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ORDINANCE NO. 219

AN ORDINANCE OF THE CITY OF ELEPHANT BUTTE ADOPTING THE TRUTH OR CONSEQUENCES CODE OF ORDINANCES PERTAINING TO ANIMALS:

WHEREAS, This chapter shall be known and may be cited as the City of Elephant Butte Animal Control Ordinance. It is the intent of the City Council that enactment of this chapter will protect animals from neglect and abuse, protect residents from annoyance and injury, assist in providing housing for animals in a control center, and finance the functions of the licensing and recovery of such animals.

WHEREAS, The City Manager or designee is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the City Council to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. Powers to enforce the chapter are delegated to the Truth or Consequences Police Department and the Animal Control Officer or designee.

1) Definitions.

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

Abandonment of animals means to leave any animal unattended and with no provision of food, water or shelter for more than twenty-four (24) hours on one's premises or to dump or leave off any animal on property other than one's own without permission, regardless of age or condition.

Adoption means to take by choice and assume responsibility for proper care in accordance with this Ordinance.

Adequate food means access to and the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each animal in good health, to include:

- a) Easily accessible to each animal
- b) Prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal
- c) Provided in a clean and sanitary manner
- d) Placed so as to minimize contamination by excrement and pests

Adequate living area means adequate space, shade, and shelter suitable to the age, size, species and breed of animal.

Adequate Shade means provision of and access to either man made or natural shade suitable for species, age, condition, size and type of each animal.

Adequate Shelter means provision of and access to shelter that is suitable for species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and

41 protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of
42 heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each
43 animal to be clean and dry.

44

45 **Adequate space to prevent overcrowding** means having sufficient space to allow animals
46 restrained together to be able to move freely, turn around and lie down.

47

48 **Adequate water** means constant access to a supply of unfrozen, potable water, provided in a
49 sanitary manner suitable for species, in sufficient amounts to maintain good health.

50 **Animal** means any vertebrate member of the animal kingdom, excluding the human species,
51 including but not limited to wild animals, domesticated animals, and livestock.

52 **Animal Shelter or Shelter** means any pound, lot, premises, and/or building maintained by the
53 City or one that the City of Elephant Butte contracts with for the care and custody of animals.
54 This shall include any private shelter contracted or recognized by the City for the purpose of
55 maintaining care and custody of animals.

56 **Animal Control Officer** means any person designated by the Police Chief to enforce animal
57 control laws, orders, ordinances, and regulations.

58

59 **Animal fighting paraphernalia** means equipment that any reasonable person would ascertain is
60 used for animal fighting purposes which includes, but is not limited to:

61

62 a) instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife,
63 gaff, or other sharp instrument,

64

65 b) 2. items to train and condition animals to fight including, but not limited to, hides or
66 other material used as hanging devices to strengthen and/or condition dogs, wooden
67 sticks or handles used to pry open dog's jaws, performance enhancing drugs or
68 substances, or food or water additives.

69

70 **Auction** means any place or facility where animals are regularly bought, sold or traded, except
71 for those facilities otherwise defined in this chapter. This definition does not apply to individual
72 sales of animals by owners.

73

74 **Bait animal** means any animal used to train and/or condition other animals to fight and are
75 exposed to attack by other animals used or trained to be used in fighting or to make the attacking
76 animal more confident and aggressive.

77

78 **Bite** means any puncture, tear, scratch or wound of the skin inflicted by the teeth of an animal.

79

80 **Breeder** means any person involved in the controlled breeding of animals. Breeders are subject
81 to City of Elephant Butte Multi-Animal Site Permit requirements.

82 **Canine Hybrid** means any offspring which results from the breeding of a domestic species or
83 breed of canine with any wild species or breed of canine, such as wolf or coyote. Any animal

84 which at any time has been or is advertised, or otherwise described or represented as a canine
85 hybrid, wolf-dog, or wolf hybrid by its owner to an Animal Control Officer, Veterinarian, law
86 enforcement or Official of the Department of Health shall be considered a canine hybrid for the
87 purpose of this chapter. An animal shall not be classified to be a canine hybrid based strictly on
88 its appearance.

89

90 **Care** means responsibility for or attention to health, well-being, and safety.

91

92 **Collar** means a strap made of leather or other strong material or a harness that is worn around the
93 neck/torso of an animal to which a current rabies vaccination and city animal registration tag can
94 be affixed.

95

96 **Confined or Confinement** means restriction of an animal at all times by an owner or keeper in
97 an escape proof building or other enclosure away from other animals and the public.

98

99 **Continually** means a duration that continues over a long period of time but with intervals and
100 interruptions.

101

102 **Emergency measures** means any action taken by animal control or its designated agents to
103 preserve the health and life of an animal or human being, including but not limited to entering
104 vehicles or premises, with probable cause and/or exigent circumstance, and impounding an
105 animal to prevent present or imminent suffering to the animal, a human being, or another animal.

106

107 **Enclosed lot** means parcel of land or portion thereof in private ownership around the perimeter
108 of which a wall or fence has been erected.

109

110 **Enclosure** means an area completely surrounded by a wall, fence, or animal pen of sufficient
111 height and strength to contain the animal(s) within.

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

113

114 **Estray or Stray** means any animal found running at large or unattended beyond the boundaries of
115 the premises of the owner.

116

117 **Feline Hybrid** means any offspring which results from the breeding of a domestic species or
118 breed of feline with any wild species or breed of feline, such as an African Serval cat. Any
119 animal which at any time has been or is advertised, or otherwise described or represented as a
120 feline hybrid by its owner to an Animal Control Officer, Veterinarian, law enforcement, or
121 Official of the Department of Health shall be considered a feline hybrid for the purpose of this
122 chapter. An animal shall not be classified to be a feline hybrid based strictly on its appearance.

123

124 **Feral Animal** means an individual animal of a domesticated species that is not behaviorally
125 compatible with humans and is therefore not suitable to serve as a pet, companion animal, or
126 work animal. Any feral animal that by physical aspect and behavior are deemed to be un-owned
127 and have been trapped for the purpose of improving public health and limiting reproduction.

128

129 **Grooming parlor** means any establishment, or part thereof, or premises maintained for the
130 purpose of offering animals cosmetological services for profit.

131
132 **Heat, Estrus or Season** means a regularly recurring state of estrus during which the female
133 animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

134
135 **Immediate control** means direct physical control over an animal by the owner/responsible party
136 by use of:

- 137
138 (A) A secure collar or harness and leash for a dog; or
139 (B) A secure leash in conjunction with a properly fitting harness for a cat or ferret; or
140 (C) A secure and appropriate portable animal crate or cage for any animal.

141
142 **Household** means one or more persons occupying the premises and living as a single
143 housekeeping unit as distinguished from a group occupying a boarding house, lodging house or
144 hotel.

145
146 **Kennel area** means a secure space within which an animal is housed that is of sufficient height
147 and strength to contain the animal within and provide sufficient room for the animal to
148 comfortably move around within the structure.

149
150 **Kennel, commercial** means any premises on which a total of five or more dogs or cats, in any
151 combination thereof, four months of age or older, are kept; and/or where the business of buying,
152 selling, breeding, training or boarding of dogs and/or cats is conducted.

153
154 **Licensed veterinarian** means a person with a Doctor of Veterinary Medicine degree, licensed to
155 practice in the State of New Mexico.

156
157 **Livestock** means horses, cattle, pigs, sheep, goats, fowl, or any other domestic animals typically
158 used in the production of food, fiber, or other products or activities defined by the city manager
159 as agricultural.

160
161 **Owner/responsible party** means a person 18 years of age or older or the parent or guardian of a
162 person under 18 years of age who owns, harbors, keeps an animal, has one in his/her care, or
163 permits an animal to remain on or about the premises owned or controlled by him/her.

164
165 **Pet** means any domesticated animal kept as a companion animal, and not intended to be used
166 for farming or human consumption. Livestock shall not be considered a pet even if kept as a
167 companion animal and not used for farming or human consumption.

168
169 **Pet shop or dealer** means any commercial establishment or person, including wholesalers
170 engaged in the business of buying and selling or holding pet animals for sale. This term shall not
171 include livestock auctions.

172
173 **Potable** water means water that can be consumed without concern for adverse health effects.

174

175 **Premises** means a parcel of land and/or the structure(s) thereon.

176
177 **Public nuisance** means where an animal owner fails to prevent its animal from urinating,
178 defecating, disturbing the peace, emitting noxious odors, or otherwise endangering or offending
179 the well-being of the inhabitants of the City while:

- 180
181 (A) Trespassing on school grounds, public or private property;
182 (B) Being found running at large;
183 (C) Damaging private or public property; or
184 (D) Barking, whining, or howling in an excessive or continual fashion.

185
186 **Public Way** means an alley, avenue, boulevard, bridge, channel, ditch easement, express
187 freeway, highway, land, parkway, right-of-way, road, sidewalk, street subway, tunnel, viaduct,
188 walk or other ways in which the general public or a public entity have a right, or which are
189 dedicated, whether improved or not.

190
191 **Qualified service animal** means:

- 192
193 (A) any qualified animal that has been or is being trained to provide assistance to an
194 individual with a disability;
195 (B) An animal recognized as a service animal under either federal regulations
196 implementing the Americans with Disabilities Act, or NMSA 1978, Chapter 28,
197 Article 11, which is the New Mexico Service Animal Act, and as amended;
198 (C) A qualified service animal does not include a pet, an emotional support animal, a
199 comfort animal, or a therapy animal as defined in NMSA 1978, Section 28- 11- 2(B)
200 (2013).

201
202 **Quarantine** means detention and isolation of an animal in order to observe the animal
203 suspected of contagion.

204
205 **Responsible person party for the animal** means the owner of the animal, or an adult person
206 placed in charge of the animal in the absence of incapacitation of the owner.

207
208 **Restraint** means any of the following:

- 209 (A) To be under the immediate control of a capable and competent person on a leash or
210 lead; or
211
212 (B) To be secured by a trolley system confining the animal within the owner' s premises; or
213
214 (C) To be secured within an escape -proof enclosure within the owner' s premises.

215 **Running at large or to run at large** means an animal that is free of physical restraint beyond the
216 boundaries of the premises of the owner/responsible party.

217
218 **Tether** means to restrain an animal by means of a runner cable or similar device attached to a running
219 line, pulley, or trolley system. Tie an animal with a rope or chain so as to restrict its movement.

220
221 **Tormenting of animals** means the act of bothering, annoying, distracting or agitating an animal.

222
223 **Un-weaned** means of an infant or other young mammal not accustomed to food other than its
224 mother's milk

225
226 **Vaccination** means the inoculation of an animal with a vaccine administered by a veterinarian
227 for the purpose of immunizing the animal against rabies as required by the State of New Mexico
228 Rabies Control Act of 1959. The amount given should be sufficient to provide immunity from
229 rabies for a minimum of one year.

230
231 **Veterinary hospital or clinic** means any establishment maintained and operated by a licensed
232 veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

233
234 **Vicious animal** means any animal which bites or in any other manner attacks or attempts to
235 attack any person or animal within the City, except that any animal that bites, attacks, or attempts
236 to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to
237 attack, shall not be deemed a vicious animal.

238
239 **2) Service animals.**

240 (A) a person with a disability who is using a qualified service animal, as defined by the
241 American Disability Act (ADA), shall be admitted to any building open to the public and
242 to all other public accommodations and shall be allowed access to all common carriers;
243 provided that the qualified service animal is under the control of an owner, a trainer or a
244 handler of the qualified service animal. A person shall not deny an individual with a
245 qualified service animal entry to a building open to the public or to any public
246 accommodation or deny access to a common carrier, regardless of any policy of denying
247 pets entry to that building, public accommodation or common carrier. A person shall not
248 be required to pay any additional charges for the qualified service animal, but may be
249 liable for any damage done by the qualified service animal; provided that persons without
250 disabilities would be liable for similar damage; and

251
252 (B) This section does not require a public accommodation or common carrier to permit an
253 owner, trainer or handler using a qualified service animal to have access to a public
254 accommodation or common carrier in circumstances in which the individual's use of the
255 qualified service animal poses a direct threat of significant harm to the health or safety of
256 others.

257
258 Resolution 23-24-128 Service Animals & Pet Policy

259 **3) Cruelty.**

260 (A) **Physical abuse.** It is unlawful for any person to willfully or maliciously kill, maim,
261 disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, or scald
262 any animal; except that reasonable force may be employed to drive off vicious or
263 trespassing animals. When a Law Enforcement Officer or an Animal Control Officer has
264 probable cause to believe that an animal has been cruelly treated, the officer may
265 impound the animal for its protection pending appropriate court proceedings.

266 (B) **Work cruelty.** It is unlawful for any person to drive or work any animal cruelly.
267

268 (C) **Animal in a Vehicle.** It shall be unlawful for any owner/responsible party to place or
269 confine an animal in a motor vehicle without allowing cross-ventilation and under no
270 circumstance shall a person confine any animal in any parked, closed vehicle on any
271 public way or private street for any amount of time that would endanger, or create an
272 adverse condition placing at risk the health or well-being of such animal due to
273 temperature, lack of food or potable water or such other conditions as may be reasonably
274 expected that may cause suffering, disability or death. Any animal control or law
275 enforcement officer observing an animal kept in violation of this Section may take
276 emergency measures, as defined by the definitions of this article, and impound the
277 animal. In addition to all other defenses and immunities provided by law, any such officer
278 taking emergency measures for the purpose of this Section shall be immune from suit or
279 liability, criminal or civil, caused by or arising from the emergency measures taken.
280

281 (D) **Care and maintenance.** It is unlawful for any person to fail, refuse, or neglect to provide
282 any animal in his charge or custody, as owner or otherwise, with:

- 283 a. **Adequate Food.**
- 284 b. **Adequate Water.**
- 285 c. **Adequate Shelter.**
- 286 d. **Adequate Shade.**
- 287 e. **Adequate space.**

288 (E) No animal shall be left unattended for more than 24 hours.
289

290 (F) No owner or responsible party shall fail to provide necessary grooming of the coat in
291 order to prevent matting, skin irritation, distress, or pain, trapping of fecal matter, and
292 loss of the ability to protect the animal from adverse weather conditions. An animal shall
293 not be so dirty that it becomes matted as to provide a home for parasites and insects. No
294 animal shall be allowed to have a foreign object embedded in its hide, fur or skin other
295 than a microchip or a medical device implanted by a licensed veterinarian.
296

297 (G) **Veterinary care.** It is unlawful for a person to have, keep or harbor an animal which is
298 seriously sick or injured, including suffering from starvation, or severe thirst without
299 providing proper veterinary care. An animal shall be afforded immediate veterinary care
300 if it is known or suspected to be ill or injured. No person shall perform procedures such
301 as ear-cropping, de-barking, tail docking on an animal, or otherwise endanger an animal's

302 well-being. Procedures completed by a licensed veterinarian in accordance to their
303 standard practices shall not be considered cruelty.

304
305 (H) **Abandonment.** It shall be unlawful for any person being the owner/responsible party of a
306 dog, cat, or other domesticated animal or pet to abandon such animal. Abandonment
307 includes dumping of an animal from a moving or stationary motor vehicle. This section
308 shall not apply to voluntary relinquishments to an animal rescue organization, animal
309 control center, animal control officer, licensed veterinarian, or another person.

310
311 (I) **Poisoning.** Intentionally or knowingly poison or attempts to poison any domestic animal.
312 For purposes of this section, "poison" or "attempt to poison" includes the act of placing
313 food, water, or lure of another sort which contains poison or contains health threatening
314 foreign objects, such as glass or metal, in a location where any animal may be attracted.

315 (J) **Uncared-for animals.** Whenever the animal control officer, Code Enforcement Officer,
316 or designated representative finds that any animal is or will be without proper care
317 because of injury, illness, incarceration, or other involuntary absence of the owner or
318 responsible party for the care of such animal, the Animal Control Officer shall make
319 arrangements for the care of the animal.

320 (K) **Injury by motorists.** Every operator of a motor or other self-propelled vehicle upon the
321 streets and ways of the City shall immediately, upon injuring, striking, maiming, or
322 running down any animal, give such aid as is reasonably able to be rendered. In the
323 absence of the owner, he/she shall immediately notify the Police, furnishing sufficient
324 facts relative to such injury. It is the duty of such operator to remain at or near the scene
325 until such time as the appropriate authorities arrive and, upon the arrival of such person,
326 such operator shall immediately identify themselves to the appropriate authorities.
327 Alternatively, in the absence of the owner, a person may give aid by taking the animal to
328 a veterinary hospital or the Animal Shelter and notifying the Police. Such animal shall be
329 deemed an uncared-for animal within the meaning of subsection (j) of this section.
330 Emergency vehicles are excluded from this provision.

331
332 (L) **Hobbling livestock.** It is unlawful for any person to hobble livestock or other animals by
333 any means which may cause injury or damage to any animal.

334
335 (M) **Keeping of diseased animals.** It is unlawful for any person to have, keep, or
336 harbor any animal which is infected with any dangerous disease. The Animal Control
337 Officer may impound such diseased animal in accordance with the provisions of this
338 article. All such animals impounded may be destroyed humanely as soon as is
339 conveniently possible. In the case of destruction of such animal, the Animal Control
340 Officer for designee shall not be required to give any of the notices provided in this
341 article. This section shall not be construed to include veterinary hospitals or animals
342 under active veterinary care.

343
344 (N) **Fights.** It is unlawful for any person to promote, stage, hold, manage, conduct, carry on,
345 or attend any game, exhibition, contest, or fight, or combat between one (1) or more
346 animals or between animals and humans in which one or more animals are engaged for

347 the purpose of injuring, killing, maiming, or destroying themselves or any other animal.
348 This includes any animal used as a “Bait Animal” as defined in the definitions of this
349 ordinance.

350
351 (O) **Fowl; impounding; crating.** It is unlawful for any person to confine any wild or
352 domestic fowl or birds unless provisions are made by each person for the proper feeding
353 and the furnishing of water to such fowl or birds at intervals not longer than 12 hours. No
354 person shall impound any wild or domestic fowl or birds in a crate, box or other
355 enclosure, which does not permit each fowl or bird impounded therein to stand in a
356 naturally erect position.

357
358 (P) **Tormenting.** It shall be unlawful for any person to willfully torment any and all animals
359 by any means, such as throwing rocks, yelling or giving chase in any manner. No person
360 shall purposely cause a dog to bark unnecessarily or annoy such animal to the point the
361 animal will attempt to attack a person or other animal.

362
363 (Q) **Songbirds, killing and robbing of nest prohibited.** It is unlawful for any person to
364 willfully kill any songbird, or to molest or rob the nest of such bird.

365 **State Law reference—** Cruelty to animals, NMSA 1978, § 30-18-1.

366 **4) Sale.**

367 (A) **Use of public property.** No person shall display, sell, or offer for sale, barter, give away,
368 or otherwise dispose of any animal upon any street, sidewalk, public park or private
369 business, unless said private business is properly licensed or such person is acting on
370 behalf of the Truth or Consequences Animal Shelter during an adoption event.

371
372 (B) **Rabbits or fowl.** No person shall sell, offer for sale, barter, or give away any baby rabbits
373 under four weeks of age. Nothing in this section shall be construed to prohibit the raising
374 of rabbits and fowl by a private individual for his personal use and consumption,
375 provided that he shall maintain proper brooders and other facilities for the care and
376 containment of such animals while they are in his possession.

377
378 (C) **Premiums and novelties.** No person shall offer as a premium prize, award, novelty, or
379 incentive to purchase merchandise any live animal.

380 (D) **Turtles.** No person shall offer for sale, sell, barter, or give away turtles, except in
381 conformance with appropriate federal regulations.

382
383 (E) **Sale of un-weaned animals.** A person shall not sell, offer for sale, transfer, or adopt a
384 dog, cat, or ferret under eight weeks of age, or a guinea pig, hamster, or rabbit under four
385 weeks of age. However, in no event shall an animal be sold, transferred or adopted until it
386 is fully weaned and capable of eating on its own to sufficiently maintain proper body
387 condition as determined by the breed and species of the animal. Nothing herein shall
388 prohibit the transfer of animals between animal shelters and animal rescue organizations

389 or prohibit the sale, transfer, or adoption of an un-weaned animal if accompanied by a
390 nursing female.

391

392

393 **5) Wild animals prohibited.**

394 (A) No person shall keep an animal of a species prohibited or protected by Title 50 of the
395 Code of Federal Regulations or by the appropriate state regulations or statutes.

396

397 (B) No person shall keep any animal which is wild, fierce, dangerous, noxious, or naturally
398 inclined to do harm except where 1) adequate protective devices are provided to prevent
399 such animals from escaping or injuring the public, and 2) a proper license is obtained in
400 accordance with section 3-8. If such requirements are met, they may be kept in a
401 zoological park, pet shop, veterinary hospital, animal shelter, public laboratory, circus,
402 amusement show, educational facility, scientific facility, or in the control of a humane
403 society.

404

405 (C) **Wild animals prohibited.** "Wild animal" means any animal of a species that in its natural
406 life is wild, dangerous, or ferocious and though it may be trained and domesticated will
407 remain dangerous to others and may injure or kill a citizen in the City. Those animals,
408 however domesticated, shall include but are not limited to:

409 (1) Dog family (Canidae). All except domesticated dogs, including wolf, fox, coyote,
410 dingo, etc.

411 (2) Cat family (Felidae). All except the commonly accepted domesticated cats, including
412 lions, pumas, panthers, mountain lions, wild cats, etc.

413

414 (3) Bears (Ursidae). All bears, including grizzly bears, brown bears, black bears, etc.

415

416 (4) Weasels (Mustelidae). All, including weasels, martins, mink, wolverine, badgers, otters,
417 ermine, mongoose, etc.

418

419 (5) Porcupine (erehizontidae).

420

421 (6) Venomous snakes.

422

423 (7) Venomous lizards, alligators, and crocodiles.

424 **State Law reference**— Sale, purchase, trade, and possession of certain animals regulated,
425 NMSA 1978, § 77-18-1.

426 **6) Licensing wild animals.**

427 (A) Any person owning a wild animal covered by this section at the time of enactment of this
428 Chapter may license such animal in accordance with law. A fee set by resolution shall be
429 charged for such licensing through the City.

430

431 (B) For the purpose of humanely trapping wild animals such as skunks and domesticated
432 dogs or cats which may be a menace to the public, the Animal Control Officer may
433 maintain such traps as are constructed for the purpose of trapping a live animal without
434 serious risk of injury to the trapped animal and which may be placed on private property
435 at the request of the owner thereof. Traps shall be baited only inside the trap and shall be
436 checked not less than twice a day by the Animal Control Officer or the property owner
437 requesting the placement of such traps. All such trapping shall be in conformity with state
438 law.

439

440 **7) Multi-Animal Site Permit and Kennel Permit.**

441 (A) It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said
442 property, to possess or harbor more than four animals in any combination thereof, three
443 months of age or older on their residential or business premises without a multi-animal
444 site permit.

445

446 (B) If a business premises is being used for the buying, selling, breeding, training,
447 fostering, rescuing, or boarding of animals, said business shall apply for a kennel
448 permit.

449

450 (C) Animals belonging to visitors who are located within city limits and who stay in a
451 household or lodging establishment longer than 30 days in a calendar year shall be
452 included in the calculation of total animals for said location and the owner of the animal
453 shall be required to comply with all applicable sections contained in this chapter.

454

455

456 (D) No person shall keep or operate a residential or commercial multi-animal site without a
457 permit issued by the city. All business applicants must have a valid business license
458 issued through the city at the time of application.

459

460 (E) Veterinary hospitals or clinics shall be exempt from the kennel permit licensure
461 requirement of this chapter unless the veterinary hospital or clinic engages in the non-
462 veterinary medical boarding of animals.

463

464 (F) Any person who operates or proposes to operate a residential or commercial multi-animal
465 site shall file an application for a permit with the Land Use Administrator or designee,
466 describing the location of the site, and the purpose for which it is to be maintained. An
467 initial non-refundable fee, established by resolution, for residential or commercial multi-
468 animal sites must accompany any application to defray the cost of processing the request.

469

- 470 (G) Upon receipt of payment, the Land Use Administrator shall forward the application to
471 the Zoning Commission. All applications for multi-animal site and kennel permits shall
472 undergo a special use permit process with the City's Zoning Code.
473
- 474 (H) An onsite visit of the premises shall occur by the animal control and designated zoning
475 official or administrator prior to a hearing before the City's Zoning Board to verify
476 compliance with this section and/or other applicable zoning regulations. If any
477 provision of this section is in conflict with the provision of any applicable zoning
478 regulation, the provision of the zoning regulation shall control.
479
- 480 (I) All animals listed on the application three months of age or over must be vaccinated for
481 rabies and possess a city animal license tag.
482
- 483 (J) All multi-animal residential or commercial site permits and kennel permits must be
484 renewed annually at a fee established by resolution.
485
- 486 (K) There shall not be more than seven animals in any combination thereof for multi-animal
487 residential or commercial site permits. The maximum animal occupancy for kennel
488 permits shall be determined based upon the recommendation of the animal control
489 officer or designated zoning official or administrator to ensure there is adequate space
490 and adequate shelter to ensure sanitary and safe conditions.
491
- 492 (L) An application may be denied if the applicant or animal owner shows a history of
493 noncompliance with sections contained in this chapter as evidenced by two or more
494 convictions of violations during the preceding 12 months. Any past city permits, or
495 license revocations may be considered in decision making process of whether to
496 approve or deny a permit under this section.
497
- 498 (M) Multi-animal site and kennel permit holders shall allow the animal control
499 officer, law enforcement, designed zoning official or administrator or other city official
500 to enter and inspect the premises for compliance with this section and/or any other city
501 municipal code or ordinances during normal business hours.
502
- 503 (N) A multi-animal site permit or kennel permit may be revoked when, in the opinion of the
504 designated zoning official or administrator or animal control officer, any one or more the
505 following conditions exist:
- 506 (1) The premises or enclosures are not maintained in a clean, safe, and sanitary
507 condition and are a health, fire, or public safety hazard or produce noxious odors.
- 508 (2) The number of animals exceeds the number allowed under the permit.
- 509 (3) Any other violation listed under this chapter or sections.

510 (O) In cases where a multi-animal site permit or kennel permit is revoked, the permittee
511 shall be notified in writing via the mailing address listed on their permit application.
512 The revocation letter shall state the reasons said permit has been revoked and the option
513 to file a written appeal with the City Manager or their designee within ten business days
514 of the date listed on the revocation letter. Written appeals shall be hand delivered to
515 City Clerk's Office within the allotted timeframe. The City Manager or their designee
516 may review the appeal and reverse the decision, modify the decision, or deny the appeal
517 and upheld the initial revocation.

518
519 (P) If a multi-animal site permit or kennel permit has been revoked, said applicant and/or
520 location of where the permit was issued shall not be allowed to apply or obtain another
521 permit within city limits for a period of at least two years from the date of revocation.
522

523 **8) Sterilization Agreement/deposit for Spaying and neutering of dogs and cats.**

524 (A) It is the intent of the City for all dogs and cats over the age of 6 months to be
525 spayed/neutered. Therefore, no animal cat or dog shall be released from the animal
526 shelter to an adopting person unless it has been spayed/neutered or a sterilization
527 agreement has been signed and a sterilization deposit set by resolution has been paid.

528 (B) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a
529 veterinarian that the adopted animal has been sterilized within 30 days of the date of
530 adoption for cats/dogs over the age of six months or by 6 months of age for kittens and
531 puppies.

532
533 (C) An unsterilized animal reclaimed by its owner shall be released without being sterilized
534 upon payment of the sterilization deposit and impoundment/boarding fees imposed by the
535 shelter and set by resolution, and the owner shall sign an agreement stating he/she will
536 sterilize the animal within 30 days after release or will obtain a breeder permit or its
537 equivalent. The sterilization deposit may be reimbursed upon presentation by the owner
538 of a receipt from a veterinarian that the animal has been sterilized within 30 days of
539 release.

540
541 (NM Stat § 77-1-20 (2019)) History: Laws 1993, ch. 43, § 3

542
543 **9) Female dogs or cats in Estrus (heat) to be confined.**

544 It shall be unlawful for any owner/responsible party to fail to securely confine any un-spayed
545 animal in the state of estrus (heat), in a house, building or proper enclosure, in such a manner
546 that such animal cannot come in contact with another animal except for planned breeding, and
547 such that the animal does not create a nuisance by attracting other animals. When outside on the
548 property of the owner, for metabolic waste elimination, the animal must be physically restrained
549 with a hand-held leash. Owners/responsible party who do not comply may be ordered to remove
550 the animals in estrus (heat) to a boarding kennel, veterinary hospital or animal shelter. All
551 expenses incurred as a result of the confinement shall be paid by the owner/responsible party of
552 the animal. Failure to comply with the removal order shall be a violation of this Section and the
553 animal shall then be impounded as prescribed in this Title.

554 **10) Enforcement and Interference with Enforcement.**

555 (A) The civil and criminal provisions of this chapter shall be enforced by those persons or
556 agencies designated by the City Manager.

557
558 (B) It shall be a violation of this chapter for any person to interfere, hinder or molest any
559 Animal Control Officer or law enforcement officer in the performance of their duties.

560 **11) Penalty for violation of chapter.**

561 Any person who violates any of the provisions of this chapter shall be deemed guilty of a
562 misdemeanor and, upon conviction thereof, shall be punished in accordance with section 10.99,
563 with each conviction carrying a mandatory minimum fine of \$100.00.

564 **12) Deceased Animal Disposal Requirements.**

565 **(A) Owner responsibility** – The owner / responsible party having care, custody or control of an
566 animal carcass shall be responsible for its removal within twenty-four (24) hours of death if the
567 animal is not to be used for human consumption.

568 1) An animal carcass may be disposed of in one of the following ways:

569 a. Burial of the animal carcass on the owner's land under the following conditions:

- 570 • The bottom of the burial pit must be at least 3 ft. above the water table.
- 571 • If possible, choose a site where the soil is heavier and less permeable.
- 572 • Flat areas are best. Avoid areas sloping toward water or arroyos.
- 573 • Ensure the pit is sized to allow soil to cover mortalities to a depth of at least 3
574 ft.

575 b. Cremation by a licensed facility where the remains can be sealed in an acceptable urn
576 for return to the animal owner or disposed of by the facility.

- 577 • The cremation of the carcass will be at the expense of the animal owner.

578 **(B) Removal** - The Animal Control Officer may remove any animal carcass from the roadway or
579 other public property. The Animal Control Officer and/or T or C Animal Shelter staff shall make
580 reasonable efforts to notify the animal's owner if known in the event of the animal's death.

581 1) Animal Control Officer may dispose of the animal carcass at the T or C Animal Shelter as
582 authorized after microchip scanning and making reasonable efforts to notify the animal's owner.
583 If an owner is located and request that the Animal Shelter dispose of the carcass, then the
584 owner/responsible party will be responsible for the disposal fee.

585 2) Animal Control Officer shall turn over any tags or other identification found on an animal
586 carcass to the T or C Animal Shelter.

587 **(C) Removal fee** - The Animal Control Officer may, but is not obligated to, provide for the
588 removal of an animal carcass from private property at the request of the animal owner or
589 property owner for a fee.

590 1) The fee amount shall be established by resolution or

591 2) The fee amount shall be established by most current rate schedule as provided by the current
592 licensed facility, contracted with the City of Truth or Consequences, who oversees the Animal
593 Control Services, for cremation services.

594 a. This fee schedule is based on the weight of the carcass.

595 b. Fee schedule to be adopted within the municipality where the Animal Control Services
596 is based, Truth or Consequences.

597 **ARTICLE II. - CONTROL**

598 **DIVISION 1. - GENERALLY**

599 **13) Authority of Animal Control Officers.**

600 (A) The office of animal control officer is hereby created. The chief of police will assign that
601 duty as needed. The animal control officer shall be charged with all duties pertaining to
602 the enforcement of ordinances regulating or controlling animals and fowl within the
603 corporate limits of the city or in areas of other areas of jurisdiction as specified in
604 agreements with other entities.

605
606 (B) An Animal Control Officer shall wear a uniform and shall wear a badge identifying such
607 officer as an animal control officer.

608
609 (C) It shall be the duty of the animal control officer to take up and impound any animal or
610 fowl authorized to be impounded by this Code or by other ordinances within the specified
611 agreements with other entities.

612
613 (D) It shall be the duty of the animal control officer to investigate all reported violations of
614 animal control ordinances and to attempt, when appropriate, to solve such problems
615 through conferences and issuance of citations or complaints filed with the appropriate
616 court.

617 **State Law reference**— Municipal authority to designate animal control officer, NMSA 1978, §
618 77-1-15.1B.

619 **14) Establishment of Animal Shelter.**

620 (A) There is hereby established an Animal Shelter which shall be located at a location
621 designed by the City Commission of Truth or Consequences. Services will be provided to other
622 entities as specified in agreements.

623 **15) Animal Shelter, hours of business.**

624 (A) The Animal Shelter of the City of Truth or Consequences shall be kept open to the
625 general public for the transaction of business during the hours set by the City Manager of the
626 City of Truth or Consequences.

627 **16) Impoundment.**

628 (A) It is the duty of the Animal Control Officer to take up and impound in the Animal
629 Shelter any stray or any animal kept or maintained contrary to this chapter, including any
630 animal that is allegedly creating a public nuisance.

631 **State Law reference**— Municipal authority to impound and dispose of animals running at large,
632 NMSA 1978, § 3-18-3A(3).

633 **17) Impounding strays; records; redemption fees; notice.**

634 (A) No person shall, without the knowledge or consent of the owner, hold or retain
635 possession of any animal of which he is not the owner for more than 24 hours without
636 first reporting the possession of such animal to the animal control officer, giving his/her
637 name and address, a true and complete statement of the circumstances under which the
638 animal was taken, and the location where such animal is confined.

639
640 (B) It is unlawful for any person taking up an animal to fail to give the notice required in
641 subsection (a) of this section and for any person having such animal in his/her possession
642 to fail or refuse to immediately surrender such animal to the Animal Control Officer upon
643 demand thereof.

644
645 (C) If an stray animal is wearing a license or other identification, it shall be returned to
646 the owner and a citation may be issued. If an stray animal is not wearing a license or
647 other identification, the animal shall be confined for a 72-hour period at the Animal
648 Shelter. The Animal Shelter may dispose of stray animals impounded under this section
649 according to their policies and procedures the day after the required impoundment period.

650
651 (D) No dog or cat that has been impounded by the Animal Shelter will be sold for the purpose
652 of breeding or resale.

653
654 (E) An animal which continues to be an alleged nuisance may be impounded by the Animal
655 Control Officer until such a time as a judgment is made by the Magistrate Court.

656
657 (F) Animals confined/impounded to the Animal Shelter may be released to the rightful owner
658 or designee after all applicable fees have been paid. Owner shall bear the cost of any
659 expenditures while animal is confined including veterinary services.
660

661 (G) Fines for violations of this article shall be in accordance with the provisions of section
662 10.99.

663 **18) Restraint of animals.**

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

666
667 (B) Dragging; hobbling - A person shall not hobble an animal, or tether or attach any animal
668 to any object that can be dragged or moved by the animal. Such an animal, if not
669 otherwise restrained by immediate control or enclosure, shall be considered by the animal
670 control officer to be unrestrained. This shall not apply to livestock animals being properly
671 used for work purposes.

672
673 (C) Owner's premises - A person owning or having care, custody, or control over an animal
674 on his or her premises shall restrain the animal either by a secure enclosure or by
675 immediate control.

676
677 (1) All pens, kennels, stalls, corrals, or other enclosures used to restrain an animal shall be
678 continuously maintained with preservatives, fasteners, and other materials to prevent
679 deterioration and animal escape. Substantial and acceptable locking or latching devices shall
680 be installed on all gates and doors to animal enclosures in such a manner as to be
681 inaccessible to animals and small children in order to prevent animal escape and
682 unauthorized entry.

683
684 (2) A person owning or having care, custody, or control over an animal on his or her premises
685 may use a tether as a temporary means of restraint only if:

686
687 a. It is needed due to an emergency situation, i.e. emergency responders gaining
688 access to the property.

689
690 b. A tether used to restrain an animal shall be affixed to a properly fitting collar or
691 harness worn by the animal. A person shall not wrap a chain or tether directly
692 around the neck or other body parts of the animal.

693
694 c. A tether used to restrain an animal shall be fastened so that the animal may sit,
695 walk, and lie down using natural motions. Such tether shall be unobstructed by
696 objects that may cause the tether or animal to become entangled, strangled or
697 denied access to adequate necessities.

698
699 d. A tether shall never be used as a permanent means to confine or control an
700 animal.

701
702 (3) Voice commands are not an acceptable form of restraint.

703
704 (D) Public premises - A person owning or having care, custody, or control over an animal off of
705 his or her premises shall keep the animal under immediate control.

706
707 (1) While restrained off premises under the immediate control of the owner or responsible
708 party, the animal must be on a leash that shall enable the handler to maintain control of the
709 animal. The leash shall not exceed six (6) feet in length while the animal is in and around the
710 inhabitants of the city.

711
712 (2) A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe
713 manner. Animals carried in the open flatbed vehicle shall be crated or restrained upon a non-
714 slick surface and in a manner that prevents the animal from falling out of the vehicle. At no
715 time is an animal allowed to sit or stand in the drivers lap while the vehicle is being operated
716 on any public roadway.

717
718 (3) A person in charge of an amphibian or reptile away from the owner's premises shall keep
719 the animal secured within a closed container that will not expose people unexpectedly to the
720 animal.

721
722 (4) Voice commands are not an acceptable form of restraint.

723 (E) Property of others - A person owning or having care, custody, or control over an animal shall
724 not detain or restrain an animal upon another person's private property without having
725 permission from the resident or owner of such property.

726
727 (1) If the resident or owner does not permit the animal being detained or restrained upon
728 such property, the animal may be taken up and impounded by the animal control officer at
729 the request of the resident or owner.

730
731 (2) If the owner of a rented or leased property does not approve of an animal being
732 restrained or detained by the resident on such property, the dispute shall be regarded by the
733 animal control officer as a civil matter.

734
735 (F) Multiple dwelling unit - An owner, manager, agent, or governing board of any multiple
736 dwelling unit, including mobile home parks and gated communities, shall not permit or
737 authorize any animal to be unrestrained upon the common areas of the multiple dwelling
738 unit, except upon such areas and within such enclosures specifically designated for such
739 activity.

740
741 (G) Exceptions

742
743 (1) A working dog that is under the control and supervision of the owner or handler
744 performing such acts as herding, search and rescue, or police work shall not be considered as
745 unrestrained while performing or being trained for such duties.

746
747 (2) A hunting, tracking, or show dog that is under the control and supervision of the owner
748 or handler shall not be considered as unrestrained while performing in or being trained for
749 those capacities.

750

751 Each animal cited as a violation under this section is considered a separate offense. Upon a
752 second conviction of an offense under this section, an offender may be sentenced to
753 imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a
754 minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this
755 section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the
756 court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed
757 pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the
758 court.

759 **19) Breaking into Animal Control Center, animal control vehicle.**

760 (A) It is unlawful for any person to break open any pound, center, trap, or animal control
761 vehicle wherein animals are impounded by the Animal Control Officer of the City, or in any
762 other way to remove or assist in the removal of any animal from such pound, center, trap, or
763 vehicle without lawful permission.

764

765 **20) Seizure of Animals Notice.**

766 (A) An Animal Control Officer, or designee who reasonably believes that the life or health of
767 an animal to include livestock is endangered due to cruel treatment may apply to the
768 Magistrate Court in the city where the animal control services is located for a warrant to
769 seize the animal.

770

771 (B) If the court finds probable cause that the animal is being cruelly treated, the court shall
772 issue a warrant for the seizure of the animal. The court shall also schedule a hearing on
773 the matter as expeditiously as possible within 10 business days unless good cause is
774 demonstrated by the city for a later time and such extension is approved by the municipal
775 court judge.

776

777 (C) Written notice regarding the time and location of the hearing shall be provided to the
778 owner of the seized animal. The court may order publication of a notice of the hearing in
779 a newspaper closest to the location of the seizure.

780

781 (D) If the owner of the animal cannot be determined or cannot be located, a written notice
782 regarding the circumstances of the seizure shall be conspicuously posted where the
783 animal is seized at the time the seizure occurs.

784

785 (E) At the option and expense of the owner, the seized animal may be examined by a
786 veterinarian of the owner's choice if approved by the municipal court judge.

787 (F) If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18
788 NMSA 1978.

789

790 NM Stat § 30-18-1.1 (1996 through 1st Sess 50th Legis)

791

792 **21) Disposition of Seized Animals**

- 793 (A) If the court finds that a seized animal is not being cruelly treated and that the animal's
794 owner is able to provide for the animal adequately, the court shall return the animal to its
795 owner.
796
- 797 (B) If the court finds that a seized animal is being cruelly treated or that the animal's owner
798 is unable to provide for the animal adequately, the court shall hold a hearing to determine
799 the disposition of the animal.
800
- 801 (C) An animal control agency operated by the municipality, or an animal shelter or other
802 animal welfare organization designated by an animal control agency or an animal shelter,
803 in the custody of which an animal that has been cruelly treated has been placed may
804 petition the court to request that the animal's owner may be ordered to post security with
805 the court to indemnify the costs incurred to care and provide for the seized animal
806 pending the disposition of any criminal charges of committing cruelty to animals pending
807 against the animal's owner.
808
- 809 (D) The court shall determine the amount of security while taking into consideration all of
810 the circumstances of the case including the owner s ability to pay and may conduct
811 periodic reviews of its order. If the posting of security is ordered, the animal control
812 agency, animal shelter or animal welfare organization may, with permission of the court,
813 draw from the security to indemnify the costs incurred to care and provide for the seized
814 animal pending disposition of the criminal charges.
815
- 816 (E) (If the owner of the animal does not post security within fifteen days after the issuance of
817 the order, or if, after reasonable and diligent attempts the owner cannot be located, the
818 animal may be deemed abandoned and relinquished to the animal control agency, animal
819 shelter or animal welfare organization for adoption or humane destruction
- 820 (F) (Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal
821 to an animal control agency or shelter in lieu of posting security. A voluntary
822 relinquishment shall not preclude further prosecution of any criminal charges alleging
823 that the owner has committed cruelty to animals.
- 824 (G) Upon conviction, the court shall place the animal with an animal shelter or animal
825 welfare organization for placement or for humane destruction.
- 826 (H) As used in this section, "livestock" means all domestic or domesticated animals that are
827 used or raised on a farm or ranch and exotic animals in captivity and includes horses,
828 asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids
829 and farmed cervidae but does not include canine or feline animals.

830 NM Stat § 30-18-1.2 (1996 through 1st Sess 50th Legis)

831 **22) Costs of Seized Animals**

- 832 (A) Upon conviction, a defendant shall be liable for the reasonable cost of boarding
833 the animal and all necessary veterinary examinations and care provided to the
834 animal. The amount of these costs shall be offset by the security posted pursuant
835 to Section 3-36. Unexpended security funds shall be returned to the owner.
836 (B) In the absence of a conviction, the seizing agency shall bear the costs of boarding

837 the animal and all necessary veterinary examinations and care of the animal
838 during the pendency of the proceedings, return the animal, if not previously
839 relinquished, and all of the security posted pursuant to Section 3-36.
840 NM Stat § 30-18-1.3 (1996 through 1st Sess 50th Legis)

841 **23) Vaccinations.**

842 (A) It is the duty of all persons owning or keeping a cat or a dog or any member of the canine
843 family over the age of three months to have such animals vaccinated against rabies. The
844 rabies vaccination shall be given in an amount sufficient to provide immunity from rabies
845 for three years and shall be administered by a licensed veterinarian. A certificate from a
846 licensed veterinarian shall be evidence of vaccination. The Commission may require
847 other animals to receive annual rabies vaccination.
848

849 (B) The veterinarian administering anti rabies vaccine to any animal shall issue to the owner
850 or keeper of the animal a numbered vaccination certificate. The certificate shall contain
851 the name and address of the owner or keeper of the animal, a description of the animal
852 vaccinated, the date of vaccination, and the expiration date of the period of immunity.
853

854 (C) It is unlawful for the owner or keeper of any dog, cat, or any other members of the canine
855 or feline family to fail to exhibit its certificate of vaccination upon demand to any police
856 officer or animal control officer.
857

858 (D) It is the duty of all persons who adopt a dog to have such dog vaccinated against rabies,
859 distemper complex, and parvo virus within 48 hours of adoption. It is the duty of all
860 persons who adopt a cat to have such cat vaccinated against rabies and feline distemper
861 complex within 48 hours of adoption.
862

863 (E) Each animal cited as a violation under this section is considered a separate offense. Upon
864 a second conviction of an offense under this section, an offender may be sentenced to
865 imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a
866 minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense
867 under this section, an offender may be sentenced to imprisonment of up to 90 days at the
868 discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The
869 fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or
870 taken under advisement by the court.

871 **State Law reference**— Vaccination of dogs and cats against rabies, NMSA 1978, § 77-1-3.

872 **24) Confinement of rabid animal.**

873 (A) An animal that has rabies or shows signs of having rabies, and every animal bitten by
874 another animal afflicted with rabies or that has been exposed to rabies shall be confined
875 at once in a secure place by the owner. A person who knows or who has reason to know
876 that an animal is infected with rabies or has been exposed to rabies shall immediately
877 upon learning of this notify the Animal Control Officer as to the place where the animal

878 is confined and shall surrender the animal to the Animal Control Officer upon demand.
879 The Animal Control Officer shall then deal with the rabid animal pursuant to state law.
880

881

882

25) - Biting dogs or other biting animals.

883 (A) The owner of an animal that bites a person and a person bitten by an animal have a duty
884 to report that occurrence to the Animal Control Officer within 24 hours. The owner of an
885 animal that bites a person shall surrender the animal to an Animal Control Officer to
886 impound such animal for a period of observation or confined by the owner for three days.
887

888

889 (B) A physician who renders professional treatment to a person bitten by an animal shall
890 report the fact that he/she has rendered professional treatment to an Animal Control
891 Officer within 24 hours of his/her first professional attendance. The physician shall report
892 the name, sex, and address of the person bitten as well as the type and location of the bite.
893 The physician shall give the name and address of the owner of the animal that inflicted
894 the bite and other facts that may assist the Animal Control Officer in ascertaining the
895 immunization status of the animal.

896

897 (C) An animal that bites a person shall be confined securely at a place and for a period of
898 time deemed necessary by the Animal Control Officer. The owner of the animal shall
899 bear the cost of confinement.

900

901 (D) A person who has custody of an animal that has bitten a person shall immediately notify
902 the Animal Control Officer.

903

DIVISION 3. - LICENSING

26) License required.

904

905 (A) Any person owning, possessing or harboring any dog or cat three months of age or over
906 shall obtain a license for each animal. Application for such license shall be made as
907 directed and shall state the name and address of the owner, the name, breed, color, age
908 and sex of such animal and any other information deemed necessary. A current rabies
909 vaccination certificate shall be presented at the time of application for the license. Upon
910 payment of the license fee, as prescribed in subsection (d) of this section, a license
911 certificate and tag for each animal shall be issued. If the tag is lost, replacement tags with
912 a cost set by resolution shall be purchased. The license shall expire on the same date as
913 the rabies certificate or one year whichever is greater.
914

915

916 (B) A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable
917 manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary
918 hospital, is appearing in an approved show, or is being trained. Provided that the person
919 that is training the dog shall have in his personal possession the valid license tag for each
920 dog or cat and shall immediately display such upon request of the Animal Control Officer
or a regular law enforcement officer.

921 (C) Animals belonging to nonresidents who do not keep said animals within the incorporated
922 limits of the city for 30 consecutive days shall be exempt from this section, provided,
923 however, that all other provisions of this division be complied with.
924

925 (D) The annual license fee shall be set by resolution for each neutered or spayed dog or cat.
926 The annual license fee shall be set by resolution for each unneutered or un-spayed dog or
927 cat. No fee shall be charged for the licensure of qualified service animals who are trained
928 to lead partially or totally blind persons, aid hearing impaired persons or assist mobility
929 impaired persons. A fee shall be charged for each dog or cat that has not been spayed or
930 neutered, unless the owner presents a signed statement from a licensed veterinarian
931 stating that spaying or neutering would be a surgical risk for the animal, due to the
932 animal's age or condition.
933

934 (E) Within 5 business days upon change of ownership of any dog or cat, the new owner shall
935 apply for a new license with their personal identifying information.
936

937 **State Law reference**— Municipal authority to require licensing of dogs, NMSA 1978, § 77-1-
938 15.1.

939 **27) Unlawful use of license tag.**

940 It is unlawful for any person to remove any license tag from one dog or cat to another. It shall be
941 unlawful for any person to manufacture, cause to be manufactured, or to have in his possession
942 or under his control a stolen, counterfeit, or forged license tag, rabies vaccination certificate, or
943 other form of licensing as required under this division.
944

945 **DIVISION 4. - AT LARGE, VICIOUS, NUISANCE**

946 **28) Running at large.**

947 (a) It is unlawful for any person to allow or permit any animal to run at large in public or on any
948 public street, public alley, public sidewalk, private or public vacant lot, or private property
949 without the permission of the owner thereof. Any animal permitted to run at large in violation of
950 this section is declared to be a nuisance, a menace to the public health and safety, and shall be
951 taken up and impounded as provided in section 3-30.
952

953 (b) Each animal cited as a violation under this section is considered a separate offense. Upon a
954 second conviction of an offense under this section, an offender may be sentenced to
955 imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a
956 minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this
957 section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the
958 court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed
959 pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the
960 court
961

962

963 **State Law reference**— Municipal authority to make provision for the seizure of dogs and cats
964 running at large, NMSA 1978, § 77-1-12.

965

966 **29) Vicious animals.**

967

968 It is unlawful for any person to keep or harbor a vicious animal in the City. Any person attacked
969 by a vicious animal may use necessary force to repel said attack. After a judicial determination
970 that an animal is vicious, the owner or keeper of such vicious animal shall turn such animal over
971 to the Animal Control Officer, who shall destroy it humanely.

972 **State Law reference**— Vicious animals, NMSA 1978, § 77-1-10.

973 **30) Disturbing the peace.**

974 It is unlawful for a person owning or having the care, custody or control of an animal to permit
975 that animal to howl, bark or create noise which disturbs the comfort and repose of any person of
976 ordinary sensibilities in the vicinity. It shall be a violation of this section if the howling, barking
977 or noise is frequent or long continued; is audible beyond the property line of the premises on
978 which the animal is located.

979

980 **31) Public nuisance.**

981 (A) Property damage; nuisance. A person owning or having care, custody, or control over an
982 animal shall prevent the animal from causing damage or being a nuisance to the person or
983 property of another.

984

985 (B) Pet Waste. A person owning or having care, custody, or control over a pet such as a dog
986 or cat shall dispose of the waste from the animal in a watertight and fly tight receptacle,
987 which shall be emptied frequently and in such a manner so as to prevent a nuisance or
988 health hazard by noxious or offensive odors.

989

990 (C) Public defecation. A person owning or having care, custody, or control over an animal
991 shall not permit the animal to defecate on public property or the property of another
992 unless such animal waste is immediately removed and properly disposed of.

993

994 (D) Feeding animals running at large. A person shall not feed an animal running at large

995

996

997 It is unlawful for the owner of any animal to be in violation of the public nuisance definition and
998 such violation will be punished in accordance with section 10.99.

999 **32) Dangerous and potentially dangerous dogs.**

1000 (A) *Short title.* This section may be known, and will be cited, as the "Dangerous Dog
1001 Ordinance".

- 1002 (B) *Findings and intent.*
- 1003 (1) Every year innocent people, predominantly children, are injured and sometimes killed
1004 as a result of the actions of dangerous dogs.
- 1005 (2) No person has an absolute right to keep or harbor a dangerous or potentially dangerous
1006 dog within the City.
- 1007 (3) This section will protect the inhabitants of the City.
- 1008 (4) This section will provide for the proper registration and tracking of dangerous or
1009 potentially dangerous dogs within the City.
- 1010 (5) This section will assist in providing control over dangerous and potentially dangerous
1011 dogs.
- 1012 (C) *Definitions.*
- 1013 *Animal control authority:* The Animal Shelter and Animal Control Officer(s) of the
1014 Police Department of the City is charged with addressing animal control issues within the
1015 City.
- 1016 *Dangerous dog:* A dog that caused a serious injury to a person or domestic animal.
- 1017 *Owner:* A person who possesses, harbors, keeps or has control or custody of a dog or, if
1018 that person is under the age of 18, that person's parent or guardian.
- 1019 *Potentially dangerous dog:* A dog that may reasonably be assumed to pose a threat to
1020 public safety as demonstrated by the following behaviors:
- 1021 (1) Causing an injury to a person or domestic animal that is less severe than a serious
1022 injury; or
- 1023 (2) Chasing or menacing a person or domestic animal in an aggressive manner and
1024 without provocation; or
- 1025 (3) Acting in a highly aggressively manner within a fenced yard or enclosure and
1026 appearing able to jump out of the yard or enclosure.
- 1027 *Proper enclosure:* Secure confinement indoors or outdoors, such as in a fenced yard,
1028 locked pen or other structure that is designed to prevent the animal from escaping the
1029 confined area and young children from entering the confined area but does not include
1030 chaining, restraining or other affixing the animal to a stationary object.
- 1031 *Serious injury:* A physical injury that results in broken bones, multiple bites or
1032 disfiguring lacerations requiring sutures or reconstructive surgery.
- 1033 (D) *Exceptions.* A dog will not be declared a dangerous or potentially dangerous dog if:
- 1034 (1) The dog is used by a law enforcement official for legitimate law enforcement
1035 purposes; or
- 1036 (2) The threat, injury or damage sustained by a person or domestic animal is the result of
1037 the person or domestic animal:
- 1038 a. Trespassing upon premises occupied by the owner or the dog; or

- 1039 b. Provoking, tormenting, abusing or assaulting the dog, or in the past has repeatedly
1040 provoked, tormented, abused or assaulted the dog; or
- 1041 c. Committing, or attempting to commit, a crime; or
- 1042 (3) The dog was:
- 1043 a. Responding to pain or injury; or
- 1044 b. Protecting itself or its offspring; or
- 1045 c. Protecting or defending a human being or domestic animal from attack or assault.
- 1046 (E) *Seizure of dog—Petition to court of competent jurisdiction.*
- 1047 (1) If an animal control authority has probable cause to believe that a dog is a dangerous
1048 dog and poses an imminent threat to public safety, the animal control authority may
1049 apply to a court of competent jurisdiction in the county where the animal is located for a
1050 warrant to seize the animal.
- 1051 (2) If an animal control authority has probable cause to believe that a dog is a potentially
1052 dangerous dog and poses a threat to public safety, the animal authority may apply to a
1053 court of competent jurisdiction in the county where the animal is located for a warrant
1054 to seize the animal.
- 1055 (3) After seizure, the animal control authority will impound the dog pending disposition
1056 of the case or until the owner has fulfilled the requirements for a certificate of
1057 registration pursuant to the provisions of subsection (e) of this section.
- 1058 (4) After seizure:
- 1059 a. The owner may admit that the dog is dangerous or potentially dangerous and
1060 comply with the requirements for a certificate of registration pursuant to subsection
1061 (e) of this section; or
- 1062 b. The animal control authority may, within 14 days after seizure of the dog, bring a
1063 petition in a court of competent jurisdiction seeking a determination of whether the
1064 dog is dangerous or potentially dangerous. If the court finds, by clear and
1065 convincing evidence, that the dog is dangerous and poses an imminent threat to
1066 public safety or potentially dangerous and poses a threat to public safety, the court
1067 shall order the owner to comply with the registration and handling requirements for
1068 the dog and obtain a certificate of registration within 30 days or have the dog
1069 humanely destroyed. If the court does not make the required findings pursuant to
1070 this paragraph, the court shall immediately order the release of the dog to the
1071 owner.
- 1072 (5) If the owner does not admit that the dog is dangerous or potentially dangerous and the
1073 animal control authority does not bring a petition in court within 14 days of seizure of
1074 the dog, the court shall immediately order the release of the dog to its owner.
- 1075 (6) If the owner admits that the dog is dangerous and transfers ownership of the dog to the
1076 animal control authority, the animal control authority may humanely destroy the dog.

1077 (7) A determination that a dog is not dangerous or potentially dangerous shall not prevent
1078 the animal control authority from making a subsequent application for seizure based on
1079 the dog's subsequent behaviors.

1080 (F) *Dangerous and potentially dangerous dogs—Registration required.*

1081 (1) Upon application, an animal control authority shall issue a certificate of registration to
1082 the owner of a dangerous or potentially dangerous dog if the owner establishes that:

1083 a. The owner is able to keep the dog under control at all times; and

1084 b. A license, if applicable, has been issued pursuant to the requirements of the City;
1085 and

1086 c. The dog has a current rabies vaccination; and

1087 d. The owner has a proper enclosure to the dog; and

1088 e. The owner has paid an annual fee set by resolution to register a dangerous or
1089 potentially dangerous dog.; and

1090 f. The dog has been spayed or neutered; and

1091 g. The dog has been implanted with a microchip containing owner identification
1092 information that is also provided to the animal control authority; and

1093 h. The owner has entered the dog in a socialization and behavior program approved
1094 or offered by the animal control authority.

1095 (2) If a dog previously determined to be dangerous or potentially dangerous has not
1096 exhibited any of the behaviors specified in this section for 36 consecutive months, the
1097 owner may request the animal control authority in the City to lift the requirements for
1098 registration pursuant to this section. If the animal control authority has no reasonable
1099 basis to believe that the dog has exhibited the behaviors specified, it shall relieve the
1100 owner of the requirements of this section.

1101 (3) An animal control authority shall issue a certificate of registration to the owner of a
1102 dangerous dog if the owner, in addition to the requirements of subsection (e)(1) of this
1103 section, establishes that:

1104 a. The owner has paid an annual fee set by resolution, as established by the animal
1105 control authority to register a dangerous dog; and

1106 b. The owner has written permission of the property owner or homeowner's
1107 association where the dangerous dog will be kept, if applicable; and

1108 c. The dangerous dog will be maintained exclusively on the owner's property except
1109 for medical treatment or examination; and

1110 d. When the dangerous dog is removed from the owner's property, the dog shall be
1111 caged or muzzled and restrained with a lead no longer than four feet, and the dog
1112 shall be under complete control at all times; and

1113 e. The dangerous dog will not be transported in a vehicle that might allow the dog to
1114 escape or gain access to any person or animal outside the vehicle; and

1115 f. A clearly visible warning sign with a conspicuous warning symbol indicate there is
1116 a dangerous dog on the premises is posted where the dog is kept and is visible from
1117 a public roadway or from 50 feet, whichever is less.

1118 (4) An animal control authority may order the immediate impoundment or humane
1119 destruction of a dog previously determined to be a dangerous dog if the owner fails to
1120 comply with the conditions for registration, confinement or handling set forth in this
1121 section.

1122 (G) *Prohibited acts.*

1123 (1) It is unlawful for an owner of a dangerous or potentially dangerous dog to:

1124 a. Keep the dog without a valid certificate of registration; or

1125 b. Violate the registration and handling requirements for the dog; or

1126 c. Fail to notify the animal control authority immediately upon:

1127 1. The escape of the dog; or

1128 2. An attack by the dog upon a human being or a domestic animal;

1129 d. Fail to notify the animal control authority of the dog's death within five business
1130 days; or

1131 e. Fail to notify the animal control authority within 24 hours if the dog has been sold
1132 or given away and to provide the name, address and telephone number of the new
1133 owner of the dog; or

1134 f. Fail to surrender the dog to an animal control authority for safe confinement
1135 pending a determination of the case where there is reason to believe that the dog
1136 poses an imminent threat to public safety; or

1137 g. Fail to comply with special handling or case requirements for the dog that a court
1138 has ordered.

1139 (2) Whoever violates a provision of subsection (g)(1) shall be charged in the Municipal
1140 Court in which the animal is located with a violation of the Dangerous Dog Ordinance,
1141 and upon conviction shall be sentenced to a fine not to exceed \$500.00, or 90 days
1142 imprisonment, or both fines and imprisonment.

1143 **33) Safekeeping of animals by the Animal Shelter**

1144 Under unforeseen circumstances, a police officer, animal control officer, or animal owner may
1145 require an animal to be placed in the care and custody of the Animal Shelter to ensure that the
1146 animal is properly cared for. In these situations, the safekeep of the animal shall only occur for a
1147 period of not more than 72 hours at the expense of the owner pursuant to fees established by
1148 resolution. The owner shall be responsible for contacting a designated person or organization to
1149 pick up the animal from the Animal Shelter and the owner shall provide written authorization to
1150 the Animal Shelter as to the responsible person or organization taking custody of the animal.
1151 After the initial 72 hour period has expired, the animal is no longer classified as a safekeep and
1152 the animal shall be considered abandoned and property of the City unless the owner or
1153 designated party notifies the City in writing of a date and time the animal will be picked up, not

1154 to exceed an additional 72 hours at the owner’s expense. No animal shall be released from the
1155 Animal Shelter until all fees are paid in full. Owners who knowingly abandon or fail to arrange
1156 for pickup of their animal at the Animal Shelter may be prosecuted under other sections within
1157 the Municipal Code.

1158 **34) Livestock running at large.**

1159 It is unlawful for the owners of livestock to willfully allow the livestock to run at large within the
1160 city limits. The owners of the livestock are subject to prosecution under this section regardless of
1161 the livestock’s origination.

1162 As used in this section, "livestock" means all domestic or domesticated animals that are used or
1163 raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle,
1164 sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed Cervidae but
1165 does not include canine or feline animals.

1166 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELEPHANT**
1167 **BUTTE**

1168
1169 *Section 1.* All Ordinances or Resolutions, or parts thereof, inconsistent herewith are hereby
1170 repealed to the extent only of such inconsistency. This Repealing Ordinance shall not be
1171 construed to revive any Ordinance or Resolution or part thereof, heretofore repealed.

1172
1173 *Section 2.* This Ordinance shall take effect five (5) days after the final adoption by the
1174 Governing Body.

1175
1176
1177 **PASSED, APPROVED AND ADOPTED this 15th day of May 2024.**

1178
1179
1180
1181 **BY:** _____
1182 **Phillip Mortensen, Mayor**

1183
1184
1185
1186 **ATTEST:** _____
1187 ***Lindsey Cobleigh, City Clerk***

1188