

State Dangerous Dog Act

By Quixote Humane, Inc.

Because of the many vicious dog attacks on children and adults in New Mexico recently several bills were proposed in the 2005 legislature session to regulate dangerous dog complaints. Earlier this year Governor Richardson signed the Dangerous Dog Act which will go into effect in July. This legislation will become the basis for statewide dangerous dog ordinances. Some municipalities and counties, including Valencia County, have addressed dangerous dogs in their local ordinances, most will have to revise their language to reflect the new legislation.

The state Dangerous Dog Act defines a dangerous dog as one that “caused a serious injury to a person or domestic animal.” By serious injury it means “a physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.”

The Act goes further and defines a “potentially dangerous dog” as one that “may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors: (1) causing an injury to a person or domestic animal that is less severe than a serious injury; (2) chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or (3) acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.” There are exceptions: “if the dog was used by a law enforcement official for legitimate law enforcement purposes” or “the threat, injury or damage was sustained by a person or domestic animal who was committing or attempting to commit a crime.”

The Act also states that a dog shall not be declared dangerous or potentially dangerous if: “the threat, injury or damage was sustained by a person or domestic animal who was: trespassing upon premises occupied by the owner or the dog; provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog.” In addition, the dog will not be declared dangerous if it was

responding to pain or injury; protecting itself or its offspring; or protecting or defending a human being or domestic animal from attack or assault.

In order for animal control to seize a dangerous or potentially dog from the owners property they must have probable cause to believe that the dog is dangerous or potentially dangerous and poses a threat to public safety and must petition to court for a warrant to seize. However, pre-existing code states that “each municipality and each county shall make provision by ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on their premises.” Therefore, a warrant is not necessary to impound a dog off it’s owners property - whether it is considered dangerous or not.

Once an animal has been impounded under this act, the owner may admit the dog is dangerous or potentially dangerous and comply with registration requirements or transfer ownership of the dog to animal control. Otherwise, the owner can wait out the fourteen days for animal control to bring a petition to court seeking determination. If animal control does not petition within fourteen days the court will order the release of the dog to its owner. If the petition is filed within fourteen days and the court finds, “by clear and convincing evidence” that the dog is dangerous or potentially dangerous, the court shall order the owner to comply with the registration and handling requirements within thirty days, or return the dog to its owner. In the meantime, the dog will be impounded pending disposition of the case.

Once deemed dangerous or potentially dangerous the owner must register the dog, contingent upon ability to comply with extensive requirements to maintain ownership. (See sidebar).

By definition a dangerous dog is obvious. A potentially dangerous dog relies upon interpretation and may give owners, and animal control, cause to arbitrate.

Registration and Handling Requirements for Dangerous and Potentially Dangerous Dogs

Potentially Dangerous Dogs: An animal control authority shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes that: (1) the owner is able to keep the dog under control at all times (2) a license, if applicable, has been issued pursuant to the requirements of the jurisdiction (3) the dog has a current rabies vaccination (4) the owner has a proper enclosure for the dog (5) the owner has paid an annual fee, if applicable, established by the animal control authority to register a potentially dangerous dog (6) the dog has been spayed or neutered (7) the dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority, and (8) the owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.

Dangerous Dogs: An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of a potentially dangerous dog, establishes that (1) the owner has paid an annual fee, if applicable, established by the animal control authority to register a dangerous dog (2) has written permission of the property owner or homeowner’s association where the dangerous dog will be kept (3) the dog will be maintained exclusively on the owner’s property except for medical treatment or exam (4) when removed from the owner’s property the dog shall be caged or muzzled and retrained with a lead no longer than four feet and the dog shall be under complete control at all times (5) the dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle and (6) a clearly visible warning sign with a conspicuous warning symbol indicating that there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty feet, whichever is less.

The animals pictured below are only available for three days, but there are plenty of other choices! Visit the Valencia County Shelter, 1209 NM 314, one mile south of Main Street in Los Lunas. Open 8:00 am - 4:00 pm Tues - Sat. 866-2479