



AN OVERVIEW OF ANIMAL LAW IN NEVADA

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This article examines the Nevada laws governing some of the most common issues arising from the interaction between humans and companion animals: abandonment, cruelty, spaying/neutering and tethering. Nevada Revised Statute 574, Cruelty to Animals: Prevention and Penalties, is applicable to all of Nevada, but the local municipalities have each adopted their own ordinances governing the treatment of animals. Accordingly, it is necessary to determine the municipality in which the animal is located to determine the specific ordinance addressing the particular concern, whether the animal at issue is covered by the ordinance and the identity of the organization tasked with enforcing the ordinance in that municipality. Local ordinances pertaining to animals are available on the internet at www.municode.com.

Animals Covered By State and Local Laws

The range of animals covered by state and local laws is generally very broad. For example, NRS 574 excludes only the human race from its definition of “animal” (NRS 574.050(1); NRS 574.230). This definition is also utilized by Carson City in Section 7.13.010, Clark County in Section 10.04.040 and North Las Vegas in Section 6.04.020. Similarly, the City of Las Vegas includes in its definition of “animal” at Section 7.04.030: “any living vertebrate, domestic or wild, except human beings,” and Henderson defines “animal” as “dogs, cats, horses, mammals, reptiles, birds and other wild, domestic or farm animals that may be found in the care, custody, control or ownership of human beings” (Henderson, 7.04.010). Unlike the other municipalities, Winnemucca’s definition of “animals” found in Section 6.04.010 of its Code of Ordinances specifically states it does not include dogs, which are addressed separately in Section 6.08. Fallon’s municipal code includes no general definition of “animal,” but instead addresses specific animals in the various sections of its Title 6. Generally speaking, dogs and cats are protected from cruelty and abandonment throughout Nevada, but less common companion animals (pigs, for example) may not be.

Enforcement

NRS 574 provides, “Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner” (NRS 574.055(1)). As defined in NRS 289, a “peace officer” includes, among others, sheriffs, sheriffs’ deputies, police officers and marshals, but does



not include animal control officers (NRS 289.150). Accordingly, each animal control officer enforces only the ordinances of his or her municipality and must enlist a “peace officer” to assist in enforcement of the state statute. The entities charged with enforcing the local ordinances pertaining to animals vary from municipality to municipality. If the incident occurs within the limits of the City of Las Vegas, for example, enforcement is the duty of the sheriff, the Animal Regulation Officer and every peace officer while on duty (City of Las Vegas, 7.44.020). In Clark County, enforcement is the duty of the director of business license and the animal control officer (Clark County, 10.40.020). In Henderson, animal control officers are empowered to enforce the provisions of Title 7 Henderson, 7.04.025. In North Las Vegas, the city’s animal control officers and police officers have the authority to enforce the provisions of Title 6 City of North Las Vegas, 6.06.020.

Accordingly, the person seeking to report an incident involving an animal should know the appropriate entity to contact for the specific municipality in which the animal is located or in which the incident occurred. Also, knowing the specific law and ordinance at issue permits the person to determine whether it is appropriate to contact state as well as local authorities. Thanks to passage of Senate Bill 223, now a new section in NRS Chapter 574, a person is permitted to anonymously report incidents involving animals. Prior to passage of Senate Bill 223, a person reporting an incident was required to identify him or herself: a deterrent to many people who might have otherwise contacted the authorities. Hopefully, with these new protections in effect, more punishable acts against animals will be reported and prosecuted.

After a complaint is filed, it is important to follow up on the complaint to ensure it has been addressed. For Clark County, there is an online form with which to request information about a particular address. The form can be found at: sandgate.co.clark.nv.us/animalcontrol/animalcontrol.htm.

Abandonment

The high incidence of foreclosures in Nevada is unfortunately accompanied by a high incidence of animal abandonment at foreclosed properties. Although abandonment is proscribed by state statute as well as local ordinances, animals are often left for weeks on end at foreclosed properties without food or water.

NRS 574.100 provides, in relevant part, a person shall not “(b) deprive an animal of necessary sustenance, food or drink or neglect or refuse to furnish it such sustenance or drink; or ... (e) abandon an animal in circumstances other than those prohibited in NRS 574.110.” (NRS.574.110 addresses abandonment of a disabled animal.) Local ordinances may address abandonment under the heading of “cruelty” and many prohibit abandonment of all animals,

whether healthy or injured, on both public and private property. (See, e.g., Clark County 10.32.010; Henderson 7.04.220; Las Vegas 7.32.010.) When a municipal code includes an ordinance prohibiting abandonment of animals, it often provides that an animal control officer may take custody of such animal. (See, e.g., Carson City 7.13.440; and Henderson 7.04.225.) However, the North Las Vegas Code, while prohibiting the abandonment of animals, does not authorize an animal control officer to take custody of such animals; their authority is confined to the issuance of tickets and citations, investigations of alleged violations and the performance of other duties “reasonably necessary to the above” (enforcement authority) or as the city council may provide. (See, North Las Vegas 6.06.020.) Accordingly, it is

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important to follow up on any reports made on behalf of an abandoned animal to ensure that animal has received the assistance it needs. If the local enforcement authority is unable to assist an abandoned animal, there are other avenues that should be explored.

NRS 116.310312 permits the executive board of a homeowners' association to enter the grounds of a unit to abate a public nuisance on the exterior of the unit which (1) [i]s visible from any common area of the community or public streets; (2) [t]hreatens the health or safety of the residents of the common-interest community; (3) [r]esults in blighting or deterioration of the unit or surrounding area; and (4) [a]dversely affects the use and enjoyment of nearby units (NRS 116.310312(2)(b)). Persons who enter the property pursuant to this statute are not liable for trespass (NRS 116.310312(8)). Considering that a barking dog constitutes a noise annoyance for purposes of Section 7.36.010 of the Las Vegas municipal code, as well as Section 10.36.010 of the Clark County municipal code and 6.08.120 of Fallon's municipal code, the case could certainly be made that an abandoned, barking dog constitutes a public nuisance for purposes of this statute.

Unfortunately, the executive board's authority is limited to the exterior of the unit which, as defined, includes without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner (NRS 116.310312(9)(a)). If an animal has been abandoned inside of a home, whether in a common interest community or not, it will likely require police intervention to secure the animal's release.

Cruelty

Senate Bill 223 was passed during the last legislative session, making cruelty to animals a felony on the first offense. Prior to passage of the bill, known as "Cooney's Law¹," a

person would have to commit acts of cruelty on three separate occasions before facing a charge of felony animal cruelty. Now, if a person "willfully and maliciously" engages in animal cruelty, defined to include, for example, such acts as "tortur[ing] or unjustifiably maim[ing], mutilate[ing] or kill[ing]... [a]n animal kept for companionship or pleasure..." that person is guilty of a category D felony, which provides for the potential of imprisonment for one to four years (NRS 574.100(5)). If the act of animal cruelty is committed "in order to threaten, intimidate or terrorize another person," the person is guilty of a category C felony, which provides for the potential of imprisonment for one to five years.

The legislature also amended NRS 574.500, which prohibits a "retailer, dealer or operator" from separating a dog or cat from its mother until the dog or cat is eight weeks old or "accustomed to taking food or nourishment other than by nursing, whichever is later," to provide that a person who violates this law is guilty of a misdemeanor.

Spaying/Neutering

The legislature has not adopted any state-wide legislation requiring spaying and neutering of animals. However, several local municipalities have adopted ordinances in recent years requiring residents to spay and neuter their dogs and cats. North Las Vegas was the first municipality to adopt legislation requiring an owner to spay and neuter their pets. In 2008, North Las Vegas passed an ordinance prohibiting any person from "harbor[ing] with the city of North Las Vegas any unspayed or neutered cat or dog," with certain exceptions (City of North Las Vegas 6.16.010). Those exceptions include cats or dogs that veterinarians deem unfit for



spaying or neutering, animals harbored at a shelter or humane society in certain circumstances, and for holders of a dog or cat fancier's permit (Id. at 6.16.020). Violators of this ordinance are guilty of a misdemeanor (Id. at 6.16.050).

In 2009, the City of Las Vegas followed suit enacting similar legislation. Residents in Las Vegas were required to spay or neuter their dogs and cats four months of age or older by April 1, 2010, with certain exemptions similar to those of North Las Vegas (City of Las Vegas, 7.14.010; 7.14.060). A person who violates this ordinance is guilty of a misdemeanor and the punishment includes fines ranging from \$225 to \$1,000 (Id. at 7.14.070). In 2010, both the City of Henderson and Clark County enacted similar laws requiring spaying and neutering (City of Henderson 7.04.101; 7.04.102; Clark County 10.08.130).

It is important for residents to investigate whether or not they are required to spay and neuter their dogs and cats. For instance, neither Reno nor Carson City have enacted ordinances mandating spaying and neutering.

However, in those municipalities where spaying and neutering is mandated, people suspected of breeding dogs and cats without a license can be reported to the local animal control officer who is tasked with investigating such complaints.

Tethering

NRS 574.100 puts restrictions on the use of tethering to restrain a dog, but the restrictions are minimal. A “tether, chain, tie, trolley, or pulley system” is an acceptable restraint for a dog, provided it is at least 12 feet in length, permits the animal to move 12 feet, and is not used in conjunction with a “prong, pinch or choke collar” (NRS 574.100(2)). The statute provides a person shall not restrain a dog for more than 14 hours in a 24-hour period, but does not specify the length of time the animal must be otherwise restrained prior to the beginning of another 14 hour time period of tethering (NRS 574.100(2)(c)). Similar prohibitions can be found in the local ordinances. The North Las Vegas code essentially echoes the statute. (See, North Las Vegas 6.12.070.) Las Vegas’ municipal code provides restricting an animal by leash of a length deemed insufficient by the Animal Control Officer is a misdemeanor. (See, Las Vegas 7.32.160.)

A tethering violation might be difficult to prove due to the length of time tethering is permitted and the difficulty in proving a dog has been tethered more than 14 hours in a 24-hour period. However, it is worth reporting a suspected violation because it should spark an investigation by the code enforcement officer who might be able to educate the animal’s guardian in better caring for the dog. An alternative might be to report the violation as a public nuisance if the dog is consistently barking. Often an issue involving an animal will get more attention if it is addressed from the point of view of a dissatisfied human rather than an unhappy animal.

Conclusion

The intent of this article was to provide a very brief overview of some of the most common issues arising from the interactions of humans and companion animals. While it is a good idea to understand the laws governing these issues, the most important thing is to report a suspected violation to the proper authorities. If you are not sure of the proper authorities, contact the local animal control department and they should be able to refer you to the correct authorities. Once an incident has been reported, it is important to follow up to ensure the complaint has been addressed. ■



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1 Senate Bill 223 was named after Cooney, a dog adopted from the SPCA in Reno. In the fall of 2010, Cooney’s adopter cut her open with a box cutter, then watched as she ran around the room, bleeding, her intestines falling out. Cooney later died of shock and blood loss. The man pled guilty to a misdemeanor animal cruelty charge, paid a small fine and was released with jail time served because Nevada’s prior anti-cruelty felony penalty was applicable only on a third offense.



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