

Animal Control Ordinance



City of Las Cruces[®]
PEOPLE HELPING PEOPLE

MEMORANDUM

TO: Robert Garza, City Manager

FROM: Marcy Driggers, Senior Assistant City Attorney *MSD*

SUBJECT: City Council Work Session on January 27th

DATE: January 17, 2014

Attached are the following three (3) documents to be provided to the Council as part of the Animal Control Ordinance presentation set for the January 27th work session:

1. Proposed new Animal Control Ordinance consisting of 30 pages;
2. October 2013 Memorandum discussing the pros and cons of various TNR options for Council consideration; and
3. Lawsuit filed in November 2013 against the City of Albuquerque seeking to shut down Albuquerque's TNR program.

c: James Chavez, Codes Enforcement
Rudy Adame, Animal Control

Chapter 7

ANIMALS

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Article I. General Provisions

- Sec. 7-1. Short title and legislative intent.**
- Sec. 7-2. Definitions.**
- Secs. 7-3.-7-9. Reserved**

Article II. Animal Care and Ownership Responsibilities

- Sec. 7-10. General care and ownership responsibilities.**
- Sec. 7-11. Pet licensure and owner identification.**
- Sec. 7-12. Rabies vaccination and exposure requirements.**
- Sec. 7-13. Restraint requirements.**
- Sec. 7-14. Abandonment prohibited.**
- Sec. 7-15. Animal cruelty prohibitions.**
- Sec. 7-16. Restrictions on sale or transfer of ownership.**
- Sec. 7-17. Deceased animal disposal requirements.**
- Sec. 7-18. Nuisance prohibitions.**
- Sec. 7-19. Found animals.**
- Sec. 7-20. Puppy mill.**
- Secs. 7-21.-7-29. Reserved.**

Article III. Permitted, Licensed, and Prohibited Animals

- Sec. 7-30. Kennel license.**
- Sec. 7-31. Special animal permits.**
- Sec. 7-32. Livestock.**
- Sec. 7-33. Dangerous or potentially dangerous dogs.**
- Sec. 7-34. Prohibited animals.**
- Sec. 7-35. Permit fees and qualified service animals.**
- Secs. 7-36.-7-39. Reserved.**

Article IV. Administration and Enforcement

- Sec. 7-40. Remittance of permit fees.**
- Sec. 7-41. Animal control officers.**
- Sec. 7-42. Enforcement authority and processes.**
- Sec. 7-43. Impoundment and detention.**
- Sec. 7-44. Reclamation.**
- Sec. 7-45. Penalties.**

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 and caretaking of animals; reduce potential nuisance issues associated with animals; reduce predation by domestic animals; and minimize the number of healthy or treatable 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 encourage responsible animal ownership through:
 - 1. owner identification and pet licensure;
 - 2. population management primarily through sterilization;
 - 3. humane care;
 - 4. vaccination against rabies; and
 - 5. physical control of pets.
- D. 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) --- To leave an animal for more than twenty-four (24) hours without providing effective provisions for its proper feeding and care.

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

Animal shelter --- Either a governmental or private organization that provides a temporary home for stray or surrendered pet animals until the animal is reclaimed by the owner, adopted to a new owner, placed with another organization, or euthanized.

Bite --- An actual puncture or tear of the skin inflicted by the teeth of an animal.

Breeding --- Allowing, either intentionally or unintentionally, a dog, cat, or other domestic animal to produce offspring.

Canine hybrid --- Any offspring resulting from the breeding of a domestic species or 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, wolf-dog, or wolf hybrid by its owner to an Animal Control Officer, veterinarian, police officer, or official of the Department of Health shall be considered a canine hybrid for the purposes of this Chapter. An animal shall not be judged to be a canine hybrid based strictly on its appearance.

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 licensure tags can be affixed.

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

Dangerous dog --- A dog as defined under the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2 *et seq.*, as amended.

Domesticated animal --- A species of animal that has been domesticated to serve as a companion animal to humans, a work animal for humans, or for human consumption.

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 present or 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 as it relates to a female animal.

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 cat. Any animal which at any time has been or is advertised or otherwise described or represented as a feline hybrid by its owner to an Animal Control Officer, veterinarian, police officer, or official of the Department of Health shall be considered a feline hybrid for the purposes of this Article. An animal shall not be judged to be a feline hybrid based strictly on its appearance.

Fertile --- Capable of producing offspring.

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.

Found animal report --- A written notice submitted to the ASCMV by the finder of an unclaimed or stray animal, accurately describing the animal and the conditions under which the animal was found, including location, date, and time. Such a report shall also include the name and accurate contact information for 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.

Harbor --- To 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, the care, or control of an animal.

Humane --- To have compassion, benevolence, and sympathy for people and animals, especially for 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 stores a unique, unalterable, alphanumeric code which can be registered to correspond with contact information for the owner of the animal.

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

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

Impoundment facility --- Any animal facility, kennel, shelter, veterinary hospital, lot, premise, 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.

Intact --- Refer to *Fertile*.

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

Kennel, Commercial --- Any premises on which eight or more dogs or eight or more cats or eight or more rabbit, four months of age or older, are kept; or where the business of buying, selling, breeding, training or boarding of dogs or cats or rabbits is conducted, but does not include veterinary hospitals or the ASCMV.

Kennel, Private Residential --- Any premises on which more than two dogs or two cats or two rabbits, or any combination thereof in excess of two, 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 of dogs, cats or rabbits is not carried on, with the exception that the sale of not more than two litters per year for each kennel shall be permitted.

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

Livestock --- All animals that have been domesticated for 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, rabbits, and farmed cervidae, but excludes canine or feline animals.

Litter --- A group of one (1) or more young animals born at the same time from the same mother.

Microchip --- Refer to *Identification microchip*.

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

Missing animal report --- A written notice submitted to the ASCMV by the owner of a missing animal, 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 the name and accurate contact information for the person responsible for submitting said report.

Neutered --- Refer to *Sterilized*.

Nuisance --- A disturbance caused by an animal to the comfort and repose of any person of ordinary sensibilities in the vicinity.

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, or keeps an animal or permits an animal to remain on or about the premises owned or controlled by him/her.

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 Control Unit authorizing the keeping of specific animals on specific premises.

Pet --- Any domesticated animal kept as a companion animal, and not intended to be used for farming or human consumption.

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

Poisonous substance --- Any substance, 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.

Potentially dangerous dog --- A dog as defined under the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2, et seq., as amended.

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.

Puppy mill --- A commercial dog breeding facility operated with an emphasis upon profits above animal welfare and often in substandard conditions regarding the well-being of the dogs and puppies 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.

Qualified assistance animal --- Refer to *Qualified service animal*.

Qualified service animal --- Any of the following:

- A. A dog trained or being trained by a recognized school for training dogs to assist persons with disabilities; or
- B. An animal recognized as a service animal pursuant to the Americans with Disabilities Act of 1990; or
- C. Any other animal approved by the governor's committee on concerns of the handicapped as acceptable in public places and trained to provide some special assistance to a person with a disability.

Quarantine --- The strict isolation of a potential rabies suspect animal for a ten (10) 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.

Reclamation period --- The length of time made available to an animal's owner, 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 (3) continuous hours.

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

Residence --- 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:

- A. To be under the immediate control of a capable and competent person; or
- B. To be secured by a tether confining the animal within the owner's premises; or
- C. 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.

Sexual abuse of animals --- Intentionally engaging in sexual intercourse, cunnilingus, fellatio, or anal intercourse with an animal or the causing of penetration, to any extent and with any object, of the genital or anal openings of an animal, whether or not there is any emission.

Spayed --- Refer to *Sterilized*.

Sterilized --- To be rendered permanently incapable of producing offspring.

Stray --- Refer to an animal *Running at large*.

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

Trap --- A mechanical 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.

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

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.

Secs. 7-3-7-9. Reserved.

ARTICLE II. ANIMAL CARE AND OWNERSHIP RESPONSIBILITIES

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

- A. *Animal well-being.* A person owning or having 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 the animal with adequate amounts, and with adequate frequency, of fresh potable water and wholesome food sufficient and appropriate for the species, life stage, and medical condition of the animal.
- (2) 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 species appropriate bedding shall be provided on the floor of the housing or enclosure for warmth.
- (3) 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.
- (4) Keep enclosures where the animal is maintained free of insect infestation, including but not limited to ant-hills, wasp nests, and flea, tick, and maggot infestations.
- (5) Keep enclosures where the animal is maintained for periods exceeding twenty-four (24) hours with adequate space to prevent overcrowding and to allow the animal to maintain normal exercise according to species. Such enclosures used to house or confine cats shall 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.
- (7) Keep an animal dwelling unit no closer than one hundred (100) feet to any private water well or no closer than two hundred (200) feet to any public water well.

B. *Livestock well-being.* In addition to the requirements stated above under § 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 fifty (50) feet of each box stall and corral, and each animal shall have access to fresh water in a clean container.
- (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 thereby.
- (3) All areas adjacent to any pen, coop, stable, stall, barn, corral; grazing, workout, or training areas; or other building structures and areas where animals are kept and maintained, shall be graded to drain water away from such facilities so as to prevent ponding and reduce insect harborage.
- (4) Any such animal shall not be kept closer than thirty-five (35) feet to an adjacent residence.
- (5) Such care and husbandry shall also include, but not be limited to, necessary hoof and teeth care.

Sec. 7-11. Pet licensure and owner identification.

A. *License requirement.* A person owning or having care, custody, or control over a dog or cat judged to be three (3) months of age or older shall obtain for such animal a Pet License issued by the ASCMV.

- (1) Application for the Pet License shall be made within thirty (30) days of acquiring ownership or care, custody, or control of a dog or cat judged to be three (3) months of age or older.
- (2) Such person shall also provide current proof of rabies vaccination to the ASCMV before the Pet License may be issued or renewed.
- (3) Such person shall also provide proof of an implanted working identification microchip for the animal to the ASCMV before the Pet License may be issued or renewed.
 - a. Proof of the microchip implantation shall be either documentation or a scan of the animal confirming the presence of a working identification microchip by a staff member of the ASCMV.
 - b. The implanted microchip shall store a unique identification number which shall correspond with such person's contact information for the microchipped animal. The identification number and such person's current contact information shall be registered with the ASCMV before the Pet License may be issued.
 - c. Such person shall maintain a current registry of the animal with the ASCMV.
- (4) Each Pet License issued shall include a Pet License tag and a Certificate of Licensure stating the name and address of such person, the animal's rabies vaccination date and tag number, the animal's identification microchip number, and a complete and thorough physical description of the animal.
- (5) The Pet License shall be valid for one (1) year and must be renewed each year.
- (6) The Pet License shall be refused or revoked if the license applicant has withheld or falsified any application information.
- (7) A duplicate Pet License shall be issued by the ASCMV upon payment of a replacement fee.

B. *License tag.* A person owning or having care, custody, or control over a dog or cat judged to be three (3) months of age or older shall keep the animal's assigned Pet License tag affixed to a collar or harness worn by the animal whenever the animal is away from the owner's property.

- (1) The tags 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 Pet License tag from one animal to another.

C. *Fees.* Pet Licensing fees shall be established and adopted through resolution by the City Council.

- (1) Qualified service animals. No Pet License fee shall be charged for Qualified Service Animals or for any dog trained to assist the blind or deaf.

- (2) Sterilization discount. A person owning or having care, custody, or control over a sterilized dog or cat judged to be three (3) months of age or older shall obtain for such animal a Pet License from the ASCMV at a fee established by resolution of the City Council.

- a. The owner shall show proof to the ASCMV that the animal has been sterilized. 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.

- (3) Age discount. A person over the age of sixty-five (65) years owning or having custody of a sterilized dog or cat shall obtain a Pet License for such animal from the ASCMV at a fee established by resolution of the City Council.

D. All Pet Licensing fees collected shall be remitted or reported to the City and shall be used for animal control purposes.

E. *Records.* The ASCMV shall maintain public records of the Pet License applications and Pet Licenses issued and shall make such records immediately available to Police Officers and Animal Control Officers upon request.

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

A. *Vaccination.* A person owning or having care, custody or control over a dog, cat, or ferret 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 supervision of a veterinarian.
- (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 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 care, custody, or control over a dog, cat, or ferret 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 property.

- (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 care, custody, or control over a dog, cat, or domestic ferret judged to be three (3) months of age or older shall exhibit the vaccination certificate upon request by an Animal Control Officer.
- D. *Exposure; owner/patient responsibility.* When any person is bitten by an animal, it is the duty of such person or his parent or guardian, or any person having knowledge of the whereabouts of the animal, to immediately notify the Animal Control Unit or the Field Health Office.
- E. *Exposure; physician responsibility.* A physician who renders professional treatment to a person bitten by an animal shall report to the Animal Control Unit such treatment 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 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; domesticated animal.* Any dog, cat, or ferret that bites or otherwise exposes a person to rabies shall be either destroyed and the head sent to the laboratory for rabies testing, or placed in isolation immediately at the owner's expense for a ten (10) 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 (10) days following the date and time of the potential rabies exposure.
 - (2) If the dog, cat, or ferret shows signs or symptoms of rabies during the ten (10) 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 in captivity (with the exception of rodents or rabbits) that bites or otherwise exposes a person to rabies, shall be destroyed immediately and the head sent to the laboratory for testing.
- (1) 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 Control Officer may consent to confinement and isolation on the owner's premises of a dog, cat, or ferret that bites a person on the owner's premises.

- (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 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 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.
- I. 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 the disposition of dogs and cats exposed to rabies in the interest of public health and safety prescribed 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 charge, custody, or care over an animal shall keep the animal under humane physical restraint at all times.
- B. *Dragging; hobbling.* A person shall not hobble an animal, or tether or attach any animal to any object that can be dragged or moved by the animal. Such an animal, if not otherwise restrained by a secure tether or enclosure, shall be considered by the Animal Control Officer to be unrestrained. This shall not apply to livestock animals being properly used for work purposes.
- C. *Owner's premises.* A person owning or having care, custody, or control over an animal on his or her premises shall restrain the animal either by a secure enclosure or by immediate control.
- (1) All pens, kennels, stalls, corrals, or other enclosures used to restrain an animal shall be continuously maintained with preservatives, fasteners, and other materials to prevent deterioration and animal escape. Substantial and acceptable locking or latching devices shall be installed on all gates and doors to animal enclosures in such a manner as to be inaccessible to animals and small children in order to prevent animal escape and unauthorized entry.
 - (2) A person owning or having care, custody, or control over a dog on his or her premises may use a tether as a temporary means of restraint only.
 - a. A person shall not tether a dog to a stationary object for more than two (2) hours in any twelve (12) hour period.
 - b. A person shall not tether a dog to a running line, pulley, or trolley system for more than four (4) hours in any twelve (12) hour period.
 - c. A person shall not tether a dog in an unenclosed area where people or other animals are able to wander into the proximity of the tethered dog.

- d. A tether used to restrain a dog shall be at least twelve (12) feet in length. Such tether shall not enable the animal to reach beyond the owner's property.
 - e. A tether used to restrain a dog shall be affixed to a properly fitting collar or harness worn by the dog. A person shall not wrap a chain or tether directly around the neck or other body part of a dog.
 - f. A tether used to restrain a dog shall not weigh more than one-eighth (1/8) of the animal's body weight. The tether weight shall include any additional objects attached to the dog or tether, such as locks or fasteners.
 - g. A tether used to restrain a 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. In all cases, a tethered dog must be able to reach a container with water in it at all times.
- (3) 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 (6) feet in height.
- (4) A person owning or having care, custody, or control over a venomous reptile shall restrain the animal to the owner's premises by a secure locked cage.
- a. 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.
- D. *Public premises.* A person owning or having care, custody, or control over an animal off of his or her premises shall keep the animal under immediate control.
- (1) 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.
 - (2) A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in the open 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.
 - (3) A person in charge of an amphibian or reptile away from the owner's premises shall keep the animal secured within a closed container that will not expose people unexpectedly to the animal.

- (4) A person in charge of a venomous animal away from the owner's premises shall keep the animal secured within a tied bag that shall be placed inside a secure locked box clearly marked "Venomous Animal."
- E. *Property of others.* A person owning or having care, custody, or control over an animal shall not detain or restrain an animal upon another person's private property without having permission from the resident or owner of such property.
- (1) If the resident or owner does not permit the animal being detained or restrained upon such property, the animal may be taken up and impounded by the Animal Control Officer at the request of the resident or owner.
 - (2) If the owner of a rented or leased property does not approve of an animal being restrained or detained by the resident on such property, the dispute shall be regarded by the Animal Control Unit as a civil matter.
- F. *Multiple dwelling unit.* An owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, shall not permit or authorize any animal to be unrestrained upon the common areas of the multiple dwelling unit, except upon such areas and within such enclosures specifically designated for such activity.
- G. *Exceptions.*
- (1) A working dog that is under the control and supervision of the owner or handler performing such acts as herding, search and rescue, or police work shall not be considered as unrestrained while performing or being trained for such duties.
 - (2) A hunting, tracking, or show dog that is under the control and supervision of the owner or handler shall not be considered as unrestrained while performing in or being trained for those capacities.
- H. *Delayed effective date.* Those provisions of this Chapter which limit the number of hours a person owning or having care, custody, or control over a dog may tether such animal shall come into effect no sooner than twenty-four (24) months following approval of this Chapter. During such time period, the Animal Control Unit shall make all reasonable efforts to inform dog owners of such provisions, and encourage dog owners to provide such animals with alternative forms of restraint that are preferable to tethering prior to such provisions coming into effect.

Sec. 7-14. Abandonment prohibited.

- A. A person shall not abandon any animal or cause such abandonment.
- (1) 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.
 - (2) 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.

Sec. 7-15. Animal cruelty prohibitions.

- A. *Cruelty to animals.* A person shall not 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 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, 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. *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.
- (1) Given probable cause, the Animal Control Officer may require the owner to provide a letter of health evaluation from a veterinarian describing the condition of the animal and the treatment provided or recommended.
 - (2) The Animal Control Officer may evaluate the condition of an animal in order to determine probable cause.
- C. *Sexual abuse.* A person shall not take part in any sexual abuse of an animal.
- (1) Nothing herein shall prohibit a person from engaging in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.
- 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 to the Animal Control Unit.
- 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 manual devices in a manner that will cause or is likely to cause physical injury or suffering shall not be permitted.
- (1) All equipment used on a performing animal shall fit properly and shall be in good working condition.

- F. *Performance of duty.* Nothing herein shall prohibit the Animal Control Officer from using a tranquilizer gun, snare, or trap to humanely capture animals as reasonably necessary for the control of such animals.
- G. *Hunting.* Nothing herein shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authorities.

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, or adopt a dog, cat, or ferret 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 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 a nursing female.
- B. *Sale in public.* A person shall not sell, offer for sale, barter, give away, transfer 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 shelter.
- 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 FAA or 4-H sanctioned event.
- D. *Venomous animal.* A professional animal establishment shall not offer for sale any venomous animals, other than tropical fish contained in 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.

Sec. 7-17. Deceased animal disposal requirements.

- A. *Owner responsibility.* A person owning or having care, custody or control of an animal carcass shall be responsible for its removal within twenty-four (24) hours of death if the animal is not to be used for human consumption.
 - (1) An animal carcass may be disposed of at the South Central Solid Waste Authority as authorized.
- B. *Removal.* The Animal Control Officer may remove any animal carcass from the roadway or other public property. The Officer and/or ASCMV shall make reasonable efforts to notify the animal's owner if known in the event of the animal's death.
 - (1) The 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.
 - (2) The Officer 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.

(1) The fee amount shall be established by City Council resolution.

Sec. 7-18. Nuisance prohibitions.

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

B. *Female in estrus.* A person owning or having care, custody, or control over a female animal in estrus shall confine the animal in such a way that prevents the animal from becoming a nuisance.

C. *Waste.* A person owning or having care, custody, or control over a small domestic animal such as a dog or cat shall dispose of animal waste from the animal in a watertight and fly tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard.

(1) Such receptacles shall be securely covered at all times except when opened to dispose of the animal waste.

(2) No animal waste shall be permitted, either intentionally or unintentionally, to accumulate except in such receptacles.

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

E. *Noise.* A person owning or having the care, custody or control of an animal shall not permit that animal to cause frequent or long-continued howling, barking or 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 audible beyond the property line of the premises on which the animal is located:

(1) For more than 15 minutes in a 24 hour period, and is attested to by complainants from two or more separate properties; or

(2) For more than 15 minutes in a 24 hour period, and is attested to by an Animal Control Officer or law enforcement officer.

F. *Noise abatement.* In order to abate the nuisance created by the animal howling, barking or making noise in violation of this section, an Animal Control Officer may enter the premises on which the animal is located and may impound the animal if the Animal Control Officer is unable to contact the person owning or having the 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.

Sec. 7-19. Found animals.

- A. A person shall not, without the knowledge and consent of the owner, harbor, hold or retain possession of any animal for more than twenty-four (24) hours without first submitting a Found Animal Report to the ASCMV.
- (1) A person having possession of such an animal shall immediately surrender the animal to the Animal Control Officer upon request.
 - (2) A person having possession of such an animal shall allow the animal to be scanned for the presence of an Identification Microchip by the Animal Control Officer immediately upon request.
 - (3) If the animal remains in the custody of the finder and the owner of such animal fails to submit a Missing Animal Report with the ASCMV within seventy-two (72) following the submission of the Found Animal Report, the finder may thereafter claim ownership of the animal.

Sec. 7-20. Puppy mill.

No person shall keep or operate a puppy mill.

Secs. 7-21–7-29. Reserved.

ARTICLE III. PERMITTED, LICENSED, AND PROHIBITED ANIMALS

Sec. 7-30. Kennel license.

- A. No person shall keep or operate a private residential kennel or commercial kennel without a kennel license issued by the City.
- B. Any person who operates or proposes to operate a private residential or commercial kennel shall file an application for a license with the Animal Control Unit, describing the location of the kennel and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from the kennel licensure requirement of this Chapter.
- C. All applications for kennel licenses must meet the following conditions:
- (1) An initial non-refundable fee, established by City Council resolution, for commercial kennels and private residential kennels must accompany any application to defray the cost of processing the request.
 - (2) Commercial kennels must also comply with the City business registration requirements.
 - a. An annual commercial kennel license fee shall be established by City Council resolution.

- b. Approval is required by the City zoning administrator and Animal Control Officer.
 - c. All boarded animals three months of age or over must meet the Pet Licensing requirements of this Chapter.
- (3) All private residential kennel licenses must be renewed annually at a fee established by the City Council resolution.
 - (4) An application may be denied if the owner or responsible person shows a history of noncompliance with this Chapter as evidenced by two or more convictions of violations of this Chapter during the past year.
 - (5) All kennels must comply with applicable zoning regulations, including, but not limited to, use restrictions associated with specific zoning categories and restrictions on the total number of animals that may be kept on a parcel. If any provision of this Section is in conflict with the provision of any applicable zoning regulation, the provision of the zoning regulation shall control.
- D. A kennel license or special animal permit may be revoked when, in the opinion of the zoning administrator or Animal Control Officer, any one or more the following conditions exist:
- (1) The premises or enclosures are not maintained in a clean and sanitary condition and/or a health hazard or produce noxious odors.
 - (2) The enclosures are unsafe.
 - (3) Animals are unlicensed.
 - (4) The number of animals exceeds the number allowed under the license.

Sec. 7-31. Special animal permits.

- A. *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.
- B. *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.
- C. *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.

- D. *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 *Rhabdophis*, keelbacks). The Animal Control Unit will not issue this special permit until the appropriate federal and state permits are acquired.
- E. *FFA or 4-H.* An active member in good standing of a locally recognized FFA or 4-H program may keep up to two animals to meet program requirements subject to zoning, provided that the individual is currently participating in a program utilizing these animals, and has received a permit from the Animal Control Unit for such activity. 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 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.
- F. *Application generally.* Any person who operates or proposes to operate an aviary for the purpose of bird rehabilitation, to maintain any venomous species of snake or lizard, to maintain any pigeon loft, to keep any bird of prey, or to participate in a locally recognized FFA or 4-H program shall file an application for a special annual 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 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.
- G. *Application conditions.* All applications for special animal permits required under this Section must meet the following conditions:
- (1) 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 shows a history of noncompliance with this Chapter as evidenced by two or more convictions of violations of this Chapter during the past year.
- H. *Revocation.* A special animal permit may be revoked when, in the opinion of the zoning administrator or Animal Control Officer, it is maintained that 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.
 - (3) Containers for venomous snakes or lizards are not clearly labeled and locked.

- (4) The keeping of any permit-required species not allowed under the provisions of the existing special permit.

I. *Conditions for keeping pigeons.*

- (1) Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. Fancy pigeon means 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.
- b. Loft means the structure for the keeping or housing of pigeons permitted by this section.
- c. Pigeon means a member of the family 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 limits.
- d. Racing pigeon means 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.
- e. Sporting pigeon means a pigeon which, through selective past breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying. Examples include rollers and tippers.

- (2) Maintenance, care and confinement.

- a. 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.
- b. There shall be at least 1½ square feet of floor space in any loft for each mature pigeon kept therein.
- c. The construction and location of the loft shall not conflict with any City building code.
- d. All feed for pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.

- e. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations.
- f. 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, thus creating a nuisance.
- g. All pigeons shall be fed within the confines of the loft.
- h. Pigeons will not be released from the loft unless they have not been fed within the previous four hours.
- i. 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.

J. *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.

(1) Permit conditions.

- a. A dog shall not be used to guard residential property.
- b. The permit application shall include sufficient information to identify the name and address of the owner of the commercial property, the name and address of the owner of the guard dog, and the location intended to be guarded by the guard dog.
- c. The permit applicant shall submit to a pre-permit inspection of the premises by the Animal Control Unit, so that an accurate physical description of the animal may be obtained.
- d. 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.
- e. 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.

- (2) 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 long on each side.
 - b. The warning signs shall state “Guard Dog” and “Guardia” and shall show a picture of an aggressive dog.
 - c. 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.
- (3) 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.
 - a. The vehicle shall be constructed or modified to ensure that the guard dog is transported in a safe, humane manner.
 - b. The vehicle shall be conspicuously posted with guard dog warning signs on both sides of the vehicle.

Sec. 7-32. Livestock.

The keeping of livestock, including both large and small animals, and livestock densities shall be governed by applicable City zoning regulations.

Sec. 7-33. Dangerous or potentially dangerous dogs.

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.

Sec. 7-34. Prohibited animals.

- A. *Wildlife, Wild and Exotic Animals.* 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:
 - (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.

B. *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.* Notwithstanding any other provision of law, a qualified service animal shall be admitted to any building open to the public and to all public accommodations such as restaurants, hotels, hospitals, swimming pools, stores, common carriers, and theaters, provided that the qualified service animal is under the control of a person with a disability or a trainer of service animals.
- 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 damage done by his or her qualified service animal.

Secs. 7-36–7-39. Reserved.

ARTICLE IV
Administration and Enforcement

Sec. 7-40. Remittance of permit fees.

- A. All permit fees, license fees, transport fees, and dead animal removal fees, collected pursuant to this Chapter shall be remitted to the City, who shall place the monies in the City general fund.

Sec. 7-41. Animal control officers.

- A. The City shall designate Animal Control Officer(s).
- B. Animal 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.
- C. Animal Control Officers shall be provided with training to apprehend and handle animals.
- D. In carrying out the provisions of the Animal Control Ordinance and other applicable regulations, every Animal Control Officer is authorized to pursue a stray animal or a vicious dog or a dog molesting livestock or any animal with symptoms of rabies 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, for the purpose of inspecting and investigating such alleged violation.
 - (2) If the owner or occupant of any such private premises objects to inspection or onsite investigation, a warrant shall be obtained from a court of competent jurisdiction prior to inspection.
- 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 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 a person who has 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 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 Control Officer has probable cause to believe that a person has violated this Chapter or any other applicable animal 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 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.
- B. *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.
 - (1) 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.
- C. *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 Officer may require reasonable proof of ownership prior to releasing the animal to an owner or caretaker in the field.

- a. 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.
- D. *Running at large.* The Animal Control Officer may detain any animal found running at large, except as otherwise provided for in this Chapter.
- (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 Officer may require reasonable proof of ownership prior to releasing the animal to an owner or caretaker in the field.
 - a. If the animal is not to be held pending court proceedings, such an impoundment shall be considered a *running at large* impoundment for the purposes of reclamation.
- E. *Owner relinquish.* The Animal Control Officer may detain and deliver to the ASCMV any animal relinquished by its owner.
- (1) An owner requesting to relinquish ownership of an 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 shall:
 - a. Affirmatively represent in writing that he or she is the legal owner of the animal;
 - b. Transfer ownership of the animal to the ASCMV or other 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 indemnify and hold the Animal Control Unit and/or the ASCMV or other suitable facility harmless from any loss or damage he or she may sustain, including attorney's fees, by reason of the destruction or placement for adoption of said animal.
 - (2) The Animal Control Unit may 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.

- F. *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 cruel 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.
- G. *Rabies exposure; animal surrender.*
- (1) A person owning or having 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 care, custody or control refuses to surrender custody said animal, the Officer may seek a warrant for the seizure of the animal.

Sec. 7-44. Reclamation.

- A. *Right to reclaim.* The owner 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 euthanization 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.
 - (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.
 - (6) The ASCMV shall hold any deceased animal delivered to the ASCMV with Pet Identification for a minimum Reclamation Period of one (1) working day.
 - (7) The ASCMV shall not be required to hold for any minimum Reclamation Period any deceased animal delivered to the ASCMV without 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 may not reclaim any animal that has been placed under a court-ordered detainment.
 - (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, 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 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 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 dog, cat, or ferret 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 shall purchase either a new vaccination or a vaccination voucher for the animal from the ASCMV before said animal may be reclaimed.
 - a. If the owner chooses to purchase a vaccination voucher, the owner shall sign an agreement stating he or she will have the animal vaccinated against rabies within thirty (30) days of reclamation.
 - b. The owner 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 dog, cat, or ferret 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, the owner shall be charged for microchip implantation by the ASCMV before the animal may be reclaimed.
 - a. If the owner chooses to purchase a microchip voucher, the owner shall sign an agreement stating he or she will have said animal microchipped within thirty (30) days of reclamation.
 - b. The owner 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 contact information shall be registered with 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 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 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.
 - (2) If proof of sterilization cannot be provided or such condition is not readily obvious to the ASCMV staff, the owner shall provide a sterilization deposit to the ASCMV.
 - (3) The owner 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 upon presentation of proof of sterilization to the ASCMV by the owner within thirty-five (35) days of reclamation.
 - (5) The sterilization deposit shall not be reimbursed for obtaining an Intact Animal Permit.

Sec. 7-45 - Penalties.

Each violation of this Chapter shall be enforced and shall be punishable as provided in Sec. 1-10 of this Code, as amended.

October 2013

MEMORANDUM

Re: Pros and Cons of Various Trap, Neuter, and Return (aka Trap, Neuter, and Release) Ordinance Options for the City of Las Cruces and the County of Doña Ana, and Staff Recommendations.

I.

INTRODUCTION AND BACKGROUND

City and County staff recognize that far too many feral, stray and abandoned cats and kittens are euthanized at the Animal Services Center of the Mesilla Valley (“ASCMV”) and, in recognition that traditional approaches to reducing the feline euthanization rate have not been effective, other options to reduce the euthanization rate should be considered. This Memorandum addresses optional approaches to reduce free roaming cat colonies, which include feral cats that are un-owned and not socialized to humans and may include stray or abandoned cats which are un-owned but cautiously friendly to people, and provides the City and County Staff recommendations as to implementation of a TNR type program, if desired by the respective governing bodies.

Staff has been tasked to draft proposed Ordinances to replace existing animal control ordinances using a draft originally developed by citizens’ groups and recommended by the ASCMV Board as the starting point. That original draft contained extensive regulation of cat colonies and catteries under a section entitled Community Cat Management. After substantial internal discussion, City and County staff deleted the entire section concerning Community Cat Management in the staff draft recommended to the Board for two (2) reasons:

(1) STATUTORY PROHIBITION:

NMSA 1978 Section 77-1-12 entitled “Local Control by Ordinance; Dogs and Cats Running at Large” provides: “Each municipality and each county shall make provision by ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on the person's premises” This statutory provision has been traditionally interpreted as requiring cities and counties to seize and provide for the disposition of dogs and cats running at large. This law has been in effect for over 100 years and, as traditionally interpreted, would not allow cities or counties the discretion to return cats to the “wild”. Cats are traditionally returned to owners, and if not returned, they are released for adoption if social, eventually euthanized if not adopted, or are initially euthanized if feral.

Two legal questions exist relating to interpretation of the statute. The first is whether the statute requires the City and the County to seize (without discretion) all dogs and cats running at large or whether the statute merely requires that cities and counties pass an ordinance dealing with the seizure and disposition of such dogs and cats. The second question is whether the statute can be interpreted to provide for a broader concept of “disposition” that would allow cats to be returned to the “wild” or free roaming cat colonies. There is no case law interpreting section 77-1-12, and thus, there is no clear answer to either of the preceding legal questions, only arguments.

(2) NO PRECEDENT:

Staff can find no New Mexico city or county that has adopted an ordinance that directly provides for TNR. Bernalillo County is the only New Mexico governmental entity that even mentions the words by providing that “(a) person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harbinger, keeper, holder or possessor such cats.” However, Bernalillo County does not set standards or permit TNR programs. It merely attempts to de-criminalize behavior that may otherwise violate sections of the county’s ordinance (such as the prohibition against harboring a stray cat). Volunteer TNR programs operate within New Mexico cities and counties such as Santa Fe, Albuquerque, and Bernalillo, but, again, none of these governmental entities formally authorize and regulate such programs by ordinance.

The original citizens’ group developed, and ASCMV Board recommended, draft Animal Control Ordinance provided for two (2) ordinance approaches to managing the reduction of feral and free roaming cats. The first approach contemplated unrestrained outdoor “cat colonies”, while the second approach contemplated indoor “catteries” where cats are physically restrained within an enclosed cattery facility. Both approaches required overly extensive City and County government oversight, regulation, and permitting.

City and County animal control staff are adamantly opposed to the concept of catteries because well intended though misguided individuals may well interpret those provisions to justify hoarding—in essence legalizing cat hoarding. As the proposed Ordinances have been drafted and recommended by staff, there is no need for catteries because cat caregivers can apply for multiple animal site permits from the County and private residential kennel permits from the City which would allow for extra cats.

City and County animal control staff are adamantly opposed to the concept of government regulated unrestrained outdoor “cat colonies” due to the risks inherent in the interpretation (or misinterpretation) of NMSA 1978 Section 77-1-12, as outlined above, and the concerns listed below.

II.

ADVANTAGES AND DISADVANTAGES OF DIFFERENT TYPES OF TNR ORDINANCES

City and County Animal Control staff recognize that the City Council and/or the County Commission may desire to “legitimize” in some way TNR programs for free roaming colonies through the animal control ordinance drafts currently under consideration. If so, according to a 2010 essay by Michelle Newton, J.D. Candidate from Seton Hall University School of Law, there are three basic types of TNR ordinances that have been enacted in the United States: Sponsor Based Ordinances; Caretaker-based Ordinances; and Ordinances Delegating Authority. Staff has paraphrased Ms. Newton’s description of each type along with the advantages and disadvantages of each, and staff has added its own concerns as follows:

- (1) SPONSOR-BASED ORDINANCES: These require caretakers to register their colonies with a private non-profit corporation or private citizen appointed as a TNR sponsor by the government, and impose detailed standards on both the sponsor sponsoring the TNR program as well as on the caretaker who manages the colony.

PROS:

- Provides uniform standards of sponsorship.

- Protects privacy of caretakers and their colonies such as colony locations.

- Shifts administrative role in approving, supervising, and registering feral cat colonies, and the training of caretakers, to sponsors.

CONS:

- Impossible to implement unless responsible animal welfare groups are willing or able to take on the sponsorship role.

- Government naming of specific sponsors may risk classifying the sponsor as a governmental or quasi-governmental agency for purposes of IPRA.

- Governmental involvement in approving the sponsoring organization may be controversial and the government’s “choice” as to the sponsoring organization may be subject to legal challenge.

- Governmental revocation of sponsoring organization status may require notice and opportunity to be heard and may be subject to legal challenge.

-May require the sponsor to acquire liability insurance and covenant to hold the government "harmless" against liability resulting from the actions or failures to act of sponsors, caregivers, etc.

-May limit animal control staff action against a cat or colony based on complaints.

-Likely to interfere with animal control staff's ability to seize cats running at large as believed required under Section 77-1-12.

(2) CARETAKER BASED ORDINANCES: These ordinances require caretakers to register their colonies directly with the City or County, and impose detailed standards for managing the colonies that the governmental entity monitors for compliance. This caretaker based model appears to be the closest to that included in the draft originally developed by citizens' groups and recommended by the ASCMV Board.

PROS:

-Not dependent on outside administrator.

-Directly regulated by government so more consistency.

CONS:

-Creates a time consuming governmental regulation that will require creation of a governmental TNR bureaucracy responsible for permitting, record keeping, rule promulgation, enforcement action, enforcement process, appellate process, and defense against legal challenge.

-May create governmental liability for the actions or inactions of caretakers who are approved and permitted by the government.

-May limit animal control staff action against a cat or colony based on complaints.

-Likely to interfere with animal control staff's ability to seize cats running at large as believed required under Section 77-1-12.

(3) DELEGATION TO GOVERNMENT OR QUASI GOVERNMENTAL ENTITY: These ordinances approve the practice of TNR programs but delegate to a specific government or quasi governmental agency such as the ACSMV the task of drafting and enforcing TNR programs and guidelines.

PROS:

- Consistency similar to governmental administration.
- Less controversial (initially) because few details in the ordinance.

CONS:

- Government may be considered the “alter ego” of Delegated Entity for liability purposes.
- May require the Delegated Entity to acquire liability insurance.
- Implemented guidelines may not be acceptable to City or County.
- May create governmental liability for the actions or inactions of caretakers who are approved and permitted by the Delegated Entity.
- May limit animal control staff action against a cat or colony based on complaints.
- Likely to interfere with animal control staff’s ability to seize cats running at large as believed required under Section 77-1-12.

III.

CITY AND COUNTY STAFF RECOMMENDED APPROACH

DE-CRIMINALIZE BEHAVIOR THAT MAY VIOLATE EXISTING ORDINANCE:
This appears to be the approach taken by Bernalillo County. This approach would require the interpretation of NMSA 1978 Section 77-1-12 as allowing the “disposition” of cats to include releasing them to TNR caretakers who are not the legal owners of the cats. As requested by Dr. Beth Vesco-Mock, prior to release, the caretaker would have to establish to the ASCMV’s satisfaction that any released cat is micro chipped, vaccinated for rabies, tested for feline leukemia, sterilized, and ear tipped.

PROS:

- Allows citizens to trap, neuter, test, vaccinate, micro chip, ear tip, and return cats to their trapped location, and to provide on-going care for such cats without risking criminal penalties for actions that would otherwise constitute offenses such as “harboring”, “abandonment”, and “allowing animals to run at large”.
- Minimizes potential violations of NMSA 1978 Section 77-1-12.
- Good first step to see how unregulated caretakers administer their cat colonies.

- No governmental involvement or enforcement beyond verifying that any released cat is micro chipped, vaccinated, tested for feline leukemia, sterilized, and ear tipped.
- Removes government from the administrative burden of the permitting and permit revocation processes.
- Decreased risk of governmental liability for actions/inactions of caretakers.
- Animal control staff authority to seize cats running at large under NMSA 1978 Section 77-1-12 will remain intact, and can be used in appropriate circumstances.
- Animal control staff authority to act on complaints will be maintained.
- Least likely to offend the New Mexico Department of Game & Fish who question the effect of community cat management programs in stabilizing feral cat populations as set forth in its September 5, 2013 letter to Mayor Miyagashima with supporting citations. A copy of the letter is attached as Exhibit "A".

CONS:

- No feedback to measure success or failure of free roaming TNR cat colonies beyond possible self-reporting by cat colony caretakers.
- No uniform standards for "caretaking" (but individuals must still comply with standards relating to animal welfare, cruelty, etc.).

GOVERNOR
Susana Martinez



DIRECTOR AND SECRETARY
TO THE COMMISSION
James S. Lane, Jr.

DEPUTY DIRECTOR
Daniel E. Brooks

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

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STATE GAME COMMISSION

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Las Cruces

DR. TOM ARVAS
Albuquerque

ROBERT ESPINOZA, SR.
Farmington

PAUL M. KIENZLE II
Albuquerque

BILL MONTOYA
Alto

RALPH RAMOS
Las Cruces

September 5, 2013

Mayor Ken Miyagishima
700 North Main Street
Las Cruces, NM 88001-3512



Dona Ana County Proposed Animal Ordinance

Dear Mayor Miyagishima:

The Department of Game and Fish (Department) has reviewed the Recommendations by the Animal Services Center of the Mesilla Valley for the Regulation of Animal Care and Control in Dona Ana County and the City of Las Cruces (Recommendations). This letter is a follow-up to our letter of November 30, 2011. We appreciate the addition of "individuals holding a State of New Mexico Wildlife Rehabilitation or Educational Use Permit" to section 4-6-B of the Recommendations.

Section C of the Recommendations addresses the issue of Community Cat Management. Stated purposes include a humane reduction in the population of feral and other free-roaming cats and a reduction in the predation by feral and other free-roaming cats on wildlife and other animals. This section includes a recommendation to authorize two types of Community Cat Management Permits: Cattery and Unrestrained. While the contained Cattery concept has worked well in some areas, the Unrestrained proposal neither significantly reduces the population of feral and other free-roaming cats nor does it reduce the predation by feral and other free-roaming cats on wildlife and other animals. In fact, Trap-Neuter-Release (TNR) programs have not been shown to stabilize feral cat populations (Castillo and Clarke 2003, Natoli et al. 2006). The only TNR programs reporting success have included the removal of significant numbers of animals for adoption (Centonze and Levy 2002, Hughes and Slater 2002, Levy et al. 2003).

EXHIBIT A

Feral and other free-roaming cats pose significant threat to native birds, herpetofauna and small mammals (Crooks and Soule 1999, Kays and DeWan 2004, Lepczyk et a. 2004, Baker et al. 2005). Studies show that, even when fed daily by humans, cats continue to hunt wildlife (Warner 1985, Churcher and Lawton 1987, Churcher and Lawton 1989, Mitchell and Beck 1992). In fact, supplemental feeding of free-roaming cat colonies may lead to hyperpredation and increased densities of cats (Courchamp et al. 2000, Woods et al. 2003). In addition, free-ranging cats compete with native predators (George 1974, Crooks and Soule 1999).

The Wildlife Society has published a position statement on feral and free-ranging cats that the Department fully endorses. This position paper is attached for your review.

Thank you for the opportunity to review and comment on these Recommendations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cal Baca".

Cal Baca, Chief
Wildlife Management Division

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THE WILDLIFE SOCIETY

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Final Position Statement

Feral and Free-Ranging Domestic Cats

Feral and free-ranging domestic cats are exotic species to North America. Exotic species are recognized as one of the most widespread and serious threats to the integrity of native wildlife populations and natural ecosystems. Exotic species present special challenges for wildlife managers because their negative impacts on native species are poorly understood by the public to the point that many exotic species are perceived as a natural component of the environment. Some exotic species have advocacy groups that promote their continued presence, and few policies and laws deal directly with their control. Perhaps no issue has captured more of the challenges for contemporary wildlife management than the impacts of feral or free-ranging domestic cats and their impacts on native wildlife.

Domestic cats originated from an ancestral wild species, the European and African wild cat (*Felis silvestris*). The domestic cat (*Felis catus*) is now considered a separate species, and is found on all 7 continents, with 600 million cats worldwide and 148-188 million within the U.S.. Domestic cats have great reproductive potential. Individuals become sexually mature as early as 6 months of age, and reproduction can occur throughout the year. A single female may produce as many as 3 litters each year with 2 to 4 kittens per litter, with the capacity to successfully raise as many as 12 offspring in any given year.

A growing body of literature strongly suggests that domestic cats are significant predators on small mammals, birds, reptiles, and amphibians. Feral and free-ranging cats also serve as reservoirs for several diseases, including rabies, toxoplasmosis, bartonellosis, typhus, and feline immunodeficiency virus, that can have significant effects on the health of humans, wildlife, and other domestic animals. Because humans often feed free-ranging cats, they can reach population levels that may result in abnormally high predation rates on wildlife and increase the spread of diseases. Domestic cats have tremendous impacts on wildlife and are responsible for the extinction of numerous mammals, reptiles, and at least 33 bird species globally. Effects of cat predation and disease spread are most pronounced in island settings (both actual islands and islands of habitat), where populations of wildlife are already low or stressed by other factors. Effects are also significant in natural areas where cat colonies become established. Competition with native predators, disease implications for native wildlife populations, and pet owners' attitudes toward wildlife and wildlife management also are important issues.

Extensive popular debate over absolute numbers or types of prey taken by feral and free-ranging cats is not productive. The number of cats is undeniably large. Even if conservative estimates of prey taken are considered, the number of prey animals killed is immense. The supplemental feeding of cats does not deter them from killing wildlife; often they do not eat what they kill. Likewise, population-level impacts of diseases associated with cats have only been established in a few wildlife species, such as southern sea otters (*Enhydra lutris nereis*), but negative individual

impacts clearly occur in an extremely wide range of species. Humans introduced cats to North America, and humans are ultimately responsible for the effects these animals have on native wildlife species.

The policy of The Wildlife Society regarding feral and free-ranging domestic cats is to:

1. Support and encourage the humane elimination of feral cat populations, including feral cat colonies, through adoption into indoor-only homes of eligible cats and humane euthanasia of unadoptable cats.
2. Support the passage and enforcement of local and state ordinances prohibiting the feeding of feral cats, especially on public lands, and the release of unwanted pet or feral cats into the wild.
3. Oppose the passage of any local or state ordinances that legalize the maintenance of "managed" (trap/neuter/release) free-ranging cat colonies.
4. Support educational programs and materials that provide scientific information on feral cats and the negative effects on cats from living outdoors, and call on pet owners to keep cats indoors, in outdoor enclosures, or on a leash.
5. Support programs to educate and encourage pet owners to neuter or spay their cats, and encourage all pet adoption programs to require potential owners to spay or neuter their pet.
6. Support the development and dissemination of information on what individual cat owners can do to minimize predation by free-ranging cats, and to minimize potential disease transmission to humans, wildlife, cats, and other domestic animals.
7. Pledge to work with the conservation and animal welfare communities to educate the public about the effects of free-ranging and feral cats on native wildlife, including birds, small mammals, reptiles, amphibians, and endangered species.
8. Support educational efforts to encourage the agricultural community to keep farm-cat numbers at low, manageable levels and use alternative, environmentally safe rodent control methods.
9. Support efforts to reduce risks to the health of humans and other animals posed by diseases and parasites of feral cats, including but not limited to removal of free-ranging cats and elimination of feral cat colonies. Encourage researchers to develop, obtain, and disseminate information on the impacts of feral and free-ranging cats on native wildlife populations, relative to predation, competition, and diseases.
10. Recognize that cats as pets have a long association with humans, and that responsible cat owners are to be encouraged to continue caring for the animals under their control.

Approved by Council August 2011. Expires August 2016.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

Catherine Chavez

MARCY BRITTON,)
)
 Petitioner,)
)
 v.)
)
 BARBARA BRUIN, Director,)
 Albuquerque Animal Welfare)
 Department, In Her Official Capacity,)
 RICHARD BERRY, Mayor, City of)
 Albuquerque, In His Official Capacity,)
)
 Respondents,)

No. D-202-CV-2013-D-202-CV-2013-09303

PETITION FOR WRIT OF MANDAMUS

COMES NOW Petitioner, Marcy Britton by and through her attorney of record A. Blair Dunn, Esq. and, for her Petition for Writ of Mandamus, states as follows:

PARTIES AND JURISDICTION

1. Petitioner Marcy Britton is now, and at all times relevant to this action was, a resident of Bernalillo County and a citizen of the state of New Mexico.

2. Upon information and belief, Respondent Barbara Bruin is now, and at all times relevant to this action was, the Director of the City of Albuquerque Animal Welfare Department, charged in her official capacity with the duty to oversee the operation of the Animal Care Centers, including the duty to ensure that the Care Centers are operated in compliance with applicable city ordinances and state laws. These ordinances and laws include, but are not limited to, the Albuquerque Humane and Ethical Animal Rules and Treatment ("HEART") ordinance, §9-2-1-1 et seq.; NMSA 1978, §30- 18-1 (Cruelty to Animals) and NMSA 1978, §77-1b-2(D). Respondent Barbara Bruin is also charged with

the duty to ensure that the animals in the care and custody of the Animal Care Centers are treated in a humane manner.

3. Upon information and belief, Respondent Richard Berry is now, and at all times relevant to this action was, the Mayor of the City of Albuquerque, charged in his official capacity with the duty to oversee the operation of the Animal Welfare Department, including the duty to ensure his employees are acting in compliance with applicable city ordinances and state laws. Mayor Berry acts as the direct supervisor of Respondent Barbara Bruin and the policies resulting in the violation of state law and city ordinances are done with his explicit endorsement.

4. Pursuant to NMSA 1978 § 44-2-2 the District Courts of the State of New Mexico are to be regarded at all times to be open for the purpose of hearing application for and issuing writs of mandamus.

LEGAL AND FACTUAL BASIS SHOWING THE OBLIGATION OF THE RESPONDENTS TO PERFORM AND A FAILURE TO COMPLY WITH STATE LAW AND CITY ORDINANCES

5. The purpose of the Albuquerque HEART Ordinance with regard to Albuquerque Animal Care Centers ("AACC") gives a "duty of all AACC employees to protect all animals in Albuquerque from neglect and abuse and to protect the public from the dangers and nuisance that are possible when irresponsible owners do not take care of their animals according to the requirements set forth in this article " §9-2-1-3(B).

6. The Albuquerque HEART Ordinance also prohibits cruelty to animals as sets out that abandonment of an animal is animal cruelty in that "Any Person who relinquishes possession or control of an Animal in a location where any reasonable Person would know the Animal has little chance of finding food, potable water, and

shelter is guilty of Cruelty. Abandonment also includes dumping or releasing an Animal anywhere or leaving an Animal behind when a Person moves." §9-2-4-2(I).

7. The Albuquerque HEART Ordinance also provides that AACC employees are subject to prosecution for cruelty and are therefore prohibited from acts of cruelty specifically that "[a]ny Person, including employees of AACC, may be cited for Cruelty hereunder whether or not said Person owns the subject Animal.." §9-2-4-1(B).

8. The laws of the State of New Mexico also prohibit cruelty to animals and states as follows:

Cruelty to animals consists of:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person's custody or control. NMSA 1978, §30- 18-1

Further, whoever commits cruelty to animals is guilty of a petty misdemeanor. NMSA 1978, §30-18-1.

9. It is the responsibility of the City of Albuquerque under NMSA 1978 §77-1-12 that they "[s]hall make provision by ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on the person's premises; provided, however, that the ordinance does not conflict with the provisions of Chapter 77, Article 1B NMSA 1978." Further under NMSA 1978 §77-1B-2(E) that disposition strictly means "adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator licensed by the Department of Game and Fish or the United

States Fish and Wildlife Service; or euthanasia of an animal.” The seizure of and disposition is further directed by Albuquerque HEART ordinance, §9-2-4-3(D)(4) which states that “[a]n At Large Animal shall be Seized and Impounded if the Owner is not available or if the Owner continues to intentionally or negligently allow his or her Animal to be At Large.”

10. Respondents Barbara Bruin and Mayor Berry have failed in their duties by allowing the following illegal or improper practices to occur and to continue to occur at the City of Albuquerque Animal Care Centers:

A. The City of Albuquerque partnered with Best Friends Animal Society for a Trap-Neuter-Return program, in which stray or feral cats are trapped, sterilized and vaccinated, and then abandoned at the location at which they were trapped, such abandonment is therefore cruelty to animals and is in violation of the above referenced City Ordinances and State law. In addition, the City of Albuquerque pays New Mexico Animal Friends to take and abandon stray and feral cats at the location of their original capture regardless of whether the appropriate care or sustenance exists at that location.

B. They AACC caused an unknown number of cats to be abandoned at the location that they were taken from without ensuring their care and sustenance were accounted for as part of the above mentioned program and in violation of the above noted state law and city ordinances.

11. Respondents Barabara Bruin and Mayor Berry have full knowledge that the foregoing improper practices were and are still occurring. Respondents have been

notified on multiple occasions. (See Exhibit A, Letter from NM Game and Fish Department and Exhibit B, Letter from PETA to Mayor Berry)

12. In violation of their duty to ensure that the Animal Care Centers are operated in accordance with the law and their duty to ensure that animals entrusted to the control and care of Animal Welfare are treated humanely, Respondents Barbara Bruin and Mayor Berry have failed and or refused to take action to stop and prevent such improper and illegal practices from occurring.

13. The Respondents have failed to take disciplinary actions against employees who have illegally or improperly abandoned animals that came into the care and custody of Animal Care Services. Further, they have in violation of the law unlawfully induced New Mexico Animal Friends to assist in the unlawful abdication of their statutory duties and the perpetration of the cruelty through abandonment of a large unknown number of cats.

14. The Respondents have failed to take proper actions to protect animals from on- going cruelty.

15. The failure of the Respondents to take appropriate actions to ensure that the animals in the care and custody of Animal Care Services are treated humanely and in accordance with the ordinances of the City of Albuquerque and the laws of the State of New Mexico is a violation of their official duties, and will cause irreparable harm to the Petitioner's interest in the humane treatment of animals, for the prevention of which the Petitioner has no adequate legal remedy.

WHEREFORE, Petitioner respectfully requests the following:

1. A peremptory Writ of Mandamus issue from this Court compelling Respondents Barbara Bruin and Mayor Richard Berry to take appropriate actions to ensure that the Animal Care Centers are being operated in accordance with the law and with accepted standards for the humane treatment and euthanasia of animals;
2. An order of this Court directing that the City of Albuquerque's Trap-Neuter-Return program be immediately stopped;
3. An order of this Court directing that City of Albuquerque immediately cease abandoning stray and feral cats and discontinue any partnerships created for such an illegal purpose;
4. In the alternative, that the Court issue an Alternative Writ directing the compliance discussed in #1,2, and 3 or showing of cause at a hearing by the Respondents why they should not be required to do so;
5. Petitioner will recover her costs of suit pursuant NMSA 1978, §441-2-12;
6. Such other relief as the Court deems just and proper.

Dated this 21nd of November 2013.

Respectfully submitted:

/s/ A. Blair Dunn
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RALPH RAMOS
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September 16, 2013

Office of the Mayor
PO Box 1293
Albuquerque, NM 87103

Albuquerque Animal Welfare Department's Trap-Neuter-Return Policy

Dear Mayor Berry:

In 2012, Best Friends Animal Society partnered with Albuquerque (City) Animal Welfare Department to begin a three-year Trap-Neuter-Return (TNR) program, funded by a grant from PetSmart Charities. In addition, the City has worked with New Mexico Animal Friends to cover the cost of sterilizing street cats. The Department of Game and Fish (Department) encourages the City and the Animal Welfare Department to discontinue support for these programs.

The Department fully supports spay-neuter programs for responsible pet owners. However, feral and free-roaming cats are not companion animals. Supporters of TNR programs refer to them as "community cats" and advocate for their return to locations where they were originally trapped by stating that these cats are part of the community. In fact, these cats (*Felis catus*) are nonnative predators introduced by humans.

TNR programs have not been shown to stabilize feral cat populations (Castillo and Clarke 2003, Anderson et al. 2004, Barrows 2004, Natoli et al. 2006, Longcore et al. 2009). The only TNR programs reporting success have included the removal of significant numbers of animals for adoption (Centonze and Levy 2002, Hughes and Slater 2002, Levy et al. 2003). Removal of cats and feeding stations can eliminate local cat populations while allowing the return of native bird species (Winter 2004).

EXHIBIT A

Mayor Richard J. Berry
September 10, 2013
Page -2-

Feral and other free-roaming cats pose significant threat to native birds, herpetofauna and small mammals (Crooks and Soule 1999, Kays and DeWan 2004, Lepczyk et a. 2004, Baker et al. 2005). Studies show that, even when fed daily by humans, cats continue to hunt wildlife (Warner 1985, Churcher and Lawton 1987; Churcher and Lawton 1989, Mitchell and Beck 1992). In fact, supplemental feeding of free-roaming cat colonies may lead to hyperpredation and increased densities of cats (Courchamp et al. 2000, Woods et al. 2003). In addition, free-ranging cats compete with native predators (George 1974, Crooks and Soule 1999).

Both The Wildlife Society and the National Audubon society have published position statements on feral and free-ranging cats that the Department fully endorses. These statements are attached for your review.

Sincerely,



Cal Baca, Chief
Wildlife Management Division

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 **Audubon** National Audubon Society
Resolution

**Resolution Approved by the Board of Directors on Dec. 7, 1997,
Regarding Control and Management of Feral and Free-Ranging
Domestic Cats:**

WHEREAS feral and free-ranging domestic cats (*Felis catus*) are non-native predators in all habitats in which they occur; and

WHEREAS feral and free-ranging domestic cats exist in significant densities throughout most areas populated by humans, with reliable estimates in the millions for the U.S., and in the billions globally; and

WHEREAS feral and free-ranging domestic cats are exceptional and prolific predators of small mammals, songbirds, small reptiles, large amphibians and large insects; and

WHEREAS feral and free-ranging domestic cats are estimated to kill hundreds of millions of native birds and other small animals annually in the United States; and

WHEREAS it has been estimated that birds represent 20-30% of the prey of feral and free-ranging domestic cats; and

WHEREAS feral cat colony programs, wherein feral cats are captured, trapped, vaccinated, neutered and fed, do not eliminate predation on native wildlife or reduce the size of feral cat colonies; and

WHEREAS bites, scratches, and fecal contamination from feral and free-ranging pet cats pose a risk to the general public through transmission of diseases such as toxoplasmosis, roundworm, and rabies; and

WHEREAS government wildlife agencies are charged with the management, conservation and preservation of native fauna, but few governments have regulations or public policies that restrict or control feral and free-ranging domestic cats; and

WHEREAS scientific research on feral and free-ranging domestic cats has shown that such cats can have a significant, negative impact on bird populations, and

WHEREAS the American Ornithologists' Union, American Association of Wildlife Veterinarians, International Association of Fish and Wildlife Agencies, National Association of State Public Health Veterinarians, Inc., and the Cooper Ornithological Society have concluded that feral

and free-ranging domestic cats can have a significant negative impact on bird populations; and

WHEREAS the American Bird Conservancy has concluded that feral free-ranging domestic cats can have a significant impact on local bird populations; and

WHEREAS the American Bird Conservancy has initiated a national campaign to limit the impacts of free-ranging and feral domestic cats on bird populations;

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the National Audubon Society recognizes the science-based conclusions of the adverse impact of feral and free-ranging domestic cats on birds and other wildlife; and

BE IT FURTHER RESOLVED that the National Audubon Society will convey such science-based conclusions to its chapters so that they, if they so wish, will be in a position to advocate that local and state wildlife agencies, public health organizations and legislative bodies restrict and regulate the maintenance and movement of feral and free-ranging domestic cats out-of-doors and to support programs to vaccinate cats and to neuter or spay cats; and



BE IT FURTHER RESOLVED that the National Audubon Society and such chapters as shall so wish, will work with the scientific, conservation, and animal welfare communities to educate the public about the dangers that feral and free-ranging domestic cats pose to birds and other native wildlife; and

BE IT FURTHER RESOLVED that the National Audubon Society will work on this issue with such federal wildlife agencies, public health organizations and legislative as the Society shall deem appropriate.

contact:
katwood@audubon.org

[◀ Back to CN III 1](#)

[HOME ▶](#)



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Final Position Statement

Feral and Free-Ranging Domestic Cats

Feral and free-ranging domestic cats are exotic species to North America. Exotic species are recognized as one of the most widespread and serious threats to the integrity of native wildlife populations and natural ecosystems. Exotic species present special challenges for wildlife managers because their negative impacts on native species are poorly understood by the public to the point that many exotic species are perceived as a natural component of the environment. Some exotic species have advocacy groups that promote their continued presence, and few policies and laws deal directly with their control. Perhaps no issue has captured more of the challenges for contemporary wildlife management than the impacts of feral or free-ranging domestic cats and their impacts on native wildlife.

Domestic cats originated from an ancestral wild species, the European and African wild cat (*Felis silvestris*). The domestic cat (*Felis catus*) is now considered a separate species, and is found on all 7 continents, with 600 million cats worldwide and 148-188 million within the U.S.. Domestic cats have great reproductive potential. Individuals become sexually mature as early as 6 months of age, and reproduction can occur throughout the year. A single female may produce as many as 3 litters each year with 2 to 4 kittens per litter, with the capacity to successfully raise as many as 12 offspring in any given year.

A growing body of literature strongly suggests that domestic cats are significant predators on small mammals, birds, reptiles, and amphibians. Feral and free-ranging cats also serve as reservoirs for several diseases, including rabies, toxoplasmosis, bartonellosis, typhus, and feline immunodeficiency virus, that can have significant effects on the health of humans, wildlife, and other domestic animals. Because humans often feed free-ranging cats, they can reach population levels that may result in abnormally high predation rates on wildlife and increase the spread of diseases. Domestic cats have tremendous impacts on wildlife and are responsible for the extinction of numerous mammals, reptiles, and at least 33 bird species globally. Effects of cat predation and disease spread are most pronounced in island settings (both actual islands and islands of habitat), where populations of wildlife are already low or stressed by other factors. Effects are also significant in natural areas where cat colonies become established. Competition with native predators, disease implications for native wildlife populations, and pet owners' attitudes toward wildlife and wildlife management also are important issues.

Extensive popular debate over absolute numbers or types of prey taken by feral and free-ranging cats is not productive. The number of cats is undeniably large. Even if conservative estimates of prey taken are considered, the number of prey animals killed is immense. The supplemental feeding of cats does not deter them from killing wildlife; often they do not eat what they kill. Likewise, population-level impacts of diseases associated with cats have only been established in a few wildlife species, such as southern sea otters (*Enhydra lutris nereis*), but negative individual

impacts clearly occur in an extremely wide range of species. Humans introduced cats to North America, and humans are ultimately responsible for the effects these animals have on native wildlife species.

The policy of The Wildlife Society regarding feral and free-ranging domestic cats is to:

1. Support and encourage the humane elimination of feral cat populations, including feral cat colonies, through adoption into indoor-only homes of eligible cats and humane euthanasia of unadoptable cats.
2. Support the passage and enforcement of local and state ordinances prohibiting the feeding of feral cats, especially on public lands, and the release of unwanted pet or feral cats into the wild.
3. Oppose the passage of any local or state ordinances that legalize the maintenance of "managed" (trap/neuter/release) free-ranging cat colonies.
4. Support educational programs and materials that provide scientific information on feral cats and the negative effects on cats from living outdoors, and call on pet owners to keep cats indoors, in outdoor enclosures, or on a leash.
5. Support programs to educate and encourage pet owners to neuter or spay their cats, and encourage all pet adoption programs to require potential owners to spay or neuter their pet.
6. Support the development and dissemination of information on what individual cat owners can do to minimize predation by free-ranging cats, and to minimize potential disease transmission to humans, wildlife, cats, and other domestic animals.
7. Pledge to work with the conservation and animal welfare communities to educate the public about the effects of free-ranging and feral cats on native wildlife, including birds, small mammals, reptiles, amphibians, and endangered species.
8. Support educational efforts to encourage the agricultural community to keep farm-cat numbers at low, manageable levels and use alternative, environmentally safe rodent control methods.
9. Support efforts to reduce risks to the health of humans and other animals posed by diseases and parasites of feral cats, including but not limited to removal of free-ranging cats and elimination of feral cat colonies. Encourage researchers to develop, obtain, and disseminate information on the impacts of feral and free-ranging cats on native wildlife populations, relative to predation, competition, and diseases.
10. Recognize that cats as pets have a long association with humans, and that responsible cat owners are to be encouraged to continue caring for the animals under their control.

Approved by Council August 2011. Expires August 2016.

Excellence in Wildlife Stewardship Through Science and Education

March 27, 2012

The Honorable Richard Berry
Mayor of Albuquerque
P.O. Box 1293
Albuquerque, NM 87103

Via e-mail: mayorberry@cabq.gov

Dear Mayor Berry:

We hope this finds you well. PETA, the world's largest animal rights organization, with more than 3 million members and supporters, has been contacted by concerned Albuquerque-area citizens about Albuquerque Animal Welfare's (AAW) dangerous and illegal policy of refusing to address citizen complaints about stray and unwanted cats and releasing surrendered stray cats back into Albuquerque neighborhoods.

We share our callers' concerns and urge you to intervene immediately to require the city's animal care and control agency to respond to all calls regarding unwanted and homeless cats, as required by law, and immediately halt the practice of releasing stray/feral cats into Albuquerque neighborhoods.

According to the AAW's website, "The Animal Welfare Department does not have cat traps for rent, and it will not come to your neighborhood to pick up a cat unless the cat has bitten a person or the cat is injured." This policy violates Albuquerque Ordinance 9-2-4-3, which requires that "an At Large Animal *shall* be Seized and Impounded if the Owner is not available" Use of the term "shall" imposes a mandatory duty upon AAW to seize animals at large—Albuquerque law provides no discretion for AAW to adopt contrary policies.

PETA also believes that when residents surrender stray/feral cats to AAW, the agency illegally releases them. A recent news article reports that "[t]he city of Albuquerque says it has been releasing feral cats back into Albuquerque neighborhoods as part of a program to control the population." If true, this policy is contrary to both state and local laws prohibiting abandonment of animals—the Albuquerque Code specifically provides that Albuquerque Animal Care Center employees are subject to prosecution under its abandonment ordinance. (N.M. Stat. § 30-18-1; Albuquerque Ordinance 9-2-4-1)

Under N.M. Stat. § 77-1B-2(D), the only permissible means of "disposition" for animals are "adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal." Releasing cats into city neighborhoods is an illegal means of disposition under New Mexico law.

EXHIBIT B

Gruesome fates await most homeless cats—they do not die of old age. Highly contagious diseases such as rhinotrachitis, feline AIDS, and rabies are not uncommon in "outdoor cats." They sustain puncture wounds, broken bones, or brain damage, or they lose eyes or limbs after being attacked by other animals or hit by cars. During winter months, it is all too typical for automobile engine fans to slice through the bodies of cats who seek shelter from the cold in car engines. During summer months, maggots infest any open wound and will literally eat the animals alive. If cats miraculously escape these perils, they may still fall prey to agonizing deaths at the hands of cruel people.

Our office is flooded with calls about cruelty to animals every day. Across the United States, free-roaming cats are mutilated, shot (last summer local media reported that a "neighborhood cat" was shot and killed by unknown assailants in Albuquerque), drowned, poisoned, beaten, set on fire, sacrificed, stolen by bunchers for medical experimentation, or used by dogfighters for target practice or as "bait."

When angry property owners do not receive legal assistance removing cats who are damaging property and causing a nuisance, they all too often resort to cruelty. Recent examples include the following:

- May 2011: Cats were poisoned and shot in Pennsylvania.
- July 2011: Cats were poisoned with a corrosive chemical in Maryland.
- August 2011: Cats were shot with pellet guns in Hawaii.
- October 2011: Cats were fed rat poison in a Florida mobile home park.
- October 2011: Cats were shot with hunting arrows in Pennsylvania.

We urge you to immediately intervene to bring AAW policies in line with state and local law and professional animal control guidelines. If PETA can be of any assistance, please contact me at 443-320-1277 or TeresaC@peta.org without hesitation.

Meanwhile, we remain very concerned about cats in Albuquerque and request an update as soon as possible. Thank you.

Most sincerely,



Teresa Lynn Chagrin
Animal Care & Control Specialist
Cruelty Investigations Department

cc: Albuquerque City Council

Revisions

Animal Control

1. Trap, Neuter & Return/Release-TNR

- Trap, Neuter & Return (aka Trap, Neuter & Release or TNR). SEE detailed Memo from October 2013 prepared by the City and County staff identifying the pros and cons of various TNR ordinance options and presenting staff's recommendations if the City Council desires to address TNR programs within the City limits:
- TNR Options:
 - I. Sponsor Based Ordinances: Caretakers register their feral cat colonies with a private non-profit corporation or private citizen selected by the City.
 - II. Caretaker Based Ordinances: Caretakers register their feral cat colonies directly with the City. This appears to be the model closest to the recommendations of the ad hoc drafting committee and the ASCMV Board.
 - III. Delegation to City Department or Quasi Governmental Entity such as the ASCMV: City Department or ASCMV would develop TNR programs and guidelines.
 - IV. De-Criminalize Behavior that May Violate Proposed City Ordinance: Approach taken by Bernalillo County and in recently enacted County Animal Ordinance No. 266-2013. No governmental involvement.
 - V. Leave Proposed City Ordinance as Drafted: Potentially subjects caretakers of feral cats to criminal liability for abandoning or harboring un-owned cats. Potentially discourages the creation of new or expanded feral cat colonies.

Trap, Neuter & Return/Release-TNR

Option No. IV - De-Criminalizing Behavior. Changes that would have to be made to proposed ordinance are in italics:

- Section 7-2. Definitions.
- Abandonment (or to abandon) – To leave an animal for more than twenty-four (24) hours without providing effective provisions for its proper feeding and care. *The term "abandonment" (or "to abandon") does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harbinger, or keeper of such cats.*
- Harbor – To 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 any animal shall be subject to the provision of this Chapter applicable to a person owning or having custody, care, or control of an animal. *The term "harbor" does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harbinger, or keeper of such cats.*
- 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, or keeps an animal or permits an animal to remain on or about the premises owned or controlled by him/her. *The term "owner" does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harbinger, or keeper of such cats.*

Trap, Neuter & Return/Release-TNR

Section 7-14. Abandonment prohibited.

- *A.(3) Abandonment does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, or keeper of such cats.*
- Section 7-44. Reclamation.
- *F. Release of feral cats. Prior to release of any feral cat, a veterinarian shall establish that the cat has been sterilized, and is micro chipped, vaccinated for rabies, and ear tipped.*

Trap, Neuter & Return/Release-TNR

- TNR PROGRAMS REMAIN CONTROVERSIAL:
- Opposed by State of New Mexico Department of Game & Fish.
- Recent lawsuit filed in Bernalillo County against City of Albuquerque seeking to stop Albuquerque's TNR Program or any partnerships created for TNR programs. SEE Petition for Writ of Mandamus.

2. Kennel Licenses

- SUGGESTED REVISIONS TO PROPOSED ORDINANCE CONCERNING KENNEL LICENSES:
 - Section 7-2 entitled "Definitions": Change KENNEL, COMMERCIAL to MULTI-ANIMAL SITE, COMMERCIAL and delete the word "training" from the definition and add in new wording "formerly known as a commercial kennel";
 - Section 7-2 entitled "Definitions": Change KENNEL, PRIVATE RESIDENTIAL to MULTI-ANIMAL SITE, RESIDENTIAL and delete the word "training" from the definition and add in new wording "formerly known as a private residential kennel";
 - Section 7-30 entitled "Kennel license": Change KENNEL LICENSE to MULTI-ANIMAL PERMIT and change any reference to PRIVATE RESIDENTIAL KENNEL or COMMERCIAL KENNEL to RESIDENTIAL MULTI-ANIMAL SITE or COMMERCIAL MULTI-ANIMAL SITE throughout Section 7-30.
- PROPOSED ORDINANCE SECTION 7-30(C)(5) REQUIRES COMPLIANCE WITH APPLICABLE ZONING REGULATIONS.