

**ANIMALS ORDINANCE AMENDMENT**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE 995, CHAPTER 90: ANIMALS**

**WHEREAS**, the Governing Body of the City of Raton, New Mexico by Ordinance 995, Passed ADOPTED, SIGNED AND APPROVED, the 22<sup>nd</sup> day of August, 2017. (1981) Code § 5-97) (Ord.676, Passed 11-25-1980 Am. Ord. 925 passed 10-12-2004), enacted Chapter 90: ANIMALS and

**WHEREAS**, the Governing Body has determined amendments are necessary to serve the public health, welfare, and safety.

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body of the City of Raton, New Mexico that § 90.025 DANGEROUS AND POTENTIALLY DANGEROUS DOGS, is hereby amended as follows:

(A) *Definitions.*

- Replace definition of current **DANGEROUS DOG** with the following:

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

- Replace definition of current **POTENTIALLY DANGEROUS DOG** with the following:

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

- (a) Chasing or menacing a person or domestic animal or livestock in an aggressive manner and without provocation; or
- (b) Acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure; or
- (c) Any dog which, when unprovoked, inflicts an injury which is less than a serious injury to a person, domestic animal, or livestock.

(D) *Registration and handling requirements for dangerous and potentially dangerous dogs.*

- Replace (1) (e) with the following:

The owner has obtained specific liability insurance coverage (excluding and in addition to homeowners or renters insurance) or surety bond in an amount of at least \$100,000

to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and has submitted certificates or evidence of insurance or surety to the city. Owner shall maintain continuous financial assurance during the ownership term of the dog.

- Replace (D) (3) with the following:

The city shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of division (D) above, establishes that:

**PASSED, ADOPTED SIGNED AND APPROVED** this \_\_\_\_\_ day of February, 2021.

**CITY OF RATON, NEW MEXICO**

\_\_\_\_\_  
**James Neil Segotta, Jr. - Mayor**

**ATTEST:**

\_\_\_\_\_  
**Michael Anne Antonucci - City Clerk**



**§ 90.025 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.**

(A) *Definitions.* As used in this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANIMAL CONTROL AUTHORITY.** An entity authorized to enforce the animal control laws of the city, 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 section.

**DANGEROUS DOG.** ~~A dog that caused a serious injury to a person or domestic animal.~~  
Any dog which, when unprovoked, inflicts an injury which is a serious injury to a person, domestic animal, or livestock.

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

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

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

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

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

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

(b) Acting in a highly aggressive manner within a fenced yard or enclosures and appearing able to jump out of the yard or enclosure; or

(c) 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 and young children from entering the confined area but does not include chaining, restraining or otherwise affixing the animal to a stationary object.

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

(B) *Exceptions.* A dog shall not be declared a dangerous or potentially dangerous dog if:

- (1) The dog was used by a law enforcement official for legitimate law enforcement purposes;
- (2) The threat, injury or damage was sustained by a person or domestic animal who was:
  - (a) Trespassing upon premises occupied by the owner or the dog;
  - (b) Provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
  - (c) Committing or attempting to commit a crime; or
- (3) The dog was:
  - (a) Responding to pain or injury;
  - (b) Protecting itself or its offspring; or
  - (c) Protecting or defending a human being or domestic animal from attack or assault.

(C) *Seizure of dog; petition to court.*

(1) 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.

(2) 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.

(3) 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 division (D) below.

(4) After seizure:

(a) The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to NMSA § 77- 1A-5; or

(b) The animal control authority may, within 14 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 30 days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this division, the court shall immediately order the release of the dog to its owner.

(5) 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 14 days of seizure of the dog, the court shall immediately order the release of the dog to its owner.



(6) 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.

(7) 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.

(D) *Registration and handling requirements for dangerous and potentially dangerous dogs.*

(1) The city shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes that:

- (a) The owner is able to keep the dog under control at all times;
- (b) A license, if applicable, has been issued pursuant to the requirements of the city;
- (c) The dog has a current rabies vaccination;
- (d) The owner has a proper enclosure for the dog;
- (e) ~~The owner has paid an annual fee to the city of \$150 to register a potentially dangerous dog;~~

The owner has obtained specific liability insurance coverage (excluding and in addition to homeowners or renters insurance) or surety bond in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and has submitted certificates or evidence of insurance or surety to the city. Owner shall maintain continuous financial assurance during the ownership term of the dog.

- (f) The dog has been spayed or neutered;
- (g) The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
- (h) 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.

(2) If a dog previously determined to be potentially dangerous has not exhibited any of the behaviors specified in division (A) above under the definition for potentially dangerous dog for 36 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.

(3) The city shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of division (A) (D) above, establishes that:

(a) The owner has paid an annual fee of \$150 to register a dangerous dog;

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

(c) The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination;

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

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

(f) 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 50 feet, whichever is less.

(4) 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.

(E) *Prohibited acts; penalties.*

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

(a) Keep the dog without a valid certificate of registration;

(b) Violate the registration and handling requirements for the dog;

(c) Fail to notify the animal control authority immediately upon:

1. The escape of the dog; or

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

(d) Fail to notify the animal control authority of the dog's death within 5 business days;

(e) Fail to notify the animal control authority within 24 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;

(f) 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



(g) Fail to comply with special handling or care requirements for the dog that a court has ordered.

(2) Any person found guilty of violating any of the provisions of this section 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.

(3) 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 NMSA § 31-18-15.

(4) 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 NMSA § 31-18-15.

(5) 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 NMSA § 31-18-15.

(6) Prosecution pursuant to this section requires a showing that:

(a) An owner knew of the propensity of a dog to inflict serious injury; or

(b) The dog had previously been found by a court to be a dangerous or potentially dangerous dog.

(Ord. 995, passed 8-22-2017) Penalty, see § 90.999