

Santa Fe

5-2 - DEFINITIONS.

As used in this chapter:

Administrator means the person responsible for the operations of the animal services division.

Animal means any vertebrate member of the animal kingdom excluding human beings.

Animal services center means the facility maintained and operated pursuant to the provisions of this chapter.

Animal services officer means an employee of the city, designated as such by the administrator, who has the authority of a peace officer to issue citations for violations of this chapter and performs such other duties relating to animal services as prescribed by the city manager.

Anti-escape provision means any housing, fencing or device which a guard dog cannot go over, under, through or around.

Bite means an actual puncture or tear of the skin inflicted by the teeth of an animal.

Breeder means any person involved in controlled breeding of animals except those complying with subsection 5-9.5 SFCC 1987 for litter fees. Breeders are subject to the professional animal care permit requirements set forth in subsection 5-6.2 SFCC 1987.

Commercial property means:

- A. A portion of land, buildings, or land and buildings in the city, zoned for, or utilized for commercial or business uses, including temporary sites; and
- B. Any vehicle utilized for commercial or business purposes in the city.

Cruelty means an overt act committed with the intent to harm or needlessly kill an animal or committed out of depraved indifference for the animal's wellbeing, including but not limited to torture, maiming, beating or otherwise committing violence that causes injury or death.

Dangerous animal means:

- A. An animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent great bodily harm to a person or domesticated animal provided that the person or the second animal are not on the premises of the owner or person having custody of the first animal; or
- B. An animal which, when unprovoked, injures a person but the injury does not result in

great bodily harm; or

- C. An animal which, because of its poisonous bite or sting, constitutes a significant hazard to the public.

Dog park means an official city designated park or portion thereof where dogs can exercise and run off leash in a safe, secure environment within the established limits and boundaries of an official city designated dog park.

Domestic animal means an animal that is sufficiently tame to live with humans, such as a dog or cat.

Establishment means a place of business together with its grounds and equipment.

Feces means excrement and other waste matter discharged from the bowels of an animal.

Great bodily harm means an injury to a person or domesticated animal which:

- A. Creates a high probability of death; or
- B. Results in serious disfigurement; or
- C. Results in loss of any member or organ of the body; or
- D. Results in permanent or prolonged impairment of the use of any member or organ of the body.

Grooming parlor means any establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetic services for profit.

Guard dog means any dog that is utilized to protect commercial property, as defined above.

Guard dog site means any premises utilizing a guard dog that has a current guard dog permit.

Handler means a person who trains dogs for socialization or dog shows or trials or a security person capable of controlling guard dogs.

Handler breeder or hobby breeder means any person involved in controlled breeding of animals that are approved by a nationally recognized animal breeding organization, and are eligible to be so registered.

Heat or season means a regularly recurring state of estrus during which the female animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

Hybrid means an animal created by breeding animals of different species. For purposes of this article, it includes, but is not limited to, the hybrid offspring of domesticated dogs and wolves, or domesticated dogs and coyotes.

Impound means to take-up and confine an animal in a humane manner.

Inspection officer means an animal services officer authorized by ordinance to conduct inspectorial searches.

Inspection order means an order issued by a municipal or district court judge.

Inspectorial search means an entry into and examination of premises for the purpose of ascertaining the existence or nonexistence of conditions dangerous to health or safety or otherwise relevant to the public interest, in accordance with inspection prescribed by this chapter enacted for the promotion of public well-being.

Kennel means any commercial establishment or premises where ten (10) or more dogs or cats, over three (3) months of age, are boarded, kept, or maintained for any purpose whatsoever, with the exception of state-inspected veterinary hospitals and shelters.

Licensed veterinarian means a person with a doctor of veterinary medicine degree, licensed to practice in the state.

Livestock means cattle, horses, mules, donkeys, swine, sheep or goats.

Neglect means an overt act involving failure to provide for animal health or safety, including but not limited to failure to provide adequate food, water, shelter, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age and condition.

Nuisance means, but is not limited to defecation, urination, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offending the well-being of the inhabitants of the city.

Owner of animal means a person who owns, harbors or keeps, or knowingly permits an animal to be harbored or kept, or has an animal in their care, or who permits an animal to remain on or about their premises.

Person means any individual, household, firm, partnership, corporation, company, society, association, and every officer, agent or employee thereof.

Person in charge means, for the purpose of inspection, the individual present in an establishment who is the apparent supervisor of the establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present shall be considered the person in charge.

Pet shop means any commercial establishment or premises or part thereof maintained for the purchase, sale, exchange of animals of any type, except that the term shall not include livestock auctions.

Playground means an area where outdoor equipment is placed for children to play on, athletic fields such as baseball, football, soccer fields, handball courts, tennis courts, skateboard parks, etc.

Police dog means any dog owned by a public agency and used in law enforcement activities under the direction of a handler.

Premises means a parcel of land and the structures thereon.

Professional animal care business means a business operated by a person or persons that involves live animals, and includes, but is not limited to, animal rescue, animal shelter, boarding kennel, breeder, grooming parlor, grooming service, commercial kennel, pet day care facility, pet day care, pet sitting, pet store, training facility, dog walking, and circus acts.

Professional animal care permit means a permit issued by the city of Santa Fe animal services administrator to a professional animal care business.

Quarantine means to detain or isolate an animal suspected of having a contagious disease.

Restraint means:

- A. Confinement within the real property limits of an animal owner where the animal is secured by a leash or lead or is otherwise under the control of a responsible person; or
- B. Confinement within a vehicle in a manner that prevents an animal from escaping.

Running at large means not to be confined within a building, shelter, walled or fenced area or secured by a leash, rope, chain or other restraining device, unless under the direct control of the owner/handler or keeper.

Service animal means a dog or miniature horse that is individually trained to do work or perform tasks for a person with a disability.

Shelter means:

- A. Any establishment owned and operated by a non-profit humane organization licensed to do business in the state; or

- B. A structure that is moisture-proof, wind-proof, and of suitable size to accommodate an animal, allowing for freedom of movement to make normal postural adjustments, including the ability to stand, turn around, and lie down with limbs outstretched including, but not limited to, a dog house, shed, barn, private residence, or similar structure.

Stray animal means any animal found running at large beyond the boundaries of the premises of the owner unless the animal is within the established limits and boundaries of an official city designated dog park.

Unaltered means not neutered or spayed.

Vaccination means protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the state.

Vermin means small insects and animals (such as fleas, mice, rats, or gophers) that are sometimes harmful to plants or other animals and that are difficult to get rid of.

Vicious animal means an animal which kills or causes great bodily harm. It does not include an animal that bites, attacks or injures a person or second animal unlawfully upon the premises of the owner or person having custody of the first animal. Any animal that has previously been found to be a dangerous animal may thereafter be deemed vicious upon a second or subsequent offense.

Wild or exotic animal means any animal not normally considered domesticated and shall include, but not be limited to, the following:

- A. Class reptilia; order phidia, such as racers, boas, water snakes, and pythons, and order loricata, such as alligators, caymans and crocodiles;
- B. The following members of the class aves; order falconiforms, such as hawks, eagles, and vultures, and subdivision ratitae, such as ostriches, rheas, cassowaries, and emus;
- C. Class mammalia; order carnivora; family felidae, such as ocelots, margays, tigers, jaguars, leopards, and cougars, except commonly accepted domesticated cats; family canidae, such as wolves, dingos, coyotes and jackals, except commonly accepted domesticated dogs; family mustelidae, such as weasels, martins, mink, badgers, except ferrets, family procynnidae, such as raccoons; family ursidae, such as bears; family pinnipedia such as seals, sea lions and walruses; order marsupialia, such as kangaroos, and common opossums; order edentata, such as sloths, anteaters, and armadillos; order proboscidea, such as elephants; order primata, such as monkeys, chimpanzees, and gorillas; order rodenta, such as porcupines; order ungulata, such as hippopotamuses, giraffes, llamas,

antelope, deer, bison and camels but excluding cattle, swine, sheep, and goats; and order euungulata such as rhinoceroses, tapirs, and zebras but excluding horses, ponies, donkeys, burros and mules;

- D. Class chondrichthyes, subclass elasmobranchii such as sharks, stingrays and skates; and
- E. Hybrids, which includes the offspring of two (2) animals of different races, breeds, species, varieties or genera involving any one or more of the animals mentioned in Subsections A—D above.

(Ordained as Code 1973, § 4-2 by Ord. #1979-2, § 4-2; Ord. #1980-39, § 1; Ord. #1984-70, § 1; SFCC 1981, § 6-2-2; Ord. #1989-27, § 1; Ord. #1999-26, § 1; Ord. #2002-14, § 1; Ord. #2004-20, §§ 1, 3-5; Ord. #2014-7, § 2; Ord. #2015-2 § 1; Ord. #2017-19 § 1; Ord. #2020-6, § 1, 3-11-20; Ord. No. 2023-7, Exh. A)

5-5.3 - Biting dogs or other biting animals.

- A. The owner of an animal that bites a person, and a person bitten by an animal, shall report that occurrence to the animal services center and to the state health and environment department within twenty-four (24) hours. The owner of an animal that bites a person shall surrender the animal to the animal services center if the administrator deems it necessary to impound the animal for a period of observation.
- B. A physician who renders professional treatment to a person bitten by an animal shall report that fact to the animal services center and to the state health and environment department within twenty-four (24) hours of their first professional attendance. The physician shall report the name, sex and address of the person bitten, as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite, if known, and any other facts or details that may assist the administrator in ascertaining the immunization status of the animal.
- C. An animal that bites a person shall be confined securely at a place for a period of time deemed necessary by the administrator. The owner of the animal shall bear the cost of confinement. The administrator may consent to confinement on the owner's premises but only if the animal had a current rabies vaccination at the time the bite was inflicted. The premises where the home confinement is to occur shall be inspected and approved for such purposes by an animal services officer. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the administrator before consent may be given for such home confinement.
- D. A person who has custody of an animal that has bitten a person shall immediately notify the administrator if the animal shows any signs of sickness, abnormal behavior, or if the animal escapes confinement. If the animal dies while it is in confinement, the person having custody of the animal shall notify the administrator or an animal services officer and relinquish any claims to the animal.

(Ordained as Code 1973, § 4-13 by Ord. #1979-2, § 4-13; Ord. #1980-39, § 3; SFCC 1981, § 6-5-3; Ord. #2004-20, § 1; Ord. #2014-7, § 7; Ord. No. 2023-7, Exh. A)

State Law reference— Similar provisions, § 77-1-6 NMSA 1978.

New Mexico

ARTICLE 1A Dangerous Dog

77-1A-1. Short title.

This act may be cited as the "Dangerous Dog Act".

77-1A-2. Definitions.

As used in the Dangerous Dog Act:

- A. "animal control authority" means an entity authorized to enforce the animal control laws of a city, county or state, whether acting alone or in concert with other governmental authorities. In those areas not served by an animal control authority, the sheriff or municipal law enforcement shall carry out the duties of the animal control authority under the Dangerous Dog Act;
- 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 [aggressive] 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.

77-1A-3. 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.

77-1A-4. 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 5 [77-1A-5 NMSA 1978] of the Dangerous Dog Act .
- 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 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.

77-1A-5. Registration and handling requirements for dangerous and potentially dangerous dogs.

A. An animal control authority 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 jurisdiction;
- (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, if applicable, established by the animal control authority 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 or offered by the animal control authority.

B. If a dog previously determined to be potentially dangerous has not exhibited any of the behaviors specified in Subsection D of Section 2 [77-1A-2 NMSA 1978] of the Dangerous Dog Act 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. An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of Subsection A of this section, establishes that:

- (1) the owner has paid an annual fee, if applicable, established by the animal control authority 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 or humane destruction 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.

77-1A-6. 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. Whoever violates a provision of Subsection A of this section is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and, for a second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

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.