

Chapter 95: Animals

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GENERAL PROVISIONS

***95.01 Definitions.**

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

Abandon

To leave an animal for more than 24 hours without making effective provisions for its proper feeding, watering, shelter and care on one's premises, or to dump or leave any animal on a property other than one's own without the consent of the owner of the property where the domestic animal is left and without making provision for the adequate feeding, watering and shelter of the domestic animal.

Address

The specific name and number of a road, including the city, state, and postal code if applicable. If no such name or number exist due to rural location or other reasons, Street Address refers to an appropriate description that pinpoints the physical location as accurately as possible.

Adoption

The retrieval of any animal from the Tularosa Animal Shelter by choice and assumes responsibility for proper care in accordance with this chapter.

Animal

Any vertebrate member of the animal kingdom except humans.

Animal Control Officer

Any person designated as such by the Tularosa Police Department who shall be commissioned to enforce animal control laws, orders, ordinances and regulations or any person designated as the Tularosa Police, Animal Control Unit Officer.

Animal Control Unit

The staff, facilities, programs, pound, lot, premises, and buildings maintained by the Village of Tularosa, Tularosa Police Department, or its agent(s), for the implementation of the control and care of animals.

Animal Fighting

Any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons.

Animal Nuisance

Any animal habitually or continuously barking, howling, or otherwise disturbing the inhabitants of Tularosa, or are kept and/or maintained in a manner as to disturb by noxious or offensive odors, or otherwise endanger the health and welfare of the inhabitants of Tularosa.

Attack

To bite, scratch or chase.

Bite

An actual puncture, tear, or piercing of the skin or clothing inflicted by the teeth of an animal. A scratch inflicted by the claws of an animal that results in tearing of flesh or clothing will also be treated as a bite for the purposes of quarantine.

Breeding

Permitting, either intentionally or unintentionally, a female dog or cat to produce offspring.

Confinement

Detainment or isolation of an animal, securely fenced, kenneled or caged.

Custody

Care/or responsibility. It does not mean physical control, confinement or restraint.

Dangerous Animal

Any of the following:

- A. An animal which engages in behavior that reasonably requires a defensive action by a person to prevent bodily injury to a person; or
- B. An animal which inflicts bodily injury; or
- C. A snake which, because of its poisonous bite, is a significant hazard to the public.

Domestic Animal

Includes dogs, cats, wolf hybrids, coyote hybrids, domestic ferrets and other animals commonly known and kept as domestic pets.

Enclosed

A parcel of land completely surrounded at the perimeter by a wall or fence of sufficient height and strength to contain animals within or by an electric or invisible fencing that effectively contains the animal.

Exposed to Rabies

An animal has been exposed to rabies within the meaning of this chapter if it has been bitten by any other animal or if it has been in contact with any animal known or reasonably suspected to be infected with rabies.

~~**LIVESTOCK.** Any horse, donkey, cow, sheep, goat, pig, except for Vietnamese miniature potbelly pigs and pygmy goats weighing 50 pounds or less or any similar animal.~~

~~**OWNER.** Any person, owning, keeping or harboring an animal.~~

POULTRY. Harbor

To allow stray animals to accumulate on one's premises by feeding them without making effective provisions as required by this chapter for their restraint, vaccinations, socialization, sterilization or other care.

Impoundment

The taking into custody or confinement in a facility designated for the keeping or confinement of such animals.

Kennel

A commercial establishment operating where dogs or cats are boarded, kept, or maintained; or sold or bred for either resale to commercial outlets or for the purposes of research, testing, or laboratory experimentation.

Livestock

Horses, cattle, llamas, pigs, sheep, goats, rabbits, fowl, ratites, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined by this chapter

Microchip Implant

A passive electronic device injected into an animal by a hypodermic-type syringe device. Each microchip shall contain a unique and original number read by an electronic scanning device for animal identification and recovery by the animal's owners.

Microchip Reader

An electronic scanner with an operating frequency that can detect a microchip implanted in an animal and display the number of the microchip to its operator.

Owner/Caretaker/Responsible Person

A person 18 years of age or older or the parent or guardian of a person under 18 years of age, group of persons, or business entity who owns, harbors, keeps an animal, has one in his care, or permits any animal to remain on or about the premises owned or controlled by him. "Owner" shall also mean any governmental entity owning, keeping, or harboring any animal which has been kept in captivity or confinement for more than 30 consecutive days.

Person

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

Poultry

Any chicken, duck, goose, turkey or similar bird.

Qualified Assistance Animal

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

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

C. Any other animal approved by the Governor's Committee on Concerns of the Handicapped as acceptable in public places and trained to provide some special assistance to a person with a disability.

Quarantine

Detention or isolation of an animal to observe rabies.

Rabies Suspect Animal

Any animal exposed to or suspected of rabies through a bite by any other animal or through contact with any other animal known or reasonably suspected of being infected with it. Any such animal is subject to state regulation and/or statute.

Reclaim

The retrieval of a domestic animal from the animal shelter by its owner or responsible person.

Restraint

Keeping any animal under the immediate control of a responsible person on a leash or lead.

Running at Large

Being on private or public property other than that belonging to, occupied by, or controlled by the owner of the animal and the animal is not under the physical control of the owner or not obedient to the owner's commands.

Serious Injury

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

~~**SPAYED FEMALE DOGS.** A female dog certified by a licensed veterinarian to have been spayed.~~

~~**VACCINATION**~~ Shelter

A non-profit animal facility operated by the Village of Tularosa, Otero County, or member of a recognized animal humane association to bring aid and comfort to five or more dogs or cats, and where animals are not bred.

Sterilize

To be rendered permanently incapable of reproduction.

Stray

An animal that is found running at large.

Tethering

To tie an animal with a rope or chain to restrict its movement.

Vaccination

- A. Protection provided against rabies by inoculation with a vaccine as required by **NMSA 1978, § 77-1-3.**
- B. An injection of vaccine approved by the State Veterinarian and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies. ('75 Code, ' 4-1-1) (Am. Ord. 191, passed 8-17-1999)

Vicious Animal

Any animal that without provocation attacks, bites, seriously injures or kills a person or other animal. Any animal that without provocation has bitten or attacked a human being or other animal shall be prima facie presumed vicious.

Wild Animal

A living creature that is untamed or domesticated in a natural state.

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~~**95.02**~~ Licensing Dogs: Tags and Collars.

~~((A)(1))~~ No person shall own, keep or harbor any dog within the village unless the dog is licensed,

as herein provided. Written application for the license shall be made to the ~~Village Clerk-Treasurer~~ Animal Control Officer or Chief of Police and shall state the name and address of the owner and the name, breed, color, ~~sex~~ and ~~sex~~ name of the dog. The license fee shall be paid to the ~~Village Clerk-Treasurer~~ Animal Control Officer or Chief of Police at the time of making the application. The license shall be issued by the ~~Village Clerk-Treasurer~~ Animal Control Officer or Chief of Police upon the owners furnishing a current certificate evidencing the vaccination of the dog and shall state the owner's name and address and the amount paid and shall describe the ~~dogs~~ dogs; breed, color, and markings.

(2) The yearly license fee shall be \$10 for each dog, male or female. ('75 Code,' 4-1-3)

(B)(1) With the license, there shall be delivered to the owner a metallic tag stamped with the number of the license and the year for which it was issued. The shape of the tags shall be changed each year.

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(2) The owner shall see that the dog wears, at all times, a collar or harness to which the tag shall be attached

(3) If the tag is lost or destroyed, the owner may obtain a duplicate upon the presentation of the license and payment of a fee of \$25 for the duplicate tag. ('75 Code, ' 4-1-4) (Am. Ord. 137, passed 1-3-1991; Am. Ord. 204, passed 5-20-2003) Penalty, see ' 10.99.

(C)(1) No person may keep any domestic animal with any symptom of rabies. Any person observing an animal with any symptom of rabies shall notify the Animal Control Officer or the Tularosa Police Department immediately.

~~*('75 Code, ' 4-1-4) (Am. Ord. 137, passed 1-3-1991; Am. Ord. 204, passed 5-20-2003) Penalty, see ' 10.99~~

95.03 Guide Dogs

(A)(1) The provisions of ' 95.02 shall not apply with respect to guide dogs trained to lead a blind person or person with a disability. ('75 Code, ' 4-1-5)

(B)(1) A Guide Dog is a Qualified Assistance Animal, is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability.

(2) An assistance animal shall not be deemed a Pet.

(C)(1) It shall be unlawful for any person, businesses and non-profits that are open to the public as well as Village Buildings to not allow service animals to go most places where the public can go. Even if "no pets" policy is in place.

(2) If a person's assistance animal isn't behaving properly, a business may ask the individual with a disability to remove the service animal from the premises (facility) if the animal is not housebroken or if the animal is out of control and the individual does not take effective action to control it.

(3) A business does not need to allow an assistance animal if the dog's presence would fundamentally alter the nature of the goods, services, programs, or activities provided to the public.

***95.04 Restraint.**

(A)(1) The owner shall keep his or her dog under restraint at all times and shall not permit the dog to run at large off the premises or property of the owner.

(2) (2)—No person in charge of any dog shall permit such dog in public roadway or upon any public school property unless the dog is physically restrained by a leash, enclosed in a car, or being exhibited or trained at a, public school or public sponsored event.

(3) It is unlawful for any person to permit any female dog which is owned, harbored, or controlled by the owner or caretaker, to run at large at any time during the period when the dog is in heat or breeding condition.

(3)(A) Any dog in heat or breeding condition must be secured in a building or enclosure that is of sufficient height and strength that would prevent the dog from escaping or other dogs from entering

(2)(4) Failure to keep a dog under restraint, as defined above, is hereby declared to be a violation of this chapter, regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large regardless of whether such owner or person knows that the dog is running at large.

~~(2) It shall be unlawful for any owner of a dog to allow his or her dog to bark excessively during the night hours between 10:00 p.m. and 6:00 a.m. and thereby disturb the peace of others. Any person whose rest and peace has been disturbed by the uninhibited barking of any dog shall have the right to file a complaint against the owner of the dog.~~

~~(75 Code, '4-1-6) Penalty, see '10.99~~

(B)(1) Tethering of animals; tethering devices used for restraint of dogs. A rope, chain, or other device may be used to tether a dog or other animal on one's property.

(2) The device must be affixed to the animal by use of a nonabrasive, comfortably fitted collar or harness.

(3) The device must be at least 10 feet long. The device must be fastened so the animal can sit, walk and lie down comfortably; and must be unobstructed by objects that may cause the device or animal to become entangled or strangled. Any chain or

tether shall have swivels on both ends.

(4) The animal must have easy access to adequate shade, shelter, food and potable water.

(5) Tethering an animal must be done humanely so as not to cause behavioral or physical changes and/or cruelty to the animal. No chain or tether shall weigh more than 1/8 of the dog's weight.

(6) The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety. Feces shall not be allowed to accumulate and shall be cleaned up by the owner.

(7) The area where the animal is confined must be kept free of insect infestation, such as ant hills, wasps' nests, and flea, tick and maggot infestations.

(C)(1) A person who uses electric or invisible fencing designed to confine an animal to his property must clearly post a notice in two separate locations upon the property that such a device is in use.

***95.05 Disposition of Dead Animals**

(A)(1) The carcass of any animal that shall die within the village shall, within 24 hours, be removed at least two miles beyond the village limits by the owner of the animal and the owner shall bury the animal in some place outside of the limits of the village at a depth of not less than ~~six~~three feet.

(2) It is a violation of this section to bury any dead domesticated animal closer than 300 feet to any flowing stream or public body of water.

(3) The owner shall be exempt from (A)(1), if they have contacted an animal crematory service whereas the animal be incinerated.

(B)(1) In no case shall any carcass be buried within the village limits, nor shall the owner permit the carcass to remain in the open air in the village until it becomes offensive in smell. (75 Code, ' 4-1-24) Penalty, see ' 10.99

~~(75 Code, ' 4-1-24) Penalty, see ' 10.99~~

PROHIBITED ACTIVITY

***95.15 Animals at Large**

~~(A)(1) It shall be~~ It shall be unlawful for a person to allow or permit any livestock, poultry, cattle, horses, mules, burros, goats, sheep, swine or any other animal to run at large within village limits, except in or on any alley, street, sidewalk, vacant lot, public property, other unenclosed place in the Village, or private property without permission of the property owner. Except under the terms and conditions set forth herein.

('75 Code, ' 4-1-7) (Am. Ord. 191, passed 8-17-1999) Penalty, see ' 10.99

~~1~~ **~~95.16 CRUELTY; POISONING.~~**

~~No person shall torture, cruelly beat, mutilate, cruelly kill, poison, override or overdrive any animal, or unnecessarily fail to provide the same with proper food or drink or cruelly drive or work the same when unfit for labor.~~

(B)(1) An animal permitted to run at large in violation of this section is declared to be a nuisance and a menace to the public health and safety. Such animals may be taken up and impounded. An officer may not enter a private building or residence in pursuit of an animal without the permission of the owner.

***95.16 Animal Cruelty; Poisoning of Animals.**

(A)(1) Cruelty to animals shall consist of the placement of an animal in a circumstance which endangers or puts the animal at substantial risk of loss of life or limb.

(2) Torturing, tormenting, poisoning, mutilating, cruelly killing or overdriving any animal.

(3) Depriving of shelter to an animal to the extent it endangers or could endanger the life of said animal.

(4) Depriving any animal of necessary food and/or drink.

(5) No person shall commit abandonment or dumping of an animal.

~~(2)~~(6) Placement of an animal in a vehicle or other confined area whereby it is subjected to extreme temperatures or conditions. ('75 Code, ' 4-1-7) Penalty, see ' 10.99

***95.17 Public Nuisance.**

~~((A)(1) It shall be unlawful for any person to maintain or keep upon his or her premises any livestock, poultry, horse, cow, burro or~~ or any other animal which shall disturb the peace and

quiet of any person or neighborhood. Any person having knowledge of any nuisance, as set forth above, may file a complaint in the Municipal Court against the person maintaining the nuisance, provided that neither a warrant of arrest shall issue nor the person be arrested unless the person shall fail to cause the nuisance to cease within 24 hours after filing of the complaint and notice thereof.

(2) No person shall allow an animal to persistently or continuously bark, howl or make noise common to their species or otherwise disturb the peace and quiet of inhabitants of the Village for more than 60 consecutive minutes.

(3) It shall be unlawful for any owner of a dog to allow his or her dog to bark excessively during the night hours between 10:00 p.m. and 6:00 a.m. and thereby disturb the peace of others. Any person whose rest and peace has been disturbed by the uninhibited barking of any dog shall have the right to file a complaint against the owner of the dog.

('75 Code, ' 4-1-6) Penalty, see ' 10.99

(B)(1) No owner or person having control of livestock and any other animal shall allow that animal to defecate upon a public roadway, public property or upon any private property other than the property of the owner of the animal without thoroughly and immediately removing and disposing of the feces.

('75 Code, ' 4-1-9) (Am. Ord. 191, passed 8-17-1999)

(C)(1) The ~~Chief of Police Department~~ and the ~~custodian of the animal shelter~~Animal Control Officer, upon complaint made or on view, shall investigate any alleged or suspected violation of this chapter, and, if in the opinion of the investigating officer, the violation or nuisance exists, it shall be the duty of any officer to take up and deliver to the shelter any animal found in violation. If the violation constitutes a nuisance, the officer shall, if the owner or keeper refuses to abate the nuisance, take the offending animals to the animal shelter; provided, however, that if the nuisance shall consist of dangerous, fierce or vicious dogs or animals which it shall be impossible to take into custody without serious danger of personal injury, then and, in that event, the animal may immediately be ~~killed~~humanely euthanized.

(2) All animals taken into custody under the provisions of this section shall be held in the animal shelter under the terms of this chapter; provided, however, that nothing herein shall prevent or impair the right of the owner of the animal to a hearing in any proper court by any proper means upon the question whether in fact the nuisance exists or not; provided further, that nothing herein contained shall prevent or impair the right of any person aggrieved by the ~~nuisance to any other remedy, in court or otherwise, allowed him or her by law.~~ nuisance to any other remedy, in court or otherwise, allowed him or her by law.

(C)(1) In the event that, in any proceeding referred to in this section, it shall be held by any proper court that the nuisance complained of does not in fact exist, then and in that event the animals shall be released and the owner thereof shall not be required to pay any of the charges referred to in this chapter.

('75 Code, ' 4-1-11) Penalty, see ' 10.99

***95.18 Riding or Driving Animals on Sidewalks or Roadway.**

(A)(1) It shall be unlawful for ~~any person~~anyone to ride or drive any ~~team~~, horse or ~~other~~ animal ~~upon~~ or along any of the village's sidewalks ~~of the village~~.

('75 Code, ' 4-1-11) Penalty, see ' 10.99.

(B)(1) No person shall allow any livestock to defecate on a public roadway, without removal of such waste. Shall be enforced by citation, in reference to *95.17 Section (B)(1).

***95.19 Animals Transported in Vehicles.**

(A)(1) It is unlawful for a person to carry an animal in or upon any vehicle in an unsafe manner.

(2) It shall be permitted to have a canine placed in the open portion of a vehicle, only if the canine is properly trained; not to remove itself or cause it to run at large.

(B)(1) If an Officer determines that an animal in a closed vehicle is in immediate danger or serious injury or death, the officer may enter the vehicle, by whatever means necessary, and impound the animal into protective custody. Reference to *95.16 Section (A)(6).

ADMINISTRATION AND ENFORCEMENT

***95.30 Enforcement.**

(A)(1) _____ The provisions of this chapter shall be enforced by the Chief of Police and/or Animal Control Officer. ('75 Code, ' 4-1-2)

***95.31 Impoundment.**

(A)(1) Animals not licensed or vaccinated pursuant to the provisions of this chapter shall be seized and impounded. ~~Any person~~Anyone who may find ~~any~~ animals running at large within the village contrary to ~~the this chapter's~~ provisions ~~of this chapter~~ may take ~~the animal~~them to the animal shelter. All animals shall be received and held at the shelter, as herein provided. Within 48 hours (about 2 days) after any animal shall be received at the animal shelter, its owner or keeper, if the person can be identified by tags or other identifications on the animal, shall be notified. If the owner or keeper cannot be found or the animal not claimed within 72 hours (about 3 days) from the time the animal was received at the animal shelter, the custodian of the animal shelter shall kill the animal in a humane manner. A notice describing the animal, stating the time and place when and where it will be killed and informing the owner that he or she may reclaim possession of the animal before the time fixed by paying to the custodian of the animal shelter all costs and fees in connection with the impounding of the animal shall be posted at the Village Police Station at least 24 hours prior to the custodian of the animal shelter killing the animal. ('75 Code, ' 4-1-12)

~~(B)(1) ('75 Code, ' 4-1-12)~~ If the owner or keeper of any animal detained at the animal shelter wishes to redeem the animal prior to the sale or disposal thereof, as provided herein, the owner or keeper shall be entitled to redeem the animal by securing rabies shots and license tags and paying to the custodian of the animal shelter the sum of ~~\$1535.00~~, plus \$25.00 per day for each day, or fraction thereof, that the animal has been so confined to the animal shelter. All redemption fees ~~so are~~ collected by the custodian of the animal shelter shall be immediately reported and paid over to the Village Clerk-Treasurer. Any person who shall turnover an animal to the custodian of the animal shelter and request that the animal be destroyed shall pay a fee of ~~\$1050.00~~ for the first animal and \$120.00 for each additional animal which is turned over at the same time as the first. ('75 Code, ' 4-1-13)

(C)(1) In the event that an animal shall be neither reclaimed by its owner in accordance with provisions in this chapter or reclaimed by some other person by payment of the redemption fees, then 72 hours (about 3 days) from the time the animal was received by the animal shelter, the custodian of the animal shelter shall kill and dispose of the animal in a humane manner.

('75 Code, ' 4-1-14)

(Am. Ord. 129, passed 8-15-1998)

***95.32 Rabies; Procedure**

~~Any(A)(1) No person who owns~~ shall keep, own, or ~~keeps, harbor~~ any member of the canine or feline species over 12 weeks (about 3 months) of age within the ~~village, any Village~~ unless that dog or cat over the age of three months shall have the animal is vaccinated against rabies with a vaccine approved rabies. Every such dog or cat shall be vaccinated against rabies within 30 days (about 4 and a half weeks) upon any person harboring owning or taking custody of said animal. Upon request or demand by the ~~Director of Animal Control Officer and/or Court~~, every owner shall provide proof of the animal's rabies vaccination. Any veterinarian who vaccinates domestic animals for rabies shall issue a serially numbered tag and certificate for each vaccination. Each domestic animal must be revaccinated before the Health and Social Services Department. All anti-rabies vaccine shall be administered by or under expiration of the first and each subsequent rabies vaccination period. ('75 Code, ' 4-1-15) ~~supervision of a licensed veterinarian.~~

(B)(1) No person may keep any domestic animal with any symptom of rabies. Any person observing an animal with any symptom of rabies shall notify the Animal Control Officer or Tularosa Police Department.

(2)

~~(B) The owner shall confine, within a building or enclosure, every fierce, dangerous or vicious dog and every female dog in heat. The confinement shall be in such manner that the dog cannot come in contact with any person or animal, except for breeding purposes.~~
('75 Code, ' 4-1-16)

(4) Every dog, cat or other animal exposed to rabies shall be immediately confined by the owner, who shall

then promptly notify the Police Department. The Police Department shall immediately notify the County Health Officer of the place of confinement and the reason, therefore. The owner shall not permit the dog or animal to come into contact with any person or animal and shall surrender possession of the dog or animal to the Police Department, upon demand, for the purpose of supervision and quarantine. The owner shall pay any cost of the quarantine, or the owner may, at his or her option and expense, have the animal quarantined at the hospital of a licensed veterinarian. The dog or animal shall not be released from quarantine without written authorization of the Police Department, nor until it has been certified by a licensed veterinarian to be free of rabies.

C)(1) No person shall kill a rabid dog or other animal, or dog or other animal exposed to rabies, nor remove same from the village without permission of the Police Department, except when it is necessary to kill the dog or animal to prevent it from escaping or biting any person or animal.

(2) The Police Department shall oversee the disposition of any dog or animal found to be afflicted with rabies.

(3) The carcass of any dead dog or animal exposed to rabies shall be surrendered to the Police Department upon demand.

(4) No person shall fail or refuse to surrender a dog or animal for quarantine or destruction, as required herein, when demand therefor is made by the Police Department.

(5) This section shall be administered pursuant to any applicable laws of the state. ('75 Code, '4-1-17)

(D)(1) When any person is bitten by any animal, it should be the duty of the person or his or her parent or guardian and the owner or keeper of the animal to immediately notify the Police Department thereof. Immediately, the owner or keeper of the animal shall confine it securely for ten days at a place designated by the Animal Control officer or Chief of Police, the confinement to be at the expense of the owner or keeper of the animal. Every physician shall, within 24 hours after his or her first professional attendance upon a person bitten by any animal having or suspected of having rabies, report to the Police Department the name, age, sex, and address of the person bitten as well as the name and address of the owner or keeper of the animal if known to the physician.

('75 Code, '4-1-18)

(2)(~~'75 Code, '4-1-18~~)

(4) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter, except the duty to report rabies cases and to comply with the provisions specifically naming duties and responsibilities of licensed veterinarians in relations to animal regulation and rabies control.

(E)(1) The licensing and vaccination requirements of this chapter shall not apply to any animal belonging to a non-resident of the village and kept within the village for not longer than 30 days (about 4 and a half weeks), provided all animals shall, at all times while in the village, be confined within a building, enclosure or vehicle or be under restraint by the owner. ('75 Code, '4-1-19)

(~~'75 Code, '4-1-19~~)

~~1-(F) The owner shall confine, within a building or enclosure, every fierce, dangerous or vicious dog and every female dog in heat. The confinement shall be in such a manner that the dog cannot come in contact with any person or animal. ('75 Code, ' 4-1-16)~~

*95.33 Investigation.

~~(A)(1) For the purpose of discharging the duties imposed by this chapter and to enforce its provision, any police officer is hereby authorized to enter upon any premises upon which an animal is kept or harbored during the daylight hours, and to demand the exhibition, by the owner of the animal, of the license or vaccination certificate for the animal, and further to investigate and file a complaint against the owner of any animal for violation of any of the provisions of this chapter; provided, however, that in the event any dog, cat or other animal has been exposed to rabies, or when any person has been bitten by any dog, cat or other animal, any police officer is hereby authorized to enter upon any premises upon which the dog, cat or other animal is kept or harbored, during the daylight hours, for the purpose of investigating and enforcing the provisions of this chapter.~~
the daylight hours, for the purpose of investigating and enforcing the provisions of this chapter.
 ('75 Code, ' 4-1-20)

*95.34 INTERFERENCE WITH POLICE OFFICER. Animal Control Officer

~~No person shall interfere with, hinder or molest any police officer in the performance of any duty required by this chapter.
 ('75 Code, ' 4-1-21) Penalty, see ' 10.99~~

~~1-(A) Animal control officers shall have the commissioned authority to issue citations whenever there is probable cause to believe that a person has violated the provisions of this chapter and to perform such other duties as prescribed in this chapter. An animal control officer may wear an identifiable uniform with a badge of office and authority, unless the appointed animal control officer is a state-certified officer employed by the village police department, in which case the prescribed police uniform shall be appropriately worn.~~

~~(B) It shall be unlawful for any person within the village to resist, obstruct, interfere with or molest an animal control officer in the legal discharge of his duties.~~

*95.35 Records.

~~(A)(1) It shall be the duty of the Chief of Police~~ Animal Control Officer ~~or Chief of Police~~ to keep or cause to be kept accurate and detailed records of the vaccination, licensing, and impoundment of dogs.

~~(2) It shall be the duty of the Chief of Police~~ Animal Control Officer to keep or cause to be kept

accurate and detailed records of all bite cases reported to him or her and of his or her investigation of the same. Should the report of a bite involve a rabid dog or animal it shall be immediately ~~transmitted to the county health officers.~~transmitted to the county/state health officers.

(B)(1) The ~~aforesaid~~ previously mentioned records shall be audited annually in the same manner as other village records are audited and shall be open to inspection as public records at all reasonable times. (`75 Code, ' 4-1-22) ~~(`75 Code, ' 4-1-22)~~

***95.36 Animal Shelter.**

(A)(1) The village shall establish and maintain an adequate animal shelter which shall be under the control and management of the Animal Control Officer, Chief of Police or his or her duly authorized agent or custodian. The agent or custodian~~so~~ designated by the Chief of Police shall have full charge of the management and conduct of the shelter and shall be charged with the enforcement of the provisions of this chapter relative to animals at large and the impounding of animals. He or she shall pick up and impound all stray animals running at large in the village contrary to the provisions of this chapter and, upon complaint made, shall investigate any nuisance, as hereinbefore defined, and shall also investigate all violations of this chapter. He or she shall have the duty to take charge of all animals involved in the violation of this chapter or who shall constitute a nuisance, as heretofore defined, and shall confine the animals violating this chapter to the animal shelter for disposition in accordance with the provisions hereof. (`75 Code, ' 4-1-23)

***95.37 Entry of pens, vehicles; etc.**

(A)Where it is necessary to protect the life of an animal from imminent danger, any animal control officer may enter any pen, enclosure, yard or vehicle and remove any animal so endangered. The means used shall be the least drastic possible. Nothing in this section shall authorize the warrantless entry into any dwelling or any building used for business purposes.

***95.38 Maximum Number of Dogs and Cats**

(A)It is unlawful for any person to be the owner of, to keep, to cause to be kept or to assist keeping more than five dogs, cats, or any combination of dogs and cats.

***95.39 Declared Nuisance**

(A)Any animal with 3 or more violations of this chapter, concurrent or otherwise, in a rolling calendar year may be declared a nuisance animal.

(B) Any owner with 6 or more violations of this chapter, concurrent or otherwise, in a rolling

calendar year may be declared a nuisance owner or address.

(B)(1) A declared nuisance owner may be deemed unfit to own or have pets in his care for a set period of time as determined by a court of competent jurisdiction.

(C) Any address with 6 or more violations of this chapter, concurrent or otherwise, in a rolling calendar year may be declared a nuisance address.

(C)(1) A declared nuisance address may be deemed unfit to own or have on the property for a set period of time as determined by a court of competent jurisdiction.

~~(75 Code, '4-1-23)~~

DANGEROUS AND POTENTIALLY DANGEROUS DOGS

***95.50 Short Title.**

(A)(1) This subchapter may be known and shall be cited as the dangerous dog ordinance. (Ord. 228, passed 4-15-2008)

***95.51 Findings and Intent.**

(A)(1) Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.

(B)(1) No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the village.

~~(C) The ordinance codified in this subchapter will protect the inhabitants of the village from the actions of dangerous or potentially dangerous dogs.~~

(2) The ordinance codified in this subchapter will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the village.

(C)(1) The ordinance codified in this subchapter will protect the inhabitants of the village from the actions of dangerous or potentially dangerous dogs.

(D)(1) The ordinance codified in this subchapter will assist in providing control over dangerous and potentially dangerous dogs.

(Ord. 228, passed 4-15-2008)

***95.52 DEFINITIONS Animal Biting Persons.**

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

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~~**ANIMAL CONTROL AUTHORITY.** The law enforcement officers of the village that are charged with addressing animal control issues within the village who shall carry out the duties of the animal control authority under the dangerous dog ordinance.~~

~~**DANGEROUS DOG.** A dog that caused a serious injury to a person or domestic animal.~~

~~**OWNER.** A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of 18, that person's parent or guardian.~~

~~**POTENTIALLY DANGEROUS DOG.** A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:~~

~~(1) Causing an injury to a person or domestic animal that is less severe than a serious injury;~~

~~(2) Chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or~~

~~(3) Acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.~~

~~**PROPER ENCLOSURE.** Secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure, that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or otherwise affixing the animal to a stationary object.~~

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

(Ord. 228, passed 4-15-2008)

1-(A)(1) The owner of an animal that bites a person and a person bitten by an animal has a duty to report that occurrence to the Animal Control Unit within 24 hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an Animal Control Officer if the officer deems it necessary to impound said animal for a period of observation.

(2) A physician who renders professional treatment to a person bitten by an animal shall report to the Tularosa Police Department, that he has rendered professional treatment within 24 hours of his first professional attendance. The physician shall report the name and address of the person bitten as well as the type and location of the bite. The physician shall report the name and address of the owner of the animal that inflicted the bite, if known, and any other facts or details that may assist the Animal Control Unit in ascertaining the immunization status of the animal.

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(B)(1) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Animal Control Officer. The owner of the animal shall bear the cost of confinement.

(2) The Animal Control Officer may take up and impound the animal into protective custody for the period of the quarantine, and the owner shall pay all related costs of the impoundment prior to reclaiming the animal.

(3) The Animal Control Officer may consent to the confinement of the animal on the owner's premises. The premises where the home confinement is to occur shall be inspected and approved for such a purpose by the Animal Control Officer. The animal's owner shall be required to enter an indemnity agreement on a form approved and prescribed by the Board of Trustees for such home confinement.

(4) If the animal shows signs of sickness or abnormal behavior, or if the animal escapes confinement, the person shall immediately notify the Animal Control Unit. The person having custody of an animal that dies during the confinement period shall notify the Animal Control Unit and surrender the carcass of the animal immediately to an Animal Control Officer.

***95.53 Exceptions.**

(A)(1) _____ A dog shall not be declared a dangerous or potentially dangerous dog if:

- A. The dog was used by a law enforcement official for legitimate law enforcement purposes;
- B. The threat, injury or damage was sustained by a person or domestic animal that was:
 - Trespassing upon premises occupied by the owner or the dog.
 - Provoking, tormenting, abusing, or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused, or assaulted the dog.

- Committing or attempting to commit a crime; or.

C. The dog was:

- Responding to pain or injury.
- Protecting itself or its offspring; or
- Protecting or defending a human being or domestic animal from attack or assault. (Ord. 228, passed 4-15-2008)

***95.54 Seizure of Dog; Petition to District Court.**

(A)(1) If an ~~animal control authority~~ Animal Control Officer has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to the ~~district in the county where the animal is located for a warrant to seize the animal.~~

If an district in the county where the animal control authority is located for a warrant to seize the animal.

(B)(1) If an Animal Control Officer has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the ~~animal control authority~~ Animal Control Officer may apply to the district court in the county where the animal is located for a warrant to seize the animal.

(C)(1) After seizure, the ~~animal control authority~~ Animal Control Officer shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of ' 95.55.

(D)(1) After seizure:

(4)(2) The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to ' 95.55; or

(2)(3) The ~~animal control authority~~ Animal Control Officer may, within 14 days (about 2 weeks) after seizure of the dog, bring a petition in the district court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is ~~dangerous and poses an imminent~~ dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within 30 days (about 4 and a half weeks) or have the dog humanely destroyed. If the court does not make the required findings pursuant to this division, the court shall immediately order the release of the dog to its owner.

(E)(1) If the owner does not admit that the dog is dangerous or potentially dangerous and the ~~animal control authority~~ Animal Control Officer does not bring a petition in court within 14 days (about 2 weeks) of seizure of the dog, the court shall immediately order the release of the dog to its owner.

(2) If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.

(F)(1) A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control authority from making a subsequent application for seizure based on the dog's subsequent behavior. (Ord. 228, passed 4-15-2008)

~~1~~ **95.55 DANGEROUS AND POTENTIALLY DANGEROUS DOGS; REGISTRATION REQUIRED.**

***95.55 Dangerous and Potentially Dangerous Dogs; Registration Requirements.**

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

A. The owner is able to keep the dog under control at all times.

A.B. A license, if applicable, has been issued pursuant to the requirements of the village.

A.C. The dog has a current rabies vaccination.

A.D. The owner has a proper enclosure for the dog.

A.E. The owner has paid an annual fee of \$100 to register a dangerous or potentially dangerous dog.

A.F. The dog has been spayed or neutered.

A.G. The dog has been implanted with a microchip containing owner identification information that is also provided to the ~~animal control authority;~~ and Animal Control Officer.

A.H. The owner has entered the dog ~~into~~ a socialization and behavior program approved or offered by the animal control authority.

(B)(1) If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in ' 95.52(D) for 36 consecutive months, the owner may request the animal control authority in the village to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe ~~that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.~~ the behaviors specified, it shall relieve the owner of this section's requirements.

(C)(1) An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of division (A) of this section, establishes that:

C.A. The owner has paid an annual fee of \$100, as established by the animal control authority to register a dangerous dog.

~~C.B.~~ The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable.

C. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination.

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

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

~~C.F.~~ A clearly visible warning sign with a conspicuous warning symbol indicating there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.

~~(C)(1)~~ An animal control authority may order the immediate impoundment or humane destruction of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section. (Ord.
~~(Ord.~~ 228, passed 4-15-2008)

***95.56 Prohibited Acts.**

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

A. Keep the dog without a valid certificate of registration.

~~A.B.~~ Violate the registration and handling requirements for the dog.

~~A.C.~~ Fail to notify the animal control authority immediately upon:

~~e.a.~~ The escape of the dog.

~~a.b.~~ An attack by the dog upon a human being or a domestic animal.

~~A.D.~~ Fail to notify the animal control authority of the dog's death within five business days.

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~~A.E.~~ Fail to notify the ~~animal control authority~~ Animal Control Officer within 24 hours if the dog has been sold or given away and to provide the name, address, and telephone number of the new owner of the dog.

~~B.F.~~ Fail to surrender the dog to an animal control ~~authority~~ unit for safe confinement pending a determination of the case where there is reason to believe that the dog poses an imminent threat to public safety; ~~or~~.

~~C.G.~~ Fail to comply with special handling or care requirements for the dog that a court has ordered.

(B)(1) Whoever violates a provision of division (A) of this section shall be charged in the Magistrate Court in the county where the animal is located with a violation of the State Dangerous Dog Act, and upon conviction shall be sentenced in accordance with the provisions of ~~'31-19-1 NMSA 1978, and the State Dangerous Dog Act.~~

'31-19-1 NMSA 1978, and the State Dangerous Dog Act. (Ord. 228, passed 4-15-2008) Penalty, see '95.99

***95.99 Penalty.**

(A)(1) No homeowner shall be allowed to own three dogs that have been deemed dangerous or potentially dangerous in accordance with " 95.50 through 95.56.

(B)(1) Once a dog is deemed dangerous or potentially dangerous by the courts in accordance with " 95.50 through 95.56, owners will be required to carry a \$100,000 liability insurance or be able to secure the dog with a bond.

(C)(1) The courts may impose a fine of up to \$500, a jail term of up to 90 days, and/or require spaying or neutering of any dog deemed dangerous or potentially dangerous.

(D)(1) The court may impose a fine of up to \$500 and/or a jail term of up to 90 days if any dog is deemed dangerous or potentially dangerous that is at large without a muzzle or a leash. (Ord. 228, passed 4-15-2008)