

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.001 Title and Definitions
- 90.002 Animal Control Officer; Authority
- 90.003 Use of false and stolen documents
- 90.004 Unreasonable Noise; Animal Excrement; Dead Animals
- 90.005 Cruelty to animals; Care and Maintenance
- 90.006 Animal Fighting Prohibited
- 90.007 Abandonment; Subjecting Animals to Unnecessary Suffering
- 90.008 Use as premiums and novelties prohibited; Dyeing Fowl or Rabbits; Selling Dogs and Cats Limited
- 90.0081 Use of Certain Traps Prohibited
- 90.009 Wild and exotic animals
- 90.010 Maintenance of certain animals within the city
- 90.011 Enforcement
- 90.012 Complaint or citation notifies violators to appear
- 90.013 Failure to obey complaint or summons

Dogs; Generally

- 90.025 Running at large; generally
- 90.026 Certain dogs running at large declared public nuisance
- 90.027 Confinement during estrus
- 90.028 Vicious animal

Dog Licensing and Registration

- 90.030 Hoarding Animals
- 90.032 Canine Hybrids
- 90.040 Required; fees; prerequisites
- 90.041 Certificates and tags
- 90.042 Loss of license tag

Dog Kennels

- 90.055 License
- 90.056 Restraint of Animals; Transporting Animals in Vehicles
- 90.057 Inspection
- 90.058 Exemptions

Impoundment

- 90.070 Animal shelter
- 90.071 Authorized
- 90.072 Right-of-entry
- 90.073 Register
- 90.074 Notice to owner
- 90.075 Redemption
- 90.076 Disposition of animals being held on complaint

Livestock

- 90.090 Running at large unlawful
- 90.091 Impoundment

Rabies Control

- 90.105 Annual vaccination required
- 90.106 Exhibition of vaccination certificate upon demand
- 90.107 Harboring unvaccinated animals
- 90.108 Reporting rabies suspects
- 90.109 Report of human exposure to rabies
- 90.110 Quarantine
- 90.111 Procedure as to dogs or cats bitten by rabid animals
- 90.112 Wild animal bites
- 90.113 Birds
- 90.115 Fee Schedule
- 90.999 Penalty

GENERAL PROVISIONS

§ 90.001 TITLE AND DEFINITIONS

TITLE: This title shall be known as the *ANIMAL CARE AND CONTROL ORDINANCE OF THE CITY OF RATON* and shall be referred to elsewhere herein as "this title".

AUTHORITY: This title is created pursuant to the enabling authority set forth in New Mexico Statutes Annotated (1978) sections 3-18-3, 77-1-15.1 and 77-1-20.

PURPOSE: It is the intent of the Commission that enactment of this title will:

- A. Protect residents from immediate threat to health or safety;
- B. Regulate, restrain, and prohibit the running at large of animals within the boundary of the town;
- C. Provide for the impounding and disposition of animals found running at large;
- D. Prohibit cruelty to animals;
- E. Promote a rural and animal friendly character within the City; and
- F. Reduce the number of unplanned or unwanted litters of puppies and kittens so as to reduce the large numbers of dogs and cats within the city that are neglected, mistreated, abandoned, or relinquished to shelters.

SEVERABILITY OF PROVISIONS: If any section, subsection, sentence, clause, or phrase of this title is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title, it being the intent of the council to enact each section, subsection, sentence, clause, or phrase of this title separately and independently of each other section, subsection, sentence, clause, or phrase.

AMENDMENTS: The commission may amend or modify this title in accordance with state statutes, and following a public hearing, due notice of which shall be given by the town.

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

ABANDONMENT: The intentional act of leaving an animal for more than twenty four (24) hours without making effective provisions for its proper feeding and care.

ANIMAL: Any dog or cat or any vertebrate or invertebrate (excluding man).

ANIMAL CONTROL OFFICER: The Animal Control Officer of the municipality or his or her designated representative, or any Raton police officer.

ANIMAL SHELTER: Any establishment authorized by the municipality for the care and custody of impounded animals. The Raton Shelter shall be exclusively for animals picked up or surrendered from the Raton and Raton Extra Territorial Zone.

City Limits

BITE: A puncture or tear of the skin inflicted by the teeth of an animal.

CANINE HYBRID: Any canine which results from the breeding of a domestic dog (*Canus domesticus*) with any other canine subspecies, including, but not limited to, wolves and coyotes.

COMPANION ANIMAL: A dog or cat that is not a hybrid, kept as a pet by humans.

CONTINUOUSLY or CONTINUAL: Continuing without interruption for a period of 10 minutes, and/or interrupted then starting again where the animal noise occurs in each of the 10 one-minute period intervals.

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 and four (4) litters yearly only when a litter will enhance the breed and the breeding program.

DANGEROUS DOG: Any dog which, when unprovoked, inflicts an injury which is a serious injury to a person, domestic animal, or livestock.

state.

EXOTIC ANIMAL: An animal which is rare or different from ordinary domesticated animals and is not indigenous to the

the

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 animal.

FOSTER CARE PROVIDER: Any person who fosters an animal from or through an animal shelter to care for the animal's physical and emotional needs, to 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.

HOBBY BREEDER: A person involved in controlled breeding of companion animals that are registered with a nationally or

internationally recognized animal registry organization.

- 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.
- INTACT:** A dog or a cat over six months old that has not been Altered.
- KEEPER:** Any person who owns, harbors, keeps, or has control or custody of an animal for more than 6 days. This term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.
- KENNEL:** Any establishment wherein or whereon dogs or cats are kept for the purpose of breeding, sale or sporting purposes.
- LEASH:** A chain, strap or cord specifically manufactured to be attached to the harness or collar of an animal, made of sufficient substance to keep the attached animal under control by the person holding the leash.
- MUNICIPALITY:** The area lying within the incorporated boundaries of the city.
- NUISANCE:** Means, but is not limited to, activity disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offending the environment of the municipality.
- OBVIOUS SIGNS OF PET OWNERSHIP:** A domestic animal which, at the time the animal is taken up and impounded, is wearing a collar or harness, whether or not the animal is wearing license or immunization tags, or which has been tattooed or which has been implanted with a microchip identification device.
- OWNER:** A person who owns, possesses, or exercises control or custody over an animal, or if that person is under the age of 18, that person's parent or guardian. If an animal has more than one owner, each shall be considered an owner and subject to the provisions of this chapter. Any person acting as the agent of the owner, or any person over the age of 18 in a household who is left in charge of an animal, may also be deemed the owner.
- POTENTIALLY DANGEROUS DOG:** A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:
- (1) Chasing or menacing a person or domestic animal or livestock in an aggressive manner and without provocation; or
 - (2) Acting in a highly aggressive manner within a fenced yard or enclosures and appearing able to jump out of the yard or enclosure; or
 - (3) Any dog which, when unprovoked, inflicts an injury which is less than a serious injury to a person, domestic animal, or livestock.
- PROPER ENCLOSURE:** Secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure, that is designed to prevent the animal from escaping the confined area but does not include chaining, restraining or otherwise affixing the animal to a stationary object.
- QUARANTINE:** The strict confinement and isolation of an animal for any length of time in accordance with this title, state law, or federal law, in order to observe for and control the spread of infectious or contagious diseases, such as rabies.
- REASONABLE:** What conventional wisdom would deem as justifiable or explainable, i.e., being within the bounds of reason.
- RUNNING AT LARGE:** An animal off the premises of the keeper and not under the direct control of a competent person. Direct control means connected by a secure leash not over 6 feet in length or equivalent means of direct control.
- 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:** A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.
- STRAY or ESTRAY:** Any animal that has no identifiable keeper.
- UNREASONABLE:** What conventional wisdom would deem as unexplainable or unjustified, i.e., not being guided by

- reason.
- VACCINATION: The vaccination of an animal with an antirabies vaccine approved by the Secretary of the Health and Environment Department and administered under the supervision of a veterinarian.
- VETERINARIAN: Any veterinarian licensed in the state.
- VICIOUS DOG: Any dog which kills or seriously injures a person or a domestic pet or livestock. Any animal that bites, attacks or attempts to attack any person, or a domestic pet, or livestock who is unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a VICIOUS DOG.
- WILD ANIMAL: Any animal which is wild by nature and cannot normally be domesticated or controlled.
(1981 Code, § 5-1) (Rev. Ord. _____, passed _____)

§ 90.002 ANIMAL CONTROL OFFICER

The City Manager or City Police Chief shall appoint an Animal Control Officer whose duties shall be as prescribed in this chapter. The Animal Control Officer of the city or his or her designated agent, and any City of Raton Police Officer shall have the authority to issue a citation for violation of this chapter and to perform the other duties as are prescribed herein.
(1981 Code, § 5-2) (Rev. Ord. _____, passed _____)

AUTHORITY AND LIABILITY OF OFFICER:

A. *Impounding Of Animals:* Any animal control officer shall be authorized to impound:

1. Any animal determined to be running at large;
2. Any animal in plain view on its owner's premises whose condition threatens imminent death or serious illness or injury to the animal itself;
3. Any animal in plain view on its owner's 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 ordered by a court of competent jurisdiction.

B. *Entry To Private Premises:*

1. Any animal control 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 title, impounding animals as authorized by the town, or examining records pertinent to the origin and care of any animals located at, or having come 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 before entering onto private premises. 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 private premises as provided by law for the purpose of making inspections to determine compliance with this title 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 City.

C. *Dead Animals:*

1. The animal control officer shall be authorized to pick up and dispose of any dead dog, cat, or other 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 City may pick up and dispose of any dead and privately owned companion animal, domestic animal, or other animal at the request of the owner, provided that the owner pays the full costs of any such pick up and disposal.

3. Disposal shall be accomplished in such a manner as to minimize vermin infestation, odors, and disease.

D. *Authority:* An animal control officer may move to dismiss any citations, criminal summons, or fees provided the owner complies with a written agreement entered into with the officer as to the action required to correct the problem.

E. *Personal Liability:* There shall be no personal liability on the part of any animal control officer or other City of Raton employee performing official duties under this title in the execution of his/her assigned duties, except as provided by state or federal law.

§ 90.003 USE OF FALSE AND STOLEN DOCUMENTS

It shall be unlawful for any person to transfer any license or rabies tag from one animal to another or to make use of a stolen, counterfeit, or forged license, certificate, or tag.

(1981 Code, § 5-3) (Rev. Ord. _____, passed _____) Penalty, see § 90.999

§ 90.004 BARKING, HOWLING, OR OTHER UNREASONABLE ANIMAL NOISE PROHIBITED; REMOVAL OF ANIMAL EXCREMENT REQUIRED; DISPOSITION OF DEAD ANIMALS

(a) No person owning or keeping any animal shall fail to prevent such animal from disturbing the peace of any other person by loud and persistent or loud and habitual, continual or continuous barking, howling, yelping, braying, whinnying, crowing, calling, or making any other loud and persistent or loud and habitual or continual or continuous noise, whether the animal is on or off the guardian's or keeper's premises.

(b) No person shall be charged with violating this section unless a written warning was given to the person by an agent or employee of the city within twelve months preceding the first date alleged as a date of violation in the complaint. Such warning is sufficient if it recites Subsection (a) of this section and states that a complaint has been received that an animal of which the defendant is a guardian or keeper is disturbing the peace of an individual. A warning is given under this subsection if it is personally given to the person owning or keeping the animal or if it is mailed first class to such person. The city manager shall keep records of all warnings given, and such records are prima facie evidence that such warnings were given.

(c) No person shall be convicted at trial of violating this section unless two or more witnesses testify to the loud and persistent or loud and habitual nature of the noise, or unless there is other evidence corroborating the testimony of a single witness on this element.

(d) The provisions of Subsections (b) and (c) of this section do not apply when the animal is a cat and it is proven beyond a reasonable doubt that the cat was off the premises of its guardian or keeper at the time of the disturbance.

(e) No person owning or keeping any animal shall fail to prevent such animal from defecating upon any property other than the premises of the guardian or keeper.

(1) It is a specific defense to a charge of violating this section that the defecation occurred on private property with express permission of the owner or all tenants thereof.

(2) It is a specific defense to a charge of violating this section that the guardian or keeper immediately removed or cleaned up such deposit and disposed thereof by depositing it in a toilet or a receptacle ordinarily used for garbage and covered by a lid or in an otherwise lawful and sanitary manner.

(3) The maximum penalty for a first conviction pursuant to this subsection is a fine of \$100. For a second conviction within three years, based upon date of violation, the maximum penalty shall be a fine of \$200, with the municipal court strongly urged to impose community service hours cleaning up dog waste in public areas as a condition of a

suspended sentence or probation, where appropriate in the judgment of the court.

(f) When any animal dies in the city, no person owning or keeping it shall fail to remove the body of such animal from the city or dispose of it in a lawful and sanitary manner. Penalty, see § 90.999

§ 90.005 CRUELTY TO ANIMALS

(A) *Physical abuse.* It is unlawful for any person to maliciously kill, maim, torture, mutilate, burn, or to cruelly drive or work any animal.

(B) *Poisoning.* It is unlawful to poison domestic animals or to distribute poison or toxicants in any manner with the intent of so poisoning.

(C) *Care and Maintenance:*

The owner or custodian of an animal shall be responsible for its care and maintenance. The owner or custodian of any animal shall have the following obligations in regard to the care and maintenance of each animal:

A. The owner or custodian of an animal shall provide the animal with:

1. **Food:** Uncontaminated, edible, nutritious food, in an adequate quantity to maintain the normal weight and condition of a healthy animal. The amount of food administered must conform to the individual animal's age and condition. All food containers shall be kept clean;

2. **Water:** Animals shall be provided with constant access to a supply of potable water with sufficient amount as to maintain good health as required by the species whether the animals are outdoors or indoors except as directed by a veterinarian. Snow or ice is not an adequate water source. Fowl shall at all times be provided receptacles kept constantly filled with clean water.

3. **Shelter:** Outside housing shall be soundly constructed of solid materials, such as wood or plastic panels, and of a size appropriate for that species that allows the animal to be able to stand up, sit down, lie down, and turn around, and contain straw or other form of bedding that is regularly changed, in order to protect animals from all four (4) directions from the adverse effects of weather, including sun, wind, rain and snow that could be detrimental to the health of the animal. An enclosure is overcrowded unless its area is at least the square of the following sum for each animal confined therein: the sum of the length of the animal in inches (tip of nose to base of tail) plus six inches. Sufficient lighting shall be provided by either natural or artificial means. There shall be appropriate housing for each animal, separately.

3a. The shelter and enclosure area shall be kept clean to promote the health of the animal. An enclosure is unclean when it contains more than two day's elimination of each animal enclosed therein. An enclosure is unhealthy when it is likely to cause illness of the animal.

4. **Exercise Area:** Area for exercise that is large enough to accommodate that species;

5. **Ventilation:** Ventilation must be sufficient to provide for the health and safety of the animal and prevent strong odors from forming;

6. **Veterinary Medical Care:** Animal owners shall provide regular basic and emergency medical care for all their animals. No person shall keep an animal which is seriously sick or injured without providing proper veterinary care to the animal. The animal control officer may require a letter of health evaluation from a licensed veterinarian describing the condition of the animal at the owner's expense;

7. **Cleaning And Grooming:** Basic cleaning and grooming shall be provided as necessary for the health and general welfare of the animal. Grooming the coat on most animals is necessary to ensure the coat is not matted to the point that it becomes so heavy as to cause skin irritation or trap fecal matter. Animal shall not be so dirty as to provide a home for parasites and insects; and

8. Microchip: No animal shall be allowed to have any foreign object imbedded in its skin, fur or hair other than a microchip for companion animals.

B. Any owner of an animal shall provide the animal with access to shade, not including its required shelter.

C. It is unlawful for a person to carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner, including the open bed of a truck where the animal may fall out or suffer from the elements of weather. If an animal control officer determines that an animal in an enclosed vehicle is in immediate danger, the animal control officer may enter the vehicle for the sole purpose of rescuing an animal in danger, by any means necessary and/or legal, without being liable to the owner of the vehicle. The animal control officer may take any animal rescued in this manner into protective custody.

(Rev. Ord. _____, passed _____) Penalty, see § 90.999

Statutory reference:

Authority to prohibit, see NMSA § 3-18-3A(1)

Cruelty to animals, see NMSA § 30-18-1

§ 90.006 ANIMAL FIGHTING PROHIBITED

(a) No person shall cause, sponsor, arrange, hold, or encourage a fight between two or more animals for the purpose of monetary gain or entertainment or for the purpose of injuring, maiming or destroying themselves or another animal.

(b) For the purposes of this section, a person encourages a fight between such animals if the person:

(1) Is knowingly present at such fight;

(2) Owns, trains, transports, possesses, or equips such an animal with the intent that the animal will be engaged in such a fight; or

(3) Knowingly allows such a fight to occur on any property owned, controlled, maintained or equipped by such person.

(1981 Code, § 5-6) (Rev. Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.007 ABANDONMENT; SUBJECTING ANIMALS TO UNNECESSARY SUFFERING

A. It is unlawful to abandon any animal within the municipality.

B. No person shall:

(1) Overdrive, overload, drive when overloaded, or overwork any animal;

(2) Cause unnecessary suffering to any animal or take actions likely to cause unnecessary suffering to any animal;

(3) Needlessly shoot at, wound, capture, or in any other manner needlessly molest, injure, or kill any animal;

(4) Keep any animal in a manner that causes the animal to endure unnecessary suffering; or

(5) Confine any animal in a vehicle in such a manner that it places the animal in a life- or health-threatening situation by exposure to heat or cold without sufficient protection from such heat or cold. Evidence of a life- or health-threatening situation includes, but is not limited to, excessive panting, rapid breathing, or difficulty breathing, drooling, thick saliva, bright red, purple, or pale gums, difficulty standing, apparent paralysis, shivering or trembling, decreased responsiveness, vomiting, diarrhea, excessive bleeding, seizures, and loss of consciousness.

C. It is a specific defense to a charge of violating Paragraph (B)(3) of this section that the action was necessary to avoid injury to a person or that the animal was not a domesticated animal and the action was necessary to avoid injury to a person or property.

D. In order to protect the health and safety of an animal, an animal control officer, code enforcement officer, police officer, or any other peace officer under this code who has probable cause to believe that Paragraph (B)(5) of this section is being violated shall have the authority to enter such vehicle by any means reasonable under the circumstances and take custody of the animal.

Penalty, see § 90.999

§ 90.008 USE AS PREMIUMS AND NOVELTIES PROHIBITED. DYEING FOWL AND RABBITS PROHIBITED; SELLING DOGS, CATS AND FOWL LIMITED

It is unlawful to sell, offer for sale, barter, or give away any live animal as a premium, prize, award, novelty, or incentive to purchase merchandise.

___(a) No person shall dye or color live fowl, rabbits, or any other animals or have in possession, display, sell, or give away such dyed or colored animals.

(b) No person shall sell, offer for sale, or give away dogs or cats under eight weeks old or any other warm-blooded animals under the normal weaning period for the animal.

(c) No person shall sell, offer for sale, or give away any fowl under six weeks old. It is a specific defense to a charge of violating this subsection that the fowl are sold or given away in lots of ten or more for commercial, agricultural, or scientific purposes.

(d) Public Property. No Person shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise dispose of an Animal upon a street, sidewalk, public park, public right-of-way or other public property. Adoption events approved by the city manager, or any adoption events held by a Rescue Group or Rescue individual are exempt.

(e) Commercial Property. No Person shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise dispose of any Animal upon commercial property including parking lots, with or without the property owner's permission. Adoption events approved by the City Manager are exempt, as are events held by legitimate rescue or adoption agencies, including the Raton Humane Society.

(f) Residential Property. No Person shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise dispose of any Companion Animal puppies or kittens upon residential property without a Hobby Breeder Permit.

(g) Advertising. No Person shall advertise puppies or kittens for sale in any local periodical or on any local news media without a valid Hobby Breeder Permit number conspicuously listed in the advertisement. No Person shall advertise any Animal for sale in the City of Raton using any roadside signs, flyers, handbills or billboards.

Penalty, see § 90.999

§ 90.0081 USE OF CERTAIN TRAPS PROHIBITED

(a) No person shall use, set, place, maintain, or tend any leg-hold trap. The city manager or his designee shall confiscate any leg-hold trap found in violation of this subsection and dispose of it as the manager deems appropriate.

(b) No person shall use, set, place, maintain, or tend any mechanical trap which is designed or used to capture or kill any animal and does not require the presence of a human operator to so capture or kill. It is a specific defense to a charge of violating this subsection that the person had the express permission of the owner of the land on which the trap was set. This subsection does not apply to public officials in the exercise of their duties.

§ 90.009 WILD AND EXOTIC ANIMALS

(A) Keeping certain animals prohibited. Keeping the following animals is prohibited:

- (1) Wild animals kept in the numbers or in a manner as to constitute a likelihood of harm to the animals themselves or to other animals, or to human beings, or to the property of human beings, or which constitute a public private nuisance; and/or
- (2) Exotic or wild animals prohibited by federal or state law or regulation.

or

(B) Permit required. No person shall receive, purchase, own, or keep wild or exotic animals without first applying for and receiving from the State Department of Game and Fish a permit to do so. The applicant must provide evidence of knowledge and facilities for the care and feeding of the animals involved. The Animal Control Officer is permitted to enter the premises of any permittee hereunder at any reasonable time for the purpose of inspection or reinspection to determine compliance with this chapter. The Department of Game and Fish may deny, revoke, or suspend a permit for failure to comply with this chapter. A separate permit shall be required for each species of wild or exotic

animal.

(1981 Code, § 5-9) (Rev. Ord. _____, passed _____) Penalty, see § 90.999

§ 90.011 ENFORCEMENT

It shall be the duty of the Animal Control Officer or any Raton city police officer to enforce the terms of this chapter through the issuance of a complaint or citation.

(1981 Code, § 5-11) (Rev. Ord. 676, passed 11-25-1980)

§ 90.012 COMPLAINT OR CITATION NOTIFIES VIOLATORS TO APPEAR

The complaint or citation shall notify violators to appear before the Municipal Judge and answer charges of violations of any provisions of this chapter as may be requested.

(1981 Code, § 5-12) (Ord. 676, passed 11-25-1980)

§ 90.013 FAILURE TO OBEY COMPLAINT OR SUMMONS.

Any person who fails to appear before the Municipal Judge for any violation of this chapter within the time set forth in the complaint is guilty of a misdemeanor regardless of the disposition of the original charge for which he or she was cited.

(1981 Code, § 5-13) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

DOGS AND CATS; GENERALLY

§ 90.020 ANIMAL LIMITS AND RESTRICTIONS

(A) Intact Companion Animals. No person shall own or possess an Intact dog or cat over the age of five months old without a valid Hobby Breeder Permit except as provided herein.

(B) Breeding Companion Animals. No Person shall own or possess a pregnant female Companion Animal without obtaining a Hobby Breeder Permit.

(C) Exceeding Animal Possession Limits.

(1) Companion Animals. No Person shall own more than six Companion Animals, no more than four of which are dogs. There are temporary exceptions to this rule for Foster Care Providers (through a non profit animal rescue or humane society), and for persons with a valid Hobby Breeder Permit. A fostered pregnant dog or cat and her eventual offspring are temporarily exempted from this rule.

§ 90.023 PERMITS REQUIRED

A. Dangerous or Potentially Dangerous Animal Permits: A dangerous animal permit shall be required for any animal deemed dangerous within the City of Raton. The permit will be valid for one year. The owner must comply with the registration and handling requirements for the dangerous animal to obtain the dangerous permit.

B. Hobby Breeder Permit: A hobby breeder permit issued by the animal control officer will be required for controlled breeding of dogs or cats. The hobby breeder permit number must appear in all advertisements regarding

the sale of any litter. The permit shall be valid for one (1) year. All dogs and cats at a hobby breeder site shall be vaccinated against rabies and must be either microchipped or otherwise permanently identified.

C. Granting of required approvals shall be at the discretion of the animal control officer.

D. Posting Of Permits:

1. This provision shall apply to all relevant permits issued pursuant to this title, including, but not limited to, intact animal, dangerous dog, and hobby breeder permits.
2. A permit holder shall notify the animal control officer of any changes in operations which may affect the status of any permit issued pursuant to this title and shall keep the animal control officer 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 chapter.
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 year after the date of issuance of the permit. An application for renewal shall be filed at the animal control officer 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.

E. Permit Approval: Within ten (10) business days of receipt of an application for a permit, the animal control officer shall inspect the premises to determine whether it complies with the standards established in this chapter. The applicant shall be notified in writing by the animal control officer of a denial of the permit application.

F. Appeals: A written request for the appeal of any permit decision must be filed with the chief of police within five (5) days of the animal control officer's decision.

G. No permit is transferable from one person or place to another person or place.

§ 90.025 RUNNING AT LARGE; GENERALLY

It shall be unlawful for any keeper of a dog to permit the animal to run at large in any part of the city, except on his or her own premises, or unless the dog is in the direct control of the keeper, as herein set forth. The keeper of any dog which runs at large shall be liable for any and all damage which it may cause to the person or property of another.
(1981 Code, § 5-25) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.026 CERTAIN DOGS RUNNING AT LARGE DECLARED PUBLIC NUISANCE

Every dangerous, or potentially dangerous dog, or bitch while in estrus (heat), when running at large upon the streets or in any other public place, is hereby declared to be a public nuisance; and it shall be the duty of the Animal Control Officer or any police officer to take up and confine the dog, by humane methods, whether or not the same may be registered.
(1981 Code, § 5-26) (Rev. Ord. _____, passed _____) Penalty, see § 90.999

§ 90.027 CONFINEMENT DURING ESTRUS

(A) Any female dog in the state of estrus (heat) shall be confined to a building or other secure enclosure so that contact with a male animal of the same species will be prevented except for intentional breeding purposes by those with a current Hobby Breeder License issued by the City.

(B) Keepers who do not comply with this section may be required to place the animal in a boarding kennel or veterinary hospital at the keeper's expense.
(1981 Code, § 5-27) (Rev. Ord. _____, passed _____) Penalty, see § 90.999

§ 90.028 DANGEROUS AND POTENTIALLY DANGEROUS DOGS

I. Definitions. As used in this section:

- A. "animal control authority" means an entity authorized to enforce the animal control laws of Raton, whether acting alone or in concert with other governmental authorities. The municipal animal control or law enforcement shall carry out the duties of the animal control authority under this Dangerous Dog Section;
- B. "dangerous dog" means a dog that caused a serious injury to a person or domestic animal;
- C. "owner" means a person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of eighteen, that person's parent or guardian;
- D. "potentially dangerous dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:
- (1) causing an injury to a person or domestic animal that is less severe than a serious injury;
 - (2) chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or
 - (3) acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure;
- E. "proper enclosure" means secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure, that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or otherwise affixing the animal to a stationary object; and
- F. "serious injury" means a physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

II. Exceptions

A dog shall not be declared a dangerous or potentially dangerous dog if:

- A. the dog was used by a law enforcement official for legitimate law enforcement purposes;
- B. the threat, injury or damage was sustained by a person or domestic animal who was:
 - (1) trespassing upon premises occupied by the owner or the dog;
 - (2) provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
 - (3) committing or attempting to commit a crime; or
- C. the dog was:

- (1) responding to pain or injury;
- (2) protecting itself or its offspring; or
- (3) protecting or defending a human being or domestic animal from attack or assault.

III. Seizure of dog; petition to court

- A. If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- B. If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- C. After seizure, the animal control authority shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of Section IV of this Dangerous Dog Section.
- D. After seizure:
 - (1) the owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to Section 5 of the Dangerous Dog Act; or
 - (2) the animal control authority may, within fourteen days after seizure of the dog, bring a petition in court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within thirty days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to its owner.
- E. If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within fourteen days of seizure of the dog, the court shall immediately order the release of the dog to its owner.
- F. If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority shall inform the Raton Humane Society of the animal. The Raton Humane Society may assume ownership of the animal, after full disclosure by the Animal Control Officer of the dangerous or potentially dangerous tendencies of the animal. Only if the Raton Humane Society does not accept ownership, the Animal Control Officer may humanely destroy the dog.
- G. A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control authority from making a subsequent application for seizure based on the dog's subsequent behavior.

IV. Registration and handling requirements for dangerous and potentially dangerous dogs

- A. The City of Raton shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes that:
 - (1) the owner is able to keep the dog under control at all times;
 - (2) a license, if applicable, has been issued pursuant to the requirements of the City of Raton;

- (3) the dog has a current rabies vaccination;
- (4) the owner has a proper enclosure for the dog;
- (5) the owner has paid an annual fee to the City of Raton of \$ 150.00 to register a potentially dangerous dog;
- (6) the dog has been spayed or neutered;
- (7) the dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
- (8) the owner has entered the dog in a socialization and behavior program approved by the animal control officer and offered by a private, certified animal trainer.

B. If a dog previously determined to be potentially dangerous has not exhibited any of the behaviors specified in Subsection D of Section I of this Dangerous Dog Section for thirty-six consecutive months, the owner may request the animal control authority in the jurisdiction to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.

C. The City of Raton shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of Subsection A of this section, establishes that:

- (1) the owner has paid an annual fee of \$150.00 to register a dangerous dog;
- (2) the owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable;
- (3) the dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination;
- (4) when the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times;
- (5) the dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
- (6) a clearly visible warning sign with a conspicuous warning symbol indicating that there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty feet, whichever is less.

D. An animal control authority may order the immediate impoundment of a dog previously determined to be a dangerous dog if the owner fails to abide by the conditions for registration, confinement or handling set forth in this section. The animal control authority shall inform the Raton Humane Society of the animal. The Raton Humane Society may assume ownership of the animal, after full disclosure by the Animal Control Officer of the dangerous or potentially dangerous tendencies of the animal. Only if the Raton Humane Society does not accept ownership, the Animal Control Officer may humanely destroy the dog.

V. Prohibited acts; penalties

A. It is unlawful for an owner of a dangerous or potentially dangerous dog to:

- (1) keep the dog without a valid certificate of registration;

- (2) violate the registration and handling requirements for the dog;
- (3) fail to notify the animal control authority immediately upon:
 - (a) the escape of the dog; or
 - (b) an attack by the dog upon a human being or a domestic animal;
- (4) fail to notify the animal control authority of the dog's death within five business days;
- (5) fail to notify the animal control authority within twenty-four hours if the dog has been sold or given away and provide the name, address and telephone number of the new owner of the dog;
- (6) fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case when there is reason to believe that the dog poses an imminent threat to public safety; or
- (7) fail to comply with special handling or care requirements for the dog that a court has ordered.

B. Any person found guilty of violating any of the provisions of this code shall be fined not more than \$500 or imprisoned for a period of not more than 90 days, or by both the fine and imprisonment, and each day this code is violated shall constitute a separate offense.

C. An owner of a dangerous or potentially dangerous dog that causes serious injury or death to a domestic animal, without provocation, is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

D. An owner of a dangerous or potentially dangerous dog that causes serious injury to a human being, without provocation, is guilty of a third degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

E. An owner of a dangerous or potentially dangerous dog that causes the death of a human being, without provocation, is guilty of a third degree felony resulting in the death of a human being and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

F. Prosecution pursuant to this section requires a showing that:

- (1) an owner knew of the propensity of a dog to inflict serious injury; or
- (2) the dog had previously been found by a court to be a dangerous or potentially dangerous dog. Penalty, see § 90.999

§ 90.030 HOARDING ANIMALS

(A) Animal hoarding is a complex and intricate public health and community issue. Its effects are far reaching and encompass mental health, animal welfare and public safety concerns.

(B) The following criteria are used to define animal hoarding: a) more than the typical number of companion animals; b) inability to provide even minimal standards of nutrition, sanitation, shelter and veterinary care, with this neglect often resulting in starvation, illness and death; and c) denial of the inability to provide this minimum care and the impact of that failure on the animals, the household and human occupants of the dwelling.

(C) The following shall be prohibited:

- A. Possessing over twelve (12) companion animals;
- B. Failing to provide necessary nutrition to the companion animals;
- C. Failing to shelter the companion animals in a sanitary environment;
- D. Failing to provide necessary veterinary care to the companion animals; and
- E. Displaying a disregard for conditions under which the companion animals are living.

§ 90.032 CANINE HYBRIDS

- A. No person shall own, harbor, keep, sell, offer for sale, or freely give any "canine hybrid", as defined in this title, within the municipal boundary of the town.
- B. Any person who lawfully holds or keeps a "canine hybrid" as defined by this title prior to the effective date hereof may maintain that individual animal until its death subject to appropriate confinement requirements.

DOG LICENSING AND REGISTRATION

§ 90.040 REQUIRED; FEES; PREREQUISITES

(A) Every keeper of any dog, 3 months of age or older, shall procure a license. The license fee shall be \$2.00 for each neutered male or spayed female dog. Non-neutered male or non-spayed female dog shall not be granted a license by the City, unless the owner has obtained a Hobby Breeder permit. If there is a Hobby Breeder permit issued, the license fee for a nonneutered or nonspayed animal shall be \$2.00. Each dog so licensed shall wear on its collar a metallic tag furnished by the City with the number and year license to be marked thereon. No license fee shall be charged for guide dogs trained to lead a blind person. License fees shall be paid annually within 30 days of vaccination or within 30 days of the annual anniversary date if a 3-year vaccine is administered.

(B) Before any dog is licensed, a licensed veterinarian shall vaccinate it against rabies as provided in § 90.105. The certificate of vaccination of the dog in New Mexico or showing vaccination in another state or country in conformity with the vaccination requirements in New Mexico shall be presented to the City Clerk/Treasurer when application is made for a license. No dog shall be licensed until such certificate is furnished showing proper vaccination and that the period of immunity is unexpired. It shall be the duty of the keeper of any dog to have the dog revaccinated for rabies within 1 week after expiration of each period of immunity.
 (1981 Code, § 5-36) (Rev. Ord. _____, passed _____) Penalty, see § 90.999

§ 90.041 CERTIFICATES AND TAGS

The current license and rabies tag shall be affixed to a dog licensed under §§ 90.040*et seq.* at all times except when the dog is being kept in an approved kennel, veterinary hospital, or training class. The original license and the rabies certificate of all dogs shall be retained by the owner and shall be available for inspection by any person charged with the enforcement of this chapter.
 (1981 Code, § 5-37) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.042 LOSS OF LICENSE TAG

In the event the original license tag is lost, the keeper shall obtain a duplicate tag from the municipality at cost of \$3.
 (1981 Code, § 5-38) (Ord. 676, passed 11-25-1980; Am. Ord. 925, passed 10-12-2004) Penalty, see § 90.999

HOBBY BREEDERS

§ 90.055 LICENSE

(A) Required; term; prerequisites; fee

(1) Restrictions. No person, group of persons, or business entity in the municipality may own, keep or harbor more than 4 dogs of 3 months of age or older, without maintaining a hobby breeder license. Foster placements, arranged through the Raton Humane Society or other non-profit animal welfare organization, are exempt from this restriction if they are fostering animals for that agency.

(2) License required. A hobby breeder must obtain a non-transferable hobby breeder license, which shall be posted in a conspicuous place at the breeder's residence. A hobby breeder license shall expire on December 31 of each year and shall be renewed by January 31 of the following year. No hobby breeder license shall be issued without an inspection certificate issued by the Animal Control Officer. The annual hobby breeder license fee shall be \$150.00. (1981 Code, § 5-46)

(B) Denials, suspensions, and revocations.

(1) A hobby breeder license may be denied, suspended, or revoked by the Animal Control Officer upon a determination that the operator of the breeding operation is in violation of this chapter.

(2) An opportunity for a hearing on any denial, suspension, or revocation shall be provided at a time and place determined by the City Commission.

(3) Based upon the record of the hearing, the Commission shall make a finding and shall sustain, modify, or rescind the action considered at the hearing. Any hobby breeder whose license has been suspended or revoked may make application for reinstatement of the license. If, following inspection, the applicant has complied with the requirements of this chapter, the license shall be reinstated. (1981 Code, § 5-47)

(Rev. Ord. _____, passed _____) Penalty, see § 90.999

§ 90.056 RESTRAINT OF ANIMALS; TRANSPORTING ANIMALS IN VEHICLES

A. Restraint of animals outdoors

1. Chaining or tethering in any form is prohibited as a means of outdoor confinement.

2. **Animals On Owner's Property:** Any animal, excluding cats, that is not deemed dangerous on its owner's property shall be :

a. Placed in a secure run or kennel measuring at least six feet (6') in width and twelve feet (12') in length, and with access to shade. For multiple animals, the size of the enclosure shall increase by three feet (3') on each dimension for each additional animal; or

b. Kept within a "secure enclosure", as defined in this title, surrounding the owner's premises or a portion thereof; or

c. Kept under the immediate physical control of a person capable of restraining the animal.

d. The animal must have access to adequate shade, shelter, food, and potable water as outlined in subsection 90.005 of this chapter.

e. The area where the animal is confined must be kept free of feces, garbage and other debris that might endanger the animal's health or safety or present as a nuisance.

f. The area where the animal is confined must be kept free of insect infestation, such as anthills, wasp nests, fleas, ticks, and maggot infestations.

g. The animal shall be brought indoors, garages, or other suitable areas, when temperatures drop to a point where the animal is potentially exposed to harm based on the size, and species of the animal.

3. **Animals Off Owner's Property:**

a. Any animal, excluding cats, off of its owner's property shall be kept on a leash at all times in compliance with this chapter, and/or under the immediate physical control of a person capable of restraining the animal. Voice command is not an acceptable form of control, except in areas specifically designated by the City.

B. Transporting Animals in Vehicles

1. When transporting Animals they must be kept safe.

- a. Pickup Trucks: Animals that are transported in the bed of a pickup truck must be humanely transported to prevent the possibility of the Animal falling out, protected from extreme temperatures, air temperature and surface in which the animal is kept being taken into consideration. If an Animal is put in a crate or other enclosure, the crate or enclosure must be securely fastened to the bed or sides of the truck so that the crate or enclosure cannot turn over or fall out.
- b. Protection from weather: No Animal shall be left in the bed of a truck whether in a crate or when the weather is such that the Animal will be exposed to extreme heat, cold or rain. not
- c. Cars, Vans and RVs: Animals riding inside vehicles that are not in crates or other enclosures must not be allowed access to a window opened wide enough for the Animal to jump, fly or fall out. Animals left unattended in cars, vans or RVs must have adequate ventilation to prevent the temperature in the vehicle from rising high enough such that any reasonable Person would know that the Animal would suffer from heat exposure. During the warmer months, no amount of ventilation will keep the car from getting too hot. If the City of Raton animal control officer or police officer determines that an Animal in a vehicle is in immediate danger, the City of Raton animal control officer or police officer may enter the vehicle by whatever means necessary, without being liable to the owner of the vehicle, and seize the Animal.
- d. Transporting more than one Animal: In addition to all other regulations in this article, Animals should never be overcrowded when being transported. If the Animals are crated or kept in any enclosure, they may be allowed to share a crate but each Animal should be able to stand up, move around, lie down and stretch out naturally. If crates or enclosures are stacked, they must be attached securely to prevent the crates or enclosures from falling or turning over. If crates or other enclosures are stacked, it is important that no urine or feces are passed between Crates and enclosures. Penalty, see § 90.999

§ 90.057 INSPECTION

The Animal Control Officer or his or her agent shall be permitted to enter, at any reasonable time, for the purpose of inspecting or reinspecting any kennel or pet shop to determine compliance with this chapter. (1981 Code, § 5-49) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.058 EXEMPTIONS

Sections 90.055 *et seq.* shall not apply to and shall not be construed to require a hobby breeder license for:

- (A) A veterinary hospital or clinic operated by a licensed veterinarian;
 - (B) A publicly owned animal control center or shelter;
 - (C) A bona fide animal shelter operated by an organized humane society; and/or
 - (D) A foster residence used through a bona fide animal rescue or humane society.
- (1981 Code, § 5-50) (Ord. 676, passed 11-25-1980)

IMPOUNDMENT

§ 90.070 ANIMAL SHELTER

A suitable animal shelter shall be provided for the purpose of boarding and caring for animals impounded under the provisions of this chapter.

(1981 Code, § 5-62) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.071 AUTHORIZED

Animals kept in violation of this chapter and stray animals shall be taken into custody by the Animal Control Officer or City police officer and thereupon impounded.
(1981 Code, § 5-63) (Ord. 676, passed 11-25-1980)

§ 90.072 RIGHT-OF-ENTRY

The Animal Control Officer or City Police Officer in performance of his or her duties may enter upon any unfenced lot, tract, or parcel of land for the purpose of apprehending animals running at large and stray animals.
(1981 Code, § 5-64) (Ord. 676, passed 11-25-1980)

§ 90.073 REGISTER

The Animal Control Officer or City Police Officer, upon impounding or receiving any animal, shall register the animal by entering the breed, color, and sex of the animal and the time and place the animal was apprehended into the registry kept for this purpose.
(1981 Code, § 5-65) (Ord. 676, passed 11-25-1980)

§ 90.074 NOTICE TO OWNER

- (A) If the keeper of an impounded animal is known, he or she must immediately be notified by telephone or mail.
- (B) If the keeper of the animal is not known, notice of the impoundment shall be posted in a conspicuous place at the animal shelter for a period of 5 days.
(1981 Code, § 5-66) (Ord. 676, passed 11-25-1980)

§ 90.075 REDEMPTION

(A) Generally. The keeper of any animal which has been impounded under the provisions of this chapter shall have the right to redeem the animal upon payment of the impounding fees, care and feeding charges, veterinary charges, and the other costs attributable to the impoundment, as required under this Title.
(1981 Code, § 5-67)

(B) Impoundment Fees.

- (1) The following fees shall be charged for the impoundment of any animal under the provisions of §§ 90.070 *et seq.*:
- (a) First redemption within calendar year - \$ 5.00;
 - (b) Second redemption within calendar year - \$ 20.00; and
 - (c) Third redemption within calendar year - \$ 30.00.

(2) Whenever any animal is impounded, an additional fee of \$3 shall be charged for each day, or fraction thereof, of impoundment for feeding and caring for the animal. In addition, should the services of a veterinarian be required, in the opinion of the Animal Control Officer, his or her fees shall be added.
(1981 Code, § 5-68)

(C) Time.

- (1) All impounded animals shall be redeemed within 5 days after impoundment. The day after the animal is impounded shall be considered Day One.
- (2) Any animals not redeemed within the required period shall become the property of the Raton Humane Society and may be placed for adoption upon the payment of the license fee, impoundment fees, care and feeding charges, charges, and the other costs or requirements as set by the Raton Humane Society.
(1981 Code, § 5-69) (Rev. Ord. _____, passed _____)

Penalty, see § 90.999

(D) Disposition of Impounded Animals:

1. Notice: If the owner of an impounded animal is known, the animal shelter shall make a reasonable effort to notify the owner immediately.

2. Duration:

- a. All impounded animals without identification shall be held for a minimum of five (5) working days.

- b. All stray animals with identification shall be held a minimum of five (5) working days, during which time, serious efforts will be made to locate the owners and notify the owner of his/her right to reclaim the animal.
- c. All quarantined animals shall be held and observed for a period of ten (10) consecutive days from the date of the bite or seizure.
- d. All owner surrendered animals immediately become the property of the Raton Humane Society, and shall be kept at the Raton Shelter, at the time of surrender. If an animal is surrendered, the City of Raton or the Raton Humane Society shall not allow the person so surrendering an animal to adopt another animal for a period of two (2) years.
- e. All animals placed under protective custody shall be held a minimum of fifteen (15) consecutive days.
- f. In computing any period of time, the day that the animal is impounded shall not be included. The last day of impoundment shall be included, unless it is a day 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.

3. Limited Right Of Reclamation By Owner: 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 subsection and all other applicable provisions of this title. To reclaim an animal, the owner/custodial person shall sign a statement of ownership/responsibility and comply with all provisions of this title prior to redeeming/reclaiming any animal. The person reclaiming shall show some proof of ownership sufficient for the Animal Control Officer to reasonably believe the person is the rightful owner (including but not limited to photos, veterinary records, purchase records).

4. Payment Of Fees And Other Assignable Costs: The limited right to redeem may only be exercised by the owner/custodial person upon payment to the City of Raton, at City Hall, of any license fees due, intact animal fee, hobby breeder fee, microchip fee, impounding fees, boarding charges, veterinary charges, sterilization deposit, and other costs incurred by the animal shelter for the care and maintenance of the animal, or as designated in the schedule of fees and other assignable costs.

5. Sterilization agreement and sterilization deposit required.

- a. No unsterilized animal shall be released (owner reclaim or adoption) from an animal shelter to a person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in Subsections c and d of this section.
- b. In addition to any adoption fee charged, a sterilization deposit of one hundred twenty-five dollars (\$125.00) shall be imposed on the adoption of each unsterilized animal from an animal shelter.
- c. Unsterilized animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six months of age.
- d. Unsterilized adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within thirty days of the date of adoption.

- e. The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted or reclaimed animal has been sterilized.
 - f. An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the one hundred twenty-five dollars (\$125.00) for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he will sterilize the animal within thirty days after release or will obtain a hobby breeder permit. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.
 - g. Spayed or neutered animals shall not be subject to any sterilization fees, upon adoption or reclaim, but shall be subject to any other fees applicable in this title.
6. Nonredeemed Animals: Any animal not reclaimed within the required holding period shall become the property of the animal shelter and ownership shall be transferred to the Raton Humane Society. Such animals may be:
- a. Placed for adoption in conformance with the requirements of this section and state law including, but not limited to, New Mexico Statutes Annotated (1978) section 77-1-20; or
 - b. Transferred to the ownership of any animal shelter or certified rescue group, or euthanized in a humane manner (only as allowed in this title), in conformance with that organization's criteria.
7. Adoption: An impounded animal shall not be released for adoption until:
- a. The required holding period for redemption/reclaiming has passed;
 - b. The animal has been deemed adoptable by the Raton Humane Society; and
 - c. The prospective adopter has paid any required adoption fee to the animal shelter or Raton Humane Society as noted in the schedule of fees and other assignable costs.
8. Adoption Of Companion Animals: For the adoption of any unsterilized dog or cat from the Raton Humane Society, the adopter shall pay the required adoption fee, as established by the animal shelter or Raton Humane Society and sign an agreement to have the animal sterilized by the age of five (5) months or within thirty (30) days, whichever is longer. The adopter shall have the animal sterilized within the required time period and shall provide the Raton Humane Society with written proof of said sterilization. If the adopted animal is already sterilized (spayed or neutered), the provisions of this subsection shall not be required of the adopter.
9. Euthanasia: Any impounded animal may be euthanized by the animal control officer, or by the animal shelter, or by such other persons as may be contracted with by the City to perform such euthanasia ONLY:
- a. For humane reasons to prevent the animal suffering, or
 - b. If the owner admits that the animal is dangerous and transfers ownership of the animal to the animal shelter, or
 - c. If the court finds that an animal is dangerous and poses an imminent threat to public safety and orders humane destruction of the animal consistent with the provisions of this title.
10. Permanent Identification:

- a. An owner must purchase a microchip from the animal shelter in conformance with the requirements of this title, implanted in the animal by injection before reclaiming the animal, unless it is already permanently identified.
- b. No reclaimed dog or cat shall be allowed to leave any animal shelter without being microchipped.
- c. If the animal arrives at the Shelter with tags or license information attached, it shall remain attached to the animal while housed at the Raton Animal Shelter.

§ 90.076 DISPOSITION OF ANIMALS BEING HELD ON COMPLAINT

In all instances when an animal is impounded and a court order related to a violation of this title 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 title in addition to penalties resulting from other charges.

LIVESTOCK

§ 90.089 MAINTENANCE OF CERTAIN ANIMALS WITHIN THE CITY

A. The keeping of *Large livestock animals*, such as, but not limited to, llamas, horses, mules, miniature horses/donkeys, swine, bovines, goats, sheep, buffalo and beefalo is not permitted in the City Limits of Raton, except as allowed in an R-1 zoned area or allowed by future zoning imposed by the City.

B. The keeping of *Small livestock animals*, such as, but not limited to, chickens, pigeons, geese, ducks, poultry and rabbits be restricted except for the following requirements:

a) Any person keeping or maintaining the fowl described above within any portion of the city shall k fowl confined or restrained by adequate fowl fencing, building, or buildings or otherwise, so that none of the fowl will be at liberty to tre property owned by others;

b) The keeping of small livestock shall not be permitted in the required front, side and street side yard setbacks. No animal shall be kept closer than 35 feet to an adjacent dwelling or the primary structure of an adjacent business, excluding that of the pro which the small livestock reside;

c) The total maximum number of small livestock animals allowed on any property within the city is FIVE (5) animals rooster shall be allowed in the City Limits of Raton;

d) No permit of any kind is needed to keep small livestock animals in the City of Raton.

C. Any owner of any small livestock, which are being kept, harbored, or maintained within the city pursuant to the provi this chapter, shall continuously keep the corral, barn, coop, hutch, or any shed or other structure where the animals are kept continuously and sanitary so that no offensive, objectionable, or injurious odors are permitted to annoy, inconvenience, or jeopardize any resident with area of the place where the animal or animals are authorized to be kept and so that at no time will the corrals, barns, sheds, coops, or hutc become a nuisance or a menace to public health in the opinion of the Animal Control Officer.

Penalty, see § 90.999

§ 90.090 RUNNING AT LARGE UNLAWFUL.

It is unlawful for any domestic livestock, including, but not limited to, neat cattle, horses, mules, donkeys, burros, swine, goats, sheep, or fowl, or other animals, to be turned loose, abandoned, or to run at large within the limits of the city or for the animal to be tethered that it may roam across or into any street or public place in the municipality; and it is unlawful for any person to herd

or detain the animal in any street, avenue, alley, or other public place in the municipality.

(1981 Code, § 5-82) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

Statutory reference:

Authority to regulate, restrain, and prohibit running at large of any animal within boundaries of the city, see NMSA § 3-18-3A(2)

§ 90.091 IMPOUNDMENT

(A) The Animal Control Officer shall take up and impound every animal found running at large in violation of §§ 90.090 *et seq.* and shall provide proper care and sustenance for every animal impounded at the expense of the municipality, or the owner, if known.

(B) Within 24 hours after any animal has been impounded, the Animal Control Officer shall notify the owner, possessor, or keeper of the animal, that the animal has been impounded. If the owner, possessor, or keeper of the animal is not known or if his or her address cannot be determined, the Animal Control Officer shall cause to be posted in at least 2 conspicuous public places in the municipality for 5 consecutive days a notice of impoundment with a description of the animal.

(C) Any person who shall break or in any manner, directly or indirectly, aid in breaking into the enclosure in which any animal is impounded, without having paid all costs, charges, and fees herein provided for, or who shall willfully or intentionally hinder or obstruct the Animal Control Officer in the discharge of his or her official duty under the provisions of this chapter, shall be, upon conviction, punished as provided in § 90.999, unless the matter is referred to, and prosecuted by, the District Attorney's office as a violation of any appropriate State Statute.
(1981 Code, § 5-83) (Ord. 676, passed 11-25-1980)

RABIES CONTROL

§ 90.105 ANNUAL VACCINATION REQUIRED

(A) It is the duty of every person keeping a dog or cat over the age of 3 months to have the animal vaccinated against rabies. The animal shall receive a booster within the 12-month interval following the initial vaccination. Every domestic dog and cat shall be revaccinated against rabies within 12 months if a 1-year vaccine is administered or within 36 months if a 3-year vaccine is administered. Every veterinarian who vaccinates a dog or cat hereunder shall issue to the keeper of the animal a numbered vaccination certificate and tag. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the type of vaccine used, the date of vaccination and the expiration date of the period of immunity.

(B) It is unlawful to keep any unvaccinated dog or any dog which has shown any symptom of rabies.
(1981 Code, § 5-95) (Ord. 676, passed 11-25-1980; Am. Ord. 925, passed 10-12-2004) Penalty, see § 90.999

§ 90.106 EXHIBITION OF VACCINATION CERTIFICATE UPON DEMAND

Every person who keeps a vaccinated dog or cat must exhibit his or her copy of the certificate of vaccination upon the demand of any person charged with the enforcement of this chapter.
(1981 Code, § 5-96) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.107 HARBORING UNVACCINATED ANIMALS

It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein.
(1981 Code, § 5-97) (Ord. 676, passed 11-25-1980; Am. Ord. 925, passed 10-12-2004) Penalty, see § 90.999

§ 90.108 REPORTING RABIES SUSPECTS

Every veterinarian who makes a clinical diagnosis of rabies and every person who suspects rabies in a domestic or wild animal shall immediately report the same to the local District Health Office of the Health Services Division of the Health and Environment Department, stating precisely when and where the animal was seen and if possible where it may be found.
(1981 Code, § 5-98) (Ord. 676, passed 11-25-1980) Penalty, see § 90.999

§ 90.109 REPORT OF HUMAN EXPOSURE TO RABIES

Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the Animal Control

Officer and to the local District Health Office. Every physician or other health care professional who treats a person for a bite shall report the treatment to the local District Health Office within 12 hours of the treatment. The treatment must specify the name and address of the person bitten.

(1981 Code, § 5-99) (Ord. 676, passed 11-25-1980) [Penalty, see § 90.999](#)

Statutory reference: *Similar provisions, see NMSA § 77-1-6*

§ 90.110 QUARANTINE

(A) *Generally.* Any district health officer may declare a quarantine against rabies within the health district of his or her jurisdiction when, in his or her judgment, rabies exists to the extent that it is a danger to public health. Upon the declaration, all dogs within the health district shall be confined on the premises of the owner or keeper, in a veterinary hospital, commercial dog kennel, or in a municipal animal shelter. After reasonable effort to apprehend any dog running at large and uncontrolled by its owner or keeper during a period of quarantine, any peace officer may kill the dog and properly dispose of the body. A quarantine shall not be removed except by order of the district health officer.

(1981 Code, § 5-100)

(B) *Rabies suspects.* Any dog or cat which has bitten a person shall be confined and observed for a period of 10 days from the date of the bite at the animal shelter, a veterinary hospital, or an approved kennel. Any veterinary costs, boarding and impoundment fees shall be paid by the owner before the animal is released following observation at the municipal shelter. If the animal has a current vaccination for rabies and the area involved is not under quarantine for rabies, the Animal Control Officer shall permit quarantine of the animal at the owner's home as long as the premises have been inspected and approved for purpose by the Animal Control Officer. If the animal is observed at the owner's home, no fees or costs shall be levied.

Officer
the

(1981 Code, § 5-101)

(C) *Enforcement.* It is unlawful to remove any dog or cat from enforced quarantine during the period of confinement without consent of the responsible Animal Control Officer.

(1981 Code, § 5-102)

(Ord. 676, passed 11-25-1980) [Penalty, see § 90.999](#)

§ 90.111 PROCEDURE AS TO DOGS OR CATS BITTEN BY RABID ANIMALS

(A) Any dog or cat bitten by an animal known or proved to be rabid shall be destroyed immediately by its owner or by a peace officer; provided that any animal which has been vaccinated at least 3 weeks before being bitten shall be confined for 90 days.

(B) At the end of the confinement period, the animal shall be released if declared free of rabies by a licensed veterinarian.

(C) If, as determined by the veterinarian, the animal develops rabies during the period of confinement, the owner or keeper shall have it destroyed and properly disposed of.

(1981 Code, § 5-103) (Ord. 676, passed 11-25-1980) [Penalty, see § 90.999](#)

Statutory reference: *Similar provisions, see NMSA Chapter 77, Art. 1*

§ 90.112 WILD ANIMAL BITES

Bites inflicted by animals other than dogs and cats must be reported to and discussed with the local District Health Office for proper disposition.

(1981 Code, § 5-104) (Ord. 676, passed 11-25-1980)

§ 90.113 BIRDS; IMPOUNDING, CRATING, HOUSING

It is unlawful for any person to confine any bird unless provisions are made for the proper feeding and the furnishing of water to such birds at intervals not longer than forty eight (48) hours. No person shall confine any bird in a crate, box, or other enclosure that does not permit each bird confined therein to stand in a naturally erect position.

§ 90.115 FEE SCHEDULE

_____ In addition to any fee, fine or payment expressly stated in any subsection of this Title, the following fees shall be required. If assessed by the Municipal Court after a finding of guilt, these fees shall not be suspended or deferred, but may be worked off at a rate determined by the Municipal Judge by work at the Raton Animal Shelter with concurrence of the Raton Police Department.

Pick up (surrender or deceased animal) and disposal fees (deceased animal) will be determined by the Raton City

Animal Control Officer and posted at the animal shelter.
 Adoption fees to be determined by the Raton Humane Society.
 Microchipping fee to be determined by the Raton City Animal Control Officer, and shall be posted at the animal shelter.

Failure to obtain a required permit	\$ 100.00	1st offense
	\$ 200.00	2nd offense
Failure to comply with rabies vaccination	\$ 50.00	
Running at Large	\$ 20.00	1st offense
	\$ 50.00	2nd offense in same calendar year
Disturbing the Peace (Nuisance Animal)	\$ 100.00	
Sterilization deposit	\$ 125.00	
Multiple animals (per incident)	\$ 50.00	per every animal over six
Intact animal (per incident)	\$ 100.00	
Hobby breeder (per year)	\$ 150.00	
Dangerous animal (per year)	\$ 150.00	
Potentially dangerous animal (per year)	\$ 150.00	

After the third offense of any or all of the categories in a calendar year, the animal shall be impounded and relinquished to the animal shelter for adoption.

§ 90.999 GENERAL PENALTY FOR TITLE IX, CHAPTER 90

(A) Any person found guilty of violating any of the provisions of this code shall be fined not more than \$500 or imprisoned for a period of not more than 90 days, or by both the fine and imprisonment, and each day this code is violated shall constitute a separate offense; provided, however, that if a specific penalty is provided therefor in any particular and individual section of this code, then the specific penalty shall prevail.

(1) The imposition of a penalty under the provisions of this code or any ordinance of the city shall not prevent the revocation or suspension of any license, franchise, or permit issued or granted under the provisions of this code or any ordinance of the city.

(2) In the event any violation of this code or any ordinance of the city is designated as a nuisance under the provisions thereof, the nuisance may be summarily abated by the city in addition to the imposition of a fine or imprisonment.

(3) The conviction of any person for the violation of any provision of this code or any ordinance of the city, and the payment of a fine or the serving of any term of imprisonment as punishment therefor, shall not relieve the person from any other duty, responsibility, liability, or obligation imposed by law arising from the act or omission constituting the violation. The court may exercise discretion to suspend a sentence in whole or in part and place the convicted person on probation for a term that the judge may find just and proper not to exceed one year, conditioned upon the satisfaction of lawful conditions imposed by the court.

(B) Every person convicted of a violation of any provisions of § 90.107 (rabies vaccination required) shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$500 or imprisonment for a term not exceeding 90 days or by both the fine and imprisonment. Every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(1981 Code, § 5-97) (Ord. 676, passed 11-25-1980; Am. Ord. 925, passed 10-12-2004)