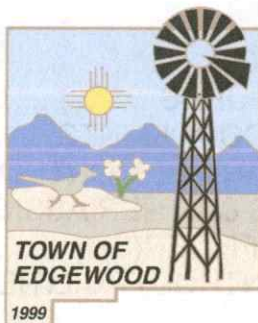


**THIS ORDINANCE NO. 2008-04 WAS
AMENDED APRIL 18, 2012
TO INCLUDE THE FEE SCHEDULE.
REFER TO RESOLUTION NO. 2012-12
FOR THE FEE SCHEDULE
AND
REFER TO RESOLUTION NO. 2013-01
FOR THE LANGUAGE THAT
AUTHORIZES THE ADMINISTRATOR
TO AUTHORIZE LOW FEE OR FREE
ADOPTIONS.**



ANIMAL CARE & CONTROL ORDINANCE
TOWN OF EDGEWOOD, NEW MEXICO
ORDINANCE NO.: 2008-04
As amended October 19, 2011

THIS ORDINANCE SUPERCEDES ORDINANCE NO. 2003-02

AN ORDINANCE ESTABLISHING REGULATIONS, REQUIREMENTS, AND PROCEDURES FOR THE CARE AND CONTROL OF ANIMALS IN THE TOWN OF EDGEWOOD, SANTA FE COUNTY, NEW MEXICO; AND PROVIDING FOR AMENDMENTS THERETO; AND PROVIDING FOR PENALTIES FOR ANY VIOLATION THEREOF.

WHEREAS: IT IS DEEMED NECESSARY TO HELP PROTECT PUBLIC HEALTH AND SAFETY; AND WHEREAS: IT IS DEEMED NECESSARY TO PROMOTE RESPONSIBLE OWNERSHIP OF ANIMALS; AND WHEREAS: IT IS DEEMED DESIRABLE TO PROMOTE A RURAL, ANIMAL FRIENDLY CHARACTER IN THE TOWN OF EDGEWOOD;

THEREFORE: BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD, NEW MEXICO THAT THE FOLLOWING REGULATIONS, REQUIREMENTS, AND PROCEDURES FOR THE CARE AND CONTROL OF ANIMALS BE HEREBY ADOPTED:

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ARTICLE 1: GENERAL PROVISIONS**1.1 TITLE**

This Ordinance shall be known and may be cited as the "The Animal Care and Control Ordinance of the Town of Edgewood" and shall be referred to elsewhere herein as "this Ordinance".

1.2 AUTHORITY

This Ordinance is created pursuant to the enabling authority set forth in NMSA (1978), section 3-18-3; NMSA (1978), 77-28-11; and NMSA (1978), section 77-30-18.

1.3 PURPOSE

It is the intent of the Council that enactment of this Ordinance will:

- 1) Protect residents from immediate threat to health or safety;
- 2) Regulate, restrain, and prohibit the running at large of any animal within the boundary of the municipality;
- 3) Provide for the impounding and disposition of animals found running at large;
- 4) Prohibit cruelty to animals; and
- 5) Promote a rural and animal-friendly character within the municipality.

1.4 SEVERABILITY OF PROVISIONS

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Council to enact each section, subsection, sentence, clause, or phrase of this Ordinance separately and independently of each other section, subsection, sentence, clause, or phrase.

1.5 AMENDMENTS

The Council may amend or modify this Ordinance in accordance with State Statutes, and following a public hearing, due notice of which shall be given by the Town.

1.6 PENALTIES

Any person who violates a provision of this article shall be deemed guilty of a petty misdemeanor, unless otherwise provided for by State or Federal law, and upon conviction thereof, shall be subject to the penalty provisions set forth in this Ordinance. Each day this article is violated shall be considered a separate offense. Where the defendant has been convicted of a crime constituting a petty misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term not to exceed ninety days or to the payment of a fine of not more than five hundred dollars (\$500) or to both such imprisonment and fine in the discretion of the judge. The court may exercise discretion to suspend a sentence in whole or in part and place the convicted person on probation for a term of one (1) year, conditioned upon the satisfaction of lawful conditions imposed by the court.

ARTICLE 2: DEFINITIONS**2.1 WORD FORMS**

Unless a contrary intention clearly appears, words used in the present tense include the future tense, and words used in the future tense include the present tense; the singular includes the plural, and the plural includes the singular; the word "may" is permissive, and the words "shall", "will", and "must" are mandatory, subject to specific exceptions allowed by this Ordinance.

(Article 2-Definitions-Cont'd)**2.2 DEFINITIONS**

Abandon – The intentional act of leaving an animal for more than 24 hours without making effective provisions for its proper feeding and care.

Adequate Drainage – Drainage sufficient to prevent the unintentional standing or pooling of water.

Animal – Any living nonhuman mammal, bird, reptile, or amphibian including, but not limited to, bats, companion animals, domestic animals, livestock, pigeons, porcupines, poultry, prairie dogs, rabbits and skunks. For the purpose of this article, insects and arachnids are not included in the definition of animals.

Animal Care & Control Department – All staff, premises, facilities, and programs provided by, or contracted-out by the Town to implement and/or enforce this Ordinance.

Animal Control Officer – Any person designated as responsible and having authority within the Town to implement and enforce this Ordinance in conformance with the provisions established herein.

Animal Exhibit – Any traveling animal show, animal refuge, zoo, petting zoo, circus, animal ride, animal act, or any premises or activity operated for the purpose of showing any animal or providing entertainment through animal performances.

Animal Fighting – An organized event involving one or more animals, other than cocks or dogs, and that has the purpose or probable result of one animal inflicting injury on or killing another animal.

Animal Fighting Paraphernalia – Equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to, (1) instruments designed to be attached to the leg of a bird such as boxing gloves, knives, gaffs, or other sharp instruments; (2) performance enhancing drugs or substances, and veterinary equipment such as suture equipment and bags of saline; (3) items to train and condition dogs to fight including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open jaws, food or water additives, treadmills, and jenny mills; (4) the presence of any animal that appears to be a fighting animal alone or together with animals suspected of being used as bait animals including but not limited to rabbits, cats, and other dogs; and (5) information about training or managing fighting animals such as documents and video tapes.

Animal Kennel – An establishment operating for intended profit where dogs or cats are boarded, kept, or maintained, sold or bred for either resale to commercial outlets or for the purposes of research, testing or laboratory experimentation.

Animal Rescue site – See Multiple Animal Site

Animal Shelter – Any establishment:

- 1) Which is operated by a municipality, county, or other State-recognized animal humane organization for the care and control of animals; and
- 2) In which animals are not allowed to breed.

Animals on Unenclosed Premises – A domestic or companion animal on its owner's property that is able to come and go at will without restraint to keep it on its owner's property.

Bite – A puncture or tear of the skin inflicted by the teeth of an animal. For purposes of this act, any scratch caused by the nails of an animal and resulting in a break of the skin shall be treated as a bite.

(2.2 Definitions-Cont'd)

Boarding Kennel – a commercial establishment where animals are housed overnight for the benefit of the animals owner, but not including zoos, guard dog sites, pet stores, or state inspected Veterinary Hospitals unless specifically offering non-patient boarding services.

Canine Hybrid – Any canine which results from the breeding of a domestic dog (canus domesticus) with any other canine sub-species, including, but not limited to wolves and coyotes.

Cock – adult male bird.

Cockfighting – An organized event involving one or more cocks and that has the purpose or probable result of one cock inflicting injury on or killing another cock.

Companion Animal – A dog or cat that is not a Hybrid, kept as a pet by humans.

Confinement – Detainment or isolation of an animal within an escape-proof building or enclosure and away from other animals and persons.

Controlled Breeding – Breeding of a companion or domestic animal that follows a breeding plan in efforts to preserve and protect the breed, and producing between zero (0) and four (4) litters yearly only when a litter will enhance the breed and the breeding program.

Council – The governing body of the Town of Edgewood.

Custodial Person – A person other than the owner, who has temporary or long-term custody or possession of an animal.

Dangerous Animal – An animal that at any time and without provocation, attacks a person or other domesticated animal that is lawfully in the presence of the attacking animal and is acting peaceably, when the attack results in serious injury.

Dog Fighting – An organized event involving one or more dogs and that has the purpose or probable result of one dog inflicting injury on or killing another dog or animal.

Doggie Day Care – A commercial establishment that takes temporary possession of a companion animal at the request of an owner to provide safety, comfort and/or socialization for the animal.

Domestic Animal – Any Animal whose psychology has been determined or manipulated through selective breeding and which does not occur naturally in the wild and includes, but is not limited to, ferrets, gerbils, guinea pigs, hamsters, horses, mice, rabbits, donkeys, rats and kangaroo rats. All Companion Animals are Domestic Animals but all Domestic Animals are not **Companion Animals**. Domestic Animals may also be considered Livestock if meeting the requirements of this definition.

Enclosure/enclosed (Proper)- Secure confinement indoors or outdoors, such as a parcel of land, or any portion thereof, completely surrounded at its perimeter by a wall or fence, 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. The enclosure must be of sufficient height and strength to contain the animal within.

Euthanasia – The humane killing of an animal by an authorized person in a manner commonly recognized as humane and approved by the appropriate State agency, and does not cause undue pain or suffering to the animal.

Fighting Cock – a cock bred or trained for fighting or used to fight other cocks bred or trained for fighting

Foster Care Provider – Any person who fosters an animal from or through Edgewood Animal Care & Control to lend aid and comfort and to otherwise assist in making the animal adoptable or to provide a safe, homelike environment to minimize the effects on the animal being separated from its family.

Grooming Parlor – An establishment which provides animal grooming services for

(2.2 Definitions-Cont'd)

domestic or companion animals.

Guard Dog – dog that is used to protect a guard dog site.

Guard Dog Site – An establishment that utilizes a Guard Dog, and which has a current guard dog permit.

Hobby Breeder – A person involved in controlled breeding of companion animals that are registered with a nationally or internationally recognized animal registry organization and produces less than four (4) litters annually.

Hobby Breeder Site – Any residence, building, or other structure used in whole or in part for keeping, raising, or breeding animals registered with a nationally or internationally recognized animal registry organization, and of which the resultant offspring are not sold for resale to commercial outlets or for the purpose of research, testing, or laboratory experimentation.

Household – A human social or family unit comprised of persons living, residing and domiciled in the same residence, whether related or not.

Kennel – Any establishment wherein or whereon dogs or cats are kept for the purpose of breeding, sale or sporting purposes.

Livestock – Animals typically used in the production of food, fiber, or other products or activities defined as agricultural. Livestock shall include, but not be limited to horses, mules, cattle, llamas, pigs, sheep, goats, rabbits, fowl, ostriches, alpacas, emu, and mink. Domestic Animals may also be livestock if meeting the requirements of this definition.

Microchip – A passive transponder which can be implanted in an animal by injection, and which is a component of a radio frequency identification (RFID) system.

Multiple Animal Permit – A permit issued by the Animal Care & Control Department that is required to operate a Multiple Animal site.

Multiple Animal Site – Property in a residential Zone, upon which more than ten (10) dogs or cats, in any combination, are in compliance with a current multiple animal permit obtained by the Owner or custodian of the animals.

Owner – A person eighteen (18) years of age or older, or the parent or guardian of a person under eighteen (18) years of age, or responsible person who owns, keeps, cares for, or harbors an animal, or who allows an animal to remain on or about his premises for more than 14 consecutive days.

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

Permanent identification - registered microchip, or registered tattoo.

Pet Store - An establishment that, in whole or in part, offers animals, for sale or resale, or sells animals to consumers or wholesalers.

Premises – A parcel of land and the structures thereon.

Potentially Dangerous Animal – Any animal 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 does not result in muscle tears, disfiguring lacerations, require multiple sutures, or corrective or reconstructive surgery; or
- 2) Chasing or menacing a person or other domestic animal in an aggressive manner and without provocation; or
- 3) Acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure; or
- 4) Any exotic or wild animal held in captivity by a human that, because of its poisonous bite or sting, would constitute a significant hazard to the public.

Professional Animal Establishment – Including, but not limited to a Boarding kennel,

(2.2 Definitions-Cont'd)

grooming parlor, Doggie Day Care, Pet Store, Sanctuary, Animal rescue site or shelter.

Quarantine – The strict confinement and isolation of an animal for any length of time in accordance with this Ordinance, State law, or Federal law, in order to observe for and control the spread of infectious or contagious diseases, such as rabies.

Reserve Animal Service Officer - A qualified volunteer appointed as responsible and having authority with the Town to implement and enforce this Ordinance in conformance with provisions established herein to assist Animal Control Officers in the field.

Running-at-large

- 1) An Animal beyond the boundaries of the Owner's premises and is free from the Owner's control. Free from an Owner's control shall mean those animals that are not contained by an enclosure or restrained on a leash no longer than eight feet held by a responsible person capable of controlling the animal. Verbal commands do not constitute control of an animal. Running at large includes all stray animals.
- 2) Being stray, or running-at-large shall not include:
 - a) A dog which is working at a specific job for which it has been trained; or
 - b) A dog performing in the capacities of hunting, tracking, obedience, agility, showing, or field trials.

Sanctuary – Areas protected through the management of human activities to provide and maintain habitat, other wildlife, and the ecosystems that support them. Inclusions: National Wildlife Areas, Migratory Bird Sanctuaries, Conservation Areas and Zoos.

Secure Enclosure – Secure confinement indoors or outdoors, such as a parcel of land, or any portion thereof, completely surrounded at its perimeter by a wall or fence, 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. The enclosure must be of sufficient height and strength to contain the animal within and provide sufficient room for the animal to comfortably move around within the structure.

Serious Injury – Any physical injury to a person or animal that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures, corrective or reconstructive surgery.

Service Animal – Any animal recognized as a qualified service animal pursuant to the Americans with Disabilities Act of 1990. A qualified service animal is defined as, but not limited to:

- 1) A guide dog trained by a professionally recognized guide dog school to lead a totally or partially blind person; or
- 2) A hearing dog trained by a professionally recognized hearing dog school to aid a hearing impaired person; or
- 3) A service dog trained by a professionally recognized school to assist a mobility-impaired person; or
- 4) Any other animal, approved by the Vocational Rehabilitation Department of the Department of Public Education of the State as acceptable in public places, which is trained to provide special assistance to a mobility-impaired person.

State – The State of New Mexico, United States of America.

Stray – An animal beyond the boundaries of the Owner's premises and free from the Owner's restraint or control, and includes all Animals that are Running-at-large, abandoned, or have no known owner.

Tattoo – An indelible mark placed on an animal to serve as permanent identification.

Town – The Town of Edgewood, a municipal corporation incorporated under the laws

(2.2 Definitions-Cont'd)

of the state of New Mexico.

Vaccination – Inoculation with an anti-rabies vaccine recognized and approved by the State of New Mexico and given in accordance with State law.

Vermin – Wild rodent and various insects including flies, mosquitoes, ants and wasps.

Vertebrate Pest – Any vertebrate member of the animal kingdom which does damage to man or the environment, including rodents, carnivores, other mammals, birds, reptiles and amphibians, and fish.

Veterinarian – A person licensed in the State of New Mexico to treat the ailments or injuries suffered by animals and who possesses an academic degree of Doctor of Veterinary Medicine or Veterinary Medical Doctor.

Wild Animal – Wild animal means any animal found naturally in a wild state, whether indigenous to the State of New Mexico or not and whether raised in captivity or not. Such animals, though they may be trained and domesticated, include but are not limited to:

- 1) Wolves, foxes, coyotes, dingoes, and other members of the non-domestic canine families.
- 2) Lions, pumas, panthers, mountain lions, wild cats, and other members of the non-domestic feline families.
- 3) All bears, including grizzly bears, black bears, brown bears etc.
- 4) Raccoons, including eastern raccoon, desert raccoon, ring-tailed cat, etc.
- 5) Primates, including all non-human great apes other than qualified service animals.
- 6) Skunks.
- 7) Bats.
- 8) Indigenous and Non-indigenous poisonous snakes.
- 9) Alligators, crocodiles, caimans, or poisonous lizards.
- 10) Venomous fish and piranha.

Zoo – The Wildlife West Nature Park and other zoos accredited by the American Zoological Association.

ARTICLE 3: ADMINISTRATION**3.1 RULES AND PROCEDURES**

Reasonable rules and procedures may be prescribed as needed by the Mayor, or his delegate, in order to carry out the intent and purposes of this Section, and in accordance with the provisions of this Ordinance.

3.2 PROCEDURES FOR COMPLAINTS

A person who has personal knowledge of a violation of this chapter and who can identify the owner of the animal involved or the premises where the animal is located may file a complaint alleging any violation of this chapter with the animal control and protection department. The Animal Control Authority may require the complainant to provide his name and address and swear to and affirm the complaint.

3.3 PROCEDURES FOR ANIMAL CONTROL OFFICER

The Animal Control Officer or Reserve Animal Service Officer shall have the authority, and is directed to investigate, upon reasonable cause including complaints, any alleged violation of this chapter.

- 1) Whenever the Animal Control Officer has probable cause to believe that a person has violated this ordinance, the Animal Control Officer may prepare a citation

(3.3 Procedures for Animal Control Officer-Cont'd)

- provided by the Town of Edgewood giving written notice to appear in court.
- 2) The citation shall contain:
 - a) The name, address and telephone number, if known, of the person violating this ordinance;
 - b) The driver's license number of such violator, if known;
 - c) The code section allegedly violated;
 - d) The date when the person allegedly committed the violation;
 - e) The place where the person allegedly committed the violation;
 - f) The location where the person shall appear in court and the deadline for appearance;
 - 3) The Animal Control Officer shall present the citation to the person he has probable cause to believe violated the code section in order to secure the alleged violator's written promise to appear in court by having the alleged violator sign at least one copy of the citation.
 - 4) The Animal Control Officer shall deliver a copy of the citation to the person promising to appear.
 - 5) If the alleged violator refused to or was unable to give his written promise to appear, or if the violator refused to respond to meet with the Animal Control Officer, the Animal Control Officer may prepare a written complaint (criminal summons) against the alleged violator and file the complaint with the Town of Edgewood Municipal Court.

3.4 SCHEDULE OF FEES & OTHER ASSIGNABLE COSTS**A. PURPOSE**

The purpose of this Schedule shall be to defray expenses related to enforcement of this Ordinance.

B. METHOD OF PAYMENT

Payment of any and all fees and other assignable costs shall be made to the Town of Edgewood in a method acceptable to the Town, and become due immediately upon imposition.

C. ADOPTION BY RESOLUTION

This Schedule shall be only as is duly adopted or amended by Resolution of the Council, attached as exhibit "A".

E. FINES FOR VIOLATIONS.

Any person who violates a provision of this article may be deemed guilty of a petty misdemeanor, and upon conviction thereof, may be subject to the penalty provisions set forth in this Ordinance. Each day this article is violated may be considered a separate offense. Where the defendant has been convicted of a crime constituting a petty misdemeanor, the Judge may sentence the person to be imprisoned in the county jail for a definite term not to exceed 90 days or to the payment of a fine of not more than five hundred dollars (\$500.00) or to both such imprisonment and fine in the discretion of the Judge.

3.5 ANIMAL CONTROL OFFICER(S)**A. DEPUTIZED**

Any Animal Control Officer, whether an employee of the Town of Edgewood, volunteer Reserve Animal Service Officer, or a contracted agent, shall be a deputy of the Town,

and shall be responsible for enforcement of the provisions of this Ordinance of The Town of Edgewood and Statutes of the state of New Mexico as applicable.

B. IDENTIFICATION

Any Animal Control Officer or Reserve Animal Service Officer shall wear a uniform and shall carry official identification. Official identification shall be issued by the Town Clerk, and must be surrendered to the Town Clerk upon cessation of either employment or contract with the Town.

3.6 AUTHORITY AND LIABILITY OF OFFICER(S)

A. IMPOUNDING OF ANIMALS

Any Animal Control Officer or Reserve Animal Service Officer shall be authorized to impound:

- 1) Any animal determined to be running-at-large;
- 2) Any animal in plain view on its own private premises whose condition threatens imminent death or serious injury to the animal itself;
- 3) Any animal in plain view on its own private premises whose action(s) threatens imminent death or serious injury to any person or to another animal within the same premises;
- 4) Any animal when so order by a court of competent jurisdiction.

B. ENTRY TO PRIVATE PREMISES

- 1) Any Animal Control Officer or Reserve Animal Service Officer shall be authorized to enter upon any private premises with the consent of the Owner/occupant or as otherwise provided for by law, for the purpose of making inspections to determine compliance with this ordinance, impounding animals as authorized by the Town, or examining records pertinent to the origin and care of any animals located at, or emanating from, any permitted premises.
- 2) Except in cases of imminent danger to either the public or animal(s), the Animal Control Officer shall make reasonable efforts to obtain the permission of the property owner/occupant. If the Animal Control Officer is unable to obtain the permission of the Owner/occupant, the Animal Control Officer may seek a court order or warrant to enter a premise as provided by law for the purpose of making inspections to determine compliance with this Ordinance and impound animals as authorized by the Town.
- 3) In cases where entry is mandated by either court order or warrant, the order or warrant must be executed in the company of an authorized law enforcement officer of the Town, County, or State.

C. SEIZURE OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS – PETITION TO COURT

- 1) Following notice to the Owner, if the Animal Control Officer has probable cause to believe that an animal is dangerous or potentially dangerous, and poses an imminent threat to public safety, the Animal Care & Control Department may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal and impound the animal or may impound the animal at the Owner's request or with the Owner's consent.
- 2) The Animal Care & Control Department shall impound the animal pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of Section 4-2.
- 3) After seizure, the owner may:
 - a) admit that the animal is dangerous or potentially dangerous and comply

- with the requirements for a certificate of registration pursuant to Section 4-2 of the Licensing and Permit Fees; or
- b) The Animal Care & Control Department may, within fourteen days after seizure of the animal, bring a petition to a court of competent jurisdiction seeking a determination of whether the animal is dangerous or potentially dangerous.
- i. If the court finds, by clear and convincing evidence, that the animal is dangerous and poses an imminent threat to public safety or
 - ii. 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 animal and obtain a certificate of registration within thirty days or have the animal humanely destroyed.
 - iii. If the court does not make the required findings pursuant to this subsection, the court shall immediately order the release of the animal to its owner. A determination that an animal is not dangerous or potentially dangerous shall not prevent an animal control authority from making a subsequent application for seizure based on the animal's subsequent behavior.

D. DEAD ANIMALS

- 1) In order to help safeguard the public safety and health, any Animal Control Officer or Reserve Animal Service Officer shall be authorized to pick-up and dispose of any dead dog, cat, or unprotected animal lying in any public right-of-way, or in any private access easement which is dedicated for public use. The Animal Control Officer shall make a reasonable attempt to notify the Owner of any dead dog or cat prior to disposal.
- 2) At the discretion of the Animal Control Officer, the Town may pick-up and dispose of any dead and privately owned Companion Animal, Domestic Animal, Livestock, or other animal at the request of the Owner, provided
- 3) □ The owner pays the full costs of any such pick-up and disposal.
- 4) Disposal shall be accomplished in such a manner as to minimize vermin infestation, odors, and disease.
- 5) Potentially rabid animals shall be handled in a manner consistent with State law and the requirements of this Ordinance.

E. AUTHORITY

The officer may move to dismiss any citations, criminal summons, or fees provided the owner complies with an agreement entered into with the officer as to the action required to correct the problem.

F. PERSONAL LIABILITY

There shall be no personal liability on the part of any Animal Control Officer or Reserve Animal Service Officer in the lawful execution of his/her assigned duties, except as provided by State or Federal Law.

3.7 ANIMAL CARE & CONTROL FACILITIES

A. GENERAL

The Town shall provide or contract for sufficient facilities to be used for the purpose of humanely boarding and caring for animals impounded under the provisions of this Ordinance. Such a facility shall meet the requirements established in this Section.

B. ANIMAL HOUSING FACILITIES

- 1) Animal housing facilities shall be structurally sound, constructed of non-toxic materials, and weatherproof. Interior floors shall be of smooth, easily cleanable construction, and impervious to water. The premises shall be kept clean, sanitary, and in good repair in order to protect animals from disease and/or injury.
- 2) Animal housing facilities shall be provided with proper ventilation, temperature control, shade, and lighting necessary for the health and safety of animals according to each species' needs.
- 3) Specific housing and other facility requirements will be established by Animal Control for the different kinds of animals that will housed there. The requirements will be made available in writing and without charge upon request.
- 4) Provisions shall be made by a responsible person in charge of any impounded animal for the removal and proper disposal of any animal and/or food waste, soiled bedding, dead animals, and miscellaneous debris. Disposal shall be accomplished in such a manner as to minimize vermin infestation, odors, and disease.

3.8 RECORD KEEPING

A. REQUIREMENT

Upon impounding or receiving any animal, the Animal Control Officer or Reserve Animal Service Officer shall record data required by this Section into a registry to be kept for such a purpose.

B. DATA

Data required to be kept includes:

- 1) The date, time, location, reason for impoundment, and manner of the animal's acquisition;
- 2) The species, breed, color, and sex of the animal;
- 3) The animal's name, and the owner's name, address, and phone number, if known;
- 4) Verification of notification and reasonable attempts at notification to the known owner of animals impounded with identification;
- 5) The animal's Town license number if any, rabies tag number and microchip number, if available;
- 6) The date, time, and manner of the animal's disposition, as prescribed by this Ordinance;
- 7) The name, address, and phone number of the person redeeming the animal, if applicable; and
- 8) Any and all fees and fines received.

C. OBSERVANCE OF ANIMALS

Each animal shall be observed at least twice daily by the authorized person in charge of its care.

D. DURATION

Recorded data required by this Ordinance shall be kept and maintained as per the New Mexico Administrative Code, Local Government Records Retention and Disposition Schedule, Title 1, Chapter 19.¹

3.9 DISPOSITION OF IMPOUNDED ANIMALS

A. NOTICE

If the owner of an impounded animal is known, the Animal Control Officer shall make a reasonable effort to notify the owner immediately. If the owner of the animal is not known, a notice of the impoundment shall be posted in a conspicuous place at the

¹ Amended 10/19/11

(3.9 Disposition of Impounded Animals-Section B-Cont'd)

office of the Animal Control Officer and at the Town office.

B. DURATION

- 1) All stray impounded animals without identification shall be held for a minimum of four (4) working days; and notice of impoundment posted.
- 2) All stray animals with identification shall be held a minimum of seven (7) working days and notice of impoundment posted.
- 3) All quarantined animals shall be held and observed for a period of ten (10) consecutive days from the date of the bite or seizure.
- 4) All owner-surrendered animals become the property of the Town of Edgewood at the time of surrender.
- 5) All animals placed under protective custody shall be held a minimum of fifteen (15) consecutive days.
- 6) In computing any period of time under this section, the day that the animal is impounded shall not be included. The last day of impoundment shall be included, unless it is a Saturday, Sunday, Holiday, or when the shelter is unexpectedly closed, in which case the period of time continues until the end of the next day which is not one of these days.

C. LIMITED RIGHT OF REDEMPTION / RECLAMATION BY OWNER

In conformance with any and all other requirements of this Ordinance and except for animals held on complaint, for quarantine, in protective custody, or impounded under similar circumstance, an Owner or Custodial Person of any impounded animal shall have a limited right to redeem/reclaim the animal within the required holding period conditional on compliance with this paragraph and all other applicable provisions of this Ordinance. To reclaim an animal, the owner/custodial person shall sign a statement of ownership/responsibility and comply with all other provisions of this Ordinance prior to redeeming/reclaiming any animal.

D. PAYMENT OF FEES AND OTHER ASSIGNABLE COSTS

In all cases, the limited right to redeem may only be exercised by the owner/custodial person upon payment to the Town of any license fees due, microchip fee, impounding fees, boarding charges, veterinary charges, and other costs incurred by the Town in the care and maintenance of said animal, or as designated in the Schedule of Fees and other Assignable Costs.

E. COMPANION ANIMALS

In conformance with NMSA (1978), Section 77-1-20, and in addition to any other requirements of this Ordinance, for the redemption/reclaiming of any un-sterilized Companion Animal the owner/custodial person shall:

- 1) Pay a sterilization deposit of not less than \$25.00 and sign an agreement to have the animal sterilized by the age of 6 (six) months or within 30 (thirty) days, whichever is longer; or
- 2) Obtain an, Intact Permit, from the Town in conformance with the requirements of this Ordinance, if there are no prior impoundments for the animal being redeemed.

F. DISPOSITION OF STERILIZATION DEPOSIT

A sterilization deposit shall be reimbursed to the owner only upon delivery of a valid receipt from a veterinarian proving that the specified animal was sterilized within the required time period.

(3.9 Disposition of Impounded Animals-Section G-Cont'd)**G. ANIMALS HELD ON COURT ORDER**

In all instances where an animal is impounded and a court order related to a violation

of this Ordinance has been filed in a Court of competent jurisdiction against the owner of the animal, the animal shall not be released except upon order of the Court. The Court may direct the animal owner to pay any penalties or fines for violation of this Ordinance in addition to penalties resulting from other charges.

I. NON-REDEEMED ANIMALS

Any animal not redeemed/reclaimed within the required holding period shall become the property of the Town. Animals, which have thereby become the property of the Town may be:

- 1) Placed for adoption in conformance with the requirements of this Section; or
- 2) Transferred to the ownership of any animal shelter or certified rescue group, or euthanized in a humane manner.

J. ADOPTION

An impounded animal shall not be released for adoption until:

- 1) The required holding period for redemption/reclaiming has passed;
- 2) The animal has been deemed adoptable; and
- 3) The prospective adopter has paid any required adoption fee to the Town as noted in the Schedule of Fees and other Assignable Costs.

K. ADOPTION OF COMPANION ANIMALS

In conformance with NMSA (1978) Section 77-1-20, and in addition to any other requirements of this Ordinance, for the adoption of any un-sterilized dog or cat, the adopter shall pay a sterilization deposit as established in the fee schedule, and sign an agreement to have the animal sterilized by the age of 6 (six) months or within 30 (thirty) days, whichever is longer.

L. DISPOSITION OF STERILIZATION DEPOSIT

Any required sterilization deposit shall be reimbursed to the adopter only upon presentation by the adopter of a valid receipt from a veterinarian proving that the animal was sterilized within the required time period.

N. PENALTY FOR VIOLATING STERILIZATION ACT

Any violation of NMSA (1978), Section 77-1-20, known as the "Sterilization Act" and involving the failure to sterilize an adopted or reclaimed companion animal within the required period, is a misdemeanor and shall be punishable by a fine of not more than five hundred dollars (\$500.00)

O. EUTHANASIA

Any impounded animal may be euthanized by the Animal Control Officer, or by such other persons as may be contracted with by the Town to perform such euthanasia:

- 1) After the required holding period for redemption/reclaiming has passed; or
- 2) For humane reasons to prevent suffering, or
- 3) If the owner admits that the animal is dangerous or potentially dangerous and transfers ownership of the animal to the Animal Care & Control Department, or
- 4) If the court finds, by clear and convincing evidence, that an animal is dangerous or potentially dangerous and poses an imminent threat to public safety and orders humane destruction of the animal consistent with the

5) **(3.9 Disposition of Impounded Animals--Cont'd)**

provisions of Section 4.8.B.2.

P. PERMANENT IDENTIFICATION

- 1) Owner must purchase a microchip, from the town in conformance with the requirements of this ordinance, implanted in the animals by injection prior to the animals being redeemed; unless already permanently identified.
- 2) No reclaimed dog or cat shall be allowed to leave any animal shelter including Edgewood Animal Control Holding Facilities without being micro-chipped.
- 3) Boarding kennels are not responsible for micro-chipping.

3.10 VERTIBRATE PEST CONTROL

The animal control department recognizes the need for vertebrate pest control for the protection of human health and safety and for the protection of private and public property with the Town of Edgewood. This work may be performed by private citizens on the land that they own or lease, and by federal, state, or local government employees. All persons shall work in compliance with all applicable federal, state, county, and local laws and regulations. It is recognized that various levels of protection exist for animal species and that this section will not attempt to override or lessen those protections. This section will work within those laws afforded for animals. The animal control officers have the authority to approve or disapprove of methods used to perform vertebrate pest control that are not otherwise specified in this section.

- 1) Pest control methods requiring authorization. Landowners and other agency personnel will be required to receive prior authorization from the animal control department for the following methods of vertebrate pest control:
 - a. Shooting with a firearm
 - b. Chemical immobilization
 - c. Quick kill traps.
 - d. Leg hold traps
 - e. Leg-hold traps shall only be used as a last resort and only with the written approval of the Animal Control Officer and the Clerk or his/her authorized agent.
 - f. Leg-hold traps, size no. 3 or smaller, pan-tension, with offset jaws or jaws modified so they do not close together around the leg.
 - g. No leg-hold trap set shall be made within 100 yards of any occupied dwelling without written notification to the dwelling's occupant. Traps are to be checked every 12 hours. All Animals trapped will be removed by the animal control officers or its acting officials.
- 2) Pest control methods not requiring authorization. The following methods of vertebrate pest control will not require authorization from the animal control department, but may only be performed by private citizens within the confines of their own property:
 - a. Quick-kill traps for the control of gopher, mole, rat and mouse species.
 - b. Live traps:
 1. All domestic cats or dogs will be turned over to the Town animal control officer. Animal Control Officers or the resident where the live trap is placed may remove any animals caught in the trap.
 2. Traps are to be checked every 24 hours.
 3. Issued live traps. The animal control officer can be contacted for issuance of live traps for a resident's temporary use. It is not a violation of this section or any other section of this chapter for a resident to own traps as long as they meet the requirements specified in this section.

- 5) **(3.10 Vertebrae Pest Control-Section 2.c-Cont'd)**
- c. Pesticides. Pesticide use shall be permitted if the product used is an E.P.A. registered pesticide and is used in accordance with special use restrictions for the control of vertebrate pests.

ARTICLE 4: OWNER'S DUTIES

4.1 RABIES CONTROL

A. VACCINATION REQUIRED

Companion Animals and ferrets over three (3) months of age shall be vaccinated against rabies by a veterinarian at the owner's expense no less frequently than is required by State law.

B. VACCINATION TAG & CERTIFICATE

1. Owners of any animal vaccinated for rabies shall obtain from the veterinarian performing such procedure a unique-numbered vaccination certificate and tag. The certificate shall contain at a minimum:
 - a. The name and address of the owner;
 - b. A description of the animal;
 - c. A description of the type of vaccine used;
 - d. The date of vaccination; and
 - e. The expiration date of immunity provided by the vaccination.
2. The certificate shall be surrendered for verification or examination upon demand of the Animal Control Officer or any other person charged by the Town with enforcement of this Ordinance. The tag shall bear the certificate number and the year of vaccination, and shall be worn attached to a collar or harness at all times, exceptions being cats, working animals, show dogs, animals being kept in a veterinary hospital or others performing in agility, herding tracking, coursing or hunting capacity. Owners shall be responsible for replacing lost tags. Tags and certificates are non-transferable. Animals without valid and current tags and certificates shall be subject to fines as designated in the Schedule of Fees and other Assignable Costs. Veterinarians within the Township of Edgewood shall surrender for verification; copies of the unique-numbered vaccination certificates upon demand of an Animal Control Officer for any other person charged by the Town with enforcement of this Ordinance.

C. SUSPECTED RABIES

Any veterinarian who makes a clinical diagnosis of rabies and any person who suspects rabies in any Animal, including Companion Animals, Domestic Animals, or Wild Animals, shall immediately report the same to the appropriate State health agency providing information about where and when such animal was seen and, if possible, where it may be found.

D. EXPOSURE TO RABIES/BITING

To ensure protection of the public health and welfare and control the spread of the rabies virus:

- 1) Any person with knowledge that an animal has bitten a person shall immediately report the incident to the Animal Care & Control Department and the appropriate State health agency.
- 2) Any physician or other health care professional that treats a person for an animal bite shall report such treatment to the appropriate State health agency within twenty-four (24) hours of such treatment.
- 3) The report must specify the name and home address of the person

(4.1 Rabies Control-Section 4.1-D.3-Cont'd)

bitten, and the precise location of the bite on the person.

E. ANIMAL DESTRUCTION OR QUARANTINE

- 1) Any dog, cat, or other animal determined by the State as requiring the rabies vaccination, and which has bitten or otherwise exposed a person or another animal to the rabies virus shall be:
 - A. Quarantined by confining it immediately and observing it in confinement for a period of ten (10) days from the date of the bite, at the owner's expense at a place and in a manner designated by the Animal Control Officer and approved by the appropriate State health agency. Upon the conclusion of observation period, the animal shall be:
 - a) Released in accordance with all other applicable provisions of this Ordinance if the animal does not show signs of infection with the rabies virus; or
 - b) Destroyed and its head sent to an appropriate laboratory for rabies testing if the animal shows signs of infection with the rabies virus; or If the animal shows signs of infection during the required period of confinement and observation, the animal shall also be destroyed and its head sent to an appropriate laboratory for rabies testing.
- 2) If the animal is proven to the Animal Control Officer to have a valid current vaccination for rabies, and if the area involved is not under quarantine for rabies, then the Animal Control Officer may allow quarantine of the animal at the owner's home after its inspection and approval by the Officer for suitability as a location for quarantine. If the animal shows signs of rabies during the required period of confinement and observation, the animal shall be destroyed and its head sent to an appropriate laboratory for rabies testing.
- 3) No person may remove or release an animal from a required quarantine location, during the observation period without the written consent of the Animal Control Officer.
- 4) No person may frustrate the quarantine of an animal during the observations period without the written consent of the Animal Control Officer, including allowing other animals into the quarantine location.

F. DEAD SUSPECTED RABID ANIMALS

Pick-up and disposal of rabid animals or animals suspected of infection with the rabies virus shall be handled by the Animal Care & Control Department in a manner consistent with State law.

4.2 LICENSING**A. INDIVIDUAL LICENSE**

An Individual License shall be required for any Companion Animal age 3 months or older residing within the Town of Edgewood. The license will be valid for either 1 year or 3 years. A current rabies vaccination shall also be required, and will determine the length of validity of the license. Lifetime licenses will be available without cost to service animals.

B. POTENTIALLY DANGEROUS ANIMAL LICENSE

A Potentially Dangerous Animal License shall be required for any animal deemed potentially dangerous within the Town of Edgewood. The license will be valid for one

(4.2 Licensing-Section B-Cont'd)

year. The owner must comply with the registration and handling requirements for the potentially dangerous animal to obtain the Potentially Dangerous Animal License.

C. DANGEROUS ANIMAL LICENSE

A Dangerous Animal License shall be required for any animal deemed dangerous within the Town of Edgewood. The license will be valid for one year. The owner must comply with the registration and handling requirements for the dangerous animal to obtain the dangerous license.

4.3 PERMITS**A. CONDITIONAL USE PERMIT**

No person shall operate a boarding kennel, grooming parlor, pet shop, doggie day care, refuge, shelter, guard dog site, or hobby breeder site without a valid conditional use permit. A person may obtain a permit under the following conditions:

- 1) Payment of an annual permit fee at the Town Offices.
- 2) Application for a conditional use permit from The Planning & Zoning Commission.
- 3) Annual inspection by an Animal Control Officer of the premises used for keeping animals.

B. GUARD DOG PERMIT

A guard dog permit shall be required for all guard dog sites.

C. HOBBY BREEDER PERMIT

A Hobby Breeder permit will be required for controlled breeding of dogs or cats, instead of an individual litter permit as per Section 4-3G. The Hobby Breeder Permit number must appear in all advertisements regarding the sale of any litter.

D. INTACT ANIMAL PERMIT

An Intact Animal permit is required to keep a dog or cat exempt from being sterilized as mandated by State Law when released from an animal shelter. The animal must be registered with a nationally or internationally recognized animal registry organization. No person shall breed or allow to be bred a dog or cat for which an Intact animal permit has been issued unless accompanied by a Hobby breeder permit.

E. WILD/ EXOTIC ANIMAL PERMIT

- 1) Wild/Exotic Animal permit shall be required for all persons who own, harbor, or keep any Wild Animal, as defined in this Ordinance, or have a valid State or Federal permit for protected species.
- 2) Prohibited Exotic or Wild Animals. No person shall own, harbor or keep any species in violation of Federal or State laws, including, but not limited to, bats and skunks.
- 3) New Animal Addition. If the number of exotic or wild animals in a collection increases as a result of the reproduction of members of the collection or if animals in the collection are replaced by animals of the same number and zoological species, an additional permit is not required during the permit year, provided the Animal Care & Control Department is notified in writing within thirty (30) days of the addition of the new animals.
- 4) Health Requirements. Exotic or Wild animal owners must submit a health certificate from a veterinarian to the Animal Care & Control Department within fourteen (14) days of acquisition of the animal. The health certificate must certify that the animal is in good health and has been vaccinated as appropriate for the species.

(4.3 Permits-Section E.4-Cont'd)

- 5) **Wild Animal Permit Requirements.**
 - a) In addition to the professional animal facilities and care standard requirements for the permitted premises required by this article, wild animals shall be kept and cared for in a manner which does not constitute a nuisance or endanger the safety of any person, property, or the animal itself.
 - b) The holder of a permit for wild animal(s) must notify Animal Control in writing within thirty (30) days if the owner changes his/her residence or the location of the exotic or wild animals, or sells or otherwise disposes of any of the animal(s) for which the permit was issued.
- 6) **Impoundment.** The Animal Control Officers may impound an exotic or wild animal for an owner's failure to comply with this article and shall use the impound procedure set out in this article or, if the wild animal may be a danger to the public, use a procedure which protects the public.
- 7) **Exclusion.** Notwithstanding the above, zoological parks, veterinary hospital, humane societies, shelters, public laboratories, circuses, sideshows, and educational and scientific facilities are excluded from the provision of this section, provided that the excluded facilities use protective devices adequate to prevent the exotic or wild animals from escaping or injuring the public or the animal itself.

F. LITTER PERMIT; DISPLAY OF HOBBY BREEDER PERMIT

The owner who intentionally or unintentionally breeds dogs or cats and does not have a current Hobby Breeder's permit shall purchase a litter permit for each litter. The litter permit fee may be refunded at the time proof of sterilization of the female animal is submitted and verified by the Animal Control Officer no later than two months from the time the female dog or cat delivers a litter.

- 1) Owners of an intact female must obtain a Litter Permit prior to birth of a litter or within one week after the birth of a litter.
- 2) No person shall apply for or obtain more than four litter permits per household in any consecutive 12 month period.
- 3) A litter permit is required to advertise any animal under the age of 1 year for sale, gift, barter, exchange, or give away in any local periodical or newspaper of general circulation. The litter permit number must be included in any advertisement of a member of the litter.
- 4) An owner shall not advertise sell, barter, exchange or give away any puppy or kitten, under one (1) year of age within municipal boundaries unless the litter permit or Hobby Breeder permit has been purchased.
- 5) Litter Permits expire two months from the date of issue.
- 6) Edgewood Animal Care & Control Department may waive the Litter Permit Fee for Rescue Groups and animal foster care givers.
- 7) Puppies and kittens can only be sold, given as a gift, or transferred or conveyed in any other manner from the location listed on the Litter Permit. Puppies or kittens sold on public property or commercial property, even with the owner's permission, are in violation of this article and the puppies and kittens may be seized.
- 8) Puppies and kittens shall not be released from the Permitted Premises prior to eight weeks of age.
- 9) An owner shall furnish the Litter Permit number or Hobby Breeder permit number to any prospective recipient requesting the number.

(4.3 Permits--Cont'd)**G. MULTIPLE ANIMAL PERMIT**

Any person intending to exceed the combined maximum limit of ten (10) dogs or cats in a household shall obtain a Multiple Animal Permit.

- 1) All Dogs and Cats at a Multiple Animal Site shall be licensed and must be either micro-chipped or otherwise permanently identified. A fostered pregnant dog or cat and her eventual offspring are temporary exempted from this rule.
- 2) No person shall be authorized to keep or maintain more than fifteen (15) dogs or cats at any Multiple Animal site, no more than four(4) of which can be un-sterilized, without obtaining the additional written consent and approval of the Animal Care & Control Department.
- 3) Granting of Multiple Animal permits and any other required approvals shall be at the discretion of the Animal Care & Control Department.
- 4) No permit shall be issued until an inspection by Animal Control has been completed and compliance with this ordinance is achieved.
- 5) A Multiple Animal Permit may be revoked, modified or suspended if an adjoining property owner is reasonably aggrieved by any effects of the Multiple Animal Site.

H. A VALID PERMIT SHALL BE POSTED IN A CONSPICUOUS PLACE AT EACH PERMITTED PREMISES

- 1) This provision shall apply to all relevant permits issued pursuant to this Ordinance, including but not limited Multiple Animal permits, Danger Dog permits, Potentially Dangerous Dog permits, Wild Animal permits, Guard Dog permits, and Conditional Use permits.
- 2) A permit holder shall notify the Animal Care & Control Department of any changes in operations which may affect the status of any permit issued pursuant to this Ordinance and shall keep the Animal Care & Control Department informed of all changes in name, location, address, and home and business telephone number of the site and activities covered by the permit.
- 3) Both the person in charge of a permitted premises and the owner of the permitted premises shall be responsible for complying with this article.
- 4) At each permitted premises, a current record shall be kept which describes all animals owned, purchased or received, and the final disposition of each animal.
- 5) Permits shall expire one (1) year after the date of issuance of the permit. An application for renewal shall be filed at the Animal Care & Control Department thirty (30) days before the date of expiration. The fees and application and inspection procedures for permit renewals shall be the same as those for new applications. Failure to renew permits as specified shall result in the expiration of the permit or in the assessment of a five percent (5%) late fee.

J. ACCESS TO PERMITTED PREMISES

Upon presentation of proper identification, and at any reasonable time, the Animal Control Officer shall be allowed to enter any permitted premises for the purpose of making inspections to determine compliance with this article. The person in charge of the permitted premises shall be allowed to accompany the Animal Control Office on the inspection. The Animal Control Officer shall prepare a written inspection report which shall state whether or not the permitted premises is in compliance with or in violation of this article; If the premises is found to be not in compliance, the report shall specify the nature of the noncompliance. A copy of the inspection report shall be furnished to the person in charge.