

Chapter 4 - ANIMALS^[1]

Footnotes:

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State Law reference— Dogs and domesticated animals, NMSA 1978, § 77-1-1 et seq., Livestock NMSA 1978 § 77-2-1.1.A., Wild Horses, NMSA 77-18-5.

Sec. 4-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate members of the animal kingdom excluding humans.

Animal facility means any facility or premises where six or more dogs and/or cats or aggregate thereof, over four months of age are kept or maintained; it includes shelters, refuges, private hobby kennels, and hobby breeders, with the exception of state-inspected veterinary hospitals, federal inspected laboratory facilities and zoos.

Animal fighting paraphernalia means equipment that any reasonable person would ascertain is used for prohibited animal fighting purposes. This equipment includes, but is not limited to, any instruments designed to be attached to the leg of a bird, such as a knife, a gaff or other sharp instrument. This definition also includes items to train and condition dogs to fight, including, but not limited to, hides or other material used as hanging devices to strengthen or condition dogs, wooden sticks or handles used to pry open a dog's jaws, performance enhancing drugs or substances, or food or water additives. Additionally, this definition includes the presence of any dog that appears to be a fighting dog alone or together with animals suspected of being used as bait animals, including, but not limited to, rabbits, cats and other dogs.

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

Commercial animal establishment means any establishment or premises, operating for profit, where six or more dogs and/or cats aggregate thereof, over four months of age are boarded, kept, or maintained for any purpose whatsoever; it includes kennels, grooming parlors, and pet shops.

County means and includes all unincorporated areas within the boundaries of the county, including privately owned land but excluding areas within the limits of any incorporated municipality or within Indian pueblo or reservation boundaries.

Domestic animal means livestock and any other animal such as a dog, cat, some birds and other animal that are normally kept as pets but not protected wildlife.

Enclosed lot means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

Estray means any domestic animal found running at large.

Grooming parlor means any commercial animal establishment or part thereof, or premises maintained for the purposes of offering animals' cosmetic services.

Kennel means any commercial animal establishment or premises where animals are boarded, kept or maintained.

Livestock means animals as currently defined by state law currently in NMSA § 77-2-1.1.A. but not protected wildlife, horses, cattle, pigs, sheep, goats, rabbits and/or fowl or any other animals used for agricultural purposes.

~~*Nonprofit animal facility* means any facility or premises not operating for profit where six or more dogs and/or cats or aggregate thereof, over four months of age are kept or maintained; it includes shelters, refuges, private hobby kennels, and hobby breeders, with the exception of state-inspected veterinary hospitals, federal inspected laboratory facilities and zoos.~~

Nuisance means, but is not limited to, defecation, urination, disturbing the peace with loud or continuous barking, emitting noxious or offensive odors onto neighboring properties or otherwise endangering the well being of the inhabitants of the county.

Protected wildlife means wild horses and/or such other animals that have been declared by state or federal law or ordinance of this county to be an endangered species.

Owner of an animal means a person who owns, harbors, or keeps, or knowingly causes or knowingly permits an domestic animal to be harbored or kept or has an domestic animal in his care, or who permits an domestic animal to remain on or about his premises.

Quarantine means to detain or isolate an animal suspected of contagion.

Run at large or running at large means to be free of physical restraint beyond the boundaries of the premises of the owner.

Shelter means any ~~nonprofit~~ animal facility whose primary function is to bring aid and comfort to animals.

Vaccination means protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, State of New Mexico Rabies Control Act of 1959, as amended; given in an amount sufficient to provide immunity from rabies for a minimum of three years.

Vicious animal means any domestic animal which shall bite or in any other manner attack or attempt to attack any person or other animal within the county, except that any domestic animal that bites, attacks, or attempts to attack any person or other animal within the county, upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.

Wild horse means a horse as currently defined by state law currently in NMSA § 77-18-5.

(Ord. No. 05-06-16.10, § 1, 6-16-2005)

Sec. 4-2. - Repealing clause.

All county ordinances and other ordinances and parts thereof that solely relate to animals or the control of the same heretofore imposed by the county and that are in conflict herewith are hereby repealed. Any conflict between this chapter and any previously enacted ordinance not repealed herein shall be controlled by this chapter.

(Ord. No. 05-06-16.10, § VIII, 6-16-2005)

Sec. 4-3. - Authority of sheriff and animal control officers.

The county sheriff's officers and the animal control officers shall have the authority to issue citations for violation of this chapter and to perform such other duties as are prescribed herein. The animal control officers shall carry identification certifying him as being an animal control officer. The animal control officers shall be under the supervision of the county sheriff's department.

(Ord. No. 05-06-16.10, § II, 6-16-2005)

Sec. 4-4. - Impounding estrays; records to be kept; redemption fees; notice required; owner's impoundment.

- (a) No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal-estray of which he is not the owner, for more than 24 hours without first reporting the possession of such animal to the county animal control officer, giving his name and address, and a true and complete statement of the circumstances under which he took the animal, a description of the animal and the precise location where such animal is confined.
- (b) It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this chapter to reimburse the animal control facility for animal boarding or other costs. The county manager shall prescribe the amount of the impoundment fee approximately based upon actual cost.

- (c) The animal control officer shall maintain a record of all animals impounded. The record shall contain at least the following information:
 - (1) A complete description of the animal;
 - (2) The date and manner of its acquisition;
 - (3) The date, manner and place of impoundment.

(Ord. No. 05-06-16.10, § III, 6-16-2005)

Sec. 4-5. - Rabies.

- (a) *Vaccinations.* It is the duty of all persons owning or keeping a dog or cat or any member of the canine or feline family over the age of three months, to have such animals vaccinated against rabies. An owner shall furnish proof of vaccination to the county upon demand.
- (b) *Rabid animal.* An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal afflicted with rabies or exposed to rabies shall be confined at once in a secure place by the owner.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-6. - Animal biting a person.

- (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 a county animal control officer within 24 hours. The owner of an animal that bites a person shall surrender said animal to an animal control officer if the county animal control supervisor deems it necessary to impound said animal for a period of observation. The animal control officer may order the owner of such animal to place the animal in quarantine on the owner's premises.
- (b) A physician who renders professional treatment to a person bitten by an animal shall report the fact he has rendered professional treatment to the county animal control supervisor 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 give 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 county animal control officer in ascertaining the immunization status of the animal.
- (c) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary and appropriate for public protection by the supervisor of the county animal control. The supervisor of the county animal control office may consent to confinement on the owner's premises.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-7. - Restraint of dogs.

Every person owning or having charge, custody, or care or control of any dog shall keep such animal exclusively upon his own premises or under the owner's control.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-8. - Female dogs or cats in mating season to be confined.

Any person in control of a female dog or cat in mating season shall confine such dog or cat as to preclude other dogs or cats from attacking or being attracted to such female animal.

(Ord. No. 05-06-16.10, § IV, 6-16-2005)

Sec. 4-9. - Prohibited activities.

- (a) *Animals running at large.* It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot, public property, other unenclosed place in the county; or private property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded. A working dog performing such acts as herding or search and rescue under the control and supervision of owner/handler shall not be considered as unleashed while performing these duties. A hunting, obedience, tracking or show dog shall not be considered unleashed while performing in the above capacities. The provisions of this subsection shall not apply to livestock or protected wildlife.
- (b) *Vicious animals.* It is unlawful for any person to keep or harbor a vicious animal in the county. Any person attacked by a vicious animal while on public property may use necessary force to repeal said attack. After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall destroy it humanely or turn such animal over to an animal control officer for destruction.
- (c) *Animals disturbing the peace.* It is unlawful for any person to allow any animal to unreasonably bark or howl or otherwise to disturb the peace and quiet of the inhabitants of the county, to keep or maintain in such a manner as to allow noxious or offensive odors to emanate from the property, and to otherwise endanger the health and welfare of the inhabitants of the county. The provisions of this subsection shall not apply to livestock or protected wildlife.
- (d) *Dogs trained to assist the blind, deaf and/or handicapped allowed in public places.* It is unlawful for any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to debar or exclude therefrom any dog which has been trained to assist the blind, deaf, and/or disabled, provided that such dog be in the company of the blind, deaf, and/or disabled person whom it was trained to assist in conformance with NMSA 1978, § 28-11-3.
- (e) *Impounding of protected wildlife.* It is unlawful for any person to hold, retain or otherwise capture any protected wildlife other than for the purpose of treatment under the care and supervision of a licensed veterinarian. It shall be unlawful for any person to attract, lure, entice, or seize any protected wildlife onto their property with the intent of physically restraining the protected wildlife or having the protected wildlife kept in any enclosure other than for medical reasons which are promptly recommended by a licensed veterinarian or for purposes of fertility control by Sandoval County or a Sandoval County contracted certified vendor. Unless medical reasons promptly recommended by a licensed veterinarian or fertility control by Sandoval County or a Sandoval County contracted certified vendor require otherwise, any protected wildlife on private property shall be allowed free access to leave such property. This provision shall not apply to protected wildlife impounded by Sandoval County or a governmental entity authorized by state law to do so and held in a licensed shelter or preserve.

(Ord. No. 05-06-16.10, § V, 6-16-2005)

Sec. 4-10. - Cruelty to animals prohibited.

- (a) *Physical abuse.* It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club, or other object; mutilate, burn, or scald with any substance; overdrive or otherwise cruelly set upon any animal, except that necessary force may be employed to drive off vicious or trespassing animals. Hunting or fishing in accordance with law shall not be construed as a violation of this section.
- (b) *Care and maintenance.* It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with adequate food, drink, shade, ventilation, care, or shelter to maintain good health.
- (c) *Abandonment of animals.* It is unlawful for any person to abandon any animal within the county.
- (d) *Animal poisoning.* It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance that has in any manner been treated or prepared with any harmful poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

(e) *Animal fighting.*

(1) No person shall promote, stage, hold, manage, conduct, carry on, train for or attend a game, show, exhibition, contest or fight in which one or more animals are injuring, killing, maiming or destroying themselves or other animals or attempting to harm other animals or people. Any person who attends or observes any animal fight is vicariously criminally liable, the same as if that person owned the animals or staged the fight, and that person is a party to the crime whether that person paid for entry to the event or not. The owner of any premises used for animal fighting is guilty of a misdemeanor. Any person who profits in any way from an animal fight, including, but not limited to, on-site vendors or purveyors of illegal gambling concerning an animal fight is guilty of a misdemeanor. Any person who sells, receives, possesses, transports, loans or gives away any animal fighting paraphernalia is guilty of a misdemeanor.

(2) No person shall provoke or entice an animal from the property of its owner for the purpose of engaging the animal in an animal fight. Any violation of this section amounts to the felony of extreme cruelty under state law but the person(s) may be charged under this chapter with cruelty if not charged with extreme cruelty.

(f) *Interference with officials prohibited.* It shall be unlawful for any person to interfere, hinder or prevent the animal control officers or sheriff's deputies in enforcing any provision of this chapter.

(g) *Right of entry.* The animal control officer, in performance of his duties, may enter upon private property except into a private residence, for the purpose of apprehending animals wrongfully running at large and estrays animals.

(Ord. No. 05-06-16.10, § VI, 6-16-2005)

Sec. 4-11. - Exceptions.

The provisions of sections 4-8 through 4-10 shall not apply to livestock, except for section 4-10(e), animal fighting.

Sec. 4-12. - Animal killing or injuring livestock and/or protected wildlife; damages; animal to be killed.

If any animal shall kill or injure any livestock and/or protected wildlife, the owner or keeper of such animal shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured or the county in the case of protected wildlife before any court having competent jurisdiction. It shall be unlawful to keep such animal after it is known the animal has killed or injured livestock and/or protected wildlife. It shall be the duty of the owner to surrender the animal to animal control for proper humane euthanization upon order of the court after a finding that the animal has killed or injured livestock and/or protected wildlife. It shall be the right of any owner of livestock and/or the animal control officer for protected wildlife so killed or injured by the actions of any animal to kill the animal while it is upon property controlled by the owner of the livestock and/or wherever the animal control officer apprehends the animal which has killed or injured protected wildlife.

(Ord. No. 05-06-16.10, § VII, 6-16-2005)