

*Rolf Hechler
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Ingo Hoeppe
Commissioner*

*Gary Whitehead
City Manager*

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SPECIAL MEETING/WORKSHOP

A SPECIAL WORKSHOP OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON WEDNESDAY, SEPTEMBER 24, 2025, AT 5:30 PM.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

Hon. Rolf Hechler Mayor
Hon. Amanda Forrister, Mayor Pro-Tem.
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Ingo Hoeppe, Commissioner

2. APPROVAL OF AGENDA

C. WORKSHOP

1. Workshop regarding Ordinance No. 771 amending Chapter 3 of the Municipal Code of Ordinances pertaining to animals.
 - a. Staff Overview & Commission Comments.
 - b. Public Input. (5-minute rule applies)

D. ADJOURNMENT

The meeting will be streamed through YouTube Live at <http://www.youtube.com/@CityofTorC>.

CHAPTER 3 ANIMALS¹

ARTICLE I. IN GENERAL PROVISIONS

SEC. 3-1. ~~SHORT TITLE OF CHAPTER~~ 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 annoyance and injury, ~~assist in providing housing for animals in a control center~~ promote the health, safety, and welfare of the residents and animals, assist in providing humane control of animals, reunite animals with their owners, finance the functions of the licensing and recovery of such animals said animals, and assist in providing housing for animals in an Animal Shelter.

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

SEC. 3-2. ~~ADMINISTRATION OF CHAPTER.~~

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

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

~~SEC. 3-3. DEFINITIONS.~~

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

Abandonment of animals means to ~~leave, desert deliberately and/or to relinquish the supervision or care of~~ any animal ~~unattended and with no provision of food, water or shelter for more than 24 hours regardless of age or condition on one's~~ one's premises or ~~to dump or leave off any animal on property other than one's own without permission, regardless of age or condition.~~

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

*Editor's note(s) — Ord. No. 725, adopted Feb. 9, 2022, repealed the former ch. 3, §§ 3-1—3-8, 3-8.1—3-8.3, 3-9, 3-11, 3-26—3-34, 3-51—3-53, 3-71—3-73, 3-91—3-97, and enacted a new ch. 3 as set out herein. The former ch. 3 pertained to similar subject matter. See the Code Comparative Table for complete derivation.

State law reference(s) — Municipal authority to regulate animals, NMSA 1978, § 3-18-3.

Commented [TK1]:

Reference Santa Fe County Ordinance No. 1991-6 Animal Control (Sec. 1-1(A))

Commented [TK2]:

Reference Santa Fe County Ordinance No. 1991-6 Animal Control (Sec. 1-2(A)). Changed to close enforcement gaps.

Adequate food means the access to and the provision of uncontaminated, edible, nutritious food that, which is appropriate to the species and of sufficientadequate quantity and nutritive valueas to maintain each animal in good health, to include:

- (1) — Easily accessible to each animal.
- (2) — Prepared so as to permit ease of consumption for the age, species, the normal weight and condition, size and type of each animal.
- (3) — Provided in a clean and sanitary manner.
- (4) — Placed so as to minimize contamination by excrement and pestshealthy 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 provision of and access to shelter that is suitable for species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry.

Adequate 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, provided in a sanitary manner suitable for species; in sufficient amountsamount as to maintain good health.

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

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

Commented [TK3]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations and close enforcement gaps.

Commented [TK4]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations and close enforcement gaps.

Commented [TK5]: Reference Santa Fe County Ordinance No. 1991-6 Animal Control (Sec. 1-2(B))

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.

Commented [TK6]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations.

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

Animal 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.

Commented [TK7]: Created in order to future proof and ensure proper distinction between Animal Control Officer and Animal Shelter Staff.

Animal Control Officer or **A.C.O** means any person designated by the Chief of Police Chief for City Manager to enforce animal control laws, orders, ordinances and regulations.

Commented [TK8]: Re-worded in order to future proof and close enforcement gaps.

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

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

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

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.

Commented [TK9]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations and close enforcement gaps.

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.

Commented [TK10]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations and close enforcement gaps.

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

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

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.

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.

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 lories, 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

Commented [TK11]: Created to prevent misinterpretation of time periods set in specific sections.

Commented [TK12]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations.

Commented [TK13]: Created to prevent misinterpretation of time periods set in specific sections.

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.

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

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.

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.

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 ~~means~~ **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 ~~animal~~ **Companion Animal, Companion Pet**, found running at large or unattended beyond the boundaries of the premises of the owner.

Commented [TK14]:

Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations and close enforcement gaps. Defines when an animal is considered a pet versus livestock.

Commented [TK15]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations.

Commented [TK16]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations of owner versus temporary custodian.

Commented [TK17]: Added to clarify changes made in certain sections.

Commented [TK18]: Defines livestock to reduce misinterpretations on livestock versus companion animals.

Commented [TK19]: Added to reduce enforcement gaps and clarify this form of restraint.

Commented [TK20]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added clarify the term.

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 Edentatia** (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 Crocodilia** (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.

Commented [TK21]:
Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to help reduce misinterpretations.

Commented [TK22]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added clarify the term.

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.

Commented [TK23]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify the term.

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

Commented [TK24]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify the term.

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 an establishment that utilizes a Guard Dog.

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

Commented [TK25]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify the term.

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.

Commented [TK26]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to close enforcement gaps and reduce misinterpretations.

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

Commented [TK27]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to close enforcement gaps and reduce misinterpretations.

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.

Commented [TK28]: Added to clarify the term.

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

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

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

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.

Commented [TK29]: Added to clarify the term.

Commented [TK30]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to increase clarity of certain sections.

Commented [TK31]:
Additions made to reduce enforcement gaps and clarify the intent of immediate control.

Commented [TK32]: Added to clarify the term.

Commented [TK33]: Added to clarify changes made in certain sections regarding safekeeps. Current animal shelter practice.

Commented [TK34]: Added to clarify the term and close enforcement gaps.

Commented [TK35]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify changes made in certain sections.

Commented [TK36]: Created to prevent misinterpretations and clarify changes made to certain sections regarding restraint of animals.

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

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

Commented [TK37]: Added to clarify the term.

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.

Commented [TK38]: Created to prevent misinterpretations and clarify changes made to certain sections regarding restraint of animals.

License means a City of Truth or Consequences Animal License.

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

Commented [TK39]: Added to clarify the term.

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

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

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.

Commented [TK40]: Added to clarify changes made in certain sections regarding safekeeps. Current animal shelter practice.

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.

Commented [TK41]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify changes made in certain sections.

Neglect means the failure of an Owner ~~responsible party~~ 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 18 years of age ~~or older or the parent or guardian of a person under 18 years of age who~~ who, for fourteen (14) or more consecutive days, owns, harbors, keeps ~~an animal~~, knowingly causes or knowingly allows a domestic animal to be harbored or kept, has ~~one~~ a domestic animal in his/her care, has assumed ownership responsibility, or ~~permits an~~ has allowed a stray domestic animal to remain on ~~or about the premises~~ property owned, leased or controlled by him/her. 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.

Commented [TK42]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify the term.

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.

Commented [TK43]: Added to clarify terms used in certain sections regarding permitting processes and permitted places and persons.

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

Commented [TK44]: Added to clarify the term.

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.

Commented [TK45]: Added to clarify the term.

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.

Commented [TK46]:
Added to clarify changes made in certain sections.

Premises means a parcel of land and/or the owned, leased, rented, or controlled by any person, legal or natural. Such parcel of land may include a structure(s) thereon, 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.

Commented [TK47]: Added to clarify proper enclosure procedures.

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.

Commented [TK48]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to protect animal owners from issues related to animal custody and close enforcement gaps.

Provoked means the response of an Animal that a reasonable Person believes the Animal has taken to defend itself, 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.

Commented [TK49]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to protect animals from being declared dangerous, potentially dangerous or vicious when reasonably defending itself or its owner.

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

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

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

Qualified service animal means:

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 recovery of an Animal that has been Impounded at the Truth or Consequences Animal Shelter.

Commented [TK50]: Added to clarify the term based on Animal Shelter policies, procedures and practices.

Responsible party for the animal or Responsible Party means the owner of the 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.

Restraint means any of the following:

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

Running **Run at large** or **to run** **running at large** means an animal that is to be free of physical restraint control beyond the boundaries of an enclosed lot or the premises or vehicle of the premises 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 an 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).

Commented [TK51]: Added to clarify the term based on Animal Shelter policies, procedures and practices.

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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 Paradisacidae (Birds of Paradise.)
12. All of the family Pipridae (Manakins.)
13. All of the family Tyrannidae (Tyrant flycatchers.)

Commented [TK57]: Added to clarify the term.

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

Surrender or Owner Surrender means the relinquishment of Ownership of an Animal to the Truth or Consequences Animal Shelter by the Owner of the Animal.

Commented [TK58]: Added to clarify the term based on Animal Shelter policies, procedures and practices.

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.

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.

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

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

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

Vaccination 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. ~~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.

Commented [TK59]: Added to ensure animals are vaccinated from all contagious and/or dangerous diseases or viruses.

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

Commented [TK60]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to clarify the term.

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 ~~bites or in any other manner attacks or attempts to attack any~~ 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 within the City, ~~except that any,~~ but it does not include an animal that which bites, attacks, or attempts to attack any injures a person or animal which is unlawfully upon its owner's or keeper's premises premise, or which is provoked to attack, shall not be deemed a vicious animal. Vicious animal includes an animal that inflicts a bite after it has been deemed a Dangerous Animal, regardless of severity of such bite.

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

Wolf hybrid means the offspring of a domesticated dog that has been bred with a wolf.

ARTICLE II. ADMINISTRATION OF CHAPTER ~~Cross reference(s) — Definitions and rules of construction generally, § 1-2.~~

SEC. 3-3. 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)~~

SEC. 3-4. AUTHORITY OF ANIMAL CONTROL OFFICERS.

- (a) Animal Control Officers and 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.

SEC. 3-5. ESTABLISHMENT OF ANIMAL SHELTER.

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

Commented [TK61]:

Additions made in order to allow the Chief or Police or City Manager to designate Animal Control Officers to certain employees as needed.

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

SEC. 3-6. 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. 3-7. SAFEKEEPING OF ANIMALS BY THE ANIMAL SHELTER.

- (a) Under unforeseen circumstances, a Police Officer, Animal Control Officer, or animal owner may require an animal to be placed in the care and custody of the Animal Shelter to ensure that the animal is properly cared for. In these situations, the safekeep of the animal at the expense of the owner shall only occur for a period of:
 - a. Not more than ten (10) calendar days for a person on a Medical Hold. After ten (10) calendar days the animal may become property of the Animal Shelter. A boarding fee established by resolution will be applied after 72-hours.
 - b. Not more than five (5) calendar days for a person on an Incarceration Hold. After five (5) calendar days the animal may become property of the Animal Shelter. A boarding fee established by resolution will be applied after 72-hours.
- (b) The owner shall be responsible for contacting a designated person or organization to pick up the animal from the Animal Shelter and the owner shall provide written authorization to the Animal Shelter as to the responsible person or organization taking custody of the animal.
- (c) After the safekeep period has expired, the animal is no longer classified as a safekeep and the animal shall be considered abandoned and become property of the City unless the owner or designated party notifies the City in writing of a date and time the animal will be picked up, not to exceed an additional 72 hours at the owner's expense. No animal shall be released from the Animal Shelter until all fees are paid in full. Fees may be waived by the City Manager or Designee of the City Manager. Owners who knowingly abandon or fail to arrange for pickup of their animal at the Animal Shelter may be prosecuted under other sections within the Municipal Code.

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

SEC. 3-8. 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

Commented [TK62]: Changes made to fit Animal Shelter policies, procedures and practices.

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)—NMSA 1978, § 30-18-1.1 (1996 through 1st Sess 50th Legis)

SEC. 3-9. DISPOSITION OF SEIZED ANIMALS.

- (a) If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall 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 shall 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 15 days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, Animal Shelter or animal welfare organization for adoption or humane destruction.

(f) Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed cruelty to animals.

(g) 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)

SEC. 3-10. 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)—NMSA 1978, § 30-18-1.3 (1996 through 1st Sess 50th Legis)

SEC. 3-11. 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 animal cat or dog shall be released from the Animal Shelter to an adopting person unless it has been spayed/neutered or a sterilization agreement has been signed and a sterilization deposit set by resolution has been paid.
- (b) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized within 30 days of the date of adoption for cats/dogs over the age of six months or by 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)

SEC. 3-12.- QUALIFIED SERVICE ANIMALS.

- (a) ~~(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) ~~(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. 3-13 – 3-28. RESERVED.

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

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, upon conviction of violating the Ordinance, 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. 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 as provided in this Chapter exists, it is an offense and shall continue 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 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.
 - a. 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.
- (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 or legal owner upon demand thereof.
- (c) If an estray domestic animal or livestock is wearing a license or other identification, it shall be confined for a period of 72-hours and an attempt to locate and notify the owner shall be made.
- (d) If an estray domestic animal or livestock is not wearing a license or other identification, the domestic animal or livestock 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.

Commented [TK63]: Reference Santa Fe County Ordinance 1991-6 Animal Control (Sec. 11-3). Reference Section 1-10 of the City of Truth or Consequences. Added to clarify penalties for violations of this Chapter (Chapter 3) in order to close enforcement gaps and allow for victims to be compensated for injuries or property damage caused by an animal.

- (f) 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:
 - a. 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.
 - b. Impound Boarding Fee as set by resolution.
 - c. A Non-Sterilization Deposit fee set by resolution will be added to the impound fee and impound boarding fee for all intact animals. This fee will be refunded to owner's who provide proof of sterilization to the Animal Shelter within thirty (30) days.
 - d. 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 an animal 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.

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

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.

Commented [TK64]: Changes made to follow Animal Shelter policies, procedures and practices.

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

State law reference(s)—Municipal authority to impound and dispose of animals running at large, NMSA 1978, § 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.

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) ~~3-~~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, 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 and feline distemper complex within 48 hours of adoption.

(e) Each animal cited as a violation under this section is considered a separate offense.

SEC. 3-69. LICENSE REQUIRED.

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

(b) A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show, or is being trained. Provided that the person that is training the dog shall have in his personal possession the valid license tag for each dog or cat and shall immediately display such upon request of the Animal Control Officer or a regular law enforcement officer.

(c) Animals belonging to nonresidents who do not keep said animals within the corporate limits of the city for 30 consecutive days shall be exempt from this section, provided, however, that all other provisions of this division be complied with.

(d) The annual license fee shall be set by resolution for each neutered or spayed dog or cat. The annual license fee shall be set by resolution for each unneutered or un-spayed dog or cat. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons. A fee shall be charged for each dog or cat that has not been spayed or neutered, unless the owner presents a signed statement from a licensed veterinarian stating that spaying or neutering would be a surgical risk for the animal, due to the animal's age or condition.

(e) Within five business days upon change of ownership of any dog or cat, the new owner shall apply for a new license with their personal identifying information.

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

State law reference(s)—Municipal authority to require licensing of dogs, NMSA 1978, § 77-1-15.1.

SEC. 3-70. RESTRAINT OF ANIMALS.

- (a) A person owning or having charge, custody, or care over an animal 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.
 - a. 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.
 - b. A person owning or having care, custody, or control over an animal on his or her premises may use a tether as a means of restraint only if:
 - 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.
 - c. Voice commands are not an acceptable form of restraint.
 - d. Electronic Leashes are not an acceptable form of restraint.
 - e. Invisible fences are not an acceptable form of restraint.
 - f. 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 an animal off of his or her premises shall keep the animal under immediate control.
 - a. While restrained off premises under the immediate control of the owner or responsible party, the animal must be on a leash that shall enable the handler to maintain control of the animal. The leash shall not exceed six feet in length while the animal is in and around the inhabitants of the city.
 - b. 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.
- c. 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.
- d. Voice commands are not an acceptable form of restraint.
- e. Electronic Leashes are not an acceptable form of restraint.
- (d) A person owning or having care, custody, or control over an animal shall not detain or restrain an animal upon another person's private property without having permission from the resident or owner of such property.
 - a. 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.
 - b. If the owner of a rented or leased property does not approve of an animal being restrained or detained by the resident on such property, the dispute shall be regarded by the Animal Control Officer as a 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:
 - a. 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.
- (g) Each animal cited as a violation under this section is considered a separate offense.

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

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.

Commented [TK65]: Additions made to close enforcement gaps and clarify proper and improper forms of restraint.

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

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 1978, § 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)

SEC. 3-74. COMPANION PET MICROCHIP REQUIRED.

- (a) All residents of Truth or Consequences who own companion animals shall have a microchip implanted and registered with the appropriate microchipping company as well as registered with the Truth or Consequences Animal Shelter for each companion animal they own that is over the age of three months.

- (b) Any person who lives in Truth or Consequences who owns a companion animal that has been impounded by an Animal Control Officer shall obtain a Companion Pet Microchip.

SECS. 3-75 – 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 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 animal cited as a violation under this section is considered a separate offense.

SEC. 3-90. LIVESTOCK RUNNING AT LARGE.

- (a) It is unlawful for the owners of livestock to 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 animal cited as a violation under this section is considered a separate offense.

SEC. 3-91. ANIMALS DISTURBING THE PEACE.

- (a) For the purposes of this Section, ***persistent*** means noise created by an animal 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 an animal that starts and stops at irregular intervals.
- (c) For the purposes of this Section, ***continuous*** or ***continuously*** means noise created by an animal 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 an animal 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 nine o'clock (9:00) P.M. and seven o'clock (7:00) 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 an animal 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.

Commented [TK66]:

Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to increase animal return to owner rate and reduce Animal Shelter intake.

- (f) 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.

a. 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

Commented [TK67]: Additions made in order to clarify what constitutes nuisance animal noise and public nuisance. Changes made in order to close enforcement gaps and reduce misinterpretation of the Section.

(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 shall not feed an animal running at large unless such feeding is used in conjunction with an active and humane live trap or unless they are acting under the direction of an Animal Control Officer or under the direction of Animal Shelter Staff with an affidavit providing permission of Animal Shelter Staff with permissible dates of such feeding.

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

It is unlawful for any person to remove any 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 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.

SEC. 3-95. SALE OF ANIMALS.

- (a) No person shall display, sell, or offer for sale, barter, give away, or otherwise dispose of any animal upon any street, sidewalk, public park or private business, unless said private business is properly licensed or such person is acting on behalf of the Truth or Consequences Animal Shelter during an adoption event.
- (b) No person shall sell, offer for sale, barter, or give away any baby rabbits under four weeks of age. Nothing in this section shall be construed to prohibit the raising of rabbits and fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his possession.
- (c) No person shall offer as a premium prize, award, novelty, or incentive to purchase merchandise any live animal.
- (d) A person shall not sell, offer for sale, transfer, or adopt ferret under eight weeks of age, or a guinea pig, hamster, or rabbit under four weeks of age. However, in no event shall an animal be sold, transferred or adopted until it is fully weaned and capable of eating on its own to sufficiently maintain proper body condition as determined by the breed and species of the animal. Nothing herein shall prohibit the transfer of animals between Animal Shelters and animal rescue organizations or prohibit the sale, transfer, or adoption of an un-weaned animal if accompanied by a nursing female.
- (e) All requirements as set by Section 3-147 shall be met when selling, gifting or other conveyance of puppies and kittens that are prior to eight weeks of age.
- (f) No person shall offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.

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

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. (a) — Physical abuse. 3-108. PHYSICAL ABUSE.

- (a) It is unlawful for any person to willfully or maliciously kill, beat, sexually abuse, maim, poison, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, or scald any animals, or to attempt to kill or poison any animal, except that reasonable force 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 ~~(b) Work~~
- 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.
 - Killing a bird if such bird is Poultry owned by that Person and will be used for food;
 - Killing a rabbit if such rabbit is owned by that Person and will be used for food;
 - Killing mice or rats that are not a Domestic Animal or otherwise claimed as a pet by any Person;
 - A Person may use poison to kill mice and rats, but only within a Person's own enclosed structures.
 - 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.
 - 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.

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.

Commented [TK68]:

Reference Santa Fe County Ordinance 1991-6 Animal Control (Sec. 6-10). Added to create a penalty for anyone utilizing Animal Control Officers or Law Enforcement to harass.

~~(c) — Animal in a vehicle. It shall be unlawful for any owner/responsible party to place or confine an animal in a motor vehicle without allowing cross ventilation and under no circumstance shall a person confine any animal in any parked, closed vehicle on any public way or private street for any amount of time that would endanger, or create an adverse condition placing at risk the health or well being of such animal due to temperature, lack of food or potable water or such other conditions as may be reasonably expected that may cause suffering, disability or death. Any animal control or law enforcement officer observing an animal kept in violation of this section may take emergency measures, as defined by the definitions of this article and impound the animal. In addition to all other defenses and immunities provided by law, any such officer taking emergency measures for the purpose of this section shall be immune from suit or liability, criminal or civil, caused by or arising from the emergency measures taken.~~

~~(d) — Care and maintenance. SEC. 3-110. CARE AND MAINTENANCE.~~

- ~~(a) It is unlawful for any person owner of an animal to fail, refuse, or neglect to provide any said animal in his charge or custody, as owner or otherwise, with: proper and adequate necessities and medical care.~~

~~(1) — Adequate food.~~

~~(2) — Adequate water.~~

~~(3) — Adequate shelter.~~

~~(4) — Adequate shade.~~

~~(5) — Adequate space.~~

~~(e) — [Unattended animals.] No animal shall be left unattended for more than 24 hours.~~

~~a. (f) — [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.~~

~~b. 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 twice 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.

c. 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.
 - 1. Outside housing for animals shall protect animals from any extreme weather conditions that may be detrimental to the health or comfort of the animals.
 - 2. Shelter for an animal must be waterproof, structurally sound, and have no protrusions that could injure animals.
 - 3. 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.
 - 4. Suitable drainage must be provided in all areas where animals are kept and there can be no standing water.

d. 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.
 - 1. Minimum space required for cats.
 - 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 required. This does not include a cat with kittens.
- 2. Minimum space required for dogs.
 - 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.
- 3. 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.
- 4. 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.
- e. 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.

Animals shall be groomed in accordance with this Chapter as described by the definition of Basic Grooming. ~~No owner or responsible party shall fail to provide necessary~~ 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 of the. No animal shall be allowed to have a coat in order to prevent matting, that is matted to the point that it becomes so heavy as to cause skin irritation, distress or pain, trapping or trap fecal matter, and loss of the ability to protect. The animal from adverse weather conditions. An animal shall not be kept so dirty that it becomes matted as to provide a home for parasites and insects.

No animal shall be allowed to have a foreign object embedded in its hide, fur or skin other than a microchip or a medical device implanted by a licensed veterinarian.

(g) — Veterinary care. It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including suffering from starvation, or severe thirst without providing proper veterinary care. An animal shall be afforded immediate veterinary care if it is known or suspected to be ill or injured. No person shall perform procedures such as ear cropping, de-barking, tail docking on an animal, or otherwise endanger an animal's well being. Procedures completed by a licensed veterinarian in accordance to their standard practices shall not be considered cruelty.

(h) — Abandonment. It shall be unlawful for any person being the owner/responsible party of a dog, cat, or other domesticated animal or pet to abandon such animal. Abandonment includes dumping of an animal from a moving or stationary motor vehicle. This section shall not apply to voluntary relinquishments to an animal rescue organization, animal control center, animal control officer, licensed veterinarian, or another person.

- a.f. (i) — Poisoning. Intentionally or knowingly poison or attempts to poison any domestic animal. For purposes of this section, "poison" or "attempt to poison" includes the act of placing food, water, or lure of another sort which contains poison or contains health threatening foreign objects, such as glass or metal, in a location where any animal may be attracted imbedded in its skin, fur or hair other than the Microchip required for Companion Animals.
- g. (j) — ~~Uncared~~ Environmental Enrichment.
 - i. Mammals and Companion Birds shall be provided with safe products appropriate for animals, the species that will stimulate mental, physical and grooming activities. Toys shall not be allowed to get so dirty that the toy could be a health hazard. One toy shall be required per animal.

SEC. 3-111. UNCARED FOR ANIMALS.

- (a) Whenever the animal control officer, Code Enforcement Officer, or designated representative ~~an Animal Control Officer~~ finds that any animal is or will be without proper care because of injury, illness, and/or incarceration, or other involuntary ~~as a result of the~~ absence of the owner or person responsible party for the care of such animal; the Animal Control Officer ~~shall make arrangements~~ may apply for the care of the 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) (k) — Injury by motorists. 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. ~~Such animal shall be deemed an uncared-for animal within the meaning of subsection (j) of this section. Emergency vehicles are excluded from this provision.~~
- (b) ~~(i) — Hobbling livestock. Such animal shall 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 is shall be unlawful for any person to hobble livestock intentionally, knowingly, or other animals 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 eighty degrees Fahrenheit (80°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.
 - a. 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.
- ~~(a)~~(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 ~~any whatever means which may cause injury or damage to any animal~~ 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.

- (c) ~~(m) — Keeping of diseased animals.~~ Animals being transported in vehicles shall be restrained in accordance with Section 3-70.

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 ~~infected~~ afflicted with any ~~dangerous~~ 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 ~~article~~ Chapter. All such animals impounded may be destroyed humanely as soon ~~thereafter~~ as is ~~conveniently possible~~ practicable. In the case of destruction of such animal, the Animal Control Officer ~~for designee~~ shall not be required to give any of the ~~aforsaid~~ notices provided in this ~~article~~ Ordinance. This Section shall not be construed to include ~~veterinary hospitals or animals under active~~ receiving veterinary care.

(n) — Fights. 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, ~~fight, or combat between one or more animals or between animals and humans~~ in which one or more animals are engaged for the purpose ~~of~~ injuring, killing, maiming, or destroying themselves or any other animal. This includes any animal used as a "bait animal" as defined in the definitions of this Chapter.

(o) — Fowl; impounding; crating. 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 12 hours. No person shall impound any wild or domestic fowl or birds in a crate, box or other enclosure, which does not permit each fowl or bird impounded therein to stand in a naturally erect position.

(p) — Tormenting. SEC. 3-117. MOLESTING OR TORMENTING ANIMALS.

It ~~shall be~~ is unlawful for any person to willfully torment, tease, annoy, disturb or molest any ~~and all animals~~ animal, by any means, ~~such as~~ including but not limited to, throwing rocks, yelling, or giving chase in any manner. ~~No person shall purposely cause a dog to bark unnecessarily or annoy such animal to, which is on the point~~ property of its owner, or under the animal will attempt to attack a person or other animal ~~control of its owner.~~

(q) — Songbirds, killing and robbing of nest prohibited. 3-118. SONGBIRDS.

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

(Ord. No. 725, 2 9 22)

State law reference(s) — Cruelty to 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. animals, NMSA 1978, § 30-18-1.

Commented [TK69]:

Additions made in order to reduce misinterpretation and close enforcement gaps.

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.

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 ~~SEC.~~ 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.
- (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:
 - a. Burial of the animal carcass on the owner's land under the following conditions:

Commented [TK70]:

Reference Santa Fe County Ordinance 1991-6 Animal Control (Sec. 6-11). Added to clarify articles relating to animal cruelty.

Commented [TK71]:

Reference Santa Fe County Ordinance 1991-6 Animal Control (Sec. 6-12). Added to create stronger penalty for repeated convictions of animal cruelty.

Commented [TK72]: Current City of Truth or Consequences Ordinance Section(s) (Sec. 3-5) separated in order to clarify specific violations that are to be considered animal cruelty. Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance.

- 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.
- b. Cremation by a licensed facility where the remains can be sealed in an acceptable urn for return to the animal owner or disposed of by the facility.
 - i. The cremation of the carcass will be at the expense of the animal owner.
- c. 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.
- d. 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)

2-6- SALE.

- ~~(a) (a) Use of public property. No person shall display, sell, or offer for sale, barter, give away, or otherwise dispose of any animal upon any street, sidewalk, public park or private business, unless said private business is properly licensed or such person is acting on behalf of the Truth or Consequences Animal Shelter during an adoption event.~~
- ~~(b)(a) (b) Rabbits or fowl. No person shall sell, offer for sale, barter, or give away any baby rabbits under four weeks of age. Nothing in this section shall be construed to prohibit the raising of rabbits and fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his possession.~~

- ~~(e)(a) (c) Premiums and novelties. No person shall offer as a premium prize, award, novelty, or incentive to purchase merchandise any live animal.~~
- ~~(d)(a) (d) Turtles. No person shall offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.~~
- ~~(e)(a) (c) Sale of un-weaned animals. A person shall not sell, offer for sale, transfer, or adopt a dog, cat, or ferret under eight weeks of age, or a guinea pig, hamster, or rabbit under four weeks of age. However, in no event shall an animal be sold, transferred or adopted until it is fully weaned and capable of eating on its own to sufficiently maintain proper body condition as determined by the breed and species of the animal. Nothing herein shall prohibit the transfer of animals between Animal Shelters and animal rescue organizations or prohibit the sale, transfer, or adoption of an un-weaned animal if accompanied by a nursing female.~~

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)

Commented [TK73]: Reference City of Truth or Consequences Sec. 3-9. Added to create penalties for interfering with Animal Control Officers or Law Enforcement Officers and/or damaging Animal Control Facilities or vehicles.

ARTICLE X. DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

SEC. 3-139. 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.

SEC. 3-140. DANGEROUS DOGS.

A dog shall be deemed dangerous if it causes serious injury to a person, domestic animal or livestock.

SEC. 3-141. 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:
 - a. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to subsection (e) of this section; or
 - b. The Animal Control Officer may, within 14 days after seizure of the dog, bring a petition in a court of competent jurisdiction seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within 30 days or have the dog humanely destroyed. If the court does not make the required findings pursuant to

this paragraph, the court shall immediately order the release of the dog to the owner.

- (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.

SEC. 3-142. 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:
 - a. The owner is able to keep the dog under control at all times; and
 - b. A license, if applicable, has been issued pursuant to the requirements of the City;
 - c. and
 - d. The dog has a current rabies vaccination; and
 - e. The owner has a proper enclosure to the dog; and
 - f. The owner has paid an annual fee set by resolution to register a dangerous or potentially dangerous dog; and
 - g. The dog has been spayed or neutered; and
 - h. The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
 - i. 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 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 shall 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 3-140, establishes that:
 - a. The owner has paid an annual fee set by resolution, as established by the animal control authority to register a dangerous dog; and
 - b. The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable; and
 - c. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination; and

- d. When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times; and
 - e. The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
 - f. A clearly visible warning sign with a conspicuous warning symbol indicate there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.
- (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.

SEC. 3-143. DANGEROUS AND POTENTIALLY DANGEROUS DOGS — ~~SEC. 3-7. WILD ANIMALS PROHIBITED ACTS.~~

- (a) ~~(a) — No person shall keep~~ It is unlawful for an animal owner of a species prohibited dangerous or protected by Title 50 potentially dangerous dog to:
- a. ~~Keep the dog without a valid certificate of the Code of Federal Regulations registration; or by~~
 - a.b. Violate the appropriate state regulations registration and handling requirements for the dog; or statutes.
 - c. 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;
 - d. Fail to notify the animal control authority of the dog's death within five business days; or
 - e. Fail to notify an Animal Control Officer within 24 hours if the dog has been sold or given away and to provide the name, address and telephone number of the new owner of the dog; or
 - f. Fail to surrender the dog to an Animal Control 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
 - g. Fail to comply with special handling or case requirements for the dog that a court has ordered.

~~(b) —~~ SEC. 3-144. PENALTIES.

- (a) A person who violates any section or provision of this Article X (Sections 3-139 through 3-143) shall be charged in the court charged with jurisdiction to enforce this Chapter and upon conviction shall 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.

ARTICLE XI. WILD OR EXOTIC ANIMALS

SEC. 3-145. EXOTIC AND WILD ANIMALS.

- (a) No person shall keep ~~any animal which is wild, fierce, dangerous, noxious, or naturally inclined to do harm~~, own or harbor any species in violation of federal law, New Mexico law or this section.

- (a)(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 3-8146. 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.

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

(1) ~~Dog family (Canidae). All except domesticated dogs, including wolf, fox, coyote, dingo, etc.~~

(2) ~~Cat family (Felidae). All except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, wild cats, etc.~~

(3) ~~Bears (Ursidae). All bears, including grizzly bears, brown bears, black bears, etc.~~

(4) ~~Weasels (Mustelidae). All, including weasels, martins, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc.~~

(5) ~~Porcupine (Erethizontidae).~~

(6) ~~Venomous snakes.~~

(7) ~~Venomous lizards, alligators, and crocodiles.~~

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

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

Commented [TK74]:

Article follows New Mexico Statute 77-1A-6 and Current City of Truth or Consequences Section 3-97. Changes made regarding separating the current section in order to close enforcement gaps and clarify enforcement action.

SEC. 3-8. LICENSING-146. EXOTIC AND WILD ANIMALS ANIMAL PERMIT.

- (a) ~~(a)~~—Any person ~~owning a~~ who keeps, harbors or owns an exotic or wild animal covered by this section at the time of enactment of this Chapter ~~may license such animal in accordance with law.~~ shall obtain an Exotic or Wild Animal Permit from the City. A fee set by resolution shall be charged for such licensing the Exotic or Wild Animal Permit through the City.
- a. ~~(b)~~—An Exotic or Wild Animal Permit holder shall immediately notify an Animal Control Officer or City Clerk upon the death of the animal.
- b. 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 ~~humanely trapping wild animals such as skunks and~~ 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)

Commented [TK75]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. Added to regulate the keeping of Exotic or Wild Animals.

~~the Animal Control Officer may~~ 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 such traps as are their effectiveness.
15. Vehicles used to transport Guard Dogs shall be secured so the public is protected from injury, shall be constructed for the purpose of trapping a live animal without serious risk of injury to the trapped animal and which may be placed on private

property at the request of the owner thereof. Traps shall be baited only inside the trap and shall be checked not less than twice a day by the Animal Control Officer or the property owner requesting the placement of such traps. All such trapping shall be in conformity with state law 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. (Ord. No. 725, 2-9-22)

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.

Commented [TK76]: Reference City of Las Cruces, New Mexico Chapter 7 Animals (Sec. 7-31). Reference Santa Fe County Ordinance 1991-6 Animal Control (Sec. 7-4). Added to future-proof ordinance and regulate animal type that would otherwise be unregulated.

SEC. 3-8.1-146. MULTI-ANIMAL SITE PERMIT AND KENNEL PERMIT PERMITS.

(a) ~~(a)~~ **Multi-Animal Site Permits**

- a. 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.

~~(b) If a business premises is being used for the buying, selling, breeding, training, fostering, rescuing, or boarding of animals, said business shall apply for a kennel permit.~~

~~(c) Animals belonging to visitors who are located within city limits and who stay in a household or lodging establishment longer than 30 days in a calendar year shall be included in the calculation of total animals for said location and the owner of the animal shall be required to comply with all applicable sections contained in this chapter.~~

(d) ~~No person shall keep or operate a residential or commercial multi animal site without a permit issued by the city. All business applicants must have a valid business license issued through the city at the time of application.~~

(e) ~~Veterinary hospitals or clinics shall be exempt from the kennel permit licensure requirement of this chapter unless the veterinary hospital or clinic engages in the non veterinary medical boarding of animals.~~

- b. (f) ~~Any person who operates or proposes to operate a residential or commercial Multi-Animal Site shall file an application for a permit with the police department~~ 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.

(g) ~~Upon receipt of payment, the police department shall forward the application to the Planning and Zoning Department. All applications for multi animal site and kennel permits shall undergo a special use permit process pursuant to the procedure detailed in section 11-5-6 of the City's Planning and Zoning Code.~~

- c. (h) ~~An onsite visit of the premises shall occur by the animal control~~ 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.

- d. (i) ~~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 for rabies in accordance with Section 3-68 of this Chapter and possess a city animal license tag.

(j) ~~All multi animal residential or commercial site permits and Kennel Permits must be renewed annually at a fee established by resolution.~~

- ii. (k) ~~All Companion Animals must be implanted with a Companion Animal Microchip.~~
- 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.

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- 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.
 - e. There shall not be more than seven Companion Animals in any combination thereof for multi-animal residential or commercial site permits.
- (b) **Kennel Permits**
- a. 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.
 - b. 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.
 - c. 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.
 - d. The following requirements must be met during the onsite visit:
 - i. All Kennel Permit applicants shall possess a valid business license with the City or must provide proof they are a part of a valid 501(c)(3) 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.

~~d.e.~~ The maximum Companion Animal occupancy for Kennel Permits shall be determined based upon the recommendation of the ~~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) ~~(f)~~ — 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. Denial and Revocation of Multi-Animal Site or Kennel Permits

e.a. 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.

~~(m)~~ — Multi animal site and kennel permit holders shall allow the animal control officer, police officer, designated zoning official or administrator or other city official to enter and inspect the premises for compliance with this section and/or any other city municipal code or ordinances during normal business hours.

b. ~~(n)~~ — 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.

c. 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.

d. 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.

e. 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.

f. 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.

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

ii. ~~(2)~~ — The number of Companion Animals exceeds the number allowed under the permit.

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

~~g.h.~~ ~~(e)~~ — 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.

i. 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.

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

(d) Provisions

~~h. All multi-animal residential or commercial site permits and Kennel Permits must be renewed annually at a fee established by resolution. (p) If a Multi-Animal Site Permit or Kennel Permit has been revoked, said applicant and/or location of where the permit was issued shall not be allowed to apply or obtain another permit within city limits for a period of at least two years from the date of revocation.~~

- a. 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. Renewals are not required to go before the Planning & Zoning Board and can be approved an Animal Control Officer and designated zoning official or administrator. However, an Animal Control Officer and designated zoning official or administrator can request that an application renewal go before the Planning & Zoning Board if deemed necessary.
- b. Multi-Animal Site and Kennel Permit holders shall allow an Animal Control Officer, police officer, designed 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.
- c. 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. 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.
- d. 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)

Commented [TK77]: Changes made to increase consistency in enforcement and reduce misinterpretations. Follows current practices of the City.

SEC. 3-147. INTACT COMPANION ANIMAL PERMITS.

Owners of ~~SEC. 3-8.2. STERILIZATION AGREEMENT/DEPOSIT FOR SPAYING AND NEUTERING OF DOGS AND CATS.~~

- (a) ~~(a) — It is the intent of the City for all dogs and cats over the age of six (6) months to be spayed/neutered. Therefore no animal cat or dog shall be released from the animal shelter to an adopting person unless it has that have not been spayed/neutered or a sterilization agreement.~~ Altered shall obtain an Intact Companion Animal Permit for those Animals.
- (b) If an Intact Companion Animal Permit holder wants to breed an Intact Companion Animal or if a female Intact Companion Animal has been signed and a sterilization deposit impregnated, the holder of the Intact Companion Animal Permit must obtain a Companion Animal Litter Permit prior to the birth of the Litter.
- (c) All Intact Companion Animals shall be microchipped and licensed with the City before an Intact Companion Animal Permit is issued.
- (d) Medical Waiver Certificate
 - a. If Alteration of a Companion Animal would endanger the health of the Companion Animal due to age or illness, a Veterinarian may complete a Medical Waiver Certificate stating the reasons why the Companion Animal should not be Altered.
 - b. The Medical Waiver must include a description of the Companion Animal. Including microchip information.
 - c. Upon receipt the City Manager or City Manager's Designee may request a second opinion from a different Veterinarian.
 - d. If there is a difference in opinion between the two Veterinarians as to whether the Companion Animal may be safely Altered, a written notice will be provided to the Owner indicating that a Medical Waiver Certificate has been rejected. The Owner will be required to pay Alter the Companion Animal or pay for an Intact Companion Animal Permit. The decision to deny a Medical Waiver Certificate due to a difference in professional opinions by two Veterinarians may be subject to appeal to the Governing Body by the Owner.
 - e. Upon acceptance of a Medical Waiver Certificate, the Owner shall be issued an Intact Companion Animal Permit free of charge.
 - f. Medical Waiver Certificates are valid for one year. Upon expiration of a Medical Waiver Certificate, the Owner shall be required to reapply for the Intact Companion Animal Permit.
- ~~(a)(c)~~ (c) The fees and costs for an Intact Companion Animal Permit will be set by resolution ~~has been paid~~. Any person wishing to apply for an Intact Companion Animal Permit shall pay all applicable fees and costs before issuance of the Permit.
- ~~(a)(b)~~ (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.~~

~~(b)(a) — (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) — NMSA § 77-1-20 (2019); History: Laws 1993, ch. 43, § 3

~~SEC. 3-8.3. FEMALE DOGS OR CATS IN ESTRUS (HEAT) TO BE CONFINED.~~

~~It shall be unlawful for any owner/responsible party to fail to securely confine any un-spayed animal in the state of estrus (heat), in a house, building or proper enclosure, in such a manner that such animal cannot come in contact with another animal except for planned breeding, and such that the animal does not create a nuisance by attracting other animals. When outside on the property of the owner, for metabolic waste elimination, the animal must be physically restrained with a hand-held leash. Owners/responsible party who do not comply may be ordered to remove the animals in estrus (heat) to a boarding kennel, veterinary hospital or Animal Shelter. All expenses incurred as a result of the confinement shall be paid by the owner/responsible party of the animal. Failure to comply with the removal order shall be a violation of this Section and the animal shall then be impounded as prescribed in this Title.~~

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

SEC. 3-148. COMPANION ANIMAL LITTER PERMIT.

- (a) Owners of female intact Companion Animals must obtain a Litter Permit prior to the birth of a Litter or within one week after the birth of the Litter.
- (b) All female intact Companion Animals must have an Intact Companion Animal Permit and be microchipped.
- (c) No person shall apply for or obtain more than four Litter Permits per household in any consecutive 12-month period.
- (d) No person shall apply for or obtain more than one Litter Permit per female Companion Animal per household in any consecutive 12-month period.
- (e) Litter Permits expire six months from the date of issue.
- (f) The City may waive the Litter Permit Fee for Fosters. Fosters must provide proof or written authorization of their Foster Status from the City of Truth or Consequences Animal Shelter.
- (g) The following requirements regarding Litter Companion Animals are in effect whether or not the Owner of the Litter possesses a Litter Permit:
 - a. Puppies and kittens shall have at least the first in any series of required Vaccinations and be de-wormed by a de-worming treatment consistent with the

Commented [TK78]: Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. New Section (Sec. 3-146 Intact Companion Animal Permit) added in order to help reduce overpopulation, unwanted animals, regulate possible hobby breeding and reduce Animal Shelter intake rate.

size and age of the Companion Animal before being transferred to a new Owner or otherwise separated from the mother.

- b. Puppies and kittens shall be microchipped prior to being separated from the mother. Proof of microchipping must be provided to the city.
 - c. The Litter Permit Holder shall upon transfer or conveyance of the kitten or puppy, deliver a complete Vaccination record to the new Owner.
 - d. The Litter Permit Holder is liable for the medical costs, including medicine, for any puppy or kitten that is diagnosed sick by a Veterinarian within one week from the date of sale. The Litter Permit Holder shall reimburse the new Owner the costs associated with the sick Companion Animal, up to the amount of money the puppy or kitten was purchased for. The new Owner shall be allowed to keep the puppy or kitten even if the Litter Permit Holder pays the medical costs. The new Owner or the Litter Permit Holder may appeal to the Governing Body if there is a dispute as to the fact of the illness or the amount of charges. If the Litter Permit Holder does not prevail on appeal, the Litter Permit Holder shall reimburse the costs of appeal to the new Owner.
 - e. A Litter Permit is required to advertise any Companion Animal under the age of six months old for sale, gift or other transfer or conveyance, in any local periodical or newspaper of general circulation. The Litter Permit number must be included in any advertisement.
 - f. Failure to advertise without including a valid Litter Permit number shall be a violation of this Chapter. Any person who advertises a Companion Animal and purports in the advertisement to reside outside the city limits or lists a telephone number outside the city limits and is subsequently found to maintain Companion Animals inside the city limits or is found attempting to sale Companion Animals in the city limits is in violation of this Chapter. Each day of possession of each said Animal will constitute a separate offense.
 - g. Puppies and kittens can only be sold, given as a gift or other transfer or conveyance from the location listed on the Litter Permit. Puppies or kittens being sold on public property or commercial property even with the Owner's permission are in violation of this Chapter and the puppies and kittens may be seized.
 - h. Puppies and kittens shall not be sold to a Pet Store, Animal Broker or other Animal Dealer.
 - i. Puppies and kittens shall not be released from the Permitted Premises prior to eight weeks of age.
- (f) The fees and costs for a Companion Animal Litter Permit will be set by resolution. Any person wishing to apply for Companion Animal Litter Permit shall pay all applicable fees and costs before issuance of the Permit.
- (g) Companion Animal Litter Permits shall not be issued to any premises which has a Guard Dog Site Permit.

~~SEC. 3-9. ENFORCEMENT AND INTERFERENCE WITH ENFORCEMENT.~~

Commented [TK79]:

Reference City of Albuquerque, New Mexico H.E.A.R.T. Ordinance. New Section (Sec. 3-147 Companion Animal Litter Permit) added in order to help reduce overpopulation, unwanted animals, regulate possible hobby breeding, track owners with new litters and reduce Animal Shelter intake rate.

(a) ~~The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by the City Manager.~~

(b) ~~It shall be a violation of this chapter for any person to interfere, hinder or molest any Animal Control Officer or Police Officer in the performance of their duties.~~

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

~~SEC. 3-10. SECS. 3-149 – 3-156. RESERVED.~~

~~SEC. 3-11. PENALTY FOR VIOLATION OF CHAPTER.~~

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

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

~~SEC. 3-12. DECEASED ANIMAL DISPOSAL REQUIREMENTS.~~

~~(a) (a) Owner responsibility. 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)(a) (1) An animal carcass may be disposed of in one of the following ways:~~

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

~~i. The bottom of the burial pit must be at least three feet above the water table.~~

~~ii.i. If possible, choose a site where the soil is heavier and less permeable.~~

~~iii.i. Flat areas are best. Avoid areas sloping toward water or arroyos.~~

~~iv.i. Ensure the pit is sized to allow soil to cover mortalities to a depth of at least three feet.~~

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

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

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

~~i. (1) Animal Control Officer may dispose of the animal carcass at the T or C Animal Shelter as authorized after microchip scanning and making reasonable efforts to notify the animal's owner. If an owner is located and~~

~~request that the Animal Shelter dispose of the carcass, then the owner/responsible party will be responsible for the disposal fee.~~
~~iii.i. (2) Animal Control Officer shall turn over any tags or other identification found on an animal carcass to the T or C Animal Shelter.~~

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

(1) The fee amount shall be established by resolution; or

~~iii.i. (2) The fee amount shall be established by most current rate schedule as provided by the current licensed facility, contracted with the City of Truth or Consequences, for cremation services.~~
~~1. a. This fee schedule is based on the weight of the carcass.~~

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

~~SECS. 3-13 - 3-25. RESERVED.~~

~~ARTICLE II. CONTROL~~

~~DIVISION 1. GENERALLY~~

~~SEC. 3-26. AUTHORITY OF ANIMAL CONTROL OFFICERS.~~

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

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

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

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

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

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

~~SEC. 3-27. ESTABLISHMENT OF ANIMAL SHELTER.~~

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

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

~~SEC. 3-28. ANIMAL SHELTER, HOURS OF BUSINESS.~~

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

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

~~SEC. 3-29. IMPOUNDMENT.~~

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

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

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

~~SEC. 3-30. IMPOUNDING ESTRAYS; RECORDS; REDEMPTION FEES; NOTICE.~~

(a) — No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of such animal to the animal control officer, giving his/her name and address, a true and complete statement of the circumstances under which the animal was taken, and the location where such animal is confined.

(b) — It is unlawful for any person taking up an animal to fail to give the notice required in subsection (a) of this section and for any person having such animal in his/her possession to fail or refuse to immediately surrender such animal to the Animal Control Officer upon demand thereof.

(c) — If an estray animal is wearing a license or other identification, it shall be returned to the owner and a citation may be issued. If an estray animal is not wearing a license or other identification, the animal shall be confined for a 72-hour period at the Animal Shelter. The Animal Shelter may dispose of estray animals impounded under this section according to their policies and procedures the day after the required impoundment period.

(d) — No dog or cat that has been impounded by the Animal Shelter will be sold for the purpose of breeding or resale.

(e) — An animal which continues to be an alleged nuisance may be impounded by the Animal Control Officer until such time as a judgment is made by the Municipal Court.

(f) — Animals confined/impounded to the Animal Shelter may be released to the rightful owner or designee after all applicable fees have been paid. ~~Owner shall bear the cost of any expenditures while animal is confined including veterinary services.~~

(g) — Reserved.

(h) — Fines for violations of this article shall be in accordance with the provisions of section 1-10.

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

~~SEC. 3-31. RESTRAINT OF ANIMALS.~~

~~(a) (a) — Physical restraint. A person owning or having charge, custody, or care over an animal shall keep the animal under humane physical restraint at all times.~~

~~(b) — Dragging; hobbling. A person shall not hobble an animal, or tether or attach any animal to any object that can be dragged or moved by the animal. Such an animal, if not otherwise restrained by immediate control or enclosure, shall be considered by the animal control officer to be unrestrained. This shall not apply to livestock animals being properly used for work purposes.~~

~~(c) — Owner's premises. A person owning or having care, custody, or control over an animal on his or her premises shall restrain the animal either by a secure enclosure or by immediate control.~~

~~a. (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.~~

~~b.a.(2) — A person owning or having care, custody, or control over an animal on his or her premises may use a tether as a means of restraint only if:~~

~~i. a. — The tethered animal has access to adequate food, water, shade and shelter.~~

~~ii.i. b. — A tether used to restrain a dog shall be at least 12 feet in length. Such tether shall not enable the animal to reach beyond the owner's property.~~

~~iii.i. c. — A tether used to restrain an animal shall be affixed to a properly fitting collar or harness worn by the animal. A person shall not wrap a chain or tether directly around the neck or other body part of the animal.~~

~~iv.i. d. — A tether used to restrain an animal shall be fastened so that the animal may sit, walk, and lie down using natural motions. Such tether shall be unobstructed by objects that may cause the tether or animal to become entangled, strangled or denied access to adequate necessities.~~

~~e.a.(3) — Voice commands are not an acceptable form of restraint.~~

~~(b)(a) — (d) — Public premises. A person owning or having care, custody, or control over an animal off of his or her premises shall keep the animal under immediate control.~~

~~a. (1) — While restrained off premises under the immediate control of the owner or responsible party, the animal must be on a leash that shall enable the handler to maintain control of the animal. The leash shall not exceed six feet in length while the animal is in and around the inhabitants of the city.~~

(2) — A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. ~~Animals carried in 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 drivers lap while the vehicle is being operated on any public roadway.~~

~~b.a.(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.

~~(c)(a) — (c) — Property of others. A person owning or having care, custody, or control over an animal shall not detain or restrain an animal upon another person's private property without having permission from the resident or owner of such property.~~

~~a. (1) — If the resident or owner does not permit the animal being detained or restrained upon such property, the animal may be taken up and impounded by the Animal Control Officer at the request of the resident or owner.~~

(2) — If the owner of a rented or leased property does not approve of an animal being restrained or detained by the resident on such property, the dispute shall be regarded by the animal control officer as a civil matter.

(f) — Multiple dwelling unit. An owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, shall not permit or authorize any animal to be unrestrained upon the common areas of the multiple dwelling unit, except upon such areas and within such enclosures specifically designated for such activity.

(g) — Exceptions.

(1) — A working dog that is under the control and supervision of the owner or handler performing such acts as herding, search and rescue, or police work shall not be considered as unrestrained while performing or being trained for such duties.

(2) — A hunting, tracking, or show dog that is under the control and supervision of the owner or handler shall not be considered as unrestrained while performing in or being trained for those capacities.

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

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

~~SEC. 3-32. BREAKING INTO ANIMAL CONTROL CENTER, ANIMAL CONTROL VEHICLE.~~

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

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

~~SEC. 3-33. SEIZURE OF ANIMALS NOTICE.~~

(a) — An Animal Control Officer, or designee who reasonably believes that the life or health of an animal to include livestock is endangered due to cruel treatment may apply to the municipal court in the city where the animal is located for a warrant to seize the animal.

~~(b) — If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal.~~ The court shall also schedule a hearing on the matter as expeditiously as possible within ten business days unless good cause is demonstrated by the city for a later time and such extension is approved by the municipal court judge.

~~(a) (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.~~

~~(b)(a) — (d) — If the owner of the animal cannot be determined or cannot be located, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.~~

(e) — At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice if approved by the municipal court judge.

~~(e)(a) — (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) — NMSA 1978, § 30-18-1.1 (1996 through 1st Sess 50th Legis)

SEC. 3-34. DISPOSITION OF SEIZED ANIMALS.

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

(b) — If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.

~~(a)(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.~~

~~(b)(a) — (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.~~

~~(c)(a) — (e) — If the owner of the animal does not post security within 15 days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, Animal Shelter or animal welfare organization for adoption or humane destruction.~~

~~(d)(a) — (f) — Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed cruelty to animals.~~

(g) — Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.

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

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

State law reference(s) — NMSA 1978, § 30-18-1.2 (1996 through 1st Sess 50th Legis)

~~SEC. 3-35. COSTS OF SEIZED ANIMALS.~~

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

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

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

State law reference(s) — NMSA 1978, § 30-18-1.3 (1996 through 1st Sess 50th Legis)

~~SECS. 3-36 — 3-50. RESERVED.~~

DIVISION 2. RABIES²

~~SEC. 3-51. VACCINATIONS.~~

~~(a) (a) — It is the duty of all persons owning or keeping a cat or a dog or any member of the canine family over the age of three months to have such animals vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for three years and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Commission may require other animals to receive annual rabies vaccination.~~

~~(b)(a) — (b) — The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination, and the expiration date of the period of immunity.~~

~~(c) — It is unlawful for the owner or keeper of any dog, cat, or any other members of the canine or feline family to fail to exhibit its certificate of vaccination upon demand to any police officer or animal control officer.~~

~~(e)(a) — (d) — It is the duty of all persons who adopt a dog to have such dog vaccinated against rabies, distemper complex, and parvo virus within 48 hours of adoption. It is the duty of all persons who adopt a cat to have such cat vaccinated against rabies and feline distemper complex within 48 hours of adoption.~~

²Cross-reference(s) — Health and sanitation, ch. 6.

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

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

State law reference(s) — Vaccination of dogs and cats against rabies, NMSA 1978, § 77-1-3.

~~SEC. 3-52. CONFINEMENT OF RABID ANIMAL.~~

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

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

~~SEC. 3-53. BITING DOGS OR OTHER BITING ANIMALS.~~

~~(a) — The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Animal Control Officer within 24 hours. The owner of an animal that bites a person shall surrender the animal to an Animal Control Officer to impound such animal for a period of observation.~~

~~(b)(a) — (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)(a) — (c) — An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Animal Control Officer. The owner of the animal shall bear the cost of confinement.~~

~~(d)(a) — (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 1978, § 77-1-6.~~

~~SECS. 3-54 — 3-70. RESERVED.~~

DIVISION 3. LICENSING

~~SEC. 3-71. LICENSE REQUIRED.~~

- ~~(a) (a) — Any person owning, possessing or harboring any dog or cat three months of age or over shall obtain a license for each animal. Application for such license shall be made as directed and shall state the name and address of the owner, the name, breed, color, age and sex of such animal and any other information deemed necessary. A current rabies vaccination certificate shall be presented at the time of application for the license. Upon payment of the license fee, as prescribed in subsection (d) of this section, a license certificate and tag for each animal shall be issued. If the tag is lost, replacement tags with a cost set by resolution shall be purchased. The license shall expire on the same date as the rabies certificate or one year whichever is greater.~~
- ~~(b)(a) — (b) — A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show, or is being trained. Provided that the person that is training the dog shall have in his personal possession the valid license tag for each dog or cat and shall immediately display such upon request of the Animal Control Officer or a regular law enforcement officer.~~
- ~~(c)(a) — (c) — Animals belonging to nonresidents who do not keep said animals within the corporate limits of the city for 30 consecutive days shall be exempt from this section, provided, however, that all other provisions of this division be complied with.~~
- ~~(d)(a) — (d) — The annual license fee shall be set by resolution for each neutered or spayed dog or cat. The annual license fee shall be set by resolution for each unneutered or unspayed dog or cat. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons. A fee shall be charged for each dog or cat that has not been spayed or neutered, unless the owner presents a signed statement from a licensed veterinarian stating that spaying or neutering would be a surgical risk for the animal, due to the animal's age or condition.~~
- ~~(e)(a) — (e) — Within five business days upon change of ownership of any dog or cat, the new owner shall apply for a new license with their personal identifying information.~~

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

~~State law reference(s) — Municipal authority to require licensing of dogs, NMSA 1978, § 77-1-15.1.~~

~~SEC. 3-72. UNLAWFUL USE OF LICENSE TAG.~~

It is unlawful for any person to remove any license tag from one dog or cat to another. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in his possession

or under his control a stolen, counterfeit, or forged license tag, rabies vaccination certificate, or other form of licensing as required under this division.

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

~~SECS. 3-73 - 3-90. RESERVED.~~

DIVISION 4. AT LARGE, VICIOUS, NUISANCE

~~SEC. 3-91. RUNNING AT LARGE.~~

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

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

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

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

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

~~SECS. 3-92, 3-93. RESERVED.~~

~~SEC. 3-94. VICIOUS ANIMALS.~~

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

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

State law reference(s) — Vicious animals, NMSA 1978, § 77-1-10.

~~SEC. 3-95. DISTURBING THE PEACE.~~

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

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

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

~~SEC. 3-96. PUBLIC NUISANCE.~~

~~(a) (a) — Property damage; nuisance. A person owning or having care, custody, or control over an animal shall prevent the animal from causing damage or being a nuisance to the person or property of another.~~

~~(b)(a) — (b) — Pet waste. A person owning or having care, custody, or control over a pet such as a dog or cat shall dispose of the waste from the animal in a watertight and fly tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard by noxious or offensive odors.~~

~~(c)(a) — (c) — Public defecation. A person owning or having care, custody, or control over an animal shall not permit the animal to defecate on public property or the property of another unless such animal waste is immediately removed and properly disposed of.~~

(d) — Feeding animals running at large. A person shall not feed an animal running at large.

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

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

~~SEC. 3-97. DANGEROUS AND POTENTIALLY DANGEROUS DOGS.~~

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

(b) — Findings and intent.

(1) — Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.

(2) — No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the City.

(3) — This section will protect the inhabitants of the City.

(4) — This section will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the City.

(5) — This section will assist in providing control over dangerous and potentially dangerous dogs.

(e) — Definitions:

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

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

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

Potentially dangerous dog: A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:

(1) — Causing an injury to a person or domestic animal that is less severe than a serious injury;
or

(2) — Chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or

~~1. (3) — Acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.~~

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

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

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

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

(2) — The threat, injury or damage sustained by a person or domestic animal is the result of the person or domestic animal:

a. — Trespassing upon premises occupied by the owner or the dog; or

b. — Provoking, tormenting, abusing or assaulting the dog, or in the past has repeatedly provoked, tormented, abused or assaulted the dog; or

e. ~~Committing, or attempting to commit, a crime; or~~

(3) ~~The dog was:~~

a. ~~Responding to pain or injury; or~~

b. ~~Protecting itself or its offspring; or~~

e. ~~Protecting or defending a human being or domestic animal from attack or assault.~~

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

(1) ~~If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.~~

(2) ~~If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.~~

(3) ~~After seizure, the animal control authority will impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of subsection (e) of this section.~~

(4) ~~After seizure:~~

~~a. a. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to subsection (e) of this section; or~~

~~b. a. b. The animal control authority may, within 14 days after seizure of the dog, bring a petition in a court of competent jurisdiction seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within 30 days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to the owner.~~

(5) ~~If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within 14 days of seizure of the dog, the court shall immediately order the release of the dog to its owner.~~

(6) — If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.

(7) — A determination that a dog is not dangerous or potentially dangerous shall not prevent the animal control authority from making a subsequent application for seizure based on the dog's subsequent behaviors.

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

(1) — Upon application, an animal control authority shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:

a. — The owner is able to keep the dog under control at all times; and

~~a. b. — A license, if applicable, has been issued pursuant to the requirements of the City; and~~

~~b. a. c. — The dog has a current rabies vaccination; and~~

d. — The owner has a proper enclosure to the dog; and

~~e. a. e. — The owner has paid an annual fee set by resolution to register a dangerous or potentially dangerous dog; and~~

f. — The dog has been spayed or neutered; and

~~d. a. g. — The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and~~

h. — The owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.

(2) — If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section for 36 consecutive months, the owner may request the animal control authority in the City to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.

(3) — An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of subsection (e)(1) of this section, establishes that:

~~e. a. a. — The owner has paid an annual fee set by resolution, as established by the animal control authority to register a dangerous dog; and~~

~~f. a. b. — The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable; and~~

e. — The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination; and

~~g.a.d. — When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times; and~~

~~h.a.e. — The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and~~

~~i.a.f. — A clearly visible warning sign with a conspicuous warning symbol indicate there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.~~

(4) — An animal control authority may order the immediate impoundment or humane destruction of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section.

(g) — Prohibited acts.

(1) — It is unlawful for an owner of a dangerous or potentially dangerous dog to:

a. — Keep the dog without a valid certificate of registration; or

b. — Violate the registration and handling requirements for the dog; or

e. — Fail to notify the animal control authority immediately upon:

1. — The escape of the dog; or

2. — An attack by the dog upon a human being or a domestic animal;

~~b.a.d. — Fail to notify the animal control authority of the dog's death within five business days; or~~

e. — Fail to notify the animal control authority within 24 hours if the dog has been sold or given away and to provide the name, address and telephone number of the new owner of the dog; or

f. — Fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case where there is reason to believe that the dog poses an imminent threat to public safety; or

~~e.a.g. — Fail to comply with special handling or case requirements for the dog that a court has ordered.~~

(2) — Whoever violates a provision of subsection (g)(1) shall be charged in the Municipal Court in which the animal is located with a violation of the Dangerous Dog Ordinance, and upon conviction shall be sentenced to a fine not to exceed \$500.00, or 90 days imprisonment, or both fines and imprisonment.

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

~~SEC. 3-98. SAFEKEEPING OF ANIMALS BY THE ANIMAL SHELTER.~~

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

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

CHAPTER 3. ANIMALS

~~SEC. 3-99. LIVESTOCK RUNNING AT LARGE.~~

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

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

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



City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

City (575) 894-6673 • Fax (575) 894-7767

August 15, 2025

City of Truth or Consequences
Attention: **Gary Whitehead, Officer Knull**
505 Sims Street
Truth or Consequences, New Mexico 87901

RE: Ordinance 771

Dear Officer Knull and Mr. Whitehead,

I appreciate Officer Knull's efforts in getting us a draft.

As we discussed at the August 13, 2025 City Commission Meeting, I have reviewed the proposed new Animal Control Ordinance, and we agreed that it might be helpful if I put my observations in writing. You are welcome to share this letter with the City Commissioners.

I will first discuss some of the definitions and then I will discuss the implementing ordinances. I have included the page numbers where the particular Ordinance can be located.

DEFINITIONS

1. **Page 1 - Abandonment of animals** – This new proposal seeks to include a requirement that we establish that the animal owner deserted the dog “deliberately”. This requires proof of the owner’s intent, which can be difficult to prove. Under the current Ordinance, we only need to show that the owner left the animal “unattended and with no provision of food, water or shelter for more than 24 hours”. The owner’s state of mind is not relevant.

2. **Page 2 – Adequate food** – In our current Ordinance, we have a requirement that an animal have “appropriate access” to a sufficient quantity of food, and it list 4 supporting reasons. The proposed Ordinance would delete this valuable information.

3. **Page 2 – Alter or Alteration** – The dictionary definition for alter or alteration is a lot broader than that of the proposed Ordinance. We will need to see in what manner it is proposed to be used in implementing this Ordinance.

4. **Pages 2-3 – Animal** – The proposed definition greatly expands our current definition to include birds, etc. Is that what you want?

5. **Page 4 – Companion Pet or Companion Animal** – The proposed definition excludes hybrids. Hybrids aren’t defined in the code, but there is a definition of a feline hybrid. If a dog is



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bred by a domestic species with a wild species, do we wish to exclude these animals as possible companions?

6. **Page 5 - Dangerous dog** – The proposed definition is identical to what is stated in our proposed Dangerous Dog Ordinance in Section 3-140. We might want to tie the two sections together. (See page 39).

7. **Page 5 – Domestic Animal** – By the wording of this definition, I couldn't tell whether ferrets, gerbils, guinea pigs, etc. are included or excluded.

8. **Page 8 – Immediate Control** – I suggest we tie this definition into the Restraint Ordinance, see Section 3-70.

9. **Page 8 – Impound** – I suggest we tie this definition into our Impoundment Ordinance, see Section 3-50.

10. **Page 10 – Potentially Dangerous Dog** – We might want to tie this into our Potentially Dangerous Dog Ordinance, see Section 1-139. (See page 39).

11. **Page 12 – Secure Enclosure and Secure Facility** – This can also be tied into our Restraint Ordinance (See 3-70, page 23).

12. **Page 13 – Vicious Animals** – I just wanted to make you aware that this only applies to dogs after they've already been determined to be dangerous.

IMPLEMENTING ORDINANCES

In this section, I will be focusing on the ordinances which were most often invoked during my history of prosecuting cases in Municipal Court.

1. **Section 3-7 Safekeeping (Page 15)** – We might want to elaborate further on “unforeseen” circumstances.

2. **Section 3-7 Abandoned (Page 15)** – We want to ensure that sufficient written notice is provided.

3. **Section 3-8 Seizure of Animal (Page 15)**;
Section 3-9 Disposition of seized animal (Page 16); and
Section 3-10 Seizure of Animal (Page 17)



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I am pleased that these sections elaborated on the due process requirements with respect to the seizure and disposition of seized animals. We can review whether this section is in harmony with the Cruelty to Animal Ordinance in 3-108.

4. **Section 3-29 Penalty (Page 18)** - As Officer Knull noted at the meeting, this Section is basically identical to our present Section 1-110. Therefore, I'm not sure that we need this particular Ordinance. I would be in favor of the proposed Ordinance for Restitution Section 3-30.

5. **Section 3-70 Restraint (Page 23)** - Subsection (g) seeks to impose a penalty different from our general Penalty provision, so we might want to state that this provision supersedes our general Penalty provision for a violation of our Restraint Ordinance.

6. **Section 3-92 Public Nuisance (Page 27)** - Do we want to include a provision that would allow the owner or custodian to abate the nuisance.

7. **Section 3-108 Physical Abuse (Pages 29-30)** - There doesn't seem to be relationship between (a) and (g) and the balance of the Ordinance. It seems like something is missing.

8. **Section 3-109 Work Cruelty (Page 30)** - If an animal is impounded, do we want to include the procedure that the ACO must follow, similar to Sections 3-8 through 3-10?

9. **Section 3-110 Care and Maintenance (Pages 30-34)** - I believe this section is in harmony with the definition for access to food and water.

10. **Section 3-111 Uncared for Animals (Page 34)** - We might want to incorporate some of the Notice Requirements as described in Section 3-8 through 3-10.

I will continue to review the Ordinance. In the meantime, I wanted to give you my preliminary comments and observations.

Very sincerely,

A handwritten signature in black ink, appearing to be "JR", written over a horizontal line.

Jaime F. Rubin, City Attorney
JFR:sjh



Truth or Consequences Police Department

Luis A. Tavizon, Chief

507 McAdoo Street

T or C, NM 87901

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Professionalism, Respect, and Integrity

September 8, 2025

City of Truth or Consequences

Attention: Jay Rubin, City Manager Gary Whitehead

505 Sims Street

Truth or Consequences, New Mexico 87901

RE: Ordinance 771

Dear Mr. Rubin and Manager Whitehead.

I have received the list of concerns you have sent me. I have addressed specific concerns in the order they were given to me in that list. A lot of these concerns might be quelled by reading the revision in its entirety and as a whole rather than section by section...

DEFINITIONS

Section 3-2. Definitions – states “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.” This means we are setting the tone for the whole Chapter as Mr. Rubin put it. The reason we have a section is to define specific terms or phrases that are used in the code, especially if they are not the dictionary definition of that specific term or if the term is otherwise undefined or subjective. For example, what one person considers “Basic Grooming” may differ from what another person considers “Basic Grooming.” So, we add a specific definition of the term “Basic Grooming” to define the exact parameters of the term so when we say “Basic Grooming is required for all animals” we can go back to our definition section and say, “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.” This prevents misinterpretations.

1. **Page 1 – Abandonment of animals** – The intended revision will state “means 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.” From my experience prosecuting these cases, the owner’s intention is usually very easy to



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prove, especially because of the way we apply the section. Abandonment of animals is usually charged in the following situations:

- a. When an animal owner leaves an animal on someone else's property and refuses to pick it back up.
- b. When an animal owner refuses to pick an animal up from the animal shelter after shelter staff has contacted them.
- c. When an animal owner moves to a different location and leaves an animal behind.
- d. When an animal owner releases an animal in a location other than that of the owner and leaves the animal unsupervised.

If we are unable to determine the abandonment was deliberate or if we determine the animal was not deliberately abandoned, we would utilize the section pertaining to "Uncared for animals." In the chapter revision this is Section 3-111 on page 34 and in the current version of the chapter this falls under section 3-5 "cruelty."

2. **Page 2 – Adequate food** – I intended to add "the provision of "so the definition would read "adequate food means the provision of uncontaminated, edible, nutritious food, which is of adequate quantity as to maintain the normal weight and condition of a healthy animal." This definition will be further supplemented by Section 3-110 that states "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."
3. **Page 2 – Alter or Alteration** – Yes, the dictionary definition of the terms "Alter" or "Alteration" state "change or cause to change in character or composition, typically in a comparatively small but significant way." This can be very broad. However, when you look up "What does it mean to alter an animal?" You will find that this term is widely used by veterinarians and laws synonymously with the terms "spay" and "neuter." In the context of the chapter "alter" or "alteration" would mean to "render an animal permanently sterile and incapable of reproduction." The terms "neuter" and "spay" are also defined in the chapter on page 9 (neuter) and page 13 (spay) respectively.
4. **Page 2-3- Animal** – Yes, the term was intended to be more inclusive of animals such as birds and wild animals. The term currently states "Animal means any vertebrate member of the animal kingdom, excluding the human species, including but not limited to wild animals, domesticated animals, and livestock." This is just as broad and already includes birds, bats, etc. The dictionary definition of the term animal would be even more broad and could include humans.



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5. **Page 4 – Companion Pet or Companion Animal** – Correct, this definition excludes hybrid animals such as feline hybrids and wolf hybrids. Because feline hybrids as defined by the revision on page 6 and wolf hybrids as defined by the revision on page 14 are bred with non-domestic species, they will be considered exotic. “Exotic animal or wild animal” is defined on page 5 of the revision and specifies hybrids. Hybrids are banned in certain municipalities due to their instincts and temperament as well as their inability to be vaccinated for rabies. I do not wish to ban hybrids, but because companion animals are required to be licensed and vaccinated and hybrid animals cannot be, they cannot be considered companions. Therefore, we should regulate them by requiring the exotic animal license. Currently in our code canine and feline hybrids are defined on page 3. I intend for them to remain defined in the revision.
6. **Page 5 – Dangerous dog** – Yes, the definition and the section are identical. This is because the detention of the term is not a chargeable offense. I cannot write “Section 3-2 Definitions” on a citation or a criminal complaint and need a chargeable offense. Thus, section 3-140 Dangerous Dogs exists. I split up the current sections of Dangerous and Potentially Dangerous Dogs in order to vary the level of severity of the charge based on the severity of the bite inflicted by an animal.
7. **Page 5 – Domestic Animal** – The revised definition of the term states “Domestic Animal means any animal whose psychology has been determined or manipulated through selective breeding and which does not occur naturally in the wild **and includes** ferrets, gerbils, guinea pigs, hamsters, horses, mice, rabbits, donkeys, rats and kangaroo rats. All Companion Animals are Domestic Animals but all Domestic Animals are not Companion Animals.”
12. **Page 13 – Vicious animal** – The revised definition of the term states “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.” This means an animal will be considered dangerous if it “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, **or** if it “inflicts a bite after it has been deemed a Dangerous Animal, regardless of severity of



Truth or Consequences Police Department

Luis A. Tavizon, Chief

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such bite.” Includes means to “comprise or contain as part of a whole.” The last sentence does not exclude the content before it.

IMPLEMENTING ORDINANCES

1. **Page 15 - Section 3-7 Safekeeping** – Im not sure how we can elaborate on this much more...Our current code regarding safekeeping states “Under unforeseen circumstances, a police officer, animal control officer, or animal owner may require an animal to be placed in the care and custody of the Animal Shelter to ensure that the animal is properly cared for.” Our revision of this section only added new time limits to coincide with new Animal Shelter policies and procedures...According to the dictionary “unforeseen means not anticipated or predicted.” The way this has been interpreted and would continue to be interpreted in the revision is by this dictionary definition. This could include circumstances such as medical emergencies or incarceration. We have never had an issue with defining what “unforeseen” means...
4. **Page 18 – Section 3-29 General Penalty** – As I disclosed during the presentation, the reason this particular section was added, even with an already established penalty under Section 1-10, was to allow people to stay within the chapter to find penalties for violations of the chapter. It also allows for this particular section to be changed by itself to increase or decrease penalties for violating this particular chapter rather than changing the general penalty for the entire code of ordinances.
5. **Page 23 – Section 3-70 Restraint** – Yes, subsection (g) imposes a different penalty. However, the proposed Section 3-29 states “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.” This means this general penalty only applies to sections of the Chapter that do not have a specific penalty attached to them, such as the proposed Section 3-70.
6. **Page 27 – Section 3-92 Public Nuisance** – I don’t think I’m following on this one...This section sets parameters on activities that are considered nuisances and performing or failing to perform certain things in the section constitute a nuisance. I would say they could abate the nuisance by not violating parameters in the section...We don’t currently have a nuisance abatement subsection in our current public nuisance section...
7. **Page 29-30 – Section 3-108 Physical Abuse** – There is no relation between the two subsections because subsection (a) describes what constitutes physical abuse. Subsection



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(b) describes exceptions to the previous subsection. For example, it is considered physical abuse to kick a dog to get it to stop barking. However, it is not considered physical abuse to utilize a bark activated shock collar to train a dog to stop barking.

The proposed revision would say:

“(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 force 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

- a. 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.
- b. Killing a bird if such bird is Poultry owned by that Person and will be used for food;
- c. Killing a rabbit if such rabbit is owned by that Person and will be used for food;
- d. Killing mice or rats that are not a Domestic Animal or otherwise claimed as a pet by any Person;
- e. A Person may use poison to kill mice and rats, but only within a Person’s own enclosed structures.
- f. 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.
- g. 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.”



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8. **Page 30 – Section 3-10- Work Cruelty**– Sections 3-8 through 3-10 *are* the procedures...
10. **Page 34 – Section 3-111 Uncared for Animals** – Sections 3-8 through 3-10 *are* the procedures...

I am not sure what exactly you mean by “tie this into...” in the few sections where you bring that up. Do you mean add the definitions to the section? Is that not why we have an entire section dedicated to definitions? Again, the preface of the section pertaining to definitions states “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.” I am not sure we need to add the definitions to the specific sections as well...

I hope this clarifies your questions and reduces your concerns. Please let me know if you have anything further we should look at after you have finished reading the full revision.

Sincerely,

Tyler Knull
Senior Code Enforcement Officer #C1
tknull@torcnm.org

Saving Tax Dollars by Empowering Citizens to Save Lives

Ledy VanKavage

Senior Legislative Attorney,
Best Friends Animal Society

- 2014 American Bar Association's Excellence in the Advancement of Animal Law Award
- 2018 Wallace Award winner
- 2021 Women in Government Relations winner of Best State Gov Campaign- Pets in Housing
- Past Chair of the American Bar Association's Tort, Trial & Insurance Practice's Animal Law Committee
- Past Chair of the Illinois State Bar Association's Animal Law Section





NM Statistics

- 60% of NM households caring for at least one pet.
- However, the majority of New Mexicans live in a community with poor access to veterinary care with 17.6% living in poverty according to US census data.
- In 2023, 87,546 dogs and cats entered shelters in New Mexico, the highest number of animals entering shelters per capita out of any state in the country,
- 25% of pet entering shelters were surrendered by their families





Best Friends Collaboration with T or C

- \$12,300 Medical Grant for Shelter Dogs and Cats
- \$5000 Adoption Stipend Grant
- 2 Chartered Flights with 80 animals transported to Best Friends Animal Sanctuary in Kanab, UT
- Funding for 3 T or C partners to pull more dogs and cats from the Shelter





Trends in Sheltering

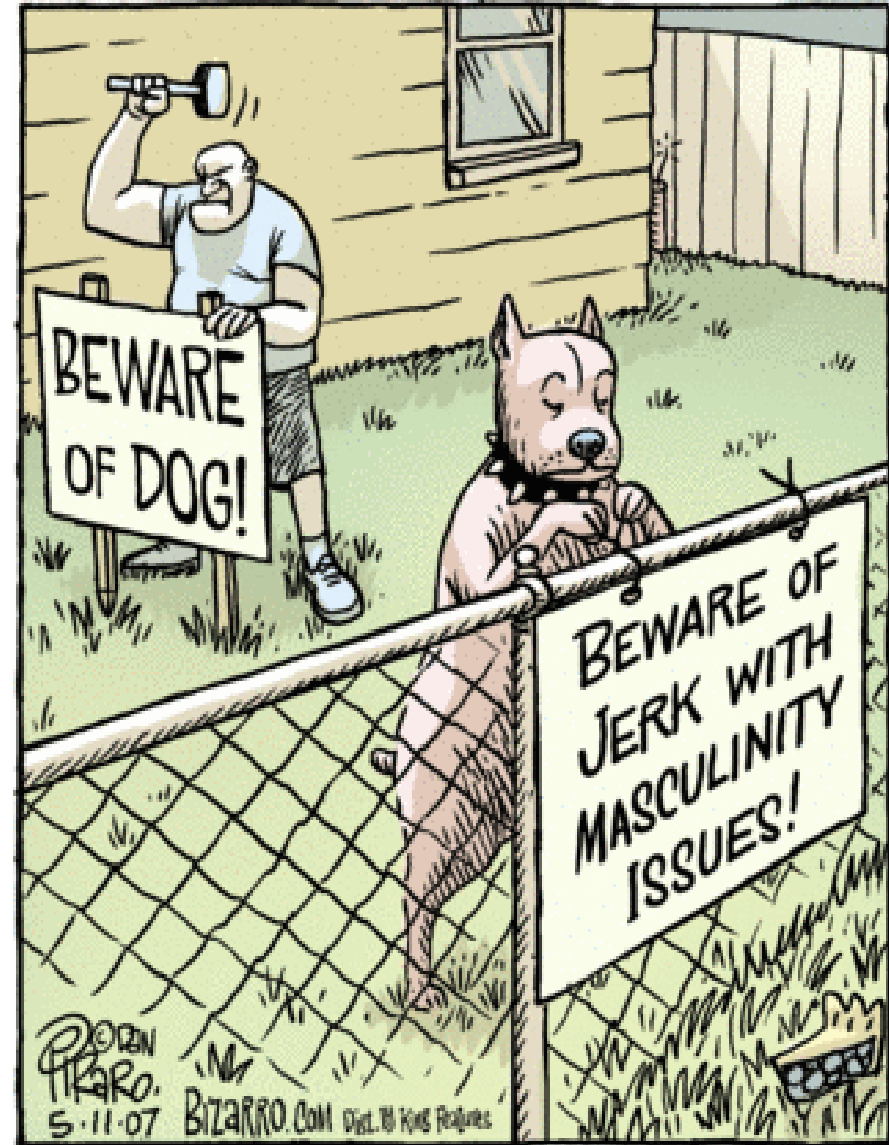
- Assisting owner keep pet saves on average \$500 net/per pet
- Focus on resolution/improvement over citations (not uncommon for a large city to have \$1 million+ in unpaid citations)
- Bringing social workers into shelter & field operations to assist pet owners (most cross into other human needs which affect the pets)
- Repeat offenders not first-time complaints before citations
- Defining public versus private concerns & nuisances – getting multiple similar complaints in an area



What is the actual problem and why is it occurring?

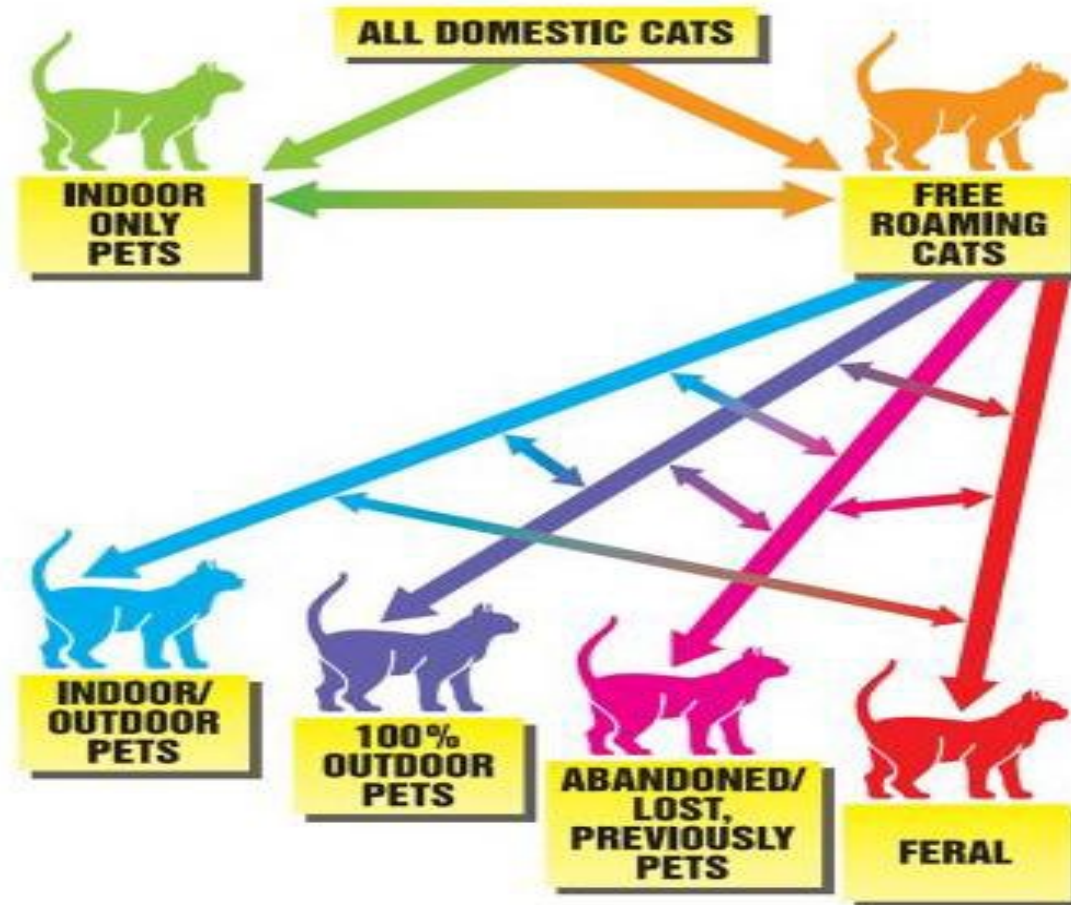
- Poverty
- Lack of Education
- Lack of Accessible Vet Care-Low Cost Spays & Neuters/Vaccines & Microchips
- Lack of Pet Inclusive Housing
- Lack of Fencing
- Reckless Owners (IMLA Reckless Owner Ordinance)

Punitive approach will not solve every problem





Cats are different from dogs-
Different species should have different policies!





Community Cat Program simply stated

A common-sense, cost-effective solution for controlling free-roaming cat populations by preventing additional births instead of trying to house, feed and adopt/kill more cats.





Why Community Cat Programs? Save \$\$

• Taxpayers deserve a program that is animal-friendly and more cost-effective, that reduces the burden and bureaucracy placed on animal control.

- Lower intake and euthanasia
- Less need for cat housing
- **Increase in employee morale**
- Greater community goodwill
- Reduced nuisance calls



It's also “worth” it for the municipalities

- Helpful considerations for local governments
 - The cost of capture and euthanasia is roughly double the cost of performing a sterilization procedure. See Kathy L. Hughes *et al.*, *The Effects of Implementing a Feral Cat Spay/Neuter Program in a Florida County Animal Control Service*, 5(4) J. APPLIED ANIMAL WELFARE SCI. 285-98 (2002) (average cost of impounding and killing a cat was an estimated \$139, while the average cost for surgery on the cat was \$56).

Community Cat Program Goals

- Protect the human population from any preventable impacts from community cats & increase # of vaccinated cats
- Stabilize and reduce the community cat population
- Provide health benefits to community cats for longer, healthier lives
- Reduce the strain community cats may place on municipal resources
- Less cats = less wildlife impacted

Cats that do not
meet criteria for CCPs

- Cats with any indicia of current ownership (e.g., collar, tag or microchip)
- Free-roaming cats with significant medical problems likely to need extended veterinary care
- Cats that are declawed

CCP basics

- In all CCPs, cats without identifiable owners are trapped at their sites of habitation, then taken to a facility where they are:
 - If healthy:
 - Surgically sterilized by veterinary personnel;
 - Vaccinated for Rabies/can be microchipped
 - While sedated, marked (usually by “tipping” their ears) so that it is obvious they have been sterilized; and
 - Returned to where they were found

Who can be involved?

- CCPs can be carried out by many individuals
 - Municipal shelters/workers
 - Private shelters/workers
 - Private individuals engaged with proper veterinary support at a shelter or private veterinarian
 - Veterinarians
 - Contractors with municipal governments

National Support

- The National Animal Care & Control Association believes “that indiscriminate pick up or admission of healthy, free-roaming cats, regardless of temperament, for any purpose other than TNR/SNR, **fails to serve commonly held goals of community animal management and protection programs and, as such, is a misuse of time and public funds and should be avoided.**”

National Support

- The American Bar Association urges all local governments to adopt uniform laws and policies that allow the implementation and administration of TNR programs.



Conflict mitigation

- People are more concerned with the nuisance behavior than the actual presence of the cat
- Cats can be conditioned to avoid a property through simple, proven techniques
- Best Friends offers free training to teach participants how to work with residents on mitigating conflicts with cats
 - *You Tube videos on cat deterrents*
<https://www.youtube.com/watch?v=vMywPSBD7CQ>

