

TOWN OF ESTANCIA
ANIMAL CONTROL ORDINANCE

ORDINANCE NO. 2009-02

Adopted on: March 2, 2009

Effective date: March 17, 2009

This Animal Control Ordinance repeals and supercedes all other Animal Control Ordinances,
Rules and Regulations presently in effect.

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**TOWN OF ESTANCIA
ANIMAL CONTROL ORDINANCE**

ORDINANCE NO. 2009-02

8-1-1 SHORT TITLE AND PURPOSE. This Ordinance shall be known and may be cited as the Town of Estancia Animal Control Ordinance. It is the intent of the Board of Trustees of the Town of Estancia that the enactment of this Ordinance will establish procedures that will:

1. Assist in providing control of animals within the Town's boundaries;
2. Protect residents from annoyance and injury by animals;
3. Protect animals from neglect and abuse;
4. Establish certain fees related to this Ordinance and the care, raising and maintenance of animals;
5. Prescribe penalties for violations of the Ordinance; and
6. Provide for the safety, preserving the health, promoting order, comfort and convenience and protecting the property of the municipality and its residents and visitors.

All previous Ordinances set forth in Section 8 or having to do with the control of animals (wild and domestic), are hereby repealed and superseded by this Ordinance herein.

8-1-2 DEFINITIONS.

ABANDON - means to leave any animal unattended and with no provision of water, food or shelter for more than thirty-six (36) hours on one's premises or to dump or leave off a domestic animal on property other than one's own without permission.

ADOPTION - means to take by choice and assume responsibility for proper care in accordance with this Ordinance.

ANIMAL - means any vertebrate member of the animal kingdom, excluding the human species, but including those animals who are also under the jurisdiction of the New Mexico Department of Game and Fish, and including, but not limited to wild animals, domesticated animals and livestock.

ANIMAL CONTROL CENTER (SHELTER) - means any establishment authorized by the Town of Estancia for the humane care and custody of impounded animals.

ANIMAL CONTROL OFFICER - means any person designated by the Town of Estancia

as responsible and having authority within the Town to implement and enforce this Ordinance. This may be a specifically designated animal control officer or a police officer designated by the Chief of Police to enforce this Ordinance.

BITE - means any puncture, tear or wound of the skin inflicted by the teeth of an animal. A scratch inflicted by an animal which punctures or tears the skin may also be considered a 'bite.'

BOARD OF TRUSTEES - means the governing body of the Town of Estancia, which may also be referred to as the "Town Council."

BREEDER - means any person involved in controlled breeding of animals. Breeders are subject to professional animal care permit requirements.

COMMERCIAL KENNEL - means any commercial establishment or premise where ten or more dogs or cats (or a combination of dogs and cats) over three months of age are boarded, kept or maintained for any purpose whatsoever.

CANINE HYBRID - means any canine which results from the breeding of a domestic dog with any other canine sub-species, including, but not limited to: wolf/dog hybrids and coyote/dog hybrids.

CONFINED or CONFINEMENT - means restriction of an animal at all times by an owner or keeper in an escape proof building or other enclosure away from other animals and the public.

COURT - means the municipal court for the Town of Estancia or the Seventh Judicial District Court for the County of Torrance.

DANGEROUS DOG - means a dog that has caused a serious injury to a person or domestic animal.

ESTRAY or STRAY - means any animal running at large and unattended.

HEAT, ESTRUS, 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.

HOBBY BREEDER - means a person involved in showing or controlled breeding of dogs and cats which are registered with a nationally or internationally recognized animal registry organization.

HOBBY KENNEL - means any private nonprofit premises operated by a person for the

purposes of bringing aid and comfort to more than four (4) but not to exceed ten (10) animals, which will not be used for the purpose of breeding.

IMPOUND or IMPOUNDMENT - means the taking into custody a stray, dangerous or vicious animal, or an animal alleged to be dangerous or vicious, or an animal alleged to be neglected or abused, by an animal control officer at an animal control center or shelter.

INSPECTION OFFICER - means an animal control officer who is authorized by this Ordinance to conduct inspectorial searches.

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 and welfare, in accordance with the inspection requirements prescribed in this Ordinance.

LICENSED VETERINARIAN - means a person with a Doctor of Veterinary Medicine Degree licensed by the State of New Mexico to practice veterinary medicine.

LIVESTOCK - means horses, cattle, mules, donkeys, swine, sheep, goats, rabbits and poultry.

NUISANCE - means, but is not limited to, disturbing the peace, emitting noxious or offensive odors, prolonged barking or other offensive and intrusive animal noise, or otherwise endangering offending the well-being of the Town's residents.

OWNER - means the owner of an animal, or one who harbors, keeps or knowingly permits an animal to harbored or kept, or has an animal in his care, or who permits an animal to remain on his premises.

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

PERSON IN CHARGE - means, for the purpose of an inspection, the individual present in the establishment or residence who is the apparent supervisor of the establishment, or in charge of the residence, at the time of the inspection. If no individual is the apparent supervisor, than any employee present, or, in the case of a residence, anyone who has reached the age of eighteen (18), shall be considered the person in charge.

PET SHOP - means any commercial establishment or premises or part thereof maintained for the purchase, sale, exchange or hire of animals of any type; except the term shall not include livestock auctions.

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 aggressive manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.

PREMISES - means a parcel of land and the structures thereon.

QUARANTINE - means the containment of all animals specified by order of the District Health Officer or the Animal Control Officer upon the private premises of the owner, or under restraint by leash, or within a closed cage or paddock and shall include other measures ordered by the District Health Officer or the Animal Control Officer to control the spread of rabies or other infectious or contagious diseases which may represent a health risk to the public or other animals.

RUNNING AT LARGE - means an animal that is free of physical restraints and to go beyond the boundaries of the premises of the owner.

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

SERVICE ANIMAL - means any animal trained or in training to assist mobility impaired, blind, or deaf people or trained for and actively employed by a police department.

UNALTERED - means not neutered, spayed or fixed.

VACCINATION - means protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the State of New Mexico.

VICIOUS ANIMAL - means any animal which shall bite or in any other manner attack or attempt to attack any person except that any domesticated animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, which is provoked to attack, shall not be deemed a vicious animal.

WILD OR EXOTIC ANIMAL - means any animal or species that in its natural life is wild, dangerous or ferocious and although it may be trained or tamed, is still considered by this Ordinance to be dangerous to others and has the potential to injure or kill a person or other

animals. Those animals, however tamed, shall include but are not limited to:

1. Dog family (Canidae), all except domestic dogs, including wolves, foxes and coyotes;
2. Cat family (Felidae), all except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, bobcats and ocelots;
3. Bears (Ursidae), including grizzly bears and brown bears and black bears;
4. Weasels (Mustelidae), all except the commonly accepted domesticated ferrets, including weasel, marten, mink, wolverine, badger, otter, ermine, and mongoose;
5. Raccoons (Procyonidae), including eastern raccoon, desert raccoon and ring-tailed cat;
6. Primates (Homidae);
7. Porcupines (Erthizonidae);
8. Venomous snakes;
9. Venomous lizards, alligators and crocodiles;
10. Venomous fish, sharks and piranha

8-1-3 ADMINISTRATION OF ORDINANCE.

- A. **Animal Control Officer to enforce ordinance.** The Chief of Police or his designees and the Town's Animal Control Officer have the authority to issue citations for violations of this Ordinance and to perform such other duties as prescribed by this Ordinance or by the Town of Estancia. An Animal Control Officer shall wear a uniform, a badge and a name tag identifying him as an Animal Control Officer. A Police Officer may fulfill the duties described in this Ordinance. In addition to those duties which may appear on a separate job description for the position of Animal Control Officer, the Officer will be responsible for responding to calls regarding animals running at large, animal cruelty or negligence calls, and shall be generally responsible for administering and enforcing this Animal Control Ordinance.
- B. **Right of Entry of Animal Control Officer for Apprehending Animals.** Animal Control Officers may, in the performance of their duties, enter upon private property, but may not enter a private residence, for the purpose of apprehending animals running at large, or animals reported to have bitten citizens, or animals who appear to have been abandoned on private property who are in dire need of care or medical attention. Animal Control Officers may also apprehend animals running at large or animals reported to in the public roadways, public park, and on public property.
- C. **Resisting or Obstructing Animal Control Officer.**
 1. Whoever commits resisting or obstructing a Animal Control Officer is guilty of a petty misdemeanor.

2. Resisting or obstructing an Animal Control Officer consists of the following:
 - a. Knowingly obstructing, resisting or opposing any Animal Control Officer of the Town of Estancia or any other duly authorized person serving or attempting to serve or execute process or any rule or order of any courts of this state or any judicial writ or process regarding the enforcement of this Ordinance; or
 - b. Resisting, interfering with, or abusing any Animal Control Officer in the lawful discharge of his/her duties.

D. Maintaining Records. The Animal Control Officer shall maintain records of all animals impounded in the Animal Control Center for a period of time that is deemed reasonable by the Town of Estancia, but for not less than three (3) years. The Animal Control Officer shall also maintain records of all citations issued, licenses issued, and such other records as prescribed by the Town of Estancia, for a time period prescribed by the Town of Estancia, but for not less than six years. The impoundment records shall contain, at a minimum, the following:

1. A complete description of the animal.
2. The manner and date of its acquisition by the Animal Control Center.
3. The date and manner of disposal.
4. The name and address of the purchaser or owner of the animal.
5. All fees received, fines imposed and collected.

8-1-4 RESPONSIBILITIES OF OWNERS OR PERSONS IN CHARGE.

A. Vaccination of dogs and cats required — certificates and tags. Any person who owns or keeps a dog or cat over the age of five (5) months in the Town of Estancia shall have the dog or cat vaccinated for rabies as prescribed by regulation of the State Health and Environment Department. All antirabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall serially number the certificate and tag for each such vaccine administered. At a minimum the certificate shall contain the name and address of the owner of the animal, a description of the animal vaccinated, the date of the vaccination, the

name of the veterinarian administering the vaccination and the expiration date of the period of immunity.

- B. Vaccination of dogs and cats brought into the Town.** Any dog or cat brought into the Town shall be securely confined by the owner or person in charge until vaccinated against rabies, which vaccination shall be administered within one (1) month after entry into the Town, as prescribed by State law unless the owner or person in charge has a certificate of vaccination issued by a veterinarian in another state or community or public subdivision within New Mexico and such vaccination certification conforms to the requirements of this State.
- C. Exhibiting of vaccination certificate.** It is unlawful for the owner or person in charge of an animal to fail to exhibit its certificate of vaccination on demand of the Town, or Animal Control Officer.
- D. Notice to Animal Control Officer of animal bite; confinement; animal contact with rabid animals; animal rabies quarantine; procedure following death from rabies.** The Health and Environment Department of the State prescribes regulations for reporting animal bites, confinement and disposition of rabies-suspect animals, rabies quarantine and the disposition of dogs and cats exposed to rabies, in the interests of public health and safety.
- E. Restraint of Animals.**
1. Voice command is not an acceptable form of restraint.
 2. Dogs and cats which are not service animals shall not be allowed upon playgrounds or upon the grounds of swimming pools, or within a building, any of which are owned, operated or maintained by the Town, nor shall they be allowed upon the premises of public schools, including public pre-schools unless permission is obtained from the authorized school official.
 3. Dogs and cats shall not be allowed upon a public street, alley, or public park (including Arthur Park), or any property other than that of the owner or person in charge of the animal unless they are on a secure leash not exceeding eight feet (8') in length and under immediate and effective physical control of the person having custody thereof. The person having custody shall be a person of such age and maturity to be reasonably responsible for and in control of the animal. This provision does not apply to animals present in the residence of an owner or person in charge. The provisions in this paragraph do not apply when an animal is participating in a bona fide animal show, training program, or County Fair, which has been authorized by the Animal Control Officer or does not apply to Police

canine units whose dogs are unleashed while on public or private property while acting in a law enforcement activity.

4. Animals located upon the property of an owner or person in charge shall be restrained in such a manner as to secure the animal, such as a rope, chain, cable, kennel, invisible fencing, or inescapable walled or fenced area. Voice command is not an acceptable form of containment. The animal shall be restrained in such a way as to prevent the animal from reaching outside the perimeter of the property.
5. Animals shall not be carried in or transported in or upon any vehicle in a cruel, inhumane or unsafe manner. An animal carried in the bed of a truck shall be crated or restrained upon a nonmetal mat so it cannot fall or jump from the truck and be strangled.
6. A rope, chain, cable or other device ("restraining device") may be used to restrain an animal upon the owner's or person in charge's property, provided the following criteria are met:
 - a. The restraining device shall be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness.
 - b. The restraining device shall be at least twelve feet (12') long unless such length would allow the animal to reach outside the owner's property, in which case it shall be no less than eight feet (8') long. The device shall be fastened so that the animal can sit, walk and lie down comfortably and shall be unobstructed by objects that may cause the device or animal to become entangled or strangled.
 - c. The animal shall have easy access to adequate shade, shelter, food and potable water.
 - d. The area where an animal is restrained or confined shall be kept free of garbage and other debris that might endanger the animal's health or safety. Feces shall be cleaned up regularly, but no less frequently than twice weekly.
 - e. The area where the animal is restrained or confined shall be kept free of insect infestations such as ant hills, wasp nests, or flea, tick and maggot infestations.

F. Confinement During Estrus (Heat). Any female animal in the stage of estrus (heat) shall be confined to a well ventilated building, escape-proof kennel or

boarding facility so that contact with a male animal will be prevented except for intentional breeding purposes. Owners or Persons in Charge who do not comply with this section may be required upon the direction of any Animal Control Officer to place such animal in a boarding kennel or veterinary hospital at the owner's expense in addition to being cited for violating this Ordinance.

G. Licenses for Dogs and Cats.

1. Any person owning, possessing or harboring any dog or cat five (5) months of age or over shall obtain a license for such animal. Written application for such license shall be made on such forms as supplied by the Town and shall state any information deemed necessary by the Town. A current rabies vaccination certificate shall be presented at the time of the application for license. The license fee (tag and certificate) for each dog and cat shall be an annual license, and the amount shall be set from time to time by resolution of the Board of Trustees. In the event a license tag is lost, replacement tags shall be purchased, at a fee to be established by resolution of the Board of Trustees.
2. A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show or is being trained; provided that the person who is training a dog shall have in his personal possession the valid license tag for each dog and shall immediately display such upon request by the Animal Control Officer or other law enforcement officer.
3. Animals belonging to non-residents who do not keep said animals within the corporate limits of the Town of Estancia for (30) consecutive days shall be exempt from this section; provided, however, that all other provisions of this Ordinance must be complied with.
4. The license fees shall not apply to dogs trained to assist, and in fact, used to assist the blind or deaf. However, such dogs shall be properly licensed, as set forth above, free of charge.

H. Surrender of Strays.

1. No person shall hold or retain possession of any animal of which he is not the owner, without knowledge or consent of the owner for more than forty-eight (48) hours without first reporting the possession to the Animal Control Officer, giving his name and address, a true and complete statement of the circumstances, a description of the animal and the precise

location where such animal is confined.

2. It is unlawful for any person taking up an animal without knowledge of the owner to fail to give notice required in Subsection (H)(1), above, and for any person having such animal in his possession to fail or refuse to immediately surrender such animal to the Animal Control Officer upon demand.

I. Animals Running at Large. It is unlawful for any person to allow or permit any animal for which they are the owner or person in charge to run at large in or upon any street, alley, sidewalk, public right-of-way, vacant lot, and public property, including public park (Arthur Park), other enclosed place in the Town, school property or other private property not belonging to the owner or person in charge of the animal. The Animal Control Officer has the right to impound animals that are destroying public or private property or endangering the welfare of any person or animal who is lawfully on public or private rights of way. Any animal permitted to run at large in violation of this Section is declared to be a nuisance, a menace to public health and safety and shall be taken up and impounded as provide by Section 8-1-7, herein.

J. Dangerous Dogs.

1. Prohibited Acts

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

- I. Keep the dog without a valid certificate of registration, as set forth in Section (J)(4), below;
- ii. Violate the registration and handling requirements for the dog;
- iii. Fail to notify the animal control authority immediately upon the escape of the dog or an attack by the dog upon a human being or a domestic animal;
- iv. Fail to notify the animal control authority of the dog's death within five business days;
- v. fail to notify the animal control authority within twenty-four hours if the dog has been sold or given away and to provide the name, address and telephone of the new owner of the dog;
- vi. Fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case where there is reason to believe that the dog poses an imminent

threat to public safety. Such surrender shall be at the owner's expense;

vii. 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 shall be charged in Torrance County Magistrate Court. Upon conviction the owner shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978, and the State Dangerous Dog Act.

2. Seizure of Dog – Petition to Court

a. If an animal control officer has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control officer may immediately seize the dog if it is at-large and not under the control of its owner. If the dog poses imminent threat to public safety but has retreated to and been confined at its owners residence, the animal control officer may apply to the Magistrate Court where the animal is located for a warrant to seize the animal.

b. If the animal control officer has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal control officer may apply to the Magistrate Court 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 (J)(4), below.

d. After seizure of the dog:

I. 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 (J)(4), below; or

ii. The animal control officer may, within fourteen days after seizure of the dog, bring a petition in the Magistrate 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 the 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 officer does not bring a petition in court within fourteen days of the seizure of the dog, the court shall immediately order the release of the dog to its owner.
 - f. If the owner admits the dog is dangerous and transfers ownership of the dog to the animal control officer, the animal control officer may humanely destroy the animal.
 - g. A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control officer from making a subsequent application for seizure based on the dog's subsequent behavior.
 - h. All impound fees associated with these provisions will be paid by the owner if the court determines that the dog is dangerous or potentially dangerous. If the court does not make such a determination, the Town will not assess impound fees against the owner.
3. Exceptions - A dog shall not be declared a dangerous or potentially dangerous dog if:
- a. the dog was used (or is being 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 that was:
 - I. trespassing upon premises occupied by the owner or dog;
 - ii. provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
 - iii. committing or attempting to commit a crime; or
 - c. the dog was:

- I. responding to pain or injury; or
- ii. protecting or defending a human being or domestic animal from attack or assault.

4. Dangerous and Potentially Dangerous Dogs – Registration Required

- a. Upon application, an animal control officer shall issue a Certificate of Registration to the owner of a Dangerous or Potentially Dangerous Dog, if the owner establishes that:

- I. the owner is able to keep the dog under control at all times, and provides a plan acceptable to the animal control officer for doing so;
- ii. a license, if applicable, has been issued pursuant to the requirements of this Ordinance;
- iii. the dog has a current rabies vaccination;
- iv. the owner has paid an annual fee, to be set by the Town Board of Trustees, for registration of a Dangerous or Potentially Dangerous Dog;
- v. the dog has been spayed or neutered; and
- vi. the dog has been implanted with a microchip containing owner identification information that is also provided to the animal control officer.

- b. If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section of the Animal Control Ordinance for thirty-six consecutive months, the owner may request the animal control officer to lift the requirements for registration pursuant to this section. If the animal control officer has no reasonable basis to believe that the dog has exhibited the specified dangerous behaviors, it shall relieve the owner of the requirements of this section.

- c. The animal control officer shall issue certificate of registration to the owner of a Dangerous Dog or Potentially Dangerous Dog, if the owner, in addition to the requirements of Subsection 'a' of this section, establishes that:

- I. the owner has paid the required annual fee, as established by the Town's Board of Trustees to register a Dangerous Dog, or Potentially Dangerous Dog;
- ii. the Dangerous Dog, or Potentially Dangerous Dog, will be maintained exclusively on the owner's property except for

- iii. medical treatment or examination; when the Dangerous Dog, or Potentially 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 of an adult owner at all times;
 - iv. the Dangerous Dog, or Potentially 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
 - v. a clearly visible warning sign indicating that there is a Dangerous Dog, or Potentially 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. The animal control officer may order the immediate impoundment or humane destruction of a dog previously determined to be a Dangerous Dog, or Potentially Dangerous Dog, if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section.

K. Animals Disturbing the Peace.

1. It is unlawful for any person to allow an animal to persistently or continuously bark, howl, or make the noise of their species, or otherwise disturb the peace and quiet of the inhabitants of the Town, or keep or maintain animals in such a manner as to disturb by noxious or offensive odors, or otherwise endanger the health or welfare of another person.
2. All complaints filed pursuant to this Section shall be made at the Animal Control Office or at the Police Station, during regular business hours, Monday through Friday, 8:00 a.m. — 5:00 p.m. or to the Animal Control Officer, if available, on duty. Complaints shall be made in writing on forms provided by the Animal Control or Police Department, and shall include the complainant's name, address, phone number and signature, as well as a brief description of the nature of the disturbance, and, if known, the name and address of the owner of the animal. All complainants shall be willing to testify and provide documentation regarding the complaint in Municipal Court.
3. Upon receipt of the complaint, the Animal Control Officer shall notify the animal owner, or person, in charge in person or in writing of the complaint filed, and shall attempt to obtain informal resolution of the complaint. If

the Animal Control Officer receives a second complaint (whether or not its from the same complainant), within a three-month period, the Animal Control Officer will issue a citation to the owner or person in control for violation of this Ordinance.

L. Nuisances. It is unlawful for the owner or person in control of an animal to permit, either willfully or through failure to exercise due care or control, any such animal to create any nuisance upon the sidewalk, public park, public right of way, or other place open to the public or upon any property other than that of the owner of the animal. The term nuisance for purposes of this Subsection shall include any defecation, destruction of property or disturbing the property of another, including the rubbish or trash of a resident. When an animal defecates in such a place, the owner or person in control shall remove the feces and dispose of it in a sanitary manner. Anyone walking an animal in a public area shall have in his or her possession a sanitary and disposable means of removing the animal's feces which must then be placed in a refuse container for sanitary removal. The person shall be able to present such means at the request of the Animal Control Officer. It is unlawful for the owner or person in control of the animal to permit, either willfully or through failure to exercise care or control, any such animal to urinate upon private property other than that of the owner of the animal.

M. Cruelty, Neglect or Abandonment of Animals -- Unlawful.

1. **Cruelty** — It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, kick, beat with a stick or other implement, mutilate, burn or scald with any substance, any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
2. **Neglect** — It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, owner or otherwise, with proper food, water, shade, shelter, area of exercise, ventilation, veterinary medical care, basic cleaning and grooming necessary for the health and general welfare of the animal.
 - a. Outside housing shall protect animals from weather that may be detrimental to the health of the animals.
 - b. Animals shall be provided with clean, fresh, sufficient and wholesome food and water with containers to be kept clean.
 - c. Any owner or person in control of an animal shall provide the animal with access to shade not solely limited to the shelter for the animal.

d. It is unlawful for a person to leave an animal in a closed vehicle for any length of time reasonable concluded to be dangerous to the health or safety of the animal, taking into consideration the temperature, lack of food or drink, or other circumstances as may reasonably be expected to cause suffering, disability or death. If the Animal Control Officer determines that an animal in an enclosed vehicle is in immediate danger, the animal control officer may enter the vehicle by whatever means are necessary, without being liable to the owner of the vehicle, and may impound the animal.

3. **Abandonment** — It is unlawful for any owner or person in control of an animal to abandon an animal. Abandonment includes leaving any animal unattended and with no provision of water, food or shelter for more than thirty-six (36) hours on one's premises, or to dump or leave off a domestic animal on property other than one's own without permission. All animals that are deemed abandoned may be turned over to Animal Control or picked up by Animal Control. An owner who voluntarily abandons an animal by relinquishing it to the Animal Control shelter may be required to sign an owner's release relinquishing ownership of said animal. With respect to involuntarily abandoned animals, reasonable efforts will be made by Animal Control to notify the owners, if known, that their animal is being kept at the Animal Control Center. The Animal Control Center may put such abandoned animal up for adoption. An animal deemed involuntarily abandoned will be held by the Animal Control Shelter for seventy-two hours prior to being put up for adoption. The owner of the animal may come forward during that time and claim the animal, paying such fines and boarding costs as are applicable. In the event that the animal is not adopted within the five-day period after it has been put up for adoption, the animal may be destroyed pursuant to the procedures prescribed in this Ordinance, or by State law.

N. Spaying and Neutering.

1. No person shall own or harbor within the Town limits any dog or cat over the age of six (6) months that has not been spayed or neutered unless that person becomes qualified as a Breeder and obtains a professional Breeder Permit from the Animal Control Office to keep an unaltered dog or cat, or obtains written verification from a licensed veterinarian that the dog or cat should not be neutered for health reasons.
2. Proof of neutering, if not apparent upon visual inspection, may be made by certificate or receipt from a licensed veterinarian.

3. Proof of unaltered dog or cat Breeder Permit shall be available upon reasonable demand of an Animal Control Officer, or the owner of said animal will be cited for violation of this Ordinance and the animal may be impounded until arrangements are made to spay or neuter the animal. Failure to make such arrangements within seventy-two hours will be deemed abandonment.
4. A vasectomy is not an acceptable form of neutering.
5. The owner of a dog or cat who intentionally breeds or unintentionally allows to be bred a dog or cat and does not have a current professional Breeder permit for breeding as provided by Section 8-1-8, herein, shall pay a litter fee for each such litter, as prescribed by resolution of the Board of Trustees adopted from time to time. An owner may not sell, exchange, barter or give away any dog or cat within the Town's limits unless the litter fee is paid, or unless he or she has a current professional animal care permit for breeding. Any advertisement for the sale, barter, exchange or giving away of such animals within the Town limits shall furnish the litter fee receipt number to any prospective recipient requesting the number. If the owner takes all of the litter to the Town of Estancia and voluntarily abandons the litter, and shows proof that the female will be sterilized within thirty days, any citations issued in relation to the violation of the ban against breeding will be dropped.

O. Unlawful Animal Fights. It is unlawful for any person to promote, stage, hold, conduct, carry on or participate in or attend any game, exhibition, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or other animals, or to train and/or promote any of the activities in this section.

P. Unlawful to abandon animals in Town Park and Pond. The Town of Estancia maintains a public park which includes a pond. It is unlawful to abandon, drop off or leave any animal at the Town Park and Pond, including, but not limited to, domesticated animals, wild animals in an owner's possession, and live stock. This specifically operates as a ban on the abandonment of ducks and geese, and the dumping of fish into the Pond. Nothing in this section shall be deemed to affect the fact that it is unlawful to abandon animals as described elsewhere in this Ordinance.

8-1-5 LIMITATIONS ON NUMBERS OF ANIMALS PERMITTED.

A. Limitation on dogs and cats. No household or member thereof, located in the areas of Town zoned as R-1, R-2, R-3, C-B or H-P, is allowed to own, harbor,

possess or keep dogs or cats, or any combination thereof totaling more than four animals, provided that any household owning dogs or cats or any combination therefor totaling more than four animals, which animals are licensed before the effective date of this Ordinance, shall be allowed to retain more than four animals only as long as the particular animals on the effective date of this Ordinance, shall remain in the possession of said household. Provided, further, that the head of any household shall be held responsible for any violation of this Ordinance by the household or any of its members. RR-1 and RR-2 zoned areas shall not have dog or cat numerical restrictions.

B. Procedure for owning excessive number of dogs and cats at date of enactment. Any household or member thereof owning, harboring, possessing or keeping more than a combination of four dogs and cats on the date that this Ordinance becomes effective shall be permitted to own, harbor, possess or keep such number of animals upon the following conditions:

1. That the owner, within thirty days after the effective date hereof, report in person to the Animal Control Office and provide a description of such animals.
2. That such owners, within thirty days after the effective date hereof, show proof of compliance with the rabies vaccination and licensing requirements of this Ordinance.

C. Space requirements and limitations regarding livestock. Animals shall be allowed in designated areas in the following ratios. When computing area for animals, the computation shall not include other animals in the same acreage. For example, 1 cow per 1 acre and 1 horse per 1 acre does not mean that you may keep 1 cow and 1 horse on a 1 acre parcel. These ratios apply to R-1, H-P and C-B zoned areas. No livestock are allowed in R-2 or R-3 zoned areas, and RR-1 and RR-2 shall not have livestock numerical restrictions (except for the restrictions set forth below re pigs and hogs).

1. A maximum of:

Cow	1 per 1 acre
Horse, Donkey or Mule	1 per 1 acre
Sheep	4 per 1/3 acre
Goat	4 per 1/3 acre

Chickens, roosters and pigeons	No more than a combined total of 15 for each lot owned (Chickens, roosters and pigeons may be
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included on acreage or lots on which other livestock listed above are maintained for purposes of determining maximum livestock allowed.)

2. Pigs and hogs: Pigs and hogs are not allowed in any zone within the Town other than RR-1 or RR-2. In those two zones, the minimum lot size upon which pigs or hogs may be raised is 1 acre. Space ratios for pigs will be 1 per 200 sq. ft.
3. Turkeys, Pheasants, Peacocks, Geese, Ducks and Guinea Hens: Turkeys, Pheasants, peacocks, pigeons, geese, ducks and guinea hens are prohibited in R-2, R-3, and H-P zones. In R-1 and C-B zones, no more than a combined total of 3 of these birds per each lot owned.
4. Grandfathering of existing livestock. Livestock owners who are not in compliance with the limitations set forth herein must register with the Animal Control officer, describing how they are not in compliance. They will have two years to comply with the livestock limitations in the Ordinance. Anyone registering pursuant to this provision may not increase the number of livestock in their control during the two year grandfathering provision, and may not replace animals that die, are given away or sold, if replacing such animals would put the owner in excess of the limitations herein.

D. 4-H, FFA, or other sanctioned State or County Fair livestock projects.

Despite the limitations set forth herein, students and members of clubs raising livestock as a project for a county fair or state fair may obtain an annual free permit to raise sheep, goats, pigs or hogs on residential or commercial lots with a waiver regarding number and lot dimensions to be determined on a case-by-case basis by the Animal Control Officer, with due regard for the fact that the Town has a rural nature which it endeavors to preserve and promote; and the Town wishes to foster, encourage and support organizations such as 4-H and FFA, and their members. However, the Animal Control Officer will issue the permit with due regard and consideration for the population density in the area proposed for raising the livestock, the size and location of the proposed pen or corral, and the number of livestock presently on the property and proposed to be raised pursuant to the permit. The applicant should attempt to obtain neighbor approval in writing from all contiguous neighbors living in homes (not necessary if the lots are vacant). If a neighbor declines to approve, the Animal Control Officer will make a determination of the appropriateness of the permit based on all of the information and a site inspection. The permit will last for the duration of the

raising of the livestock at issue for one season, but no longer than 300 days.

The granting of the permit may be re-evaluated if neighbors complain about smell, noise or increase in flies, or other general nuisance conditions, or if in the opinion of the Animal Control Officer, the livestock are not being properly cared for. If the permit is withdrawn, the permit holder will have two weeks to move the livestock off the premises, and bring the premises back into conformance with the limitations set forth in the Animal Control Ordinance.

- E. Containment and care of livestock.** The area in which livestock are maintained must be fenced to prevent the animal from leaving the designated area. The designated area must be at least 50 feet from any residential structure or commercial business not owned and inhabited by the owner of the animals, to the extent that the containment area is established after a residential or commercial structure is constructed on adjoining property. The designated area must be kept clean of animal waste or other material which may attract flies or emit obnoxious odors.
- F. Enforcement.** If it is determined that an animal owner is in violation of the limitation regarding dog and cat ownership, the owner will be fined for each dog or cat over the limitation, and be given ten days to give the appropriate number of animals up for adoption to bring the owner into compliance. If, at the end of the ten days, the owner is still in violation of the limitation on dogs and cats, the Animal Control officer may seize the number of dogs and/or cats necessary to bring the owner into compliance, and adopt out those animals as it deems fit. Any livestock owner in violation of the livestock limitations will be fined for each animal over the limitation, and be given 15 days to comply with the limitations on livestock. If, at the end of the fifteen days, the owner is still in violation of the livestock limitation, the Animal Control officer may either seize the livestock in violation or seek a court order to levy a daily fine for each day that the livestock owner is in violation of the limitation established by this Ordinance.

8-1-6 WILD OR EXOTIC ANIMALS

No person shall keep any animal which is defined as a Wild or Exotic Animal, except those animals kept in a Town-approved zoological park, veterinary hospital, animal shelter, public laboratory, circus, temporary amusement show, County Fair, education facility, commercial fur-bearing animal enterprise or in the control of a licensed animal humane society; and, in any event, no person shall be allowed to keep or possess any wild or exotic animals in an area zoned by the Town as R-1, R-2, R-3, or H-P.

8-1-7 IMPOUNDMENT AND DISPOSITION OF IMPOUNDED ANIMALS

A. Stray animals. A stray delivered to the Animal Control Shelter by a citizen or picked up by an Animal Control Officer may be confined for a period of at least three (3) working days, during which time the Town will make a reasonable attempt to notify the owner, if known. If identification of the owner is not possible, the Town may, without notice, following the three working day period, dispose of a stray animal impounded pursuant to this section. After the three working day impoundment period, the Town may seek to place the animal in an adoptive home if possible, or may destroy the animal in a humane fashion, such as veterinarian approved euthanasia.

B. Animal Control Officer's Right to Inspect and Impound.

1. Emergency Inspectorial Searches.

- a. Whenever it reasonably appears to an Animal Control Officer that there may be a condition arising under the Ordinance he is authorized to enforce, and imminently dangerous to health and safety, including the health and safety of an animal, the detection or correction of which requires immediate access, without prior notice to the owner or custodian of the premises or property for purposes of an inspectorial search, and if consent to such search is refused or cannot be promptly obtained, the Animal Control Officer may make an emergency inspectorial search of the premises.
- b. The Animal Control Officer will not enter a private residence without permission of the owner or someone present who is over the age of 18 years, unless there are exigent circumstances which would give rise for a warrantless search.
- c. Upon completion of the emergency inspectorial search, the Animal Control Officer shall make a prompt report on the circumstances to the municipal or district court judge, and shall provide a copy to the owner or custodian of the property at issue, if that person can be ascertained.

2. Impoundment as a result of Inspectorial Search.

If, as a result of an inspectorial search, the Animal Control Officer determines that the animals at issue are in immediate danger, or pose an immediate danger to citizens or to other animals, the Officer may impound the animals and request a hearing regarding the impoundment to take place within five working days of the

impoundment. The Animal Control Officer may also cite the owner or custodian for any violations to this Ordinance.

- C. Spaying or neutering, licensing and vaccination of adopted-out animals.** No animal that has been impounded by the Town will be adopted out for the purpose of breeding or sale. Every dog and cat adopted to private individuals from the Animal Control Shelter shall be neutered or spayed by a licensed veterinarian and vaccinated in compliance with State Statute and this Ordinance. The person adopting the cat or dog will pay the license fee and the costs associated with vaccination, spaying or neutering. The cost of these activities shall be paid prior to release of the animals which are less than five (5) months old, and arrangements shall be made for scheduling the spaying and neutering when the animal reaches the age of five (5) months old. The requirements in this section do not apply when the Town transfers the animal to another public or private agency for the purposes of adopting out the animal.
- D. Redeeming of animals by owner.** It shall be the responsibility of an animal owner redeeming any animal impounded to pay for animal boarding and other costs. The Town of Estancia shall establish, by resolution adopted from time to time by the Board of Trustees, the fees for boarding, licensing, fines, etc. In addition, the owner shall pay any license fees due, cost of inoculations, or other costs incurred in the care and maintenance of the animal. If the owner declines to pay these costs, the animal will be deemed abandoned and subject to being adopted out or humanely destroyed.
- E. Animal Control Records.** The Town shall maintain records for a reasonable period of time as determined by the Board of Trustees, (but no less than three years), of all animals impounded at the Animal Control Shelter. The record shall contain at least the following:
1. A complete description of the animal, including its sex.
 2. The manner and date of its acquisition by the center, and if known, the place in the Town from where it was picked up.
 3. The date and manner of its disposition (adopt out or put down).
 4. If adopted out, the name and address of the person adopting the animal.
 5. All fees received.

8-1-8 PERMITS FOR KENNELS AND BREEDERS

- A. Permit required.** Breeders and persons operating kennels, grooming parlors, pet shops or shelters shall obtain a professional animal care permit from the Animal Control Officer. It shall be unlawful to operate as a breeder or a kennel, grooming parlor, pet shop or shelter without a current valid professional animal care permit.

A current Town business license shall be presented as part of the application process for the professional animal care permit, and appropriate commercial or special use zoning issues must be resolved.

- B. Permit application process.** A permit will be applied for on forms provided by the Animal Control Office. When a permit is applied for, an inspection of the breeder's location or the kennel, grooming parlor, pet shop or shelter shall be conducted by the Animal Control Officer, taking into consideration, among other requirements, the zoning of the property on which the business will be located. The Animal Control Officer will consult with the Town's Zoning Officer on zoning issues and compliance therewith. If the inspection reveals that the premises comply with the law and regulations, a professional animal care permit will be issued.
- C. Permit issued/waiver of licensing.** The permit is only valid for the approved premises, and must be renewed every two years. Permittees that keep animals confined, shall, at the option of the permittee, be exempt from the animal license requirements of this section and will not be issued any license tags unless the required animal license fee is paid. A permit issued to a person is for use at a single location. A valid permit shall be posted in a conspicuous place in every kennel, grooming parlor, pet shop, shelter, or breeder's location.
- D. Restriction on advertising.** A breeder shall not advertise, sell, barter, exchange or give away any dog or cat within the municipal boundaries unless the professional animal care permit fee is obtained and paid for. Any advertisement for the sale, barter, exchange or give away shall include the permit receipt number. A breeder shall furnish the permit fee receipt number to any prospective recipient requesting the number.
- E. Change in operations.** A permit holder shall notify the Animal Control Officer of any change in his operations which may affect the status of his permit and shall keep the Animal Control Officer informed of any change in name or location or structure of the business.
- F. Records to be kept.** Breeders or persons in charge of a kennel, grooming parlor, pet shop or shelter shall be responsible for complying with this section. There shall be kept at each kennel, grooming parlor, pet shop, shelter, or breeder's location, a record of all animals received and of their final disposition.
- G. Permit fee and renewal.** The professional animal care permit shall expire two years after it is issued, and shall be promptly renewed. Permit fees shall be set from time to time by the Board of Trustees.

8-1-9 LITTER PERMIT REQUIRED

The owner who intentionally or unintentionally breeds dogs or cats and does not have a current permit for breeding, as required by this Animal Control Ordinance, shall pay a litter fee for each litter. An owner shall not advertise, sell, barter, trade, exchange or give away any dog or cat within the Town limits unless the litter fee is paid. Any advertisement for the sale, barter, trade, exchange or give away shall include the litter fee receipt number. An owner shall furnish the litter fee receipt number to any prospective recipient requesting the number. If the owner purchases a breeder permit or provides proof of sterilization of the female animal within 30 days of being cited for a violation of this section, such charge shall be dropped or refunded. If the owner takes all or part of the litter to the Animal Shelter to give away, a litter permit shall not be required, provided that the animal that produced the litter is spayed or neutered.

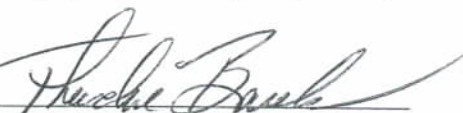
8-1-10 LICENSES, PERMIT FEES, FINES, PENALTIES AND ENFORCEMENT

- A. **Setting of fees, fines and penalties.** The Board of Trustees shall adopt by passage of a resolution, from time to time, a schedule of licensing and permit fees, mandatory fines and penalties for violation of this Ordinance. The Municipal Judge may establish alternatives to the mandatory fines and penalties for first offenses in order to encourage responsible pet ownership.
- B. **Violation of this Ordinance.** Any violation of this Ordinance other than those listed in Paragraph A of this subsection, or described elsewhere in this Ordinance, shall be punished as provided in this Ordinance. Each day this Ordinance is violated shall be considered a separate offense. If any person is convicted of cruelty, abandonment, neglect, housing a vicious animal or mistreatment of an animal, the municipal court may order the permanent removal of the animal from that person's custody and placed with the Animal Control Office. Any such conviction shall be deemed an abandonment of the animal, and the Animal Control Officer may adopt out the animal or humanely euthanize it. The Court may order the payment of boarding fees in conjunction with any fine levied as the result of a conviction for violating this ordinance, up to a total amount of the Court's jurisdictional limitations.

PASSED, APPROVED, AND ADOPTED THIS 7th day of March, 2009.

This ordinance supercedes all previous animal control ordinances and shall become effective on the fifth day after its publication in a local newspaper following adoption by the Board of Trustees on the date shown above.

ATTEST: 
Town Clerk

By: 
Mayor, Town of Estancia