

CITY COUNCIL AGENDA

Mayor
Eric Enriquez

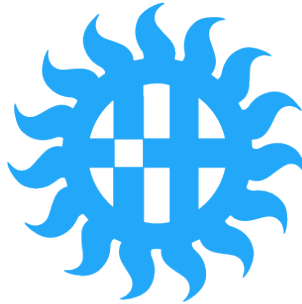
Monday, March 17, 2025 at 1:00 PM

Council Chambers

**CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004**

Mayor Pro Tem
Johana Bencomo

Councilors
Cassie McClure
William Mattiace
Becki Graham
Becky Corran
Yvonne Flores



CITY OF LAS CRUCES

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CONSENT AGENDA

Minutes and Items on the Consent Agenda Are Considered Routine Items and Will Be Voted on with One Motion Unless a Councilor Requests That a Specific Item Be Removed. There Will Be No Discussion.

Page

1. OPENING CEREMONIES

- 1.1. Pledge of Allegiance - Mayor Enriquez.
- 1.2. Presentation of Certificates of Appreciation/Proclamations - Mayor Enriquez.
- 1.3. Jobs of the Week.
- 1.4. Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

3. PUBLIC PARTICIPATION

4. ACCEPTANCE OF AGENDA

5. CITY COUNCIL MINUTES

- 5.1. Regular City Council Meeting of February 18, 2025. 4 - 50
[City Council - Feb 18 2025 - Minutes - Pdf](#)
- 5.2. Work Session of February 24, 2025. 51 - 57

6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

- 6.1. RESOLUTION NO. 25-104: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A REAUTHORIZED GRANT AWARD FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT). 58 - 77

[Resolution No. 25-104 - Pdf](#)

- 6.2. RESOLUTION NO. 25-105: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2025 BUDGET. 78 - 86

[Resolution No. 25-105 - Pdf](#)

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

- 7.1. **PUBLIC HEARING REQUIRED.** RESOLUTION NO. 25-106: A RESOLUTION APPROVING THE REQUEST FOR A RESTAURANT B – BEER, WINE AND SPIRITS LIQUOR LICENSE WITH ON PREMISES CONSUMPTION ONLY TO CHACHI'S, LLC., D/B/A CHACHI'S, LLC., LOCATED AT 340 N. MAIN STREET, LAS CRUCES, NM. 88001. 87 - 106

[Resolution No. 25-106 - Pdf](#)

- 7.2. RESOLUTION NO. 25-107: A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR THE FISCAL YEAR 2025/2026, FOR EAST LOHMAN AVENUE/SOUTH WALNUT STREET SIGNAL IMPROVEMENTS IN THE AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000. 107 - 118

[Resolution No. 25-107 - Pdf](#)

- 7.3. RESOLUTION NO. 25-108: A RESOLUTION AMENDING THE FY2025-2030 CAPITAL IMPROVEMENTS PROGRAM. 119 - 133

[Resolution No. 25-108 - Pdf](#)

- 7.4. RESOLUTION NO. 25-109: A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS PURSUANT TO THE METROPOLITAN REDEVELOPMENT CODE, AND DESIGNATING THE AMADOR PROXIMO AND SOUTH AREAS, APODACA AND LIFT UP AREAS, EAST OF SOLANO NEIGHBORHOOD AREA, AND THE MESQUITE DISTRICT AREA WITHIN THE CITY'S INFILL AREA AS METROPOLITAN REDEVELOPMENT AREAS. 134 - 168

[Resolution No. 25-109 - Pdf](#)

8. BOARD APPOINTMENTS

9. NOTICE OF PROPOSED ORDINANCE(S)

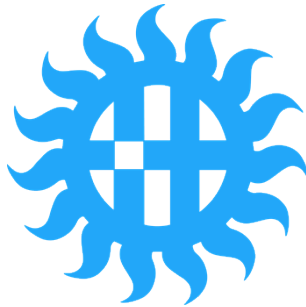
- 1) There will be no public discussion.
2) A Councilor may ask staff for clarification on the proposed ordinance(s).

- 9.1. COUNCIL BILL NO. 25-020; ORDINANCE NO. 3091: AN ORDINANCE REPEALING AND REPLACING CHAPTER 7, ANIMALS, OF THE LAS 169 - 266

CRUCES MUNICIPAL CODE (LCMC).

[Ordinance No. 3091 - Pdf](#)

10. **CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT**
11. **CITY MANAGER REPORT**
12. **ADJOURNMENT**



MINUTES

City Council

Tuesday, February 18, 2025 @ 1:00 PM

City Council Chambers, City Hall

PRESENT: Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

ABSENT:

1. OPENING CEREMONIES

1.1 PLEDGE OF ALLEGIANCE - COUNCILOR CORRAN.

1.2 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR CORRAN.

Councilor Corran presented Pat Acosta, Kayleigh Martinez, Kiana Sandoval, and Michael Chavez with a proclamation for Teen Dating Violence Month.

Councilor Corran presented El Paso Electric with a proclamation for National Engineers Week.

Councilor Corran recognized Casa de Peregrinos Board of Directors, Public Works, Management and Staff, and Housing and Neighborhood Services Team for receiving the 2025 Audrey Nelson Community Development Achievement Award.

Mayor Enriquez recognized the 356th Transportation Company led by Lt. George Solozano and Sgt. Marshall for their return from a yearlong military deployment.

1.3 JOBS OF THE WEEK.

Sarah Raney, New Mexico Workforce Connections presented Jobs of the Week.

1.4 PETS OF THE WEEK.

Carol Nielson, Animal Services Center of the Mesilla Valley presented Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

2.1

None.

3. PUBLIC PARTICIPATION

3.1

Dolores Lucero, Member of the Public said I requested information two weeks ago for an investigation on the Amador restaurant at 300 South Main. The restaurant is now closed effective January. My review with the help of an accountant is clear that there was no way that business could succeed under that agreement and of course like many others in our city the additional burden of 2020 only made it worse. My reason for comments is to bring up this property which has another similar property on Main Street that the city built and owns. First of all, the city owned property does not collect property tax. Secondly, the city has no business leasing restaurants or other types of this business, that is for the private sector. Third the location of the building will be a huge target based on those who do not respect other people's property so there will be damage. In my review I can definitely see that the City Manager did not handle on the lease and timing of the closing and was probably just as much surprised as the public was. I was told although I cannot verify that the city is putting a committee together to review what to do with the property. Let me make it simple, prime location, put it up for sale immediately. Using local realtors who are experts at this career and pay back the budget which is really the people's money and get out of owning more property and lease agreements that you have no reason to be involved in and stick to what a city's priority is and let me refresh what that is. Number one is to provide public safety, number two is to provide quality and affordable utilities, and third efficient roads and infrastructure. Do not delay as this won't be long before this property deteriorates, which will only deviate from the selling price and reduce its value.

Jennifer Dahlgren, Member of the Public said via her interpreter, I am with the New Mexico Commission for the Deaf and Hard of Hearing, and I am here to thank you so much for providing access for me and providing a sign language interpreter. I do want to give a little bit of a recommendation. Something you all can think about. Maybe planning on using picture in picture for your live stream services online that way people don't have to come in person to the meeting, but they can still be included in our community and with our local government. Also, at any time if you give any announcements like when the Mayor gives a proclamation or the Fire Department or the Police Department it would be really wonderful to have a sign language interpreter available so that way we can have access to the deaf community. Thank you again so much for your time.

LaVaughn Hart, Member of the Public said I am the Director of the Spay and Neuter Action Program, SNAP as we commonly call it. Last month I came and thanked the board for their support in the contract between the City of Las Cruces and SNAP to provide free spay and neuter surgeries for companion dogs and cats of low income Las Cruces residents. Today I wanted to give you a brief overview of what is

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happening with the program. We announced the program on December 31, 2024. In the first six weeks of 2025 we have issued over 200 vouchers for spay and neuter surgeries. How does that compare to last year you might ask? Well, it is a 48% increase in the number of vouchers issued in just those first six weeks and that is without any real advertising. We have put out some social media but that is about it, people are hearing. I would like to look at something joint between the city and SNAP to get the word out to a wider audience. Clients receive vouchers to have their animals micro chipped and given their rabies vaccine at the same time when they receive their vouchers for spay neuter and guess what, it has been a banner month for spays, neuters, microchips, and rabies vaccines. Clearly this program is meeting the need in our community. We look forward to continuing our relationship with the city and hopefully seeing it grow. The veterinarians in our community are stepping up to meet the increased need for these surgeries. In addition to the daily efforts of our vets we are also planning two special programs for Las Cruces dogs and cats to get spayed and neutered. February 25th is World Spay and Neuter Day. Thank you for your continued support of spay and neuter in Las Cruces.

Jim Hoerst, Member of the Public said I have a copy of the agenda today. What is missing is that it doesn't have the Mayor's moment of silence. No agenda that I can find has the opening moment of silence on it. If it is the appropriate activity for this commission to have a moment of silence put it on the agenda. If there is an authorizing resolution that authorizes a moment of silence, make that known to us. If it is a good thing to do, say so. If you have the appropriate authority to do it, say so. Put it on the record.

Lynn Moorer, Member of the Public said we recognize the actions the City Manager is taking to allow the majority of councilors to avoid attending a briefing by experts with public participation regarding EPA's new Lead and Copper Rule. This is despite the citizens' repeated request that it be at a city council meeting that a briefing by experts occurs. A city council meeting has an agenda and is properly noticed and has minutes prepared. All councilors are obligated to attend the city council meeting. By contrast a majority of councils may not be present at a so called townhall that discussing public business or it would constitute a quorum and violate New Mexico's Open Meetings Act. Take a careful look at sections 10-15-1(B) of the act. This City Manager is planning a so called townhall rather than a city council meeting which will allow at most only three councilors out of the seven of you to attend to participate. Each councilor and the Mayor needs to be educated about and consider this very consequential rule that affects the public health of every citizen of Las Cruces and everyone who drinks its water. All seven of you need to gather enough facts and impressions to form a least a preliminary idea as to whether the actions being taken by city Utilities personnel are adequately protective of public health and compliant with the new rule and very importantly whether additional funding is needed. A special city council meeting could be held that allowed two or three hours for presentation and discussion regarding one subject, the Lead and Copper Rule. This could be similar to the special meeting that was held recently to try to cure your Open Meetings Act violations pertaining to the selection of this City Manager. We ask you to rethink this and insist that a city council meeting be the framework for a briefing on the rule, not a so called townhall. Please stand firm against allowing this City Manager to usher you into yet another violation of the Open Meetings Act. Envía la carta en Español.

Liz Rodriguez-Johnson, Member of the Public said almost four months ago the Las Cruces Utility office sent out a letter announcing the new Lead and Copper Rule in English only. Two months later it became necessary to make request that the letter be sent out in Spanish so that Spanish speakers could have the same opportunity as English speakers to learn about the Lead and Copper Rule which could have implications on their health. The request was made again at a city council on February 4th. On February 6th the city councilor said in an email there was a mistake, referring to not sending the letter out in Spanish. However, it has been almost two weeks since that email and the letter in Spanish still has not been sent out. False claims that the new rule was sprung on water systems with little warning and no funding. The reality is that the Lead and Copper Rule has been very publicly in the works for about a decade. It has been in the public eye since at least 2014 when the problems with the lead in water in Flint, Michigan were widely publicized. Another example of funding is EPA's announcement that more than \$26 billion over five years is available through the Bipartisan Infrastructure Law to support lead pipe replacement projects. Yet another spurious claim by a councilor is that little guidance was provided to help water systems implement the rule. The truth is that EPA published various kinds of guidelines, for example in 2022, EPA published this 164 guidance document that anticipated that the Lead and Copper Rule, and here it is. This thorough guidance explains how water systems should comply with the predecessor to the Lead and Copper Rule issued in 21 as well as the October 24 rule.

Lindley Hornsby, Member of Public said I am taking time out of my day as a Master of Social Work intern to represent my constituency here to the council. I am President of Graduate Workers United, UE Local 1498. We are a labor union of research assistants, teaching assistants, and graduate assistants at NMSU. We performed duties that are essential to the university's research and service mission. There is about 900 of us. The majority of us are a conglomerate of international students and domestic out of state student workers. We come to the city of Las Cruces not only to attend NMSU but for the opportunity and potential that this city provides. I wanted to speak up on behalf of my constituency in support of Realize Las Cruces because affordable housing is an essential issue to graduate workers at NMSU. Scores of workers tell me they want to work, live, and raise a family here in Las Cruces after graduation. So why do they leave? They leave because they can't find affordable housing and these are workers that are invested in the community yet we are lacking the infrastructure to meet their needs. Realize puts us on a path toward achieving affordable housing for working families.

Mayor Enriquez said you can't discuss an item that is going to be on the agenda. You can talk about certain things, but you can't speak specifically to Realize until it comes up on the agenda.

Lindley Hornsby said okay, unfortunately I have to go back to work so I won't be able to. I just wanted to acquaint myself. I am not sure if the city council has been acquainted with our labor union. We unionized in 2022. We are a rank-and-file union that believes in political action, and we are watching this council to see that you all do the right thing for working people. So, thank you for listening. It is a privilege for me to be here but unfortunately because I have to work, I won't be able to be here for the

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remainder of the meeting.

Eddie Thomas, Member of the Public said first let me address the issue brought up by the young ladies having to do with the lead pipes. I Googled it and it is bad. Especially for developing children. It can cause stunted growth, slow brain development, learning disorders, permanent digestive issues like vomiting, diarrhea, cramps. Currently there is a renovation project going on in my neighborhood where the utility lines are being replaced. Casas Lindas Project between Avenida de Mesilla and Amador. I can't think of a more perfect time to check what the water pipes are actually made of. You have got to start somewhere. Why not start in one of the oldest neighborhoods in Las Cruces? Just tell us the truth once you find out because right now the only person I trust on that dais is Chief Story. Last time I was here I pointed out the building across the street. Did any of you notice it as you walked out to the parking lot? Of course not, you all park in the back, right? At any rate it is still there for all to see. I am sure visitors notice it right in front of City Hall along with a myriad of other shuttered buildings on plywood plaza as I like to call it. I think that speaks to the actual state of the city's financial and economic health. Businesses come to die here in Las Cruces, that is the truth. To summarize we have cannabis which I have nothing against because they pay taxes, and they take up residence in what would otherwise be a shuttered store front. We have homeless, we have plywood windows, high crime, high taxes, and abortion. What family wouldn't want to live here and raise their kids in the lowest performing school system in the country, welcome to Las Cruces and the land of enchantment.

William Beerman, Member of the Public said the last meeting I attended the ladies also spoke about lead in the water and I regretted that I didn't stand up and support them then. I would like to concur with what they said and also regarding the subject of water. My tap water is 500 parts per million dissolved solids and in contrast the water that I buy at the water mill every few weeks I go, and I buy 30 gallons of water to drink. That is zero parts per million and it has been like this for at least 5 or 6 years when I used to be on the Capital Improvement Advisory Committee. I just wish that you public officials would focus a little more on traditional municipal responsibilities like the quality of our water instead of these tangent issues that you seem to be obsessed with.

Juan Garcia, Member of the Public said elections have consequences in the New Mexico progressive oligarchy. New Mexico's story is one of profound struggles and missed opportunities. For generations as a result of elections favoring the majority progressive policies have dominated the state's political landscape yet the results are a heartbreaking picture of systemic failure. Look at our city when it hit a new high in crime after the 2020 council elections. The most telling is our dependence on government employment. New Mexico's three largest employers, the State of New Mexico, the federal government, and Sandia Laboratories, all draw from public funds creating a cycle of reliance that deepens with each passing year which is why so many progressives oppose the eradication of waste, fraud, and abuse from our federal government. Malpractice laws strain our health care system while the removal of qualified immunity left our law enforcement officers vulnerable and hesitant. The recent trial of an LCPD officer stands as a grim testament to this reality. So yes, elections do have consequences both ways and New Mexico is a clear example and

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on the subject of hate speech against elected officials. I received a report of a well designed graffiti placed on Main Street and I will read, “be the change you want to see in the world, kill Donald Trump”. This is located on the streets of Main Street not too far from where we are at. There were other similar stenciled graffiti that advocated for the killing of the sitting President. Nobody wants to hear about this type of threats. Let’s hope that some comments come from the dais.

4. ACCEPTANCE OF AGENDA

Councilor Johana Bencomo moved, seconded by Councilor Becky Corran, to accept the agenda as presented and to listen to item 7.4 first.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

5. CITY COUNCIL MINUTES

5.1 REGULAR CITY COUNCIL MEETING OF JANUARY 21, 2025.

5.2 WORK SESSION OF JANUARY 27, 2025.

6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

7.1 **RESOLUTION NO. 25-097: A RESOLUTION APPROVING THE CITY OF LAS CRUCES TECHNICAL MANUAL THAT IS REFERENCED IN CHAPTERS 34-38 OF THE LAS CRUCES MUNICIPAL CODE.**

Sara Gonzales, Economic Development Project Manager gave the overhead presentation.

Councilor Bencomo asked obviously there is that eight-month period for entirety of Realize, right? The technical manual isn’t really like that it would really be in perpetuity that you will be taking feedback and potentially making changes as the end users are really utilizing the pieces, correct?

Sara Gonzales said that would be correct. Essentially this is going to actually be able to be amended quicker so that way we can actually start seeing those changes implemented right away. We do not have to wait for that transition period, but we can identify oh this practice isn’t working, we need to modify that, work with the developers and get on to our next agenda and that is why I say that this can be something that is on a biweekly basis so that way we are accomplishing the goal.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 25-097.

RESULT:	Carried
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MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

7.2 RESOLUTION NO. 25-098: A RESOLUTION APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF ITS REVENUE BONDS FOR THE BENEFIT OF EXPLORE ACADEMY – LAS CRUCES AND/OR A RELATED ENTITY IN AN AGGREGATE AMOUNT NOT TO EXCEED \$33,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING THE COST OF ACQUISITION, CONSTRUCTION, INSTALLATION, RENOVATION, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES, PROVIDING THE TERMS AND CONDITIONS FOR SUCH BONDS AND OTHER MATTERS RELATING THERETO.

Brad Douglas, City Attorney gave the overhead presentation.

Councilor Corran said this is in my district and residents have actually asked about this school in this location and I would love to just hear a little snippet about what Explore Academy is about and so that I can talk to folks around the Park Hill area when they are asking about it because I think it is pretty exciting so I would love to hear a little bit.

Reynaldo Gomez, Member of the Public said I am currently the Principal at Explore Academy at the Telshor site. We house a K5 Program there. Our program is really to provide choice opportunities, to provide that individualized educational program for our students that come to our campus. We currently house 221 students at the K5 and we have roughly 210 at the middle school and high school. We are looking obviously to expand. Our philosophy is still based under the guidelines of the New Mexico PED, however we do provide choice for teachers and for students. When I say that we are standards based, obviously that is our curriculum, how the curriculum was delivered structurally in the classrooms is not our typical within the four walls. We are dancing, we are moving, we are project-based learning so that enhances the creativity and critical mind of our students that come to Explore and that starts from the K all the way to the 5 and then obviously to we move on to the middle school and high school. As choices get more and more the opportunity for students to have choice becomes more at the middle school/high school but we do offer that opportunity for our K5 population as well. Again, that is a snippet of what Explore Academy is foundationally based on project-based learning, individualized instruction, choice from not only instruction from specials to electives as well.

Councilor Flores asked I am just wondering why Las Cruces? Is there a certain target or a certain population? Do you target a certain population of children? Why from Wisconsin? Do you work closely with LCPS? Do you abide by the requirements of the State of New Mexico to provide the curriculum needed?

Reynaldo Gomez said so we are under the New Mexico Public Education Department. We follow all guidelines and protocols of the standards that they set. We

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are not tied directly to Las Cruces Public Schools. We are a free public charter that is not in association with Las Cruces Public Schools and so Explore Academy has been in existence for 11 years. It originated in Albuquerque, New Mexico and has expanded to Peoria, Las Vegas, they have two sites in Albuquerque. This is going to be our fourth year in existence here in Las Cruces. It was a 5/9 and they expanded to 10 and then we finally took that leap of faith and opened the K4 and obviously we are at the K5 at the Telshor site but it originated in Albuquerque.

Councilor Flores asked why does that type of an institution exist? Is it so different to what we have to offer public schools or even our private schools here?

Reynaldo Gomez said we stand behind our project based learning where kids are moving and dancing and singing and doing, building that critical and creativity skill set. Every institution, even the private sector here or the other charters have their own philosophies in regards to how they deliver that instruction but we are a project based and we service any student or any parent that is wanting something different in the setting of a classroom and public education. Nothing wrong with public education, that is just our philosophy and that is what we believe in and that is what just in the efforts this year and our marketing and just in the number of people that have transitioned over to Explore. I am sorry that you guys are not aware of us. We need to do a better job of marketing that as well, our school, our campus. However, it is just a different opportunity for parents, for students. If you do talk to our community at the Explore Academy whether it is K5 or 6/12, I am sure you are going to hear the great stories and the great things that our staff and we are doing at both campuses.

Councilor Flores asked how are the children selected? Is it basically just a draw of the names?

Reynaldo Gomez said we do have a lottery system. This year we were able to retain or keep all of our students that are on campus out of the fifth grade obviously is moving on to the K12, at the K5 we are able to retain about 200 students so that opens up several spots within each grade level and the more students that we can bring into our facility that means more staff, more teachers, but we do have a lottery system and that currently is open for parents to apply and that is how the lottery I believe it closes in March and so we will start to reach out to those parents who were able to get in. We are hoping to take as many as we can.

Councilor Flores asked how do you measure success for these students? For example, from there they go to regular high schools here in Las Cruces?

Reynaldo Gomez said some of them might. Some of them continue with K12 Explore Academy and that one is located over there off Del Rey. Which is the old call center and so those opportunities, college bound, college based curriculum as well. We do terms and so when I stated earlier that students have choice, they have more choices at the middle school and high school in terms of being able to, our terms are 22 days at the middle school/high school and so students are able to get credits because the standards and benchmarks are cyclical in nature, they get taught and they get hit throughout the school year so every 22 days at the middle school/high school starting

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in the 8th grade they change classes and they build credits that way.

Councilor Flores asked you haven't had a graduating class from high school yet?

Reynaldo Gomez said this coming year will be our first 12th grade class.

Councilor Flores asked your students are they college bound?

Reynaldo Gomez said that is the goal. Obviously, we know whether it is public school setting or charter school or private not all students are pegged to go to college. They are going to go to the trades. We still build on that challenging them to take those leaps to obviously achieve their goal whatever that may be.

Councilor Flores said it was based in Albuquerque and the money is coming from Wisconsin. Has there been a graduating class from high school here in New Mexico?

Reynaldo Gomez said I believe Albuquerque has had a graduating class go all the way through the program.

Councilor Flores asked do you have any stats on that?

Reynaldo Gomez said I would have to get testimonials from the head administrator over there. I can email you or provide you that information.

Robert Butler, Member of the Public asked where are you from sir? Does your curriculum include teaching good to further their education? This is a lot of money going to the academy. My concern is with the level of education we are losing out of Las Cruces.

Brad Douglas said I would reiterate bullet point number seven, if approved by this governing body the funds would be allocated by the Public Finance Authority of the State of Wisconsin. The city and the State of New Mexico for that matter would have no obligation to issue the bonds to address the tax exemption status of the bonds, to service the debt in any way or have any other obligation related up to \$33 million funding mechanism.

Jo Ruprecht, Member of the Public said I love Wisconsin. I grew up there spending some great time in Lake Geneva. My sister still lives near Lake Geneva. TJ Atkinson said years ago, "follow the money". I want to ask you to follow not just where the money is going but where is it coming from? Why is Wisconsin underwriting this? Was there even an attempt to have it financed through New Mexico so that some New Mexico entities would make money off of this investment in what seems to be an honorable and reasonable school? Where is the New Mexico money? Where is the attempt to get it? Rather than putting that money in the pockets of people in Wisconsin?

Jessica Shaham, Attorney for Explore Academy said I do a lot of financing for charter

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schools including in New Mexico. The PFA Wisconsin is a conduit issuer specializing in bringing conduit bonds to the market. The money for the project actually will not come from the state of Wisconsin it is just a conduit for the public market. Those will be sold to Wall Street investors who receive tax exemptions on the bonds. So that is a mechanism for charter school financing throughout the country really. Some states have set up their own issuance authority for these types of deals. New Mexico has not but Wisconsin and a few other states have a national footprint, and they can issue bonds anywhere in the country and that makes the process more streamlined and cheaper for the school.

Councilor Flores asked how is New Mexico selected?

Jessica Shaham said the schools apply to the authority of the issuance of bonds when they have a project that they want to fund. The school is the one who applies. The school will be ultimately responsible for the payment of these bonds, and they are the ones who apply. If the school wants to buy this property instead of leasing so they need to raise funds for that. So, the way schools access the capital markets is through these bonds and so they chose the issuer they want, and they chose PFA. They applied to PFA and there is writing criteria for the bonds you know. They have to be a certain amount. They have to be repaid within a certain amount of time. There is a maximum interest rate that they can apply for these kind of bonds. So the schools are going to live with your criteria and then after this process which is the public hearing process that we are doing now, after this process PFA will do its own approval of the bonds, the school itself would approve the issuance of the bonds and then the marketing would happen and then the interest rate would be determined much like if the city of Las Cruces would issue bonds to do some public improvements. That process is very similar except that when schools do it they have to go through a conduit issuer and go through the public hearing locally.

Councilor Becky Corran moved, seconded by Councilor Becki Graham, to Approve Resolution No. 25-098.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

7.3 RESOLUTION NO. 25-099: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FISCAL YEAR (FY) 2024-25 BUDGET.

Vanessa Perez, Budget Analyst gave the overhead presentation.

Councilor Bencomo asked can we just speak a little bit more about the fire?

Vanessa Perez said we received some revenue from the AMR services, and we are supposed to reimburse this to Dona Ana County. Dona Ana County did not bill us on time for us to be able to pay that million dollar invoice so we had budgeted for the invoice in fiscal year 24 but since they didn’t charge us on time we are having to pay

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this out of fiscal year 2025 funds so basically that expenditure that was not spent in fiscal year 24 is just rolling over into fiscal year 25.

Sean Heck, Interim Fire Chief said the contract that was generated back in March of 2024 with AMR we are still in the process of going through the liquidated damage portion of that and the contract was established with parameters for response time criteria and if they didn't hit those response times criteria's then they were going to be assessed liquidated damages. Right now, we met just on February 4th which was going to be the finalization of just trying to get the first quarter done which would have been March through May. We still have not successfully finished that. We ran into a roadblock in that meeting and so the goal here is to try to get that done as soon as possible but what you are saying is absolutely correct. The money was held for that payment to be done for that three million contract that they received. The one million that we received for that or one million of our part of the county's part of that, it hasn't been paid yet and we are just trying to get that finished. We are not even sure how much of that is actually going to go to them because of the amount of liquidated damages and that is what we are working through right now. So, we are hoping to get this resolved within the next, I am hoping by the end of next month so that we can move forward and get that part done.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 25-099.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

7.4 COUNCIL BILL NO. 25-019; ORDINANCE NO. 3090: AN ORDINANCE REPEALING CHAPTERS 32,33,34,35,36,37,38,39, AND 40 OF THE LAS CRUCES MUNICIPAL CODE, IN ITS ENTIRETY, AND REPLACING WITH CHAPTERS 32,33,34,35,36,37, AND 38 OF THE LAS CRUCES MUNICIPAL CODE (LCMC) AND ADOPTING THE ZONING MAP AS PRESENTED.

Chris Faivre, Interim Deputy Director Community Development gave the overhead presentation.

Sara Gonzales, Economic Development Project Manager continued the overhead presentation.

Councilor Bencomo asked this will be filtered on an individual basis on the things you hear the feedback from the public and end users essentially to staff, will it go through a committee, through PNZ, how are you going to be fielding feedback?

Sara Gonzales said the best way that we can essentially tackle everything that we need to get done within those eight-month transitional period would be working with everybody, especially the community. So, as developments come in we are going to have to be documenting and noting what changes aren't working or not. We have Development Review Committee, we have P&Z, that will ultimately come as part of the review board anyway. So, it is really working with the community members. Each

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one that is coming in and developing a property and saying, oh this didn't work, so we need to document it and come back. Or did it work but it didn't work for every situation and how can we make it maybe with conditions and so it is really going to take I think our public engagement process to say please go look at these, see what maybe this doesn't work in a neighborhood or this does work and so as we continue to work with the public going through district meetings I think that is going to be the time that you can capture the most.

Councilor Flores asked will you be having meetings in the areas where this will be implemented or calling for community meetings? I think you did mention that there would be meetings. In order to have people where some of this is going to be implemented it would be good to have that sort of stuff. Meetings, community meetings, you did mention that but what does that mean, when? How?

Chris Faivre said yes some of this will be kind of building out on the fly. So, we know that councilors have district meetings from time to time. We certainly want to be a part of that as you have those meetings. There are definitely local groups within the community that we can get in front of and explain this to. There are groups you know like the Home Builders Association that we can get in front of their groups through them that they can put us in contact with. A lot of this is going to be going and building this process as we identify audiences that we get with but we will be sort of tailoring our message to the audience, so a conversation we have with someone who would be considered a design professional is not the same conversation we will have with someone who is just a resident. For example, carports, I know carports are a big issue. We are reducing the set back from 25 feet to five feet. That is something that every resident is going to want to know. So that will be something that is very critical to the conversation we have as we move forward with residents. So, as Sarah mentioned, accessory dwelling units. Now they are available by right if you meet the setbacks and all the other requirements you can now have an accessory dwelling unit on your property by right. So those little things that are very applicable to a resident. We want to make sure we are getting in front of those groups. Maybe it means going to a neighborhood watch meeting or something like that. So, it will be very fluid. It may take us several months or a couple of years to get in front of everybody, but the point is it is a good opportunity to kind of reset and engage with the community on all levels just keep that conversation going and at a minimum let them know who they can contact if they still have questions.

Councilor Flores asked an accessory unit, can you explain what that is?

Chris Faivre said it would be a little house in the back of your house. For say, your parents want to come live with you or if your college kid is stuck at home and you want to get him out of your actual house and put him in the backyard, something like that.

Councilor Flores said you would have those casitas, and you would let everybody know who is going to be impacted by those decisions that this is what the city is allowing and permitting? What I visualize is that we are going to have people coming in and saying what are you doing, you are adding more people, we don't have any parking space. We don't have a garage for them. That is my concern about full

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disclosure. Letting people know that there is that impact.

Chris Faivre said it is going to be an ongoing process. I think the big thing is to let them know that they can come to the Community Development Department for answers to figure out what those particular questions are. We are not going to be able to anticipate all of them. We will try and create as much material as we can once this is adopted. We will definitely work with the city's Communications Department to do an ongoing social media campaign that may be able to identify some of those key issues and just keep it up there just circulating on social media for a period of time so that people see. I can see the casitas one, the one about the carports. Those kinds of things we can just kind of keep it out there in the public so that if you miss it one month it is still available on social media down the road so we will try and take advantage of all the resources we have available to us to get the message out.

Councilor Flores asked how big of a lot do you have to have must it be to build a casita? Is there any regulation on that or any limitation? And how big can the casita be?

Chris Faivre said a lot of that is going to depend on the size of your lot and setback requirements of how much space you have. Some lots are larger and can accommodate something. Others may not be able to have that same kind of flexibility.

Councilor Flores asked is there any regulation on that right now?

Chris Faivre said as long as you meet the setbacks and some of those other requirements.

Councilor Mattiace said I would like for you to put up on the screen maybe what is allowable, businesses on the 43,000 parcels. Is that the total amount of businesses allowed? You are talking about small local grocery stores? What specific businesses, I know you had a list that was allowed?

Chris Faivre said yes, within the code there is actually a chart that shows what is allowed. What is allowed with special use permit. What is not allowed and there is a very extensive list. It runs for several pages, but I created this slide because it seems like the biggest questions were coming around what we commonly know as a single family neighborhood and that seems to be the comments and questions come from and so as it relates specifically to what is known now as a single family neighborhood the only things that will be allowed that are not allowed currently are a small B&B, a small local grocery store of 3,000 square feet or less, or like a small neighborhood café with the exception that you can't have a drive thru there so there is some of those restrictions but it is not unbridled commercial development that you can have on any residential street whether you are starting from a brand new development or if it is an existing neighborhood that may have some sort of a vacant lot some place.

Councilor Mattiace said let's say you have invested in a home for 25/30 years and that is your biggest asset you have when you are 75 or 80 years old, and a small café comes in next door. Do you think the value of that home would be the same or

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reduced or decreased?

Chris Faivre said there is other communities that have implemented this.

Councilor Mattiace said I am not asking about other communities. I am asking about this community, and your feeling is on the value of that home.

Chris Faivre said there are other communities that we can use as sort of a benchmark and determine those property values. So, we would use that as a guide. If you are asking me personally if I think that the value of my home would go up because there was a walkable café, I do. So, from that standpoint I do think that there is an interpretation that these do add value to your neighborhood.

Councilor Mattiace asked you are talking about a walkable café right next to your home, right?

Chris Faivre said you have to understand that there is going to be restrictions that probably would not allow that to happen. I don't think the lot size.

Councilor Mattiace said that is where I can't vote yes on this because you are talking about probably. We will probably not let that happen, but it could happen? And I just have a lot of faith in you, my staff, everyone that worked on this. I realized you worked on it for two years, but I believe that we can do better. I believe we could actually maybe have the neighborhood allow a petition. Just like all of you could petition to have me recalled. In other words, if we don't make the right decision anybody could start a petition. You could do is maybe allow a petition of those neighbors like you do for speed bump because I remember I needed a speed bump in my neighborhood, and I needed to go get 75% of the neighbors had to comply to get that speed bump built. Maybe you could put that into the law so that the neighbors have a say if they want that café next to Molly's house or Jennifer's house. It is just a suggestion.

Mayor Enriquez asked just to recap, so this standard is almost 25 years old?

Chirs Faivre said that is correct.

Mayor Enriquez asked we are upgrading a new development code for the city of Las Cruces, replacing one that was initially 2001?

Chris Faivre said that is correct.

Mayor Enriquez asked a lot of the comments and thoughts are that single family residences are being removed?

Chris Faivre said that is not accurate. What this code does is it allows other options for developers when they are developing new neighborhoods to look at. So, for example, expansion on the East Mesa, when you are master planning a new neighborhood you now have the ability to include single family homes, multifamily

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homes, town homes, maybe you do want to have a street that has a little grocery store at the end or a café at the end. That is what this flexibility is built into allow.

Mayor Enriquez said it creates flexibility for growth and development in our community. The other thing is when we talk about a café next door to your house or in your backyard, things like that other than this there are plenty of safeguards that we have in our city, is that not correct?

Chris Faivre said that is sort of what I was alluding to before is just because and let me just preface by saying not every neighborhood doesn't have vacant lots but most of these established neighborhoods don't have vacant lots sitting in them but if there was a vacant lot next to a house, I know that I grew up on Cedardale and I for some reason there was a vacant lot at the end of Cedardale for years and years and years that they finally built a house there. That lot would not allow you to do a lot of these things. It is just not big enough for that. These things are put into code so that when you are developing a new neighborhood you can build the lot to accommodate something like this. So, if you are doing a café you still have parking requirements that you have to meet. You still have ponding requirements that you have to meet. There are still setback requirements that you have to meet so I don't want to say that it is impossible because that is not a good place to be, but it is very difficult and cost prohibitive if you were going to try and retrofit existing developed neighborhoods to accomplish something like this. I am not saying that you can't do it, but the code was intended for new development and really try and encourage that creativity and deal with some of the shortfalls in housing right now.

Mayor Enriquez said that is what we want. We want the flexibility, we want the ability to grow but then again we all recognize and I have lived it personally here in Las Cruces and I can say we don't want it in our backyard. It happens sometimes but there are plenty of safeguards and those are the things we want to make sure that Community Development and our Public Works, our traffic, everybody is on board that they understand and that these safeguards are to protect our residents but yet we can still continue to grow. That is what this is all about, correct?

Chris Faivre said that is correct.

Councilor Flores asked that is the point that the Mayor just brought up, it is all prospective. It isn't as if the city is going to allow a market to go into existing neighborhoods? Am I correct?

Chris Faivre said it will be possible under code but again you need to follow all the safeguards the Mayor was referring to whether it is having space for parking or having space for the setbacks or all the other various things you have to have. You still have to be able to meet that standard. So just having a vacant lot and saying I want to put a café there and code allows me to do it it's not that simple. There are safeguards to prevent something like that from happening.

Councilor Flores said the people here today can pretty much anticipate that and prepare for anything the city has to offer.

Beverly Hogan, Member of the Public said I live in a single family residential neighborhood in Las Colinas. We chose this very diverse neighborhood for a reason. Our neighborhood is a mixture of all age groups, races, religions, and cultures. I taught fair housing laws for the Pennsylvania State Real Estate Commission. Our current zoning is not “deeply rooted in class and race issues”, as Mayor Pro Tem Bencomo states. I am vehemently opposed to eliminating traditional single family residential zoning in Las Cruces. You are our elected officials. You are supposed to represent your constituents not this progressive ideology of “reimagining” American single-family zoning. I doubt that there is a single person other than most of the city council and your spokespeople who are even aware that you planned this major coup for today. Yes, I am a retired teacher and what you are doing today is a coup. It is an overthrow of traditional single-family zoning that most of your constituents chose when they purchased their single-family home. A neighbor beside us has seven children, many of us have grandparents, having restaurants and cafes, retail stores or apartment complexes makes it very unsafe for them to walk in this neighborhood. The no single zoning family changes will cause a major drop in property values and existing family homes. Many of our seniors are on fixed incomes and cannot afford to move. If you really want to do something to make housing more affordable do something about the crime that we can hopefully attract more small businesses and bring this city around. Change that attitude before you ever consider changing the zoning.

Kim Schilmeister, Member of the Public said I also read that the husband of another city councilor has said that single family zoning promotes poverty, addiction, and crime as well as Mayor Pro Tem Bencomo said that it is deeply rooted in class and race issues. Again, I also have a single-family home, and I like so many people lived in poverty when my husband and I were taking care of three children and he was working for Las Cruces Fire for less than \$8 an hour while I was going to nursing school. We fought our way out of poverty by the grace of God with our values, our morals, and our hard work. Just as everybody can. The root issue of poverty, addiction and crime we have to address the poor city and state laws that we have on the books. It is not addressing this. Police are doing the best that they can to address this but this is not the Las Cruces that I moved into. I see people with needles in the parks, our kids cannot safely go to the bathroom in a park. If you integrate these things the safety is going to go down, the issue of having a quiet neighborhood will go down. Parking will become an issue and remember that those property taxes are what pay for us to have a decent and livable city and those who commit crimes, those who are addicted, they have choices, they have the freedoms as we should. They can choose to seek help. We have opportunities. I think we should grow those opportunities. I think we should have affordable housing. Get rid of the eye sore on Amador and Valley. Tear that down, make an apartment complex out of that. Make it where these people do have a hand up. I needed a hand up, we all do at some point so that we can get where we want to go but we all have freedoms and choices and that should be recognized for all populations and this kind of wording is divisive. It is not helpful for us as a community.

Tim Jenkins, Member of the Public said I would like to bring to your attention that according to newmexico.gov for the last 24 years Las Cruces has been ranked within

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the top three in the nation for seniors and retirees moving here to Las Cruces and from 2022 to 2024, 67.8% of the people moving here to Las Cruces were above the age 55 moving here to retire. I believe that this is going to cut seriously impact our seniors nationwide that are seeking to move here. Because if you are a senior you are looking to move into a quiet neighborhood and have your own privacy and I am in full agreement with what Bill Mattiace said. I believe that it should be the voice of the people that we vote on this and not this.

Dave Rice, Member of the Public said I among one of the older ones that moved into the area. I'm in the Councilor Flores area. The area I am in is mixed already. It does not have little B&B and other things in the area. I am in general support of Realize Las Cruces because I think we have a clear affordability of housing issue. It has to do with income but there are a number of people who are older people who I know who have had a sudden change in their fortune and they cannot find housing. I think the idea of at least allowing local housing flexibility of an owner to add a casita kind of a situation or something could help with the affordable housing thing, and I would urge you to at least adopt that part of this proposal.

Edward Howell, Member of the Public said you have been looking at your computer screens, you have been reading reams of paper and all that stuff and I wanted to provide for you a visual that I think might help you in your decision as you look at the approving or disapproving this Revitalize Las Cruces plan, okay but I am going to have to turn around a little bit here. How many in this room are homeowners here in Las Cruces? Raise your hands. How many of you are against this plan as it is presented today? Raise your hands. How many of you would be inclined to vote against someone who is on the council who has approved this bill voting going forward? Maybe that will help you as you start to think about this because there are many people who don't like this plan and those people not only are they home owners they are voters. I think this is a really bad plan. I have seen how it has been implemented and read about it in other cities. It causes lots of problems and we have a great city here. We can sell it as it is and grow it as it is without this plan.

Liz Rodriguez-Johnson, Member of the Public said I urge you to pass Realize Las Cruces. The proposed changes will make the development code more flexible, make it easier to build a variety of housing styles and types for rent and for purchase across the spectrum of affordability, which is what we really need right now. This will help make Las Cruces a place where people can lead good lives. Where they can prosper and thrive with reasonably priced housing.

Grace Martinez, Member of the Public said I would like to inquire about the weight given to public participation in your decision making process. Time and time again, concerned citizens have voiced similar worries about safety and the wellbeing of our homeless and transient populations yet it seems our collective concerns are being disregarded. The lack of acknowledgment is deeply disheartening. As a community we are invested in the well-being of our city and it is frustrating to feel like our voices are being ignored. I urge you to reconsider the value of public input and take concerns seriously. We are not just stakeholders we are the very fabric of this community. Our collective voices deserve to be heard and respected, with that being said to all my

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friends that are concerned about the safety in their neighborhoods I share your concerns and frustrations about the state of our community. It is disheartening to see areas like Amador being neglected and allowed to deteriorate because that is exactly what is happening. The lack of attention to pressing issues like theft and safety is alarming and it is unacceptable that these concerns be taken to a backseat. Moreover, the proposal to allow businesses to build in our residential neighborhoods is a recipe for disaster. Our homes are our sanctuaries, and we deserve to feel safe and secure in our own communities. Why must we normalize theft? Why must we normalize our kids being targeted in our own front yard? The idea of disrupting our peaceful neighborhoods with commercial development is outrageous and must be opposed. I urge everyone to make their voices heard and vote no on this proposal. Our future and safety depend on it. So, let's come together and vote no.

Mary Jo Birch, Member of the Public said I specifically moved back to Las Cruces and bought a house in a neighborhood where I could walk to the grocery store, walk to a clothing store but now it is unsafe to walk in those areas because the desert is no longer safe. From my house I used to be able to walk from there just across the desert to Albertsons. It is not safe. There are people down there starting fires, they have propane tanks, they are talking to themselves. In addition, why would people come to Las Cruces when we are last in education and first in child poverty and I suggest that we address those issues first.

Kathy Brook, Member of the Public said I live in Mesilla Park and I have lived there for 30 some odd years. I previously lived in a four plex in Las Cruces for eight years and I lived in single family dwelling in Las Alturas area acre lot. Now I live in a single-family dwelling. I have found Mesilla Park to be an area with a mix of housing and in fact, there was a city staffer, I don't remember who mentioned Mesilla Park in an earlier discussion of Realize Las Cruces. I support Realize Las Cruces. It serves the needs of the people in a variety of ways to have a mix of housing. I myself moved my mother here from California twenty years ago and moved her into the condominiums that are about a block from where I live. That was very workable for me and my family. I know other people that live in the same neighborhood where a grown maybe middle-aged child and a parent live within a block or two of each other. Sometimes in single family units and sometimes in condominiums. We also in my neighborhood have a small trailer park, so single family units, small trailer park, condominiums, apartments. This is all very workable and safe.

Ruth Jarre, Member of the Public said you know that our city is in a housing crisis. We all agree with that but how bad is it? The Pew Charitable Trust published an article in January confirming that New Mexico's situation is among the worst in the nation. Worse even than other western states including Arizona and Montana. Pew found that rental costs in New Mexico rose by 60% in the last seven years. Home buying is no better. The average price of a home in our state is now over \$300,000. The problem is a lack of housing. Researchers have found that strict land use regulations prevent new homes from being built therefore limiting supply while raising rents as well as the cost of homes. Exclusionary development standards add additional hurdles to building homes, often resulting in fewer multifamily choices and making existing homes more expensive. Realize Las Cruces removes those regulations that are causing our crisis while giving residents more housing choices. Please vote yes today and by the way I

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will vote for you if you pass this.

Jane Asche, Member of the Public said I have lived here a little over 25 years. I have followed the work with great interest of the city council for all those years. I could look at everybody seated up here as a councilor today and our current Mayor and I know enough about the history to know that over time you have done many things to improve the quality of life here in this city. First, I want to second what has just been said so well by the people who have come to the microphone and who has spoken in favor of Realize Las Cruces. I am asking that today that you support the approval of these development codes which I believe are going to increase, not decrease but increase the quality of life for so many people in our community and to make it a livable affordable place for everyone.

Nancy Akbari Shahmirzadi, Member of the Public said I urge the council to table this vote today. As you can see there is a large group that opposes it in general. I like also the Revitalize Las Cruces concept, but I think the zoning and all those changes should be for new developments. I noticed that Chris was talking a lot about new developments. I think that it should be very attractive but not imposed on the existing single-family homes. I am a retired lawyer, I am not giving legal advice however there are a few serious impediments that could be brought by neighborhoods, by people if you vote this in. One of them is an appeal. I believe and I am not 100% certain because I didn't look it up but if people appeal this it could stay put off the entire program. Number two there are constitutional issues which have been brought up in terms of value that too would delay tremendously the implementation. There is plenty of tools in the system for delaying this. So, I recommend tabling, thinking about putting this on new developments but not on existing.

Beth Bardwell, Member of the Public said I am here on behalf of the League of Women Voters of Southern New Mexico. Las Cruces has a housing shortage. I want to repeat what another public member said and that is a recent analysis from the Pew Charitable Trust found that from October 2017 to October 2024 median rents in New Mexico increased by 60% while the cost of a home climbed by 70%. We want Las Cruces to be a place where people can lead good lives. Where they can prosper, and they can thrive and at a minimum that means paying a reasonable amount of your hard earned income to put a roof over your head. The changes that Realize Las Cruces is proposing are drawn from hundreds of hours of community input that proceeded today's vote. Input during Elevate Las Cruces, the comprehensive code and this Realize Las Cruces code as well and the proposed changes that were said today that were laid out today by staff are a reasonable valid response to those community comments and community visions for Las Cruces. Realize Las Cruces changes to the land use design standards and zoning districts will enable more home building, slowing rent growth and a decline in homelessness. Please, I urge you to vote yes today for Realize Las Cruces and I thank you for your public service.

Jim Hoerst, Member of the Public said I want to thank the commission for coming this far and I hope you get the ball across the goal line today. I am a parent. I have three children. I do not live close to them. I wish I did, and I can say to the people in the opposition to this, if you are in opposition to this measure, you are in opposition to

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your kids growing up and living in this community. Very few young families can afford to buy a home. They have to rent. If you are concerned about child poverty. If a family's spending half their income on rent then they are not taking proper care of their children. It's just that simple. Good communities have affordable housing. We don't. You either want to make Las Cruces a healthy growing community or you don't. If you do you have to support measures like this and if you vote for this I will only vote for you, I will knock doors for you. I will social network for you. I will do whatever I can. I don't have much money, but I will do whatever I can to get you elected.

Terry Miller, Member of the Public said I have lived here 52 years. So, I have two points on the many things that you are wanting to work on to talk about today. The first is that I would bet that every single person in this room who is a property owner feels like they should have the freedom to choose what to build on their own land. I also believe that everyone in this room would like to have any unnecessary or burdensome regulations removed from the building code. I appreciate all the time and effort the city staff and the city council have put into this. I support it wholeheartedly and I support you wholeheartedly.

Marisol Diaz, Member of the Public said I am as Mr. Faivre so eloquently said just a resident. I live in District 3. I would like to share my experience of living in a district where business activities are mixed with residential areas. My comments are specifically about the residual impacts of living right next door to a non-profit religious institution that operates and has traffic flow similar to a regular business. While the religious institution provides essential services to the community and is often a lifeline for many the impacts on the neighborhood are not as positive. The church hosts numerous events every year such as spring parties and festivals which draw many individuals to the neighborhood. To accommodate the influx of people, the church purchased an empty lot next to our house. Although this lot is zoned residential it is used as a parking lot which is not permissible. I did check. Patrons leave trash, play loud music, set off fireworks and create a tremendous amount of dust. This situation also feels like a violation of our privacy as people peer into our yard and pick on our animals, my chickens included. Last year they hit our fence and neither the church nor the patrons took responsibility. They left us to deal with the insurance company and the costly repairs. Additionally, the church uses a commercial dumpster on this lot causing heavy trash trucks to drive on it one to two times per week, loosening the dirt and worsening the dust. They host community distributions, which is a good service, but it requires an 18-wheeler to drive through our residential street. Residential streets are not likely paved with the appropriate type of asphalt for such heavy trucks as Mr. Faivre also alluded to. Patrons also leave provided shopping carts up and down our street and they use the alley way as a street, blocking entry and speeding through with no regard for residents. There is a constant flow of strangers passing through our neighborhood creating a sense of insecurity and vulnerability. Additionally, the increased traffic makes it unsafe for our kids to play outside. I share my experience to highlight the challenges faced by residents living next to such institutions and to raise awareness about the potential issues resulting in the zoning changes that you are now considering. We are not against it we are asking that you reconsider some of those additional pieces about how it impacts us living in those neighborhoods because there are protections, but we have a cannabis shop right next to our house as well. So, it's permissible.

Joe Blust, Member of the Public said I have been in a single family home for 18 years. I like the single-family home life. I am concerned about B&Bs, cafes, and small stores, whatever coming close to me. However, I do understand the need for a lot of the program of Realize Las Cruces. The one that I am most concerned about and I think is a totally separate issue is our single-family home residence that are already established. I just think that we should be grandfathered in aside from Realize Las Cruces. I just don't feel that those of us who are already invested and are looking for this as our forever home or an investment should have to worry about a business coming in right next to us. So, I am just saying that I see this as a two-part issue. Please just find a way to grandfather in at least the single-family residences that already exist.

Giovanni Hernandez, Member of the Public said I am here to urge your support for city ordinance 3090. I have a question or something for you all to consider, for the audience to consider as well. I wonder how many of you all after this city council meeting ends, public comments ends, how many of you are going to drive over to Mesilla, go get a coffee, go eat at a restaurant, walk around and say to your neighbors and to your friends that don't live here say I love how walkable it is. I love how accessible it is. That vision is a vision for Las Cruces also. I hope that you acknowledge that irony city councilors and fellow Las Cruceans. Again, I just urge your support for this ordinance.

Lucas Herndon, Member of the Public said I am a resident of District 2 which is councilman Mattiace's district. He is going to go to Mesilla because that is where his business is. It is interesting to hear Councilor Mattiace and some others talk about property value. A little bit of a history, by the way I have my degree in history from New Mexico State University because I am a lifelong resident, I have owned my home for 19 years. The only time I have ever lost value is when big banks in New York City blew up a housing bubble and decreased my house value by half. So, if you want to blame somebody blame banks not small businesses. Where did single family zoning get its start, in the progressive bay area enclave. The first city in the country to implement single family zoning was adopted for Elmwood Neighborhood in 1916, making it illegal to build anything other than one home on one lot in that neighborhood. Duncan McDuffie, a prominent real estate development in Berkeley who built the Claremont Court Elmwood Neighborhood in the early 1900s was a big champion of single-family zoning. His development all came with racial covenants which barred homeowners from selling or renting their homes to people of color but he also wanted to make sure that neighborhood next to Claremont including Elmwood wouldn't allow families of color to move in because he thought it would lower property values. When I hear people talk about their property values and not about their neighbors or not about caring for this community, I cannot help but wonder what you really mean?

Martha Guerrero, Member of the Public said I currently live in District 1, and it seems rare and odd to me that I am one of the only people here that was born and raised in Las Cruces and I have watched this city grow. I have lived in Picacho. I lived up on Highway 70. I have seen the growth and how small business has thrived. How like all kinds and businesses and things have just grown in this city and I am very lucky to

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live in a spot where I can just walk a couple of minutes down the road and I can get to my job. I can get to different restaurants. I can get to different public spaces and go to these events that Las Cruces has and to me I wonder why don't we spread that to the rest of Las Cruces? Why is it such a bad thing to people? It boggles my mind and like someone who has ridden the bus for several years, as someone who is going to get a bike really soon, I would love for the streets to be more safe. I would love to have sidewalks in the downtown area. That goes for a block and then it stops for a block and it is again sidewalks. That is so unsafe and if Realize Las Cruces can help with the sidewalks if it can help with making transit more accessible, more friendly to people that might need it I would really appreciate it if you helped pass this. I would love to see Las Cruces grow. Las Cruces has changed so much, and I feel like there is so many people here that want to call this place their home including myself. I have so many friends, I have family here that want to call this place their home and if Realize Las Cruces can help spread that. If you could help make people more comfortable, make it more accessible for them to enjoy their lives, I would love to see this happen.

Alicia Quevedo, Member of the Public said I live in District 1. I am here to ask that you vote yes on Realize Las Cruces which includes comprehensive changes to resolve conflicts arising from past code modifications as we have already heard and will not affect all neighborhoods. These changes will not only ensure neighborhoods will have less traffic and will have space for children to play but will also ensure less children are homeless. Not sure how many people opposing this have read all 1291 pages of this ordinance, but I read all of the section dealing with residential and mixed-use neighborhoods and Realize Las Cruces does not get rid of single family houses. It defines zones within the code as single-family low density residential districts. In Section 36-2 it describes areas of primarily detached single family dwelling units to maintain and protect a low-density residential character development. Section 36-1 describes purposes which include encouraging innovation and land development that compliments neighborhoods' existing character and encourages bicycle and pedestrian and transit modes of travel. Controls and abates unlawful use of structures or land, minimizes adverse environmental impacts of development, reduces nuisances, encourages development of vacant properties within established areas and conserves the values of buildings and land. These are wins for our city. This ordinance does allow some mix of homes and apartments, mobile homes, restaurants, and grocery stores. That is a win for our city. Realize Las Cruces will allow more people to be able to afford housing, reducing homelessness, that is a win. This ordinance allows for dozens of exceptions for single family dwellings from various new adaptive reuse driveway and other construction codes and ensures all of you all can still park your RV on your single-family lots so I am just wondering is it just the RVs that are the only roof over families heads that you object to? Vacation RVs somehow don't offend your delicate sensibilities. You cannot pretend to be pro-business and at the same time condemn business development in Las Cruces except I guess you can because I guess that is what so many people are here to do today. Thank goodness areas like Sonoma Ranch will start allowing apartment complexes and restaurants and grocery stores. I know a small powerful group of people would prefer not to see working class people exist but I ask the city council to not design our city around their feelings, this ordinance is a win for our city.

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Nick Chingole, Member of the Public said I live in District 6. I have spoken here a few times about the mountains of data related to housing security and overall physical and mental health outcomes. Obviously that data hasn't changed so I won't bore you with it again. So, I will just say that Las Cruces is changing and growing and it is going to continue to change and grow whether or not we pass Realize Las Cruces. Really the only thing we can do is to change and grow with it. The way for a growing city is with diversity as unique as ours to continue to be successful is to take care of our most vulnerable populations. That is just not low income, that is services workers, college grads and seniors. If we want to curb crime, if we want to curb substance use, if we want to attract and retain jobs, we do need to get to the root cause and that is to end those adverse experiences that perpetuate generational trauma. We do that by providing services needed for basic survival, specifically the fundamental right of accessible housing. I ask all the city councilors to proceed with Realize Las Cruces so that this city can continue to grow, and all of our citizens of our unique and wonderful community can be successful.

Skye Que, Member of the Public said I wanted to show my support for Realize Las Cruces. We have an ever booming population of people that have prior have forced accommodations by the volume of people by expanding out which inevitably is expanding into our national park areas that make Las Cruces so unique also making those with limited commuting options have less than safe access to desired locations which will now be something with rezoning, create more job opportunities, having more affordable housing by building out and closer to desirable locations will be a boom to the economy because of this accessibility. Rezoning will create the much needed means of a more walkable city. Meaning less need for excessive carports or parking. New Mexico is known for its hospitality which will only grow as we build community. Protecting cyclists and pedestrians should be our priority, ensuring that we are keeping those who already exist here at the forefront of our development which includes low-income families and unhoused people. Providing for the community should be an antithesis for crime. People are better well taken care of and provided for and is known for lessening crime and making spaces ultimately safer. Housing is a human right, access to resources is a human right and if you vote for approval for this I will in turn vote for you.

Trent Scribner, Member of the Public said I am up here today to support Realize Las Cruces. I have lived here my whole life. Like other people have said I have seen this city grow. I have seen this city change and this city is changing, is why there is so much backlash here today is because people are adverse to the change that makes sense. I understand but this is the only way that we can change the city for the better. The way it stands right now you want to keep housing unaffordable. One surefire way to do it, to restrict development, is to keep single families zoning, this we know. I am less concerned with property values for people who already have homes, than I am for people to have a roof over their heads at night and for the people concerned about safety I understand and you have my sympathy. It is not a serious concern from having small businesses in your area. It's a myth. It is something to keep people scared from progress and I hope that you guys realize this and I will come out and fight for you if you vote for this.

Roseanne Amendola, Member of the Public said I live in District 2 and I am a lifelong

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resident and a home owner. I am for this rezoning thing. The one thing that has been really frustrating about living here in Cruces is the lack of resources for people in the community and what is a better way to improve that is by giving the people what they need. Affordable housing, job opportunities and you give people the resources you tackle all kinds of things. You decrease crime, you improve life expectancy and yea this is something that we need. I feel that the positives outweigh the negatives here. I hope you see in your heart to really think about the different communities here that really benefit from this especially of low income and living in rural areas. You vote for this, I vote for you and I will continue living here.

Clare Wallace, Member of the Public said I am a fifteen year resident of Las Cruces and I just wanted to say I am here to support Realize Las Cruces because it is good for our city. Being a number 3 retirement destination is cool. That is a good achievement but there is also other demographics of people who live here in Las Cruces and the job of the city government is to look after all of the people of the city not just the retirees. This is also very good for people who do not have cars. Having a small grocery store in a walkable distance is an absolute game changer. We currently only allow on the city buses people to carry two bags of groceries.

So, is two bags of groceries with an indeterminate amount of time when you will have access to a grocery store enough to feed a family? Usually no. Maybe for one day. A bus ride every day to the grocery store is not very feasible for most parents. So, we need to think about not just people who have the means to get here to this meeting today on Tuesday afternoon when most people are at work, but you also need to think about people who do not have the means to get here. Who are members of this community and are taxpaying citizens and they deserve a right to food, a right to a place to live and a right to community that is not completely inaccessible simply for them not having a car. So, I hope you all find it within yourselves to make the right decisions here and support this common sense policy.

Chris Center, Member of the Public said I am from District 3 I believe. Let me just tell you a little bit about myself. I live in a lower income area of Las Cruces and we are in a walkable distance. Last year I didn't have a car and was unable to get access to a car and I was able using the transport system and with that I was able to walk to stores, I was able to get my groceries, I was able to get the things that I needed and with having small businesses and small corner stores and small grocery stores in these places of our city is extremely helpful because in the city of Las Cruces and I just looked it up it says over one quarter of the county's residents lives in a food desert. Which means that they have to walk over a half a mile to access the nutritious food. That is super important because we need access to food. That is how we survive. I highly suggest that you guys advocate for this and to vote yes on Realize Las Cruces because it is going to help the community and it is going to help lower income people as well as housing and food and cafes so I believe you guys should make the right decision and I will vote for you.

Valeria Barron, Member of the Public said I am here to speak in favor of Realize Las Cruces. Specifically for the fact that it is not going to take away your single-family resident homes from your hands. It is for newer developments as well as lots from my understanding lots that have been empty and away from people for a long while and with these local businesses, local parks. It has been historically proven in the past that

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with providing local businesses you open up jobs for people who are in desperate need of a place of work. Opening a said café next door, maybe it could inconvenience you in noise, however it is providing that homeless Veteran an opportunity to work and to be able to afford housing. Perhaps the park that they are going to install might attract some leaves on the ground but it is also going to provide that wife that has several children that she can't take out very often to finally have a place for them to play and have enrichment and it has been shown that in studies that places that have enrichment for every member of the community have been shown to have lower crime rates, lower rates of addiction and lower rates of self-harm and suicide as well. So, think of it as more enriching the society that you live in and giving people an opportunity that they were not given beforehand.

Larry Sedillo, Member of the Public said I came here today because I do not live right in Las Cruces. I have many friends and family that live in Las Cruces. But one thing about what you are talking about today is it has to do with our right to have privacy, have our own house, have a decision made by us to find a place that we want to live that is comfortable for us to have our neighbors to access, available resources that we have that is close to us. That is what we decided to. Most of you did not come to Las Cruces, find a place to live in a neighborhood that was beside a store or a bar or whatever else. You did not do that. Just like most people don't. They decided on a place that was safe for all of us. I want something for everyone. I want safety. I want protection. Those things are important in our area. Especially Las Cruces. We have a majority of problems here that have been brought on by many many needs. There are things that can be solved but it takes time. It takes resources. It takes using conscience not spur of the moment decisions that are not based on fact. I think you need to really consider what you are going to do today because you don't want to have the effects later on or appeals that come in the future. We have had major lawsuits here in the city and in the county for people who do not respect our properties, do not respect our laws. For me I think we need to really, really realize what needs to take place here in Las Cruces. We want the best for everyone in this community. We don't want it for a select few so basically when you make a decision like that you are representing everybody in Las Cruces. Not just what your ideals or your agenda is. So, think about what you are going to be doing because I am willing to support you. I plan to do many things to help Las Cruces and the county in the future and that is what I am planning to do.

Logan Adams, Member of the Public said I am proud to say that I was born and raised right here in Las Cruces and if I am lucky I will die here to. I love this city, and I hope the best for its future in our collective prosperity. There is promise too allow local grocery stores, cafes in all neighborhoods but I have to admit I really like the idea of being able to support a new locally owned small business that is within walking distance, that is quite appealing. I would much rather have the opportunity to support a local grocery store than to be forced to do what I do now which is hop in my car, drive four miles down the road to the closest Walmart and watch as my money is funneled out of New Mexico through a gigantic soulless corporation. We all know that small businesses are the backbone of our community and I for one am excited by the idea that we may cut the red tape and open up brand new opportunities for new small businesses to take root and thrive right here in Las Cruces. Now if you dislike the idea of higher density living it is understandable that you might look out to the vast and

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beautiful deserts and think surely we have room still while putting aside an argument that it is probably not the best idea to completely bulldoze and destroy our national environment around us that we all appreciate so much there is a much simpler problem to consider higher taxes. The cost for the city facilitate, install, repair, inspect, plan, and otherwise maintain our infrastructure is already massive. The further outward the city expands the greater the glut of that bill and as it goes up so does the need to raise our taxes. It is either that or the city's ability to keep up with the maintenance nose dives because they can't afford to be everywhere at once. Fellow Las Crucesians should not follow us to subsidize outward control of expansion of our city especially when there is an alternative to both increase the supply of housing and avoid this potential untenable maintenance cost. We should do what we can to increase housing in our city and facilitate the growth and we should support small businesses that serve and connect our communities. This motion is not the only step to take in this direction, but it is a first and for these reasons I support it.

John Negley, Member of the Public said I just want to take second to say how much I really like the city of Las Cruces. I went through the education system. I was given the opportunity to go to Arrowhead Park, early college high school, get myself a college education my family could not have otherwise afforded. I got the opportunity to do Junior Leadership through this city and learn about the many institutions here and I really enjoyed that too. Now I am at the stage, I actually don't own a home, but I have a meeting with a real estate agent and a mortgage officer this week I am very excited for it. I am looking to start a family and raise a family here in the city of Las Cruces and the things I am looking for I am not just looking for the investment cost. I am looking at the places I can take my kids, the schools they can go to, the parks they can play in. I want to be able to give my son \$5 and have him go down the street to the café and hangout. I am excited for that. I love this city and I want my kids to have to the opportunity to exist in third spaces. I don't want them to be indoors. I want them to have fun and go out into this city and for that to happen there needs to be housing with opportunities within a walking distance. I would just like to say you I can't imagine reaching this point in my life and pulling the ladder up behind me to all of the people that are coming up, you know it is not the Christian values I was raised with. My grandfather was a priest and he raised me with good values. He worked with this guy you might have heard of him, his name was Rev. King and he was a civil rights priest and he instilled in me a set of values that every member in the community matters and I want to see opportunities for all members of our community.

Laura Reynolds, Member of the Public said we have seen a lot of word salad and disingenuous theories put out here misidentifying the problem. We don't have a housing shortage. We have a housing affordability problem. What is wrong with Councilor Mattiace owning a business in his neighborhood and visiting it? Isn't this what it is all about? Yet he is criticized. I am a local real estate broker, productive, active, and successful for over twenty years now. Not in the ivory tower where my brokers can't reach me. I am out in the trenches listing and selling real estate like others and I see the problem. Prices are determined by the market. Not by what you want them to be or what I wish they were. I have watched Las Cruces go from a thriving and gorgeous community to destruction resembling a third world country. All of my grown daughters and their husbands have left for better opportunities elsewhere after struggling for years because there were none here for them. This

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would greatly impact neighborhoods. If you don't think a commercial property next to a residential property devalues it then talk to an expert who knows and quit listening to these people who are throwing out theories that don't make sense and are not true. Do you want a strip club next door to you? Your grandkids? Do you want a liquor store next to a church? They can come a tear down the house next to you and build whatever they want. This should be limited to new neighborhoods and developers who can make those decisions themselves.

Christopher Brown, Member of the Public said I am a faculty member at NMSU and I have been a member of the Technical Advisory Committee that worked to develop Realize. I worked for two years to help build what we have for you today. We had members of the development community, AARP, the retirement community, Safe Routes to School, and folks like me working together to build something that advances the sustainable development goals that city council passed in Elevate Las Cruces. I urge you to support Realize and the plan that it has to build a Las Cruces that our Comp Plan calls for. Las Cruces is short \$5,600 housing units and the good work that staff is doing to build 500 units is one tenth of what we need. If we want a town where kids have a chance, just a chance at buying the American dream that so many of us in this room enjoy we must solve this housing crisis. The code before you will give you the best chance at doing this. Realize will also support Complete Streets and safe transportation for people that walk and ride their bicycle in their daily life. The most disturbing thing I have heard, many people implore multifamily housing with the crime crisis. That is simply not true. Realize does not eliminate single family residential it simply provides other options. I implore you to support Realize Las Cruces and put in code the place you have before you. As someone else before you said if you support this, I will vote for you, I will walk for you, I will campaign for you and everything you do. Is Realize perfect? Absolutely not. But the perfect is the enemy of the pretty darn good which is what you have before you today. I urge you to vote yes.

John Holtsman, Member of the Public said I want to thank the city council and especially the staff for your efforts on Realize Las Cruces. I urge you to pass it. I have participated in this process in several ways including submitting some written comments, making some comments to Planning and Zoning, emailing staff, talking with some of you. I didn't actually get what I wanted but that's okay. I felt that I was listened to. I recognize that you are juggling a lot of different and conflicting input which is sometimes expressed in a hostile and perhaps less than constructive way. Overall, I think Realize Las Cruces does a good job recognizing issues that face our community and trying to address whatever root level that is equitable. I think we are at a point in our community where we have to be willing to be open minded about change and to consider what we need to do to address our issues and I think that Realize lays out the policies and especially the flexibility to do so. I respect the process and look forward to working with you in the future to make adjustments and improvements as needed. I thank you and staff again for your efforts on Realize Las Cruces and hope that you will support it.

Athena Huckaby, Member of the Public said I am here to voice my strong support of Realize Las Cruces. Our city is facing a housing crisis and outdated zoning laws that restrict neighborhoods to single family homes only make it worse. By allowing for a

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mix of housing types like duplexes, townhomes and accessory dwelling units of which I have one, we create more affordable options, support local businesses and build a more inclusive community. My colleague and friend that was sitting with me that had to leave due to time owns a mix use property in Ashville, North Carolina which is very lucrative for her. She and her son both own real estate in Las Cruces and at this point are unwilling to invest in more real estate because of these restrictive zoning laws. The alternative to not passing this is more unchecked suburban sprawl, soulless, car dependent development that isolates people, drains city resources. Realize Las Cruces gives us the opportunity to build more vibrant walkable and a sustainable city where people of all income levels can thrive. Please move forward with these changes.

Dana Hopkins, Member of the Public said I am a resident here in Las Cruces. I am a native New Mexican although I have recently returned to New Mexico and I wasn't going to speak because I saw so many people my age speaking but we are not a monolith. We do not all agree. Not everyone here is a homeowner. I am not and for many of the people behind me and I am going to remind you that you are one medical crisis from not being a homeowner. We are a city of many, many kinds people and ages of people, it breaks my heart to see that we are ignoring the voices of our younger folks, our more marginalized folks and I truly believe that what we are looking at here and I have to say that it sounds like people haven't actually read it or listened to this presentation. What we are looking at here isn't unreasonable. It isn't perfect like all things are but it improves Las Cruces for everyone. It improves it for people like me. It improves it for my neighbors behind me and it improves it for all these neighbors of all ages and walks of life and people who cannot afford a home at all. There is not a bad thing about it. Things that people are afraid of are not the things that are going to happen, and change happens. It is 2025. It is not 2001 and what worked then does not work now.

Renee Frank, Member of the Public said I am a long term citizen of Las Cruces and the surrounding areas. Been here for actually now that I have counted it up, 45 years. I have watched Las Cruces grow and I am very, very proud of Las Cruces. In 2006, I became a realtor and have really come to understand the importance of the opportunity for homeownership and even beyond that the importance of a home. A home that provides safety, security, health and a base from which people can live their lives. I want to appreciate with all of the work that has gone into the Realize Las Cruces plan. I do believe that these are the kinds of changes that we need. It actually cuts through some of the bureaucracy and the red tape that is required to get some of the development that we desperately need. It opens up opportunities and provides more freedom for homeowners and landowners to be able to determine what they want to do with their land. The landowners and the developers and the builders together will be able to take these and move forward in the ways that people really want. I want to say thank you for the many opportunities that were provided for input. I got involved with Realize Las Cruces, it was a year ago when the draft being presented and many people coming to deliver their objections and their concerns and I also saw a concerted effort to take all of those concerns into effect and to make changes in the code which were then I saw many of those come back today which I think helped to listen and to attend to those things. I want to urge you to please pass this ordinance. This is not going to solve every problem in Las Cruces but once you

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pass it today then you can move on and put your attention to those other big issues that need to be addressed.

Paula Groves, Member of the Public said I have emailed and called all of you many times over the years about issues. I have been involved in this effort. I have lodged public comment and the only response I have ever gotten was last night from Councilor Mattiace. So, thank you for that. I would like to urge you to table this motion or to vote no. I am not in favor of many of the changes proposed under the Realize Las Cruces plan because these do impact existing neighborhoods and so if you read the thousand pages, if you listen to the staff presentation which it said it probably wouldn't affect you. Probably isn't good enough for me. I am a third generation Las Cruces. I have raised two now adult children here and I believe that these changes will be detrimental to existing properties allowing large apartment complexes and retail stores within our existing single-family neighborhoods increases noise, light pollution, traffic, and impacts safety for families with young children or elderly residents. These proposed changes will fundamentally change the standard of living in our city, which will impact the quality of life and potentially the tax base and I on purpose am not talking about property value or these other things because I am much more concerned about the quality of life in the city where four generations of my family have lived. We have current zoning regulations that allow citizens to live in these varied neighborhoods so I would urge you to table this and change the zoning for new development only.

Julia Yancy, Member of the Public said I have lived in Las Cruces for about four years now. I moved when I was just 14. Currently I am a student at NMSU and I think from where I used to live and in Alaska I noticed the positivity of having local spaces, third spaces and I have a lot of conversations with my fellow students and fellow friends who don't enjoy not having community and I think that is a lot of my focus in this and I think I want to kind of bring that up and how having local spaces and possibly cafes. A lot of community is built in that and I just wanted to say that from where I used to live with my experience living in a small town in Alaska it brought many tourists, a lot of community within that and I just wanted to highlight that and how that could be a positive effect in Las Cruces.

Sylvia Yancy, Member of the Public said I live in District 2. While I am a Las Cruces resident, I am also a Swedish citizen. I have visited the country many times and have seen the benefits of walkable cities and diverse neighborhoods. I have also seen the disadvantages of the American car centric society for the benefit of our community. I believe that we need to start moving away from a car centric society and I believe that Realize Las Cruces is a great step towards that goal. I am not a homeowner, so I am not become so selfish to only worry about my property value and to not care about others in my community. Of course, we all want our neighborhoods to be safe. If we truly want to end crime, then we want to see what the root causes of these crimes are. That can be substance abuse issues, lack of resources, and help, etcetera so please if any of this is word salad then call me the dressing. So please vote yes on Realize Las Cruces.

Sylvia Ulloa, Member of the Public said I love Las Cruces. I want this beautiful

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community to grow and to thrive. One of our councilors here believes we shouldn't take a vote for change on the possibility that something bad may happen instead of voting for something good that could happen. We deserve a community with thriving small businesses with walkable neighborhoods and with easy access to public transit. My nephew left Las Cruces because he didn't want to have to own a car. My niece left because there was nothing to do here and because there was no interesting neighborhoods. Not everybody wants to live in a single-family house, even those vaunted retirees that we keep trying to bring here over our own residents. They are selling their big houses and they are downsizing. When we say that only single-family houses are allowed, what we are saying is to our kids, go live in Denver. Go live in Phoenix. Go live in Austin and when you are ready to get married and have two kids and buy a house then you can come back. You just keep renting and keep throwing your money away on that until you have the money to buy a single-family house in Las Cruces. So, Realize Las Cruces is about the market working for all of our consumers. Not just for baby boomers who are holding on to all the wealth and all the resources and then wondering why their kids can't buy a house and why they don't live near them. So, I really urge you to do this so that we can make our community work for all people. Young people, old people, working people, and retirees.

Gloria Molina, Member of the Public said I am here to support Realize Las Cruces. I was born and raised here and I have seen the many changes and not for the good but this it really does have a potential to make a great impact on people that need it, low income people. I serve on the board for the Mesilla Valley Public Housing Authority and our list is 1,437 for public housing, which is 244 units. I really believe that this will help. I know and I have heard a lot of things. I have been here all afternoon. That was a long wait. My daughter also went to Austin. My kids are grown up, but I have grandchildren and great-grandchildren that I hope will some day be homeowners. I went to college. I chose a low paying early childhood education degree and I have never made more then \$24,000 a year. I have done a lot, and I am proud of what I have done. I am a big advocate for low-income people because I grew up in the housing project on Mulberry and Ash and I lived there again. I moved there when I was six years old and I live there again and it is not anybody's childhood dream to say I am going to go back to live in housing, no but I am in a position where I can help people and advocate for them now. Please support and also I am going to ditto what everybody says I will go all the way for you and I will support you if you back us up on this.

George Pearson, Member of the Public said I have seen recent commentary and social media opposing Realize Las Cruce. Realize has been in the works for many years. It is a result of Elevate Las Cruces. The Comprehensive Plan that was itself a two year project that was adopted as it happens five years ago today. The ideas in Realize are not new and were accepted throughout the seven or so years planning process. I was on the Technical Advisory Committee and probably made 30 of the 33 meetings and I don't remember more than a handful of people coming to talk to us from the public. So, you are hearing a lot more here today than we ever heard in the year and some process that we had at the Technical Advisory Committee. Critics are suddenly saying that Realize will destroy Las Cruces. This is simply not true. Development is incremental and the flexibility offered by Realize will allow for the creation of more livable and walkable neighborhoods and there is nothing in Realize

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that stops developers from creating an HOA style neighborhoods with restrictions that would probably prevent casitas from being built that could be enforced by neighbors from suing neighbors. I like my neighbors, so I am not going to be suing anybody for the casita. My neighborhood probably about half the houses have casitas behind them and you hardly even know that they are there. Please approve Realize. The rest I was going to talk about bike parking, but Sara addressed that in the presentation so thank you for that please vote yes.

Donica Fraiser, Member of the Public said my observation when I hear all of the yes and against and my question will be and I didn't hear the numbers. How many units of the affordable housing will Las Cruces get with the plan? Compare the cost and everything. So minimum how many units? I am not asking about the number, I just didn't hear and it bothered me. When we compare the cost and number and the infrastructure that will convince me. The other thing is this about affordable housing and how much you think the rent or the housing will cost people who need those very much to the other alternatives because sometimes everybody says we need affordable housing. Now when we came, a very short background, I came to the United States on the Visa which President Reagan let the people who were oppressed in solidarity time you know. I lived in New York for a while and then I lived for a while all together thirty plus years. I lived most of the time in Orlando. We came here and we loved this. This city is a tourist place to get the money for the budget why do we not focus addition to make this city welcome and this is for whole world not only for Las Cruces or America.

Sarah Smith, Member of the Public said Realize Las Cruces takes away our choice to live in neighborhoods that will be safe for our kids to play in or for the elderly to walk across the street to check their mail. Who among you are going to speak up for the thousands of families who bought homes with reasonable expectations that their neighborhoods would be for homes and not businesses or large apartment complexes. You have not done due diligence in making sure the public is widely aware of what you are planning to do. At least one of you has also been making false statements that Realize is not going to remove single family residential zoning. That is clearly not true given that Realize would allow apartments and businesses in all neighborhoods. People will have no guarantee that they can live in quiet neighborhoods to get away from the hustle and bustle. A reasonable compromise would be to allow townhomes and casitas in existing neighborhoods but push the rest of these changes to new development areas only. Ostensibly Realize was intended to allow more people to afford housing but fundamentally changing our way of life without our consent is not the answer. Instead, you should be working harder to reduce development fees. Deal with the crime situation and retain and attract job opportunities. Several builders and developers have spoken with councilors that Realize is going to increase development costs. They have also repeatedly told council that theft of building materials at construction sites is increasing the price for homeowners. Numerous businesses have failed or chosen to go elsewhere because of the crime and the blight. Please stand up for your constituents by voting no. This proposal is like a sledgehammer when we need a more nuanced situation. City staff indicated that the goal is to allow flexibility for new development. Then why not revise this proposal to allow apartments and businesses in new development and not existing neighborhoods.

Fred Miller, Member of the Public said I want to see you vote in favor of mixed use neighborhoods. In support of that I want to read a paragraph from Hillbilly Elegy by JD Vance. "So I think that any successful policy program would recognize what my old high school's teachers see every day. That the real problem for so many of these kids is what happens or doesn't happen at home. For example, we would recognize that Section 8 Vouchers ought to be administered in a way that doesn't segregate the poor the little enclaves. As Brian Campbell, a Middletown teacher told me when you have a large base of Section 8 parents and kids supported by fewer middle class taxpayers it is an upside down triangle. There are fewer emotional and financial resources when the only people in the neighborhood are low income. You just can't lump them together because then you have a bigger pool of hopelessness. On the other hand, he said put the lower income kids with those who have a different lifestyle motto and the lower income kids start to rise up. Yet when Middletown recently tried to limit the number of Section 8 vouchers offered within certain neighborhoods the federal government bought, better I suppose to keep those kids cutoff from the middle class".

Jenny Buckingham, Member of the Public said I am probably the newest resident of Las Cruces. I have been here for two and half months and I own my own home. I first want to give a shout out to what I consider the younger people who have come with ideas and requests and are really talking from their heart about what they need, what they want in the face of hearing about how people want to save the value of their property. Which is a fear tactic to use. These established developments are not going to be completely changed or even significantly changed. There are lots of rules that require a certain amount of land and other things. So that is really a cop out, and it is not evidence proven that that happens. What is evidence proven is that stable, variable housing lifts everybody up in the community and the people who live here now and need that kind of housing, we should be listening to them. This is not going to bring down the city. It is going to lift it up. There is a lot to repair in this city and this is an easy way to get big change. I request that you definitely approve this plan.

Paula Akeeno, Member of the Public said I live in Councilwoman Flores district. Back during the pandemic there was charrettes in that for the Mesa Vista Master Plan, I don't know how many here remember that but that was a mixed use housing development with apartments, a lot of apartments and little town square where you could have stores and housing above it and that and I thought that plan had been approved back then so I don't know what happened to that but that is exactly what you guys are talking about today with that kind of a neighborhood. However, that ended up disappearing or never got approved it hasn't happened yet but that is what I was expecting to go on past the neighborhood I live in with that part of the desert being raked over and all of this housing stuff put up. I understand that we need to grow, and I have no problem with that. I was part of that charrette that gave my voice and opinion back then, so I am just kind of wondering what happen to that plan?

Jo Ruprecht, Member of the Public said I am a longtime resident. I ran home in the midst of the start of the comments because I wanted to come back with my copy of Realize. This is what Realize looks like without the technical manual attached to it. In fact, this is an outdated copy because this is what was presented at P&Z more recently and has been modified since. This itself runs over 400 pages and front and

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back 200 pages of paper. I am sure it has expanded since then. I want to address this to the people in the audience who have spoken and in particular in favor of Realize and ask them how many of you have actually read this cover to cover? I am not asking that of any of you on the dais and I frankly haven't read it but unless people have read it cover to cover then I have this comment, the community development folks including Mr. Faivre and including several of the other staff who have spoken in these meetings made it sound very vanilla. In fact, today I have commented that you must have practiced your speaking because unlike me where I have hesitations or pauses you are very polished in presenting exactly how you want to, and it sounds vanilla but one thing that you brought out is this idea that it was only intended for new developments. I haven't seen a page in here yet that says that. I live in an older neighborhood where just in the last few years we had two things that happened. One was a death that meant that the property was open. The new owner wanted to put something in his garage as a living space for rent. We were able to stop that because there was a covenant that had been applied to that property originally that prevented but it took a lot of work on the part of the neighborhood to bring that to affect and that stopped the subdivision. The other thing is that we had a house that went up with a fire, total loss. When that we rebuilt because of our neighborhood that was rebuilt as a single-family house. I am not sure if that would happen if Realize comes in and we have more fires happen in the city.

Dolores Lucero, Member of the Public said 2001 of course we should update the zoning code. There is no doubt about that but let me tell the people in this room. It is already decided. The Mayor never in the 20 years that I have been involved in politics, any Mayor on this dais has never put something on the agenda that is going to fail, ever and only maybe once or twice in the eight years I served. The Mayor doesn't do that. He already knows what the vote is. It might be a 4 to 3 but it just has to be 4 to win. So, it doesn't happen in these chambers. I also am a gambling woman, I will lay money down that someone organized all this group of people to be here today to show you that they care about their community. Nobody cares as much as I do and a whole bunch of other people in this community. I am 71 years old and I have lived in this community. My family has been here for 400 years. I do not live in the community that I have always loved. I do not have the services that I should have at this age because I can't get good medical care. How dare someone stand there and say that I live in Sonoma Ranch, I worked hard for my home, I care about people in this community. I have helped people that have needed care and I am upset obviously. How dare you say that I don't care about this community because I own a nice home. There is an empty lot on my street. If a mobile home ends up there I am going to be real pissed and let me tell you if something else shows up in my neighborhood, two nights ago guess what Mr. Mayor, third time in a row hoodlums in my street checking doors. I don't live in a bad neighborhood. I live in a neighborhood of Las Cruces and none of you care where I live.

Fred Huff, Member of the Public said I have heard all of this talk about affordable housing and it suddenly dawned on me. What is affordable housing? Who owns it? It is real estate people, investors. People who are going to be making lots of money off of this. Let's look at some supposed affordable housing that is supposedly taking place here in Las Cruces. A place called Amador Crossing. My understanding is from what I have heard, and I can be corrected or along the way is that is about a \$15

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million project for 50 units. That doesn't take much of a mathematician to see that that is \$300,000 per unit. I could never afford that if I was having pay rent typically. Typically rent is about 1% of the cost that is \$3,000 a month. That doesn't sound affordable to me. The other thing that I think a lot of people miss is if you are renting, they can raise your rent anytime they want and I have seen a lot of people recently on Facebook and stuff where people are getting evicted because suddenly their rent is raised. As a homeowner I don't have to worry about that. So, what is affordable housing as opposed to homeownership and if that really is a probability as Mr. Faivre said why wasn't that grandfathered in?

Daniel Buck, Member of the Public said I too sat on the committee for this plan. I look at it much like a bicycle that has no training wheels or a car without a steering wheel. It puts our city into urban sprawl and expedites with unplanned trajectory the aftermath of tearing down existing single-family homes in areas which have been called selfish for people investing family money to form a life in which they took and created. I live in the Historic District. I live in an area where you do not need special use permit to put businesses because Mesquite is already zoned commercial. You can own any type of business. For years my neighborhood has been traded for pennies by politicians and torn to the ground with only a small percent of the original dwellings still existing. It has not had any economic rebirth. We have an Albertsons not far down the road on El Paseo. There has been nothing to spike economic growth in the area. Nothing has come that has risen people out of poverty in our neighborhood. I once lived on the West Mesa and I can tell you that I would be very upset if somebody tore down an existing home next to a home that cost over half a million dollars to put a random business which sunk the property value and then made me write a check at closing to make up for the loss of such an investment. I think there is a loss of trust in the council. I think there is a loss of trust in the public officials. I think that we have a concern that there is backdoor deals being done. I have had some very disturbing things said to me by people up on this dais before. There has not been a focus on losing the Amador downtown Main Street. How many years could we have launched a pilot program that has never gotten off its feet? Board after board, investment after investment. Nothing has come to really create a lifestyle. You can go to El Paso and visit Montecillo a strategic planned development. I happen to be from Naples, Florida where Coconut Grove is a strategic planned area where multi family housing is closest to the commercial district that includes stores, restaurants, and groceries and in the outer banks is condominiums and then single-family homes for people who are more likely to have a vehicle. I hardly doubt a 3,000 square foot grocery will be put into a single-family home by a private individual and benefit anyone including the homeless Veteran inside of our community.

William Beerman, Member of the Public said I had to tear up my prepared statement because of time restrictions and because I feel the need to rebutt some of the things that have been said here. I know that there was a concerted effort to bring out a crowd for your meeting to support this ordinance and I know there were talking points provided to speakers and one of the organizations that did that was the Dona Ana County Resilience Leaders. I don't know who that is but I know they try to drum up people to come here. I listen to people with warm and fuzzy ideas and hypothetical claims about what good this ordinance might do to help others. I know that some of you are motivated by a desire to help others and I appreciate that. Beside from these

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hypothetical ideas about how this might help people I would like to present you with some stark reality or rather present the audience with some stark reality because you already know about the hazardous waste the bio hazard business that the city department of Community Development has been allowing to operate one block from my house in a single family residential neighborhood even with single family residential zoning. So, my point is there is a statement in that zoning ordinance that gives the city the authority to approve businesses in my neighborhood and I cannot trust the city staff not to put something like a hazardous waste business on the one block over from me. Even little league kids in this town know that you can't change the rules after the game has started. So, I would urge you to maintain the existing residential zoning for people who already have it and then do whatever you want in the undeveloped land in the town.

Ray Solar, Member of the Public said Las Cruces has been hated by Washington bureaucrats because of our unique city design that makes it feel like a small town. It was designed for the residents instead of for big businesses and investors. It is not designed like New York City however your program will change that all with one swipe of the pen. It is like the same disaster that happened when you closed up the city and killed all the businesses downtown with a closed mall. I thought I would never live to see that happen again and well it is going to be happening today. Today they are going to close up the city from being an open city to being a closed city full of bad plans. Each plan should be decided one by one not on taking all our rights away with one stroke of the pen. We know the only beneficiaries will be businesses and investors from this plan and not the residents. The residents who are living right now are living under a safe plan that requires each community to be dealt with one by one. This will just throw everything out and put us all in the water with a life jacket with a million holes poked in it. It may be more airy and that is that feel good feeling and it is disastrous. It won't save your life, and it won't save our community. Please do not destroy this community. Deal with it one by one, project by project.

Patty Olson, Member of the Public said I am a local realtor here in town. I do want to say that planning and development has done a great job in the new developments, making multi use affordability for all of Las Cruces. Multi-family homes, commercial projects available to be made but we need investors and we need money to make these things happen and to make that grow. Each one of you behind the desk there is going to make a decision that impacts every single-family homeowners investments. Do any of you want to sell your home today at the prior 21 price to make homes affordable? I will sell it. I bet each and every one of you want to protect your home value. So please table this. Let the community, let the homeowners make these decisions not each one of you making this decision for my investment. We have things in place today, special use permits. If there wants to be a grocery store or café on my street and we all agree around it, great. That is what a special use permit petition is for. But to recreate my investment, that is not fair. That is not right and talking about affordability I do have concerns. I have one child who bought a house and another that may take longer to buy but it is because of our economy as a whole. Interest rates are up, and because we have seen in Las Cruces appreciated values go up so high and so fast because people are bringing money to our town, people are bringing money to the city and our state. Please table this, get more people. If you only had 270 people asking questions out of 43,000 properties, you weren't asking the

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right people.

Maria Varela, Member of the Public said I don't have a speech. I didn't read the book, and I don't have a lot of information about this project but I am in favor with the little that I have heard today. I live in 88001 area. So, I was confused because we have such a mixed community there with businesses and a lot of activity going on but I feel like it is almost okay just for my area to have that kind of lifestyle. I also work very hard. I have my house. I am a homeowner and I see the unhoused and they need houses. I am also a social worker. I am a child protective services worker, and I think I want to say that a lot of children come into care because there is not enough homes in Las Cruces. So, I am in favor of more jobs, more housing for our children, more work towards building the future of our children we would not have the issues that I have today.

Marieanne Lovano, Member of the Public said I am the proud owner of Glitz School of Cosmetology and thirteen years ago I actually bought my very first property here in Las Cruces from Mr. Mattiace. I am eternally grateful for the city of Las Cruces. If people want to work here, you can make money but you have to give it all you have to be able to make it. I had no idea I was going to be speaking here today at all. I am eternally grateful for people like you, for Sarah because she has helped us to get where we are today but I also see the housing issue that a lot of people here have. I as a homeowner would not want by no means am I saying that a mobile home park is any less but the value, let's just be real the value it matters, right? Nobody would want that next to their home. I think it is a wonderful plan because when we go to Scottsdale or we go to Houston and we see these beautiful places where they have these amazing coffee shops downstairs from this beautiful residential area that is kind of cool, right? That would be something nice for Las Cruces but listen to the homeowners. Maybe just tweak one or two little things with that plan and I am not here promoting Sara. I am not here promoting anybody but all I have to say is that I myself am going to be coming to you guys with a very amazing project in the next year. That is going to bring a lot of jobs to Las Cruces and something very amazing for the youth here, which is what we need. So, I am all for this but maybe just one or two tweaks and I think a lot of people will be happy. Maybe just listen to a lot of the homeowners here.

Charles Miller, Member of the Public said many years ago I attended several meetings over at the county building similar to this plan that you have and did a little bit of research at the time and found out it was a result of Agenda 21 from the United Nations, the driving force at that time. You are all members I suppose still of the Metropolitan Planning Organization which is part of that movement. So, people need to understand where this is coming from. I don't think it is coming from the real people here in Las Cruces. Some other things I have been in the chambers here when I have heard business people here in town crying out to you for help. The safety and security of their small businesses and our heart goes out to those folks and the police who are inundated with all kinds of calls for help. So, is this really going to help things? Then I hear that it is over 1,000 pages or so. This kind of reminds me of one of those things where you have to pass it before you know what is in it. That is not logical reasoning folks please, common sense. Leave it alone. I vote no on this resoundingly. It doesn't make sense.

Troy Mitchell, Member of the Public said I am here on behalf of the New Mexico Construction Alliance, it used to be the LCHBA. First, I want to say thank you to the Community Development Department and Public Works. We have had multiple meetings with them about the issue that we had with Realize. We wanted to get it to a point where we fully support it and we are super close. P&Z made a recommendation, almost unanimous vote to table Section 38-5 and that I the park trails and open areas. We are concerned about the cost that it is going to pass to the home buyer and really what our intent has been behind this is to make houses more attainable here in the city of Las Cruces and so what our thought process was in this was that they have Park Impact Fee analysis coming up that we are going to be a part of as well that comes up in May. We want to recommend that you guys table this Section 38-5 and do that in conjunction with the Park Zone Impact Fee analysis, just like Planning and Zoning voted as a recommendation. Again, we appreciate Community Development Department, Planning, they have been a huge help. They have heeded our problems with Realize. We have gotten some changes. You guys have been a big instrument in that, and we really appreciate it.

Kathleen Montgomery, Member of the Public said I live in a single family housing area, very happy there but I would hope you all would vote no on this and if you are going to vote yes at least push it toward the new construction in this town so if people want to make a choice they can go in that direction and then we can stay where we are at and then that way everybody is happy.

Pam Sundy, Member of the Public said after listening to many people and going to meetings it seems that Realize Las Cruces is not the best plan, and I feel that those of you that vote yes I will work tirelessly against your being reelected and be the word salad and dressing to see new members on this committee.

Michael Harris, Member of the Public said I have lived in Las Cruces my entire life which is not young anymore. I am here today to express support for this ordinance. I think it is a great step forward for the city, lived here a very long time. I do own my own house, so I am a homeowner. I do own my own business property, and I have read through not all 500 pages in exquisite technical detail but a good amount. It seems like a pretty good plan. One of the areas I would like to point out to the people in the audience and express my appreciation for is the fact that there is a recommendation for kind of yearly review of this plan and so a lot of the concerns that a lot of people have might be addressed then. In the meantime, I think the plan over all is a pretty good step forward and I would like to see it implemented. I personally live in a pretty nice relatively mixed-use area of town. I think it is an excellent model for the people worried about random stuff popping up when you have allowed density in your area. You know there is a great neighborhood of single-family homes. People who live on certain streets with certain names have very strong feelings about their homes I know and then there are town houses and owners/occupiers in the town houses. We take great pride in our homes, and they look beautiful and then there is apartment complexes further down the street and very little crime and everyone seems very happy with that. So, over all I will close with a note, and I think this was Harry Truman who said it, "the world is not static and the status quo is not sacred".

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And Las Cruces needs to grow, and I think this is a great step towards that.

Jennifer Schaeffer, Member of the Public said I would say table it and I find that the documentation was very cumbersome and I can get through documentation quite well but I found it really hard to understand in some ways and so to me when something is that big and that convoluted that there is something in there that wouldn't be agreeable to me. One thing that I don't think anyone talked about is, existing real estate purchase agreement and mortgages are legal contracts in which zoning is specified. I don't know how that can be disregarded and not be a legal problem and also, I am wondering if there are any federal funds being used for this at all? Through NGOs or otherwise? That is something to talk about later. I don't really have much else to say except I want people to have the housing they need but leave what is already in place in place.

Randi Himelgrant, Member of the Public said I have attended several meetings regarding zoning changes and I have been favorably impressed with the knowledge and pleasant demeanor of all the contractors and city employees involved. I grew up in an R1 neighborhood with a small grocery and a Phillips 66 one half block away and felt quite safe. For those with concerns about property values, Zillow lists that house at \$950,000 right now. Please note that I checked, and I could not find any homes built in this century for sale within a mile of a grocery store. I hear other Las Cruces citizens concerned that they will lose their privilege to nice quiet neighborhoods. I live on a cul-de-sac in a residential planned urban development neighborhood of about 30 homes, one block from a middle school and half a block from a church. I expect that most people would call it a nice quiet neighborhood and safe for the kids using the basketball court. My neighbor has a pet chicken. The most dangerous traffic is about 3:45 on weekday afternoons when people picking up children park seemingly as they please blocking USPS and Fed Ex deliveries as well as those of us who live there. I am not asking for an elimination of this traffic issue because I reasonably expected it when I purchased the house. Reasonably I expected several empty lots on Roadrunner may well be developed into something more dense than single family residences. I think it is reasonable to expect all neighborhoods to increase in density especially accessory dwelling units as people move wherever they want to live and as economic conditions require more of us to care for aging family and boomerang kids. In summary I have no dread regarding the new code and urge you all to vote in favor it.

Sandra Hunter, Member of Public said I am a former homeowner, but I am now living in affordable housing. I believe that is important. My anger is that housing now has become so outrageous now that even senior citizens, there are more senior citizens that are now living in affordable housing now, but it is constantly going up and you are going constantly have these problems with people being out homeless and things of that nature. Now a lot of you and I sat here for a while and I have heard both sides of the story and I understand about the fears of needing to have your own home and things of that nature. I got that. I got the understanding that you all are afraid of where your children are going to be and who is going to live next door but everyone living next door is not all that bad. If we fix what is broken with the system and the system says that if we have all these things that we are not taking care of and I am talking about the city officials, the mentally unstable, the drugs that are running up in here, if

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we don't fix any of those things we are going to continue to have more of a problem with having to build more units to house more people. I believe in low income. It is important because not everyone can afford these things, but I am just simply saying that I understand what you all are saying, I really do but I do understand that we need affordable housing. We do need low income, and we need help in those areas but stop being afraid that the people next door that if they move in or the restaurants that will move next door or whatever the case maybe they are all not bad. If we have policing like we do back in the back there. If we do our part in ensuring that things are done correctly, decent and order then we won't have to worry about whether or not we should have extra zoning for this or extra zoning for that. I just want you to know that I am for Realize, I am.

Debbie McCurdy, Member of the Public said I have listened to everything. I feel like there is pros and cons on both sides of the division. There is a lot that I can get behind. There is a few things that I can't get behind as a new homeowner in a single family residence. I agree with the other people that have come forward and said let's table this. You guys have had a chance to hear from a lot of different members of the community and I think there is things that you can do to eliminate some of the things that won't work and add some things that will work so that we can bring the community into an agreement and then when you vote you can get a unanimous yes and we will all be in favor of it. One of the things I heard was what this gentleman recommended. Let's include a clause where there is going to be a petition so if there is any new business that wants to come into a neighborhood established or new there can be a petition where all the local residents in the area get to weigh in and decide that they want that business there or not. There are a lot of businesses on the list that are viable and worth having. I also think that it should be restricted to the new development and five years from now let's readdress this and see all the pros and cons and then five years from now there might be all new faces up here and they are going to want to implement another plan just like this and we are all going to have to go through all of this again so that this is not necessarily etched in stone but we need agreement and we don't have it right now but you guys could make agreement if you would just listen to suggestions that have been presented today and amend this plan so that we can all agree on it.

Conrad Oknoff, Member of the Public said we are already experiencing an invasion of many new residents, Las Cruces residents from out of state, from many states. So, we are already growing rapidly. All I can point out is a great prescription for overburdening the city services providing a nest for crime and continued snarls of traffic here in Las Cruces is to pack more and more people into an existing area.

Rick Reynaud, Member of the Public said I have a compromise instead of recommend. Instead of voting no, tabling it to bring in the good suggestions such as the former Mayor made. Let the residents have a say in what goes on. I talked to a realtor and she said no, they should just keep it the same. Leave the single-family neighborhoods. I think the reasons given for this thousand page plan, it's 25 years old we have got to update it. Why? How many letters did you all get in the last two years from citizens saying my single-family neighborhood is racist, we have got to do something? I would like to hear one example of racism of single-family neighborhoods in Las Cruces, just one. You know you have a staff of what 50? You guys have any

examples of single-family neighborhoods rooted in racism in Las Cruces? This is ridiculous. I will compromise, why don't we table this and make it right? The other thing I was going to say you haven't fixed Desert Hope Apartments. I hear this we will fix it as we go along. It's got 1,000 pages. Why would you have to fix it as you go along? It's 1,000 pages. I would vote to table it.

Councilor Becky Corran moved, seconded by Councilor Becki Graham, to Approve Ordinance No. 3090.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores
NAYS:	Councilor William Mattiace

8. BOARD APPOINTMENTS

8.1

Councilor Cassie McClure was appointed to the New Mexico Municipal League Board of Directors.

8.2 ERIN BOYD

Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to appoint Erin Boyd to the Mesilla Valley Public Housing Authority Board.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9. NOTICE OF PROPOSED ORDINANCE(S)

- 1) There will be no public discussion.
- 2) A Councilor may ask staff for clarification on the proposed ordinance(s).

9.1

None.

10. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

10.1 COUNCILOR MCCLURE

I appreciate a couple of you still sticking around and I appreciate the ones who came and left. I was anticipating a lot of commentary, but it was good and it was civil and I appreciate that on all behalf. I wanted to thank staff specifically for taking the time on this one. There was just so much back and forth with an acknowledgement that this is a living document. This is what I am telling a lot of people too because we are a growing and evolving city and I am really excited about it because I want to kind of remind people too that when we talk about the American dream which is a lot of emails that I got was that it doesn't look the same for everyone and to me a lot of that means that we care for our community. Maybe not as much as we care for our

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property values. It is what it is. It is also interesting to me how quickly misinformation can spread so I think a lot of people came in with some bits of clarity out of this and we are hoping to spread that information more as we go forward.

10.2 COUNCILOR GRAHAM

I wanted to acknowledge the amazing turnout for the Fallen Officer Memorial Walk/Run over the weekend. It was amazing to see CAO Bencomo was there who was actually running. I in fact was walking. Mayor I know you attended, Ikani, that is just who I saw. I was happy that there was so many people that it was hard to know who all was there. And also, a shoutout to the crew from Truck 1 for coming out with the Garrison Flag on no sleep because they were just back to back to back to back. Really appreciated having them out.

I also want to reiterate Councilor McClure, my sincere thank you, thanks to staff and I know we had some members of the Realize TAC here earlier but thank you. This is the first thing that I have actually seen through. Realize was one of the first things I had heard about when I first came on in January 22 and it is finally here. It has happened, the wheels have turned and I got to see something sort of from start to finish.

Finally, I am also going to comment on the comments. It was really great to see so many people come out and what struck me is when I think about the emails that I received as well and so many people said everyone I know thinks this whether it was for or whether it was against and I think that is probably true because how often do we challenge ourselves to talk to or listen to somebody who does not have the same opinion and as uncomfortable and frustrating as that may be I am happy there was opportunity for some community members to experience that today in chambers and I hope that everyone listened with open minds even when someone wasn't agreeing with you because it does it was just a small sample of just how diverse our community is in age, in background, in history, in work. So, ya talk to people you don't agree with.

10.3 COUNCILOR CORRAN

I wanted to follow up on something that we got via email today or via a message today from a family who had a crisis in District 5, and they really identified a number of LCPD and LCFD that really supported them through that. So, I just want to sort of say that here and I would follow up with those folks as well that Sgt. Melendes, Officer Adler, Officer Rodriguez, Battalion Chief Haver, Lt. Niki Palma, Eric Miller, Isaac Marin, Ariana Reyes, Juan Joseph Duarte, Lt. Montoya, Aaron Lara, and Jesse Bustamante and so I just want to thank all of those folks. This is from residents in District 5 where we are going to have a new fire station soon and I know that there are a lot of calls like this that are really difficult where we are providing frontline health care and emotional care and mental health support and childcare and in this case as well for families that are really struggling through difficult moments and I really do want to share the gratitude of these residents that they asked for these officers and these fire fighters to be recognized and so thank you to them and all of those involved.

I also want to give a shoutout to the Animal Services Center. The event this weekend was very fun, and a lot of folks came through and saw different animals and it was

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really a great event and I really appreciate them hustling to get dogs home in particular because there aren't any cats right now.

I also want to thank the staff that worked really hard on Realize. When I got on council I said things like what is upzoning and I think we should abolish zoning and I had no idea what I was talking about at that time. Since then, it has been a three years of really learning, understanding really Community Development staff, supporting me and understanding me, talking to residents. I have resident who tomorrow is going to apply to build his carport and I told him I would come in and go with him if he wants but this education for me has been really powerful but also understanding the history and background of the complicated nature of zoning I don't say we should abolish zoning anymore and I have met someone from Houston who talked about how no zoning meant many parts of the city became industrial, very polluted industrial areas because of a lack of zoning and so I understand a lot more of the context and I wouldn't say something as stupid and uninformed as abolish zoning. For myself I understand though why folks feel that way and so I really want to thank all of the folks who showed up today and shared and the staff who has been alluded to. I hope a lot of folks said we will remember in November right? And I would ask folks to expect more from your elected officials than them voting in ways that you demand because you will vote for them or not. I would ask folks to expect their elected leaders to read all of the emails that come in from constituents on any side. Do the homework, read the 1,000 pages, talk to people in other cities, talk to their own staff, respect processes that exist that might last years but eventually get things done like this. So I would ask that folks consider also in addition to talking to people who don't agree with you but expect more from us frankly because I don't think that saying I will remember in November necessarily a very constructive way to have folks listen to you and so I would urge you to expect more out of your legislators in whatever way that might come. So again, thank you to all the folks who shared and the staff that led us through this and the other folks who educated me along the way over these last few years. I am really glad that we passed Realize.

10.4 COUNCILOR FLORES

I would like to thank Chris, thank you so much for the presentation, it was dynamite, and the presentation was excellent, and I have learned a lot from the two of you.

10.5 COUNCILOR BENCOMO

I definitely wanted to congratulate Councilor McClure for repping us on the Municipal League, that's amazing. I did want to just say that I was said you were sick for sure but I am glad I got tagged in for the library event a couple of weeks ago for the VITA Program that our public library is running. It is volunteer income tax assistance program that is helping prepare taxes for those making less than \$67,000 a year, individuals with disabilities, and those who speak limited English so it will be free for people. It will be in Spanish for those advocates who care so much about providing bilingual information to our community, it will also be in Spanish. So honestly, I just want to express my gratitude to the public library. I think this is at its core as to what public libraries are about. So, thank you for that, I know that you spent months working on that along with GECU, who are our partners on providing that service that we should all be telling people about because we know tax season can be very

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anxiety producing for so many folks.

I also just wanted to share because it was very exciting sticking on this bilingual theme. This morning, I participated as a panelist for the New Mexico State Seal of Bilingualism and Biliteracy Portfolio that LCPS puts on and it is this really rigorous program that high school seniors go through to get their bilingual seal and they asked me to be a panelist, and I actually want to encourage all of you. It was really incredible to see these high school seniors prepare this entire presentation in Spanish and get that very professional seal and I thought it was very amazing and I was very grateful to get invited and I definitely want to be invited once more.

I also just want to express my serious, serious gratitude to everyone involved in Realize. I realized that I have been telling people that it has been a two year process and this morning I said wait a minute I remember then Councilor Vasquez was still here when we hired Nichols, the consulting firm and that was a lot more than two years ago and I actually remember those four years ago when we hired the consultant and they said it would take two to three years to fully finish this how disappointed that I felt because there was a possibility that I wouldn't be here to see it through and because this is such an important document that was created by so many people and so gentle push back on this idea that we didn't do our due diligence or that it was a spare of the moment decision we made when the reality has been that it has been in works for four years and I think that it teaches us something very important that politics not being a spectator sport. If you are in local government you have to be, you have to search for information about how to get involved about how to participate so that you are not mad afterwards saying well I didn't know about it, that is your responsibility to participate in your local government and seek out the information and seek out the opportunities to provide feedback so I think for me and I want to leave this on a positive note but I have to say this because this is going to stick with me for a really long time. I got an email today that said that they were not in favor of forced integration and I think how quickly disinformation turns into propaganda and it is very dangerous how that kind of deceitful information gets passed on our community and I spoke about this a little bit at our utilities board meeting last week how it is really incumbent upon us to have tough conversations with people and to really try to interrupt disinformation when expressed because I think it can be really dangerous. Especially for something that is so powerful like this and I will say this last thing because I know everyone wants to go home. Realize is the talk of the town in Santa Fe. That people in Santa Fe, legislators, the Governor's housing staff, they are all talking about have you guys heard about that very cool thing Las Cruces is doing. It is innovative, it is bold, and states across the country, cities across the country including cities like Houston are working on revitalizing their zoning code and making it more inclusive of these kinds of diverse and thriving neighborhoods. We are on the right path. I fully believe that and thank you staff, especially Chris and Sara but all the staff, the consultants, the advisory committee, the homebuilders, all the advocacy organizations, and all of the members of the public that participated.

10.6 MAYOR ENRIQUEZ

I just wanted to echo to the staff, it has been a long process, we have hired a consultant, we have had over 33 public meetings. They have addressed it with the

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cultural. They have addressed it with the homebuilders, with the developers, with everything to make Realize what it is today. It is an opportunity to have flexibility in our community and I also echo the same about Houston has no zoning. I know personally of another municipality in New Mexico that has no zoning, and it is very difficult to protect your residence, your businesses, your community when you don't have zoning, and you have to have those safe guards in places. So, we do have the safeguards in place and again thank the staff for all their work from Community Development, Public Works, Parks & Rec, Fire Department, Police, everybody who had input into this and I thank our residents for coming out and sharing their input because it is not about the votes. It is about doing our job for this community and that is what we have done today and we do have the eight months of grace period and we do have a year that we can come back and reevaluate and see what is working and what is not working so that it is a betterment for our growth and development for our community so I am very excited and happy and I thank you all for being a part of this.

I do also want to echo what Councilor Graham said about the Memorial Run that took place Sunday. Thank you to DC Urenda, Chief Story but a special shoutout to Officer Adrian De La Garza that put it all together. A lot of times we take things for granted. We take a lot of things for granted and our Police Department responds to over 150,000 calls a year and to show that kind of support for them. I thank them for their service, and I encourage everybody to say thank you to our Police Department. I know that there is a catch phrase that one of my former Police Academy buddies used to say all the time when we first started the Police Department, and he was working graveyard and ya he was getting tired of graveyard, but he would tell me, did you sleep good last night and he would say you are welcome. So, I do thank you officers for all that you do to keep our community safe.

11. CITY MANAGER REPORT

11.1 IKANI TAUMOEPEAU

I appreciate Councilor Graham sharing about what a great event this past weekend on the run and Mayor about that. I do want to correct that CAO Bencomo was the only one running, Mayor was walking, and I was hobbling and I just wanted to say it was a great event. I definitely appreciate the community showing up and showing out for that event. It was so great to see that so kudos and echo what the Mayor and Graham and everyone has shared on that event.

Also, in the tribute of staff as well echoing those who have shared kudos to Realize. I would be remised if I didn't share my appreciation and sincere gratitude to the Realize team and it started with the previous administration and with some on the dais looking different as well. It just shows that even through the changes staff has been there. They have stayed steady and received the direction when it comes from the dais and the community. Chris Faivre, Sara Gonzales taking us to the finish line and I was trying to write down names of where it started. It started with Larry Nichols, it started with David Weir, it started with Katherine Harrison-Rogers in a different capacity and then Katherine Harrison-Rogers came back in the park capacity as well. So, kudos to her and Steven Bingham for helping out with that. Also, David Sedillo and Tony Trevino being on TAC, giving assistance on that. As well there was a lot of Public Works, a lot of street traffic analysis and traffic impact that are huge for developers

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they were there to find compromise to help out with tech manual assistance so there is so many names that I just don't have the time to share but I just want to say to all of the supporting staff helping with Realize thank you.

I did want to share while we are giving kudos to our Utilities Team. So, our Utilities Team has taken feedback from the community and they will be hosting a townhall meeting March 4th to further explain the Lead and Copper Rule invitation. The invitation to the townhall meeting have gone out in the utility bills in both English and Spanish and we will have interpreters at the event. We will also have subject matter experts. We will have those from NMED in the state there, we have confirmed that, and we look forward to sharing information with our community. I do want to clarify, and the elected officials know, they are and Mayor Pro Tem and council can at any time request an item be held at city council and that is something that will never be taken away at any time a direction can be given and that will happen. I would say that this Lead and Copper direction coming down from the EPA, this will take several years. I promise you there will be council meetings, we will have various work sessions along the way to update you as council, to update the community on this. I just wanted to share that. To let everyone know and be aware that this is something that our team have one of the best subject matter experts on our Utilities staff, our team is great and I will put them against any other utilities team in the nation and for that reason I would like to recognize them. Our Utilities Team has gone above and beyond the federal requirements. They have provided information in multiple languages on our website, 9 to be exact, they have also made a how to video to help people who are interested in checking their own pipes. Besides the townhall invitation in the utility bills we have also sent out a letter in both English and Spanish to reiterate the information sent in October. I want to recognize and thank our Utilities Team for handling this with professionalism despite much criticism that has been thrown at them. Adrienne thank you, Domonique, thank you to Steven, ju and to all of our team. Again, there is a huge support role, a huge supporting staff and I just want to share my admiration for them, gratitude and appreciation. Thank you and please pass that along.

The Senior Program's Valentine's Day Dance at Frank O'Brian Papen Center set a new record with 87 attendees. There are request coming in to start having more weekday dances and staff are exploring other options. The City Art Board met Thursday evening, February 13th and approved a partnership project with NMSU faculty and students for a new public art instillation at the Las Cruces Convention Center. Also, two new museum exhibitions open for the first Friday on February 7th and had an excellent turnout from the public. One of which at the Museum of Art Exhibit was Engaging Master's Parady Art from the collection of David Lymon, a member of the foundation of Las Cruces Museum Board, Chris Alexander, the collection features more than 80 works of art by the more than 34 artists that parody historic master works and contemporary art. At the Branigan Cultural Center the exhibition opening was Wildlife of the Mesilla Valley which showcases a diverse collection of sculptures and nature journaling pages created by 14 local artist. The Art Stop art artist reception is scheduled for February 20th from 5:30 to 6:30 in the Museum of Art atrium on Main Street. The reception celebrates art that will be put up six different bus stops, one in each council district.

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For Communications, I do want to give kudos as well to Mandy. There was one of the public comments, LaVaughn Hart the CEO and Director of SNAP, she came up and she asked and requested collaboration with our Communications team to put out a word to put out promotional materials about our partnerships and the different benefits that are offered now in the community with the partnership with City of Las Cruces and so Mandy is excited to collaborate and so they will connect as well and so I just wanted to update you on that. I think hearing from the Mayor he shared that we want this to be a problem. We want to get this out to so many people that we have a line outside of this facility so we heard you and that is something that we are going to take care of but I appreciate the Comms Team working with SNAP on that. Also, Communication, Friday 21st is National Government Communications Day. I would like to give a shoutout to the Communications Office who are doing so many things to keep our community informed from televising this council meeting to running our social media, maintaining our website, managing media interviews, advertising, video production, graphic design and branding. A big shoutout to the talented and dedicated staff that is working hard every day to keep the city's voice consistent, professional, and engaging. Thank you to our Communications Team.

Also Visit Las Cruces, kudos to Ed Carnathan, VLC Sports Sales Manager was recently inducted into the New Mexico United States Specialty Sports Association USSSA Hall of Fame. Ed was nominated and elected for induction because of his excellent commitment to softball in New Mexico out of the 6, 2025 inductees, Ed was the only one from Las Cruces. The award of merit was also presented to Visit Las Cruces for the continued support of USSSA Sports Programs. Save the Date, Mira Las Cruces has announced their third annual event for Mira Las Cruces on April 26th. More details to come as you know that is the place to be.

The Park & Rec announces an award of \$1 million for the State Outdoor Recreation Grant to support phase one of a regional bike park at the East Mesa Sports Complex. This transformative project will enhance recreational opportunities, diversify the city's parks and recreation system and contribute to the local economy by attracting visitors promoting active to outdoor lifestyle. This is an 80-acre state of the art facility that will cater cyclists of all skill levels featuring slope style tracks, dirt jumps, pump track and dual slalom course. Great job to our Parks & Rec and our grants team for applying for that.

The last is for Economic Development. The consultants for the Picacho MRA will be visiting and will be hosting two events. Pop-up event at the Peddler's Pavilion Saturday, March 1st, 9 a.m. to 11 a.m., location is 2400 West Picacho Avenue in Las Cruces and then the second event will be at MacArthur Elementary School to meet with students there on March 3rd at 10:30 a.m. to 12 noon.

12. ADJOURNMENT

12.1

Councilor Johana Bencomo moved, seconded by Councilor Becki Graham, to adjourn at 5:42 p.m.

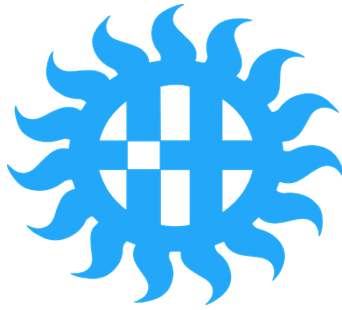
RESULT:	Carried
MOVER:	Councilor Johana Bencomo

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SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores
ABSENT:	Councilor William Mattiace

Mayor

City Clerk



MINUTES

Work Session

Monday, February 24, 2025 @ 1:00 PM

City Council Chambers, City Hall

PRESENT: Councilor Johana Bencomo, Councilor Becki Graham, Councilor Becky Corran, and Councilor Cassie McClure

ABSENT: Councilor Yvonne Flores, Mayor Eric Enriquez, and Councilor William Mattiace

1. JOBS OF THE WEEK

1.1

Sarah Raney, America's Job Center New Mexico, gave an overhead presentation.

2. PETS OF THE WEEK

2.1

Carol Nielson, Animal Services Center of the Mesilla Valley, gave an overhead presentation.

3. READ CLOSED MEETING STATEMENT FOR FEBRUARY 24, 2025.

3.1

The Las Cruces City Council met in closed session and only discussed those limited items as stated in the posted notice to discuss pending litigation regarding Estrada, Francisco v. City of Las Cruces, Et Al. - D-307-CV-2021-01309, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).

4. AGENDA ITEM

4.1 THE ALLIANCE FOR REGIONAL MILITARY SUPPORT (ARMS) UPDATE.

Elizabeth Teeters, Economic Development Director, introduced the topic

Gus Rodriguez and Richard Dayoub, ARMS gave an overhead presentation.

4.2 7TH SEMI-ANNUAL POLICE AUDIT REPORT PRESENTED BY THE OIR

GROUP.

Viola Perea, City Auditor, introduced the topic.

Stephen Connolly, OIR Group, gave an overhead presentation.

Teresa Magula, OIR Group, continued the overhead presentation.

Stephen Connolly continued the overhead presentation.

Teresa Magula continued the overhead presentation.

Mayor Pro Tem Bencomo said thank you for ending on the note about the community meeting and how that went, I think there are members of our community who care very deeply about the question of police oversight and accountability so I'm glad that you were able to see that and that they showed up to these opportunities. I just have some big overarching questions, I always do appreciate when you write in your memos when there's been disagreements with your findings and the findings of AI or the Police Department in general, but I'm wondering what happens after that? You disagree and then what?

Teresa Magula said so essentially the process of discipline lives in the hands of the Chief of Police, right? So, when we have a disagreement as to a finding on a case that is closed, more often than not, and that is not just here in Las Cruces, it is across all of our work, there is no going back to change that finding. However, what we are looking for is to raise the concern as a possibility for future action. Sometimes our disagreement might result in a holistic measure, so it can't influence the individual case and the individual officer's outcome, but it may result in a holistic change: policy change, training bulletin, some other remedial action on the larger scope, and that is really the intention. Other times it is simply to raise, to both you and members of the public, that maybe it didn't quite go the way that we thought it should go. We want to make folks aware that there is space for that disagreement if the evidence did not support the findings in the way that we saw it.

Stephen Connolly said the only thing I would add is oftentimes it ends up in the agree to disagree category, it's not hey we think this is a fundamental breach of ethics or integrity or anything else, often times it is a more nuanced insight that we might have or an approach and, as Teresa said, it's not our role to substitute our judgement for that of the department but just to flag the issues hopefully in a constructive way on a going forward basis in the dialogue with the department is always constructive.

Mayor Pro Tem Bencomo said I'm curious about the note they made, officer to supervisor, potential for training, if you could speak more to that opportunity and how you are thinking about it.

Jeremy Story, Police Chief said that program has existed since I've been here for our first time supervisors or sergeants. However, it is definitely improved and will continue to improve and there is room for that improvement. Just to give you some context,

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when I promoted to sergeant in January of 2014, I started my first day on patrol as a sergeant by myself as a sergeant. And so, there was already a field training program for supervisors at that time, but obviously I hadn't received any of it and I was already by myself as a sergeant, making decisions. Not optimal. That's changed a lot over time, that doesn't happen anymore, and so the formal training program started probably two years ago or so. So, we make sure that our sergeants have all the different kinds of pieces or blocks that they should have. Internal affairs training, critical incident training, leadership training, and they have that hopefully before they become a sergeant or shortly after because it comes in different blocks. They also go to a first line supervision class, that's been a 40 hour class that people go to forever, but that's certainly not sufficient and in the field training program we just tweak that and modify it to make it better. I'm very happy with the work that went into it and what it looks like now and so that it hopefully is the next level of what we've been doing. And that actually started we had two sergeants promote on Sunday and they just started that new program so we will have a good measure or review of how it went soon.

Mayor Pro Tem Bencomo said my last question really is around the civil disturbance, I think that that has been an issue for a while, including myself, and actually a few months ago at this point a local doctor, psychiatrist, met with myself, both our Chief of Police and Fire, to discuss this matter further and their sort of question was why can't our team LIGHT out of the Fire Department be used in those instances? And, of course, I learned a lot from that conversation in terms of these calls being some of the most dangerous calls and why the Fire Department didn't believe that that was necessarily a space for LIGHT, but I'm wondering if you have, you said this is happening across the country, what are the best practices that you have, can you just give us a summary of the best practices that you've provided and how to better address this specific issue?

Teresa Magula said the first answer that I'll give is there is not an easy answer to this one. We have reviewed programs nationwide and there are just an endless number of models. It really is city dependent and so, some models that work very effectively are to pair officers and clinicians and sometimes the resources just aren't there to have that happen. Others that we have found that might be effective are similar to what is happening in the city to have a non-sworn response of clinicians that can respond to some of these calls. Now you run into the issue of potentially those calls having some public safety or danger components making it not quite safe for those teams to respond. We found that the hybrid model is effective and many cities are implementing that effectively where there is an initial law enforcement response and once that scene is secured, then there's the component that can come in from the social service or clinical side. Certainly, there's not an easy one size fits all for this type of crisis response. When we reviewed a case, I want to say it was maybe two cycles ago, and I can come back with more information on that for you, we found that the department was really doing its due diligence in terms of using its own internal resources to the best capacity so that the crisis negotiator role I'm really focusing on their de-escalation training and how they are going to interact with individuals from that stand point rather than coming in hard hitting with force or escalating an incident that is already fairly heated most of the time. So, we did review a case where we had some suggestions using the city's resources to come into those calls in addition to the

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law enforcement response.

Chief Story said I would make the distinction between a crisis response, someone in a mental health crisis, and then domestic violence, obviously there is overlap at times, but mental health crisis might spur the domestic disturbance or domestic violence issue, but there is a separation so again just to give the opportunity to give kudos to Fire, Project LIGHT has been a massive success. I thought it was going to work, I think it has worked even better than I thought, our officers trust it and I don't know much room really there is for expansion just logistically but that's worked very well for the crisis response side of things. For domestic violence I think it is a little bit trickier, and we will look for ways, I'm open to ideas, that is harder.

Liz Rodriguez-Johnson, Member of the Public said based on my own personal experience, I believe that Las Cruces Police Department is doing a good job, for the most part, and most of what is written in the OIR report indicates that the LCPD is doing a very good job. It is a good thing to have LCPD internal processes examined and it's even better when the examination reveals that LCPD is doing a very good job. The report indicates that the LCPD is receptive to constructive criticism and making changes based on recommendations from the OIR experts, police experts, and from looking at their websites the OIR experts seem to have impeccable credentials. My main concern is the scope of the contract that OIR was awarded. Last year and the year before I believe, several of us were very specific in our request that the OIR contract include examinations of excessive use of force, especially when it leads to loss of life. There needs to be much more transparency when it comes to investigating cases where excessive use of force is executed because that is what the public is most concerned about. If I remember correctly, last year or the year before we were told that two committees within the city structure examines excessive use of force, but we were not briefed on what they learned or what was done to make sure it didn't happen and looking at the issue historically, I am not convinced that enough is being done. In 2020 there was the Valenzuela case. I assume these committees did their thing to ensure it wouldn't happen again. Unfortunately, in '23 there was the Prestly Eze case, so I assume the committees did their thing again to ensure that it wouldn't happen again. Unfortunately, again in '23 we had the Teresa Gomez case. I'm really worried because people are dying, and no one is telling us what is being done to prevent it. As a very concerned citizen, I'm asking again what are elected officials doing to prevent this? I do have a bone to pick with the OIR report, on page two it says that the Townhall was well attended, in my opinion it was not. I believe I am being generous when I say there was maybe fifteen people here and there was more than sufficient number of city staff, but none that could answer the question why the OIR contract did not include cases that dealt with excessive use of force that led to the loss of life. For that reason, I found the Townhall to be inadequate. My conclusion from the characterization that was just made was that the Townhall was sugarcoated then what else was sugarcoated? But to reiterate my main concern is if you don't address the issue of excessive use of force that leads to the loss of life, you are not addressing the issue of the biggest concern to your community, thank you.

Dr. Earl Nissen, Member of the Public asked during the seven audits, you never dealt with a police shooting incident, have you? Because I would think that as the recent trial, we had of an officer, there was very specific things about the policing that took

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place by the paid people who came for each side during the trial and I was thinking that much of what was said at the trial should be of interest to Chief Story because those extensive analyses were just the thing we would need possibly from OIR. OIR does these types of analyses, and I have read many of them when we were doing the research on doing a police review board last year. I'm not one to impede anything that Chief Story is doing, because I agree that we want a change in the police department. But when we come to the serious police shooting cases, I would think that any analysis that he could get from someone like OIR would help tremendously. Making any changes in procedures or hiring practices or whatever. So, I was wondering if the city council would be interested in extending our contract with OIR and that would have to be done to put in the contract a clause about doing analyses about police shootings and it would cost a little bit more for that service. My question for Teresa would be that have we ever had an OIR analysis of any of the police shootings?

Teresa Magula said yes to answer the question, we have done one review of an officer involved shooting in the city of Las Cruces. That was a shooting that involved a S.W.A.T. call out and was associated with some different components, in that report we discussed the need for the department to potentially review some of those crisis negotiation style responses and so our report did include that type of analysis. The good news is that in order for us to review cases, they have to be administrative internal affairs investigations of a certain threshold and thanks to the changes that Chief Story has made since his tenure as chief, he is directing each of the officer involved shootings to have an administrative investigation that is the type that we can review. So, the good news is that it does not require a contract amendment at this point for us to take a look at those. The very unsatisfactory response is that we cannot look at these cases until they have been closed. So, a number of the cases that are providing more concern and challenge to community as well as to the department are currently pending litigation. Because of that, they have not entered into our scope as far as the timing of them, but they will be cases that we will review in the same holistic way that you have seen us review cases in other jurisdictions. What I can report to you is that in our next audit cycle we will have two of these cases to present to your council and so two cases will be coming in the next audit cycle, so stay tuned for a review of two of the more recent officer involved shootings and again we will be continuing to review those as litigation and all matters related to that case are closed.

Chief Story said Teresa covered most of it, but just to make it clear, even before I was here every officer involved shooting generated an internal investigation, what we call an II. There's two issues with that, one there was a back log in Internal Affairs, which now has been completely cleared out for all cases, so we're caught up, which is best case for everybody, including the officers. It's assigned, it's investigated in a timely fashion. The second thing that delays it though is if there is litigation, that doesn't go to OIR until it is completely resolved which takes time, but the reality is in the current scope of the contract every officer involved shooting eventually will go to OIR. Now we are starting to see it catch up basically from the time their contract started.

Dr. Bobbie Green, Member of the Public said thank you for providing this report for the community, I am grateful for the transparency. I do have a couple of questions. My first question is with regard to the officer taskforce that investigates shootings, there seems to be a disconnect between the results of the officer taskforce investigation

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and in a very high-profile case that just completed. The results of the outcome of the jury verdict there were completely opposite. So, my question is is there something that can be done to make sure that the officer taskforce which, he mentioned the police are investigating themselves, can we bring in some external non-officers, somebody with a little less of an implicit bias towards the police so that we can avoid some of this costly long term protracted litigation. That's my first question. Second question is it seems to me that there should be some red flags, there are some warnings about some of these cases that end up in fatalities, and so are we looking at early warnings? Are we looking at red flags? And if not, could we start doing that because that could save somebody's life.

Mayor Pro Tem Bencomo said just in terms of the first question I'll answer it by saying the case you are referring to is not fully closed so we will not be further discussing that, however I think that the answer that they both just gave was that once some of those cases are fully closed that they will going through that OIR process. I think that is what I just heard, and it is relevant to your first question. The second question, Teresa or Chief, would you like to answer that?

Chief Story said as far as early intervention or warning signs, we have an early intervention system which is one of many systems to identify potential trends which could be cause for concern. That goes through a process, there's a policy for that; that's on our transparency page and available through muni code as well if you want to look at the whole early intervention system policy. That by itself would never catch everything it's just one of the layers; the reality is police officers are human beings, and they are going to make mistakes sometimes. Sometimes those mistakes are small, sometimes they are more consequential, and there is consequences and accountability for those mistakes. I would argue that there is more accountability in policing than in any other profession. I know you can't see this, so I understand that you have to take my word for it and that is hard to do from the outside, but if you see the things that officers get disciplined for, and the amount of discipline, the amount of reprimands they receive for all kinds of stuff, it's at that point where if I discipline them any more I'm not sure I'm going to have any police officers because we are constantly trying to address things and we try to address them at the lowest level possible so they don't become bigger issues, but they can't write a subpar report without being disciplined, if they submit it late they're going to be disciplined, if their recording wasn't all the way through the call the way it should be they will be disciplined, if they didn't dock their camera the same day they could be disciplined. There is hundreds of policies and every one of those policies results in discipline for some people, if that makes sense. There is statements for all of these policies, it is a difficult balance between accountability and making sure that we don't discipline to the point that we don't have anybody left. I would argue, and it is hard to really demonstrate this, but anyway I can, I would, that there is a lot of discipline and accountability already occurring. No matter how much I do, bad things will still happen. Unfortunately, that's the world we live in. We try to minimize and mitigate, and we should continue to look for ways to minimize and mitigate, because there is always more, we can do, but it is a difficult balance.

Bobbie Green, Member of the Public said I appreciate your response Chief, and I do understand that this is a difficult situation, and we are dealing with human beings, but

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we are also dealing with human lives and some of those lives have been lost which I think could if we make a few adjustments maybe could be avoided. And that is what I'm looking to do is see what we can do to work together to avoid further incidents of loss of life which could eliminate a lot of excessive resources that we are spending, time that we are taking, resources that we have to deal with when something like this happens. So, my other question is I understand that it's an after the fact situation where you deal with the outcome, but the problem is that's more reactive than proactive. So, my question is how can we be more proactive, so we don't have to get to where we have to react because we've done it upfront?

Lucy Silva, Member of the Public said I'm a relatively new resident of Las Cruces so this is new to me. I'm wondering about the contract between the City and the OIR Group. They said that this is their seventh audit and I'm just kind of wondering how much longer it might include in the current contract or is this something that has to be renewed every so often?

Viola Perea said the OIR Group was initially awarded a one year contract with four renewable one year contracts subsequent to that, they are currently starting their fifth year, we've already reached out to finance and we will be renewing the contract for the police auditor we'll go out for an RFP and revisit the entire process again, but the OIR Group is by contract required to report twice a year to Council, they have one more year remaining, and then we'll again go through that process again where they will be able to submit as well as anyone else interested in fulfilling that RFP for the City.

5. ADJOURNMENT

5.1

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Adjourn at 2:23 p.m.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Councilor Johana Bencomo, Councilor Becki Graham, Councilor Becky Corran, and Councilor Cassie McClure
ABSENT:	Councilor Yvonne Flores, Mayor Eric Enriquez, and Councilor William Mattiace

Mayor

City Clerk



City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:		Adopted:	March 17, 2025
Drafter:	Crystal Silva	Department:	Financial Services
Program:	Grants Administration	Line of Business:	Fiscal Management
Title:	A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A REAUTHORIZED GRANT AWARD FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To accept a reauthorized grant award from the New Mexico Department of Transportation.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces (City) requests funding on an annual basis from the New Mexico State Legislature to complete capital outlay projects throughout the City. The City was granted the following reauthorized capital appropriation from the New Mexico Department of Transportation (NMDOT) during the 2024 Legislative Session:

Control Number: C1233321 (24-14073) for the East Mesa Area Roads project in the amount of \$550,000.

This appropriation reauthorizes the 2023 Legislative Appropriation (23-H3321) to change the project language from improvements to "East Mesa Avenue" to "East Mesa Area Roads".

The funding is to acquire rights of way for and to plan, design, construct and improve roads in the East Mesa area, including pavement replacement, curb and gutter, sidewalks, accessibility and code compliance, drainage, lighting, signage, striping and related infrastructure and utilities, in Las Cruces in Dona Ana County.

The project extends along Cortez Drive from Porter Drive to Dunn Drive for approximately 5,280 feet and includes new roadway pavement, sidewalks, curb and gutter, storm drainage, street lighting, signage, striping, and utilities such as gas, water, and sewer, necessary to complete the reconstruction.

This capital appropriation has a reversion date of June 30, 2027. There is no match required for State Legislative Appropriations.

NMDOT requires a resolution of acceptance by the local governing body before an agreement can be fully executed.

SUPPORT INFORMATION:

Agenda Item #6.1.

[ATTACHMENT "A" PW - SFY24 IGA 24-I4073 Agreement](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept reauthorized NMDOT grant award C1233321.
2. Vote "No"; this will not approve the Resolution to accept reauthorized NMDOT grant award C1233321 and will result in a loss of funds.
3. Vote to "Amend"; this will require further direction to staff.
4. Vote to "Table"; this will result in a loss of funds needed to complete City projects.

RESOLUTION 25-104

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A REAUTHORIZED GRANT AWARD FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).

The City Council is informed that:

WHEREAS, the City has been offered a grant in the amount of \$550,000.00 from the New Mexico Department of Transportation (NMDOT) for the Las Cruces Active Transportation Improvement project (Attachment "A"); and

WHEREAS, a reauthorization of appropriation 23-H3321 was submitted by the City and approved during the 2024 Legislative Session to change the project language from "East Mesa Avenue" to "East Mesa Area Roads"; and

WHEREAS, NMDOT requires a resolution of acceptance by the local governing body before an agreement can become fully executed.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the City will accept the legislative grant award through NMDOT Agreement Control No. C1233321 for \$550,000.00 with no match required.

(II)

THAT the City Manager is hereby authorized to execute all necessary contracts and amendments necessary in the accomplishment of the herein above.

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Contract Number: _____

Vendor Number: 0000054342Control Number: C1233321

**STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 93100 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is between the Department of Transportation, hereinafter called the "Department" or abbreviation such as "NMDOT", and City of Las Cruces, hereinafter called the "Grantee". This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2024, SB246, Chapter 65, Section 75, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID I4073 NMDOT Control Number C1233321 **\$550,000**

APPROPRIATION REVERSION DATE: 6/30/2027

Laws of 2024, Chapter 65, Section 75, Subsection , Five Hundred Fifty Thousand Dollars and No Cents (\$550,000), The unexpended balance of the appropriation to the department of transportation in Subsection 55 of Section 33 of Chapter 199 of Laws 2023 to acquire rights of way and to plan, design, construct and improve east Mesa avenue, including pavement replacement in Dona Ana county shall not be expended for the original purpose but is changed to acquire rights of way for and to plan, design, construct and improve roads in the east Mesa area, including pavement replacement, curb and gutter, sidewalks, accessibility and code compliance, drainage, lighting, signage, striping and related infrastructure and utilities, in Las Cruces in Dona Ana county.

The Grantee's total reimbursements shall not exceed Five Hundred Fifty Thousand Dollars and No Cents \$550,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, Zero Dollars and No Cents (\$ 0.00), which equals Five Hundred Fifty Thousand Dollars and No Cents (\$550,000) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

¹ The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

² "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
 - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Las Cruces
Name: Ikani Taumoepeau
Title: City Manager
Address: P.O. Box 20000, Las Cruces, New Mexico 88004
Email: grants@lascruces.gov
Telephone: 575-541-2078

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 1 Office
Name: Debra Hudson
Title: Capital Outlay District Coordinator
Address: 2912 East Pine Street, Deming, NM 88030
Email: DebraA.Hudson@dot.nm.gov
Telephone: 575-640-2779

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2027 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded

from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.
 - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
 - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
 - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
 - (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
 - (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
 - (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well

as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Las Cruces may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Las Cruces's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Las Cruces or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Las Cruces or the Department"

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Las Cruces may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Las Cruces only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the

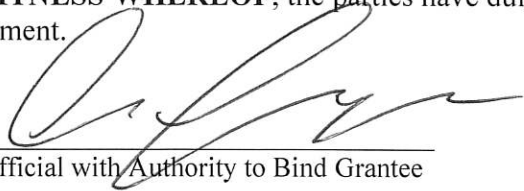
SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.
GRANTEE



Signature of Official with Authority to Bind Grantee

City of Las Cruces

Entity Name

By: Ikani Taumoepeau

(Type or Print Name)

Its: City Manager

(Type or Print Title)

3/2/25.

Date

DEPARTMENT OF TRANSPORTATION

By:

Its: Cabinet Secretary or Designee

Date

**REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE
DEPARTMENT’S OFFICE OF GENERAL COUNSEL**

By: Aaron Frankland or Designee

Its: Deputy General Counsel

Date

APPROVED AS TO FORM:



City Attorney

2/28/25

Date

STATE OF NEW MEXICO CAPITAL GRANT PROJECT Request for Payment Form Exhibit 1			
I. Grantee Information (Make sure information is complete & accurate) A. Grantee: _____ B. Address: _____ (Complete Mailing, including Suite, if applicable) City State Zip C. Phone No: _____ D. Grant No: _____ E. Project Title: _____ F. Grant Expiration Date: _____		II. Payment Computation A. Payment Request No. _____ B. Grant Amount: _____ C. AIPP Amount <i>(If Applicable)</i> : _____ D. Funds Requested to Date: _____ E. Amount Requested this Payment: _____ F. Reversion Amount <i>(If Applicable)</i> : _____ G. Grant Balance: _____ H. ☐ GF ☐ GOB ☐ STB <i>(attach wire if first draw)</i> I. ☐ Final Request for Payment <i>(if Applicable)</i>	
III. Fiscal Year : _____ (The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)			
IV. ☐ Reporting Certification: I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.			
V. ☐ Compliance Certification: Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.			
Grantee Fiscal Officer or Fiscal Agent <i>(if applicable)</i>		Grantee Representative	
Printed Name		Printed Name	
Date:		Date:	
(State Agency Use Only)			
Vendor Code: _____		Fund No.: _____	
		Loc No.: _____	
I certify that the State Agency financial and vendor file information agree with the above submitted information.			
Division Fiscal Officer		Division Project Manager	
Date		Date	

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____]

FROM: Grantee: [_____]

Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: [_____]

Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [_____]

Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]

Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]

Third Party Obligation Amount: [_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): [_____]

The Amount of this Notice of Obligation: [_____]

The Total Amount of all Previously Issued Notices of Obligation: [_____]

The Total Amount of all Notices of Obligation to Date: [_____]

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]

Title: [_____]

Signature: [_____]

Date: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

NMDOT ATTACHMENT A

The City of Las Cruces shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Las Cruces shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.



25-105

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	Adopted: March 17, 2025		
Drafter:	Gaby Prats	Department:	Financial Services
Program:	Grants Administration	Line of Business:	Fiscal Management
Title:	A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2025 BUDGET.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To accept a grant award and amend the FY25 budget.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing.

Per the City’s Grants Administration Program Policy, the City Manager, or his designee, may execute grant agreements with funding agencies. Upon receipt of the fully executed agreement from the funding agency, the Council may adjust the budget.

The request for City Council is to accept the budget adjustments to be used by the departments for the scope of work as defined by each grant agreement.

SUPPORT INFORMATION:
[Exhibit "A" Fund Summaries](#)
[Attachment "A" - PW - La Casa Appropriations Project String Request](#)
[Attachment B - Las Cruces 24-Z15052-7 La Casa Inc Improve](#)

PLAN(S):
Elevate Las Cruces

DOES THIS AMEND THE BUDGET?:
☒ Yes
☐ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:	AVAILABLE AMOUNT:	EXPENDITURE AMOUNT:
\$301,000.00	\$301,000.00	\$301,000.00

Funding Source(s):
Various

Overall Budget Impact:
Please refer to Exhibit "A" Fund Summaries

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
- ☒ No

Does this action align with Elevate Las Cruces?

- ☒ Yes
- ☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept the grant awards as presented and amend the City's FY2025 Budget.
2. Vote "No"; this will not approve the Resolution to accept the grant awards as presented and amend the City's FY2025 Budget.
3. Vote to "Amend"; this could delay the Resolution and the process of spending the grant funds within the predetermined grant schedule and require direction to staff.
4. Vote to "Table"; this will delay the Resolution and will impact the implementation of the grant agreement, the City department's ability to utilize the funds and return the grant funds to the granting agency.

RESOLUTION 25-105

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2025 BUDGET.

The City Council is informed that:

WHEREAS, the City has received notice of grant awards for various City departments; and

WHEREAS, the grants will be used as designated in the scope of work and within the specified time period as shown in the grant agreements executed by the City Manager, or his designee; and

WHEREAS, the grant agreements that are the subject of this budget adjustment will be attached to the Resolution with a Summary, as Attachment "A"; and each agreement will be attached as subsequent attachments.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the City hereby amends the FY2025 City Budget and accepts all grant awards as shown in the Fund Summary, Exhibit "A", attached hereto and made part of this Resolution, are hereby approved.

(II)

THAT the City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Agenda Item #6.2.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2024-25

	4100 CAPITAL PROJECTS REIMB GRANTS 2024-25			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 0	0	0	0
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cannabis Excise Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	3,719,299	5,309,108	0	5,309,108
State Grants	16,008,103	30,739,513	301,000	31,040,513
Local Grants	799,145	329,755	0	329,755
Debt Service	0	0	0	0
Total Revenues	20,526,547	36,378,376	301,000	36,679,376
TOTAL RESOURCES	\$ 20,526,547	36,378,376	301,000	36,679,376
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
Chief Administrative Officer	0	0	0	0
City Manager	0	5,915,250	0	5,915,250
Legal	0	0	0	0
Las Cruces Police Department	0	650,000	0	650,000
Las Cruces Fire Department	400,000	221,242	0	221,242
Utilities	0	0	0	0
Economic Development	2,103,908	3,527,035	0	3,527,035
Internal Audit	0	0	0	0
Assistant City Manager-400	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	370,000	370,000	0	370,000
Fleet	0	0	0	0
Assistant City Manager-500	0	0	0	0
Parks & Recreation	2,636,377	6,151,348	0	6,151,348
Community Development	0	0	0	0
Quality of Life	690,747	690,746	0	690,746
Public Works	14,325,515	18,852,755	301,000	19,153,755
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 20,526,547	36,378,376	301,000	36,679,376
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 0	0	0	0
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 0	0	0	0



CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

Today's Date:	Grant Team Representative:
Grant Award Amount:	Council Budget Adjustment Date:
Grant Agreement #:	ALN/CFDA#:
Grant Effective Date:	Grant Reversion Date:
Funding Agency:	

PROJECT INFORMATION

Grant Project Title:	Type of Grant:
Type of Funding:	Match Amount:
Match Description:	Match Percent/Ratio:
City Fiscal Year:	Funder Fiscal Year:
Grant Scope of Work: (Specify if this grant involves Sub-Grantees or Pass Through Grants)	

DEPARTMENT INFORMATION

Implementation Dept:	User Dept:
Line of Business:	Line of Business:
Program:	Program:
Project Manager:	Project Manager:
Phone:	Phone:
Email:	Email:

Check box if implementation and user departments are the same:

ACCOUNT STRINGS:

Fund Number - Organization Number - Object Number - Amount for Revenue and Expense
(2100 for General Grants/4100 for Capital Grants)

Reimbursable Grant: **Revenue Collected in Advance:**

Date to Accounting:	Project Number:
Project Created By:	Set-Up Date:
Accounting Comments:	

Agenda Item #6.2.

REIMBURSING AGENCY: Department of Finance and Administration

Business Unit: 341

APPROPRIATION RECIPIENT:

City of Las Cruces

APPROPRIATION NUMBER: APPROPRIATION AMOUNT: REVERSION DATE:

24-ZI5052-7 **\$301,000** **June 30, 2025**

APPROPRIATION LANGUAGE

Three Hundred One Thousand dollars (\$301,000) for transitional housing and shelter facilities for victims of domestic violence for facilities in New Mexico. Funds unexpended by June 30th, 2025, will be reverted to the State of New Mexico's general fund unless reauthorized by the state legislature.

APPROPRIATION REIMBURSEMENT

The appropriation funds will be disbursed through a reimbursement process. The Appropriation Recipient will submit to the Reimbursing Agency the Exhibit A: Request for Payment form along with supporting document(s) that evidence the expenses to be reimbursed. The Reimbursing Agency will review these documents to ensure all expenses to be reimbursed reflect the intent and purpose of the appropriation language. All expenditures for which the Appropriation Recipient requests reimbursement must occur prior to the reversion date. The latest date the Appropriation Recipient may submit a Request for Payment is July 15th, 2025. With the submission of the final Exhibit A: Request for Payment, the Appropriation Recipient must include a completed Exhibit B: Final Report form in order to receive the final reimbursement.

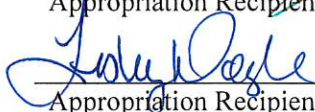
CERTIFICATION

I hereby certify that City of Las Cruces

1. Will only use the appropriation funds to carry out and/or perform activities described in appropriation language.
2. Will comply with State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the project.
3. Ensures that the appropriation funds only benefit entities in accordance with applicable law, including, but not limited to Article IX, Section 14 of the Constitution of the State of New Mexico, "Anti-Donation Clause."
4. Will follow the procedure described in "Appropriation Reimbursement" for reimbursement of appropriated funds.

Appropriation Recipient Representative

Date 3/10/25



Appropriation Recipient CFO

Date 3/3/25

APPROVAL

In accordance with the authority conferred on the Department of Finance & Administration by the statute appropriating these funds, I hereby approve this certification for appropriation number 24-ZI5052-7 in the amount of \$301,000

Cecilia Mavrommatis
Director, Local Government Division

Date

APPROVED AS TO FORM:



CITY ATTORNEY DATE

STATE OF NEW MEXICO HB2 Transitional Housing Appropriation Request for Payment Form Exhibit A
--

I. Grantee Information

(Make sure information is complete & accurate)

- A. Grantee: _____
- B. Address: _____
 (Complete Mailing, including Suite, if applicable)

 City, State, Zip
- C. Contact Name/Phone #: _____
- D. Grant No: _____
- E. Project Title: _____
- F. Grant Expiration Date: _____

II. Payment Computation

- A. Payment Request No. _____
- B. Grant Amount: _____ 0
- C. AIPP Amount (If Applicable): _____ 0
- D. Funds Requested to Date: _____ 0
- E. Amount Requested this Payment: _____ 0
- F. Reversion Amount (If Applicable): _____ 0
- G. Grant Balance: _____ 0
- H. ☐ GF ☐ GOB ☐ STB (attach wire if first draw)
- I. ☐ Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐

Compliance Certification: Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

 Grantee Fiscal Officer
 or Fiscal Agent (if applicable)

 Grantee Representative

 Printed Name

Date: _____

 Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

 Division Fiscal Officer Date

 Division Project Manager Date

REIMBURSING AGENCY: Department of Finance and AdministrationBusiness Unit: 341

STATE OF NEW MEXICO
HB2 Transitional Housing Final Report Form
Exhibit B

Appropriation Recipient: _____

Appropriation Number: _____

Use of Appropriation Funds	Amount
Capital Expenses	0
Other	0
	0
	0
Total Amount of Appropriation Funds Expended	0

Narrative
<i>Describe the outcomes, results, benefit, and or uses of the appropriation funds</i>



City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1	☐ 2	☐ 3	☐ 4	☐ 5	☐ 6	☐ N/A
1st Reading:				Adopted:	March 17, 2025		
Drafter:	Adam Ochoa			Department:	Community Development		
Program:	Community Planning			Line of Business:	Community Planning		
Title:	A RESOLUTION APPROVING THE REQUEST FOR A RESTAURANT B – BEER, WINE AND SPIRITS LIQUOR LICENSE WITH ON PREMISES CONSUMPTION ONLY TO CHACHI’S, LLC., D/B/A CHACHI’S, LLC., LOCATED AT 340 N. MAIN STREET, LAS CRUCES, NM. 88001.						

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Approval of a Restaurant B – Beer, Wine and Spirits Liquor License with On Premises Consumption Only.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
Pursuant to New Mexico Statutes, an application for approval of a Restaurant B – Beer, Wine and Spirits Liquor License with On Premises Consumption Only, must be accompanied by a resolution of the City Council approving and consenting to the license after a public hearing.

Chachi’s LLC., d/b/a Chachi’s, LLC., applied to the Alcoholic Beverage Control Division of the Regulation and Licensing Department of the State of New Mexico ("ABC"). The location for the license is at 340 N. Main Street, Las Cruces, NM. 88001. ABC granted preliminary approval on January 22, 2025.

The City Council is required to hold a public hearing within 45 days after the date of receipt of the preliminary approval letter from ABC. A public hearing to review this issue is scheduled during the regular City Council meeting on Monday, March 17, 2025, beginning at 1:00 p.m., in the City Council Chambers at 700 North Main Street, City Hall. Notice of this public hearing was published in the Las Cruces Sun-News on February 14, 2025, and March 2, 2025.

The Council may approve or disapprove the request for the liquor license. However, Council's disapproval must be based on substantial evidence that the license would adversely affect the health, safety, or welfare of the City of Las Cruces citizens.

The Council may also fail to either approve or disapprove the license. If Council fails to approve or disapprove the license within 30 days after the public hearing, the Director of the Alcoholic Beverage Control Division may give final approval of the license.

SUPPORT INFORMATION:
[Exhibit "A", Alcohol and Gaming' s letter and the application.](#)
[Attachment "A", Notice of Intent to Approve published.](#)

Agenda Item #7.1.

[Attachment "B", Traffic Impact Report from the Traffic Engineering Section.](#)

[Attachment "C", Fire and Safety Compliance Report from the Las Cruces Fire Department.](#)

[Attachment "D", Liquor License Impact Zoning Report from Community Development.](#)

[Attachment "E", Criminal Activity Report from the Las Cruces Police Department.](#)

[Attachment "F", Business Registration Report from Community Development Services.](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☐ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the approval of a Restaurant B – Beer, Wine and Spirits Liquor License with On Premises Consumption Only and the Alcohol Beverage Control will continue with the application process.

2. Vote "No"; this will not approve and must be based on substantial evidence that the liquor license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.

3. Vote to "Amend"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

4. Vote to "Table"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

RESOLUTION 25-106

A RESOLUTION APPROVING THE REQUEST FOR A RESTAURANT B – BEER, WINE AND SPIRITS LIQUOR LICENSE WITH ON PREMISES CONSUMPTION ONLY TO CHACHI'S, LLC., D/B/A CHACHI'S, LLC., LOCATED AT 340 N. MAIN STREET, LAS CRUCES, NM. 88001.

The City Council is informed that:

WHEREAS, Chachi's, LLC., D/B/A Chachi's, LLC., located at 340 N. Main Street, Las Cruces, NM 88001, applied to the Alcoholic Beverage Control Division of the Regulation and Licensing Department of the State of New Mexico ("ABC") for a Restaurant B – Beer, Wine and Spirits Liquor License with On Premises Consumption Only; and

WHEREAS, ABC granted preliminary approval for a Restaurant B – Beer, Wine and Spirit Liquor License with On Premises Consumption Only by letter dated January 22, 2025; and

WHEREAS, pursuant to law, the application for a Restaurant B – Beer, Wine and Spirits Liquor License with On Premises Consumption Only must be accompanied by a resolution of the Las Cruces City Council approving of and consenting to the license after a public hearing upon reasonable notice of such hearing; and

WHEREAS, the City Council did on this date hold a public hearing after reasonable notice setting forth the required information concerning the public hearing. The City Council has considered the liquor license, and it has determined that the approval of the liquor license is not detrimental to the public health, safety, or welfare of the City of Las Cruces.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT a Restaurant B – Beer, Wine and Spirits Liquor License with On Premises Consumption Only to Chachi's, LLC., d/b/a Chachi's, LLC., located at 340 N. Main Street, Las Cruces, NM 88001, as evidenced by ABC's letter and the application attached hereto as Exhibit" A", is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #7.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Clay Bailey, Superintendent
Phillip Sanchez, Director

January 22, 2025

Certified Mail No.: 7021 2720 0001 2205 1099

City of Las Cruces

Christine Rivera, CMC
PO Box 20000
Las Cruces, NM 88004

Lic. No. /Appl. No.:

Name of Applicant: Chachi's, LLC
Doing Business As: Chachi's, LLC
Proposed Location: 340 N. Main Street, Las Cruces, New Mexico 88001

The Director of the Alcoholic Beverage Control Division (ABC) has reviewed the referenced Application and granted **Preliminary Approval**. It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

Notice of the Public Hearing required by the Liquor Control Act **shall be given by the governing body by publishing a notice** of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications must occur before a hearing can be conducted.** The notice shall include:

- (A) Name and address of the Applicant/Licensee;
- (B) The action proposed to be taken;
- (C) The location of the licensed premises.

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

While the law states that “within forty-five (45) days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer”, we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a couple of options:

- 1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
- 2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and

Agenda Item #7.1.

regulatory procedures. After the extension is granted and the hearing is held, notify ABC of your decision within thirty (30) days of the hearing;

ABC has no preference in the option you choose.

The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

THE APPLICANT IS SEEKING RESTAURANT B – BEER, WINE AND SPIRITS LIQUOR LICENSE WITH ON PREMISES CONSUMPTION ONLY

Within thirty (30) days after the Public Hearing, the governing body shall notify ABC of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify ABC within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to ABC with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,



Charmaine Martinez
Admin Law Judge | Hearing Officer
NM Regulation & Licensing Department
Alcoholic Beverage Control Division
Phone: (505) 476-4804 Fax: (505) 476-4595
Email: Charmaine.Martinez2@rld.nm.gov

Enclosures:

1. Page 1 (Business Information Page) (*must be signed and returned w/notices of publication*)
2. Copy of Page 2 (Premises Information Page)
3. Copy of the Zoning Statement
4. Copy of Floor Plan



Alcoholic Beverage Control Division
Restaurant B Intake Application
Application Number: BLA-0000003470



Business Information

Business Information

Business Name: CHACHIS LLC	Type of Business: Alcohol
Business Structure: Limited Liability Company	FEIN: XX-XXX4247
State Tax ID Number: XX-XXXXX0-00-0	
Business Email: chachisrestaurant@gmail.com	Business Phone: 5756493108

Contact Person Information

Contact Person Name: GABRIEL MONTOYA	Contact Person Phone: 5756493108
Contact Person Email: chachisrestaurant@gmail.com	

Business Mailing Address

Mailing Street: 2460 S Locust Ste A	Mailing City: Las Cruces
Mailing State: NM	Mailing Zip Code: 88001
Mailing Country: US	

Local Option District Use Only: Local Governing Body of _____ City, County, Village

Public Hearing held on _____ 20____ Please check one: ☐ Approved ☐ Disapproved

Signature of City/County Official: _____ Title: _____

Alcoholic Beverage Control Division Use Only: ☐ Approved ☐ Disapproved _____

Signed by Director: _____ Date: _____



Alcoholic Beverage Control Division
Restaurant B Intake Application
Application Number: BLA-0000003470



Premises Information

Premises DBA

Premises Doing Business As (DBA): CHACHI'S LLC

Proposed Premises Physical Address

Physical Street: 340 N Main Street

Physical Zip Code: 88001

Physical County: Dona Ana

Local Option District: Las Cruces

Physical City: Las Cruces

Physical State: New Mexico

"Local Option District" means a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, OR an incorporated municipality that falls within a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, OR an incorporated municipality of over five thousand population that has independently voted to approve the sale, serving or public consumption of alcoholic beverages under the terms of the Liquor Control Act or any former act.

Ownership

The land and building which is proposed to be the licensed premises is: Owned by Applicant

The following information is required to ensure the issuance of a license to this location will not result in the violation of a county or municipal ordinance.

Zoning

Is the proposed premises location zoned? Yes

You will be required to upload "Copy of Zoning Statement" issued by the local municipality or county. If not applicable, you will be required to upload "Copy of Zoning Statement" or Letter from local government to indicate that there is no zoning for the proposed location.

Specify the zone for proposed premises location (example C-1): DDC-MS

Distance from nearest School

Name of School: Central Elementary School

School City: Las Cruces

School Zip Code: 88001

School Distance (in feet): More than 400 but less than 1000

Specify the shortest direct line distance from the nearest point of the proposed premises to the nearest point of the property line of the school.

School Street: 150 N Alameda

School State: New Mexico

School Country: United States

Distance from nearest Church

Name of Church: El Calvario United Methodist Church

Church City: Las Cruces

Church Zip Code: 88001

Church Distance (in feet): More than 400 but less than 1000

Specify the shortest direct line distance from the nearest point of the proposed premises to the nearest point of the property line of the church.

Church Street: 316 N Campo Street

Church State: New Mexico

Church Country: United States



Alcoholic Beverage Control Division
Restaurant B Intake Application
Application Number: BLA-0000003470



Premises Information 2

Please specify the appropriate option for the premises that you have specified in the application?

- ☐ A license has never been issued to the location of the proposed premises.
- ☒ A license was once issued to the location of the proposed premises but is no longer being operated at the location.
- ☐ Alcohol operations are currently being performed at the proposed premises by the applicant business.
- ☐ Alcohol operations are currently being performed at the proposed premises by a business other than the applicant business.

Please provide more details for the option selected in above question?

You can specify more details such as license has become expired non-renewable, business ownership has changed, planning to extend operations of existing premises or planning to buy premises etc.

New owner of the building

Licenses at Proposed Premises

Please specify the active New Mexico licenses currently held by the proposed premises.

If you need to view, edit, or delete any records, click the down arrow under action for that specific record.

No records to display.

Questions

Has the applicant business ever had a liquor license denied, suspended, revoked, surrendered, or had any other form of discipline or disciplinary action by a licensing agency in another state or jurisdiction?	No
Has the structure and/or ownership disclosure for the applicant business changed since last reported to the department?	No
Does the applicant business own any (direct/indirect) interest in a liquor license?	Yes

List of Active Business Licenses in Other States

No records to display.

List of Active Business Licenses in New Mexico

License Number: RES-000175	License Type: Restaurant A	Issuing State:New Mexico
License Number: RES-000809	License Type: Restaurant B	Issuing State:New Mexico



Alcoholic Beverage Control Division
Restaurant B Intake Application
Application Number: BLA-0000003470



Payment

Fee Name	Fee Amount
Application Fee	200.00
Resident Agent Fee	50.00
Total Fee Amount:	250.00

Attestation/Oath

Under penalty of perjury, I hereby depose and state that I am the person identified in this application and the information given by me is true and complete to the best of my knowledge and belief. I understand that any information contained in this application may be investigated and any false or dishonest answer to any question in this application may be grounds for denial or revocation of my license.

Attestation Signature: Gabriel L Montoya

Date: 10/29/2024



STATEMENT OF ZONING

The property located at 340 N. Main Street having an Account ID Number of R0206013, in Las Cruces, New Mexico, is zoned as follows:

DDC-MS (Downtown Development Code – Main Street)

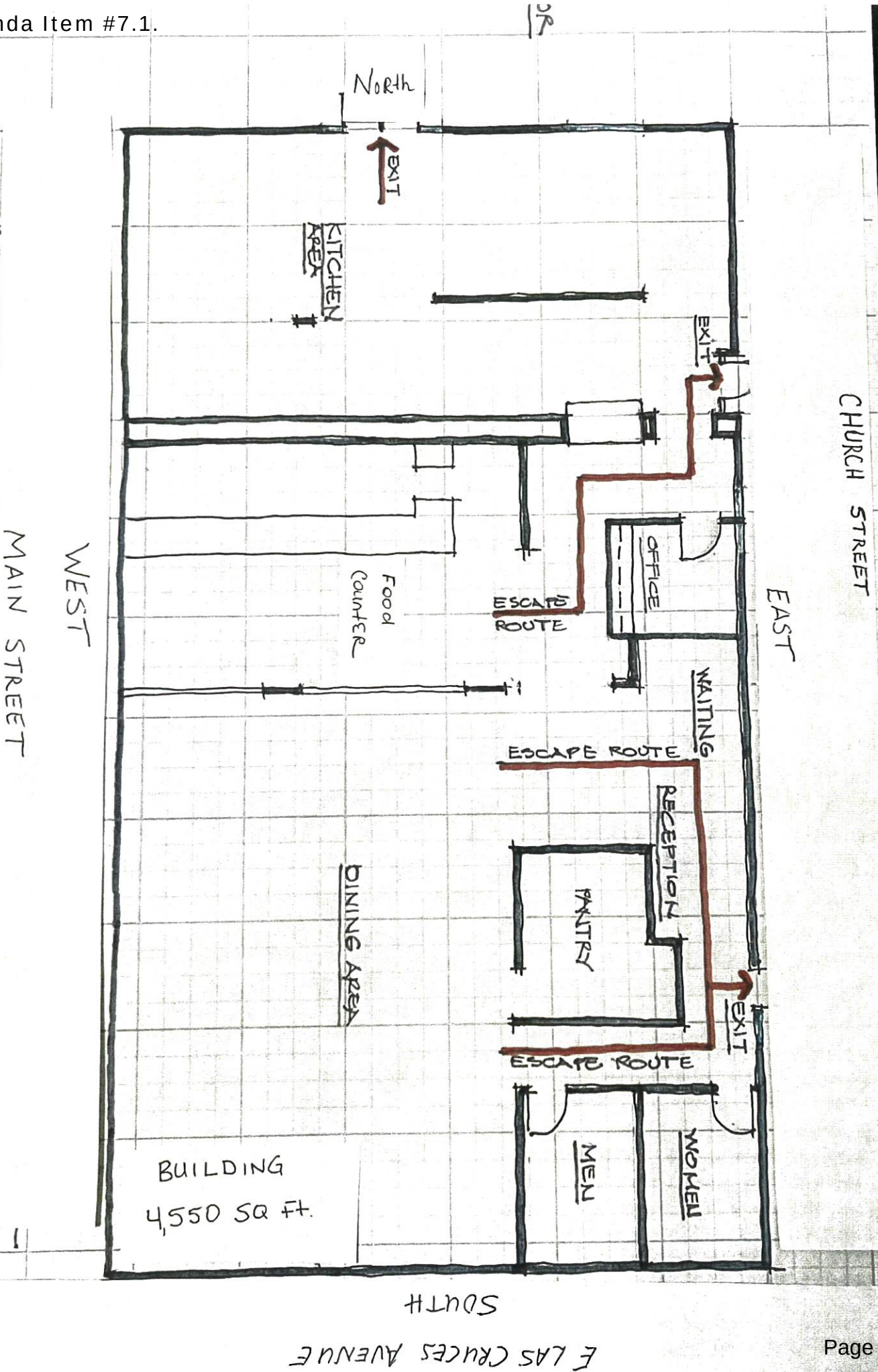
Comments: The DDC-MS zoning district facilitates and encourages development of government facilities, retail, office, residential, and other similar uses in the downtown area of the city with appropriate height, yard, and intensity standards to allow for a higher density and intensity of development. Further, the Main Street (MS) zoning district is identified as a special area within the Downtown to encourage revitalization through incentives and clearly defined development standards. Food and beverage establishments with a liquor license are permitted uses within this zoning district, providing that all requirements prescribed for liquor establishments by the State of New Mexico are met.

The above-described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

January 6, 2025
Date


Adam Ochoa
Senior Urban Planner

Please be advised that the information presented on this document is taken from the City of Las Cruces Zoning Atlas. Nothing shall prevent the City of Las Cruces from amending this information if review of the Zoning Ordinance shows the Atlas to be in error.





CITY OF LAS CRUCES

AD FORM

Las Cruces Sun News (LCSN)	
Classified Legal Ad	
Date to Publish: February 14, 2025, and March 2, 2025	
Account # 1361141 P.O. # 25201199	
City Contact & Phone #: Adam Ochoa, Senior Urban Planner 575-528-3204 aochoa@lascruces.gov	
Proof of Publication Required. Please initial Ad Form and email back indicating receipt.	

COPY TO PUBLISH:

NOTICE OF INTENT TO APPROVE

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of a Restaurant B – Beer, Wine and Spirits Liquor License With On-Premises Consumption Only to Chachi's, LLC. d/b/a Chachi's, LLC. located at 340 N. Main Street, Las Cruces, New Mexico, 88001.

The Public Hearing will be held as part of the regularly scheduled meeting of the City Council on Monday, March 17, 2025, beginning at 1:00 p.m., in the City Council Chambers, 700 North Main Street, City Hall. If passed, the Director of the Alcoholic Beverage Control Division of the State of New Mexico Regulation & Licensing Department may approve the issuance of the license.

Witness my hand and seal this the 28th of January, 2025.

Christine Rivera, MS, CMC
City Clerk

LAS CRUCES SUN NEWS - Please publish in the Legal Section on **February 14, 2025, and March 2, 2025**, and furnish Proof of Publication at your earliest convenience.



MEMORANDUM

To: Adam Ochoa, Senior Urban Planner

From: Gary Skelton, P.E., Engineer **Initials:** GS

Date: January 29, 2025

Subject: Traffic Investigation Report – Restaurant B – Beer, Wine and Spirits
Liquor License Application
Location: 340 N. Main Street, Las Cruces, NM 88001
Applicant: Chachi's, LLC

As requested, Traffic Engineering has completed a traffic investigation for a Restaurant B – Beer, Wine and Spirits Liquor License application submitted by Chachi's, LLC that will be located at 340 N. Main Street in Las Cruces, New Mexico. The following information is submitted for review:

- The Chachi's restaurant will be a standalone building on N. Main Street in downtown Las Cruces located between Main Street and Church Street. According to the Mesilla Valley MPO Interactive Traffic Flow Map, the most current traffic volume on Main Street and Church Street is approximately 5,648 and 2,152 vehicles per day, respectively. The volume of the nearest cross street on Las Cruces Avenue is approximately 1,430 vehicles per day.
- The Mesilla Valley MPO classifies Main Street and Las Cruces Avenue as collector roads, while Church Street is classified as an arterial. These streets serve primarily commercial use near the subject property.
- The subject property has a parking lot on the east side of the property that is shared with multiple properties along Church Street. This parking has two full access driveways on Church Street and one full access driveway on Las Cruces Avenue. Additionally, there is on-street parking available along Main Street to the west of the property with pedestrian access. No operational problems are currently known at the driveways.
- The speed limit along Main Street is 15 mph, while the speed limit on Church Street is 25 mph near the subject property. The speed limits for other nearby roads range from 25 to 35 MPH.

The approval of the Restaurant B Liquor License application at this location does not appear to adversely impact traffic operations along this roadway segment. Feel free to contact me at 575-541-2561 if additional information is needed.

From: [Michael Landavazo](#)
To: [Adam Ochoa](#)
Subject: Re: Restaurant B - Beer, Wine and Spirit Liquor License
Date: Friday, January 31, 2025 11:29:29 AM
Attachments: [image001.png](#)
[image002.png](#)
[Outlook-signature .png](#)

Thank you. In that case Fire approves pending a fire inspection.

Michael Landavazo
Fire Marshal
Las Cruces Fire Department
575-528-4251



From: Adam Ochoa <aocchoa@lascruces.gov>
Sent: Friday, January 31, 2025 11:12 AM
To: Michael Landavazo <mlandavazo@lascruces.gov>
Subject: RE: Restaurant B - Beer, Wine and Spirit Liquor License

There is no change in occupancy. It was previously restaurant. Thank you.

Adam Ochoa, CZO
Senior Urban Planner/Community Planning/Community Development Department
Direct: 575-528-3204 / TTY 711
Main: 575-528-3043 / TTY 711
aocchoa@lascruces.gov



From: Michael Landavazo <mlandavazo@lascruces.gov>
Sent: Friday, January 31, 2025 9:40 AM
To: Adam Ochoa <aocchoa@lascruces.gov>; Soogyu Lee <sglee@lascruces.gov>; Gary Skelton <gskelton@lascruces.gov>; Daniel Balderrama <dbalderrama@lascruces.gov>; Jason Smith <jasmith@lascruces.gov>; Michael Danner <mdanner@lascruces.gov>; Elena Sanchez <esanchez@lascruces.gov>; Sean Mullen <smullen@lascruces.gov>; Eric Urenda <eurenda@lascruces.gov>; Jeremy Story <jstory@lascruces.gov>; Miguel Carlos <mcarlos@lascruces.gov>; Eloy Jimenez <ejimenez@lascruces.gov>
Cc: Chris Faivre <cfaivre@lascruces.gov>
Subject: Re: Restaurant B - Beer, Wine and Spirit Liquor License

Is the building sprinklered? Looking at the sketch it appears it could require sprinklers. I would not want to approve a liquor license in a building that does not meet fire code. Was the

Agenda Item #7.1.

last occupancy a restaurant? If it was, they wouldn't have to come up to code.

Michael Landavazo

Fire Marshal

Las Cruces Fire Department

575-528-4251



From: Adam Ochoa <aochoa@lascruces.gov>

Sent: Tuesday, January 28, 2025 8:17 AM

To: Soogyu Lee <sglee@lascruces.gov>; Gary Skelton <gskelton@lascruces.gov>; Daniel Balderrama <dbalderrama@lascruces.gov>; Jason Smith <jasmith@lascruces.gov>; Michael Landavazo <mlandavazo@lascruces.gov>; Michael Danner <mdanner@lascruces.gov>; Elena Sanchez <esanchez@lascruces.gov>; Sean Mullen <smullen@lascruces.gov>; Eric Urenda <eurenda@lascruces.gov>; Jeremy Story <jstory@lascruces.gov>; Miguel Carlos <mcarlos@lascruces.gov>; Eloy Jimenez <ejimenez@lascruces.gov>

Cc: Chris Faivre <cfaivre@lascruces.gov>

Subject: Restaurant B - Beer, Wine and Spirit Liquor License

Good Morning,

ChaChi's, LLC., has filed an application for a Restaurant B – Beer, Wine and Spirit Liquor License with On Premises Consumption Only; Application Number BLA-0000003470. Please see the attached application. Please provide liquor license reports to me no later than Monday, February 3, 2025. Thank you.

Adam Ochoa, CZO

Senior Urban Planner/Community Development Department

Direct: 575-528-3204 Main: 575-528-3043, aochoa@lascruces.gov





CITY OF LAS CRUCES

**City of Las Cruces Community Development Department
Liquor License Impact Report**

**Restaurant B – Beer, Wine & Spirits Liquor License with On-Premises Consumption Only
Chachi’s, LLC.
340 N. Main Street**

The purpose of this report is to review, analyze and determine any possible impacts of a liquor license relating to land use and other planning related issues.

PROPERTY INFORMATION:

Location: 340 N. Main Street
Applicant: Chachi’s, LLC.
Business Name: Chachi’s, LLC.
Zoning: DDC-MS (Downtown Development Code-Main Street)



DISTANCE REQUIREMENTS:

Greater than 300 feet to a school: YES
Greater than 300 feet to a church: NO
Greater than 300 feet to a military installation: YES

IMPACT ANALYSIS:

The applicant is requesting a Restaurant B – Beer, Wine and Spirits Liquor License with On-Premises Consumption Only. The subject property is located in Downtown Las Cruces between Main Street and Church Street in the Downtown Urban Place Type, as designated by Elevate Las Cruces, which is an area that includes a mix of residential and non-residential land uses that are

associated with a thriving and vibrant central business district. The place type supports institutional, cultural, employment, shopping, entertainment uses, and land uses such as the proposed restaurant with a liquor license. The subject property is zoned DDC-MS, which allows the establishment with a liquor license, provided all requirements as prescribed for liquor establishments by the State of New Mexico are met. In terms of a transportation, land use, and Comprehensive Plan perspective, this seems an appropriate location and request.

There is a question, however, concerning the required distance between liquor establishments and military installations, churches, and schools. The property in which the subject business is located is approximately 155 feet from the property line of a religious institution. According to New Mexico State Law, a local governing district may grant a waiver to allow such a business within 300 feet of a church. Thus, the local governing district may determine whether or not the location of the liquor license request is appropriate. The law does not set parameters to assist in determining applicability. Therefore, Planning Staff assumes the local government district may use traditional guidelines, such as, health, safety, and welfare to make this decision.

From: [Sean Mullen](#)
To: [Adam Ochoa](#)
Subject: RE: Restaurant B - Beer, Wine and Spirit Liquor License
Date: Thursday, January 30, 2025 2:51:24 PM
Attachments: [image001.png](#)

Approved.

Thank you,

Sean Mullen

Deputy Chief of Administration/Las Cruces Police Department

Direct: 575-528-4101 Main: 575-528-4200, smullen@las-cruces.org



From: Adam Ochoa <aochoa@lascruces.gov>
Sent: Tuesday, January 28, 2025 8:18 AM
To: Soogyu Lee <sglee@lascruces.gov>; Gary Skelton <gskelton@lascruces.gov>; Daniel Balderrama <dbalderrama@lascruces.gov>; Jason Smith <jasmith@lascruces.gov>; Michael Landavazo <mlandavazo@lascruces.gov>; Michael Danner <mdanner@lascruces.gov>; Elena Sanchez <esanchez@lascruces.gov>; Sean Mullen <smullen@lascruces.gov>; Eric Urenda <eurenda@lascruces.gov>; Jeremy Story <jstory@lascruces.gov>; Miguel Carlos <mcarlos@lascruces.gov>; Eloy Jimenez <ejimenez@lascruces.gov>
Cc: Chris Faivre <cfaivre@lascruces.gov>
Subject: Restaurant B - Beer, Wine and Spirit Liquor License

Good Morning,

ChaChi's, LLC., has filed an application for a Restaurant B – Beer, Wine and Spirit Liquor License with On Premises Consumption Only; Application Number BLA-0000003470. Please see the attached application. Please provide liquor license reports to me no later than Monday, February 3, 2025. Thank you.

Adam Ochoa, CZO

Senior Urban Planner/Community Development Department

Direct: 575-528-3204 Main: 575-528-3043, aochoa@lascruces.gov



From: [Eloy Jimenez](#)
To: [Daniel Balderrama](#); [Adam Ochoa](#); [Soogyu Lee](#); [Gary Skelton](#); [Daniel Balderrama](#); [Jason Smith](#); [Michael Danner](#); [Elena Sanchez](#); [Sean Mullen](#); [Eric Urenda](#); [Jerome Baez](#); [Shawn Galois](#)
Cc: [Chris Faires](#); [Eric Urenda](#); [Eloy Jimenez](#)
Subject: RE: Restaurant B - Beer, Wine and Spirit Liquor License
Date: Friday, January 31, 2025 8:42:38 AM
Attachments: [LicenseRenewal_16863-19_16863-21_16863-22.pdf](#)
[16863-23.pdf](#)
[16863-24.pdf](#)
[16863-25.pdf](#)

Sugies Diner LLC was the last business at 340 N. Main St.
The last business license issued for them expired January 30, 2024.

☐	16863-19	Closed	Business Registration License	SUGIES DINER LLC	02/09/2019	01/31/2020	Inactive		SUGIES DINER	340	N	MAIN
☐	16863-19-REN-001	Renewed	Business Registration License Renewal	SUGIES DINER LLC	12/02/2019				SUGIES DINER	340	N	MAIN
☐	16863-20	Closed	Business Registration License	SUGIES DINER LLC	12/02/2019	01/30/2021	Inactive		SUGIES DINER	340	N	MAIN
☐	16863-20-REN-001	Renewed	Business Registration License Renewal	SUGIES DINER LLC	12/08/2020				SUGIES DINER	340	N	MAIN
☐	16863-21	Closed	Business Registration License	SUGIES DINER LLC	12/08/2020	01/31/2022	Inactive		SUGIES DINER	340	N	MAIN
☐	16863-21-REN-001	Renewed	Business Registration License Renewal	SUGIES DINER LLC	01/24/2022				SUGIES DINER	340	N	MAIN
☐	16863-22	Closed	Business Registration License	SUGIES DINER LLC	01/25/2022	01/31/2023	Inactive		SUGIES DINER	340	N	MAIN
☐	16863-22-REN-001	Renewed	Business Registration License Renewal	SUGIES DINER LLC	01/17/2023				SUGIES DINER	340	N	MAIN
☐	16863-23	About to Expire	Business Registration License	SUGIES DINER LLC	01/17/2023	01/31/2024	About to Expire		SUGIES DINER	340	N	MAIN
☐	16863-EXTLIC-APP	Issued	Business Registration License Application	SUGIES DINER LLC	01/18/2019				SUGIES DINER	340	N	MAIN

Eloy O. Jimenez
Permitting & Registration Supervisor/Community Development/Permits and Inspections
Direct: 575-528-3266
Main: 575-528-3059
Email: ejimenez@lascruces.gov
 **CITY OF LAS CRUCES**
Accela Customer Portal: [Accela Citizen Access](#)
ProjectBox Portal: [ProjectBox Login \(evolvecloud.com\)](#)

Hours of Operation for Community Department:
Monday – Friday: 8:00am – 5:00pm

From: Michael Landavazo <mlandavazo@lascruces.gov>
Sent: Friday, January 31, 2025 9:40 AM
To: Adam Ochoa <aocchoa@lascruces.gov>; Soogyu Lee <sylee@lascruces.gov>; Gary Skelton <gskelton@lascruces.gov>; Daniel Balderrama <dbalderrama@lascruces.gov>; Jason Smith <jasmith@lascruces.gov>; Michael Danner <mdanner@lascruces.gov>; Elena Sanchez <esanchez@lascruces.gov>; Sean Mullen <smullen@lascruces.gov>; Eric Urenda <eurenda@lascruces.gov>; Jeremy Story <jstory@lascruces.gov>; Miguel Carlos <mcarlos@lascruces.gov>; Eloy Jimenez <ejimenez@lascruces.gov>
Cc: Chris Faires <cfaires@lascruces.gov>
Subject: Re: Restaurant B - Beer, Wine and Spirit Liquor License

Is the building sprinklered? Looking at the sketch it appears it could require sprinklers. I would not want to approve a liquor license in a building that does not meet fire code. Was the last occupancy a restaurant? If it was, they wouldn't have to come up to code.

Michael Landavazo
Fire Marshal
Las Cruces Fire Department
575-528-4251

 **CITY OF LAS CRUCES**

From: Adam Ochoa <aocchoa@lascruces.gov>
Sent: Tuesday, January 28, 2025 8:17 AM
To: Soogyu Lee <sylee@lascruces.gov>; Gary Skelton <gskelton@lascruces.gov>; Daniel Balderrama <dbalderrama@lascruces.gov>; Jason Smith <jasmith@lascruces.gov>; Michael Landavazo <mlandavazo@lascruces.gov>; Michael Danner <mdanner@lascruces.gov>; Elena Sanchez <esanchez@lascruces.gov>; Sean Mullen <smullen@lascruces.gov>; Eric Urenda <eurenda@lascruces.gov>; Jeremy Story <jstory@lascruces.gov>; Miguel Carlos <mcarlos@lascruces.gov>; Eloy Jimenez <ejimenez@lascruces.gov>
Cc: Chris Faires <cfaires@lascruces.gov>
Subject: Restaurant B - Beer, Wine and Spirit Liquor License

Good Morning,

ChaChn's, LLC., has filed an application for a Restaurant B – Beer, Wine and Spirit Liquor License with On Premises Consumption Only; Application Number BLA-0000003470. Please see the attached application. Please provide liquor license reports to me no later than Monday, February 3, 2025. Thank you.

Adam Ochoa, CZO
Senior Urban Planner/Community Development Department
Direct: 575-528-3204 Main: 575-528-3043, aocchoa@lascruces.gov
 **CITY OF LAS CRUCES**



City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	Adopted: March 17, 2025		
Drafter:	Crystal Silva	Department:	Financial Services
Program:	Grants Administration	Line of Business:	Fiscal Management
Title:	A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR THE FISCAL YEAR 2025/2026, FOR EAST LOHMAN AVENUE/SOUTH WALNUT STREET SIGNAL IMPROVEMENTS IN THE AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To approve the submission of a grant application.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) relies on grant funding for many of the critical programs and projects provided each year for the residents of Las Cruces. The New Mexico Department of Transportation (NMDOT) Project Oversight Division is soliciting applications for the Municipal Arterial Program (MAP) for Fiscal Year 2025/2026. The purpose of the MAP program is to assist municipalities in project development; construction, reconstruction, improvement, maintenance, repair, and right-of-way and material acquisition of and for those streets that are principal extensions of rural state highways and of other streets not on the state highway system but determined to qualify under designated criteria.

The intersections of East Lohman Avenue and South Walnut Street have been identified to undergo improvements including geometric modification, traffic signal replacement, sidewalk/ADA ramp modification, signage and striping which will increase system efficiency by building and maintaining a coordinated transportation system that operates in an efficient and cost-effective manner that currently has traffic volumes of more than 20,000 vehicles per day.

These improvements are a continuation of City initiatives to increase safety, improve efficiency and travel times along the E. Lohman Avenue corridor. The Lohman corridor (previously Hwy 342) connecting Interstate 25 to Valley Drive (Hwy 185) and to the I-10 access at Motel Blvd and carries over 20,000 vehicles daily. These improvements to the signal operations are expected to reduce multi-modal crashes and decrease wait times along this busy corridor.

The City has estimated construction for the project to be \$933,333.00 with \$533,333.34 having been funded with a previous MAP Grant in FY25.

Agenda Item #7.2.

Funding requested: New Mexico Department of Transportation is \$300,000 (75%), and the City of Las Cruces is \$100,000 (25%). The City will be responsible for paying the entire remaining cost for any other work if required as part of the project.

NMDOT requires a resolution of approval to apply to be submitted with the MAP application.

SUPPORT INFORMATION:

[ATTACHMENT "A" - City of Las Cruces FY2025/2026 MAP Application](#)

PLAN(S):

Elevate Las Cruces

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will allow the City to submit an application to the NMDOT Municipal Arterial Program (MAP).
2. Vote "No"; this will not allow the City to submit an application to the NMDOT Municipal Arterial Program (MAP).
3. Vote to "Amend"; this could change the proposed application and require further direction from staff.
4. Vote to "Table"; this will delay the application development process and potentially not allow the City to meet the application deadline.

RESOLUTION 25-107

A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR THE FISCAL YEAR 2025/2026, FOR EAST LOHMAN AVENUE/SOUTH WALNUT STREET SIGNAL IMPROVEMENTS IN THE AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City), Public Works Department desires to submit an application to the New Mexico Department of Transportation (NMDOT) Municipal Arterial Program (MAP) funding opportunity for FY2025/2026 in the amount of \$300,000 for East Lohman Avenue/South Walnut Street Signal Improvements; and

WHEREAS, NMDOT requires a governmental resolution to be submitted with the MAP application; and

WHEREAS, the City proposes to undergo improvements at the intersections of East Lohman Avenue and South Walnut Street that includes geometric modification, traffic signal replacement, sidewalk/ADA ramp modification, signage and striping which will increase system efficiency by building and maintaining a coordinated transportation system that operates in an efficient and cost-effective manner that currently has traffic volumes of more than 20,000 vehicles per day; and

WHEREAS, the proposed improvements to the signal operations are expected to reduce multi-modal crashes and decrease wait times along this busy corridor; and

WHEREAS, the City is requesting funds from New Mexico Department of Transportation in the amount of \$300,000 (75%), with the City of Las Cruces matching funds in the amount of \$100,000 (25%). The City will be responsible for paying the entire remaining cost for any other work if required as part of the project.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT submission of the grant to the NMDOT, Map funding, FY2025/2026, in the amount of \$300,000 for the East Lohman Avenue/South Walnut Street Signal Improvements Project be approved.

(II)

THAT City will provide a cash match in the amount of \$100,000, as shown in Exhibit "A", the Proposed Source of Matching Funds, attached and made a part of this Resolution, is hereby approved.

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



March 3, 2025

GAP# 25-113

Clarissa Martinez
Local Government Road Fund Coordinator
NMDOT- General Office
1120 Cerrillos Road
Santa Fe, New Mexico 87504-1149

RE: Application for Municipal Arterial Funding (M.A.P.) FY 2026

Dear Ms. Martinez,

Please let this letter serve as the commitment by the City of Las Cruces (City) to prioritize the East Lohman Avenue/South Walnut Street Signal Improvements project defined in the attached MAP application. The City will provide the required 25% match for the project as shown below.

MAP Requested Share	\$300,000.00
City Cash Match	<u>\$ 100,000.00</u>
Total Project Cost	\$400,000.00

The cash match will be provided with funding from the City's Public Works Budget for FY2026, which is a part of the City's General Fund. This fund will have a balance sufficient to cover the match amount at the beginning of the 2025-202 fiscal year.

This item is scheduled for approval by the City Council at the regular City Council Meeting on March 15, 2025. The approved resolution to apply for this funding and commit the match amount will be provided following this scheduled meeting.

We look forward to continuing to work with NMDOT MAP program to improve the infrastructure and accessibility of the roads in Las Cruces.

Sincerely,

A handwritten signature in black ink, appearing to read "Ikani Taumoepeau", is written over a light blue circular stamp.

Ikani Taumoepeau
City Manager

Attachments: MAP Application



March 3, 2025

Clarissa Martinez
Local Government Road Fund Coordinator
NMDOT-General Office
P.O. Box 1149
Santa Fe, New Mexico 87504-1149

RE: Application for Municipal Arterial Funding (M.A.P.) FY 2026

Dear Ms. Martinez,

Please accept this letter and attachments as application for FY 2026 M.A.P. Funding for supplemental funding on the East Lohman Avenue/South Walnut Street Signal Improvements along East Lohman Avenue in Las Cruces, New Mexico. The completed application includes a map of the project limits (which are within current ROW's), current and 20-year projected traffic volumes, pavement design criteria, preliminary project cost estimate summary (including department and municipality shares) and project data sheet.

The intersections of East Lohman Avenue and South Walnut Street have been identified to undergo improvements including geometric modification, traffic signal replacement, sidewalk/ADA ramp modification, signage and striping which will increase system efficiency by building and maintaining a coordinated transportation system that operates in an efficient and cost-effective manner that currently has traffic volumes of more than 20,000 vehicles per day.

These improvements are a continuation of City initiatives to increase safety, improve efficiency and travel times along the E. Lohman Avenue corridor. The Lohman corridor (previously Hwy 342) connecting Interstate 25 to Valley Drive (Hwy 185) and to the I-10 access at Motel Blvd and carries over 20,000 vehicles daily. These improvements to the signal operations are expected to reduce multi-modal crashes and decrease wait times along this busy corridor. The City has estimated construction for the project to be \$933,333.00 with \$533,333.34 having been funded with a previous MAP Grant in FY25. Funding requested: New Mexico Department of Transportation is \$300,000 (75%), and the City of Las Cruces is \$100,000 (25%). The City will be responsible for paying the entire remaining cost for any other work if required as part of the project.

Your consideration in processing this request for M.A.P. funding is greatly appreciated. If you have any questions or need additional information, please feel free to call Kyle Arend at 575-528-3451.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Sedillo", with a long, sweeping horizontal line extending to the right.

David Sedillo,
Public Works Director

Attachments: FY2026 MAP Application

EAST LOHMAN AVENUE
EAST LOHMAN AVENUE/SOUTH WALNUT STREET INTERSECTION

TRAFFIC DATA

YEAR	AAWT	DHV
2018 (Year counts were done)	23,177	2,317
2038 (20 year projection w/1% G.R.)	28,220	2,822

PERCENT HEAVY TRAFFIC = 3.5%

SOUTH WALNUT STREET
EAST LOHMAN AVENUE/SOUTH WALNUT STREET INTERSECTION TRAFFIC
DATA

YEAR	AAWT	DHV
2022 (Year counts were done)	8,039	804
2042 (20 year projection w/0.2% G.R.)	8,366	837

Note: The above traffic data is based on traffic counts conducted by the Mesilla Valley Metropolitan Planning Organization.

Pavement Design Criteria

Design Parameters
Design Period: 20 years
Reliability Level (R): 85%
Combined Standard Error (S₀): 0.5
Initial Serviceability Index (p_i): 4.5
Terminal Serviceability Index (p_t): 3
Delta Serviceability Index (ΔPSI): 2.5
Total Design ESALs (W₁₈): 6,085,000
Recommended Surface - Asphalt
Thickness: 8 in

Drainage

Drainage will be handled in ponding areas to meet City of Las Cruces standards.

Project Cost Estimate

EAST LOHMAN AVENUE/SOUTH WALNUT SIGNAL IMPROVEMENT

Scope of Work: The intersections improvements at East Lohman Avenue/South Walnut Street traffic signal replacement, pavement patching, sidewalk/ADA ramp modification, median curb installation/modification, signage, and striping to mitigate congestion issues and improve safety.

Design & Development	\$100,000.00
Construction Total-	\$763,677.73
G.R. TAX-	\$69,655.61
<u>Project Total</u>	<u>\$933,333.34</u>
Previous FY25 Project Funding	\$533,333.34
NMDOT Funding FY26-	\$300,000.00
City of Las Cruces Match Funding FY26-	\$100,000.00

PROJECT DATA SHEET MUNICIPAL ARTERIAL PROGRAM PROJECT**MUNICIPALITY/CITY** Las Cruces**STREET** EAST LOHMAN AVENUE/SOUTH WALNUT **FROM:** See Map**TO:** See Map**LENGTH** N/A**NMDOT ROUTE NO.** N/A**PROJECT DATA**

CROSS SECTION	EXISTING	PROPOSED
Number of lanes	<u>3</u>	<u>3</u>
Lane Width	<u>11'</u>	<u>No change</u>
Median Width	<u>2' to 6'</u>	<u>2' to 6'</u>
Total Width Lip to Lip	<u>90'</u>	<u>No change</u>
Curbing/outside	<u>6" X 24" Barrier Curb</u>	<u>No change</u>
Curbing/Median	<u>6" X 18" Barrier Curb</u>	<u>6" X 18" Barrier Curb</u>
Surfacing	<u>6-8" PMBP, 6" B.C</u>	<u>6-8" PMBP, 6" B.C</u>
Right-of-Way	<u>150 Ft.</u>	<u>No change</u>
Drainage System	<u>Storm drain/Surface flow</u>	<u>No change</u>
Traffic Volume	<u>(2018) 23,177 (AAWT)</u>	<u>(2038) 28,280 (AAWT)</u>
Accidents (Crashes 2021 NMDOT -UNM)	<u>31</u>	<u>N/A</u>

COST ESTIMATE (in \$1,000)

Roadway	R-O-W	Utilities	Signals	Other	Total
\$264.93	\$-0-	\$-0-	\$560.34	\$10.8	\$836.07

FUNDING (in \$1,000)

City Funding	Assessments	State Aid	Other	Total
\$233.3		\$700.00	\$0	\$933.3

Remarks: N/A.



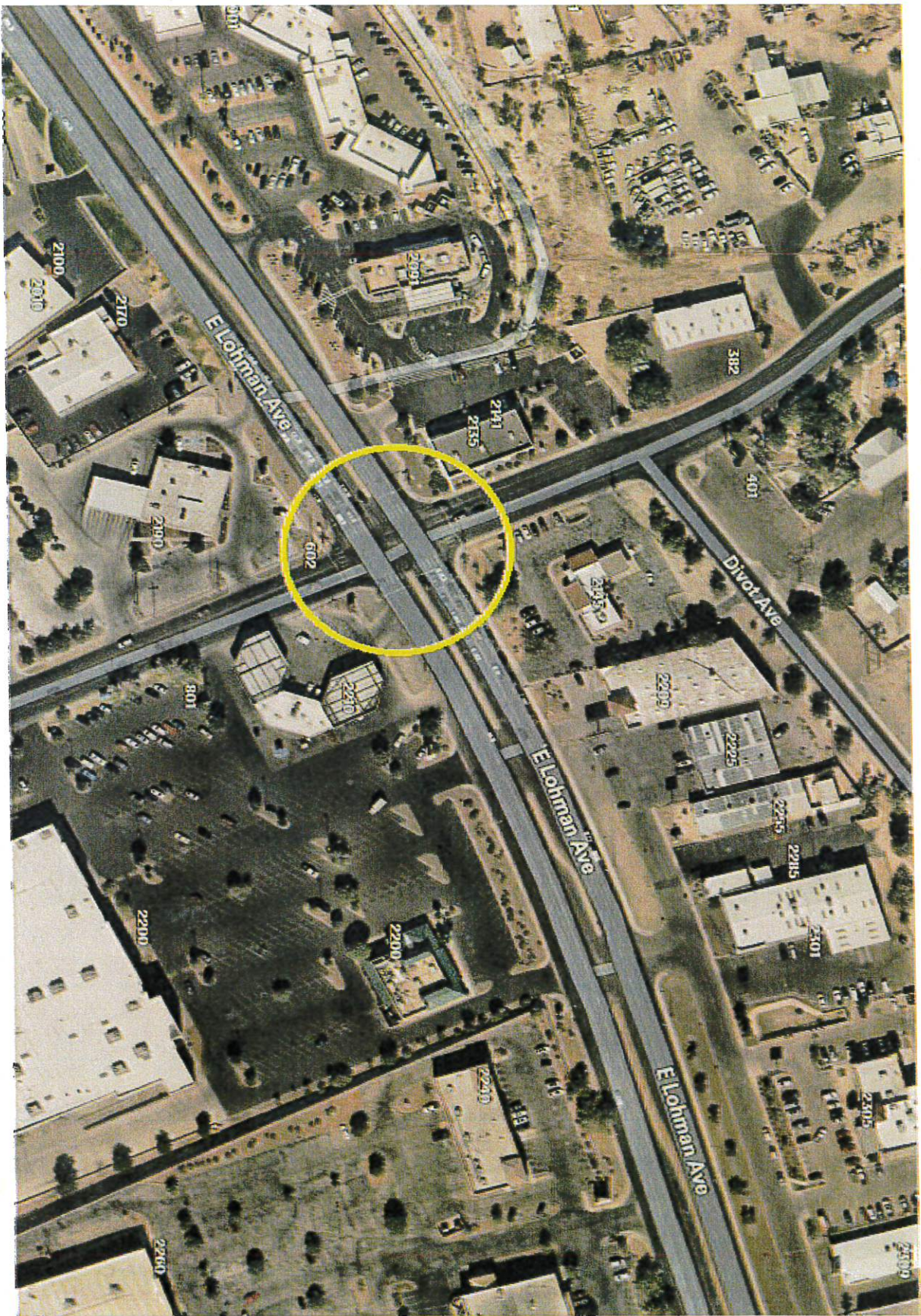
EAST LOHMAN AVENUE/SOUTH WALNUT SIGNAL
PROJECT NAME: IMPROVEMENT
 NMDOT MAP FY25 FY26

ROADWAY BID LOT				ENGINEER'S ESTIMATE	
ITEM NO.	DESCRIPTION	EST. QTY.	UNITS	UNIT PRICE	TOTAL COST
R1	MOBILIZATION; CIP	1	LS	\$22,000.00	\$22,000.00
R2	CONST STAKING; CIP	1	LS	\$6,008.35	\$6,008.35
R3	PAVEMENT MAINTENANCE	1,000	SY	\$48.24	\$48,240.00
R4	TRAFFIC CONTROL/PLAN; CIP	1	LS	\$40,200.00	\$40,200.00
R5	REM & DISP CURB & GUTTER (ALL TYPES); COMPL	300	LF	\$46.90	\$14,070.00
R6	CURB & GUTTER, (ALL TYPES); CIP	650	LF	\$60.30	\$39,195.00
R7	REM & DISP CONCRETE, 4" TO 6" THICK; COMPL	1,000	SF	\$20.10	\$20,100.00
R8	6" THICK CONCRETE ADA RAMP; CIP	1,000	SF	\$46.90	\$46,900.00
R9	DET WARNING SURF FOR ADA RAMPS; CIP	80	SF	\$80.40	\$6,432.00
R10	PERM SIGNING; CIP	1	LS	\$2,010.00	\$2,010.00
BID LOT SUBTOTAL:					\$245,155.35

SIGNAL BID LOT				ENGINEER'S ESTIMATE	
ITEM NO.	DESCRIPTION	EST. QTY.	UNITS	UNIT PRICE	TOTAL COST
S1	RIGID ELECTRICAL CONDUIT 3"; CIP	960	LF	\$20.10	\$19,296.00
S2	SINGLE CONDUCTOR 10; CIP	500	LF	\$7.37	\$3,685.00
S3	MULTI CONDUCTOR CABLE 20; CIP	520	LF	6.7	\$3,484.00
S4	ELECTRICAL PULL BOX (STD); CIP	6	EA	\$1,377.52	\$8,265.12
S5	TYPE IIIA STANDARD, 35' ARM; CIP	1	EA	\$40,200.00	\$40,200.00
S6	TYPE IIIB STANDARD, 45' ARM; CIP	2	EA	\$42,880.00	\$85,760.00
S7	TYPE IIIC STANDARD, 50' ARM; CIP	1	EA	\$49,580.00	\$49,580.00
S8	DRILLED SHAFT FOUNDATION, 36"DIA X 16' DEEP; CIP	1	EA	\$4,020.00	\$4,020.00
S9	DRILLED SHAFT FOUNDATION, 42"DIA X 16' DEEP; CIP	2	EA	\$6,700.00	\$13,400.00
S10	DRILLED SHAFT FOUNDATION, 48"DIA X 16' DEEP; CIP	1	EA	\$8,040.00	\$8,040.00
S11	FOUNDATION FOR CONTROLLER CABINET; CIP	1	EA	\$1,038.50	\$1,038.50
S12	3OR 5 SECTION TRAFFIC SIGNAL ASSEMBLY W/L.E.D INDICATION; CIP	14	EA	\$13,400.00	\$187,600.00
S13	COUNTDOWN PEDESTRIAN SIGNAL ASSEMBLY W/L.E.D INDICATION; CIP	8	EA	\$946.04	\$7,568.32
S14	SIGNAL SECTION BACKPLATE; CIP	10	EA	\$670.00	\$6,700.00
S15	PUSH BUTTON STATION W/PEDESTRIAN SOUND UNIT; CIP	8	EA	\$2,680.00	\$21,440.00
S16	TRAFFIC ACTUATED CONTROLLER MULTI-PHASE, DBL RING; CIP	1	EA	\$9,621.20	\$9,621.20
S17	L.E.D LUMINAIRE FIXTURE; 101 WATT/240V; CIP	4	EA	\$1,151.06	\$4,604.24
S18	TYPE P CONTROLLER CABINET; CIP	1	EA	\$33,500.00	\$33,500.00
S19	METER PEDESTAL (COMB SIG/LIGHT) W/BATT BACK-UP SYS; CIP	1	EA	\$10,720.00	\$10,720.00
BID LOT SUBTOTAL:					\$518,522.38

		ENGINEER'S ESTIMATE
Total		\$763,677.73
GRT @ 8.065%		\$61,590.61
Construction Total		\$825,268.34
Engineering & Development		\$100,000.00
GRT @ 8.065%		\$8,065.00
Project Total		\$933,333.34







25-108

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	Adopted:		
Drafter:	Cynthia Campo	Department:	City Manager's Office
Program:	Capital Improvements Program	Line of Business:	Planning and Implementation
Title:	A RESOLUTION AMENDING THE FY2025-2030 CAPITAL IMPROVEMENTS PROGRAM.		

TYPE OF ACTION: ☐ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To amend the Capital Improvements Program (CIP) for Fiscal Year (FY) 2025 through 2030.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City Council adopted the FY 2025-2030 Capital Improvements Program (CIP) on May 20, 2024. During the fiscal year, project information, such as funding sources and amounts, changes as projects progress. As such, amendments to the CIP document are needed to reflect those changes. City Council approves amendments.

The proposed amendments are to adjust project budgets to match and reflect recently approved budget adjustments and grant acceptance by the City Council. Attachment "A" lists the proposed amendments.

SUPPORT INFORMATION:

[Exhibit "A" - FY2025-2030 CIP](#)
[Attachment "A" - CIP Amendments 3.17.25](#)

PLAN(S):

Elevate Las Cruces

DOES THIS AMEND THE BUDGET?:

☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☒ Yes
☐ No

Does this action align with Elevate Las Cruces?

Agenda Item #7.3.

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will amend the City of Las Cruces FY2025 through FY2030 CIP.
2. Vote "No"; this will not amend the City of Las Cruces FY2025 through FY2030 CIP.
3. Vote to "Amend"; this could potentially amend the City of Las Cruces FY2025 through FY2030 CIP, requiring pages in the program document be added, deleted, or modified.
4. Vote to "Table"; this will delay the use of funds for amended projects.

RESOLUTION 25-108

A RESOLUTION AMENDING THE FY2025-2030 CAPITAL IMPROVEMENTS PROGRAM.

The City Council is informed that:

WHEREAS, the Capital Improvements Program (CIP) is a six-year program that identifies capital projects which address capital needs to build, replace, expand, and improve infrastructure and systems; and

WHEREAS, pursuant to Article V. Section 5.08 of the City Charter, Council may supplement, reduce, or transfer appropriations.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the Capital Improvements Program for FY2025 through FY2030, attached hereto and made part of this Resolution as Exhibit "A", is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

City of Las Cruces
Capital Improvements Program
FY 2025-2030

Exhibit 1

Amended: 3/17/2025

Agenda Item #7.3.

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
ACTIVE TRANSPORTATION		7,438,893	370,000	809,000	635,000	635,000	635,000	
Active Transportation - Newly Funded		500,000	-	-	-	-	-	
Trails +	Parks and Recreation	500,000						Grants
Active Transportation - Carryover Projects		6,938,893	370,000	635,000	635,000	635,000	635,000	
Active Transportation Program		6,141,843	(130,000)	135,000	135,000	135,000	135,000	Bonds, Grants, Taxes
Active Transportation Projects	Public Works	2,321,304						Bonds, Grants
<i>Pending Design Approval</i>			(265,000)					
Madrid Ave Extension	Public Works	2,083,802						Bonds
Pedestrian Safety Improvements	Public Works	736,737	135,000	135,000	135,000	135,000	135,000	Taxes
South Main St	Public Works	1,000,000						Bonds
Dona Ana Move Trail	Parks and Recreation	631,446						Grants, Taxes
Trail Renovations	Parks and Recreation	100,000	500,000	500,000	500,000	500,000	500,000	Grants, Taxes
Tortugas Trail	Parks and Recreation	65,604						Grants
Active Transportation - Future Projects		-	-	174,000	-	-	-	
Green Cool Corridors for Bicycles	Sustainability		-	174,000				Grants, Taxes
Las Cruces Lateral RTP Trail	Parks and Recreation	-						Grants
<i>Pending New Agreement</i>			467,422					
AIRPORT		4,588,754	20,697,903	15,020,000	3,600,000	2,700,000	24,320,000	
Airport - Carryover Projects		4,311,254	2,000,000	-	-	-	-	
LRU Airport Infrastructure Improvements	Las Cruces Airport	859,459						Grants
LRU Runway Improvements	Las Cruces Airport	3,344,491						Grants, Taxes
LRU Runway 4/22 Rehabilitation	Las Cruces Airport	2,699,500	2,000,000					Grants, Taxes
LRU Runway Blast Pads	Las Cruces Airport	644,991						Grants, Taxes
LRU Taxi Lane Improvements	Las Cruces Airport	107,305						Grants
Airport - Annual Projects		277,500	200,000	200,000	200,000	200,000	200,000	
LRU Pavement Maintenance Program	Las Cruces Airport	64,800	125,000	125,000	125,000	125,000	125,000	Taxes
LRU Pavement Striping/Marking Maintenance Program	Las Cruces Airport	212,700	75,000	75,000	75,000	75,000	75,000	Taxes
Airport - Future Projects		-	18,497,903	14,820,000	3,400,000	2,500,000	24,120,000	
LRU Airport Rotating Beacon	Las Cruces Airport		170,000					Grants, Taxes
LRU Airport Automated Weather Observation System (AWOS)	Las Cruces Airport		415,000					Grants
LRU Maintenance Facility Design and Construction	Las Cruces Airport		500,000					Grants
LRU Airline Ground Support Equipment Facility Design & Construction	Las Cruces Airport							Grants
LRU Airport Maintenance Equipment	Las Cruces Airport		850,000					Grants, Taxes
LRU Commercial Hangar Design and Construction	Las Cruces Airport		2,800,000					Grants, Taxes
LRU Runway Improvements	Las Cruces Airport	-	13,762,903	-	-	-	12,850,000	Grants
LRU Runway 12/30 Extension	Las Cruces Airport		13,500,000					Grants
<i>2024 Legislative Appropriations (R)</i>			262,903					
Runway 8/26 Extension	Las Cruces Airport						12,850,000	Grants, Taxes
LRU ARFF (Airport Rescue & Fire Fighting) Index B Equipment	Las Cruces Airport			1,600,000				Grants, Taxes
LRU Passenger Terminal Parking Design and Construction	Las Cruces Airport			1,600,000				Grants, Taxes
LRU Fuel Farm Relocation and Expansion	Las Cruces Airport			1,900,000				Grants
LRU Infrastructure Extensions/Improvements	Las Cruces Airport			4,500,000				Grants
LRU Passenger Terminal Design and Construction	Las Cruces Airport	-		5,220,000				Grants, Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
LRU Taxi Lane Extensions/Improvements	Las Cruces Airport				3,400,000			Grants
LRU Multi-Modal Public Passenger Transit Facility	Las Cruces Airport					2,500,000		Grants
LRU Apron West Rehabilitation	Las Cruces Airport						70,000	Grants, Taxes
LRU East Road Extensions/Improvements	Las Cruces Airport						11,200,000	Grants
ATTAINABLE/AFFORDABLE HOUSING		18,052,584	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	
Attainable/Affordable Housing - Newly Funded Projects		5,872,334	-	-	-	-	-	
GO Bond 2024 - Affordable Housing Development	Neighborhood Housing	5,872,334						Bonds
Attainable/Affordable Housing - Carryover Projects		12,180,250	-	-	-	-	-	
MV Community of Hope - Campus Extension (Amador Crossing)	Neighborhood Housing	12,180,250						Grants, Taxes, Telshor
Attainable/Affordable Housing - Future Projects		-	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	
MV Community of Hope - Master Plan Implementation	Neighborhood Housing		2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	Grants, Taxes
Paseos Verdes	Neighborhood Housing		2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	Grants, Bonds, Taxes
CITY OPERATIONAL FACILITIES		346,000	8,039,500	505,500	505,500	505,500	505,500	
City Operational Facilities - Newly Funded		346,000	-	-	-	-	-	
Well Monitoring	Public Works	346,000						Telshor
City Operational Facilities - Annual Projects		-	255,500	255,500	255,500	255,500	255,500	
Safety, Health, Environmental & Emergency	Facilities Management	-	255,500	255,500	255,500	255,500	255,500	Taxes
Safety, Health, Environmental, & Emergency	Facilities Management	-	255,500	255,500	255,500	255,500	255,500	Taxes
City Operational Facilities - Future Projects		-	7,784,000	250,000	250,000	250,000	250,000	
General Facilities Improvements		-	7,500,000	-	-	-	-	Bonds, Taxes
City Hall Expansion	Facilities Management		7,500,000					Bonds, Taxes
HVAC Upgrade Program		-	200,000	200,000	200,000	200,000	200,000	Taxes
HVAC Upgrade Program	Facilities Management		200,000	200,000	200,000	200,000	200,000	Taxes
Refuse & Recycling Buffer Program		-	84,000	50,000	50,000	50,000	50,000	Taxes
Refuse & Recycling Buffer Program	Facilities Management		84,000	50,000	50,000	50,000	50,000	Taxes
EQUIPMENT & IT		32,163	104,837	92,000	92,000	-	-	
Equipment & IT - Newly Funded Projects		32,163	104,837	92,000	92,000	-	-	
Audio and Visual Equipment Upgrades for City Hall	Facilities Management	32,163	104,837	92,000	92,000			Taxes
NON-PROFIT		10,190,338	13,330,000	800,000	-	-	-	
Non-Profit - Carryover Projects		10,190,338	12,330,000	-	-	-	-	
Arts and Cultural District Improvements	Non-Profit	2,502,034						Grants
Children's Museum Facility	Quality of Life	690,746						Grants
La Casa, Inc. Safety and Security Improvements	Non-Profit	574,200	-					Grants
MV Community of Hope - Building 1, Solar Project	Non-Profit	400,000	600,000					Grants
MV Community of Hope - Expansion Remodel	Non-Profit	1,724,729	400,000					Grants
MV Community of Hope Flooring	Non-Profit	9,797						Grants
MV Community of Hope Health Facility	Non-Profit	164,832	330,000	-	-	-	-	Grants
MVCoH Health Facility Improvements	Non-Profit	164,832	330,000					Grants
MV Community of Hope - Jardin de los Niños Re-Roof	Non-Profit	850,000	150,000					Grants, Taxes
MVCoH Restroom Showers & Mechanical Room Rehabilitation	Non-Profit	269,000						Telshor
MV Community of Hope - The Kitchens	Non-Profit	3,005,000	10,850,000					Grants
Non-Profit - Future Projects		-	1,000,000	800,000	-	-	-	
MVCoH Patio to Office Remodel	Non-Profit		1,000,000					Grants
MV Community of Hope - Jardin de los Niños Security Improvements	Non-Profit			200,000				Grants
MVCoH Solar Parking Structure	Non-Profit			600,000				Grants

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
OTHER		5,296,990	8,455,000	1,755,000	1,755,000	1,755,000	1,755,000	
Other - Newly Funded Projects		250,000	-	-	-	-	-	
Gateway Entry Signs	Economic Development	250,000						Taxes
Other - Carryover Projects		5,296,990	1,280,000	280,000	280,000	280,000	280,000	
GO Bond - ARPA	Public Works	414,424						Bonds, Grants
Downtown Shade Structures	Economic Development	2,700,000						TIDD
Callecitas Shade	Economic Development	2,700,000						TIDD
Plaza Shade	Economic Development	-	1,000,000					Bonds, TIDD
Mesquite Historical District Renovations	Public Works	1,025,000						Grants
Senior Program Equipment and Rolling Stock	Quality of Life	362,409	280,000	280,000	280,000	280,000	280,000	Grants, Taxes
Other - Future Projects		-	7,175,000	1,475,000	1,475,000	1,475,000	1,475,000	
Quality of Life Bookmobile	Quality of Life		220,000					Grants
General Facilities Improvements		-	145,000	-	-	-	-	Grants, Taxes
Senior Programs Master Plan	Quality of Life		145,000					Grants, Taxes
LCIIP Gateway Signage & Pocket Park	Economic Development	-	335,000					Bonds, Grants, Taxes
LCIIP Infrastructure Improvements	Economic Development		5,000,000					Other
Safety, Health, Environmental & Emergency		-	1,475,000	1,475,000	1,475,000	1,475,000	1,475,000	Taxes
City Vacant /Abandoned Lots	Facilities Management		825,000	825,000	825,000	825,000	825,000	Taxes
Rehabilitation and Demolition of Vacant/Condemned Buildings	Facilities Management		650,000	650,000	650,000	650,000	650,000	Taxes
PARK IMPROVEMENTS		17,363,397	10,128,401	67,575,000	4,100,000	4,101,000	4,101,000	
Park Improvements - Newly Funded		5,184,599	5,490,401	4,225,000	4,075,000	4,075,000	4,075,000	
Benavidez Community Center Park Improvements	Parks and Recreation	734,599	1,265,401					Bonds, Grants, PIF, Taxes
Park Construction/Enhancements	Parks and Recreation	400,000						Telshor
Playground Renovations	Parks and Recreation	1,500,000	1,825,000	1,825,000	1,825,000	1,825,000	1,825,000	Grants, Telshor
Legacy Park Renovations	Parks and Recreation	2,550,000	2,400,000	2,400,000	2,250,000	2,250,000	2,250,000	ARPA, Bonds, Grants, PIF, Taxes, Telshor
Park Improvements - Carryover Projects		12,155,548	1,784,000	3,325,000	-	-	-	
A. Fielder Memorial Safe Haven Renovations	Parks and Recreation	51,298						Taxes
Apodaca Park Aquatic Playground and Multi-Use Path	Parks and Recreation	2,045,990						Grants, Taxes, PIF
Ballfield/Multi-Use Field Renovations & Upgrades	Parks and Recreation	623,818	144,000	3,200,000				ARPA, Bonds, Grants, Taxes
Chandler Tank Park	Parks and Recreation	1,579,203						Bonds, Taxes, PIF
Gallagher Park Improvements	Parks and Recreation	26,377						Other, Taxes
Park & Sport Field Improvements & Additions	Public Works	30,874						Bonds, Taxes
GO Bond 2022- Parks Improvements	Public Works	2,044,620						Bonds
Walking, Jogging, Biking Trails Improvements & Additions	Public Works	4,413						Bonds, Taxes
Highland Park	Parks and Recreation	2,025,467						Bonds, Taxes, Other, PIF
Klein Park Improvements	Parks and Recreation	208,098						Grants, PIF
Parks and Recreational Facilities Structural Renovations (+Lift Up Leg. App)	Parks and Recreation	397,000	585,000	125,000				Grants, Taxes
Park Drinking Fountains	Parks and Recreation	635,699	55,000					Telshor
Pioneer Women's Park Improvements	Parks and Recreation	768,220						Grants
Skate Park Renovation & Improvements	Parks and Recreation	671,813						Grants, PIF
Veteran's Memorial Park Enhancements	Parks and Recreation	247,500	1,000,000					ARPA, Bonds, Grants, Taxes
Villa Mora Dam Park	Parks and Recreation	795,157						Bonds, Taxes, Grants, PIF

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Park Improvements - Annual Projects		23,250	24,000	25,000	25,000	26,000	26,000	
Parks Shade Structures		23,250	24,000	25,000	25,000	26,000	26,000	Taxes
Park Structure Replacement	Parks and Recreation	23,250	24,000	25,000	25,000	26,000	26,000	Taxes
Park Improvements - Future Projects		-	2,830,000	60,000,000	-	-	-	
Albert Johnson Park Electrical Improvements	Parks and Recreation		70,000					Taxes, Grants
Light Poles at Hadley	Facilities Management		1,010,000					Bonds, Grants, Taxes
Soldados Field Lighting	Parks and Recreation		1,200,000					Grants, Bonds, PIF, Taxes
Soldados Field Restroom	Parks and Recreation		550,000					Grants, Bonds, PIF, Taxes
Multi-Use Recreation Center	Parks and Recreation			60,000,000				Bonds, Grants, Taxes
PARKS - NEW		7,133,557	16,900,000	8,355,000	1,000,000	2,200,000	1,000,000	
Parks - New - Carryover Projects		5,991,443	14,700,000	500,000	500,000	500,000	500,000	
GO Bond 2022- East Mesa Public Recreational Complex	Public Works	1,356,492						Bonds
East Mesa Public Recreational Complex	Public Works	4,262,116	14,200,000.00					Bonds, Grants, PIF
East Mesa Public Safety Area Park	Parks and Recreation	96,221						PIF
Metro Verde Neighborhood Parks	Parks and Recreation	276,614	500,000	500,000	500,000	500,000	500,000	PIF
Parks - New - Annual Projects		1,142,114	500,000	500,000	500,000	500,000	500,000	
Land Acquisition, Planning, and Design for Parks	Parks and Recreation	1,300,000	500,000	500,000	500,000	500,000	500,000	Taxes, PIF
Neighborhood Parks		611,273	500,000	500,000	500,000	500,000	500,000	
Neighborhood Parks	Parks and Recreation	611,273	500,000	500,000	500,000	500,000	500,000	Taxes, PIF
New Skate Park- Plan and Design	Parks and Recreation	530,841						Grants
Parks - New - Future Projects		-	1,700,000	7,355,000	-	1,200,000	-	
Bike Park/Trail	Parks and Recreation		1,700,000	1,400,000				ARPA, Bonds, Grants, PIF
Four Field Baseball/Softball Complex	Parks and Recreation			5,955,000				Grants, Taxes
Waterfalls Park	Parks and Recreation					1,200,000		Grants, Bonds, PIF, Taxes
PUBLIC FACILITIES		17,632,404	29,696,760	32,287,326	12,230,926	38,836,926	13,225,926	
Public Facilities - Carryover Projects		2,453,779	3,000,000	-	-	-	-	
Branigan Cultural Center Improvements	Quality of Life	1,275,233						Grants, Taxes, TIDD
New Animal Shelter Facility	Public Works	54,143						Bonds, Taxes, Grants
Public Art Program	Quality of Life	88,837						Grants, Taxes
Go Bond 2022 - Public Art	Quality of Life	340,000						Bonds
Regional Rec & Aquatic Cntr - Ph II - Community Pool Construction	Parks and Recreation	86,440						Bonds
Various Park Restroom Replacement/Repairs & Upgrades	Parks and Recreation	609,127	3,000,000					Grants, PIF
Public Facilities - Annual Projects		15,178,625	7,922,234	18,639,700	2,054,700	6,039,700	6,039,700	
ADA Compliance	Facilities Management	-	101,200	101,200	101,200	101,200	101,200	Taxes
Convention Center FF&E	Facilities Management	75,000	75,000	75,000	75,000	75,000	75,000	Taxes
Downtown Parking Lots Renovation	Facilities Management	99,404	280,500	280,500	280,500	280,500	280,500	TIDD
Downtown Parking Lot Program	Facilities Management	99,404	280,500	280,500	280,500	280,500	280,500	TIDD

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Roof Replacement Program	Facilities Management	2,255,000	438,000	-	-	-	-	Other
Meerscheidt Center Re-roof	Facilities Management	540,000						Bonds
Municipal Court Re-roof	Facilities Management	350,000						Bonds
Railroad Museum Re-roof	Facilities Management	150,000						Bonds, Grants, Taxes
Rio Grande Theater Re-roof	Facilities Management	400,000	118,000					TIDD
Museum of Art and Museum of Nature and Science Re-roof	Facilities Management	815,000						TIDD
Roof Inspections	Facilities Management	-	100,000					Taxes
Police Department Main Building - Re-roof	Facilities Management		110,000					Taxes
Police Department Academy - Re-roof	Facilities Management		110,000					Taxes
Parks Parking Lots		1,651,265	-	-	-	-	-	Grants, Taxes
BMX Track Parking Lot & ADA Improvements	Parks and Recreation	-	-	-	-	-	-	Grants, Taxes
Paz Ball Field Parking Lot Improvements	Parks and Recreation	-						Taxes
Tony Gomez Park Parking Lot Improvements	Parks and Recreation	-						Grants
Veterans' Park Parking Lot	Parks and Recreation	1,651,265						Bonds, Grants, Taxes
Safety, Health, Environmental & Emergency		387,773	1,015,500	330,500	345,500	330,500	330,500	Grants, Taxes
City Hall Security Upgrades	Facilities Management	24,559	270,500	255,500	270,500	255,500	255,500	Taxes
HR Remodel	Facilities Management	110,000						Taxes
Surveillance and Access Controls (Key Cards)	Facilities Management	153,214						Taxes
Downtown Security Cameras	Economic Development	100,000						TIDD
Parks Sidewalk Replacement	Facilities Management	-	75,000	75,000	75,000	75,000	75,000	Grants, Taxes
Fire Alarm & Security Upgrades	Facilities Management		670,000					Taxes
General Facilities Improvements Program		10,710,183	5,104,534	17,100,000	1,000,000	5,000,000	5,000,000	Bonds, Grants, Taxes, Telshor
General Facilities Improvements	Facilities Management	102,301						Taxes, Telshor
Amador Hotel Renovation	Quality of Life	4,063,187	1,000,000	1,000,000	1,000,000	5,000,000	5,000,000	Taxes, TIDD, Grants
Benavidez Center Renovations	Quality of Life	126,225	-					Grants, Taxes
Branigan Library - Expansion Phase II/Branch	Quality of Life	1,046,015	1,750,000	15,750,000				Grants, Taxes, TIDD, Other
Communication and Cashier Offices Construction	Facilities Management	466,353						Taxes
Frank O'Brien Papen Center Dining Room Floor	Quality of Life	35,000						Grants
Meerscheidt Center	Facilities Management	2,215,000						Bonds
Meerscheidt Recreation Center Improvements	Parks and Recreation	157,678						Taxes
Munson Senior Center Renovations	Quality of Life	2,243,611						Grants, Taxes
Museum of Nature and Science - Improvements	Quality of Life	254,813	75,000	175,000	-	-	-	Grants, TIDD
Atrium Redesign	Quality of Life	44,813						Grants
Technology Improvements	Quality of Life	210,000						TIDD
Nature Center Redesign	Quality of Life		75,000	175,000				Grants, Taxes
Sage Café Expansion	Quality of Life	-	2,204,534					Taxes
2024 Legislative Appropriations (R)			840,119					

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Public Facilities - Future Projects		-	18,774,526	13,647,626	10,176,226	32,797,226	7,186,226	
Generator Buffer Program	Facilities Management	-	50,000	15,000	15,000	15,000	15,000	Taxes
Generator Buffer Program	Facilities Management		50,000	15,000	15,000	15,000	15,000	Taxes
Veterans Memorial Park Restroom Plumbing Repairs and Upgrades	Parks and Recreation		134,000					Grants, Taxes
HVAC Upgrade Program	Facilities Management		200,000	200,000	200,000	200,000	200,000	Taxes
Generator Replacement Program	Facilities Management	-	40,500	463,000	40,500	40,500	40,500	Taxes
Generator Replacement Program	Facilities Management		40,500	40,500	40,500	40,500	40,500	Taxes
Sage Café Backup Generator	Quality of Life			422,500				Grants, Taxes
Parks and Recreational Facilities Structural Renovations	Parks and Recreation		685,000	125,000				Other
Eastside Senior Center Purchase and Renovation	Quality of Life		775,000	1,000,000				Grants
General Facilities Improvements		-	13,282,526	11,092,126	9,628,226	32,289,226	6,678,226	Grants, Bonds, Taxes
City Hall Furnishings	Facilities Management	-	80,000	80,000	80,000	80,000	80,000	Taxes
Museum of Art Improvements	Quality of Life		130,000	485,000	200,000			Grants, Taxes
Frank O'Brien Papen Community Center	Facilities Management		224,400	224,400				Taxes
WIA Rehabilitation	Facilities Management		700,000					Taxes
Railroad Museum Exterior Improvements	Quality of Life		249,900					Grants, Taxes
Hadley Ave Complex Recreation Rehabilitation	Parks and Recreation		315,000	3,185,000				Grants, Other
Munson Center Floor	Quality of Life		750,000					Grants, Taxes
Plugged in for Good Community Energy Center	Sustainability		1,215,000					Grants
Municipal Court Rehabilitation	Facilities Management		6,618,226	6,618,226	6,598,226	6,598,226	6,598,226	Bonds, Grants, Taxes
Museum of Art/MoNaS Remodel	Quality of Life		3,000,000			15,000,000		Grants, Bonds, Taxes
Branigan Library Renovation	Facilities Management			249,500	2,750,000	1,111,000		Grants, Bonds, Taxes
Munson Center Bathrooms	Quality of Life			250,000				Grants, Taxes
Museum Collections Storage Facility	Quality of Life					9,500,000		Bonds, Grants, Taxes
Facility Parking Lot Program	Facilities Management		907,500	752,500	252,500	252,500	252,500	Taxes
Facility Parking Lot Program	Facilities Management		907,500	752,500	252,500	252,500	252,500	Taxes
Solar Array	RoadRunner Transit		2,700,000					Grants
New Sand Volleyball Courts	Parks and Recreation				40,000			Grants, Taxes
PUBLIC SAFETY		18,149,715	14,076,500	1,340,000	14,925,000	57,000,000	-	
Public Safety - Newly Funded Projects		509,500	(9,500)	-	-	-	-	
Police Shooting Range		509,500	(9,500)					Taxes
Public Safety - Carryover Projects		17,640,215	9,000,500	-	-	-	-	
Fire Station Maintance and Improvements	Fire Department	470,324	950,000	-	-	-	-	Grants
Fire Dept. Administration Building Improvements	Fire Department	82,689						Grants
Fire Station 2 Bay Remodel	Fire Department	120,000						Grants
Fire Station 6 Repairs	Fire Department	145,000						Grants
Fire Station 5	Fire Department	122,635						Grants
Fire Department CIT and MIH Building	Fire Department	2,576,138	800,000					ARPA, Grants
2024 Federal Legislative Appropriations			3,000,000					
Fire Station 9	Fire Department	12,735,114	1,100,000					Bonds, Grants, Telshor
GO Bond 2022 - New Fire Station	Fire Department	10,413,872						Bonds
Fire Station No. 3 Building	Fire Department	19,407						Bonds, Taxes
Police Department Building Renovation	Police Department	4,298	400,000					Grants, Taxes
Police Department Equipment	Police Department	84,934	500,500	-	-	-	-	Grants
Public Safety Regional Radio Communication System	Police Department	84,934	500,500					Grants, Taxes
Safety, Health, Environmental & Emergency		1,750,000	2,250,000	-	-	-	-	Grants, Telshor
Real Time Crime Center (RTCC)	Police Department	1,750,000	2,250,000					Grants, Telshor

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Public Safety - Annual Projects		-	1,340,000	1,340,000	240,000	-	-	
Fire Department Vehicles and Equipment	Fire Department		1,100,000	1,100,000				Bonds
Fire Station equipment	Fire Department		240,000	240,000	240,000			Grants
Public Safety - Future Projects		-	3,745,500	-	14,685,000	57,000,000	-	
Police North Parking Lot Fencing	Police Department		20,000					Taxes
Solar Canopy protective screen	Police Department		20,000					Taxes
Police Parking Lot Resurfacing	Police Department		25,000					Taxes
Public Safety Vehicle SWAT Command Vehicle	Police Department		100,000					Grants
Public Safety Vehicles - Bearcat	Police Department		350,000					Grants
Public Safety Vehicle - Rook	Police Department		450,000					Grants
Police Department Mobile Operation Command Vehicle	Police Department		750,000					Grants
Police Department Equipment	Police Department	-	800,500	-	2,100,000	-	-	Grants, PSIF, Taxes
Technology Equipment	Police Department		100,000					Grants, Taxes
Police Department Equipment - Mobile Data Terminals	Police Department		500,500					Grants
Police/Fire Training Facility - Furniture, Fixtures, and Equipment	Police Department				2,100,000			Grants, PSIF, Taxes
Public Safety Smart Technology	Police Department		200,000					Grants
Police Emergency Vehicles	Police Department		1,230,000					Grants, PSIF, Taxes
Police/Fire Training Facility - Design/Construct	Police Department				6,900,000			Bonds, Grants, PSIF, Taxes
Southwest Station Build	Fire Department				5,685,000			Other
Downtown Public Safety Complex	Police Department					57,000,000		Bonds, Taxes
PUBLIC TRANSIT		7,745,642	5,421,800	3,340,000	70,000	70,000	70,000	
Public Transit - Newly Funded		333,192	-	-	-	-	-	Grants
Transit Facilities FF&E	RoadRunner Transit	333,192						Grants
Public Transit - Carryover Projects		7,372,450	-	-	-	-	-	
Active Transportation		7,372,450	-	-	-	-	-	Grants, Taxes, Bonds
Municipal Service Center - Transit	RoadRunner Transit	7,372,450						Grants, Taxes, Bonds
Public Transit - Annual Projects		40,000	75,000	190,000	70,000	70,000	70,000	
Active Transportation		40,000	75,000	190,000	70,000	70,000	70,000	Grants
Transit Facilities Improvement Program	RoadRunner Transit	40,000	75,000	190,000	70,000	70,000	70,000	Grants, Taxes
Public Transit - Future Projects		-	5,346,800	3,150,000	-	-	-	
Resiliency		-	5,346,800	3,150,000	-	-	-	Grants
Battery Storage	RoadRunner Transit			3,150,000				Grants
MVITT Inductive Charging	RoadRunner Transit		5,346,800					Grants
RESILIENCY		6,452,176	1,000,000	500,000	500,000	500,000	500,000	
Resiliency - Carryover Projects		324,962	-	-	-	-	-	
Fleet Electric Vehicle Chargers	Facilities Management	110,809	-	-	-	-	-	Taxes
Resiliency		214,153	-	-	-	-	-	Bonds, Taxes
Solar Energy Photo Voltaic Projects	Sustainability	214,153						Bonds, Taxes
Resiliency - Annual Projects		6,127,214	600,000	500,000	500,000	500,000	500,000	
Resiliency Program		6,127,214	600,000	500,000	500,000	500,000	500,000	Other, Taxes, Bonds
Resiliency Projects	P&I	1,570,000						Bonds
Drainage Infrastructure Improvements	Public Works	2,947,214	500,000	500,000	500,000	500,000	500,000	Other, Taxes
Storm Water System Mapping	Public Works	-	100,000					Other, Taxes
Casa Linda Acres Reconstruction	Public Works	650,000						Bonds
East Mesa Roads and Drainage (Cortez Rd)	Public Works	960,000						Bonds

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Resiliency - Future Projects		-	400,000	-	-	-	-	
DC Fast Chargers for Electric Vehicles	Sustainability		200,000					Grants, Taxes
Public Electric Vehicle Chargers	Sustainability		200,000					Grants, Taxes
STREETS - NEW		-	40,424,000	8,424,000	-	-	-	
Streets - New - Future Projects		-	40,424,000	8,424,000	-	-	-	
High Mesa Road	Economic Development		32,000,000					Grants, Bonds, Taxes
Transit Loop Road	Economic Development		8,424,000	8,424,000				Grants, Bonds, Taxes
STREETS IMPROVEMENTS		45,571,214	34,643,591	29,318,200	28,019,000	27,825,000	36,115,000	
Streets Improvements - Newly Funded		1,560,111	-	-	-	-	-	
Johnson St - Rouault Ave to Topley Dr	Public Works	810,111	901,889					Bonds, Taxes
S Alameda Blvd-W Amador Ave to W Las Cruces Ave	Public Works	750,000						TIDD
Streets Improvements - Carryover Projects		19,130,436	480,000	-	-	2,200,000	-	
Casa Linda Acres Reconstruction	Public Works	4,248,562						ARPA, Taxes, Grants
Downtown Street Improvements		6,842,370	-	-	-	-	-	TIDD
Campo Street Design and Reconstruct	Public Works	6,842,370	-					TIDD
Madrid Ave Extension - Evelyn St to N Triviz Dr (+AT Funds)	Public Works	2,832,250						Bonds, Grants, Taxes
South Main St - Avenida de Mesilla to Boutz (+AT & CS Funds)	Public Works	2,455,220				2,200,000		Bonds, Grants, Taxes
Telshor Spruce Intersection Improvements	Public Works	1,041,159						Grants, Bonds, Taxes
University Ave. Complete Street Improvements-Design	Public Works	385,770	480,000					Grants
Unpaved Roads	Public Works	-						Taxes
Voluntary Assessment District Phase II	Public Works	629,381						Bonds
Streets Improvements - Annual Projects		24,880,666	16,661,167	17,715,000	17,715,000	13,215,000	13,215,000	
Complete Streets Program		8,170,992	2,479,500	4,500,000	4,500,000	-	-	Bonds
Complete Streets Projects		5,135,149						Bonds
East Mesa Roads and Drainage (Cortez Dr)	Public Works	1,699,406						Bonds
South Main St - Avenida de Mesilla to Boutz	Public Works	1,100,000						Bonds, Taxes
University Area Complete Streets- Design Study	Public Works	236,437	500,000	4,500,000	4,500,000			Grants, Bonds, Taxes
Idaho Ave.	Public Works							Grants, Bonds, Taxes
El Paseo Rd.	Public Works							Grants, Bonds, Taxes
Melendres Ave - Hadley to Picacho	Public Works							Bonds, Taxes
<i>Pending Design Approval</i>			1,979,500					
East Mesa Roads and Drainage (Cortez Dr)	Public Works	1,393,327	500,000	500,000	500,000	500,000	500,000	Grants, Bonds, Taxes
<i>2024 Legislative Appropriations (R)</i>			292,052					
Lift Up Las Cruces - Streets Improvements	Public Works	567,774	600,000	600,000	600,000	600,000	600,000	Bonds, Taxes, Grants
M.A.P. Match	Public Works	31,667	150,000	150,000	150,000	150,000	150,000	Taxes
Materials Testing	Public Works	240,000	240,000	240,000	240,000	240,000	240,000	Taxes
PO-OP Match	Public Works	15,450	80,000	80,000	80,000	80,000	80,000	Taxes
Land Acquisition - Public Works	Public Works	250,000	200,000	200,000	200,000	200,000	200,000	Taxes
Flood Control	Public Works	100,000	100,000	100,000	100,000	100,000	100,000	Taxes
Rights of Way	Public Works	150,000	100,000	100,000	100,000	100,000	100,000	Taxes
Median Landscaping	Parks and Recreation	1,127,844	1,120,000	1,120,000	1,120,000	1,120,000	1,120,000	Grants, Taxes
Median Improvements	Parks and Recreation	802,956						Taxes
Lohman Ave & Roadrunner Parkway Medians	Parks and Recreation	324,888	-	-	-	-	-	Grants

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
Neighborhood Traffic Calming Program	Public Works	60,000	60,000	60,000	60,000	60,000	60,000	Taxes
Neighborhood Traffic Calming Program	Public Works	60,000	60,000	60,000	60,000	60,000	60,000	Taxes
Pavement Condition Index Improvements	Public Works	7,374,144	6,300,000	6,300,000	6,300,000	6,300,000	6,300,000	Taxes
Pavement Condition Index Improvements	Public Works	7,374,144	6,300,000	6,300,000	6,300,000	6,300,000	6,300,000	Grants, Taxes
Pavement Marking Program	Public Works	169,000	169,000	169,000	169,000	169,000	169,000	Taxes
Pavement Marking Program	Public Works	169,000	169,000	169,000	169,000	169,000	169,000	Taxes
Roadway Maintenance Program	Public Works	1,705,119	1,846,000	1,846,000	1,846,000	1,846,000	1,846,000	Taxes
Chip Seal Program	Public Works	220,000	220,000	220,000	220,000	220,000	220,000	Taxes
Roadway Maintenance Program	Public Works	1,267,569	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	Taxes
Weed Control & Maintenance Program	Public Works	217,550	126,000	126,000	126,000	126,000	126,000	Taxes
Street Lighting & Traffic Signal Maintenance Program	Public Works	1,096,291	500,000	500,000	500,000	500,000	500,000	Grants, Taxes
Street Lighting and Traffic Signal Maintenance	Public Works	1,096,291	500,000	500,000	500,000	500,000	500,000	Taxes
Traffic Signal Program		1,679,058	1,416,667	450,000	450,000	450,000	450,000	Grants, Taxes
Lohman at Walnut and Walton Signal Improvement	Public Works	533,333	966,667					Grants, Taxes
Traffic Signal	Public Works	450,000	450,000	450,000	450,000	450,000	450,000	Taxes
Bataan Memorial at Rinconada	Public Works	695,725						Bonds, Taxes
Transportation System Modernization ITS	Public Works	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	Taxes
Streets Improvements - Future Projects		-	17,502,424	11,603,200	10,304,000	12,410,000	22,900,000	
McClure Rd & Carlyle Dr	Public Works		300,000	1,800,000	2,700,000	1,500,000		Taxes
Advancement Ave Expansion	Economic Development		516,384					Taxes
Armijo St - W Picacho Ave to Parker Rd	Public Works		684,000					Bonds, Taxes
Venture Blvd Expansion	Economic Development		900,000					Grants, Taxes
Ethel Ave/Houma St- N Miranda St to N Alameda Blvd	Public Works		718,250					Bonds, Taxes
<i>Active Transportation</i>			<i>325,000</i>					
Mountain Vista Parkway Expansion	Public Works		1,200,474					Grants, Taxes
Mountain Ave - Melendres St to Armijo St	Public Works		1,368,000					Bonds, Taxes
Evelyn St - Madrid Ave to Ash Ave	Public Works		1,710,000					Bonds, Grants, Taxes
Sacramento St - Poplar Ave to Oasis Ave	Public Works		1,500,000					Grants, Bonds, Taxes
Med Park Ave - Idaho to Perkins Ave	Public Works		1,824,000					Bonds, Taxes
Rocket Drive Expansion	Economic Development		5,956,316					Bonds, Grants, Taxes
Sixth St- Hayner Ave to W. Hadley Ave	Public Works			484,000				Bonds, Taxes
La Fonda Dr - Idaho Ave to E.O.P.	Public Works			726,000				Bonds, Taxes
Poplar Ave - Mesquite St to Santa Fe St	Public Works			871,200				Bonds, Taxes
Armijo St - W Organ Ave to W Mountain Ave	Public Works			1,331,000				Bonds, Taxes
Kilmer St - Spruce Ave to Ash Ave	Public Works			1,391,000				Bonds, Taxes
Scoggins Ave-Sixth St to Sweet St	Public Works				652,800			Bonds, Taxes
Mountain Ave - Water St to Alameda Blvd	Public Works				640,000			Bonds, Taxes
Rigsby Rd - Barker to Valley Dr	Public Works				768,000			Bonds, Taxes
Miranda Ave - Picacho Ave to Court Ave	Public Works				1,664,000			Bonds, Taxes
South Valley Dr Reconstruction - Avenida de Mesilla to Boutz	Public Works				3,379,200			Bonds, Taxes
Street Lighting & Traffic Signal Maintenance Program	Public Works	-	500,000	5,000,000	500,000	5,050,000	5,000,000	Bonds, Taxes
Street Lighting Management System	Public Works		500,000	5,000,000	500,000	5,000,000	5,000,000	Taxes
Targeted Road and Lighting Improvements - Design	Public Works					50,000		Bonds, Taxes
Sweet St- Hayner Ave to W. Hadley Ave	Public Works					568,000		Bonds, Taxes
Parkview Dr - Espina St to E.O.P	Public Works					972,000		Bonds, Taxes
Westgate St - Amador Ave to Cul de Sac	Public Works					1,350,000		Bonds, Taxes
Aspen Ave-Sequoia Ave to S Valley Dr	Public Works					2,970,000		Bonds, Taxes
Jim St from Aspen Ave to Sequoia Ave	Public Works						1,300,000	Bonds, Taxes
Camrack St from Aspen Ave to Sequoia Ave	Public Works						1,600,000	Bonds, Taxes
Solano Dr- Missouri to Lohman	Public Works						15,000,000	Bonds, Taxes

Projects	Department	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Funding Source(s)
UTILITIES		55,629,981	104,307,123	27,939,881	3,130,000	3,340,000	2,770,000	
Utilities - Newly Funded Projects		25,211,000	-	-	-	-	-	
Gas PHMSA	Utilities	10,000,000						Bonds
Water 2025 Projects	Utilities	15,211,000						Bonds
Utilities - Carryover Projects		30,418,981	49,961,814	27,939,881	3,130,000	3,340,000	2,770,000	
2020A Wastewater Bond Projects	Utilities	22,221						Bonds
2020A Water Utilities Projects	Utilities	1,635,201						Bonds
2020B Wastewater Bond Projects	Utilities	449,966	5,181,394	11,232,265				Bonds
Gas Admin Building Improvements	Utilities	683,333	549,750	673,998	125,000	125,000	125,000	Other, Fees
Gas Development	Utilities	46,055	780,455	1,468,364	300,000	300,000	300,000	Other
Gas Miscellaneous	Utilities	274,284	361,748	175,000	175,000	175,000	175,000	Other, Fees
Gas Rehabilitation	Utilities	1,906,857	6,135,724	3,463,396	360,000			Other, Fees
Solid Waste Building Improvements	Utilities	903,333	1,990,478	2,173,998				Other
Wastewater Building Improvements	Utilities	121,252	424,750	548,998	50,000	50,000	50,000	Other
Wastewater Development	Utilities	656,000	100,000	100,000	100,000	100,000	100,000	WWIF
Wastewater Miscellaneous	Utilities	5,349	396,569	230,000	230,000	230,000	230,000	Other
Wastewater Rehab	Utilities	564,890	6,290,463	760,000	510,000	760,000	510,000	Other
Wastewater Septic Systems (WW Dev)	Utilities	1,670,042						Other, Grants
Wastewater Street Utility Rehabilitation	Utilities	1,732,898	4,017,628	400,000	200,000	400,000	200,000	Other
Water Building Improvements	Utilities	128,333	549,750	673,998	125,000	125,000	125,000	Other
Water Development	Utilities	76,724						WIF
Water Miscellaneous	Utilities	75,000	744,461	125,000	105,000	125,000	105,000	Other
Water Rehab	Utilities	2,699,309	22,438,644	5,914,864	850,000	950,000	850,000	Other
WW23 Projects	Utilities	16,767,934						Bonds
Utilities - Future Projects		-	54,345,309	-	-	-	-	
Belt Filter Press Drainage Improvement	Utilities		93,000					Grants, Other
Primary Digester Sludge Pump Upgrade	Utilities		93,000					Grants, Other
Lift Station Stationary Generator Installation	Utilities		100,000					Grants, Other
Pressure Reducing Valve Rehabilitation	Utilities		100,000					Grants, Other
Water Valve Replacements	Utilities		120,000					Grants, Other
Elevated Airport Water Storage Tank Rehab	Utilities		3,000,000					Bonds
Transite Pipe Identification & Replacement	Utilities		5,000,000					Bonds
Wastewater Treatment Plant	Economic Development		45,839,309					Bonds, Grants, Taxes
ALL DEPARTMENTS								
Total Annual Projects		47,669,369	27,577,901	39,365,200	21,560,200	20,806,200	20,806,200	
Total Carryover Projects		134,405,540	94,906,314	32,679,881	4,545,000	6,955,000	4,185,000	
Total Future Projects		-	183,630,299	125,790,826	44,382,226	111,632,226	59,931,226	
Total Newly Funded Projects		39,798,899						
GRAND TOTAL		221,873,808.38	306,114,513	197,835,907	70,487,426	139,393,426	84,922,426	

Abbreviations:

ARPA - American Rescue Plan Act
Bonds - Includes Bonds and Loans
Grants - Includes Local, State, Federal, or private entity

Other - Includes Fees, State Entitlements, Leases, Developer Contributions, and Donations
 PIF - Park Impact Fees
 PSIF - Public Safety Impact Fees
 Telshor - Telshor Fund

TIDD - Tax Increment Development District
WIF - Water Impact Fees
WWIF - Wastewater Impact Fees

Notes

■ Indicates a Change

Pending funding noted in *italic*
 (R) Leg. Appropriations Reauthorizations

Current funding sources noted in **bold**

Agenda Item #7.3.

FY25-30 Capital Improvements Program (CIP) Amendments
City Council Meeting - March 17, 2025

ATTACHMENT "A"

Project Title	Department	Category	Current Budget	Adjustment	Ending Balance	Remarks
LRU Runway Blast Pads	LC Airport	Airport	\$271,128	\$373,863	\$644,991	Increase - Combine two existing blast pad projects
LRU Pavement Striping/Marking Maintenance Program	LC Airport	Airport	\$55,200	\$157,500	\$212,700	Increase - Grant approved by City Council on 3/3/25
Gateway Entry Signs	Economic Development	Other	\$0	\$250,000	\$250,000	Increase - Newly funded with Economic Developed funds
East Mesa Public Recreational Complex	Parks and Recreation	Parks-New	\$5,470,746	(\$1,208,629)	\$4,262,116	Decrease - Adjustment to reflect FY25 available funds after project expenditures
Fire Station 2 Bay Remodel	Fire Department	Public Safety	\$100,000	\$20,000	\$120,000	Increase - Additional funds for project completion
Fire Station 6 Repairs	Fire Department	Public Safety	\$100,000	\$45,000	\$145,000	Increase - Additional funds for project completion
Fire Station 5	Fire Department	Public Safety	\$100,000	\$22,635	\$122,635	Increase - Additional funds for project completion
Public Safety Regional Radio Communication System	Police Department	Public Safety	\$468,000	(\$383,066)	\$84,934	Decrease - Adjustment to reflect FY25 available funds after project expenditures
Municipal Service Center - Transit	RoadRunner Transit	Public Transit	\$7,051,669	\$320,781	\$7,372,450	Increase - Adjustment to reflect FY25 available funds after project reconciliation
Drainage Infrastructure Improvements	Public Works	Resiliency	\$3,143,375	(196,161)	\$2,947,214	Decrease - Adjustment to reflect FY25 available funds after project expenditures
Complete Streets Projects	Public Works	Street Improvements	\$5,168,157	(\$33,008)	\$5,135,149	Decrease - Adjustment to reflect FY25 available funds after project expenditures



City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1	☐ 2	☒ 3	☒ 4	☐ 5	☐ 6	☐ N/A
1st Reading:				Adopted:	March 17, 2025		
Drafter:	Celina Morales			Department:	Economic Development		
Program:	Business Development			Line of Business:	Business Development		
Title:	A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS PURSUANT TO THE METROPOLITAN REDEVELOPMENT CODE, AND DESIGNATING THE AMADOR PROXIMO AND SOUTH AREAS, APODACA AND LIFT UP AREAS, EAST OF SOLANO NEIGHBORHOOD AREA, AND THE MESQUITE DISTRICT AREA WITHIN THE CITY'S INFILL AREA AS METROPOLITAN REDEVELOPMENT AREAS.						

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To designate additional areas within the City's Infill as Metropolitan Redevelopment Areas.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The Economic Development Department hired Groundworks Studios in the fall of 2022 to evaluate the City's Infill Area to determine which locations would qualify for Metropolitan Redevelopment Area (MRA) designations. This assessment took place between October 2022 and January 2023. As a result of that process, the Las Cruces Metropolitan Redevelopment Area Boundary Designation Report is the culmination of an extensive and detailed assessment of multiple focus areas within the Infill Development Overlay District (IDO) of Las Cruces, New Mexico. MRA designation, followed by the development of an MRA plan, is the first step in providing the City of Las Cruces with the tools needed to facilitate the redevelopment of targeted areas of the City. The assessment process and designations align with Elevate Las Cruces and the El Paseo Corridor Community Blueprint.

A Resolution to establish the El Paseo & South Solano and West Picacho MRA designations was approved in March 2023. We are proposing to designate additional areas identified in the report, including the Amador Proximo and South areas, the Apodaca and Lift Up areas, the East of Solano Neighborhood area, and the Mesquite District area. These areas exhibit deteriorated and blighted conditions due to a variety of factors including under-investment by property owners as well as issues relating to infrastructure conditions, public services, crime, housing conditions, and factors contributing to the commercial and residential real estate market. There is a significant need for the improvement of commercial and residential buildings, streets, sidewalks, and utilities throughout the area to ensure the health, safety, and welfare of residents, businesses, and visitors in the proposed MRAs.

SUPPORT INFORMATION:
[Exhibit "A" - The Las Cruces Metropolitan Redevelopment Area Designation Report](#)

PLAN(S):

Agenda Item #7.4.

City Council Strategic Plan, Other, Department Strategic Business Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and establish the Amador Proximo and South area, Apodaca and Lift Up area, East of Solano Neighborhood area, and the Mesquite District area as Metropolitan Redevelopment Areas.
2. Vote "No"; this will not approve the Resolution and will not establish any Metropolitan Redevelopment Areas.
3. Vote "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 25-109

A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS PURSUANT TO THE METROPOLITAN REDEVELOPMENT CODE, AND DESIGNATING THE AMADOR PROXIMO AND SOUTH AREAS, APODACA AND LIFT UP AREAS, EAST OF SOLANO NEIGHBORHOOD AREA, AND THE MESQUITE DISTRICT AREA WITHIN THE CITY'S INFILL AREA AS METROPOLITAN REDEVELOPMENT AREAS.

The City Council is informed that:

WHEREAS, Section 3-60A-8 NMSA 1978 of the Metropolitan Redevelopment Code (Sections 3-60A-1 through 3-60A-48 NMSA 1978) states: "A municipality shall not prepare a metropolitan redevelopment plan for an area unless the governing body by resolution determine the area to be a blighted area and designated the area as appropriate for a metropolitan redevelopment project."; and

WHEREAS, the City of Las Cruces has engaged in a study of blighted areas within the Infill Development Overlay District (IDO), and submitted their findings and recommendations concerning the areas detailed in the Designation Report, which were included in packets from the March 20, 2023 City Council meeting, a copy of which is attached hereto as Exhibit "A," The Las Cruces Metropolitan Redevelopment Area Boundary Designation Report; and

WHEREAS, pursuant to Section 30-60A-8 NMSA 1978 of the Metropolitan Redevelopment Code, City of Las Cruces caused to be published in the Las Cruces Sun News, a newspaper of general circulation, a notice containing a general description of the proposed Metropolitan Redevelopment Areas and the date, time, and place where the City of Las Cruces will hold a public hearing to consider the adoption of this resolution; and

WHEREAS, the boundaries of the Amador Proximo and South area, Apodaca and Lift Up area, East of Solano Neighborhood area, and the Mesquite District area are explicitly delineated on Exhibit "A," The Las Cruces Metropolitan Redevelopment Area Boundary Designation Report; and

WHEREAS, the City Council has considered the findings and determinations of the Designation Report and all comments made at the public hearing concerning the conditions that exist in the proposed Metropolitan Redevelopment Areas.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the City Council finds and determines that within the Amador Proximo and South area, Apodaca and Lift Up area, East of Solano Neighborhood area, and the Mesquite District area, there are many deteriorated structures, sites and other declining improvements, unsafe conditions, and low levels of commercial activity that substantially impair and arrest the sound growth and economic well-being of the area and the City.

(II)

THAT the City Council finds and determines that these blighted areas would benefit from a metropolitan redevelopment project or projects, that the designation of metropolitan redevelopment areas are appropriate in the interests of public health, safety, and welfare, and it hereby designates the Amador Proximo and South area, Apodaca and Lift Up area, East of Solano Neighborhood area, and the Mesquite District area as Metropolitan Redevelopment Areas.

(III)

THAT the City Council designates the boundaries of the Metropolitan Redevelopment Areas as shown in Exhibit "A" attached hereto and made part of the Resolution.

(IV)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

Appendices

A. MRA INDICATOR PRELIMINARY ANALYSIS

B. ADDITIONAL FOCUS AREAS FOR FUTURE MRA DESIGNATION

Amador Proximo & South
Apodaca & Lift Up
East of Solano / Bellamah
Mesquite

A. MRA INDICATOR PRELIMINARY ANALYSIS

The following spreadsheet on pages 82-85 allows for easy comparison of presence of blight indicators between different focus areas.

Physical Conditions					
Area	High level vacant property -land w/no structure (CLC data)	Concentrations of unoccupied commercial/ industrial properties (CLC data)	High level abandoned buildings (CLC data)	Deteriorating buildings (visual assessment)	Deteriorating street conditions (visual assessment)
El Paseo/S. Solano	x	x	x	x	x
East of Solano neighborhood area			x	x	x
Mesquite	x		x	x	x
Amador Proximo + South of Amador	x	x	x	x	x
West Picacho	x	x	x	x	x
Apodaca/Lift Up	x			x	x

Physical Conditions				
Area	Deteriorating sidewalk conditions (visual assessment)	Prevalence of Sidewalk Gaps (CLC Sidewalk Gap data)	Litter/Illegal Dumping (visual assessment)	Unmaintained landscaping/weeds (visual assessment)
El Paseo/S. Solano	x	x	x	x
East of Solano neighborhood area	x	x	x	x
Mesquite		x	x	x
Amador Proximo + South of Amador		x	x	x
West Picacho	x	x	x	x
Apodaca/Lift Up	x	x	x	x

	Socioeconomic Conditions				
Area	Low Median HH Income (Compared to State \$47,151)	High levels households below poverty level (compared to City 24 %)	High Unemployment Rate (compared to county 3.7%)	Population Decline (forecasted annual growth rate)	High renter population (compared to City 45%)
El Paseo/S. Solano	X	X	X	X	X
East of Solano neighborhood area	X	X	X	X	X
Mesquite	X	X			X
Amador Proximo + South of Amador	X		X		X
West Picacho	X	X	X		X
Apodaca/Lift Up	X	X	X		

Socioeconomic Conditions					
Area	Aging Housing Stock - Predominantly Built before 1980	High level Households with a disability (compared to city - 27%)	High level of Households without a vehicle (compared to County - 6.2%)	Low median home value (compared to City \$176,737)	High Crime Rate (ESRI Business Analyst - Total Crime Index more than 100 - national comparison)
El Paseo/S. Solano	x	x	x	x	x
East of Solano neighborhood area	x	x	x	x	x
Mesquite	x	x	x	x	x
Amador Proximo + South of Amador	x	x	x	x	x
West Picacho		x	x	x	x
Apodaca/Lift Up		x	x	x	x

B. ADDITIONAL FOCUS AREAS FOR FUTURE MRA DESIGNATION

Appendix B provides basic justification for the Metropolitan Redevelopment Area (MRA) designation of four areas within the Infill Development Overlay district. Based on existing conditions assessment, market research and demographic analysis, each of these areas meet the NM state redevelopment code criteria for MRA designation.

- Amador Proximo and South
- Apodaca & Lift Up
- East of Solano neighborhood area
- Mesquite

AMADOR PROXIMO & SOUTH

The Amador Proximo & South area, bound generally by W. Hadley Ave. to the north, BNSF Rail to the east, Brown Rd. to the south, and N. Valley Dr. to the west is the result of combining the Amador Proximo Planning Area with an area of approximately the same size just to the south which exhibits similar physical and socio-economic conditions. The 0.36 square mile area has a history of agricultural and industrial use with very little residential development and a population of around 185 people. The area has been the focus of significant community planning efforts (Amador Proximo Blueprint), which identifies a vision for redevelopment and provides a foundation for future MRA planning processes.

Existing conditions assessment, market research, and demographic analysis demonstrate that the area meets the statutory criteria for Metropolitan Redevelopment Area designation. The area had most of the physical and socioeconomic indicators of “blight” analyzed during the MRA assessment (see Appendix A). The area has low levels of commercial activity, high levels of vacant and abandoned properties, deteriorating buildings, lacking infrastructure, high levels of unemployment, low income levels, as well as unsafe and unhealthy conditions. The following is a summary of key data points and physical conditions that provide justification for MRA designation.

Low levels of commercial activity

The area has approximately 55 businesses which employ 759 people. The “Amador Proximo Blueprint” identifies opportunity in the area to expand business activity. The plan identifies restaurants, retail, entertainment, and healthcare as the top four commercial needs in the area. The least preferable business type is industrial, indicating a desire to transition away from historic land use.

High levels of vacant property

The area has more than 15 vacant parcels including large industrial and commercial properties which provide opportunities to encourage infill, mixed-use development.

Deteriorating buildings

The majority of the housing stock in Amador Proximo was built in the 1950s and 73% of the housing was built prior to 1980. This area is in need of housing upgrades and revitalization.

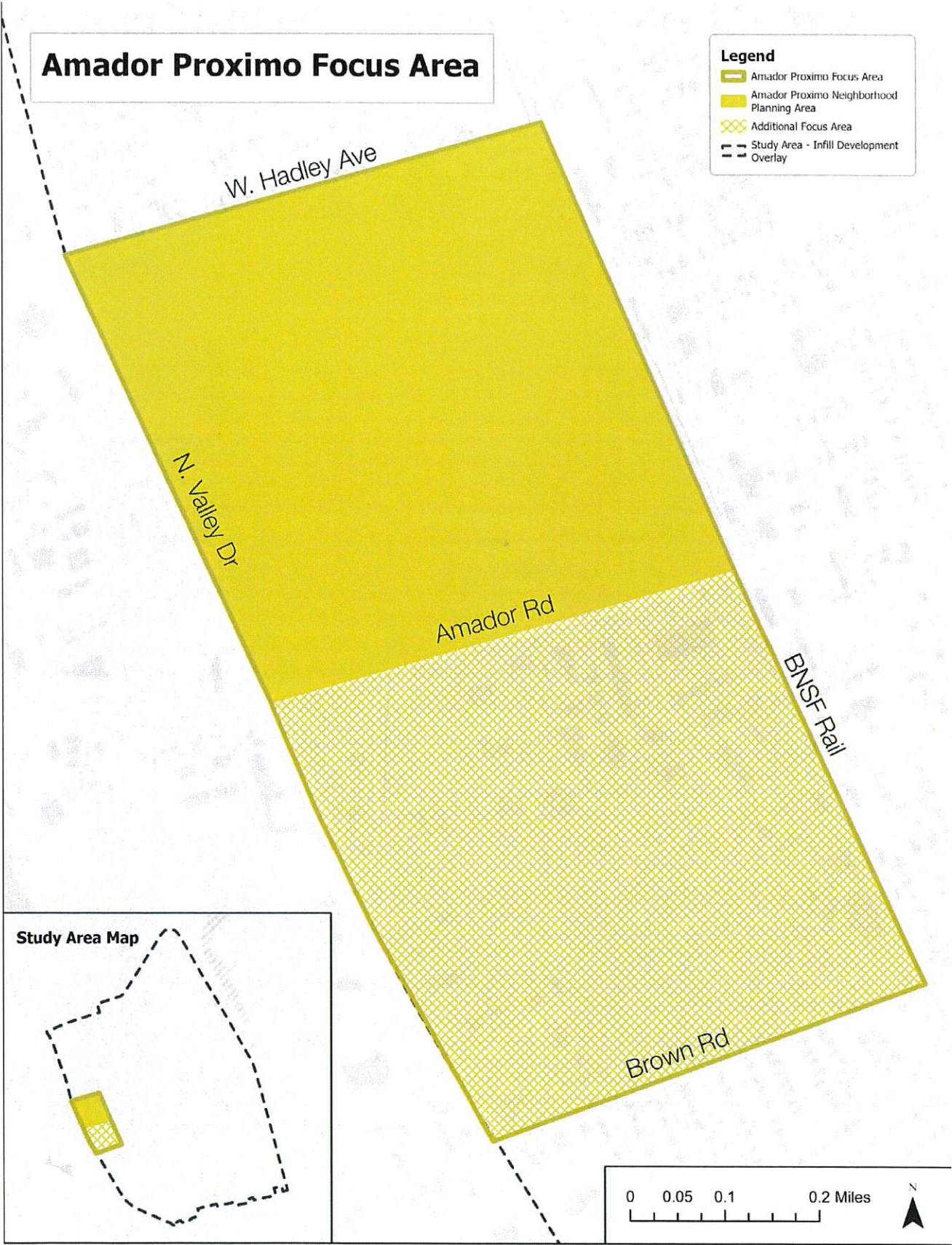
Deteriorating infrastructure

City data indicates that the area has significant sidewalk gaps which significantly limit universal access and limit opportunities for mixed-use development. A visual survey demonstrated the presence of moderate to extensive pavement deterioration on roads throughout the area.

Continued on pg. 87

Key “Blight” Indicators in Amador Proximo and South Area for MRA Designation								
High Levels Vacant Property	High Levels Abandoned Buildings	Deteriorating Buildings	Deteriorating Infrastructure	Low Median Home Value	Low Income Levels	High Unemployment	High Crime Rates	Low Levels Commercial Activity
X		X	X	X	X	X	X	X

Appendix Figure 1. Key “blight” indicators in Amador Proximo and South Area



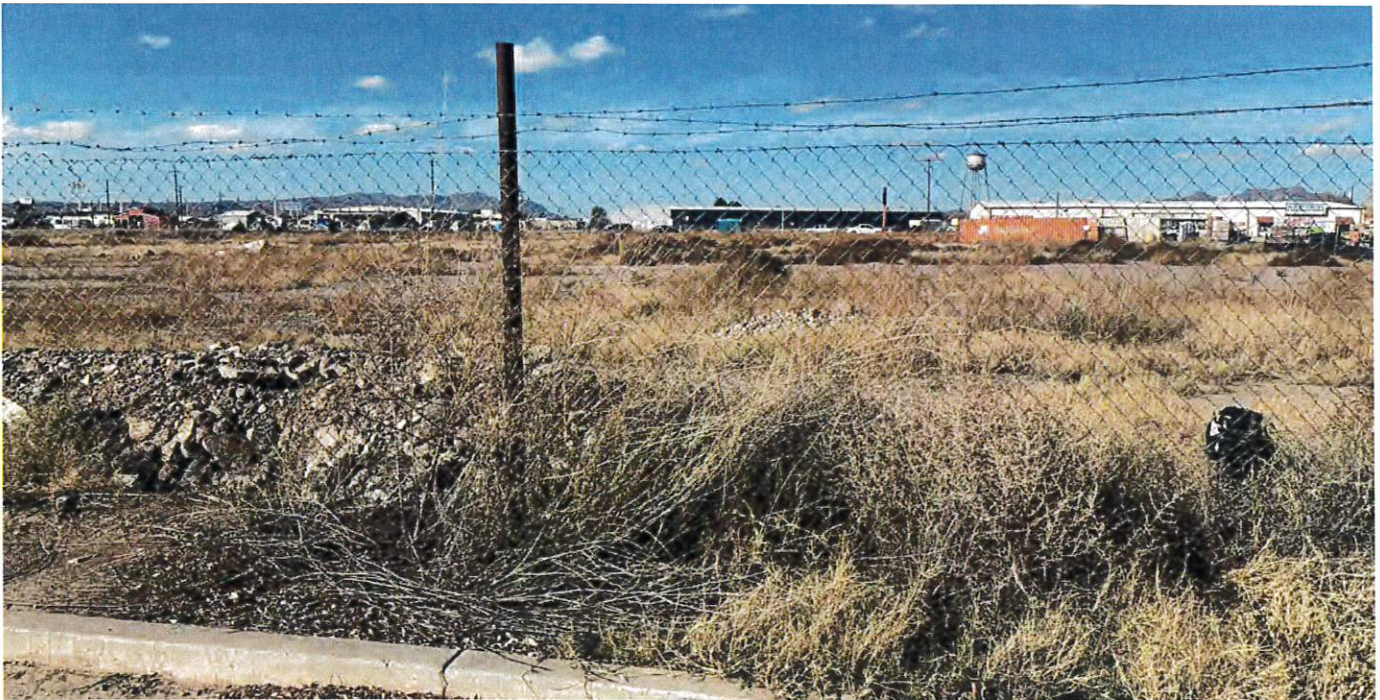
Appendix Figure 2. Amador Proximo and South Area

Unsafe and unhealthy conditions

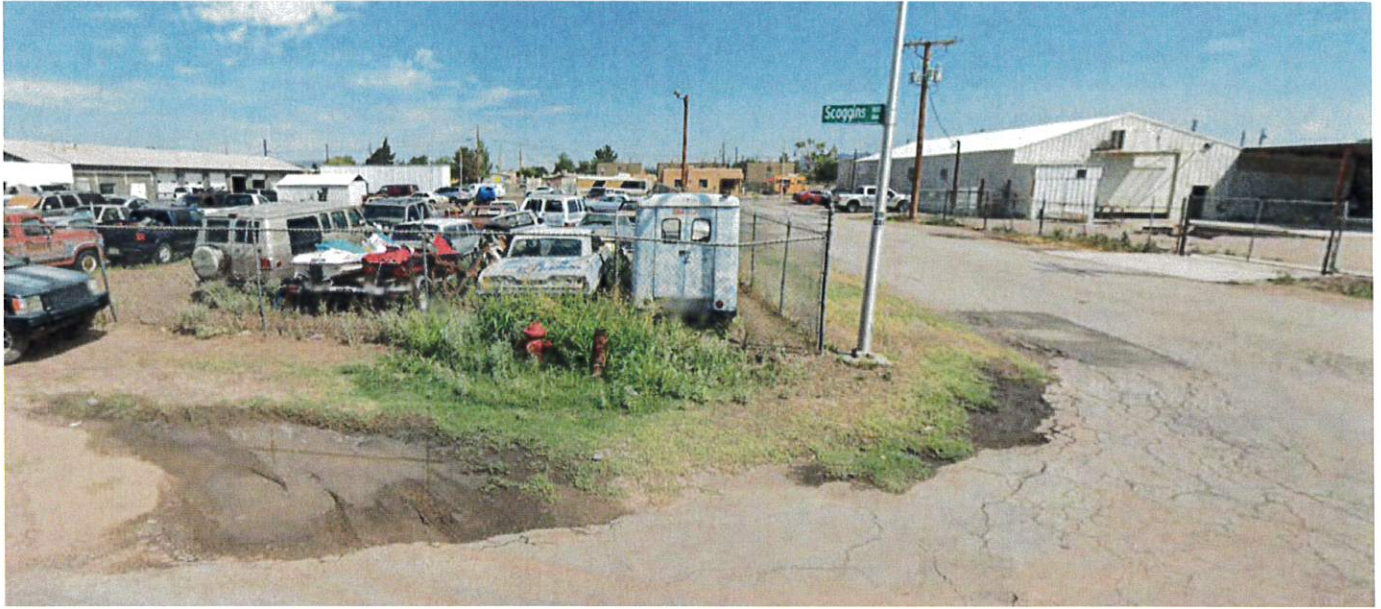
The Total Crime Index value for the Amador Proximo area is 244. The Crime Index is an indication of the relative risk of a crime occurring and is measured against the overall risk at a national level. Values above 100 indicate the area has an above average risk of occurring compared to the US. Additionally, due to the area's agricultural and industrial land use history there are possible brownfield sites which could require assessment and remediation. The presence or perceived presence of crime and brownfields can deter private investment in an area and delay redevelopment activity.

High unemployment and low income levels

The median household income for the area is \$25,000 and 26% of households live below poverty level. While a relatively small population, the demographics of the area are similar to that of the adjacent proposed West Picacho MRA. Additionally, the area is home to two non-profits which provide services to unsheltered individuals and there is a sizeable homeless population in the area which would benefit from affordable housing expansion.



Appendix Image 1. Large vacant parcels are found throughout the Amador Proximo and South area



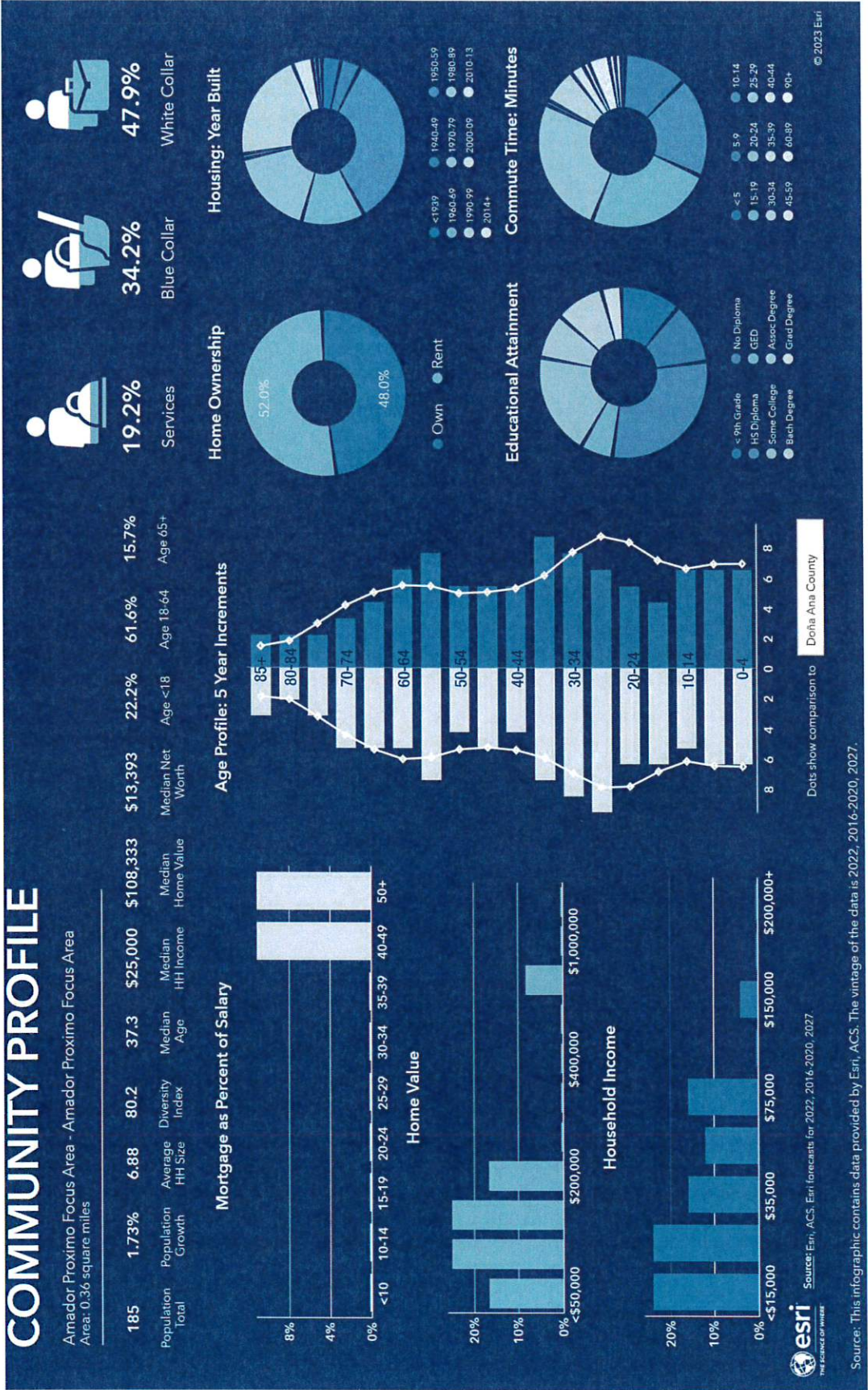
Appendix Image 2. A lack of sidewalks limits universal access and can limit opportunities for mixed-use development.



Appendix Image 3. Deteriorating street conditions in Amador Proximo and South area.



Appendix Figure 3. Vacant Parcels in Amador Proximo and South Area



Appendix Figure 4. Community Profile for Amador Proximo and South Area

APODACA & LIFT UP

The Apodaca & Lift Up area, bound generally by N. Main St. to the north, Interstate 25 to the east, Spruce Ave. to the south, and N. Solano Dr. to the west is the result of combining the Apodaca Planning Area with the bordering Lift Up Las Cruces area. The area is home to approximately 6,245 people and has been the focus of multiple community planning efforts (Apodaca Blueprint, Apodaca Neighborhood Plan, Lift Up Las Cruces), which identify area issues, lay out a vision for revitalization, and can provide a foundation for future MRA planning processes.

Existing conditions assessment, market research, and demographic analysis demonstrate that the Apodaca & Lift Up area, meets the statutory criteria for MRA designation due to low levels of commercial activity, high levels of vacant and abandoned properties, deteriorating buildings and infrastructure, high levels of unemployment, low income levels, as well as unsafe and unhealthy conditions. The following is a summary of key data points and physical conditions that provide provide justification for MRA designation.

Low levels of commercial activity

There are approximately 90 businesses in the Apodaca area which employ approximately 1,300

people. During the Apodaca Blueprint planning process, residents indicated that there is a need for business expansion and increased job opportunities for area residents. Restaurants, retail, entertainment, and healthcare were selected as the most important commercial needs in the area.

High levels of vacant property

The area contains over 40 vacant parcels including two large vacant properties, the Las Cruces Country Club (158 acres) and the Villa Mora property (77 acres) which are focus areas in the Apodaca Blueprint. MRA designation and complementary tools could support redevelopment and infrastructure improvements in areas that might otherwise remain vacant.

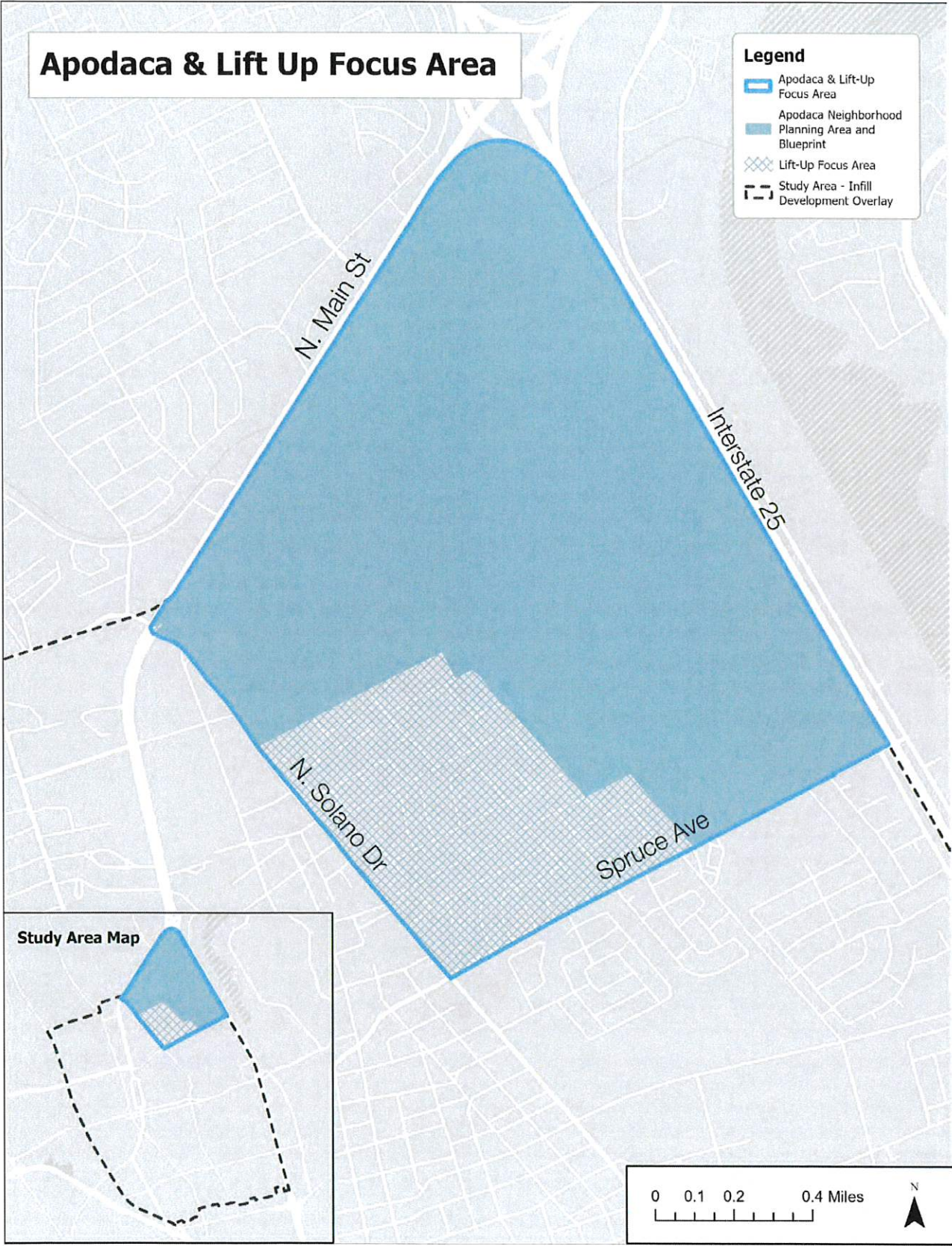
Deteriorating buildings

Housing stock throughout the area is aging. The majority of housing in this area was built in the 1950s and 60's and a full 69% of homes here were built prior to 1990. Many properties in the area exhibit advanced signs of disinvestment and deferred maintenance.

Continued on pg. 93

Key “Blight” Indicators in Apodace & Lift Up Area for MRA Designation								
High Levels Vacant Property	High Levels Abandoned Buildings	Deteriorating Buildings	Deteriorating Infrastructure	Low Median Home Value	Low Income and/or High Poverty Levels	High Unemployment	High Crime Rates	Low Levels Commercial Activity
X		X	X	X	X	X	X	X

Appendix Figure 5. Key “blight” indicators in Apodaca & Lift Up Area



Appendix Figure 6. Apodaca and Lift Up Area

Deteriorating public infrastructure

Deteriorating streets and sidewalks, sidewalk gaps, and localized street flooding have been identified as issues within the area, all of which interrupt vehicle and pedestrian circulation. There are over 640 households with individuals with disabilities and over 300 households without vehicles. An MRA could aid in updating streetscape and public transportation infrastructure for vulnerable populations.

High unemployment and low income levels

While there is one census block group within the area that has a median household income exceeding the city-wide figure, more than 30% of residents earn incomes below \$25,000 per year and 38% of households are below the poverty level. 5 of the City's 19 affordable housing complexes are located in the area. Additionally, the unemployment rate is 9.9% which is significantly higher than the city or county.

Unsafe and unhealthy conditions

The Total Crime Index value for the Apodaca & Lift Up Area is 147. The Crime Index is an indication of the relative risk of a crime occurring and is measured against the overall risk at a national level. Values above 100 indicate the area has an above average risk of occurring compared to the US.

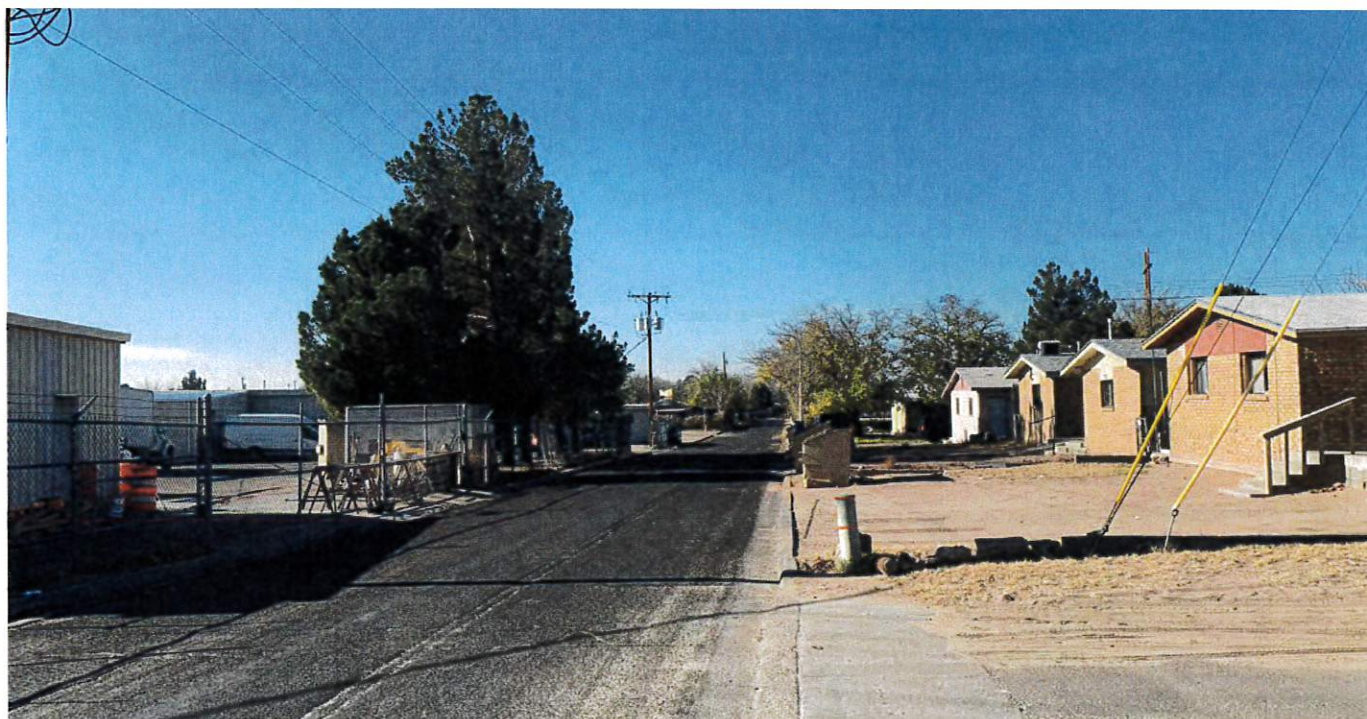
Additionally, incompatible land use and the presence of potential brownfield sites could pose a risk to public health. The presence or perceived presence of crime and brownfields can deter private investment in an area and delay redevelopment activity.



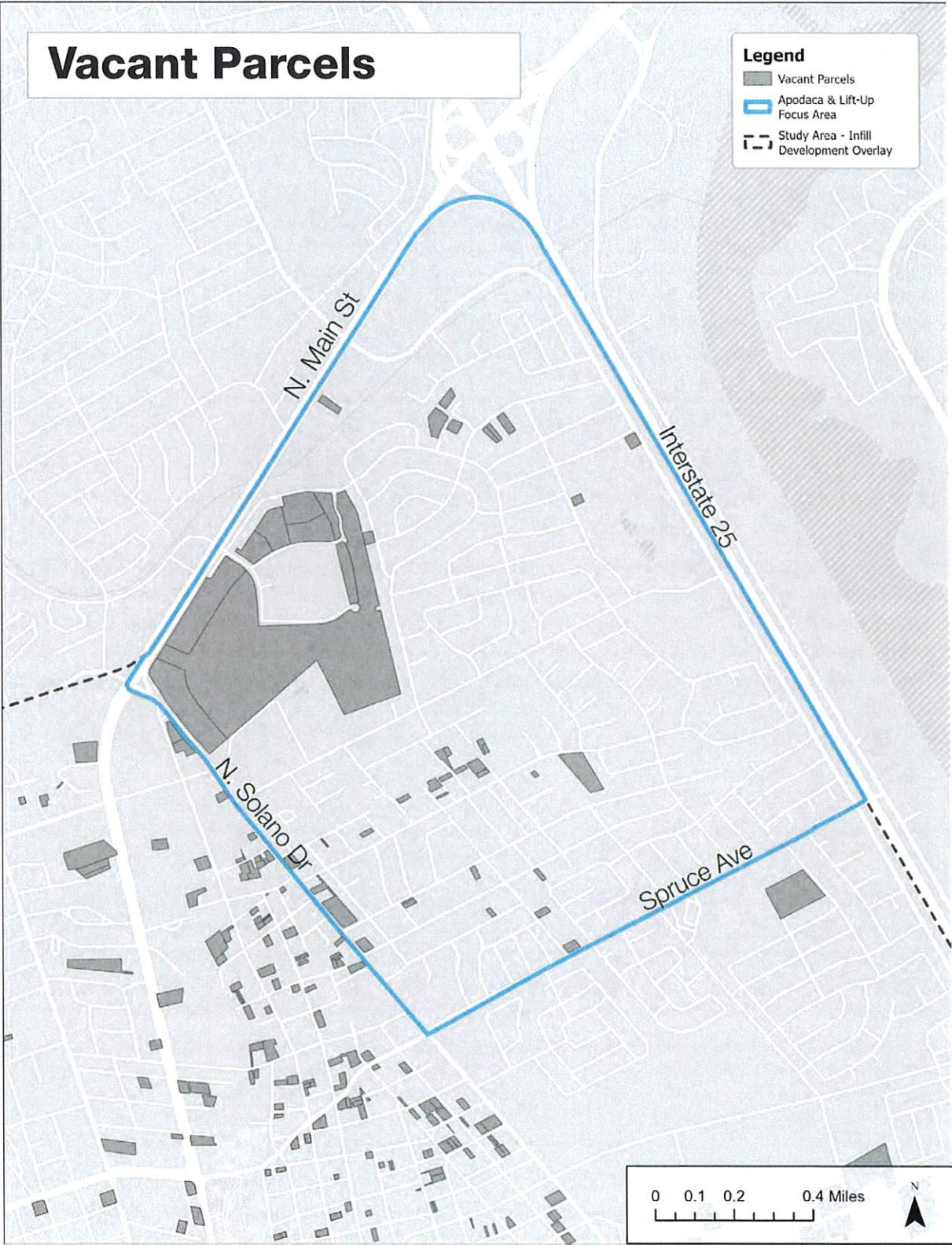
Appendix Image 4. Closed swimming pool at Apodaca Park.



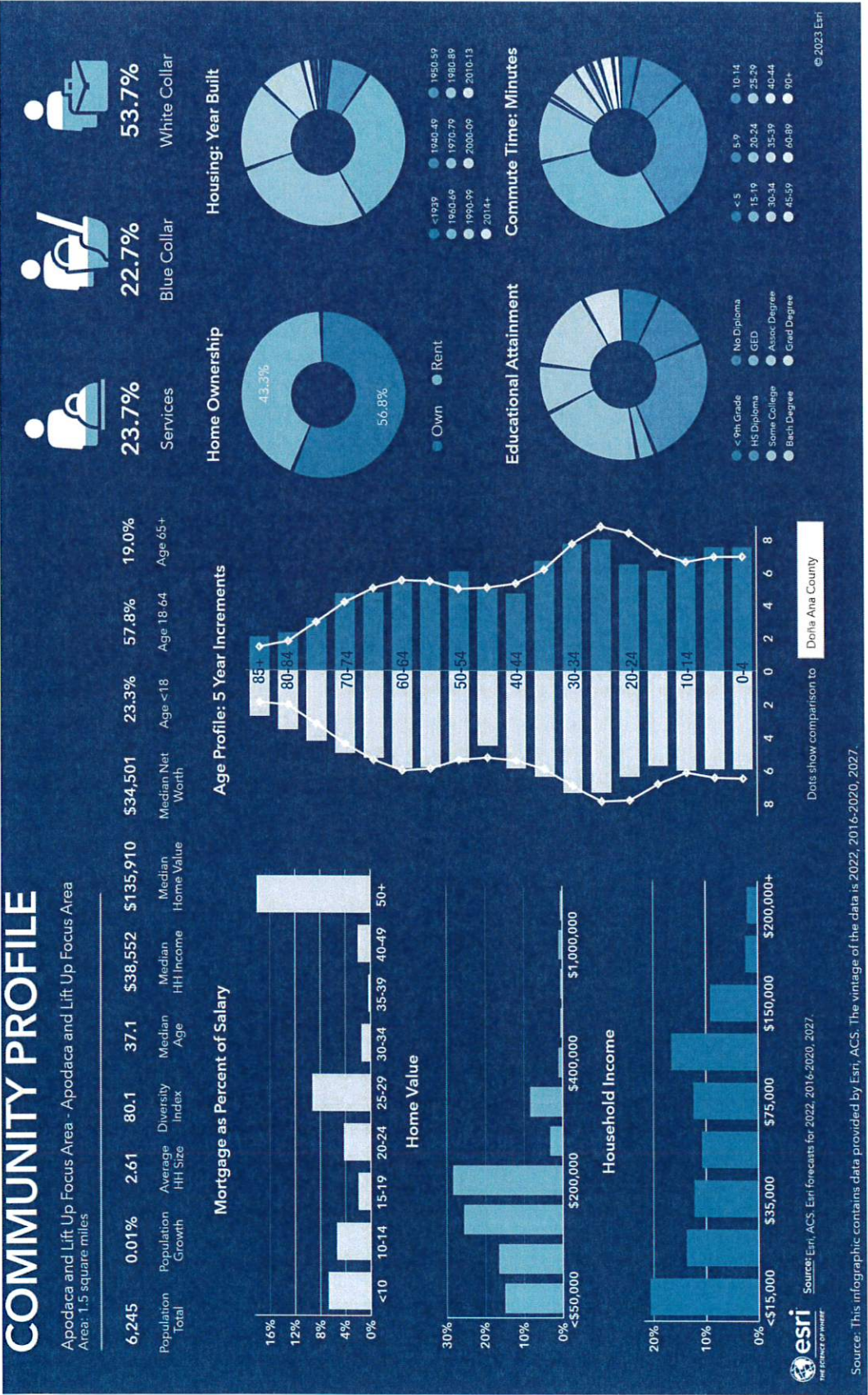
Appendix Image 5. Illegal dumping and vandalism are present along many streets in the Apodaca & Lift Up area.



Appendix Image 6. Residential and industrial uses are in close proximity throughout the Apodaca & Lift Up area.



Appendix Figure 7. Vacant Parcels in Apodaca & Lift Up Area



Appendix Figure 8. Community Profile for Apodaca & Lift Up Area

BELLAMAH (EAST OF SOUTH SOLANO)

The Bellamah (East of Solano) Area, bound generally by E. Lohman Ave. to the north, Interstate 25 to the east, the university area to the south, and Espanola St. to the west, was identified during the preliminary existing conditions' assessment as exhibiting multiple criteria for MRA designation. Portions of the area have been considered for Historic District designation. The 1.58 square mile area which is predominantly residential has a population of over 10,400 residents.

Existing conditions assessment, market research, and demographic analysis demonstrate that the Bellamah area meets the statutory criteria for Metropolitan Redevelopment Area designation due to deteriorating buildings and infrastructure, high levels of unemployment, low income levels, as well as unsafe conditions. The following is a summary of key data points and physical conditions that provide justification for MRA designation.

Deteriorating buildings

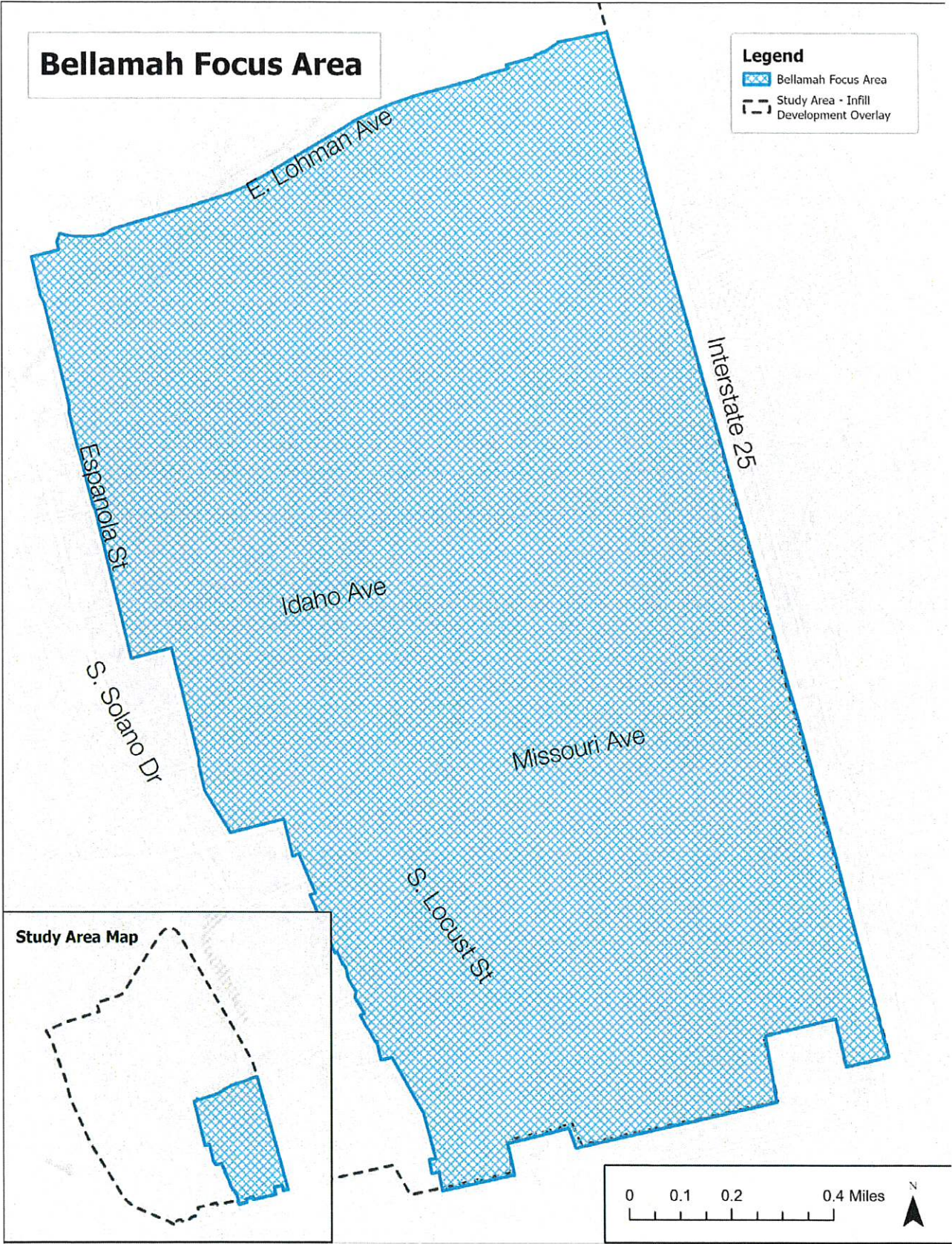
The housing stock in Bellamah is in need of revitalization and/or preservation. 88% of housing in this area was built before 1990. The area contains housing built during the 1950's and 1960's by Dale Bellamah called the Bellamah Addition. The Dona Ana Historical Society is leading discussions about potential historic designation for parts of the neighborhood.

Deteriorating public infrastructure

During the existing conditions assessment, deteriorating pavement conditions were observed throughout the area. There are sidewalk gaps and the area is lacking ADA compatible infrastructure which interrupts universal accessibility. Overgrown vegetation and weeds are present along streets and sidewalks.

Key "Blight" Indicators in Bellamah for MRA Designation								
High Levels Vacant Property	High Levels Abandoned Buildings	Deteriorating Buildings	Deteriorating Infrastructure	Low Median Home Value	Low Income Levels	High Unemployment	High Crime Rates	Low Levels Commercial Activity
X		X	X	X	X	X	X	

Appendix Figure 9. Key "blight" indicators in the Bellamah Area



Appendix Figure 10. Bellamah Area

High unemployment and low income levels

This area has a low median household income rate at \$29,915, significantly lower than that of the City of Las Cruces at \$50,453 or New Mexico at \$56,735. Additionally, the unemployment rate here is 9.9%, almost double that of New Mexico's unemployment rate of 5.3%.

Unsafe conditions

The Total Crime Index value for the Apodaca & Lift Up Area is 186. The Crime Index is an indication of the relative risk of a crime occurring and is measured against the overall risk at a national level. Values above 100 indicate the area has an above average risk of occurring compared to the US.



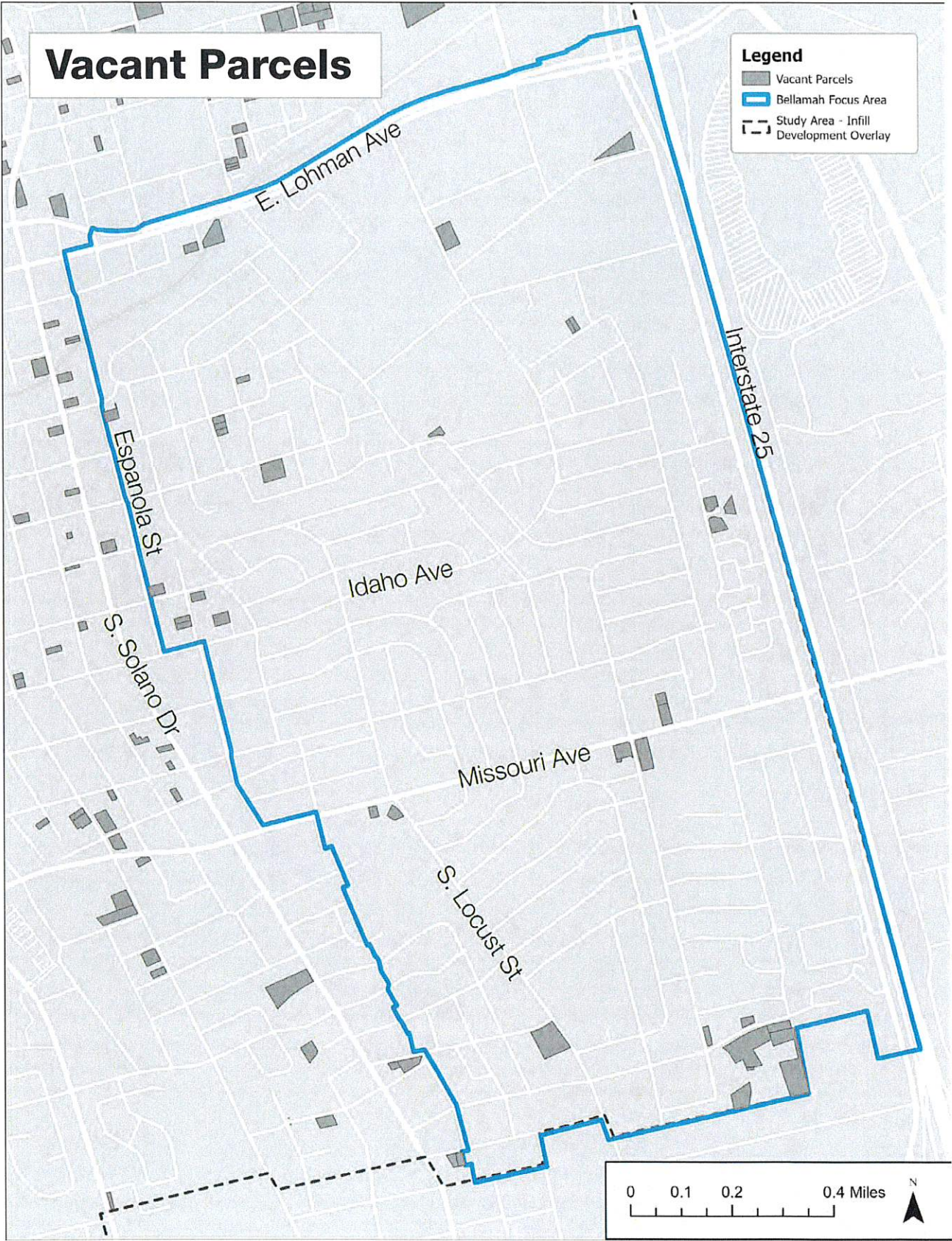
Appendix Image 7. Sidewalk gaps and deteriorating pavement conditions along Montana Ave.



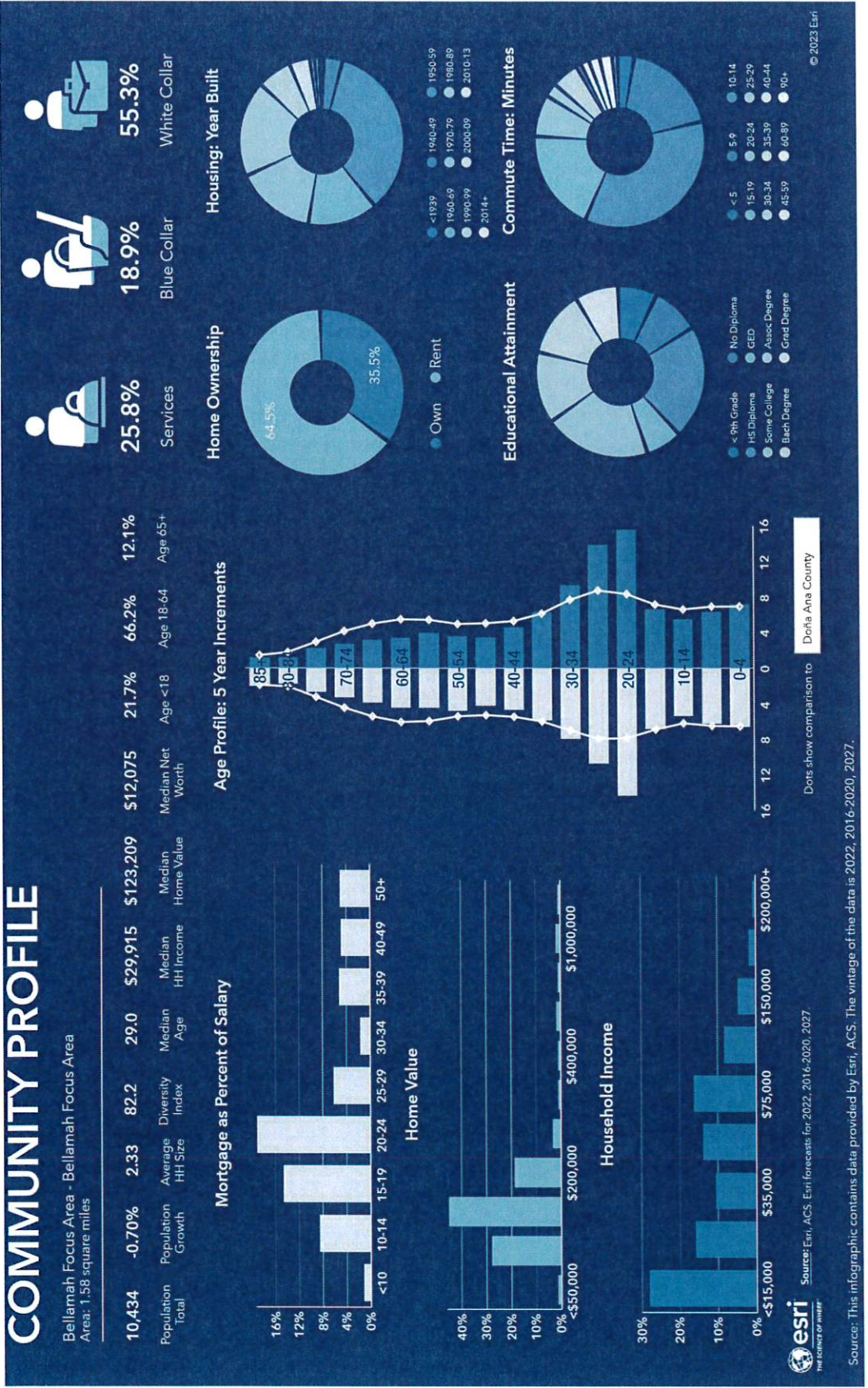
Appendix Image 8. Bellamah Addition housing from the 1950's or 1960's



Appendix Image 9. Large vacant residential parcel on Nevada Ave.



Appendix Figure 11. Vacant parcels in the Bellamah Area



Appendix Figure 12. Community profile for the Bellamah Area

MESQUITE

The Mesquite area in this document references the same boundary as the existing Mesquite Historic District. The area is home to approximately 2,310 people and has been the focus of significant community planning efforts (Mesquite Historic District Neighborhood Design Plan, Arts and Culture District Plan). These efforts lay out a vision for revitalization and economic development, and can provide a foundation for future MRA planning processes.

Existing conditions assessment, market research, and demographic analysis demonstrate that the Mesquite Historic District area meets the statutory criteria for Metropolitan Redevelopment Area designation due to low levels of commercial activity, high levels of vacant and abandoned properties, deteriorating buildings and infrastructure, high levels of unemployment, low income levels, and unsafe conditions. The following is a summary of key data points and physical conditions that provide provide justification for MRA designation.

Low levels of commercial activity

There are 93 total businesses in this area, employing 801 people. The vast majority, 83%, of these jobs are in the service sector, typically providing lower wage employment. Supporting businesses and organizations that create middle and upper income jobs could help to raise median income in Mesquite.

Additionally, the “Las Cruces Arts & Cultural District Plan” identifies the goal of supporting business assistance organizations and programs to foster creative sector businesses in the area. Related to this goal,

Vacant and abandoned properties

The area has over 115 vacant parcels, which is the greatest concentration of vacant property in the IDO. These are primarily residential properties.

Deteriorating buildings

The 1930s and 1960s saw the highest housing construction rates in this area. 83% of housing in Mesquite was built prior to 1990. Considering the age of housing stock in this area, support is needed to revitalize and construct updated housing.

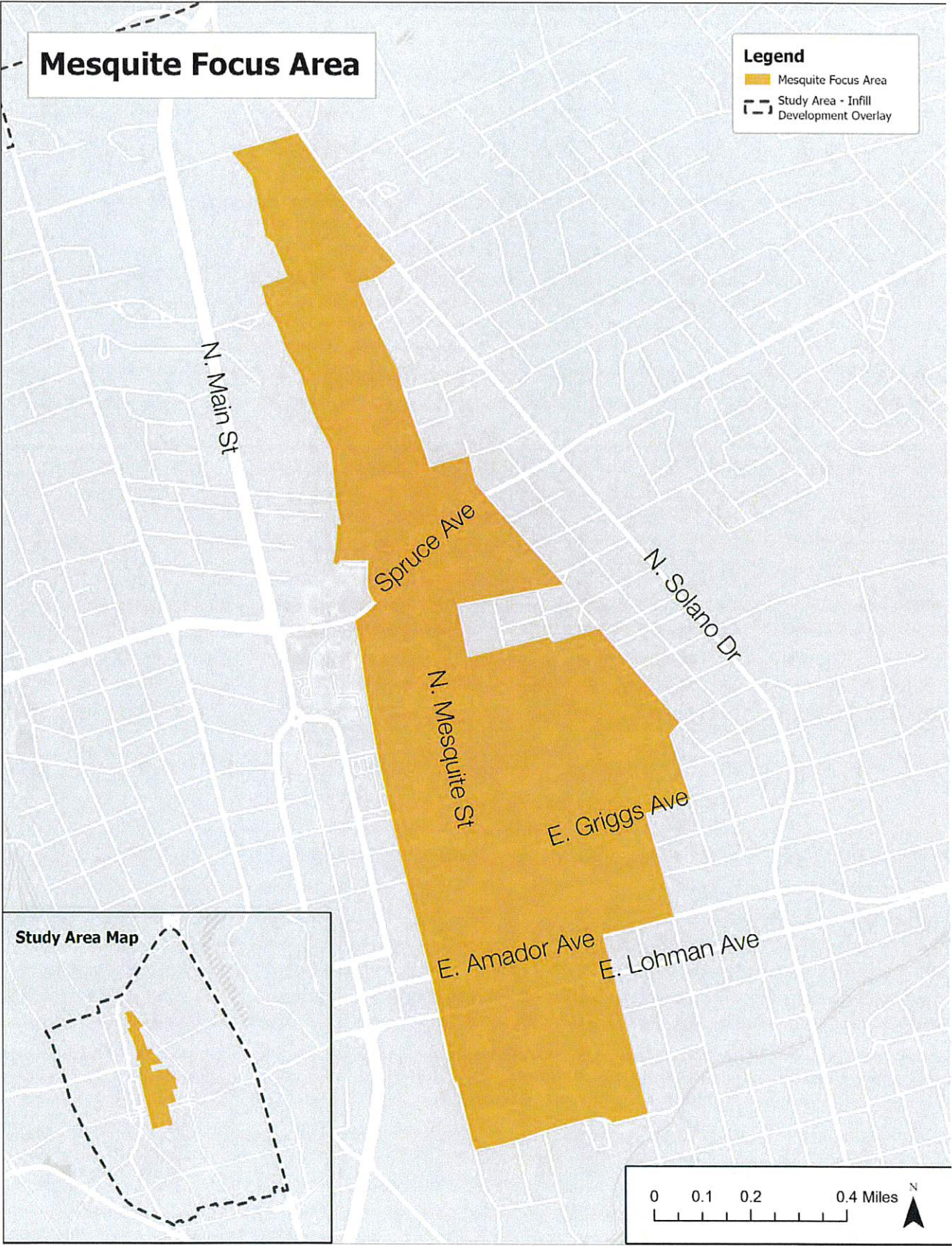
Deteriorating public infrastructure

Due to the age of this historic area, sidewalks are quite narrow. Sidewalks need to be brought up to ADA compliance. The existing conditions assessment revealed an abundance of weeds and vegetation overgrowth. Various side streets along Mesquite lack sidewalks. The “Las Cruces Arts & Cultural District Plan” identified a need to address pedestrian safety and walkability with a particular focus on establishing sidewalks where needed.

Continued on pg. 107

Key “Blight” Indicators in Mesquite Area for MRA Designation								
High Levels Vacant Property	High Levels Abandoned Buildings	Deteriorating Buildings	Deteriorating Infrastructure	Low Median Home Value	Low Income and/or High Poverty Levels	High Unemployment	High Crime Rates	Low Levels Commercial Activity
X		X	X	X	X		X	X

Appendix Figure 13. Key “blight” indicators in Mesquite Area



Appendix Figure 14. Mesquite Area

High unemployment and low income levels

The Mesquite area has a median household income of \$27,313 which is significantly lower than the median household income in Las Cruces of \$50,543. The unemployment rate is relatively low at 4.6%, compared to the state and county. However, wages remain low and there is a need for higher wage jobs in the area.

Unsafe conditions

The Total Crime Index value for the Mesquite Area is 272. The Crime Index is an indication of the relative risk of a crime occurring and is measured against

the overall risk at a national level. Values above 100 indicate the area has an above average risk of occurring compared to the US. Additionally, incompatible land use and the presence of potential brownfield sites could pose a risk to public health. The presence or perceived presence of crime and brownfields can deter private investment in an area and delay redevelopment activity.



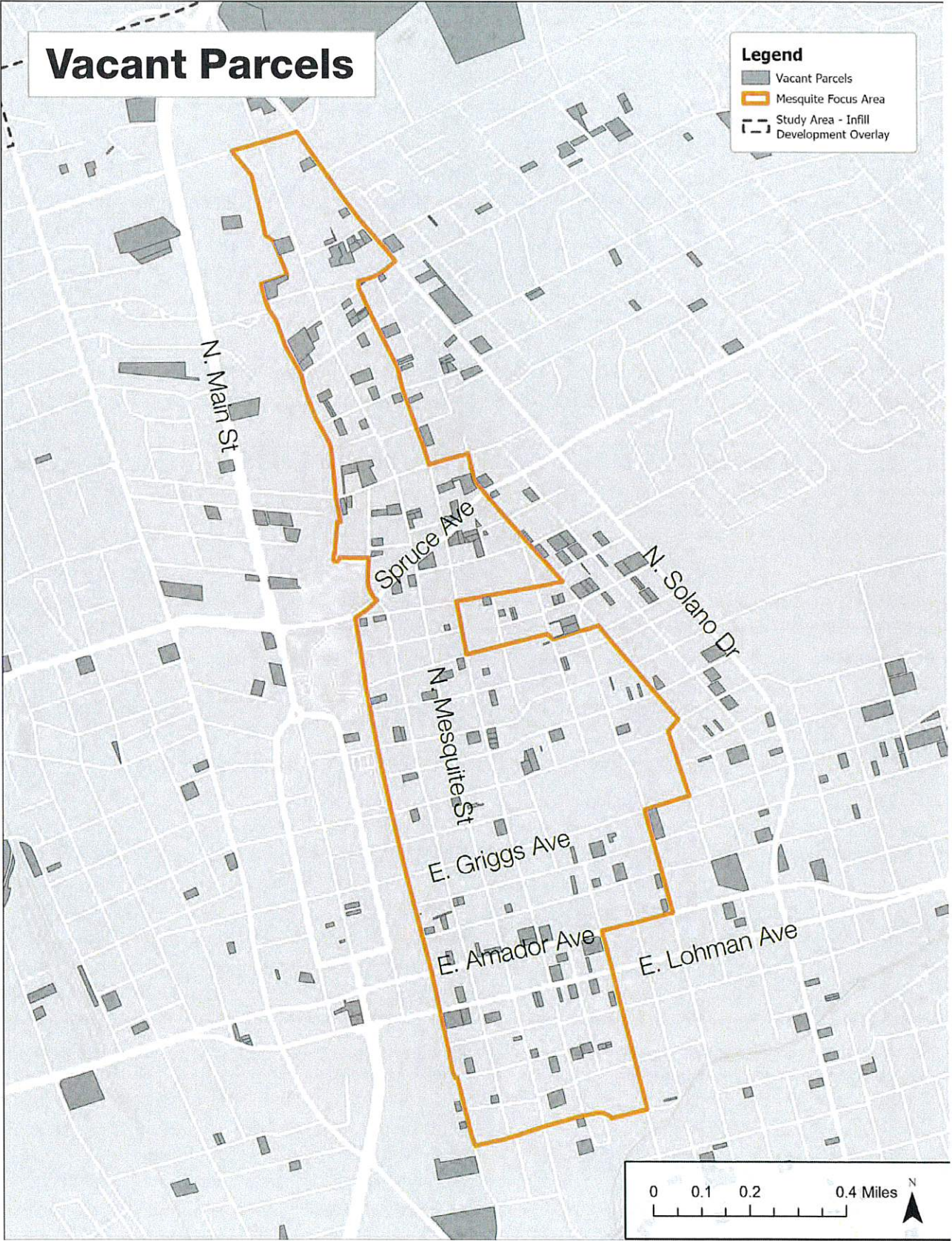
Appendix Image 11. Commercial properties throughout the MRA could benefit from facade improvement programs.



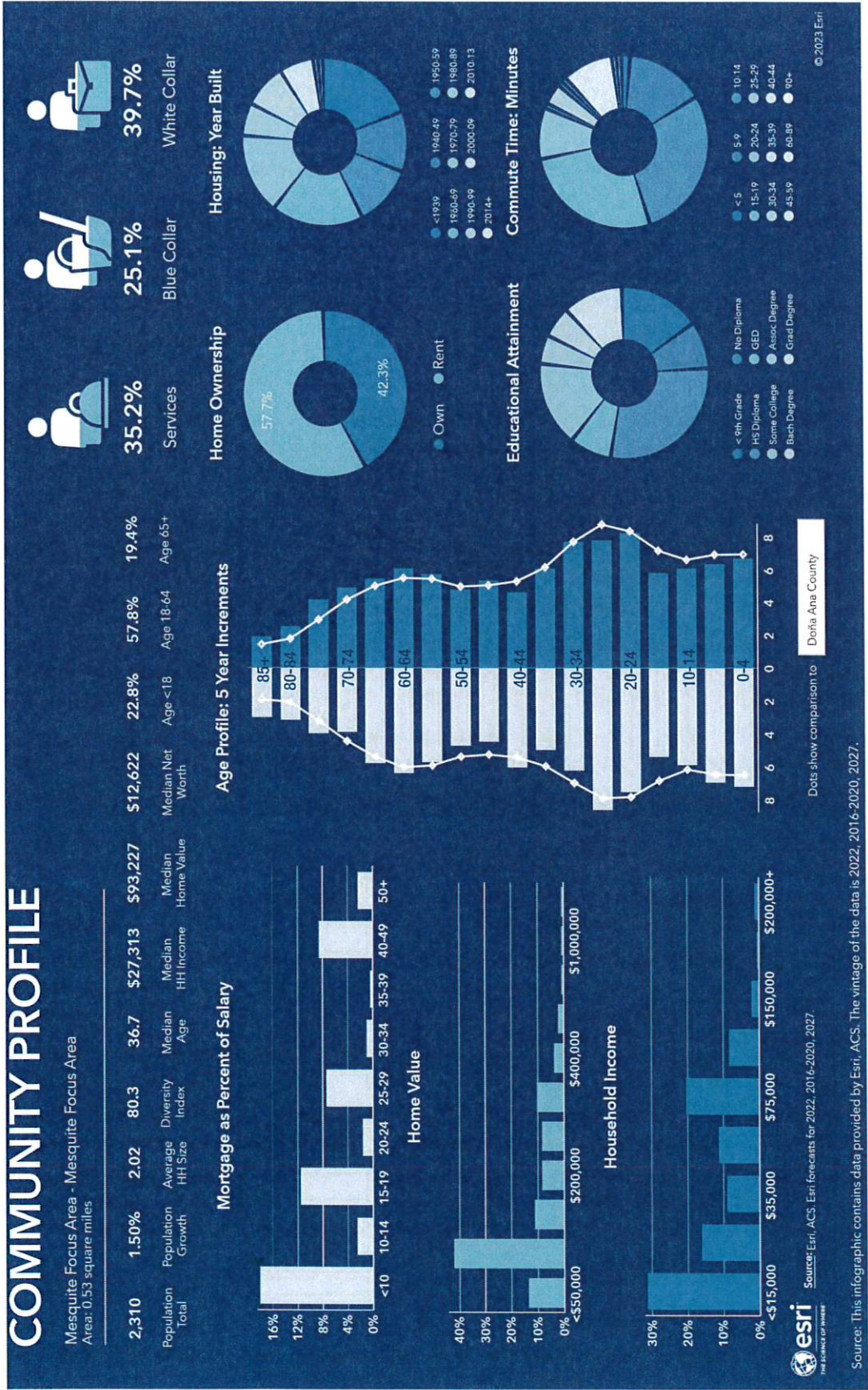
Appendix Image 12. Many of the sidewalks in the Mesquite area are not ADA accessible and create a barrier to universal access throughout the neighborhood.



Appendix Image 13. The Mesquite Area has the greatest concentration of unoccupied parcels in the IDO and a high prevalence of vacant lots.



Appendix Figure 15. Vacant parcels in Mesquite Area



Appendix Figure 16. Community profile in Mesquite Area



City Council Action and Executive Summary

3091; Council Bill 25-020

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	March 17, 2025	Adopted:	April 7, 2025
Drafter:	Brad Douglas	Department:	Legal
Program:	Office of Director	Line of Business:	Office of Director
Title:	AN ORDINANCE REPEALING AND REPLACING CHAPTER 7, ANIMALS, OF THE LAS CRUCES MUNICIPAL CODE (LCMC).		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To repeal and replace Chapter 7 of the Las Cruces Municipal Code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
On November 12, 2024, proposed revisions to Chapter 7 of the Las Cruces Municipal Code (LCMC) were taken before the City Council at a work session. Key revisions include revised care and maintenance requirements, modified spay/neuter requirements, more comprehensive enforcement of the prohibition against animal fighting, and clarified reclamation requirements for the ASCMV.

SUPPORT INFORMATION:
[Exhibit "A" Animal Ordinance](#)
[Attachment "A" Redline](#)

PLAN(S):
None

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

Does this action align with Elevate Las Cruces?

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☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve repealing of Chapter 7 and replacement.
2. Vote "No"; this will not approve replacement and the current Chapter 7 will remain in effect.
3. Vote to "Amend"; this will require direction to city staff.
4. Vote to "Table"; this will delay implementation of the new Chapter 7.

ORDINANCE 3091; COUNCIL BILL 25-020

AN ORDINANCE REPEALING AND REPLACING CHAPTER 7, ANIMALS, OF THE LAS CRUCES MUNICIPAL CODE (LCMC).

The City Council is informed that:

WHEREAS, on November 12, 2024, proposed revisions to Chapter 7, Animals, were brought before the City Council; and

WHEREAS, after Council consensus, it was decided to bring this matter forward.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Chapter 7 of the Las Cruces Municipal Code, Animals, is hereby repealed and replaced as shown in Exhibit "A," attached hereto and made part of this ordinance.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Chapter 7 – ANIMALS

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 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 companion animals; and minimize the number of healthy or treatable companion animals euthanized, while protecting the public from illness or injury 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 pet microchipping;
 - b. Population management primarily through sterilization;
 - c. Humane care and control;
 - d. Vaccination against rabies; and
 - e. Physical control of companion animals.

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. The term “abandonment” (or “to abandon”) does not apply to a person or organization operating a 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.

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

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 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.

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.

Bite. An injury inflicted upon another, whether to a person or another animal, 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 animal to produce offspring.

Canine hybrid. Any offspring resulting from the breeding of a domestic species of canine with a wild species 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 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 solely on appearance.

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 cat colony, that may be ear tipped and may be cared for by one or more persons; 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.

Community cat caregiver. A non-profit organization, person(s) or the ASCMV, who, in accordance with a good faith effort to conduct Trap-Neuter-Return, provides care to a community cat. This care includes

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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.

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 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 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. 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 ¼ inch in an adult and proportionately smaller in a kitten. While the cat is under anesthesia, under the supervision of a licensed veterinarian.

Emergency measures. Any action taken by an Animal 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 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).

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.

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Feline hybrid. Any offspring resulting from the breeding of a domestic species of feline with wild species of feline, such as an African Serval. Any animal which at any time has been or is advertised, or otherwise described, or represented as a feline hybrid, by its owner/guardian to an Animal 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 solely on appearance.

Feral. An animal that is not behaviorally compatible with humans, and is therefore not suitable to serve as a companion animal, or work animal.

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 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 by the Animal Control Unit, ASCMV, or by non-profit animal adoption agencies in the community.

Found Animal Report. Notification to the ASCMV by the finder of an animal, excluding community cats, Animal 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 Control Unit accurate contact information of the person responsible for submitting said report.

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 any stray animal to linger on one's premises by feeding, without making all provisions 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 implementing Trap-Neuter-Return.

Humane. To have compassion, , kindness, sympathy and consideration for an animal's welfare, 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, which stores a unique, unalterable, alphanumeric code which can be registered to correspond with contact information for the owner/guardian 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 8 feet in length for a dog; or

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- (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 animal, through humane capture, through the animal control unit, of the City of Las Cruces, or by the public, 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, 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.

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

Livestock. All animals used for land cultivation and/or human consumption but excludes companion animals.

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

Missing animal report. Notification submitted to the ASCMV by the owner/guardian of a missing animal, Animal 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 Control Unit accurate contact information for the person responsible for submitting said report.

Multi-animal site, non-residential. Any premises on which buying, selling, breeding, training, or boarding of more than one companion animal four months of age or older is conducted, but does not include veterinary hospitals or the ASCMV.

Multi-animal site, residential. Any residence in which more than three companion animals 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 conducted. 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, limiting the number of permitted animals shall not apply to an animal shelter, foster care site or community cat colony.

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 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

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(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 who owns, harbors, is the guardian of, or keeps an animal or permits an animal to remain on or about their property. The term “owner” does not apply to a community cat caregiver.

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

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

Pet. Any animal kept as a companion animal, and not intended to be used for farming or human consumption. Livestock shall not be considered a pet.

Pet identification. A rabies tag, identification tag, microchip, or any other source of owner or community cat caregiver contact information associated with an animal. 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.

Pet mill. A 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. 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 City limits.

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

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, 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 escape out of the yard or enclosure.

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Potential rabies suspect animal. Any animal that has bitten a person, potentially exposing the person to rabies.

Premises. 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.

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.

Quarantine. The strict isolation of a rabies suspect animal for a ten-day observation period at a place and in a manner designated by the Animal 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. The reclamation period shall be measured in working days, which shall include any day in which the ASCMV 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.

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 Control Unit or ASCMV.

Residence. A person's home; the place where someone lives.

Restraint. Any of the following:

- (1) To be under the immediate physical control of a capable and competent person; or
- (2) 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.

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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, engaging in sexual intercourse, cunnilingus, fellatio, or anal intercourse 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, anal, or oral openings of an animal by a person.

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 tippers.

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

Stray. Any animal that is lost, abandoned, unclaimed by any person, or running at large.

Tail Docking. Removal of any portion of an animal's tail.

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 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.

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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.

Wild animal. Any vertebrate animal(s) under the jurisdiction of the New Mexico Department of Game and Fish and/or USDA Wildlife Services.

ARTICLE II. – ANIMAL CARE AND OWNERSHIP RESPONSIBILITIES

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

- (a) A person owning or having the guardianship, care, custody, or control over an animal shall provide such care as to maintain the good health and well-being of the animal and shall:
 - (1) Provide an animal with adequate amounts of fresh potable water and wholesome food 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 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, unhealthy 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 access to continual adequate shade from direct sunlight in addition to the shelter referenced above.

- (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 one hour 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 to maintain the animal's good health.
 - (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) A person owning or having care, custody, or control over a 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.
 - (2) Maintain current registration with the microchip registration company.
 - (3) If there is change in contact information of an owner/guardian or community cat caregiver of a registered microchipped companion animal, the owner/guardian 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 animal, the previous owner/guardian shall be responsible for ensuring that the microchip is no longer in the name of the previous owner/guardian and shall be responsible for reregistering the microchip to reflect any new address and telephone number and have the registration information transferred to the new owner name within thirty (30) days after the change in ownership/guardianship.

Sec 7-11A-1 - 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) It shall be unlawful to own or keep within the City of Las Cruces, if the Owner/Guardian has been cited two (2) times or more within the preceding 364-day period for a violation of Section 7-13 (Restraint requirements) of this Chapter:
 - (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 requirement if alteration would be dangerous for the companion animal due to health issues. The Animal 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 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 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 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 Control Unit with each application for an exemption.
- 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.

- (a) *Vaccination.* A person owning or having guardianship, care, custody or control over a 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.
- (1) *Rabies tag.* A person owning or having guardianship, care, custody, or control over a 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. The tag may be removed while the animal is undergoing treatment by a veterinarian or being groomed.

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- (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 companion animal judged to be three (3) months of age or older shall exhibit the up-to-date, current vaccination certificate upon request by an Animal Control Officer.
- (b) *Exposure:* When any person is bitten by an animal, it is the duty of such person or their parent or guardian, or any person witnessing the incident, to immediately notify the Animal Control Unit of the field health office.
- (c) *Exposure: physician responsibility.* A medical provider who renders professional treatment to a person bitten by any animal shall report to the Animal Control Unit such treatment within 24 hours.
- (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 Control Unit in ascertaining the immunization status of the animal.
- (f) *Exposure: companion animal.* Any companion animal, or community cat, that bites 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 at the owner's/guardian's expense for a ten-day observation period at a place and in a manner designated by the Animal 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.
 - (2) If the 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.
- (h) *Home quarantine.* The Animal and Control Officer may consent to confinement and isolation on the owner's/guardian's premises of a companion animal, or community cat, that bites a person.
- (1) The premises where the home isolation is to occur shall be inspected and approved for such purpose by the Animal 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 Control Supervisor for such home confinement.
 - (3) The owner/guardian or cat community caregiver shall immediately notify the Animal 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 animals exposed to rabies, in the interest of public health and safety as 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 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 be installed and utilized on all gates and doors to animal enclosures to prevent animals and small children from entering and prevent animal escape.

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:
 - 1. A person shall not tether a companion animal to a stationary object for more than one hour in any 24-hour period.
 - 2. A person shall not tether a companion animal in an unenclosed area where people or other animals are able to wander into the proximity of the tethered dog.
 - 3. A tether/trolley used to restrain a companion animal shall be at least 12 feet in length.

4. A tether/trolley used to restrain a companion animal shall be affixed to a properly fitting, humane collar or harness worn by the companion animal. A person shall not wrap a chain or tether directly around the neck or other body part of the dog.

5. A tether/trolley used to restrain a companion animal 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 or tether such as locks or fasteners.

6. A tether/trolley used to restrain a companion animal 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.

7. In all cases, a tethered/trolleyed companion animal must be able to easily reach shade and a container with clean water in it at all times.

8. No companion animal who is sick, injured, in distress, pregnant, or younger than 6 months old may be tethered.

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 observation points, it shall be prima facie evidence that the animal has been tethered for 60 consecutive minutes or more, and a citation may be issued for violation of this Ordinance.

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 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 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 six (6) feet.

G. *Transporting animals* - 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.

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- 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 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.
- H. A person 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 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 impounded by the Animal Control Officer at the request of the resident or owner.
- 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 the common areas of the multiple dwelling unit, except within 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.

Sec. 7-15. – 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 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. 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.

- (1) Nothing in this Section shall prohibit reasonable force to be used to drive off vicious or dangerous 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) 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.

Declawing and devocalization procedures.

- 2) *Veterinary care.* A person shall not have, keep, or harbor an animal that is sick or injured, including suffering from starvation or severe thirst, without providing proper veterinary care.

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- (a) Given probable cause, the Animal 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 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.
- 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 the incident to the Animal Control Unit through Central Dispatch.
- E. *Performing animal exhibition;* A performing animal exhibition in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or is likely to cause physical injury or suffering shall not be permitted.
 - (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 devocalization on an animal.
 - 2. Any ear cropping and/or tail docking must be performed by a licensed veterinarian.
 - a.
- G. *Fighting.*

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1. 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.
2. It is unlawful for any person to sell, receive, possess, transport, loan, or give away any animal fighting paraphernalia.
3. 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.
4. 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.
5. Nothing in this section shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authority.

(H) 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 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.

(I) Uncared-for Animals; Abandonment

- a. If an Animal 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 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 Control Officer may take such action as called for to prevent undue pain and suffering, including immediate euthanasia of the animal.

- (J) *Performance of duty.* Nothing herein shall prohibit the Animal 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.
- (K) In addition to any other remedy or action permitted under this ordinance or by law, wherever an Animal 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 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) If the Animal Control Officer reasonably believes that the life or health of other animals at the same premises are endangered, the Animal 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.
- (M) 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.
- (N) 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)
- (O) The Animal 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 Control's determination that a person is an irresponsible owner/guardian.
 - 1. If the Animal Control Unit determines that a person is an irresponsible owner, the Animal 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.
 - 2. Availability to appeal the declaration shall be in accordance with Rule 1-074 NMRA.
 - 3. An owner/guardian may petition Animal 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. A person shall not sell, offer for sale, barter, transfer, gift, donate or adopt a 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. Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations. Nothing herein shall prohibit the transfer, or adoption of an unweaned animal if accompanied by its nursing 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.
 - 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 licensed, commercial animal establishment shall not offer for sale any venomous animals, other than tropical fish contained in Animal 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 penalty 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. 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 Control Officer may remove any animal carcass from the roadway or other public property. The Animal 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 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 shall turn over any tags or other identification found on an animal carcass to the ASCMV.
- C. *Removal fee.* The Animal 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 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) Complaints from one or more separate neighbor(s); and
 - (2) A verified audio recording which records the howling, barking or noise for more than 10 minutes; or
 - (3) An Animal 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.

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- 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.
- B. *Feeding animals running at large.* A person shall not feed an animal running at large, with the exception of community cats or to aid in humanely trapping the animal.
- C. The Animal Control Unit may determine that a person is a negligent or irresponsible animal owner and may petition a court of competent jurisdiction to prohibit that person from owning animals for a two (2) year period if the following conditions occur:
 - (1) The person has been cited and charged with Animal Control ordinance violations more than two (2) times within a three hundred sixty-four (364) day period, or
 - (2) Has surrendered animals to the ASCMV more than two (2) times within a three hundred sixty-four (364) day period.

Sec. 7-19. Found animals.

- 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 Control Unit accurate rate microchip scan, a universal scanner shall be used. Options for having the animal scanned include the ASCMV, Animal Control Unit, or any office of a licensed veterinarian. The person having possession of such an animal shall allow the animal to be scanned by the Animal Control Officer immediately upon request.
 - 2. A person having possession of such an animal shall immediately surrender the animal to the Animal 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.

Secs. 7-20-7-29. Reserved.

ARTICLE III. PERMITS

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

- A. No person shall keep or operate a residential or non-residential multi-animal site without a permit issued by the City by and through Animal Control or having been approved as a foster care site by the Animal Control Unit, ASCMV, or a non-profit animal adoption agency.
- (1) Veterinary hospitals or clinics shall be exempt from the 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 non-residential multi-animal site shall file an application for a permit with the Animal 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.
 - (2) Non-residential sites must also comply with the City business registration requirements. Article IV, Division 2 of the Municipal Code.
 - (3) Approval is required by the City zoning administrator and an Animal Control Officer.
 - (4) All multi-animal site permits must be renewed annually at a fee established by City Council resolution.
 - (5) An application may be denied if the applicant shows a history of noncompliance with this Chapter as evidenced by 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 conflicts 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 Control Officer, any one or more of 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 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 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.
 - (2) Any application may be denied if the applicant shows a history of noncompliance with this Chapter as evidenced by 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 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 Control Unit for such activity and meets the applicable requirements of this chapter. Each permit shall be individually reviewed by the Animal 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 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, 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.
 - 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 the name, address, telephone number and email address of the owner of the commercial property, the name, 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 Control Unit, so that an Animal 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 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 companion animal for sale and/or hobby shall purchase a Breeding Permit prior to breeding the animal.
- a. All 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 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 a companion animal that produces more than two litters per year.
 - f. A breeding permit is required to advertise any 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 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 7-11A-1 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.

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- c. If an intact companion animal that has been issued a permit is impounded twice by the Animal 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 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 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 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.
 - 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 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 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 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 7-32 - 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.
- (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.
 - (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. 7-32A - 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.

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- 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 Control Unit for its disposition.
- D. Following sterilization, vaccination, microchipping and ear-tipping, unless veterinary care is required, a trapped community cat shall be released by individual(s) or the shelter where it was trapped, except as provided for herein.
- E. Unless veterinary care is required, a trapped community cat received by Animal Control will be returned to the ~~area~~ where it was trapped by Animal Control or returned to a community cat caregiver, except as provided for herein.
- 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.
- G. Community cats, whether alone or under the care of community cat caregivers(s), are prohibited from being returned within three hundred feet (300') 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 feet (300') 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 Control Unit for 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.
- 1. 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.
- 2. 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.
- A. 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 and with the special animal permits section herein. Keeping livestock shall not be permitted in the required front, side and street side yard setbacks- and 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 $\frac{1}{2}$ acre, a total combined maximum of 6 such animals, and
 - (2) For lots greater than $\frac{1}{2}$ 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 dogs.

(A) Reporting of Potentially Dangerous or Dangerous Dogs

- (1) Any person may report a potentially dangerous or dangerous dog to Animal Control.
- (2) If the report is pertaining to a dog running at large, Animal Control shall impound the dog in the ordinary manner pursuant to this Chapter.

(B) Determination of status.

- (1) A Las Cruces Municipal Court judge may find and declare a dog potentially dangerous or dangerous if there is probable cause to believe that the dog falls within the definition of "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 "dangerous dog" or "potentially dangerous dog"; or
 - (b) A written report of the dog's actions witnessed by any Animal Control officer or law enforcement officer which causes the dog to fall within the definition of "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 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.

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- (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 or dangerous 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 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 Control determines that the dog is a dangerous dog, Animal 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 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 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 Control Unit; and
 - (g) The dog owner/owner 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 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 Control; 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 CONTROL; 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 CONTROL; 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 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 Control Unit, of an insurance liability policy of no less than \$500,000 to cover any consequences of the actions of the dangerous dog.

(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 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 Control Unit and conceals or fails to inform Animal 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 or dangerous 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 Control Unit ten (10) days prior to any change in the location of the property upon which the dog is kept.
- (4) Potentially dangerous or dangerous 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 or dangerous 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 Control Unit at any reasonable time of day. The Animal 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 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 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 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 Control Unit to lift the requirements for registration pursuant to this section. If the Animal 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 Control Unit shall relieve the owner of the requirements of this section.

- (2) The Animal 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 Control Unit to lift the requirements for registration pursuant to this section. If the Animal 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 Control Unit shall relieve the owner of the requirements of this section.
- (3) The Animal 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.

(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 Control Unit immediately upon the escape of the dog.
 - (d) Fail to notify the Animal Control Unit immediately if the dog causes an injury to a human being, companion animal or livestock.
 - (e) Fail to notify the Animal Control Unit of the dog’s death within five (5) business days.
 - (f) Fail to notify the Animal 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.
 - (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.

(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 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.

(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 or dangerous dog.

(J) Appeals.

- (1) Any person aggrieved by a decision to declare a dog “potentially dangerous,” or “dangerous” 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.

(K) Seizure and impoundment.

- (1) Any action for the seizure and impoundment of a dog shall be brought in a court of competent jurisdiction. For the purposes of this Article, the Las Cruces Municipal Court shall be deemed a court of competent jurisdiction.

(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 1-10 of the Las Cruces Municipal Code.
- (2) Prosecution pursuant to this section requires a showing that:
 - (a) an owner/guardian knew or should have known of the propensity of a dog to inflict serious injury; or
 - (b) the dog had previously been found by a court to be a dangerous or potentially dangerous 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 fees, incurred and collected pursuant to this Chapter shall be remitted to the ASCMV, and placed in a restricted account to fund public spay/neuter of companion animals.

Sec. 7-41. Animal control officers.

- A. Animal Control Officers shall 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.
- B. Animal Control Officers shall be provided with appropriate training for their position.
- C. In carrying out the provisions of the Animal Control Ordinance and other applicable regulations, every Animal Control Officer is authorized to pursue any animal 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 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 Control Officer is authorized to enter upon private premises, but not into a residence or 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.
- B. *Interference prohibited.*
- (1) *Interference.* A person shall not threaten or interfere with the Animal 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 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 Control Unit without authorization from the Animal Control Unit. Removal or release of any animal from such a trap is prohibited.
- C. *Right to destroy.* A Police Officer or Animal 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 Control Unit by an individual with personal knowledge of such violation. The Animal 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.* When the Animal 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 Control Unit may designate additional locations for impoundment under special circumstances, such as special quarantine arrangements, animals held pending legal proceedings, and/or special wildlife impoundments.
- (1) *Health or safety risk.* The Animal 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 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 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 Control Officer shall require reasonable proof of ownership/guardianship prior to releasing the animal to an owner/guardian 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 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 Control Officer may detain any animal found running at large, except as otherwise provided for in this Chapter. If the Animal Control Officer is unable to safely return said animal to the appropriate owner/guardian within a reasonable amount of time, the Officer shall deliver the animal to the ASCMV. The Officer shall require reasonable proof of ownership/guardianship prior to releasing the animal to an owner/guardian 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. *Relinquishment/surrender.* The Animal 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 requesting to relinquish the animal to the Animal 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.
- 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 to indemnify and hold the Animal Control Unit and/or the ASCMV or other suitable facility harmless from any loss or damage it may sustain, including incurred attorney's fees, by reason of the destruction or placement for adoption of said animal.

- (2) The Animal Control Unit shall provide for the transport of a relinquished animal to the ASCMV.
 - a. The transport fee amount shall be established and adopted through City Council resolution.
- E. *Cruelty; extreme cruelty.* An Animal 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 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 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 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) 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) 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 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 identification.

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- (8) The ASCMV shall hold any animal impounded as a care and maintenance impoundment for a minimum Reclamation Period of five (5) 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 Control Officer.
- B. *Impoundment fees.* Fees for the impoundment and boarding of each animal shall be established by the ASCMV Board or its designee 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 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 obtain a new vaccination from the ASCMV before said animal may be reclaimed.
 - (2) The fees for the rabies vaccination shall be set by and payable to the ASCMV.
- D. *Proof of microchip.* Proof of a working implanted microchip in a companion animal 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 ASCMV staff member confirming the presence of a working identification microchip.
 - (2) If proof of a working microchip is not detected, the owner/guardian or community cat caregiver shall be charged for implantation of a new microchip by the ASCMV before the animal may be reclaimed.
 - (3) The microchip and corresponding owner/guardian or community cat caregiver contact information shall be registered by the ASCMV.
 - (4) The microchip fee shall be set by and payable to the ASCMV.

- E. *Proof of sterilization.* A person reclaiming a companion animal that was seized or apprehended from an address or location within the City shall provide proof that 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 7-11A-1.
 - (2) If proof of sterilization cannot be provided or such condition is not readily obvious to the ASCMV staff, the owner/guardian 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.
- F. *Release of Community Cats.* Prior to release of any community cat, a licensed veterinarian must establish that the cat has been sterilized, 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 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, 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 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. 7-46. Fees and Penalties

Fees and penalties pursuant to this Section shall be established by City Council.

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 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 ~~or 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 12~~46~~ 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.

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.**

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- (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 docked 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 ear-tipping, 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/owner 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, coati mundi, 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

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.~~

- (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