

**VILLAGE OF LOS RANCHOS
de ALBUQUERQUE
Ordinance Number 173**

AN ORDINANCE AMENDING CHAPTER 3 OF THE CODIFIED ORDINANCES, (THE ANIMAL WELFARE ORDINANCE) OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE. THIS ORDINANCE REPLACES CHAPTER 3 OF THE CODIFIED ORDINANCE

BE IT ORDAINED BY THE BOARD OF TRUSTEES, THE GOVERNING BODY OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, THAT THE ANIMAL WELFARE ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

SECTION 1.	General
SECTION 2.	Definitions
SECTION 3.	Animal Control Officer (ACO)
SECTION 4.	Administration of Ordinance
SECTION 5.	Rabies
SECTION 6.	Licensing and Vaccination Requirements for Dogs and Cats
SECTION 7.	Dangerous or Vicious Animals and Animal Bites
SECTION 8.	Animal Control
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SECTION 10.	Specially Permitted Activities Involving Animals
SECTION 11.	Provisions Relating to Livestock
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SECTION 1. GENERAL

This ordinance is adopted to effect and discharge the powers and duties conferred by the laws of the State of New Mexico and to provide for the safety, health, order, comfort, and convenience of the Village and its inhabitants, and to prohibit cruelty to animals.

SECTION 2. DEFINITIONS

A. ACO means Animal Control Officer and his deputies whether Village employees or contractors, with the authority to issue citations or otherwise enforce the provisions of this chapter.

B. ACTIVITY INVOLVING ANIMALS means an activity which uses animals, including but not limited to the sale or lease of animals; the use of live animals in advertising; the operation of grooming parlors, animal shelters, animal kennels or refuges; the exhibition of animals; breeding; and rodeos.

C. AGRICULTURE/COMMERCIAL PROPERTY means any real property used for agricultural activities intended to generate income for the property owner and is zoned A/C.

D. ANIMAL means any vertebrate member of the animal kingdom other than humans.

E. ADULT ANIMAL means any animal old enough to reproduce.

F. ANIMAL EXHIBIT means any animal show, petting zoo, circus, pony ride, or animal act.

G. ANTI-ESCAPE DEVICE means any humane device which prevents an animal from leaving a defined area and includes secure walls and fences.

H. BITE means a puncture or tear of the skin inflicted by the teeth of an animal.

I. BREEDER means any person involved in the controlled breeding of animals, which are registered with a nationally recognized animal registry organization.

J. COMMERCIAL ACTIVITY means an activity for which the operator is required to obtain a New Mexico gross receipts tax number.

K. COMMERCIAL PROPERTY means:

- (1) Any real property zoned and used for business purposes; or
- (2) any vehicle used for business purposes in the Village.

L. DANGEROUS ANIMAL means an animal which:

- (1) because of some characteristic of the animal, such as a poisonous bite or sting, their size or their propensity to viciousness or aggressiveness, constitutes an obvious and significant hazard to the inhabitants or other animals of the Village; or
- (2) when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person and the animal are off the property of the owner of the animal; or when the person is lawfully on that owner's property; or
- (3) when unprovoked, injures a person but the injury does not result in muscle tears or disfiguring lacerations, or require multiple sutures, or corrective or cosmetic surgery.

M. DOMESTIC ANIMAL is one which, by long continued association with humans, has become thoroughly domesticated. Domestic animals include, but are not limited to: dogs, house cats, parakeets, canaries, parrots, finches, lovebirds, cattle, sheep, swine, horses, mules, donkeys, goats, rabbits, poultry, llamas.

N. ESTABLISHMENT means a place of business together with its grounds and

equipment.

O. EXOTIC ANIMALS shall include any animal declared to be exotic by United States or New Mexico statutes or regulations and the following described animals:

- (1) Class Reptilia: Order Phidia (racers, boas, water snakes, and pythons) and Order Loricata (alligators, caymans, and crocs);
- (2) Class Aves: Order Falconiformes (hawks, eagles, vultures) and Subdivision Ratitae (ostriches, rheas, cassowaries, emus); and
- (3) Class Mammalia: Order Carnivora: Family Felidae (ocelots, lions, tigers, jaguars, leopards, cougars) except commonly accepted domesticated cats; the Family Canidae (wolves, dingoes, coyotes, jackals and hybrids produced by breeding these canids with domesticated dogs) except domesticated dogs; Family Mustelidae (weasels, martins, mink, badgers, ferrets); Family Procyonidae (raccoons); Family Ursidae (bears); and Order Marsupialia (kangaroos, opossums); Order Edentata (sloths, anteaters, armadillos); Order Proboscidea (elephants); Order Primata (monkeys, chimps, gorillas); Order Rodentia (porcupines); and Order Ungulata (antelope, buffalo, deer, camels).

P. FERAL ANIMAL means abandoned or unowned dogs or cats, which were once domesticated.

Q. GROOMING PARLOR means any establishment maintained for the purpose of performing cosmetological services for animals.

R. GUARD ANIMAL means any animal trained to attack humans for the protection of property. Guard animals shall be considered dangerous animals.

S. HANDLER means any person or owner who is responsible for and capable of controlling the actions and behavior of an animal.

T. HEAT means a regularly recurring state of sexual excitability during which the female animal is capable of attracting or accepting the male or is capable of conceiving.

U. HUMANE DESTRUCTION of an animal means the most readily available method of euthanasia recommended by the American Veterinary Medical Association Panel on Euthanasia.

V. KENNEL means any establishment where animals are boarded, kept, or maintained for profit, except guard animal sites, veterinary hospitals, pet shops, grooming parlors, refuges, and shelters.

W. LIVESTOCK means animals used, raised, or maintained for agricultural purposes.

X. NUISANCE means activities, which endanger or offend the well being of Village residents or prevent the use and enjoyment of public or private property, including, but not limited to, the following:

- (1) defecation or urination on public property, or private property without the permission of the owner.;
- (2) disturbing the peace, such as by persistent or continuous barking or howling;
- (3) uncontrolled breeding;
- (4) animal trespass; or
- (5) otherwise endangering or offending the well being of the inhabitants of the Village.

Y. OWNER OF AN ANIMAL is a person who owns, keeps, or knowingly causes or permits an animal to be on his property, or in his care. The owner of property on which a stray or feral animal lives shall be considered the owner of that animal if he knowingly feeds, gives shelter to, or restrains the animal on that property.

Z. PROVOKE AN ANIMAL means to take any nondefensive action with the intent to threaten, tease, or injure an animal.

AA. QUARANTINE means to detain and isolate an animal suspected of contagion.

BB. RABID ANIMAL means an animal having rabies, showing symptoms of rabies, bitten by a rabid animal, or exposed to rabies as defined by state statute.

CC. REFUGE OR SHELTER means any establishment established to give aid, shelter, food, or comfort to animals, whether operated publicly or privately.

DD. RESTRAINT is any humane device or measure appropriate to the animal designed to physically control the animal's movements.

EE. RUNNING AT LARGE means any animal at large beyond the boundaries of the premises of the animal owner or keeper, unless the animal is under the physical restraint and immediate control of the animal's owner or keeper and is on a secure leash no more than ten (10) feet in length.

FF. STRAY animal is an animal which is not physically restrained or controlled and is beyond the premises of the owner, is on the premises of a person other than the owner without that person's consent, or has been abandoned and has no known owner.

GG. VACCINATION AGAINST RABIES means an inoculation with an antirabies vaccine as prescribed by regulation of the State Health Department.

HH. VERMIN means gophers, rats, mice, pigeons, and skunks.

II. VETERINARIAN is a doctor of veterinary medicine licensed to practice in the State of New Mexico.

JJ. VICIOUS ANIMAL means any animal which:

- (1) kills or severely injures a person or animal so as to result in muscle tears or disfiguring lacerations, require multiple sutures, or corrective or cosmetic surgery, or
- (2) is trained, owned or harbored for the purpose of animal fighting.

An animal shall not be considered vicious due to the act of biting or attacking any person or animal unlawfully upon its owner's premises, or which is provoked to attack by the injured person or any individual in the company of the injured person.

KK. WILDLIFE means any non-domestic mammal, bird, reptile, amphibian, fish, or any part, egg, or offspring thereof.

SECTION 3. ANIMAL CONTROL OFFICER (ACO)

A. The Mayor, with the consent of the Board, shall appoint an Animal Control Officer (ACO) and such deputies as may be deemed necessary. The duties of the ACO will be to enforce the provisions of this ordinance, any Regulations adopted thereunder, and all United States and New Mexico statutes and Regulations relating to animal welfare and control. The ACO shall be concerned primarily with the health and safety of the Village inhabitants as affected by animals, and secondarily with the health, safety, and welfare of animals within the Village.

B. The ACO shall have the authority to issue citations, but shall not have the authority to arrest. The ACO shall call a local law enforcement officer whenever an arrest is necessary to maintain the public order.

SECTION 4. ADMINISTRATION OF ORDINANCE

A. REGULATIONS. The Board may adopt regulations and guidelines to carry out the intent and purpose of this ordinance.

B. CITATIONS AND COMPLAINTS

- (1) Any person may file a complaint with the ACO alleging a violation of this ordinance. The complaint shall be sworn to by the complainant and shall include:

- (a) a description of the animal;
 - (b) the location and nature of the alleged violation; and
 - (c) identification of the owner of the animal involved or of the premises where the animal is located.
- (2) Whenever the ACO has probable cause to believe that a person has violated this Ordinance, the ACO may issue citations to that person.
 - (3) The Village attorney shall approve any complaint filed by a citizen under this Ordinance to insure the complaint is in proper form.

C. AUTHORITY TO IMPOUND. The ACO is authorized to impound any animal that he/she determines is stray or running at large, any wildlife or animal he/she determines to be vicious or dangerous, and any animal ordered impounded by a court of competent jurisdiction. The ACO shall use an impound procedure which is designed first to protect public safety and welfare and second to safeguard the welfare of the animal. The ACO shall make a reasonable effort to immediately notify the owner of any animal impounded. The ACO shall turn over any impounded animal to a shelter for maintenance and disposal according to this chapter.

- (1) Impounded animals shall, unless claimed by the owner, or adopted as provided below, be confined, housed and fed for a minimum of three days for unlicensed animals, or five days for licensed animals. During the confinement period, the ACO shall make reasonable efforts to contact the animal's owner and advise of the animal's confinement.
- (2) The adoption fee to adopt an animal shall be whatever the current contract price is for one run in the shelter times the number of days the animal has been impounded plus the cost of one dose of vaccine for disease prevention. Dogs are vaccinated for DHPP (distemper, hepatitis, parainfluenza parvo) and leptospirosis. Cats are vaccinated for feline rhinotracheitis, calicivirus, panleukopenia and chlamydia psittaci (respiratory complex).
- (3) If the impounded animal's owner is identified and contacted, the animal will be released to the owner upon payment of the impoundment fee set by the Board. In addition, the animal's owner shall pay a confinement fee of the current contract price for each day the animal was confined.
- (4) At the end of the minimum confinement period under this section, the impounded animal may be destroyed. Any animal may be kept for adoption beyond the minimum confinement period at the discretion of the ACO.
- (5) Any person finding an unattended animal upon their premises may have the animal removed by the ACO to any private or public animal shelter,

which will take possession of the animal, pending proper disposition by the ACO. If no shelter is available, the person finding the unattended animal on his premises may hold the animal in his possession and expeditiously notify the ACO of the animal's status, including the animal's physical description and license or owner identification if available.

- (7) Any impounded animal not claimed by the owner or the owner's representative within the minimum confinement period designated above may be adopted by another person upon payment of the required fees, and signing a contract to spay or neuter the animal within 30 days or when the animal reaches six months of age.
- (8) Any impounded animal not claimed or adopted within the maximum confinement period allowed, or any animal which is sick, maimed or otherwise incapacitated beyond reasonable veterinary standards shall be delivered to the City of Albuquerque Animal Control for humane destruction.

D. RIGHT OF INSPECTION

- (1) Pursuant of Stray. The ACO is hereby authorized to enter upon private property while in pursuit of a stray animal in order to affix any summons, notice, or official document upon the door of any residence occupied by an animal owner or responsible party.
- (2) Entry of Dwelling. Prior to entering a dwelling, the ACO must obtain the permission of the owner or occupant. However, if the owner or occupant of the premises does not give permission, and the ACO believes that a reasonable search is necessary to determine whether there are violations of this Ordinance, the municipal court may issue a search warrant upon the ACO's sworn written statement of the facts showing probable cause for issuing the warrant. The warrant must be executed by a municipal police officer or a full-time salaried state or county law enforcement officer.
- (3) Emergency. When the ACO observes a condition in plain view on private premises, which in the reasonable judgment of the ACO creates a probability of imminent death or serious injury to an animal, the ACO may enter the premises solely for the purpose of correcting the condition or removing the animal from the condition creating the threat of death or bodily injury.
- (4) Non-waiver. This ordinance shall not be construed to hold the Village or its authorized representatives responsible for any damage to persons or property by reason of the entry, inspection, or reinspection authorized herein or failure to enter, inspect or reinspect.

SECTION 5. RABIES

A. **VACCINATION.** Any person who owns or keeps an animal, which is required by state law to be vaccinated against rabies, shall have the animal vaccinated against rabies as prescribed by regulation of the State Health Department. Antirabies vaccine shall be administered by a licensed veterinarian. All animals shall be revaccinated on or before the expiration date of the period of immunity.

B. **CERTIFICATE.** The veterinarian who administers antirabies vaccine to any animal shall issue to the owner or keeper of the animal a serially numbered vaccination certificate containing the name and address of the veterinarian, the type of vaccine used, the initials of the producer of the vaccine, the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination, and the expiration date for the period of immunity.

C. **TAGS.** The veterinarian who administers the antirabies vaccine shall furnish the owner or keeper with a tag bearing the certificate number and the year of vaccination. In accordance with state statute, the tag shall be affixed to the vaccinated animal and shall be worn at all times the animal is not on the premises of the owner or otherwise confined.

SECTION 6. LICENSING AND VACCINATION REQUIREMENTS FOR DOGS AND CATS.

A. **VACCINATION, LICENSE REQUIRED.** No person shall own, possess or keep any dog or cat within the Village unless such animal is vaccinated and licensed with a Village pet license.

B. **CERTIFICATE OF VACCINATION.** All owners and persons applying for a Village animal license shall present a current antirabies vaccination certificate. No license or tag shall be issued without compliance with Section 5, above.

C. **ISSUING AGENCY; REGISTER.** The control of issuing Village animal licenses and tags shall be the responsibility of the Village Clerk or the Clerk's designated representative, who shall maintain a register containing the following information:

- (1) Date and number of each license and tag issued;
- (2) Name and address of owner; and
- (3) Type and date of antirabies vaccinations.

D. **ANIMAL CONTROL OFFICERS; REPORTS.** The Village Clerk may delegate authority and responsibility to the designated animal control officer to assist in the issuance of licenses and tags. The clerk shall assign licenses to the animal control officer and require monthly reports reflecting information pertaining to licenses and tags sold and accounting for any fees collected. Receipts shall be centrally issued for all fees collected.

E. ISSUANCE OF LICENSE AND TAG. The Village Clerk or ACO, upon receiving proof of antirabies vaccination, shall issue to the owner a license and serially numbered tag.

(1) Owners will be allowed a ten-day grace period to license their animals with the Village from the date of renewal of the rabies vaccination.

(2) The license shall contain the information required in Section 6c(1) above. All licenses and tags shall be issued for a period to expire on the expiration date of the current rabies vaccination. The shape and color of the tag may be changed from year to year.

F. FEES. Fees for scheduled license tags and services under this chapter shall be established by resolution of the Board of Trustees of the Village of Los Ranchos de Albuquerque

G. TRANSFER OF LICENSE OR TAG PROHIBITED. No person shall use any vaccination certificate or issued license tag for a different dog, cat or animal other than the animal for which the certificate or license was issued.

H. TRANSFER OF OWNERSHIP. If there is a change in owner of a licensed dog or cat, the new owner may have the current license or tag transferred upon payment of a transfer fee.

I. GUIDE DOGS, HEARING AID DOGS EXEMPT FROM FEES. Any guide dog trained to lead a blind person, and any hearing aid dog trained to aid a deaf person, or any dog trained to aid a handicapped person, shall be exempt from the licensing fees of this section, but must otherwise comply with the all the requirements of this chapter.

J. OWNER RESPONSIBILITIES. The owner shall:

- (1) ensure that the owner's dog wears the issued license tag attached to a collar or harness at all times.
- (2) ensure that the owner's cat is licensed and vaccinated, and must have tags available on the owner's premises.
- (3) ensure that if a license tag issued under this chapter is lost or destroyed, a replacement tag is obtained from the ACO.

SECTION 7. DANGEROUS OR VICIOUS ANIMALS AND ANIMAL BITES

A. REPORTING BITES AND CONFINEMENT. When any person is bitten by an animal:

- (1) The person bitten or his parent or guardian and the owner or handler of the animal shall immediately notify the ACO of the bite and related

circumstances.

- (2) The owner or handler of the animal, immediately and at his own expense, shall confine it securely for the number of days prescribed by state law or regulation at the place designated by the ACO, provided, however, that if the owner of the animal produces a valid and unexpired certificate of vaccination for the animal evidencing vaccination at least three weeks prior to the bite., The area of confinement shall only be an area approved by the ACO.
- (3) Physicians practicing within the Village who render treatment to a person bitten shall report the bite to the ACO.
- (4) No animal may be released from confinement except by the ACO.
- (5) A person who has custody of an animal in confinement for biting a person shall immediately notify the ACO if the animal shows any symptoms of rabies or if the animal escapes confinement. If the animal dies while in confinement, the person having custody of the animal shall notify the ACO immediately and surrender the carcass of the animal to the ACO. The head of any animal suspected of having died of rabies shall be immediately sent to a laboratory designated by the State Health and Environment Department under procedures specified by the department.

B. DANGEROUS ANIMALS. It is unlawful for any person to keep any dangerous animal unless the animal is secured by an anti-escape device sufficient to prevent its release by anyone but the handler. The owner shall conspicuously display at least one sign on the premises where the dangerous animal is kept with an appropriate symbol warning of the presence of the animal. In addition, signs shall be posted at points no more than 200 feet apart around the area in which the animal is confined and at every entrance to the area.

C. VICIOUS ANIMALS. It is unlawful for any person to keep, sell, or give away any vicious animal. The owner of any vicious animal shall either provide proof to the ACO that the animal has been humanely destroyed, or shall surrender the animal to the ACO for humane destruction.

SECTION 8. ANIMAL CONTROL

A. STRAY ANIMALS AND ANIMALS RUNNING AT LARGE. It is unlawful for the owner of an animal to cause or allow the animal to run at large in or on any public property or any other property without the permission of the owner of the property. Any animal running at large in violation of this subsection is a stray animal and may be taken up and impounded by the ACO. The ACO may issue a citation to the owner whether or not the animal is impounded.

B. RETENTION OF STRAY ANIMALS. A person may restrain any stray or feral animal, or any wildlife if the person reasonably believes that the wildlife is dangerous, which

enters upon that person's property; however, that person must immediately notify the ACO and surrender the animal to the ACO upon demand.

C. FEMALE IN HEAT. Except for the purpose of controlled breeding, any owner of a female dog or cat in heat shall confine the dog or cat so as to preclude breeding to the female dog or cat in heat. Owners or keepers of dogs or cats who do not comply with this section may be required to place such dog or cat in a boarding kennel or veterinary hospital at the owner's or keeper's expense.

D. RESTRICTED AREAS. This subsection does not apply to service animals trained to assist the handicapped. The Board may authorize, by resolution, unrestrained entry on public property for specific events. The resolution shall specify the name, date and location of the event, and any conditions the Board deems appropriate. Absent such authorization, it is unlawful for a handler to allow his animal to enter or be upon:

- (1) the site, surrounding property, or improvements of the following Village property: the Village Hall on Rio Grande Boulevard; Hartnett Park adjacent to the Village Hall on Rio Grande Boulevard; and the Old Village Hall on Green Valley Road.
- (2) public property not described in subparagraph C.1 above, including public rights-of-way unless (a) the animal is restrained or under the control of its owner or handler; or (b) unrestrained entry is authorized for a specific event.
- (3) any private property without the consent of the owner or resident.

E. INJURY TO ANIMALS. Any person who caused injury to any animal shall immediately take all reasonable steps to prevent further injury to the animal and provide whatever aid may be reasonably possible. The person shall make a reasonable attempt to notify the animal's owner or if the owner is not known or available, the ACO. The notification shall describe the incident and the injuries. If the injured animal can be restrained at the scene, the person shall remain at or near the scene until the owner or the ACO arrives. In case of severe injury to the animal, a person may take the animal to a licensed veterinarian. Drivers of emergency vehicles responding to emergencies are excluded from this provision.

F. HOARDING/ANIMAL LIMITS. No resident of the Village of Los Ranchos may have more than six (6) adult dogs or cats in total unless that individual is a breeder, owner or operator of a kennel, is a veterinarian having such animals in his/her care for temporary business purposes at a registered place of business or has been granted a permit for more animals pursuant to Section 10 of this Ordinance.

SECTION 9. PROHIBITED ACTIVITIES.

A. PROHIBITED ACTIVITIES. It shall be a violation of this ordinance for any person:

- (1) To possess, manufacture or use stolen, counterfeit, or forged permits, authorizations, licenses, or certificates required under this ordinance or to use any valid certificate or permit for an animal or use other than the one for which the certificate or permit was issued;
- (2) To attack, assault, or physically threaten or interfere with the ACO in the performance of its duties under this ordinance;
- (3) To provoke or entice an animal to leave an area where it is allowed;
- (4) To maintain an animal under conditions constituting a nuisance;
- (5) To willfully or maliciously maim, disfigure, torture, beat, mutilate, burn, scald, provoke, cruelly set upon, drive over or in any manner treat with cruelty any animal;
- (6) To give or make accessible to any animal, with the intent to injure or harm the animal, a substance which is harmful or toxic material to the animal;
- (7) To use animal traps which, by design, will cause pain or death;
- (8) To destroy or rob any nest or den in use by wildlife;
- (9) To willfully or maliciously kill or attempt to kill any animal;
- (10) To fail, refuse, or neglect to provide proper and appropriate care and maintenance for an animal in his charge or custody, which shall include:
 - (a) proper food, drink, shade, ventilation, and necessary medical care; and
 - (b) shelter, which shall be a weatherproof and structurally sound enclosure large enough to accommodate the animal.
 - (c) drainage, which shall include ensuring that the animal pens and stalls and holding areas drain adequately to provide a safe and disease free environment for the animal.
- (11) To abandon any animal within the Village;
- (12) To promote, manage, conduct, carry on, or attend any game, exhibition, contest, or fight within the Village in which any animal participates for the purpose of injuring, killing, maiming, or destroying itself or any other animal;
- (13) To offer any live animal as a premium, prize, award, novelty, or incentive to purchase merchandise;

- (14) To sell, offer for sale, barter, or otherwise dispose of any animal except in accordance with applicable Village ordinances and state and federal statutes and Regulations;
- (15) To transport any animal in the open bed of a moving motor vehicle without a physical restraint to keep it from jumping or falling from the vehicle and to prevent strangulation; or
- (16) To leave an animal in a vehicle for a length of time which could result in danger to or death of the animal. If the ACO determines that an animal in an enclosed vehicle is in immediate danger, the ACO may enter the vehicle by whatever means is necessary, without being liable to the owner of the vehicle, and take the animal into protective custody.
- (17) To fail to maintain all animal pens, corrals and property in a sanitary manner.
- (18) To keep or harbor a vicious animal within the Village.

B. EXCEPTIONS. Notwithstanding the foregoing prohibitions, it shall not be a violation of this ordinance:

- (1) To use reasonable force to drive off vicious, dangerous, or trespassing animals;
- (2) To eradicate or destroy vermin;
- (3) For the owner of an animal to humanely destroy the animal;
- (4) To humanely destroy an animal by the ACO in accordance with requirements of this ordinance;
- (5) For the ACO or veterinarian to humanely destroy an animal in an emergency situation when such destruction, in the opinion of the ACO, is reasonably required to protect public health and safety, to relieve the suffering of a mortally wounded animal, or under any conditions where destruction is allowed by state law. There shall be no liability of the ACO or veterinarian for such acts.

SECTION 10. SPECIALLY PERMITTED ACTIVITIES INVOLVING ANIMALS

A. ACTIVITIES. It shall be a violation of this ordinance for any person, without first obtaining a valid permit issued by the Mayor:

- (1) To receive, purchase, own, or keep any exotic animal, provided however

that:

- (a) The addition of new exotic animals into a collection by the reproduction of members of the collection or by replacement in the same number and zoological species as the new members replace shall not require an additional permit during the period for which the existing permit is valid for the original animals;
 - (b) If prior to renewal of an exotic animal permit more than one initial permit has been issued to the applicant, the permits may be consolidated so that only one renewal permit shall be required and the renewal date for the consolidated permit shall be the date of issuance of the initial permit; and
 - (c) Owners of exotic animals who apply for a permit under this section shall submit a health certificate from a licensed veterinarian to the ACO within fourteen (14) days of acquisition of the animal which certifies that the animal is in good health and has been properly vaccinated.
- (2) To receive, purchase, own, or keep any guard animal;
 - (3) To engage in commercial activities involving the breeding, sale, barter, use, or demonstration of animals, provided that this shall not apply to livestock used in farm, ranch, or agricultural activities;
 - (4) To engage in non-commercial activities involving the breeding, sale, barter, use, or demonstration of animals when those activities are available and advertised to the general public, provided however that this shall not apply to livestock used in farm, ranch, or agricultural activities.
 - (5) To engage in recognized rescue and rehabilitation activities which involves the keeping and caretaking of animals for periods greater than sixty (60) days, or with animals in greater numbers than in permitted by section 8F, above.

B. EXCLUSIONS. Zoological parks, licensed veterinary activities, humane society shelters, public laboratories, and educational or scientific facilities are excluded from the permit requirements of this section, but must obtain appropriate business registration from the Village.

C. APPLICATION. An application for a permit shall be filed with the Village Clerk on forms provided by the ACO and shall require information necessary to determine that the applicant has sufficient knowledge and facilities to comply with Village ordinances governing the activity for which the permit is being issued. At least fifteen (15) days prior to consideration, the applicant shall:

- (1) Notify adjacent landowners, as shown by the records of the county assessor, of the nature of the application and the proposed date of consideration and approval. Notice shall be by first class mail or by personal service with receipt acknowledged;
- (2) Post and maintain written notice on the premises involved, as provided and where instructed by the ACO. The applicant is responsible for removal of the written notice within five (5) days after approval or denial; and
- (3) Prior to consideration, present proof of compliance with the notice provisions to the Village Clerk. Failure to comply with the notice requirements is grounds for deferral or denial of the application.

D. PUBLIC COMMENT. Interested persons may file written comments or objections with the Village Clerk prior to consideration of the application.

E. CONSIDERATIONS. In determining whether to issue the permit, the Mayor shall consider the following factors:

- (1) Objections and comments from interested persons;
- (2) Factors relevant to a home occupation license;
- (3) Factors affecting the residential or agricultural nature of the neighborhood;
- (4) Standards established by this ordinance and other applicable laws and Regulations;
- (5) Previous revocations or suspensions of like permits;
- (6) The public health, safety, and welfare; and
- (7) Any potential danger or nuisance posed by the proposed use or activity.

F. APPROVAL. Within thirty (30) working days of receipt of an application for a permit, the ACO shall review the application, shall make inspections and investigations he/she deems necessary, and shall submit a report with recommendations to the Mayor. Within forty-five (45) working days after receipt of an application, the Mayor shall approve or deny the application and inform the applicant, in writing, of the decision. An approval may be granted with reasonable conditions. A denial shall state the reasons therefor. If the permit is approved with conditions, the conditions must be met within thirty (30) days of notification of the conditional approval and before the permit is issued.

G. CONDITIONS. Permit conditions include:

- (1) Permits are not transferable to another person or location, except that

the location of guard animals can be changed upon five (5) days notice to the ACO;

- (2) Permits for activities or locations open to the public shall be posted in a conspicuous place at all permitted premises;
- (3) The permittee shall notify the ACO, in writing, of any changes in conditions or circumstances listed or described in the original application;
- (4) The permittee shall keep and make available to the ACO upon reasonable notice any records required to verify compliance with this ordinance and the permit conditions;
- (5) The permittee shall consent to inspection by the ACO of the premises where the animals are kept upon reasonable notice and during regular working hours; and
- (6) Permits shall expire on December 31st of each year. Renewal of permits shall be filed 30 days before the date of expiration. Failure to renew permits as specified shall result in the assessment of a penalty fee as established by the Board, in addition to the cost of the permit.
- (7) Along with the facilities and care standard requirements for permitted premises in this chapter, exotic animals shall also be kept and cared for so that they do not endanger the safety of any persons or property. Owners and keepers of exotic animals shall comply with all federal and state laws, regulations and statutes regarding exotic animals.
- (8) The holder of an exotic animal permit must notify the ACO when changing residence or the location of the animal, or selling or otherwise disposing of the animal for which the permit was issued.
- (9) The ACO may impound any exotic animal for failure to comply with this chapter by using a procedure, which is most likely to protect the public in the case of a dangerous exotic animal.

RENEWALS. An application for renewal shall be filed no more than forty-five (45) and no less than thirty (30) days prior to the date of expiration with payment of the annual fee. Application and inspection procedures for permit renewals shall be the same as those for new applications except that notification to adjoining landowners shall not be required.

SUSPENSION AND REVOCATION

- (1) Suspension. If the ACO determines that a permittee has violated a condition of his permit, the ACO shall serve written notice of the violation on the permittee in person or by first class mail. The notice shall describe the specific violations, establish a reasonable period of time for correction of the violation not to exceed thirty (30) days, advise the permittee that the permit could be suspended or revoked if the violation is not corrected, and advise the permittee that he has ten (10) days in which to respond to the notice.

After consideration of the response, the Mayor shall suspend the permit if he determines that the conditions of the permit were violated and have not been corrected within the time allowed.

Within thirty (30) days of the date of suspension, the permittee may apply for reinstatement if he certifies in writing that the violations, which formed the basis for the suspension, have been corrected. The Mayor shall grant or deny the application within ten (10) days after the date of application and after investigation and recommendation by the ACO.

Revocation. The Mayor shall revoke any permit, which has been suspended three times in any one year.

J. APPEALS.

- (1) Any applicant, adjoining landowner, or Village resident may appeal from the approval, denial, suspension, revocation or renewal of a permit. The appeal must be in writing and served upon the Village Clerk within thirty (30) days after the action appealed from. Written notice of the appeal must be given to the applicant and all adjoining landowners and any residents who filed written comments or objections with the ACO or the Mayor. Notice shall be given by first class mail or by personal service.
- (2) The appeal shall be heard by the Board at the next regularly conducted administrative meeting, at least ten (10) days after notice is given. The Board may sustain, modify, or rescind the action of the Mayor and shall state the reasons for its action on appeal.

K. FEES. Fees for new permits and for permit renewals shall be as established by resolution of the Board, provided however that there shall be no fees for permits or renewals applied for pursuant to Section 10(A)(4).

SECTION 11. PROVISIONS RELATING TO LIVESTOCK.

The provisions of this section of the Animal Welfare Ordinance shall apply to any animals considered to be livestock. These animals include, but are not limited to, horses, cattle, pigs, sheep, goats, rabbits, fowl or alpacas. The preceding list is to be construed as an example of agricultural animals or livestock, and not to be construed as a limitation to the animals specifically listed herein.

A. The mere keeping of livestock does not constitute a nuisance unless the livestock/agricultural animals are kept in such a manner as to violate the specific provisions of this Ordinance. Further, as specifically provided in the Village's Noise Ordinance, noise made by livestock or agricultural animals may not constitute a nuisance and may not be construed, in any way, to violate the provisions of this Ordinance.

B. No animal waste shall be permitted to enter any irrigation ditch or adjacent property.

C. All owners or operators of properties containing livestock must develop and maintain a system to mitigate insects or pests attracted to animals or to animal waste.

D. Any person with more than one cow, horse, mule or donkey per 10,000 square feet of open lot area or more than 2000 square feet of open lot area for any other livestock must submit to the Village a drainage plan, waste management plan, dust mitigation plan and vermin/pest mitigation plan consistent with guidelines as developed by the Village from time to time. Such plan shall be approved by both the Animal Control Officer and the Planning and Building Director. Denial or approval may be appealed to the Planning and Zoning Commission. The Village retains the right to require changes to the plan if the approved plan is not accomplishing the intended effect.

SECTION 12. ENFORCEMENT AND PENALTIES

A. PENALTY ASSESSMENT MISDEMEANORS. Any violation of Sections 5,7 or 11 of this ordinance shall be a penalty assessment misdemeanor. The ACO shall offer the alleged violator the option of acknowledging guilt of the offense, foregoing a court hearing, and accepting a penalty assessment as established by resolution of the Board for the first offense, or of having the matter set for a court hearing. However, the offer of a penalty assessment in lieu of a court hearing for each additional offense that occurs within one year of the first offense shall be twice the prior penalty assessment.

(1) Acceptance of Penalty Assessment

(a) If the alleged violator accepts the penalty assessment, his signature on the penalty assessment notice constitutes an acknowledgment of guilt of the offense stated in the notice.

(b) If the ACO contacts the owner of the animal before transporting the animal to the shelter pursuant to section 4(C), and the owner accepts the penalty assessment, the owner shall have the animal released to his immediate custody.

- (c) Payments of penalty assessments must be received in the Village Office within 30 days from the date of citation. If the violation was under Section 5 of this chapter, payment must be accompanied by proof of rabies vaccination.

(2) Rejection of Penalty Assessment.

- (a) An alleged violator who chooses a court hearing shall be served with a citation requiring him to appear before the Municipal Court at a date and time stated in the citation. The citation may be served by mail or in person.
- (b) The court shall have discretion to impose any penalties up to the maximum permitted by state law upon an alleged violator who chooses a court hearing and is convicted of the offense charged.

B. APPEARANCE. Any person charged with any violation of any section other than sections 5, 7, or 11 of this ordinance shall be served with a citation requiring the alleged violator to appear before the Municipal Court at a date and time stated in the citation. The citation may be served by mail or in person. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section.

C. MAXIMUM PENALTY. The maximum combined sentence of imprisonment that may be imposed for all offenses shall not be greater than one hundred seventy-nine (179) days and the combined maximum fine shall not exceed \$500.00.

D. MINIMUM FINES. Minimum fines may be established by resolution of the Board of Trustees.

COMPILING CLAUSE

This ordinance shall be incorporated in and compiled as part of the Municipal, Code of the Village of Los Ranchos de Albuquerque.

APPROVED AND ADOPTED by the Governing Body of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2003.

John H. Hooker, Mayor

ATTEST:

Annabelle Silvas, CMC
Village Clerk

**Ordinance and State Law References Regarding Chapter 3
Ordinance #105, July 22, 1992.**

Animals § 3-18-3 NMSA 1978

Dogs §§ 77-1-12, 77-1-13 NMSA 1978

Municipal Court Search Warrants SCRA Rule 8-207.

Maximum Penalty for violation of ordinances: § 3-17-1 (C)(1) NMSA 1978.

