

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
AGENDA
TUESDAY, OCTOBER 14, 2025**

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Tuesday, October 14, 2025 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Lisa Kent, Member
Molly Hammer, Member

1. APPROVAL OF AGENDA:

2. APPROVAL OF MINUTES:

- a. September 8, 2025

3. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies):

4. PUBLIC HEARINGS (5 Minute Rule Applies):

- a. Public Hearing/Discussion/Action: Conditional Use Permit at 303 Jones St. The applicant is in the C-1, M-1 and T-1 Districts.
- b. Public Hearing/Discussion/Action: Summary Plat Amendment - Alternate Summary Procedure on Property Address: 412 Main Street

5. WORKSHOP:

- a. Variance, Conditional Use Permit and Special Use Permit
- b. Shipping Container/Conex
- c. Kennel Permit

6. REPORTS FROM THE BOARD

7. REPORTS FROM STAFF

8. ADJOURNMENT

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, SEPTEMBER 8, 2025**

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, September 8, 2025 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Lisa Kent, Member
Molly Hammer, Member

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Katy Martinez, Deputy Clerk

1. APPROVAL OF AGENDA:

Vice Chairman Buhler made a motion to approve the agenda with the removal of item 4a. Member Luchini seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a) August 11, 2025.

Member Kent made a motion to approve the minutes. Member Hammer seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

There were no comments from the public.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

- a) **Public Hearing/Discussion/Action: Variance Request for 1702 Jackson St.**
Variance Request: Requesting permission for a mobile home that exceeds the age limit per city code.

This item was removed from the agenda.

5. WORKSHOP:

- a) **Tiny Homes/ADU Discussion**
b) **Short-Term Rentals**

Member Kent: What is our goal right now? We have 2 topics; they have come up before. Are we trying to make a list of some things we think would be good to try and work into the code? Just so we have something at the end, and we are not just here talking in circles.

City Manager Whitehead: My intention when we started was for you to workshop one item, write a position paper, and give us your individual thoughts on what you thought should happen in the code and move on. What we will need to do is take all 5 of those thoughts and get our legal team to look at them. Then we would come up with 2 or 3 policy changes if we want to and present those in some form in a workshop. For example, these are the 5 choices that you could do nothing, don't have them, or do have them. Put them in whatever they are. Then go on to the next subject and come up with what you think so that ultimately, we could end up with several changes to the code that we want to present to the commission.

Member Kent: On both of these items you said the exact same thing a while back about a position paper. I think several of us wrote emails that you should have gotten that stated what we think individually. We all listed our concerns and ideas. But then we never really came back to it. You have the emails, we have that start, where are we at now?

City Manager Whitehead: I would be really candid, I don't know why it's on the agenda still. We should move on to the next subject. Is the next subject metal containers or whatever it is? I'm not looking to sit down and come back and bring back what our position is. It would be somewhere in December or January all take all that information and we will begin to then say, this is what we think we got from tiny homes, this is what we got from shipping containers and this is what we got from variances. Whatever those may be and then we would start crafting what the changes potentially we would make to the ordinance.

Assistant City Manager Alvarez: At the previous planning and zoning meeting where we had all those public hearings, board member Hammer had some stuff that she wanted to present but she couldn't because of the time frame, so we put it back on the agenda. I believe you guys tabled it at the last meeting.

Vice-Chairman Buhler: It was so late. Could we also work with the city like a round table discussion to where we would bring our ideas to them because I didn't say that in this certain area a tiny home would have to be this size. We just gave a synopsis.

City Manager Whitehead: I think what I would say, to give you some confidence here, it would be us taking this information that we get from you to decide whether or not tiny homes lets us, that's as an example. Do we want to put time and effort into this and is it something that needs to be in the code? If that is a yes, then we will go back and use what you have given us and develop that. I think yes, we would have a bigger workshop at that point to say these are the 9 items that we want to put into the code and now let's drill into those and decide what is the proper language that is going to go into the code that will achieve the outcome that you are looking for. That may or may not be the same as the commission. We may present something to the commission, and they say they are not interested at all. I think that is the way I would approach it, to say here is an issue that has popped up on our radar, we weren't expecting it. It came in as a variance or a special use. Let's talk about it. Let's each put our position on what we think and then decide whether or not that needs to be changed within the code. We would do that over the course of this year. For me, I would be looking for every meeting there should be some new topic on here for you guys to have a workshop on. Something new that has either come before you at a previous meeting or something particularly that you have decided. As you look at the code you don't like how something is worded and you want to have an open discussion and dialog on it so that we could begin to decide whether or not we are going to change it. Is that a reasonable process?

Member Kent: I think it's reasonable, but I guess the fact that it came back up today, I thought that we would have a list of what everybody submitted. I don't know on the Tiny Home/ADU where we are at. I know I shared some of my ideas and thoughts based on codes I have seen in other cities. I know some of the other members did as well. Maybe at this point we need to consolidate all that into something we can all read and review.

City Manager Whitehead: I would say to be fair to everyone this is new we are trying it out. We will figure it out. Once it's on the agenda in a workshop and you guys all get a chance to discuss it whether you make the meeting or not. If you can't make it, you can't make it. That doesn't mean you can't submit your thoughts and ideas on that particular topic. Let's decide and move on to the next issue and know it's not going to come back until we have 7 or 8 things that we feel like this is now where we want to spend our time developing a new code. Right now, we are developing ideas, and I think once we have that then our job would be to take the tiny homes, go do all the work, all the legal, all that information, and start developing something that we would then come back and present to you.

Member Kent: You keep saying 7 or 8 things. I'm sure there are that many things but it's already September and if we want to have something done by the end of the year. We have 2 hot topics, and they come up over and over. We have shared ideas, thoughts and concerns. Can we at least move forward with these and start getting some better definition and start reviewing even if it's only these 2 for this year?

City Manager Whitehead: I'm not going to do an ordinance change for 2 things. It's a lot of work and it's subject to an election. If we are going to pass an ordinance and amend it, it needs to have to the Short-Term Rental policy. I would think that the metal containers in the downtown area need to be addressed. I think the variance issue is a concern for the board I think we need to have a real conversation on how we want to think about variances in the future. The special use permits, Traci and I both agree we need to know why you would have to get a special use permit, what it really means, what is the value in it and should we change it. I can think of 4 or 5 things that really deserve some time.

Member Hammer: Traci, you gave us a list a couple of meetings ago of the hot topics you have seen develop over the last years. These are 2 hot ones. I don't think we have time for 8 in 3 more meetings. But can we pick the top 4.

Vice-Chairman Buhler: 3 maybe. I think the containers, the tiny homes, and the Airbnb. I think there needs to be some restrictions on those tiny homes and we need to have a tiny home guideline like what Albuquerque has. We need something like that because if we don't, we have people come in like the one with the trailer park. She could have people end up living in those 150-foot trailers for extended periods of time and they are not made for that. We either have zoning, or we have no zoning, no rules. I personally would like to see some rules and some standards with regard to tiny homes, it's very important because more and more they are going to be coming our way. I don't have a problem with them as long as they are done right and they are big enough for the area where they are going to go into.

City Manager Whitehead: I will give you philosophy, my thoughts. I want you guys to be empowered. I want you to feel like what you serve here has some meaning and value. I would like to see you have the time to identify things in the code that need to be repaired and us have a chance to do them. I really don't want to bring up a code every year just for one change. If we get good at this, every year we probably go back with an ordinance change and we would probably have 5 or 6. Maybe it is 3 or 4. Maybe it is 5 or 6 and we end up with 3 or 4. We still have to take them to commission. I think it's developing a nice process where, when you guys find something in the code that you feel needs to be different. We really talk about it. We give it to staff, and we figure out how best to work it on some regular cadence. We are doing that with the commission to say it's time to change the code. Maybe it is every couple of years.

Maybe we don't want to squander it. It's not been done before and it needs to be, and we are looking for a good path.

Member Kent: I can appreciate that it is a lot of work to do, just a couple maybe doesn't seem reasonable. But we have also never done this before, so we are really behind. Even if we have the 2 top topics addressed and then next year, we can try to have a larger scope. Otherwise, we are going to keep dragging this on. We are going to say we don't have enough this year because it's already September. Which means nothing happens with tiny homes and short-term rentals, but we know for those 2 it needs to happen. So, maybe this one year we only do 2.

Chairman Sisney: What is the year? Is a year January? This can be done at any time, correct? It doesn't have to be on the calendar year.

City Manager Whitehead: That is correct.

Chairman Sisney: I think that a lot is getting done it just doesn't look like it is. Reading the minutes from the last meeting, I missed a lot. I didn't get to see pictures of what they were trying to bring into the trailer park. It wasn't a tiny home. They were calling them RVs.

Member Kent: They are RV's it's a mobile home park.

City Manager Whitehead: It's an RV Park not a mobile home park.

Chairman Sisney: She had a name for this thing. What was it? Was it a coach?

Member Kent: You can see it. It's on the property.

Chairman Sisney: I wanted to go by.

Member Kent: Drive in the alley and you can see it pretty well.

Chairman Sisney: Are we talking about coach RVs?

Member Kent: No, it's not that. It gets towed.

City Manager Whitehead: Our vision was it was a towed recreational vehicle.

Chairman Sisney: She had it sitting on her property.

Member Kent: There is a mobile home and there is a couple RV's further in the back that are the kind that you tow behind your truck. She wants to put those types on the property. If you drive into the alley, you can see them pretty well. You will have to back out because the alley doesn't go all the way through.

Chairman Sisney: I read all that and I heard the arguments. I don't remember what happened. What was the final decision?

Member Hammer: We recommended approval. But I brought a point at the last meeting that this kind of overlaps the tiny home and the short-term rentals. She is not creating an RV Park, per say, she is putting kind of tiny homes that are fixed. There is some grey area there that I feel like we need to address, and we couldn't during that meeting, it wasn't the topic.

Chairman Sisney: Can we talk about that now? Can we discuss this?

City Manager Whitehead: Yes.

Vice-Chairman Buhler: She had a landscaper draw up the plan for that and it didn't show any drainage. It didn't show where the utilities are going to go. It didn't show anything like that. It was just a rough sketch and I think we need to really improve those types of things because you just don't have enough information.

Chairman Sisney: I believe I read in there that this the next step. All the engineering is the next step down the line is what I read in there. Which is problematic because we would like to know what the big picture is, and she sounded like she was kind of evasive in her answers also. She didn't want to answer the question very blunt.

Vice-Chairman Buhler: Well, she is in to make money. She is doing this park to make money. That is her goal.

Member Kent: Everybody is in it to make money.

City Manager Whitehead: She bought a piece of property in the R3 district that allows this park, requires a special use permit. Her point, I think, was that she did all the things within the code. She is doing all the things the code asks her to do and she is there to get that, and we want to talk about whether it's a good short-term rental or those kind of things and I think that is the challenge that we are both running into. Have we missed some things in the code that potentially should be a little tighter on something? I think it's fair to say I'll buy and make an RV Park, and I'll put a bunch of tiny homes in it because I can rent those. It's part of the code, it says that. I think people, myself included, didn't realize that downtown, really the whole Hot Springs District, is really R3. It is high density. It opens up for everything and we want to say no you can't do that but the code says otherwise.

Chairman Sisney: If she doesn't want people to bring their own RV's it's not an RV Park. It's her park with her RV's that she wants to rent as Airbnbs. But they don't qualify as tiny homes so why are they there?

Member Kent: A lot of RV Parks have fixed units in them. Glamp Camp has some that don't leave. They keep them and rent them.

Chairman Sisney: But it doesn't have the problems that they were discussing like we can't get in and out.

Member Kent: But nobody needs to get in and out. That's the difference.

Chairman Sisney: At their place. My argument was if it is all her stuff, then it's not an RV Park.

Member Kent: Then what is it?

Chairman Sisney: Exactly.

Vice-Chairman Buhler: It's a rental.

Member Kent: That's what an RV Park is anyway, right. You are renting.

Chairman Sisney: You are renting space.

Member Kent: Ok. I was in Salida for a while this summer there are mobile home parks, RV Parks all around and guess what a lot of them have in there right now, tiny homes. The owners have put them in there and they rent them. Some people bring their trailers, and they say they want a space that is empty, and they stay for however long. Some people come in and rent the fixed tiny homes that are now in there.

Chairman Sisney: But a tiny home is 400 square feet.

Member Kent: No these are not 400 square feet.

Chairman Sisney: That is what I'm saying, then it's not a tiny home. When we are arguing about semantics here. What she is doing is not renting tiny homes so it doesn't qualify.

Member Kent: She didn't say she was.

Chairman Sisney: I know. That's what I'm saying but you can't call it an RV Park if people can't come and bring their RV's.

Member Hammer: Why not?

Chairman Sisney: It kind of defeats the nature. An RV Park is you are coming into a place that has electrical, water and sewer hookup.

Member Hammer: She is putting all that on them.

Chairman Sisney: That's right but you are coming to rent that stuff. That's what I consider and RV Park. You are bringing your stuff, and they are set up for you to hook electricity, water and sewer.

Vice-Chairman Buhler: I think she is putting in a laundry room as well.

Member Kent: Which is required for an RV Park.

City Manager Whitehead: Chairman let me just say that I don't want to own an RV, but I would like to camp at an RV Park. I would like to drive in and have an RV there that is set up. I think that there is the challenge that there is a market out there that says I don't want to haul this and go anywhere but if there is a place that has it on an Airbnb style. If you look at those sites they are offering earth ships to castles. I think that is the world we are living in today where someone wants that experience, but they don't want to deal with everything that goes with it. So, who are we to judge because they didn't tow it in themselves and it doesn't traditionally meet the standards of what our RV Park is? I'm just throwing an argument on the table.

Chairman Sisney: I'm the same way. I don't really have anything vested here. I don't care either way but if we are worried about what we are going to call everything. What are we going to call it?

City Manager Whitehead: On the flip side I have owned a couple of mobile home parks that I would have been ahead to buy my own mobile homes and put them in and rent them than I was to try and find people that wanted to move a mobile home in there.

Chairman Sisney: But that is a mobile home park.

City Manager Alvarez: But it's the same kind of concept. Where you are saying I did that so that someone would buy a home and bring it in and live in this park. Those days are gone.

Chairman Sisney: A mobile home park could not have a single open space and still be a mobile home park.

Member Kent: So can an RV Park.

Assistant City Manager Alvarez: I'll tell you from my own research for personal use. Before we bought an RV. We wanted to look at taking a vacation we hadn't been on one. I had never been on Airbnb so I got on to see what was out there. There are RV Parks that rent RV's that are stationary there. That's what I was looking for, I didn't want to go stay in a hotel. So, it's not unheard of. What she has presented is something that is happening in a lot of places. The first time I came down to Washington state from Alaska in 1994 we went to a place called Mother

Nature's Acers and we rented a stationary RV, and we camped there with the kids. It's not unheard of for people to own RV's and have them stationary in an RV Park and rent them out.

Vice-Chairman Buhler: I think that it's important that if it is going to be on a lot it needs to be permanent, as permanent as it could be. This could change in 20 years somebody can buy that property and do something totally different. That is a realistic thing also.

City Manager Whitehead: I would say where I can see the twist here realistically it's probably more of a tiny home village than it is an RV Park, and that maybe where you would have to draw that line. We would have to think what would be different in those 2 settings. What's different?

Vice-Chairman Buhler: The laundry facility.

Chairman Sisney: What it actually comes down to I think is, are these people coming to vacation or are they going to be living in these things. If that's what they can afford that is what they are going to be living in.

Vice-Chairman Buhler: Well people are living in Airbnb's now like in LA.

Chairman Sisney: Well, they aren't paying Airbnb prices.

Vice-Chairman Buhler: Oh yeah, they are. Let me tell you, they are.

Member Hammer: So, do we have a stipulation in the ordinance about RV Parks like you can't stay longer than 30 days?

Assisitant City Manager Alvarez: We don't regulate the RV Parks or the manufactured home parks. Keep in mind that manufactured home parks by our code can have RVs. We don't regulate the year or anything of the manufactured home that is going to a manufactured home park, that's private property. That is why we say on a city lot you can't live in your RV as a dwelling on a city lot, your mobile home has to be less than 20 years in an RV Park size and all of that is not regulated.

Member Hammer: And the time to occupy is irrelevant right?

Assistant City Manager Alvarez: Correct.

Member Hammer: So, it's just irrelevant unless we want to make a rule that you can't stay longer than 30 days.

Vice-Chairman Buhler: That would be the owner's decision.

Member Kent: That's ridiculous. We lived in one for 2 years while our house was being built if I had to vacate that every 30 days it would have been hard.

Vice-Chairman Buhler: There needs to be a standard for size.

Chairman Sisney: The more we talk about it the more this sounds like what we already have here. The Cottonwood is like that it's just another little RV Park it's nothing different except for, she plans on owning all the spaces which is good for her, I guess.

Member Kent: Well, she can maintain them. She is going to have all the other things required in an RV Park. She is going to put the laundry, and she will have hook up at each site. So, she is going to maintain the RVs instead of people towing them around.

Chairman Sisney: The RV is supposed to be licensed, inspected and all that stuff. Are we going to require all that?

Member Kent: That's a DMV issue.

City Manager Whitehead: I don't know of any inspection process.

Chairman Sisney: I'm thinking of a mobile home.

City Manager Whitehead: I wouldn't think that there is an RV inspection, but you are correct about its personal property, and it would require that it has a license tag on it. I would assume she would have the obligation and the responsibility to do so.

Member Kent: If she brings it from out of state, she will have to take it to the DMV and get it licensed and get it inspected. That's what we had to do. That's the DMV.

Chairman Sisney: If you are traveling with it. If you're just sticking it on a lot no one is ever going to see it, you don't need to do that.

Member Kent: Well maybe not. But if the code enforcer notices or a cop notices or anybody in the city, and they want to report it, they can.

Chairman Sisney: I'm sure there are plenty of RVs in this town that have been put on a lot and never got licensed again because they're not being moved.

Member Kent: Well of course there are. They are everywhere.

City Manager Whitehead: There are RVs in this town that have been sold 7 times, and the title is still in the original owner's name.

Member Kent: There is an RV down the street from me that has no title. It's not going anywhere ever. That is a whole other matter.

City Manager Whitehead: That would be an issue between her insurance company and her. They would be the only ones that care whether or not they are registered or not. The minute they got on the road she would be subject to some kind of a fine, or anybody that did that.

Member Kent: I have had cars that the plates have expired sitting on my lot so I violated those laws also.

Vice-Chairman Buhler: She is the one who incurs the liability for whatever happens.

Member Hammer: Can I suggest we move on from the RV Park? I would like some structure around the next 3 meetings that we are going to have and talk about these high-level hot topics that we want to give you guys recommendations for changing the code. I think we have done a good job of putting our position paper forward and sharing our ideas. I think that it could be one meeting, but then the next meeting, unless we do that in the first meeting, we kind of define that a little more. We come to a bit of an agreement. We have 5 hot requirements.

Vice-Chairman Buhler: I think Manager Whitehead is doing that for us.

Member Luchini: Is that what you want Manager Whitehead? Are you taking and developing these changes according to our positions or are we taking these points such as what zone they go in, what sizes, what location, the time limit and how many short-term rentals? Are those areas we decide on and then give them to you? Like right now are we talking about how many we want in town?

Member Hammer: I don't think we have even had the conversation about short-term rentals.

Member Luchini: We keep throwing it on Manager Whitehead and I'm not sure if under tiny homes that is what you want us to do.

City Manager Whitehead: I envisioned that I would have 5 positions, which would all be the same, but I would envision that there are going to be 5 variations of that. Our job would be to say, here are the thoughts, here is what's legal. Traci and I would work with the state statute. We would work with the city attorney. We would look at what we need to do and then come back to you guys and break that down and say what do we like and what don't we like. Then it would be an argument amongst you guys or a debate of what we can live with and what do we want to present to the commission. That's what we want that policy to look like.

Member Hammer: So, it would come back to us.

City Manager Whitehead: Yes.

Member Hammer: So, we are brainstorming, then position paper over to you guys, then you guys will formulate it, check the legalities and then bring it back to us.

City Manager Whitehead: We would bring it back and say this is what we think based on what you guys have said. We think this is what the policy would look like.

Member Kent: But we had a deadline for position papers months ago.

City Manager Whitehead: I have them.

Member Kent: Everyone submitted one months ago so you can do all that.

City Manager Whitehead: We can take tiny homes. That's my point, I got what we need there. That can come off the agenda. I have plenty of good short-term rental stuff, member Hammer has provided us with some good information.

Member Hammer: I provided data that kind of defines statistics about them. We didn't talk about what the rules should be for instance should we restrict them. Should we restrict per block? I think my message was that we don't have a problem with Airbnbs because we are not that saturated at this point but do we want to talk about it in the future. I'm getting a little off topic here but I would like for us to see enforcement of the current ordinance, and that is not happening, before we start adding a bunch of other rules. I don't think the current ordinances are being enforced. We have 66% of Airbnbs in town that are not registered.

Deputy Clerk Martinez: When they come in and get their business license and apply for a short-term rental permit, Tyler reaches out to them to set up inspection, and a lot of them just don't respond. Just last week, we had 5 of them get back to him, and they applied back in February. He can keep going after them but they are not responding. The only thing we can do is deny their permit, but if they are registered through Airbnb, we can't stop that.

Member Hammer: Unless you worked with Airbnb. I have a contact there now finally.

Deputy Clerk Martinez: Airbnb will not speak with us at the city because we don't have an account.

Member Hammer: I have new information since all that happened. I have our representative for our region and I can put him in touch with the city. I talked with him a couple of months ago and we made that connection. I'm working on VRBO but we have made that connection with Airbnb, it took a while.

Deputy Clerk Martinez: Our office is willing to talk to them, but again, as you have seen in the past, as long as it was the city, they were not speaking to us.

Member Hammer: I was part of that process for like 3 years. I finally got in touch with somebody.

Deputy Clerk Martinez: If you can forward me the information.

Member Hammer: He said he was willing to send out communication that the city signs off on directly to the host. That will get their attention because they will see it and say, "You need to register." Or "Have you registered?" they can put together that communication message however you guys see fit. I'll put you guys in touch. I would like to see enforcement before we start adding a bunch more rules. Why have an ordinance if you are not going to enforce it?

Member Kent: If the data you presented was reasonably accurate, which I'm not doubting that it wasn't.

Member Hammer: There is a margin of error.

Member Kent: I'm sure but it's probably minor, so it gave a good enough picture of what is going on. We are nowhere near what they consider sort of a saturation point, so that was good to know. It was something we did not know. I agree, getting everybody who is currently operating registered and playing by the rules so its an even playing field, and there aren't people skirting the system. But I also think it's important, maybe annually or biannually, to do another pulse check and check where we are at with the number of homes in the city versus the number of Airbnbs. Are we creeping up on that saturation point? If we look at the map, do we all of a sudden see 4 blocks that are nothing but Airbnb dots on the map? That's the kind of stuff we should watch. Do we need to need to write it in today? Maybe not because it seems like we are not Salada or anything like that. Places that have just been decimated. But you don't want to get caught behind the eight ball because then you have bigger problems to fix.

City Manager Whitehead: That is the reality of what could happen.

Member Kent: Yes. There are a lot of examples out there of what could happen. That is where we kind of benefit. We are not there yet. We know, we have seen, and we can watch, but it requires diligence annually or biannually, whatever we feel like is an appropriate benchmark to check these numbers again and do this little bit of research. I think that needs to be an important part of it. It might be the city's responsibility, I think, but we need someone to keep an eye on that kind of stuff.

City Manager Whitehead: I think the right tone with that is really to have Airbnb and VRBO be the best ones to take care of it. I think there is only so much we can do if those 2 business are not willing to make sure that the people that are signing up to use their site to make money aren't being compliant with our taxation rules and the rules we have, then we have a real

challenge. Then we are going to end up in that situation where I went and knocked and they won't let me in or I can't see them. Plus, the biggest problem I'm having right now with thinking about attacking the zoning code and the codes is that we don't have anywhere to go to enforce it. We just have nowhere to go. Whenever everybody tells me "Hey we need to get more weeds cleaned up" we have nowhere to go. It takes us 3 to 6 months to get on the docket at Magistrate Court. When we get on at Magistrate Court, from our understanding, we are ending up with deferred sentences. If I'm being honest the first thing I need to figure out is a better process for Tyler and codes to be able to say, "clean your weeds." Or "Clean up your yard and if you don't you are going to receive a letter." and then we have to get them in front of some kind of a court system. That's a bigger issue than we are at here, but it's a challenge.

Vice-Chairman Buhler: I thought we were going to something like Edgewood. I thought we were heading in that direction where we have an attorney and work it out with these people where they know there is some teeth if you don't do the right thing.

City Manager Whitehead: I have seen the presentation from Edgewood. We have tried twice to get in front of the city manager of Edgewood. We have not been able to. We have tried to set up a zoom meeting. I'm just not having any luck getting up there to see it in person and how to begin to bring that back to the commission to say, "This is the path we want to go on." I don't have a good answer for that. We have a lot of things happening and short-term rental is not the most important thing on my plate. But we are catching up, and I think it's time we can start. Until we get some way to process a code violation to where they are timely and we get some kind of resolution.

Member Hammer: The Municipal Court was closed a few years ago. Based on budget? All those cases on ordinances went to the Municipal Court instead of the Magistrate Court. Now that we shut that down, all those cases are going in front of the Magistrate Court, which their back log is probably huge and they are dealing with all kinds of criminal and civil cases. Do we need more bodies like another judge to process those or a paralegal or something like that? Maybe consider reopening the municipal court if we can budget for it. This is a problem, if we can't enforce the ordinances, then people just don't care. They think, "They're not going to come after me, it takes a year to clean up my weeds, so I'm not going to do anything." We have to show them that we have a process in place where we can enforce these codes.

Chairman Sisney: I have concerns with gentrification and dealing with people that aren't capable of taking care of their stuff, but I like to compare this town to the town I moved here from. Which is Boulder City, and Boulder City was a small town. It was an old town and I don't think regulations and enforcement or any of that stuff made any difference. It's organic and people start taking care of the town but its gentrification because the big problem in that town

now is if you don't have a house there, you're not getting a house. The people that grow up there can't afford to live in that town. Be careful what you wish for.

Member Hammer: So, you are saying not to enforce ordinances because it will make the property values go up?

Chairman Sisney: I'm not saying that. I'm saying that the whole idea that you can go in and regulate people - You can't. People are going to do what they want to do.

Member Hammer: If we let them.

Member Kent: It's a safety net. People have these buildings that if lighting strikes, their whole property is going up in flames and the whole block probably will too. We have a house on my block that is subject to that.

Chairman Sisney: A lighting strike started a fire and it burned up a block?

Member Kent: I'm just saying there is matter which are health and safety related also. You can't just let squalors sit in your neighbor's yard and now rodents are coming.

Chairman Sisney: Ok but listen if you go over there and talk to them, you might get somewhere, but if they can't afford to do it, they can't afford it.

Member Kent: Then we find a way to help them.

Vice-Chairman Buhler: That's what Edgewood is doing they are figuring out places where people can take this junk.

Chairman Sisney: Well Edgewood is not really a town it's just a place with a bunch of houses.

Member Hammer: Well, they have a city ordinance they are enforcing.

Vice-Chairman Buhler: What about the County? Would the County help with this at all? I mean the County is very close here to T or C. Out where I live, we have 2 shanties, there is one shanty town where people are living with no electric, no water, they have nothing. It's like an RV Park that's not an RV Park; it's a little shanty town and there is like 80 people that live out there. The county has done nothing. They need to step up also. Is there any way since these places are so close to town that we can get the county involved with enforcing? Those people really shouldn't be living there.

Chairman Sisney: So the City is going to tell the County what to do?

Vice-Chairman Buhler: Well we are all connected you know.

City Manager Whitehead: The County is a very conservative structure in New Mexico. I think it would be hard for us to find very many counties that would be looking to touch on the private property issue, much like a municipality would. The difference is that a municipality then takes on that ability to create those structures that would then protect us from our neighbors. We are living in a closer proximity than we do in the county. I don't view this as an opportunity for the county to help us in this situation at all. I also would say, in fairness to this conversation, I'm not looking for a code that is so restrictive that it puts everybody on edge and we are giving tickets. I think we are looking for the ability to have good planning and zoning and think about what the things are that we want. Do they match where we are currently at? We talk a lot about tiny homes, but those manufactured homes, they are being built to tiny home standards today because that's the product everybody wants to buy. We have to figure out that balance and not think that Edgewood's zoning is the end-all by any means, and if we got that plan, we are going to be better. But we do need some way that if someone is not cleaning their yard and we have given them a citation, that it can quickly get to adjudication. I'm a fan of saying, and I have told Traci this before, if the city has to go in and clean it, so be it. If that's what we do, if we have to put a lien and do those processes, then so be it. If that is who we want to be then let's be that and let's be good at that. Let's say be yourselves, live on your property, but if you cross that line then we are going to do these things and we are do those next steps. That's being really ambitious on my part.

Member Hammer: And it costs money.

Chairman Sisney: Exactly, that's a problem. I just watch people, human nature. People aren't going to spend \$6 to take something to the dump. The town I came from, if you show up with a utility bill at the dump, you can dump your trash. I can see why they don't want to do that because people are going to show up with construction stuff. There is a this and there is a that. I think just need to be really patient as far as getting stuff done.

Member Hammer: I have lived here for 9 years and there is squalor on every block in town. I have been patient I have been given a citation for weeds. I came down and I was like, "Really? Look around at my neighbors." but I said okay this is an ordinance so I'm going to clean. I think that we need to set the standard a little high that we don't live in a town that we have squalor everywhere. Businesses will not invest here with that. I have Airbnb guests who say our town is really cute and I have had a couple people say what a dump and they leave. I think leadership of the city, whether it's planning and zoning, the commission, or the manager, should have some kind of standard. We are not going to be Calistoga, T or C in never going to be that, but it could look nice for the people who are visiting and want to invest here.

Vice-Chairman Buhler: I have to tell you that the prices in downtown are up and people are buying properties in downtown and they are paying big dollars for those properties.

Member Kent: But think about what it would be like if there wasn't trash in people's yards. I think cleaning up trash and making sure there isn't dead rotting trees and things like that is not gentrification that is just pride in your home and reducing health and safety risk. I don't think they are the same thing at all.

Chairman Sisney: The fact of the matter is things are not what they used to be. Everybody is broke, and until we shake the tree and get the money back down to the people, these problems are not going to solve themselves. You have people you say are buying up downtown. They will fix it up and eventually people will come around. But you can't litigate people's behavior.

Member Hammer: I'm not suggesting we litigate. We can come up with solutions.

Vice-Chairman Buhler: It becomes a safety hazard. Some of these things become fire hazards.

Member Hammer: It's important enough to have the city allocate some budget towards a trash pickup day twice a year. Most municipalities do it.

Member Luchini: Develop some type of program where the hot water are the city sponsors a clean up time a couple times a year.

Member Hammer: We used to have it.

Member Luchini: Well, there you go, reimplement it. Free trash day at the landfill. Something that if that's the case and people can't afford it. If the city sponsors a free clean your yard day. Maybe something like you put it out on the curb and we will drive by and pick it up.

Member Hammer: Almost every municipality has that program.

Member Luchini: Ok well it needs to be reimplemented here.

City Manager Whitehead: We have to find a way to get people into court for violations, but in the same breath, we have to find a way to take care of it before they end up in court. We are trying to do that with utilities to say, "let's get you before your bill is past due, before you can't pay and we are having to disconnect the services." I think our mindset has to be let's be a helpful neighbor, but there is a line in the sand and if you're not going to take what we can do for you. I think a couple of free days at the dump; I like the grappler idea. I think we should be able to go to the properties and pick up stuff but it all takes people, time, and money.

Member Luchini: Or maybe solicit to the civic organizations in town to help.

City Manager Whitehead: It's about building a pride factor, right?

Member Luchini: Even without the threat of a ticket, a fine, or having to go to court. Just a clean up your lot here is some help and this is it. Could there be a certain person designated in the court to help with these kinds of fines?

City Manager Whitehead: The process we are in right now isn't the best for us and Magistrate court. We would need to find something and I don't know if it would be working through the Magistrate court where they could create someone like a hearing officer. I don't know what those processes are, I haven't sat down and seen what is different. I wish you guys were like a tribunal, if you will, that was listening to people and if they got cited, they would come in and make their case. Something like this where then we said okay we are going to give you 30 days to come in compliance. We need something like that where there is an easy process and the citizen gets good due process and they get a fair shot to state their case. 7 to 10 of them are going to do a good job and we deal with it like that.

Vice-Chairman Buhler: I think that's a good idea.

City Manager Whitehead: I think it's some process along those lines. It's not so restrictive that we are over burdening but yet we can start cleaning up.

Member Hammer: Can it be a department within the City that is created or does it have to be legal in front of a court?

Vice-Chairman Buhler: I think you would have to have an attorney.

Member Hammer: Seems like you would.

City Manager Whitehead: If I remember from the presentation from Edgewood, it's not an attorney. If you think about our Municipal Court, that judge wasn't an attorney and I think our Magistrate Judge is an attorney.

Vice-Chairman Buhler: They had an attorney that sat down with the people.

Assistant City Manager Alvarez: I think it was a retired judge.

Member Kent: Also, if we put into place some of these ideas of a free day at the dump or neighborhood cleanup, there may not be as many tickets, and there may not be as large of need for this. When I wasn't living here in town, I got a letter every year about my weeds because I wasn't here and I didn't know. But that is a lot of money and time for the city also. If we can put processes in place to help people even before the tickets before all of that. Proactive not reactive.

Member Luchini: That's why I say to try and implement a cleanup without the threat of the ticket.

Member Kent: Let people know that we are doing a cleanup and here is their chance. Then everybody is good and they don't get the ticket.

Vice-Chairman Buhler: Well, the big threat is, we come in and we do it for you, and then we put a lien on your property.

Member Kent: And that has happened.

Vice-Chairman Buhler: When people feel like it's either this or this they usually try to do the right thing. Especially if you have options for them.

City Manager Whitehead: That feels to me personally like the harshest penalty we can have, would be to say if you can't do it and we have given you warning and we told we are going to file a lien and we are going to take you to court to take your property. Unfortunately, that could be the outcome, but that seems like the most restrictive thing we can do. Which would have some teeth to it. It's black and white. It's simple and I can fix that by either paying the bill because you cleaned it or I can clean. It's not advice in any way, it just is. On the changes to the code, if we could get at least 5 items to change. I think we have enough information on tiny homes that we can deal with that, let's look at that. Let's look at how it fits into the code. How it fits into accessory buildings and everything. I think we can come up with that. I think for the Airbnb issue, the short-term rental, let's agree we will meet with the clerk and we will look at what Member Hammer has. We will make a phone call and we will see if we can't get implementation. Angela and I spoke today and her intention would be maybe we start setting up the Airbnb and the business license in January so they are connected, those were her thoughts. I think that makes a lot of sense. Maybe we can get that done by January. Then deal with the current code and figure out what with the second steps. That's 2 issues. I think the metal storage units, and how they affect downtown, need to be addressed.

Member Kent: I have a question about that. Is downtown T or C a registered historical area?

City Manager Whitehead: Its not. Not according to the code.

Member Hammer: Even Main Street?

Assistant City Manager Alvarez: Downtown is a Main Street district and metropolitan district.

Member Kent: But its not like a designated historic district? Which is like a different designation.

Assistant City Manager Alvarez: I think it is. I would have to dig into that more. I think that they did identify it when MainStreet came in. We have a MainStreet historic district I believe.

Member Kent: That makes things a lot easier.

Member Hammer: Do we have a zoning stipulation sheet for that?

City Manager Whitehead: My know is because when I look at the zoning map. Riverside has a Riverside designation for it. They actually said along the river these are the properties we are going to do. But there is not one really for where the hot springs district would be. I was surprised that we never did something that says, "In this district these are the things we think should happen." It probably just didn't happen. For the longest time the hot springs district was under-utilized. Those of us that have been here a long time know it was not as elegant back then as it is today. People weren't putting money into the properties like they are now. We probably missed that. I think that is a consideration. But I think we should think about the metal storage containers downtown and it could be connected to that. We could figure out what designation we have for downtown and talk about that. But I think we need to figure out this storage facilities in downtown issue.

Vice-Chairman Buhler: I know that the Jones Street they will be coming back to the board. The arts council put out a memo for people to attend the meeting. At that time, I was on the board for the Desert Haven Animal Rescue; I talked with them about working something out with the PODs because they want to put 2 20-foot PODS behind their building which use to be the Bella Luca restaurant.

Member Hammer: Do you mean a shipping container when you say a POD?

Vice-Chairman Buhler: Yes.

Chairman Sisney: Can I suggest that we call them Conex? POD is a business that provides them.

Vice-Chairman Buhler: They are going to paint them. I think that Chris Kreig has offered to do a mural for them. They are firmly sent on that. I talked with them about maybe doing smaller ones. I told them it might be better received instead of 40-footer to do 20-footer and they were not agreeable to that. I spoke with them about a fence because some places require a fence around the Conex boxes. I don't know if we have any rules regarding that. People will be able to go in and around them.

Chairman Sisney: Ok so we will put Conex's on the list. That's 3.

City Manager Whitehead: I think Traci would agree with me; we would really like to visit variance, special use permits, and conditional use permits. Really define what the value is and what the difference is. I think we have had questions on if we do a conditional use does it go away if you sell the property? If you do a variance does it stay? I think we need to talk about them and really define what the conditions are on a variance. The variance is really going to depend on the commission, the make up of the elected officials. If they are favorable to say if

somebody has an issue and we think it should be changed, we want it to be changed, or we are going to be restrictive. I think those 3 things deserve some attention from us to say this is how we would like to change those.

Vice-Chairman Buhler: The Conex boxes are all in town. People have them all over.

City Manager Whitehead: I think that is 4 items.

Member Kent: ADU and Tiny homes aren't exactly one in the same. To me that is 2 items.

City Manager Whitehead: I think they could be 2 items. But I think the ADU piece with the tiny homes is, are we going to allow someone to put in a tiny home and how does it relate to an ADU?

Member Kent: Then I would recommend we also put just ADU. Things like, can it be taller than the primary residence? Can it be bigger than a primary residence? The setbacks, there are many things to it. Whether it's a tiny home or a stick build. There are things about that that need to be addressed.

City Manager Whitehead: There are 2 issues with ADU, it's either an ADU or an accessory building. A Conex box would be one version of it. A tiny home that I'm going to live in or call it a casita would be something different.

Vice-Chairman Buhler: It is different.

Member Kent: This is where it gets gray because tiny homes also can be things that are really an RV or it can be a house that is small. The definition of what we mean by tiny home is also a little gray. I think we tend to put them together, but they're different.

City Manager Whitehead: Yes, but you wouldn't want someone in R-1 to put an RV in their backyard to be a tiny home.

Member Kent: I wouldn't want them to do that in any district.

City Manager Whitehead: That is what we want to make sure of, that it is clear what we are going to do.

Chairman Sisney: So, you think they are different. We are trying to come up with 5 things. We are not going to debate it.

Member Kent: That is what I think because I do not think they are exactly one in the same. I think there is overlap because a tiny home can be an ADU.

Member Hammer: I think we need to define it so we are all on the same page.

Member Kent: A tiny home can also be an Airbnb. This is where it gets gray, but we have to have distinctive definitions.

Vice-Chairman Buhler: A tiny home is where someone is going to live permanently.

Chairman Sisney: Let's not discuss that right now. Let's get the 5 topics. Let's not debate it.

Member Kent: That was the 5th one.

Member Hammer: I have a topic. I think we learned a lot about, I think we should review the dog kennel ordinance and add a couple things like setbacks. I think a setback really needs to code for a kennel permit.

Assistant City Manager Whitehead: We have workshops coming up and the animal control ordinance is already being addressed by animal control. They are having a workshop soon.

Member Hammer: When is it?

City Manager Whitehead: October 24th after the commission meeting. I would say, as it relates, I think the animal control ordinance is going to talk about one thing, but the zoning code needs to be similar. I do agree that we want to be able to say you can only have as many animals as you have the square footage to do, and set that square footage. I don't think it should be, "You should have enough space to handle them and our code person or Traci is trying to determine how many that is." It should be, is it 5x5, is it 25-square feet per every animal or whatever that number is. But I think the zoning code absolutely needs to identify.

Member Hammer: In addition to that stipulation, I want to see setbacks. I don't want to see a dog kennel right next to a fence underneath someone's living room window, I think that was ridiculous. If we are making tiny homes have a set back so they are not right next to their neighbor, I think we should also look at dog kennels. It's more noise and smells.

Chairman Sisney: Is that the 5th item? Can we put this down Manager Whithead?

City Manager Whitehead: I think it's time. In respect to the fact that we could potentially have a new animal control ordinance. It might be identified in there so it would be relevant and important to say in the zoning code they have to be consistent. You can't have 2 different codes.

Vice-Chairman Buhler: I was also going to say, we are in desperate need of restaurants in T or C. Are there any grants or tax advantages you can give people to help restaurants come to downtown?

City Manager Whitehead: I don't know that for a fact but I do know we are presenting a proposal for Love's. Love's asked for some concessions to come. To hook up the utilities for them was about \$240,000.00. In our code we do have a LEDA, which is a Local Economic Development Act, which allows the commission to make some concessions. We also had a rebate on the books, so anyone that has a large business has to have more than 8 jobs created. We are going to be able to provide a 20% rebate on their entire utility bill for 18 months. There are some rules that we had on the books that we are trying to break out and use. I would think yes, if someone is opening a business and they meet some of those stipulations within the rules. The state law is where the LEDA is set up, so that sets the conditions. I think those are opportunities and I think those are good ideas, just like saying if you have weeds we are going to help you get them cleaned up. I think we should have some way of saying if we can get you to put in a restaurant downtown if you do the fire code and you put that in, we can help you pay for some of that. Anything to make those businesses. I think that is the right idea. It is a little complicated and it's not black and white. I think it can be done. We will see how well this goes at the commission meeting. I think Love's has negotiated fairly, we are not doing anything outside the rules, and it's all within the codes that we have passed for a long time, so I'm hopeful that it's going to be received well.

Member Kent: I guess I don't understand what Love's has to do with her question.

City Manager Whitehead: It's using incentives. It's finding a way to use public money to benefit a private business. I feel confident today that if someone came and said they wanted to open a restaurant here with the potential of creating 15 jobs, I could say if you make the request I can give you a 20% rebate right now for 18 months.

Member Kent: Not to be rude but what restaurant downtown is going to have 15 employees?

City Manager Whitehead: I don't know. They have to have 8.

Member Kent: Every building downtown has a commercial kitchen is now a retail store.

Chairman Sisney: That what I saying we just lost 2.

Member Kent: We lost 5.

Vice-Chairman Buhler: It's a tough thing, the restaurant business. We really need it. If we could get a trade school downtown in the old county building and get some young people going to school there. They could have a culinary department. They are doing this in Toas and it's doing really well. We could have welding. We could have maybe 4 things that young people could do. Being downtown, they would be able to get a job downtown, possibly in a restaurant if we had restaurants. It would be a big thing for the community, I think, to help keep people here. People

like to be able to walk around. The western presents out by the freeway is way too far from town. Things need to be in town.

Assistant City Manager Alvarez: You might check with MainStreet. I saw they were advertising for small business grants. I'm not sure what it was for but MainStreet would have some good information.

Member Kent: I know Outer Edge was going to maybe apply to get money to build a patio. It was for things like that. I don't know if it was really to help a new business. The problem now is there is no space with a kitchen so if someone wanted to open a restaurant downtown, they have to have the money to put a commercial kitchen in, and that's expensive.

Vice-Chairman Buhler: Where Denny's used to be is for sale.

Member Kent: That's been for sale since it closed.

Vice-Chairman Buhler: If someone knew that there was a big incentive, we might have somebody come back in there. Also where Pacific Grill used to be. I don't know what they sold but I know that there is a kitchen there probably still.

Member Kent: It will have the fire suppression and the grease trap. It may not have the fridges and stuff but it will have all the infrastructure. That's the hard and expensive part.

Member Hammer: What is our goal for next meeting? We have all these topics, is there one that we want to look at? Are we taking 3? Are we doing some definition? Are we doing more position papers? What are we doing?

Vice-Chairman Buhler: We can do a position paper on the Conex boxes.

City Manager Whitehead: We will look at the current code and see that process, and then what you think, how that should be different, or if it should be.

Member Hammer: We have 3 meetings before the end of the year. Manager Whitehead, I don't know if this is tentative for you, but you want to have a few items for the ordinance to talk about in the new year. Should we also talk about animal kennels? I don't think we need a position paper for that because I think we learned a lot, but maybe just have some definition about what we would like to introduce to the code if we have time. Tiny homes is on the City Manager's plate. Short-Term Rentals, we aren't going to discuss that right now, so those are off. We do want to talk about variances, special use, and conditional use permits. Maybe not the next meeting but maybe November's meeting we talk about those items. Should we talk about that first because it's kind of overarching on everything?

City Manager Whitehead: That is probably as important as any of them.

Member Hammer: I think so. It will drive our conversation. Maybe the variance, conditional use and special use permits that be one topic and then either containers or dog kennels. I think we need to add at least 2 if we are trying to do this before the end of the year. I'm just making a suggestion so we know what we are talking about next meeting because this is a little bit of a surprise today.

Assistant City Manager Alvarez: The clerk's office will have to reach out to you guys, or however it's done, but the Monday October 13th meeting is going to be rescheduled because that's a holiday.

Chairman Sisney: Back to the previous topic. Did we pick 2 or 3?

Member Hammer: Well variance, special use, and conditional use permits, that is an overarching topic, and then it sounds like containers is next. I think we could do animal kennels pretty fast. I know my issues with that.

Chairman Sisney: Lets put 3 down and see if we could get to 3 of them.

Member Hammer: This is all contingent upon the time available after the public hearings. So when is the next meeting since the next one is on a holiday?

Deputy Clerk Martinez: I will send an email with the dates we have available to you all individually.

6. REPORTS FROM THE BOARD:

No Reports from the Board

7. REPORTS FROM STAFF:

Assistant City Manager Alvarez: I just wanted to let the board know that we were awarded a \$642,000 grant from DOT for a DC electric car charging station. Our Electric Department did a good job of getting that. It will be a fast-charging station and will be able to charge 2 cars at one time. It will be located on the lot in between the Sierra Grande Lodge and the Administration Annex building. It will give a great opportunity for people to charge their cars and walk around downtown and check out our local shops.

8. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 5:18 p.m.

PASSED AND APPROVED ON THIS 14th DAY OF OCTOBER, 2025.

Chris Sisney, Chairman
Planning & Zoning Board



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-14-2025

ITEM:

Public Hearing/Discussion/Action: Conditional Use Permit at 303 Jones St for the placement of Shipping Containers as per Section 11-10-4 (A-1)

BACKGROUND:

Applicant is requesting a Conditional User Permit for the placement of Shipping Containers for storage purposes at 303 Jones St. Property is located in the C-1 Zone within the MainStreet District. *Per Sec. 11-10-4 – subsection A: 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the boundaries of the Metropolitan Redevelopment Area (MRA) and Historic MainStreet District Area defined in the Downtown Master Plan.* Per the submitted site plan, applicant meets requirements as defined in Sec. 11-10-4 – subsection A noted below:

2. Containers may not exceed 46 feet in length and 10 feet in height
3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
6. May not encroach in the clear-sight triangle.
7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.

All required documents have been submitted, fees paid and property owners within 100ft notified by Certified mail.

SUPPORT INFORMATION:

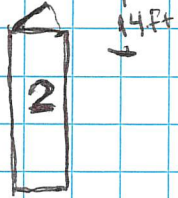
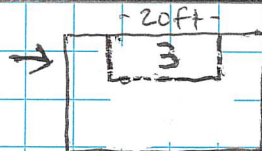
Site Plan
Parcel Map
Container Pictures
Public Hearing Notice
Applicable Section of Municipal Code
Findings of Facts Checklist
Notice of Public Hearing

Name of Drafter: Traci Alvarez	: Assistant City Manager	
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

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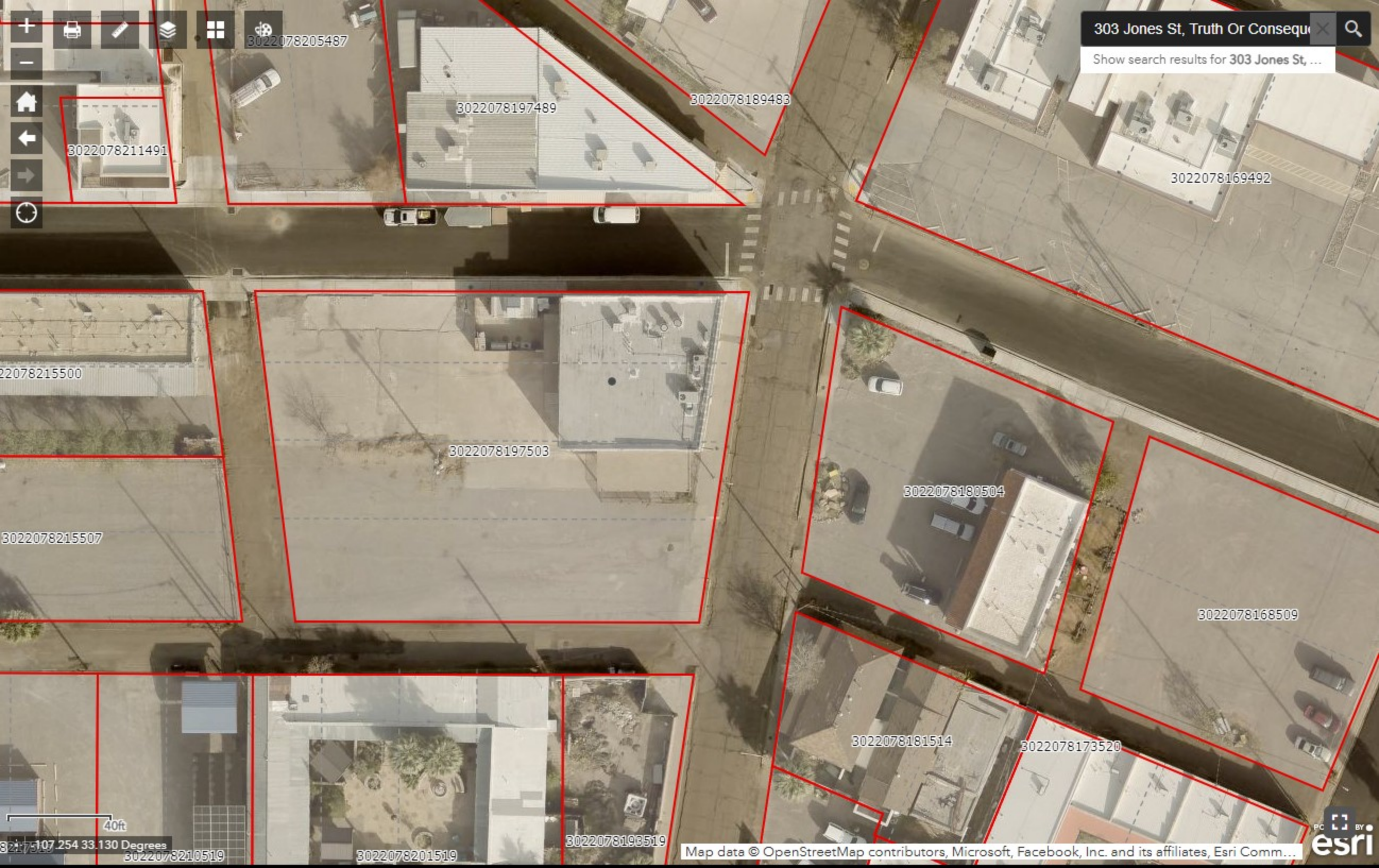
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PATIO

JONES ST.

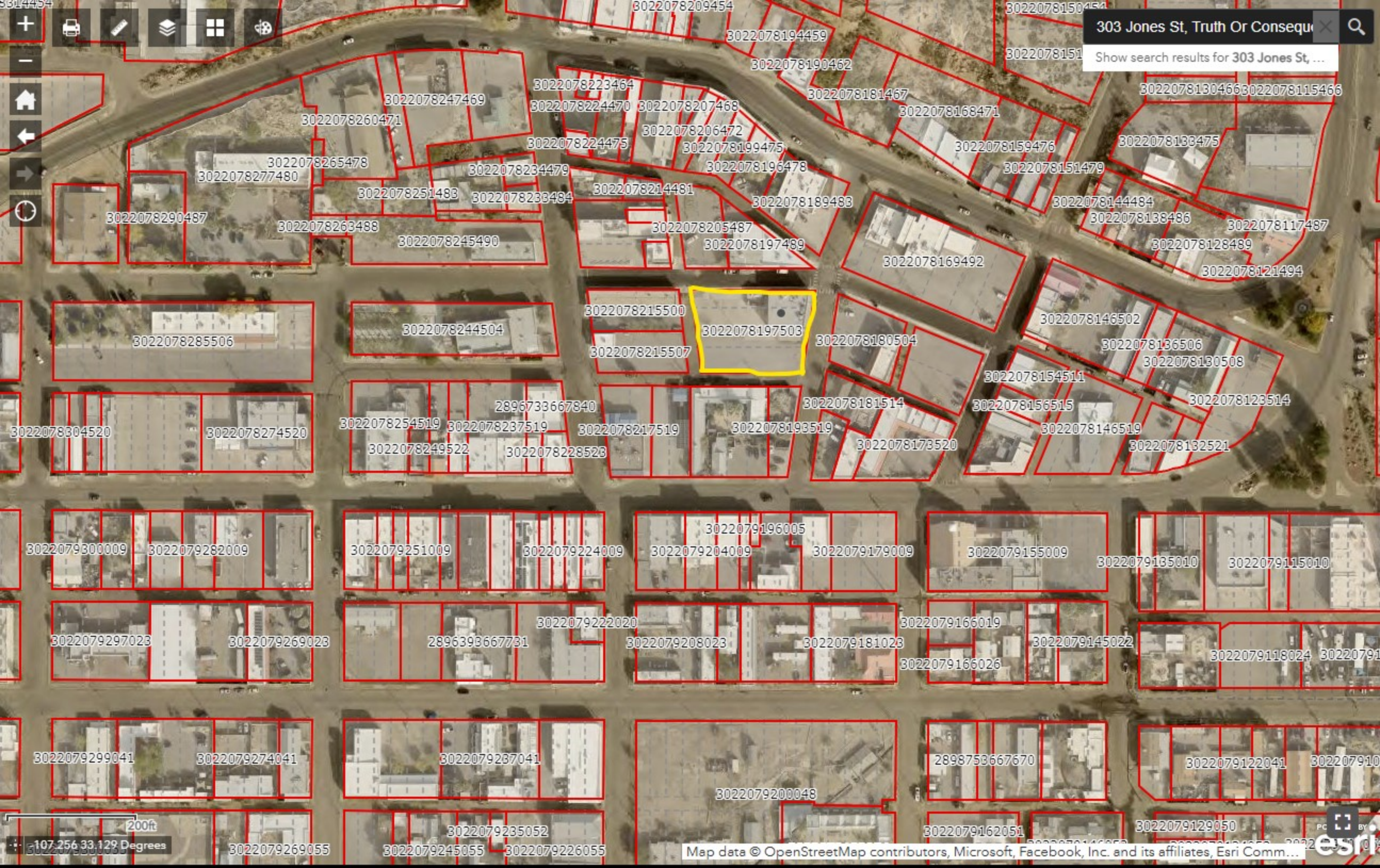
PARKING LOT





303 Jones St, Truth Or Consequ...
Show search results for 303 Jones St, ...

40ft
3022078210519
3022078201519



303 Jones St, Truth Or Consequ...

Show search results for 303 Jones St, ...



Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Comm...







SPRU 303990 5

22G1

13

SPRU 303990 5
22G1

MAX GROSS	31,400 kg
MAX GROSS	69,200 lb
MAX GROSS	2,300 kg
MAX GROSS	5,000 lb
MAX GROSS	28,200 kg
MAX GROSS	62,500 lb
MAX GROSS	23.2 cu m
MAX GROSS	1,370 cu ft



ZENU 280020 3
22G2

MAX GR
TARE
NET

20' HIGH CUBE	24000 LBS
20' DRY VAN	24000 LBS
40' DRY VAN	40000 LBS
45' DRY VAN	45000 LBS
50' DRY VAN	50000 LBS
55' DRY VAN	55000 LBS
60' DRY VAN	60000 LBS

CU CAP 1344 CBM

Sec. 11-10-4. Storage Units/Shipping Containers.

The regulation of storage units/shipping containers within the city limits of the City of Truth or Consequences shall be controlled by and shall conform to the regulations prescribed in this section. A storage unit/shipping container means a unit originally or specifically designed or used to store goods or merchandise during shipping or hauling by container ships, rail, commercial trucks, or other types of transportation.

- A. Placement of storage units/shipping containers within C-1, M-1 and T-1 districts are permitted as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
 - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the boundaries of the Metropolitan Redevelopment Area (MRA) and Historic MainStreet District Area defined in the Downtown Master Plan.
 - 2. Containers may not exceed 46 feet in length and 10 feet in height
 - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
 - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
 - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
 - 6. May not encroach in the clear-sight triangle.
 - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- B. Placement of storage units/shipping containers within Residential Districts is allowed as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
 - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the following districts: R-1, R-2, R-3, R-4 and RR-1.
 - 2. Containers may not exceed 46 feet in length and 10 feet in height
 - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
 - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
 - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
 - 6. May not encroach in the clear-sight triangle.
 - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- C. Temporary placement of storage containers within Conditional Use Areas are allowed through written approval of the Designated Zoning Official as long as they are not used for dwelling purposes for:
 - 1. The purpose of moving household contents in to or out of a house are allowed for up to 30 days in any 12-month period and can only be on the property or driveway.

-
2. The purpose of construction projects are allowed up to 3 months in any 12-month period from the time it's put on the construction site. The designated zoning official or designee may grant an extension but only if it is determined that:
- a. The storage unit/shipping container is located on a site with an active building permit
 - b. The storage container is necessary part of the construction process
 - c. Not be allowed in public right-of-way
 - d. Construction is moving forward in a timely manner and in accordance with generally accepted industry standards.

(Ord. No. 731, § 1, 8-10-22)

PLANNING AND ZONING COMMISSION

FINDINGS OF FACTS CHECKLIST

Request Date 10-14-2025 Address 303 Jones St.

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone* and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

*Spot Zoning: The singling out of a lot or small area for a District change, which is out of harmony with the comprehensive plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.

*Rolf Hechler
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Ingo Hoeppepner
Commissioner*

*Gary Whitehead
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 14, 2025, to receive input regarding the following:

Public Hearing/Discussion/Action: Conditional Use Permit at 303 Jones St. The applicant is in the C-1, M-1 and T-1 Districts.

Sec. 11-10-4 (B) Storage Units/Shipping Containers: Placement of storage units/shipping containers within C-1, M-1 and T-1 Districts are permitted as accessory storage units, as long as they are not used for dwelling purposes, and with the following exceptions: 1. Conditional Use Permit is required for placement of all storage units/shipping containers within boundaries of the Metropolitan Redevelopment Area (MRA) and Historic MainStreet District Area defined in the Downtown Master Plan.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact Traci Alvarez at (575) 952-0565 or by email at talvarez@torcnm.org.

The agenda may be obtained on Friday, October 10, 2025 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Thursday, September 17, 2025



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-14-2025

ITEM: Public Hearing/Discussion/Action – Summary Plat Amendment - Alternate Summary Procedure on
Property Address: 412 Main Street

BACKGROUND:

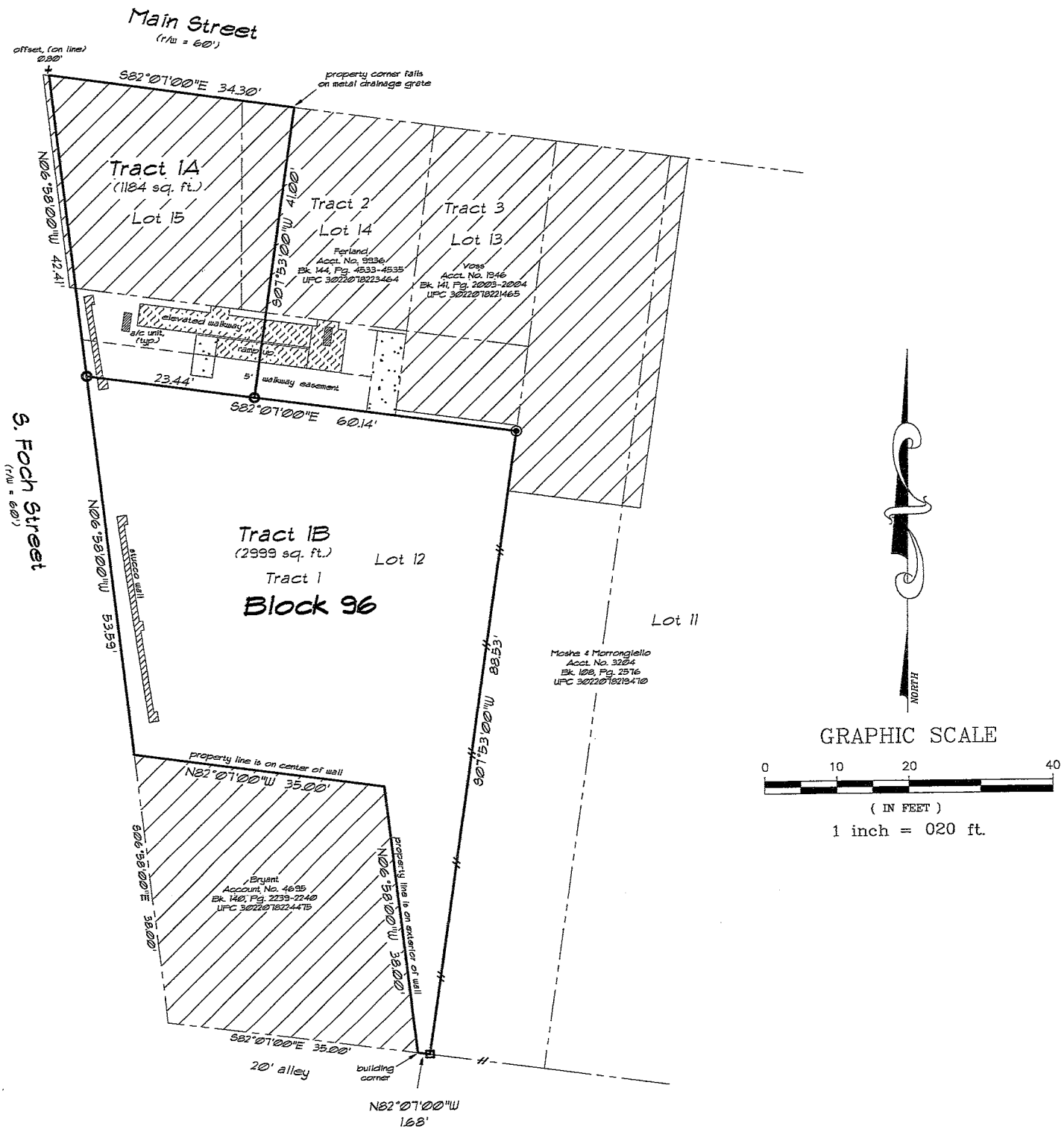
Applicant/Property owner at 412 is requesting to amend their parcel into 2 tracts. Property is located in the C-1 district. No more than 2 lots are being created and comply with the standards for lots. Both lots to be created have direct, legal, unobstructed access to an existing City maintained and paved street with curb, gutter, sidewalk, and existing City water and wastewater lines. No vacation of street dedications or utility easements is proposed. All required documents have been submitted and fees paid. All property owners within 100' ft have been notified by certified mailings.

SUPPORT INFORMATION:

Alt. Summary Plat Survey
Parcel Map
Applicable Code
Public Hearing Notice
Findings of Facts Checklist

Name of Drafter: Traci Alvarez	: Assistant City Manager	
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	

ALTERNATE SUMMARY PROCEDURE-SUMMARY PLAT
of the division of Tract 1 into Tract 1A and Tract 1B,
within Lots 12, 14 and 15, Block 96, Original Townsite of Hot Springs,
a subdivision in the City of Truth or Consequences, Sierra County,
New Mexico



Notes:

These tracts are subject to easements, restrictions and reservations of record

The tracts shown hereon are located within the boundaries of Flood Zone X, "area determined to be outside 500-year flood plain"

The hereon described tracts were created under the City of Truth or Consequences Subdivision Codes, Ordinance Number 555, adopted May 23, 2006, (Chapter 15, Section 15, Alternate Summary Procedure)

Use drawing scale to determine measurements when not labeled

Reference:

Account No. 6508

Book 144, Pages 2751, (Quitclaim Deed)

UFC 302-207-222-4470

City of Truth or Consequences Subdivision Codes, Ordinance Number 555, (adopted May 23, 2006)

Original Townsite of Hot Springs Subdivision Plat filed on March 10, 1927, (Plat No. 13-A-1)

National Flood Insurance Program, Flood Insurance Rate Map for the City of Truth or Consequences, New Mexico, Community-Panel No. 350073 0005 C, (map revised: July 16, 1996)

Book 133, Pages 2715-2716, (Summary Plat)

Plat of "Leo Smith" Building, (Plat No 58-B)

Legend:

found 5/8" rebar w/survcap stamped "NMF3 13984" ●

found 3/8" rebar w/aluminum tag stamped "NMPLS 12129" ■

found chiseled "x", in concrete +

found/set 1/2" rebar w/survcap stamped "NMPLS 12129" ○

corrugated metal fence //

lot line - - - - -

ACKNOWLEDGMENT

I, the undersigned owner of the hereon described property do hereby acknowledge, with my free consent, and in accordance with my wishes and desires, the division of land as shown on this plat.

Kari Fresquez, (Wildflower Boutique, LLC)

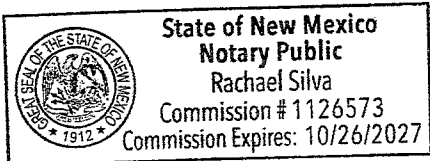
STATE OF NEW MEXICO)
COUNTY OF SIERRA)

The foregoing instrument was acknowledged before me this 9th day of

September, 2025 by Kari Fresquez

Rachael Silva
Notary Public

My Commission Expires: 10/26/2027



The City of Truth or Consequences does hereby acknowledge the division of land as shown on this plat.

Mayor:

Date:

September 2, 2025

Chaparral Surveying, LLC

Professional Land Surveying

P.O. Box 629 Elephant Butte, New Mexico 87935

CERTIFICATE

This is to certify that I am a registered Professional Land Surveyor, that this plat is prepared from notes of field surveys made by me or under my supervision, that said surveys and this plat are true and correct to the best of my knowledge and belief. I further certify that this survey is a land division but not a subdivision as qualified hereon.

This plat meets the minimum requirements of the Standards of Land Surveys in New Mexico.

David M. Serrin
New Mexico Professional Surveyor
License Number 12129

INDEXING INFORMATION FOR COUNTY CLERK
Wildflower Boutique, LLC (6508)
Original Townsite of Hot Springs, Block 96
Section 33, Tshp. 13 South, Rge. 4 West

Chaparral Surveying, LLC

P.O. Box 629

Elephant Butte, New Mexico 87935

(575) 740-0334

September 8, 2025

LEGAL DESCRIPTION-TRACT 1A

(1184 sq. ft.)

A tract of land situate in Section 33, Township 13 South, Range 4 West, N.M.P.M., within Lots 12, 14 and 15, Block 96, Original Townsite of Hot Springs, in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit;

Beginning at the NW corner of this tract, a point at the intersection of S. Foch Street and Main Street, said corner being the NW corner of Lot 15, Block 96, Original Townsite of Hot Springs, whence a chiseled "x" in concrete, (witness corner), bears N06°58'00"W, a distance of 0.80 feet;

Thence, continuing along Main Street, S82°07'00"E, a distance of 34.30 feet to the NE corner of this tract, said corner falls on a metal drainage grate;

Thence, S07°53'00"W, a distance of 41.00 feet to the SE corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129";

Thence, N82°07'00"W, a distance of 23.44 feet to the SW corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129", a point on S. Foch Street;

Thence, continuing along S. Foch Street, N06°58'00"W, a distance of 42.41 feet to the point of beginning of the tract hereon described, containing 1184 sq. ft. of land, more or less.

This legal description was prepared from a field survey by David M. Senn, NMPLS 12129, (re: Chaparral Surveying, LLC, Summary Plat dated September 1, 2025).

Chaparral Surveying, LLC

P.O. Box 629

Elephant Butte, New Mexico 87935

(575) 740-0334

September 8, 2025

LEGAL DESCRIPTION-TRACT 1A

(1184 sq. ft.)

A tract of land situate in Section 33, Township 13 South, Range 4 West, N.M.P.M., within Lots 12, 14 and 15, Block 96, Original Townsite of Hot Springs, in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit;

Beginning at the NW corner of this tract, a point at the intersection of S. Foch Street and Main Street, said corner being the NW corner of Lot 15, Block 96, Original Townsite of Hot Springs, whence a chiseled "x" in concrete, (witness corner), bears N06°58'00"W, a distance of 0.80 feet;

Thence, continuing along Main Street, S82°07'00"E, a distance of 34.30 feet to the NE corner of this tract, said corner falls on a metal drainage grate;

Thence, S07°53'00"W, a distance of 41.00 feet to the SE corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129";

Thence, N82°07'00"W, a distance of 23.44 feet to the SW corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129", a point on S. Foch Street;

Thence, continuing along S. Foch Street, N06°58'00"W, a distance of 42.41 feet to the point of beginning of the tract hereon described, containing 1184 sq. ft. of land, more or less.

This legal description was prepared from a field survey by David M. Senn, NMPLS 12129, (re: Chaparral Surveying, LLC, Summary Plat dated September 1, 2025).

Chaparral Surveying, LLC

P.O. Box 629

Elephant Butte, New Mexico 87935

(575) 740-0334

September 8, 2025

LEGAL DESCRIPTION-TRACT 1B

(2999 sq. ft.)

A tract of land situate in Section 33, Township 13 South, Range 4 West, N.M.P.M., within Lot 12, Block 96, Original Townsite of Hot Springs, in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit;

Beginning at the SE corner of this tract, a 3/8" rebar w/aluminum tag stamped "NMPLS 12129", a point on a 20' alley, said corner being the SE corner of Lot 12, Block 96, Original Townsite of Hot Springs;

Thence, continuing along a 20' alley, N82°07'00"W, a distance of 1.68 feet to an angle point in this tract, (corner falls on a building wall corner);

Thence, continuing along the exterior of a building wall, N06°58'00"W, a distance of 38.00 feet to an angle point in this tract, (corner falls on the center of a building wall);

Thence, continuing along the center of a building wall, N82°07'00"W, a distance of 35.00 feet to an angle point in this tract, (corner falls on the center of a building wall), a point on S. Foch Street;

Thence, continuing along S. Foch Street, N06°58'00"W, a distance of 53.59 feet to the NW corner of this tract, a 1/2" rebar w/survcap stamped "NMPLS 12129";

Thence, S82°07'00"E, a distance of 60.14 feet to the NE corner of this tract, a 5/8" rebar w/survcap stamped "NMLS 13984", a point on the east boundary of said Lot 12;

Thence, continuing along the east boundary of said Lot 12, S07°53'00"W, a distance of 88.53 feet to the point of beginning of the tract hereon described, containing 2999 sq. ft. of land, more or less.

This legal description was prepared from a field survey by David M. Senn, NMPLS 12129, (re: Chaparral Surveying, LLC, Summary Plat dated September 1, 2025).

Chaparral Surveying, LLC

P.O. Box 629
Elephant Butte, New Mexico 87935
(575) 740-0334

September 8, 2025

LEGAL DESCRIPTION-TRACT 1B (2999 sq. ft.)

A tract of land situate in Section 33, Township 13 South, Range 4 West, N.M.P.M., within Lot 12, Block 96, Original Townsite of Hot Springs, in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit;

Beginning at the SE corner of this tract, a 3/8" rebar w/aluminum tag stamped "NMPLS 12129", a point on a 20' alley, said corner being the SE corner of Lot 12, Block 96, Original Townsite of Hot Springs;

Thence, continuing along a 20' alley, N82°07'00"W, a distance of 1.68 feet to an angle point in this tract, (corner falls on a building wall corner);

Thence, continuing along the exterior of a building wall, N06°58'00"W, a distance of 38.00 feet to an angle point in this tract, (corner falls on the center of a building wall);

Thence, continuing along the center of a building wall, N82°07'00"W, a distance of 35.00 feet to an angle point in this tract, (corner falls on the center of a building wall), a point on S. Foch Street;

Thence, continuing along S. Foch Street, N06°58'00"W, a distance of 53.59 feet to the NW corner of this tract, a 1/2" rebar w/survcap stamped "NMPLS 12129";

Thence, S82°07'00"E, a distance of 60.14 feet to the NE corner of this tract, a 5/8" rebar w/survcap stamped "NMLS 13984", a point on the east boundary of said Lot 12;

Thence, continuing along the east boundary of said Lot 12, S07°53'00"W, a distance of 88.53 feet to the point of beginning of the tract hereon described, containing 2999 sq. ft. of land, more or less.

This legal description was prepared from a field survey by David M. Senn, NMPLS 12129, (re: Chaparral Surveying, LLC, Summary Plat dated September 1, 2025).



3022078223464

3022078221465

3022078224470

3022078219470

302207821647

3022078224475

20ft

-107.255 33.130 Degrees

Map data © OpenStreetMap contributors, Mic

Sec. 15-17. - Amendment of plats.

- A. *Administrative amendment:* Any change that is required to correct an error in lettering, numbering or other minor detail on a filed plat which does not affect any material aspect of the subdivision will be considered a minor amendment. Administrative amendments may be processed and approved by the City's Zoning Administrator, who shall have the right to require review and approval by the Planning and Zoning. The City's Zoning Administrator shall insure that the corrections are noted on the original filed plat. The fee schedule for administrative amendments shall be as approved by the City of Truth or Consequences.
- B. *Minor amendment of plat:* Any proposed amendment that is greater than an administrative amendment which does not have the effect to significantly alter the impacts on utilities, drainage, or traffic, may be approved as an amendment by the Planning and Zoning Commission.
- C. *Major amendment of plat:* Any proposed correction or amendment of a filed plat that affects material aspects of the subdivision shall be considered by the Planning and Zoning Commission, with approval by the City Commission, the Planning and Zoning Commission shall determine if the subdivider may use the alternate summary procedure or if the subdivider shall be required to vacate a portion or all of the filed plat and follow the procedures appropriate for the approval of a new subdivision. The fee schedule for major amendments shall be as approved by the City of Truth or Consequences.

(Ord. No. 555, 5-23-06)

Sec. 15-15. - Alternate summary procedure.

A. *Approvals by Planning and Zoning Commission:* The Planning and Zoning Commission may approve or deny the following types of subdivisions:

1. A re-plat of a previously filed subdivision when:

- a. No more lots are created than exist in the area at the time of the submittal of the replat application; and,
- b. All lots to be created have direct, legal, unobstructed access to an existing City maintained street;
- c. All lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;
- d. The subdivider files with the City a Letter of Credit for funds adequate to pay for connecting the lots to the City's water and wastewater lines, or, pays to the City the City's fees for connecting the lots to the City's water and wastewater lines;
- e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;
- f. All new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots;
- g. All lots to be eliminated or created exist within the area of a single block of lots in a previously platted and filed subdivision; and,
- h. No vacation of street dedications or utility easements is proposed; or,
- i. Lots are to be eliminated.

2. The subdivision of previously unsubdivided land when:

- a. No more than two lots are created;
- b. Both lots to be created have direct, legal, unobstructed access to an existing City maintained and paved street with curb gutter and sidewalk;
- c. Both lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;
- d. The subdivider files with the City a Letter of Credit for funds adequate to pay to connect both lots to the City's water and wastewater lines, or, pays to the City funds for connecting both lots to the City's water and wastewater lines;
- e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;
- f. The new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots; and,
- g. No vacation of street dedications or utility easements is proposed.

B. *Limit on number of summary procedures:* The summary procedure shall be used only once on any one property, or within any group of contiguous or adjacent properties owned by a subdivider, unless the property has been master-planned, legally subdivided, and is zoned for industrial uses, and wherein the streets within those subdivisions have been dedicated to and accepted by the City. No subdivider who has received approval of a subdivision shall utilize the summary procedure to subsequently increase the number of lots within said subdivision.

C. *Elective pre-application procedure:*

1. Prior to filing a summary plat, the subdivider may submit a conceptual plan of the proposed subdivision to the City's Zoning Administrator. The conceptual plan shall provide enough

information for the Zoning Administrator to locate the proposed subdivision and to comprehend its scope and potential impacts. Neither a written application nor an application fee are required for submittal of a conceptual plan.

2. The City's Zoning Administrator shall place the proposed summary subdivision on the next possible agenda of the Planning and Zoning Commission for discussion, when the Planning and Zoning Commission shall consider the proposal with the subdivider or the subdivider's representative and shall indicate changes, if any, that will be required for the submittal process.

D. *Summary plat submittal requirements summary plat submittal requirements are:*

1. Application, signed by all property owners, including all parties having an equitable interest, trustees of an estate and all persons having a specific "power of attorney" in such land;
2. A record of any pending litigation or any final order entered by any court of law regarding the ownership of the subject property;
3. Application fee as established by the City;
4. Documentation from the Sierra County Assessor's Office that the current year's property taxes are paid and that no taxes are owed on the property;
5. A plat conforming to section 15-13.A of this Code; and,
6. Releases by the Public Utilities Advisory Board, and all utility companies which are proposed as providers for the subdivision.

E. *Submittal and review procedures:*

1. Incomplete submittals will not be accepted for review.
2. The subdivider shall submit all required materials to the City's Zoning Administrator.
3. The City's Zoning Administrator shall review all materials, and shall within three working days from the date the application is determined to be complete, request opinions of applicable City departments, other governmental agencies, and utility companies for review, comments and recommendations. City departments shall have ten calendar days in which to review and respond in writing to any such request. Within three working days of receiving any written reports, comments or recommendations from any City department, governmental agency, or utility company, the Zoning Administrator shall make available to the subdivider a copy of such materials.
4. The Zoning Administrator shall have the right to require that the subdivider provide additional information or to make amendments to the plat and supporting information if the Zoning Administrator determines that the information originally submitted by the subdivider was incomplete, incorrect or invalid.
5. The subdivider shall have ten working days in which to make any corrections or additions required by the Zoning Administrator, or to request a postponement of action by the Zoning Administrator for up to 135 days.
6. If a subdivision application does not meet the requirements of this Code within 180 days of its original submittal, the Zoning Administrator shall summarily reject the application and notify the applicant in writing of the reasons for the rejection.
7. At such time as the subdivider meets the requirements of this Code, the subdivider shall provide the Zoning Administrator with a copy of the final plat.
8. At such time as receiving a submittal that meets all requirements of this Code, the Zoning Administrator shall recommend that the Planning and Zoning Commission approve the final plat by consent agenda action during its next regularly scheduled meeting, and the Planning and Zoning Commission shall approve the subdivision by consent agenda action during its next regularly scheduled meeting.

9. The subdivider shall file a signed copy of the final plat in the records of the County Clerk of Sierra County, and shall provide the City with one of the signed copies.
- F. *Divisions for the purpose of mortgage:* Divisions for purposes of mortgage are not allowed. If a property is to be mortgaged it must be done so in its entirety or properly subdivided as required in this chapter.

(Ord. No. 555, 5-23-06)

Sec. 11-14-1. - General Development Standards.

All lots, tracts, buildings and structures in the City shall be developed in accordance with this Article and other related provisions of this Code. All development standards of this Code shall apply to each lot, tract, or parcel independent of all other lots, tracts, or parcels.

Sec. 11-14-2. - Standards For Districts.

District	Lots: Minimum Front Setback	Yards: Minimum Rear Setback	Yards: Minimum Side Setback
R-1	25'	25'	8'
R-1	25'	20'	6' or 0'*
R-3	20'	15'	5' or 0'*
R-4	25'	25'	5'
RR-1	25'	15'	5'
C-1	20'	15'	5' or 0'*
M-1	25'	25'	5' or 0'*
T-1	25'	25'	15'

* As permissible per Section 11-14-3 and 11-14-4.

District	Lots: Minimum Area	Lots: Minimum Width	Dwelling: Minimum Area	Maximum Height
R-1	9,000 s. f.	60'	1,200 s. f.	26'

R-2: Single-Family	5,000 s. f.	60'	900 s. f.	26'
R-2: Two-Family	4,000 s. f./unit	60'	650 s. f./unit	35'
R-2: Multiple-Family	3,500 s. f./unit	60'	600 s. f./unit	35'
R-2: Apartments	3,500 s. f./unit	60'	500 s. f./unit	35'
R-2: MH*	5,000 s. f.	60'	900 s. f.	26'
R-3: Single-Family	4,500 s. f.	45'	700 s. f.	35'
R-3: Two-Family	3,000 s. f./unit	45'	500 s. f./unit	35'
R-3: Multiple-Family	3,000 s. f./unit	45'	450 s. f./unit	35'
R-3: Apartments	2,000 s. f./unit	45'	400 s. f./unit	35'
R-3: NM*	4,500	45'	550 s. f.	26'
R-4	1 acre	75'	1,200 s. f.	26'
RR-1	5,000 s. f.	50'	800 s. f.	26'
C-1	5,000 s. f.	60'	" "	35'

C-1: MH*	4,000 s. f.	45'	550 s. f.	26'
M-1	" "	60'	" "	35'
T-1	21,780 s. f.	100'	800 s. f.	35'
T-1: MH*	21,780 s. f.	60'	550 s. f.	26'

* Not located within MHP

Sec. 11-14-3. - Residential and Transition Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a residential or transition District:

A. *SETBACK EXCEPTIONS:*

1. A minimum side yard setback of zero (0) feet in a residential District only, providing all the following requirements are met:
 - a. The setbacks are authorized by the City Commission as part of an approved development.
 - b. There shall be no less than ten (10) feet, including roof overhang, between structures, except approved condominium and townhouse developments with common wall construction.
 - c. All zero (0) lot lines shall be on the same side of all lots in a development.
2. The minimum setback distance shall be maintained for both front yards of a corner lot. A lesser setback for one front yard of a triple frontage lot shall be considered upon application for variance to the Planning and Zoning Commission.
3. New dwellings may be erected as closed to a front property line as the average distance established by existing dwellings on that side of the block, provided the lots on the same side of the block are fifty (50) percent developed.
4. An addition to a main dwelling shall be permitted as an extension of existing building lines, which have non-conforming setbacks. Setbacks for such addition shall be the same as the main dwelling.
5. There shall be a minimum setback of one (1) foot for each foot in height of any

building, other than a single or two family dwelling, abutting on R-1 or R-2 District.

- B. *FRONT-YARD PARKING*. Parking areas shall not cover over one-third ($1/3$) of any open area between the front of a dwelling and the front property line; except in cases of a cul-de-sac, two-thirds ($2/3$) of a front yard can be used; and on existing lots less than fifty (50) feet, a twenty (20) feet parking area is permitted. Townhouses and apartment lots may use three fourths ($3/4$) of the front yard for parking.
- C. *MINIMUM DISTANCE BETWEEN STRUCTURES*. There shall be no less than ten (10) feet between buildings or structures located on the same lot, tract, or parcel.
- D. *EASEMENT ENCROACHMENTS*. There shall be no permanent structures located on easements without written approval of the City Commission.

Sec. 11-14-6. - Landscaping and Erosion Control: All Planning And Zoning Districts.

Unless left in its natural vegetative state, there shall be yard grass or other measures to control water or wind erosion on all previous areas of development and constructed lots, tracts or parcels.

*Rolf Hechler
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Ingo Hoepfner
Commissioner*

*Gary Whitehead
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
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NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 14, 2025, to receive input regarding the following:

Public Hearing/Discussion/Action: Summary Plat Amendment - Alternate Summary Procedure on Property Address: 412 Main Street

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Please contact Traci Alvarez at (575) 952-0565 or by email at talvarez@torcnm.org should you have any questions regarding this Public Hearing.

The agenda for this meeting may be obtained on Friday, October 10, 2025, on the city website at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Thursday, September 25, 2025

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone* and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

***Spot Zoning:** The singling out of a lot or small area for a District change, which is out of harmony with the comprehensive plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.

Position paper - Molly Hammer, Member, Planning and Zoning Board
P&Z Meeting 'Workshop' Tuesday, October 14, 2025

1. ADU/Tiny Homes - Additional requirements that should be further defined:

On a property with a primary home, how many ADUs are allowed if they fall within setback boundaries and square footage requirements? 1, 2?

On a vacant lot or property, how many tiny homes are allowed? I recommend we follow the current multi-family zones.

What's the minimum and maximum square footage?

- i. After researching tiny homes/ADUs online, most fall into a range of 200-400 square feet. ***I am recommending to the board and to the city we allow a minimum of 200 sq ft up to 400 sf ft as long as this footprint follows all building, safety and aesthetic standards.***

What constitutes a tiny home - yurts? Airplane fuselage? I don't believe structures like these enhance value to the respective property or surrounding properties, and should not be included. I would recommend that the structure is aesthetically pleasing and blends in with the primary house and surrounding houses in the neighborhood to keep neighborhood property values in line.

Are short term rentals allowed in tiny homes? Or only rentals longer than 29 days?

Additional recommendations

- ii. No taller than primary home
- iii. ***In Hot Water district, must not have windows, deck, etc., looking into neighbors' yards.*** Perhaps extend this stipulation to other districts as well.

2. Shipping Containers (Conex)

Restrictions: cannot be closer to front property line than principal building; no stacking; no occupancy or human habitation unless meeting building & fire codes. Limit number per lot? How far from property lines, roads, easements.

Condition and Maintenance: Must be in good repair (no rust, holes, insects, graffiti, etc.); no utilities unless properly permitted.

Aesthetic/appearance/screening: Screening by fences / landscaping; painting; hiding from view from streets; matching principal building materials in some cases.

Sec. 11-14-12. - Metal Buildings.

All new metal buildings in the C-1 and M-1 Planning and Zoning Districts shall have a facade or veneer consisting of a non-structural facing of brick, concrete, stone, tile, wood or lumber, plastic or other similar approved material on all sides of the structure that face a public street.

3. Dog Kennels

Add setback requirements to Planning and Zoning code

- i. I.e. Must be at least **200 feet** from a lot line of any property zoned or used for residential purposes. If soundproofed, setback may be reduced to **100 feet**. Also a minimum of **40 feet** from rear property line (if there are no structures within 40 feet).
- ii. Add noise and odor restrictions to Animal Control ordinance

4. AirBnBs

Discuss the short term and long term exemption with regards to AirBnB and VRBO restrictions for allowing a guest to have a written agreement outside of these platforms for stays longer than 30 days. The issue is AirBnb and VRBO discourage (prohibit) establishing an agreement outside the platform once initial contact is made. VRBO and AirBnB platforms automatically add lodger's tax to all bookings whether short term or long term. No other municipality has this stipulation in New Mexico and it unnecessarily adds a significant cost to their total monthly rent, thus discouraging Guests/Tenants/Travelling professionals to follow through with booking.

Sec. 7-201. Exemptions.

The occupancy tax shall not apply:

A. if a vendee:

- (1) has been a permanent resident of the taxable premises for a period of at least 30 consecutive days; or
- (2) enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 30 consecutive days;

Sec. 11-5-3. Conditional Use Permit.

A permit may be authorized by the Planning and Zoning Commission for uses stipulated as conditional within specific Districts and as presented in Article IX of this Code.

A. *Provisions for conditional use.*

1. The use must be desirable or essential to the public welfare, safety, health, morals or convenience of the residents in that District.
2. The use must be compatible to the existing uses in that District.
3. The use may be important to the development of an undeveloped area.
4. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.

B. *Fee.* A non-refundable application as set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for a conditional use permit shall be in the format stipulated by the City and shall contain plans and other information as required by the City. The completed application for a conditional use permit,, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.

D. *Review.* A conditional use permit shall be subject to review on each annual anniversary following its approval. If it is determined from the review that the current use is significantly different or larger in scale than that originally approved, the conditional use permit may be revoked by the Planning and Zoning Commission.

E. *Transferal.* Conditional use permits shall not be transferable from location to location, building owner to building owner, or applicant to other party.

Sec. 11-5-5. Variance.

A Variance may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. The variance shall provide relief from the strict application of dimension, distance, parking or setback requirements of this Code.

A. *Provisions for variance.*

1. The subject property must be irregular, narrow, shallow, or steep or otherwise, have physical conditions where application of the requirements of this Code would result in practical difficulty or unnecessary hardship to the owner in the use of his land or building.
2. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.
3. Variance shall not be granted in such cases where it would adversely affect adjoining properties, impair established property values, or endanger public safety.
4. Variances shall not be granted where spot zoning would occur.

B. *Fee.* A non-refundable application fee as set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for variance shall be in the format stipulated by the City and shall contain plans and other information as required by the designated Zoning Administrator. The

completed application for a variance, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.

- D. *Revocation.* A variance shall be automatically revoked in the event of building permit for the approved Variance has not been obtained within ninety (90) days, or construction has not begun within one hundred eighty (180) days after the building permit has been issued. The Planning and Zoning Commission may grant ninety (90) days extension if deemed appropriate.
- E. *Re-application for variance.* In the event of a denial decision by the City Commission, there shall be no re-application for the same variance for a period of one (1) year after the date of the decision of the Commission.

Sec. 11-5-6. Special Use Permit.

A special use permit may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. A special use permit is required for a special land use, which is not permitted by right within the District wherein it is requested.

- A. *Provisions for special use permit.*
 - 1. In making a decision on a Special Use Permit, the Planning and Zoning Commission and the City Commission shall review the following factors and accord each factor the necessary weight on a case-by-case basis.
 - a. The increase in congestion of streets and other rights-of-way;
 - b. Diminishment of safety from fire, panic and other dangers;
 - c. Diminishment to the health and general welfare of the public;
 - d. Degradation of light and air for all properties in the immediate area of the proposed Permit; increases of overcrowding of land and undue concentrations of populations;
 - e. Adverse affects on provisions for transportation, water, sewer, schools, parks and other public facilities or increases in the effects of natural hazards;
 - f. Increases or facilitation of the unlawful use of structures, buildings or land; and
 - g. Promote the use or waste of energy in the use of structures, buildings, and land.
 - 2. Special Use Permits shall not be granted in such cases where the use will result in negative impacts, which substantially outweigh the positive impacts of the purposed use.
- B. *Fee.* A non-refundable application fee to be set by City Commission Resolution must accompany each application.
- C. *Submission requirements.* The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following:
 - 1. Location of existing and proposed structures including the dimensions of setbacks;
 - 2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way;
 - 3. Location and treatment of open spaces including landscaping plan and schedule;
 - 4. Lighting;

5. Signage;

A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application.

- D. *Public hearing and notice procedure.* A public hearing shall be held by the Planning and Zoning Commission for all special use permits. All property owners shall be notified in accordance with the provisions of Article 7 of this Code.
- E. *Review and approval.* The City Commission may deny special use permits, or may grant final approval in accord with certain conditions, with right of appeal in accordance with Article VII of this Code. Approval may also be granted with additional conditions imposed, which are deemed necessary to insure that the purpose and intent of this Code is met and to protect and provide safeguards for persons and property in the vicinity.
- F. *Time limitation and revocation.* If a special use is not initiated within one (1) year following approval or if a special use is discontinued for a period of one (1) year, said permit shall be automatically revoked. The City Commission may impose a different time limitation on a special use permit. All improvements shall be in accord with the development standards of the District except as otherwise authorized by the special use permit. Significant variation from the approved special use and related improvements shall result in the automatic revocation of the special use permit.
- G. *Re-submittal of application for special use permit.* Application for a special use permit shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon by the City Commission except that an application may be made for a different special use permit on the same parcel of land six (6) months after such previous action has been taken.
- H. *Special use.* Special uses shall not be considered a District boundary change.

Sec. 11-10-4. Storage Units/Shipping Containers.

The regulation of storage units/shipping containers within the city limits of the City of Truth or Consequences shall be controlled by and shall conform to the regulations prescribed in this section. A storage unit/shipping container means a unit originally or specifically designed or used to store goods or merchandise during shipping or hauling by container ships, rail, commercial trucks, or other types of transportation.

- A. Placement of storage units/shipping containers within C-1, M-1 and T-1 districts are permitted as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
 - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the boundaries of the Metropolitan Redevelopment Area (MRA) and Historic MainStreet District Area defined in the Downtown Master Plan.
 - 2. Containers may not exceed 46 feet in length and 10 feet in height
 - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
 - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
 - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
 - 6. May not encroach in the clear-sight triangle.
 - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- B. Placement of storage units/shipping containers within Residential Districts is allowed as accessory storage units as long as they are not used for dwelling purposes and with the following exceptions:
 - 1. Conditional Use Permit is required for placement of all storage units/shipping containers within the following districts: R-1, R-2, R-3, R-4 and RR-1.
 - 2. Containers may not exceed 46 feet in length and 10 feet in height
 - 3. Must be a subordinate use or structure customarily incidental to and located on the same lot with the principal use or building
 - 4. Interior lot: No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards
 - 5. Lots with more than one street frontage: No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
 - 6. May not encroach in the clear-sight triangle.
 - 7. Shall not create unsanitary or hazardous premises as outlined in Sec 6-74 and 6-75.
- C. Temporary placement of storage containers within Conditional Use Areas are allowed through written approval of the Designated Zoning Official as long as they are not used for dwelling purposes for:
 - 1. The purpose of moving household contents in to or out of a house are allowed for up to 30 days in any 12-month period and can only be on the property or driveway.

-
2. The purpose of construction projects are allowed up to 3 months in any 12-month period from the time it's put on the construction site. The designated zoning official or designee may grant an extension but only if it is determined that:
- a. The storage unit/shipping container is located on a site with an active building permit
 - b. The storage container is necessary part of the construction process
 - c. Not be allowed in public right-of-way
 - d. Construction is moving forward in a timely manner and in accordance with generally accepted industry standards.

(Ord. No. 731, § 1, 8-10-22)

ORDINANCE NO. 725

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES, BE AMENDED BY AMENDING CHAPTER 3 PERTAINING TO ANIMALS:

Chapter 3. ANIMALS shall be amended in its entirety to read as follows:

Chapter 3 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 3-1. - Short title of chapter.

This chapter shall be known and may be cited as the Truth or Consequences Animal Control Ordinance. It is the intent of the City Commission that enactment of this chapter will protect animals from neglect and abuse, protect residents from annoyance and injury, assist in providing housing for animals in a control center, and finance the functions of the licensing and recovery of such animals.

(Code 1962, § 6-2-1; Ord. No. 384, § 6-2-1, 7-22-91)

Sec. 3-2. - Administration of chapter.

The City Manager is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the Commission to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. Powers to enforce the chapter are delegated to the Truth or Consequences Police Department and the Animal Control Officer.

(Code 1962, § 6-2-3; Ord. No. 436, § 1, 5-13-96; Ord. No. 532, § 1, 10-14-03)

Sec. 3-3. - 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:

Abandonment of animals means to leave any animal unattended and with no provision of food, water or shelter for more than twenty-four (24) hours on one's premises or to dump or leave off any animal on property other than one's own without permission, regardless of age or condition.

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

Adequate food means access to and the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each animal in good health, to include:

1. Easily accessible to each animal
2. Prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal
3. Provided in a clean and sanitary manner
4. Placed so as to minimize contamination by excrement and pests

Adequate living area means adequate space, shade, and shelter ~~for exercise~~ suitable to the age, size, species and breed of animal.

Adequate Shade means provision of and access to either man made or natural shade suitable for species, age, condition, size and type of each animal.

Adequate Shelter means provision of and access to shelter that is suitable for species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry.

Adequate space to prevent overcrowding means having sufficient space to allow animals restrained together to be able to move freely, turn around and lie down.

Adequate water means constant access to a supply of unfrozen, potable water, provided in a sanitary manner suitable for species, in sufficient amounts to maintain good health.

Animal means any vertebrate member of the animal kingdom, excluding the human species, including but not limited to wild animals, domesticated animals, and livestock.

Animal Shelter or Shelter means any pound, lot, premises, and/or building maintained by the City for the care and custody of animals. This shall include any private shelter contracted or recognized by the City for the purpose of maintaining care and custody of animals.

Animal Control Officer means any person designated by the Police Chief to enforce animal control laws, orders, ordinances and regulations.

Animal fighting paraphernalia means equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to:

1. instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp instrument,
2. items to train and condition animals to fight including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open dog's jaws, performance enhancing drugs or substances, or food or water additives.

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.

Bait animal means any animal used to train and/or condition other animals to fight and are exposed to attack by other animals used or trained to be used in fighting or to make the attacking animal more confident and aggressive.

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

Breeder means any person involved in the controlled breeding of animals. Breeders are subject to City of Truth or Consequences Kennel Permit requirements.

Canine Hybrid means any offspring which results from the breeding of a domestic species or breed of canine with any wild species or breed of canine, such as wolf or coyote. Any animal which at any time has been or is advertised, or otherwise described or represented as a canine hybrid, wolf-dog, or wolf hybrid by its owner to an Animal Control Officer, Veterinarian, Police Officer, or Official of the Department of Health shall be considered a canine hybrid for the purpose of this chapter. An animal shall not be classified to be a canine hybrid based strictly on its appearance.

Care means responsibility for or attention to health, well-being, and safety.

Collar means a strap made of leather or other strong material or a harness that is worn around the neck/torso of an animal to which a current rabies vaccination and city animal registration tag can be affixed.

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.

Continually means a duration that continues over a long period of time but with intervals and interruptions.

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

Enclosed lot means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

Enclosure means an area completely surrounded by a wall, fence, or animal pen of sufficient height and strength to contain the animal(s) within.

Establishment means a place of business together with its grounds and equipment.

Estray or Stray means any animal found running at large or unattended beyond the boundaries of the premises of the owner.

Feline Hybrid means any offspring which results from the breeding of a domestic species or breed of feline with any wild species or breed of feline, such as an African Serval cat. Any animal which at any time has been or is advertised, or otherwise described or represented as a feline hybrid by its owner to an Animal Control Officer, Veterinarian, Police Officer, or Official of the Department of Health shall be considered a feline hybrid for the purpose of this chapter. An animal shall not be classified to be a feline hybrid based strictly on its appearance.

Feral Animal means an individual animal of a domesticated species that is not behaviorally compatible with humans, and is therefore not suitable to serve as a pet, companion animal, or work animal. Any feral animal that by physical aspect and behavior are deemed to be un-owned and have been trapped for the purpose of improving public health and limiting reproduction.

Grooming parlor means any establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetological services for profit.

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.

Immediate control means direct physical control over an animal by the owner/responsible party by use of:

1. A secure collar or harness and leash for a dog; or
2. A secure leash in conjunction with a properly fitting harness for a cat or ferret; or
3. A secure and appropriate portable animal crate or cage for any animal.

Household means one or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel.

Kennel area means a secure space within which an animal is housed that is of sufficient height and strength to contain the animal within and provide sufficient room for the animal to comfortably move around within the structure.

Kennel, commercial means any premises on which a total of five or more dogs or cats, in any combination thereof, four months of age or older are kept; and/or where the business of buying, selling, breeding, training or boarding of dogs and/or cats is conducted.

Licensed veterinarian means a person with a Doctor of Veterinary Medicine degree, licensed to practice in the State of New Mexico.

Livestock means horses, cattle, pigs, sheep, goats, fowl, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined by the city manager as agricultural.

Owner/responsible party means a person 18 years of age or older or the parent or guardian of a person under 18 years of age who owns, harbors, keeps an animal, has one in his/her care, or permits an animal to remain on or about the premises owned or controlled by him/her.

Pet means any domesticated animal kept as a companion animal, and not intended to be used for farming or human consumption. Livestock shall not be considered a pet even if kept as a companion animal and not used for farming or human consumption.

Pet shop or dealer means any commercial establishment or person, including wholesalers engaged in the business of buying and selling or holding pet animals for sale. This term shall not include livestock auctions.

Potable water means water that can be consumed without concern for adverse health effects.

Premises means a parcel of land and/or the structure(s) thereon.

Public nuisance means a situation where an animal owner fails to prevent its animal from urinating, defecating, disturbing the peace, emitting noxious odors or otherwise endangering or offending the well-being of the inhabitants of the City while:

- (1) Trespassing on school grounds, public or private property;
- (2) Being found running at large;
- (3) Damaging private or public property; or
- (4) Barking, whining, or howling in an excessive or continual fashion.

Public Way means an alley, avenue, boulevard, bridge, channel, ditch easement, express freeway, highway, land, parkway, right-of-way, road, sidewalk, street subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

Qualified service animal means:

- A. any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability;
- B. An animal recognized as a service animal under either federal regulations implementing the Americans with Disabilities Act, or NMSA 1978, Chapter 28, Article 11, which is the New Mexico Service Animal Act, and as amended;
- C. A qualified service animal does not include a pet, an emotional support animal, a comfort animal, or a therapy animal as defined in NMSA 1978, Section 28- 11- 2(B) (2013).

Quarantine means detention and isolation of an animal in order to observe the animal suspected of contagion.

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

Restraint means any of the following:

1. To be under the immediate control of a capable and competent person on a leash or lead; or
2. To be secured by a trolley system confining the animal within the owner' s premises; or
3. To be secured within an escape -proof enclosure within the owner's premises.

Running at large or to run at large means an animal that is free of physical restraint beyond the boundaries of the premises of the owner/responsible party.

Tether means to restrain an animal by means of a runner cable or similar device attached to a running line, pulley or trolley system.

Tormenting of animals means the act of bothering, annoying, distracting or agitating an animal.

Un-weaned means of an infant or other young mammal not accustomed to food other than its mother's milk

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 the State of New Mexico Rabies Control Act of 1959. The amount given should be sufficient to provide immunity from rabies for a minimum of one year.

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

Vicious animal means any animal which bites or in any other manner attacks or attempts to attack any person or animal within the City, except that any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.

(Code 1962, § 6-2-2; Ord. No. 384, § 6-2-2, 7-22-91; Ord. No. 400, § 1, 10-26-92; Ord. No. 436, § 2, 5-13-96; Ord. No. 532, § 2, 10-14-03; Ord. No. 608, § 1, 8-30-11; Ord. No. 659(1), § 1, 1-13-15)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 3-4. - Service animals.

(a) A person with a disability who is using a qualified service animal, as defined by the American Disability Act (ADA), shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service animal. A person shall not deny an individual with a qualified service animal entry to a building open to the public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying pets entry to that building, public accommodation or common carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may be liable for any damage done by the qualified service animal; provided that persons without disabilities would be liable for similar damage; and

(b) This section does not require a public accommodation or common carrier to permit an owner, trainer or handler using a qualified service animal to have access to a public accommodation or common carrier in circumstances in which the individual's use of the qualified service animal poses a direct threat of significant harm to the health or safety of others.

Credits L. 1989, Ch. 242, § 2; L. 1999, Ch. 262, § 2; L. 1999, Ch. 288, § 2; L. 2005, Ch. 224, § 3, eff. June 17, 2005; L. 2013, Ch. 57, § 3, eff. June 14, 2013.

§ 28-11-3. Admittance of qualified assistance animals, State of New Mexico

(Code 1962, § 6-2-23; Ord. No. 659(1), § 1, 1-13-15)

Editor's note— Section 1 of Ord. No. 659, adopted Jan. 13, 2015, changed the title of § 3-4 from "Dogs trained to assist the blind and hearing impaired allowed in public places" to read as herein set out.

Sec. 3-5. - Cruelty.

- (a) **Physical abuse.** It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, or scald any animal; except that reasonable force may be employed to drive off vicious or trespassing animals. When a Law Enforcement Officer or an Animal Control Officer has probable cause to believe that an animal has been cruelly treated, the officer may impound the animal for its protection pending appropriate court proceedings.
- (b) **Work cruelty.** It is unlawful for any person to drive or work any animal cruelly.
- (c) **Animal in a Vehicle.** It shall be unlawful for any owner/responsible party to place or confine an animal in a motor vehicle without allowing cross-ventilation and under no circumstance shall a person confine any animal in any parked, closed vehicle on any public way or private street for any amount of time that would endanger, or create an adverse condition placing at risk the health or well-being of such animal due to temperature, lack of food or potable water or such other conditions as may be reasonably expected that may cause suffering, disability or death. Any animal control or law enforcement officer observing an animal kept in violation of this Section may take emergency measures, as defined by the definitions of this article and impound the animal. In addition to all other defenses and immunities provided by law, any such officer taking emergency measures for the purpose of this Section shall be immune from suit or liability, criminal or civil, caused by or arising from the emergency measures taken.
- (d) **Care and maintenance.** It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with:
 - (1) **Adequate Food.**
 - (2) **Adequate Water.**
 - (3) **Adequate Shelter.**
 - (4) **Adequate Shade.**
 - (5) **Adequate space**
- (e) No animal shall be left unattended for more than 24 hours.
- (f) No owner or responsible party shall fail to provide necessary grooming of the coat in order to prevent matting, skin irritation, distress or pain, trapping of fecal matter, and loss of the ability to protect the animal from adverse weather conditions. An animal shall not be so dirty that it becomes matted as to provide a home for parasites and insects. No animal shall be allowed to have a foreign object embedded in its hide, fur or skin other than a microchip or a medical device implanted by a licensed veterinarian.
- (g) **Veterinary care.** It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including suffering from starvation, or severe thirst without providing proper veterinary care. An animal shall be afforded immediate veterinary care if it is known or suspected to be ill or injured. No person shall perform procedures such as ear-cropping, de-barking, tail docking on an animal, or otherwise endanger an animals well-being. Procedures completed by a licensed veterinarian in accordance to their standard practices shall not be considered cruelty.

- (h) ***Abandonment.*** It shall be unlawful for any person being the owner/responsible party of a dog, cat, or other domesticated animal or pet to abandon such animal. Abandonment includes dumping of an animal from a moving or stationary motor vehicle. This section shall not apply to voluntary relinquishments to an animal rescue organization, animal control center, animal control officer, licensed veterinarian, or another person.
- (i) ***Poisoning.*** It is unlawful for any person to intentionally or knowingly poisons, or attempts to poison any domestic animal. For purposes of this section, "poison" or "attempt to poison" includes the act of placing food, water, or lure of another sort which contains poison or contains health threatening foreign objects, such as glass or metal, in a location where any animal may be attracted.
- (j) ***Uncared-for animals.*** Whenever the animal control officer, Code Enforcement Officer, or designated representative finds that any animal is or will be without proper care because of injury, illness, incarceration, or other involuntary absence of the owner or ~~person~~ responsible party for the care of such animal, the Animal Control Officer shall make arrangements for the care of the animal.
- (k) ***Injury by motorists.*** Every operator of a motor or other self-propelled vehicle upon the streets and ways of the City shall immediately, upon injuring, striking, maiming, or running down any animal, give such aid as is reasonably able to be rendered. In the absence of the owner, he/she shall immediately notify the Police, furnishing sufficient facts relative to such injury. It is the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive and, upon the arrival of such person, such operator shall immediately identify themselves to the appropriate authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital or the Animal Shelter and notifying the Police. Such animal shall be deemed an uncared-for animal within the meaning of subsection (j) of this section. Emergency vehicles are excluded from this provision.
- (l) ***Hobbling livestock.*** It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal.
- (m) ***Keeping of diseased animals.*** It is unlawful for any person to have, keep, or harbor any animal which is infected with any dangerous disease. The Animal Control Officer may impound such diseased animal in accordance with the provisions of this article. All such animals impounded may be destroyed humanely as soon as is conveniently possible. In the case of destruction of such animal, the Animal Control Officer or designee shall not be required to give any of the notices provided in this article. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.
- (n) ***Fights.*** It is unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, ~~or~~ fight, or combat between one (1) or more animals or between animals and humans in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal. This includes any animal used as a "Bait Animal" as defined in the definitions of this ordinance.
- (o) ***Fowl; impounding; crating.*** It is unlawful for any person to confine any wild or domestic fowl or birds unless provisions are made by each person for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than 12 hours. No person shall impound any wild or domestic fowl or birds in a crate, box or other enclosure, which does not permit each fowl or bird impounded therein to stand in a naturally erect position.

(p) ***Tormenting.*** It shall be unlawful for any person to willfully torment any and all animals by any means, such as throwing rocks, yelling or giving chase in any manner. No person shall purposely cause a dog to bark unnecessarily or annoy such animal to the point the animal will attempt to attack a person or other animal.

(q) Songbirds, killing and robbing of nest prohibited. It is unlawful for any person to willfully kill any songbird, or to molest or rob the nest of such bird.

(Code 1962, § 6-2-24; Ord. No. 384, § 6-2-24, 7-22-91; Ord. No. 436, § 3, 5-13-96; Ord. No. 659(1), § 1, 1-13-15)

State Law reference— Cruelty to animals, NMSA 1978, § 30-18-1.

Sec. 3-6. - Sale.

(a) ***Use of public property.*** No person shall display, sell, or offer for sale, barter, give away, or otherwise dispose of any animal upon any street, sidewalk, public park or private business, unless said private business is properly licensed or such person is acting on behalf of the Truth or Consequences Animal Shelter during an adoption event.

(b) ***Rabbits or fowl.*** No person shall sell, offer for sale, barter, or give away any baby rabbits under four weeks of age. Nothing in this section shall be construed to prohibit the raising of rabbits and fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his possession.

(c) ***Premiums and novelties.*** No person shall offer as a premium prize, award, novelty, or incentive to purchase merchandise any live animal.

(d) ***Turtles.*** No person shall offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.

(e) ***Sale of un-weaned animals.*** A person shall not sell, offer for sale, transfer, or adopt a dog, cat, or ferret under eight weeks of age, or a guinea pig, hamster, or rabbit under four weeks of age. However, in no event shall an animal be sold, transferred or adopted until it is fully weaned and capable of eating on its own to sufficiently maintain proper body condition as determined by the breed and species of the animal. Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations or prohibit the sale, transfer, or adoption of an un-weaned animal if accompanied by a nursing female.

(Code 1962, § 6-2-25; Ord. No. 436, § 4, 5-13-96; Ord. No. 532, § 3, 10-14-03)

Sec. 3-7. - Wild animals prohibited.

(a) No person shall keep an animal of a species prohibited or protected by Title 50 of the Code of Federal Regulations or by the appropriate state regulations or statutes.

(b) No person shall keep any animal which is wild, fierce, dangerous, noxious, or naturally inclined to do harm except where 1) adequate protective devices are provided to prevent such animals from escaping or injuring the public, and 2) a proper license is obtained in accordance with section 3-8. If such requirements are met, they may be kept in a zoological park, pet shop, veterinary hospital, animal shelter, public laboratory, circus, amusement show, educational facility, scientific facility, or in the control of a humane society.

(c) **Wild animals prohibited.** "Wild animal" means any animal of a species that in its natural life is wild, dangerous, or ferocious and though it may be trained and domesticated will remain dangerous to others and may injure or kill a citizen in the City. Those animals, however domesticated, shall include but are not limited to:

- (1) Dog family (canidae). All except domesticated dogs, including wolf, fox, coyote, dingo, etc.
- (2) Cat family (felidae). All except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, wild cats, etc.
- (3) Bears (ursidae). All bears, including grizzly bears, brown bears, black bears, etc.
- (4) Weasels (mustelidae). All, including weasels, martins, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc.
- (5) Porcupine (erethizontidae).
- (6) Venomous snakes.
- (7) Venomous lizards, alligators, and crocodiles.

(Code 1962, § 6-2-26; Ord. No. 384, § 6-2-26, 7-22-91; Ord. No. 436, § 5, 5-13-96)

State Law reference— Sale, purchase, trade and possession of certain animals regulated, NMSA 1978, § 77-18-1.

Sec. 3-8. - Licensing wild animals.

- (a) Any person owning a wild animal covered by this section at the time of enactment of this Chapter may license such animal in accordance with law. A fee set by resolution shall be charged for such licensing through the City.
- (b) For the purpose of humanely trapping wild animals such as skunks and domesticated dogs or cats which may be a menace to the public, the Animal Control Officer may maintain such traps as are constructed for the purpose of trapping a live animal without serious risk of injury to the trapped animal and which may be placed on private property at the request of the owner thereof. Traps shall be baited only inside the trap and shall be checked not less than twice a day by the Animal Control Officer or the property owner requesting the placement of such traps. All such trapping shall be in conformity with state law.

(Ord. No. 384, § 6-2-27, 7-22-91; Ord. No. 436, § 6, 5-13-96)

Sec. 3-8.1. – Multi-Animal Site Permit and Kennel Permit.

- (a) It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit.
- (b) If a business premises is being used for the buying, selling, breeding, training, fostering, rescuing, or boarding of animals, said business shall apply for a kennel permit.

- (c) Animals belonging to visitors who are located within city limits and who stay in a household or lodging establishment longer than 30 days in a calendar year shall be included in the calculation of total animals for said location and the owner of the animal shall be required to comply with all applicable sections contained in this chapter.
- (d) No person shall keep or operate a residential or commercial multi-animal site without a permit issued by the city. All business applicants must have a valid business license issued through the city at the time of application.
- (e) Veterinary hospitals or clinics shall be exempt from the kennel permit licensure requirement of this chapter unless the veterinary hospital or clinic engages in the non-veterinary medical boarding of animals.
- (f) Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit with the police department, describing the location of the site, and the purpose for which it is to be maintained. An initial non-refundable fee, established by resolution, for residential or commercial multi-animal sites must accompany any application to defray the cost of processing the request.
- (g) Upon receipt of payment, the police department shall forward the application to the Planning and Zoning Department. All applications for multi-animal site and kennel permits shall undergo a special use permit process pursuant to the procedure detailed in section 11-5-6 of the City's Planning and Zoning Code.
- (h) An onsite visit of the premises shall occur by the animal control and designated zoning official or administrator prior to a hearing before the City's Planning and Zoning Board to verify compliance with this section and/or other applicable zoning regulations. If any provision of this section is in conflict with the provision of any applicable zoning regulation, the provision of the zoning regulation shall control.
- (i) All animals listed on the application three months of age or over must be vaccinated for rabies and possess a city animal license tag.
- (j) All multi-animal residential or commercial site permits and kennel permits must be renewed annually at a fee established by resolution.
- (k) There shall not be more than seven animals in any combination thereof for multi-animal residential or commercial site permits. The maximum animal occupancy for kennel permits shall be determined based upon the recommendation of the animal control officer or designated zoning official or administrator to ensure there is adequate space and adequate shelter to ensure sanitary and safe conditions.
- (l) An application may be denied if the applicant or animal owner shows a history of noncompliance with sections contained in this chapter as evidenced by two or more convictions of violations during the preceding 12 months. Any past city permit or license revocations may be considered in decision making process of whether to approve or deny a permit under this section.
- (m) Multi-animal site and kennel permit holders shall allow the animal control officer, police officer, designated zoning official or administrator or other city official to enter and inspect the premises for compliance with this section and/or any other city municipal code or ordinances during normal business hours.

(n) A multi-animal site permit or kennel permit may be revoked when, in the opinion of the designated zoning official or administrator or animal control officer, any one or more the following conditions exist:

(1) The premises or enclosures are not maintained in a clean, safe, and sanitary condition and are a health, fire, or public safety hazard or produce noxious odors.

(2) The number of animals exceeds the number allowed under the permit.

(3) Any other violation listed under this chapter or sections.

(o) In cases where a multi-animal site permit or kennel permit is revoked, the permittee shall be notified in writing via the mailing address listed on their permit application. The revocation letter shall state the reasons said permit has been revoked and the option to file a written appeal with the City Manager or their designee within ten business days of the date listed on the revocation letter. Written appeals shall be hand delivered to City Clerk's Office within the allotted timeframe. The City Manager or their designee may review the appeal and reverse the decision, modify the decision, or deny the appeal and upheld the initial revocation.

(p) If a multi-animal site permit or kennel permit has been revoked, said applicant and/or location of where the permit was issued shall not be allowed to apply or obtain another permit within city limits for a period of at least two years from the date of revocation.

(Ord. No. 395, § 1, 10-26-92; Ord. No. 436, § 7, 5-13-96; Ord. No. 532, § 4, 10-14-03; Ord. No. 609, § 1, 8-30-11; Ord. No. 659(1), § 1, 1-13-15)

Sec. 3-8.2. Sterilization Agreement/deposit for Spaying and neutering of dogs and cats.

- (a) It is the intent of the City for all dogs and cats over the age of 6 months to be spayed/neutered. Therefore, no cat or dog shall be released from the animal shelter to an adopting person unless it has been spayed/neutered or a sterilization agreement has been signed and a sterilization deposit set by resolution has been paid.
- (b) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized within 30 days of the date of adoption for cats/dogs over the age of six months or by 6 months of age for kittens and puppies.
- (c) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the sterilization deposit and impoundment/boarding fees imposed by the shelter and set by resolution, and the owner shall sign an agreement stating he/she will sterilize the animal within 30 days after release or will obtain a breeder permit or its equivalent. The sterilization deposit may be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized within 30 days of release.

(NM Stat § 77-1-20 (2019) History: Laws 1993, ch. 43, § 3

(Ord. No. 393, § 1, 8-24-92; Ord. No. 532, § 5, 10-14-03; Ord. No. 610, § 1, 8-30-11)

Sec. 3-8.3. Female dogs or cats in Estrus (heat) to be confined.

It shall be unlawful for any owner/responsible party to fail to securely confine any un-spayed animal in the state of estrus (heat), in a house, building or proper enclosure, in such a manner that such animal cannot come in contact with another animal except for planned breeding, and such that the animal does not create a nuisance by attracting other animals. When outside on the property of the owner, for metabolic waste elimination, the animal must be physically restrained with a hand-held leash.

Owners/responsible party who do not comply may be ordered to remove the animals in estrus (heat) to a boarding kennel, veterinary hospital or animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner/responsible party of the animal. Failure to comply with the removal order shall be a violation of this Section and the animal shall then be impounded as prescribed in this Title.

(Ord. No. 436, § 8, 5-13-96)

Sec. 3-9. – Enforcement and Interference with Enforcement.

- (a) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by the City Manager.
- (b) It shall be a violation of this chapter for any person to interfere, hinder or molest any Animal Control Officer or Police Officer in the performance of their duties.

(Ord. No. 384, § 6-2-28, 7-22-91; Ord. No. 436, § 9, 5-13-96; Ord. No. 532, § 6, 10-14-03; Ord. No. 611, § 1, 8-30-11)

Sec. 3-10. - Reserved.

Editor's note— Section 1 of Ord. No. 612, adopted Aug. 30, 2011, repealed § 3-10, which pertained to fines and fees and derived from Ord. No. 384, § 6, adopted July 22, 1991; Ord. No. 436, § 10, adopted May 13, 1996; and Ord. No. 532, § 7, adopted Oct. 14, 2003.

Sec. 3-11. - Penalty for violation of chapter.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-10, with each conviction carrying a mandatory minimum fine of \$100.00.

(Code 1962, § 6-2-30; Ord. No. 384, § 6-2-30, 7-22-91; Ord. No. 394, § 1, 8-24-92; Ord. No. 436, § 11, 5-13-96; Ord. No. 532, § 8, 10-14-03; Ord. No. 613, § 1, 8-30-11)

Sec. 3-12 Deceased Animal Disposal Requirements.

A. Owner responsibility – The owner / responsible party having care, custody or control of an animal carcass shall be responsible for its removal within twenty-four (24) hours of death if the animal is not to be used for human consumption.

1) An animal carcass may be disposed of in one of the following ways:

a. Burial of the animal carcass on the owners land under the following conditions:

- The bottom of the burial pit must be at least 3 ft. above the water table.
- If possible, choose a site where the soil is heavier and less permeable.
- Flat areas are best. Avoid areas sloping toward water or arroyos.
- Ensure the pit is sized to allow soil to cover mortalities to a depth of at least 3 ft.

b. Cremation by a licensed facility where the remains can be sealed in an acceptable urn for return to the animal owner or disposed of by the facility.

- The cremation of the carcass will be at the expense of the animal owner.

B. Removal - The Animal Control Officer may remove any animal carcass from the roadway or other public property. The Animal Control Officer and/or T or C Animal Shelter staff shall make reasonable efforts to notify the animal's owner if known in the event of the animal's death.

1) Animal Control Officer may dispose of the animal carcass at the T or C Animal Shelter as authorized after microchip scanning and making reasonable efforts to notify the animal's owner. If an owner is located and request that the Animal Shelter dispose of the carcass, then the owner/responsible party will be responsible for the disposal fee.

2) Animal Control Officer shall turn over any tags or other identification found on an animal carcass to the T or C Animal Shelter.

C. Removal fee - The Animal Control Officer may, but is not obligated to, provide for the removal of an animal carcass from private property at the request of the animal owner or property owner for a fee.

1) The fee amount shall be established by resolution or

2) The fee amount shall be established by most current rate schedule as provided by the current licensed facility, contracted with the City of Truth or Consequences, for cremation services.

a. This fee schedule is based on the weight of the carcass.

Secs. 3-13 - 3-25. - Reserved.

ARTICLE II. - CONTROL

DIVISION 1. - GENERALLY

Sec. 3-26. - Authority of Animal Control Officers.

(a) The office of animal control officer is hereby created. The chief of police will assign that duty as needed. The animal control officer shall be charged with all duties pertaining to the enforcement of ordinances regulating or controlling animals and fowl within the corporate limits of the city or in areas of other areas of jurisdiction as specified in agreements with other entities.

(b) An Animal Control Officer shall wear a uniform and shall wear a badge identifying such officer as an animal control officer.

(c) It shall be the duty of the animal control officer to take up and impound any animal or fowl authorized to be impounded by this Code or by other ordinances within the specified agreements with other entities.

(d) It shall be the duty of the animal control officer to investigate all reported violations of animal control ordinances and to attempt, when appropriate, to solve such problems through conferences and issuance of citations or complaints filed with the appropriate court.

(Code 1962, § 6-2-4; Ord. No. 436, § 12, 5-13-96; Ord. No. 532, § 9, 10-14-03)

State Law reference— Municipal authority to designate animal control officer, NMSA 1978, § 77-1-15.1B.

Sec. 3-27. - Establishment of Animal Shelter.

There is hereby established an Animal Shelter which shall be located at a location designed by the Commission.

(Code 1962, § 6-2-5)

Sec. 3-28. - Animal Shelter, hours of business.

The Animal Shelter of the City of Truth or Consequences shall be kept open to the general public for the transaction of business during the hours set by the City Manager.

(Code 1962, § 6-2-6; Ord. No. 436, § 13, 5-1-3-96)

Sec. 3-29. - Impoundment.

It is the duty of the Animal Control Officer to take up and impound in the Animal Shelter any stray or any animal kept or maintained contrary to this chapter, including any animal that is allegedly creating a public nuisance.

(Code 1962, § 6-2-7; Ord. No. 384, § 6-2-7, 7-22-91)

State Law reference— Municipal authority to impound and dispose of animals running at large, NMSA 1978, § 3-18-3A(3).

Sec. 3-30. - Impounding strays; records; redemption fees; notice.

- (a) No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of such animal to the animal control officer, giving his/her name and address, a true and complete statement of the circumstances under which the animal was taken, and the location where such animal is confined.
- (b) It is unlawful for any person taking up an animal to fail to give the notice required in subsection (a) of this section and for any person having such animal in his/her possession to fail or refuse to immediately surrender such animal to the Animal Control Officer upon demand thereof.
- (c) If an stray animal is wearing a license or other identification, it shall be returned to the owner and a citation may be issued. If an stray animal is not wearing a license or other identification, the animal shall be confined for a 72-hour period at the Animal Shelter. The Animal Shelter may dispose of stray animals impounded under this section according to their policies and procedures the day after the required impoundment period.
- (d) No dog or cat that has been impounded by the Animal Shelter will be sold for the purpose of breeding or resale.
- (e) An animal which continues to be an alleged nuisance may be impounded by the Animal Control

Officer until such time as a judgment is made by the Municipal Court.

- (f) Animals confined/impounded to the Animal Shelter may be released to the rightful owner or designee after all applicable fees have been paid. Owner shall bear the cost of any expenditure while animal is confined including veterinary services.
- (g) Reserved.
- (h) Fines for violations of this article shall be in accordance with the provisions of section 1-10. In addition, upon a finding of guilt, the City may request that the Municipal Court shall order a defendant to reimburse the Animal Control Shelter or Police Department for any costs associated with apprehending and/or impounding the animal.

(Code 1962, § 6-2-8; Ord. No. 384, § 6-2-8, 7-22-91; Ord. No. 436, § 14, 5-13-96; Ord. No. 614, § 1, 8-30-11)

Sec. 3-31. - Restraint of animals.

- (a) Physical restraint - A person owning or having charge, custody, or care over an animal shall keep the animal under humane physical restraint at all times.
- (b) Dragging; hobbling - A person shall not hobble an animal, or tether or attach any animal to any object that can be dragged or moved by the animal. Such an animal, if not otherwise restrained by immediate control or enclosure, shall be considered by the animal control officer to be unrestrained. This shall not apply to livestock animals being properly used for work purposes.
- (c) Owner's premises - A person owning or having care, custody, or control over an animal on his or her premises shall restrain the animal either by a secure enclosure or by immediate control.
- (1) All pens, kennels, stalls, corrals, or other enclosures used to restrain an animal shall be continuously maintained with preservatives, fasteners, and other materials to prevent deterioration and animal escape. Substantial and acceptable locking or latching devices shall be installed on all gates and doors to animal enclosures in such a manner as to be inaccessible to animals and small children in order to prevent animal escape and unauthorized entry.
- (2) A person owning or having care, custody, or control over an animal on his or her premises may use a tether as a means of restraint only if:
 - a. The tethered animal has access to adequate food, water, shade and shelter
 - b. A tether used to restrain a dog shall be at least 12 feet in length. Such tether shall not enable the animal to reach beyond the owner's property.
 - c. A tether used to restrain an animal shall be affixed to a properly fitting collar or harness worn by the animal. A person shall not wrap a chain or tether directly around the neck or other body part of the animal.
 - d. A tether used to restrain an animal shall be fastened so that the animal may sit, walk, and lie down using natural motions. Such tether shall be unobstructed by objects that may cause the tether or animal to become entangled, strangled or denied access to adequate necessities.

- (3) Voice commands are not an acceptable form of restraint.
- (d) Public premises - A person owning or having care, custody, or control over an animal off of his or her premises shall keep the animal under immediate control.
 - (1) While restrained off premises under the immediate control of the owner or responsible party, the animal must be on a leash that shall enable the handler to maintain control of the animal. The leash shall not exceed six (6) feet in length while the animal is in and around the inhabitants of the city.
 - (2) A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in an open flatbed vehicle shall be crated or restrained upon a non-slick surface and in a manner that prevents the animal from falling out of the vehicle. At no time is an animal allowed to sit or stand in the drivers lap while the vehicle is being operated on any public roadway.
 - (3) A person in charge of an amphibian or reptile away from the owner's premises shall keep the animal secured within a closed container that will not expose people unexpectedly to the animal.
 - (4) Voice commands are not an acceptable form of restraint.
- (e) Property of others - A person owning or having care, custody, or control over an animal shall not detain or restrain an animal upon another person's private property without having permission from the resident or owner of such property.
 - (1) If the resident or owner does not permit the animal being detained or restrained upon such property, the animal may be taken up and impounded by the animal control officer at the request of the resident or owner.
 - (2) If the owner of a rented or leased property does not approve of an animal being restrained or detained by the resident on such property, the dispute shall be regarded by the animal control officer as a civil matter.
- (f) Multiple dwelling unit - An owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, shall not permit or authorize any animal to be unrestrained upon the common areas of the multiple dwelling unit, except upon such areas and within such enclosures specifically designated for such activity.
- (g) Exceptions
 - (1) A working dog that is under the control and supervision of the owner or handler performing such acts as herding, search and rescue, or police work shall not be considered as unrestrained while performing or being trained for such duties.
 - (2) A hunting, tracking, or show dog that is under the control and supervision of the owner or handler shall not be considered as unrestrained while performing in or being trained for those capacities.

Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court.

(Code 1962, § 6-2-12; Ord. No. 384, § 6-2-12, 7-22-91; Ord. No. 436, § 15, 5-13-96; Ord. No. 615, § 1, 8-30-11)

Sec. 3-32. - Breaking into Animal Control Center, animal control vehicle.

It is unlawful for any person to break open any pound, center, trap, or animal control vehicle wherein animals are impounded by the Animal Control Officer of the City, or in any other way to remove or assist in the removal of any animal from such pound, center, trap, or vehicle without lawful permission.

(Code 1962, § 6-2-22)

Sec. 3-33. - Seizure of Animals Notice.

- (a) An Animal Control Officer, or designee who reasonably believes that the life or health of an animal to include livestock is endangered due to cruel treatment may apply to the municipal court in the city where the animal is located for a warrant to seize the animal.
- (b) If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within 10 business days unless good cause is demonstrated by the city for a later time and such extension is approved by the municipal court judge.
- (c) Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.
- (d) If the owner of the animal cannot be determined or cannot be located, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.
- (e) At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice if approved by the municipal court judge.
- (f) If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

NM Stat § 30-18-1.1 (1996 through 1st Sess 50th Legis)

Sec. 3-34 Disposition of Seized Animals

- (a) If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

- (b) If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.
- (c) An animal control agency operated by the municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.
- (d) The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay and may conduct periodic reviews of its order. If the posting of security is ordered, the animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.
- (e) If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, animal shelter or animal welfare organization for adoption or humane destruction
- (f) Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed cruelty to animals.
- (g) Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.
- (h) As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

NM Stat § 30-18-1.2 (1996 through 1st Sess 50th Legis)

Sec. 3-35 Costs of Seized Animals

- (a) Upon conviction, a defendant shall be liable for the reasonable cost of boarding the animal and all necessary veterinary examinations and care provided to the animal. The amount of these costs shall be offset by the security posted pursuant to Section 3-36. Unexpended security funds shall be returned to the owner.

- (b) In the absence of a conviction, the seizing agency shall bear the costs of boarding the animal and all necessary veterinary examinations and care of the animal during the pendency of the proceedings, return the animal, if not previously relinquished, and all of the security posted pursuant to Section 3-36.

NM Stat § 30-18-1.3 (1996 through 1st Sess 50th Legis)

Secs. 3-36 - 3-50. - Reserved.

DIVISION 2. - RABIES^[2]

Footnotes:

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Cross reference— Health and sanitation, ch. 6.

Sec. 3-51. - Vaccinations.

- (a) It is the duty of all persons owning or keeping a cat or a dog or any member of the canine family over the age of three months to have such animals vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for three years and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Commission may require other animals to receive annual rabies vaccination.
- (b) The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated the date of vaccination, and the expiration date of the period of immunity.
- (c) It is unlawful for the owner or keeper of any dog, cat, or any other members of the canine or feline family to fail to exhibit its certificate of vaccination upon demand to any police officer or animal control officer.
- (d) It is the duty of all persons who adopt a dog to have such dog vaccinated against rabies, distemper complex, and parvo virus within 48 hours of adoption. It is the duty of all persons who adopt a cat to have such cat vaccinated against rabies and feline distemper complex within 48 hours of adoption.
- (e) Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court.

(Code 1962, § 6-2-9; Ord. No. 527, §§ 1, 2, 7-14-03)

State Law reference— Vaccination of dogs and cats against rabies, NMSA 1978, § 77-1-3.

Sec. 3-52. - Confinement of rabid animal.

An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall be confined at once in a secure place by the owner. A person who knows or who has reason to know that an animal is infected with rabies or has been exposed to rabies shall immediately upon learning of this notify the Animal Control Officer as to the place where the animal is confined and shall surrender the animal to the Animal Control Officer upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to state law. (Code 1962, § 6-2-10)

Sec. 3-53. - Biting dogs or other biting animals.

- (a) The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Animal Control Officer within 24 hours. The owner of an animal that bites a person shall surrender the animal to an Animal Control Officer to impound such animal for a period of observation.
- (b) A physician who renders professional treatment to a person bitten by an animal shall report the fact that he/she has rendered professional treatment to ~~the Chief of Police or~~ an Animal Control Officer within 24 hours of his/her first professional attendance. The physician shall report the name, sex, and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite and other facts that may assist the Animal Control Officer in ascertaining the immunization status of the animal.
- (c) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Animal Control Officer. The owner of the animal shall bear the cost of confinement.
- (d) A person who has custody of an animal that has bitten a person shall immediately notify the Animal Control Officer.

(Code 1962, § 6-2-11; Ord. No. 384, § 6-2-11, 7-22-91; Ord. No. 436, § 16, 5-13-96; Ord. No. 616, § 1, 8-30-11)

State Law reference— Notice to health officer of animal bites, NMSA 1978, § 77-1-6.

Secs. 3-54—3-70. - Reserved.

DIVISION 3. - LICENSING

Sec. 3-71. - License required.

- (a) Any person owning, possessing or harboring any dog or cat three months of age or over shall obtain a license for each animal. Application for such license shall be made as directed and shall state the name and address of the owner, the name, breed, color, age and sex of such animal and any other information deemed necessary. A current rabies vaccination certificate shall be presented at the time of application for the license. Upon payment of the license fee, as prescribed in subsection (d) of this section, a license certificate and tag for each animal shall be issued. If the tag is lost, replacement tags with a cost set by resolution shall be purchased. The license shall expire on the same date as the rabies certificate or one year whichever is greater.

- (b) 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 that is training the dog shall have in his personal possession the valid license tag for each dog or cat and shall immediately display such upon request of the Animal Control Officer or a regular law enforcement officer.
- (c) Animals belonging to nonresidents who do not keep said animals within the corporate limits of the city for 30 consecutive days shall be exempt from this section, provided, however, that all other provisions of this division be complied with.
- (d) The annual license fee shall be set by resolution for each neutered or spayed dog or cat. The annual license fee shall be set by resolution for each unneutered or un-spayed dog or cat. No fee shall be charged for the licensure of qualified service animals that are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons. A fee shall be charged for each dog or cat that has not been spayed or neutered, unless the owner presents a signed statement from a licensed veterinarian stating that spaying or neutering would be a surgical risk for the animal, due to the animal's age or condition.
- (e) Within 5 business days upon change of ownership of any dog or cat, the new owner shall apply for a new license with their personal identifying information.

(Code 1962, § 6-2-14; Ord. No. 384, § 6-2-14, 7-22-91; Ord. No. 436, § 17, 5-13-96; Ord. No. 564, § 1, 11-14-06; Ord. No. 659(1), § 1, 1-13-15)

State Law reference—Municipal authority to require licensing of dogs, NMSA 1978, § 77-1-15.1.

Sec. 3-72. - Unlawful use of license tag.

It is unlawful for any person to remove any license tag from one dog or cat to another. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in his possession or under his control a stolen, counterfeit, or forged license tag, rabies vaccination certificate, or other form of licensing as required under this division.

(Code 1962, § 6-2-21)

(Ord. No. 564, § 1, 11-14-06)

Secs. 3-373- 3-90. - Reserved.

DIVISION 4. - AT LARGE, VICIOUS, NUISANCE

Sec. 3-91. - Running at large.

(a) It is unlawful for any person to allow or permit any animal to run at large in public or on any public street, public alley, public sidewalk, private or public vacant lot, or private property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded as provided in section 3-30.

(b) Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to

imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court

(Code 1962, § 6-2-15)

State Law reference— Municipal authority to make provision for the seizure of dogs and cats running at large, NMSA 1978, § 77-1-12

~~(Code 1962, § 6-2-16)~~

Sec. 3-392 - 3-93. - Reserved.

Editor's note— Ord. No. 436, § 18, adopted May 13, 1996, repealed § 3-93, which pertained to unenclosed premises and derived from Code 1962, § 6-2-17.

Sec. 3-94. - Vicious animals.

It is unlawful for any person to keep or harbor a vicious animal in the City. Any person attacked by a vicious animal may use necessary force to repel said attack. After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall turn such animal over to the Animal Control Officer, who shall destroy it humanely.

(Code 1962, § 6-2-18; Ord. No. 505, § 1, 2-11-02; Ord. No. 621, § 1, 11-22-11)

State Law reference— Vicious animals, NMSA 1978, § 77-1-10.

Sec. 3-95. - Disturbing the peace.

It is unlawful for a person owning or having the care, custody or control of an animal to permit that animal to howl, bark or create noise which disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity. It shall be a violation of this section if the howling, barking or noise is frequent or long continued; is audible beyond the property line of the premises on which the animal is located.

(Code 1962, § 6-2-19; Ord. No. 617, § 1, 8-30-11; Ord. No. 659(2), § 1, 1-13-15)

Cross reference— Offenses relating to public order and safety, § 8-31 et seq.

Sec. 3-96. - Public nuisance.

- a. Property damage; nuisance. A person owning or having care, custody, or control over an animal shall prevent the animal from causing damage or being a nuisance to the person or property of another.
- b. Pet Waste. A person owning or having care, custody, or control over a pet such as a dog or cat shall dispose of the waste from the animal in a watertight and fly tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard by noxious or offensive odors.
- c. Public defecation. A person owning or having care, custody, or control over an animal shall not permit the animal to defecate on public property or the property of another unless such animal waste is immediately removed and properly disposed of.
- d. Feeding animals running at large. A person shall not feed an animal running at large

It is unlawful for the owner of any animal to be in violation of the public nuisance definition and such violation will be punished in accordance with section 1-10.

(Code 1962, § 6-2-20; Ord. No. 436, § 19, 5-13-96; Ord. No. 618, § 1, 8-30-11)

Editor's note— Section 1 of Ord. No. 618, adopted Aug. 30, 2011, changed the title of § 3-96 from "Nuisances on sidewalks, public parks, alleys" to "Public nuisance."

Sec. 3-97. - Dangerous and potentially dangerous dogs.

(a) *Short title.* This section may be known, and will be cited, as the "Dangerous Dog Ordinance".

(b) *Findings and intent.*

- (1) Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.
- (2) No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the City.
- (3) This section will protect the inhabitants of the City.
- (4) This section will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the City.
- (5) This section will assist in providing control over dangerous and potentially dangerous dogs.

(c) *Definitions.*

Animal control authority: The Animal Shelter and Animal Control Officer(s) of the Police Department of the City is charged with addressing animal control issues within the City.

Dangerous dog: A dog that caused a serious injury to a person or domestic animal.

Owner: A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of 18, that person's parent or guardian.

Potentially dangerous dog: 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; or
- (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.

Proper enclosure: Secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or other affixing the animal to a stationary object.

Serious injury: A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

(d) *Exceptions.* A dog will not be declared a dangerous or potentially dangerous dog if:

- (1) The dog is used by a law enforcement official for legitimate law enforcement purposes; or

- (2) The threat, injury or damage sustained by a person or domestic animal is the result of the person or domestic animal:
 - a. Trespassing upon premises occupied by the owner or the dog; or
 - b. Provoking, tormenting, abusing or assaulting the dog, or in the past has repeatedly provoked, tormented, abused or assaulted the dog; or
 - c. Committing, or attempting to commit, a crime; or
- (3) The dog was:
 - a. Responding to pain or injury; or
 - b. Protecting itself or its offspring; or
 - c. Protecting or defending a human being or domestic animal from attack or assault.

(e) *Seizure of dog—Petition to court of competent jurisdiction.*

- (1) If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- (2) If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- (3) After seizure, the animal control authority will 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 subsection (e) of this section.
- (4) After seizure:
 - a. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to subsection (e) of this section; or
 - b. The animal control authority may, within 14 days after seizure of the dog, bring a petition in a court of competent jurisdiction 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 public safety or potentially dangerous and poses a threat to 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 30 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 the owner.
- (5) If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within 14 days of seizure of the dog, the court shall immediately order the release of the dog to its owner.
- (6) If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.
- (7) A determination that a dog is not dangerous or potentially dangerous shall not prevent the

animal control authority from making a subsequent application for seizure based on the dog's subsequent behaviors.

(f) *Dangerous and potentially dangerous dogs—Registration required.*

- (1) Upon application, an animal control authority shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:
 - a. The owner is able to keep the dog under control at all times; and
 - b. A license, if applicable, has been issued pursuant to the requirements of the City; and
 - c. The dog has a current rabies vaccination; and
 - d. The owner has a proper enclosure to the dog; and
 - e. The owner has paid an annual fee set by resolution to register a dangerous or potentially dangerous dog.; and
 - f. The dog has been spayed or neutered; and
 - g. The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
 - h. The owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.
- (2) If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section for 36 consecutive months, the owner may request the animal control authority in the City to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.
- (3) 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 subsection (e)(1) of this section, establishes that:
 - a. The owner has paid an annual fee set by resolution, as established by the animal control authority to register a dangerous dog; and
 - b. The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable; and
 - c. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination; and
 - d. When the 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 at all times; and
 - e. The 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
 - f. A clearly visible warning sign with a conspicuous warning symbol indicate there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.
- (4) An animal control authority may order the immediate impoundment or humane destruction

of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section.

(g) *Prohibited acts.*

- (1) It is unlawful for an owner of a dangerous or potentially dangerous dog to:
 - a. Keep the dog without a valid certificate of registration; or
 - b. Violate the registration and handling requirements for the dog; or
 - c. Fail to notify the animal control authority immediately upon:
 1. The escape of the dog; or
 2. An attack by the dog upon a human being or a domestic animal;
 - d. Fail to notify the animal control authority of the dog's death within five business days; or
 - e. Fail to notify the animal control authority within 24 hours if the dog has been sold or given away and to provide the name, address and telephone number of the new owner of the dog; or
 - f. 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; or
 - g. Fail to comply with special handling or case requirements for the dog that a court has ordered.
- (2) Whoever violates a provision of subsection (g)(1) shall be charged in the Municipal Court in which the animal is located with a violation of the Dangerous Dog Ordinance, and upon conviction shall be sentenced to a fine not to exceed \$500.00, or 90 days imprisonment, or both fines and imprisonment.

(Ord. No. 546, §§ 1—7, 10-11-05; Ord. No. 619, § 1, 9-27-11)

Editor's note— Ord. No. 546, §§ 1—7, adopted Oct. 11, 2005, set out provisions intended for use as § 3-101. At the editor's discretion, these provisions have been included as § 3-97.

Sec. 3-98. – Safekeeping of animals by the Animal Shelter

Under unforeseen circumstances, a police officer, animal control officer, or animal owner may require an animal to be placed in the care and custody of the Animal Shelter to ensure that the animal is properly cared for. In these situations, the safekeeping of the animal shall only occur for a period of not more than 72 hours at the expense of the owner pursuant to fees established by resolution. The owner shall be responsible for contacting a designated person or organization to pick up the animal from the Animal Shelter and the owner shall provide written authorization to the Animal Shelter as to the responsible person or organization taking custody of the animal. After the initial 72 hour period has expired, the animal is no longer classified as a safe keep and the animal shall be considered abandoned and property of the City unless the owner or designated party notifies the City in writing of a date and time the animal will be picked up, not to exceed an additional 72 hours at the owner's expense. No animal shall be released from the Animal Shelter until all fees are paid in full. Owners who knowingly abandon or fail to arrange for pickup of their animal at the Animal Shelter may be prosecuted under other sections within the Municipal Code.

Sec. 3-99. – Livestock running at large.

It is unlawful for the owners of livestock to willfully allow the livestock to run at large within the city limits. The owners of the livestock are subject to prosecution under this section regardless of the livestock's origination.

As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS. CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:

Section 1. All Ordinances or Resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution or part thereof, heretofore repealed.

Section 2. This Ordinance shall take effect on the 9th day of 2022.

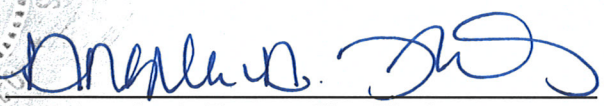
PASSED, APPROVED AND ADOPTED this 9th day of February, 2022.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

BY:


Amanda Forrister- Mayor

ATTEST:


Angela A. Torres- City Clerk

