ORDINANCE NO 266-2013

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF DOÑA ANA, by deleting and repealing Chapter 134 thereof, Animals, and replacing it with a new Chapter 134, to be entitled Animals, which chapter shall be known as the Doña Ana County Animal Controls Ordinance.

Be it enacted by the Board of County Commissioners of Doña Ana County as follows:

Section 1.

The Code of the County of Doña Ana is hereby amended by deleting and repealing Chapter 134, Animals.

Section 2.

The Code of the County of Doña Ana is hereby amended by adding thereto a new chapter, to replace Chapter 134 hereinabove repealed, to be Chapter 134, Animals, to read as follows:

ARTICLE I
General Provisions

§ 134-1. Short Title and Legislative Intent.

ARTICLE II
Definition of Terms

§ 134-2 Definitions.

ARTICLE III
Animal Care and Ownership Responsibilities

§ 134-3. General Care and Ownership Responsibilities.
§ 134-4. Pet Licensure and Owner Identification.
§ 134-5. Rabies Control and Vaccination Requirements.
§ 134-6. Restraint Requirements.
§ 134-7. Abandonment Prohibited.
§ 134-8. Animal Cruelty Prohibitions.
§ 134-9. Restrictions on Sale or Transfer of Ownership.
§ 134-10. Deceased Animal Disposal Requirements.
§ 134-11. Nuisance Prohibitions.
§ 134-12. Found Animals.

§ 134-13. **Puppy Mill**

ARTICLE IV
Permitted and Prohibited Animals and Density Restrictions

§ 134-14. **Population Control.**
§ 134-15. **Multiple Animal Site Permits.**
§ 134-16. **Special Animal Permits.**
§ 134-17. **Livestock.**
§ 134-18. **Dangerous or Potentially Dangerous Dogs.**
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ARTICLE V
Administration and Enforcement

§ 134-21. **Remittance of Permit Fees.**
§ 134-22. **Animal Controls Officers.**
§ 134-23. **Enforcement Authority and Processes.**
§ 134-24. **Impoundment and Detention.**
§ 134-25. **Reclamation.**
§ 134-26. **Penalties.**

Chapter 134

ANIMALS

ARTICLE I
General Provisions

§ 134-1. Short title and legislative intent.

A. This Article shall be known as and may be cited as the "Doña Ana County Animal Controls Ordinance."

B. It is the intent of the Board of County Commissioners that enactment of this Article will increase the protection of animals from neglect, abandonment, and abuse; encourage responsible ownership and caretaking of animals; reduce potential nuisance issues associated with animals; reduce predation by domestic animals; and minimize the number of healthy or treatable animals euthanized, while protecting the public from illness or injury by animals.

C. It is the further intent of the Board of County Commissioners for this Article to encourage responsible ownership through:

(1) Owner Identification and Pet Licensure.
(2) Population Management primarily through Sterilization.
(3) Humane Care.
(4) Vaccination against Rabies.
(5) Physical Control of Pets.

D. It is the further intent of the Board of County Commissioners that this Article be consistent to the greatest extent possible with the Article adopted by the City of Las Cruces.

ARTICLE II
Definition of Terms

§ 134-2. Definitions.

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

ABANDONMENT (OR TO ABANDON) --- To leave an animal for more than twenty-four (24) hours without providing effective provisions for its proper feeding and care. The term "abandonment" (or "to abandon") does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian or caretaker of such cats.

AMPHIBIAN --- Any organism belonging to the vertebrate class Amphibia (including but not limited to frogs, toads, salamanders, and caecilians).

ANIMAL --- Any vertebrate member of the animal kingdom excluding humans.

ANIMAL CONTROLS OFFICER --- Any person authorized to enforce this Animal Control Article and other applicable animal control laws, orders, and regulations.

ANIMAL CONTROLS SUPERVISOR --- The supervisor or director of the Animal Controls Unit.

ANIMAL CONTROLS UNIT --- The Animal Controls Officers, and support staff of the County for the implementation of the control of animals.

ANIMAL SERVICES CENTER OF THE MESILLA VALLEY (OR ASCMV) --- The governmentally operated animal shelter that serves as the primary impoundment facility for stray, lost, abandoned or surrendered animals in Doña Ana County, or its successor.

ANIMAL SHELTER --- Either a governmental or private organization that provides a temporary home for stray or surrendered pet animals until the animal is reclaimed by the owner, adopted to a new owner, placed with another organization, or euthanized.

BAIT ANIMAL --- 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 for fighting or to make the attacking animal more confident and aggressive.

BITE --- An actual puncture or tear of the skin inflicted by the teeth of an animal.

BREEDING --- Allowing, either intentionally or unintentionally, a dog, cat, or other domestic animal to produce offspring.

CANINE HYBRID --- Any offspring resulting from the breeding of a domestic species or breed of canine with that of a wild species or breed of canine, such as a wolf or coyote. Any animal which at any time has been or is permitted, registered, licensed, advertised, or otherwise described or represented as a canine hybrid, wolf-dog, or wolf hybrid by its owner to an Animal Controls Officer, veterinarian, police officer, or official of the Department of Health shall be considered a canine hybrid for the purposes of this Article. An animal shall not be judged to be a canine hybrid based strictly on its appearance.

CIRCUS --- A commercial variety show featuring animal acts for public entertainment.

COLLAR --- A band, chain, harness, or other suitable device worn around the neck or torso of an animal to which current rabies vaccination and licensure tags can be affixed.

COMMERCIAL LIVESTOCK OPERATION --- A dairy, livestock feed lot, livestock quarantine station, horse race track, horse farm, livestock ranch, or any other livestock industry that is actively engaged in that business and licensed as such.

CONFINEMENT --- Restriction of an animal at all times by an owner or keeper to an escape proof building or other enclosure away from the public.

COUNTY --- The unincorporated areas within the jurisdictional boundaries of the County of Doña Ana, New Mexico.

COUNTY MANAGER --- The County Manager of Doña Ana County or his or her designated representative(s).

DANGEROUS DOG --- A dog that has caused a serious injury to a person or domestic animal, as defined under the Dangerous Dog Act, NMSA 1978, Section 77-1A-2 *et seq.*, as amended.

DOMESTICATED ANIMAL --- A species of animal that has been domesticated to serve as a companion animal to humans, a work animal for humans, or for human consumption.

EAR-TIPPING --- Straight-line cutting of the tip of the left or right ear of a cat while the cat is anesthetized and has been sterilized and administered a rabies vaccination. A cat with a tipped ear shall be considered to be sterile.

EMERGENCY MEASURES --- Any action taken by the Animal Controls Officer in order to preserve the health and/or life of an animal or human being, including but not limited to entering vehicles or premises, given probable cause, and detaining the animal to prevent present or imminent suffering to the animal, a human, or another animal.

ENCLOSURE --- An area completely surrounded by a wall, fence, or animal pen of sufficient height and strength to contain the animal(s) within.

ESTABLISHMENT --- A place of business together with its grounds and equipment.

ESTRUS --- The period of fertility as it relates to a female animal.

FELINE HYBRID - Any offspring resulting from the breeding of a domestic species or breed of feline with that of a wild species or breed of feline, such as an African Serval cat. Any animal which at any time has been or is permitted, registered, licensed, advertised, or otherwise described or represented as a feline hybrid by its owner to an Animal Controls Officer, veterinarian, police officer, or official of the Department of Health shall be considered a feline hybrid for the purposes of this Article. An animal shall not be judged to be a feline hybrid based strictly on its appearance.

FERAL ANIMAL --- An individual animal of a domesticated species that is not behaviorally compatible with humans, and is therefore not suitable to serve as a pet, companion animal, or work animal. Feral cats include all cats that by physical aspect and behavior are deemed to be un-owned and have been trapped for purposes of improving public health and limiting reproduction.

FERTILE --- Capable of producing offspring.

FIELD HEALTH OFFICE --- The health office(s) located in each county and administered by the Public Health Division of the Department of Health.

FOUND ANIMAL REPORT --- A written notice submitted to the Animal Services Center of the Mesilla Valley by the finder of an unclaimed or stray animal, accurately describing the animal and the conditions under which the animal was found, including location, date, and time. Such a report shall also include the name and accurate contact information for the person responsible for submitting said report.

FOWL --- Any bird.

GROOMING PARLOR --- An establishment or part thereof maintained and licensed for the purpose of performing animal grooming services, such as bathing, clipping, brushing, and/or topical parasite treatment, which may be required in order to maintain the wellbeing of an animal.

GUARD DOG --- A dog that is used to protect a commercial property, but excludes a dog used exclusively to guard livestock.

HARBOR --- To allow, either intentionally or unintentionally, any stray animal to linger on one's premises by feeding such animal without making all effective provisions for such animal as required by this Article. Persons harboring an animal shall be subject to the provisions of this Article applicable to animal caretakers. The term "harbor" does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian or caretaker of such cats.

HOUSEHOLD --- The collection of individuals, related or not, who reside at one street address.

HUMANE --- To have compassion, benevolence, and sympathy for people and animals, especially for those suffering or in distress.

IDENTIFICATION MICROCHIP --- A small integrated circuit made of inert, biocompatible material that will not disintegrate or rust, implanted via injection beneath the skin of an animal typically in the area between the animal's shoulder blades, and stores a unique, unalterable, alphanumeric code which can be registered to correspond with contact information for the owner of the animal.

IMMEDIATE CONTROL --- Direct physical control over an animal by a capable and competent person by use of:

A. A secure collar or harness and leash for a dog; or

B. A secure leash in conjunction with a properly fitting harness for a cat or ferret; or

C. A secure and appropriate portable animal crate or cage for any animal.

IMPOUNDMENT FACILITY --- Any animal facility, kennel, shelter, veterinary hospital, lot, premise, or building maintained, contracted, or utilized by the County for the care and custody of animals.

INSPECTION --- A visual check by the Animal Control Unit of any premises to ensure that no violations of this Article are present.

INTACT --- (refer to Fertile)

ISOLATION --- The confinement of an animal in an escape proof run or cage so that there is no possibility of direct contact with other animals or humans, except for the minimum contact by humans that may be required to maintain the wellbeing of the animal.

LABORATORY --- The Scientific Laboratory Division (SLD) of the New Mexico Department of Health.

LIVESTOCK --- All animals that have been domesticated for cultivation and/or domesticated animals that are used for human consumption and includes horses, asses, mules, cattle, bison, buffalo, beefalo, camelids, ostriches, emus, rheas, sheep, goats, swine, peafowl, poultry, rabbits, and farmed cervidae, but excludes canine or feline animals.

LITTER --- A group of one (1) or more young animals born at the same time from the same mother.

MICROCHIP --- (refer to Identification Microchip)

MICROCHIPPED --- To have had a working registered identification microchip implanted.

MISSING ANIMAL REPORT --- A written notice submitted to the Animal Services Center of the Mesilla Valley by the owner of a missing animal, accurately describing the animal and the conditions under which the animal was last seen, including location, date, and time. Such a report shall also include the name and accurate contact information for the person responsible for submitting said report.

MULTIPLE ANIMAL SITE --- Any animal facility or premises where more than six (6) dogs or cats, or any combination thereof, over 3 months of age, are kept or maintained, and where animals are not bred or sold for resale to commercial outlets, nor for the purpose of testing, research, or laboratory experimentation.

NEUTERED --- (refer to Sterilized)

NUISANCE --- A disturbance caused by an animal to the comfort and repose of any person of ordinary sensibilities in the vicinity.

OWNER --- A person eighteen (18) years of age or older or the parent or guardian of a person under eighteen (18) years of age who owns, harbors, keeps, holds, possesses, or who takes charge of or care of, an animal, or permits an animal to remain on or about the premises owned or controlled by him/her. The term "owner" does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian or caretaker of such cats.

PERFORMING ANIMAL EXHIBITION --- Any spectacle, display, act, or event, other than a circus, in which performing animals are used and to which the general public is invited.

PERMIT --- An official document or certificate issued by the Animal Control Unit authorizing the keeping of specific animals on specific premises.

PERSON --- An individual, household, firm, partnership, corporation, company, society, association, or legal entity, and every officer, agent, or employee thereof.

PET --- Any domesticated animal kept as a companion animal, and not intended to be used for farming or human consumption.

PET IDENTIFICATION --- A rabies tag, pet license tag, microchip tag, pet identification tag, identification microchip, or any other potential source of owner contact information associated with an impounded animal that may be obtained by the Animal Services Center of the Mesilla Valley staff. For the purposes of reclamation under § 134-24 of this Article, an animal shall not be considered to be in possession of Pet Identification if such tags or owner contact information proves to be invalid.

PET SHOP --- Any premises open to the public, with a valid business registration or license for the purpose of and engaging in the purchase, sale, exchange, or hire of animals of any type, excluding commercial kennels, animal shelters, commercial livestock operations, state inspected veterinary hospitals, and federally inspected laboratory facilities and zoos.

POISONOUS SUBSTANCE --- Any substance, when introduced into the body of a person or animal, causes injury, illness, or death of a living organism.

POLICE OFFICER --- Any commissioned or certified law enforcement officer of a police, sheriffs, or public safety department who is a graduate of a recognized certified law enforcement training facility, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the state.

POTENTIONALLY DANGEROUS DOG --- A dog, as defined under the Dangerous Dog Act, NMSA 1978, Section 77-1A-2 *et seq.* as amended, that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:

A. Causing an injury to a person or domestic animal that is less severe than a serious injury; or

B. Chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or

C. Acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to escape from the yard or enclosure.

POULTRY --- All birds that have been raised for their meat and/or eggs and includes but is not limited to chickens, turkeys, ducks, geese, and guinea fowl.

POTENTIAL RABIES SUSPECT ANIMAL --- Any animal that has bitten a person causing a puncture or tear of the skin, potentially exposing the person to rabies.

PREMISES --- Any parcel of land and the structures thereon.

PUPPY MILL--- A commercial dog breeding facility operated with an emphasis upon profits above animal welfare and often in substandard conditions regarding the well-being of the dogs and puppies at the facility, which substandard conditions include but are not necessarily limited to over-breeding, inbreeding, minimal veterinary care, poor quality of food and shelter, lack of human socialization, overcrowded cages, and the killing of unwanted animals.

PROFESSIONAL ANIMAL ESTABLISHMENT --- Any commercial kennel, grooming parlor, pet shop, animal shelter, commercial livestock operation, state inspected veterinary hospital, or federally inspected laboratory facility or zoo.

QUALIFIED ASSISTANCE ANIMAL --- (refer to Qualified Service Animal)

QUALIFIED SERVICE ANIMAL --- Any of the following:

A. A dog trained or being trained by a recognized school for training dogs to assist persons with disabilities; or

B. An animal recognized as a service animal pursuant to the Americans with Disabilities Act of 1990; or

C. Any other animal approved by the 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 --- The strict isolation of a potential rabies suspect animal for a ten (10) day observation period at a place and in a manner designated by the Animal Controls Officer and approved by the Field Health Office.

RABIES VACCINATION --- The injection of an approved rabies vaccine by or under the supervision of a licensed veterinarian.

RECLAMATION PERIOD --- The length of time made available to an animal's owner, during which he or she may reclaim such animal from an animal shelter as his or her personal property. The Reclamation Period shall be measured in working days, which shall include any day in which the animal shelter's reclaim department/office is open to the public for a minimum of three (3) continuous hours.

RELEASE OF OWNERSHIP (OR OWNER RELINQUISH) --- A document to be signed by the owner of an animal in which he or she relinquishes all right and title of the animal to the Animal Control Unit or an animal shelter.

REPTILE --- Any organism belonging to the vertebrate class Reptilia (turtles, lizards, snakes, crocodilians, and amphisbaenids).

RESIDENCE --- A building used by a person as a place of general abode, or as a principal or actual dwelling place in fact, without regard to intent.

RESTRAINT: Any of the following:

A. To be under the immediate control of a capable and competent person; or

B. To be secured by a tether confining the animal within the owner's premises; or

C. To be secured within an escape-proof enclosure within the owner's premises.

RUNNING AT LARGE (OR TO RUN AT LARGE) --- To be free of physical restraint beyond the premises of the owner or keeper.

SERIOUS INJURY --- A physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

SEXUAL ABUSE OF ANIMALS --- Intentionally engaging in sexual intercourse, cunnilingus, fellatio, or anal intercourse with an animal or the causing of penetration, to any extent and with any object, of the genital or anal openings of an animal, whether or not there is any emission.

SHERIFF --- The Doña Ana County Sheriff or his or her designee.

SPAYED --- (refer to Sterilized)

STERILIZED --- To be rendered permanently incapable of producing offspring.

STRAY --- An animal running at large.

TETHER --- To restrain an animal by means of a chain, lead, runner, cable, rope, or similar device attached either to a stationary object or to a running line, pulley, or trolley system.

TRAP --- A mechanical device for catching and holding animals.

UNRESTRAINED --- To be free of physical restraint.

VENOMOUS ANIMAL --- Any animal with the capability of causing harm by the introduction of a toxic or poisonous substance into the body of another animal or human being.

VETERINARIAN --- A person with a doctor of veterinary medicine degree licensed to practice veterinary medicine in the state of New Mexico.

VETERINARY HOSPITAL OR CLINIC --- Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

VICIOUS ANIMAL --- An animal known to be liable to attack or injure human beings.

WILD ANIMAL --- Any vertebrate animal(s) under the jurisdiction of the New Mexico Game and Fish Department.

WILDLIFE --- Any wild, exotic, or nondomestic mammal, bird, reptile, amphibian, fish, mollusk, or crustacean.

ZOO --- Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person or government agency.

ARTICLE III
Animal Care and Ownership Responsibilities

§ 134-3. General Care and Maintenance Requirements.

A. Animal Well-being. A person owning or having charge, custody, or care over an animal shall provide such care and husbandry as to maintain the good health and well-being of the animal:

(1) The owner shall provide the animal with adequate amounts of, and with adequate frequency, fresh potable water and wholesome food sufficient and appropriate for the species, life stage, and medical condition of the animal.

(2) The owner shall provide the animal with adequate shelter consisting of a structurally sound, species appropriate, weatherproof housing or enclosure with elevated flooring and proper ventilation, large enough to accommodate the animal comfortably. In winter months, clean species appropriate bedding shall be provided on the floor of the housing or enclosure for warmth.

(3) The owner shall keep enclosures where the animal is maintained free of garbage, feces, and other debris that might endanger the animal's health or safety. The owner shall protect the animal from water and cleaning agents during the cleaning of the animal's living area.

(4) The owner shall keep enclosures where the animal is maintained free of insect infestation, including but not limited to ant-hills, wasp nests, and flea, tick, and maggot infestations.

(5) Enclosures where the animal is maintained for periods exceeding twenty-four (24) hours shall include adequate space to prevent overcrowding and to allow the animal to maintain normal exercise according to species. Such enclosures used to house or confine cats shall contain a regularly cleaned and maintained litter box.

(6) The owner shall provide the animal with professional veterinary care and necessary grooming so as to maintain the animal's good health and protection from extreme weather elements and parasites.

(7) An animal dwelling unit shall be kept no closer than one hundred (100) feet to any private water well or closer than two hundred (200) feet to any public water well.

B. Livestock Well-being. In addition to the requirements stated above under § 134-3.A, a person owning or having charge, custody, or care over a livestock animal shall also provide the following:

(1) Running water facilities shall be provided within fifty (50) feet of each box stall and corral, and each animal shall have access to fresh water in a clean container.

(2) Clean feeding facilities or boxes shall be provided in each corral or box stall, and such facilities shall be maintained accessible thereto by animals to be served thereby.

(3) All areas adjacent to any pen, coop, stable, stall, barn, corral; grazing, workout, or training areas; or other building structures and areas where animals are kept and maintained, shall be graded to drain water away from such facilities so as to prevent ponding and insect harborage.

(4) Any such animal shall not be kept closer than thirty-five (35) feet to an adjacent residence.

(5) Such care and husbandry shall also include, but not be limited to, necessary hoof and teeth care.

§ 134-4. Pet Licensure and Owner Identification.

A. License Requirement. A person owning or having charge, custody, or care over a dog or cat judged to be three (3) months of age or older shall obtain for such animal a Pet License issued by the Animal Services Center of the Mesilla Valley (ASCMV).

(1) Application for the Pet License shall be made by the owner within thirty (30) days of acquiring ownership of a dog or cat judged to be three (3) months of age or older.

(2) The owner of a dog or cat shall provide current proof of rabies vaccination to the ASCMV before the Pet License may be issued or renewed.

(3) The owner of a dog or cat shall provide proof of an implanted working identification microchip for the animal to the ASCMV before the Pet License may be issued or renewed.

a. Proof of the microchip implantation shall be either documentation or a scan of the animal confirming the presence of a working identification microchip by a staff member of the ASCMV.

b. The implanted microchip shall store a unique identification number which shall correspond with current owner contact information for the microchipped animal. The identification number and current owner contact information shall be registered with the ASCMV before the Pet License may be issued.

c. A person owning or having charge, custody, or care over a licensed animal shall maintain a current registry of the animal with the ASCMV.

(4) Each Pet License issued shall include a Pet License tag and a Certificate of Licensure stating the name and address of the owner, the animal's rabies vaccination date and tag number, the animal's identification microchip number, and a complete and thorough physical description of the animal.

(5) The Pet License shall be valid for one (1) year and must be renewed each year.

(6) The Pet License shall be refused or revoked if the license applicant has withheld or falsified any application information.

(7) A duplicate Pet License shall be issued by the ASCMV upon payment of a replacement fee.

B. License Tag. A person owning or having charge, custody, care, or control over a dog or cat judged to be three (3) months of age or older shall keep the animal's assigned Pet License tag affixed to a collar or harness worn by the animal whenever the animal is away from the owner's property.

(1) The tags may be removed while the animal is undergoing treatment by a veterinarian or being groomed.

(2) A person shall not remove or transfer any legitimate Pet License tag from one animal to another.

B. Fees. Pet Licensing fees shall be established and adopted through resolution by the Board of County Commissioners.

(1) Qualified Service Animals. No Pet License fee shall be charged for Qualified Service Animals or for any dog trained to assist the blind or deaf.

(2) Sterilization Discount. A person owning or having charge, custody, or care over a sterilized dog or cat judged to be three (3) months of age or older shall obtain for such animal a Pet License from the ASCMV at a fee established by resolution of the Board of County Commissioners.

a. The owner shall show proof to the ASCMV that the animal has been sterilized. Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

(3) Age Discount. A person over the age of sixty-five (65) years owning or having custody of a sterilized dog or cat shall obtain a Pet License for such animal from the ASCMV at a fee established by resolution of the Board of County Commissioners.

D. All Pet Licensing fees collected shall be remitted or reported to the Treasurer of the County and shall be used for animal control purposes.

E. Records. The ASCMV shall maintain public records of the Pet License applications and Pet Licenses issued and shall make such records immediately available to Law Enforcement, Animal Controls Officers or Codes Enforcement Officers upon request.

§ 134-5. Rabies Control and Vaccination Requirements.

A. Vaccination. A person owning or having charge, custody, or care over a dog, cat, or domestic ferret judged to be three (3) months of age or older shall have the animal vaccinated against rabies.

(1) The vaccine shall be administered by or under the supervision of a veterinarian.

(2) The veterinarian shall issue for each administration a serially numbered certificate and metal tag bearing the certificate number.

(3) The certificate shall contain the name and address of the owner of the animal, a description of the vaccinated animal, the date of vaccination, and the expiration date of the vaccination.

B. Rabies Tag. A person owning or having charge, custody, care, or control over a dog, cat, or domestic ferret judged to be three (3) months of age or older shall maintain a current rabies vaccination tag affixed to a collar or harness worn by the animal whenever the animal is away from the owner's property.

(1) The tag may be removed while the animal is undergoing treatment by a veterinarian or being groomed.

(2) A person shall not remove or transfer any legitimate rabies tag from one animal to another.

C. Rabies Certificate. A person owning or having charge, custody, care, or control over a dog, cat, or domestic ferret judged to be three (3) months of age or older shall exhibit the vaccination certificate upon request by the Animal Controls Officer with probable cause.

D. Exposure; Owner/Patient Responsibility. When any person is bitten by an animal, it is the duty of such person or his parent or guardian, or any person having knowledge of the whereabouts of the animal, to immediately notify the Animal Control Unit or the field office of the public health division.

E. Exposure; Physician Responsibility. A physician who renders professional treatment to a person bitten by an animal shall report to the Animal Control Unit such treatment immediately after the initial treatment.

(1) The physician shall report the name, address, and phone number (if known) of the person bitten as well as the type and location of the bite.

(2) 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 Animal Control Unit in ascertaining the immunization status of the animal.

F. Exposure; Domestic Animal. Any dog, cat, or ferret that bites or otherwise exposes a person to rabies shall be either destroyed and the head sent to the laboratory for rabies testing, or placed in isolation immediately at the owner's expense for a ten (10) day observation period at a place and in a manner designated by the Animal Controls Officer and approved by the Field Health Office.

(1) The isolation and observation period shall end ten (10) days following the date and time of the potential rabies exposure.

(2) If the dog, cat, or ferret shows signs or symptoms of rabies during the ten (10) day isolation and observation period, it shall be destroyed and the head sent to the laboratory for rabies testing.

G. Exposure; Wild Animal. Any skunk, bat, raccoon, coyote, bobcat, or other wild animal not born or reared in captivity (with the exception of rodents or rabbits) that bites or otherwise exposes a person to rabies, shall be destroyed immediately and the head sent to the laboratory for testing.

(1) Rabbits and rodents do not normally transmit rabies, but may be submitted for testing with the consent of the state epidemiologist of the division of epidemiology, evaluation and planning division.

H. Home Quarantine. The Animal Controls Officer may consent to confinement and isolation on the owner's premises of a dog, cat, or domestic ferret that bites a person on the owner's premises.

(1) The premises where the home isolation is to occur shall be inspected and approved for such purpose by the Animal Controls Officer.

(2) The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the Animal Control Supervisor for such home confinement.

(3) The owner shall immediately notify the Animal Control Unit if the animal shows signs of sickness or abnormal behavior, if the animal escapes confinement, or if the animal dies within the quarantine period.

I. If any of the provisions of this section are in conflict with, or materially inconsistent with, regulations for the reporting of animal bites, confinement and disposition of rabies-suspect animals, rabies quarantine, and the disposition of dogs and cats exposed to rabies in the interest of public health and safety prescribed by the New Mexico Department of Health pursuant to NMSA Section 77-1-6, and as amended, the state regulations shall control.

§ 134-6. Restraint Requirements.

A. Physical Restraint. A person owning or having charge, custody, or care over an animal shall keep the animal under humane physical restraint at all times.

B. Dragging; Hobbling. A person shall not tether or attach any animal to any object that can be dragged or moved by the animal. Such an animal, if not otherwise restrained by a secure tether or enclosure, shall be considered by the Animal Controls Officer to be unrestrained. This shall not apply to livestock animals being properly used for work purposes.

C. Owner's Premises. A person owning or having charge, custody, or care over an animal on his or her premises shall restrain the animal either by a secure enclosure or by immediate control.

(1) All pens, kennels, stalls, corrals, or other enclosures used to restrain an animal shall be continuously maintained with preservatives, fasteners, and other materials to prevent deterioration and animal escape. Substantial and acceptable locking or latching devices shall be installed on all gates and doors to animal enclosures in such a manner as to be inaccessible to animals and small children in order to prevent animal escape and unauthorized entry.

(2) A person owning or having charge, custody, or care over a dog on his or her premises may use a tether as a temporary means of restraint only.

a. A person shall not tether a dog to a stationary object for more than two (2) hours in any twelve (12) hour period.

b. A person shall not tether a dog to a running line, pulley, or trolley system for more than four (4) hours in any twelve (12) hour period.

c. A person shall not tether a dog in an unenclosed area where people or other animals are able to wander into the proximity of the tethered dog.

d. A tether used to restrain a dog shall be at least twelve (12) feet in length. Such tether shall not enable the animal to reach beyond the owner's property.

e. A tether used to restrain a dog shall be affixed to a properly fitting collar or harness worn by the dog. A person shall not wrap a chain or tether directly around the neck or other body part of a dog.

f. A tether used to restrain a dog shall not weigh more than one-eighth (1/8) of the animal's body weight. The tether weight shall include any additional objects attached to the dog or tether, such as locks or fasteners.

g. A tether used to restrain a dog shall have working swivels on both ends and shall be fastened so that the animal may sit, walk, and lie down using natural motions. Such tether shall be unobstructed by objects that may cause the tether or animal to become entangled or strangled.

(3) Fences to be provided for a livestock animal enclosure shall be species appropriate. For use in conjunction with stud stalls, such fence shall be maintained not less than six (6) feet in height.

(4) A person owning or having charge, custody, or care over a venomous reptile shall restrain the animal to the owner's premises by a secure locked cage.

a. A cage used to restrain a venomous reptile shall feature labeling that clearly defines and identifies the animal with the following information:

i. Common Name;

ii. Scientific Name; and

iii. Venomous Nature.

D. Public Premises. A person owning or having charge, custody, or care over an animal off of his or her premises shall keep the animal under immediate control.

(1) A leash used to restrain an animal shall be of suitable length so as to enable the handler to maintain control of the animal under the specific circumstances.

(2) A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in the open bed of a vehicle shall be crated or restrained upon a non-slick surface and in a manner that prevents the animal from jumping out of the vehicle.

(3) A person in charge of an amphibian or reptile away from the owner's premises shall keep the animal secured within a closed container that will not expose people unexpectedly to the animal.

(4) A person in charge of a venomous animal away from the owner's premises shall keep the animal secured within a tied bag that shall be placed inside a secure locked box clearly marked "Venomous Animals."

E. Property of Others. A person owning or having charge, custody, or care over an animal shall not detain or restrain an animal upon another person's private property without having permission from the resident or owner of such property.

(1) If the resident does not permit the animal being detained or restrained upon such property, the animal may be taken up and impounded by the Animal Controls Officer at the request of the resident.

(2) If the owner of a rented or leased property does not approve of an animal being restrained or detained by the resident on such property, the dispute shall be regarded by the Animal Control Unit as a civil matter.

F. Multiple Dwelling Unit. An owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, shall not permit or authorize any animal to be unrestrained upon the common areas of the multiple dwelling unit, except upon such areas and within such enclosures specifically designated for such activity.

G. Exceptions.

(1) A working dog that is under the control and supervision of the owner or handler performing such acts as herding, search and rescue, or police work shall not be considered as unrestrained while performing or being trained for such duties.

(2) A hunting, tracking, or show dog that is under the control and supervision of the owner or handler shall not be considered as unrestrained while performing in or being trained for those capacities.

H. Delayed Effective Date. Those provisions of this Article which limit the number of hours a person owning or having charge, custody, or care over a dog may tether such animal shall come into effect no sooner than twenty-four (24) months following approval of this Article. During such time period, the Animal Control Unit shall make all reasonable efforts to inform dog owners of such provisions, and encourage dog owners to provide such animals with alternative forms of restraint that are preferable to tethering prior to such provisions coming into effect.

§ 134-7. Abandonment Prohibited.

A. A person shall not abandon any animal or cause such abandonment.

(1) Abandonment of an animal shall not relieve the owner of the responsibilities associated with ownership, and he or she may still be regarded as the owner for the purposes of this Article.

(2) A person owning or having charge, custody, or care over an animal shall not leave the animal at the ASCMV or private animal shelter, without providing either notification of intent to reclaim the animal or a release of ownership of the animal in writing. Such actions shall be considered abandonment for the purposes of this Article.

(3) Abandonment does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian or caretaker of such cats.

§ 134-8. Animal Cruelty Prohibitions.

A. Cruelty to Animals. A person shall not negligently mistreat, injure, kill without lawful justification, or torment an animal, or abandon or fail to provide necessary sustenance to an animal under that person's custody or control. Under this section, "lawful justification" means humanely destroying a sick or injured animal or protecting a person or animal from death or injury due to an attack by another animal.

(1) Nothing in this section shall prohibit reasonable force to be used to drive off vicious, dangerous, or trespassing animals.

(2) Prosecution under this section shall be limited to first, second, or third offenses. Fourth and subsequent offenses, and offenses involving extreme cruelty as defined under state law, shall be prosecuted as a felony under NMSA 1978, Section 30-18-1, as amended.

B. Veterinary Care. A person shall not have, keep, or harbor an animal that is seriously sick or injured, including suffering from starvation or severe thirst, without providing proper veterinary care.

(1) Given probable cause, the Animal Controls Officer may require the owner to provide a letter of health evaluation from a veterinarian describing the condition of the animal and the treatment provided or recommended.

(2) The Animal Controls Officer may evaluate the condition of an animal in order to determine probable cause.

C. Sexual Abuse. A person shall not take part in any sexual abuse of an animal.

(1) Nothing herein shall prohibit a person from engaging in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

D. Vehicle Operator Responsibility. A person shall not intentionally strike any animal with any vehicle, self propelled or otherwise.

(1) Any person who, as the operator of a motor vehicle, strikes any animal shall immediately report such injury or death to the Animal Control Unit.

E. Performing Animal Exhibition. A performing animal exhibition or circus in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or is likely to cause physical injury or suffering shall not be permitted.

(1) All equipment used on a performing animal shall fit properly and shall be in good working condition.

F. Performance of Duty. Nothing herein shall prohibit the Animal Controls Officer from using a tranquilizer gun, snare, or trap to humanely capture animals as reasonably necessary for the control of such animals.

G. Hunting. Nothing herein shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authorities.

§ 134-9. Restrictions on Sale or Transfer of Ownership.

A. Sale of Unweaned. A person shall not sell, offer for sale, barter, transfer, or adopt a dog, cat, canine hybrid, or feline hybrid under eight (8) weeks of age, or a guinea pig, hamster, or rabbit under four (4) weeks of age. All animals shall be fully weaned and capable of eating on their own to sufficiently maintain proper body condition prior to being offered for sale, transfer, or adoption. Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations. Nothing herein shall prohibit the sale, transfer, or adoption of an unweaned animal if accompanied by a nursing female.

B. Sale in Public. A person shall not sell, offer for sale, barter, give away, transfer or otherwise dispose of an animal upon a street, sidewalk, public park, or any area open to the public, unless such person is acting on behalf of a professional animal establishment.

C. Prize. A person shall not offer an animal as a prize, giveaway, premium, novelty, or award for a contest, game, or sport or as an incentive to purchase merchandise unless as part of a Future Farmers of America (FFA) or 4-H sanctioned event.

D. Venomous Animal. A professional animal establishment shall not offer for sale any venomous animals, other than tropical fish contained in accurately labeled aquaria.

E. Animal Exhibit Safety. A person shall not operate, conduct, or maintain any animal exhibit under conditions that pose a danger to the public or the animals.

§ 134-10. Deceased Animal Disposal Requirements.

A. Owner Responsibility. A person owning or having charge or custody of an animal carcass shall be responsible for its removal within twenty-four (24) hours of death if the animal is not to be used for human consumption.

(1) An animal carcass may be disposed of at the local landfill or waste transfer station as authorized.

(2) An animal carcass may be buried on the owner's property as long as such burial is at least three (3) feet underground.

B. Removal. The Animal Controls Officer may remove any animal carcass from the roadway or other public property. The Officer and/or ASCMV shall make all reasonable efforts to notify the animal's owner (if known) in the event of the animal's death.

(1) The Officer may dispose of the animal carcass at a local landfill or waste transfer station as authorized, after microchip scanning and making reasonable efforts to notify the owner, if known.

(2) The Animal Control Unit is not responsible for pick up or disposal of dead domestic livestock or wild animals, or animals killed on interstate and state highways. Dead animals on County roads shall be removed by the County upon notification.

(3) The Officer shall turn over any tags, or other identification found on an animal carcass to the ASCMV.

C. Removal Fee. The Animal Control Unit may, but is not obligated to, provide for the removal of an animal carcass from private property at the request of the animal owner or property owner for a set fee.

(1) The fee amount shall be established by resolution of the Board of County Commissioners.

§ 134-11. Nuisance Prohibitions.

A. Property Damage. A person owning or having charge, custody, care, or control over an animal shall prevent the animal from causing damage or being a nuisance to the person or property of another.

B. Female in Estrus. A person owning or having charge, custody, or care over a female animal in estrus shall confine the animal in such a way that prevents the animal from becoming a public nuisance.

C. Waste. A person owning or having charge, custody, or care over a small domestic animal such as a dog or cat shall dispose of animal waste from the animal in a watertight and fly

tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard.

(1) Such receptacles shall be securely covered at all times except when opened to dispose of the animal waste.

(2) No animal waste shall be permitted, either intentionally or unintentionally, to accumulate except in such receptacles.

D. Public Defecation. A person owning or having charge, custody, care, or control over an animal shall not permit the animal to defecate on public property or the property of another unless such animal waste is immediately removed and properly disposed of.

§ 134-12. Found Animals.

A. A person shall not, without the knowledge and consent of the owner, hold or retain possession of any animal for more than twenty-four (24) hours without first submitting a Found Animal Report to the ASCMV.

(1) A person having possession of such an animal shall immediately surrender the animal to the Animal Controls Officer upon request.

(2) A person having possession of such an animal shall allow the animal to be scanned for the presence of an Identification Microchip by the Animal Controls Officer immediately upon request.

(3) If the animal remains in the custody of the finder and the owner of such animal fails to submit a Missing Animal Report with the ASCMV within seventy-two (72) following the submission of the Found Animal Report, the finder may thereafter claim ownership of the animal.

§ 134-13. Puppy Mill.

A. No person shall keep or operate a puppy mill. This section shall in no way be interpreted as applying to the ASCMV.

ARTICLE IV
Permitted and Prohibited Animals and Density Restrictions

§ 134-14. Population Control.

A. Intact Animal Permit. A person owning or having charge, custody, or care over an intact dog or cat shall obtain an Intact Animal Permit from the Animal Control Unit for each intact dog or cat owned, whether or not the person intends to breed the animal.

(1) The permit application shall include an accurate physical description of the animal, and, if applicable, licensing and/or microchip registration information.

(2) The permit applicant shall pay the Intact Animal Permit fee before a permit may be obtained. The permit holder shall, thereafter, pay an annual Intact Animal Permit fee.

(3) The permit shall apply solely to the animal specified on the application.

(4) The Intact Animal Permit fee shall be refunded to the permit holder if the intact dog or cat is sterilized within ninety (90) days of the issuance of the permit.

a. Proof of such procedure shall be submitted to the Animal Control Unit.

b. Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

B. Litter Permit. A person owning or having charge, custody, or care over a dog or cat and who intentionally or unintentionally breeds the animal shall obtain a Litter Permit from the Animal Control Unit for each litter born.

(1) The permit application must be submitted within ten (10) days of the birth of the litter.

(2) The permit application shall include an accurate physical description of the parent animal(s).

(3) The permit applicant shall pay the Litter Permit fee before a permit may be obtained.

(4) The Litter Permit fee shall be refunded to the permit holder if the reproducing dog or cat is sterilized within ninety (90) days of the issuance of the permit.

a. Proof of such procedure shall be submitted to the Animal Control Unit.

b. Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

(5) Permit Number. Each Litter Permit shall include a unique Litter Permit Number provided by the Animal Control Unit.

a. The permit holder shall not advertise, barter for, sell, or give away any puppy or kitten unless the applicable Litter Permit Number is displayed legibly in all advertisements.

b. The permit holder shall furnish the Litter Permit Number to any potential recipient or Animal Controls Officer upon request.

(6) Litters per Female per Year. A person owning or having charge, custody, or care over an intact female dog or cat shall not allow or permit intentionally or unintentionally the animal to produce more than one (1) litter in a consecutive twelve (12) month period.

§ 134-15. Multiple Animal Site Permits.

A. No person shall operate a multiple-animal site without a valid permit. A person may obtain a permit under the conditions in Subsection B, after satisfactorily passing a pre-permit inspection, payment of the appropriate permit fee, and proof of business registration, if applicable. The operator shall post the permit in a conspicuous place on the premises. Permits are not transferable. Animal shelters, commercial livestock operations, state inspected veterinary hospitals, federally inspected laboratory facilities, and zoos shall be exempt from this section.

B. Permittees shall:

(1) Submit to post-permit inspections of the premises.

(2) Maintain animals in suitable enclosures. Where animals are maintained in pens, cages or runs for periods exceeding 24 hours, they shall be provided with adequate space to prevent overcrowding and to maintain normal exercise according to species. Such cages holding cats must contain a litter box.

(3) Provide adequate weatherproof housing in all permitted premises with proper ventilation and temperature, and sufficient lighting and shade.

(4) Restrain animals by adequate fencing maintained at all times to contain the animals, or by the use of tethers or chains that are tangle-free, well-fitted, and equipped with a swivel device for attachment to the animal's collar or harness.

(5) Make provisions for the removal and proper disposal of animal and food waste, soiled bedding, dead animals and debris. Animals shall be removed from cages and protected from water and cleaning agents during cleaning. Disposal facilities shall be operated in a manner which will minimize vermin infestation, odors and disease. Adequate drainage shall be maintained.

(6) Eliminate excessive animal noise.

(7) Segregate, by sex, unneutered adult animals, except where otherwise indicated for health, welfare or breeding purposes. Animals shall be housed in compatible groups.

(8) Segregate diseased or injured animals.

(9) Provide all animals with clean, fresh, sufficient and wholesome food and potable water. Such water shall be available at all times. Food and water containers shall be kept clean.

(10) Provide sanitary, pest-free storage of food and bedding.

(11) Observe each animal daily. Programs for disease control and prevention shall be maintained. Sick, diseased, injured, lame or blind animals shall be provided with appropriate veterinary care. Humane euthanasia will be provided when necessary. The person in charge who suspects an animal of being rabid shall immediately notify the Animal Control Supervisor or his designee and segregate the animal.

(12) Limit the number of adult dogs or cats, or any combination thereof, as follows:

a. The maximum allowable number of dogs, cats, or any combination thereof is fifteen (15).

b. For sites with six (6) or fewer dogs, cats, or any combination thereof, no multiple animal site permit shall be required.

(13) Spay or neuter all cats and dogs except where the owner has a valid litter or intact animal permit for such animal.

(14) For animal shelters and professional animal establishments, shall keep a record of animal inventory, disposition, and inoculations.

(15) Comply with all applicable zoning regulations, including, but not limited to, use restrictions associated with specific zoning categories and restrictions on the total number of animals that may be kept on a parcel. If any provision of this section is in conflict with the provision of any applicable zoning regulation, the provision of the zoning regulation shall control.

C. Any commercial kennel, grooming parlor, pet shop, animal shelter, state inspected veterinary facility or federally inspected laboratory facility, or zoo shall be exempt from the multiple animal site requirements and restrictions under this section.

§ 134-16. Special Animal Permits.

A. Outdoor Rehabilitation Aviary. A special permit is required by any person to keep or maintain an outdoor rehabilitation aviary. The County codes enforcement department will not issue this special permit without proof of a license issued by the federal government and the state department of game and fish.

B. Birds of Prey. A special permit is required by any person to keep or maintain a bird of prey. The County codes enforcement department will not issue this special permit without proof of a license issued by the federal government and the state department of game and fish.

C. Threatened or Endangered Amphibian, Snake, or Reptile. Federal and state permits are required for any person to keep or maintain any species of amphibian, snake or reptile that is listed as threatened or endangered by the federal government or the state.

D. Certain Snakes. A special permit is required for any person to keep or maintain any snakes of the families Elapidae and Viperidae, or the three genera within the family Colubridae (Thelotornis kirtlandii, the twig snake; Dispholidus typus, boomslang; and Rhabdophis, keelbacks). The Animal Control Unit will not issue this special permit until the appropriate federal, state and local permits are acquired.

E. Application Generally. Any person who operates or proposes to operate an aviary for the purpose of bird rehabilitation, to maintain any venomous species of snake or lizard, to maintain any pigeon loft, to keep any bird of prey, or to participate in a locally recognized FFA or 4-H program shall file an application for a special permit with the Animal Control Unit describing the location of the site and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from this requirement. It shall be a condition of the issuance of any special permit that the permittee consents to inspection of the premises by the Animal Control Unit at any time between the hours of 6:00 a.m. and 10:00 p.m.

F. Application Conditions. All applications for special permits required under this article must meet the following conditions:

(1) An initial nonrefundable fee must accompany any application to defray the cost of processing the request.

(2) Any application may be denied if the owner or responsible person shows a history of noncompliance with County ordinances concerning animal control, as evidenced by two or more convictions of violations of such ordinances during the past year.

G. Revocation. A special permit may be revoked when, in the opinion of the zoning administrator or Animal Controls Officer, it is maintained that any one or more of the following conditions exist:

(1) Property, pens or animal enclosures are not maintained in a clean and sanitary condition so as to constitute a health hazard or produce noxious odors.

(2) Structures are considered to be unsafe.

(3) Containers for venomous snakes or lizards are not clearly labeled and locked.

(4) Any violation of § 134.3

(5) The keeping of any permit-required species not allowed under the provisions of the existing special permit.

H. Conditions for Keeping Pigeons.

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

a. Fancy pigeon means a pigeon which, through past breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club, or the Rare Breeds Pigeon Club. Examples include fantails, pouters, trumpeters.

b. Loft means the structure for the keeping or housing of pigeons permitted by this section.

c. Pigeon means a member of the family Columbidae, and permitted species shall be restricted to racing pigeons and sporting pigeons, as defined in this subsection. The maintaining of undomesticated common variety pigeons is prohibited within the County limits.

d. Racing pigeon means a pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after being released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Examples include the racing homer, homing pigeon, or carrier pigeon.

e. Sporting pigeon means a pigeon which, through selective past breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying. Examples include rollers, tipplers.

(2) Maintenance, Care and Confinement.

a. The loft shall be of sufficient size and design and constructed of such material that it can be maintained in a clean and sanitary condition.

b. There shall be at least 1½ square feet of floor space in any loft for each mature pigeon kept therein.

c. The construction and location of the loft shall not conflict with all the requirements of any building code of the County.

d. All feed for pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.

e. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the County.

f. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition, and at no time shall pigeons be allowed to perch or linger on the buildings or property of others, thus creating a nuisance.

g. All pigeons shall be fed within the confines of the loft.

h. Pigeons will not be released from the loft unless they have not been fed within the previous four hours.

i. Before issuance of a special permit for the keeping of pigeons, the owner must demonstrate that he is a member in good standing of one of the following: The American Racing Pigeon Union, Inc.; the International Federation of Racing Pigeon Fanciers; the National Pigeon Association; the American Tippler Society; the International Roller Association; or the Rare Breeds Club, as such clubs have rules that help preserve the peace and tranquility of the neighborhood. Membership must be renewed on an annual, or as required, basis in order to maintain the special permit.

I. Guard Dog. A person who wishes to use a trained or certified guard dog on non-residential property shall first obtain a Guard Dog Permit from the Animal Control Unit.

(1) Permit Conditions.

a. Certified or trained guard dogs shall not be used to guard residential property.

b. The permit application shall include sufficient information to identify the name and address of the owner of the commercial property, the name and address of the owner of the guard dog, and the location intended to be guarded by the guard dog.

c. The permit applicant shall submit to a pre-permit inspection of the premises by the Animal Control Unit, so that an accurate physical description of the animal may be obtained.

d. The permit applicant shall pay the Guard Dog Permit fee before a permit may be obtained. The permit holder shall, thereafter, pay an annual Guard Dog Permit fee.

e. Prior to obtaining the permit, the permit applicant shall obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars ($100,000) for damage or bodily injury to or death of a person caused by the guard dog.

(2) Posted Signs. The permit holder shall post guard dog warning signs at designated location protected by a guard dog, warning the public of the presence of a guard dog on the premises.

a. The warning signs shall be at least twelve (12) inches long on each side.

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

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

(3) Vehicles. Vehicles used to transport a guard dog and vehicles being protected by a guard dog shall be secured so the public is protected from injury.

a. The vehicle shall be constructed or modified to ensure that the guard dog is transported in a safe, humane manner.

b. The vehicle shall be conspicuously posted with guard dog warning signs on both sides of the vehicle.

J. Hybrid Animal. A person owning or having charge, custody, or care over a canine hybrid or a feline hybrid shall obtain a Hybrid Permit from the Animal Control Unit.

(1) Permit Conditions.

a. The permit application shall include a detailed and accurate physical description of the animal and a copy of the animal's Certificate of Licensure.

b. The permit applicant shall pay the Hybrid Permit fee before a permit may be obtained. The permit holder shall, thereafter, pay an annual Hybrid Permit fee.

c. The permit shall apply solely to the animal specified on the application.

d. A person owning or having charge, custody, or care over a canine hybrid or a feline hybrid judged to be six (6) months of age or older shall show proof of sterilization before a permit may be obtained or renewed.

i. Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

(2) A canine hybrid and feline hybrid shall be treated as a dog and cat respectively for the purposes of the Pet Licensure, Rabies Vaccination, and Restraint requirements of this Article.

§ 134-17. Livestock.

A. The keeping of livestock, including both large and small animals, and livestock densities, shall be governed by all applicable zoning regulations of the County/Extraterritorial Zone.

§ 134-18. Dangerous or Potentially Dangerous Dogs.

A. Owner Responsibility. A person owning or having charge, custody, care, or control over a dangerous or potentially dangerous dog shall comply with the provisions of the Dangerous Dog Act, NMSA 1978, Section 77-1A-2 *et seq.*, as amended.

§ 134-19. Prohibited Animals.

A. Wildlife and Exotic Animals. A person shall not possess, harbor, or keep any wild or exotic animal of a species that in its natural life is potentially dangerous or ferocious. Such animals, though they may be trained and domesticated, remain a danger to others, and include:

(1) Wolves, coyotes, foxes, 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 (Procyonidae), including eastern raccoon, desert raccoons, ring tailed cat, etc;

(5) Mustelids, other than the domestic ferret (Mustela putorius furo);

(6) Primates (Hominidae), including all non-human great apes other than qualified service animals;

(7) Skunks;

(8) Bats;

(9) Snakes belonging to the families Elapidae, Viperidae, and Colubridae (the twig snake, Thelotornis kirtlandii; boomslang, Dispholidus typus; and keelbacks, Rhabdophis);

(10) Lizards belonging to the family Helodermatidae (gila monsters, Heloderma suspectum, and beaded lizards, Heloderma horridum);

(11) Alligators, crocodiles, or caimans;

(12) Venomous fish and piranha;

(13) Any species of amphibian, snake, or reptile that is listed as threatened or endangered by the federal or state government; and

(14) Coati Mundi.

J. Exceptions. This section shall not apply to veterinary facilities, or individuals holding a State of New Mexico Wildlife Rehabilitation or Educational Use Permit.

§ 134-20. Permit Fees and Qualified Service Animals

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

B. Qualified Service Animals.

(1) Admittance. Notwithstanding any other provision of law, a qualified service animal shall be admitted to 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 service animal is under the control of a person with a disability or a trainer of service animals.

(2) Additional Fees. A person shall not be required to pay any additional charges for his or her qualified service animal, but shall be liable for any damage done by his or her qualified service animal.

ARTICLE V
Administration and Enforcement

§ 134-21. Remittance of Permit Fees.

A. All permit fees, transport fees, and dead animal removal fees, but not including Pet License fees, collected pursuant to this Article shall be remitted to the County Treasurer, who shall place the monies in the County general fund.

§ 134-22. Animal Controls Officers.

A. The County shall designate a part-time or full-time Animal Controls Officer(s) who shall be deputized to enforce animal control laws, orders, ordinances, and regulations.

B. The Animal Controls Officer shall prevent and control the spread of rabies within the County including but not limited to the capture and confinement or disposition of rabies suspect animals, the enforcement of quarantine orders, the destruction or confinement of animals exposed to rabies and the enforcement of pet skunk regulations.

C. Animal Controls Officers shall be provided with proper training to apprehend and handle animals.

D In carrying out the provisions of animal control laws, orders, ordinances, and regulations, every deputized Animal Controls Officer is authorized to pursue a straying animal or a vicious dog or a dog molesting livestock or any animal with symptoms of rabies onto private premises unless permission to make such pursuit is explicitly refused by the occupant.

§ 134-23. Enforcement Authority and Processes.

A. Investigation; Right of Entry. The Animal Controls Officer shall have the authority, and is directed to investigate upon probable cause, any alleged violation of this Article or of any other applicable animal control law, rule, or regulation.

(1) Upon receiving a complaint of a violation or observing a violation of this Article, the Animal Controls Officer is authorized to enter upon private property or premises, but not into a private residence, for the purpose of inspecting and investigating such alleged violation.

(2) If the owner or resident of any such private property or premises objects to inspection or onsite investigation, a warrant shall be obtained from a court of competent jurisdiction prior to inspection.

B. Interference Prohibited.

(1) Assault. A person shall not attack, assault, or in any way threaten or interfere with the Animal Controls Officer in the performance of the duties required by this Article.

(2) False Report. A person shall not make a false report to the Animal Controls Officer regarding any animal in danger or regarding any supposed violation of this Article.

(3) Animal Trap. A person shall not move, open, close, or in any way alter an animal trap belonging to the County or being used by the Animal Control Unit without authorization from the Animal Control Unit. Removal or release of any animal from such a trap shall be prohibited.

C. Right to Destroy. A police officer who learns of an animal within the County, which reasonably appears to pose an immediate and serious threat to human life, is authorized to destroy said animal if the officer is unable to capture said animal without any substantial danger to himself/herself or others.

D. Procedures for Complaints. A complaint alleging any violation of this Article may be filed with the Animal Control Unit by a person 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 Animal Controls Officer may require the complainant to provide his or her name and address and swear to and affirm the complaint.

E. Citations; Criminal Complaints. Whenever the Animal Controls Officer has probable cause to believe that a person has violated this Article or of any other applicable animal control law, rule, or regulation, the Officer may prepare a criminal complaint to be filed with a court of competent jurisdiction or prepare a citation for the alleged violator to appear in court.

(1) The citation shall contain the name, date of birth, address, telephone number (if known), and the driver's license number (if known) of the person allegedly violating this Article.

(2) The citation shall also contain the code section allegedly violated, the common name of the alleged violation, the date and location of the alleged violation, the operative facts for the violation, the location where such person shall appear in court, and the deadline for appearance.

(3) The Animal Controls Officer shall present the citation to the person believed to have violated this Article 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.

(4) The Animal Controls Officer shall deliver a copy of the citation to the person promising to appear.

(5) If the alleged violator refuses to give a written promise to appear, a certified law enforcement officer/Sheriff's Deputy may make an arrest and take the violator into custody; or the Animal Controls Officer may file a criminal complaint before the Magistrate court, which may result in an arrest warrant being issued for the person refusing to sign the promise to appear.

(6) All prosecutions for the commission of any offense made punishable by this Article shall be commenced within one (1) year after the occurrence of the violation and shall be barred thereafter.

§ 134-24. Impoundment and Detention.

A. Animal Shelter. The County shall enter into a contract with the Animal Services Center of the Mesilla Valley or other suitable entity to serve as the primary facility for the impoundment of animals pursuant to this Article. The County may designate additional locations for impoundment under special circumstances; such as special quarantine arrangements, animals held pending legal proceedings, and/or special wildlife impoundments.

B. Health or Safety Risk. The Animal Controls Officer, in performance of his or her duties, may take emergency measures in order to seize and detain any animal that poses a present or imminent health or safety risk to the public.

(1) If the animal is not to be held pending court proceedings, such an impoundment shall be considered a *care and maintenance* impoundment for the purposes of Reclamation.

C. Critically Ill or Injured. The Animal Controls Officer, in performance of his or her duties, may take emergency measures in order to seize and detain any animal that is deemed by the Officer to be critically ill or injured or in real and immediate jeopardy of becoming critically injured.

(1) If the Animal Controls Officer is unable to safely return said animal to the appropriate owner or caretaker within a reasonable amount of time, the Officer may deliver the animal to the ASCMV. The Officer may require reasonable proof of ownership prior to releasing the animal to an owner or caretaker in the field.

a. If the animal is not to be held pending court proceedings, such an impoundment shall be considered a *care and maintenance* impoundment for the purposes of Reclamation.

(2) A properly trained, equipped, certified, and licensed Animal Controls Officer may humanely euthanize such animal onsite if the Officer deems it necessary.

D. Running at Large. The Animal Controls Officer may detain any animal found running at large, except as otherwise provided for in this Article.

(1) If the Animal Controls Officer is unable to safely return said animal to the appropriate owner or caretaker within a reasonable amount of time, the Officer may deliver the animal to the ASCMV.

a. The Officer may require reasonable proof of ownership prior to releasing the animal to an owner or caretaker in the field.

b. If the animal is not to be held pending court proceedings, such an impoundment shall be considered an *Unrestrained* impoundment for the purposes of Reclamation.

E. Owner Relinquish. The Animal Controls Officer may detain and deliver to the ASCMV any animal relinquished by its owner.

(1) An owner requesting to relinquish ownership of an animal to the Animal Control Unit or an animal shelter shall be required to complete and sign a Release of Ownership at the time of detainment or impoundment. By signing the Release of Ownership, the owner shall:

a. Affirmatively represent in writing that he or she is the legal owner of the animal;

b. Transfer ownership of the animal to the ASCMV or other suitable entity;

c. Direct in writing that the animal be placed in the custody of the ASCMV or other suitable entity for disposition as such agency or facility sees fit; and

d. Agree that he or she will indemnify and hold the Animal Control Unit and/or the ASCMV or other suitable entity harmless from any loss or damage he or she may sustain, including attorney's fees, by reason of the destruction or placement for adoption of said animal.

(2) The Animal Control Unit may provide for the transport of a relinquished animal to the ASCMV or other suitable entity.

a. The transport fee amount shall be established and adopted through resolution by the Board of County Commissioners may establish a transport fee by resolution.

F. Cruelty; Neglect. An Animal Controls Officer or peace officer who reasonably believes that the life or health of an animal is endangered due to cruel treatment or neglect shall follow the seizure, notice, disposition, and cost procedures contained in NMSA 1978, Section 30-18-1.1, 1.2, and 1.3, as amended.

G. Rabies Exposure; Quarantine. If the Animal Controls Officer reasonably suspects an animal of having bitten a person, the Officer may detain and deliver the animal to be placed under a quarantine isolation and observation period at an approved Impoundment Facility.

(1) Refer to § 134-5.H of this Article for regulations regarding the isolation and observation period.

(2) A person owning or having charge, custody, care, or control over an animal that bites a person shall surrender custody of said animal to the Animal Controls Officer if the Officer deems it necessary to impound said animal for a quarantine isolation and observation period.

(3) If the owner refuses to surrender custody said animal, the Officer may seek a warrant for the seizure of the animal.

§ 134-25. Reclamation.

A. Right to Reclaim. The owner of any pet or livestock animal that is impounded pursuant to this Article shall have the right to reclaim the animal from the ASCMV during the allotted Reclamation Period upon payment of any and all fees that may be due and payable for the impoundment of such animal.

(1) Any animal not reclaimed within the Reclamation Period shall thereafter be considered the property of the ASCMV.

(2) The Reclamation Period may be interrupted if it is determined by the staff of the ASCMV that euthanization of the animal is necessary due to the animal being in severe, acute distress or if the animal is irremediably suffering.

(3) The ASCMV shall hold any animal impounded as Unrestrained (stray) without Pet Identification for a minimum Reclamation Period of three (3) working days following impoundment.

(4) The ASCMV shall hold any animal impounded as Unrestrained (stray) with Pet Identification for a minimum Reclamation Period of five (5) working days following impoundment.

(5) The ASCMV shall not be required to hold for any minimum Reclamation Period any animal that has been relinquished to the ASCMV by its owner.

(6) The ASCMV shall hold any deceased animal delivered to the ASCMV with Pet Identification for a minimum Reclamation Period of one (1) working day.

(7) The ASCMV shall not be required to hold for any minimum Reclamation Period any deceased animal delivered to the ASCMV without Pet Identification.

(8) The ASCMV shall hold any animal impounded as a care and maintenance impoundment for a minimum Reclamation Period of five (5) working days following impoundment.

(9) The owner may not reclaim any animal that has been placed under a court-ordered detainment or has been submitted as evidence with the ASCMV or other Impoundment Facility pending court proceedings. Any animal submitted as evidence shall be accompanied by an evidence chain of custody worksheet.

(10) Any animal placed under quarantine shall be held for the full quarantine isolation and observation period before said animal may be reclaimed by the owner, unless a home quarantine is authorized by the Animal Controls Officer. Refer to § 134-5.H for regulations regarding home quarantine.

B. Impoundment Fees. Fees for the impoundment and boarding of each animal shall be established and set by the ASCMV administration.

(1) Payment of such impoundment fees shall not bar the imposition of any fine that may be imposed by a court of competent jurisdiction for the violation of this Article.

(2) Additional fees may be included for each day or fraction thereof of impoundment for feeding and care for such animal.

(3) The owner of any animal impounded shall be responsible for all fees associated with such impoundment whether or not the animal is reclaimed.

(4) All fees associated with such impound shall be paid to the ASCMV.

C. Proof of Vaccination. A person reclaiming a dog, cat, canine hybrid, feline hybrid, or ferret judged to be three (3) months of age or older by the ASCMV staff and that was seized or apprehended from an address or location within the County shall provide a current rabies vaccination certificate for said animal before the animal may be reclaimed from the ASCMV.

(1) If a current rabies vaccination certificate is not provided, the owner shall purchase either a new vaccination or a vaccination voucher for the animal from the ASCMV before said animal may be reclaimed.

a. If the owner chooses to purchase a vaccination voucher, the owner shall sign an agreement stating he or she will have the animal vaccinated against rabies within thirty (30) days of reclamation.

b. The owner shall subsequently provide the current rabies vaccination certificate for said animal to the ASCMV within thirty-five (35) days of reclamation.

(2) The fees for the rabies vaccination and vaccination voucher shall be set by and payable to the ASCMV.

D. Proof of Microchip. Proof of a working implanted microchip in a dog, cat, canine hybrid, feline hybrid, or ferret seized or apprehended from an address or location within the County and judged to be three (3) months of age or older by the ASCMV staff shall be obtained by the ASCMV staff before such animal may be reclaimed.

(1) Proof of the microchip implantation shall be a scan of the animal by an ASCMV staff member confirming the presence of a working identification microchip.

(2) If proof of a working microchip implantation is not obtained, the owner shall be charged for microchip implantation by the ASCMV before the animal may be reclaimed.

(3) The microchip and corresponding owner contact information shall be registered with the ASCMV.

(4) The microchip fee shall be set by and payable to the ASCMV.

E. Proof of Sterilization. A person reclaiming a dog, cat, canine hybrid, or feline hybrid judged to be six (6) months of age or older by the ASCMV staff and that was seized or apprehended from an address or location within the County shall provide proof that said animal has been sterilized before the animal may be reclaimed if such condition is not readily obvious to the ASCMV staff.

(1) Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

(2) If proof of sterilization cannot be provided or such condition is not readily obvious to the ASCMV staff, the owner shall provide a sterilization deposit to the ASCMV.

(3) The owner shall sign an agreement stating he or she will have the animal sterilized within thirty (30) days of reclamation or will obtain an Intact Animal Permit from the Animal Control Unit within such time. Such permits shall not be available for hybrid animals.

(4) The sterilization deposit shall be reimbursed to the owner upon presentation of proof of sterilization to the ASCMV by the owner within thirty-five (35) days of reclamation.

(5) The sterilization deposit shall not be reimbursed for obtaining an Intact Animal Permit.

F. Release of Feral Cats. Prior to release of any feral cat, a licensed veterinarian must establish that the cat has been sterilized, and is micro chipped, vaccinated for rabies, and ear tipped.

§ 134-26. Penalties.

A. Each violation of this Article shall be enforced and shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, § 1-20.

Section 3. Severability.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 4. Effective Date.

This ordinance shall become effective thirty days after the ordinance has been recorded in the office of the Doña Ana County Clerk.

ENACTED this 10th day of December, 2013.

BOARD OF COUNTY COMMISSIONERS OF DOÑA ANA COUNTY, NEW MEXICO

SEAL

Billy G. Garrett, Chair, District 1 **For / Against**

Wayne D. Hancock, Vice-Chair, District 4 **For / Against**

Dr. David J. Garcia, District 2 **For / Against**

Benjamin L. Rawson, District 4 **For / Against**

Leticia Duarte Benavidez, District 5 **For / Against**

ATTEST:

Lynn J. Ellins
County Clerk

STATE OF NEW MEXICO COUNTY CLERK DONA ANA COUNTY

COUNTY OF DONA ANA)
STATE OF NEW MEXICO) ss

ORDINANCE/DAC
PAGES: 39

I Hereby Certify That This Instrument Was Filed for Record On DEC 18, 2013 10:57:40 AM
And Was Duly Recorded as Instrument # 1330489
Of The Records Of Dona Ana County

Witness My Hand And Seal Of Office,
Lynn J. Ellins, County Clerk, Dona Ana, NM

Deputy Rafael Garcia