

# Public Meeting



**ANIMAL  
PROTECTION  
NEW MEXICO**

Saturday, April 15, 2023

Las Vegas, New Mexico

Please Silence  
Your Phones!  
Thank You!



## ***Vision***

To have humane animal welfare throughout Northeastern New Mexico.

## ***Mission***

To serve as a resource promoting humane principles, compassionate care, and prevention of cruelty to animals through programs and learning opportunities.



**Animal Welfare Coalition of Northeastern New Mexico**



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# **Animal Law 101: Understanding & Using the Laws that Protect Animals**

Presented in cooperation with Animal Welfare Coalition of Northeast New Mexico on April 25, 2023



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## Animal Law

- Views domestic animals as property
- May define minimum standards of care, licensing, & permitting requirements for domestic animals
- May define illegal/prohibited acts
- Defines penalties for those acts

## Hierarchy of Sources of Law

### ❖ Federal Law

- US Constitution
- Statutes, treaties, and court rules
- Administrative agency rules
- Executive Orders
- Federal Courts common law (case law)

### ❖ Tribal Law

- Tribal governments have the power to pass laws
- Tribes maintain their own courts
- Federal laws apply equally to Native Americans and their property
- Tribes are not subject to state law except in very limited circumstances

## Hierarchy of Sources of Law

### ❖ State Law

- Constitutions
- State statutes and court rules
- State agency rules
- State Court common law (case law)

### ❖ County & Municipal Law

- Codes, regulations, ordinances, etc.





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## US Constitution: Animals as Property

- **4th Amendment:**
  - Protects us from unreasonable searches and seizures (of our *property*) by the government.
- **5th Amendment:**
  - No one shall be "deprived of life, liberty or *property* without due process of law."
- **14th Amendment:**
  - Due Process Clause makes the Bill of Rights applicable to individual states/requires states to recognize substantive and procedural requirements before depriving a person of any constitutionally protected right. (*property*)





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## Federal Statutes, Agency Rules & Treaties Affecting Animals

- **Animal Welfare Act (AWA):** Controls who may possess or sell certain animals and the living conditions (for non-agricultural, domestic animals) under which the animals must be kept. Provides for both criminal and civil penalties.
- **Animal Fighting Prohibition Enforcement Act of 2007** (amendment to AWA)
- **Animal Fighting Venture Prohibition** (2014 amendment to AWA)





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## **New Mexico State Constitution**

- **Recognizes US Constitution as Supreme Law of the land**
- **May recognize more rights than the US Constitution, but never less.**



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## NM State Statutes, Rules & Regulations Addressing Animals

- **Wildlife Conservation Act, §§17-2-37 through 17-2-46 NMSA**
- **Game and Fish and Outdoor Recreation §17- 2-1 A:** It is unlawful for a person to commit interference with another person who is lawfully hunting, trapping or fishing
- **Exotic Pets: 19.35.7.8 NMAC** (regulates importation)
- **New Mexico Livestock Code: §§77-1-1 through 77-1-20 NMSA.**
- **Equine Liability Act: §§42-13-1 to 42-13-5 NMSA**  
“...no person shall recover for injuries resulting from the risks related to the behavior of equine animals while engaged in any equine activities (COMPARE TO DANGEROUS DOG ACT)





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## NM State Statutes, Rules & Regulations Addressing Domestic Animals

- **Dogs and Domesticated Animals §77-1-1** “Dogs, cats and domesticated fowls and birds shall be deemed and considered as personal property, and all remedies given for the recovery of personal property and of damages for injuries thereto are hereby extended to them.”
- **Dangerous Dog Act §77-1A-1 NMSA**
- **Animal Sheltering Act §77-1B-1 NMSA**
- **Pet Sterilization Act §77-1-18 to 20 NMSA**
- **Assistance Animal Act §28-11-1 to 6 NMSA (Human Rights)**
- **Animal Control Requirements §7.4.2 NMAC**



## NM State Statutes, Rules & Regulations Addressing Animals

### New Mexico Cruelty Statute

- ❖ **Cruelty to Animals: §30-18-1(A)-(D) NMSA**
  - Negligently mistreating, injuring, killing, tormenting, abandoning
  - Misdemeanor
- ❖ **Extreme Cruelty: §30-18-1(E)-(F) NMSA**
  - Intentionally or maliciously torturing, mutilating, injuring or poisoning
  - Maliciously killing an animal
  - 4<sup>th</sup> Degree Felony
- ❖ **Dog & Cock Fighting (Under NM Cruelty Statute)**
- ❖ **Injury to Livestock: §30-18-12 NMSA**
  - Willfully and maliciously poisoning, killing or injuring
  - 4th degree felony
- ❖ **§30-18-1.2(C)-(E) NMSA Disposition of Seized Animals**





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## Counties & Municipalities

### NM Constitution Assigns Authority to Counties & Municipalities:

- A municipality which adopts a charter may exercise all legislative powers and perform all functions not expressly denied by general law or charter...
- The purpose of this section is to provide for maximum local self-government. A liberal construction shall be given to the powers of municipalities.

N.M. Const., art. X, § 6(D), (E).



## City of Las Vegas Ordinance

### Chapter 118, Las Vegas City Code

(Adopted 1972, amended multiple times)

- **§ 118-3 Powers and duties of City Manager**
- The City Manager is responsible for the administration of this chapter... Powers delegated to the City Manager may be delegated by the City Manager to his duly appointed animal control officers as he may deem expedient for the effectuation of this chapter.
- **§ 118-4 Impoundment of animals.**
- It is the duty of the animal control officers to take up and impound any stray or any animal kept or maintained contrary to this chapter.







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## City of Las Vegas Ordinance

### ❖ § 118-7 Rabies vaccinations.

- **A.** It is the duty of all persons owning or keeping a dog or cat over the age of five months to have such animals vaccinated against rabies... ..The veterinarian administering antirabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination and the expiration date of the period of immunity.
- **B.** It is unlawful for the owner or keeper of any dog or cat to fail to exhibit its certificate of vaccination upon demand by the City.



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## City of Las Vegas Ordinance

- **§ 118-10 Restraint of animals.**
- It is unlawful to permit dogs in the streets or public places unless on a secure leash and under the immediate physical control of the person having custody thereof.
- **§ 118-14 Number of animals permitted.**  
[Added 6-16-1994 by Ord. No. 82-3]
- A. No household or member thereof is allowed to own, harbor or keep dogs or cats, or any combination thereof, totaling more than **four** animals....
- **§ 118-15 Professional animal permit required for kennels, pet shops, hobby breeders, certain shelters and related businesses.**  
[Added 6-16-1994 by Ord. No. 82-3]





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## City of Las Vegas Ordinance

- **§ 118-16 Animals running at large.** [Amended 6-16-1994 by Ord. No. 82-3]
- It is unlawful for any person to allow or permit any animal to run at large in or upon any street, alley, sidewalk, vacant lot, public property, other enclosed place in the City or private property not belonging to owner of animal. 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 as provided in § 118-4.
- **§ 118-20 Animals disturbing the peace.**
- It is unlawful for any person to allow any animal to persistently or continuously bark, howl or make noise common to their species, or otherwise to disturb the peace and quiet of the inhabitants of the City of Las Vegas, or to keep or maintain animals in such a manner as to disturb by noxious or offensive odors, or otherwise endanger the health and welfare of another person.
- **§ 118-21 Nuisances.**
- It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to commit any nuisance upon any property other than the owners of the animal, and then only so long as no other provision of this chapter is violated.

## City of Las Vegas Ordinance

- **§ 118-27.1 Anti-tethering of canines.** [Added 2-15-2012 by Ord. No. 12-02[1]]
- Supervision, protection and continuous confinement and tethering of canines.
- A. As used in this section, "tether" means to restrain a canine by tying the canine to any object or structure, including without limitation a house, tree, fence, post, garage, or shed, by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering shall not include using a leash to walk a canine.
- **B. It shall be unlawful for a responsible party to tether a canine while outdoors, except when all of the following conditions are met:**
- **(1) The canine is in visual range of the responsible party, and the responsible party is located outside with the canine...**





## City of Las Vegas Ordinance

- **§ 118-25 Physical abuse.** [Amended 6-16-1994 by Ord. No. 82-3]
- A. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, kick, beat with a stick, chain, club or other object; mutilate, burn or scald with any substance, any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
- B. It is unlawful for any person to carry any animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. No person shall keep or transport an animal in the bed of a pickup truck unless the animal is properly restrained in a humane and safe manner to prevent the animal from leaving the confines of the bed of the truck when the vehicle is stationary and to prevent the animal from falling off while the vehicle is in motion. No person shall leave an animal in a closed vehicle for any length of time reasonably concluded to be dangerous to the health or safety of the animal.
- **§ 118-26 Work cruelty.**
- It is unlawful for any person to drive or work any animal cruelly.
- **§ 118-27 Neglect.**
- 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 an animal in or upon any vehicle in a cruel or inhumane manner. Any animal habitually kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal.



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## Documenting Complaints

**What you see during your daily activities is key.**

**Look for...**

- lack of adequate food, total lack of food, obvious malnourishment
- lack of sufficient shelter from sun or heat
- exposure to extreme cold, rain, snow, etc.
- lack of potable, sufficient water
- insect or other bites
- untreated skin sores, such as caused by rubbing of harnesses, ropes or anything used to restrain an animal
- any signs of untreated injuries
- signs of fighting injuries

## Best Practices: Documenting Complaints

### ❖ Who?

- Whose animal? Who is on the scene?
- Can anyone else support your complaint?

### ❖ What?

- What neglect, abuse or other issue are you reporting?
- What type of animal? Name?
- Description?
- Injuries?
- Living conditions?
- Direction of travel?

### ❖ When?

- Date and time of day you made your observations.?
- Weather conditions? Precipitation? If possible, note the actual temperature.



## Best Practices: Documenting Complaints

### ❖ Where?

- Address?
- Nearest cross streets?
- Landmarks?
- GPS coordinates?

### ❖ Why?

- What violation of the law are you reporting?
- Why did you happen to be there?

### ❖ How?

- Who did you speak with?
- What did they say?
- What did you see?
- Photos/Video?







## Documenting Complaints

### ❖ **Photographic and Video Evidence**

- Smart phone cameras: Everybody's got one
- Other cameras: Home/business security, game/trail cams, drones\*
- Helps eliminate "He said/She said"
- Photography: Documents location, conditions, identities of people & animals
- Video (best for abuse): Documents real-time actions, reactions, & audio

\*Other rules/regulations may apply

### ❖ **How?**

- Only if it's safe to do so
- From your own property or...
- While on public property
- "In plain view"
- Do not trespass or break any other laws
- For evidence, "picture in picture" is best

### ❖ **Audio Recordings:**

- NM is a "one party consent" state



## Best Practices: Reporting Complaints

- ❖ **Non-Emergency? Send official email**
  - [asalazar@lasvegasnm.gov](mailto:asalazar@lasvegasnm.gov) Chief of Police
  - [Imaestas@lasvegasnm.gov](mailto:Imaestas@lasvegasnm.gov) City Manager
  - Copy APNM: [ruben@apnm.org](mailto:ruben@apnm.org); [alan@apnm.org](mailto:alan@apnm.org)
- ❖ **Emergency? Call Dispatch, follow up w/ email**
  - Exigent Circumstances
  - Examples: Dog in hot vehicle, serious injuries
- ❖ **Why use official email?**
  - Provides a record of the complaint and all details
  - Encourages public official accountability
  - Inspection of Public Records Act (IPRA) applies to complaint and all related documents





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## Additional Complaint Options

- ❖ **Fourth Judicial District Attorney's Office**
  - District Attorney Thomas Clayton
  - (505) 425-6746 / [tclayton@da.state.nm.us](mailto:tclayton@da.state.nm.us)
  - Prosecutes serious crimes and cases under NM State Statute
  
- ❖ **New Mexico Attorney General's Office**
  - ❖ (505) 490-4060 / [www.nmag.gov](http://www.nmag.gov)
  - Attorney General Raul Torrez
  - Inspection of Public Records Act (IPRA) complaints
  - Consumer complaints
  - Open Meetings Act complaints
  - Prosecutes serious crimes and cases under NM State Statute
  
- ❖ **New Mexico Board of Veterinary Medicine**
  - Veterinary Malpractice complaints
  - Shelter Standards (Sheltering Committee)



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## Additional Complaint Options

- ❖ **New Mexico Secretary of State**
  - 800-477-3632 / [www.sos.nm.gov](http://www.sos.nm.gov)
  - Secretary of State Maggie Toulouse-Oliver
  - Nonprofit Registration Search (on website)
  - Nonprofit complaints
  
- ❖ **New Mexico Board of Veterinary Medicine**
  - 505-553-7021 / [www.nmbvm.org](http://www.nmbvm.org)
  - Veterinary Malpractice complaints
  - Shelter Standards (Sheltering Committee)
  
- ❖ **New Mexico Foundation for Open Government (NMFOG)**
  - Advocacy Group
  - 505-764-3750 / [info@nmfog.org](mailto:info@nmfog.org)
  - Governmental Transparency (IPRA, Open Meetings Act, etc.)



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## QUESTIONS?

**THANKS!**

**Animal Protection New Mexico**  
"Respect all animals; Protect all animals"

- [www.apnm.org](http://www.apnm.org)
- Cruelty Helpline: 877-5HUMANE
- Alan Edmonds: [alan@apnm.org](mailto:alan@apnm.org)
- Challenging Animal Cruelty Program Director
- Ruben Lucero: [ruben@apnm.org](mailto:ruben@apnm.org)
- Cruelty Case Manager





**Animal Welfare Coalition of Northeastern New Mexico**



## *Short -Term Goals*

- Free & Low-cost Spay/Neuter Clinics
- Community Pet Food Pantry
- Continued Advocacy for Animal Welfare



## *Additional Long -Term Goals*

- AWC Owned & Operated Mobile S/N Surgical Trailer
- Continued Advocacy for Animal Welfare



# 174 dogs and cats spayed/neutered in 3 days

Las Vegas Optic reports

The Animal Welfare Coalition of North Eastern New Mexico (AWC) hosted Animal Balance, an animal welfare organization providing low-cost spay/neuter services across the globe for almost twenty years, for a three day spay/neuter clinic—Friday Nov 11- Sunday Nov 13—at Luna Community College located in Las Vegas, NM. Thanks to several generous grants and over 700 volunteer hours accumulated in the weeks leading up to the clinic as well as during the clinic, they were able to provide free spay/neuter services and appropriate vaccinations to 91 dogs and 83 cats. Microchips were available for \$10.

The Animal Welfare Coalition set the standard for excellence in animal welfare in their community. First, as the AWC Pet Center they managed the

animal shelter serving Las Vegas and San Miguel for a decade and became known as "The Little Shelter that Could." There they consistently had live release rates over 90%, attained veterinary care in a timely manner for sick and injured animals, and avoided serious contagious disease outbreaks through industry standard vaccination and sanitation.

Now the AWC is shifting their focus to providing low cost spay/neuter services for Las Vegas and San Miguel County. Their board vice-chair Jacque Aragon says, "One of the biggest animal welfare needs in our community is inexpensive spay/neuter services. We have more dogs and cats than people who can care for them. If we can help create a healthy balance of pets to people then we can improve our community's safety, reduce animal suffering, and help everyone thrive."



Courtesy photo



**Animal Welfare Coalition of Northeastern New Mexico**

[Animalwelfarenewmexico.org](http://Animalwelfarenewmexico.org)