

ORDINANCE NO. 2017 - _____

**AN ORDINANCE AMENDING CHAPTER 6 OF THE
CODE OF ORDINANCES, CITY OF CARLSBAD,
NEW MEXICO REGARDING ANIMALS.**

WHEREAS, members of the public requested that Chapter 6 of the Code of Ordinances, City of Carlsbad, New Mexico regarding animals be reviewed and updated to address a number of issues including the staking or chaining of dogs, pet shops, and dangerous dogs; and

WHEREAS, a redraft of the entire chapter was prepared; and

WHEREAS, concerned citizens, staff, animal control officers, and the operator of the City's animal shelter have been provided with the proposed new provisions; and

WHEREAS, a draft was provided to the Ordinance Committee.

NOW THEREFORE, be it ordained by the Governing Body of the City of Carlsbad, County of Eddy, State of New Mexico, as follows:

Chapter 6 of the Code of Ordinances, City of Carlsbad, New Mexico is hereby replaced with the following:

ARTICLE I. IN GENERAL

Sec. 6-1. 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 shall mean any vertebrate member of the animal kingdom excluding humans.

Animal shelter shall mean any animal control center, pound, animal shelter, kennel, veterinary hospital, lot, premise, or building maintained or contracted by a municipality or county for the care and custody of animals.

Bite shall mean a puncture or tear of the skin inflicted by the teeth of an animal.

Cat shall mean any member of the feline family.

Confined shall mean restriction of an animal at all times by an owner to an escape proof building or other enclosure away from other animals and the public.

Dangerous dog shall mean any dog that may reasonable be assumed to pose a threat to a person or domestic animal as demonstrated by engaging in any of the following behaviors without provocation:

- (1) Causing an injury that is less serious than a severe injury; or
- (2) Chasing in a threatening manner; or

- (3) Acting in a highly aggressive manner within a fenced yard, enclosure, or while on a leash or tether and appearing to be able to escape the yard, enclosure, leash or tether.

A dog is not a dangerous dog if:

- (1) The dog was used by a law enforcement official for law enforcement purposes; or
- (2) The person or domestic animal who was injured, damaged, or threatened by the dog:
 - a. was trespassing upon the premises occupied by the owner of the dog;
 - b. had provoked, tormented, abused, or assaulted the dog either at the time of the incident or repeatedly in the past; or
- (3) The dog was responding to pain or injury, protecting itself or its offspring, or protecting or defending a human being or domestic animal from attack or assault.
- (4) The person who was threatened, injured, or damaged was committing or attempting to commit a crime at the time of the incident.

Destroy shall mean the administration of an agent which will cause the death of an animal. Such method shall not destroy brain tissue necessary for laboratory examination for rabies.

Dog shall mean any member of the canine family.

Exposure to rabies shall mean the exposure resulting from a bite by an animal susceptible to rabies or from contact with the saliva of such animal with any break or abrasion of the skin.

Hazardous animal shall mean any member of the animal kingdom which, because of its poisonous bite or sting, would constitute a significant hazard to the public, or any non-domesticated animal which, due to its size or strength, would constitute a significant hazard to the public. The term shall not include native or indigenous animals naturally existing on a person's premises, or those animals kept at properly accredited, licensed, or permitted educational institutions, zoological parks, or museums.

Isolation shall mean the confinement of an animal in an escape proof run or cage so that there is no possibility of direct contact with other animals or humans. The method and place of confinement must be reviewed and approved by an Animal Control Officer prior to beginning the isolation.

Owner shall mean any person who owns, harbors, keeps, or knowingly permits an animal to be harbored or kept, or permits an animal to remain on his or her premises.

Person shall mean any individual, household, firm, partnership, company, corporation, society, or association, and every member, officer, agent, or employee thereof.

Pet store shall mean any commercial establishment or premises or part thereof that acquires live animals and offers these animals to the public or other commercial outlets

for purchase, sale, exchange, barter, trade, transfer, or hire. The term shall not apply to the premises used exclusively for the sale of livestock, livestock auctions, or livery stables.

Proper shelter for a dog shall mean a structure with one entrance, a roof, and a solid floor. The shelter shall be free of protruding nails or other sharp items that could cut or wound the dog. The shelter shall be of an appropriate size for the dog. The dog shall be able to easily stand, sit, lie down, turn around and make all normal body movements in a comfortable, normal position for the dog. It must be wind and moisture-proof and of proportionate size to allow the natural body heat of the dog to be retained in cold weather. Metal drums shall not be considered proper shelter.

Qualified assistance animal shall mean any animal meeting the requirements for a qualified assistance animal as set forth in NMSA 1978, §§ 28-11-1, et seq. (2005), as it may be amended from time to time.

Quarantine shall mean the strict containment of all specified animals upon the private premises of the owner, or under restraint by leash, or within a closed cage or paddock and shall include any other measures as ordered by the City Administrator, the Chief of Police, and the Animal Control Supervisor, or their designees to control the spread of rabies.

Running at large shall mean free of physical restraint beyond the premises of the owner.

Severely injure or *severe injury* shall mean a physical injury that results in broken bones, multiple bites, or lacerations requiring sutures, corrective, or reconstructive surgery.

Stray animal shall mean any animal running at large.

Vicious animal shall mean any animal which, at any time without provocation, shall:

- (1) bite, attack, stalk, aggressively chase, menace, kill or severely injure any person who was peacefully conducting himself or herself where he or she lawfully may be; or
- (2) kill or severely injure a domesticated animal, but it does not include an animal which bites, attacks, injures, or kills a domesticated animal which is unlawfully upon its owner's premises; or
- (3) based upon a combination of behaviors or actions a reasonable person would have probable cause to believe the animal is vicious.

Working dog means any dog, regardless of breed, that is being trained or used for the purpose of livestock herding, detection, search and rescue, dog sports, qualified assistance dogs, or assistance of the police.

Sec. 6-2. Keeping in city generally; penalties.

It shall be unlawful for any person to own or keep any animal, other than as permitted by all applicable ordinances, laws, rules, and regulations. Any person who lawfully owns,

keeps, or maintains any animal within the city must comply in all respects with the vaccination and licensing requirements of the city. A violation of any provision of this chapter is a misdemeanor and is punishable as permitted by the specific section or, if no punishment is specified by the section violated, then the punishment shall be as permitted by § 1-6 of this Code, as it may be amended from time to time, provided however, that as part of any sentence, the Court shall order the defendant to reimburse any and all expenses reasonably related to the care and maintenance of the animal or animals. Such expenses shall include, but are not limited to, veterinary care, shelter costs, and transportation.

Sec. 6-3. Sanitation regulations.

(a) Any person who may lawfully own or keep any animal shall provide proper shelter, and adequate and sanitary housing facilities for such animal. Stagnant water shall not be permitted to accumulate. All structures used for the housing of an animal and all yards, cages and runs provided for the animal shall be cleaned daily and shall be treated with a pesticide at intervals frequent enough to prevent the breeding of ticks, fleas, flies and other pests and insects. Once every 24 hours, all animal feces shall be collected, removed, and disposed of in a sanitary manner or otherwise removed to a lawful place for deposit. Any feces placed in a city trash container shall be first securely wrapped in plastic.

(b) Any person who may lawfully own or keep any animal within the city shall keep the same in such a manner that it will not be unreasonably annoying, unpleasant or obnoxious to any other person, and failure to so keep any such animal, is hereby declared to be a nuisance and unlawful.

(c) Whenever there is reasonable cause to believe that an unhealthful, unsanitary, or dangerous condition exists on any premises at which an animal is located, the animal control officer or the officer's designee shall have the right to enter such premises and thoroughly investigate and inspect the premises, unless permission to enter and make such investigation and inspection is explicitly refused by the owner or occupant of the premises. If the owner or occupant explicitly refuses permission, the animal control officer or designee may obtain a court order permitting the entry onto the premises.

Sec. 6-4. Keeping pet birds.

(a) A person may keep pet birds as pets within the city, and a commercial establishment may keep pet birds for the purpose of the sale of such birds within the city, subject to all applicable ordinances, laws, rules, and regulations, including but not limited to zoning ordinances. Such pet birds shall be kept in pens or cages and not permitted to run at large. Such pet birds shall be kept in a manner and way so as to not constitute a nuisance or endanger the general health and sanitation of the community or the health and welfare of the animal. The environmental services officer or the officer's designee shall determine the general health and sanitation of the community. The animal control officer or the officer's designee shall determine the health and welfare of the animal or animals.

(b) The term "pet birds" shall include small caged birds such as, but not limited to, parrots, cockatoos, parakeets, cockatiels, canaries, lovebirds, mynah birds, and finches. The term shall not include barn and farm animals such as, but not limited to, chickens,

ducks, geese, and turkeys; falconiforms such as, but not limited to, hawks, eagles, and vultures; nor ratitae such as, but not limited to, ostriches, rheas, cassowaries, and emus.

Sec. 6-5. Sale of baby chicks, ducks, geese, turkeys, and rabbits.

(a) It shall be lawful for a commercial establishment to sell baby chickens, ducks, geese and turkeys, subject to all applicable ordinances, laws, rules, and regulations, including but not limited to zoning ordinances. Such fowl shall be kept in pens or cages and not permitted to run at large. Such fowl shall be kept in a manner and way so as not to constitute a nuisance or endanger the general health and sanitation of the community or the health and welfare of the animals. The environmental services officer or the officer's designee shall determine the general health and sanitation of the community. The animal control officer or the officer's designee shall determine the health and welfare of the animal or animals.

(b) No chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium, or advertising device, or displayed in any store, shop, carnival or other public place.

Sec. 6-6. Disposal of dead animals and care of injured animals.

(a) The owner of a dead animal shall be responsible for properly disposing of the animal carcass. No animal shall be disposed of by burning within the city limits.

(b) A dead animal may be buried on its owner's property if it is buried:

(1) at least two (2) feet below the surface of the ground, if the animal weighs no more than thirty (30) pounds; or

(2) at least three (3) feet below the surface of the ground, if the animal weighs more than thirty (30) pounds but less than one hundred (100) pounds; or

(3) at least six (6) feet below the surface of the ground, if the animal weighs one hundred (100) pounds or more.

(c) Any dead animal must be properly disposed of within 12 hours of its death. No animal shall be buried on public property or on the property of another without the explicit permission of the owner of the property.

(d) The operator of a motor vehicle who strikes or runs down a dog or cat shall immediately notify an animal control officer or the police department of the injury and shall provide the facts regarding the accident and the injuries sustained by the animal. The operator of the motor vehicle shall remain at or near the scene until such time as the owner of the animal, an animal control officer, or a police officer arrives. In case of severe injury to the animal, the motor vehicle operator may give aid by taking the animal to a veterinary hospital, at the motor vehicle operator's expense, or the city animal shelter. Emergency vehicles engaged in an emergency response are excluded from this provision.

Sec. 6-7. Injury to a police dog, police horse, or fire dog.

(a) As used in this section:

(1) Fire dog means a dog used by a fire department, special fire district or the state fire marshal for the primary purpose of aiding in the detection of flammable materials or the investigation of fires;

(2) Police dog means a dog used by a law enforcement or corrections agency that is specially trained for law enforcement or corrections work in the areas of tracking, suspect apprehension, crowd control or drug or explosives detection; and

(3) Police horse means a horse that is used by a law enforcement or corrections agency for law enforcement or corrections work.

(b) Injury to a police dog, police horse or fire dog consists of willfully and with intent to injure or prevent the lawful performance of its official duties:

(1) Striking, beating, kicking, cutting, stabbing, shooting or administering poison or any other harmful substance to a police dog, police horse or fire dog; or

(2) Throwing or placing an object or substance in a manner that is likely to produce injury to a police dog, police horse or fire dog.

(c) Whoever commits injury to a police dog, police horse or fire dog when the injury causes the animal minor physical injury or pain is guilty of a petty misdemeanor.

(d) A person convicted of injury to a police dog, police horse or fire dog may be ordered to make restitution for the animal's veterinary bills or replacement costs of the animal if it is permanently disabled, killed or destroyed.

Sec. 6-8. Care and maintenance of animals.

No person or owner shall:

(a) Fail, refuse, or neglect to provide an animal of which he or she is the owner or which is in his or her charge or custody with proper food, potable water, shade, ventilation, necessary medical care, basic grooming which is necessary for the health of the animal, or proper shelter, which shelter shall be a weatherproof and structurally sound enclosure large enough to properly accommodate the animal;

(b) Leave an animal enclosed in a vehicle or upon a vehicle or trailer for a length of time which could result in danger to or death of the animal. If the animal control officer determines that an animal in an enclosed vehicle or trailer is in immediate danger, the animal control officer may enter the vehicle or trailer by whatever means is necessary, without being liable to the owner of the vehicle or trailer, and take the animal into protective custody; or

(c) Carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. An animal carried in the open bed of a truck or other vehicle must be crated, caged, or restrained upon a non-metal mat so it cannot fall or jump from the truck or be strangled.

(d) Any person who shall violate the provisions of this section shall be punished in accordance with section 1-6 of this Code, provided however, that as part of the sentence, the Court shall order the defendant to reimburse any and all expenses reasonably related to the care and maintenance of the animal or animals. Such expenses shall include, but are not limited to, veterinary care, shelter costs, and transportation.

Sec. 6-9. Animals committing damage or nuisance.

It is unlawful for the owner of an animal to cause, allow, or permit the animal to commit any damage or nuisance to a person, upon the property of any other person, or upon a public street, alley, sidewalk, park or other public place.

Sec. 6-10. Restraint devices.

(a) A rope, chain, or other device may be used to restrain an animal, 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, or other device designed for that purpose. The device and collar or harness shall be of appropriate size and weight so as to not cause sores or abrasions.

(2) The device must be at least 12 feet long unless such length would violate section 6-11, in which case it shall be both no less than eight feet long and still may not violate section 6-11. 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. All chains or tethers shall have swivels on both ends.

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

(4) All animal feces shall be removed, and the area where the animal is confined shall be kept as required by section 6-3.

(b) Direct point chaining or tethering of dogs to a stationary point is prohibited. Dogs may be restrained by means of a trolley system or a tether attached to a pulley on a cable run system, if the following conditions are met:

(1) No dog which is under six months of age, or in heat or estrus, or which is sick or injured may be tethered.

(2) Only one dog may be tethered to each trolley or cable run;

(3) The tether (that portion of the system that runs from the trolley or cable run to the dog's collar or harness) must have swivels on both ends;

(4) The tether must be attached to a properly fitting collar or harness worn by the dog. The collar or harness shall be of appropriate size and weight so as not to cause sores or abrasions. Choke collars, prong collars, and pinch collars are prohibited for purposes of tethering a dog to a trolley or cable run;

(5) The trolley or cable run system must be of adequate size and strength and be properly maintained so that it effectively restrains the dog. However, the tether shall weigh no more than one-eighth (1/8) of the dog's weight;

(6) The tether must be at least fifteen (15) feet in length and attached to a pulley or trolley mounted on a cable which is also at least fifteen (15) feet in length. The cable shall be mounted no more than seven (7) feet above the ground;

(7) The trolley or cable run system shall not permit the dog to be in violation of section 6-11;

(8) The dog shall be tethered in an area that is unobstructed by objects or other dogs that may cause the device or dog to become entangled or strangled. The trolley or cable run system shall be placed so that it may not extend over an object, edge, or fence that could result in strangulation.

(9) The dog must be able to sit, walk, and lie down comfortably. The dog shall have access to proper and sufficient food, potable water, adequate shade, ventilation, and proper shelter.

(10) All feces shall be removed, and the area where the animal is confined shall be kept as required by section 6-3.

Sec. 6-11. Animals on unenclosed premises.

It is unlawful for any person to chain, stake out, graze, or herd any animal on any unenclosed premises so that the animal or any part of it extends or can extend onto or over a sidewalk, alley, street, or other public property or beyond the owner's property line or in a commonly held area accessible to the public.

Sec. 6-12. Keeping vicious animals.

- (a) It is unlawful for any person or owner to fail to confine a vicious animal except:
 - (1) An animal confined within an enclosed automobile, truck, or other vehicle not being used as a public conveyance.
 - (2) An animal in shipment on a public conveyance and properly confined in a shipping container conspicuously labeled "vicious animal" and constructed in such a manner as to prevent the animal from biting or attacking humans or other animals.
- (b) An owner of a vicious animal shall not permit or allow the animal to be upon a sidewalk, alley, street, park, or any other public property or the property of another without first obtaining the explicit consent of the owner of the property.
- (c) Any vicious animal not confined and/or controlled as required herein shall be destroyed. If the vicious animal has bitten a person or animal, the animal shall be treated as required by all applicable laws, rules, and regulations.

Sec. 6-13. Keeping dangerous dogs.

It is unlawful for any person or owner to keep a dangerous dog except in compliance with all of the following conditions:

- (a) The dangerous dog must be confined at all times except:
 - (1) An animal confined within an enclosed automobile, truck, or other vehicle not being used as a public conveyance.
 - (2) An animal in shipment on a public conveyance and properly confined in a shipping container conspicuously labeled "vicious animal" and constructed in such a manner as to prevent the animal from biting or attacking humans or other animals.
- (b) The owner of a dangerous dog shall not keep permit or allow the dog on the property of another without first obtaining the explicit consent of the property owner.
- (c) The owner of the dangerous dog shall not permit or allow the dog to be upon a sidewalk, alley, street, park, or any other public property unless the dog is on a leash no longer than four feet in length and the leash is held at all times by a person capable of controlling the dangerous dog.
- (d) The property where the dangerous dog is kept shall have a conspicuous warning sign containing a warning both in words and in a symbol that there is a dangerous dog on the premises. The sign shall be posted where the dog is kept and must be visible from the nearest public roadway or fifty feet, whichever is less.
- (e) The owner or keeper of a dangerous dog shall immediately notify Animal Control if the dangerous dog escapes, attacks or injures a person or domestic animal, dies, is sold or given away. If the dangerous dog is sold or given away, the former owner or keeper shall provide Animal Control with the name, address, and contact information for the new owner or keeper.
- (f) The owner or keeper of a dangerous dog shall immediately surrender the dog to Animal Control if it is determined that the dog has become vicious or poses a threat to public health or safety.

(g) A person who has been convicted of a violent felony, a dog fighting offense, aggravated cruelty to animals, or a felony involving trafficking any illegal drugs may not own, keep, or live on the premises where a dangerous dog is owned or kept.

(h) If a person is convicted of failing to keep a dangerous dog as required herein, that person shall be ordered to:

Keep the dog as required herein

Provide proof that the dangerous dog has been spayed or neutered, or, if it is not spayed or neutered, the court shall order the dangerous dog to be spayed or neutered.

Provide proof that the dangerous dog has been implanted with a microchip containing the owner's identification, or, if it is not microchipped, the court shall order that the dangerous dog be implanted with such a microchip.

Keep no more than one dangerous or vicious dog at a time

Permit Animal Control to inspect the property at which the dangerous dog is kept and inspect all animals kept thereon.

Sec. 6-14. Keeping hazardous animals.

It is unlawful for the owner of a hazardous animal to maintain or dispose of it in a manner which constitutes a threat to any person or other animal. In the event a hazardous animal is confiscated or comes into the possession of the animal shelter, the animal may be released to a properly accredited, licensed, or permitted educational institution, zoological park, museum, rescue, or it may be euthanized.

Sec. 6-15. Animals prohibited in Pecos River.

(a) It shall be unlawful for any person or owner to allow or permit an animal to swim in the Pecos River at any point where either side of the river abuts a public park at any point south of the flume near Calloway Drive and north of the Bataan (Greene Street) Bridge.

(b) It shall be unlawful for any person to release any nonnative species of fish, reptile, amphibian, mollusk, crustacean, or waterfowl into the Pecos River, except as authorized by the appropriate government agency.

Sec. 6-16. Habitual animal howling, barking, and other noises.

(a) It is unlawful for anyone to own, keep, or harbor any animal which habitually howls, yelps, whines, barks, or makes other noises in a manner which tends to disturb the public peace unreasonably. Any such animal shall be deemed a nuisance.

(b) Any person who violates the provisions of this section shall be punished in accordance with the terms of section 1-6 of this Code, as it may be amended from time to time.

(c) In addition to the penalties stated in subsection 6-2, above, a city animal control officer or police officer may impound any animal which is in violation of this section when such officer has probable cause to believe that:

(1) The owner or custodian of such animal is unavailable, or unwilling, or unable to control the animal; and

(2) Such animal will continue to disturb the public peace unreasonably.

(d) If any person refuses to let such a city officer or employee enter the place where the animal is located, or refuses to let such officer or employee take possession of the

animal, such city officer or employee shall obtain a court order permitting the entry onto the premises and the taking of such animal.

Sec. 6-17. Seizure of animals.

(a) A peace officer or an animal control officer may apply to the municipal court for a warrant to search for and seize an animal or animals when that officer reasonably believes that:

- (1) The life or health of the animal is endangered; or
- (2) An animal is a vicious animal as defined by this chapter.

(b) The municipal court may issue a warrant for the seizure of the animal or animals, if the court finds probable cause that:

- (1) The life or health of the animal is endangered; or
- (2) The animal is a vicious animal as defined by this chapter.

(c) The officer seizing animals under the warrant shall give to the person from whose possession or premises the animals were taken a copy of the affidavit for the search warrant, the search warrant, and a copy of the inventory of the animal or animals taken. If the owner of the animals cannot be determined or cannot be located, the officer seizing the animals under the warrant shall conspicuously post copies of the affidavit for the search warrant, the search warrant, and the inventory of the animals taken at the place from which animals were seized at the time the seizure occurs.

(d) Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animals. The court may order publication of the notice of the hearing in a newspaper in general circulation in the city.

(e) At the option and expense of the owner, the seized animals may be examined by a licensed veterinarian of the owner's choice.

Sec. 6-18. Sale of animals.

(a) No person shall sell, offer for sale, buy, offer to buy, barter, give away, transfer, or otherwise dispose of an animal upon a street, sidewalk, public park, or parking lot except that a nonprofit entity's pet adoption event approved in writing by the City Administrator, may be held in an area open to the public.

(b) Pet Store Regulations

(1) Structural Standards. All facilities, buildings, premises, and containers used for housing or transporting animals shall be structurally sound, maintained in good repair to prevent injury to the animals, and maintained in a sanitary manner. All food and waste materials shall be properly stored and disposed of so that vermin, insects, and obnoxious odors are controlled. Pet shops shall take effective measures to prevent and control internal or external parasites, insects, pests, and vermin. The burning of any excreta, bedding or debris is prohibited.

(2) Enclosures.

a. Enclosures for all animals shall be suited to the species of animal, structurally sound and maintained in good repair to protect animals from injury and escape. Enclosures shall be constructed and maintained so as to enable the animals to remain clean and dry as may be appropriate for the species. All animals shall be kept in proper enclosures except when cleaning the enclosure.

- b. Walls and floors of enclosures shall be constructed of nonabsorbent, nonporous materials impervious to moisture. If wire or grid flooring is used, it must be made of galvanized stainless steel, or plastic-coated wire and be of adequate gauge to support the animal(s) without sagging and to prevent the animal's feet from passing through the openings. Enclosures in current use shall be cleaned and disinfected daily or more often if necessary to maintain a sanitary condition.
 - c. Enclosures shall be designed, constructed, and maintained so as to provide adequate physical comfort to the animals. Each animal must be provided with sufficient space to turn about freely and to easily stand, sit or lie in a comfortable and natural position. Animals that are enclosed together must be maintained in compatible groups. No female dog or cat in season shall be housed in the same primary enclosure with a male animal.
- (3) Housing Facilities.
- a. Temperature. Pet shops shall be sufficiently heated and cooled to protect all animals from excessive cold or heat and to provide for their health and comfort at all times. The temperature of the air surrounding the animals shall be maintained, under normal conditions, at a minimum of 65 degrees Fahrenheit and a maximum of 78 degrees Fahrenheit, except for those animals which require higher temperatures. Animals shall be provided with protection from the direct rays of the sun.
 - b. Ventilation. Housing for animals shall be adequately ventilated in such a manner as to minimize drafts, offensive odors, and moisture condensation and to provide for the health and comfort of the animals at all times. Ventilation shall be deemed adequate only if mechanical ventilation, such as exhaust fans, exhaust vents, or air conditioning is provided and operating properly.
 - c. Lighting. Facilities housing animals shall have ample, well distributed light by natural or artificial means, or both, providing a minimum of eight hours of illumination in each twenty-four hour period.
- (4) Animal health.
- a. Animals shall be provided with food that is wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain the animals in good health. Feeding pans shall be durable and sanitized daily. If disposable food receptacles are used, they must be discarded after each feeding. Including Sundays and holidays, young animals shall be fed no less than two times per day, and adult animals shall be fed at least once a day, except for:
 - i. Reptiles that require less frequent feedings shall be feed as appropriate for the animal; and
 - ii. As is dictated by hibernation, veterinary treatment, or other commonly accepted practices recognized by professionals who are expert in the care of the animals concerned.

- b. Potable water shall be provided at all times to each animal in accordance with its needs, except as dictated by hibernation, veterinary treatment, or other commonly accepted practices recognized by professionals who are expert in the care of the animals concerned. Water containers shall be designed and be of sufficient number to provide and dispense adequate quantities of water for the particular species and must be placed in such a way as to prevent spillage. Water containers shall be cleaned and sanitized at least once each day, and kept free of dirt, debris, algae, and other contaminants.
 - c. All dogs and cats shall be housed separate from other dogs and cats on the premises for a minimum of forty-eight (48) hours before being offered for sale or released to a purchaser. Each animal shall be observed daily by the pet shop owner or the owner's representative in order to recognize general symptoms of injury, illness, or disease. Any dog or cat that exhibits symptoms of injury, illness, or disease shall be isolated and treated as prescribed by a veterinarian licensed by the State of New Mexico. Any such dog or cat shall be verified by the veterinarian to be healthy before such dog or cat can be sold or offered for sale.
- (c) The exhibition, sale, or offer for sale by a pet shop of any of the following animals is prohibited:
- (1) Foxes (*Urocyon eineroarg-enteus*; *Vulpes fulva*);
 - (2) Raccoons (*Procyon Lotor*);
 - (3) Skunks (*Mephitis*);
 - (4) Crocodiles, alligators, caimans, gharials (*Crocodilia*);
 - (5) Venomous reptiles;
 - (6) Venomous amphibians;
 - (7) Venomous arachnids;
 - (8) Any animal which exhibits:
 - a. Obvious signs of infectious diseases including, but not limited to distemper, parvovirus, giardia, coronavirus, hepatitis, leptospirosis, rabies, or other similar disease;
 - b. Obvious signs of nutritional disease including but not limited to rickets and emaciation;
 - c. Obvious signs of parasitism; or
 - d. Fractures or congenital abnormalities affecting its general health.
- (d) Reporting lost, missing, stolen, and escaped animals.
The pet store shall report to the police department all animals which are or are suspected to be lost, missing, stolen, or to have escaped.
- (e) Records.
- (1) The owner or operator of a pet shop shall maintain the following records regarding each animal obtained by the pet shop:
 - a. The name and address of the person, firm, or corporation from whom the animal was obtained, the date thereof, and the United States Department of Agriculture (USDA) dealer license number if applicable;

- b. A description of the animal including species, breed, sex, color and distinctive markings, physical condition and health, age, and USDA animal identification number if applicable;
 - c. The name and address of the person, firm, or corporation to whom the animal was sold or to whom ownership was transferred and the date of transfer;
 - d. The disposition of the animal if not sold or transferred, including euthanasia and method, mortality and cause, if known, escape or other specific circumstance, and date thereof;
 - e. For each animal receiving medical care, the type of service rendered, date of service, and the name and address of the New Mexico licensed veterinarian providing the care;
 - f. If applicable, the USDA individual health certificate and identification form (VS Form 18-1).
- (2) The information required by this section shall be entered into a bound logbook with all pages consecutively numbered. Each entry shall be made within seventy-two (72) hours of the event being documented.
- (3) The required information and logbooks shall be maintained at the pet shop for a minimum of two (2) years after the date of the sale, transfer, or other disposition of the animal to which the record relates. The information and logbooks shall be readily available for inspection by any designated agent of the City.

Sec. 6-19. Abatement of pigeon nuisance.

(a) Definitions.

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

Abate shall mean to reduce, stop or prevent a Pigeon Nuisance

Feeding shall mean providing food to Pigeons. Food may include, but is not limited to grain, seed, greens, breadcrumbs and other miscellaneous food scraps, including garbage not properly contained or disposed of. Feeding shall not include the providing of food to Pigeons as part of an appropriate population control or flock reduction program.

Pigeon shall mean *Columba livia*, also known as the Rock Pigeon or Rock Dove. For the purposes of this section, "Pigeon" includes any feral pigeon and does not include domestic pigeons used for recreation, racing, or show.

Pigeon Harborage shall mean any condition which provides shelter, nesting sites, or protection for Pigeons; thus favoring their multiplication and continued inhabitancy in, under, or outside a structure or premise. Housing, care, or shelter provided for injured or ill Pigeons that are being rehabilitated is not considered Pigeon Harborage.

Pigeon Nuisance shall mean the congregation of Pigeons at a location when such congregation of Pigeons results in the accumulation of Pigeon droppings or other Pigeon-related waste. In addition, Pigeon Nuisance shall include the accumulation of Pigeon excrement, nesting materials, Pigeon carcasses, and/or other Pigeon-related detritus that may be damaging to property, pose a threat to public health and welfare.

Pigeon-proofing shall mean actions taken to abate a Pigeon Nuisance. The actions may include, but are not limited to:

- (1) construction to prevent the ingress of Pigeons into or under buildings or structures from the exterior;
- (2) steps taken to prevent the congregation of Pigeons in a given location including the addition of anti-roosting spikes, mesh, or other materials to prevent roosting; or
- (3) the removal or covering of sources of food for Pigeons.

Property shall mean real property and/or improvements including land, buildings, and structures regardless of use for residential, commercial, or other purposes.

Responsible Party shall mean the person or persons who hold legal or equitable interest in Property which empowers them to take appropriate actions to Abate a Pigeon Nuisance found to exist on that Property. This may include, but not be limited to a person with ownership, condominium rights, time-share rights, leasehold rights or an easement, license, contractual right, and any right or obligation to manage or act as agent or trustee for any person holding any of the foregoing interests. The owner of real property shall be presumed to be a Responsible Party.

(b) Investigation and Abatement of a Pigeon Nuisance.

- (1) There shall be an investigation of any complaint made to the City Administrator or the City Administrator's designee to determine if a Pigeon Nuisance exists. In addition, the City Administrator or the City Administrator's designee may initiate an investigation to determine if a Pigeon Nuisance exists when there has been no complaint made.
- (2) The City Administrator or the City Administrator's designee shall determine if a Pigeon Nuisance exists.
- (3) The City Administrator or the City Administrator's designee shall attempt to contact the property owner and any person on the property who appears to be a Responsible Party to notify them that a Pigeon Nuisance has been determined to exist.
- (4) An Abatement Agreement may provide for the use of any Pigeon-proofing method agreed upon by the City Administrator or the City Administrator's designee and the Responsible Party. If the Abatement and/or Pigeon-proofing involves the removal of accumulations of Pigeon excrement, nesting materials, Pigeon carcasses or other Pigeon-related detritus, the method selected for such removal shall protect human health and ensure that ground water, surface water and real property are not contaminated by the waste.
- (5) If the City Administrator or the City Administrator's designee determines that the Responsible Party is in violation of this ordinance and is unwilling to comply with this ordinance, or if the Responsible Party fails to act on or complete the terms and

conditions agreed to in an Abatement Agreement by the time or times set forth in the Agreement, the City Administrator or the City Administrator's designee may proceed to seek the penalties provided in Section 1-6 of the Code of Ordinances.

(c) Inspection of Buildings, Premises and Vacant Lots.

The City Administrator or the City Administrator's designee is authorized, by obtaining consent of the owner or occupant, and at reasonable times, to make such inspections of property as is necessary to perform a thorough investigation. For the purpose of making such inspections, the City Administrator or the City Administrator's designee is authorized to enter onto premises to examine and/or survey property only after reasonable notice to and consent from the owner and any person occupying the property. Such entry shall be made in a manner as to cause the least reasonably possible inconvenience to the person in control of the property. In the event that entry is denied the City Administrator or the City Administrator's designee shall obtain a court order for this purpose from a court of competent jurisdiction.

(d) Pigeon Feeding Violations and Penalties.

(1) It is a violation of this ordinance for any person to intentionally Feed Pigeons on any public or private property within the City of Carlsbad.

(2) It is a violation of this ordinance for any person to permit or allow the placement or discard of food, food by-products, vegetables, garbage or animal food of any kind in a manner that such persons knows will reasonably result in the Feeding, lingering, roosting, and/or congregating of Pigeons.

(3) This prohibition does not extend to domesticated birds used for recreation, racing, or show, or to injured or ill Pigeons that are being rehabilitated and are kept at all times in cages or that are prevented from creating Pigeon Nuisance conditions.

(4) This prohibition does not extend to birdseed or bird food set out in bird feeders or otherwise provided to birds other than Pigeons, provided that the birdseed or bird food does not attract significant numbers of Pigeons or create conditions that constitute a Pigeon Nuisance.

(5) Each act in violation of this section shall constitute a public nuisance and a separate violation. Any person who violates this section shall be subject to the penalties set forth in Section 1-6 of the Code of Ordinances.

(e) Pigeon Nuisance Violations and Penalties.

(1) No person shall create or foster any condition or allow any condition to exist or continue which in any way harbors a number of Pigeons or results in an infestation of Pigeons that would constitute a Pigeon Nuisance.

(2) No person shall allow the accumulation of Pigeon excrement, nesting materials, Pigeon carcasses and/or other Pigeon-related detritus that would constitute a Pigeon Nuisance on property where the person is the owner or occupant.

(3) Each act in violation of this section shall constitute a public nuisance and a separate violation. Any person who violates this section shall be subject to the penalties set forth in Section 1-6 of the Code of Ordinances.

(f) Additional Remedies.

Nothing in this ordinance shall be construed to preclude the City from seeking any other remedy available in law or equity.

Secs. 6-20--6-35. Reserved.

ARTICLE II. ANIMAL SHELTER
DIVISION 1. GENERALLY

Sec. 6-36. Establishment and maintenance.

An animal shelter or shelters shall be established and maintained at such place or places as may be determined by the governing body of the city. Animal shelter facilities or services or animal adoption services may be provided for by agreement with a veterinary hospital, a kennel, an animal shelter, a qualified organization or individual, or in cooperation with other municipalities or counties. Such agreement shall be at such terms and conditions as the governing body of the city may deem desirable. At any time such a contract exists, the names and addresses of such organizations or individuals will be available at the animal shelter and the city clerk's office.

Sec. 6-37. Impoundment authorized.

An animal shelter is provided for the following animals:

- (a) Except as permitted in § 6-71, all owned and unowned animals susceptible to rabies which have bitten a person or exposed a person to rabies shall be impounded in the animal shelter. Such animals shall be either destroyed or confined in isolation for a period of at least ten days. If the animal dies or is destroyed during the confinement period, the carcass shall be treated as required by all applicable laws, rules, and regulations.
- (b) Animals found to be running at large, abandoned animals, animals released to the city by their owners, vicious animals, dangerous dogs, hazardous animals, and animals attacking livestock may be impounded in the animal shelter.
- (c) Any animal not maintained in accordance with any provision of this chapter may be impounded in the animal shelter.
- (d) If any animal found running at large has a current city license tag, the animal control officer shall make a diligent effort to identify and contact the owner of such animal.

Sec. 6-38. Treatment of impounded animals.

During the period any animal is impounded, it shall be supplied with proper food and potable water to be furnished by the animal shelter and shall be treated in a humane manner. Animals which, in the opinion of the city or animal shelter staff, are or become sick or injured while at the animal shelter may be destroyed.

Sec. 6-39. Disposition of impounded animals.

- (a) An animal eligible for release may be redeemed by its owner upon the owner's provision to the shelter of adequate proof of ownership.
- (b) Any impounded animal not redeemed by its owner within four days after it becomes eligible for release may be:
 - (1) Placed for adoption;
 - (2) Placed with a foster home or animal rescue organization approved by the city or the entity operating the shelter;
 - (3) Released to the wild, if appropriate;
 - (4) Disposed of as directed by any applicable law, rule, or regulation; or

- (5) Destroyed in accordance with the provisions of this chapter.
- (c) An animal is not eligible for release if:
 - (1) The animal is or is suspected of being a vicious animal, a dangerous dog, a hazardous animal, pursuing or wounding livestock, or wounding and killing poultry;
 - (2) The animal is or is suspected of being rabid, exposed to rabies, or having exposed a person or animal to rabies;
 - (3) The owner has been cited with a violation of this chapter;
 - (4) The animal is being held subject to a court order; or
 - (5) As otherwise required by any applicable ordinance, law, rule, regulation, or order.
- (d) Livestock shall be disposed of in the manner provided for in any applicable laws of the state. If there are no applicable laws of the state, the livestock may be sold or otherwise disposed of according to the terms of this chapter.

Sec. 6-40. Adoption of impounded animals.

- (a) Any animal eligible for release and considered by the animal shelter to be suitable for adoption may be held in the shelter for adoption if not redeemed by the owner within four days of the animal's intake. Any animal brought by the owner into the shelter for adoption may be placed for adoption at once. Animals which, in the opinion of the city or animal shelter, are sick, injured, or considered to be unadoptable may be destroyed.
- (b) Any person over the age of 18 years may apply to adopt an animal eligible for adoption. The city and the operator of the shelter shall have the discretion to review and approve or disapprove the application and/or the applicant.
- (c) Any person adopting an animal shall be required to pay the established adoption fee for each animal so adopted, any applicable sterilization deposit, and any costs or expenses incurred. All dogs and cats adopted from the animal shelter shall be, at the adopter's expense, immunized against rabies and licensed as required.
- (d) No impounded animal shall be adopted for the purpose of breeding or resale. No animal shall be sold or given to or used for medical laboratory use. Every dog or cat adopted from the animal shelter shall be spayed or neutered by a licensed veterinarian at the expense of the adopting party. The animal being adopted may be held at the shelter until it is altered, or the shelter may make arrangements to have all or part of the cost of altering the animal paid to the city by the adopting party to insure compliance with this section. Any individual who qualifies may apply for financial assistance to help pay the cost of altering through a reduced cost spay/neuter program, if such program is available.

Sec. 6-41. Adoption and redemption fees.

- (a) Any owner redeeming an animal shall be required to pay:
 - (1) The established redemption fee for each animal redeemed;
 - (2) Any applicable sterilization deposit;
 - (3) At the redeemer's expense, having a pet microchip implanted in the animal at the shelter or other location approved by the shelter, if the animal does not already have a microchip; and
 - (4) Any costs and expenses incurred including but are not limited to, veterinary care, shelter costs, and transportation.
- (b) Any person adopting an animal shall be required to pay:
 - (1) The established adoption fee for each animal adopted; and

- (2) Any applicable sterilization deposit.
- (c) All dogs and cats adopted or redeemed from the animal shelter shall be, at the adopter's or redeemer's expense immunized against rabies and licensed as required.

DIVISION 2. ANIMAL CONTROL OFFICER

Sec. 6-51. Employment generally.

- (a) An animal control officer shall be employed by the city at such salary or other compensation as may be determined by the governing body of the city.
- (b) The animal control officer shall be deputized to enforce animal control laws, orders, ordinances, and regulations and shall perform all the duties prescribed by this chapter. The animal control officer shall prevent and control the spread of rabies within the city, including but not limited to the capture and confinement or disposition of rabies suspect animals, the enforcement of quarantine orders, the destruction or confinement of animals exposed to rabies, and the enforcement of pet skunk regulations.
- (c) The animal control officer shall be under the supervision and direction of the chief of police.

Sec. 6-52. Disposal of dead animals from public places.

The animal control officer shall remove and dispose of all dead animals found on any streets or other public places.

Sec. 6-53. Disposal of animals for individuals.

The animal control officer, on request of the owner and upon payment of the required fee, may remove and dispose of any dead or live animal lawfully in the possession of such owner.

Sec. 6-54. Pursuit of animals.

In carrying out the provisions of this chapter, every deputized animal control officer is authorized to pursue a straying animal, or vicious animal, dangerous dog, or dog molesting livestock or any animal with symptoms of rabies onto private premises unless permission to make such pursuit is explicitly refused by the occupant. If the occupant explicitly refuses permission, the animal control officer may obtain a court order permitting the entry onto the premises.

Sec. 6-55. Dogs, destruction by peace officer or animal control officer.

- (a) Any peace officer or animal control officer may impound any dog found running at large unaccompanied by and not under the control of the owner or handler, and further, the peace officer or animal control officer shall destroy the dog if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans.
- (b) Any peace officer or animal control officer may kill any dog in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans whether or not the dog wears a rabies tag required by law. There shall be no liability of the peace officer or animal control officer in damages or otherwise for such killing.

Sec. 6-56. Unlawful to obstruct or interfere with.

It shall be unlawful for any person to obstruct or interfere with an animal control officer in the performance of his or her duties. Any person who shall violate the provisions of this section shall be punished in accordance with section 1-6 of this Code, provided however, that, upon first conviction pursuant to this section, a person shall be sentenced to pay a fine of not less than \$75.00 which fine may be suspended in whole or in part or deferred by discretion of the judge. Upon a subsequent conviction pursuant to this section, the mandatory minimum fine of \$75.00 shall be increased by no less than \$25.00 for each such subsequent offense, no part of which total fine shall be deferred or suspended by the judge. No single fine provided by this subsection may exceed the jurisdictional limit of a fine which may be imposed by the municipal court.

Sec. 6-57. Unauthorized removal of animals.

No person shall remove or release an impounded animal from an animal control officer, an animal control vehicle, a police officer, a police vehicle, or animal shelter without proper authorization.

Secs. 6-58--6-65. Reserved.

ARTICLE III. DOGS AND CATS AND RABIES CONTROL DIVISION 1. GENERALLY

Sec. 6-66. Dogs running at large generally.

(a) It shall be unlawful for the owner of any dog to cause, allow, or permit the dog to run at large in or on any public property or in or on any other property without the permission of the owner of the property. Any dog running at large in violation of this section may be taken up and impounded by an animal control officer. A citation may be issued to the owner whether or not the dog is impounded.

(b) Any person who shall violate the provisions of subsection (a) of this section shall be punished in accordance with section 1-6 of this Code, provided however, that:

(1) If the owner is unable to provide written proof, satisfactory to the Court, that the dog has been both spayed or neutered and is currently vaccinated against rabies, then:

a. Upon first conviction pursuant to this section, a person shall be sentenced to pay a fine of not less than \$200.00 which fine may be suspended in whole or in part or deferred by discretion of the judge with the condition that the owner will provide the court with written proof that the dog has been spayed or neutered or currently vaccinated against rabies within a time set by the court.

b. Upon a subsequent conviction pursuant to this section, the mandatory minimum fine of \$200.00 shall be increased by no less than \$25.00 for each such subsequent offense, no part of which total fine shall be deferred or suspended by the judge.

(2) If the owner provides written proof, satisfactory to the Court, that the dog has been both spayed or neutered and currently vaccinated against rabies, then:

a. Upon first conviction pursuant to this section, a person shall be sentenced to pay a fine of not less than \$80.00 which fine may be suspended in whole or in part or deferred by discretion of the judge.

- b. Upon a subsequent conviction pursuant to this section, the mandatory minimum fine of \$80.00 shall be increased by no less than \$25.00 for each such subsequent offense, no part of which total fine shall be deferred or suspended by the judge.
- (3) No single fine provided by this subsection may exceed the jurisdictional limit of a fine which may be imposed by the municipal court.
- (4) In addition to the above prescribed fines, the judge has discretion to imprison the violator for a period of up to 90 days for each offense.
- (c) Upon conviction for any violation of this section, when the animal has bitten any person, the judge having jurisdiction thereof may order the animal destroyed in addition to all other fines and penalties which may be imposed for such violation.

Sec. 6-67. Restraint of dogs.

- (a) Dogs which are not qualified service animals shall not be allowed upon public parks, playgrounds, athletic fields, or upon the grounds of public swimming pools or golf courses.
- (b) No dog shall be allowed upon streets, alleys, sidewalks, or other public property unless it is at all times on a secure leash not exceeding eight feet in length and under the immediate physical control of a person capable of controlling the dog.
- (c) Dogs may be walked in the following public parks:
 - (1) The Carlsbad CID Bike Path adjacent to the Carlsbad Irrigation District's Southern Canal; and
 - (2) The public sidewalk within the Lake Carlsbad Recreation Area and adjacent to the east side of East Riverside Drive from the railroad bridge crossing the Pecos River south to the Carlsbad Municipal Beach Parking Lot entrance; the public sidewalk adjacent to the west side of the Pecos River from Upper Tansill Dam south to Lower Tansill Dam; and the public sidewalk adjacent to the east side of the Pecos River from Lower Tansill Dam north to the point at which the public sidewalk adjacent to the river meets the main parking lot of the Riverwalk Recreation Center at the Upper Tansill Dam; and
 - (3) The Ocotillo Nature Trail.
- (d) Dogs are permitted to use and be off-leash within the fenced area of the Carlsbad Dog Park in the Bataan Recreation Area north of East Lea Street. All dogs at the Carlsbad Dog Park shall be accompanied at all times by the dog's owner or other responsible person. The owner or responsible person must be capable of restraining the dog. No dog shall be unaccompanied at any time within the Carlsbad Dog Park. If a dog is at the Carlsbad Dog Park without a person capable of restraining the dog, that dog will be considered to be unaccompanied and may be taken and impounded by an animal control or peace officer. Persons and dogs using the Carlsbad Dog Park shall obey all posted instructions and rules at the Carlsbad Dog Park. While coming or going from the Carlsbad Dog Park, dogs may be walked in the area immediately adjacent to the Carlsbad Dog Park. When outside of the fenced area of the Carlsbad Dog Park, the owner or other responsible person shall comply with subsection (f), below.
- (e) Dogs which are not qualified service animals are not permitted in any other public park nor in any other portion of the Carlsbad Municipal Beach Park, Lake Carlsbad Recreation Area, or the Bataan Recreation Area.

- (f) Dogs being walked in those areas identified in (c) and (d) above, shall:
- (1) Have current rabies tags and current city licenses, if applicable, attached to their collars or harnesses;
 - (2) Be on a leash at all times with such leash no longer than eight (8) feet in length, and such leash shall be held by a person capable of controlling the dog;
 - (3) Not be left unattended or chained or tied to an object; unattended dogs may be taken up and impounded by an animal control or peace officer; and
 - (4) Not interfere with or impede the use and enjoyment of those facilities and parks by others.
- (g) In addition to all other fines or penalties, the judge having jurisdiction thereof may ban a person in violation of this section from bringing any dog into any public park or other public place.
- (h) A leash shall not be required when the dog is participating in a bona fide animal show which has been authorized by the city administrator, or the city administrator's designee.

Sec. 6-68. Dog defecation, cleanup.

No person shall allow a dog to defecate upon public property or upon any private property other than the property of the owner of the dog without thoroughly removing and properly disposing of the feces. Any feces placed in a dumpster shall be first wrapped securely in plastic.

Sec. 6-69. Return of found dogs and cats.

A person who finds a dog or cat shall make a valid effort to find the animal's owner, including having the animal scanned for a microchip and filing a found animal report with the animal shelter. If the animal has a microchip or an identification tag, the animal shall be placed with the shelter.

Sec. 6-70. Dog or cat in heat or estrus to be confined.

An owner shall confine his or her female dog or cat in heat or estrus so that other dogs or cats are not attracted to the animal in heat or estrus and so that the animal in heat or estrus can only come into contact with dogs or cats intended to be bred with it.

Sec. 6-71. Vaccination of dogs and cats required.

- (a) The owner of any dog or cat shall have the dog or cat vaccinated against rabies as required by all applicable regulations of the state department of health or its successor agency. All antirabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall also issue a serially numbered certificate and tag for each such administration.
- (b) The veterinarian who administers antirabies vaccine to any dog or cat shall issue to the owner of the animal a serially numbered vaccination certificate containing:
- (1) The name and address of the veterinarian;
 - (2) The type of vaccine used;
 - (3) The initials of the producer of the vaccine;
 - (4) The name and address of the owner of the animal;
 - (5) A description of the animal vaccinated;

- (6) The date of vaccination; and
- (7) The expiration date of the period of immunity.
- (c) The veterinarian who administers the antirabies vaccine to any dog or cat shall also furnish the owner with a metal tag bearing the certificate number and the year of vaccination. The tags shall be affixed by the owner to a collar or harness which shall be worn by the animal for which the certificate is issued at all times.
- (d) Any dog or cat brought into the city shall be securely confined by the owner until vaccinated against rabies and until licensed by the city. The antirabies vaccination shall be administered and the license secured within one week after the entry into the city. A current certificate of vaccination issued by a licensed veterinarian in another city, state or foreign country that conforms to all applicable requirements of the city and the State of New Mexico shall be accepted as proof of vaccination.
- (e) The owner of a dog or cat shall exhibit the animal's certificate of antirabies vaccination upon demand by an animal control or police officer.

Sec. 6-72. Animal bites on persons; notice; and procedure.

- (a) When any person is bitten or exposed to rabies by an animal, it is the duty of such person or his or her parent or guardian and any person having knowledge of the whereabouts of the animal to immediately notify the police department or an animal control officer.
- (b) Every physician shall, within 24 hours after his or her first professional attendance upon a person exposed to rabies or bitten by any animal, report to an animal control officer or the police department the name, age, sex, telephone number, and address of the person bitten, as well as the type and location of the bite on the victim's body.
- (c) Any animal that has bitten a person or is suspected of having exposed a person to rabies shall either be destroyed and the carcass handled as required by all applicable laws, rules, and regulations, or the animal shall be immediately confined and isolated for observation at a place and in a manner designated by an animal control officer for a period of at least ten (10) days. If the owner cannot or does not confine and isolate the animal as required, an animal control officer may seize and confine the animal. The animal's owner shall be responsible for and shall bear all costs and expenses of confinement.
- (d) The animal may be confined and isolated upon the owner's premises only if the owner can prove to the city's satisfaction that the animal has a current antirabies vaccination, and the premises are inspected and approved for rabies confinement by an animal control officer. The owner of the animal shall agree to indemnify the city for any damages which may arise as a result of the animal's confinement or escape, and shall enter into an indemnity agreement on a form approved and required by the city before any confinement on the owner's property.
- (e) A person who has custody of an animal that has bitten a person or exposed a person to rabies shall immediately notify an animal control officer if the animal shows any signs of sickness, abnormal behavior, or if the animal escapes confinement. If the animal dies while in confinement, the person having custody of the animal shall notify an animal control officer immediately and surrender the carcass of the animal to an animal control officer.

(f) If the animal shows any signs or symptoms of rabies during its confinement and observation period, it shall be destroyed and the carcass shall be handled as required by all applicable laws, rules, and regulations.

Sec. 6-73. Animals exposed to rabies.

When circumstances indicate an animal has been bitten by a known rabid animal or exposed to rabies, or when an animal is showing signs of having rabies, the following procedures shall apply:

(a) Any person who has knowledge of such an animal shall immediately notify the police department or an animal control officer of the animal's condition and location.

(b) The owner shall immediately confine the animal and shall surrender it to a police officer or animal control officer upon demand.

(c) The animal shall be dealt with in accordance with all applicable ordinances and state laws, rules, and regulations.

Sec. 6-74. Redemption of confined animals.

The owner of any animal confined in the animal shelter for observation of rabies pursuant to this chapter may redeem such animal after confinement, if it is found to be free of rabies symptoms, and if it is eligible for release, by paying the established confinement fee, any costs and expenses incurred during its confinement, and obtaining a current city license, if applicable.

Sec. 6-75. Keeping an unvaccinated dog or cat or rabid animal; procedure following death of animal from rabies.

(a) It is unlawful to own or keep any unvaccinated dog or cat or any animal which has shown any symptoms of rabies, except that, if such animal has bitten a human being, a dog or cat may be confined as permitted by all applicable ordinances, laws, rules, and regulations. If the animal dies during the confinement period, the head shall be immediately sent to a laboratory by an animal control officer.

(b) The head of any animal suspected of having died of rabies shall be immediately sent to a laboratory designated by the Department of Health of the State of New Mexico, Division of Epidemiology, Evaluation and Planning, under such procedures as are specified by the division or its successor in authority.

Sec. 6-76. Rabies quarantine.

The City Administrator or his or her designee may declare a quarantine against rabies within the city when, in his or her judgment, rabies exists to the extent that it is a danger to public health. Upon such declaration, all designated animals within the city shall be quarantined as directed. After reasonable effort to apprehend any dog or cat running at large and uncontrolled by its owner during a period of quarantine, any animal control officer or police officer may destroy the dog or cat and properly dispose of the body. The City Administrator or his or her designee may order other measures as may be necessary to prevent the spread of rabies. A quarantine shall not be removed except on order of the City Administrator or his or her designee.

Sec. 6-77. Failure to license, vaccinate, report animal bites declared misdemeanor.

It is a misdemeanor for any person who is the owner of an animal to fail to have the same vaccinated against rabies and licensed as required by this chapter. It is a misdemeanor for any physician to fail to report a person bitten by an animal.

Secs. 6-78--6-90. Reserved.

DIVISION 2. LICENSE

Sec. 6-91. City animal license required.

The owner of a dog or cat over the age of three months shall obtain and continuously maintain a current, valid city animal license for the animal. Persons who do not reside in the city and who keep a dog or cat in the city for both fewer than 30 consecutive days and for fewer than 90 days in total in any one year shall be exempt from this licensing requirement.

Sec. 6-92. Licensing of qualified assistance dog or cat.

Every owner of a qualified assistance dog or cat shall have such animal licensed as provided in this article. The city shall charge no license fee for the licensing of qualified assistance animals. Qualified assistance animals shall include all categories of animals as defined in the laws of the state.

Sec. 6-93. City animal license term; fees.

(a) A city animal license shall become effective as of the date and time of its issuance and shall terminate on the expiration date stated on the certificate. Failure to renew a license within 30 days after its expiration shall result in the imposition of a late fee in addition to all other fees.

(b) The fees for city animal licenses shall be set from time to time by the governing body of the city. A schedule of such fees is on file in the city clerk's office.

Sec. 6-94. Issuance: receipt.

(a) The licenses required by this division may be issued by either the city clerk or at other locations designated by the governing body of the city. Such other locations may include city animal shelters and veterinary practice locations. Veterinarians may accept city license fee payments and may issue city licenses only if they have entered into a current agreement with the city to do so.

(b) The city license tags and certificates shall be serially numbered and the certificates shall contain the name and address of the animal's owner, a description of the animal, proof of rabies vaccination, and the expiration date of the license.

Sec. 6-95. Antirabies vaccination required.

No city animal license shall be issued unless the owner presents a rabies vaccination certificate showing that the animal is currently vaccinated against rabies as required by all applicable regulations of the state department of health or its successor agency.

Sec. 6-96. New license required for adopted dog or cat.

If the person adopting any dog or cat from the city animal shelter lives within the city of Carlsbad, that person shall obtain a city license for each animal adopted.

Sec. 6-97. Tag--Issuance; permanent attachment to collar.

A city license tag shall bear an identifying number. The license tag shall be permanently and securely affixed to the collar or harness to be worn at all times by the dog or cat so licensed. The license tag need not be worn when the dog or cat is confined in a commercial kennel or veterinary hospital, is appearing in a bona fide animal show, or is being trained so long as the person who is keeping, showing, or training the animal has the tag readily available in his or her possession and immediately displays the tag upon the request of a police officer or animal control officer.

Sec. 6-98. Duplicates.

If a city license tag is lost or stolen, the owner of the dog or cat may procure a duplicate license tag from the city clerk on payment of the fee set therefor.

Sec. 6-99. Unlawful use of rabies vaccination certificate, tag, or city license or tag.

No person shall affix an antirabies tag or a city license tag to the collar or harness of any animal other than the animal for which the tag was properly issued. No person shall keep, manufacture, or use a stolen, counterfeit, or forged animal antirabies vaccination certificate or tag or city license or tag.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2017.

DALE JANWAY, MAYOR

ATTEST:

CITY CLERK