pets: Caged birds are allowed. No wild birds are to be taken from their nests or harmed.
 - 1. No more than four (4) rabbits, guinea pigs, chinchillas, white rats or mice, squirrels or others similar may be maintained at a residence or business except a pet store.
- D. Fowl Restrictions: It is unlawful to keep a ratite (emu, etc.) on private property. Chickens are allowed as follows:
 - 1. A maximum of ten (10) hens for the personal consumption of the occupants of the property;
 - 2. Roosters are prohibited. It shall be unlawful for any person to maintain any number of roosters;
 - 3. Chicks shall be allowed only as a one on one replacement for adult hens;
 - 4. It shall be unlawful for any person to breed fowl or to slaughter any fowl for the purpose of sale; and
 - 5. If hens and chicks are not raised as itemized in subsections D1 through D3 of this section, any combination of up to six (6) small animals such as rabbits and fowls such as chickens and ducks may be housed outside a residence so long as they are properly contained, not raised for commercial purposes and do not become a nuisance. (Ord. 1067, 9-9-

6-2-14: ANIMAL CARE AND PROTECTION:

- A. Conditions: The animal must have easy access to adequate shade, shelter from the weather, food, potable water, and proper veterinary care when needed.
 - 1. The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety. Feces will be cleaned once every twenty four (24) hours.
 - 2. The area where the animal is confined must be kept free of insect infestation, such as ant hills, wasps nests, fleas, ticks and maggots. Reasonable efforts should be made to prevent the attraction and breeding of flies, mosquitos, or other noxious insects.
- B. Cruelty To Animals: No animal shall be wilfully, maliciously or cruelly beaten, except that such force as may be needed can be used to drive off vicious or trespassing animals.
- C. Extreme Cruelty: Extreme cruelty to animals consists of a person who:
 - 1. Intentionally or maliciously tortures, mutilates, injures or poisons an animal; or
 - 2. Maliciously kills an animal. (Ord. 1067, 9-9-2002)

6-2-15: OFFENSES AND ENFORCEMENT:

- A. Animal Nuisance: It is unlawful for a keeper to allow any animal to persistently bark, howl or make noise, to be kept or maintained in such a manner to disturb by emitting noxious or offensive odors or to otherwise be a nuisance, as defined, to the inhabitants of the area, specifically including defecation upon other private property.
- B. Abandonment Of Animals: It is unlawful to abandon any animal. To leave an animal without food, water or shelter for more than twenty four (24) hours on one's premises or to dump or leave off a domestic animal on property other than one's own without permission is considered abandonment.
- C. Dangerous And Vicious Animals: Special provisions for dangerous and vicious are as follows:
 - 1. It is unlawful for any person to keep or harbor any vicious animal. When an animal control 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 chapter, shall, in addition to any fine or imprisonment imposed for violation of this section, order the owner or keeper of such vicious animal to have it humanely destroyed.
 - 2. Dangerous animals with the potential to become vicious, whether through breeding or training (such as guard dogs) must be contained and restrained with additional safeguards for the public. When in public, such restraint may include a muzzle



attached to its mouth of sufficient construction to prevent said dog from harming any person or animal.

3. Should any dangerous animal be found abandoned, running at large, or violating any other part of this chapter, the shelter or animal control will determine if the animal is a hazard to the public and whether or not it may be redeemed from the shelter. Vicious animals found abandoned or running at large shall be destroyed.
- D. **Harboring Unvaccinated Animals:** It is unlawful for any person to keep a dog or cat that has not been vaccinated against rabies as provided in this chapter.
- E. **Cruelty To Animals:** It is unlawful for any person to wilfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance, overdrive or otherwise cruelly set upon any animal except that reasonable force may be employed to drive off or otherwise control vicious or trespassing animals.
- F. **Wild Animals:** It is unlawful to own or harbor a wild animal within the city limits.
- G. **Animal Care And Protection:** It is unlawful for a keeper to fail to provide any animal with proper food, water available at all times, shade, shelter, and veterinary care when needed to prevent suffering.
- H. **Poisoning And Trapping:** The following provisions apply to the use of poison and the trapping:
 1. It is unlawful to set traps to capture dogs or cats other than noninjurious, cage type enclosures.
 2. It is unlawful for any person to prepare, dispense, set out, or otherwise administer any poisonous material with the intent of harming or killing any animal.
 3. It is unlawful to set traps intended to kill or maim dogs or cats. This section does not prohibit the eradication of vermin which are a threat to public health.
- I. **Animal Fights:** It is unlawful to cause, instigate, promote or attend any fight in which two (2) or more animals or fowls are engaged for the purpose of injuring, maiming or destroying themselves or another animal.
- J. **Exclusion Of Service Dogs From Places Of Business:** It is unlawful for any person owning, operating or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to exclude therefrom any dog that has been trained to assist the blind or deaf, or mobility impaired, provided that such dog is in the company of the person whom it was trained to assist.
- K. **Unlawful Quarantine Release:** It is unlawful to remove an animal from quarantine without a signed release from animal control or the shelter.
- L. **Possession Of Poisonous Animals:** It shall be unlawful for any person or business to keep any venomous or poisonous snakes, lizards or reptiles within the city. (Ord. 1067, 9-9-2002)

6-2-16: PENALTIES:

- A. **Repeat Offenses:** Three (3) or more violations of any one or any combination of section 6-2-14 of this chapter shall constitute an act of cruelty to animals. A repeat offender shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars (\$500.00) and/or imprisonment for a period not exceeding six (6) months.
 1. In cases of repeat offenses under section 6-2-14 of this chapter, an animal control 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 the appropriate court, if in the opinion of the animal control officer, the harm to the animal is severe and likely to recur.
 2. In addition to the above penalties, any person found violating the terms of this chapter or any similar statute or ordinance within or without the state of New Mexico may, as a condition of probation, lose his/her right to own or keep an animal for a period as follows: ninety (90) days for a first offense; one year for a second offense; and five (5) years for a third offense.
 3. Notwithstanding the above, the court may permanently ban an individual from owning or possessing any animals for a period of time deemed reasonable by said court, if that person has been convicted of any offense involving cruelty to animals.
- B. **Suspensions, Revocations Of Permits:** When a permitted premises is in violation of this chapter a notice will be given to the permit holder of the specific violation, a time limit to correct it, and the warning that failure to comply may result in immediate suspension or revocation of the permit. A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit. The suspension may be lifted when the inspection determines the violations have been corrected. The reinstated permit shall expire on the date of expiration of the previously suspended permit.
- C. **Appeal Procedures For Permit Denial, Suspension Or Revocation:** When a permit is revoked or renewal is refused, the person may submit a written request for a hearing. The written request must be received within ten (10) days after the permit holder is notified of the revocation or renewal is refused. The applicant shall be afforded a fair hearing within a reasonable time which provides the basic safeguards of due process hearing shall be conducted.
 1. The opportunity to examine before the hearing, and, at the expense of the applicant, to copy all documents, records and regulations of the animal control department that are relevant to the hearing. Any document not made available by the animal control department after a written request by the

applicant may not be relied upon by the animal control department at the hearing.

2. The right to present evidence and arguments in support of his appeal to controvert evidence relied on by the department, and to confront and cross examine all witnesses on whose testimony or information the department relies.
 3. The hearing officer shall prepare a written report of his findings and decision based solely and exclusively upon the facts presented at the hearing within ten (10) days and provide copies to the parties.
 4. An appeal from a notice or inspection finding will be provided if a written request for a hearing is filed at the shelter within five (5) days of receipt of the notice.
- D. Misdemeanor: Any person who violates any of the provisions of this chapter may be charged with a misdemeanor and, upon conviction thereof, may be punished by a fine not to exceed three hundred dollars (\$300.00) and/or imprisonment for a period not to exceed ninety (90) days, or both such fine and imprisonment. Each day of violation shall be considered a separate offense.
- E. Cruelty To Animals: Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of section 31-19-1 New Mexico Statutes Annotated, 1978. 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 section 31-18 New Mexico Statutes Annotated, 1978.
- F. Extreme Cruelty: Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of section 31-18-15 New Mexico Statutes Annotated, 1978.
- G. Penalty For Poisoning: Any person who distributes or sets out poison for animals other than for the eradication of vermin within the boundaries of the city of Deming, New Mexico, shall pay a fine of not less than three hundred dollars (\$300.00) and be imprisoned in the Luna County jail for not less than thirty (30) days nor more than ninety (90) days. (Ord. 1067, 9-9-2002)

6-2-17: SEVERABILITY:

If any section, paragraph, sentence, clause, word or phrase of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter. The city council hereby declares that it would have passed this chapter and each division, section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid. (Ord. 1067, 9-9-2002)