DOÑA ANA COUNTY

ANIMAL CARE AND CONTROL ORDINANCE 1-74

ARTICLE I. GENERAL PROVISIONS

SECTION 1-1. SHORT TITLE AND LEGISLATIVE INTENT.

(a) This chapter shall be known as and may be cited as the "Doña Ana County Animals Control Ordinance."

(b) It is the intent of the Board of County Commissioners that enactment of this chapter will protect animals from neglect and abuse, will protect residents from annoyance and injury, will encourage responsible ownership of animals as pets, will assist in providing housing for animals in an animal shelter and will partially finance the animal control unit's functions of housing, licensing, enforcement and recovery. It is the intent of the Board of County Commissioners to organize and utilize advisory groups to assist with improving public awareness about subjects pertaining to the enactment of this chapter.

(c) The Doña Ana County Zoning Ordinance or Las Cruces Extraterritorial Zoning Ordinance may regulate the number of animals allowed on a property based upon the zoning classification for the property or may restrict the size and location of structures provided for animals.

SEC. 1-2. DEFINITIONS.

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

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

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

Animal control unit means the staff, facility, programs, pound, lot, premises, and buildings maintained by the county for the implementation of the control and care of animals.

Animal control officer means a Doña Ana County Animal Control Unit officer or supervisor.

Animal fighting means any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons.

Bite means an actual puncture or tear of the skin inflicted by the teeth of an animal. A scratch inflicted by the toe nails of an animal that results in tearing of flesh will also be treated as a bite for the purposes of quarantine.

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

Canine hybrid means: Any animal which because of its pure wolf or pure coyote ancestry, cannot be vaccinated against rabies effectively.

Confinement means detainment or isolation of an animal.

County means the unincorporated areas within the jurisdictional boundaries of the County of Doña Ana.

County Manager means the County Manager of Doña Ana County or his or her designated representative(s).

Dangerous animal means any of the following:

(1) An animal which engages in behavior that reasonably requires a defensive action by a person to prevent bodily injury to a person; or

(2) An animal which inflicts bodily injury; or

(3) A snake which, because of its poisonous bite, is a significant hazard to the public.

Enclosed means a parcel of land completely surrounded at the perimeter by a wall or fence of sufficient height and strength to contain animals within, or by an electric or invisible fencing that has been approved by the Animal Control Unit Supervisor or his designee.

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

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

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

Harbor means to allow stray animals to accumulate on one's premises by feeding them without making effective provisions as required by this Ordinance for their restraint, vaccinations, socialization, sterilization or other care.

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

Kennel means a commercial establishment operating for intended profit where dogs or cats are boarded, kept, or maintained; or sold or bred for either resale to commercial outlets or for the purposes of research, testing, or laboratory experimentation.

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

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

Multiple animal site means any animal facility or premises where more than six dogs, or cats, or any combination thereof, over three months of age are kept or maintained, and where the animals are not bred or sold for resale to commercial outlets, nor for the purpose of testing, research, or laboratory experimentation.

Owner/Caretaker means a person 18 years of age or older or the parent or guardian of a person under 18 years of age

who owns, harbors, keeps an animal, has one in his care, or permits an animal to remain on or about the premises owned or controlled by him.

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

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

Premises means a parcel of land and the structures thereon.

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

Qualified assistance animal means:

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

(2) An animal recognized as a service animal pursuant to the Americans with Disabilities Act of 1990; or

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

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

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

Sheriff means the Doña Ana County Sheriff or his designee.

Sterilized means to be rendered permanently incapable of reproduction.

Stray means an animal found running at large.

To run or running at large means allowing any animal to roam free from physical restraint so that it may wander beyond the boundaries of the owner's premises.

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

Vicious animal means an animal which kills or seriously injures a person or other animal.

ARTICLE II. ADMINISTRATION

SECTION 2-1. RULES AND REGULATIONS.

Reasonable rules and regulations may be prescribed by the County Manager and/or the Sheriff to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. The County Manager and/or the Sheriff may delegate these powers to whomever they deem expedient. An animal control officer shall wear a uniform and shall carry appropriate identification. Identification is to be surrendered to the County upon cessation of employment.

SECTION 2-2. APPOINTMENT OF ANIMAL CONTROL OFFICERS.

The County Manager, with the advice and consent of the Sheriff, shall select a competent and humane person to the position of Animal Control Unit Supervisor. Said Supervisor shall see that competent and humane persons are appointed to the positions of animal control officers. Animal control officers shall be concerned with the health and safety of the citizens of Doña Ana County and their animals and property.

SECTION 2-3. PROCEDURES FOR COMPLAINTS.

A complaint alleging any violation of this chapter may be filed with the Sheriff or the Supervisor of the animal control unit by a person who has personal knowledge of such violation and who can identify the owner of the animal involved or the premises where the animal is located. The Sheriff or Supervisor may require the complainant to provide his name and address and swear to and affirm the complaint.

SECTION 2-4. PROCEDURE FOR SHERIFF AND ANIMAL CONTROL OFFICERS.

(a) The Sheriff or his deputies, or the Supervisor and animal control officers shall have the authority, and are directed to investigate upon probable cause, any alleged violation of this chapter or of any law of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals.

(b) In enforcing this Ordinance, the County's personnel shall observe all of the legal rights granted its citizens under United States or New Mexico law, including citizens' constitutional rights against unreasonable searches and seizures. All such searches and seizures shall be conducted in such a manner as to protect the citizens' rights under the Fourth Amendment to the United States Constitution and Article II, Section 10 of the New Mexico Constitution. These protections require that the officer have consent of the person, or a warrant to enter upon private property or that such entry be in accordance with a recognized exception to the warrant requirement. If an officer receives a complaint of a violation, or observes a violation, he/she may only enter the property if such entry is done in conformance with the above constitutional requirements. Where legally recognized exigent circumstances exist to justify such an entry and a warrant cannot reasonably be obtained by the officer, he/she can enter the premises to the extent justified by law. For example, exigent circumstances exist where an animal appears to have been abandoned, as defined in this ordinance, and the officer reasonably believes it is necessary to protect the life and safety of the animal; the officer may enter the property to detain the animal.

(c) Whenever a deputy or an animal control officer has probable cause to believe that a person has violated this chapter, the animal control officer may prepare a criminal complaint to be filed with the appropriate court or

prepare a citation for the alleged violator to appear in court. The citation shall contain the name, date of birth, address and telephone number, if known, of the person violating this chapter, the driver's license number of such violator, if known, the code section allegedly violated, and the date and place when and where such person allegedly committed the violation, and the location where such person shall appear in court and the deadline for appearance. The animal control officer shall present the citation to the person he has probable cause to believe violated the code section in order to secure the alleged violator's written promise to appear in court by having the alleged violator sign a copy of the citation. The animal control officer shall deliver a copy of the citation to the person promising to appear.

(d) If the alleged violator refuses to give his written promise to appear, a deputy may make an arrest and take the suspect into custody.

SECTION 2-5. FEES.

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

SECTION 2-6. COUNTY ANIMAL CONTROL FACILITIES.

There are established one or more county animal control facilities which shall be located in such numbers and at such sites as shall be designated by the Board of County Commissioners. The board may contract with a private nonprofit organization to provide such facilities. Doña Ana County has a current contract with the Humane Society to perform these services. That contract shall not be affected by this ordinance.

ARTICLE III. ANIMAL CONTROL AND IMPOUNDMENT PROCEDURES

SECTION 3-1. IMPOUNDING ANIMALS.

(a) An animal control officer may detain and impound in the designated animal control facility a stray or any animal kept or maintained contrary to the requirements of this chapter.
   (1) The animal may be confined in accordance with the facilities regulations.
   (2) The owner shall be responsible for all impound fees, boarding fees, and other costs whether or not the animal is reclaimed.
   (3) Any stray which is not reclaimed and cannot be adopted, may be euthanized in accordance with the impound facility's regulations.

(b) The directors of such facility 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.

(c) Owners requesting removal of an animal shall be required to sign an owner's release at the time of impoundment.

(d) If a stray animal is not wearing a current rabies tag and is deemed critically injured or critically ill by an animal control officer, the officer may deliver the animal to the Doña Ana County Humane Society for euthanization. A report must be filed with the Sheriff. A properly trained and equipped animal control officer may euthanize said animal if he/she believes it necessary.

(e) Whenever an animal control officer finds that any animal is or will be without adequate care because of injury, illness, incarceration or other absence of the owner or person responsible for the care of such animal, the Sheriff or his designee may take up such animal for protective care. The owner of the animal may reclaim the animal after paying all required fees and costs imposed by the impound facility. If the animal is unclaimed at the end of the protective custody period, the animal may be humanely destroyed or otherwise disposed of by the impound facility.

(f) The owner of any impounded dog or cat that has not been vaccinated as required by this chapter may redeem the animal by paying for the rabies vaccination plus impoundment charges at the animal shelter. The owner will be allowed 96 hours to get such animal vaccinated. If such owner fails to procure a vaccination certificate within such 96 hours, the paid vaccination fee shall be forfeited and the animal may be impounded again.

SECTION 3-2 IMPOUNDMENT OF HORSES

(a) If an animal control officer finds that a horse has been abused by being untreated for serious medical or health problems, or by being seriously underfed to such an extent that its backbone is visible through its skin, then the officer shall cite the owner under Article VI of this Ordinance and may, in his discretion, allow a responsible person,(hereinafter “caretaker”), who is knowledgeable in horse care and able to provide suitable food, water and veterinary care, to temporarily take custody of the horse, in order to provide care and maintenance for the horse provided:
   (1) The caretaker shall provide transportation for the horse from the site where the horse is found to the caretaker’s premises; and
   (2) The caretaker shall provide adequate food, shelter and veterinary care for the horse; and
   (3) The caretaker shall abide by any court order regarding the custody and ownership of the horse.

(b) The owner of such an abused horse who has been temporarily deprived of the custody of his horse may, at the hearing on the issue of his citation for abuse, petition the Court for the return of the horse. Until such a judi-

cial determination, the horse shall remain in the custody of the caretaker, and the owner shall be assessed a reasonable fee for the transportation of the horse to the caretaker's premises, plus a reasonable boarding fee, for each day or part thereof that the horse remains on the caretaker's premises. Such amount can be awarded by a court to the caretaker.

(c) If the owner, upon notice, does not pay all fines and charges, including those imposed by a Court under this Section, within fifteen (15) days of imposition, then the horse shall be deemed forfeited by the owner, and the title and ownership shall vest in the caretaker.

SECTION 3-3 FEEDING AND RETENTION OF STRAYS.

(a) No person shall, without the knowledge and consent of the owner, hold or retain possession of any animal for more than 24 hours without first reporting the possession of the animal to the Sheriff.

(b) No person having such an animal in his possession shall refuse to immediately surrender the animal to an animal control officer upon demand.

ARTICLE IV. PERMITS REQUIRED

SECTION. 4-1. MULTIPLE ANIMAL SITE PERMIT.

(a) No person shall operate a multiple animal site without a valid permit. A person may obtain a permit under the conditions in subsection (b), after satisfactorily passing a prepermit inspection, payment of the appropriate permit fee, and proof of business registration, if applicable. The operator shall post the permit in a conspicuous place on the premises. Permits are not transferable.

(b) Permittees shall:

(1) Submit to post permit inspections of the premises.

(2) Maintain animals in suitable enclosures. Where animals are maintained in pens, cages or runs for periods exceeding 24 hours, they shall be provided with adequate space to prevent overcrowding and to maintain normal exercise according to species. Such cages holding cats must contain a litter box.

(3) Provide adequate weatherproof housing in all permitted premises with proper ventilation and temperature, and sufficient lighting and shade.

(4) Restrain animals by adequate fencing maintained at all times to contain the animals, or by the use of tethers or chains that are tangle-free, well-fitted, and equipped with a swivel device for attachment to the animals collar or harness.

(5) Make provisions for the removal and proper disposal of animal and food waste, soiled bedding, dead animals and debris. Animals shall be removed from cages and protected from water and cleaning agents during cleaning. Disposal facilities shall be operated in a manner which will minimize vermin infestation, odors and disease. Adequate drainag shall be maintained.

(6) Eliminate excessive animal noise.

(7) Segregate by sex, un-neutered adult animals, except where otherwise indicated for health, welfare or breeding purposes. Animals shall be housed in compatible groups

(8) Segregate diseased or injured animals.

(9) Provide all animals with clean, fresh, sufficient and wholesome food and potable water. Such water shall be available at all times. Food and water containers shall be kept clean.

(10) Provide sanitary, pest-free storage of food and bedding.

(11) Observe each animal daily. Programs for disease control and prevention shall be maintained. Sick, diseased, injured, lame or blind animals shall be provided with appropriate veterinary care. Humane euthanasia will be provided when necessary. The person in charge who suspects an animal of being rabid shall immediately notify the animal control supervisor or his designee and segregate the animal.

(12) Limit the number of adult dogs or cats, or any combination thereof, which it may keep as established by the following factors, relating to density:

a. The area of the permitted multiple animal sitshall be limited to ten percent of the total area of the premises.

b. Within the kennel area of the multiple animal site, 75 square feet of area shall be provided for each dog weighing under 30 pounds; 100 square feet for each dog weighing between 30 and 59 pounds, 125 square feet per dog over 60 pounds, and 25 square feet of space per cat.

(13) Spay or neuter all cats and dogs except where the owner has a valid litter or intact animal permit for such animal.

(14) For shelters and professional animal establishments a record shall be kept of animal inventory, disposition, and inoculations.

SECTION 4-2 INTACT ANIMAL PERMIT.

In order to maintain an unsterilized dog or cat, an owner shall obtain an intact animal permit. Such permit shall be issued at the request of the owner of an impounded unsterilized dog or cat upon payment of the required fee and proof that they possess a current rabies vaccination for the animal. An intact animal permit shall be revoked without refund of the fee upon the third impoundment of the animal. The animal shall then be spayed or neutered, and the owner shall be responsible for the cost of said procedure and must pay it before obtaining the animal.

SECTION 4-3. LITTER PERMIT.

(a) An owner who intentionally or unintentionally breeds a dog or cat shall purchase a litter permit for each litter.

(b) To encourage the sterilization of animals, the litter permit fee shall be refunded if the reproducing dog or cat is spayed within 90 days and proof submitted to the animal control supervisor.
(c) The owner shall not advertise, barter for, sell, or give away any puppy or kitten unless the applicable permit number is displayed legibly in all advertisements. The owner shall furnish the litter permit number to any potential recipient upon request.

SECTION 4-4 GUARD DOG PERMIT.

(a) No person shall use a guard dog without a valid permit. A person may obtain a guard dog permit under the following conditions:
  (1) Submission of an application which shall include sufficient information to identify the name and address of the owner of the commercial property and the name and address of the owner of the guard dog, and payment of an annual guard dog permit fee; and
  (2) Submission of an application which will show that the area where the guard dog is to be used shall be secured in such a manner as to prevent its escape, as well as:
    a. That the doors, windows, and all openings to the outside of a building in which a guard dog is on duty shall be secured to prevent its escape, and/or.
    b. That an outdoor property holding a guard dog shall be completely enclosed by a fence at least six feet in height and shall effectively contain the animal at all times.

SECTION 4-5 WILD ANIMAL PERMIT.

(a) This Ordinance shall not apply to municipal zoos and aquarium facilities, veterinary facilities, or individuals holding a State of New Mexico Wildlife Rehabilitation or Educational Use Permit.
(b) Any person who lawfully holds or keeps a wild or exotic animal as defined in this section in the unincorporated areas of the county prior to the effective date of this chapter may maintain that individual animal until its death under the following conditions:
  (1) Submission of an application for a wild animal permit to the county within 60 days of the effective date of this chapter and payment of the annual permit fee.
  (2) Provision of adequate facilities to prevent the animal from escaping, injuring the public, or creating a public nuisance.
  (3) Compliance with all applicable requirements set forth in this chapter.
  (4) No additional wild or exotic animals may be added to the premises by acquisition or breeding as of the effective date of this chapter.

SECTION 4-6. CANINE HYBRID PERMIT.

(a) No person shall purchase, sell, offer for sale, or advertise for sale any animal that is represented to be the offspring, cross, mix, or hybrid of a wolf or coyote.
(b) It shall be unlawful to feed live animals or raw meat to a canine hybrid. Prepared commercial or veterinarian prescribed diets will be the only acceptable form of canine hybrid feeding.
(c) No person shall possess a canine hybrid without a valid canine hybrid permit. A person may apply for such a permit under the following conditions:
  (1) Submission of a permit application
  (2) Submission of written proof from a licensed veterinarian that all animals over the age of six months for which a permit is requested have been spayed or neutered.
  (3) The applicant's property used for the housing of canine hybrids shall be open to annual inspection by an animal control officer
  (4) Payment of the annual permit fee.
(d) A permit shall not be issued until the applicant provides an adequate physical enclosure that completely and effectively confines all animals to the property of the owner. An animal control officer shall determine the adequacy of the enclosure.
  (1) A minimum livable area of 400 square feet must be provided for up to two canine hybrids, with an additional 100 square feet per animal for each additional hybrid. An exception to this subpart may be granted if the animal owner submits a written plan of adequate housing and exercise to the animal control unit and such plan is approved by the department.

ARTICLE V. OWNER'S DUTIES

SECTION. 5-1. 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 Control Unit within 24 hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an animal control 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 Supervisor 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 Control Unit 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 control officer. The owner of the animal

shall bear the cost of confinement

(d) The animal control 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 control 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 control officer. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the Supervisor for such home confinement.

(f) If the animal shows signs of sickness or abnormal behavior, or if the animal escapes confinement, the person shall immediately notify the animal control unit. The person having custody of an animal that dies during the confinement period shall notify the animal control unit and surrender the carcass of the animal immediately to an animal control officer.

SECTION 5-2. ANIMAL VACCINATION

(a) It is the duty of any person(s) owning or keeping a dog, cat, or domestic ferret over the age of three months to have the animal vaccinated against rabies as prescribed by Section 77-1-3 NMSA 1978 as amended.

(b) The veterinarian administering anti-rabies vaccines to any animal shall issue the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner of the animal, a description of the animal vaccinated, the date of vaccination, and the date immunity expires.

(c) The veterinarian shall also furnish the owner or keeper with a metal tag bearing the certificate number. A current rabies tag shall be affixed by the owner or keeper to a collar or harness worn by the animal at all times unless the animal is being kept in an approved kennel or veterinary hospital, is being trained by a professional trainer or is appearing in an approved show.

(d) It is unlawful for the owner of any dog, cat, domestic ferret or any other member of the canine or feline family to fail to exhibit its certificate of vaccination upon demand by the Supervisor or any animal control officer. This subsection does not apply to any animal in control of the animal control shelter.

(e) 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.

SECTION 5-3. NUMBER OF ANIMALS ALLOWED.

(a) When permit required- No person or household shall own, harbor or keep more than a combined total of six dogs and/or cats in any combination thereof over the age of three months without a valid multiple animal site permit.

(b) Limit of absolute number of pets - A household may have up to 15 dogs or cats or any combination thereof provided all of the animals are be sterilized or appropriately permitted.

(c) Limit on reproduction - No person or household shall permit or allow the breeding of a dog or cat in the absence of a valid intact animal permit and/or litter permit.

(d) Canine hybrid limitation - No person or household may own, harbor or keep more than four canine hybrids, all of which must be sterilized, and such ownership of canine hybrids shall not result in a combined number of dogs, cats or canine hybrids totaling more than fifteen.

SECTION 5-4. RESTRAINT OF ANIMALS; RESTRAINT DEVICES.

(a) A person owning or having charge, custody, care, or control over a dog or cat shall keep the dog or cat 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 in length with a swivel device attaching the animal's collar to the chain or leash only.

(b) A dog or cat is permitted on the street and in other public places only if on a secure leash not exceeding six feet in length. A person physically capable of controlling and restraining the animal must have control of the animal. This section does not apply when a dog is participating in a bona fide animal show authorized by the county or appropriate school authorities.

(c) A rope, chain, or other device may be used to restrain a dog or other animal on one’s property, provided the following criteria are met:

(1) The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness.

(2) The device must be at least 12 feet long unless such length would violate § 6-5, in which case it shall be no less than eight feet long. The device must be fastened so the animal can sit, walk and lie down comfortably; and must be unobstructed by objects that may cause the device or animal to become entangled or strangled. Any chain or tether shall have swivels on both ends.

(3) The animal must have easy access to adequate shade, shelter, food and potable water.

(4) A dog or puppy may be restrained by a fixed point chain or tether for no more than eight hours in a 24 hour period. No chain or tether shall weigh more than 1/8 of the dog or puppy weight.

(5) 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 shall not be allowed to accumulate and shall be cleaned up by the owner.

(6) The area where the animal is confined must be kept free of insect infestation, such as ant hills, wasps nests, flea, tick and maggot infestations.

(d) Nothing in this section shall be construed as allowing any animal under physical restraint to commit any act defined as unlawful in this chapter.

(e) A person who uses electric or invisible fencing designed to confine an animal to his property must clearly post a notice in two separate locations upon the property that such a devise is in use.

(f) The presence of any uninvited dog or cat upon public property or the private property of any person other than its owner shall be prima facie evidence that the owner has violated the provisions of this section, and shall make such animal liable to surrender to an animal control officer as would apply to the case of a dog running at large.

SECTION 5-5. ANIMAL IDENTIFICATION

All dogs and cats that are impounded as strays shall be required to have microchips implanted when reclaimed by their owner. Pet identification through microchips and/or tags are encouraged as a means of returning lost or stray animals to their owners, as is registration of the animal's description, owner's name address, and telephone number, with veterinarians and the Humane Society of Doña Ana County.

ARTICLE VI. PROHIBITED ACTIVITIES

SECTION 6-1. ABANDONMENT.

It is unlawful for a person to abandon an animal.

SECTION 6-2. ADMISSION OF QUALIFIED ASSISTANCE ANIMALS TO PUBLIC PLACES.

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

SECTION 6-3. ANIMALS DISTURBING THE PEACE.

(a) It is unlawful for a person to allow an animal to persistently or continuously bark, howl or make noise common to their species or otherwise disturb the peace and quiet of inhabitants of the county for more than 10 consecutive minutes.

(b) It is unlawful to keep or maintain an animal in such an unclean or unsanitary manner that it disturbs others by noxious or offensive odors.

SECTION 6-4. ANIMALS KILLING OR INJURING LIVESTOCK OR PROTECTED WILDLIFE.

(a) It is unlawful for a person to keep an animal known to have killed or injured livestock. The owner has a duty to destroy said animal humanely or surrender such an animal to the animal control department for proper humane euthanization upon the order of the court.

(b) An owner of livestock shall have the right to humanely kill an animal that has injured or killed livestock while it is upon property controlled by the owner of the livestock.

SECTION 6-5. ANIMALS ON UNENCLOSED PROPERTIES. It is unlawful for a person to harbor, chain, or stake out, an animal on unenclosed premises in such a manner that may allow the animal to go beyond the property line.

SECTION 6-6. ANIMAL POISONING.

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

(b) It is unlawful for a person expose an animal to a known poisonous substance, whether mixed with food or not, so that the substance shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to use commercially available poisonous substances in the recommended manner on his property to control vermin.

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

SECTION. 6-7. ANIMALS RUNNING AT LARGE.

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

(b) An animal permitted to run at large in violation of this section is declared to be a nuisance and a menace to the public health and safety. Such animal may be taken up and impounded. An officer may not enter a private building or residence in pursuit of an animal without permission of the owner.

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

(d) It is unlawful for an owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, to permit

any animal to run at large upon the common areas of the multiple dwelling unit.

SECTION 6-8. INJURY TO ANIMALS BY MOTORISTS. Every operator of a motor or self-propelled vehicle upon the streets and ways of the county shall immediately upon injuring, striking, maiming or running down any animal provide immediate notification to the Animal Control Supervisor or his/her designees, furnishing sufficient facts relative to the incident.

SECTION 6-9. ANIMALS TRANSPORTED IN VEHICLES.

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

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

SECTION 6-10. ANIMAL WASTE.

It is unlawful to permit an animal to defecate on public or private property other than the property of the owner of the animal unless such animal waste is immediately removed and properly disposed of by the person having custody of the animal. The owner or keeper of domestic animals, such as dogs, cats or any small household animal, shall maintain a watertight and fly tight receptacle for manure from such animals which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard. Such receptacles shall be securely covered at all times except when opened to deposit manure. No manure will be allowed to accumulate except in such receptacles.

SECTION 6-11. BREAKING INTO ANIMAL CONTROL FACILITIES OR VEHICLES.

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

SECTION 6-12. CARE AND MAINTENANCE OF ANIMALS.

(a) It is unlawful for a person to fail, refuse and/or neglect to provide any animal in his charge or custody with such care and husbandry as to maintain the good health and well-being of the animal. Such care and husbandry shall include, but not be limited to, adequate wholesome food, provided daily, fresh potable water, available at all times, clean adequate living area, shade independent of shelter, professional veterinary care and necessary grooming, to maintain good health and protection from extreme weather elements.

(b) Any animal, except horses, cattle, pigs, sheep or goats, habitually kept outside shall be provided with a structurally sound, weatherproof enclosure, with slightly elevated flooring, large enough to accommodate the animal comfortably.

SECTION 6-13 CARE AND MAINTENANCE OF LIVESTOCK

(a) It is unlawful for a person to fail, refuse and/or neglect to provide any livestock in his charge or custody with such care and husbandry as to maintain the good health and well-being of the animal. Such care andhusbandry shall include, but not be limited to, nutritious food in sufficient quantity provided daily, fresh clean potable water available at all times, clean adequate space, proper air ventilation and temperature control when kept in buildings, necessary veterinary care, necessary hoof care, and a proper shelter or protection from weather.

(b) When an animal control officer has probable cause to believe that livestock are being neglected under this section or section 6-12 , the officer may take up and impound the livestock into protective custody awaiting appropriate court proceedings.

SECTION 6-14. CONFINEMENT OF FEMALE DOGS OR CATS IN MATING SEASON.

(a) A person in control of a female dog or cat in mating season shall confine such dog or cat so as to prevent other dogs or cats from attacking or being attracted to such female animal, except for intentional breeding purposes.

(b) It shall be unlawful to maintain a female dog or cat in mating season in any manner that creates a public nuisance.

SECTION. 6-15. CRUELTY TO ANIMALS.

(a) It is unlawful for a person to recklessly, willfully or maliciously kill, maim, disfigure or torture; beat with a stick, chain, club or other object; mutilate, burn or scald with any substance, overwork, torment, harass or otherwise cruelly set upon any animal, except that reasonable force may be used to drive off vicious, dangerous or trespassing animals. When an animal control officer has probable cause to believe that an animal has been cruelly treated, the officer may take up and impound the animal into protective custody awaiting appropriate court proceedings.

(b) It is unlawful for any person to tease, annoy, disturb, or molest any animal which is on the property of its owner, or under the control of its owner.

(c) It is unlawful for any person to entice, or lure any animal out of an enclosure or off the property of its owner or keeper or to seize or tease any animal while the animal is on the property of its owner or keeper, except an animal control officer, in the otherwise lawful performance of his duties.

SECTION. 6-16. FIGHTS.

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

(b) It is unlawful for any person to advertise, offer to sell, or to transport any animal represented to be a fighting animal.
(c) It is unlawful for any person to train, equip, or sponsor an animal for the purpose of fighting another animal. Use of equipment designed to train or encourage an animal to fight, with another animal, is prima facie evidence of a violation of this section.
(d) Nothing in this section shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authorities.

SECTION 6-17. HOBBLING.
(a) It is unlawful for any person to hobble, chain, or stake livestock or other animals by any means which may cause injury or damage to said animal without the consent or instruction of a veterinarian.
(b) It is unlawful for any person to hobble, chain, or stake livestock or other animals so that they become entangled or are prevented access to any and all care and maintenance items required under sections 6-12 and 6-13 of this chapter.

SECTION 6-18. INTERFERENCE WITH THE ANIMAL CONTROL OFFICERS, OR DEPUTIES IN THE PERFORMANCE OF THEIR DUTIES.
(a) No person shall attack, assault or in any way threaten or interfere with the Sheriff, or any animal control officer or any deputy or their designee in the performance of the duties required by this chapter.
(b) It is unlawful for any person to make a false report to a Sheriff's deputy or an animal control officer regarding any animal in danger or stray or regarding any supposed violation of this Ordinance.

SECTION 6-19. KEEPING A SERIOUSLY SICK OR INJURED ANIMAL.
(a) It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including starvation, without providing proper veterinary care. When an animal control officer has probable cause to believe that an animal is seriously sick or injured, and not receiving proper care, the officer may take up and impound the animal into protective custody awaiting appropriate court proceedings.
(b) The Sheriff, Supervisor or an animal control officer may require the owner to provide a letter of health evaluation from a licensed veterinarian describing the condition of the animal and the treatment provided. The animal care and regulation department may utilize a standard body scoring system to evaluate the condition of an animal.
(c) In the absence of proper veterinary care, the Sheriff, Supervisor or an animal control officer may impound such a seriously sick or injured animal, in accordance with the provisions of this chapter, into protective custody awaiting appropriate court proceedings. Any and all veterinary costs will be at the animal owner's expense whether the animal is returned to the owner or not.
(d) Any such animal impounded may be destroyed humanely or otherwise disposed of according to the normal procedures of the impound facility as soon thereafter as is conveniently possible.

SECTION 6-20. DEAD ANIMALS.
(a) Within twenty-four (24) hours of death of an animal, the owner shall dispose of the carcass by burial at least three (3) feet underground in a suitable location, or by other means approved by the animal control unit.
(b) At his discretion, the Supervisor is authorized to pick up and dispose of all dead animals immediately upon discovery or notification. He is entitled to charge a reasonable fee for such services to the owner. The Supervisor shall make reasonable efforts to notify the owner of the death of the animal. The fee to be established by resolution of the Board of County Commissioners.
(c) The Animal Control Unit is not responsible for pick up or disposal of domestic livestock or wild animals, or animals killed on interstate and state highways. Dead animals on county roads shall be removed, upon notification, by the Doña Ana County Environmental Department.
(d) At the request of the owner, the Supervisor may, at his own discretion, given the constraints of County resources, remove the carcass of dogs and cats from private property for a fee. The fee to be established by resolution of the Board of County Commissioners.

SECTION 6-21. SALE AND DISPLAY OF ANIMALS.
(a) No person shall sell, offer for sale, barter, give away or otherwise dispose of an animal upon a street, sidewalk, public park or any area open to the public.
(b) No person shall offer a mammal as a prize, giveaway or award for a contest, game, or sport or as an incentive to purchase merchandise.
(c) Animal exhibits.
  (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 State of New Mexico Department of Game and Fish.
  (2) No person shall operate, conduct or maintain any animal exhibit under conditions that pose a danger to the public or the animals.

SECTION. 6-22. VICIOUS OR DANGEROUS ANIMALS.
(a) It shall be unlawful to maintain a dangerous animal in a manner which constitutes a threat to any person or other animal. All dangerous animals must be securely confined in escape-proof locked structures and the owner must post warning signs in English and Spanish warning people to remain a safe distance from said animals.

Any animal control officer who determines that the present conditions of confinement for a dangerous animal do not meet the above standards, and that a present substantial danger to the public exists, may, consistent with the constitutional rights of the owner, take control of said animal and confine it in a humane and safe cage, pending further Court action.

(b) It is unlawful for any person to keep or harbor a vicious animal. When an animal control officer has probable cause to believe that an animal is vicious, the officer may, consistent with the constitutional rights of the owner, 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 destroy it humanely or turn such animal over to the Supervisor or his designee for destruction.

(c) An animal control officer or Sheriff's deputy who learns of a stray vicious or dangerous animal within the County, which is a threat or potential threat to human life, is authorized to destroy said stray vicious or dangerous animal if he is unable to capture said animals without any substantial danger to himself or others.

SECTION 6-23. HARBORING.

No person shall feed any feral cats or stray dogs anywhere within the unincorporated areas of Doña Ana County. Any person observing such animals shall immediately report their presence to the Animal Control Unit.

ARTICLE VII. WILD OR EXOTIC ANIMALS; GUARD DOGS

SECTION 7-1. WILD ANIMALS.

(a) Except as allowed by Section 4-5 (a), it shall be unlawful for a person to own, harbor, or keep on any private or public property in the county any wild or exotic animal of a species that in its natural life is dangerous or ferocious. Such animals, though they may be trained and domesticated, remain a danger to others, and include:

(1) Wolves, foxes, coyotes, dingoes, and other members of the non-domestic canine families.
(2) Lions, pumas, panthers, mountain lions, wild cats, and other members of the non-domestic feline families.
(3) All bears (Ursidae), including grizzly bears, black bears, brown bears, etc.
(4) Raccoons (Procyonidae), including eastern raccoon, desert raccoons, ring tailed cat, etc.
(5) Primates (Hominidae), including all non-human great apes other than qualified service animals.
(6) Skunks.
(7) Bats.
(8) Non-indigenous poisonous snakes.
(9) Alligators, crocodiles, caimans, or poisonous reptiles or amphibians or lizards.
(10) Venomous fish and piranha.

SECTION 7-2. GUARD DOGS

(a) A person who wishes to use a trained or certified guard dog on nonresidential property shall first obtain a guard dog permit from the animal control unit. Certified or Trained guard dogs shall not be used to guard residential property.

(b) In addition to the facilities and care standard requirements for permitted premises set forth elsewhere in this Ordinance, 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 guard dog. The off duty housing area shall be kept locked when not in use.

(c) When a dog is on duty outside a building, the premises must be enclosed by a secure fence at least six feet high, to which anti-escape devices have been added.

(d) If the Supervisor determines it is necessary to control noise at the site, the Supervisor may require the owner or permit holder to construct a barrier which breaks the dog's line of sight at the owner's or permit holder's expense. (e) 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.

(f) Guard dog premises shall be posted with warning signs at least 12 inches long on each side. The warning signs shall state "Guard Dog" and "Guardia" and shall show a picture of an aggressive dog. The warning signs shall be posted not more than 200 feet apart on the exterior of the fences or walls surrounding the site, and shall be posted at all exterior corners of the site and at every entrance to the site.

(g) Vehicles used to transport a guard dog(s) and vehicles being protected by a guard dog(s) shall be secured so the public is protected from injury, shall be constructed or modified to ensure that the guard dog is transported in a safe, humane manner, and shall be posted with warning signs. At a minimum, the signs shall be posted conspicuously on both sides of the vehicle.

ARTICLE VIII. PENALTIES

SECTION 8-1. PENALTIES- REPEAT OFFENSES.

(a) Except as noted below, and/or provided elsewhere in this chapter, each violation of this chapter is punishable as provided by a fine of $500 and/or imprisonment for 90 days in jail, or both.

(b) A person who is convicted of an offense under Section VI of this Ordinance, which involves cruelty, neglect or abandonment of an animal, and who has been previously convicted of one other violation of Section VI of this Ordinance, or any similar statute or Ordinance involv-

ing cruelty, neglect or abandonment to an animal shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding $500.00 and/or imprisonment for a period not exceeding six (6) months.

(c) In cases involving a violation of Section VI, an animal control officer shall have the authority, consistent with the Constitution, 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

(d) In addition to the above penalties, any person found violating the terms of this Ordinance 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:
   1. 90 days for a 1st Offense
   2. 1 year for a 2nd Offense
   3. 5 years for a 3rd Offense

(e) Notwithstanding, the above, a Court of competent jurisdiction, may in addition to any of the relief requested permanently ban an individual from owning or possessing any animals for any period of time deemed reasonable by said Court, if that person has been convicted of any offense involving cruelty to animals.

SECTION 8-2. SUSPENSIONS, REVOCATIONS OF PERMITS.

(a) When the Sheriff discovers that a permitted premises is in violation of this chapter, he shall give notice of the violations to the permit holder, operator or person in charge by means of an inspection report or other written notice. The notification shall:
   (1) Set forth each specific violation.
   (2) Establish a specific and reasonable period of time for the correction of the violation.
   (3) State that failure to comply with a notice issued in accordance with the provisions of this chapter may result in immediate suspension or revocation of the permit.
   (4) State that an opportunity for appeal from a notice or inspection findings will be provided if a written request for a hearing is filed with the Supervisor within five days of receipt of the notice.

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

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

(d) Permits may be revoked for serious or repeated violations of the requirements of this chapter, or for violation of other applicable laws, ordinances or regulations. A permit shall be revoked for one year. The permit shall be surrendered to the Animal Control Unit upon suspension or revocation.
   (1) A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit. If the applicant and the site are in compliance with the requirements of this chapter and all other applicable laws, ordinances and regulations, the permit shall be reinstated. The reinstated permit shall expire on the date of expiration of the previously-suspended permit.
   (2) If an exotic, wild animal or canine/wolf hybrid permit is suspended or revoked, all animals received, purchased, owned or kept under the authority of the permit shall be surrendered to the Supervisor for impoundment. After a period of at least seven days, if the violations of this chapter which resulted in suspension or revocation of the permit have not been corrected, the Supervisor may sell or dispose of the animal(s) as provided in this chapter. The applicant may appeal the suspension or revocation in the manner provided in section 8-3 of this chapter.

SECTION 8-3. APPEAL PROCEDURES FOR PERMIT DENIAL, SUSPENSION OR REVOCATION.

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

(b) Hearings shall be conducted by a hearing officer at a time and place designated by the Animal Control Supervisor and shall be recorded. All witnesses shall be sworn or affirmed. Written notice of the time and place of the hearing shall be mailed to the applicant and the county manager.

(c) The applicant shall be afforded a fair hearing which provides the basic safeguards of due process which shall include:
   (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 written request by the applicant, may not be relied upon by the animal control department at the hearing.
   (2) The right to be represented by counsel or other persons chosen as his representative.
   (3) 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 County manager relies.

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

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

ARTICLE IX. REPEAL AND SEVERABILITY CLAUSE

SECTION 9-1. REPEAL OF PRIOR ORDINANCES AND EFFECTIVE DATE.

This Ordinance repeals County Ordinances 1-74 and 45-86 and any other Ordinances with which the terms of this Ordinance conflicts on the effective date of this Ordinance. All previous related Ordinances are hereby amended and superceded. The Ordinance will be effective thirty (30) days from the date of recording by the County Clerk.

SECTION 9-2. 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 commission 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.

PASSED, APPROVED AND ADOPTED THIS 24th DAY OF SEPTEMBER, 2002.

BOARD OF COUNTY COMMISSIONERS
Of DOÑA ANA COUNTY, NEW MEXICO

_____
D. Kent Evans, Chairman
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_____
Paul B. Curry, Vice Chairman

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Carlos E. Garza, Member

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Gilbert T. Apodaca, Member

_____
Arturo C. Terrazas, Member
ATTEST:

_____
Ruben Ceballos, Clerk