

TOWN OF PERALTA

ANIMAL CONTROL ORDINANCE

Number 2015-004

6-1-1 SHORT TITLE AND LEGISLATIVE INTENT

6-1-2 DEFINITIONS

6-1-3 ANIMAL CONTROL OFFICER

6-1-4 ADMINISTRATION OF ORDINANCE

6-1-5 ANIMAL CONTROL AUTHORITY

6-1-6 IMPOUNDING ANIMALS - ANIMAL SHELTER

6-1-7 SCHEDULE OF FEES AND FINES

This Ordinance shall be known and may be cited as the Town of Peralta Animal Control Ordinance.

6-1-1 SHORT TITLE AND LEGISLATIVE INTENT

It is the intent of the Governing Body that the enactment of this Ordinance will establish procedures that will:

- 1. Assist in providing control of animals;**
- 2. Protect residents from annoyance, immediate threat to health and safety, and injury by animals;**
- 3. Protect animals from neglect and abuse;**
- 4. Regulate, restrain and prohibit the running at large of any animal within the Town limits. Provide the impounding and disposition of animals found running at large;**
- 5. Promote a rural and animal-friendly character within the Town.**
- 6. Regulate and Control Animals with in the Town.**
- 7. Provide for the safety, preserving the health, promoting order, comfort and convenience of the municipality and its inhabitants.**
- 8. Promote responsible animal ownership;**

9. Promote a rural and animal-friendly character within the Town limits;
10. Assist in providing control of animals not under the jurisdiction of the New Mexico Livestock Board and the New Mexico Department of Game and Fish;
11. Enforce State Statutes concerning rabies control and reporting animal bites;
12. Establish certain fees related to the Ordinance;
13. Prescribe penalties for violation of this Ordinance;

The Governing Body further finds that it is not in the best interest of the residents of the Town for owners or keepers of dogs to allow dogs to run at large.

It is noted by the Governing Body that the enforcement of this Ordinance may be delegated and/or shared upon the joint cooperation with Valencia County and/or Municipalities within the area defined in the form of a Joint Powers Agreement(s) or other working agreement or upon other sources of funding(s) other than are currently available.

6-1-2 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, works and derivations shall have the meaning given herein “shall” is always mandatory and not merely directory, the masculine includes the feminine.

Abandon means to withdraw protection, support or help with the intent of never again claiming right or interest in.

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 and those animals under the jurisdiction of the N.M. Department of Game & Fish.

Animal Control Center (Shelter) means any establishment authorized by the County of Valencia for the care and custody of impounded animals.

Animal Control Officer means the employee(s) of the Town who has primary responsibility of enforcement of this Animal Control Ordinance.

ANIMAL FOSTER HOME Any private facility used for the temporary housing and care of animals for the primary purpose of public adoption, working in cooperation with a recognized animal rescue or animal sanctuary.

ANIMAL RESCUE OR ANIMAL SANCTUARY PREMISES An organization recognized by the State Corporation Commission to be nonprofit, for the short- or long-term care and custody of animals, which may include lost pets, owner-released pets, cruelty cases, rescued animals and/or permanent retirement candidates.

Bite means any puncture, tear, or wound of the skin inflicted by an animal.

Cat means a carnivorous mammal (**Felis catus**) long domesticated and kept as a pet or for catching rats and mice. 2.: any of a family (Felidae) of mammals including the domestic **cat**, lion, tiger, leopard, jaguar, cougar, wildcat, lynx, and cheetah.

Code Enforcement Officer means the designated representative by the Mayor and Council to enforce ordinances adopted by the Town of Peralta.

COMMERCIAL BREEDER PREMISES A facility or premises licensed and operated as a business, operated by a person involved in the controlled breeding of animals and who may offer those animals for sale.

COMMERCIAL CATTERY/KENNEL PREMISES Any establishment, appropriately zoned, operated as a business, where dogs and/or cats are boarded or maintained under controlled conditions and for boarding, grooming, training, showing, or related activities for profit.

COMPANION ANIMAL a pet or other domestic animal.

Competent Person means a person having the capacity to function in appropriate way.

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

Court means the Municipal Court of the Town of Peralta, New Mexico.

Council means is the governing body of the Town of Peralta

CRATING Confining an animal in an area large enough for the animal to comfortably stand, turn around and lay down.

CUSTODIAN A person who has control, custody, or possession of an animal or is caring for it on behalf of its owner or legal agent.

DANGEROUS DOG A dog that caused a serious injury to a person or domestic animal; however, a dog shall not be declared dangerous or a 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 of the dog; or
 - (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.

C. The dog was:

(1) Responding to pain or injury; or

(2) Protecting itself or its offspring; or

(3) Protecting or defending a human being or domestic animal from attack or assault.

Dog means any various animals of the family Canis familiars.

EXIGENT CIRCUMSTANCES A situation that demands unusual or immediate action to preserve the evidence of a crime, save a life, or prevent undue suffering of an animal.

EXOTIC ANIMAL Any vertebrate animal, excluding man, wild animals, livestock and companion animals.

Governing Body means the Mayor and Council of the Town of Peralta, New Mexico.

HOBBY BREEDER PREMISES A premises operated by person(s) involved in the controlled breeding of dogs and/or cats, that produces and may offer for sale 18 puppies or kittens or three litters, whichever is less, per calendar year.

INTACT ANIMAL An animal that has not been sterilized.

Impoundment means the taking into custody a stray, vicious animal or an animal alleged to be vicious, or causing a nuisance, by an animal control officer or municipal police officer, and the detention of the animal in an animal control shelter.

Kennel means any establishment or premises where dogs or cats are boarded or kept as a business enterprise.

LITTER PERMIT A permit to sell puppies or kittens.

Livestock for the purpose of this ordinance is defined as any cow, domestic fowl, bird, sheep, swine, goats, horses and any other domestic animal.

Nuisance means, but is not limited to, disturbing the peace, emitting noxious or offensive odors, otherwise offensive or endangerment to the environment, the animal(s) or people of the Town of Peralta.

Owner or Keeper means a person who owns, has, keeps, harbors, or permits an animal to remain in, on or about his premises.

Peace Office means a civil officer, certified as a peace officer by the New Mexico Law Enforcement Academy, whose duty it is to preserve the public peace.

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

[Added 3-17-2016]

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 aggressive manner within a fenced yard or enclosure. (Also see "dangerous dog" as defined in this section.)

PROPER ENCLOSURE Secure confinement indoors or outdoors, such as in a fenced yard, pen or other structure, that is designed to prevent the animal from escaping the confined area.

Premises means any parcel of land and the structure(s) 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.

Running at Large means to be free of physical restraint or control of a competent person beyond the premises of the owner or keeper.

SERVICE/THERAPY ANIMAL An animal trained and certified by a recognized institution engaged in such training to assist impaired persons and in the company of the person the animal was trained to assist.

SHADE A thorough and continuous protection from the sun and heat.

SOLID FLOOR The surface upon which an animal is confined is of sufficient gauge and mesh to prevent the animal's pads and toes from injury. Any porous surface must not allow waste to fall upon an animal confined in an enclosure below.

Stray Animal means any animal running at large and unattended.

Surrendering an animal means that you are relinquishing ownership of their pet to a shelter or rescue.

TETHER To attach an animal to an object. This does not include an animal being walked on a leash.

Town means the Town of Peralta, New Mexico

Vaccination means an immunization to prevent a specific disease.

Veterinarian a person with a Veterinary medicine degree who is licensed to practice veterinary medicine in New Mexico.

Vicious Animal means any animal which shall bite or in any manner attack or attempt to attack any person or livestock on private or public property within the Town, except, that any animal that is provoked to attack any person who is unlawfully upon its owner's or keeper's premises, and attacks that person, shall not be deemed a vicious animal. Also, any animal that when unprovoked engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person or the animal are off the property of the owner of the animal.

Wild Animal means any animal of a species that in its natural life is wild by nature and cannot normally be domesticated or controlled.

Working Day means, for the purpose of this Ordinance, Monday through Friday except when these days are observed as holidays.

6-1-3 ANIMAL CONTROL OFFICER

Subject to the approval of a majority of all members of the Governing Body, the Mayor shall appoint and designate the employee(s) to perform and carry out the duties and responsibilities to the position of Animal Control Officer(s) who shall be concerned primarily with the health and safety of the citizens of the Town as affected by this ordinance. Such person(s) appointed as Animal Control Officers(s) shall normally be the Animal Control Officer(s) of the Town of Peralta, but may also be Animal Control Officer(s) of Valencia County.

6-1-4 ADMINISTRATION OF ORDINANCE

(A) The Code Enforcement Officer and Animal Control Officer(s) is responsible for the enforcement of this Ordinance. The Animal Control Officers(s) is given primary responsibility for the enforcement of this ordinance. In the event of the Animal Control Officer not being on duty, the regular Code Enforcement Officer or Police Officer (s) on duty will assume primary enforcement responsibility of this ordinance as defined herein.

(B) Reasonable rules and regulations may be prescribed by the Governing Body to carry out the intent and purpose of this Ordinance pursuant to standards created by this Ordinance. There shall be no liability on the part of any Town of Peralta Animal Control Officer(s) or person(s) acting pursuant to this ordinance in the execution of their assigned duties.

6-1-5 ANIMAL CONTROL AUTHORITY

(A) Authority of the Animal Control Officer, Code Enforcement Officer, and Municipal Police Officer to enter premises.

1. For the purposes of discharging their duties imposed by this chapter, the Animal Control Officer, Code Enforcement Officer, and Municipal Police Officers are authorized to enter upon any occupied premise if they have probable cause to believe a violation of this ordinance has been committed; or if any provisions of this ordinance or any of the law of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals are being violated.

2. If, however, the owner or occupant of any dwelling or premises objects to inspection, as stated in this section, a warrant for the inspection of the dwelling and premises shall be obtained and presented by the Animal Control Officer, Code Enforcement Officer, or Municipal Police Officer. A search warrant will be obtained from the court of the Town of Peralta prior to inspection, when permission is denied.

(B) Authority of Animal Control, Code Enforcement, and Municipal Police Officer to enter private land. For the purpose of discharging their duties imposed by this chapter, the animal control officer, Code Enforcement Officer, and/or municipal police officers are authorized and it is declared to be their duty to enter upon private land for the purposes of hot pursuit or for impounding any animal found running at large.

(C) Any Animal Control Officers(s) shall have the authority to issue a warning citation and/or citations(s) for violation of this ordinance and to perform such other duties as are prescribed herein, for the purpose of discharging his duty imposed by this ordinance.

6-1-6 IMPOUNDING, SEIZED AND FOUND ANIMALS - ANIMAL SHELTER

(A) An animal shelter is now provided by Valencia County for the purpose of boarding and caring for animals impounded under the provision of this Ordinance. It shall be the duty of the Animal Control Officer(s) to take up and impound or cause to be impounded any stray animals and/or any animals kept in violation of this Ordinance within the area defined as the Town of Peralta. Any person who retains possession of any animal of which that person is not the owner shall immediately notify the Animal Control Officer of the possession of the animal giving that person's name and address and a true and complete statement of the circumstances under which that person detained the animal along with the precise location where the animal is confined. It is unlawful for any person to confine an animal without notice to the proper authorities and for any person having such animal and refuses to immediately surrender such animal to the Animal Control Officer or proper authority upon demand.

(B) A stray animal shall be impounded not more than three working days. Following the impoundment period specified in this section, if the stray has not been redeemed by its owner or his agent, it may be destroyed in a humane manner. If notice is given to the owner or his agent, as specified, or if the animal is held for the period specified in this section, then the Town or its duly authorized agents shall not be liable to the animal's owner or his agent for the adoption, sale or destruction of the animal impounded.

(C) Record Keeping. The Animal Control Officer, upon impounding or receiving any animal shall register such animal by entering the species, breed, color, and sex of the animal and the time and place such animal was apprehended, into the registry kept for this purpose. The Animal Control Officer shall maintain a record of all animals which have been in his control and shall maintain these records for a reasonable period of time, not less than two years

The records shall contain at least the following information:

1. A complete description of the animal, including information of the registry described above
2. The manner and date of its acquisition by the Animal Control Officer
3. The date and manner of its disposal
4. The name, address, and phone number of the person redeeming the animal
5. All fees received

(D) It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this Ordinance to pay all Valencia County fees to the Town and redeem said animal within the time limits and as per the procedure set by Valencia County Animal Control shelter. The Town is not responsible for any actions and/or any damages of any type or nature, which Valencia County or Valencia County Employees or any representatives / agents may or may not take regarding impounded animals.

(E) Fees charged by Peralta. The Town of Peralta may set and charge a fee separate from any fees and/or charges allocated by Valencia County as outlined herein. Any fees established by the Town of Peralta will be paid at the Town Office and must be paid before release of said animal by the Town of Peralta or the Valencia County animal Control Shelter. Such animal(s) shall not be released by the Valencia County Animal Control shelter until a proper release form issued by the Town of Peralta is presented to the Valencia County Animal Control Shelter.

6-1-7 Schedule of fees and fines.

A. The Schedule of Fees and Fines shall be adopted, approved or amended only by resolution and are attached in Resolution No. _____.

B. Payment of any and all fees and other assignable costs shall be made to the Town in a method acceptable to the Town and become due within 10 working days of notice.

C. Owners or custodians of animals impounded as stray, nuisance, or quarantined animals shall pay all fees and fines related to such impoundment.

Fees to be charged by the Town are as follows: See Resolution No. _____

For offenses occurring during Town normal business hours:

1. First offense – ~~Fifty~~ **Twenty** dollars (~~\$20.00~~ **\$50**) impound fee payable to the Town of Peralta, plus any Valencia County impound fee. (Rev 8/01)
2. Second Offense – ~~Seventy-five~~ **Thirty** dollars (~~\$30.00~~ **\$75**) impound fee payable to the Town Of Peralta, plus any Valencia County impound fee.
3. Third Offense and subsequent offenses – ~~One hundred~~ **Forty** dollars (~~\$40.00~~ **\$100**) impound fee payable to the Town of Peralta, plus any Valencia County impound fee.

REMOVE

For offenses occurring outside Town normal business hours, including weekends and holidays observed by the Town: **See Resolution No.** _____

1. First offense – ~~One hundred~~ **Forty** dollars (~~\$40.00~~ **\$100**) impound fee payable to the Town of Peralta, plus any Valencia County impound fee.
2. Second Offense – ~~One hundred fifty~~ **Sixty** dollars (~~\$60.00~~ **\$150**) impound fee payable to the Town Of Peralta, plus any Valencia County impound fee.
3. Third Offense and subsequent offenses – ~~Two hundred~~ **Eighty** dollars (~~\$80.00~~ **\$200**) impound fee payable to the Town Of Peralta, plus any Valencia County impound fee.

SECTION 6-2: ANIMAL CONTROL ORDINANCE

6-2-1 VACCINATION OF DOGS AND CATS REQUIRED - CERTIFICATES AND TAGS

6-2-2 VACCINATION OF DOGS AND CATS BROUGHT INTO STATE

6-2-3 NOTICE TO HEALTH OFFICER OF ANIMAL BITE; CONFINEMENT; ANIMAL CONTACT WITH RABID ANIMALS; ANIMAL RABIES QUARANTINE; PROCEDURE FOLLOWING DEATH FROM RABIES

6-2-4 VICIOUS ANIMALS; RABID OR UNVACCINATED DOGS AND CATS; FAILURE TO DESTROY

6-2-5 FAILURE TO KILL PENALTY

6-2-6 GUIDE DOGS LEADING BLIND - PENALTY FOR REFUSING ADMITTANCE IN PUBLIC PLACES OR FOR CHARGING AN EXTRA ADMISSION

6-2-7 VICIOUS ANIMAL - DESTRUCTION PERMITTED

6-2-8 UNLAWFULLY PERMITTING LIVESTOCK UPON PUBLIC HIGHWAY

6-2-9 ABANDONMENT OF ANIMALS

6-2-10 CARE AND MAINTENANCE

6-2-11 LIVESTOCK AND ANIMAL HOLDING AREAS

6-2-12 ANIMAL FIGHTS

6-2-13 CRUELTY OR PHYSICAL ABUSE OF ANIMALS

6-2-14 WILD ANIMALS PROHIBITED

6-2-POISONING 15 ANIMALS

6-2-16 NUISANCE

6-2-17 PENALTY

6-2-18 SEVERABILITY

6-2-1 VACCINATION OF DOGS AND CATS REQUIRED – CERTIFICATES AND TAGS

Any person who owns or keeps a dog or cat over the age of three (3) months in the Town, as prescribed by state law shall have the dog or cat vaccinated for rabies as prescribed by regulation of the health and environment department. All anti-rabies vaccine shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially numbered certificate and tag for each such administration.

6-2-2 VACCINATION OF DOGS AND CATS BROUGHT INTO STATE

Any dog or cat brought into the state shall be securely confined by the owner or keeper until vaccinated against rabies, which vaccination shall be administered within one (2) weeks after entry into the Town, as prescribed by state law unless the owner or keeper has a certificate of vaccination issued by a veterinarian in another state or foreign country and such vaccination conforms to the requirements of this state.

6-2-3 NOTICE TO HEALTH 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 the reporting of animal bites, confinement and disposition of rabies-suspect animals, rabies quarantine and the disposition of dogs and cats exposed to rabies, in the interest of public health and safety.

6-2-4 VICIOUS ANIMALS; RABID OR UNVACCINATED DOGS AND CATS; FAILURE TO DESTROY

A) It is unlawful and contrary to this ordinance for any person to keep any animal known to be vicious and liable to attack or injure human beings unless such animal is securely kept to prevent injury to any person.

B) It is unlawful and contrary to this ordinance to keep any unvaccinated dog or cat or any animal with any symptom of rabies.

C) It is unlawful and contrary to this ordinance to fail or to refuse to destroy vicious animals or unvaccinated dogs or cats with symptoms of rabies as prescribed by regulation of the health and environment department for the protection of public health and safety.

6-2-5 FAILURE TO KILL PENALTY

It is the duty of any person who is the owner or keeper of any animal(s) which has been deemed to have acted contrary to this ordinance, has failed and/or refused to destroy such animal(s) as provided by this ordinance shall subject such owner or keeper to a fine of twenty dollars (\$20.00) and costs, and each day's failure to comply is a separate offense.

6-2-6 GUIDE DOGS LEADING BLIND-PENALTY FOR REFUSING ADMITTANCE IN PUBLIC PLACES OR FOR CHARGING AN EXTRA ADMISSION

No person shall debar a guide dog that is trained by a recognized guide dog school to lead a blind person in any place of public accommodation such as a restaurant, hotel, hospital, store, common carrier or any place of public entertainment, such as a theater, swimming pool or any place of public amusement, provided such dog is under the control of a blind person. Blind persons shall not be required to pay any additional charges for their guide dogs, but shall be liable for any damage done to any property by their dogs. Any person violating this section shall be guilty of a misdemeanor and subject to a fine of not more than thirty-five dollars (\$35.00).

6-2-7 VICIOUS ANIMAL - DESTRUCTION PERMITTED

A) Any Animal Control Officer or peace officer or individual may destroy a vicious animal if it is in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans which will include pursuing, stalking or attempting to attack a human.

B) Any Animal Control Officer or peace officer may destroy any vicious animal if it is in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans which will include pursuing, stalking, or attempting to attack a human, whether or not the vicious animal wears a rabies tag required by Section NMSA Section 77-1-9 and Section 77-1-10 (1978 Comp.). There shall be no liability of the Animal Control Officer or peace officer or person(s) acting pursuant to this ordinance in damages or otherwise for such killing.

C) Dogs killing or injuring humans, livestock or other dogs which do not occur in the presence of the animal control officer or a municipal police officer then the following provisions apply:

1. The owner or keeper of any dog which kills or injures any human, livestock, or other animals shall be liable for all damages that his dog has caused to the owner of the livestock, or animal which was killed or injured.

2. Any person having knowledge that a dog has killed or injured humans, livestock, or any other animal, shall report this to the animal control officer, code enforcement officer, municipal police officer, or Town staff. Upon receiving such a complaint, the animal control officer or the municipal police officer having reason to believe that the dog did injure or kill livestock, or other animals, shall have the dog impounded. A complaint shall be filed and hearing shall then be had within a reasonable time to determine whether the dog did in fact kill or injure livestock, or another animal.

3. Should the court determine that the dog in question did in fact kill or injure any human, livestock, or another animal, it may order the animal control officer to have the dog killed in a humane manner.

D) Killing of Dogs Running in Packs. The animal control officer or municipal police officer are authorized to destroy in a humane manner any stray dogs within the Town, which are running in packs who are potentially dangerous to humans, other animals or livestock.

6-2-8 UNLAWFULLY PERMITTING LIVESTOCK UPON PUBLIC HIGHWAY

It is unlawful for any owner or keeper of livestock negligently to permit his livestock to run at large upon any part of a public highway which is fenced on both sides thereof. A motorist using unfenced roads or highways which have livestock warning signs shall use due care to avoid collisions with livestock.

6-2-9 ABANDONMENT OF ANIMALS

It is unlawful for any person to willfully abandon any animal(s) within the Town limits.

6-2-10 CARE AND MAINTENANCE

It is unlawful for any owner or keeper to fail to provide animal(s) with proper food, drink, shelter, or otherwise treat the animal in a cruel or inhumane manner.

1. Any dog(s) outside the premises of its owner or keeper's property boundaries is required to be under the control and care of the owner or keeper at all times.
2. Tethered Animals are permitted on public roadways and public areas within the Town only if on a secure leash.
3. Any tether within a person's private property must be affixed to the animal by use of a non-abrasive, comforted fitted collar or harness.
4. The chain or cable must not allow the animal to pass beyond the owner's/custodian's property. The tether must not be obstructed by objects which might cause the animal to become entangled.
5. Only one animal may be attached to each trolley or tether and each must be separated to prevent entanglement.
6. The tethered animal must be able to sit, walk, and lie down. The chain or cord must be strong enough to restrain the animal, but not so heavy as to restrict normal movement.

7. No animal shall be tethered with a lead that is excessive in weight as compared to the animal's body weight, or by a tow or log chain attached around the animal's neck.
8. Any tethered animal must be on a lead that measures at least ten (10) feet in length.

6-2-11 LIVESTOCK AND ANIMAL HOLDING AREAS

- A) All livestock shall be properly fenced and contained so as to minimize adverse impacts to surrounding properties;
- B) There shall be at least 10,000 separate square feet of pervious surface area for each cow, horse, or similar animal;
- C) There shall be at least 4,000 separate square feet of pervious surface area for each sheep, goat, pig, or similar animal;
- D) There shall be at least 600 separate square feet of pervious surface area in an enclosed structure for poultry or rabbits or similar animals;
- E) There shall be at least 3,500 separate square feet of surface area for each dog or cat; and
- F) Animals which are less than 6 months old are exempt from the requirements herein.

6-2-11 ANIMAL FIGHTS

It is unlawful for any person to promote, stage, hold, conduct, carry on 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 any other animals or to train and/or promote any of the activities in this section.

6-2-12 CRUELTY OR PHYSICAL ABUSE OF ANIMALS

It is unlawful for any person to act cruelly toward an animal. Cruelty to animals may be defined as but not limited to:

- A) Torturing, tormenting, depriving of necessary substance, cruelly beating, mutilating, cruelly killing or over-driving any animal or to keep any animal under unsanitary or unhealthy conditions.
- B) Cruelly driving or working any animal when such animal is unfit for labor.
- C) It shall be unlawful for any person to confine, or allow to be confined, any animal in a motor vehicle or trailer under such conditions or for such a period of time as to endanger the health or well-being of the animal.
- D) Any animal showing evidence of cruelty or abuse shall be impounded until a Municipal Court hearing is conducted. Unless an Owner or Custodian is willing to surrender an animal for impoundment under this section, Animal Control Authority shall seek a warrant from a judge or court of competent jurisdiction and a complaint filed for seizure of the animal. No warrant shall be necessary under exigent circumstances.

- E) Any person found guilty of cruelty or abuse of an animal shall be responsible for all expenses incurred for the animal while impounded. Should the person be found not guilty of cruelty or abuse, the animal shall be returned to the Owner or Custodian.

- F) It is unlawful for any person to recklessly, willfully, maliciously or negligently kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance or otherwise cruelly harm any animal except that reasonable force may be employed to drive off vicious animals. Injury to an animal resulting from Animal Control Authority's reasonable attempt to capture, subdue or impound that animal shall not be deemed as cruelty.

- G) It is unlawful to poison a domestic animal or to distribute poison or toxicants in any manner with the intent of poisoning a domestic animal.

- H) It is unlawful for an Owner or Custodian to abandon any domestic animal.

- I) Reasonable force employed to drive off trespassing animals shall not be considered as cruelty to animals.

6-2-13 WILD ANIMALS PROHIBITED

No person shall keep any animal which is defined as wild, except those animals kept in zoological park, veterinary hospital, animal shelter, public laboratory, circus, amusement show, education facility, scientific facility, commercial fur-bearing animal enterprise or in the control of humane society.

6-2-14 POISONING ANIMALS

It is unlawful to poison a domestic animal or to distribute poison or toxicants in any manner with the intent of so poisoning.

6-2-15 NUISANCE

It is unlawful for an owner or keeper to allow any animal(s) to persistently bark, howl or make noise or to be kept or maintained in such numbers as to disturb by noxious or offensive odors or to be kept in runs or kennels which are not maintained as to disturb by noxious or offensive odors, to otherwise endanger the health and welfare of the inhabitants of the Town Of Peralta.

All complaints filed pursuant to this Section shall be filed in writing with the Animal Control Officer or Town of Peralta Town Hall and shall include the name and address of the complainant and name and address of person(s) permitting the nuisance to occur and to continue.

6-2-16 PENALTY

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not to exceed \$500.00 or imprisonment not to exceed ninety days. In addition to such penalties, the Town Attorney shall have the authority to apply to the District Court for the purpose of obtaining an order restraining

any person from violating any of the provisions of this Ordinance, or to obtain the necessary relief as may be appropriate.

6-2-17 SEVERABILITY

If any section, subsection, paragraph, or phrase, or other portion of this ordinance shall be declared invalid for any reason whatsoever by a Court or competent jurisdiction, then such decision shall not affect the validity or enforceability of the remaining portions of this ordinance.

SECTION 6-3 ANIMAL CONTROL ORDINANCE

6-3-1 ANIMALS RUNNING AT LARGE

6-3-2 CONFINED AND TETHERED ANIMALS; CARE AND MAINTENANCE

6-3-3 CONFINEMENT DURING ESTRUS

6-3-4 IMPOUNDMENT

6-3-5 CITATIONS, CRIMINAL PROCEEDINGS

6-3-6 PENALTIES, ANIMALS RUNNING AT LARGE

6-3-7 RABIES CONTROL

6-3-8 NUISANCE ANIMALS

6-3-9 CRUELTY TO ANIMALS

6-3-10 PUBLIC ACCESS FOR SERVICE/THERAPY ANIMALS

6-3-11 VICIOUS ANIMALS KILLING OR INJURING LIVESTOCK; DAMAGES; VICIOUS ANIMALS TO BE KILLED; APPEALS

6-3-12 DOGS CATS IN MATING SEASON TO BE CONFINED

6-3-7 TRAPS REMOVE

6-3-13 PENALTIES

6-3-14 SEVERABILITY

6-3-15 REPEAL

6-3-1 ANIMALS RUNNING AT LARGE

It shall be unlawful for any owner, possessor, or keeper to allow or permit any animal(s) to run at large as defined in 6-1-2, or on any street, alley, easement, conservancy property, sidewalk, vacant lot, public property, other unenclosed place in the Town or private property without the permission of the owner thereof. Any such animal(s) permitted to be at large is in violation of this section is hereby declared to be a nuisance and menace to the public health and safety. Every fierce, dangerous or vicious animal(s), when running at large upon the streets or in any other public place, are hereby declared to be a public nuisance. An animal(s) shall be deemed fierce, dangerous or vicious if it runs after, chases or attempts to bite any person or other animal(s).

6-3-2 Confined and tethered animals; care and maintenance.

A. Violations of the following requirements will constitute an act of neglect or cruelty and will subject the animal to immediate impoundment and penalties to the owner.

B. Confined animals.

(1) Exterior enclosures shall be constructed of chain link or other secure materials. The structure shall be structurally sound and kept in good repair. The enclosure shall be of sufficient height or be covered to prevent the animal from escaping. The enclosure shall be of sufficient size to allow the animal full freedom of movement. An enclosure for a cat that provides 12 square feet of surface space and a minimum of 18 inches in height is presumptively sufficient. An enclosure for an untethered dog weighing less than 40 pounds that provides 72 square feet and 48 inches in height is presumptively sufficient.

(2) When confined in an exterior enclosure, shelter must be provided to allow the animal to remain dry and protected from the elements. The shelter shall be fully enclosed on four sides, roofed, and have a solid floor (a solid dirt floor is acceptable). The shelter shall be large enough for the animal to rest comfortably and be in sound and good repair.

(3) Animals may be crated within a reasonable manner that is not detrimental to the health, safety and welfare of the animal.

C. Tethered animals.

(1) Dogs and other animals (excluding cats) are permitted on public roadways and public areas in the Town only if on a secure leash. This provision does not apply when the animal is in a bona fide animal show or other competition.

(2) The tether must be affixed to the animal by use of a nonabrasive, comfortable, fitted collar or harness with a swivel at both ends.

(3) The chain or cable must not allow the animal to pass beyond the owner's/custodian's property. The tether must not be obstructed by objects which might cause the animal to become entangled.

(4) Only one animal may be attached to each trolley or tether and each must be separated to prevent entanglement with the other(s).

(5) The tethered animal must be able to sit, walk, and lie down. The chain or cord must be strong enough to restrain the animal, but not so heavy as to restrict normal movement.

(6) An animal shall not be tethered with a lead that exceeds 1/8 of the dog's body weight or by a tow or log chain.

(7) The tethered animal is to be tethered with a lead that measures, when rounded to the nearest whole foot, at least 10 feet in length.

D. Care and maintenance. It shall be unlawful for any person to neglect to provide any confined or tethered animal with proper nutritious food, drink, necessary shade or shelter, or to keep an animal under unsanitary or unhealthy conditions so as to protect the health, safety, and welfare of the animals and residents. Animal waste, spoiled food and trash must be removed on a regular basis. Adequate drainage must be maintained.

6-3-3. Confinement during estrus.

Any female companion animal in a stage of estrus (heat) shall be confined to a secure enclosure so that contact with a male animal will be prevented except for intentional breeding purposes. Owners or custodians who do not comply with this section may be required to place such animals in a boarding kennel or veterinary hospital at the owner's or custodian's expense.

6-3-4 IMPOUNDMENT

An animal control officer or municipal police officer may impound any animal(s) found running at large unaccompanied by and not under the control of the owner or handler. Any fee charged shall be paid pursuant to 6-1-5.

6-3-5 CITATIONS, CRIMINAL PROCEEDINGS

Any animal control officer, code enforcement officer, or municipal police officer may issue a citation and/or file a criminal complaint which is sworn to and filed upon the officer's information and belief. Any individual may file a complaint against the owner or keeper of an animal(s) running at large.

The court shall issue a summons to the owner or keeper of said animal(s) for appearance in court and schedule for a hearing on the merits.

6-3-6 PENALTIES, ANIMALS RUNNING AT LARGE

A) Upon a finding by the municipal court that any animal is running at large, the court shall issue the following penalties: See Resolution _____

1. First Offense: No less than \$35.00 **\$50.00, RECLAIM \$25.00** plus court costs.

2. Second Offense: No less than \$150.00 **75.00 RECLAIM \$50.00** plus court costs.

3. Third and Subsequent Offense: No less than \$300.0 plus court costs per offense. **REMOVE**

B) If the same owner or keeper has more than one animal adjudicated as running at large, then each animal in violation of this ordinance shall be considered a separate offense and distinct offense pursuant to this ordinance.

6-3-7. Rabies control.

A. It is the duty of every person keeping a dog, cat, or ferret over the age of three months to have such animals vaccinated against rabies as required by state law. Any unvaccinated dog, cat, or ferret brought into the Town shall be securely confined by the owner or custodian until vaccinated against rabies, which shall be administered within one week of entry into the Town. Any rabies vaccination performed by a veterinarian in another county, state or country must conform to the requirements of the State of New Mexico to be valid within the Town.

B. Quarantine. Any dog, cat or other animal determined by the state as requiring the rabies vaccination and which has bitten or otherwise exposed a person or another animal to the rabies virus shall be quarantined by confining it immediately and observing it in confinement for a period of 10 days from the date of the bite, at the owner's expense, at a place and in a manner designated by the Animal Control Officer. Upon the conclusion of the observation period, the animal shall be:

(1) Released in accordance with all other applicable provisions of this Section 6 if the animal does not show signs of infection with the rabies virus; or

(2) Destroyed and its head sent to an appropriate laboratory for rabies testing if the animal shows signs of infection with the rabies virus; or if the animal shows signs of infection during the required period of confinement and observation, the animal shall be destroyed and sent for testing at that time.

(3) Home or boarding kennel quarantine. Any dog, cat, or ferret determined by the Animal Control Officer to have bitten a human, or which has been bitten by a known rabid animal, may be granted home or boarding kennel quarantine privileges by the Animal Control Officer. Any such home or boarding kennel quarantine is subject to approval by the Animal Control Officer and may be refused for any reason. Home or boarding kennel quarantines will be subject to a minimum standard, as per state regulations and as stated on the home and boarding kennel quarantine agreement form. On the final day of the observation period, the animal shall be presented to the Animal Control Officer for examination. The quarantine shall not be concluded until the Animal Control Officer has confirmed that such examination has been done.

6-3-8 Nuisance animals.

A. It is unlawful for an owner or keeper to allow any animal(s) to persistently bark, howl or make noise or to be kept or maintained in such numbers as to disturb by noxious or offensive odors or be kept in runs or kennels which are not maintained so as to disturb by noxious or offensive odors, to otherwise endanger the health and welfare of the inhabitants of the Town Of Peralta.

B. Any person who has been notified in writing by the animal control authority and who owns, maintains, keeps, or harbors a nuisance animal shall take immediate steps to alleviate the nuisance. The nuisance must be alleviated within the time stated in the notice provided by the animal control authority or the animal control authority may issue a citation.

C. All complaints filed pursuant to this section shall be filed in writing with the Animal Control Officer or The Town of Peralta Office and shall include the name and address of the complainant and name and address of the person(s) permitting the nuisance to occur and to continue.

6-3-9. Cruelty to animals.

A. An animal carried in an open bed of a truck when on public property must be crated or restrained so it cannot fall or jump from the truck or be strangled, or bite or molest passersby. An animal may be carried in a truck with an enclosed bed. An animal must have room in the crate or bed of the truck to stand or lie down within the enclosed area of the truck bed.

B. It shall be unlawful for any person to confine, or allow to be confined, any animal in a motor vehicle or trailer under such conditions or for such a period of time as to endanger the health or well-being of the animal.

C. Any animal showing evidence of cruelty or abuse shall be impounded until a Municipal Court hearing is conducted. Unless an owner or custodian is willing to surrender an animal for impoundment under this section, the animal control authority shall seek a warrant from a judge or court of competent jurisdiction and a complaint shall be filed for seizure of the animal. No warrant shall be necessary under exigent circumstances.

D. Any person found guilty of cruelty or abuse of an animal shall be responsible for all expenses incurred for the animal while impounded. Should the person be found not guilty of cruelty or abuse, the animal shall be returned to the owner or custodian.

E. It is unlawful for any person to recklessly, willfully, maliciously or negligently kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance or otherwise cruelly harm any animal, except that reasonable force may be employed to drive off vicious animals. Injury to an animal resulting from the animal control authority's reasonable attempt to capture, subdue or impound that animal shall not be deemed cruelty.

F. It is unlawful to poison a domestic animal or to distribute poison or toxicants in any manner with the intent of poisoning a domestic animal.

G. It is unlawful for an owner or custodian to abandon any domestic animal.

6-3-10. Public access for service/therapy animals.

It shall be unlawful for any person owning or maintaining any place for public accommodation, public entertainment or amusement, a restaurant, or who operates a public transportation facility to exclude any animal which has been trained to assist the impaired, provided that such animal is in the company of the impaired person whom it was trained to assist.

6-3-11 VICIOUS ANIMALS KILLING OR INJURING LIVESTOCK; DAMAGES; VICIOUS ANIMALS TO BE KILLED; APPEALS

A) If any vicious animal(s) shall kill or injure any livestock or poultry, the owner or keeper of such vicious animal(s) shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction.

It shall be unlawful to keep such vicious animal(s) after it is known that the vicious animal(s) is liable to kill livestock or attack humans, and it shall be the duty of the owner to kill, or have killed, the vicious animal(s) upon order of the court after a finding that the vicious animal(s) has killed or injured livestock without a justifiable and/or legitimate defense and/or reason.

B) If the same owner or keeper has more than one vicious animal adjudicated as having killed or injured livestock or poultry then each animal in violation of this ordinance shall be considered a separate and distinct offense pursuant to this ordinance.

C) Any person aggrieved by a decision by this ordinance may file an appeal to the district court within 15 days to obtain the appropriate relief as may be provided by law for the stay and/or appeal of a decision made as provided for by this ordinance. Any person convicted under this section, must be made aware of this limitation.

6-3-12 DOGS OR CATS IN MATING SEASON TO BE CONFINED

Any un-spayed female dog or cat in mating season (estrus) shall be reasonably confined during such period of time in a house, building or secure enclosure. Such enclosure shall be constructed so that no other dog or cat may gain access to the confined animal, except for intentional breeding purposes.

6-3-7 TRAPS

A deposit of \$25 shall be required of any individual requesting a trap from the Town of Peralta, which will be refunded upon return of the trap in good condition to the Town of Peralta. REMOVE

6-3-13 PENALTIES

Any person who is convicted of violating a provision of this Ordinance shall be deemed guilty of a petty misdemeanor, unless otherwise provided for by State or Federal law, and upon conviction thereof, shall be subject to the penalty provisions set forth in this Ordinance. Each day this Ordinance is violated shall be considered a separate offense unless otherwise specified. REMOVE

Any person who is convicted of violating a provision of this Section 6 shall be deemed guilty of a petty misdemeanor, unless otherwise provided for by state or federal law, and, upon conviction thereof, shall be subject to the penalty provisions set forth in this Section 6. Each day this Section 6 is violated shall be considered a separate offense unless otherwise specified in Resolution No. _____ establishing the fees and fines.

6-3-14 SEVERABILITY

The provisions of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or part thereof, other than the part so declared to be unconstitutional or invalid.

6-3-15 REPEAL

Ordinance number 2007-07 and Ordinance 2013-02 are hereby repealed.

To the extent there are regulations, ordinances or resolutions existing prior to the effective date of this Ordinance regarding animal control, such regulations, ordinances and resolutions are hereby repealed and superseded by this Ordinance.

APPROVED, PASSED AND ADOPTED THIS ____ DAY OF _____, 2020

Bryan R. Olguin, Mayor

Michael Leon Otero, Mayor Pro Tem

Randy Smith, Councilor

Joseph Romero, Councilor

Claudio Moya, Councilor

ATTEST:

Kori Taylor, Town Clerk