City of Las Cruces®
PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13 **Ordinance/Resolution#** 2728

For Meeting of October 6, 2014 (Ordinance First Reading Date) **For Meeting of** November 3, 2014 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

TITLE: AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997, CHAPTER 7, ANIMALS, ARTICLE I THROUGH ARTICLE V, IN ITS ENTIRETY AND ENACTING NEW LAS CRUCES MUNICIPAL CODE 1997, CHAPTER 7, ANIMALS, ARTICLE I THROUGH ARTICLE IV AND REPEALING LAS CRUCES MUNICIPAL CODE 1997, SECTION 19-127.

PURPOSE(S) OF ACTION:

Approve revision to the Las Cruces Municipal Code.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Marcy Driggers	**Department/Section:** Legal/City Attorney	**Phone:** 541-2128
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

A prior version of the animal control ordinance containing sections that de-criminalized behaviors to allow individuals to conduct trap, neuter and return ("TNR") programs for feral cats was submitted for Council consideration but was defeated on April 7, 2014 in large part because of continuing concerns about TNR. A work session was conducted on August 25, 2014 to discuss more options for feral cats including both unenclosed and enclosed feral cat colonies. Based on the direction given at the August 25th work session to provide for permitting of both unenclosed and enclosed cat colonies sometimes referred to as catteries and further based on public comments and staff review, the following major revisions are proposed:

1. Section 7-2 entitled "Definitions".

   References to trap, neuter and return ("TNR") were deleted in the definitions of "abandonment (or to abandon"), "harbor", and "owner" and were replaced with references to feral cat colony permits for both unenclosed and enclosed cat colonies.

   New definitions for "cat colony", "cat colony caretaker", and "cattery" were added.

(Continue on additional sheets as required)

2. Section 7-18(F) entitled "Noise". The barking time was reduced from 15 minutes to 10 minutes.

3. Section 7-18(I) entitled "Feeding animals running at large". This is a new nuisance prohibition requested by a Council member. It prohibits feeding stray animals with an exception for microchipped feral cats in permitted colonies.

4. Section 7-31(M) entitled "Feral cat colony". This is a new category for special animal permits, and provides for special animal permits for both unenclosed feral cat colonies and enclosed feral colonies also known as catteries.

5. Section 7-33 entitled "Dangerous or potentially dangerous dogs". New subsections 7-33(B) and 7-33(C) were added to allow animal control officers and Municipal Court to enforce the New Mexico Dangerous Dog Act within the Municipal Court.

6. Section 7-46 entitled "Sunset provisions". The section was revised to provide that permitted unenclosed feral cat colonies can no longer operate after January 1, 2020, being approximately five (5) years from the effective date of the new Ordinance.

7. Section 19-127 entitled "Animals", which pertains to animal noise, is repealed because the new animal control ordinance provides a more detailed prohibition for animal noise in Section 7-18(F).

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Proposed new Las Cruces Municipal Code (LCMC) 1997, Chapter 7, Article I through Article IV.
3. Exhibit "B", Existing LCMC 1997, Section 19-127, entitled "Animals," showing strikethrough for repeal.
4. Attachment "A", Proposed new LCMC 1997, Chapter 7, Article I through Article IV in legislative format showing revisions to the version reviewed by the City Council at the August 25, 2014 Work Session.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted? N/A			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____ for FY__.
	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this action will approve the Ordinance repealing and replacing LCMC 1997, Chapter 7, Article I through Article V, and repealing LCMC 1997, Section 19-127.
2. Vote "No"; this action will keep existing LCMC 1997, Chapter 7, Article I through Article V, and LCMC 1997, Section 19-127, in effect.
3. Vote to "Amend"; this action would allow the City Council to modify provisions of new LCMC 1997, Chapter 7, Article I through Article IV.
4. Vote to "Table"; this action would allow the City Council to table or postpone consideration of the Ordinance and to direct staff accordingly.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

(Continue on additional sheets as required)

COUNCIL BILL NO. 15-009
ORDINANCE NO. 2728

AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE 1997, CHAPTER 7, ANIMALS, ARTICLE I THROUGH ARTICLE V, IN ITS ENTIRETY AND ENACTING NEW LAS CRUCES MUNICIPAL CODE 1997, CHAPTER 7, ANIMALS, ARTICLE I THROUGH ARTICLE IV AND REPEALING LAS CRUCES MUNICIPAL CODE 1997, SECTION 19-127.

The City Council is informed that:

WHEREAS, an ad hoc committee established by the Board of Directors of the Animal Services Center of the Mesilla Valley developed recommendations in the form of a model animal control ordinance for the City of Las Cruces ("City") and Dona Ana County ("County"), which recommendations were thereafter approved by the Animal Services Center Board; and

WHEREAS, City and County animal control officers and attorneys modified the recommendations and developed two (2) separate but comparable ordinances for consideration; and

WHEREAS, the Las Cruces City Council and the Board of County Commissioners held a joint work session on October 15, 2013 to discuss the ordinances developed by staff based on the recommendations approved by the Animal Services Center Board; and

WHEREAS, the City Council held a separate work session on January 27, 2014 to discuss the proposed city animal control ordinance, which was thereafter revised by staff; and

WHEREAS, the City Council defeated the revised version of the city animal control ordinance on April 7, 2014 in large part because of continuing concern about trap, neuter and return, also known as "TNR", programs for feral cats; and

WHEREAS, the City Council held follow-up work sessions on June 23, 2014 and August 25, 2014 to further discuss concerns brought up at the April 7th meeting; and

WHEREAS, based on City Council direction, public comments and staff review, the animal control ordinance has been further modified most significantly to provide for the permitting of enclosed and unenclosed feral cat colonies as well as numerous other modifications which revisions have been incorporated into Exhibit "A".

NOW, THEREFORE, Be it ordained by the governing body of the City of Las Cruces:

(I)

THAT Las Cruces Municipal Code (LCMC) 1997 Chapter 7, Animals, Article I through Article V is hereby repealed in its entirety.

(II)

THAT LCMC 1997 Chapter 7, Animals, Article I through Article IV, as shown in Exhibit "A" attached hereto and made part of this ordinance, is hereby enacted.

(III)

THAT LCMC 1997, Section 19-127, as shown on Exhibit "B" attached hereto, is hereby repealed.

(IV)

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

DONE AND APPROVED this ____ day of _____, 20___.

APPROVED:

_____

Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Smith: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Levatino: ____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A

Chapter 7

ANIMALS

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.
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 mill.
Secs. 7-21.–7-29.	Reserved.

Article III. Permitted and Prohibited Animals

Sec. 7-30.	Multi-animal site permit.
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.	Qualified service animals.
Secs. 7-36.–7-39.	Reserved.

Article IV. Administration and Enforcement

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

ARTICLE I. GENERAL PROVISIONS

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

A. This Chapter shall be known as and may be cited as the "Animal Control Ordinance."

B. It is the intent of the Las Cruces City Council that enactment of this Chapter will increase the protection of animals from neglect, abandonment, and abuse; encourage responsible ownership and caretaking of animals; reduce potential nuisance issues associated with animals; reduce predation by domestic animals; and minimize the number of healthy or treatable animals euthanized, while protecting the public from illness or injury by animals.

C. It is the further intent of the Las Cruces City Council for this Chapter to encourage responsible animal ownership through:

1. owner identification and pet licensure;

2. population management primarily through sterilization;

3. humane care;

4. vaccination against rabies; and

5. physical control of pets.

D. It is the further intent of the Las Cruces City Council that this Chapter be consistent to the extent possible with the animal control ordinance adopted by 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 a person or organization operating a permitted feral cat colony.

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.

Cat colony --- A group of feral cats that congregates, more or less, together as a unit; and any cat that congregates with the group shall be deemed to be part of it.

Cat colony caretaker --- An organization or person or persons responsible for the operation of a permitted feral cat colony.

Cattery --- A separate enclosure used to house multiple feral cats.

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 a person or organization operating a permitted feral cat colony.

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, 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 dogsor cats four months of age or older, are kept; or where the business of buying, selling, breeding, training or boarding of such animals is conducted, but does not include veterinary hospitals or the ASCMV. Such premises were formerly defined as a commercial kennel.

Multi-animal site, residential --- Any premises on which more than three dogs, three cats , or any combination thereof in excess of three, but not more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding, training, or boarding for compensation is not carried 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 a person or organization operating a permitted feral cat colony.

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.

Qualified service animal ---

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.

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.

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.

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

(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.

(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.

(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.

(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.

(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.

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 Animal.

(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 a person or organization operating a permitted feral cat colony.

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, 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. However, in no event shall an animal be sold, transferred or adopted until it is fully weaned and capable of eating on its own to sufficiently maintain proper body condition as determined by the Animal Control Unit. 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 or the ASCMV 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 or the ASCMV 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 such as a dog or cat shall dispose of the waste from the animal in a watertight and fly tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard.

D. *Livestock waste.* Waste from livestock shall be removed or spread at least once each week so as not to constitute a nuisance. Additionally all premises where livestock are kept shall be treated as necessary with approved pesticides for the control of insects and rodents related to waste from livestock so as not to constitute a nuisance.

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 which disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity. It shall be a violation of this section if the howling, barking or noise is frequent or long-continued; is audible beyond the property line of the premises on which the animal is located for more than 10 minutes; and is attested to by:

a. Complainants from two or more separate properties;

b. A complainant from a separate property and verified by an audio recording which records the howling, barking or noise for more than 10 minutes; or

c. An animal control officer or law enforcement officer.

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

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.

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.

I. *Feeding animals running at large.* A person shall not feed a dog or cat running at large. A cat that is a microchipped member of a permitted unenclosed feral cat colony may be fed.

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 mill.

No person shall keep or operate a pet 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. 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 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. *Application generally.* A person or organization who seeks to keep any animal requiring a special animal permit shall file an application for an annual special animal permit with the Animal Control Unit describing the location of the site and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from this requirement. It shall be a condition of the issuance of any special animal permit that the permittee consents to inspection of the premises by the Animal Control Unit at any time between the hours of 6:00 a.m. and 10:00 p.m. The application fee and annual permit fee shall be set by City Council resolution.

B. *Application conditions.* All applications for special animal permits required under this Section must meet the following conditions:

(1) 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.

C. *Revocation.* A special animal permit may be revoked when, in the opinion of the zoning administrator or Animal Control Officer, any one or more of the following conditions exist:

(1) The premises or enclosures are not maintained in a clean and sanitary condition and are a health hazard or produce noxious odors.

(2) The enclosures are unsafe.

(3) Containers for venomous snakes or lizards are not clearly labeled and locked.

D. The keeping of any permit-required species not allowed under the provisions of the existing special animal permit.*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.

E. *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.

F. *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.

G. *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.

H. *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 livestock, provided that the individual is currently participating in a program utilizing these animals, and received a permit from the Animal Control Unit for such activity and meets the applicable requirements of this chapter. Each permit shall be individually reviewed by the Animal Control Unit as to program participation and permitted animals to obtain the goals of the FFA or 4-H program. All such animals kept subject to this Section may be relocated outside of the City limits by the Animal Control Unit upon receipt of a nuisance complaint concerning the animals.

I. *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.

J. *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.

K. *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 tipplers.

(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.

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.

M. Feral cat colony. Any organization or person or persons seeking to operate a feral cat colony shall obtain a permit either for an unenclosed cat colony or for an enclosed cat colony also known as a cattery. For an unenclosed cat colony, the permit shall identify the general location of the colony. For an enclosed cat colony, the permit shall identify the exact location of the colony and shall require the concurrence of the property owner where the colony will be located. Each additional colony location shall require a new permit application.

(1) The Cat Colony Caretaker shall:

a. For an enclosed cat colony, comply with the provisions of Section 7-10(A) entitled "Animal well being";

b. For an unenclosed cat colony, comply with the provisions of Section 7-10(A)(1) and (7);

c. Maintain only sterilized, rabies vaccinated, microchipped, and ear-tipped cats within the Colony. Cats under three (3) months of age shall be exempt from this requirement;

d. Seek foster and permanent homes for any Colony cats deemed to be temperamentally suitable for human companionship; and

e. Assist in resolving complaints received by the Animal Control Unit concerning the Colony.

(2) If the Cat Colony Caretaker is unable or unwilling to continue the operation of the Colony, the Cat Colony Caretaker shall provide the Animal Control Unit with a minimum of thirty (30) days written notice, whenever possible, of its intention to cease operation. If the Colony is left without a Caretaker, all of the cats may be trapped, impounded and disposed of as the ASCMV deems fit.

(3) If an impounded cat has a microchip registered to a Cat Colony Caretaker, the Cat Colony Caretaker shall be notified and shall pay all fees owed to the ASCMV for the impoundment and detention.

(4) The Animal Control Unit shall be additionally authorized to revoke a Feral Cat Colony permit if it determines that the Colony is in a location that is hazardous to the health and safety of the public, if the cats are endangered, or if the cats pose a significant threat to endangered or protected wildlife species. After being notified that the permit has been revoked, the Cat Colony Caretaker shall take immediate action to have all of the cats removed.

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.

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

A. A person owning or having care, custody, or control over a dangerous or potentially dangerous dog shall comply with the provisions of the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2 et seq., as amended.

B. Animal Control Officers may apply to Municipal Court for a warrant to seize a dog believed to be a dangerous dog or a potentially dangerous dog, and may file a petition in Municipal Court seeking a determination of whether the dog is dangerous or potentially dangerous, all in compliance with the Dangerous Dog Act.

C. Municipal Court shall be deemed a court of competent jurisdiction to issue a warrant to seize a dangerous dog or a potentially dangerous dog; to hear a petition seeking a determination of whether a seized dog is dangerous or potentially dangerous; and to otherwise enforce the Dangerous Dog Act for dogs located within the City limits.

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 accomodations and shall be allowed to access a common carrier in compliance with the Service Animal Act, NMSA 1978, Section 28-11-1.1, et seq., as amended.

B. *Additional Fees.* A person shall not be required to pay any additional charges for his or her qualified service animal, but shall be liable for any damage done by his or her qualified service animal.

Secs. 7-36–7-39. Reserved.

ARTICLE IV
Administration and Enforcement

Sec. 7-40. Remittance of permit fees.

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

Sec. 7-41. Animal control officers.

A. The City shall designate Animal Control Officer(s).

B. Animal Control Officers shall seek to prevent and control the spread of rabies within the City including but not limited to the capture and confinement or disposition of rabies suspect animals, the enforcement of quarantine orders, the destruction or confinement of animals exposed to rabies and the enforcement of applicable regulations.

C. Animal Control Officers shall be provided with training to apprehend and handle animals.

D. In carrying out the provisions of the Animal Control Ordinance and other applicable regulations, every Animal Control Officer is authorized to pursue a stray animal or a vicious dog or a dog molesting livestock or any animal with symptoms of rabies onto

private premises unless permission to make such pursuit is explicitly refused by an occupant of the premises.

Sec. 7-42. Enforcement authority and processes.

A. *Investigation; right of entry.* The Animal Control Officer shall have the authority, and is directed to investigate upon probable cause, any alleged violation of this Chapter or of any other applicable animal control law, order, or regulation.

(1) Upon receiving a complaint of a violation or observing a violation of this Chapter, the Animal Control Officer is authorized to enter upon private premises, but not into a residence, for the purpose of inspecting and investigating such alleged violation.

(2) If the owner or occupant of any such private premises objects to inspection or onsite investigation, a warrant shall be obtained from a court of competent jurisdiction prior to inspection.

B. *Interference prohibited.*

(1) Interference. A person shall not threaten or interfere with the Animal Control Officer in the performance of the duties authorized by this Chapter.

(2) False report. A person shall not make a false report to the Animal Control Officer regarding any animal in danger or regarding any alleged violation of this Chapter.

(3) Animal trap. A person shall not move, open, close, or in any way alter an animal trap belonging to the City or being used by the Animal Control Unit without authorization from the Animal Control Unit. Removal or release of any animal from such a trap is prohibited.

C. *Right to destroy.* A Police Officer or Animal Control Officer who learns of an animal within the City, which reasonably appears to pose an immediate and serious threat to human life, is authorized to destroy said animal if the officer is unable to capture said animal without any substantial danger to himself/herself or others.

D. *Procedures for complaints.* A complaint alleging any violation of this Chapter may be filed with the Animal Control Unit by a person who has personal knowledge of such violation and who can identify the owner of the animal involved or the premises where the animal is located. The Animal Control Officer may require the complainant to provide his or her name and address and swear to and affirm the complaint.

E. *Citations; criminal complaints.* Whenever the Animal Control Officer has probable cause to believe that a person has violated this Chapter or any other applicable animal control law or regulation, the Officer may prepare a criminal complaint to be filed with a court of competent jurisdiction or may prepare a citation for the alleged violator to appear in court.

Sec. 7-43. Impoundment and detention.

A. *Animal Services Center of the Mesilla Valley.* The ASCMV shall serve as the primary facility for the impoundment of animals pursuant to this Chapter. The Animal Control Unit may designate additional locations for impoundment under special circumstances; such as special quarantine arrangements, animals held pending legal proceedings, and/or special wildlife impoundments.

B. *Health or safety risk.* The Animal Control Officer may take emergency measures in order to seize and detain any animal that poses a present or imminent health or safety risk to the public.

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

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

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

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

(2) A trained and equipped Animal Control Officer may humanely euthanize such animal onsite if the Officer deems it necessary.

D. *Running at large.* The Animal Control Officer may detain any animal found running at large, except as otherwise provided for in this Chapter.

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

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

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

(1) An owner requesting to relinquish ownership of an animal to the Animal Control Unit or ASCMV shall be required to complete and sign a Release of Ownership at

the time of detainment or impoundment. By signing the Release of Ownership, the owner shall:

a. Affirmatively represent in writing that he or she is the legal owner of the animal;

b. Transfer ownership of the animal to the ASCMV or other suitable facility;

c. Direct in writing that the animal be placed in the custody of the ASCMV or other suitable facility for disposition as the ASCMV or facility sees fit; and

d. Agree that he or she will indemnify and hold the Animal Control Unit and/or the ASCMV or other suitable facility harmless from any loss or damage he or she may sustain, including attorney's fees, by reason of the destruction or placement for adoption of said animal.

(2) The Animal Control Unit may provide for the transport of a relinquished animal to the ASCMV or other suitable facility.

a. The transport fee amount shall be established and adopted through City Council resolution.

F. *Cruelty; extreme cruelty.* An Animal Control Officer or Police Officer who reasonably believes that the life or health of an animal is endangered due to cruel or extreme cruelty shall follow the seizure, notice, disposition, and cost procedures contained in NMSA 1978, Sec. 30-18-1.1, 1.2, and 1.3, as amended.

G. *Rabies exposure; animal surrender.*

(1) A person owning or having care, custody, or control over an animal that bites a person shall surrender custody of said animal to the Animal Control Officer if the Officer deems it necessary to impound said animal for a quarantine isolation and observation period.

(2) If a person owning or having care, custody or control refuses to surrender custody said animal, the Officer may seek a warrant for the seizure of the animal.

Sec. 7-44. Reclamation.

A. *Right to reclaim.* The owner of any animal that is impounded pursuant to this Chapter shall have the right to reclaim the animal from the ASCMV during the allotted Reclamation Period upon payment of all fees that may be owed for the impoundment of such animal.

(1) Any animal not reclaimed within the Reclamation Period shall thereafter be considered the property of the ASCMV.

(2) The Reclamation Period may be interrupted if it is determined by the staff of the ASCMV that euthanization of the animal is necessary due to the animal being in severe, acute distress; if the animal is irremediably suffering; or if the animal is feral and not microchipped.

(3) The ASCMV shall hold any animal impounded for running at large without Pet Identification for a minimum Reclamation Period of three (3) working days following impoundment.

(4) The ASCMV shall hold any animal impounded for running at large with Pet Identification for a minimum Reclamation Period of five (5) working days following impoundment.

(5) The ASCMV shall not be required to hold for any minimum Reclamation Period any animal that has been relinquished to the ASCMV by its owner.

(6) The ASCMV shall hold any deceased animal delivered to the ASCMV with Pet Identification for a minimum Reclamation Period of one (1) working day.

(7) The ASCMV shall not be required to hold for any minimum Reclamation Period any deceased animal delivered to the ASCMV without Pet Identification.

(8) The ASCMV shall hold any animal impounded as a care and maintenance impoundment for a minimum Reclamation Period of five (5) working days following impoundment.

(9) The owner may not reclaim any animal that has been placed under a court-ordered detainment.

(10) Any animal placed under quarantine shall be held for the full quarantine isolation and observation period before said animal may be reclaimed by the owner, unless a home quarantine is authorized by the Animal Control Officer.

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

(1) Payment of such impoundment and boarding fees shall not bar the imposition of any fine that may be imposed by a court of competent jurisdiction for the violation of this Chapter or state law.

(2) Boarding fees may be included for each day or fraction thereof of impoundment for feeding and care for such animal.

(3) The owner of any animal impounded shall be responsible for all fees associated with such impoundment and boarding whether or not the animal is reclaimed.

(4) All fees associated with such impound shall be paid to the ASCMV.

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

(1) If a current rabies vaccination certificate is not provided, the owner shall purchase either a new vaccination or a vaccination voucher for the animal from the ASCMV before said animal may be reclaimed.

a. If the owner chooses to purchase a vaccination voucher, the owner shall sign an agreement stating he or she will have the animal vaccinated against rabies within thirty (30) days of reclamation.

b. The owner shall subsequently provide the current rabies vaccination certificate for said animal to the ASCMV within thirty-five (35) days of reclamation.

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

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

(1) Proof of the microchip implantation shall be a scan of the animal by an ASCMV staff member confirming the presence of a working identification microchip.

(2) If proof of a working microchip implantation is not obtained, the owner shall be charged for microchip implantation by the ASCMV before the animal may be reclaimed.

(3) The microchip and corresponding owner contact information shall be registered with the ASCMV.

(4) The microchip fee shall be set by and payable to the ASCMV.

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

(1) Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

(2) If proof of sterilization cannot be provided or such condition is not readily obvious to the ASCMV staff, the owner shall provide a sterilization deposit to the ASCMV.

(3) The owner shall sign an agreement stating he or she will have the animal sterilized within thirty (30) days of reclamation or will obtain an Intact Animal Permit from the Animal Control Unit within such time.

(4) The sterilization deposit shall be reimbursed to the owner upon presentation of proof of sterilization to the ASCMV by the owner within thirty-five (35) days of reclamation.

(5) The sterilization deposit shall not be reimbursed for obtaining an Intact Animal Permit.

F. *Release of Feral Cats*. Prior to release of any feral cat, a licensed veterinarian or ASCMV staff must establish that the cat has been sterilized, and is microchipped, 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 January 1, 2020, all provisions of the Animal Control Ordinance pertaining or referencing permits for unenclosed feral cat colonies shall sunset unless formally renewed or revised by ordinance.

EXHIBIT B

~~Sec. 19-127. Animals.~~

~~The keeping of any animals which, by causing frequent or long continuous noise, shall disturb the comfort or repose of any persons in the vicinity shall be deemed a violation of this division.~~

~~*(Code 1988, § 21-82)*~~

~~***Cross reference*** — *Animals generally, ch. 7.*~~

ATTACHMENT A

LEGISLATIVE FORMAT

Chapter 7

ANIMALS

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-.
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- mill.
Secs. 7-21.–7-29.	Reserved.

Article III. Permitted and Prohibited Animals

Sec. 7-30.	Multi-animal site permit.
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.	Qualified service animals.
Secs. 7-36.–7-39.	Reserved.

Article IV. Administration and Enforcement

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

ARTICLE I. GENERAL PROVISIONS

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

A. This Chapter shall be known as and may be cited as the "Animal Control Ordinance."

B. It is the intent of the Las Cruces City Council that enactment of this Chapter will increase the protection of animals from neglect, abandonment, and abuse; encourage responsible ownership and caretaking of animals; reduce potential nuisance issues associated with animals; reduce predation by domestic animals; and minimize the number of healthy or treatable animals euthanized, while protecting the public from illness or injury by animals.

C. It is the further intent of the Las Cruces City Council for this Chapter to encourage responsible animal ownership through:

1. owner identification and pet licensure;

2. population management primarily through sterilization;

3. humane care;

4. vaccination against rabies; and

5. physical control of pets.

D. It is the further intent of the Las Cruces City Council that this Chapter be consistent to the extent possible with the animal control ordinance adopted by 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 a ~~the trap, neuter and return (TNR) of feral cats. A~~ person or organization operating a permitted feral cat colony. ~~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.

Cat colony --- A group of feral cats that congregates, more or less, together as a unit; and any cat that congregates with the group shall be deemed to be part of it.

Cat colony caretaker --- An organization or person or persons responsible for the operation of a permitted feral cat colony.

Cattery --- A separate enclosure used to house multiple feral cats.

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 a ~~the trap, neuter and return (TNR) of feral cats. A~~ person or organization operating a permitted feral cat colony.~~managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, 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, 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~~,~~or cats ~~or other pets~~ four months of age or older, are kept; or where the business of buying, selling, breeding, training or boarding of such animals is conducted, but does not include veterinary hospitals or the ASCMV. Such premises were formerly defined as a commercial kennel.

Multi-animal site, residential --- Any premises on which more than three dogs, three cats ~~or three other pets~~, 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 a ~~the trap, neuter and return (TNR) of feral cats. A~~ person or organization operating a permitted feral cat colony.~~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.

Qualified service animal ---

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.

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.

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.

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

(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.

(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.

(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.

(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.

(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.

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 Animal.

(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 a ~~the trap, neuter and return (TNR) of feral cats. A~~ person or organization operating a permitted feral cat colony. ~~managing un-owned cats by trap, neuter and return is not deemed the owner, harborer, 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. However, in no event shall an animal be sold, transferred or adopted until it is ~~All animals shall be~~ fully weaned and capable of eating on its ~~their~~ own to sufficiently maintain proper body condition as determined by the Animal Control Unit

~~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 <u>or the ASCMV</u> 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 <u>or the ASCMV</u> 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 such as a dog or cat shall dispose of the waste from the animal in a watertight and fly tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard.

D. *Livestock waste.* Waste from livestock shall be removed or spread at least once each week so as not to constitute a nuisance. Additionally all premises where livestock are kept shall be treated as necessary with approved pesticides for the control of insects and rodents related to waste from livestock so as not to constitute a nuisance.

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 which disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity. It shall be a violation of this section if the howling, barking or noise is frequent or long-continued; is audible beyond the property line of the premises on which the animal is located for more than 10~~15~~ minutes; and is attested to by:

a. Complainants from two or more separate properties;

b. A complainant from a separate property and verified by an audio recording which records the howling, barking or noise for more than 10~~15~~ minutes; or

c. An animal control officer or law enforcement officer.

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

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.

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.

~~H.~~I. *Feeding animals running at large.* A person shall not feed a dog or cat running at large. A cat that is a microchipped member of a permitted unenclosed feral cat colony may be fed.

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 mill.

No person shall keep or operate a pet 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. 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 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. *Application generally.* A person or organization who seeks to keep any animal requiring a special animal permit shall file an application for an annual special animal permit with the Animal Control Unit describing the location of the site and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from this requirement. It shall be a condition of the issuance of any special animal permit that the permittee consents to inspection of the premises by the Animal Control Unit at any time between the hours of 6:00 a.m. and 10:00 p.m. The application fee and annual permit fee shall be set by City Council resolution.

B. *Application conditions.* All applications for special animal permits required under this Section must meet the following conditions:

(1) 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.

C. *Revocation.* A special animal permit may be revoked when, in the opinion of the zoning administrator or Animal Control Officer, any one or more of the following conditions exist:

(1) The premises or enclosures are not maintained in a clean and sanitary condition and are a health hazard or produce noxious odors.

(2) The enclosures are unsafe.

(3) Containers for venomous snakes or lizards are not clearly labeled and locked.

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

~~A.~~D. *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.~~E. *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.~~F. *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.~~G. *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.~~H. *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 livestock, provided that the individual is currently participating in a program utilizing these animals, and received a permit from the Animal Control Unit for such activity and meets the applicable requirements of this chapter. Each permit shall be individually reviewed by the Animal Control Unit as to program participation and permitted animals to obtain the goals of the FFA or 4-H program. All such animals kept subject to this Section may be relocated outside of the City limits by the Animal Control Unit upon receipt of a nuisance complaint concerning the animals.

~~F.~~I. *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.

~~G.~~J. *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.

~~H. *Application generally.* Subject to the above conditions, the person shall file an application for an annual special animal permit with the Animal Control Unit describing the location of the site and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from this requirement. It shall be a condition of the issuance of any special animal permit that the permittee consents to inspection of the premises by the Animal Control Unit at any time between the hours of 6:00 a.m. and 10:00 p.m. The application fee and annual permit fee shall be set by City Council resolution.~~

~~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.~~

~~J. *Revocation.* A special animal permit may be revoked when, in the opinion of the zoning administrator or Animal Control Officer, any one or more of the following conditions exist:~~

~~(1) The premises or enclosures are not maintained in a clean and sanitary condition and are a health hazard or produce noxious odors.~~

~~(2) The enclosures are unsafe.~~

~~(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.~~

K. ~~*Conditions for keeping p*~~*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 tipplers.

(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.

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.

M. Feral cat colony. Any organization or person or persons seeking to operate a feral cat colony shall obtain a permit either for an unenclosed cat colony or for an enclosed cat colony also known as a cattery. For an unenclosed cat colony, the permit shall identify the general location of the colony. For an enclosed cat colony, the permit shall identify the exact location of the colony and shall require the concurrence of the property owner where the colony will be located. Each additional colony location shall require a new permit application.

(1) The Cat Colony Caretaker shall:

a. For an enclosed cat colony, comply with the provisions of Section 7-10(A) entitled "Animal well being";

b. For an unenclosed cat colony, comply with the provisions of Section 7-10(A)(1) and (7);

c. Maintain only sterilized, rabies vaccinated, microchipped, and ear-tipped cats within the Colony. Cats under three (3) months of age shall be exempt from this requirement;

d. Seek foster and permanent homes for any Colony cats deemed to be temperamentally suitable for human companionship; and

e. Assist in resolving complaints received by the Animal Control Unit concerning the Colony.

(2) If the Cat Colony Caretaker is unable or unwilling to continue the operation of the Colony, the Cat Colony Caretaker shall provide the Animal Control Unit with a minimum of thirty (30) days written notice, whenever possible, of its intention to cease operation. If the Colony is left without a Caretaker, all of the cats may be trapped, impounded and disposed of as the ASCMV deems fit.

(3) If an impounded cat has a microchip registered to a Cat Colony Caretaker, the Cat Colony Caretaker shall be notified and shall pay all fees owed to the ASCMV for the impoundment and detention.

~~b.~~ (4) The Animal Control Unit shall be additionally authorized to revoke a Feral Cat Colony permit if it determines that the Colony is in a location that is hazardous to the health and safety of the public, if the cats are endangered, or if the cats pose a significant threat to endangered or protected wildlife species. After being notified that the permit has been revoked, the Cat Colony Caretaker shall take immediate action to have all of the cats removed.

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.

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

A. A person owning or having care, custody, or control over a dangerous or potentially dangerous dog shall comply with the provisions of the Dangerous Dog Act, NMSA 1978, Sec. 77-1A-2 et seq., as amended.

B. Animal Control Officers may apply to Municipal Court for a warrant to seize a dog believed to be a dangerous dog or a potentially dangerous dog, and may file a petition in Municipal Court seeking a determination of whether the dog is dangerous or potentially dangerous, all in compliance with the Dangerous Dog Act.

C. Municipal Court shall be deemed a court of competent jurisdiction to issue a warrant to seize a dangerous dog or a potentially dangerous dog; to hear a petition seeking a determination of whether a seized dog is dangerous or potentially dangerous; and to otherwise enforce the Dangerous Dog Act for dogs located within the City limits.

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 accomodations and shall be allowed to access a common carrier in compliance with the Service Animal Act, NMSA 1978, Section 28-11-1.1, et seq., as amended.

B. *Additional Fees.* A person shall not be required to pay any additional charges for his or her qualified service animal, but shall be liable for any 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 c*are and maintenance* impoundment for purposes of reclamation.

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

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

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

(2) A trained and equipped Animal Control Officer may humanely euthanize such animal onsite if the Officer deems it necessary.

D. *Running at large.* The Animal Control Officer may detain any animal found running at large, except as otherwise provided for in this Chapter.

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

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

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

(1) An owner requesting to relinquish ownership of an animal to the Animal Control Unit or ASCMV shall be required to complete and sign a Release of Ownership at

the time of detainment or impoundment. By signing the Release of Ownership, the owner shall:

a. Affirmatively represent in writing that he or she is the legal owner of the animal;

b. Transfer ownership of the animal to the ASCMV or other suitable facility;

c. Direct in writing that the animal be placed in the custody of the ASCMV or other suitable facility for disposition as the ASCMV or facility sees fit; and

d. Agree that he or she will indemnify and hold the Animal Control Unit and/or the ASCMV or other suitable facility harmless from any loss or damage he or she may sustain, including attorney's fees, by reason of the destruction or placement for adoption of said animal.

(2) The Animal Control Unit may provide for the transport of a relinquished animal to the ASCMV or other suitable facility.

a. The transport fee amount shall be established and adopted through City Council resolution.

F. *Cruelty; extreme cruelty.* An Animal Control Officer or Police Officer who reasonably believes that the life or health of an animal is endangered due to cruel or extreme cruelty shall follow the seizure, notice, disposition, and cost procedures contained in NMSA 1978, Sec. 30-18-1.1, 1.2, and 1.3, as amended.

G. *Rabies exposure; animal surrender.*

(1) A person owning or having care, custody, or control over an animal that bites a person shall surrender custody of said animal to the Animal Control Officer if the Officer deems it necessary to impound said animal for a quarantine isolation and observation period.

(2) If a person owning or having care, custody or control refuses to surrender custody said animal, the Officer may seek a warrant for the seizure of the animal.

Sec. 7-44. Reclamation.

A. *Right to reclaim.* The owner of any animal that is impounded pursuant to this Chapter shall have the right to reclaim the animal from the ASCMV during the allotted Reclamation Period upon payment of all fees that may be owed for the impoundment of such animal.

(1) Any animal not reclaimed within the Reclamation Period shall thereafter be considered the property of the ASCMV.

(2) The Reclamation Period may be interrupted if it is determined by the staff of the ASCMV that euthanization of the animal is necessary due to the animal being in severe, acute distress; ~~or~~ if the animal is irremediably suffering; or if the animal is feral and not microchipped.

(3) The ASCMV shall hold any animal impounded for running at large without Pet Identification for a minimum Reclamation Period of three (3) working days following impoundment.

(4) The ASCMV shall hold any animal impounded for running at large with Pet Identification for a minimum Reclamation Period of five (5) working days following impoundment.

(5) The ASCMV shall not be required to hold for any minimum Reclamation Period any animal that has been relinquished to the ASCMV by its owner.

(6) The ASCMV shall hold any deceased animal delivered to the ASCMV with Pet Identification for a minimum Reclamation Period of one (1) working day.

(7) The ASCMV shall not be required to hold for any minimum Reclamation Period any deceased animal delivered to the ASCMV without Pet Identification.

(8) The ASCMV shall hold any animal impounded as a care and maintenance impoundment for a minimum Reclamation Period of five (5) working days following impoundment.

(9) The owner may not reclaim any animal that has been placed under a court-ordered detainment.

(10) Any animal placed under quarantine shall be held for the full quarantine isolation and observation period before said animal may be reclaimed by the owner, unless a home quarantine is authorized by the Animal Control Officer.

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

(1) Payment of such impoundment and boarding fees shall not bar the imposition of any fine that may be imposed by a court of competent jurisdiction for the violation of this Chapter or state law.

(2) Boarding fees may be included for each day or fraction thereof of impoundment for feeding and care for such animal.

(3) The owner of any animal impounded shall be responsible for all fees associated with such impoundment and boarding whether or not the animal is reclaimed.

(4) All fees associated with such impound shall be paid to the ASCMV.

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

(1) If a current rabies vaccination certificate is not provided, the owner shall purchase either a new vaccination or a vaccination voucher for the animal from the ASCMV before said animal may be reclaimed.

a. If the owner chooses to purchase a vaccination voucher, the owner shall sign an agreement stating he or she will have the animal vaccinated against rabies within thirty (30) days of reclamation.

b. The owner shall subsequently provide the current rabies vaccination certificate for said animal to the ASCMV within thirty-five (35) days of reclamation.

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

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

(1) Proof of the microchip implantation shall be a scan of the animal by an ASCMV staff member confirming the presence of a working identification microchip.

(2) If proof of a working microchip implantation is not obtained, the owner shall be charged for microchip implantation by the ASCMV before the animal may be reclaimed.

~~a. If the owner chooses to purchase a microchip voucher, the owner shall sign an agreement stating he or she will have said animal microchipped within thirty (30) days of reclamation.~~

~~b. The owner shall then subsequently provide proof to the ASCMV within thirty-five (35) days of reclamation that said animal has been microchipped.~~

(3) The microchip and corresponding owner contact information shall be registered with the ASCMV.

(4) The microchip fee shall be set by and payable to the ASCMV.

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

(1) Proof of sterilization shall consist of a written certificate by a veterinarian stating that the animal has been sterilized, or that sterilization would be an unnecessary surgical risk for the animal due to its age or physical condition.

(2) If proof of sterilization cannot be provided or such condition is not readily obvious to the ASCMV staff, the owner shall provide a sterilization deposit to the ASCMV.

(3) The owner shall sign an agreement stating he or she will have the animal sterilized within thirty (30) days of reclamation or will obtain an Intact Animal Permit from the Animal Control Unit within such time.

(4) The sterilization deposit shall be reimbursed to the owner upon presentation of proof of sterilization to the ASCMV by the owner within thirty-five (35) days of reclamation.

(5) The sterilization deposit shall not be reimbursed for obtaining an Intact Animal Permit.

F. *Release of Feral Cats*. Prior to release of any feral cat, a licensed veterinarian or ASCMV staff 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 January 1, 2020, all provisions of the Animal Control Ordinance pertaining or referencing permits for unenclosed feral cat colonies shall sunset unless formally renewed or revised by ordinance.~~*(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).~~