

WORK SESSION AGENDA

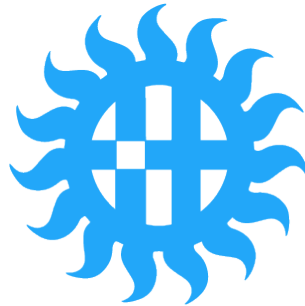
Tuesday, November 12, 2024 at 1:00 PM

Mayor
Eric Enriquez

Mayor Pro Tem
Johana Bencomo

Councilors
Cassie McClure
William Mattiace
Becki Graham
Becky Corran
Yvonne Flores

Council Chambers



CITY OF LAS CRUCES

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Council Work Session Summary

Meeting: Work Session - Nov 12 2024

TITLE: STATE LEGISLATIVE PRIORITIES.

PURPOSE(S) OF DISCUSSION: ☐ Inform/Update ☒ Direction/Guidance ☐ Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Presentation by the City's state lobbyist on New Mexico legislative trends and a presentation by City staff on proposed priorities for the 2025 New Mexico State Legislative capital outlay requests and policy initiatives.

COMMITTEE/BOARD REVIEW:

None



Council Work Session Summary

Meeting: Work Session - Nov 12 2024

TITLE: ANIMAL CARE AND CONTROL ORDINANCE.

PURPOSE(S) OF DISCUSSION: ☒ Inform/Update ☒ Direction/Guidance ☐ Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The purpose of this item is to discuss the possible modification and/or replacement of current provisions in the Las Cruces Municipal Code pertaining to Chapter 7- Animals. Topics of discussion include the possible restriction of tethering/trolleys for companion animals, clarifying ambiguous terms as they currently exist in code, and discussion of improving the general welfare of companion animals in the community. Another topic of discussion will be whether the City should implement a mandatory spay/neuter requirement for certain companion animals (with enumerated exceptions), along with models of funding for low-cost spay/neuter procedures for individuals who may qualify based upon their income levels.

SUPPORT INFORMATION:

[Animal Control Ordinance FINAL DRAFT with redlines \(002\)](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

Chapter 7 – ANIMALS

PREAMBLE

The City believes the people of Las Cruces should treat companion animals as more than inanimate chattel property and recognize that the relationship between humans and animals is a special relationship that improves lives and reflects basic humanitarian beliefs. Companion animals are sentient beings and can feel emotion, form attachments and have distinct personalities.

The City believes that the public mind set toward animals must shift to the more progressive, humane, and compassionate attitude evident in other jurisdictions.

The City believes that it has a responsibility to fund free low- and moderate- income microchipping and spay and neuter programs through fees collected through its Animal Ordinance and from general fund monies.

The City shall endeavor to work toward the prevention of animal attacks on humans and other animals. Laws against tethering animals, stricter laws dealing with animal overpopulation, and enforcing animal restraint and housing laws are tools to help eliminate dogs roaming at large and will ultimately help make our community safer.

Studies have shown that dogs that bark excessively, and not in response to any apparent stimulus, create a public nuisance. Many dogs spend much of their lives alone in yards or restrained by ropes or chains. Dogs that are restrained by chaining or tethering are more likely to create barking problems, are more likely to be aggressive toward humans and other animals and are more likely to run away and end up in animal shelters that have no choice but to euthanize them.

The City finds it needs to oppose the restraint of companion animals by ropes or chains and owners who refuse to provide adequate care or supervision for companion animals in their charge.

Studies have shown that spayed and neutered animals are less likely to run loose, bark excessively, and endanger the public and other animals. Most importantly, altered animals do not add to the animal overpopulation problem and they live healthier lives. Altered animals are less likely to end up at animal shelters that have no other option but to destroy euthanize those animals.

We believe the companion animal over population in the City endangers animals and human beings. Animal overpopulation requires taxpayers to bear the burden of caring for thousands of unwanted or lost animals. In fiscal year 2021-22, the Animal Services Center of the Mesilla Valley was forced to euthanize an 1,612 [REDACTED] unwanted dogs and cats. We must lower the overwhelming supply of animals, bringing it in line with the much lower demand.

We believe Las Cruces should join jurisdictions that have abandoned the common law rule of categorizing animals as chattel property, subject to the complete discretion of the owner.

Studies have shown that animal abuse has a direct and significant correlation with domestic violence, child abuse, and elder abuse. There are several obvious indicators of animal abuse and neglect that should be much more vigorously investigated and prosecuted to help uncover other abuse occurring in the family. In many abuse situations, the victim is not willing to leave behind an animal that will almost certainly become the next victim of abuse. Although domestic violence and emergency shelters provide an invaluable service, they do not accept animals.

The City believes judges have a significant role in the disposition of animal cases. We believe our courts need to strictly fully enforce animal abuse laws possible and to treat animal abuse as a serious offense, because all types of abuse have a direct correlation and must be considered unacceptable behavior.

~~The City believes that dangerous dogs threaten the health and safety of inhabitants of the city, especially young children and others unable to protect themselves from vicious attacks. The City Council finds that owners/guardians who allow their dangerous dogs to run loose in the city or fail to restrain those dogs safely and humanely on their property are criminally and civilly liable for the harm those dogs cause.~~

~~The City believes that dogs that have mortally wounded either a person or a companion animal without provocation or that have attacked again after previously being deemed a dangerous dog, pose an immediate danger to the health and safety of the inhabitants of the city and should be subject to permanent removal and court ordered euthanasia. The City further finds that owners/guardians who allow their dangerous dogs to run loose in the city or fail to restrain those dogs safely and humanely on their property create a nuisance that must be abated pursuant to the city's civil remedial powers under state law. The City finds that it is reasonable to prevent the worst offenders from being able to own dogs in the City of Las Cruces.~~

~~The City believes that animals should be considered sentient beings that feel both physical and emotional distress and pain, and that can form meaningful bonds with humans, and their physical and psychological well being should be the primary concern when establishing and effectuating these ordinances.~~

Article I – GENERAL PROVISIONS

Sec. 7-1 – Short title and legislative intent.

- (a) This chapter shall be known as and may be cited as the “Animal ~~Care and~~ Control Ordinance.”
- (b) It is the intent of the Las Cruces City Council that enactment of this chapter will increase the protection of animals from neglect, abandonment, and abuse; encourage responsible ownership/~~guardianship~~ and caretaking of animals; reduce potential nuisance issues associated with animals; reduce predation by ~~domestic~~ ~~companion~~ animals; and minimize the number of healthy or treatable ~~companion~~ animals euthanized, while protecting the public from illness or injury ~~of~~ by animals.
- (c) It is the further intent of the Las Cruces City Council for this chapter to ensure that animals within the City are:
 - a. Free from hunger and thirst – by ready access to fresh water and diet to maintain health and vigor;
 - b. Free from discomfort – by providing an appropriate environment including shelter and a comfortable resting area;
 - c. Free from pain, injury or disease – by prevention and rapid diagnosis and treatment;
 - d. Free to express normal behavior – by providing sufficient space, and proper facilities; and
 - e. Free from fear and distress – by ensuring conditions and treatment which avoid physical and mental suffering.
- (d) It is the further intent of the Las Cruces City Council for this chapter to encourage responsible ~~companion~~ animal ownership/~~guardianship~~ through:
 - a. Owner/~~guardian~~ identification ~~through~~ ~~and~~ pet microchipping;
 - b. Population management primarily through sterilization;
 - c. Humane care ~~and control~~;
 - d. Vaccination against rabies; and
 - e. Physical control of ~~companion animals~~ ~~pets~~.

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- (e) ~~It is the further intent of the Las Cruces City council that this chapter be consistent to the extent possible with the animal control ordinance adopted by Dona Ana County.~~

Sec 7-2. – Definitions

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandonment (or to abandon). A person commits the crime of animal abandonment if a person intentionally, purposely, knowingly, recklessly, or with criminal negligence, leaves a companion animal at a location permanently or temporarily without providing for the animal's proper feeding and continued care. ~~To leave an animal for more than 24 hours without providing effective provisions for its proper feeding and care.~~ The term "abandonment" (or "to abandon") does not apply to a person or organization operating a permitted community cat colony or returning cats as part of a Trap-Neuter-Return Program.

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

Animal. Any vertebrate member of the animal kingdom excluding humans.

Animal ~~Care and~~ Control Officer. Any person authorized to enforce this Animal control Ordinance and other applicable animal control laws, orders, and regulations.

Animal control supervisor. ~~The supervisor or director of the animal control unit.~~

Animal control unit. ~~The Animal Control Officers and City support staff for the implementation of the control of animals.~~

Animal Services Center of the Mesilla Valley (ASCMV). The governmentally operated animal shelter that serves as the primary impoundment facility for stray, lost, abandoned or surrendered animals in the City of Las Cruces, or its successor.

Animal Shelter. Either a governmental or private organization that provides a temporary home for stray ~~lost, abandoned~~ or surrendered ~~pet~~ animals until the animal is reclaimed by the owner or community cat caregiver, adopted to a new owner, placed with another organization or euthanized.

Animal fighting paraphernalia. Equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to: (1) instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp instrument, ~~and~~ (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, ~~and (3) the presence of any animal that appears to be a fighting animal alone or together with animals suspected of being used as bait animals including but not limited to rabbits, cats, and other dogs.~~

Bait animal. An animal used to train and/or condition other animals to fight and includes, but is not limited, to dogs, cats, and rabbits exposed to attack by other animals used or trained to be used in fighting or to make the attacking animal more confident and aggressive.

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Bite. An [injury inflicted upon another, whether to a person or another animal, by the teeth of an animal actual puncture or tear of the skin that draws blood inflicted by the teeth of an animal. It is not necessary that the bite draw blood.](#)

Breeder. A person who keeps, maintains or harbors any intact companion animal for the purposes of breeding, whether intentional and unintentional.

Breeding. Allowing, either intentionally or unintentionally, a ~~companion domestic~~ animal to produce offspring.

Canine hybrid. Any offspring resulting from the breeding of a domestic species of ~~breed of~~ canine with ~~that of a~~ wild species ~~or breed of~~ canine, such as a wolf or coyote. Any animal which at any time has been or is advertised, or otherwise described, or represented as a canine hybrid, ~~such as a~~ wolf-dog, or wolf hybrid by its owner to an Animal Care and Control Officer, veterinarian, police officer, ~~ASCMV~~, or official of the department of health shall be considered a canine hybrid for purposes of this chapter. An animal shall not be judged to be a canine hybrid based ~~strictly solely~~ on appearance.

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Circus. ~~A commercial variety show featuring animal acts for public entertainment.~~

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

Community cat. An unowned, free-roaming cat or a cat ~~cared for as part of a~~ kept in an enclosed cat colony, that is ~~may be~~ ear tipped and may be cared for by one or more ~~persons residents of the immediate area and that is/are known and attributed to the resident(s);~~ a community cat may or may not be feral. Community cats ~~that have been trapped-neutered-returned~~ must have their microchip registered with ~~the~~ ASCMV, with or without a known community cat caregiver. ~~See LMC Section 7-31(m)(1)-7.~~

Community cat caregiver. A non-profit organization, person(s) or the ASCMV, ~~that may be registered with the Animal Control Unit,~~ who, in accordance with a good faith effort to conduct Trap-Neuter-Return, provides care to a community cat. This care includes providing food, shelter, and medical care to a community cat. However, community cat caregivers are not the owner, harbinger, or keeper of a community cat and do not have custody of a community cat. ~~See LMC Section 7-31(m)(1)-(7).~~

COMPANION ANIMAL. A dog or cat whose physical, emotional, behavioral and social needs can be met as companions in the home or in close daily relationship with humans.

Confinement. Restriction of an animal at all times by an owner/~~guardian or keeper~~ to an escape proof building ~~or other~~ enclosure away from the public.

[Cruelty. Intentionally or maliciously mistreating, injuring, killing without justification, tormenting an animal, abandoning, or failing to provide the necessary sustenance to an animal under that person's custody and/or control.](#)

Dangerous dog. ~~A dog as defined under the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2 et seq. Any dog that has caused, without provocation a serious bite injury to a person, companion animal, or~~

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~~livestock and has not been declared a vicious dog. A dog that has caused a serious injury or death to a person or domestic animal.~~

Declawing. The surgical amputation of an animal's claws or part of an animal's phalanges, by means of an onychectomy, partial or complete phlangectomy, or partial or complete tendonectomy.

Devocalization (also termed debarking, devoicing, or bark softening). A surgical procedure performed under general anesthesia to respect varying amounts of an animal's vocal cords.

Domesticated animal. ~~A species of animal that has been domesticated to serve as a companion animal to humans, including dogs cats, and ferrets or a work animal for humans, or for human consumption.~~ Animals that have been selectively bred and genetically adapted over generations to live alongside humans. They are genetically distinct from their wild ancestors or cousins. Animal domestication falls into three main groupings: domestication for companionship (i.e. dogs and cats), animals farmed for food (i.e. sheep, cows, pigs, turkeys, etc.), and working or draft animals (i.e. horses, donkeys, camels).

Ear Cropping. Removal of part or all of the external flaps of an animal's ear. The procedure sometimes involves bracing and taping the remainder of the ears to train them to point upright.

Ear tipping. The removal of the distal one-quarter of a community cat's left ear, which is approximately ~~3/8 inch, or 1 cm,~~ in an adult and proportionately smaller in a kitten. ~~This procedure is performed while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian. Eartips are designed to identify a community cat as being sterilized, microchipped, and lawfully vaccinated for rabies at the time of eartipping.~~

Emergency measures. Any action taken by an Animal Care and Control Officer in order to preserve the health and/or life of an animal or human being, including but not limited to entering vehicles or premises, given probable cause, and detaining the animal to prevent ~~present~~ of imminent suffering to the animal, a human, or another animal.

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

Estrus. The period of fertility (a female in heat) ~~as it relates to a female animal.~~

Fancy pigeon. A pigeon which through past breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club, or the Rare Breeds Pigeon Club. Examples include fantails, pouters, and trumpeters.

Feline Hybrid. ~~Any offspring resulting from the breeding of a domestic species or breed of feline with that of a wild species or breed of feline, such as an African Seval cat. Any animal which, at any time, has been or is advertised, or otherwise described, or represented as a feline hybrid by its owner, community cat caregiver, or the ASCMV to an Animal Control Officer, veterinarian, police officer, or official of the Department of health shall be considered a feline hybrid for the purposes of this article. An animal shall not be judged to be a feline hybrid based strictly on its appearance.~~

Feline hybrid. Any offspring resulting from the breeding of a domestic species of ~~breed~~ of feline with ~~that of a wild species or breed~~ of feline, such as an African Serval. Any animal which at any time has

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been or is advertised, or otherwise described, or represented as a feline hybrid, by its owner/guardian to an Animal Care and Control Officer, veterinarian, police officer, ASCMV, or official of the department of health shall be considered a feline hybrid for purposes of this chapter. An animal shall not be judged to be a feline hybrid based ~~strictly~~ solely on appearance.

Feral. 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. ~~Feral cats include all cats that by physical aspect and behavior are deemed to be un-owned and may have been trapped for purposes of improving public health and limiting reproduction.~~

Field health office. The Public Health Office(s) located in each county and administered by the Public Health Division of the New Mexico Department of Health.

Foster care site, residential. ~~Any premises on which more than three dogs, three cats, or any combination thereof up to seven are temporarily cared for. These animals have been rescued and are in need of permanent homes.~~ Any residence utilized as a temporary living situation for shelter/rescue animals while they await placement in a permanent home or transfer to a rescue. These sites have been approved for foster care by the Animal Control Unit, ASCMV, or by non-profit animal adoption agencies in the community.

Found Animal Report. A notice ~~Notification~~ submitted to the ASCMV by the finder of an ~~unclaimed or stray~~ animal, excluding community cats, Animal Care and Control Unit accurately describing the animal and the conditions under which the animal was found, including location, date, and time. Such a report, which may be made in writing or by telephone to the ASCMV, shall also include the name and Animal Care and Control Unit accurate contact information ~~for~~ of the person responsible for submitting said report.

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Guard dog. A dog that is used to protect a commercial property, but excludes a dog used exclusively to guard livestock.

Guardian. A person(s) having the same rights and responsibilities of an owner, and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal's safety and well-being.

Harbor. To intentionally allow, ~~either intentionally or unintentionally~~, any stray animal to linger on one's premises by feeding, ~~such animal~~ without making all effective provisions for such animal as required by this chapter. Persons harboring an animal shall be subject to the provisions of this chapter applicable to a person owning or having custody, care, or control of an animal. The term "harbor" does not apply to a person or organization ~~operating a~~ implementing Trap-Neuter-Return program.

Humane. To have compassion, ~~benevolence~~, kindness, and sympathy and consideration for an animal's welfare, ~~for people and animals~~, especially those suffering or in distress.

Identification microchip. A small integrated circuit made of inert, biocompatible material that will not disintegrate or rust, implanted via injection beneath the skin of an animal typically in the area between the animal's shoulder blades, ~~and~~ which stores a unique, unalterable, alphanumeric code which can be

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registered to correspond with contact information for the owner/~~guardian or community cat caregiver.~~
~~of the animal or community cat caregiver.~~

Immediate control. Direct physical control over an animal by a capable and competent person by use of:

- (1) A ~~humane~~ secure collar or harness and leash of no more than ~~1246~~ feet in length for a dog;
or
- (2) A ~~humane~~ secure leash in conjunction with a properly fitting harness for a cat or ferret; or
- (3) A ~~humane~~ secure and appropriate portable animal crate or cage for any animal.

Impound. To place an ~~domesticated~~, animal, through humane capture, through the animal control unit, ~~of the City of Las Cruces, or by the public, to be delivered and secured~~ at the ASCMV for reclaim, adoption, rescue or other practices established by the ASCMV and in keeping with this Chapter. For community cats this can include documented capture and reporting by the animal control unit to the ASCMV, without formal apprehension and securing at the ASCMV, but reporting the capture to the ~~ASCMV~~ in accordance with their adopted practices and as required by this Chapter.

Impoundment facility. Any animal facility, kennel, shelter, veterinary hospital, ~~lot,~~ premises, or building maintained, contracted, or utilized by the City for the care and custody of animals.

Inspection. A visual check by the Animal Control Unit of any premises ~~to ensure that no violations of this Chapter are present.~~

Isolation. The confinement of an animal in an escape proof ~~enclosure or area run or cage~~ so that there is no possibility of direct contact with other animals or humans, except for the minimum contact ~~by~~ with humans that may be required to maintain the wellbeing of the animal.

~~Laboratory. The Scientific Laboratory Division (SLD) of the New Mexico Department of Health.~~

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Livestock. All animals ~~used~~ that have been domesticated for ~~land~~ cultivation and/or domesticated animals that are used for human consumption and includes horses, asses, mules, cattle, bison, buffalo, beefalo, camelids, ostriches, emus, rheas, sheep, goats, swine, peafowl, poultry, and farmed Cervidae, but excludes ~~canine or feline~~ companion animals.

~~Litter. A group of one or more young animals born at the same time from the same mother.~~

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Loft. The structure for keeping or housing pigeons permitted by this ordinance.

~~Microchip. Refer to identification microchip.~~

~~Microchipped. To have had a working registered identification microchip implanted.~~

Missing animal report. A ~~written notice~~ Notification submitted to the ASCMV by the owner/~~guardian~~ of a missing animal, Animal Care and Control Unit accurately describing the animal and the conditions under which the animal was last seen, including location, date, and time. Such a report shall also include then name and Animal Care and Control Unit accurate contact information for the person responsible for submitting said report.

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Multi-animal site, commercial ~~non-residential~~. Any premises on which buying, selling, breeding, training, or boarding of ~~a combination of eight or more~~ **more than one companion animal** ~~dogs or cats~~ four months of age or older, are kept; or where the business of buying, selling, breeding, training, or boarding of such animals is conducted, but does not include veterinary hospitals or the ASCMV. ~~Such premises were formerly defined as a commercial kennel.~~

Multi-animal site, residential. Any ~~premises~~ **residence** in which more than three **companion animals** ~~dogs, three cats, or any combination thereof in excess of three~~, but not more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding training or boarding for compensation is not ~~carried~~ **conducted**. ~~with the exception that the sale of not more than two litters per year for each site shall be permitted.~~ Buying, selling, breeding, training, or boarding of such companion animals for compensation shall be deemed to be a commercial activity not allowed in a residential area unless otherwise permitted by applicable zoning regulation. Such premises were formerly defined as a private residential kennel. **Requirements for a multi-animal site, residential, shall not apply a foster care site or community cat colony.**

~~Neutered. Refer to Sterilized.~~

NEGLECT. The failure of an owner/guardian to provide care for an Animal in the Owner's Custody which failure causes an Animal to suffer physical ~~or emotional~~ harm.

Negligent/irresponsible owner. A person who has violated any provision of the Animal Control Ordinance and has been charged in the Las Cruces Municipal Court with such offenses more than two (2) times within a three hundred sixty-four (364) day period or has surrendered an animal to the ASCMV two (2) times or more within a three hundred sixty-four (364) day period.

Nuisance. A disturbance caused by an animal, **excluding community cats**, to the comfort and repose of any person of ordinary sensibilities in the vicinity. **See also Chapter 18 – Nuisances of this Code.**

Owner. A person eighteen (18) years of age or older ~~or the parent or guardian of a person under eighteen (18) years of age~~ who owns, harbors, is the guardian of, or keeps an animal or permits an animal to remain on or about their **ir property** ~~premises owned or controlled by him/her~~. The term "owner" does not apply to a community cat caregiver.

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

Permit. An official document or certificate issued by the **Animal Care and Control Unit** authorizing the keeping **or harboring** of specific animals on specific premises.

~~Pet. Any domestic 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.~~ **Need to review in light of definition of Livestock.**

Pet identification. A rabies tag, ~~pet license tag, microchip tag, pet identification tag, identification microchip, or any other potential source of owner or community cat caregiver contact information associated with an impounded animal.~~ **that may be obtained by the ASCMV staff.** For purposes of reclamation under section 7-44 of this Chapter, an animal shall not be considered to be in the possession of pet identification if such tags or **the** owner or community cat caregiver contact information proves to be invalid.

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Pet mill. A ~~commercial pet~~ **companion animal** breeding facility operated with an emphasis upon profits above animal welfare and **which** is often in substandard conditions regarding the well-being of the animal at the facility, ~~which~~ **Substandard** conditions include but are not necessarily limited to overbreeding, inbreeding, minimal veterinary care, poor quality of food and shelter, lack of human socialization, overcrowded cages, and the killing of unwanted animals.

Pigeon. A member of the family of Columbidae and permitted species shall be restricted to racing pigeons and sporting pigeons, as defined in this subsection. The maintaining of undomesticated common variety pigeons is prohibited within the ~~County~~ **City** limits.

Poisonous **and/or toxic** substance. Any sub~~stance~~ **ortance**, when introduced into the body of a person or animal, causes injury, illness or death.

~~Police officer. Any commissioned or certified law enforcement officer of a police, sheriff's, or public safety department.~~

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Potentially dangerous dog. ~~A dog as defined under the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2, et seq., as amended.~~ **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, ~~that is less severe than a serious injury other than a bite injury~~, to a person, domestic animal, or livestock; or
- (2) Chasing or menacing a person or domestic animal or livestock in an aggressive manner and without provocation; or
- (3) Acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to ~~jump~~ **escape** out of the yard or enclosure.

Potential rabies suspect animal. Any animal that has bitten a person ~~causing a puncture or tear of the skin~~, potentially exposing the person to rabies.

Premises. ~~Any parcel of land and the structures thereon.~~ **A parcel of land owned, leased, rented, or controlled by any person. Such parcel of land may include one or more structures.**

Protective Custody. The temporary control over and care of an animal housed at the ASCMV ~~or at a veterinarian's facility.~~

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~~Public nuisance. As defined in Chapter 18 of this Code, excluding community cats.~~ **NOTE: Chapter 18 is Nuisance, not public nuisance.**

Qualified service animal

- (1) 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.
- (2) As defined in NMSA 1978, Section 28-11-2(b) (2013), a qualified service animal does not include a pet, an emotional support animal, a comfort animal, or a therapy animal.

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Quarantine. The strict isolation of a ~~potential~~ rabies suspect animal for a ten-day observation period at a place and in a manner designated by the Animal Care and Control Officer and approved by a field health office.

Rabies vaccination. The injection of an approved rabies vaccine by or under the supervision of a licensed veterinarian.

Racing pigeon. A pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after being released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Examples include the racing homer, homing pigeon, or carrier pigeon.

Reclamation period. The length of time made available to an animal's owner/~~guardian~~ or community cat caregiver, during which he or she may reclaim such animal from the ASCMV ~~as his or her personal property~~. The reclamation period shall be measured in working days, which shall include any day in which the ASCMV's ~~reclamation department/office~~ is open to the public for a minimum of three continuous hours. ~~The three-day reclamation period shall not apply to a community cat without identification and/or determined to be feral to the best ability of ASCMV staff.~~

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Release of ownership (or owner relinquish/~~surrender~~). A document to be signed by the owner/~~guardian~~ of an animal in which he or she relinquishes/~~surrenders~~ all right and title of the animal to the ~~Animal Care and Control Unit~~ or ASCMV.

Residence. ~~A person's home; the place where someone lives. A building used by a person as a place of general abode, or as a principal or actual dwelling place in fact, without regard to intent.~~

Restraint. Any of the following:

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

Running at large (or to run at large). To be free of physical restraint beyond the premises of the owner or keeper, ~~excluding community cats, and dogs using a dog park in compliance with park rules.~~

Serious Injury. A physical injury that results in broken bone(s), multiple bites, or disfiguring lacerations that necessitate sutures, stitches, or reconstructive surgery. It is not required that such disfigurement be permanent in nature.

Sexual abuse of animals. ~~Any sexual act, including but not limited to, intentionally engaging in sexual intercourse, cunnilingus, fellatio, or anal intercourse with an animal or the causing of penetration for the purpose of sexual gratification and/or inflicting physical abuse, to any extent and with any object, of the genital, or anal, or oral openings of an animal by a person, whether or not there is any emission.~~

Spayed. Refer to sterilized.

Sporting pigeon. A pigeon which, through selective past breeding, has developed the ability to fly in a distance manner, such as aerial acrobatics or endurance flying. Examples include roller and tiplers.

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Sterilized. To be rendered permanently incapable of ~~reproducing offspring by a licensed veterinarian.~~

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Stray. ~~Refer above to an animal running at large.~~ Any animal that is lost, abandoned, unclaimed by any person, or running at large.

Tail Docking. Removal of ~~any portions of an animal's tail.~~

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Tether. To restrain an animal by means of a chain, lead, runner, cable, rope, or similar device attached to either a stationary object or to a running line, pulley, or trolley system.

Therapy animal. As defined in NMSA 1978, Section 28-11-2(1) (2013), as amended, a therapy animal also known as an emotional support animal or comfort animal is an animal selected to accompany an individual with a disability that does not work or perform tasks for the benefit of an individual with a disability and does not accompany at all times an individual with a disability. Also, an animal used as a therapeutic tool to improve social, emotional, or cognitive function, improve communication, reduce stress and violence and to provide health-promoting, preventive and rehabilitative measures.

Therapeutic purpose. A procedure necessary to address an animal's physical medical condition. Therapeutic purpose includes procedures that address an existing or recurring illness, infection, disease, injury, or abnormal condition that compromises the animal's health. "Therapeutic purpose" does not include cosmetic or aesthetic reasons or reasons of convenience.

Trap. A humane device for catching and holding animals.

Unrestrained. To be free of physical restraint.

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

Veterinarian. A person with a doctor of veterinary medicine degree licensed to practice veterinary medicine in the state of New Mexico and in good standing with the State Veterinary ~~ian~~ Board.

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

Vicious animal/dog. An animal which kills or severely injures (so as to result in muscle tears or disfiguring lacerations, requires multiple sutures, or extensive corrective or cosmetic surgery) a person or companion animal without provocation. Vicious animal does not include an animal which bites, attacks or injures a person or animal that is unlawfully upon its owner's/guardian's premises. The provocation of an animal by a person is an affirmative defense to a charge of keeping or harboring a vicious animal.

Working dog. Any police, search and rescue, tracking, hunting, or livestock dog.

Weaned. Gradually introducing an infant animal to what will be its adult diet while withdrawing the supply of its mother's milk ~~or its alternative, as in bottle feeding.~~

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Wild animal. Any vertebrate animal(s) under the jurisdiction of the New Mexico Department of Game and Fish.

~~Wildlife. Any wild, exotic, or nondomestic mammal, bird, reptile, amphibian, fish, mollusk, or crustacean.~~

ARTICLE II. – ANIMAL CARE AND OWNERSHIP RESPONSIBILITIES

Sec. 7-10. – General care and maintenance requirements.

- (a) ~~Animal well-being.~~ A person owning or having the guardianship, care, custody, or control over an animal shall provide such care ~~and husbandry~~ as to maintain the good health and well-being of the animal and shall:
- (1) Provide an animal with adequate amounts, ~~and with adequate frequency,~~ of fresh potable water and wholesome food ~~sufficient~~ with adequate frequency and appropriate ~~and sufficient~~ for the species, life stage, and medical condition ~~of the animal.~~
 - (2) ~~Shelter. Any person who owns, has guardianship of, or has care, custody or control of an animal without ready access to, or the ability to enter a house, apartment, office building, or other permanent structure, that is left outdoors, shall provide it each animal with shelter appropriate to its breed, physical condition and the climate.~~
 - a. ~~Minimum standards for determining whether shelter is appropriate to the animal's breed, physical condition and the climate shall include:~~
 - i. ~~A shelter with a waterproof roof;~~
 - ii. ~~Elevated flooring sufficient to prevent water from entering and proper ventilation;~~
 - iii. ~~Clean, species appropriate bedding on the floor in colder months;~~
 - iv. ~~Structurally sound with insulation appropriate to climate conditions and sufficient to protect the animal from inclement weather;~~
 - v. ~~Constructed to allow each animal adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched;~~
 - vi. ~~Allow for effective removal of excretions, other waste material, dirt, and trash; and~~
 - vii. ~~Sufficient room for food and water that doesn't interfere with the animal's ability to comfortably move around and lie fully extended.~~
 - b. ~~Inadequate shelter may be indicated by the appearance of the shelter itself, including but not limited to size, structural soundness, evidence of crowding within the shelter, unhealthful environment in the area immediately surrounding such facility, or by the appearance of physical condition of the dog.~~
 - c. ~~Upon a finding of any violation of this section, any dog(s) seized pursuant to these sheltering provisions that has not been surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.~~
 - (3) ~~Provide the animal with adequate shelter consisting of a structurally sound, species appropriate weatherproof housing or enclosure with elevated flooring and proper ventilation, large enough to accommodate the animal comfortably. In winter months, clean~~

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~~species appropriate bedding shall be provided on the floor of the housing or enclosure for warmth.~~

- (4) Provide the animal with ~~access to continual~~ adequate shade from direct sunlight in addition to the shelter referenced above.
 - (5) ~~Keep enclosures where the animal is maintained free of garbage, feces, and other debris that might endanger the animal's health or safety. The owner shall protect the animal from water and cleaning agents during the cleaning of the animal's living area.~~
 - (5) Cleanliness. Excrement and soiled bedding must be removed promptly ~~at least weekly~~ 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.
 - (6) Hazards. All areas where animals are kept shall be maintained in a manner that no animal can accidentally or intentionally come into contact with chemicals or other dangerous substances that could potentially harm the animal. Premises shall be kept in such a way that no animal has an opportunity to become entangled with loose wire, get splinters from wooden boards, or come into contact with other yard trash and materials that could harm an animal.
 - (7) ~~Exposure to insects and parasites.~~ Keep enclosures where the animal is maintained free of insect infestation, including but not limited to ant-hills, wasp nests, flies, and fleas, tick, and maggot infestations.
 - (8) ~~Enclosure space.~~ Keep enclosures where the animal(s) is maintained for periods exceeding ~~24-1~~ hours with adequate space to prevent overcrowding and to allow the animal(s) to maintain normal exercise according to species, including ~~the ability to stand up, turn around and lie down with its limbs outstretched.~~ Such enclosures used to house or confine cats shall also contain a regularly cleaned and maintained litter box.
 - (6) Provide the animal with professional veterinary care and necessary grooming ~~so as to maintain the animal's good health and protection from extreme weather elements and parasites.~~
 - (9) Keep an animal dwelling unit no closer than 100 feet ~~to~~ any private water well or no closer than 200 feet to any public water well.
- (b) *Livestock well-being.* In addition to the requirements stated above under section 7-10, a person owning or having care, custody, or control over a livestock animal shall also provide the following:
- (1) Running water facilities shall be provided within 50 feet of each box stall and corral, and each animal shall have access to fresh water in a clean container ~~at all times.~~
 - (2) Clean feeding facilities or boxes shall be provided in each corral or box stall, and such facilities shall be maintained accessible thereto by animals to be served hereby.
 - (3) All areas adjacent to any pen, coop, stable, stall, barn, corral, grazing, workout, or training areas; or other building structures and areas where animal are kept and maintained, shall be graded to drain water away from such facilities so as to prevent ponding and reduce insect harborage.
 - (4) Such care and husbandry shall also include, but ~~is~~ not limited to, necessary hoof and teeth care.

Sec. 7-11. – Microchip requirements.

- (a) ~~Microchip requirement.~~ A person owning or having care, custody, or control over a ~~domesticated~~ ~~companion~~ animal judged to be three (3) months of age or older shall:

- (1) Have the animal implanted with an identification microchip, with current, up-to-date pet owner information, including the owner's/~~guardian's or community cat caregiver's~~ name, address, and phone number. The current, up-to-date pet owner information associated with the microchip shall constitute proof of ownership for this Chapter ~~and shall represent the pet licensure requirements for the City.~~
- (2) Maintain current registration with a ~~the~~ microchip registration company.
- (3) If there is change in contact information of an owner/~~guardian or community cat caregiver~~ of a registered microchipped ~~domesticated~~ companion animal, ~~the owner/guardian or community cat caregiver~~ shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.
- (4) If there is a change in ownership of a registered ~~microchipped companion domesticated~~ animal, the previous owner/~~guardian or community cat caregiver~~ shall be responsible for ensuring that the microchip is no longer registered in ~~the name of the previous owner/guardian or community cat caregiver~~ and shall be responsible for reregistering the microchip to ~~include~~ reflect any new address and telephone number and have the registration information transferred to the new owner ~~or community cat caregiver's name~~ within thirty (30) days after the change in ownership/~~guardianship~~.
- (5) ~~Reporting requirement. Any veterinarian or other person who implants an identification microchip in a dog or cat within the City limits shall provide proof of the microchip implant to the ASCMV on forms to be developed and provided by the ASCMV.~~
- (6) ~~Intact Animal Microchip Registration fee. The City may, by resolution, charge an annual microchip registration fee for any unaltered domesticated animal within the City limits and said fee shall be paid to the ASCMV.~~

Sec 7-11A-1 - Mandatory spay/neuter requirements

- a) *Purpose:* It is the purpose of this section to promote the health, safety, and general welfare of the residents of the City by reducing the number of stray dogs and cats, stop the needless killing of these animals by restricting the breeding practices of companion animal owners/guardians and breeders, decrease certain unwanted behavior, and protect them against certain illnesses and live a longer, healthier life.
- b) Effective _____, it shall be unlawful to own or keep within the City of Las Cruces:
 - (1) An unaltered cat over the age of five (5) months;
 - (2) An unaltered dog over the age of 4 months, defined as having a projected adult weight based on breed of less than 45 pounds, or
 - (3) An unaltered dog over the age of 9 months, defined as having a projected adult weight based on breed of more than 45 pounds.
- c) Owners/guardians may seek an exemption from this regulation if alteration would be dangerous for the companion animal due to health issues. The Animal Care and Control Unit may grant this exemption if the owner/guardian of the companion animal can provide a letter from a licensed veterinarian stating such reasons. If granted, the owner/guardian is required to obtain an Intact Animal Permit as ~~defined here~~defined herein.
- d) This requirement for spaying and neutering shall not apply to:

- (1) A companion animal that is incapable of breeding or medically unsuited to undergo a spay or neuter procedure, if a licensed veterinarian has so certified in writing that the animal is incapable of breeding or that a spay or neuter procedure would likely cause the animal's death or substantially aggravate a medical condition of the animal. The certification shall indicate the medical basis for the exemption and whether the unsuitability is temporary or permanent. If temporary, the certification shall indicate the period of time the unsuitability is anticipated to last. For an exemption to apply beyond that period, a new certification must be obtained.
- (2) A dog used by law enforcement agency for law enforcement activities;
- (3) A dog that is a breed approved by and registered with a national or international breed registry or an association which, at a minimum, requires identification of the breed, date of birth, names of registered sire and dam, health certificate, the name of the breeder and recordkeeping relating to breeding, and transfer of ownership. The owner shall provide verified proof to the satisfaction of the Animal ~~Care and~~ Control Unit;
- (4) A dog which is undergoing training to, or currently is being trained to compete, or as a livestock guardian dog, or a dog designated as breeding stock for these purposes by a recognized agency or organization approved by the Animal ~~Care and~~ Control Unit;
- (5) If an animal is temporarily in the city to participate in a show or event sponsored by a sanctioned animal organization;
- (6) If an animal is owned or kept in the city for fewer than thirty (30) days in a one-year period.
- (7) For each of the above, the owner/guardian shall provide proof to the satisfaction of the Animal ~~Care and~~ Control Unit with each application for an exemption.

~~(7)~~(8)

- e) The requirement for spaying and neutering shall not apply to a companion animal harbored by a public shelter, humane society, or similar organization, whether public or private, with the principal purpose of securing the adoption of dogs or cats, provided that such organization requires the spaying or neutering of all dogs and cats prior to adoption from such organization.
- f) Funding
 - (1) The City will strive to provide funding annually, as part of its budget, for affordable free and low-cost spay/neuter to qualifying low-income residents as defined by the City, to assist with general spay/neuter needs in the community to address the potential pet overpopulation issue from a public health and animal welfare perspective.

Sec. 7-12. – Rabies vaccination and exposure requirements.

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- (a) *Vaccination.* A person owning or having guardianship, care, custody or control over a ~~domesticated~~ companion animal judged to be three (3) months of age or older shall have the animal vaccinated against rabies.
- (1) The vaccine shall be administered by or under the direct supervision of a licensed veterinarian on-site.
 - (2) The veterinarian shall issue for each administration a serially numbered certificate and metal tag bearing the certificate number.
 - (3) The certificate shall contain the name and address of the owner/guardian or the community cat caregiver of the animal, a description of the vaccinated animal, the date of vaccination, and the expiration date of the vaccination.
- (b) *Rabies tag.* A person owning or having guardianship, care, custody, or control over a ~~domesticated~~ companion animal judged to be three (3) months of age or older shall maintain a current rabies vaccination tag affixed to a collar or harness worn by the animal whenever the animal is away from the owner's/guardian's property, ~~excluding community cats. Community cats are not required to wear a rabies vaccination tag.~~
- (1) The tag may be removed while the animal is undergoing treatment by a veterinarian or being groomed.
 - (2) A person shall not remove or transfer any legitimate rabies tag from one animal to another.
- (c) *Rabies certificate.* A person owning or having guardianship, care, custody, or control over a ~~domesticated~~ companion animal judged to be three (3) months of age or older shall exhibit the vaccination certificate upon request by an Animal Care and Control Officer.
- (d) *Exposure: owner/community cat caregiver/patient responsibility.* When any person is bitten by an animal, it is the duty of such person or ~~his~~ their parent or guardian, or any person witnessing the incident ~~having knowledge of the whereabouts of the animal,~~ to immediately notify the Animal Care and Control Unit of ~~the~~ field health office.
- (e) *Exposure: physician responsibility.* A ~~physician~~ medical provider who renders professional treatment to a person bitten by any animal shall report to the Animal Care and Control Unit such treatment within 24 hours ~~immediately after the initial treatment.~~
- (1) The physician shall report the name, address, and phone number (if known) of the person bitten as well as the type and location of the bite.
 - (2) The physician shall report the name and address of the owner/guardian or community cat caregiver of the animal that inflicted the bite (if known), and any other facts or details that may assist the Animal Care and Control Unit in ascertaining the immunization status of the animal.
- (f) *Exposure: ~~domesticated~~ companion animal.* Any ~~domesticated~~ companion animal, or community cat, that bites or ~~potentially~~ and exposes a person to rabies shall be either destroyed and the head sent to the laboratory for rabies testing, or immediately placed in isolation ~~immediately~~ at the owner's/guardian's or community caregiver's expense for a ten-day observation period at a place and in a manner designated by the Animal Care and Control Officer and approved by the Field Health Office.
- (1) The isolation and observation period shall end ten days following the date and time of the potential rabies exposure provided no symptoms have manifested.

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(2) If the ~~domesticated~~ companion animal, or community cat, shows signs or symptoms of rabies during the ten-day isolation and observation period, it shall be destroyed and the head sent to the laboratory for rabies testing.

(g) *Exposure: wild animal.* Any skunk, bat, raccoon, coyote, bobcat, or other wild animal not born or ~~reared~~ raised in captivity (with the exception of community cats, rodents or rabbits) that bites or otherwise exposes a person to rabies, shall be destroyed immediately and the head sent to the laboratory for rabies testing.

~~Rabbits and rodents do not normally transmit rabies, but may be submitted for testing with the consent of the Infectious Disease Epidemiology Bureau (IDEB), part of the Epidemiology and Response Division of the New Mexico Department of Health.~~

(h) *Home quarantine.* The Animal and Control Officer may consent to confinement and isolation on the owner's/guardian's or community cat caregiver's premises of a domesticated companion animal, or community cat, that bites a person on the owner's or community cat caregiver's premises.

- (1) The premises where the home isolation is to occur shall be inspected and approved for such purpose by the Animal Care and Control Officer.
- (2) The owner/guardian or cat community caregiver of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the Animal Care and Control Supervisor for such home confinement.
- (3) The owner/guardian or cat community caregiver shall immediately notify the Animal Care and Control unit if the animal shows signs of sickness or abnormal behavior, if the animal escapes confinement or if the animal dies within the quarantine period.
- (4) If any of the provisions of this section are in conflict with, or materially inconsistent with, regulations for the reporting of animal bites, confinement and disposition of rabies-suspect animals, rabies quarantine, and disposition of dogs and cats companion animals exposed to rabies, in the interest of public health and safety as prescribed determined by the New Mexico Department of Health pursuant to NMSA Sec. 77-1-6, and as amended, the state regulations shall control.

Sec. 7-13. – Restraint requirements.

- A. *Physical restraint.* A person owning or having the guardianship, care, custody, or care over an animal shall keep the animal under humane physical restraint at all times excluding community cats and dogs using the off-leash areas of City dog parks.
- 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 a secure tether, when a tether is allowed, or enclosure, shall be considered by the Animal Care and 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 guardianship, care custody, or control over an animal on his or her premises shall restrain the animal either by a secure enclosure or by immediate physical control.
 - (1) All pens, kennels, stall, 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

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be installed and utilized on all gates and doors to animal enclosures in such a manner as to prevent animals and small children from entering and be inaccessible to animals and small children in order to prevent animal escape and unauthorized entry.

Sec 7-13A-1— Tether/Trolley Restraint of Companion Animals.

- A. A person owning or having guardianship, care, custody or control over a companion animal(s) may not tether the animal(s) to a stationary object as a form of restraint unless otherwise specified in this section.
- B. A person owning or having guardianship, care, custody, or control over a companion animal, including livestock, shall keep the animal upon his or her own premises within a secure enclosed pen, or in an area containing a fence or wall of sufficient height surrounding the perimeter of the property. It shall be unlawful to tether /trolley a companion animal as a form of confinement.
- C. Fixed point tethering of any companion animal to stationary objects is permitted in limited circumstances such as picnics or gatherings in a park or open space; for emergency purposes to permit an individual to render aid to a human or another animal, and only when the owner or person having care, custody or control is immediately present.
- D. Tethering/trolleying, when permitted must meet the following requirements:

(2) A person owning or having care, custody, or control over a dog on his or her premises may use a tether as a temporary means of restraint only.

- a- 1. A person shall not tether a companion animal dog to a stationary object for more than two-one hours in any 2412-hour period.
- b- A person shall not tether a dog to a running line, pulley, or trolley system for more than four hours in any 12-hour period.
- c- 2. A person shall not tether a companion animal dog in an unenclosed area where people or other animals are able to wander into the proximity of the tethered dog.
- d- 3. A tether/trolley used to restrain a companion animal dog shall be at least 12 feet in length. Such tether shall not enable the animal to reach beyond the owners property.
- e- 4. A tether/trolley used to restrain a companion animal dog shall be affixed to a properly fitting, humane collar or harness worn by the companion animal dog. A person shall not wrap a chain or tether directly around the neck or other body part of the dog.
- f- 5. A tether/trolley used to restrain a companion animal dog shall not weigh more than one-eighth of the animal's body weight. The tether weight shall include any additional objects attached to the companion animal dog or tether such as locks or fasteners.
- g- 6. A tether/trolley used to restrain a companion animal dog shall have working swivels on both ends and 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 or strangled.
- h- 7. In all cases, a tethered/trolleyed companion animal dog must be able to easily reach shade and a container with clean water in it at all times.
- i- 8. No companion animal who is sick, injured, in distress, heavily pregnant, or younger than 6 months old may be tethered.

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j. 9. When determining if any animals has been tethered for a minimum of 1 hour (60 minutes), it acceptable for an ACO to drive by the location at four 20 min intervals to observe whether or not the animal is still tethered. If the animal is tethered at each of those observations points, it shall be prima facie evidence ~~deemed~~ that the animal has been tethered for 60 consecutive minutes or more, and a citation may be issued for violation of this Ordinance.

E. Tether/Trolley Permit.

- a. ~~A person owning or having guardianship, care, custody or control over a companion animal who has exhausted all options for restricting its companion to its premises may apply for a one year Trolley Permit.~~
- b. ~~Animal Care and Control may issue a Trolley Permit upon an applicant's proving the following:~~
 - i. ~~All other methods of restricting the companion animal(s) to the property have been exhausted.~~
 - ii. ~~A trolley is deemed the only acceptable temporary method to keep the companion animal on the premises.~~
 - iii. ~~The companion animal has been spayed or neutered, microchipped and vaccinated.~~
- c. ~~Not more than one (1) companion animal per premises will be allowed to use a trolley.~~
- d. ~~A companion animal attached to a trolley shall be surrounded by a barrier sufficient to protect the companion animal from at large animals and the barrier shall be sufficient to prevent children from accidentally coming into contact with the dog on the trolley.~~
- e. ~~No companion animal shall be left on a trolley for longer than 1 hour in a 24-hour period and must be easily able to reach shade and a container of clean water at all times.~~
- f. ~~No companion animal shall be put and/or left on a trolley when the ambient temperature is over 80° or under 0°~~
- g. ~~Trolley permits are good for one year only, in which time the person owning or having care, custody or control over the companion animal, must determine and implement an acceptable method of restricting the companion animal to the premises. Trolley permits will not be renewed.~~
- h. ~~The Animal Care and Control Unit will work with various volunteer organization to help owners locate resources to address restraint issues.~~
- i. ~~Trolley permits shall not be issued for any potentially, dangerous or vicious dog.~~

D. **Livestock** - Fences to be provided for a livestock enclosure shall be species appropriate. For use in conjunction with stud stalls, such fences shall be maintained not less than six feet in height.

E. A person owning or having guardianship, care custody, or control over a venomous reptile shall restrain the animal to the owner's premises by securing a secure two (2) locked cages or a locked cage inside a locked box to provide two barriers to the venomous reptile. This requirement shall not apply to Animal Control Officers transporting venomous reptiles.

- k. A cage used to restrain a venomous reptile shall feature labeling that clearly defines and identifies the animal with the following information:
 - i. Common Name;
 - ii. Scientific Name; and

- iii. Venomous Nature.
- F. *Public premises.* A person owning or having guardianship, care, custody, or control over an animal off of his or her premises shall be of suitable age and/or strength and ability to keep the animal under immediate **physical** control.
- (1) ~~A leash used to restrain an animal shall be of suitable length so as to enable the handler to maintain control of the animal under the specific circumstances. GER~~
- (2) A leash used to restrain a companion animal shall be any chain, leather strap, or cord sufficient to hold under control the animal attached thereto and shall be no longer than ~~either (8) (6) feet, or twelve (12) feet for training purposes.~~
- G. *Transporting animals -* ~~When transporting animals they must be kept safe.~~ It is unlawful for any person to carry any animal on top of any vehicle or to transport any animal in any vehicle in a cruel, inhumane or unsafe manner.
- (1) *Pickup Trucks.* Animals that are transported in the bed of a pickup truck must be humanely restrained or crated to prevent the possibility of the animal falling out, protected from extreme temperatures and provided with a non-metal surface to sit or stand on.
- a. Humanely restrained. The animal must be attached to the truck by means of a harness, not a neck collar, in a way to ensure that the animal cannot jump out of or fall from the truck or be strangled. There must be two fixed point fastening locations at least two feet apart to attach the harness to in order to prevent the animal from strangling or falling out.
- b. Crate. If an animal is put in a crate or other enclosure, the crate or enclosure must be securely fastened to the bed or sides of the truck bed so that the crate or enclosure cannot turn over or fall out. Crated animals shall not be transported on the roof of any vehicle.
- c. Protection from weather. No animal shall be left in the bed of a truck, whether in a crate or not, when the weather is such that the animal will be exposed to heat when the air temperature exceeds 80 degrees, cold when the air temperature is less than 50 degrees, and/or rain, snow, hail or extreme wind.
- (2) *Cars, Vans and RVs.* Animals riding inside vehicles that are not in crates or other enclosures must not be allowed access to a window opened wide enough for the animal to escape, jump, fly or fall out. Animals left unattended in cars, vans or RVs must have adequate ventilation to prevent the temperature in the vehicle from rising high enough such that any reasonable person would know that the animal would suffer from heat exposure. During the warmer months, no amount of ventilation will keep the car from getting too hot. If the Animal Care and Control Officer, Police Officer or Firefighter determines that an animal in a vehicle is in immediate danger, they may enter the vehicle by whatever means necessary, without being liable to the owner of the vehicle, and seize the animal.
- (3) *Transporting more than one Animal.* In addition to all other regulations in this section, animals shall not be overcrowded when being transported. If the animals are crated or kept in any enclosure, they may be allowed to share a crate but each animal should be able to stand up, move around, lie down and stretch out naturally. If crates or enclosures are stacked, they must be attached securely to prevent the crates or enclosures from falling or turning over. If crates or other enclosures are stacked, it is important that no urine or feces are passed between crates and enclosures.
- (3) ~~A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in the open bed of a vehicle shall be crated or restrained upon a non-slick surface and in a manner that prevents the animal from jumping out of the vehicle.~~

- H. A person ~~in charge~~ **with care, custody and control** 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 **but provides ventilation.**
- I. A person ~~in charge~~ **with care, custody and control** of a venomous animal away from the owner's premises shall keep the animal secured within a tied **fabric** bag that shall be placed inside a secure **ventilated** locked box clearly marked "Venomous Animal."
- J. *Property of others.* A person owning or having guardianship, care, custody, or control over an animal shall not detain or restrain an animal upon another person's private property without having **written** permission from the resident or owner of such property.
- (1) If the resident or owner/guardian does not permit the animal being detained or restrained upon such property, the animal may be ~~taken up~~ **confiscated** and impounded by the Animal **Care and** 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 unit as a civil matter.~~
- K. *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 **within upon** the common areas of the multiple dwelling unit, except **within upon** such areas and within such enclosures specifically designed for such activity, **and community cats.**
- L. *Exceptions.*
- (1) A working dog that is under the control and supervision of the owner/guardian 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/guardian or handler shall not be considered as unrestrained while performing in or being trained for those capabilities.
- (3) **Dogs accompanied by their owner/guardian or person having care, custody and control utilizing the off-leash areas of a City dog park.**

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Sec. 7-15. – ~~Animal Cruelty prohibitions~~ Cruelty, Neglect **and Abandonment** prohibitions.

Cruelty to animals. No person shall **instigate, engage in or in any way further any act of cruelty to any animal including but not limited to: Intentionally killing an animal without lawful justification or mistreating, injuring, maiming, disfiguring, tormenting, torturing, beating, mutilating, burning, scalding, poisoning, attempting to poison or otherwise unnecessarily causing an animal to suffer physical or emotional harm. Includes intentionally cause an equine to fall or lose its balance by any means whatsoever. The term "equine" means, but is not limited to, a horse, mare, pony, ass, donkey, burro, mule or hinny. This does not apply to the lawful laying down of an equine for medical or identification purposes. negligently mistreat, injure, kill without lawful justification, or torment an animal, or abandon or fail to provide necessary sustenance to an animal under that person's care, custody or control. Under this section, "lawful justification" means humanely destroying a sick or injured animal, humanely killing an animal raised for food, or protecting a person or animal from death or injury due to an attack by another animal.**

Agenda Item #3.2.

- (1) Nothing in this Section shall prohibit reasonable force to be used to drive off vicious, or dangerous, or trespassing animals.
- (2) Prosecution under this Section shall be limited to first, second, or third offenses. Fourth and subsequent offenses, and offenses involving extreme cruelty as defined under state law, shall be prosecuted as a felony under NMSA 1978, Sec. 30-18-1, as amended.
- B. 1) Examples of unlawful acts or failure to act, which may also be considered animal cruelty include, but are not limited to:
- (a) Exposing animals to unsafe and/or unsanitary conditions.
 - (b) Allowing a collar, rope, or chain to become embedded into or cause injury to an animal's neck.
 - (c) Leaving an animal unsupervised while the animal is wearing a choke or pinch collar.
 - (d) Allowing a companion animal to be kept outside in inclement weather or extreme temperature without adequate shelter.
 - (e) ~~Tasing~~ Teasing or taunting any animal with the intent, purpose, or effect of provoking a reaction from the animal.
 - (f) Using a prod, stick, electrical shock, chemical agent, physical force, or starvation to inflict pain and/or discomfort on an animal.
 - (g) To cause, sponsor, arrange, hold, participate, allow, train, force or encourage animals to engage in a fight.
 - ~~(h) Ear cropping, tail docking, and~~ declawing and devocalization procedures.
- A-2) *Veterinary care.* A person shall not have, keep, or harbor an animal that is seriously sick or injured, including suffering from starvation or severe thirst, without providing proper veterinary care.
- (a) Given probable cause, the Animal ~~Care and~~ Control Officer may require the owner/guardian or community cat caregiver to provide a letter of health evaluation from a veterinarian describing the condition of the animal and the treatment provided or recommended.
 - (b) The Animal ~~Care and~~ Control Officer may evaluate the condition of an animal in order to determine probable cause.
 - (c) Nothing herein shall prohibit an owner/guardian or designee with the owner's/guardian's consent, to provide medical treatment in accordance with prescribed veterinary practices treatments, to provide medical treatment.
- C. *Sexual abuse.* A person shall not take part in any sexual abuse of an animal.
- D. *Vehicle operator responsibility.* A person shall not intentionally strike any animal with any vehicle, self-propelled or otherwise.
- (1) Any person who, as the operator of a motor vehicle, strikes any animal shall immediately report such injury or death the incident to the Animal Care and Control Unit through Central Dispatch.
- E. *Performing animal exhibition; circus.* A performing animal exhibition or circus in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or

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manual devices in a manner that will cause or is likely to cause physical ~~or psychological~~ injury or suffering shall not be permitted.

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- (1) All performing animal exhibitions shall comply with the Federal Animal Welfare Act and Endangered Species Act.
- (2) All equipment used on a performing animal shall be humane and fit properly and shall be in good working condition and subject to inspection by the City.

F. *Declawing.* No person, licensed medical professional or others, shall perform or cause to be performed, assist in the performance of, or procure the performance of an onychectomy (declawing) or flexor tendonectomy procedure by any means on any cat or other animal within the City of Las Cruces, except when necessary for a therapeutic purpose. "Therapeutic purpose" means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the animal's health. "Therapeutic purpose" does not include cosmetic or aesthetic reasons or reasons of convenience.

- (1) In the event that an onychectomy or flexor tendonectomy procedure is performed on any cat or other animal within the City of Las Cruces in violation of this section, each of the following persons shall be guilty of a violation of this section:
 - i. the person(s) performing the procedure, and
 - ii. all persons or entities that, ordered, requested or paid for the procedure.

F. *Ear Cropping, Tail Docking and Devocalization.*

1. No person shall perform or otherwise arrange for the performance of ear cropping, tail docking or devocalization on an animal. This section shall not apply to a procedure performed by a licensed veterinarian, with appropriate anesthesia, solely for therapeutic purpose.

4-2. Any ear cropping and/or tail docking must be performed by a licensed veterinarian.

2. Nothing in this provision shall prohibit any of the following:

- a. Showing a dog with cropped ears or a ducted tail in a dog show or competition.
- b. Owning or harboring an animal with cropped ears or a docked tail.
- c. a. Selling, buying, or adopting an animal with cropped ears.

G. *Fighting.*

- A. It is unlawful for a person to promote, stage, hold, manage, conduct, carry-on or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.
- B. It is unlawful for any person to sell, receive, possess, transport, loan, or give away any animal fighting paraphernalia.
- C. It is unlawful for any person to raise, train, condition, sell, receive, possess, transport, loan, or give away animals for fighting purposes whether or not the fight is to be conducted inside or outside the jurisdiction of the City of Las Cruces.
- D. No person shall provoke or entice an animal from the property of its owner for the purpose of engaging the animal in an animal fight, or for use as a bait animal.
- E. Nothing in this section shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authority.

~~Sec. 7-13. — Abandonment prohibited.~~

- ~~(a) Abandonment of an animal shall not relieve the owner of the responsibilities associated with ownership, and he may still be regarded as the owner for the purposes of this Chapter.~~
- ~~(b) A person owning or having care, custody, or control over an animal shall not leave the animal at the ASCMV or private animal shelter, without providing either notification of intent to reclaim the animal or a release of ownership of the animal in writing. Such actions shall be considered abandonment for the purposes of this chapter.~~
- ~~(c) Abandonment does not apply to a person or organization operating a permitted community cat colony.~~

(1) Abandonment is prohibited

- (1) A person commits the crime of animal abandonment if the person intentionally, purposely, knowingly, recklessly or with criminal negligence leaves a companion animal at a location permanently or temporarily without providing for the animal's proper feeding and continued care. As used in this section, "temporarily" means leaving an animal at a location, other than the owner's/guardian's home or residence, for longer than 30 minutes without providing for the animal's continued care.
- (2) No person shall leave an animal at the ASCMV or private animal rescue/shelter, without providing either in-person to the ASCMV or animal rescue written notification of intent to reclaim the animal or a release of ownership of the animal in writing. Such actions shall constitute abandonment.
- (3) Animal abandonment is a misdemeanor of the first degree~~petty misdemeanor~~.
- (4) Each act in violation of this section shall constitute a separate offense.
- (5) Abandonment of an animal shall not relieve the owner/guardian of the responsibilities associated with ownership/guardianship, and he/she may still be regarded as the owner/guardian for the purposes of this Chapter.
- (6) Abandonment does not apply to a person or organization managing a community cat colony.

(2) Uncared-for Animals; Abandonment

- a. If an Animal ~~Care and~~ Control Officer finds that any animal is or will be without proper care because of injury, illness, and/or incarceration or the absence of the owner/guardian or person responsible for the care of such animal, the Animal ~~Care and~~ Control Unit or Police Officer may enter the property or premises where the animal is located and may seize the animal for protective care; and in the event of sickness or injury of the animal, upon the instruction of a licensed veterinarian, the Animal ~~Care and~~ Control Officer may take such action as called for to prevent undue pain and suffering, including immediate euthanasia of the animal.

- H. *Performance of duty.* Nothing herein shall prohibit the Animal ~~Care and~~ Control Officer from using a tranquilizer gun, snare, ~~catch~~ pole or trap to humanely capture animals as reasonably necessary for the control of such animals.

- I. ~~Hunting. Nothing herein shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authorities.~~
- J. In addition to any other remedy or action permitted under this ordinance or by law, wherever an Animal ~~Care and~~ Control Officer has probable cause to believe an animal has been subject to cruelty, neglect or abandonment, or may be in imminent danger of cruelty, neglect or abandonment, the Animal Care and Control Officer may remove the animal and take it into protective custody at the ASCMV pending adjudication by a court of competent jurisdiction for a period not to exceed fifteen (15) days.
- K. If the Animal ~~Care and~~ Control Officer reasonably believes that the life or health of other animals at the same premises are endangered, the Animal Care and Control Officer may remove the animal and take it into protective custody at the ASCMV pending adjudication by a court of competent jurisdiction for a period not to exceed fifteen (15) days.
- L. All costs for boarding and/or medical care incurred by the ASCMV for an animal removed under this section shall be the responsibility of the animal's owner/guardian.
- M. Nothing in this section shall be construed to preclude a charge or conviction for extreme cruelty under state law or to preclude petition for indemnification for the disposition of seized animals which is allowed under state law. (NMSA 1978 Section 30-8-12.2)
- N. The Animal ~~Care and~~ Control Unit may determine that a person is an irresponsible owner/guardian. A violation of any ordinance or law prohibiting cruelty to animals is a basis for Animal Care and Control's determination that a person is an irresponsible owner/guardian.
- (a) If the Animal ~~Care and~~ Control Unit determines that a person is an irresponsible owner, the Animal ~~Care and~~ Control Unit shall so apprise such person by written notice sent by mail, hand delivered or conspicuously posted on the property that such person is barred from the ownership/guardianship, custody or control of any companion animal.
- (b) Availability to appeal the declaration in accordance with Rule 1-074 NMRA.
- (c) An owner/guardian may petition Animal ~~Care and~~ Control for removal of the irresponsible owner/guardian designation two (2) years after the date served but bears the burden of clear and convincing evidence. Any person who is the owner/guardian a companion animal after the date of designation as an irresponsible owner/guardian is subject to a continuing violation of the Ordinance.

Sec. 7-16. Restrictions on sale or transfer of ownership.

- A. ~~Sale of unweaned animals.~~ A person shall not sell, offer for sale, barter, transfer, ~~gift, donate~~ or adopt a ~~domesticated companion~~ animal under eight (8) weeks of age, or a guinea pig, hamster, or rabbit under four (4) weeks of age. All animals shall be fully weaned and capable of eating on their own to sufficiently maintain proper body condition prior to ~~transfer of ownership-being offered for sale, transfer, or adoption.~~ Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations. Nothing herein shall prohibit the ~~sale, transfer, or adoption of an unweaned animal if accompanied by its a nursing female mother or surrogate mother.~~

- B. *Sale in public.* A person shall not sell, offer for sale, barter, give away, transfer, gift, donate or adopt an animal upon a street, sidewalk, public park, or any area open to the public, unless such person is acting on behalf of the ASCMV or an animal rescue organization shelter.
- a. An owner/guardian shall not advertise, sell, barter, exchange or give away any dog or cat within the City unless the litter fee or breeder permit number is displayed legibly.
- b. An owner/guardian shall furnish the litter fee or breeder permit number to any prospective recipient requesting the number.
- C. *Prize.* A person shall not offer an animal as a prize, giveaway, premium, novelty, or award for a contest, game, or sport or as an incentive to purchase merchandise unless as part of an FFA or 4-H sanctioned event.
- D. *Venomous animal.* A person or professional licensed, commercial animal establishment shall not offer for sale any venomous animals, other than tropical fish contained in Animal Care and Control Unit accurately labeled aquaria.
- E. *Animal exhibit safety.* A person shall not operate, conduct, or maintain any animal exhibit under conditions that pose a danger to the public or the animals.
- F. *Pet Stores.* No pet store shall sell, offer for sale, barter, auction, give away, or otherwise transfer ownership/guardianship of dogs or cats. Nothing in this section shall prohibit pet stores from collaborating with registered 501(c)3 animal rescue organizations to facilitate the adoption of dogs and cats.
- G. Nothing in this section shall prohibit pet stores from collaborating with animal shelters, 501(c)3 animal rescue organizations, and animal control authorities to offer space for such entities to showcase adoptable dogs and cats inside pet stores.
- H. No humane agent, animal control officer, animal shelter, pound, animal care center, humane society or veterinarian and anyone acting under their authority and having possession of any animal by reason of his office may:
- 1) Provide or supply dealers, commercial kennels or laboratories with the animal; or
 - 2) Give, release, sell, trade, loan, transfer or otherwise provide any live animal to any individual, firm, association, corporation, educational institution, laboratory, medical facility, or anyone else for purposes of experimentation or vivisection.
- Noncompliance with this provision carries the maximum allowed under cruelty.

Sec. 7-17. Deceased animal disposal requirements.

- A. *Owner/Guardian responsibility.* A person owning or having the guardianship, care, custody or control of an animal carcass shall be responsible for its removal within twenty-four (24) hours of death if the animal is not to be used for human consumption. An animal carcass may be disposed of at the South Central Solid Waste Authority or the ASCMV as authorized or the owner/guardian may arrange burial in an established pet cemetery.
- B. *Removal.* The Animal ~~Care and~~ Control Officer may remove any animal carcass from the roadway or other public property. The Animal ~~Care and~~ Control Officer and/or ASCMV shall make

reasonable efforts to notify the animal's owner or community cat caregiver if known in the event of the animal's death.

- (1) The Animal ~~Care and~~ Control Officer may dispose of the animal carcass at the South Central Solid Waste Authority as authorized after microchip scanning and making reasonable efforts to notify the animal's owner, *notification to the ASCMV, and* ~~The Officer~~ shall turn over any tags or other identification found on an animal carcass to the ASCMV.

- C. *Removal fee.* The Animal ~~Care and~~ Control Unit 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 set fee. The fee amount shall be established by City Council resolution.

Sec. 7-18. Nuisance prohibitions.

- A. *Property damage; nuisance.* A person owning or having guardianship, care, custody, or control over an animal shall *humanely* prevent the animal from causing damage or being a nuisance to ~~the~~ a person or property of another.
- B. *Female in estrus.* A person owning or having guardianship, custody, or control over a female animal in estrus (heat) shall confine the animal in such a way that *humanely* prevents the animal from becoming a nuisance. *This provision does not apply to community cats.*
- C. *Pet Waste.* A person owning or having guardianship, care, custody, or control over a ~~pet such as a dog or cat~~ *companion animal* shall dispose of the waste from the *companion* 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.
- D. *Livestock waste.* Waste from livestock shall be removed or spread at least once each week so as not to constitute a nuisance. Additionally, all premises where livestock are kept shall be treated as necessary with approved pesticides for the control of insects and rodents related to waste from livestock so as not to constitute a nuisance, *in accordance with the New Mexico Department of Agriculture regulations.*
- E. *Public defecation.* A person owning or having guardianship, 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 *as provided herein.* *This provision does not apply to community cats.*
- F. *Noise.* A person owning or having guardianship, care, custody or control of an animal shall not 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 for more than 10 minutes; and is attested to by:

- (1) Complainants from ~~two one~~ or more separate ~~neighbors properties; and~~
- (2) ~~A complainant from a separate property and~~ A verified ~~by an~~ audio recording which records the howling, barking or noise for more than 10 minutes; or
- (3) An ~~Animal Control Care and Control~~ Officer or law enforcement officer.

The words "frequent or long-continued" as used in this section shall not mean continuous or uninterrupted in time or without cessation.

~~G. Noise abatement. In order to abate the nuisance created by the animal howling, barking or making noise in violation of this section, an Animal Care and Control Officer may enter the premises on which the animal is located and may impound the animal if the Animal Care and Control Officer is unable to contact the person owning or having the guardianship, care, custody or control of the animal or if such person is unable or unwilling to stop the howling, barking or noise. An animal impounded pursuant to this section shall be considered to be a care and maintenance impoundment for purposes of reclamation.~~

~~H.A. Dust control.~~ All areas used as arenas for exercising, training or exhibition of livestock shall be dampened with a sprinkler system or ~~by~~ other means to reduce dust emissions to surrounding properties. As provided in Section 32-302 of the Standards for Erosion Control and as amended, this prohibition does not apply to dust emissions from the raising of farm animals or fowl.

~~I.B. Feeding animals running at large.~~ A person shall not feed ~~an animal dog or cat~~ running at large, ~~with the exception of community cats or to aid in humanely trapping the animal.~~ ~~may be fed.~~

Sec. 7-19. Found animals.

A. ~~Without the knowledge and consent of the owner, a~~ A person shall not harbor, hold or retain possession of any ~~found companion~~ animal for more than twenty-four (24) hours, ~~without the knowledge and consent of the owner, and shall adhere to the following procedures:~~

1. ~~Complete a Found Animal Report with the ASCMV; and have the animal scanned to determine if it has an identification microchip within 24 hours. To ensure an Animal Care and Control Unit accurate rate microchip scan, a universal scanner shall be used. Options for having the animal scanned include the ASCMV, Animal Care and Control Unit, or any office of a licensed veterinarian. A-The person having possession of such an animal shall allow the animal to be scanned for the presence of an Identification Microchip by the Animal Care and Control Officer immediately upon request.~~

2. A person having possession of such an animal shall immediately surrender the animal to the Animal ~~Care and~~ Control Officer upon request.

B. ~~If the companion animal does not have a microchip and a Missing Animal Report to the ASCMV was not filed, the finder may claim ownership/guardianship of the animal after seventy-two (72) hours following the submission of the Found Animal Report.~~

C. ~~If the companion animal has a microchip that identifies an owner and the owner fails to reclaim the animal within 5 days of submission of the Found Animal Report, the finder may thereafter claim ownership/guardianship of the animal.~~

i. **Secs. 7-20–7-29. Reserved.**

ARTICLE III. PERMITTED AND PROHIBITED ANIMALS

Sec. 7-30. Multi-Animal Site Permit.

- A. No person shall keep or operate a residential or ~~commercial~~ non-residential multi-animal site without a permit issued by the City ~~by and through Animal Care and Control or having been approved as a foster care site by the Animal Care and Control Unit, ASCMV, or a non-profit animal adoption agency.~~
- (1) Veterinary hospitals or clinics shall be exempt from the ~~license~~ **Multi-animal Site Permit** requirement of this Chapter.
- (2) **Community cat colonies shall be exempt from the multi-animal site permit requirement.**
- B. Any person who operates or proposes to operate a residential or ~~commercial~~ non-residential multi-animal site shall file an application for a permit with the Animal **Care and** Control Unit, ~~providing the address and~~ describing the location of the site and the purpose for which it is to be maintained.
- C. All applications for multi-animal site permits must meet the following conditions:
- (1) **All fees must be submitted at the time of application.** ~~An initial non-refundable fee, established by City Council resolution, for residential or commercial multi-animal sites must accompany any application to defray the cost of processing the request.~~
- (2) ~~Commercial~~ non-residential sites must also comply with the City business registration requirements. **Article IV, Division 2 of the Municipal Code.**
- a. ~~An annual commercial multi-animal site permit fee shall be established by City Council resolution.~~
- (3) Approval is required by the City zoning administrator and an Animal Care and Control Officer.
- a. ~~All boarded animals three months of age or over must be vaccinated for rabies.~~
- (4) All multi-animal ~~residential~~ site permits must be renewed annually at a fee established by City Council resolution.
- (5) An application may be denied if the ~~owner or responsible person~~ **applicant** shows a history of noncompliance with this Chapter as evidenced by ~~two or more~~ **conviction(s)** of violations of this Chapter during the past year.
- (6) All multi-animal sites must comply with applicable zoning regulations. If any provision of this Section ~~is in conflict~~s with the provision of any applicable zoning regulation, the provision of the zoning regulation shall control.
- D. A multi-animal site permit may be revoked when, in the opinion of the zoning administrator or Animal Care and Control Officer, any one or more the following conditions exist, **including but not limited to:**

- (1) The premises or enclosures are not maintained in a clean and sanitary condition and are a health hazard or produce noxious odors.
- (2) The enclosures are unsafe **or unfit for humans or animals.**
- (3) The number of animals exceeds the number allowed under the permit.
- (4) **The owner or responsible person has been convicted of violation(s) of this Chapter.**

Sec. 7-31. Special Animal Permits.

- A. *Application generally.* A person or organization who seeks to keep any animal requiring a special animal permit shall file an application for an annual special animal permit with the Animal Care and Control Unit describing the location of the site and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from this requirement. It shall be a condition of the issuance of any special animal permit that the permittee consents to inspection of the premises by the Animal Care and Control Unit at any time between the hours of 6:00 a.m. and 10:00 p.m. The application fee and annual permit fee shall be set by City Council resolution.
- B. *Application conditions.* All applications for special animal permits required under this Section must meet the following conditions:
- (1) **All fees must be submitted at the time of application. An initial nonrefundable fee must accompany any application. to defray the cost of processing the request.**
 - (2) Any application may be denied if the ~~owner or responsible person~~ **applicant** shows a history of noncompliance with this Chapter as evidenced by ~~two or more~~ **conviction(s)** of violations of this Chapter during the past year.
- C. *Revocation.* A special animal permit may be revoked when, in the opinion of the zoning administrator or Animal Care and Control Officer, any one or more of the following conditions exist:
- (1) The premises or enclosures are not maintained in a clean and sanitary condition and are a health hazard or produce noxious odors.
 - (2) The enclosures are unsafe **or unfit for humans or animals.**
 - (3) Containers for venomous snakes or lizards are not clearly labeled and locked.
 - (4) **The owner/guardian or responsible person has been convicted of violation(s) of this Chapter.**
 - (5) FFA or 4-H. An active member in good standing of a locally recognized **and verified** FFA or 4-H program may keep up to two livestock animals to meet program requirements on any property not zoned for the keeping of livestock, provided that the individual is currently participating in a program utilizing these animals, and received a permit from the Animal Care and Control Unit for such activity and meets the applicable requirements of this chapter. Each permit shall be individually reviewed by the Animal Care and Control Unit as to program participation and permitted animals to obtain the goals of the FFA or

4-H program. All such animals kept subject to this Section may be relocated outside of the City limits by the Animal Care and Control Unit upon receipt of a nuisance complaint concerning the animals.

- (6) *Chickens and ducks.* A special permit is required for any property not zoned for the keeping of livestock in order to keep chickens or ducks. All such animals shall be kept and maintained in accordance with the provisions of this chapter and shall not exceed a total of 6 chickens, ducks, and/or drakes per property not zoned for the keeping of livestock. Roosters are not permitted on properties not zoned for the keeping of livestock.
- (7) *Therapy animals.* A special permit is required for any property not zoned for the keeping of livestock in order to keep small animals such as, but not limited to, fowl, rabbits, miniature horses/donkeys, goats and sheep for therapeutic purposes associated with homes for the disabled, nursing homes, assisted living facilities, and similar uses as determined by the Community Development Department Director and/or designee. All such animals shall be kept and maintained in accordance with the provisions of this chapter.
- (8) *Pigeons.* A person who wishes to maintain a pigeon coop must first obtain a Special Animal Permit from the Animal Control Unit and comply with the following:
 - a. Maintenance, care and confinement.
 - i. The loft shall be of sufficient size, ~~and~~ design and constructed of such material that it can be maintained in a clean and sanitary condition.
 - ii. There shall be at least 1½ square feet of floor space in any loft for each mature pigeon kept therein.
 - iii. The construction and location of the loft shall not conflict with any City building code.
 - iv. All feed for pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.
 - v. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations.
 - vi. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition, and at no time shall pigeons be allowed to perch or linger on the buildings or property of others. ~~creating a nuisance.~~
 - vii. All pigeons shall be fed within the confines of the loft.
 - viii. Pigeons will not be released from the loft unless they have not been fed within the previous four hours.

- b. Before issuance of a special permit for the keeping of pigeons, the owner must demonstrate that he is a member in good standing of one of the following: The American Racing Pigeon Union, Inc.; the International Federation of Racing Pigeon Fanciers; the National Pigeon Association; the American Tippler Society; the International Roller Association; or the Rare Breeds Club, as such clubs have rules that help preserve the peace and tranquility of the neighborhood. Membership must be renewed on an annual, or as required, basis in order to maintain the special permit.
- (9) *Guard dog.* A person who wishes to use a dog to guard non-residential property shall first obtain a Guard Dog Permit from the Animal Control Unit.
- a. Permit conditions.
 - i. A dog shall not be used to guard residential property.
 - ii. The permit application shall include sufficient information to identify the name, ~~and address~~, telephone number and email address of the owner of the commercial property, the name, ~~and address~~, telephone number and email address of the owner of the guard dog, and the location intended to be guarded by the guard dog.
 - iii. The permit applicant shall submit to a pre-permit inspection of the premises by the Animal Care and Control Unit, so that an Animal Care and Control Unit accurate physical description of the animal and property may be obtained.
 - iv. The permit applicant shall pay the Guard Dog Permit fee before a permit may be obtained. The permit holder shall, thereafter, pay an annual Guard Dog Permit fee. The permit application and annual permit fees shall be set by City Council resolution.
 - v. Prior to obtaining the permit, the ~~permit~~ applicant shall obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) for damage or bodily injury to or death of a person caused by the guard dog.
 - vi. Posted Signs. The permit holder shall post guard dog warning signs at the premises protected by a guard dog, warning the public of the presence of a guard dog on the premises.
 - a. The warning signs shall be at least twelve (12) inches square.
 - b. The warning signs shall state "Guard Dog" and "Guardia" and shall show a picture of an aggressive dog.

- vii. The warning signs shall be posted not more than two hundred (200) feet apart on the exterior of the fences or walls surrounding the premises, and shall be posted at all exterior corners of the site and at every entrance to the premises.
 - b. Vehicles. Vehicles used to transport a guard dog and vehicles being protected by a guard dog shall be secured so the public is protected from injury.
 - i. The vehicle shall be constructed or modified to ensure that the guard dog is transported in a safe, humane manner.
 - ii. The vehicle shall be conspicuously posted with guard dog warning signs on both sides of the vehicle.
 - c. The care and control of all guard dogs is subject to all provisions contained herein.
- (10) Breeding Permit. A person who breeds a ~~domesticated~~ companion animal for sale and/or hobby shall purchase a Breeding Permit prior to breeding the animal.
 - a. All ~~domesticated~~ companion animals to be bred must be microchipped and registered in the name of the person who wishes to breed before a Breeding Permit will be issued.
 - b. A Breeding Permit must be renewed annually from the date of issuance.
 - c. Any person who intentionally or unintentionally breeds companion animals or causes or allows any animal subject to an Intact Animal Permit to breed must have a current Breeding Permit or can be cited and subject to a fine established by the City Council.
 - d. Any person who or unintentionally breeds companion animals and does not have a current Breeding Permit shall pay a litter fee established by the City Council. The fee may be refunded at the time proof of sterilization of the female animal is submitted and verified by the Animal Care and Control Unit no later than two months from the time the female dog or cat delivers a litter.
 - e. No person shall intentionally or unintentionally breed ~~domesticated~~ a companion animal that produces more than two litters per year.
 - f. A breeding permit is required to advertise any ~~domesticated~~ companion animal for sale, gift or other transfer within the City on any online or social media website, periodical, or newspaper. The Breeding Permit number must be included in any advertisement.
 - g. No person shall sell, barter, exchange or give away any ~~domesticated~~ companion animal within the City unless a valid Breeding Permit number is clearly and legibly displayed and shall furnish the Breeding Permit number to any prospective recipient requesting the number.

- (11) **Intact Companion Animal Permits.** Anyone owning or having guardianship, care, custody or control of companion animals that have not been sterilized in accordance with Section ____ shall obtain an Intact Animal Permit for those animals.
- a. All intact companion animals must comply with the microchip requirements set forth herein before an Intact Permit can be issued.
 - b. No person shall be permitted to have more than two (2) intact companion animals.
 - c. If an intact companion animal that has been issued a permit is impounded twice by the Animal Care and Control Unit, the permit will be automatically revoked and the animal will be required to be altered at the expense of the permit holder.
 - d. **Medical Waiver Certificate – Exemption.** Anyone owning or having guardianship, care, custody, or control of companion animals may seek an exemption from the Intact Animal Permit requirement if:
 - i. A licensed veterinarian has certified in writing that the animal is incapable of breeding or that a sterilization procedure would likely cause the animal's death, harm, or aggravate a physical condition of the animal. The certification shall indicate the medical basis for the exemption and whether the unsuitability is temporary or permanent. If temporary, the certificate shall indicate the period of time the unsuitability is anticipated to last. For an exemption to apply beyond that period, a new certificate must be obtained.
 - ii. Upon the acceptance of a Medical Waiver Certificate by Animal Care and Control, the person owning or having care, custody or control shall be issued an Intact Companion Animal Permit free of charge.
 - iii. Medical Waiver Certificates shall be valid for one year. Upon expiration of the Medical Waiver Certificate, the person owning or having care, custody or control shall be required to reapply for the Intact Companion Animal Permit.
 - e. If the permit holder wants to breed an intact companion animal or if a female intact companion animal has been impregnated, the permit holder must obtain a Litter-Breeding Permit prior to the birth of the litter.
 - f. **Application Requirements for Intact Animal Permit:**
 - i. An application for an Intact Animal Permit must be made on the form prescribed by Animal Care and Control Unit and shall include the following information:
 - 1. The name, telephone number, physical address and email address of the applicant;
 - 2. The physical description of the animal to be included under the permit and the species, breed, gender and age of the animal.

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2-3. The permit shall apply solely to the animal specified in the application.

- i. A statement from a licensed veterinarian that the animal is current on all veterinarian recommendations, including examinations, vaccinations, and treatments; and
- ii. A statement affirming that the applicant is familiar with the provisions of this chapter and agrees to maintain all companion animals in accordance the provisions.
- ii. An application must be accompanied by:
 - 1. Payment of a nonrefundable application fee in the amount adopted annually by the city council; and
 - 2. Photographic evidence, in digital or printed form, showing the enclosure(s) where the unaltered animals are to be kept.
- iii. The Animal Care and Control Unit may require additional information and documentation as deemed necessary to determine whether a permit should be issued.
- g. **Issuance and Renewal**
 - iv. Permits shall be issued or renewed only if the Animal Care and Control determines that the following conditions have been met:
 - 1. The animal is kept current on vaccinations;
 - 2. The animal is not housed with another intact animal of the same species and opposite sex;
 - 3. The permit holder has not had violations of the provisions of this Chapter in the preceding twenty-four (24) months;
 - 4. The Animal Care and Control Unit determines that approval of the permit is in the best interest of the animal as well as the health and welfare of the public.

Sec ____ - Cross Jurisdictional Permit Requirements

- A. The keeping of the following require proof of license and/or permit from other governmental agencies prior to obtaining a special permit from the City. ~~The keeping of any permit required species not allowed under the provisions of the existing special animal permit.~~
 - (1) *Outdoor rehabilitation aviary.* A special permit is required by any person to keep or maintain an outdoor rehabilitation aviary. The Animal Control Unit will not issue this special permit without proof of a license issued by the federal government and the New Mexico Department of Game and Fish.
 - (2) *Birds of prey.* A special permit is required by any person to keep or maintain a bird of prey. The Animal Control Unit will not issue this special permit without proof of a license issued by the federal government and the New Mexico Department of Game and Fish.

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- (3) *Threatened or endangered amphibian, snake, or reptile.* Federal and state permits are required for any person to keep or maintain any species of amphibian, snake or reptile that is listed as threatened or endangered by the federal government or the state.
- (4) *Certain snakes.* A special permit is required for any person to keep or maintain any snakes of the families Elapidae and Viperidae, or the three genera within the family Colubridae (Thelotornis kirtlandii, the twig snake; Dispholidus typus, boomslang; and Rhodopids, keelbacks). The Animal Control Unit will not issue this special permit until the appropriate federal and state permits are acquired.

Sec. ____ - Community Cats and Community Cat Caregivers:

- A. All community cats shall be cared for on the private property of the caregiver or with the permission from the owner or property manager if cared for on the property of others.
- B. All community cat caregivers shall make reasonable efforts to have all free-roaming cats within their care sterilized, vaccinated, microchipped and ear-tipped for identification.
- C. All community cat caregivers are required to make reasonable efforts to provide certain necessities to each community cat under his/her care on a regular/on-going basis, including, but not limited to, proper nutrition, adequate quantities of visibly clean and fresh water and medical care as needed. If medical care is unavailable or too expensive, the community cat caregiver must not allow the cat to suffer and shall contact the Animal ~~Care and~~ Control Unit for its disposition.
- D. ~~Following sterilization, vaccination, microchipping and ear-tipping, unless~~ veterinary care is required, a trapped community cat ~~may shall~~ be released in the area or vicinity by individual(s) or the shelter where ~~it was~~ trapped, except as provided for ~~herein. in (c) below.~~
- E. Unless veterinary care is required, a trapped community cat received by Animal ~~Care and~~ Control will be returned to the ~~area where it was trapped~~ or vicinity by Animal ~~Care and~~ Control or returned to a community cat caregiver, except as provided for ~~herein in (C) below.~~
- F. Community cats brought to the ASCMV shall be evaluated to determine if currently socialized or have the potential to be socialized. The ASCMV shall make every effort to also distinguish between fearful, unsocialized cats and/or cats with limited ability to survive following TNR due to deafness, blindness, having been declawed, or other prohibitive condition. ~~If the community cat is deemed to be socialized or may potentially be socialized, especially in the case of kittens, the priority of the ASCMV should be to promote the cat for adoption or for transfer to a rescue partner. Socialized community cats are best served by placement into new homes whenever possible.~~
- G. Community cats, whether alone or under the care of community cat caregivers(s), are prohibited from being returned within ~~three hundred one hundred fifty~~ feet (~~300150'~~) of a licensed day care center, public or private school(s), nursing home or care facility, any park, or City owned or leased facility or property (i.e. City Hall, Library, etc.). Further, community cats, are prohibited from being returned within a half (1/2) mile of the Rio Grande or within ~~three hundred one hundred fifty~~ feet (~~300150'~~) of the edge of a designated, natural or unchannelized arroyo, unless within an enclosed cat colony.
- H. No person shall move, open, close, or in any way alter an animal trap on private property being used by a resident, community cat caregiver, rescue organization, or the Animal Care and Control Unit for

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trap-neuter-return of community cat(s) without authorization from the individual or organization doing the trapping.. Removal or release of any animal from such a trap is prohibited.

- I. ~~Community cat caregivers are strongly encouraged to register themselves with the animal control unit, or through non-profit organizations that may register individual community cat caregivers, provided such non-profit organizations are registered for community cat caregiving with the animal control unit and are working with individual caregivers to conform with this Chapter.~~
- A. ~~Community cats that are reported as problematic, creating a public nuisance, or having received multiple complaints about the same community cat(s) for a maximum four (4) times within a continuous 12-month period, beyond the initial cartipping, shall be adopted, rescued to a rescue organization, provided to and kept within an enclosed cat colony, placed with barn/shop cat programs for adoption, or, as a last resort, euthanized by the ASCMV, provided that the actions do not result in the cat being released unrestrained to the community.~~
- B. ~~Notwithstanding the foregoing, whenever a community cat is visibly injured or diseased and appears to be suffering and it reasonably appears that such cat cannot be returned to the field or transferred to an animal rescue, the ASCMV, acting in good faith and upon reasonable belief, may humanely euthanize the cat upon the advice of a licensed veterinarian.~~
- C. The City should provide funding annually, as part of its budget, for affordable low-cost spay/neuter specific to community cats and/or low-income residents to assist with general spay/neuter needs in the community to address the potential pet overpopulation issue from a public health perspective. Funding could be provided directly to the ASCMV or qualified non-profit partners that provide and/or coordinate such activities between residents and veterinarian service providers.
- D. ~~The City, through the Animal Care and Control Unit with discussion with the ASCMV and the public, shall by separate resolution of the City Council, adopt a Trap Neuter Return policy, within 120 days of this ordinance's adoption, that includes but not limited to:~~
 1. ~~Best practices for community cat caregiving, including basic expectations and responsibilities,~~
 2. ~~Educational information for caregivers, neighbors of caregivers, and the general public,~~
 3. ~~Mechanisms for maintaining and listing available resources for community cat caregivers and others impacted by community cats, and~~
 4. ~~Methods by which to register community cats and community cat caregivers with the animal control unit, including provisions by which conditional registration is provided to caregivers desiring to be fully compliant for their community cats within a set period of time, on-going compliance requirements, and revocation of either conditional or final community cat caregiving permits for failure to comply with compliance requirements, including agreed upon timelines.~~
- ii. Community cat caregivers, when known, shall assist in resolving complaints received by the animal control unit concerning community cats.

Sec. 7-32. Livestock.

The keeping of livestock, including both small and large animals, is permitted in accordance with applicable City zoning designations ~~or and with Section 7-31,~~ the Special animal permits ~~section herein.~~ Keeping ~~livestock of such animals~~ shall not be permitted in the required front, side and street side yard

setbacks: ~~And no such animal~~ shall not be kept closer than 35 feet to an adjacent dwelling, or the primary structure of an adjacent business, excluding that of the property on which the livestock reside.

- A. *Large livestock animals.* The following requirements are established for the keeping of large livestock animals such as, but not limited to, llamas, horses, mules, donkeys, swine, bovines, buffalo and beefalo. The density per acre limitation for large livestock animals, not applicable to young livestock animals below weaning age or six months of age, shall be one-half acre or more. The minimum square footage of the open lot area, not including the dwelling unit, shall be 9,000 square feet for the first animal and 6,000 square feet for each additional animal, provided the total number of such animals shall not exceed 4 animals per acre.
- B. *Small livestock animals.* The following requirements are established for the keeping of small livestock animals such as, but not limited to, ducks, poultry, goats, sheep, and miniature horses/donkeys. The density per acre limitation for small livestock animals shall be as follows:
- (1) For lots less than ½ acre, a total combined maximum of 6 such animals, and
 - (2) For lots greater than ½ acre, the minimum square footage of the open lot area, not including the dwelling unit, shall be 2,000 square feet for each small livestock animal, provided the total number of such animals shall not exceed 100 regardless of lot size.

Sec. 7-33. Dangerous, ~~or~~ potentially dangerous, or vicious dogs.

- A. ~~A person owning or having care, custody, or control over a dangerous or potentially dangerous dog shall comply with the provisions of the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2 et seq., as amended.~~
- B. ~~Animal Control Officers may apply to Municipal Court for a warrant to seize a dog believed to be a dangerous dog or a potentially dangerous dog, and may file a petition in Municipal Court seeking a determination of whether the dog is dangerous or potentially dangerous, all in compliance with the Dangerous Dog Act.~~
- C. ~~Municipal Court shall be deemed a court of competent jurisdiction to issue a warrant to seize a dangerous dog or a potentially dangerous dog; to hear a petition seeking a determination of whether a seized dog is dangerous or potentially dangerous; and to otherwise enforce the Dangerous Dog Act for dogs located within the City limits.~~

(A) Reporting of Potentially Dangerous, Dangerous or Vicious Dogs

- (1) Any person may report a potentially dangerous, dangerous, or vicious dog to Animal ~~Care and Control Unit~~. Persons may make anonymous reports and ~~the Animal Care and Control~~ shall respond to anonymous reports under this Section.
- (2) If the report is pertaining to a dog running at large, ~~the Animal Care and Control~~ shall impound the dog in the ordinary manner pursuant to this Chapter.

(B) Determination of status.

- (1) ~~The City Manager or her/his designee~~ A Las Cruces Municipal Court judge may find and declare a dog potentially dangerous, dangerous, or vicious if there is probable cause to believe that the dog falls within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog" as defined herein. The finding must be based upon:

- (a) A written statement signed under penalty of perjury or a person who is willing to testify that the animal has acted in a manner which causes the dog to fall within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog"; or
 - (b) A written report of the dog's actions witnessed by any Animal ~~Care and~~ Control officer or law enforcement officer which causes the dog to fall within the definition of "vicious dog," "dangerous dog" or "potentially dangerous dog"; or
 - (c) Other substantial evidence admissible in court.
- (2) The declaration shall be in writing and shall be served on the owner/guardian of the dog by an Animal ~~Care and~~ Control officer or law enforcement officer through personal service, mailing to the owner's/guardian's last known address, or posting a notice on the property of the owner/guardian.
- (3) The declaration shall contain, at a minimum, the following information:
- (a) Name and address of the owner/guardian of the dog.
 - (b) A physical description of the dog.
 - (c) The address of where the dog is licensed to be kept.
 - (d) The classification of the dog's status as being either potentially dangerous, dangerous, or vicious as defined herein.
 - (e) Facts upon which the declaration is based.
 - (f) All registration and handling requirements as well as any additional restrictions placed upon the dog.
 - (g) Justification for any additional restrictions imposed on the dog under subsection (B) of this section.
 - (h) Penalties for violation of the registration or handling requirements.
 - (i) Availability to appeal the declaration in accordance with Rule 1-074 NMRA.
- (4) A dog shall not be declared a "potentially dangerous dog" or "dangerous dog" if:
- (a) The dog was used by a law enforcement official for legitimate law enforcement purposes; or
 - (b) The threat, injury or damage was sustained by a person, domestic animal or livestock who was:
 - 1. Trespassing upon premises occupied by the owner/guardian of the dog; or
 - 2. Provoking, tormenting, abusing, or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - 3. Committing or attempting to commit a crime.
 - (c) The dog was:
 - 1. Responding to pain or injury; or
 - 2. Protecting itself or its offspring; or
 - 3. Protecting or defending a human being, companion animal or livestock from attack or assault.
- (5) The Animal ~~Care and~~ Control Unit may convert a potentially dangerous dog to a dangerous dog status upon a breach of any condition pertaining to the potentially dangerous dog. If Animal ~~Care and~~ Control determines that the dog is a dangerous dog, the Animal ~~Care and~~ Control shall so apprise the owner/guardian of the dog by written notice sent by mail, hand delivered or conspicuously posted on the property.

(C) Handling requirements.

- (1) Prior to receiving a Certificate of Registration for a “potentially dangerous dog,” the owner/guardian shall annually establish, to the satisfaction of the Animal Care and Control Unit, the following:
 - (a) The owner/guardian can keep the dog under control at all times and comply with any restrictions that have been placed on the dog by Animal Care and Control Unit; and
 - (b) The dog has a current rabies vaccination; and
 - (c) The owner/guardian has a proper enclosure for the dog; and
 - (d) The owner/guardian has paid the annual fee to register a potentially dangerous dog; and
 - (e) The dog has been spayed or neutered; and
 - (f) The dog has been implanted with a microchip containing the current owner’s/guardian’s identification and the name of microchip manufacturer and microchip number has been provided to the Animal Care and Control Unit; and
 - (g) The dog owner/guardian has written permission of the property owner or homeowners’ association where the potentially dangerous dog will be kept, if applicable; and
 - (h) A clearly visible warning sign with a conspicuous warning symbol indicating that there is a dog on the premises.
- (2) Prior to receiving a Certificate of Registration for a “dangerous dog,” the owner/guardian shall annually establish, to the satisfaction of the Animal Care and Control Unit, the following:
 - (a) The owner/guardian can keep the dog under control at all times and comply with any restrictions that have been placed on the dog by Animal Care and Control Unit; and
 - (b) The dog has a current rabies vaccination; and
 - (c) The owner/guardian has a proper enclosure for the dog; and
 - (d) The owner/guardian has paid the annual fee to register a dangerous dog; and
 - (e) The dog has been spayed or neutered; and
 - (f) The dog has been implanted with a microchip containing the current owner’s identification and the name of microchip manufacturer, the name of microchip manufacturer and microchip number has been provided to ANIMAL CARE AND CONTROL UNIT; and
 - (g) The owner/guardian has provided written proof that the dog has entered and completed a socialization and behavior program approved or offered by ANIMAL CARE AND CONTROL UNIT; and
 - (h) The dog owner/guardian has written permission of the property owner or homeowners’ association where the dangerous dog will be kept, if applicable; and
 - (i) The dangerous dog will be maintained exclusively on owner’s/guardian’s property except for medical treatment or examination; and
 - (j) If the dangerous dog is removed from the owner’s/guardian’s property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet. The dog shall be always under complete control of the owner/guardian; and
 - (k) 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
 - (l) A clearly visible warning sign with a conspicuous warning symbol indicating that 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; and
 - (m) Provide to the Animal Care and Control Unit two color photographs of the dog which clearly show the dog’s accurate color and approximate size of the dog; and
 - (n) The owner/guardian shall carry and provide proof to the Animal Care and Control Unit, of an insurance liability policy of no less than \$500,000 to cover any consequences of the actions of the dangerous dog.

3. There are no handling requirements or restrictions that will reasonably protect the health and safety of the community from a “vicious dog.” Therefore, it shall be unlawful to keep, possess, or harbor a “vicious dog” within the city limits.

(D) Ownership Restrictions.

- (1) No person convicted of animal cruelty or animal fighting in any jurisdiction at any time is allowed to own a dangerous dog or function as the responsible person for a dangerous dog. Animal Care and Control Unit shall immediately seek to obtain a warrant from a court of competent jurisdiction to seize the dog or shall seize the dog with the consent of the owner/guardian. Such dog shall remain in the custody of ASCMV pending adjudication and shall be handled in the ordinary manner under this Ordinance. If the owner/guardian does not request a hearing by the Court within ten (10) calendar days, such dog shall become the property of ASCMV and shall be handled in the ordinary manner under this Ordinance.
- (2) Any person who registers a dangerous dog with Animal Care and Control Unit and conceals or fails to inform Animal Care and Control Unit that they have been convicted of animal cruelty or animal fighting is subject to criminal penalties for each day of possession of a dangerous dog in violation of this paragraph.
- (3) The owner/guardian of a potentially dangerous, dangerous or vicious dog shall not sell, loan, transfer, give, devise, board or otherwise convey ownership or custody and control to any person without notifying the recipient in writing of the dogs designation and notifying Animal Care and Control Unit ten (10) days prior to any change in the location of the property upon which the dog is kept.
- (4) Potentially dangerous, dangerous or vicious dog shall never be allowed access to or allowed within the proximity of a child unless the child lives in the same household as the dog and the dog is under the immediate and constant control of a responsible person.
- (5) No lessee shall own or possess a potentially dangerous, dangerous or vicious dog on a leasehold without the written consent of the lessor.

(E) Inspection

- (1) Owners/guardians of dogs determined to be potentially dangerous or dangerous shall allow inspections of the property where the dog is kept by Animal Care and Control Unit at any reasonable time of day. The Animal Care and Control Unit may charge reasonable fees for inspections and assess fines for failures of compliance pursuant to the list of fees and fines promulgated by the City Council from time to time.
- (2) If the owner/guardian refuses an inspection, the Animal Care and Control Unit shall immediately seek to obtain a warrant from a court of competent jurisdiction to seize the dog or seize the dog with the consent of the owner/guardian. Such dog shall remain in the custody of ASCMV pending adjudication and shall be handled in the ordinary manner under this Ordinance. If the owner/guardian does not request a hearing by the Court within ten (10) calendar days, such dog shall become the property of ASCMV and shall be handled in the ordinary manner under this Ordinance.

- (3) The Animal Care and Control Unit may require the owner/guardian to submit to educational requirements for owners/guardians of dangerous or potentially dangerous dogs or socialization or other classes for the dog.

(F) Registration requirement.

- (1) The Animal Care and Control Unit shall annually issue a Certificate of Registration to the owner/guardian of a "potentially dangerous dog" once the owner/guardian has complied with all the handling requirements in subsection (B)(1) of this section.
 - (a) If a dog previously determined to be "potentially dangerous" has not exhibited any of the behaviors specified in the definition of a "potentially dangerous dog" as outlined in the city's ordinances for 36 consecutive months, the owner/guardian may submit a written request to the Animal Care and Control Unit to lift the requirements for registration pursuant to this section. If the Animal Care and Control Unit has no reasonable basis to believe that the dog has exhibited the behaviors of a "potentially dangerous dog" within the past 36 months, the Animal Care and Control Unit shall relieve the owner of the requirements of this section.
- (2) The Animal Care and Control Unit shall annually issue a Certificate of Registration to the owner/guardian of a "dangerous dog" once the owner/guardian has complied with all the handling requirements in subsection (C)(2) of this section.
 - (a) If a dog previously determined to be "dangerous" has not exhibited any of the behaviors specified in the definition of a "dangerous dog" as outlined in the city's ordinances for 60 consecutive months, the owner/guardian may submit a written request to Animal Care and Control Unit to lift the requirements for registration pursuant to this section. If the Animal Care and Control Unit has no reasonable basis to believe that the dog has exhibited the behaviors of a "dangerous dog" within the past 60 months, Animal Care and Control Unit shall relieve the owner of the requirements of this section.
- (3) The Animal Care and Control Unit shall not issue a Certificate of Registration to the owner/guardian of a "vicious dog." It is unlawful to keep, possess, or harbor a "vicious dog" within the city limits.
- (4) The Animal Care and Control Unit shall maintain a list of potentially and dangerous dogs including but not limited to owner/guardian name, dog name and description, address where the dog is located, telephone number(s) and microchip number.

(5)(G) Prohibited acts.

- (1) It is unlawful for an owner/guardian of a dangerous, or potentially dangerous dog to:
 - (a) Keep the dog without a valid Certificate of Registration.
 - (b) Fail to comply with the handling requirements for the dog pursuant to subsection (C) of this section.
 - (c) Fail to notify the Animal Care and Control Unit immediately upon the escape of the dog.
 - (d) Fail to notify the Animal Care and Control Unit immediately if the dog causes an injury to a human being, companion animal or livestock.
 - (e) Fail to notify the Animal Care and Control Unit of the dog's death within five (5) business days.
 - (f) Fail to notify the Animal Care and Control Unit within 24 hours if the dog has been sold or given away and provide the name, address, and telephone number of the new owner of the dog.

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- (g) Fail to comply with any court order regarding special handling or care requirements for the dog.
 - (h) Enter and utilize any City Park or facility, including any of the dog parks.
- (2) It is unlawful to keep, possess, or harbor a “vicious dog” within the city limits.

{6}(H) Subsequent Attack by a Dangerous Dog

- (1) If a dog previously determined to be a dangerous dog commits a subsequent unprovoked attack on a person, companion animal, or livestock the Animal Care and Control Unit shall immediately impound the dog pursuant to this ordinance and seek to obtain a warrant from a court of competent jurisdiction to seize the dog or seize the dog with the consent of the owner/guardian. Such dog shall remain in the custody of ASCMV pending adjudication and shall be handled in the ordinary manner under this Ordinance. If the owner/guardian does not request a hearing by the Court within ten (10) calendar days, such dog shall become the property of ASCMV and shall be handled in the ordinary manner under this Ordinance.

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{7}(I) Defense

- (1) It is a defense to prosecution under this section that the person is a veterinarian, a peace officer, or a person employed by a recognized animal shelter, and has temporary ownership, custody or control of the animal; provided, however, that for any person to claim a defense under this section, that person must show good cause and be acting within the course and scope of his or her official duties in regards to the potentially dangerous, dangerous or vicious dog.

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{8}(J) Appeals.

- (1) Any person aggrieved by a decision to declare a dog “potentially dangerous,” “dangerous” or “vicious” pursuant to subsection (A) of this section may appeal the decision within 15 days to the District Court in accordance with Rule 1-074 NMRA.
- (2) Any person aggrieved by a decision of the Las Cruces Municipal Court pursuant to this section may appeal in accordance with the laws of the State of New Mexico.

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{9}(K) Seizure and impoundment.

- (1) Any action for the seizure and impoundment of a dog shall be brought in a New Mexico state court with appropriate jurisdiction and shall be done in accordance with the laws of the State of New Mexico; a court of competent jurisdiction. For the purposes of this Article, the Las Cruces Municipal Court shall be deemed a court of competent jurisdiction.

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{10}(L) Penalties

- (1) Violators of Subsection G of this section are guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and, for a second or subsequent offense, are guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978 1-10 of the Las Cruces Municipal Code.
- (3) An owner/guardian of a dangerous, potentially dangerous or vicious dog that causes serious injury or death to a domestic animal, without provocation, is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

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~~(4) An owner/guardian of a dangerous or potentially dangerous or vicious dog that causes serious injury to a human being, without provocation, is guilty of a third degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.~~

~~(5) An owner/guardian of a dangerous or potentially dangerous or vicious dog that causes the death of a human being, without provocation, is guilty of a third degree felony resulting in the death of a human being and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.~~

~~(26) Prosecution pursuant to this section requires a showing that:~~

- ~~(1) an owner/guardian knew of the propensity of a dog to inflict serious injury; or~~
- ~~(2) the dog had previously been found by a court to be a dangerous, potentially dangerous or vicious dog.~~

Sec. 7-34. Prohibited animals.

- A. *Wildlife, Wild and Exotic Animals.* ~~No person shall own, harbor or keep any species in violation of federal or New Mexico law.~~
- B. A person shall not possess, harbor, or keep any wildlife, wild or exotic animal of a species that in its natural life is potentially dangerous ~~or ferocious~~. Such animals, though they may be trained and domesticated, remain a danger to others, and include, **but are not limited to:**
 - (1) Wolves, coyotes, foxes, dingoes, and other members of the non-domestic canine families including canine hybrids;
 - (2) Lions, pumas, panthers, mountain lions, wild cats, and other members of the non-domestic feline families, including feline hybrids;
 - (3) All bears (Ursidae), including grizzly bears, black bears, brown bears, etc.;
 - (4) Raccoons (Procyonidae), including eastern raccoon, desert raccoons, ring tailed cat, coatimundi, etc.;
 - (5) Mustelids, other than the domestic ferret (*Mustela putorius furo*);
 - (6) Primates (Hominidae), including all non-human great apes other than qualified service animals;
 - (7) Skunks;
 - (8) Bats;
 - (9) Snakes belonging to the families Elapidae, Viperidae, and Colubridae (the twig snake, *Thelotornis kirtlandii*; boomslang, *Dispholidus typus*; and keelbacks, *Rhabdophis*);
 - (10) Lizards belonging to the family Helodermatidae (gila monsters, *Heloderma suspectum*, and beaded lizards, *Heloderma horridum*);
 - (11) Alligators, crocodiles, or caimans;
 - (12) Venomous fish and piranha; and

- (13) Any species of amphibian, snake, or reptile that is listed as threatened or endangered by the federal or state government.

C. *Exceptions.* This Section shall not apply to veterinary facilities, or individuals holding a State of New Mexico Wildlife Rehabilitation or Educational Use Permit.

Sec. 7-35. Qualified service animals.

- A. *Admittance.* A qualified service animal shall be admitted to any building open to the public and to all other public accommodations and shall be allowed to access a common carrier in compliance with the Service Animal Act, NMSA 1978, Section 28-11-1.1, et seq., as amended.
- B. *Additional Fees.* A person shall not be required to pay any additional charges for his or her qualified service animal but shall be liable for any damages ~~caused~~ ~~done by his or her~~ ~~the~~ qualified service animal.

Sec. 7-36. Pet mill.

No person shall keep or operate a pet mill.

Secs. 7-37–7-39. Reserved.

**ARTICLE IV
Administration and Enforcement**

Sec. 7-40. Remittance of fees.

All ~~transport fees, and dead animal removal fees, incurred and~~ collected pursuant to this Chapter shall be remitted to the City, who shall ~~be~~ place the monies in the City general fund. All other fees assessed and collected pursuant to this Chapter for the ASCMV, shall be remitted to the ASCMV, and placed in a restricted account to fund public spay/neuter of companion animals. ~~who shall place the monies in the ASCMV general fund.~~

Sec. 7-41. Animal ~~Care and~~ control officers.

- A. The City shall designate Animal Control Officer(s).
- B. Animal ~~Care and~~ Control Officers shall ~~seek to prevent and control the spread of rabies within the City including but not limited to the capture and confinement or disposition of rabies suspect animals, the enforcement of quarantine orders, the destruction or confinement of animals exposed to rabies and the enforcement of applicable regulations.~~ promote public safety and the humane treatment of animals through outreach and education, enforce the provisions of this ordinance pertaining to the care, treatment, impound, handling and quarantine of animals, and respond and investigate animal-related incidents.
- C. Animal ~~Care and~~ Control Officers shall be provided with appropriate training for their position. ~~to apprehend and handle animals.~~
- D. In carrying out the provisions of the Animal ~~Care and~~ Control Ordinance and other applicable regulations, every Animal ~~Care and~~ Control Officer is authorized to pursue any stray animal or a vicious dog or a dog molesting livestock or any animal with symptoms of rabies reasonably suspected to be in violation of any provision contained herein, onto private premises unless permission to make such pursuit is explicitly refused by an occupant of the premises.

Sec. 7-42. Enforcement authority and processes.

- A. *Investigation; right of entry.* The Animal ~~Care and~~ Control Officer shall have the authority, and is directed to investigate upon probable cause, any alleged violation of this Chapter or of any other applicable animal control law, order, or regulation.
- (1) Upon receiving a complaint of a violation or observing a violation of this Chapter, the Animal ~~Care and~~ Control Officer is authorized to enter upon private premises, but not into a residence or ~~to enter~~ a vehicle, for the purpose of inspecting and investigating such alleged violation ~~unless accompanied by a law enforcement officer where probable cause and/or exigent circumstances are present or a warrant has been obtained.~~
 - (2) If the owner or occupant of any such private premises or vehicle objects to inspection or onsite investigation, a warrant shall be obtained from a court of competent jurisdiction prior to inspection; however, a warrant shall not be required if an emergency measure exists as defined ~~herein.~~ ~~in Section 7-2.~~
- B. ***Interference prohibited.***
- (1) *Interference.* A person shall not threaten or interfere with the Animal ~~Care and~~ Control Officer in the performance of the duties authorized by this Chapter.
 - (2) *False report.* A person shall not make a false report to the Animal Care and Control Officer regarding any animal ~~and/or person~~ in danger or regarding any alleged violation of this Chapter.
 - (3) *Animal trap.* A person shall not move, open, close, or in any way alter an animal trap belonging to the City or being used by the Animal Care and Control Unit without authorization from the Animal Care and Control Unit. Removal or release of any animal from such a trap is prohibited.
- C. *Right to destroy.* A Police Officer or Animal Care and Control Officer who learns of an animal within the City, which reasonably appears to pose an immediate and serious threat to human life, is authorized to destroy said animal if the officer is unable to capture said animal without any substantial danger to himself/herself or others.
- D. *Procedures for complaints.* A complaint alleging any violation of this Chapter may be filed with the Animal Care and Control Unit by ~~an individual person who has~~ with personal knowledge of such violation ~~and who can identify the owner of the animal involved or the premises where the animal is located.~~ The Animal Care and Control Officer may require the complainant to provide his or her name and address and swear to and affirm the complaint.
- E. *Citations; criminal complaints.* ~~Whenever~~ the Animal Care and Control Officer has probable cause to believe that a person has violated this Chapter or any other applicable animal care and control law or regulation, the Officer may prepare a criminal complaint to be filed with a court of competent jurisdiction or may prepare a citation for the alleged violator to appear in court.

Sec. 7-43. Impoundment and detention.

- A. *Animal Services Center of the Mesilla Valley.* The ASCMV shall serve as the primary ~~holding~~ facility for the impoundment of animals pursuant to this Chapter. The Animal ~~Care and~~ Control Unit may designate additional locations for impoundment under special circumstances, such as special

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quarantine arrangements, animals held pending legal proceedings, and/or special wildlife impoundments.

- (1) *Health or safety risk.* The Animal Care and Control Officer may take emergency measures in order to seize and detain any animal that poses a present or imminent health or safety risk to the public. If the animal is not to be held pending court proceedings, such an impoundment shall be considered a care and maintenance impoundment for purposes of reclamation.

B. *Critically ill or injured.* The Animal Care and Control Officer may take emergency measures in order to seize and detain any animal that is deemed by the Officer to be critically ill or injured or in real and immediate jeopardy of becoming critically injured.

- (1) If the Animal Care and Control Officer is unable to safely return said animal to the appropriate owner or caretaker within a reasonable amount of time, the Officer may deliver the animal to the ASCMV. The **Animal Care and Control** Officer ~~may~~ **shall** require reasonable proof of ownership/guardianship prior to releasing the animal to an owner/guardian ~~caretaker~~ in the field.

If the animal is not to be held pending court proceedings, such an impoundment shall be considered a *care and maintenance* impoundment for the purposes of reclamation.

- (2) A trained and equipped Animal Care and Control Officer may humanely euthanize such animal onsite if the Officer deems it necessary **to alleviate the pain and suffering of the animal.**

C. *Running at large.* The Animal Care and Control Officer may detain any animal found running at large, except as otherwise provided for in this Chapter. If the Animal Care and Control Officer is unable to safely return said animal to the appropriate owner/guardian within a reasonable amount of time, the Officer ~~may~~ **shall** deliver the animal to the ASCMV. The Officer ~~may~~ **shall** require reasonable proof of ownership/guardianship prior to releasing the animal to an owner/guardian ~~or caregiver~~ in the field. If the animal is not to be held pending court proceedings, such an impoundment shall be considered a care and maintenance impoundment for the purposes of reclamation.

D. ~~Owner~~ **Relinquishment/surrender.** The Animal Care and Control Officer may detain and deliver to the ASCMV any animal relinquished **or surrendered** by its owner/guardian.

- (1) **Any person owning or having guardianship, care, custody or control of an animal** ~~owner~~ requesting to relinquish ~~ownership of an~~ **the** animal to the Animal Care and Control Unit or ASCMV shall be required to complete and sign a Release of Ownership at the time of detainment or impoundment. By signing the Release of Ownership, the owner/guardian shall:
 - a. Affirmatively represent in writing that he or she is the legal owner/**guardian** of the animal;
 - b. Transfer ownership/**guardianship** of the animal to the ASCMV or other **animal rescue organization.** ~~suitable facility;~~

- c. Direct in writing that the animal be placed in the custody of the ASCMV or other suitable facility for disposition as the ASCMV or facility sees fit; and
 - d. Agree ~~that he or she will~~ to indemnify and hold the Animal Care and Control Unit and/or the ASCMV or other suitable facility harmless from any loss or damage ~~he or she~~ it may sustain, including incurred attorney's fees, by reason of the destruction or placement for adoption of said animal.
- (2) The Animal Care and Control Unit ~~may~~ shall provide for the transport of a relinquished animal to the ASCMV ~~or other suitable facility~~.
- a. The transport fee amount shall be established and adopted through City Council resolution.
- E. *Cruelty; extreme cruelty.* An Animal Care and Control Officer or Police Officer who reasonably believes that the life or health of an animal is endangered due to neglect, cruelty or extreme cruelty shall follow the seizure, notice, disposition, and cost procedures contained in NMSA 1978, Sec. 30-18-1.1, 1.2, and 1.3, as amended.
- F. *Rabies exposure; animal surrender.*
- (1) A person owning or having guardianship, care, custody, or control over an animal that bites a person shall surrender custody of said animal to the Animal Care and Control Officer if the Officer deems it necessary to impound said animal for a quarantine isolation and observation period.
 - (2) If a person owning or having guardianship care, custody or control refuses to surrender custody said animal, the Animal Care and Control Officer may seek a warrant for the seizure of the animal.

Sec. 7-44. Reclamation.

- A. *Right to reclaim.* The ~~person owning or guardianship, care, custody or control owner or community cat caregiver~~ of any animal that is impounded pursuant to this Chapter shall have the right to reclaim the animal from the ASCMV during the allotted Reclamation Period upon payment of all fees that may be owed for the impoundment of such animal.
- (1) Any animal not reclaimed within the Reclamation Period shall thereafter be considered the property of the ASCMV.
 - (2) The Reclamation Period may be interrupted if it is determined by the staff of the ASCMV that euthanasia of the animal is necessary due to the animal being in severe, acute distress, or if the animal is irremediably suffering.
 - (3) The ASCMV shall hold any animal impounded for running at large without pet identification for a minimum Reclamation Period of three (3) ~~working~~ days following impoundment ~~with the exception of community cats impounded for TNR.~~
 - (4) The ASCMV shall hold any animal impounded for running at large with pet identification for a minimum Reclamation Period of five (5) ~~working~~ days following impoundment.

- (5) The ASCMV shall not be required to hold for any minimum Reclamation Period any animal that has been relinquished to the ASCMV by its owner/guardian.
- (6) The ASCMV shall hold ~~the body of~~ any deceased animal delivered to the ASCMV with pet identification for a minimum Reclamation Period of ~~one (1) working day~~ 24 hours.
- (7) The ASCMV shall not be required to hold for any minimum Reclamation Period any deceased animal delivered to the ASCMV without ~~pet~~ pet identification.
- (8) The ASCMV shall hold any animal impounded as a care and maintenance impoundment for a minimum Reclamation Period of five (5) ~~working~~ days following impoundment.
- (9) The owner/guardian may not reclaim any animal that has been placed under a court-ordered detainment ~~without court authorization~~.
- (10) Any animal placed under quarantine shall be held for the full quarantine isolation and observation period before said animal may be reclaimed by the owner/guardian, unless a home quarantine is authorized by the Animal Care and Control Officer.

B. *Impoundment fees.* Fees for the impoundment and boarding of each animal shall be established by the ASCMV ~~Board~~ director and shall be collected and retained by the ASCMV.

- (1) Payment of such impoundment and boarding fees shall not bar the imposition of any fine that may be imposed by a court of competent jurisdiction for the violation of this Chapter or state law.
- (2) Boarding fees may be included for each day or fraction thereof of impoundment for feeding and care for such animal.
- (3) The owner/guardian of any animal impounded shall be responsible for all fees associated with such impoundment and boarding whether or not the animal is reclaimed.
- (4) All fees associated with such impound shall be paid to the ASCMV.

C. *Proof of vaccination.* A person reclaiming a ~~domesticated~~ companion animal judged to be three (3) months of age or older by the ASCMV staff and that was seized or apprehended from an address or location within the City shall provide a current rabies vaccination certificate for said animal before the animal may be reclaimed from the ASCMV.

- (1) If a current rabies vaccination certificate is not provided, the owner/guardian or community cat caregiver shall ~~purchase~~ obtain either a new vaccination ~~or a vaccination voucher for the animal~~ from the ASCMV before said animal may be reclaimed.
 - a. ~~If the owner or community cat caregiver chooses to purchase a vaccination voucher, the owner or community cat caregiver shall sign an agreement stating he or she will have the animal vaccinated against rabies within thirty (30) days of reclamation.~~
 - b. ~~The owner or community cat caregiver shall subsequently provide the current rabies vaccination certificate for said animal to the ASCMV within thirty five (35) days of reclamation.~~

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- (2) The fees for the rabies vaccination and vaccination voucher shall be set by and payable to the ASCMV.

D. *Proof of microchip.* Proof of a working implanted microchip in a domesticated companion animal seized or apprehended from an address or location within the City and judged to be three (3) months of age or older by the ASCMV staff shall be obtained by the ASCMV staff before such animal may be reclaimed.

- (1) Proof of the microchip implantation shall be a scan of the animal by an ASCMV staff member confirming the presence of a working identification microchip.
- (2) If proof of a working microchip implantation is not obtained detected, the owner/guardian or community cat caregiver shall be charged for implantation of a new microchip implantation by the ASCMV before the animal may be reclaimed.
 - a. If the owner or community cat caregiver chooses to purchase a microchip voucher, the owner or community cat caregiver shall sign an agreement stating he or she will have said animal microchipped within thirty (30) days of reclamation.
 - b. The owner or community cat caregiver shall then subsequently provide proof to the ASCMV within thirty five (35) days of reclamation that said animal has been microchipped.
- (3) The microchip and corresponding owner/guardian or community cat caregiver contact information shall be registered with by the ASCMV.
- (4) The microchip fee shall be set by and payable to the ASCMV.

E. *Proof of sterilization.* A person reclaiming a dog or cat companion animal judged to be six (6) months of age or older by the ASCMV staff and that was seized or apprehended from an address or location within the City shall provide proof that said the animal has been sterilized before the animal may be reclaimed if such condition is not readily obvious to the ASCMV staff.

- (1) Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition, pursuant to Section ____.
- (2) If proof of sterilization cannot be provided or such condition is not readily obvious to the ASCMV staff, the owner/guardian or community cat caregiver shall provide a sterilization deposit to the ASCMV. A of an intact animal shall be sterilized prior to reclamation or an Intact Animal Permit obtained. The owner/guardian must pay all impound fees and sterilization authorization and fee.
- (3) The owner or community cat caregiver shall sign an agreement stating he or she will have the animal sterilized within thirty (30) days of reclamation or will obtain an Intact Animal Permit from the Animal Control Unit within such time.
- (4) The sterilization deposit shall be reimbursed to the owner or community cat caregiver upon presentation of proof of sterilization to the ASCMV by the owner or community cat caregiver within thirty five (35) days of reclamation.

- F. *Release of Community Cats.* Prior to release of any community cat, a licensed veterinarian must establish that the cat has been sterilized, ~~and is microchipped, vaccinated for rabies, and ear~~ tipped. Community cats without microchip identification are not subject to the Reclamation Period of three (3) working days.

Sec. 7-45. Penalties.

Animal ~~Care and~~ Control may issue a correction warning to a person who violates this chapter, requiring the owner to correct the violation, in lieu of ~~a citation~~ a citation, unless the violation endangers the health or safety of the animal, the animal has been wounded as a result of the violation, or a correction warning has previously been issued.

Any person who violates a provision of this ordinance shall be deemed guilty of a crime, and upon conviction, shall be subject to the penalty provisions set by Council Resolution and/or ~~Each violation of this Chapter shall be enforced and shall be punishable as provided in Sec. 1-10 of this Code, as~~ amended.

Every violation of this ordinance shall be a separate offense. Every day this ordinance is violated shall be considered a separate offense. When multiple animals are involved in the violation, each animal shall be considered a separate offense. Upon receipt of a citation, the person cited must appear in court.

The imposition of a penalty does not prevent revocation or suspension of a permit or other administrative actions.

Notwithstanding any of the penalties contained herein, in the event any animal damages property, whether public or private, or causes injury to any person or animal, and such damage or injury is found to have been an element of the violation of any provision of this Ordinance, the court may, at its discretion, require the defendant to make restitution within a reasonable time to the victim of said damage or injury.

Sec. _____. Fees and Penalties