

QUAY COUNTY
ORDINANCE NO. 44

WHEREAS, the County of Quay, State of New Mexico, deems it necessary to provide for control of dogs and cats.

BE IT ENACTED BY THE COUNTY OF QUAY, STATE OF NEW MEXICO, as follows, to-wit:

ARTICLE 1
(Definitions)

For the purpose of this Article the following words and phrases shall have the meanings respectively ascribed to them:

ABANDONMENT: means to give up possession of, to neglect, to forsake an Animal entirely or to refuse to provide or perform the legal obligations for the care and support of an Animal by its Owner or Keeper.

ANIMAL: means any vertebrate member of the animal kingdom, excluding human beings, which has been tamed, conditioned or maintained as a pet or chattel.

ANIMAL CONTROL CENTER: means the facility maintained and operated for the care, custody and disposal of animals, pursuant to this Ordinance.

AT LARGE and ESTRAY: means off the premises of the Owner and not under the direct control, custody, charge, or possession of the Owner or Keeper. A dog or police horse, while in use by a law enforcement agency, shall not be deemed to be At Large.

BITE OR BITTEN: means an actual puncture or tear of skin inflicted by the teeth of an animal.

FERAL ANIMAL; is an animal that is wild by nature and, under normal circumstances, cannot be domesticated or controlled. This definition of feral does not include birds, small rodents or small nonpoisonous reptiles commonly used for educational or experimental purposes or for pets.

GUARD DOG; means any dog that is used to protect private property.

HOBBY BREEDER; means any person involved in breeding of dogs and cats which are, or are not, registered with a nationally recognized animal registry organization or a breed approved by the center.

LICENSED VETERINARIAN; is a person who is a Doctor of Veterinary Medicine license to practice in the State of New Mexico.

NEUTERED; refers to any animal which has been spayed, castrated or otherwise surgically altered so that it is incapable of reproduction.

NUISANCE; means, but is not limited to, defecation, urination, disturbing the peace, emitting noxious or offensive odors or otherwise endangering or offending the well-being of the inhabitants of Quay County.

OWNER OR KEEPER: includes any person who owns, possesses, or has custody or control, or gives shelter, feeds, confines, boards, keeps, houses, or is in charge of, or tends any Animal for at least fourteen (14) days, or an adult person placed in charge of the animal in the absence or incapacitation of the Owner.

RESTRAINT: A dog is considered under restraint if the dog is on their owner's property; or on a leash; or at "heel" beside a competent person and obedient to that person's commands.

SECURE ENCLOSURE; means an enclosure from which an animal cannot escape and which other animals cannot enter. It must be covered by material sufficiently strong to prevent entry or exit by animals, and must prevent an animal from digging its way in our out.

STRAY; means free of physical restraint beyond the boundaries of the premises of the owner.

VACCINATION; means an inoculation with an anti-rabies vaccine recognized and approved by the State of New Mexico and administered by a licensed veterinarian, given in an amount sufficient to provide immunity from rabies for a minimum of one year.

VICIOUS ANIMAL; means any animal which bites, has bitten, or in any manner attacks or attempts to attack or bites any person within the county; except any animal that bites, attacks, or attempts to attack or bite when provoked by any person

trespassing upon its owner's premises or when such attack is in defense of a person, shall not be deemed a vicious animal. "Vicious animal" also means any animal which, unprovoked, kills or maims any animal owned by a person.

ARTICLE 2
(Control of Dogs)

SECTION 1: RUNNING AT LARGE PROHIBITED:

- A. It shall be unlawful for any person owning, harboring, or having custody, control, or possession of any dog to cause or permit such dog to be at large. When dogs are found at large and their ownership can be determined by the Sheriff of Quay County or his/her designee, they shall notify the owner of such fact, and may cite the offending owner into the Magistrate Court of Quay County, New Mexico, for violation of the provisions of this section.
- B. Hunting, tracking, and working dogs are exempt under this section while legally engaged in the act of hunting, tracking or working. This section shall not apply to any dog actually engaged in the sport of hunting in authorized areas at authorized times and supervised by a competent person, dogs used by the State, County, or municipal law enforcement forces while in the exercise of their duties, or dogs used to work livestock in areas of Quay County while working. Section 1 does not apply to hunting dogs brought into the county on a temporary basis for the purpose of engaging in lawful hunting activities while engaged in those activities. Hunting, tracking and working dogs are subject to all other sections of the ordinance.
- C. Sheriff's deputies are authorized to impound any dog or cat which is At Large and are authorized to enter onto private property for the purpose of capturing such dog or cat for impoundment when in fresh pursuit. The Sheriff's Deputy shall take the impounded animal to a qualified Animal Control Center or Animal Shelter.
- D. No person shall, without the knowledge and consent of the Owner, hold or retain possession of any animal for more than twenty four (24) hours without first reporting

the possession of the animal to Sheriff's Department. He or she shall immediately surrender such animal to the Sheriff's Department upon demand.

SECTION 2: ABANDONMENT OF DOGS/CATS PROHIBITED: It shall be unlawful for any person to willfully abandon a dog or cat anywhere within the County of Quay, State of New Mexico. Persons wanting to dispose of unwanted dogs/cats or other pets may surrender them to any licensed Animal Shelter.

SECTION 3: INTERFERING WITH SHERIFF PROHIBITED: It shall be unlawful for any person to interfere with, molest, hinder, or prevent the Sheriff of Quay County or his/her Deputy in the discharging of their duties as herein prescribed, or to violate any of the provisions of this Article.

ARTICLE 3
(Vaccination)

SECTION 1: VACCINATION REQUIRED: It shall be unlawful for any person to own, harbor, or maintain in their possession within the County, any dog, male or female, over the age of three months, which dog has not been vaccinated against rabies pursuant to the laws and regulations of the State of New Mexico.

SECTION 2: WHEN PETS TO BE VACCINATED: In accordance with New Mexico State Law, "Any person who owns or keeps a dog or cat over the age of three months in this State shall have the dog or cat vaccinated against rabies as prescribed by regulation of the health and environment department. All antirabies vaccine shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially numbered certificate and tag for each such administration.

ARTICLE 4
(Prohibited Activities)

SECTION 1: Number of Animals Permitted.

A. No person or household shall own, harbor or keep more than six (6) dogs or cats over the age of three (3) months. This limit shall not apply to any permitted premises.

Exemptions:

1. Qualified service animals that are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.
2. Households, businesses or other organizations, as approved by the county or sheriff's department, providing care for an animal, where the animal is to be cared for only temporarily until it is moved to a permanent home.
3. Animals owned by temporary house guests.
4. A Veterinary Hospital or Clinic operated by a licensed Veterinary.
5. A publicly owned Animal Control Center or Animal Shelter.
6. A bona fide animal shelter operated by an organization such as the Humane Society.
7. Feral animals.

B. MULTIPLE ANIMAL PERMIT; any person or household that own, harbor or keep seven (7) to ten (10) dogs or cats over the age of three (3) months are required to obtain a permit from the Quay County Clerk's office unless these animals have been Neutered. Multiple Animal Permits will be issued at a cost of twenty five dollars (\$25) per year.

C. BREEDING PERMIT; any person or household that own, harbor or keep more than ten (10) dogs or cats are required to obtain a permit for the Quay County Clerk's office. Breeding Permits will be issued at a cost of twenty five dollars (\$25) per year.

1. The Sheriff's Deputy may inspect the premises and complete an inspection form before the permit is issued upon request.

ARTICLE 5

(Neglect and Cruelty to Animals)

Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

A. As used in this section, "animal" does not include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) Negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) Abandoning or failing to provide necessary sustenance to an animal under that person's custody or control.

C. As used in Subsection B of this section, "lawful justification" means:

(1) Humanely destroying a sick or injured animal; or

(2) Protecting a person or animal from death or injury due to an attack by another animal.

D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Extreme cruelty to animals consists of a person:

(1) Intentionally or maliciously torturing, mutilating, injuring or poisoning an animal;
or

(2) Maliciously killing an animal.

F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be charged pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. It shall be unlawful for any person to chain or stake any animal in a cruel, inhumane manner. Where circumstances warrant and no other alternative exists for confining an animal on its owner's property, a rope, cable, or chain may be used to restrain the animal, provided the following criteria are met:

1. The rope, chain or cable must be affixed to the animal by use of a non-abrasive, comfortable fitted collar or harness;

2. The rope, chain, or cable must be at least twelve (12) feet in length unless such length allows the animal to enter onto another's property, in which case the chain shall be not less than eight (8) feet in length. The chain must be unobstructed by objects which might cause the animal to become entangled;
3. The animal must have easy and constant access to adequate shelter, food, and potable water;
4. The area where the animal is confined must be kept free of garbage or other debris which may endanger the animal's health and safety;
5. The area where the animal is confined must be kept free of insect infestation.
6. The animal must be tied reasonably near the owner's residence or work place and must not be left unattended for a period of time that would endanger the animal.

Violations of these requirements will constitute an act of neglect/cruelty, and will subject the animal to immediate impoundment and the owner to the penalties set forth in Article 6.

ARTICLE 6

(Penalties, Area and Effective Date)

SECTION 1: PENALTIES: Any person who violates any of the provisions of this Ordinance shall be punishable by a fine of not more than three hundred dollars (\$300.00) and/or imprisonment of no more than ninety (90) days, or both for each offense.

Notwithstanding any of the foregoing, in the event any animal damages property, whether public or private, or causes injury to any person or animal, and such damage or injury is found to have been an element of the violation of any provision of this Ordinance, the Magistrate Court may, at its discretion, require the defendant to make restitution within a reasonable time, to the victim of said damage or injury.

SECTION 2: AREA IN WHICH ORDINANCE IS EFFECTIVE: This Ordinance is effective within the boundaries of Quay County, State of New Mexico, including privately owned land,

State owned land or land owned by the United States, except that this Ordinance is not in effect within the limits of any incorporated municipality.

SECTION 3. SEVERABILITY CLAUSE: It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed servable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

SECTION 4: EFFECTIVE DATE: This Ordinance shall become effective on the _____ day of _____, 2012.

QUAY COUNTY BOARD OF COMMISSIONERS



Bill Curry, Chairman



Robert Lopez, Member

ATTEST:



Brad Bryant, Member

Ellen White, County Clerk