City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 10 **Ordinance#** 2565 **Council District:** ___

For Meeting of March 1, 2010
(Adoption Date)

AN ORDINANCE AMENDING THE LAS CRUCES MUNICIPAL CODE, SECTION 7-1, *DEFINITIONS*, TO CHANGE THE DEFINITION OF PROFESSIONAL BIOLOGIST SO THAT IT MEANS ONLY THOSE PERSONS WITH AN ADVANCED DEGREE IN THE BIOLOGICAL SCIENCES, TO PROVIDE THE CURRENT BIOLOGICAL NOMENCLATURE FOR CERTAIN PROHIBITED ANIMALS; AND TO AMEND SECTION 7-19, *RABIES CONTROL*, TO ELIMINATE SUBSECTION (e) SO THAT ALL ANIMAL BITES ARE REPORTED TO THE DISTRICT HEALTH OFFICE.

PURPOSE(S) OF ACTION: To amend certain Las Cruces Municipal Code ordinances to change the definition of "Professional Biologist", to provide the current biological nomenclature for certain prohibited animals, and to provide that all animal bites are reported to the district health office.

Name of Drafter: Monica Campbell		**Department:** Legal		**Phone:** 541-2128	
Department	**Signature**	**Phone**	**Department**	**Signature**	**Phone**
Originating Department			Budget		541-2107
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Staff has drafted this ordinance amendment to:

1. Change the definition of "Professional Biologist" to show that it only means a person with an advanced degree in the biological sciences;

2. Update the biological names of certain prohibited animals to the current nomenclature; and

3. To require a report to the district health office of every animal bite, including bites that may occur in hospitals, clinics and other premises operated by licensed veterinarians.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Ordinance.

2. Changes made in legislative format, Attachment "1".

OPTIONS / ALTERNATIVES:

1. Adopt the Ordinance. This means that the Las Cruces Municipal Code will be updated to change the definition of "*Professional Biologist*", to show the current biological names of certain prohibited animals, and to require a report to the district health office of every animal bite, without exception.

2. Do not adopt the Ordinance. This means that no changes will be made to the ordinances.

3. Modify the ordinance and provide further direction to staff.

(Continue on additional sheets as required)

COUNCIL BILL NO. 10-036
ORDINANCE NO. 2565

AN ORDINANCE AMENDING THE LAS CRUCES MUNICIPAL CODE, SECTION 7-1, *DEFINITIONS*, TO CHANGE THE DEFINITION OF PROFESSIONAL BIOLOGIST SO THAT IT MEANS ONLY THOSE PERSONS WITH AN ADVANCED DEGREE IN THE BIOLOGICAL SCIENCES, TO PROVIDE THE CURRENT BIOLOGICAL NOMENCLATURE FOR CERTAIN PROHIBITED ANIMALS; AND TO AMEND SECTION 7-19, *RABIES CONTROL*, TO ELIMINATE SUBSECTION (e) SO THAT ALL ANIMAL BITES ARE REPORTED TO THE DISTRICT HEALTH OFFICE.

The City Council is informed that:

WHEREAS, the definition of a professional biologist should only include a person with an advanced degree in the biological sciences; and

WHEREAS, the biological classifications and nomenclature of certain prohibited animals have changed; and

WHEREAS, the State of New Mexico requires a report of every animal bite, including bites that may occur in hospitals, clinics and other premises operated by licensed veterinarians.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAS CRUCES:

(I)

THAT LCMC 1997, Section 7-1, *Definitions*, is amended to read as follows:

Sec. 7-1. Definitions.

Professional biologist means any person with an advanced degree in the biological sciences.

Prohibited animals means:

(1) Any ape or other non-human primate;

(2) Any member of the Family Canidae, including wolf, hybrid wolf, coyote, jackal or fox, and similar species except Canis lupus familiaris;

(3) Any member of the Family Felidae, including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except Felis catus;

(4) Mustelids, other than the domestic ferret (Mustela putorius furo);

(5) Skunk;

(6) Any poisonous reptile or venomous species except bees that produce products for human consumption or use;

(7) Crocodile, alligator, caiman or related species;

(8) Miniature Vietnamese pot-bellied pig;

(9) Ostrich or any other Ratites;

(10) Bear; and

(11) Except for the small mammals permitted to be raised by "rodent breeders," all other mammals that usually live in a natural state of undomesticated freedom including the opossum, raccoon, armadillo and squirrel.

(II)

THAT LCMC 1997, Section 7-19, *Rabies Control*, is amended to read as follows:

Sec. 7-19. Rabies control.

(a) Rabies control shall be classified and under the control of the district health office.

(b) No person shall fail or refuse to surrender any animal for quarantine or destruction as required by the animal control officer or district health officer.

(c) It shall be the duty of every person to report to the health officer any animal suspected of being rabid.

(d) Every animal bite shall be reported to the district health office within 24 hours of occurrence.

(III)

THAT City staff is authorized to do all deeds necessary to accomplish the intent of this Ordinance.

DONE AND APPROVED on this _____ day of _____, 2010.

_____

Mayor

ATTEST:

_____
City Clerk

{SEAL}

Moved by: _____

Seconded by: _____

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:

_____
City Attorney

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amphibian means any organism belonging to the vertebrate class Amphibia (including but not limited to frogs, toads, salamanders and caecilians).

Animal means any live, vertebrate or invertebrate creature, excluding human beings.

Animal control/codes officer means any person designated by the city manager as an animal control officer. The officer's duties are defined in the job description for such position, which is on file with the city personnel director.

Animal shelter means any premises designated by the city for the purpose of impounding and caring for animals coming into the city's custody.

Animal shelter director means the person or agency-designated director of the animal shelter who will keep accurate and detailed records of all vaccinations, registrations, permits, impoundments of animals and will be responsible for health, cleanliness, proper management and operation of the animal shelter.

Auction means any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Aviary means any totally fence-enclosed outdoor pen, for the purpose of housing birds, that is structurally sound and sufficiently designed to repel cats, rats, squirrels, or any other animal from entering the structure.

Bite means any abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by an animal's mouth.

Circus means a commercial variety show featuring animal acts for public entertainment.

Collar means a band, chain, harness or other suitable device worn around the neck of an animal to which current rabies vaccination and registration tags can be affixed.

Emergency measures means any action taken by animal control or its designated agents to preserve the health and/or life of an animal or human being, including but not limited to entering vehicles or upon premises, with probable cause, and impounding the animal to prevent present or imminent suffering.

Enclosure; enclosed fence means any animal pen, a fenced or walled yard.

Escape-proof enclosure means any enclosure that, by the nature of the design and material used, precludes the escape of the occupants. For venomous animals this definition includes the incorporation of a lock into the design of the enclosure.

Falconer means any person who keeps any bird of prey.

FFA (Future Farmers of America) program means the specific national youth organization that promotes the development of agricultural leadership, vocational agriculture, cooperation, and citizenship under the auspices of the U.S. Department of Education.

Fowl means any bird.

4-H program means the specific youth organization conducted by the New Mexico State University Cooperative Extension Service, United States Department of Agriculture.

Health officer or authority means the district health officer of district V of the state and the authority vested in this office.

Inspection means a visual check by the codes enforcement department of any premises to ensure that no health, safety, or nuisance violations are detectable. Such inspections may be made at any time deemed necessary by the codes enforcement department.Kennel, commercial means any premises on which eight or more dogs or eight or more cats or eight or more rabbits, four months of age or older, are kept; or where the business of buying, selling, breeding, training or boarding of dogs or cats or rabbits is conducted, but does not include veterinary hospitals, Humane Societies, animal shelters or pounds approved by a governmental agency.

Kennel, private residential means any premises on which more than two dogs or two cats or two rabbits, or any combination thereof in excess of two, but not more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding, training, or boarding of dogs, cats or rabbits is not carried on, with the exception that the sale of not more than two litters per year shall be permitted.

Nuisance. See public nuisance.

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

Performing animal exhibition means any spectacle, display, act, or event, other than a circus, in which performing animals are used and to which the general public is invited.

Pet means any dog, cat, rabbit, amphibian, reptile, caged bird, aquarium fish, caged rodent or caged ferret.

Pet shop or *dealer* means every person, including wholesalers and retailers, engaged in the business of selling or holding pet animals for sale.

Poisonous means any animal or fish that produces a toxin that may be introduced into the human body through voluntary actions on the part of the victim, such as ingestion of the animal.

Premises means any place where animals are kept or sheltered, including the land, but not including any dwelling occupied by human beings.

Professional biologist means any person with an advanced degree~~, or studying toward an advanced degree,~~ in the biological sciences.

Prohibited animals means:

(1) Any ape or other non-human primate;

(2) Any member of the ~~genus Canis~~ Family Canidae, including wolf, hybrid wolf, coyote, jackal or fox, and similar species except Canis lupus familiaris;

(3) Any member of the ~~genus Felis~~ Family Felidae, including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except Felis ~~domesticus~~ catus;

(4) Mustelids, other than the domestic ferret (Mustela putorius furo);

(5) Skunk;

(6) Any poisonous reptile or venomous species except bees that produce products for human consumption or use;

(7) Crocodile, alligator, caiman or related species;

(8) Miniature Vietnamese pot-bellied pig;

(9) Ostrich or any other Ratites;

(10) Bear; and

(11) Except for the small mammals permitted to be raised by "rodent breeders," all other mammals that usually live in a natural state of undomesticated freedom including the opossum, raccoon, armadillo and squirrel.

Public nuisance means any animal that:

(1) Molests passersby or passing vehicles;

(2) Attacks other animals;

(3) Trespasses on school grounds, public or private property;

(4) Is running at large;

(5) Damages private or public property; or

(6) Barks, whines, or howls in an excessive or continuous fashion which disturbs the repose of others.

Rehabilitator means an individual who is licensed by the federal government, the state department of game and fish and the city codes enforcement department to keep injured or immature fowl in an outdoor aviary until such birds are able to be released to the wild or are euthanized.

Reptile means any organism belonging to the vertebrate class Reptilia (turtles, lizards, snakes, crocodilians and amphisbaenids).

Responsible person for the animal means the owner of an animal, or an adult person placed in charge of the animal in the absence or incapacitation of the owner.

Restraint means any animal secured by a leash or lead no more than eight feet in length, which animal is under the immediate control of a responsible person or in an enclosed area in which an animal may be tethered, by a tether not less than 12 feet or of a length sufficient to confine the animal within the boundaries of the real property limits of the owner or responsible person. Rodent breeder means any person that breeds and/or engages in the feeding or care of more than 15 adult mammals (other than dogs and cats) that do not normally exceed 15 pounds at maturity, including white rats, gerbils, guinea pigs, chinchillas, and hamsters.

Stray or *estray* means any licensed or unlicensed animal running at large unattended, and not under restraint, within the city limits on any public street, alley or private property of another private citizen.

Vaccination means the inoculation of an animal with a vaccine administered by a veterinarian for the purpose of immunizing the animal against rabies as required by state law.

Venomous animal means any animal with the capability of causing harm by the introduction of a toxic substance into the body of another animal or human being.

Veterinarian means a doctor of veterinary medicine licensed by the state board of veterinary medicine to practice veterinary medicine.

Veterinary hospital or clinic means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal that demonstrates a physical threat to human beings or to other animals.

Wild means ferae naturae, wild by nature, not usually tamed.

Zoning administrator means any person designated by the city manager to enforce or implement the zoning ordinances.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non domesticated animals operated by a person or government agency.
(Code 1988, § 7-1; Ord. No. 1869, § I, 5-21-01)
Cross References: Definitions generally, § 1-2.

Sec. 7-19. Rabies control.

(a) Rabies control shall be classified and under the control of the district health office.

(b) No person shall fail or refuse to surrender any animal for quarantine or destruction as required by the animal control officer or district health officer.

(c) It shall be the duty of every person to report to the health officer any animal suspected of being rabid.

(d) Every animal bite shall be reported to the district health office within 24 hours of occurrence.

~~(e) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from this section except where expressly stated.~~
(Code 1988, § 7-19)
Cross References: Health and human services, ch. 12.