

**NOTICE OF INTRODUCTION OF
ORDINANCE #00-02 AND PUBLIC HEARING**

Pursuant to the requirements of Section 4-37-7, New Mexico Statutes Annotated, public notice is hereby given that an ordinance entitled "ORDINANCE NUMBER 00-02 - AN ORDINANCE PROVIDING FOR RABIES CONTROL, REPORTING OF ANIMAL BITES; PROTECTION OF RESIDENTS FROM ANNOYANCE AND INJURY; PROTECTION OF ANIMALS FROM NEGLECT AND ABUSE; IMPOUNDMENT OF ANIMALS RUNNING AT LARGE; ALSO, PRESCRIBING PENALTIES FOR VIOLATING THE SAME" has been proposed by the Curry County Commission at its regular meeting held on March 21, 2000, which would supersede and repeal Ordinance Number 97-1. The public hearing concerning the adoption of Ordinance #00-02 will be held on April 18, 2000, at 10:00 a.m. The hearing will be held in the commission room at the Curry County Courthouse. Persons interested in presenting their views may do so at this hearing. Copies of the proposed ordinance are available for review by any interested person during regular office hours in the Curry County Clerk's Office, 700 N. Main, Ste. 7, Clovis, NM 88101.

**Legal 6148
March 30, 2000**

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DENTS FROM ANNOYANCE AND INJURY; PROTECTION OF ANIMALS FROM NEGLECT AND ABUSE; IMPOUNDMENT OF ANIMALS RUNNING AT LARGE; ALSO, PRESCRIBING PENALTIES FOR VIOLATING THE SAME" has been proposed by the Curry County Commission at its regular meeting held on March 21, 2000, which would supersede and repeal Ordinance Number 97-1. The public hearing concerning the adoption of Ordinance #00-02 will be held on April 18, 2000, at 10:00 a.m. The hearing will be held in the commission room at the Curry County Courthouse. Persons interested in presenting their views may do so at this hearing. Copies of the

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CURRY COUNTY

ORDINANCE NO. 00-02

AN ORDINANCE PROVIDING FOR RABIES CONTROL; REPORTING OF ANIMAL BITES; PROTECTION OF RESIDENTS FROM ANNOYANCE AND INJURY; PROTECTION OF ANIMALS FROM NEGLIGENCE AND ABUSE; IMPOUNDMENT OF ANIMALS RUNNING AT LARGE; ALSO, PRESCRIBING PENALTIES FOR VIOLATING THE SAME.

WHEREAS, Curry County is required by state law to adopt and enforce an ordinance providing for the prevention and control of rabies, and

WHEREAS, The Board of County Commissioners of Curry County also finds that it will promote the public health, safety, welfare and convenience to enact other provisions governing the keeping of animals within Curry County.

THEREFORE BE IT ENACTED AS FOLLOWS:

SECTION 1 DEFINITIONS: As used in this ordinance, the following words and terms shall, unless the context indicates a different meaning, have the meaning given herein.

- 1.1 ABANDONMENT OF ANIMALS: The leaving of an animal off the owner's premises without provision for care or control by another person.
- 1.2 ANIMAL: Unless otherwise stated means cat or dog.
- 1.3 ANIMAL SHELTER: Any establishment authorized by the County of Curry, for the care and custody of impounded animals.
- 1.4 BITE: A puncture or tear of the skin inflicted by the teeth of an animal.
- 1.5 CAGE: An enclosure constructed of metal, wire or other material capable of preventing escape by the animal occupying same, enclosed on top, bottom and all sides.
- 1.6 COUNTY: The area lying within the corporate boundaries of the County of Curry and outside the boundaries of any incorporated municipality.
- 1.7 DOG PACK: Three or more dogs running at large together.

- 1.8 ENCLOSED LOT: Any parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.
- 1.9 KENNEL: Any establishment or premises where more than five (5) cats and/or five (5) dogs, four months of age or older, are boarded or kept.
- 1.10 KENNEL PERMIT: A permit issued pursuant to Section 9 of this Ordinance.
- 1.11 LIVESTOCK: Cattle, horses, sheep or other animals commonly raised for meat, milk, fiber, or work.
- 1.12 NUISANCE: A dog or cat shall be considered a nuisance if it: damages, soils, defiles or defecates on private property other than the owner's or on public walks or recreation areas; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; molests, attacks or interferes with persons in the public right-of-way; chases vehicles or attacks other domestic animals.
- 1.13 OWNER: Is a person who owns, harbors, keeps, or knowingly causes or 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, provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.
- 1.14 PERSON: Any individual, household, firm, partnership, corporation, society, association and every agent and employee thereof.
- 1.15 QUARANTINE: To detain or isolate an animal suspected of being infected with rabies or other communicable disease.
- 1.16 RESTRAINT: Any animal shall be considered under restraint if it is within the real property limits of its owners or secured by a leash or lead or under the control of a responsible person and obedient to that person's commands. Any hunting dog in lawful pursuit of game shall be presumed to be under restraint.
- 1.17 RUNNING AT LARGE: An animal off the premises of the owner and not under restraint.
- 1.18 STRAY OR ESTRAY: An animal which has no identifiable owner.

1.19 VACCINATION: The vaccination of an animal with an anti-rabies vaccine approved by the Director of the Health and Environment Department and administered by, or under the supervision of a veterinarian, and is an amount sufficient to provide immunity from rabies for a minimum of one (1) year.

1.20 VETERINARIAN: A person with a Doctor of Veterinary Medicine degree licensed to practice in the State of New Mexico.

1.21 VICIOUS ANIMAL: Any animal which commits an unprovoked attack upon a person on private property, or which terrorizes or attacks a person on public property or in a public place within Curry County, except that any animal that bites, attacks or attempts to attack any person unlawfully upon its owner's or keeper's property, or which is provoked to attack, shall not be deemed a vicious animal.

1.22 WILD ANIMAL: Any animal which is wild by nature and cannot normally be domesticated or controlled.

SECTION 2 ADMINISTRATION OF ORDINANCE

RESPONSIBILITY: The Curry County Sheriff, or any other county law enforcement officer designated by the sheriff shall have the authority to issue citations for violations of this ordinance and to perform such other duties as are prescribed herein.

SECTION 3 RABIES CONTROL

3.1 NMSA 1978, Section 77-1-3, is incorporated herein.

3.2 QUARANTINE OF RABIES SUSPECTS: Any dog, cat or other animal capable of carrying rabies which has bitten a person shall be confined and observed for a period of ten (10) days from the date of the bite at the animal shelter, a veterinary hospital, or an approved kennel or cage.

3.3 ENFORCEMENT OF THE QUARANTINE: It is unlawful to remove any animal from enforced quarantine during the period of confinement.

SECTION 4 RABIES TAGS REQUIRED

PROOF OF RABIES VACCINATION: No dog or cat shall be without proof of rabies vaccination as provided for in this ordinance.

SECTION 5 PROHIBITED ACTIVITIES

- 5.1 FALSE AND STOLEN DOCUMENTS: It shall be unlawful for any person to transfer any license or rabies tag from one animal to another, or to make use of a stolen, counterfeit or forged license, certificate or tag, bill of sale, pedigree or registration certificate.
- 5.2 ANIMALS RUNNING AT LARGE: (NMSA 1978, Section 77-1-9) Any person owning or having charge, custody, care or control of any animal shall keep such animal on his premises. No animal shall be at large in or on any street, alley, sidewalk, vacant lot, public property, other unenclosed space in the county or private property. 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 an Animal Control Officer shall be taken up and impounded as provided in Section 6.1. Notwithstanding any provision herein, cats are not required to be leashed or confined to the owner's property.
- 5.3 ABANDONMENT OF ANIMALS: It is unlawful to abandon any animal within the County of Curry.
- 5.4 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 which has in any manner been treated or prepared with harmful or poisonous substances. It is not the intent of this section to prohibit the use of poisonous substances for the control of rodents or vermin of significance to the public health.
- 5.5 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 proper food, drink, shade, care or shelter, or to carry any animal in or leave in a vehicle in a cruel or inhumane manner or to fail to provide necessary medical care.
- 5.6 UNCARED FOR ANIMALS: Whenever the animal control officer finds that any animal is or will be without proper care because of injury, illness, incarceration or other involuntary absence of the owner or person responsible for the care of such animal, the animal control officer may take up such animal for protective care, and in the event of sickness or injury, upon the advise of a licensed veterinarian, the animal control officer may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal. This is at the expense of the owner or person responsible for the care of such animal.

SECTION 6 IMPOUNDMENT

6.1 IMPOUNDING AND DESTRUCTION OF ANIMALS:

- (a) Any animal control officer may impound any animal found running at large unaccompanied by, and not under the control of, the owner or handler. Any animal so impounded shall be held, redeemed, released or destroyed in accordance with the regulations of the pound maintained or used by the county, subject, however, to the New Mexico Statutes regarding the quarantine of rabies suspect animals.
- (b) Any owner or keeper of livestock, or any law enforcement officer may kill any dog or other animal in the act of pursuing, wounding or killing any livestock or poultry, or attacking humans; or if found running in a pack and the animal control officer reasonably believes the dog has or will attack any livestock or poultry. There shall be no liability of the owner or keeper of livestock or any law enforcement officer in damage or otherwise for such actions.
- (c) A private land owner may humanely detain for impoundment by the animal control officer any animal found on his property.
- (d) Any person attacked by a dog or other animal while such person is not engaged in any unlawful activity shall have the right to kill such animal, and any person witnessing such attack shall have the right to kill such animal, where such killing is reasonably necessary to prevent injury to the person attacked, and there shall be no liability for such killing.

6.2 **RIGHT TO REDEEM:** The owner of any animal which has been impounded under the provisions of this ordinance shall have the right to redeem the animal upon payment of the impounding fees, care and feeding charges, veterinary charges, and such other costs as set by the animal shelter.

6.3 **TIME FOR REDEMPTION:** All impounded animals with rabies or identification tags shall be redeemed within five (5) days after impoundment except as provided in Section 6.4 below; those without tags, within three (3) days after impoundment. Any animal not redeemed within the required period shall become the property of the animal shelter and may be placed for adoption upon payment of the impoundment fees, care and feeding charges, veterinary charges and such other costs as set by the animal shelter, or the animal may be humanely destroyed.

6.4 DISPOSITION OF IMPOUNDED ANIMALS BEING HELD ON COMPLAINT: If a complaint has been filed in the Magistrate Court of the County of Curry against the owner of an impounded animal for a violation of this ordinance, the animal shall not be released except upon the order of the court, which also may direct the owner to pay any penalties for violation of this ordinance in addition to all impounding fees, care and feeding charges and veterinary fees.

6.5 VICIOUS ANIMAL: It is unlawful for any person to keep or harbor a vicious animal in the county. Any person attacked by a vicious animal may take such action as provided by Section 6.1 (d). This does not exempt the owner or keeper from civil damages.

SECTION 7 NUMBER OF ANIMALS PERMITTED

RESTRICTIONS: No person, group of persons or business entity in the County of Curry may own, keep or harbor more than five (5) dogs of four (4) months of age or older, and/or more than five (5) cats of four (4) months of age or older for more than fifteen (15) days in any calendar year or shall be required to have a kennel permit as addressed in Section 9.

SECTION 8 INTERFERENCE WITH ANIMAL CONTROL OFFICER

It shall be unlawful for any person to interfere with, molest, hinder or prevent the sheriff or his/her duly authorized representatives in the discharge of their duties.

SECTION 9 KENNEL PERMIT

9.1 Any person of those areas of Curry County outside the limits of any incorporated municipality may obtain a kennel permit under the following conditions:

- (a) Payment of a kennel permit fee of Twenty Dollars (\$20.00) at the office of the County Clerk.
- (b) Setback of the outer limits of any kennel or run at least twenty (20) feet from any property line, except that where more than ten (10) animals over the age of four (4) months are kept, such setback shall be at least forty (40) feet.
- (c) Maintenance of humane conditions of shelter, exercise, food, water and sanitary standards as will suffice in the reasonable judgment of the animal control officer for the species and breed of animal being kept.

(d) Provisions must be made for waste disposal which will prevent the spread of noxious or offensive odors.

9.2 The setback provisions of 9.1 (b) shall not apply to kennels existing at the time of the adoption of this ordinance (May 2, 2000). All other provisions of this ordinance will apply to existing kennels.

SECTION 10 PENALTY, SAVING, REPEALING AND EMERGENCY CLAUSE

10.1 PENALTY CLAUSE: Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) and/or imprisonment for a period not exceeding ninety (90) days in the county jail, or both such fine and imprisonment.

10.2 SAVING CLAUSE: If any section, subsection, sentence, clause or phase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

10.3 REPEALING CLAUSE: Ordinance No. 97-01 enacted February 4, 1997, and all other ordinances in conflict herewith are hereby repealed, effective as of the effective date of this ordinance (June 8, 2000), except that such repeal shall not affect prosecutions then pending.

APPROVED AND ADOPTED THIS SECOND DAY OF MAY, 2000.

BOARD OF CURRY COUNTY COMMISSIONERS

Paul D. Barnes
Paul D. Barnes, Chairman

ATTEST: *[Signature]*

