

**ORDINANCE NO. 2013-\_\_**

**AN ORDINANCE ESTABLISHING REGULATIONS AND GENERAL GUIDELINES FOR THE OWNERSHIP, CONTROL, REGISTRATION, LICENSING, HOUSING, VACCINATION, HEALTH, SAFETY AND CARE OF ANIMALS, THE IMPOUNDMENT AND DISPOSITION OF ANIMALS RUNNING AT LARGE, AND THE PREVENTION OF CRUELTY TO ANIMALS WITHIN THE CITY OF ANTHONY, DONA ANA COUNTY, NEW MEXICO.**

**WHEREAS**, staff for the GOVERNING BODY did duly publish notice of this Ordinance in accordance with law; and

**WHEREAS**, the GOVERNING BODY did hold a duly noticed Public Meeting; and

**WHEREAS**, the GOVERNING BODY did consider testimony from staff and the public before reaching its decision; and

**WHEREAS**, pursuant to §3-13-3 and §3-17-1 NMSA 1978, the City of Anthony, New Mexico (hereinafter referred to as the "City") enacts this Ordinance for the purpose of:

1. Effecting or discharging the powers and duties conferred by law upon the City.
2. Providing for the safety and well-being, comfort and convenience of the City and its inhabitants.
3. Providing for the safety, well-being, and control of animals housed within the city limits.
4. Preventing the cruelty of animals within the city boundaries.

**WHEREAS**, the GOVERNING BODY does make the following findings:

1. That it is in the best interest of the public of the City to enact an Animal Control Ordinance in order to provide for the safety, well-being and comfort of the City and its inhabitants.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANTHONY, DONA ANA COUNTY, NEW MEXICO**, that the Board of Trustees for the City of Anthony, New Mexico hereby adopts the following Animal Control Ordinance enacted to read as follows:

## **ANIMAL CONTROL ORDINANCE**

Sections:

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**SECTION I.** Short title.

This chapter may be cited as the animal control ordinance of the City of Anthony.

**SECTION II.** Authority, purpose and goals.

A. Authority. This chapter is adopted pursuant to the enabling provisions of Sections 3-13-3 and 3-17-1 NMSA 1978, as amended.

B. Purpose. The purpose of this chapter is to establish regulations and general guidelines for the ownership, control, registration, licensing, housing, vaccination, health, safety and care of animals, the impounding and disposition of animals running at large, and the prevention of cruelty to animals.

C. Goals. The goals of this chapter are to:

1. Protect the citizens of the city and their property;
2. Regulate, restrain and prohibit the running at large of any animal within the boundary of the City of Anthony;
3. Regulate the ownership, control, registration, and licensing of animals; and encourage the vaccination of all animals;
4. Protect the health and safety of animals; reduce animal nuisances; and provide for the control of dangerous or vicious animals; and
5. Prohibit cruelty to animals.

**SECTION III. Definitions.**

The following words, terms, phrases, and their derivations shall have the following meanings:

- A. “Abandoned” means where an owner has relinquished all right, title, claim and possession of an animal with the intent of not reclaiming it or resuming its ownership, possession or enjoyment.
- B. “Adoption” means to take possession by choice and assume responsibility for proper care and keeping of an animal in accordance with this chapter.
- C. “Animal” means a dog, cat, poultry, bird, reptile, insect, arachnid, fish or any other vertebrate, excluding the human species and those animals under the jurisdiction of the New Mexico Department of Game and Fish.
- D. “Animal control center” or “animal control shelter” means any establishment or facility authorized by the City of Anthony, New Mexico, for the care and custody of impounded animals.
- E. “Animal control officer” means the person(s) appointed by the Chief of Police to assume and carry out the powers, authority, duties and responsibilities delegated to him or her by the governing body of the City of Anthony, New Mexico.
- F. “Apiary operation” means the conduction of any activity where bees are raised or kept for their honey or pollination.
- G. “Arachnid” means any of the various eight-legged arthropods, such as, but not limited to, spiders, scorpions, mites and ticks.
- H. “Arachnid operation” means the conduction of any activity where arachnids are raised or kept.

I. "Astray" means any animal which shall be off and away from its home, unattended or running at large within the City of Anthony.

J. "Bite" means any puncture or tear of the skin inflicted by the teeth of an animal.

K. "City" means the land area within the boundaries of the City of Anthony, New Mexico, as may be extended by future annexations from time to time, including privately owned land and city-, state- and federal-owned land.

L. "Confinement" means the restriction of movement of an animal to the premises of its owner, or to the premises of one charged with the care and control of the animal.

M. "Board of Trustees" means the governing body of the City of Anthony, New Mexico.

N. "County" means the county of Dona Ana, New Mexico.

O. "Guard dog" means a dog that is used to defend, patrol, secure, or protect property or persons.

P. "Hobby breeder" means a small-scale dog or cat breeder who owns no more than three breeding female dogs or cats (older than six months) that are registered with a recognized registry organization or association.

Q. "Impoundment" means the taking custody of a stray, vicious animal or an animal alleged to be vicious, by an animal control officer, municipal police, code enforcement officer or duly authorized designee, and the detention of the animal in the animal control center.

R. "In season" or "in heat" means a period of time during which a female animal is capable of being impregnated or conceiving.

S. "Insect" means any of a class of usually winged invertebrate animals, such as, but not limited to, flies, beetles, moths, bees, wasps, butterflies, grasshoppers, lice, and fleas, having three pairs of legs and a three-segmented body.

T. "Insect operation" means the conduction of any activity where insects are raised or kept.

U. "Kennel" means any person, joint venture, partnership, limited liability company, corporation or other business entity that is engaged in the maintenance and shelter of animals not their own for profit, or that is engaged in the breeding and sale of animals for profit.

V. "Leash" means a chain, strap or cord of sufficient substance to hold under control the animal attached thereto and shall be no longer than six feet.

W. “Livestock” means horses, cattle, pigs, sheep, goats, rabbits and/or poultry.

X. “Municipal police” means the Police Department of the City of Anthony, New Mexico.

Y. “Nuisance” means, but is not limited to, defecation, urination, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offending the well-being of the inhabitants of the City of Anthony, New Mexico.

Z. “Owner” means a person who owns, possesses, harbors, keeps, or has custody or control, or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his care, or who permits an animal to remain on or about his premises.

AA. “Pet shop” means any person, joint venture, partnership, limited liability company, corporation or other business entity that is engaged in the buying and selling or grooming of animals for profit.

BB. “Premises” means a parcel of land and the structures thereon.

CC. “Reptile” means any of various cold-blooded, egg-laying vertebrates, such as, but not limited to, snakes, crocodiles, lizards, frogs, turtles, iguanas, geckos, salamanders, newts, and toads.

DD. “Run or running at large” means to be free of physical restraints and go beyond the boundaries of the premises of the owner.

EE. “Service animal” means an animal which has been trained by a recognized service animal trainer to assist a blind person, a hearing-impaired person, or a mobility-impaired person. The term shall also include an animal that is deemed necessary by a physician licensed to practice medicine in the state of New Mexico. The term shall also include an animal which has been trained and used by law enforcement for legitimate law enforcement purposes.

FF. “Veterinarian” means a person with a doctor of veterinary medicine degree licensed to practice in the state of New Mexico.

GG. “Vicious or dangerous animal” means any of the following:

1. Any animal which kills or severely injures (so as to result in muscle tears, or disfiguring laceration, or require multiple sutures, corrective or cosmetic surgery) a person or domesticated animal within the city. It does not include an animal which bites, injures, attacks or attempts to attack any person or animal which is unlawfully or without permission upon its owner’s or keeper’s premises or which is provoked to attack or attempt to attack;

2. Any animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or domesticated animal within the city when the person and the domesticated animal are off the owner's or keeper's property; or

3. Any animal which, because of its poisonous bite or sting, would constitute a significant hazard to persons or domesticated animals within the city.

No animal which bites, injures, attacks, or attempts to attack any person or animal which is unlawfully or without permission upon its owner's or keeper's premises, or which is provoked to attack or attempt to attack, or which is responding to pain or injury, protecting itself or its offspring, or protecting or defending a human being, shall be deemed a vicious animal.

HH. "Wild animal" means any of the various warm- or cold-blooded vertebrates, insects, or arachnids living in a natural state, not domesticated, bred or raised, including exotic species.

#### **SECTION IV. Joint agreement with Animal Humane Society.**

The mayor is authorized, with the consent of the governing body, to execute on behalf of the city a joint powers agreement for animal control services with the Animal Humane Society or an equivalent organization so as to accomplish the purposes of this chapter if necessary.

#### **SECTION V. Animal control officer.**

The governing body of the city shall delegate the powers, authority, duties and responsibilities set out in this title to the animal control officer, municipal police, code enforcement officer or any duly authorized designee appointed by the mayor, with the consent of the governing body, to protect the citizens of the city and their property.

#### **SECTION VI. Animal control authority.**

A. Authority Granted to the Animal control officer, municipal police, Code Enforcement Officer or Duly Authorized Designee.

1. Duty to Protect the Health and Safety of the Public. The animal control officer, municipal police, code enforcement officer or duly authorized designee shall be concerned with the health and safety of the citizens of the city as affected by animals and to protect the citizens of the city and their property.

2. Methods Authorized. The animal control officer, municipal police, code enforcement officer or duly authorized designee shall be authorized to use such methods, means and equipment as are reasonably necessary to bring strays and other animals under control and to enforce the provisions of this chapter.

3. Entry on Premises Authorized. For the purposes of discharging his or her duties imposed by this chapter, the animal control officer, municipal police, code enforcement officer, or duly authorized designee shall be authorized to enter upon any manned premises if he or she has reasonable cause to believe a violation of this chapter has been committed; or if any provisions of this chapter or any of the laws of the state of New Mexico relating to the care, treatment, control and prevention of cruelty to animals have been or are being violated.

4. Entry on Private Land with a Search Warrant. If, however, the owner or occupant of any dwelling or premises objects to inspection, as stated in this section, a search warrant for the inspection of the dwelling and premises shall be obtained and presented by the animal control officer, municipal police, code enforcement officer or duly authorized designee. A search warrant will be obtained from the municipal court prior to inspection, when permission is denied.

B. Authority of the Animal control officer, municipal police, Code Enforcement Officer or Duly Authorized Designee to Enter Private Land without a Search Warrant.

1. Entry on Private Land without a Search Warrant. For the purpose of discharging his or her duties imposed by this chapter, the animal control officer, municipal police, code enforcement officer or duly authorized designee shall be authorized and it is declared to be their duty to enter upon private land without a search warrant for the purpose of fresh pursuit or for impounding of any animal found running at large.

**SECTION VII.** Animals to be personal property.

Dogs, cats and other animals shall be declared, deemed and considered personal property of the owner thereof, and all remedies given for the recovery of personal property and of damages for injuries thereto shall be extended to the owners thereof.

**SECTION VIII.** Animals running at large.

A. Duty to Keep Animal on Owner's Premises or Leashed. Any person owning or having charge or control of any animal shall keep such animal on his or her premises. No animal shall be running at large or unleashed on any street, alley, sidewalk, vacant lot, public property (including public parks), or nonenclosed space on private property not that of the owner of the animal. Dogs or cats are permitted on the street and in other designated public areas 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.

B. Animals Running at Large Declared Nuisance and Menace to Public Health and Safety. Any animal found running at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and, if observed by the animal control officer, municipal police, code enforcement officer or duly authorized designee, shall be taken up and impounded. Cats are not required to be leashed but shall be required to remain confined within the owner's premises.

C. Unlawful to Chain or Stake an Animal on Unenclosed Premises. It is unlawful for any person to chain or stake any animal on any unenclosed premises in such a manner that such animal may go beyond the property line.

**SECTION IX.** Animal fighting prohibited.

It is unlawful for any person to promote, stage, hold, conduct, carry on, or attend any game, exhibition, or fight in which one or more animals is engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal, or to train or breed any animals for such purpose, and/or to promote any of the activities in this section.

**SECTION X.** Disturbing peace – Prohibited – Nuisance.

A. Animal Nuisance Prohibited. Any animal that habitually or continuously barks, howls for a continuous time of ten minutes or otherwise disturbs the peace of the inhabitants of the city, or is kept or maintained in such a manner or in such numbers as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the city is declared to be an animal nuisance and shall be prohibited. Complaints filed pursuant to this section may be filed in writing with the animal control officer, municipal police, code enforcement officer, code enforcement officer or duly authorized designee and shall include the name of the complainant and the name and address of the person(s) permitting the nuisance to occur and to continue.

B. Any animal which defecate on the street, public area, walking path, lawn, shrub, tree, plant, building or private property other than the property of the owner or person in charge or control of such animal, is hereby declared to be a nuisance.

1. No person having possession, custody or control of any animal, shall knowingly or negligently permit any dog or other animal to commit any nuisance upon any gutter, street, driveway, walking path, curb, sidewalk or park within the city, or upon any place frequented by the public.
2. Any person having possession, custody or control of any dog or other animal which commits a nuisance in any area other than the private property of the owner of such a dog or other animal, as prohibited in SECTION X, (B-1), shall be required to immediately remove the said feces from such surface and remove the



feces and dispose of the feces in a non-leaking container through the person's ordinary solid waste collection or their private sanitary sewer.

C. Total Number of Dogs and Cats Permitted. A person or household shall own, harbor, or keep no more than the total number of dogs and cats over the age of six months permitted in the following schedule based on total acreage owned:

Total Number of Dogs and Cats (Or Any Combination) According to Acreage

Three dogs or three cats

One-half acre or less

Four dogs or four cats

More than one-half acre, up to one acre

Five dogs or five cats

More than one acre

If a person or household desires to own more than the total number of dogs and cats permitted immediately above, such person or household must first qualify as a kennel, guard dog operation, or hobby breeder operation as defined in this chapter and obtain from the city a permit in accordance with 24. Permitted Premises, to operate a kennel, guard dog operation or hobby breeder operation and be subject to the regulations for business licenses within city limits and zoning requirements.

D. Private Criminal Complaints. Private criminal complaints may be filed in municipal court by citizens affected by any animal that may be determined a nuisance under subsection (A) of this section. Complaints filed pursuant to this section shall be in writing, stating the name and address of the complainant and the person(s) permitting the nuisance to occur and to continue.

## **SECTION XI. Impounding strays – Procedure.**

### **A. Impounding Strays.**

1. Duty to Impound. It is declared to be the duty of the animal control officer, municipal police, code enforcement officer or duly authorized designee to take up and impound or cause to be impounded any astray animals found in the city.

2. Astray Animals Displaying License or Other Identification. If the astray animal is wearing a license or bears other visual identification, the animal control officer, municipal police, code enforcement officer or duly authorized designee will attempt to notify the owner or his or her agent or representative of the animal's

impoundment. If after three business days the owner or his or her agent or representative has not claimed the animal, the animal may be adopted, sold or euthanized in a humane manner in that order of priority while in the physical possession of the animal control officer, municipal police, code enforcement officer, code enforcement officer or duly authorized designee.

3. **Astray Animals Not Displaying License or Other Identification.** If the astray animal is not wearing a license or other visual identification, and after three business days no one has appeared to claim the animal, the animal may be adopted, sold or euthanized in a humane manner in that order of priority while in the physical possession of the animal control officer, municipal police, code enforcement officer or duly authorized designee.

4. **The City Is Not Liable for Disposition of Unclaimed Animal after Notification.** If the animal control officer, municipal police, code enforcement officer or duly authorized designee notified the owner or his or her agent or representative of the impoundment of the owner's animal and if the owner or his or her agent or representative has not appeared to claim the animal after three business days, as specified in this section, then the city or its duly authorized agents and representatives shall not be held liable to the owner of the animal for the adoption, sale or euthanization of the impounded animal.

5. **City Not Liable for Disposition of Unclaimed Animal Where Notification Not Possible.** If the animal control officer, municipal police, code enforcement officer or duly authorized designee is unable to notify the owner because the animal does not have a license or other visual identification and the animal is not claimed within three business days, then the city or its duly authorized agents and representatives shall not be held liable to the owner of the animal for the adoption, sale or euthanization of the impounded animal.

6. **Claiming of Astray Animal.** The astray animal may be claimed from the pound by its owner or his or her agent or representative by payment to the city for the impounding fee, transportation fee, quarantine fee, microchip fee, and payment of the license fee for the current year (if the animal was unlicensed and a license is required), payment of vaccination charges (if necessary), and any medical expenses incurred by the impounding authority. The aforementioned fees shall be those established by city resolution, as may be amended from time to time. Any astray animal which is not claimed by its owner or his or her agent or representative within three business days, as specified in this section, may be adopted by another person through the Animal Humane Society by payment to the city of the license fee for the current year (if the animal was unlicensed and a

license is required), payment of vaccination charges (if necessary), and any medical expenses incurred by the impounding authority.

7. Records Maintained. The city shall maintain a record of all animals impounded for a period of three years. The record shall contain at least the following information:

- a. Description of the animal;
- b. Manner, place and date of its acquisition;
- c. Date and manner of its disposal;
- d. Name, address, and phone number of person claiming the animal;
- e. Copy of proof of identification of person claiming the animal (such as, but not limited to, copy of a valid driver's license, Social Security card, passport, or utility bill);
- f. All fees received; and
- g. Medical expenses for the animal.

8. Public's Duty to Report Astray Animals. Any person finding any astray animal shall notify the animal control officer, municipal police, code enforcement officer or duly authorized designee as soon as possible, and shall surrender the astray animal to the animal control officer, municipal police, code enforcement officer, or duly authorized designee upon demand.

## **SECTION XII.** Livestock, other animals.

A. Prohibition. It is unlawful for any person to permit livestock or other animals to stray, wander or graze upon or along any traveled portion of any highway or public way normally used by motor vehicles.

B. Owners or Custodians Responsible. Owners or custodians of livestock or other animals shall be guilty of a misdemeanor, punishable by a penalty as provided in 25. Violation - Penalty, upon conviction for violation of this section.

C. Keeping of Livestock and Other Farm Animals. The owning, possessing, keeping or harboring of livestock and other farm animals shall also be regulated by the city's zoning regulations.

### **SECTION XIII.** Licensing and vaccinations required.

A. Vaccinations. All dogs and cats shall be vaccinated as required by state law. It shall be the responsibility of the owner to comply with the regulations prescribed by the New Mexico Department of Health. Dogs and cats over the age of four months must be vaccinated against rabies and so tagged by a licensed veterinarian. Upon demand by the animal control officer, municipal police, code enforcement officer or duly authorized designee, the owner or his or her agent or representative must present evidence or certificate of vaccination for dogs and cats owned by him or her.

B. Licensing. Any person harboring or maintaining any dog or cat over the age of six months shall obtain a license for each such dog or cat. Persons who are visiting or temporarily remaining within the city for less than 30 consecutive days shall be exempt from this licensing requirement. Licenses may be issued only by the animal control office, municipal police, code enforcement officer or duly authorized designee. Licenses shall expire one year after the date of issuance of the license. The animal control officer, municipal police, code enforcement officer or duly authorized designee shall keep a record of all licenses issued. A current rabies vaccination certificate shall be presented at the time of application for the license.

1. Affixing Tags. A current license tag number shall be affixed to the licensed dog or cat at all times in a reasonable manner.

2. Fees. The annual license fee shall be \$5.00 for each neutered or spayed dog or cat and \$15.00 for each unspayed or unneutered dog or cat. Any person seeking to obtain a license for a neutered or spayed dog or cat shall furnish written proof from a licensed veterinarian that such dog or cat has been neutered or spayed. In the event a tag is lost, a replacement tag shall be obtained for a charge of \$3.00. Each kennel or pet shop with 10 dogs or more in possession shall pay an annual fee of \$150.00 in lieu of licensing individual dogs and such fee will cover all dogs kept by such business during the year.

3. Breeder Fees. The owner who intentionally or unintentionally breeds dogs or cats must have a current hobby breeder's license or shall pay a litter fee of \$100.00 for each litter. Each hobby breeder shall pay an annual fee of \$75.00 in lieu of fees for individual litters, and such fee will cover all litters during the calendar year. An owner shall not advertise, sell, barter, exchange, or give away any dogs or cats within the City of Anthony boundaries unless the litter fee is displayed legibly. An owner shall furnish the litter fee or hobby breeder permit number to any prospective recipient requesting the number. Each hobby breeder shall be subject to the regulations of this chapter and subject to the regulations for business licenses within city limits and zoning requirements.

**SECTION XIV.** Rabid animals.

A. Reporting Animals Showing Symptoms of Rabies. It is unlawful to keep any unvaccinated dog, cat, ferret or any animal which has shown any symptom of rabies. Animals showing symptoms of rabies shall be reported to the animal control officer, municipal police, code enforcement officer or duly authorized designee who shall then impound and confine the animal and send a sample for testing to determine whether the animal is infected with rabies. If the test results show that the animal is infected with rabies, the animal shall be destroyed. If the animal has been determined not to be infected with rabies, the animal shall be returned to its owner or his or her agent or representative. However, if the animal has been determined not to be infected with rabies but has bitten a human being, a determination of whether the animal is vicious shall be conducted in accordance with 15. Vicious or Dangerous Animals; if the animal is determined not to be vicious, the animal shall be returned to its owner or his or her agent or representative. If the animal dies during the confinement period, all necessary laboratory inspections will be conducted by the district health officer.

B. Interference with Officers. It shall be unlawful for any person to interfere with the animal control officer, municipal police, code enforcement officer, or duly authorized designee in the execution of the provisions of this section.

**SECTION XV.** Vicious or dangerous animals.

A. Definition. A vicious or dangerous animal is one as defined in 3. Definitions.

B. Determination of Viciousness. The municipal court shall conduct a hearing to determine if the animal is vicious or dangerous as defined in 3. Definitions. If the court determines, by clear and convincing evidence, that the animal is vicious or dangerous, the court may impose a fine or imprisonment or both on the owner of the animal and shall order the animal destroyed in accordance with 16. Destruction of Animals.

C. Owning or Keeping Vicious Animals Prohibited. It shall be unlawful for any person to own, keep or harbor a vicious, dangerous, or ferocious animal in the city.

1. Keeping of Animals or Trained Animals Liable to Attack and Injure Human Beings or Other Animals Prohibited Unless Securely Kept. It shall be unlawful for any person to keep any animal or any trained animal liable to attack and injure human beings or other animals, unless such animals are securely kept so as to prevent injury to any persons or other animals. This section shall not apply to animals that are used by law enforcement for legitimate law enforcement purposes.

D. Repelling Attack by Animal. Any attack by any animal may be repelled by the use of reasonable force.

**SECTION XVI.** Destruction of animals.

A. Request to Destroy or Turn Over Vicious or Dangerous Animals. The animal control officer, municipal police, code enforcement officer or duly authorized designee may request the owner or keeper of a vicious or dangerous animal to destroy it humanely or turn such animal over to the animal control officer, municipal police, code enforcement officer or duly authorized designee for humane destruction.

B. Failure or Refusal to Destroy or Turn Over Vicious or Dangerous Animal. Should the owner or keeper of the vicious or dangerous animal fail or refuse to humanely destroy or turn the animal over to the animal control officer, municipal police, code enforcement officer or duly authorized designee, the animal control officer, municipal police, code enforcement officer or duly authorized designee shall cause a complaint to be brought in municipal court against such owner or keeper for failure or refusal to humanely destroy or turn the vicious or dangerous animal over.

C. Animals Wounding, Injuring, or Killing Livestock or Other Animals in the Presence of the Animal control officer, municipal police, code enforcement officer, or Duly Authorized Designee. The animal control officer, municipal police, code enforcement officer, or duly authorized designee shall have the authority to destroy an animal if it is in the act of wounding, injuring, or killing livestock or other animals or in the act of attacking a human being. There shall be no liability on the animal control officer, municipal police, code enforcement officer, or duly authorized designee in damages or otherwise for such destruction.

D. Animals Wounding, Injuring, or Killing Livestock or Other Animals Not in the Presence of the Animal control officer, municipal police, code enforcement officer, or Duly Authorized Designee.

1. Any person having knowledge that an animal has wounded, injured, or killed livestock or other animals shall report this to the animal control officer, municipal police, code enforcement officer, or duly authorized designee. Upon receiving such report or notice, the animal control officer, municipal police, code enforcement officer, or duly authorized designee having reason to believe that the animal did wound, injure, or kill livestock or other animals shall impound such animal. A complaint shall then be filed with the municipal court and a hearing shall then be had within a reasonable period of time to determine whether the animal did wound, injure, or kill livestock or other animals.

2. Should the municipal court find that the animal in question did wound, injure, or kill livestock or other animals, it shall order the animal control officer, municipal police, code enforcement officer, or duly authorized designee to have the animal destroyed in a humane manner.

E. Destruction of Dogs or Cats Running in Packs. The animal control officer, municipal police, code enforcement officer, or duly authorized designee shall be authorized to destroy in a humane manner any astray dogs or cats within the city which are running in packs and who are potentially dangerous to humans, livestock, or other animals, as reasonably determined by the animal control officer, municipal police, code enforcement officer, or duly authorized designee.

#### **SECTION XVII.** Housing of animals.

Housing facilities for animals shall be structurally sound and constructed of nontoxic materials. Interior floors shall be smooth and easily cleanable and impervious to water. The premises shall be kept clean, sanitary and in good repair in a manner which will protect the animals from overcrowding, disease, and injury. Animals shall be provided the adequate space to allow each animal to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner. Outside housing shall protect the animal from weather conditions (such as sunlight, rain, snow or cold or hot weather) that may be detrimental to the health of the animal. Animals maintained in pens, cages, or runs for periods exceeding 24 hours must be provided with adequate space for exercise for the comfort and health of the animal. Sufficient lighting shall be provided by either natural or artificial means. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards. Animals shall be provided with sufficient fresh, clean and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily, and diseased or injured animals shall be provided with care from a licensed veterinarian. This section shall apply to all owners or keepers of animals in the city, including the general public, kennels, guard dog operations, and hobby breeder operations.

#### **SECTION XVIII.** Wild animals.

No person shall keep, harbor or maintain any poisonous reptiles, dangerous carnivorous wild animals, or dangerous or poisonous insects or arachnids, whether they are trained or not, without having first registered such reptiles, insects, arachnids, or other animals with the animal control officer, municipal police, code enforcement officer and duly authorized designee.

#### **SECTION XIX.** Service animals allowed in public places.

It shall be unlawful for any person owning or maintaining any place or public accommodation, public entertainment or amusement, restaurant, hotel, hospital, swimming pool, store, or theater,

or who operates any public transportation facility to exclude therefrom any service animal as defined in 3. Definitions; provided, that such service animal be in the company of the person for whom it was trained to assist.

**SECTION XX.** Restraint of animals.

A. Penning on Premises. All persons owning or having charge, custody, care or control of any animal shall keep such animal properly and securely penned on his or her own premises.

B. Leashed Dogs. Dogs shall be permitted on the streets or public places of the city only if they are secured on a leash not over six feet in length, under the immediate physical control of the person having custody thereof. The determination of whether the dog is under the immediate physical control of a person having custody thereof shall be determined by the animal control officer, municipal police, code enforcement officer, or duly authorized designee, as to what he believes to be reasonable under the circumstances.

C. Animals Not under Immediate Control. Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of a competent person and shall be reported for impounding to the animal control officer, municipal police, code enforcement officer, or duly authorized designee.

D. Dogs Not Allowed at City-Sponsored Events. Dogs shall not be allowed at city-sponsored events. This restriction shall not apply to service animals as defined in 3. Definitions, or to animals which are authorized to participate in such events.

**SECTION XXI.** Penning female animals.

The owner of a female animal shall cause such animal when in season or in heat to be penned or enclosed during such period of time in a house, building or secure enclosure so that other animals are not attracted to the animal in a manner that will preclude occurrence of a public nuisance, but not tied. Such enclosure shall be constructed so that no other animals may gain access to the confined animal, except for intentional breeding purposes.

**SECTION XXII.** Prohibited acts and conditions.

It shall be unlawful for any person to hinder, resist, or oppose the animal control officer, municipal police, code enforcement officer, or duly authorized designee in the performance of his or her duties or to secret any animal from him or her that requires attention.

**SECTION XXIII.** Cruelty to animals prohibited.

A. Killing or Beating Animals Prohibited. It shall be unlawful for any person to willfully or maliciously kill, destroy, 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 vicious, dangerous, or trespassing animals. It shall be unlawful to poison dogs, cats, and other domesticated animals.

B. Overworking Animals Prohibited. It shall be unlawful for any person to drive to work any animal cruelly when such animal is unfit for labor.

C. Slaughtering Wild Animals Excepted. The slaughtering of animals for food or the killing of wild animals, such as authorized by law, shall not be a violation of this section.

D. Duty to Provide Food and Shelter. It shall be unlawful for any person to fail, refuse or neglect to provide any animal in his or her custody, as owner or otherwise, with proper food, drink, shade, shelter, care, medical treatment or to carry any animal in or upon any vehicle in a cruel or inhumane manner, or to keep any animal under unsanitary or unhealthy conditions.

E. Animals without Proper Care. Whenever the animal control officer, municipal police, code enforcement officer, or duly authorized designee finds that any animal is without proper care because of injury, illness, confinement or voluntary absence of the owner or person responsible for the care of such animal, the animal control officer, municipal police, code enforcement officer, or duly authorized designee may impound such animal for protective care. In the event of sickness or injury of the animal, upon the advice of a licensed veterinarian, the animal control officer, municipal police, code enforcement officer, or duly authorized designee may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal.

F. Abandoning of Animal Prohibited. It shall be unlawful for any person to abandon any animal in the City of Anthony.

G. Discharging Firearms or Fireworks at Any Animal Prohibited. It shall be unlawful for any person to fire any BB gun, firearm or firework in the vicinity of an animal unless used to repel an attack by an animal on a human being, livestock or other animal or unless otherwise permitted pursuant to 16. Destruction of Animals (C) and (E).

H. Animals on Unenclosed Premises. It shall be unlawful for any person to stake out, graze, or herd any animal upon any unenclosed private lot or parcel of land in a manner that such animal may be or go beyond the boundary of such lot or land.

I. Keeping of Infected or Painfully Crippled Animals. It shall be unlawful for any person to have, keep, or harbor any animal which is known or believed to be infected with a dangerous or communicable disease or is painfully crippled, wounded, or injured. All such animals shall be reported to the animal control officer, municipal police, code

enforcement officer, or duly authorized designee who will make proper disposition of the animal. This section shall not be construed to include veterinary hospitals in which animals are being treated.

**SECTION XXIV.** Permitted premises.

**A.** Permit Required.

1. No person shall operate a kennel, guard dog operation, hobby breeder operation, apiary operation, arachnid operation, or insect operation without a valid permit issued by the animal control officer, municipal police, code enforcement officer, or duly authorized designee.
2. No person shall operate a kennel, guard dog operation or hobby breeder operation without also obtaining a valid business license issued by the city. Any operation is subject to the regulations for business licenses within city limits and zoning requirements.
3. A minimum fine of \$200.00 will be assessed for any violations.

**B.** Permit Applications. Persons who wish to apply for a permit shall file using forms provided by the animal control officer, municipal police, code enforcement officer, or duly authorized designee. The application shall require information sufficient to assure the animal control officer, municipal police, code enforcement officer, or duly authorized designee that the applicant and facilities are adequate, in compliance 17. Housing of Animals, to care for the animals in a manner that protects the public and the animals and located in an area zoned by the city for such proposed use or facilities in compliance with city zoning regulations.

**C.** Permit Requirement. No permit is transferable from one person or place to another person or place. A valid permit shall be posted in a conspicuous place at each permitted premises. A permit holder shall notify the animal control officer, municipal police, code enforcement officer, or duly authorized designee of any changes in operations which may affect the status of the permit and shall keep the animal control officer, municipal police, code enforcement officer, or duly authorized designee informed of any changes in name, address, or home and business telephone numbers. Both the person in charge of the permitted premises and the owner of the permitted premises shall be responsible for complying with this section. At each permitted premises, a current record shall be kept which describes all animals owned, purchased or received after the date of issuance of the permit. An application for renewal must be accompanied by a current certificate of inspection issued by the animal control officer, municipal police, code enforcement officer, or duly authorized designee and shall be filed with the animal control officer, municipal police, code enforcement officer or duly authorized designee at least 30 days

but no more than 60 days before the date of expiration. Failure to renew the permit as specified shall result in the expiration of the permit or in the assessment of a late fee of \$10.00 for each day in violation after the date of expiration in addition to the cost of renewing the permit.

D. Facilities and Care Applicable to Kennels, Guard Dog Operations, Hobby Breeder Operations, Arachnid Operations, and Insect Operations. Housing facilities for animals applicable to kennels, guard dog operations, hobby breeder operations, arachnid operations, or insect operations shall be constructed, repaired and maintained in compliance with 17. Housing of Animals.

E. Access to Permitted Premises. The animal control officer, municipal police, code enforcement officer, or duly authorized designee shall be allowed to enter the premises following notification to the permit holder or applicant for the purpose of inspection prior to issuance of a permit, renewal of a permit, or for investigation of a complaint.

F. Suspensions and Revocations of Permits. When the animal control officer, municipal police, code enforcement officer, or duly authorized designee discovers that a permitted premises is in violation of any city business regulations, zoning requirements, of building regulations, he or she shall give written notice of this violation to the permit holder, operator, owner or person in charge by means of an inspection report or other written notice. The notification shall state that failure to comply with the provisions of this section may result in immediate suspension or revocation of the permit. Permits may be suspended for 30 days to allow the permit holder to comply with the requirements of this section or other applicable laws, ordinances or regulations. A permit shall be surrendered to the animal control officer, municipal police, code enforcement officer, or duly authorized designee upon suspension or revocation. A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit by filing an additional application for a permit on a form required by the animal control officer, municipal police, code enforcement officer, or duly authorized designee. Within five business days after the application is received by the animal control officer, municipal police, code enforcement officer, or duly authorized designee, he or she shall conduct an inspection of the premises proposed to be permitted or re-permitted. If the applicant and the site are in compliance with all the applicable requirements of this section and all other applicable laws, regulations, and ordinances, the permit shall be reinstated.

G. Guard Dog Operation. A person who wishes to conduct a guard dog operation or business shall first obtain a guard dog permit in accordance with this section and shall be subject to any and all other requirements therein applicable. In addition to the facilities and care standard requirements of permitted premises set forth in this section, the area where the guard dog is housed while not on duty shall be secured in a manner which will

prevent their escape. The off-duty housing area shall be kept locked when not in use. Premises where guard dogs are on duty or in use shall be posted with warning signs at least 12 inches long on each side. The warning sign shall state “Guard Dog” or “Guardian” 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 where such guard dogs are on duty or in use, and shall be posted at the exterior corners of said site and every entrance of said site.

H. Apiary Operations, Arachnid Operations, and/or Insect Operations. A person who wishes to conduct an apiary operation, arachnid operation, and/or insect operation or business shall first obtain a permit from the animal control officer, municipal police, code enforcement officer, or duly authorized designee. To qualify for such a permit, the person must demonstrate in the form of certification, training, or education to the animal control officer, municipal police, code enforcement officer, or duly authorized designee that such person or his or her agents or representatives have the requisite or necessary knowledge, skill, or experience for the identification and handling or controlling of such animals.

I. Exceptions to Permitted Premises. The following are not required to obtain a permit under this section but shall remain subject to the regulations for business licenses within city limits and zoning requirements.

1. A veterinarian hospital or clinic operated by a licensed veterinarian.
2. A bona fide research institution, using animals for research.
3. A publicly owned animal control center or shelter.

#### **SECTION XXV. Violation – Penalty.**

A. Any person who shall violate any provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or imprisonment for not more than 90 days or both. Each day of a violation shall be considered a separate offense.

B. Citations may be issued to the custodian or owner of the animal in violation. The impounding fee shall be consistent to the fees set forth by the impounding facility designated to be used by the city government plus any additional fees incurred by the City of Anthony.

C. It shall be the duty of any person who is the owner or the keeper of any vicious or dangerous animal, the keeping of which is unlawful, to cause such animal to be destroyed in accordance with 16. Destruction of Animals. Failure to comply with this section shall subject such owner or keeper to a minimum fine of \$10.00 plus costs. Each day’s failure to comply shall be considered a separate offense.

**PASSED, ADOPTED AND APPROVED THIS xxxTH DAY OF xxxx, 2013.**

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Arnulfo Castañeda, Mayor

ATTEST:

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Velma Navarrete, Acting City Clerk

ROLL CALL VOTE:

Mayor Pro-Tern Diana Murillo      \_\_\_  
Trustee Betty Gonzalez            \_\_\_  
Trustee James Scott                \_\_\_  
Trustee Pilar Madrid                \_\_\_

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