

**SAN MIGUEL
COUNTY
ANIMAL CONTROL
ORDINANCES**

#SMC-11-10-15-ANIMAL CONTROL

SAN MIGUEL COUNTY ORDINANCE NO. SMC-11-10-15-ANIMAL CONTROL
PROVIDING FOR ANIMAL CONTROL, IMPOSING FEES, CHARGES AND FINES THEREFOR,
CREATING AND IMPOSING CERTAIN MISDEMEANOR PENALTIES FOR
VIOLATION OF THE ORDINANCE, AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, NEW MEXICO:

MISSION STATEMENT:

San Miguel County is committed to providing the highest level of services and protection to both the citizens and the Animals of our community by effectively and humanely enforcing the ordinances as they pertain to Animal care and the public's health, safety and welfare. We are dedicated to protecting the citizens of San Miguel County from Animal related injury and disease and further committed to protecting the *Animals* we share our community with from abuse and neglect.

The basic function of the San Miguel County Animal Services is to enforce Chapter 10 of the County Code (San Miguel County Animal Care Services Ordinance). Following are some of the overall functions of the Sheriff's Department:

- Enforces San Miguel County's Animal Care Services Ordinance.
- Responds to Animal related complaints. Conducts investigations of cruelty and problem situations.
- Issues citations for violations of the law and pursues criminal charges where warranted.
- Investigates Animal Bite cases ensuring that biting Animals are properly vaccinated and quarantined, and arranges for rabies tests when appropriate.
- Ensures Animals are properly licensed with a San Miguel County license to help identify and return lost pets to their owner.
- Maintains humane traps for Bite cases, aggressive Animals, and Stray or feral Animals.
- Patrols County for Stray Animals. Transports Stray and seized Animals to the contracting shelter facility.
- Picks up dead dogs and cats from roads and fields in the unincorporated portion of the County. Transports dead dogs and cats for proper disposal at the contracting shelter facility.
- Provides 24 hour per day Animal-related emergency services in the unincorporated areas of San Miguel County.

- Provides rescue response to Animals in danger.
- Maintains deputized personnel who receive consistent support, resources, and training allowing them to effectively and compassionately achieve the highest quality of life for the Animals and citizens in our community.
- Performs community outreach activities, speaking to school classes, community associations, civic organizations, etc.

TABLE OF CONTENTS

Editor's note— State Law reference— General authority relative to Animals, NMSA 1978, §§ 4-37-1, 3-18-3; Animals generally, NMSA 1978, § 77-1-1 et seq.

ARTICLE I. IN GENERAL

- Secs. 10-1—10-29. Reserved.
- Sec. 10-30. Short title and legislative intent.
- Sec. 10-31. Definitions.

ARTICLE II. ADMINISTRATION

- Sec. 10-32. Rules and regulations.
- Sec. 10-33. Procedures for complaints.
- Sec. 10-34A. Procedure for sheriff and deputies.
- Sec. 10-34B. Waiver.
- Sec. 10-35. Fees.

ARTICLE III. ANIMAL CARE SERVICES IMPOUNDMENT PROCEDURES

- ✓ Sec. 10-37. Impounding Animals. 5
- ✓ Sec. 10-37A. Seizure of Animals, excluding Livestock. 5
- ✓ Sec. 10-38. Retention of Strays. 5

ARTICLE IV. PERMITS REQUIRED

- ✓ Sec. 10-39. General provisions. 5
- ✓ Sec. 10-39A. Site permit requirements. 5
- ✓ Sec. 10-39B. Breeder permit. 5
- ✓ Sec. 10-39C. Litter permit. 5
- ✓ Sec. 10-39D. Requirements for sale of offspring. 5
- ✓ Sec. 10-39E. Guard Dog permit. 5
- ✓ Sec. 10-39F. Intact Animal permit. 5

ARTICLE V. OWNER'S DUTIES AND PROHIBITED ACTIVITIES

- ✓ Sec. 10-40. Animals biting Persons. 5
- ✓ Sec. 10-41. Animal license. 5
- ✓ Sec. 10-42. Number of Animals allowed. 5
- ✓ Sec. 10-43. Restraint of Animals. 5
- ✓ Sec. 10-44. Vaccinations. 4
- ✓ Sec. 10-45. Abandonment. 2
- ✓ Sec. 10-46. Admission of Qualified Assistance Animals to public places. 5

- ✓ Sec. 10-47. Animals disturbing the peace. \
- ✓ Sec. 10-48. Animals killing or injuring Livestock or protected wildlife. 5
- ✓ Sec. 10-49. Reserved. 5
- ✓ Sec. 10-50. Animal poisoning. 3
- ✓ Sec. 10-51. Animals running At Large. 1
- ✓ Sec. 10-52. Injury to Animals by motorists. 5
- ✓ Sec. 10-53. Animals transported in vehicles. 1
- ✓ Sec. 10-54. Animal waste. 2
- ✓ Sec. 10-55. Breaking into Animal Care Services facilities or vehicles. 5
- ✓ Sec. 10-56A. Care and maintenance (companion Animals). 2
- ✓ Sec. 10-57. Confinement of female dogs or cats in mating season. 5
- ✓ Sec. 10-58. Cruelty to Animals. 3
- ✓ Sec. 10-59. Fights. 3
- ✓ Sec. 10-60. Fowl; impounding or crating. 3
- ✓ Sec. 10-61. Hobbling. 5
- ✓ Sec. 10-62. Interference with the sheriff in the performance of his duties. 5
- ✓ Sec. 10-63. Keeping a seriously sick or injured Animal. 2
- ✓ Sec. 10-64. Sale and display of Animals. 5
- ✓ Sec. 10-65. Sterilization agreements/contracts. 5
- ✓ Sec. 10-66. Unlawful use of rabies tag. 5
- ✓ Sec. 10-67. Vicious or Dangerous Animals. 5

ARTICLE VI. WILD ANIMALS; CANINE HYBRIDS

- Sec. 10-68. Wild Animals.
- Sec. 10-69. Canine Hybrids.

ARTICLE VII. PENALTIES

- Sec. 10-70. Penalty.
- Sec. 10-71. Suspensions, revocations of permits.
- Sec. 10-72. Appeal procedures for permit denial, suspension or revocation.
- Sec. 10-73. Severability clause.
- Sec. 10-74. Compilation.
- Sec. 10-75. Effective date.
- Sec. 10-76. Exemption for licensed *Research Facilities*.

ARTICLE I. IN GENERAL

Secs. 10-1—10-29. Reserved.

Sec. 10-30. Short title and legislative intent.

(a) This chapter shall be known and may be cited as the "San Miguel County Animal Care Services Ordinance."

(c) This Ordinance repeals and replaces San Miguel County No. SMC-10-100R(B) – 95.

(b) The Board of County Commissioners intends that enactment of this chapter will protect *Animals* from neglect and abuse, will protect residents from annoyance and injury, will encourage responsible ownership of *Animals* as pets, will assist in providing housing for *Animals* in a shelter, and will partially finance the *Animal* care functions of an *Impound Facility*. It is the intent of the Board of County Commissioners to organize and utilize advisory groups to assist with improving public awareness about subjects pertaining to the enactment of this chapter.

NOTE: All defined terms are italicized in the body of the ordinance for clarity.

Sec. 10-31. Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Abandon means to leave an *Animal* for more than 24 hours without making effective provisions for its proper feeding and care.

Adequate Food means access to and the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each *Animal* in good health; is easily accessible to each *Animal*; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each *Animal*; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the *Animal*, but at least once daily, except as prescribed by a *Licensed Veterinarian* or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate Living Area means *Adequate Space for Exercise for Confined Animals* suitable to the age, size, species and breed of *Animal* and includes *Adequate Shelter* and *Shade Independent of Shelter*.

Adequate Shelter means provision of and access to shelter that is suitable for species, age, condition, size and type of each *Animal*; provides adequate space for each *Animal*; is safe and protects each *Animal* from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each *Animal* to be clean and dry, except when detrimental to the species.

(1) Shelter for *Companion Animals* shall consist of one of the following:

a. Inside the residence of the *Animal's* owner.

b. A shelter that is an *Enclosed* structure of appropriate dimensions for the breed and size of the *Animal*, consisting of four sides, a roof, an entryway, a floor, and suitable insulation protecting the *Animal* from the elements.

1. The shelter shall be structurally sound and of solid construction with no cracks, open seams or holes and the entire structure shall be leak-proof.

2. The shelter shall be maintained in good repair to protect the *Animals* from injury.

3. The shelter shall be free of standing water or mud, unless such standing water or mud is appropriate to maintaining good health, and free of accumulated waste and debris.

4. The shelter shall contain suitable bedding as appropriate to species and/or insulation suitable for the breed when the outdoor temperature is below 45 degrees unless the shelter is heated.

5. The shelter shall have adequate ventilation.

6. The shelter shall be sufficient in size to allow each *Animal* to stand up, turn around, lie down and stretch comfortably.

7. The areas beneath a car, truck, mobile home or machinery do not qualify as shelter.

c. A structure, including, but not limited to a garage, barn or shed, that is sufficiently insulated and ventilated to protect the *Animal* from exposure to extreme temperatures or, if not

sufficiently insulated and ventilated, contains a shelter as provided in the balance of this paragraph that is accessible to the *Animal*.

Adequate Space to Prevent Overcrowding includes but is not limited to sufficient space to allow *Animals* restrained together to be able to move freely, turn around and lie down without having to come into contact with another *Animal* or the sides of the enclosure.

Adequate Space for Exercise for Confined Animals shall include but not be limited to provision within the *Adequate Living Area* of space that enables the *Animal* to sit, hop, stand or rear up on its hind legs, run, jump, and play with others of its species or with toys without hitting him/herself against the top of the enclosure.

Adequate Water means constant access to a supply of unfrozen, *Potable Water*, provided in a sanitary manner suitable for species, in sufficient amounts to maintain good health. Such water will be provided in a manner that prevents the container from being overturned.

Animal means any vertebrate member of the *Animal* kingdom except humans.

Animal Care Services means the staff, facility, programs, shelter, lot, *Premises*, and buildings contracted by the *County* for the implementation of the control and care of *Animals*.

Animal Fighting Paraphernalia means equipment that any reasonable *Person* would ascertain is used for *Animal* fighting purposes which includes, but is not limited to: (1) instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp instrument, (2) items to train and condition *Animals* to fight including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open dog's jaws, performance enhancing drugs or substances, or food or water additives, or (3) the presence of any *Animal* that appears to be a fighting *Animal* alone or together with *Animals* suspected of being used as *Bait Animals* including but not limited to *Rabbits*, cats, and other dogs.

At Large means off the *Premises* of, and not under physical restraint by, the owner or other *Person* having charge of an *Animal*.

Bait Animal is an *Animal* used to train and/or condition other *Animals* to fight and includes but is not limited to dogs, cats, and rabbits exposed to attack by

other *Animals* used or trained to be used in fighting or to make the attacking *Animal* more confident and aggressive.

Bite means an actual puncture or tear of the skin inflicted by the teeth of an *Animal*.

Bona Fide Animal Show includes events sanctioned by organizations such as the American Kennel Club (AKC) or North American Dog Agility Council (NADAC), generally organized by local clubs, including conformation events or performance events such as obedience, agility, and tracking.

Breeder means a *Person* who keeps, maintains or harbors any *Intact Dog or Cat* for the purposes of *Breeding*.

Breeding means permitting, either intentionally or unintentionally, a female dog or cat to produce offspring.

Canine Hybrid means:

(1) Any canine which has or had a pure wolf or pure coyote as a parent or grandparent; or

(2) An *Animal* represented by its owner to an *Animal Care Services* officer, law enforcement officer, or to a veterinarian to be the offspring, cross, mix, or hybrid of a wolf or coyote within the preceding two generations.

Companion Animal means, but is not limited to, dogs, cats, ferrets, guinea pigs, domestic *Rabbits*, and pot-bellied pigs.

Confinement means detainment or isolation of an *Animal*.

County means the area within the jurisdictional boundaries of the County of San Miguel, including privately owned land, excluding the area within the limits of any incorporated municipality or within the jurisdiction of the United States government or the State of New Mexico.

County Manager means the *County Manager* of San Miguel County or his or her designated representative(s).

Dangerous Animal means any of the following:

(1) An *Animal* which, when unprovoked, engages in behavior that requires a defensive action by a *Person* to prevent bodily injury to a *Person* or another *Animal* which is off the property of the owner of the *Animal* in question; or

(2) An *Animal* which, when unprovoked, injures a *Person* or another *Animal* in a manner not resulting in muscle tears, disfiguring lacerations, or require extensive corrective or cosmetic surgery; or

(3) An *Animal* which, because of its poisonous sting or *Bite*, would constitute a significant hazard to the public or another *Animal*.

Dangerous Animal does not include an *Animal* which *Bites*, attacks, or injures a *Person* or another *Animal* that is unlawfully upon its owner's *Premises*

Designee means the San Miguel County Sheriff or other appropriate deputy.

Enclosed means a parcel of land completely surrounded at the perimeter by a wall or fence of sufficient height and strength to contain *Animals* within.

Establishment means a place of business together with its grounds and equipment.

Grooming Parlor means an *Establishment* or part thereof maintained for the purposes of performing cosmetological services for *Animals*.

Guard Dog means a dog that is used to protect a commercial property, but excludes dogs used exclusively to guard *Livestock* or a residence.

Household means the collection of individuals, related or not, who reside in one residence.

Impound Facility means a *Shelter Facility* that has entered into a contract with the *County* for care and management of impounded *Animals*.

Intact Dog, Cat, or Ferret is a Dog, Cat, or Ferret that has not been *Sterilized*.

Kennel means a *Professional Animal Site* operating for intended profit where dogs or cats are boarded, kept, or maintained.

Kennel Area is a secure space for housing one or more *Animals* within a *Kennel* that is of sufficient height and strength to contain the *Animal* within and provide sufficient room for the *Animal* to comfortably move around within the structure.

Kitten means a domestic feline (cat) less than one year of age.

Licensed Veterinarian means an individual with a doctor of veterinary medicine degree who is licensed to practice in the state.

Litter Permit means the permit required by any *Person* who intentionally or unintentionally causes or allows the *Breeding* of a litter of dogs or cats.

Livestock means horses, cattle, pigs, sheep, goats, fowl, or any other domestic *Animals* typically used in the production of food, fiber, or other products or activities defined by the *County Manager* as agricultural.

Multiple Animal Site means any property where the number of dogs or cats owned, harbored or kept exceeds the number of *Animals* allowed in section 6-42 of this chapter and are not otherwise included within the definition of *Professional Animal Site* or *Shelter Facility*; provided however the total number of dogs and cats over the age of three months shall not exceed 10.

Owner/Responsible Party means a *Person* 18 years of age or older or the parent or guardian of a *Person* under 18 years of age who owns, harbors, keeps an *Animal*, has one in his care, or permits an *Animal* to remain on or about the *Premises* owned or controlled by him.

Person means an individual, *Household*, firm, partnership, corporation, company, society, association or legal entity, and every officer, agent or employee thereof.

Permitted Premise means a *Multiple Animal Site*, *Professional Animal Site*, or *Shelter Facility*.

Pet Shop means any *Premises*, or part thereof, open to the public which engages in the purchase, sale, exchange or hire of *Animals* of any type, except the term shall not apply to *Premises* used exclusively for the sale of *Livestock*.

Potable Water means water that can be consumed without concern for adverse health effects.

Premises means a parcel of land and the structures thereon.

Professional Animal Site means any *Kennel*, *Grooming Parlor*, or *Pet Shops*, with the exception of sites solely dedicated to *Livestock*, state inspected veterinary hospitals and federally inspected laboratory facilities and zoos.

Puppy means a domestic dog less than one year of age.

Qualified Assistance Animal means:

- (1) A dog trained or being trained by a recognized school for training dogs to assist *Persons* with disabilities; or

(2) An *Animal* recognized as a service *animal* pursuant to the Americans with Disabilities Act of 1990; or

(3) Any other *Animal* approved by the New Mexico governor's committee on concerns of the handicapped as acceptable in public places and trained to provide some special assistance to a *Person* with a disability.

Quarantine means detention and isolation of an *Animal* in order to observe for rabies or other infectious diseases.

Rabbit as used in this chapter may be either a *Companion Animal* or *Livestock*.

Research Facility means any school, institution, organization, or *Person* as defined in the *Animal Welfare Act* of 1970, 7 U.S.C. § 2132, and recognized as exempted from the anticruelty provisions contained in NMSA 1978, § 30-18-1.

Shade Independent of Shelter includes, but is not limited to, trees, shrubs, bushes, patios, awnings or other natural or manmade structures that permit *Animals* to be sheltered from direct sunlight in a manner that provides *Adequate Space to Prevent Overcrowding*.

Shelter Facility means a non-profit *Animal* facility operated for the purpose of bringing aid and comfort to a number of dogs or cats that exceeds the number of *Animals* allowed in section 6-42 or this chapter.

Sterilized means to be rendered permanently incapable of reproduction.

Stray means an *Animal* found running *At Large*.

Vaccination means protection provided against rabies by inoculation with a vaccine as required by NMSA 1978, § 77-1-3 (1993 Repl.).

Vicious Animal means an *Animal* which kills or severely injures (so as to result in muscle tears or disfiguring lacerations, require multiple sutures, or extensive corrective or cosmetic surgery) a *Person* or domesticated *Animal*. *Vicious Animal* does not include an *Animal* which *Bites*, attacks, or injures a *Person* or *Animal* that is unlawfully upon its owner's *Premises*.

ARTICLE II. ADMINISTRATION

Sec. 10-32. Rules and regulations.

Reasonable rules and regulations may be prescribed by the *County Manager* to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. The *County Manager* may delegate his powers to the sheriff as

he may deem expedient. The sheriff may delegate such powers to the duly appointed deputies as he may deem expedient. A deputy shall wear a uniform and shall carry appropriate identification. Identification is to be surrendered to the *County* upon cessation of employment.

Sec. 10-33. Procedures for complaints.

A complaint alleging any violation of this chapter may be filed with the sheriff's department by a *Person*, including a *Designee*, who has *Personal* knowledge of such violation and who can identify the owner of the *Animal* involved or the *Premises* where the *Animal* is located. The sheriff may require the complainant to provide his name and address and swear to and affirm the complaint.

It is unlawful for any *Person* to intentionally make a report to the sheriff, which that *Person* knows to be false at the time of making it, alleging a violation by another *Person* of any violation of the San Miguel County *Animal Care Services Ordinance*.

Sec. 10-34A. Procedure for sheriff and deputies.

(a) The County Manager, sheriff and deputies shall have the authority, and are directed to investigate upon probable cause, any alleged violation of this chapter or of any law of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to *Animals*.

(b) Deputies are authorized to inspect *Premises* as necessary to perform their duties. If the owner or occupant of the *Premises* objects to inspection, a warrant shall be obtained from a court of competent jurisdiction prior to inspection. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection or investigation.

(c) Whenever the sheriff has probable cause to believe that a *Person* has violated this chapter, the sheriff may prepare a citation for the alleged violator to appear in court. The citation shall contain the name, address, date of birth and telephone number, if known, of the *Person* violating this chapter, the driver's license number of such violator, if known, the code section allegedly violated, and the date and place when and where such *Person* allegedly committed the violation, and the location where such *Person* shall appear in court and the deadline for appearance. The sheriff shall present the citation to the *Person* he has probable cause to believe violated the code section in order to secure the alleged violator's written promise to appear in court by having the alleged violator sign a copy of the citation. The sheriff shall deliver a copy of the citation to the *Person* promising to appear.

(d) If the alleged violator refuses to give his written promise to appear, the sheriff shall prepare a criminal complaint with the San Miguel County Magistrate Court.

Sec. 10-34B. Waiver.

(a) The sheriff shall have the authority to grant waivers of the criteria of this ordinance.

(b) Any *Person* seeking a waiver pursuant to the ordinance from which this chapter is derived shall file a written application with the sheriff. The written application shall contain information which describes the ordinance section for which a waiver is requested and the reason for the waiver.

(c) In determining whether to grant or deny the application, the sheriff shall balance the hardship to the applicant, the community and other *Persons* of not granting the waiver against the potential adverse impact on the *Animals* and residents affected.

(d) Waivers shall be granted by notice to the applicant and may include all necessary conditions, including time limits on the permitted activity. The waiver shall not become effective until all conditions are agreed to by the applicants. Noncompliance with any condition of the waiver shall terminate it and subject the *Person* holding it to those provisions of this chapter.

(e) Any *Person* seeking a waiver shall indicate in his or her application to the sheriff the specific reason why he or she should not be required to meet the established ordinance criteria. The applicant shall also include a written statement that he or she has personally contacted all residents of properties within 400 feet of the property in question and none oppose the waiver being requested.

Sec. 10-35. Fees.

Fees for licenses and permits required pursuant to this chapter shall be established and adopted through resolution by the Board of County Commissioners.

ARTICLE III. ANIMAL CARE SERVICES IMPOUNDMENT PROCEDURES

Sec. 10-37. Impounding *Animals*.

(a) A deputy may take up and impound in an *Impound Facility* a *Stray* or any *Animal* kept or maintained contrary to the requirements of this chapter.

(1) The *Animal* may be confined in accordance with the facilities rules and policies.

(2) The *Owner/Responsible Party* shall be responsible for all impound fees, boarding fees, and other costs whether or not the *Animal* is reclaimed.

(3) An *Intact Animal* reclaimed by its owner shall be released without being *Sterilized* upon payment of at least \$25.00 for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he will sterilize the *Animal* within 30 days after release or will obtain a *Breeder* permit, intact permit, or its equivalent.

(4) Any *Stray* that is not reclaimed or adopted within 72 hours of its impoundment may be humanely destroyed in accordance with the impound facility's regulations.

(b) The sheriff shall maintain, for a reasonable period of time or as required by statute, a record of all *Animals* impounded. At least the following information shall be included:

(1) A complete description of the *Animal*;

(2) The manner and date of its acquisition;

(3) The date, manner, and place of impoundment;

(4) A unique, identifying number.

(c) If a *Stray Animal* is not wearing a current rabies tag and is deemed critically injured or critically ill a deputy may deliver the *Animal* to a *Licensed Veterinarian* or the *Impound Facility* to be humanely euthanized. A report must be filed with the sheriff.

(d) Whenever the sheriff finds that any *Animal* is or will be without adequate care because of injury, illness, incarceration, or other absence of the owner or *Person* responsible for the care of such *Animal*, the sheriff may take up such *Animal* for protective care. The owner of the *Animal* may reclaim the *Animal* after paying all required fees and costs imposed by the *Impound Facility*. If the *Animal* is unclaimed at the end of the protective custody period, the *Animal* may be humanely destroyed or otherwise disposed of by the *Impound Facility*. **State law reference**— Sterilization agreement and sterilization deposit required, NMSA 1978, § 77-1-20.

Sec. 10-37. Seizure of *Animals*, excluding *Livestock*.

(a) A deputy who reasonably believes that the life or health of an *Animal* is endangered due to violation of any provision in this chapter may apply to the district court or magistrate court for a warrant to seize the *Animal(s)*.

(b) If the court finds probable cause that the *Animal's* life or health is endangered as a result of the violation of any provision of this chapter, the court shall issue a warrant for the seizure of the *Animal*. The court shall also schedule a hearing on the matter as expeditiously as possible within 30 days unless the *County* demonstrates good cause for a later time.

(c) Written notice regarding the time and location of the hearing shall be provided to the owner of the seized *Animal*. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.

(d) If the owner of the *Animal* cannot be determined, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the *Animal* is seized at the time the seizure occurs.

State law reference— Seizure of *Animals*, NMSA 1978, § 30-18-1.1 (1999).

Sec. 10-38. Retention of *Strays*.

(a) No *Person* shall, without the knowledge and consent of the owner, hold or retain possession of any *Animal* for more than 24 hours without first reporting the possession of the *Animal* to the sheriff's department or the contracted impound facility.

(1) The report shall contain the *Person's* name and address, a true and complete statement of the circumstances under which he took up the *Animal*, and the precise location where the *Animal* is confined.

(2) No *Person* having such an *Animal* in his possession shall refuse to immediately surrender the *Animal* to an officer upon demand.

(3) The sheriff's department or the *Impound Facility* shall be notified upon the identification of any *Stray Animal* by microchip or any other method of identification.

ARTICLE IV. PERMITS REQUIRED

Sec. 10-39. General provisions.

(a) Valid permits are required to operate a *Permitted Premise*, breed dogs or cats, maintain a litter of dogs or cats, possess a *Guard Dog*, *Canine Hybrid*,

Dangerous Animal, or Intact Dog or Cat that has been impounded as a *Stray*, or to exhibit *Animals*. A *Person* may obtain a permit under the following conditions:

(1) Submission of an application, which shall include sufficient information to identify the name and address of the permit holder and owner of the property or site, and payment of an annual permit fee at the office of the sheriff's department. Failure to renew the permit within 30 days of the expiration date may result in the assessment of a penalty fee in addition to the cost of the permit.

(2) *Permitted Premise* permits require a demonstration of a certification of zoning and land use from the San Miguel County Zoning Department.

(3) Upon presenting proper identification and with notice, a deputy shall be allowed access to any *Permitted Premise* for the purpose of inspection. Permits may be suspended for failure to comply with the requirements of this chapter, as well as for violation of other applicable laws, regulations, and ordinances.

(4) Permits must be posted in a conspicuous place on the *Permitted Premises* and are nontransferable.

(5) All permit holders engaging in any commercial activity involving the sale of *Animals* shall comply with the San Miguel County Business License Ordinance.

Sec. 10-39A. Site permit requirements.

(a) *Permitted Premises* are required to meet all other provisions of the San Miguel County *Animal Care Services* Ordinance and the following standards:

(1) Food and unused bedding shall be stored in a location which protects it against excessive moisture, infestation and contamination.

(2) Perishable food shall be refrigerated.

(b) Prior to issuance of a permit and periodically thereafter, the site shall be inspected by the Sheriff or his or her designee. Failure to maintain the site according to established standards shall result in a denial or revocation of the permit.

(c) The *Kennel Area* shall be kept clean and sanitary in a way that protects *Animals* from disease and injury. *Animals* shall be protected from cleaning agents during cleaning. Provisions shall be made to remove *Animal* and food

waste and clean or remove soiled bedding at minimum daily and as often as necessary to maintain the conditions in accordance with this chapter. Disposal shall be made so as to minimize vermin infestation, odors and the spread of disease.

(d) *Kennel Area* buildings and fences shall be structurally sound and kept in good repair to keep *Animals* clean and dry, protect them from injury, contain them and keep predators out. Walls and floors shall be constructed of material impervious to moisture and easily sanitized. Adequate drainage shall be maintained and, when required, drains shall be constructed and operated in accordance with state and *County* regulations and kept in good repair.

(e) Fresh air in *Kennel Area* buildings shall be provided by windows, doors, vents or air conditioning. Ventilation shall minimize drafts, odors and moisture condensation.

(f) Each *Animal* shall be kept in compatible groups and have *Adequate Space to Prevent Overcrowding*. *Kennel Areas* holding cats must contain an adequate number of litter boxes.

(g) All *Animals* housed in the *Kennel Area* shall be provided with an *Adequate Living Area*.

(h) Unsterilized female *Animals* shall be segregated when in estrous except for *Breeding* purposes.

(i) Each *Animal* shall be observed daily by the *Person* named on the permit or his or her designee. Any *Animal* in need of veterinary attention, either due to illness, injury or disease, shall be provided such attention immediately. Ill and injured *Animals* shall be segregated from other *Animals* based on veterinary recommendations to prevent disease spread or further injury.

(j) Insects, parasites and rodents shall be controlled.

(k) A valid rabies certificate signed by a *Licensed Veterinarian* shall be present for each dog and cat housed at the *Kennel*.

(l) Records of *Animal* inventory, including acquisitions and dispositions, inoculations, and disease control and prevention programs shall be maintained and available for inspection by an officer.

Sec. 10-39B. Breeder permit.

(a) No *Person* shall keep, maintain or harbor any *Intact Dog or Cat* for the purposes of *Breeding* without a *Breeder* permit. Each dog or cat used for the

purposes of *Breeding* shall have a *Breeder* permit. The resultant offspring shall not be sold for resale to commercial outlets or for the purpose of research.

(b) No *Breeder* permit shall be issued without proof that each dog or cat used for the purposes of *Breeding* has received all required vaccinations.

(b) A female dog or cat shall have no more than one litter in any consecutive 12-month period.

(c) Upon presenting identification and with notice a deputy shall be allowed access to any *Premises* housing any *Animal* with a *breeder* permit for the purpose of an inspection. Such inspection shall include a review of proofs of vaccination. Failure to maintain vaccinations for each dog or cat shall result in revocation of the *Breeder* permit.

Sec. 10-39C. Litter Permit.

(a) The owner of a female *Intact Dog or Cat* bred intentionally or unintentionally that does not possess a *Breeder* permit is required to obtain a litter permit for each litter.

(b) Within 120 days after the issuance of the Litter Permit, the *Intact Dog or Cat* that is the parent of the litter shall be *Sterilized*.

Sec. 10-39D. Requirements for sale of offspring.

(a) No *Person* shall advertise, barter for, sell, or give away any *Puppy or Kitten* unless the applicable permit number is displayed legibly in all advertisements. The owner shall furnish the *Litter Permit* number or breeder permit number to any potential recipient upon request.

(b) *Puppies and Kittens* can only be bartered for, sold, given away or otherwise transferred or conveyed from the residential location listed on the *Litter Permit* or *Breeder* permit. The barter, sale, gift, or other transfer or conveyance of a *Puppy or Kitten* occurring on public or commercial property, even with the commercial property owner's permission, is a violation of this chapter.

Sec. 10-39E. Guard Dog permit.

(a) No *Person* shall use a *Guard Dog* without a valid permit. A *Person* may obtain a *Guard Dog* permit under the following conditions:

(1) Submission of an application which shall include sufficient information to identify the name and address of the owner of the commercial property and the name and address of the owner of the

Guard Dog, and payment of an annual *Guard Dog* permit fee at the office of the sheriff's department; and

(2) *Guard Dog* permit holders are required to meet all other provisions of the San Miguel County *Animal Care Services Ordinance* and the area where the *Guard Dog* is to be used shall be secured in such a manner as to prevent its escape.

a. The doors, windows, and all openings to the outside of a building in which a *Guard Dog* is on duty shall be secured to prevent its escape.

b. An outdoor property holding a *Guard Dog* shall be completely *Enclosed* by a fence at least six feet in height and shall effectively contain the *Animal* at all times.

(b) The property using a *Guard Dog* shall be posted with warning signs at least 12 inches long on each side.

(1) The warning signs shall state "Guard Dog" and "Guardia" and shall show a picture of an aggressive dog.

(2) The warning signs shall be posted not more than 200 feet apart on the exterior of the fences and walls surrounding the property and shall be posted at all exterior corners of the site and at every entrance to the site.

(c) A *Guard Dog* shall have a current rabies tag and a valid license tag securely affixed to its collar or harness.

Sec. 10-39F. *Intact Animal permit.*

(a) Any *Stray Animal* returned prior to impound or any *Animal* reclaimed from impound is subject to *Sterilization* unless the owner first obtains an *Intact Animal* permit or agrees, in writing, to have the *Animal Sterilized* within 30 days of return. The permit shall be issued upon payment of the required permit fee and proof that he or she possesses a current *County* license and rabies *Vaccination* for the *Animal*. The permit must be renewed annually until proof of *Sterilization* has been provided to the sheriff's department and the contracting shelter.

(b) Any *Animal* found running *At Large* twice shall be *Sterilized* within 30 days of the second offense.

(c) An intact *Animal* permit is required to keep a dog or cat exempt from being *Sterilized* as mandated by applicable law when released prior to impound from an *Animal* shelter.

ARTICLE V. OWNER'S DUTIES AND PROHIBITED ACTIVITIES

Sec. 10-40. *Animals* biting *Persons*.

(a) The owner of an *Animal* that *Bites* a *Person* and a *Person* bitten by an *Animal*, or his or her parent or guardian, if a minor, shall report that occurrence to the sheriff's department within 24 hours of the occurrence. Failure to report such occurrence is a violation of this chapter.

(b) The owner of an *Animal* that *Bites* a *Person* shall surrender said *Animal* to a deputy if the officer deems it necessary to impound said *Animal* for a period of *Quarantine* no less than ten days from the day of the *Bite*.

(c) A physician who renders professional treatment to a *Person* bitten by an *Animal* shall report to the *County Manager* that he has rendered professional treatment within 24 hours of his first professional attendance. The physician shall report the name and address of the *Person* bitten as well as the type and location of the *Bite*. The physician shall report the name and address of the owner of the *Animal* that inflicted the *Bite*, if known, and any other facts or details that may assist the sheriff's department in ascertaining the immunization status of the *Animal*.

(d) An *Animal* that *Bites* a *Person* and without proof of a current rabies *Vaccination* shall be confined securely at the *Impound Facility* for no less than ten days from the day of the *Bite*. The owner of the *Animal* shall bear the cost of *Confinement*. The deputy shall impound the *Animal* into protective custody for the period of the *Quarantine* and the owner shall pay all related costs of the impoundment prior to reclaiming the *Animal*.

(e) The deputy may consent to *Quarantine* the *Animal* on the owner's *Premises* with proof of a current rabies vaccine. The *Premises* where the home *Quarantine* is to occur shall be inspected and approved for such purpose by the deputy. The owner of the *Animal* shall be required to enter into an indemnity agreement on a form approved and prescribed by the *County Manager* for such home *Quarantine*.

(f) If the *Animal* shows signs of sickness, abnormal behavior, or if the *Animal* escapes *Quarantine*, the *Person* having custody of the *Animal* shall immediately notify the sheriff's department. The *Person* having custody of an *Animal* that

dies during the *Quarantine* period shall notify the sheriff's department and surrender the carcass of the *Animal* to a deputy.

(g) It is unlawful to violate the conditions of *Quarantine*. If a deputy deems it necessary to impound an *Animal* for *Quarantine* for violation of the above conditions and/or severity of the *Bite*, the owner cannot remove the *Animal* from observation until the *Quarantine* period is complete. The owner shall bear the cost of the impoundment.

(h) It is unlawful for a *Person* to keep an *Animal* reported to have bitten any *Person* on two unprovoked separate occurrences. The owner has a duty to destroy said *Animal* humanely or surrender such an *Animal* to the sheriff's department to be humanely euthanized.

State law reference— Rabies Control Generally, NMSA §§ 77-1-5, 77-1-6, 77-1-10.

Sec. 10-41. *Animal* license.

(a) It is unlawful for any *Person* to own or harbor a dog, cat, or ferret over the age of three months without obtaining a license for such *Animal*. *Persons* who are not *County* residents and who keep such an *Animal* in the *County* for less than 30 consecutive days shall be exempt from this license requirement.

(b) Applications for licenses shall be made on forms provided by the sheriff's department. All applications shall include the name of the legal owner of the *Animal* and the mailing and physical address of the owner. It is unlawful for any *Person* to knowingly falsify any information required on the application.

(c) Licenses shall be purchased for one year. A three-year license may be purchased for a dog, cat, or ferret if the *Animal* has a current three-year rabies certificate, which is good for at least two-thirds of the licensing period. A one-year or three-year license must be renewed upon its expiration date. Failure to renew the license within 30 days of the expiration date shall result in the assessment of a penalty fee in addition to the cost of the license.

(d) A current rabies certificate must be presented at the time of applying for a license.

(e) Pet identification, such as microchip, tattoo, or tag, is mandatory. (f) The current license tag shall be securely affixed to the collar or harness which shall be worn by a dog, cat or ferret unless the *Animal* is being housed in a *Kennel* or veterinary hospital, appearing in a *Bona Fide Animal Show*, or is being trained; provided, however, that the *Person* who is training the *Animal* shall have in his

personal possession proof of a valid license for each *Animal* and shall immediately display the license upon request by the sheriff's department.

(g) Identification methods must be kept up to date and current with owner information.

(h) License tags shall not be transferred from *Animal* to *Animal*.

(i) Proof of qualification for a license for a *Sterilized Animal* can only be made with a written certification from a *Licensed Veterinarian* stating that the *Animal* has been neutered or spayed.

(j) The license fee shall not apply to *Qualified Assistance Animals*. All other licensing requirements shall apply.

Sec. 10-42. Number of *Animals* allowed.

(a) No *Household* shall own, harbor, or keep more than a combined total of six dogs or cats or any combination thereof over the age of three months without a *Multiple Animal Site* permit or shelter permit; provided that all of the *Animals* shall be *Sterilized* unless subject to a *Breeder* or *Intact Animal permit* or subject to a medical waiver certificate in cases when the sterilization of an *Animal* would pose a substantial threat to the health of the *Animal*. The certificate shall be on official letterhead from a *Licensed Veterinarian* and shall contain the name and address of the owner of the *Animal*, a description of the *Animal*, the medical condition prohibiting sterilization, and the date upon which the *Animal* may be *Sterilized*. A medical waiver certificate must be resubmitted annually. This does not waive the unsterilized license fee.

(b) If a *Multiple Animal Site* permit has been issued, the *Household* shall not own, harbor, or keep more than a combined total of ten dogs or cats or any combination thereof over the age of three months.

Sec. 10-43. Restraint of *Animals*.

(a) A *Person* owning or having charge, custody, care, or control over a *Companion Animal*, shall keep the *Animal* upon his or her own *Premises* within a secure *Enclosed* pen, or in an area containing a fence or wall of sufficient height surrounding the perimeter of the property. It shall be unlawful to tether a *Companion Animal* as a form of *Confinement*.

(1) Fixed point tethering of any *Companion Animal* to stationary objects is permitted in limited circumstances such as picnics or gatherings in a park or open space and for emergency purposes to permit an individual

to render aid to a human or another *Animal* and only when the owner is immediately present.

(2) A dog is permitted on the street and in other public places only if on a secure leash not exceeding six feet in length. Longer retractable leashes may be used, provided the *Person* with the dog is capable of controlling the dog. All other *Animals* must be secured in a fashion acceptable for the species of *Animal*. A *Person* physically capable of controlling and restraining the *Animal* must exercise immediate custody. This section does not apply when an *Animal* is participating in a *Bona Fide Animal Show* authorized by the *County* or appropriate authorities, or when a dog is in an off-leash park or other designated off-leash area.

State law reference— Authority to prohibit the running at large of *Animals*, NMSA 1978, §§ 4-37-1, 3-18-3(A)(2), 77-1-12; Dangerous Dog Act, NMSA 1978, §§ 77-1A-1 to 77-1A-6.

Sec. 10-44. Vaccinations.

(a) It is the duty of any *Person(s)* owning or keeping a dog, cat, or domestic ferret over the age of three months to have the *Animal* vaccinated against rabies as prescribed by NMSA 1978, § 77-1-3 as amended. The *County Manager* may require that other *Animals* have rabies vaccines.

(b) The veterinarian administering anti-rabies vaccines to any *Animal* shall issue the owner or keeper of the *Animal* a numbered *Vaccination* certificate. The certificate shall contain the name and address of the owner of the *Animal*, a description of the *Animal* vaccinated, the date of *Vaccination*, the date immunity expires, and the microchip number.

(c) The veterinarian shall also furnish the owner or keeper with a metal tag bearing the certificate number. A current rabies tag shall be affixed by the owner or keeper to a collar or harness worn by the *Animal* at all times unless the *Animal* is being kept in an approved *Kennel* or veterinary hospital, is being trained by a professional trainer, or is appearing in an approved show.

(d) It is unlawful for the owner of any dog, cat, domestic ferret or any other member of the canine or feline family to fail to exhibit its certificate of *Vaccination* upon demand by the sheriff; provided however, if the *Animal* is not located on the owner's *Premises* at the time of the demand, the owner shall provide a copy of the certificate to the sheriff within 24 hours.

(e) For licensing purposes a medical waiver certificate may be acceptable in cases when the rabies *Vaccination* of an *Animal* would pose a substantial threat to the health of the *Animal*. The certificate shall be on official letterhead from a

Licensed Veterinarian and shall contain the name and address of the owner of the *Animal*, a description of the *Animal*, the medical condition prohibiting *Vaccination*, and the date upon which a *Vaccination* may be given. A medical waiver certificate must be resubmitted annually.

State law reference— Rabies Control Generally, NMSA §§ 77-1-5, 77-1-6, 77-1-10.

Sec. 10-45. Abandonment.

It is unlawful for a *Person* to *Abandon* an *Animal*. Abandonment does not apply to the trap, neuter and return (TNR) of feral cats. A *Person* or organization managing unowned cats by trap, neuter and return is not deemed the owner, harbinger, keeper, holder or possessor of such cats.

Sec. 10-46. Admission of *Qualified Assistance Animals* to public places.

Notwithstanding any other provision of law, a *Qualified Assistance Animal* shall be admitted to any public *Establishment*, including any building open to the public, and to all public Accommodations such as restaurants, hotels, hospitals, swimming pools, stores, common carriers and theaters; provided that the *Qualified Assistance Animal* is under the control of a *Person* with a disability or a trainer of *Qualified Assistance Animals*. No *Person* shall be required to pay any additional charges for his *Qualified Assistance Animal*, but shall be liable for any damage done by his *Qualified Assistance Animal*; provided that it is the regular policy of the *Establishment* or Accommodation to charge non-disabled *Persons* for such damage.

State law reference— Similar provisions, NMSA 1978, §§ 28-11-2 through 28-11-4.

Sec. 10-47. *Animals* disturbing the peace.

(a) It is unlawful for a *Person* to allow an *Animal* to persistently or continuously bark, howl or make noise common to their species or otherwise disturb the peace and quiet of inhabitants of the *County*.

(b) It is unlawful to keep or maintain an *Animal* in such an unclean or unsanitary manner that it disturbs others by noxious or offensive odors.

Sec. 10-48. *Animals* killing or injuring *Livestock* or protected wildlife.

(a) It is unlawful for a *Person* to keep an *Animal* known to have killed or injured *Livestock* or protected wildlife. The owner has a duty to destroy said *Animal* humanely or surrender such an *Animal* to the sheriff's department to be humanely euthanized upon the order of the court.

(b) An owner of *Livestock* shall have the right to kill an *Animal* that has injured or killed *Livestock* or protected wildlife while it is upon property controlled by the owner of the *Livestock*.

State law reference— Dogs Killing or Injuring *Livestock*, NMSA 1978 § 77-1-2.

Sec. 6-49. Reserved.

Sec. 10-50. *Animal* poisoning.

(a) It is unlawful for a *Person* to make accessible to any *Animal*, with the intent to cause harm or death, any substance which has been treated or prepared with a harmful poisonous substance.

(b) This section does not apply to placement of such substance(s) in order to control vermin of significance to the public health.

Sec. 10-51. *Animals* running *At Large*.

(a) It is unlawful for a *Person* to allow or permit any *Animal* to run *At Large* in or on any alley, street, sidewalk, vacant lot, public property, other unenclosed place in the *County*, or private property without the permission of the property owner.

(b) An *Animal* permitted to run *At Large* in violation of this section is declared to be a nuisance and a menace to the public health and safety. Such *Animal* may be taken up and impounded. A deputy may go upon private property in pursuit of an *Animal* which is running *At Large* unless permission to make such pursuit is explicitly refused by the occupant. A deputy may not enter a private building or residence in pursuit of an *Animal*.

(c) A working dog performing such acts as herding or search and rescue that is under the control and supervision of the owner or handler shall not be considered running *At Large* while performing its duties. A hunting, obedience, tracking or show dog that is under the control and supervision of the owner or handler shall not be considered running *At Large* while performing in those capacities.

(d) It is unlawful for an owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, to permit any *Animal* to run *At Large* upon the common areas of the multiple dwelling unit.

Sec. 10-52. Injury to *Animals* by motorists.

Every operator of a motor or self-propelled vehicle upon the streets and ways of the *County* shall immediately upon injuring, striking, maiming or running down any *Animal* provide immediate notification to the sheriff, furnishing sufficient facts relative to the incident. Such *Animal* shall be deemed an uncared for *Animal* within the meaning of section 10-37(d) of this chapter. Emergency vehicles are excluded from this provision.

Sec. 10-53. *Animals transported in vehicles.*

(a) It is unlawful for a *Person* to carry an *Animal* in or upon any vehicle in a cruel, inhumane, or unsafe manner. *Animals* carried in the open bed of a truck must be in a crate that is securely fastened to the truck.

(b) If a deputy determines that an *Animal* in a closed vehicle is in immediate danger of serious injury or death, the deputy may enter the vehicle, by whatever means necessary, and impound the *Animal* into protective custody.

Sec. 10-54. *Animal waste.*

It is unlawful to permit a *Companion Animal* to defecate on public or private property other than the property of the owner of the *Animal* unless such *Animal* waste is immediately removed and properly disposed of by the *Person* having custody of the *Animal*.

Sec. 10-55. *Breaking into Animal Care Services facilities or vehicles.*

It is unlawful for a *Person* to break into any *Animal* center, shelter, facility, or vehicle wherein *Animals* are impounded, or to in any manner remove or assist in the removal of any *Animal* or equipment from such.

Sec. 10-56. *Care and maintenance (Companion Animals).*

Every *Person* who owns or who has charge, care or custody of an *Animal* shall comply with each of the following requirements:

(1) Each *Animal* shall be supplied *Adequate Food, Adequate Water*, and accessible and *Adequate Space to Prevent Overcrowding*.

(2) All *Animals* are to be provided *Adequate Living Area and Adequate Space to Prevent Overcrowding* and sufficient space for adequate exercise. All areas where an *Animal* is confined and all *Animal* buildings or enclosures shall be maintained in a clean and sanitary condition.

(3) No *Animal* shall be left unattended for more than 24 hours.

(4) No condition shall be maintained or permitted that is, or could be injurious to the *Animal*.

(5) No owner or custodian shall fail to provide necessary grooming of the coat in order to prevent matting, skin irritation, distress or pain, trapping of fecal matter, and loss of the ability to protect the *Animal* from adverse weather conditions. An *Animal* shall not be so dirty that it becomes matted as to provide a home for parasites and insects. No *Animal* shall be allowed to have a foreign object embedded in its hide, fur or skin other than a medical device implanted by a *Licensed Veterinarian* or microchip inserted by an authorized agency.

(6) The owner or custodian shall provide regular basic, necessary, and emergency professional veterinary care when needed. If the sheriff or his or her *Designee* finds it necessary to maintain the health of an *Animal*, and so orders, the owner or custodian shall take an *Animal* to a *Licensed Veterinarian* within a time frame indicated for an examination and adhere to recommended treatment.

(7) All *Animals* kept outdoors shall be provided with *Adequate Shelter*, accessible at all times, to the *Animal*; provided, however, this provision need not be applied to the care of free-range *Livestock* kept primarily for commercial purposes.

Sec. 10-57. Confinement of female dogs or cats in mating season.

(a) A *Person* in control of a female dog or cat in mating season shall confine such dog or cat so as to prevent other dogs or cats from attacking or being attracted to such female *Animal*, except for intentional *Breeding* purposes.

(b) It shall be unlawful to maintain a female dog or cat in mating season in any manner that creates a public nuisance.

Sec. 10-58. Cruelty to *Animals*.

(a) It is unlawful for a *Person* to recklessly, willfully, negligently, or maliciously kill, maim, disfigure or torture; beat with a stick, chain, club or other object; mutilate, burn, or scald with any substance; overwork, torment, harass or otherwise cruelly set upon any *Animal*; except that reasonable force may be used to drive off *Vicious, Dangerous* or trespassing *Animals*.

(b) It is unlawful for a *Person* to fail to provide necessary sustenance, fail to provide necessary basic or emergency medical care, maintain an *Animal* in an *Enclosed* environment without adequate provisions to prevent pain or suffering, or perform procedures such as ear-cropping, de-barking, or tail docking on an

Animal, or otherwise endanger an *Animal's* well-being. Procedures completed by a *Licensed Veterinarian* in accordance to their standard practices shall not be considered cruelty.

Sec. 10-59. Fights.

(a) It is unlawful for a *Person* to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest or fight in which one or more *Animals* are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other *Animal*.

(1) It is unlawful for any *Person* to sell, receive, possess, transport, loan, or give away any *Animal Fighting Paraphernalia*.

(2) It is unlawful for any *Person* to raise, train, condition, sell, receive, possess, transport, loan, or give away *Animals* for fighting purposes whether or not the fight is to be conducted inside or outside the jurisdiction of the *County*.

(3) No *Person* shall provoke or entice an *Animal* from the property of its owner for the purpose of engaging the *Animal* in an *Animal* fight.

(b) Nothing in this section shall prohibit a *Person* from the use of *Animals* while engaging in legal hunting practices as allowed by state wildlife authorities. **State law reference**— Dog Fighting and Cockfighting, NMSA 1978 § 30-18-9.

Sec. 10-60. Fowl; impounding or crating.

It is unlawful for a *Person* to confine any wild or domestic fowl or birds unless provisions are made by such *Person* for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than 12 hours. No *Person* shall impound wild or domestic fowl or birds in a crate, box or other enclosure unless such fowl or bird is in a natural erect position unless such position causes injury or damage to the fowl or bird.

Sec. 10-61. Hobbling.

(a) It is unlawful for any *Person* to hobble, tether, or stake *Livestock* or other *Animals* by any means which may cause injury or damage to said *Animal*.

(b) It is unlawful for any *Person* to hobble, tether, or stake *Livestock* or other *Animals* so that they become entangled or are prevented access to any and all care and maintenance items required by section 6-58 of this chapter.

Sec. 10-62. Interference with the sheriff in the performance of his or her duties.

(a) No *Person* shall attack, assault or in any way threaten or interfere with the sheriff or his or her designee in the performance of the duties required by this chapter.

(b) No *Person* shall conceal one's true name or identity or disguise oneself with the intent to obstruct due execution of the law or with the intent to intimidate, hinder or interrupt the sheriff or a deputy in the legal performance of his or her duties.

(c) No *Person* shall interfere with or tamper with any equipment used by the sheriff or deputies, including release of *Animals* contained in such equipment.

(d) No *Person* shall engage in conduct that would agitate, obstruct, oppose, or distract the sheriff or a deputy in the legal performance of his or her duties.

Sec. 10-63. Keeping a seriously sick or injured *Animal*.

(a) It is unlawful for a *Person* to have, keep or harbor an *Animal* which is seriously sick or injured, including starvation, without providing proper veterinary care.

(b) The sheriff may require the owner of such seriously sick or injured *Animal* to provide a letter of health evaluation from a *Licensed Veterinarian* describing the condition of the *Animal* and the treatment provided. The sheriff's department may utilize a standard body scoring system to evaluate the condition of an *Animal*.

(c) In the absence of proper veterinary care, the sheriff may impound such a seriously sick or injured *Animal* in accordance with the provisions of this chapter.

(d) Any such *Animal* impounded may be destroyed humanely or otherwise disposed of according to the normal procedures of the contracting shelter as soon thereafter as is conveniently possible.

Sec. 10-64. Sale and display of *Animals*.

(a) A *Person* shall only sell, offer for sale, barter, give away or otherwise dispose of an *Animal* at the physical address listed on the appropriate permit issued by the sheriff. Shelters and rescues shall be allowed off-site adoption events, with permission of site owner and while preserving appropriate care and maintenance of *Animals*.

(b) No *Person* shall offer for sale, sell, barter, or give away turtles except in conformance with the appropriate federal regulations.

(c) No *Person* shall offer an *Animal* as a prize, giveaway or award for a contest, game, sport, or as an incentive to purchase merchandise.

(d) *Animal* exhibits.

(1) No *Person* shall operate, conduct, or maintain a permanent or temporary commercial *Animal* show, circus, *Animal* exhibition, *Animal* ride, petting zoo or carnival without first having obtained a permit from the sheriff's department. Conditions for permit approval include provisions for the humane care and treatment of the *Animals* and the protection of public safety. Permits shall not be issued upon verification that the applicant has been convicted of charges of *Animal* cruelty, abuse, or neglect, or has violated the Federal *Animal* Welfare Act.

(2) No *Person* shall operate, conduct or maintain any *Animal* exhibit under conditions that pose a danger to the public or the *Animals*. Specific requirements shall be available upon request to the sheriff's department.

(3) The following are exempt from the requirements of this section:

- a. Individuals or groups holding a State of New Mexico regulated permit or a federally regulated permit.
- b. Events sponsored by a municipal zoo or aquarium facility.
- c. Competitive sporting events.

(4) *Persons* involved in these exempt activities shall comply with all other applicable sections of this chapter.

(e) Sale of live *Companion Animals* at *Pet Shops* is prohibited unless the *Pet Shop* has an approved *Professional Animal Site* permit. Sale of cats or dogs in *Pet Shops* is prohibited.

(f) The sale of *Rabbits* for purposes other than as a *Companion Animal*, which is not otherwise prohibited under this chapter, is allowed. There shall be a seasonal exception for the sale of live *Rabbits* in all *Pet Shops*, feed stores, and bait shops during the months of March and April.

Sec. 10-65. Sterilization agreements/contracts.

It shall be unlawful for a *Person* to possess any unsterilized *Animal* when such *Animal* is required to be *Sterilized* under the terms of any applicable sterilization agreement or contract.

Sec. 10-66. Unlawful use of rabies tag.

It is unlawful for any *Person* to remove or transfer any rabies tag from one *Animal* to another. It is unlawful for any *Person* to manufacture or cause to be manufactured or to have in his possession or under his control a stolen, counterfeit, or forged *Animal* license tag, rabies tag, *Vaccination* certificate, or other form of licensing or permitting required under this chapter.

Sec. 10-67. Vicious or Dangerous Animals.

(a) It is unlawful for any *Person* to keep or harbor a *Vicious Animal*. When a deputy has probable cause to believe that an *Animal* is vicious, the deputy may take up and impound the *Animal* into protective custody awaiting appropriate court proceedings. Following judicial determination that an *Animal* is vicious, the court having jurisdiction over the enforcement of this chapter, shall, in addition to any fine or imprisonment imposed for violation of this section, order the owner or keeper of such *Vicious Animal* to destroy it humanely or turn such *Animal* over to the sheriff for destruction.

(b) It shall be unlawful to maintain a *Dangerous Animal* in a manner which constitutes a threat to any *Person* or other *Animal*.

(c) Any owner of a dog that is deemed dangerous by admission of owner or by court determination shall register the dog with the sheriff's department by obtaining a dangerous dog permit. The owner shall comply with all registration and handling requirements as listed in the NMSA 1978, § 77-1A-5.

State law reference— *Vicious Animals*, NMSA 1978, §77-1-10).

ARTICLE VI. WILD ANIMALS; CANINE HYBRIDS

Sec. 10-68. Wild Animals.

(a) It shall be unlawful for a *Person* to own, harbor, keep or exhibit on any private or public property in the *County* any wild *Animal* of a species that in its natural life is dangerous or ferocious. Such *Animals*, though they may be trained and domesticated, remain a danger to others, and include:

(1) Wolves, foxes, coyotes, dingoes, and other members of the non-domestic canine families.

(2) Lions, pumas, panthers, mountain lions, wild cats, and other members of the non-domestic feline families.

(3) All bears (ursidae), including grizzly bears, black bears, brown bears, etc.

(4) Raccoons (procynnidae), including eastern raccoon, desert raccoon, ring tailed cat, etc.

(5) Primates (hominidae), including all non-human great apes other than *Qualified Assistance Animals*.

(6) Skunks.

(7) Bats.

(8) Non-indigenous poisonous snakes.

(9) Alligators, crocodiles, caimans, or poisonous lizards.

(10) Venomous fish and piranha.

(11) Elephants (elephantidae).

(b) This section shall not apply to municipal zoos and aquarium facilities, veterinary facilities, or individuals or organizations holding a State of New Mexico regulated permit or a federally regulated permit.

State law reference— *Predatory Wild Animals*, NMSA 1978, § 77-15-1 et seq.

Sec. 10-69. *Canine Hybrids*.

(a) No *Person* shall purchase, sell, offer for sale, or advertise for sale any *Animal* that is represented to be the offspring, cross, mix, or hybrid of a wolf or coyote.

(b) No *Person* shall possess a *Canine Hybrid* without a valid *Canine Hybrid* permit. A *Person* may apply for such a permit under the following conditions:

(1) Submission of a permit application.

(2) Submission of written proof from a *Licensed Veterinarian* that all *Animals* over the age of six months for which a permit is requested have been spayed or neutered.

(3) All owners of property upon which permitted *Canine Hybrids* are located shall grant reasonable access to such *Premises*. Upon presenting proper identification and at a reasonable hour, a representative of the sheriff's department shall be allowed access to any such *Premises* for

the purpose of inspection. Permits may be suspended for failure to comply with the requirements of this chapter, as well as for violation of other applicable laws, regulations, and ordinances.

(4) Payment of the annual permit fee.

(c) A permit shall not be issued until the applicant provides an adequate physical enclosure that completely and effectively confines all *Animals* to the property of the owner. A deputy shall determine the adequacy of the enclosure. A minimum livable area of 400 square feet must be provided for up to two *Canine Hybrids*, with an additional 100 square feet per *Animal* for each additional hybrid. An exception to this subpart may be granted if the *Animal* owner submits a written plan of adequate housing and exercise to the *Animal Care Services* department and such plan is approved by the department.

(d) A *Canine Hybrids* permit will not be issued for the ownership of more than four *Canine Hybrids*.

(e) Each *Canine Hybrids* must be microchipped and wear a collar or harness displaying an identification tag bearing the name, address, and phone number of the owner at all times while it is on and off of the owner's *Premises*. While off of the owner's *Premises* the *Canine Hybrid* shall be on a secure leash not more than six feet in length and in the immediate custody of a *Person* physically capable of controlling and restraining the *Animal*.

(f) Nothing in this section shall relieve the holder of a permit from complying with all other applicable sections of this chapter.

ARTICLE VII. PENALTIES

Sec. 10-70. Penalty.

Except as provided in this chapter, violations of this chapter are punishable as provided in section 1.6 of the San Miguel County Code.

Sec. 10-71. Suspensions, revocations of permits

(a) When the sheriff discovers that a permit holder is in violation of this chapter, he shall give notice of the violations to the permit holder, operator or *Person* in charge by means of an inspection report or other written notice. The notification shall:

(1) Set forth each specific violation.

(2) Establish a specific and reasonable period of time for the correction of the violation.

(3) State that failure to comply with a notice issued in accordance with the provisions of this chapter may result in immediate suspension or revocation of the permit.

(4) State that an opportunity for appeal from a notice or inspection findings will be provided if a written request for a hearing is filed with the sheriff within five days of receipt of the notice.

(b) Notices under this section shall be deemed properly served and received when the original inspection report or other notice has been personally served on the *Person* in charge, or sent by registered or certified mail to the last known address of the permit holder.

(c) Permits may be suspended for failure of the holder to comply with the requirements of this chapter or other applicable laws, ordinances or regulations.

(1) The suspension may be lifted when the sheriff determines the violations have been corrected.

(2) A *Person* whose permit has been suspended may apply for an inspection of the *Premises* for the purpose of reinstating the permit. If the applicant and the site are in compliance with the requirements of this chapter and all other applicable laws, ordinances and regulations, the permit shall be reinstated. The reinstated permit shall expire on the date of expiration of the previously suspended permit.

(d) Permits may be revoked for serious or repeated violations of the requirements of this chapter, or for violation of other applicable laws, ordinances or regulations. A permit shall be revoked for one year.

(e) The permit shall be surrendered to the sheriff, upon suspension or revocation.

Sec. 10-72. Appeal procedures for permit denial, suspension or revocation.

(a) A *Person* whose application for a permit or permit renewal has been approved on condition or denied or a permit holder whose permit has been suspended or revoked, may submit to the sheriff written request for a hearing. The written request must be received within five days of the applicant's receipt of the written notice of such action from the *County*. The hearing shall be conducted within a reasonable time after the sheriff receives the request for a hearing.

(b) Hearings shall be conducted by a court at a time and place designated by the court and shall be recorded. All witnesses shall be sworn or affirmed. Written

notice of the time and place of the hearing shall be mailed to the applicant and the sheriff.

(c) The applicant shall be afforded a fair hearing which provides the basic safeguards of due process which shall include:

(1) The opportunity to examine before the hearing and, at the expense of the applicant, to copy all documents, records and regulations of the sheriff that are relevant to the hearing. Any document not made available by the sheriff, after written request by the applicant, may not be relied upon by the sheriff at the hearing.

(2) The right to be represented by counsel or other *Persons* chosen as his representative.

(3) The right to present evidence and arguments in support of his appeal to controvert evidence relied on by the sheriff, and to confront and cross examine all witnesses on whose testimony or information the sheriff relies.

(4) A decision based solely and exclusively upon the facts presented at the hearing.

(d) The court shall prepare a written report of his findings and decision within ten days after the hearing and shall provide copies to the parties.

Sec. 10-73. Severability clause.

If any section, paragraph, sentence, clause, word, or phrase of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter. The commission hereby declares that it would have passed this chapter and each division, section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Sec. 10-74. Compilation.

This chapter shall be incorporated in and compiled as part of the Revised Ordinances of the San Miguel County Code.

Sec. 10-75. Effective date.

This chapter shall take effect 180 days after final adoption by the *County* commission.

Sec. 10-76. Exemption for licensed *Research Facilities*.

The provisions of the San Miguel County *Animal Care Services Ordinance* do not apply to *Research Facilities* licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions governing the treatment of *Animals* of a research or maintenance protocol approved by the institutional *Animal care and use committee* of the facility. If the facility is found to knowingly act outside these protocols the *County* may enforce its anti-cruelty provisions as allowed under NMSA 1978, § 30-18-1.

State law reference— NMSA 1978, § 30-18-1.

Federal Law Reference—7 USC § 2136. 3

FEE SCHEDULE

San Miguel County Code of Ordinance – Chapter 10 (*Animals*)

<u>Pet License</u>	<u>1 Year</u>	<u>3 Year</u>
Neutered/Spayed dog, cat or ferret	\$10	\$22
Neutered/Spayed dog, cat or ferret (owner 62 years or older)	\$2	\$5
Intact dog, cat or ferret	\$20	\$50
Intact dog, cat or ferret (owner 62 years or older)	\$4	\$10

- Written certification from a veterinarian is required showing rabies Vaccination date, rabies tag number and spay/neuter status
- *Qualified Assistance Animals* are required to be licensed; however they are exempt from the pet license fee
- Information regarding *Animal's* identification such as microchip, tattoo, or tag must be provided to the County at the time the license is issued

FEE SCHEDULE

San Miguel County Code of Ordinance – Chapter 10 (*Animals*)

<u>Permits</u>	<u>Annual Fee</u>
<i>Professional Animal Site Permit</i>	\$75
<i>Shelter/Multiple Animal Site Permit</i>	No Fee
<i>Breeder Permit *</i>	\$75
*each dog or cat used for purposes of <i>Breeding</i> shall have an individual breeder permit	
<i>Guard Dog Permit</i>	\$50
<i>Canine Hybrid Permit</i>	\$50
<i>Litter Permit</i>	\$75
<i>Intact Animal Permit</i>	\$75
<i>Animal Exhibit Permit</i>	\$50
<i>Dangerous Animal Permit</i>	\$100

GENERAL PENALTIES FOR VIOLATIONS OF COUNTY CODE

Sec. 1-6. General penalty for violation of Code.

(a) In this section "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulations authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulations authorized by ordinance.

(3) Failure to perform an act if the failure is *prohibited* or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulations authorized by ordinance.

(b) In this section "violation of this Code" does not include the failure of a County deputy or a County employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.


(c) Except as otherwise provided, a *Person* convicted of a violation of this Code shall be punished by a fine not exceeding \$300.00, imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment, except that any *Person* convicted of discarding or disposing of refuse, litter or garbage on private or public property in any manner other than by disposing it in an authorized landfill shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative actions.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent the granting of equitable relief.

State law reference— Penalty for ordinance violations, NMSA 1978, § 4-37-3.

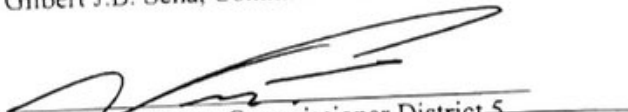
In Witness Whereof, the Agreement has been entered into this 10th day of November 2015, by the BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, NEW MEXICO.



Arthur J. Padilla, Chairman – District 3


Rock G. Ulibarri, Commissioner –District 1



Marcellino A Ortiz, Commissioner District 2



Gilbert J.B. Sena, Commissioner –District 4


Nicholas T. Leger, Commissioner District 5


Yes W. J. Montoya, San Miguel County Manager

ATTEST:


Geraldine E. Gutierrez, San Miguel County Clerk


Joe Diaz, San Miguel County Attorney

SAN MIGUEL COUNTY
PAGES: 41
COUNTY OF SAN MIGUEL)
STATE OF NEW MEXICO) ss
I Hereby Certify That This Instrument Was Filed for Record On The 12TH Day Of November, 2015 at 02:07:37 PM And Was Duly Recorded as Instrument #201503835 Of The Records Of San Miguel
Witness My Hand And Seal Of Office
Geraldine E. Gutierrez
Deputy County Clerk, San Miguel, NM

- ADOPTION OF SAN MIGUEL COUNTY ANIMAL CONTROL ORDINANCES AND PENALTY SCHEDULE.

**SAN MIGUEL
COUNTY
ANIMAL CONTROL
PENALTY
ASSESSMENTS**



SAN MIGUEL COUNTY SHERIFF
 SHERIFF GARY GOLD
 505-425-7589 OFFICE #
 505-425-8799 FAX #
 26 NM 283, LAS VEGAS, NM 87701
 WEBSITE: www.smccounty.net
 EMAIL: ggold@smcounty.net



**SMSO PROPOSED PENALTY ASSESSMENT SCHEDULE
 FOR ANIMAL CONTROL ORDINANCE VIOLATIONS**

Ordinance

FINES FOR VIOLATIONS:

1. **RUNNING AT LARGE, TRESPASSING, NUISANCES, NON-RESTRAINT,
 DISTURBING THE PEACE (IN A CALENDAR YEAR):**

A. FIRST OFFENSE	\$25.00
B. SECOND OFFENSE	\$60.00
C. THIRD OFFENSE or MORE	\$100.00

2. **NEGLECT, CARE AND MAINTENANCE:**

A. FIRST OFFENSE	\$50.00
B. SECOND OFFENSE A MAXIMUM OF	\$200.00
C. THIRD OFFENSE A MAXIMUM OF	\$500.00

3. **CRUELTY:**

A. FIRST OFFENSE	\$50.00
B. SECOND OFFENSE	\$200.00
C. THIRD OFFENSE or MORE	\$500.00

4. **NO RABIES VACCINE** **\$15.00**
5. **ALL OTHER FINES, A MAXIMUM OF** **\$200.00**

MISDEMEANOR PENALTY:

AS PROVIDED UNDER OF THIS ORDINANCE, EACH VIOLATION OF ANY PROVISIONS OF THIS ORDINANCE SHALL CONSTITUTE A MISDEAMEANOR, AND UPON CONVICTION THEREOF THE OFFENDER SHALL BE PUNISHED BY A FINE NOT EXCEEDING \$300.00 AND/OR BY IMPRISONMENT FOR A PERIOD NOT EXCEEDING NINETY (90) DAYS.