

ORDINANCE NO. 771

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. GENERAL PROVISIONS

SEC. 3-1. TITLE AND INTENT.

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 nuisance and injury, promote the health, safety, and welfare of the residents and animals, assist in providing humane population control of animals, reunite animals with their owners, finance the functions of licensing and recovery of said animals, and assist in providing housing for animals in an Animal Shelter.

It is further the intent of the City Commission to promote responsible pet ownership and to encourage education and voluntary compliance with the provisions of this Chapter and ensure that enforcement is applied in a fair, effective and humane manner.

(Ord. No. 725, 2-9-22)

SEC. 3-2. 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 desert and/or to relinquish the supervision or care of any animal regardless of age or condition on one's premises or on property other than one's own without permission.

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

Adequate food means the access to and provision of uncontaminated, edible, nutritious food, which is of adequate quantity as to maintain the normal weight and condition of a healthy animal.

Adequate living area means adequate space, shade, and shelter 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 A structurally sound, adequately ventilated, weatherproof structure that is comprised of non-toxic materials and interior floors that minimize injury and discomfort to the Animal. The structure must be clean and of a suitable size as to limit overcrowding by properly accommodating the specific Animal. The structure must protect the Animal from extreme conditions. The Animal must be able to lie down fully with limbs and tail outstretched and rise to its feet, in a natural manner, consistent with the Animal's species. An Adequate Shelter must be within a Secure Fence.

Adequate space to prevent overcrowding or **Adequate Space** means having sufficient space to allow animals restrained together to be able to move freely, turn around and lie down with tail and limbs outstretched.

Adequate water means constant access to a supply of unfrozen potable water in sufficient amount as to maintain good health

Alter or **Alteration** means to render an animal permanently sterilized and incapable of reproduction.

Animal means any living nonhuman mammal, bird, reptile, or amphibian including bats, Companion Animals, Companion Birds, Domestic Animals, Exotic or Wild Animals, Livestock, pigeons, porcupines, Poultry, prairie dogs, rabbits and skunks. For the purpose of this article, insects and arachnids are not included in the definition of animal.

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 permitted by the City for the purpose of maintaining care and custody of animals.

Animal Shelter Staff means a person or group of people employed by the City to work at the Animal Shelter and charged with maintaining care and custody of animals.

Animal Control Officer or **A.C.O** means any person designated by the Chief of Police or City Manager 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 in fighting or to make the attacking animal more confident and aggressive.

Basic Grooming means examination, attention and acts reasonably necessary to maintain the eyes, ears, beaks, hooves, feet, coat and skin of an Animal in healthy condition. Basic Grooming also obligates an Owner to provide any and all materials an Animal requires for self-grooming. Basic Grooming does not include acts to maintain appearance only.

Basic Medical Care means reasonable medical care required by the species, including periodic examinations by a veterinarian, prompt Veterinary care when required, age and species appropriate Vaccinations, Basic Grooming and internal and external Parasite Control where appropriate.

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

Bona Fide Animal Show means an exhibition approved by the City Manager or City Manager's designee of Companion Animals, Companion Birds or Horses in competition for prizes or awards that does not include sales or fighting.

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

Business Days or **Working Days** means any day in which normal business operations are conducted. Typically, Monday through Friday and not including Public Holidays.

Cage means a structure for confining birds or animals, enclosed on at least one side by a grating of wires or bars that lets in air and light.

Calander Days means every day on the calendar including weekends and holidays.

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.

Cat means belonging to the species *Felis Catus*.

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.

Community Cat means any free-roaming cat that may be cared for by one or more residents of the immediate area who is/are known or unknown; a community cat may or may not be feral. Community cats shall be distinguished from other cats by being sterilized and ear tipped;

community cats are exempt from licensing, limits, tags, estray and at-large provisions of this ordinance and maybe exempt from other provisions directed toward owned animals.

Community Cat Caregiver means A person who provides care, including food, shelter or medical care to a community cat, while not being considered the owner, custodian, harbinger, controller or keeper of a community cat or to have care or charge of a community cat. Caregivers must make every effort to minimize the impact on local wildlife, and feed the proper quantity of food for the number of cats. Community cat caregivers may redeem community cats from the shelter without proof of ownership.

Companion Pet or **Companion Animal** means an owned, Domestic Animal that is considered a pet. This does include not a Hybrid dog or Hybrid cat. Guard Dogs are not considered Companion Animals or Companion Pets.

Companion Bird means A bird commonly kept as a pet by humans and confined on the property of the Owner, including parakeets, canaries, lovebirds, finches, parrots, macaws, cockatoos, cockatiels, toucans and lorries, but excluding:

1. All of the family *Anatidae* (waterfowl);
2. All of the family *Tetraonidae* (grouse and ptarmigans);
3. All of the family *Phasianidae* (quail, partridges and pheasants);
4. All of the family *Meleagrididae* (wild turkeys) except for the domestic strains of turkeys;
5. All of the family *Phasianidae* (francolins);
6. All of the family *Gruidae* (cranes);
7. All of the family *Rallidae* (rails, coots and gallinules);
8. All of the family *Charadriidae* (plovers, turnstones and surfbirds);
9. All of the family *Scolopacidae* (shorebirds, snipe, sandpipers and curlews);
10. All of the family *Recurvirostridae* (avocets and stilts);
11. All of the family *Scolopacidae* (phalaropes);
12. All of the family *Columbidae* (wild pigeons and doves) except for the domestic strains of pigeons; and
13. Ducks, geese, chickens and other poultry.

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.

Crate means a device or structure designed for the temporary confinement of an Animal.

Custody or **Custodian** means the possession, control over and responsibility for an Animal by a Person who may or may not be the Owner but who may represent the Owner of an Animal.

Dangerous dog means a dog that caused a serious injury to a person, Domestic Animal or Livestock.

Dog means a member of the species *Canis Lupus Familiaris*.

Domestic Animal means any living creature other than a human being that is customarily used for companionship, food or work. For the purpose of this chapter all Companion Animals are Domestic Animals but not all Domestic Animals are Companion Animals.

Domestic Livestock or **Livestock** as defined by the State Livestock Code and shall include, but not be limited to, bison, buffalo, cattle, horses, donkeys, mules, chickens, ducks, poultry, llamas, ostriches, emus, rheas, camelids (camels), farmed Cervidae, swine, sheep or goats.

Ear-tip means the removal of approximately a quarter-inch off the tip of the cat's left ear in a straight line cut, the universal sign of a sterilized, unowned cat. If these requirements are met, the ear-tipped cat is exempt from licensing, limits, tag, and certain stray and at-large provisions of this chapter and may be exempt from other provisions directed toward owned animals.

Electronic leash, electronic collar or **e-collar** means a device that uses a remote to send signals that deliver electric stimulation, vibrations, beeps to control, confine or correct an animal. Is not considered a form of immediate control and shall not be used in place of a leash.

Emergency measures mean 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.

Emergency Medical Care means the care required in response to a traumatic injury or rapidly evolving health crisis concerning an Animal.

Enclosed lot means any parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected of such a height and surety so as to retain the species of animal within the bounds for which the fence was 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 and prevent the entry of any other animal(s).

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

Estray or **stray** means any Companion Animal, Companion Pet, Exotic Animal or Livestock found running at large or unattended beyond the boundaries of the premises of the owner.

Exotic Animal or **Wild Animal** means those species of animals that are considered exotic to humans. Exotic Animals include any and all of the following orders and families, whether bred in the wild or in captivity, and any and all hybrids. The animals listed in the parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

1. Class *Mammalia*
 - a. Order *Artiodactyla* (hippopotamuses, giraffes, camels, deer, not cattle or swine or sheep or goats)
 - b. Order *Carnivora*
 - i. Family *Felidae* (lions, tigers, cougars, leopards, ocelots, servals, not domestic cats)

- ii. Family *Canidae* (wolves, coyotes, foxes, jackals, not domestic dogs)
 - iii. Family *Ursidae* (all bears)
 - iv. Family *Mustelidae* (weasels, skunks, martens, minks, not ferrets)
 - v. Family *Procyonidae* (raccoons, coatis)
 - vi. Family *Hyaenidae* (hyenas)
 - vii. Family *Viverridae* (civets, genets, mongooses)
 - c. Order *Edentalia* (anteaters, armadillos, sloths)
 - d. Order *Marsupialia* (opossums, kangaroos, wallabies, not sugar gliders)
 - e. Order *Perissodactyla* (rhinoceroses, tapirs, not horses or donkeys or mules)
 - f. Order *Primates* (lemurs, monkeys, chimpanzees, gorillas)
 - g. Order *Proboscidae* (elephants)
 - h. Order *Rodentia* (squirrels, beavers, porcupines, not guinea pigs, or rats, or mice, or gerbils, or hamsters)
2. Class *Reptilia*
- a. Order *Squamata*
 - i. Family *Varanidae* (only water monitors and crocodile monitors)
 - ii. Family *Iguanidae* (only green iguanas and rock iguanas)
 - iii. Family *Boidae* (all species whose adult length has the potential to exceed eight feet in length)
 - iv. Family *Colubridae* (only boomslangs and African twig snakes)
 - v. Family *Elapidae* (coral snakes, cobras, mambas) - All species
 - vi. Family *Natricidae* (only keelback snakes)
 - vii. Family *Viperidae* (copperheads, cottonmouths, rattlesnakes) - All species
 - b. Order *Crocodylia* (crocodiles, alligators, caimans, gavials) - All species
 - c. Order *Cetacea* (whales, dolphins, porpoises)
 - d. Order *Pinnipedia* (seals, sea lions, walruses)

Exotic or Wild Animal Permit means the Permit allowing a Person to own a Permissible Exotic or Wild Animal within the Truth or Consequences City Limits.

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.

Finder means any person who discovers and temporarily takes possession of a Companion Animal that has been separated from its Owner.

Foster means to take temporary Custody of any Animal on behalf of or at the request of the Truth or Consequences Animal Shelter or other non-profit to administer veterinary care, groom, train, provide special feeding, care for or otherwise provide for the Animal.

Guard Dog means a dog that is used to protect a Guard Dog Site. Guard dogs are not considered Companion Animals or Companion Pets.

Guard Dog Site means a commercial establishment that utilizes a Guard Dog.

Guard Dog Site Permit or **GDSP** means the permit required for a Guard Dog Site.

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

Handler means a person who is responsible for controlling the actions of a guard dog.

Harness with respect to a dog, means a properly fitting apparatus that is not abrasive and that restrains the dog by the body and shoulders without the involvement of the neck. With respect to a cat means, a properly fitting apparatus that is not abrasive featuring adjustable collar buckles around the neck that are joined to an adjustable girth.

Healthy means that an Animal is free from disease and not suffering from any objectively observable illness.

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.

Hobble or **hobbling** means to tie or strap the legs of an animal together to prevent it from straying.

Household means a human social or family unit comprised of one or more Persons, occupying, residing and domiciled in the same residence.

Humane live trap or **live humane trap** means any device designed to catch and restrict an Animal without causing any harm to the Animal.

Illness means a malady, injury, impairment, or physical/mental condition that requires veterinary care.

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 no longer than eight (8) feet long for a dog; or
2. A secure leash no longer than eight (8) feet long 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.

Immediate control does not include:

1. Voice or oral commands/control.

2. Electronic leashes, electronic collars, electronic training collars or other similar devices.

Impound means the act by an Animal Control Officer or Law Enforcement Officer of taking up and confining an animal within a shelter or facility used by the City for the confinement of said animal.

Incarceration, Imprisonment or Incarceration Hold means the restraint or detention of an individual at a jail, prison, corrections facility or other similar facility by Law Enforcement.

Injured means the condition of an Animal being harmed, disabled or impaired in a physical sense which is determined by the reasonable objective observation of wounds, injured limbs, broken bones, or disfiguring lacerations.

Intact Animal means an animal that has not been spayed, neutered or altered.

Invisible Fence, Hidden Fence, Radio Fence or Electric Fence means an electronic pet containment system that uses a wire, typically a buried wire, and a collar to keep pets within a designated boundary by delivering a beep, vibration, electric shock or other warning when an animal gets too close to the boundary. An invisible fence is not considered a secure fence.

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 and lie down with limbs and tail outstretched.

Commercial Kennel 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 where the business of buying, selling, breeding, training or boarding of dogs and/or cats is conducted.

Law Enforcement Officer means a government employee appointed to enforce the law, such as a police officer or sheriff.

Leash means a physical chain, strap, rope, cord or line of sufficient strength and material for leading, controlling and restraining an animal. Does not include electronic collars, electronic leashes or electronic training collars. A leash shall not be longer than eight (8) feet long.

License or Animal License, Companion Animal License means a City of Truth or Consequences Animal License.

License Certificate, Animal License Certificate or Companion Animal License Certificate means the certificate supplied by the City of Truth or Consequences that contains the number of the City of Truth or Consequences Animal License and attests that a Companion Animal has a valid Companion Animal License.

License Tag, Animal License Tag or Companion Animal License Tag means the tag supplied by the City of Truth or Consequences that contains the number of a City of Truth or Consequences Companion Animal License.

Litter means one or more sibling offspring of a Companion Animal under six (6) months old.

Litter Permit or Companion Animal Litter Permit means the permit required when a Companion Animal becomes pregnant.

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

Medical Hold means a temporary voluntary or involuntary hold on an individual for treatment or evaluation by medical professionals at a hospital or other similar facility due to injury, illness, incapacitation or other medical condition or due to death of owner.

Microchip means a passive transponder which can be implanted in an animal by injection and which is a component of a radio frequency identification (RFID) system. Such system must be compatible with a scanner used by an Animal Control Officer or Animal Shelter Staff.

Neglect means the failure of an Owner to provide care for an Animal in the Owner's Custody which failure causes an Animal to suffer physical or emotional harm.

Neuter means to render a male animal permanently sterile and incapable of reproduction.

Owner means a person who is at least eighteen (18) years of age who possesses an Animal and claims a legally valid right of possession or title of an Animal superior to the rest of the world. Under this Chapter, any person acting as an agent of the Owner and any Person over the age of eighteen (18) in a Household and left in charge of an Animal may be deemed the Owner. This does not include any person acting on behalf of the City Animal Shelter to temporarily house or Foster animals.

Permissible Exotic or Wild Animal means an Exotic or Wild Animal that does not violate federal or New Mexico State law.

Permit means a document evidencing approval by the City Manager, the City Commission, the Mayor, or a designee of the City Manager or Mayor to conduct a certain activity or possess a certain animal.

Permit Holder means a qualified person to whom a valid permit has been provided.

Permitted Premises means the establishment, residence, real property or other site for which a permit has been issued.

Person means an individual, firm, partnership, corporation, company, society, association, legal entity, and every agent or employee thereof.

Person in Charge means the individual present or individual in apparent supervision or control of a premise.

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.

Police Officer means a sworn member of the Truth or Consequences Police Department, the Sierra County Sheriff's Office or the New Mexico State Police.

Possession means the custody of an animal.

Potable water means water that can be consumed without concern for adverse health effects and is safe for drinking.

Potentially dangerous dog means 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, Domestic Animal or Livestock that is less severe than a serious injury; or
2. Chasing or menacing a person, Domestic Animal or Livestock 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.

Premises means a parcel of land owned, leased, rented, or controlled by any person, legal or natural. Such parcel of land may include a structure, and includes such items as kennels, houses, mobile homes, apartments, condominiums, and townhouses which are located on a parcel of land.

Proper enclosure means 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, tethering, restraining or other affixing the animal to a stationary object.

Proof of Ownership means any documentation or evidence which proved to the satisfaction of the City Manager's designee that a Person is the Owner of an Animal, including a Microchip identification, Veterinarian invoice, official registration, or photographs of the Animal.

Provoked means the response of an Animal that a reasonable Person believes the Animal has taken to defend itself, its offspring, its Owner or family member, or another Person within its immediate vicinity from assault, actual or perceived, or to defend real property belonging to its Owner or family member.

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:

1. 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;
2. 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;
3. 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 the segregation, detention and isolation of an animal for any time as required by state law in order to observe the animal suspected of contagion and control the spread of said contagion.

Reclaim, Redeem or Redemption means an Owner's or other person designated by the owner's recovery of an Animal that has been Impounded at the Truth or Consequences Animal Shelter.

Responsible party for the animal or Responsible Party means the owner of a Domestic Animal or Livestock, or an adult person placed in charge of the Domestic Animal or Livestock in the absence of incapacitation of the owner.

Run at large or running at large means to be free of control beyond an enclosed lot or the premises or vehicle of the owner or responsible party.

Safekeep or safekeeping means the temporary housing and care of an animal by the animal shelter in an event where the owner or responsible party is incapacitated or otherwise unable to provide care for the animal.

Secure Enclosure means a cage, crate or box, that may be portable, of sufficient strength to contain a Domestic Animal within and is not able to be invaded.

Secure Facility means a house or building in which an Animal is being restricted that will prevent the Animal, including a Guard Dog, from being able to escape.

Secure Fence means a visible protective or confining barrier of sufficient strength and height that prevents any Domestic Animal or Livestock, including Guard Dogs, from escaping the property on which the Animal is being restricted. The Secure Fence shall also reasonably protect the Animal within the fence from other Domestic Animals, Livestock or people coming into contact with the restrained Domestic Animal or Livestock. This includes a dog run type structure.

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

Seize means to take custody of an Animal with or without notice to the Owner or the consent of the owner. Exigent Circumstances must exist if an animal is taken into Custody without notice to the Owner or the consent of the Owner.

Songbird or songbirds means a bird that utters a succession of musical tones and shall include but are not limited to:

1. All of the family *Estrildidae* (old world finches).
2. All of the family *Fringillidae* (new world finches).
3. All of the family *Icteridae* (Blackbirds).
4. All of the family *Sittidae* (Nuthatches).
5. All of the family *Troglodytidae* (Wrens).
6. All of the family *Muscicapidae* (old world flycatchers).
7. All of the family *Sturnidae* (Starlings).
8. All of the family *Paridae* (Titmice and nuthatches.)
9. All of the family *Phylloscopidae* (Leaf warblers.)

10. All of the family *Corvidae* (Crows and jays.)
11. All of the family *Paradisaeidae* (Birds of Paradise.)
12. All of the family *Pipridae* (Manakins.)
13. All of the family *Tyrannidae* (Tyrant flycatchers.)

Spay means to render a female animal permanently sterile and incapable of reproduction.

Surrender or **Owner Surrender** means the relinquishment of Ownership of a Domestic Animal to the Truth or Consequences Animal Shelter by the Owner of the Animal.

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.

Trap-Neuter-Return or **TNR** means a humane method to manage feral and stray cat populations by trapping them, spaying or neutering them, and returning them to their original outdoor homes. The process typically includes vaccinating the cats and often ear-tipping them to signify they have been sterilized.

Trolley or **Trolley System** means a cable strung between two fixed and stable points, to which a dog on a short lead is attached, allowing for freedom of movement.

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

Vaccination or **Vaccinate** 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. This also includes the inoculation of an Animal against distemper, parvo, para influenza, corona virus or Bordetella and other vaccinations deemed necessary from time to time by the City Manager or City Manager's designee.

Vermin means wild rodents and various insects including flies, mosquitoes, ants and wasps.

Veterinary hospital or **veterinary 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 kills or severely injures (so as to result in muscle tears or disfiguring lacerations, require multiple sutures, or corrective or cosmetic surgery, permeant disfigurement) a person or domesticated animal, but it does not include an animal which bites, attacks or injures a person or animal which is unlawfully upon its owner's premise, or which is provoked. Vicious animal includes an animal that inflicts a bite after it has been deemed a Dangerous Animal, regardless of severity of such bite.

Cross reference(s) - Rules of Construction, Definitions, Generally, § 1-2.

SEC. 3-3. PERJURY.

It is unlawful for any person to make any false affidavit, or knowingly swear or affirm falsely to any document, matter or thing required to be sworn or affirmed by the terms of this Chapter.

SEC. 3-4. NO PRIVATE CAUSE OF ACTION.

Nothing in this article is intended to create a private cause of action.

ARTICLE II. ADMINISTRATION OF CHAPTER

SEC. 3-5. ANIMAL CONTROL OFFICERS.

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 Chief of Police and may be delegated by the Chief of Police to the appointed Animal Control Officers, Code Enforcement Officer or Police Officers as he may deem expedient.

(Ord. No. 725, 2-9-22)

State law reference(s) - Municipal Authority to designate Animal Control Officer, NMSA, § 77-1-15.1B, New Mexico Administrative Code 7.4.2.17.

SEC. 3-6. AUTHORITY OF ANIMAL CONTROL OFFICERS.

- A. Animal Control Officers and/or Truth or Consequences Police Officers shall have the authority to issue citations for violations of this Chapter within the corporate limits of the city or in other areas of jurisdiction as specified in agreements with other entities.
- B. Truth or Consequences Police Officers and those designated or assigned to the enforcement of ordinances regulating or controlling animals and fowl by the Chief of Police, shall have the authority to investigate upon probable cause any alleged violation of this Chapter.
- C. Animal Control Officers and Truth or Consequences Police Officers shall have the authority to take up and impound any animal or fowl authorized to be impounded by this Chapter or by other ordinances within the specified agreements with other entities.
- D. Animal Control Officers shall wear a uniform and a badge identifying such officer as an Animal Control Officer.

State law reference(s) - Municipal Authority to designate Animal Control Officer, NMSA, § 77-1-15.1B, New Mexico Administrative Code 7.4.2.17.

SEC. 3-7. ESTABLISHMENT OF ANIMAL SHELTER.

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

(Ord. No. 725, 2-9-22)

SEC. 3-8. 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.

(Ord. No. 725, 2-9-22)

SEC. 3-9. SAFEKEEPING OF ANIMALS BY THE ANIMAL SHELTER.

- A. A Law Enforcement Officer, Animal Control Officer, or animal owner or person designated by an animal owner, may require a Domestic Animal to be placed in the care and custody of the Animal Shelter to ensure that the Domestic Animal is properly cared for. In these situations, the safekeep of the Domestic Animal at the expense of the owner shall only occur for a period of:
 - 1) Not more than ten (10) calendar days for a person on a Medical Hold. After ten (10) calendar days the Domestic Animal may become property of the Animal Shelter and a boarding fee established by resolution may be applied.
 - 2) Not more than ten (10) calendar days for a person on an Incarceration Hold. After ten (10) calendar days the Domestic Animal may become property of the Animal Shelter and a boarding fee established by resolution may be applied.
- B. The owner shall be responsible for contacting a designated person or organization to pick up the Domestic Animal from the Animal Shelter and the owner shall contact the Animal Shelter and provide authorization for such person or organization to take custody of the Domestic Animal to the Animal Shelter.
- C. After the safekeep period has expired, the animal is no longer classified as a safekeep the Domestic Animal may be considered abandoned and become property of the Animal Shelter unless the owner or designated party notifies the Animal Shelter of a date and time the Domestic Animal will be picked up, not to exceed an additional 72 hours at the owner's expense. No Domestic Animal shall be released from the Animal Shelter until all fees are paid in full. Fees may be waived or reduced by the City Manager or Designee of the City Manager. Owners who knowingly abandon or fail to arrange for pickup of their Domestic Animal at the Animal Shelter may be prosecuted under other sections within the Municipal Code.

(Ord. No. 725, 2-9-22)

SEC. 3-10. 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 a court of proper jurisdiction in the county 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 ten business days unless good cause is

demonstrated by the city for a later time and such extension is approved by a judge with proper jurisdiction to enforce this Chapter.

- 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 a judge with proper jurisdiction to enforce this Chapter.
- F. If the animal is a type of Livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

(Ord. No. 725, 2-9-22)

State law reference(s) – Seizure of Animals; Notice, NMSA, § 30-18-1.1.

SEC. 3-11. 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 may order the return of 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 may order the animal be relinquished to the Animal Shelter or other facility.
- 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 13 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, transfer out 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. As used in this section, "Livestock" means any of the large or small Livestock, including, but not limited to horses, cattle, mules, donkeys, burros, swine, goats, sheep, and fowl, including, but not limited to, chickens, guinea hens, ducks, turkeys, geese, quail, or pigeons 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.

(Ord. No. 725, 2-9-22)

State law reference(s) – Disposition of Seized Animals, NMSA, § 30-18-1.2.

SEC. 3-12. 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.

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.

(Ord. No. 725, 2-9-22)

State law reference(s) – Costs, NMSA, § 30-18-1.3.

SEC. 3-13. STERILIZATION AGREEMENT/DEPOSIT FOR SPAYING AND NEUTERING DOGS AND CATS.

A. It is the intent of the City for all dogs and cats over the age of 4 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 unless 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 six 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.

(Ord. No. 725, 2-9-22)

State law reference(s) – Sterilization Agreement and Sterilization Deposit Required, NMSA, § 77-1-20.

SEC. 3-14. QUALIFIED 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

(Ord. No. 725, 2-9-22)

SECS. 3-15 – 3-28. RESERVED.

ARTICLE III. PENALTIES

SEC. 3-29. GENERAL PENALTY.

Whenever in this Chapter an act is prohibited or is made or declared to be unlawful or an offense or whenever in such section of the Chapter the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the penalty for violation of any section of this Chapter shall be as follows:

1. Any person who violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and may be punished by a minimum of fine \$25.00 and not exceeding \$200.00 and/or imprisonment for a period not exceeding ninety (90) days in the discretion of the court upon conviction of violating the Ordinance. A person may, in addition to any other penalty, be required to attend an animal training or care school/classes in the discretion of the Court.

2. Each day any such violation or failure to perform such act shall continue as provided in this Chapter exists, it is an offense and shall constitute a separate offense, unless otherwise specifically provided.
3. Each animal cited under this chapter shall constitute a separate offense, unless otherwise specifically provided.

SEC. 3-30. RESTITUTION.

Notwithstanding any of the foregoing, in the event any Domestic Animal or Livestock damages property, whether public or private, or causes injury to any person, Domestic Animal or Livestock, and such damage or injury is found to have been an element of the violation of any provision of this Chapter, a court of proper jurisdiction may, at its discretion, require the defendant to make restitution within a reasonable time, to the victim of said damage or injury.

SECS. 3-31 – 3-48. RESERVED.

ARTICLE IV. CONTROL AND IMPOUNDING PROCEDURES

SEC. 3-49. IMPOUNDING ESTRAYS; PROCEDURES; FEES

- A. No person shall, without the knowledge or consent of the owner, hold or retain possession of any Domestic Animal or Livestock of which he is not the owner or custodian for more than 24 hours without first reporting the possession of such Domestic Animal or Livestock to an 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.
 - 1) A finder of a Domestic Animal or Livestock who chooses to hold the Domestic Animal or Livestock shall immediately contact an Animal Control Officer, Animal Shelter or the Owner of the Domestic Animal or Livestock.
 - 2) A finder shall have the Domestic Animal scanned for a microchip.
 - 3) A finder may elect to transport a Domestic Animal to its owner's premises or to the Truth or Consequences Animal Shelter.
- B. It is unlawful for any finder taking up a Domestic Animal or Livestock 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 Domestic Animal or Livestock to the Animal Control Officer, legal owner or custodian upon demand thereof.
- C. If an estray Domestic Animal is wearing a license, has other identification, or is implanted with a microchip that is registered with the City and/or appropriate microchip company it shall be confined at the shelter for a period of 72-hours and an attempt to locate and notify the owner shall be made.
- D. If an estray Domestic Animal is not wearing a license or other identification and not implanted with a registered microchip, the Domestic Animal shall be confined for a 72-hour period at the Animal Shelter.

- E. If a person claims and provides proof of ownership of an estray Domestic Animal or Livestock confined at the Animal Shelter, it shall be returned to the owner or designee of the owner after all applicable fees have been paid. Owner shall bear the cost of any expenditures while animal is confined including veterinary services. A citation may be issued to the owner of an estray animal.
- F. Title for a Domestic Animal will transfer to the Animal Shelter after the impoundment period. The Animal Shelter may transfer, return, adopt or dispose of unclaimed estray Domestic Animals or Livestock impounded under this section according to their policies and procedures the day after the required impoundment period.
- G. No dog or cat that has been impounded by the Animal Shelter will be sold for the purpose of breeding or resale or research.
- H. A Domestic Animal or Livestock which continues to be an alleged nuisance or that is deemed a threat to public safety due to aggression may be impounded by the Animal Control Officer with a warrant issued by a court of proper jurisdiction until such time as a judgment is made by a court of proper jurisdiction.
- I. Prior to adoption, return, transfer or redemption, each Companion Animal will be microchipped for positive identification and listed in the national database. Costs of such services will be added to the adoption/redemption fee collected.
- J. It shall be the responsibility of the owner to reimburse the City for animal boarding, vaccination, microchipping, emergency veterinary costs, or other expenses incurred by the City under the provisions of an animal that has been legally impounded under this Chapter. Fees established by resolution are as follows:
 - 1) Impound Fee as set by resolution
 - i. The impound fee will increase by an amount set by resolution every time the animal is impounded within one (1) calendar year.
 - 2) Impound Boarding Fee as set by resolution.
 - 3) A Non-Sterilization Deposit fee set by resolution will be added to the impound fee and impound boarding fee for all intact Domestic Animals. This fee will be refunded to owner's who provide proof of sterilization to the Animal Shelter within thirty (30) days.
 - 4) A microchip fee set by resolution will be added to any animal that requires a microchip.
- K. All impound fees, boarding fees, emergency veterinary care costs, maintenance costs, vaccination costs, microchipping costs or other costs incurred by the City during impoundment under the provisions of a Domestic Animal or Livestock that has been legally impounded under this Chapter shall be paid in full prior to the release of an Animal from the Animal Shelter.
- L. Fines for violations of this article shall be in accordance with the provisions of section 3-29.

SEC. 3-50. IMPOUNDMENT.

An Animal Control Officer may take up and impound in the Animal Shelter any estray or any Domestic Animal or Livestock kept or maintained contrary to this chapter, including any Domestic Animal or Livestock that is allegedly creating a public nuisance or that is deemed a threat to public safety due to aggression.

(Ord. No. 725, 2-9-22)

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

SEC. 3-51. DESTRUCTION OF ANIMALS.

- A. If an animal which is impounded under the provisions this Article is suffering because of sickness, injury or age as certified by a licensed veterinarian, then it may be painlessly destroyed under the supervision of a licensed veterinarian by an intravenous or intracardial injection of a dose of barbiturates (sodium pentobarbital), or any other method deemed humane and painless by a qualified member of Animal Shelter Staff or Animal Control Officer under the direction of a licensed veterinarian or by a licensed veterinarian.
- B. Any animal which cannot be brought to an Animal Shelter because it is vicious or infected with rabies or in any painfully crippled condition, may be destroyed by shooting by a Law Enforcement Officer at the direction of the Animal Control Officer or licensed veterinarian.
- C. Any animal deemed vicious by the court having jurisdiction over the enforcement of this Chapter shall be painlessly destroyed under the supervision of a licensed veterinarian by an intravenous or intracardial injection of a dose of barbiturates (sodium pentobarbital), or any other method deemed humane and painless by the Animal Control Officer under the direction of a licensed veterinarian or by a licensed veterinarian.

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

SECS. 3-53 – 3-67. RESERVED.

ARTICLE V. OWNER'S DUTIES

SEC. 3-68. VACCINATIONS.

- A. It is the duty of all persons owning a domestic cat or a domestic dog 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 at least one (1) year 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 domestic dog or domestic cat, 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 adopts a dog to have such dog vaccinated against rabies, canine distemper complex, and parvo virus within five (5) days of the date of adoption. It is the duty of all persons who adopt a cat to have such cat vaccinated against rabies, feline distemper complex, parvo virus and Feline Viral Rhinotracheitis, Calicivirus, and Panleukopenia (FVRCP) within five (5) days of adoption.
- E. Each animal cited as a violation under this section is considered a separate offense.

State law reference(s) – New Mexico Administrative Code 7.4.2.8

SEC. 3-69. LICENSE REQUIRED.

- A. All residents of Truth or Consequences who owns, possesses or harbors any Domestic Animal three months of age or older shall:
 - 1) Obtain a license tag for each Domestic Animal, or;
 - 2) Shall have a microchip implanted and registered with the appropriate microchipping company as well as registered with the City for each Domestic Animal they own that is over the age of three months. Such microchip, provided it is registered with the City, may act in place of a license tag.
- B. Any person who does not reside within the corporate limits of Truth or Consequences who keeps a Domestic Animal in the City for more than fifteen (15) consecutive days or an aggregate of thirty (30) days in any year shall:
 - 1) Obtain a license tag for each Domestic Animal, or;
 - 2) Shall have a microchip implanted and registered with the appropriate microchipping company as well as registered with the City for each Domestic Animal they own that is over the age of three months. Such microchip, provided it is registered with the City, may act in place of a license tag.
- C. Collar or Harness Requirements for license tags.
 - 1) Any Domestic Animal outside of the owner's premises shall wear a collar or harness with a current license tag attached to the collar or harness.
 - 2) A collar or harness with the required license tag attached may be removed from the Domestic Animal temporarily for medical care, training, grooming or when the Domestic Animal is in a Bona Fide Animal Show, provided the owner or custodian of the Domestic Animal has in their personal possession the valid license tag for each Domestic Animal and shall immediately display upon such request of an Animal Control Officer or Police Officer.

- D. Application for a Domestic Animal 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, microchip number if applicable 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 Section 3-149 of this Chapter, a license certificate for each animal shall be issued. If a license 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 from the date of issue whichever is greater.
- E. Within five business days upon change of ownership of any Domestic Animal, the new owner shall apply for a new Animal License with their personal identifying information.
- F. All residents of Truth or Consequences or non-residents who have a Domestic Animal implanted with a microchip and registered with the City and appropriate microchipping company, shall ensure owners physical address, owner personal identifying information and owners contact information is current and valid with the City and appropriate microchipping company to ensure proper identification of the Domestic Animal and owner.

(Ord. No. 725, 2-9-22)

State law reference(s) - Municipal authority to require licensing of dogs, NMSA, § 77-1-15.1.

SEC. 3-70. RESTRAINT OF ANIMALS.

- A. A person owning or having charge, custody, or care over a Domestic Animal or Livestock shall keep the animal under humane physical restraint at all times.
- B. 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, secure fence, secure facility 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 a Domestic Animal or Livestock on his or her premises may use a tether as a means of restraint only if:
 - i. The tethered animal has access to adequate food, water, shade and shelter.
 - ii. 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.
 - iii. 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.

- iv. 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.
 - 4) Electronic Leashes are not an acceptable form of restraint.
 - 5) Invisible fences are not an acceptable form of restraint.
 - 6) Crates are prohibited as a means of restraint while an animal is outdoors and on the premises of an owner or custodian.
- C. A person owning or having care, custody, or control over a Domestic Animal or Livestock 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 eight (8) 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 or in any manner that will allow their escape from the vehicle when it is parked or in motion. Animals carried in the 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 driver's lap while the vehicle is being operated on any public roadway.
 - i. If an animal is restrained in a crate or other enclosure while in a vehicle, the crate or enclosure shall be securely fastened so that the crate or enclosure cannot slide, turn over or fall out.
 - 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.
 - 5) Electronic Leashes are not an acceptable form of restraint.
- D. A person owning or having care, custody, or control over a Domestic Animal or Livestock 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 may be regarded by the Animal Control Officer as a private matter.

E. An owner, manager, agent, or governing board of any multiple dwelling units, including mobile home parks and gated communities, may permit or authorize any animal to be unrestrained upon the common areas of the multiple dwelling units, except upon such areas and within such enclosures specifically designated for such activity, provided the animal is restrained within the bounds of the park or community by a secure fence.

F. Exceptions:

- 1) A working dog that is under the control and supervision of the owner or handler performing such acts as herding on private property, search and rescue, or police work shall not be considered as unrestrained while performing or being trained for such duties.
- 2) Community Cats that have been vaccinated and have an ear-tip and Community Cat Caregivers working or acting under a Trap-Neuter-Return initiative.

G. Each animal cited as a violation under this section is considered a separate offense.

(Ord. No. 725, 2-9-22)

State law reference(s) - Municipal authority to impound and dispose of animals running at large, NMSA, § 3-18-3A(2).

SEC. 3-71. CONFINEMENT OF RABID ANIMALS.

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.

(Ord. No. 725, 2-9-22)

State law reference(s) - Notice to Health Officer of Animal Bites, NMSA, § 77-1-6.

SEC. 3-72. 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 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 designated by the Animal Control Officer 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.

(Ord. No. 725, 2-9-22)

State law reference(s) - Notice to Health Officer of Animal Bites, NMSA, § 77-1-6.

SEC. 3-73. FEMALE DOGS OR CATS IN ESTRUS TO BE CONFINED.

It shall be unlawful for any owner/responsible party to fail to securely confine any un-spayed Companion 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 Companion 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 Chapter.

(Ord. No. 725, 2-9-22)

SECS. 3-74 – 3-88. RESERVED.

ARTICLE VI. PROHIBITED ACTS

SEC. 3-89. ANIMALS RUNNING AT LARGE.

- A. It is unlawful for any person owning or having the care, custody or control of any Domestic Animal or Exotic Animal to allow or permit that 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 may be taken up and impounded as provided in section 3-49.
- B. Each violation committed under this section shall be considered a separate offense.

State law reference(s) - Animals, NMSA, § 3-18-3.

SEC. 3-90. LIVESTOCK RUNNING AT LARGE.

A. It is unlawful for the owners of Livestock to willfully allow or permit Livestock 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 within the city limits. The owners of the Livestock are subject to prosecution under this section regardless of the Livestock's origination.

B. Each violation committed under this section shall be considered a separate offense.

State law reference(s) - Livestock Running at Large; When Unlawful; Impounding; Disposition; Suit for Damages, NMSA, § 77-14-7, Animals, NMSA, § 3-18-3.

SEC. 3-91. ANIMALS DISTURBING THE PEACE.

- A. For the purposes of this Section, *persistent* means noise created by a Domestic Animal, Exotic Animal or Livestock that is continuously heard for a period of ten (10) minutes or more or intermittently heard over a period of one (1) hour or more.
- B. For the purposes of this Section, *intermittent* or *intermittently* means noise created by a Domestic Animal, Exotic Animal or Livestock that starts and stops at irregular intervals.
- C. For the purposes of this Section, *continuous* or *continuously* means noise created by a Domestic Animal, Exotic Animal or Livestock that is constant and does not stop for a period of ten (10) minutes or more.
- D. It is unlawful for a person owning or having the care, custody or control of a Domestic Animal, Exotic Animal or Livestock to permit that animal to howl, bark or create noise common to its species which disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity. Persistent, continuous or loud intermittent noise between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. which can be heard more than fifty feet (50') from the source of the noise shall be prima facie evidence of a violation of this section.
- E. It is unlawful for a person owning or having the care, custody or control of a Domestic Animal, Exotic Animal or Livestock to keep or maintain on his premises any animal in such an unclean or unsanitary manner as to disturb others by noxious or offensive odors, or otherwise endanger the health, safety, and welfare of the inhabitants of the City.
- F. A person owning, or having the care, custody or control of any Domestic Animal, Exotic Animal or Livestock may be charged with a violation of this section when either an Animal Control Officer or Police Officer has received, from at least two unrelated adult witnesses from different residences, or from one adult witness with recorded video showing the alleged violation, a sworn affidavit attesting to the committing of a nuisance pursuant to this Section, or the Animal Control Officer or Police Officer has witnessed the commission of such nuisance.

- 1) Affidavits attesting to the violation must come from residents within a 500-foot radius of the property where the violation occurred.

G. This Section shall not apply to properly licensed and permitted Animal Shelter's.

(Ord. No. 725, 2-9-22)

Cross reference(s) - Offenses Relating to Public Order and Safety, § 8-31 et seq.

SEC. 3-92. PUBLIC NUISANCE.

- A. It is unlawful for a person owning or having the care, custody or control of any animal to permit, either willfully or through failure to exercise due care or control, any such animal

to commit any nuisance upon a sidewalk, or in a public park; or upon the floor or wall or any common wall or any common hall in any multiple dwelling, entryway, stairway, or wall immediately abutting on a public sidewalk; or upon the floor or wall of any theater, shop, store, office building, or other building used in common by the public; or upon any private property other than that of the animal owner.

- B. 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.
- C. 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.
- D. 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.
- E. A person owning, or having the care, custody or control of any animal may be charged with a violation of this section when either an Animal Control Officer or Police Officer has received, from at least two unrelated adult witnesses from different residences, or from one adult witness with recorded video showing the alleged violation, a sworn affidavit attesting to the committing of a nuisance pursuant to this Section, or the Animal Control Officer or Police Officer has witnessed the commission of such nuisance.
 - 1) Affidavits attesting to the violation must come from residents within a 500-foot radius of the property where the violation occurred.
 - 2) Complainants must be willing to testify of violations in a court of proper jurisdiction.
- F. A community cat that disturbs the peace by habitually or repeatedly destroying, desecrating, or soiling public or private property may constitute a public nuisance.
 - 1) Animal Control shall investigate an alleged violation of this section upon the receipt of two (2) sworn complaints in a form provided by Animal Control signed by two (2) unrelated City residents living in separate dwellings with 500 feet of the alleged violation. The affidavit shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address of the owner or custodian, if known, and a description of the cat, if known.
 - 2) If, upon investigation, Animal Control, determines the complainant(s) have taken reasonable abatement measures to resolve or mitigate the nuisance behavior of the cat, Animal Services may request the caregiver, if any, assist in resolving the nuisance or may remove the community cat causing the nuisance.
 - 3) A Community Cat Caregiver may be cited for failing to take reasonable abatement measures to resolve or mitigate any nuisance behavior created by a community cat in which they provide care.

SEC. 3-93. UNLAWFUL USE OF COMPANION ANIMAL LICENSE TAG.

It is unlawful for any person to remove any Companion Animal License Tag from animal and attach it to another animal. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in his/her possession or under his/her control a stolen, counterfeit, or forged Companion Animal License Tag, rabies vaccination certificate, or other form of licensing as required under this Chapter.

(Ord. No. 725, 2-9-22)

SEC. 3-94. VICIOUS ANIMALS.

It is unlawful for any person to keep or harbor a known vicious animal in the City. Any attack by a vicious animal or any animal displaying traits of a vicious animal may be repelled by the use of reasonable force. After a judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this Chapter, upon hearing of such complaint, may, in addition to any fine or imprisonment which may be imposed for violation hereof, order the Animal Control Officer to have such animal destroyed as set forth in Section 3-51 of this Chapter.

State law reference(s) - Vicious Animals, NMSA, § 77-1-10.

SEC. 3-95. SALE OF ANIMALS.

A. *Sale in Public.* A person shall not display, sell, or offer for sale, barter, give away, transfer, adopt 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 or other animal welfare non-profit during an adoption event.

- 1) A person may display information, solicit interest, or otherwise offer an animal for rehoming upon a public way or in a public park, provided that:
 - i. No physical transfer, sale, barter, giveaway, adoption or other disposition of the animal occurs upon any public way or in any public park. All actual rehoming transactions must take place on privately owned property or properly licensed private business.
 - ii. The person complies with Subsections B, C, and D of this Section and any other applicable Sections of this Chapter, state or federal regulations.
 - iii. Nothing in this subsection authorizes anyone to display, offer, or rehome any animal on private property without the permission of the owner thereof, nor does it authorize any unlicensed commercial sale.
 - iv. This Subsection does not restrict the activities conducted by the Truth or Consequences Animal Shelter or any other animal welfare nonprofit during an authorized adoption event.
 - v. Any person offering animals for rehoming shall not request a "rehoming fee, adoption fee or similar fee unless they are properly licensed.

- vi. Any person offering animals for rehoming must be the legal owner of the animal.
 - vii. Any person offering animals for rehoming must provide accurate information about the animal(s) they intend to rehome and shall not misrepresent the health, age, condition, vaccination status, pedigree or purebred status or sterilization status of the animal(s).
- B. *Sale of unweaned animals.* A person shall not display, sell, offer for sale, barter, give away, transfer or adopt a domestic animal under eight (8) weeks of age, or a guinea pig, hamster, or rabbit under four (4) 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 for its species and age. Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations. Nothing herein shall prohibit the sale, transfer, or adoption of an unweaned animal if accompanied by a nursing female.
- C. *Prize.* No person shall offer as a premium prize, award, novelty, or incentive to purchase merchandise any live animal.
- D. *Sale of turtles.* A person shall not offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.

(Ord. No. 725, 2-9-22)

State law reference(s) - Sale, Purchase, Trade and Possession of Certain Animals Regulated, NMSA, § 77-18-1.

SEC. 3-96. FALSE REPORTING.

- A. It is unlawful for any person to make a false report to a Police Officer or an Animal Control Officer regarding any animal in danger or estray or regarding any supposed violation of this Chapter.
- B. It is unlawful for any person to make a false affidavit, or knowingly swear or affirm falsely to a document, matter or thing required to be sworn or affirmed to by the terms of this Chapter.

SECS. 3-97 - 3-107. RESERVED.

ARTICLE VII. CRUELTY TO ANIMALS PROHIBITED

SEC. 3-108. PHYSICAL ABUSE.

- A. It is unlawful for any person to willfully or maliciously kill, beat, sexually abuse, maim, poison, disfigure, burn, or scald any animal, or to attempt to kill or poison any animal, except that reasonable efforts may be employed only 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. Exceptions

- 1) Humane Euthanasia performed by a Licensed Veterinarian, a Euthanasia Qualified Employee of the City of Truth or Consequences or a Euthanasia Authorized employee of the City of Truth or Consequences Animal Shelter.
- 2) Killing a bird if such bird is Poultry owned by that Person and will be used for food;
- 3) Killing a rabbit if such rabbit is owned by that Person and will be used for food;
- 4) Killing mice or rats that are not a Domestic Animal or otherwise claimed as a pet by any Person;
- 5) A Person may use poison to kill mice and rats, but only within a Person's own enclosed structures.
- 6) Except when applied by a licensed exterminator, no poison may be used outside, even on a Person's own property, or in any way in which a poisoned animal, including mice and rats, can consequently poison other Animals.
- 7) Generally accepted methods of animal training that do not cause undue physical and emotional suffering, including the training of Livestock, Companion Animals, Guard Dogs, hunting dogs, police dogs and Service Animals shall not constitute cruelty.

State law reference(s) - Cruelty to Animals; Extreme Cruelty to Animals, NMSA, § 30-18-1, Animals, NMSA, § 3-18-3.

SEC. 3-109. WORK CRUELTY.

It is unlawful for any person to drive or work any animal cruelly. 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.

State law reference(s) - Cruelty to Animals; Extreme Cruelty to Animals, NMSA, § 30-18-1, Animals, NMSA, § 3-18-3.

SEC. 3-110. CARE AND MAINTENANCE.

- A. It is unlawful for any owner of an animal to fail, refuse, or neglect to provide said animal with proper and adequate necessities and medical care.
 - 1) Food and Water.
 - i. Mammals and birds shall be provided with uncontaminated, edible, nutritious food, which is of adequate quantity as to maintain the normal weight and condition of a healthy animal. Additionally, the amount of food administered and feeding times must properly conform to the individual animal's age and condition. Food should be stored in a rodent proof and insect proof container. Open food must be kept in covered, washable

containers. Containers where food is stored shall be maintained and kept free of bacteria and contamination from rodents and insects as needed.

- ii. Mammals and birds shall be provided with constant access to a supply of unfrozen potable water in sufficient amount as to maintain good health as required by the species whether the animal is outdoors or indoors.

2) Cleanliness.

- i. The entire premises where an animal is kept shall be kept clean and in good repair in a manner which will protect animals from disease or injury. Feces and urine must be removed at least once daily from Companion Animal living quarters to prevent odors and possible dangerous or toxic exposure or contamination by fecal material, mold or internal and external parasites that could harm the animal or cause the spread of disease to other animals or humans.
- ii. All areas where animals are kept shall be maintained in a manner such that no animal can accidentally or intentionally come into contact with chemicals or other dangerous substances including, but not limited to, antifreeze that could potentially poison an animal. Food and cleaning supplies cannot be stored together. Provisions shall be made for the timely removal and proper disposal of animal and food waste, soiled bedding, dead animals, and debris. Disposal facilities and methodology shall minimize vermin infestation, odors and disease.
- iii. Areas where animals will be spending time shall be maintained to minimize the animal's exposure to fleas, ticks, flies, mosquitoes, ants, wasps, bees, or other insects that could potentially harm the animal or cause the animal discomfort.

3) Shelter and Shade.

- i. Animals that are not allowed free access to go inside a building must be provided with adequate shelter and shade. A structure that provides adequate shelter may not provide adequate shade: for example, a doghouse that protects the dog from wind and rain may be too hot inside when exposed to direct sunlight during the warmer months, so shade must also be provided.
 - (a) Outside housing for animals shall protect animals from any extreme weather conditions that may be detrimental to the health or comfort of the animals.
 - (b) Shelter for an animal must be waterproof, structurally sound, and have no protrusions that could injure animals.
 - (c) Feces and urine shall be removed from shelters as necessary to prevent animals from becoming soiled and to prevent odors, but under no circumstances less than twice each day.

- (d) Suitable drainage must be provided in all areas where animals are kept and there can be no standing water.

4) Space.

- i. Animals must be provided with adequate space to prevent overcrowding, allow animals to maintain normal exercise levels required by the species, size and temperament of the animal, and allow animals to walk, sit and lay down using normal motions and with their tail and limbs outstretched.

- (a) Minimum space required for cats. Indoor Requirements.

- a. Cats shall have a minimum of four (4) square feet of flat floor space and twenty-two (22) inches of vertical space.
 - b. Where there is more than one cat in an enclosure, additional floor and vertical space and resting perches are require. This does not include a cat with kittens.

- (b) Minimum space required for cats. Outdoor Requirements.

- a. Cats shall have a minimum of four (4) square feet of flat floor space and six (6) feet of vertical space.
 - b. Where there is more than one cat in an enclosure, additional floor and vertical space and resting perches are require. This does not include a cat with kittens.

- (c) Minimum space required for dogs. Indoor Requirements.

- a. Dogs weighing less than thirty (30) pounds shall have at least eight (8) square feet of flat floor space and two (2) feet of vertical space per dog.
 - b. Dogs weighing between thirty (30) and sixty-five (65) pounds shall have twelve (12) square feet of flat floor space and three (3) feet of vertical space per dog.
 - c. Dogs weighing more than sixty-five (65) pounds shall have twenty-four (24) square feet of flat floor space and three (3) feet of vertical space per dog.

- (d) Minimum space required for dogs. Outdoor Requirements.

- a. Dogs weighing less than thirty (30) pounds shall have at least eight (8) square feet of flat floor space and six (6) feet of vertical space per dog.
 - b. Dogs weighing between thirty (30) and sixty-five (65) pounds shall have twelve (12) square feet of flat floor space and six (6) feet of vertical space per dog.
 - c. Dogs weighing more than sixty-five (65) pounds shall have twenty-four (24) square feet of flat floor space and six (6) feet of vertical space per dog.

- (e) Minimum space required for birds.

- a. Birds must have enough room to spread their wings to their full width.
 - b. Birds must have at least two perches of different circumferences available to them.
 - (f) Any other animals not specifically listed should be provided with adequate space to prevent overcrowding, allow animals to maintain normal exercise levels required by the species, size and temperament of the animal, and allow animals to walk, sit and lay down using normal motions and with their tail and limbs outstretched.
- 5) Medical and veterinary care.
- i. Animals shall be provided with basic medical care in accordance with this Chapter as described by the definition of Basic Medical Care.
 - ii. Animals shall be provided Emergency Medical Care in accordance with this Chapter as described by the definition of Emergency Medical Care.
 - iii. No animal should ever be allowed to suffer due to a lack of basic medical care, injury or illness.
- 6) Animals shall be groomed in accordance with this Chapter as described by the definition of Basic Grooming as applicable to the species. Basic Grooming is necessary to maintain the eyes, ears, beaks, hooves, feet, hair and skin of an animal in healthy condition. Basic Grooming includes making sure that the toenails or hooves are not so long as to cause the animal to not move normally or to cause pain to the animal. Basic Grooming also includes providing the animal whatever it needs for self-grooming. No animal shall be allowed to have a coat that is matted to the point that it becomes so heavy as to cause skin irritation or trap fecal matter. The animal shall not be kept so dirty as to provide a home for insects. No animal shall be allowed to have foreign objects imbedded in its skin, fur or hair other than the Microchip.

State law reference(s) - Cruelty to Animals; Extreme Cruelty to Animals, NMSA, § 30-18-1, Animals, NMSA, § 3-18-3.

SEC. 3-111. UNCARED FOR ANIMALS.

- A. Whenever an Animal Control Officer finds that any animal is or will be without proper care because of injury, illness, and/or incarceration or as a result of the absence of the owner or person responsible for the care of such animal the Animal Control Officer may apply for a warrant with a court charged with enforcement of this Chapter to enter onto the property or premises where said animal is located and take up such animal for protective care; and in the event of sickness or injury of the animal, upon the instruction of a licensed veterinarian, the Animal Control Officer may take such action as called for to prevent undue pain and suffering, including immediate destruction of the animal.

- B. It is unlawful for any person to desert deliberately and/or to relinquish the supervision or care of any animal regardless of age or condition on one's premises or on property other than one's own without permission within the City of Truth or Consequences.

SEC. 3-112. INJURY TO ANIMAL BY MOTORIST.

- A. 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 Domestic Animal or Livestock, 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 Domestic Animal or Livestock to a veterinary hospital or the Animal Shelter and notifying the Police.
- B. Such animal may be deemed an uncared-for animal within the meaning of Section 3-111 above.
- C. Emergency vehicles in the course of emergency duty are excluded from this provision with the exception of reporting the incident.

SEC. 3-113. ANIMALS IN VEHICLES.

- A. It shall be unlawful for any person to intentionally, knowingly, or recklessly leave or confine any animal in a closed vehicle for any period of time without adequate ventilation in a way that puts it in a life-threatening or extreme health-threatening situation due to prolonged heat or cold.
- B. An animal left in a vehicle without the interior of the vehicle being air conditioned when the interior temperature of the vehicle is over ninety degrees Fahrenheit (90°F) shall be prima facie evidence of a violation of this chapter.
- C. Animals being transported in the bed of a pickup truck must be protected from extreme temperatures and provided with a nonmetal surface to sit or stand on.
 - 1) No animal shall be left in the bed of a pickup truck whether in a crate or not when the weather is such that the animal will be exposed to extreme heat, cold, rain or snow.
- D. If an Animal Control Officer or Police Officer determines that an animal in a vehicle is in immediate danger, the Animal Control Officer or Police Officer may enter the vehicle by whatever means necessary, without being liable to the owner of the vehicle for any damages, and seize the animal. The animal's owner shall be responsible for all expenses related to the removal of the animal, emergency veterinary treatment and impoundment. If the Animal Control Officer or Police Officer cannot determine who confined the animal, the registered owner of the vehicle may be cited.
- E. Animals being transported in vehicles shall be restrained in accordance with Section 3-70.

State law reference(s) - Cruelty to Animals; Extreme Cruelty to Animals, NMSA, § 30-18-1, Animals, NMSA, § 3-18-3.

SEC. 3-114. KEEPING OF DISEASED OR PAINFULLY CRIPPLED ANIMALS.

It is unlawful for any person to have, keep, or harbor any animal which is afflicted with any incurable, or infectious disease or is in any painfully crippling condition, except as hereinafter provided. The Animal Control Officer may impound such diseased or painfully crippled animal in accordance with the provisions of this Chapter. All such animals impounded may be destroyed humanely as soon thereafter as is practicable. In the case of destruction of such animal, the Animal Control Officer shall be required to give any of the aforesaid notices provided in this Ordinance. This Section shall not be construed to include animals receiving veterinary care.

State law reference(s) - Cruelty to Animals; Extreme Cruelty to Animals, NMSA, § 30-18-1, Animals, NMSA, § 3-18-3.

SEC. 3-115. ANIMAL FIGHTS.

It is unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition or contest in which one or more animals are engaged for the purpose or 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 Chapter.

State law reference(s) - Cruelty to Animals; Extreme Cruelty to Animals, NMSA, § 30-18-1, Dog Fighting and Cockfighting, NMSA, § 30-18-9, Animals, NMSA, § 3-18-3.

SEC. 3-116. FOWL.

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 twelve (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.

SEC. 3-117. MOLESTING OR TORMENTING ANIMALS.

It is unlawful for any person to torment, tease, annoy, disturb or molest any animal, by any means including but not limited to, throwing rocks, yelling, or giving chase in any manner, which is on the property of its owner, or under the control of its owner.

3-118. SONGBIRDS.

It is unlawful for any person to willfully kill any songbird, or to molest or rob the nest of such bird.

State law reference(s) - Songbirds; Trapping, Killing or Injuring Prohibited, NMSA, § 17-2-13.

SEC. 3-119. DRAGGING AND HOBBLING ANIMALS.

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 a secure tether or enclosure, shall be considered unrestrained. This shall not apply to Livestock animals being properly used for work purposes using commonly accepted methods.

SEC. 3-120. SCOPE OF SECTION; VIOLATIONS.

- A. It is expressly provided that Section 3-108 through Section 3-119 apply equally to Domestic Livestock, Exotic Animals, and Wild Animals in addition to dogs and cats.
- B. Violations of Section 3-108 through Section 3-119 are punishable by fines and/or imprisonment as set forth in Section 3-29.

SEC. 3-121. REPEAT OFFENSES.

- A. Three or more violations of any one or any combination of offenses in this Article shall constitute an act of cruelty. A repeat offender shall be deemed guilty of a misdemeanor, punishable by a minimum fine of \$100.00 and not exceeding \$500.00 and/or imprisonment for period not exceeding six (6) months upon conviction.
- B. In cases of repeat offenses under this Article (Article VII), an Animal Control Officer shall have the authority to impound any animal subjected to cruelty, neglect or abandonment. The animal may not be returned to its owner before a hearing in a court of proper jurisdiction if, in the opinion on of the Animal Control Officer, the harm to the animal is severe and likely to recur.
- C. In cases of repeat offenses for animals subjected to cruelty, neglect or abandonment, a judge with proper jurisdiction to enforce this Chapter may have such animal relinquished to the Animal Shelter, thereby extinguishing all property rights of the existing owner, provided the Animal Shelter Staff or an Animal Control Officer serves written notice upon the existing owner, informing him of the intent to have said animal adopted by another owner, and giving the existing owner three (3) business days to 1) declare his intent to maintain ownership of the animal and to object to the adoption, and 2) pay all impoundment, boarding, and veterinary costs, up to the date of the owner's declaration of intent to maintain his ownership of his animal. This intent must be stated in writing, signed by the animal's owner, and delivered to the Animal Shelter keeping the animal. The statement of intent and payment of fees and costs will serve to stop any animal adoption proceedings

SECS. 3-122 – 3-129. RESERVED.

ARTICLE VII. DEAD ANIMALS

SEC. 3-130. DISPOSAL.

- A. The owner/responsible party having care, custody or control of an animal carcass shall be responsible for its removal within 24 hours of death if the animal is not to be used for human consumption.
- B. An animal carcass may be disposed of in one of the following ways:
 - 1) Burial of the animal carcass on the owner's land under the following conditions:
 - i. The bottom of the burial pit must be at least three feet above the water table.
 - ii. If possible, choose a site where the soil is heavier and less permeable.
 - iii. Flat areas are best. Avoid areas sloping toward water or arroyos.
 - iv. Ensure the pit is sized to allow soil to cover mortalities to a depth of at least three feet.
 - 2) 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.
 - i. The cremation of the carcass will be at the expense of the animal owner.
 - 3) 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.
 - i. 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.
 - ii. Animal Control Officer shall turn over any tags or other identification found on an animal carcass to the T or C Animal Shelter.
 - 4) The Animal Shelter 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.
 - i. The fee amount shall be established by resolution; or
 - ii. 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.
 - 1. This fee schedule is based on the weight of the carcass.

(Ord. No. 725, 2-9-22)

SECS. 3-131 – 3-135. RESERVED.

ARTICLE IX. TAMPERING

SEC. 3-136. BREAKING INTO ENCLOSURE OR FACILITY.

Any person who shall in any manner break into or aid, directly or indirectly, in breaking into the enclosure, pound, center, or trap in which any animal is impounded or kept under authority of an Animal Control Officer or Law Enforcement Officer shall be guilty of a misdemeanor and sentenced under the provisions of Section 3-29.

SEC. 3-137. BREAKING INTO AN ANIMAL CONTROL VEHICLE.

It is unlawful for any person to break open any animal control vehicle wherein animals are impounded by the Animal Control Officer or Law Enforcement Officer, or in any other way to remove or assist in the removal of any animal from such vehicle without lawful permission. Offenders shall be guilty of a misdemeanor and sentenced under the provisions of Section 3-29.

(Ord. No. 725, 2-9-22)

SEC. 3-138. INTERFERING WITH AN ANIMAL CONTROL OFFICER.

It is unlawful for any person to interfere, hinder or molest any Animal Control Officer or Law Enforcement in the performance of their duties. Offenders shall be guilty of a misdemeanor and sentenced under the provisions of Section 3-29.

(Ord. No. 725, 2-9-22)

SEC. 3-139. INJURING OR TAMPERING WITH A FENCE, GATE OR SECURING DEVICE.

- A. It is unlawful for any person to intentionally, knowingly or willfully cut, damage, destroy, tamper with, unlock, remove or otherwise interfere with any fence, gate or other enclosure or securing device that they do not own for the purpose of releasing, allowing the escape of, or providing unauthorized access of any animal.
- B. Exceptions. The prohibitions of this Section shall not apply to:
 - 1) Law Enforcement Officers, Animal Control Officers or emergency responders acting within the scope of their official duties.
 - 2) Persons acting in good faith in an emergency, when such action is reasonably necessary to:
 - i. Prevent or reduce the threat of serious bodily injury or death.
 - ii. Rescue a person who is trapped, endangered, or otherwise in need of urgent assistance;
 - iii. Prevent significant harm to an animal when no reasonable alternative exists; or
 - iv. Property owners or lawful occupants accessing or repairing their own fences, gates or enclosures.

- C. Each animal allowed to escape as a result of a violation of this Section shall constitute a separate offense.

ARTICLE X. DANGEROUS AND POTENTIALLY DANGEROUS DOGS

SEC. 3-140. POTENTIALLY DANGEROUS DOGS.

A dog may be deemed potentially dangerous if the dog poses a reasonable threat to public safety as demonstrated by the following behaviors:

1. Causing an injury to a person, Domestic Animal or Livestock that is less severe than a serious injury; or
2. Chasing or menacing a person, Domestic Animal or Livestock 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.

State law reference(s) - Dangerous Dog, Definitions, NMSA, § 77-1A-2.

SEC. 3-141. DANGEROUS DOGS.

A dog shall be deemed dangerous if it causes serious injury to a person, Domestic Animal or Livestock.

State law reference(s) - Dangerous Dog, Definitions, NMSA, § 77-1A-2.

SEC. 3-142. SEIZURE OF DANGEROUS DOGS.

- A. If an Animal Control Officer has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the Animal Control Officer may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- B. If an Animal Control Officer 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.
- C. After seizure, the Animal Control Officer 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.
- D. After seizure:
 - 1) 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
 - 2) The Animal Control Officer may, within fourteen (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.

- E. If the owner does not admit that the dog is dangerous or potentially dangerous and the Animal Control Officer 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.
- F. If the owner admits that the dog is dangerous and transfers ownership of the dog to the Animal Shelter, the Animal Shelter may humanely destroy the dog.
- G. A determination that a dog is not dangerous or potentially dangerous shall not prevent the Animal Control Officer from making a subsequent application for seizure based on the dog's subsequent behaviors.

State law reference(s) - Dangerous Dog, Definitions, NMSA, § 77-1A-4.

**SEC. 3-143. DANGEROUS AND POTENTIALLY DANGEROUS DOGS -
REGISTRATION REQUIRED.**

- A. Upon application, the City Clerk's Office shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:
 - 1) The owner is able to keep the dog under control at all times; and
 - 2) A Companion Animal License Certificate, if applicable, has been issued pursuant to the requirements of the City; and
 - 3) The dog has a current rabies vaccination; and
 - 4) The owner has a proper enclosure to the dog; and
 - 5) The owner has paid an annual fee set by resolution to register a dangerous or potentially dangerous dog; and
 - 6) The dog has been spayed or neutered; and
 - 7) The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
 - 8) The owner has entered the dog in a socialization and behavior program approved or offered by the Animal Control Officer.
- B. If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section for thirty-six (36) consecutive months, the owner may request the Animal Control Officer in the City to lift the requirements for registration pursuant to this section. If the Animal Control Officer has no reasonable basis to believe that the dog has exhibited the behaviors specified, it may relieve the owner of the requirements of this section.

- C. An Animal Control Officer shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of Section 3-142(A), establishes that:
- 1) The owner has paid an annual fee set by resolution, as established by the animal control authority to register a dangerous dog; and
 - 2) The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable; and
 - 3) The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination; and
 - 4) 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
 - 5) 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
 - 6) A clearly visible warning sign with a conspicuous warning symbol indicates there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty (50) feet, whichever is less.
- D. An Animal Control Officer 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.

State law reference(s) - Dangerous Dog, Definitions, NMSA, § 77-1A-5.

SEC. 3-144. DANGEROUS AND POTENTIALLY DANGEROUS DOGS – PROHIBITED ACTS.

- A. It is unlawful for an owner of a dangerous or potentially dangerous dog to:
- 1) Keep the dog without a valid certificate of registration; or
 - 2) Violate the registration and handling requirements for the dog; or
 - 3) Fail to notify an Animal Control Officer immediately upon:
 - i. The escape of the dog; or
 - ii. An attack by the dog upon a human being, Domestic Animal or Livestock;
 - 4) Fail to notify the animal control authority of the dog's death within five business days; or
 - 5) Fail to notify an Animal Control Officer within twenty-four (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
 - 6) Fail to surrender the dog to an Animal Control Officer 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

- 7) Fail to comply with special handling or case requirements for the dog that a court has ordered.

State law reference(s) - Dangerous Dog, Definitions, NMSA, § 77-1A-6.

SEC. 3-145. PENALTIES.

- A. A person who violates any section or provision of this Article X (Sections 3-140 through 3-145) shall be charged in the court charged with jurisdiction to enforce this Chapter and upon conviction may be sentenced a minimum fine of \$250.00 not to exceed \$500.00 or 90 days imprisonment or both fines and imprisonment.
- B. The court may order the owner to relinquish the dog to the Animal Shelter for humane destruction.

State law reference(s) - Dangerous Dog, Definitions, NMSA, § 77-1A-6.

ARTICLE XI. WILD OR EXOTIC ANIMALS

SEC. 3-145. EXOTIC AND WILD ANIMALS.

- A. No person shall keep, own or harbor any species in violation of federal law, New Mexico law or this section.
- B. No person shall keep any exotic or Wild Animal as defined in this Chapter by the definition of Exotic or Wild Animal 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 3-146. 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.

(Ord. No. 725, 2-9-22)

State law reference(s) - Sale, Purchase, Trade and Possession of Certain Animals Regulated, NMSA, § 77-18-1.

SEC. 3-146. EXOTIC AND WILD ANIMAL PERMIT.

- A. Any person who keeps, harbors or owns an Exotic Animal or Wild Animal covered by this section at the time of enactment of this Chapter shall obtain an Exotic or Wild Animal Permit from the City. A fee set by resolution shall be charged for the Exotic or Wild Animal Permit through the City.
 - 1) An Exotic or Wild Animal Permit holder shall immediately notify an Animal Control Officer or City Clerk upon the death of the animal.
 - 2) An Exotic or Wild Animal Permit holder shall immediately notify an Animal Control Officer or Police Officer upon the escape of the Animal.
- B. An Animal Control Officer shall use seizure procedures which protect the public, the exotic or Wild Animal and other animals to seize any exotic or Wild Animal kept in

contrary to this section or for its owner's failure to obtain an Exotic or Wild Animal Permit. Such animal shall become property of the City. The Exotic or Wild Animal Permit holder or owner of the exotic or Wild Animal is liable for any costs incurred by the City and such costs may be the result of a lien being place against the Exotic or Wild Animal.

- C. For the purpose of this section, any person or Animal Control Officer who is utilizing a humane live trap for exotic or Wild Animals, vermin, or domesticated dogs or cats which may be a menace to the public may not be considered as keeping, owning or harboring such animals. Trapping shall be done in accordance with New Mexico State law.

(Ord. No. 725, 2-9-22)

ARTICLE XII. PERMITTED PREMISES, REGULATIONS, LICENSES AND FEES

SEC. 3-147. GUARD DOGS.

Anyone using or keeping a dog for the sole purpose of guarding a property, and neither as a pet nor for hunting uses, must obtain a Guard Dog Site Permit from the City in addition to all other applicable provisions of this Chapter:

1. A Guard Dog shall not be used to guard residential property.
2. Only one Guard Dog is allowed on a property at any given time.
3. The permit application shall include sufficient information to identify the owner of the commercial property, the name and address of the owner of the Guard Dog, and the location intended to be guarded by the Guard Dog.
4. The permit applicant shall submit the application to the City Clerk's Office and submit to a pre-permit inspection of the premises by an Animal Control Officer so that an accurate physical description of the animal may be obtained.
5. The applicant must provide to the City proof of vaccination of the Guard Dog as set in Section 3-68 of this Chapter.
6. The applicant must provide to the City proof of licensing as set in Section 3-69 of this Chapter and microchipping of the Guard Dog as set in Section 3-74 of this Chapter. Proof of licensing and microchipping must be provided annually during renewal of the permit.
7. The permit applicant shall pay the Guard Dog Site Permit fee before a permit may be obtained. The permit holder shall, thereafter, pay an annual Guard Dog Site Permit fee. The permit application and annual permit fees shall be set by resolution by the City.
8. The permit applicant must submit to an annual inspection of the property by an Animal Control Officer before a permit may be renewed.
9. Prior to obtaining the permit, the permit applicant shall obtain liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of

interests and costs, of not less than \$100,000.00 for damage or bodily injury to or death of a person caused by the Guard Dog.

10. The enclosure surrounding the property protected by a Guard Dog must be secure at all times so as to prevent the dog from running at large, unless the owner complies with Section 3-70.
11. The enclosure surrounding the property must be of sufficient height and strength to contain the Guard Dog within the premises to prevent unauthorized entry and access of animals and people onto the property.
12. A Guard Dog may only be chained in order to supplement any enclosure. A chain shall not be the only form of restraint for a Guard Dog.
13. If chained, the animal must be located within 10 feet of the entrance of the building or premises to be guarded and chained in such manner as set forth in Section 3-70.
14. The owner of the Guard Dog shall post warning signs prominently on all sides of the premises and on all entryways to the premises, stating that a Guard Dog is on the premises.
 - i. Warning signs should be at least twelve (12) inches long on each side.
 - ii. Warning signs shall state "Guard Dog" and "Guardia" and shall show a picture of an aggressive dog.
 - iii. Signs should not be more than fifty (50) feet apart on all exterior fences or walls surrounding the site and shall be posted at all exterior corners of the site and every entrance to the site.
 - iv. Signs shall be maintained in such a manner to maintain their effectiveness.
15. Vehicles used to transport Guard Dogs shall be secured so the public is protected from injury, shall be constructed or modified to ensure that the Guard Dog is transported in a safe, humane manner and that does not violate Section 3-113, and shall be posted with warning signs on each side of the vehicle.
16. The City may at any time revoke a Guard Dog Site Permit for any and all violations of this Chapter.
17. Nothing in this section shall prohibit an Animal Control Officer from placing a Guard Dog on a quarantine and/or seizing a Guard Dog as set by provisions of this Chapter and/or applicable state laws.
18. 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 permits or license revocations may be considered in decision making process of whether to approve or deny a permit under this section.

19. A Guard Dog Site Permit holder shall not apply for a litter permit, Multi-Animal Site Permit or Kennel Permit for the Guard Dog Site. No breeding, boarding or sale of Animals is allowed at a Guard Dog Site.

20. Guard Dog Site Permits shall not be issued to any premises within five-hundred (500) feet of any school zone, daycare, public park or dog park.

SEC. 3-146. MULTI-ANIMAL SITE PERMIT AND KENNEL PERMITS.

A. Multi-Animal Site Permits

- 1) It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four Companion Animals in any combination thereof, three months of age or older on their residential or business premises without a Multi-Animal Site Permit.
- 2) Any person who operates or proposes to operate a residential or commercial Multi-Animal Site shall file an application for a permit with the City Clerk's Office, 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.
- 3) An onsite visit of the premises shall occur by an Animal Control Officer and designated zoning official or administrator upon the submission of an application. All initial applications will go 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.

The following requirements must be met during the onsite visit:

- i. All Companion Animals listed on the application three months of age or over must be vaccinated in accordance with Section 3-68 of this Chapter and possess a city Companion Animal License Certificate.
- ii. All Companion Animals must be implanted with a Companion Animal Microchip or must possess a city animal license tag.
- iii. All Companion Animals must have access to Adequate Food.
- iv. All Companion Animals must have access to Adequate Water.
- v. All Companion Animals must have access to Adequate Shade.
- vi. All Companion Animals must have access to Adequate Shelter.
- vii. Each Companion Animal must meet all requirements as set by Section 3-110 of this Chapter, including minimum space requirements per Companion Animal, cleanliness requirements, basic and emergency medical care and access to environmental enrichment.
- viii. Site must comply with provisions set by Section 3-91 of this Chapter and Section 3-92 of this Chapter in order to prevent Companion Animals from

creating a public nuisance by noxious or offensive odors and disturbing the peace by creating noise common to its species.

ix. Site must comply with Section 3-70 of this Chapter.

- 4) There shall not be more than seven Companion Animals in any combination thereof for multi-animal residential or commercial site permits.

B. Kennel Permits

- 1) If a business premises is being used for the buying, selling, breeding, training, fostering, rescuing, or boarding of Companion Animals, said business shall apply for a Kennel Permit.

- 2) Any person who operates or proposes to operate a Kennel shall file an application for a permit with the City Clerk's Office, 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 Kennel sites must accompany any application to defray the cost of processing the request.

- 3) An onsite visit of the premises shall occur by an Animal Control Officer 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.

- 4) The following requirements must be met during the onsite visit:

- i. Kennel Permit applicants that are using their permit for commercial purposes shall be required to also apply for a city business license as per (Sec. 7-32. - Application to do business). All other Kennel Permit applicants must provide proof they are a part of a valid nonprofit animal welfare organization.
- ii. All Companion Animals listed on the application three months of age or over must be vaccinated in accordance with Section 3-68 of this Chapter.
- iii. All Companion Animals must have access to Adequate Food.
- iv. All Companion Animals must have access to Adequate Water.
- v. All Companion Animals must have access to Adequate Shade.
- vi. All Companion Animals must have access to Adequate Shelter.
- vii. Each Companion Animal must meet all requirements as set by Section 3-110 of this Chapter, including minimum space requirements per Companion Animal, cleanliness requirements, basic and emergency medical care and access to environmental enrichment.
- viii. Site must comply with provisions set by Section 3-91 of this Chapter and Section 3-92 of this Chapter in order to prevent Companion Animals from creating a public nuisance by noxious or offensive odors and disturbing the peace by creating noise common to its species.

- ix. Site must comply with the provisions of Section 3-70 of this Chapter.
- 5) The maximum Companion Animal occupancy for Kennel Permits shall be determined based upon the recommendation of an Animal Control Officer or designated zoning official or administrator to ensure there is adequate space and adequate shelter to ensure sanitary and safe conditions.

C. Denial and Revocation of Multi-Animal Site or Kennel Permits

- 1) An application may be denied if the applicant or Companion 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.
- 2) An application may be denied or revoked if the Multi-Animal Site or Kennel Site does not comply with requirements set in Section 3-110 of this Chapter.
- 3) An application may be denied or revoked if the Multi-Animal Site or Kennel Site does not comply with requirements set in Section 3-91 of this Chapter.
- 4) An application may be denied or revoked if the Multi-Animal Site or Kennel Site does not comply with requirements set in Section 3-92 of this Chapter.
- 5) An application may be denied or revoked if the Multi-Animal Site or Kennel Site does not comply with requirements set in Section 3-70 of this Chapter.
- 6) An application may be denied if two or more unrelated adult witnesses from unrelated residences reports violations of this Chapter or if one adult witness with recorded video shows a violation of this Chapter.
- 7) 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:
 - i. 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.
 - ii. The number of Companion Animals exceeds the number allowed under the permit.
 - iii. Any other violation listed under this chapter or sections.
- 8) 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.

- 9) 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.
- 10) Multi-Animal Site Permits and Kennel Permits shall not be issued to any premises which has a Guard Dog Site Permit.

D. Provisions

- 1) All multi-animal residential or commercial site permits, and Kennel Permits must be renewed annually at a fee established by resolution. Renewal applications must be submitted to the City Clerk's Office for processing. A non-refundable fee, established by resolution shall be charged, and an onsite visit of the premises shall occur by an Animal Control Officer and designated zoning official or administrator. Annual renewals up to 3 years are not required to go before the Planning & Zoning Board and can be approved by an Animal Control Officer, designated zoning official, or administrator. However, the Animal Control Officer and designated zoning official or administrator can request that an application renewal go before the Planning & Zoning Board if deemed necessary.
- 2) Multi-Animal Site and Kennel Permit holders shall allow an 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.
- 3) Upon receipt of payment of a Multi-Animal Site or Kennel Permit application fee, the City Clerk's Office shall forward the application to the Planning and Zoning Department and Animal Control Officer. All initial 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.
- 4) 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 Companion Animals.

(Ord. No. 725, 2-9-22)

SEC. 3-149. LICENSE FEES.

- A. The annual license fee shall be set by resolution for each neutered or spayed Companion Animal.
- B. The annual license fee shall be set by resolution for each intact Companion Animal.
- C. A fee shall be charged for each Companion Animal 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 Companion Animal, due to the Companion Animal's age or condition.
- D. No fee shall be charged for licensure of a Companion Animal implanted with a microchip that is registered by the appropriate microchip company provided the owner of the

Companion Animal provides the City with the microchip number and fulfills all requirements set by Section 3-69(D).

SECS. 3-150 – 3-156. RESERVED.

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 25th day of February, 2026.

PASSED, APPROVED AND ADOPTED this 25th day of February, 2026.

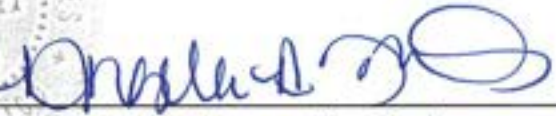
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

BY: _____



Rolf Hechler – Mayor

ATTEST: _____



Angela A. Torres – City Clerk