



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL WORK SESSION SUMMARY ROUTING SLIP

Meeting Date August 25, 2014

TITLE: ANIMAL CONTROL ORDINANCE.

- Are there attachments to the Council Work Session Summary? Yes No
- Will there be a Video Presentation for this item? Yes No
- Will there be a PowerPoint Presentation for this item? Yes No
- If "yes", will a copy of the PowerPoint Presentation be included on the Council Work Session Agenda? Yes No

DEPARTMENT / ORGANIZATION	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		2128	8/18/14
Department Director		2128	8/18/14
Other			
Assistant City Manager/CAO (if applicable)		2028	8/18/14
Assistant City Manager/COO (if applicable)			
City Manager			8/19/14



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Work Session Summary

Meeting Date August 25, 2014

TITLE: ANIMAL CONTROL ORDINANCE.

PURPOSE(S) OF DISCUSSION:

- Inform/Update
- Direction/Guidance
- Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Based on directive provided by the City Council and the County Commission, the Board of Directors of the Animal Services Center of the Mesilla Valley ("ASCMV") established an ad hoc committee to provide recommendations regarding joint City and County animal welfare and control related ordinances. The ad hoc committee developed recommendations in the form of a model ordinance which was approved by the ASCMV Board. Thereafter, staff reviewed and modified the recommendations to address concerns that they had with specific recommendations.

The City Council and the County Commission held a Joint Work Session to discuss the proposed City and County ordinances developed by staff based on the recommendations; to specifically discuss legal issues associated with the trap, neuter and return of feral cats also known as trap, neuter and release or TNR; and to allow public comment. The County Commission thereafter adopted the Dona Ana County Animal Controls Ordinance. The City Council held a follow-up Work Session to address continuing concerns with the draft City Animal Control Ordinance including but not limited to issues involving TNR and residential vs. commercial kennel licenses.

An Animal Control Ordinance containing sections that de-criminalized behaviors to allow individuals to conduct TNR programs was submitted for Council consideration but was defeated on April 7, 2014 in large part because of continuing concerns about TNR. Therefore, the primary purpose of this work session is to discuss more options for TNR including an optional Section 7-46 to sunset TNR provisions, and options with various alternatives for enclosed cat sanctuaries.

New sections have been added in the attached draft to provide for therapy animals, [Sections 7-2 and 7-31(G)]; for densities, waste and dust control related to livestock, [Sections 7-18(D),(H) and 7-32]; and to address continuing concerns with noise, [Section 7-18(F)]; as well as miscellaneous other revisions such as expanding "puppy mills" to "pet mills".

Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Attachment "A", Proposed Animal Control Ordinance in legislative format.
2. Attachment "B", Information concerning alternatives for enclosed cat sanctuaries.
3. Attachment "C", PowerPoint Presentation.

Chapter 7
ANIMALS

LEGISLATIVE
FORMAT

Updated with
changes from
04/7/2014 to
present

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 maintenance requirements ~~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. Pet Puppy mill.
Secs. 7-21.–7-29. Reserved.

Article III. Permitted, ~~Licensed,~~ and Prohibited Animals

- Sec. 7-30. Multi-animal site permit~~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 qQualified 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 Doña 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. 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, harborer, keeper, holder, possessor, custodian or caretaker of such cats.

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.

Feral Animal --- An individual animal of a domesticated species that is not behaviorally compatible with humans, and is therefore not suitable to serve as a pet, companion animal, or work animal. Feral cats include all cats that by physical aspect and behavior are deemed to be un-owned and have been trapped for purposes of improving public health and limiting reproduction.

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. 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, keeper, holder, possessor, custodian or caretaker of such cats.

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.

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.

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

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

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. 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, harborer, keeper, holder, possessor, custodian or caretaker of such cats.

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. Livestock shall not be considered a pet even if kept as a companion animal and not 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.

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

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. An animal recognized as a service animal under either federal regulations implementing the Americans with Disabilities Act, or NMSA 1978, Chapter 28,

~~Article 11, which is the New Mexico Service Animal Act, and as amended. A dog trained or being trained by a recognized school for training dogs to assist persons with disabilities; or~~

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

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

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.

~~(2)~~(3) Provide the animal with adequate shade from direct sunlight in addition to the shelter referenced above.

~~(3)~~(4) 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)~~(5) 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)~~(6) 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)~~(7) 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)~~(8) 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)~~ Such care and husbandry shall also include, but not be limited to, necessary hoof and teeth care.

~~(3)~~ —

~~(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 a 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.

- (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, harbinger, keeper, holder, possessor, custodian or caretaker of such cats.

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. *Pet Waste.* A person owning or having care, custody, or control over a ~~pet small domestic animal~~ such as a dog or cat shall dispose of ~~the 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)D.~~ *Livestock waste.* ~~No animal waste shall be permitted, either intentionally or unintentionally, to accumulate except in such receptacles. Waste from livestock shall be removed or spread at least once each week so as not to constitute a nuisance. Additionally all premises where livestock are kept shall be treated as necessary with approved pesticides for the control of insects and rodents related to waste from livestock so as not to constitute a nuisance.~~
- ~~D.E.~~ *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.
- F. *Noise.*
 - ~~(1)~~ A person owning or having the care, custody or control of an animal shall not permit that animal to ~~howl, bark or create noise 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 ~~frequent or long-continued; is~~ audible beyond the property line of the premises on which the animal is located ~~for more than 15 minutes; and is attested to by:~~

- a. Complainants from two or more separate properties;
- b. A complaint from a separate property and verified by an audio recording which records the howling, barking or noise for more than 15 minutes; or
- E.c. An animal control officer or law enforcement officer.

(1) ~~The words “frequent or long-continued” as used in this section shall not mean continuous or uninterrupted in time or without cessation. 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.~~

G. *Noise abatement.* In order to abate the nuisance created by the animal howling, barking or making noise in violation of this section, an Animal 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.

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

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. ~~Pet Puppy~~ mill.

No person shall keep or operate a ~~pet puppy~~ mill.

Secs. 7-21–7-29. Reserved.

ARTICLE III. PERMITTED AND PROHIBITED ANIMALS

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

- A. No person shall keep or operate a residential or commercial multi-animal site without a permit issued by the City.
- B. Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a 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 the kennel licensure requirement of this Chapter.
- C. All applications for multi-animal site permits must meet the following conditions:
 - (1) An initial non-refundable fee, established by City Council resolution, for residential or commercial multi-animal sites must accompany any application to defray the cost of processing the request.
 - (2) Commercial sites must also comply with the City business registration requirements.
 - a. An annual commercial multi-animal site permit 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 multi-animal residential site permits must be renewed annually at a fee established by 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 multi-animal sites 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 multi-animal site 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 are 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 permit.

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 livestock animals to meet program requirements on any property not zoned for the keeping of livestocksubject 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 and meets the applicable requirements of this chapter. Each permit shall be individually reviewed by the Animal Control Unit as to program participation and permitted animals to obtain the goals of the FFA or 4-H program. All such animals kept subject to this Section may be relocated outside of the City limits by the Animal Control Unit upon receipt of a nuisance complaint concerning the animals.
- F. *Chickens and ducks.* A special permit is required for any property not zoned for the keeping of livestock in order to keep chickens or ducks. All such animals shall be kept and maintained in accordance with the provisions of this chapter and shall not exceed a total of

6 chickens and/or ducks per property not zoned for the keeping of livestock. Roosters and drakes are not permitted on properties not zoned for the keeping of livestock.

E.G. *Therapy animals.* A special permit is required for any property not zoned for the keeping of livestock in order to keep small animals such as, but not limited to, fowl, rabbits, miniature horses/donkeys, goats and sheep for therapeutic purposes associated with homes for the disabled, nursing homes, assisted living facilities, and similar uses as determined by the Community Development Department Director and/or designee. All such animals shall be kept and maintained in accordance with the provisions of this chapter.

F.H. *Application generally.* Subject to the above conditions, the person ~~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 an annual special animal permit ~~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 animal permit that the permittee consents to inspection of the premises by the Animal Control Unit at any time between the hours of 6:00 a.m. and 10:00 p.m. The application fee and annual permit fee shall be set by City Council resolution.

G.I. *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.J. *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 animal permit.

I.K. *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 tiplers.
- (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.L. *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 small and large animals, is permitted in accordance with applicable City zoning designations or with Section 7-31, Special animal permits. Keeping of such animals shall not be permitted in the required front, side and street side yard setbacks. No such animal shall be kept closer than 35 feet to an adjacent dwelling or the primary structure of an adjacent business, excluding that of the property on which the livestock reside.

A. Large livestock animals. The following requirements are established for the keeping of large livestock animals such as, but not limited to, llamas, horses, mules, donkeys, swine, bovines, buffalo and beefalo:

(1) The density per acre limitation for large livestock animals, not applicable to young livestock animals below weaning age or six months of age, shall be one-half acre or more. The minimum square footage of the open lot area, not including the dwelling unit, shall be 9,000 square feet for the first animal and 6,000 square feet for each additional animal, provided the total number of such animals shall not exceed 4 animals per acre.

B. Small livestock animals. The following requirements are established for the keeping of small livestock animals such as, but not limited to, ducks, poultry, goats, sheep, and miniature horses/donkeys:

(1) The density per acre limitation for small livestock animals shall be as follows:

a. For lots less than ½ acre, a total combined maximum of 6 such animals, and

b. For lots greater than ½ acre, the minimum square footage of the open lot area, not including the dwelling unit, shall be 2,000 square feet for each small livestock animal, provided the total number of such animals shall not exceed 100 regardless of lot size.

~~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.* A qualified service animal shall be admitted to any building open to the public and to all other public accommodations and shall be allowed to access a common carrier in compliance with the Service Animal Act, NMSA 1978, Section 28-11-1.1, et seq., as amended. ~~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;

- (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.

F. *Release of Feral Cats.* Prior to release of any feral cat, a licensed veterinarian must establish that the cat has been sterilized, and is micro chipped, vaccinated for rabies, and ear tipped.

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.

Sec. 7-46 – Sunset provisions.

Effective (insert date), the following provisions of the Animal Control Ordinance pertaining to or referencing feral cats shall sunset: the last two (2) sentences of the definition of “abandon (or to abandon)”; the definition of “feral animal”; the last two (2) sentences of the definition of “harbor”; the last two (2) sentences of the definition of “owner” Section 7-14(A)(3); and Section 7-44(F).

Number One:

Education Education; Responsible Pet Care; Media Blitz, Repetitive over years.

Number Two:

No feeding of feral, stray or free roaming cats

Number Three:

Reduce euthanasia at the animal shelter

[April 26, 2014]

Alternative Proposals for Amending the Animal welfare and control ordinances.

The four alternatives that increasingly afford leniency to existing feral cat colonies but any alternative that authorizes feral cat colonies does so with significant conditions. Further, all four alternatives would rely on existing enforcement language or require additional language on enforcement with targeted education and outreach. Two alternatives provide limited governmental support for a cat sanctuary enclosure prototype. The four alternatives can be summarized as follows.

1. Continues to ban outdoor feeding of feral and stray cats but authorizes cat sanctuary enclosures.
2. Continues to ban outdoor feeding of feral and stray cats, but authorizes cat sanctuary enclosures and directs ASCMV to provide support in the form of a 2-5 acre prototype cat sanctuary enclosure.
3. Grandfathers in existing feral colonies with a five year sunset clause and authorizes cat sanctuary enclosures.
4. Grandfathers in existing feral colonies with a five year sunset clause, authorizes cat sanctuary enclosures, and directs ASCMV to provide support in the form of a 2-5 acre prototype cat sanctuary enclosure.

Option #	Continue to outlaw existing feral colonies	Authorize Cat Sanctuary Enclosures	Additional Enforcement Language	Targeted Education & Outreach	Grandfather existing feral colonies with conditions	Sunset existing feral colonies with conditions at 5 years	ASCMV Support
1	X	X		X			
2	X	X		X			X

3		X	X	X	X	X	
4		X	X	X	X	X	X

Alternative/Option No. 1:

- Retains original definitions of Abandonment, Harbor, and Owner.
- Adds three new definitions: “enclosed cat sanctuary”, “multi-animal site, commercial” and “multi-animal site, residential”
- Adds new special animal permit for enclosed cat sanctuary under Sec. 7-31 and a subsection on conditions for enclosed cat sanctuaries
- No new provisions for enforcement are necessary as current language under Special Permits authorizes denial of special permits if applicant has a history of noncompliance as evidenced by two or more convictions of violations during the past year (Sec. 7-31.G); and revocation if unsafe, unclean, and unsanitary conditions or health hazards or noxious odors exist (Sec. 7-31.H)
- Targeted outreach and education

Alternative/Option No. 2:

- All of the language in alternative No. 1
- Adds new section directing ASCMV to provide support in the form of a 2-5 acre prototype cat sanctuary enclosure.

Alternative/Option No. 3:

- Amends original definitions of Abandonment, Harbor, and Owner to exempt persons holding a special permit for feral cat colonies
- Adds five new definitions: “feral cats”, “feral cat colonies”, “cat sanctuary enclosures”, “multi-animal site, commercial” and “multi-animal site, residential”
- Under Sec. 7-31, adds new special animal permit for feral cat colony and cat sanctuary enclosure with conditions for feral cat colony and cat sanctuary enclosure
- Sunsets all feral cat colonies within 5 years
- Under Sec. 7-44, Reclamation, authorizes release of feral cats to managers of registered colonies if the feral cat is a member of either an existing feral cat colony or cat sanctuary enclosure
- Targeted education and Outreach

Alternative/Option No. 4:

- All of the language in No. 3
- Adds new section directing ASCMV to provide support in the form of a 2-5 acre prototype cat sanctuary enclosure.

Alternative 1: Proposed Changes

1. Article I-Changes to the Sec. 7-2 Definitions:

- Delete Kennel, commercial
- Delete Kennel, Private Residential
- Add definition for Multi-animal site, commercial

Multiple-animal site, commercial—Any premises on which eight or more dogs, or eight or more cats, or eight or more rabbits 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 ASCMV. Such premises were formally defined as commercial kennel.

- Add definition for Multi-animal site, residential

Multiple-animal site, residential—Any premises on which more than three dogs, or three cats, or three rabbits, or any combination thereof in excess of three, but no more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding, training or boarding for compensation is not carried on, with the exception that the sale of not more than two litters per year for each site shall be permitted, but does not include registered cat sanctuary enclosures. Buying, selling, breeding, training or boarding of such animals for compensation shall be deemed to be a commercial activity not allowed in residential area unless otherwise permitted by applicable zoning regulations. Such premises were formerly defined as a private residential kennel.

- Add definition for enclosed cat sanctuary

Enclosed cat sanctuary —an enclosure in which no more than 14 feral cats are kept, managed and maintained by a person or person(s) for the purpose of providing shelter, water, food, basic medical care including sterilization and a safe environment that protects both the animal and public health but does not include veterinary hospitals for ASCMV.

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

2. Article III-Changes to Sec. 7-30

- Substitute multi-animal language for kennel; and license for permits as originally proposed

3. Article III- Changes to Sec. 7-31 Special animal permits

- Add new section, (outdoor) enclosed cat sanctuary

Any person who manages and maintains an enclosed cat sanctuary for feral cats shall file an application for a special annual permit with the Animal Control Unit describing the location of the

site. Veterinary hospitals or clinics or ASCMV 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 and may be waived in the interests of reducing intake rates, euthanasia rates and costs incurred by ASCMV.

- Add new section on conditions for keeping feral cats

a) Maintenance, care and confinement

- i) All enclosed cat sanctuaries shall be located on the permittee's land or have the written permission of the land owner
- ii) All feral cats shall be fully contained within the enclosed area
- iii) The enclosure shall be of sufficient size and design to provide (a) full containment with cat resistant fencing, (b) shelter, (c) fecal sand boxes, and (d) a minimum of 290 sq. ft. per cat
- iv) All feral cats shall be fed within the confines of the enclosure and feed shall be stored in containers to protect against intrusion by rodents and other vermin
- v) All feral cats within the enclosure shall be sterilized, vaccinated for Rabies, FVRCP, FeLK, and micro-chipped
 - (1) All cat must test negative for FIV and FeLK
 - (2) Vaccinations for Rabies must be kept current
 - (3) All cats must be treated annually for internal parasites that pose zoonotic risk to humans, domestic animals and wildlife

3. New Article on Targeted Outreach and Education

• **Direct ASCMV to at a minimum:**

- o **With support of City GIS technician (because it will reduce intake and costs of City budget for ASCMV), use Geographic Information systems (GIS) technology to capture, analyze and map data to better understand and identify geographic areas that are associated with greatest source or repeated intake of feral and stray cats based on zip codes of owner surrendered cats, stray intake and feral cat colonies, and superimposition of any relevant data layers including land use data, census data, and income data to help design preventive programs to reduce intake and population of outdoor (non-enclosed) feral cats (see <https://www.youtube.com/watch?v=1WRy64x-RRs>; approach currently being used in Portland, OR; Buncombe County, NC; Erie County SPCA, Buffalo NY; SPCA of TC and <http://www.aspcapro.org/gis>)**
- o **Use GIS to target education and outreach to communities that are source of feral and stray cats on responsible pet ownership including spay/neuter and where available, free and low cost veterinary services**

Alternative 2: Includes all language in Alternative 1 and the additional provision below.

1. New article on ASCMV to provide support in the form of a 2-5 acre prototype cat sanctuary enclosure

- Donation of 2-5 acres of land on which ASCMV is located for development of a prototype enclosed cat sanctuary with a maximum capacity of 750 cats.
- Construction of an enclosed cat sanctuary including outdoor shelter, fecal sand boxes and cat resistant fencing

Alternative 3: Proposed Changes

1. Article I-Changes to the Sec. 7-2 Definitions:

- Amend abandonment

Abandonment (or to abandon)—to leave and 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 trap, neuter and return (TNR) of a feral cat that utilizes a registered feral cat colony under Sec. 7-31. A person or organization managing registered feral cats by trap, neuter and return is not deemed the owner, harbinger, keeper, holder, possessor, custodian or caretaker of such cats while feral cat colonies are permitted by this ordinance.

- Add definition of feral animal

Feral Animal—an individual animal of a domesticated animal that is now wild, and is therefore, not suitable to serve as a pet, companion animal, or work animal. Feral cats include all cats that by physical aspect and behavior are deemed to be un-owned and have been trapped for purposes of maintaining or managing a feral cat colony or enclosed cat sanctuary as authorized under Sec. 7-31.

- Add definition for feral **cat colonies**

Feral cat colony— an aggregation of more than three free-roaming cats in an established non-enclosed colony of feral cats that are being trapped by a person or person(s) for purposes of improving public health and limiting reproduction that obtains a special permit under Sec. 7-31 within 30 days of passage of this ordinance. Feral cat colonies will be phased out in favor of enclosed cat sanctuaries over a 5 year period from the date of adoption of this ordinance.

- Amend harbor

Harbor—to allow, either intentionally or unintentionally, any stray animal to linger 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. The term “harbor” does not apply to the trap, neuter and return (TNR) of a feral cat that utilizes a registered feral cat colonies under Sec. 7-31. A

person or organization managing feral cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian, or caretaker of such cats while feral cat colonies are permitted by this ordinance.

- Add definition for enclosed cat sanctuary

Enclosed cat sanctuary —an enclosure in which no more than 14 feral cats are kept, managed and maintained by a person or person(s) for the purpose of providing shelter, water, food, basic medical care including sterilization and a safe environment that protects both the animal and public health but does not include veterinary hospitals or ASCMV.

- Delete Kennel, commercial
- Delete Kennel, Private Residential

- Add definition for Multi-animal site, commercial

Multiple-animal site, commercial—Any premises on which eight or more dogs, or eight or more cats, or eight or more rabbits 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 ASCMV. Such premises were formally defined as commercial kennel.

- Add definition for Multi-animal site, residential

Multiple-animal site, residential—Any premises on which more than three dogs, or three cats, or three rabbits, or any combination thereof in excess of three, but no more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding, training or boarding for compensation is not carried on, with the exception that the sale of not more than two litters per year for each site shall be permitted, but does not include registered feral cat colonies or cat sanctuary enclosures. Buying, selling, breeding, training or boarding of such animals for compensation shall be deemed to be a commercial activity not allowed in residential area unless otherwise permitted by applicable zoning regulations. Such premises were formerly defined as a private residential kennel.

- Amend definition of 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 or her. The term “owner” does not apply to the trap, neuter and return (TNR) of a feral cat that utilizes a registered feral cat colonies under Sec. 7-31. A person or organization managing feral cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian, or caretaker of such cats while feral cat colonies are permitted by this ordinance.

Ear-tip--(verb) to remove 1/4" (6.35 mm) or more from the tip of a cat's left ear by a straight-line cut perpendicular to the long axis of the ear.

2. Article III-Changes to Sec. 7-30

- Substitute multi-animal language for kennel; and license for permits as originally proposed

3. Article III- Changes to Sec. 7-31 Special animal permits

- Add a new section **feral cat** colony

Any person who manages and maintains a feral cat colony shall file an application for a special annual permit with the Animal Control Unit describing the location of the site. Veterinary hospitals or clinics or ASCMV shall be exempt from this requirement. It shall be a condition of the issuance of any special permit that the permittee and landowner, if other than the permittee, consent 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 and may be waived in the interests of reducing intake rates, euthanasia rates and costs incurred by ASCMV. The issuance of special animal permit to maintain a feral cat colony shall sunset. After five years from date of passage of the ordinance, it shall be unlawful to feed feral or stray cats other than within the confines of a registered enclosed cat sanctuary. Colony managers shall submit to City of Las Cruces Animal Control copies of all rabies vaccination certificates for all cats in their colonies within three business days of the vaccination.

- Add new section outdoor enclosed cat sanctuary

Any person who manages and maintains an enclosed cat sanctuary for feral cats shall file an application for a special annual permit with the Animal Control Unit describing the location of the site. Veterinary hospitals or clinics or ASCMV shall be exempt from this requirement. It shall be a condition of the issuance of any special permit that the permittee and landowner, if other than 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 and may be waived in the interests of reducing intake rates, euthanasia rates and costs incurred by ASCMV.

- Add new section on conditions for keeping feral cats in a “feral cat colony”

a) Maintenance, care and confinement

- i) All existing managed colonies shall be appropriately permitted within 30 days of passage of this ordinance
- ii) Registration of any new colonies beyond 30 days is strictly prohibited
- iii) Registered feral cat colonies will be phased out over a 5 year period

- iv) All registered feral cat colonies shall have the written permission of the land owner and any property owners within 1000 feet of the colony location
- v) Feral cat colonies cannot be located within 8000 feet of schools, restaurants, grocery stores, day care centers or hospitals, parks or environmentally sensitive areas
 - Managers must submit a management plan for feral cat colonies to demonstrate compliance with monitoring and management requirements.
 - (1) All cats shall have up-to-date rabies vaccinations

1) All feeding must be completed while the caregiver is present and then ALL food removed

2) Five years after the date of passage of this ordinance, all cats in registered managed colonies shall be removed for adoption, placement in an enclosed sanctuary, or surrendered to the ASCMV.

- Add new section on conditions for keeping feral cats in an “enclosed cat sanctuary”

a) Maintenance, care and confinement

- i) All enclosed cat sanctuaries shall be located on the permittee’s land or have the written permission of the land owner
- ii) All feral cats shall be fully contained within the enclosed area
- iii) The enclosure shall be of sufficient size and design to provide (a) full containment with cat resistant fencing , (b) shelter, (c) fecal sand boxes, and (d) a minimum of 290 sq. ft. per cat
- iv) All feral cats shall be fed within the confines of the enclosure and feed shall be stored in containers to protect against intrusion by rodents and other vermin
- v) All feral cats within the enclosure shall be sterilized, vaccinated for Rabies, FVRCP, FeLK, ear-tipped and micro-chipped
 - (1) All cat must test negative for FIV and FeLK
 - (2) Vaccinations for Rabies must be kept current
 - (3) All cats must be treated annually for internal parasites that pose zoonotic risk to humans, domestic animals and wildlife

3. Article IV, Changes to Section 7-44 Reclamation

- Release of Feral Cats:
 - Beginning one year after passage of this ordinance, a licensed veterinarian shall not release a feral cat to the manager of a registered feral cat colony unless the cat has been sterilized, vaccinated for rabies, and is an original resident of a feral cat colony as evidenced by an ear-tip and micro-chip.
 - A licensed veterinarian may release a feral cat to the manager of a registered enclosed cat sanctuary provided the enclosed cat sanctuary has fewer than 14 resident feral cats as evidenced by micro-chips.

Alternative 4. New Article on Targeted Outreach and Education

- [On average a cat depredated between 0.7 and 1.4 birds per week. Cat predation most likely plays an important role in fluctuations of bird populations and should receive more attention in wildlife conservation and landscape studies.]

- **Direct ASCMV to at a minimum:**
 - **With support of City GIS technician (because it will reduce intake and CLC budget for ASCMV), use Geographic information systems (GIS) technology to capture, analyze and map data to better understand and identify geographic areas that are associated with greatest source or repeated intake of feral and stray cats based on zip codes of owner surrendered cats, stray intake and feral cat colonies, and superimposition of any relevant data layers including land use data, census data, and income data to help design preventive programs to reduce intake and population of outdoor (non-enclosed) feral cats (see <https://www.youtube.com/watch?v=1WRy64x-RRs>; approach currently being used in Portland, OR; Buncombe County, NC; Erie County SPCA, Buffalo NY; SPCA of TC and <http://www.aspcapro.org/gis>)**
 - Use GIS to target education and outreach to communities that are source of feral and stray cats on responsible pet ownership including spay/neuter and where available, free and low cost veterinary services.

These efforts need to take precedence in funding. 15, Section 7-15, A. (1) change to

(1) Nothing in this section shall prohibit reasonable force to be used to drive off or detain vicious, dangerous, or trespassing animals.

P. 27, return to owner in field. Section 7-43 D. (1) change to

(1) If the Animal Control Officer is unable to safely return said animal to its owner within a reasonable amount of time, the officer shall deliver the animal to the ASCMV. The Officer shall require reasonable proof of ownership prior to releasing the animal to the owner in the field.

In paragraph E. change "may" to "shall."

Animal Control Ordinance

Feral Cat Options

August 25, 2014 Work Session

Option A

- De-criminalizes certain behaviors and would allow individuals to trap, neuter, vaccinate, microchip, eartip, and return feral cats to their trapped location, and to provide for their on-going care
- Consistent with the County Animal Controls Ordinance

Option B

- De-criminalizes certain behaviors referenced in Option A
- Sunsets all provisions pertaining to or referencing feral cats

Option C

- Criminalizes certain behaviors and would NOT allow individuals to trap, neuter and release feral cats and to provide for their on-going care
- Inconsistent with County Animal Controls Ordinance

Option D – Alternative 1

- Criminalizes certain behaviors involving unenclosed feral or stray cats
- Authorizes cat sanctuary enclosures for feral cats through a City permitting process
- Inconsistent with County Animal Controls Ordinance

Option D – Alternative 2

- Criminalizes certain behaviors involving unenclosed feral or stray cats
- Authorizes cat sanctuary enclosures for feral cats through a City permitting process
- Requires ASCMV to donate land and construct a prototype enclosed cat sanctuary for up to 750 cats (*Note: not viable as proposed*)
- Inconsistent with County Animal Controls Ordinance

Option D – Alternative 3

- De-criminalizes certain behaviors involving cats in existing feral cat colonies with a 5-year sunset clause
- Authorizes cat sanctuary enclosures for feral cats through a City permitting process
- Inconsistent with County Animal Controls Ordinance

Option D – Alternative 4

- De-criminalizes certain behaviors involving cats in existing feral cat colonies with a 5-year sunset clause
- Authorizes cat sanctuary enclosures for feral cats through a City permitting process
- Requires ASCMV to donate land and construct a prototype enclosed cat sanctuary for up to 750 cats (*Note: not viable as proposed*)
- Inconsistent with County Animal Controls Ordinance

Animal Control Ordinance

(Attachment)

**“Comprehensive Alternative to Free-Roaming TNR:
Rationale and Summary of Elements”**

Attachment prepared and submitted by:

Dr. Robert Tafanelli
Marcy Scott
Timothy McKimmie
Dr. Gary Roemer
Angel Montoya
Randy Gray
Nancy Stotz
Alice Anderson
Councilor Gill Sorg – District 5

Comprehensive Alternative to Free-Roaming TNR: Rationale and Summary of Elements

Free-roaming cats (both feral and owned pets) are well-documented to have negative impacts on native wildlife and represent a significant public health threat. Free-roaming cats (both feral and owned pets) are also the source of the vast majority of unwanted kittens.

Achieving a reduction in free-roaming cats requires 2 elements:

- responsible pet ownership, and
- management of feral cat populations.

The Animal Control Ordinance (ACO) revisions considered by City Council in April 2014 addressed responsible pet ownership in many positive ways, including

- restraint requirements,
- micro-chipping requirements, and
- sterilization incentives (including intact animal and litter permits).

Adoption of such ordinance language pertaining to responsible pet ownership, followed by extensive public outreach and aggressive enforcement of the ordinance could do much, in and of itself, to reduce the negative impacts associated with free-roaming cats. The public education and enforcement need to receive support via adequate funding in City budgets.

In order to address the issue of feral cat populations, a combination of policy initiatives and ordinance revisions is required. On the following pages, sample language for such ordinance revisions, which could be inserted into the revised ACO considered by City Council in April 2014, is provided. In summary, this sample ordinance language addresses the following:

- Amends the original definitions of Abandonment, Harbor, and Owner to exempt persons holding a special permit for managed cat colonies.
- Adds new special animal permit for managed cat colony and cat sanctuary enclosure with conditions for both.
- Grandfathers in existing feral cat colonies, with registration requirements and a 5-year sunset period.
- Bans the feeding of free-roaming dogs and cats outside of registered cat colonies.
- Adds new section allowing for the creation of a 2- to 5- acre prototype cat sanctuary enclosure on public land.

As with responsible pet ownership, policies and funding to support extensive public education will be required. Such policies should encourage staff to use GIS and other information sources to target education and outreach to neighborhoods that are sources of feral and stray cats. Education and outreach services should include information on the human health and wildlife impacts of free-roaming cats, responsible pet ownership including spay/neuter and restraint requirements, and where available, information on free and low cost veterinary services.

Potential Language for Changes to Animal Care Ordinance

1. Article I-Changes to the Sec. 7-2 Definitions:

- Amend abandonment

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 trap, neuter and return (TNR) of a feral cat that utilizes a registered cat colony under Sec. 7-31. A person or organization managing registered feral cats by trap, neuter and return is not deemed the owner, harbinger, keeper, holder, possessor, custodian or caretaker of such cats while cat colonies are permitted by this ordinance.

- Amend definition for bite

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

- Add definition for cat colony

cat colony---an aggregation of more than three free-roaming cats

- Add definition for enclosed cat sanctuary

Enclosed cat sanctuary---an enclosure in which no more than 14 cats are kept, managed and maintained by a person or person(s) for the purpose of providing shelter, water, food, basic medical care including sterilization and a safe environment that protects both the animal and public health but does not include veterinary hospitals or ASCMV.

- Amend definition of ear tip

Ear-tip--- (verb) to remove 1/4" (6.35 mm) or more from the tip of a cat's left ear by a straight-line cut perpendicular to the long axis of the ear.

- Amend definition of feral animal

Feral Animal---an individual animal of a domesticated species that is now wild, and is therefore, not suitable to serve as a pet, companion animal, or work animal. Feral cats include all cats that by physical aspect and behavior are deemed to be un-owned and have been trapped for purposes of maintaining or managing a feral cat colony or enclosed cat sanctuary as authorized under Sec. 7-31.

- Amend harbor

Harbor---to feed or provide shelter for any stray 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. The term "harbor" does not apply to the trap, neuter and return (TNR) of a feral

cat that utilizes a registered managed cat colony under Sec. 7-31. A person or organization managing feral cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder, possessor, custodian, or caretaker of such cats while feral cat colonies are permitted by this ordinance.

- Delete *Kennel, commercial*
- Delete *Kennel, Private Residential*
- Add definition for managed cat colony

Managed cat colony---an established non-enclosed colony of cats that are being trapped by a person or person(s) for purposes of improving human health and limiting reproduction that obtains a special permit under Sec. 7-31 within 30 days of passage of this ordinance. Managed cat colonies will be phased out in favor of enclosed cat sanctuaries over a 5-year period from the date of adoption of this ordinance.

- Add definition for Multi-animal site, commercial

Multiple-animal site, commercial—Any premises on which eight or more dogs, or eight or more cats, or eight or more rabbits 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 ASCMV. Such premises were formerly defined as commercial kennel.

- Add definition for Multi-animal site, residential

Multiple-animal site, residential—Any premises on which more than three dogs, or three cats, or three rabbits, or any combination thereof in excess of three, but no more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding, training or boarding for compensation is not carried on, with the exception that the sale of not more than two litters per year for each site shall be permitted, but does not include registered cat colonies or cat sanctuary enclosures. Buying, selling, breeding, training or boarding of such animals for compensation shall be deemed to be a commercial activity not allowed in residential area unless otherwise permitted by applicable zoning regulations. Such premises were formerly defined as a private residential kennel.

- Amend definition of Owner

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 or her. The term “owner” does not apply to the trap-neuter-return (TNR) of a feral cat that utilizes a registered cat colony under Sec. 7-31. A person or organization managing feral cats by trap, neuter and return is not deemed the

owner, harborer, keeper, holder, possessor, custodian, or caretaker of such cats while registered cat colonies are permitted by this ordinance.

- Add definition of Trap-Neuter-Release (TNR)

Trap-Neuter-Release---Applies only to cats. The practice of trapping a running-at-large cat, surgically sterilizing it, and releasing it to resume running at large. Abbreviated (TNR).

- Add definition of Trap-Neuter-Return

Trap-Neuter-Return---Trap-Neuter-Release.

2. Article II-Changes to Sec. 7-8 on Nuisance

- Add a new clause on feeding strays.

G. Feeding strays. No person may feed a stray dog or cat. A cat that is a micro-chipped member of a registered managed cat colony may be fed.

- Amend Section 7-15, A. (1) to allow detaining trespassing animals.

(1) Nothing in this section shall prohibit reasonable force to be used to drive off or detain vicious, dangerous, or trespassing animals.

3. Article III-Changes to Sec. 7-30

- Substitute multi-animal language for kennel; and license for permits as originally proposed

4. Article III- Changes to Sec. 7-31 Special animal permits

- Add a new section on managed cat colony

K. Any person who manages and maintains an unenclosed cat colony shall file an application for a special annual permit with the Animal Control Unit describing the location of the site. Veterinary hospitals or clinics or ASCMV shall be exempt from this requirement. It shall be a condition of the issuance of any special permit that the permittee and landowner, if other than the permittee, consent 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 and may be waived in the interests of reducing intake rates, euthanasia rates and costs incurred by ASCMV. The issuance of special animal permit to maintain a managed cat colony shall sunset after five years. After the permit has sunsetted, no person may put food at the former colony site. Colony managers shall submit to City of Las Cruces Animal Control copies of all rabies vaccination certificates for all cats in their colonies within three business days of the vaccination.

- Add new section on conditions for keeping cats in a managed cat colony

(1) Registration

- a. All existing managed unenclosed colonies shall be appropriately registered within 30 days of passage of this ordinance.
- b. Registration of any new colonies beyond 30 days is strictly prohibited.
- c. All registered cat colonies shall have the written permission of the land owner and any property owners within 1000 feet of the colony location.
- d. Registered cat colonies cannot be located within 8000 feet of schools, restaurants, grocery stores, day care centers or hospitals, parks or environmentally sensitive areas.
- e. Managers must submit a management plan for cat colonies to demonstrate compliance with monitoring and management requirements.
- f. Within one month of registration and every year thereafter on the anniversary of registration, the colony manager will submit to City of Las Cruces Animal Control a census showing numbers of each of the following:
 - i. Cats more than 4 months old: neutered males, intact males, neutered females, intact females.
 - ii. Kittens 4 months old or younger: males, females.
 - iii. Age or sex not known.
- g. Five years after the date of passage of this ordinance, all cats in registered managed colonies shall be removed for adoption, placement in an enclosed sanctuary, or relinquished to the ASCMV.

(2) Maintenance and care

- a. All cats shall have up-to-date rabies vaccinations.
- b. All feeding must be completed while the caregiver is present and then all food removed.

- Add new section outdoor enclosed cat sanctuary

L. Any person who manages and maintains an enclosed cat sanctuary for feral cats shall file an application for a special annual permit with the Animal Control Unit describing the location of the site. Veterinary hospitals or clinics or ASCMV shall be exempt from this requirement. It shall be a condition of the issuance of any special permit that the permittee and landowner, if other than 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 and may be waived in the interests of reducing intake rates, euthanasia rates and costs incurred by ASCMV.

(1) Maintenance, care and confinement.

a. All enclosed cat sanctuaries shall be located on the permittee's land or have the written permission of the land owner.

b. All cats shall be fully contained within the enclosed area.

c. The enclosure shall be of sufficient size and design to provide (a) full containment with cat resistant fencing, (b) shelter, (c) fecal sand boxes, and (d) a minimum of 290 sq. ft. per cat.

d. All cats shall be fed within the confines of the enclosure and feed shall be stored in containers to protect against intrusion by rodents and other vermin.

e. All cats within the enclosure shall be sterilized, vaccinated for Rabies, FVRCP, FeLK, ear-tipped and micro-chipped.

i. All cats must test negative for FIV and FeLK.

ii. Vaccinations for rabies must be kept current.

iii. All cats must be treated annually for internal parasites that pose zoonotic risk to humans, domestic animals and wildlife.

- Amend return to owner in field. Section 7-43 D. (1). Change to "may" to "shall"

1. If the Animal Control Officer is unable to safely return said animal to its owner within a reasonable amount of time, the officer shall deliver the animal to the ASCMV. The Officer shall require reasonable proof of ownership prior to releasing the animal to the owner in the field.

- Amend return to owner in field. Section 7-43 E., change "may" to "shall."

E. Owner relinquish. The Animal Control Officer shall detain and deliver to ASCMV any animal relinquished by its owner.

5. Article IV, Changes to Section 7-44 Reclamation

- Amend F. *Release of Feral Cats to Colonies or Sanctuaries*:

(1) Beginning one year after passage of this ordinance, a licensed veterinarian shall not release a feral cat to the manager of a registered cat colony unless the cat has been sterilized,

vaccinated for rabies, and is an original resident of that cat colony as evidenced by an ear-tip and micro-chip.

(2) A licensed veterinarian may release a feral cat to the manager of a registered enclosed cat sanctuary provided the enclosed cat sanctuary has fewer than 14 resident cats as evidenced by micro-chips.

6. New article V. on allowing a prototype public cat sanctuary

Article V. Public Cat Sanctuary

Section 7-46. Prototype Cat Sanctuary

A. A two- to five-acre public cat sanctuary would be allowed on appropriate existing City-owned property or on donated property.

B. Cats that had been brought to ASCMV that had been judged by shelter staff to be healthy and feral shall be eligible to be placed in the sanctuary. No other cats may be placed in the sanctuary.

C. Maintenance, care and confinement.

(1) All cats shall be fully contained within the enclosed area.

(2) The enclosure shall be of sufficient size and design to provide (a) full containment with cat resistant fencing, (b) shelter, (c) fecal sand boxes, and (d) a minimum of 290 sq. ft. per cat.

(3) All cats shall be fed within the confines of the enclosure and feed shall be stored in containers to protect against intrusion by rodents and other vermin.

(4) All cats within the enclosure shall be sterilized, vaccinated for Rabies, FVRCP, FeLK, ear-tipped and micro-chipped.

a. All cats must test negative for FIV and FeLK.

b. Vaccinations for rabies must be kept current.

c. All cats must be treated annually for internal parasites that pose zoonotic risk to humans, domestic animals and wildlife.

(5) Cats that become socialized during their stay in the sanctuary shall be eligible for adoption under standard ASCMV procedures.

D. Construction and maintenance of the sanctuary and care of the cats shall be by volunteers.