

TRUTH OR CONSEQUENCES

CHAPTER 3: ANIMALS ARTICLE I: IN GENERAL

SEC. 3-1. SHORT TITLE OF CHAPTER.

This chapter shall be known and may be cited as the Truth or Consequences Animal Control Ordinance. It is the intent of the City Commission that enactment of this chapter will protect animals from neglect and abuse, protect residents from annoyance and injury, assist in providing housing for animals in a control center, and finance the functions of the licensing and recovery of such animals. (Code 1962, § 6-2-1; Ord. No. 384, § 6-2-1, 7-22-91)

SEC. 3-2. ADMINISTRATION OF CHAPTER.

The City Manager is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the Commission to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. Powers to enforce the chapter are delegated to the Code Enforcement Officer. (Code 1962, § 6-2-3; Ord. No. 436, § 1, 5-13-96)

SEC. 3-3. DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment of animals: means to leave the animal behind without proper care and protection, to give up said animal to fend for itself, regardless of age or condition.

Animal: means any vertebrate members of the animal kingdom, excluding man.

Animal Control Center or Center: means any pound, lot, premises, and/or building maintained by the City for the care and custody of animals.

Animal control officer: means any person designated by the City Manager as a law enforcement officer, who is qualified to perform such duties under the laws of this state.

Auction: means any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Bite: means an actual puncture or tear of the skin inflicted by the teeth of an animal.

Collar: means a band, chain, harness or other suitable device worn around the neck of an animal, to which a current rabies vaccination and registration tag can be affixed.

Emergency measures: means any action taken by Animal Control or its designated agents to preserve the health and life of an animal, including but not limited to entering vehicles or premises, with probable cause, and impounding an animal to prevent present or imminent suffering.

Enclosed lot: means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

Establishment: means a place of business together with its grounds and equipment.

Estray: means any animal found running at large beyond the boundaries of the premises of the owner.

Grooming parlor: means any establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetological services for profit.

Kennel, commercial: means any premises on which eight or more dogs and/or eight or more cats, four months of age or older, are kept; and/or where the business of buying, selling, breeding, training or boarding of dogs and/or cats is conducted. This shall not include veterinary hospitals, humane societies, animal shelters or pounds approved by a governmental agency.

Licensed veterinarian: means a person with a Doctor of Veterinary Medicine degree, licensed to practice in the State of New Mexico.

Nuisance: means but is not limited to defecation, urination, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offending the well-being of the inhabitants of the City.

Owner: means any person, partnership, or corporation, owning, keeping or harboring one or more animals, but not more than six in any combination of dogs and/or cats.

Pet: means any dog, cat, turtle, small caged birds, aquarium fish or caged rodent.

Pet shop or dealer: means any commercial establishment or person, including wholesalers engaged in the business of buying and selling or holding pet animals for sale. This term shall not include livestock auctions.

Premises: means a parcel of land and/or the structure(s) thereon.

Public nuisance: means but is not limited to defecation, urination, disturbing the peace, emitting noxious odors or otherwise endangering or offending the well-being of the inhabitants of the City by:

- (1) Molesting passersby or passing vehicles;
- (2) Attacking other animals;
- (3) Trespassing on school grounds, public or private property;
- (4) Being found running at large;
- (5) Damaging private or public property; or
- (6) Barking, whining or howling in an excessive or continuous fashion.

Quarantine: means to detain or isolate an animal suspected of contagion.

Responsible person for the animal: means the owner of the animal, or an adult person placed in charge of the animal in the absence of incapacitation of the owner.

Running at large or to run: means to be free of physical restraint beyond the boundaries of the premises of the

owner.

Shelter: means any establishment owned and operated by a nonprofit organization or a licensed business licensed to do business in the State of New Mexico whose sole function is to bring aid and comfort to animals.

Tormenting of animals: means the act of bothering, annoying, distracting or agitating an animal.

Vaccination: means the inoculation of an animal with a vaccine administered by a veterinarian for the purpose of immunizing the animal against rabies as required by the State of New Mexico Rabies Control Act of 1959. The amount given should be sufficient to provide immunity from rabies for a minimum of one year.

Veterinary hospital or clinic: means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

Vicious animal: means any animal which bites or in any other manner attacks or attempts to attack any person within the City, except that any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.

(Code 1962, § 6-2-2; Ord. No. 384, § 6-2-2, 7-22-91; Ord. No. 400, § 1, 10-26-92; Ord. No. 436, § 2, 5-13-96)

Cross reference—Definitions and rules of construction generally § 1-2.

SEC. 3-4. DOGS TRAINED TO ASSIST THE BLIND AND HEARING IMPAIRED ALLOWED IN PUBLIC PLACES.

It is unlawful for any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purpose to debar or exclude therefrom any dog which has been trained to assist the blind person or hearing impaired whom it was trained to assist in conformity with law.

(Code 1962, § 6-2-23)

SEC. 3-5. CRUELTY.

- (a) Physical abuse. It is unlawful for any person to willfully or maliciously kill maim, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, or scald any animal; except that reasonable force may be employed to drive off vicious or trespassing animals.
- (b) Work cruelty. It is unlawful for any person to drive or work any animal cruelly.
- (c) Care and maintenance. It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink, shade, care or shelter, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal habitually kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal.
- (d) Poisoning. It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any harmful or poisonous sub-

stance.

- (e) Uncared-for animals. Whenever the animal control officer, Code Enforcement Officer, or designated representative finds that any animal is or will be without proper care because of injury, illness, incarceration, or other voluntary absence of the owner or person responsible for the care of such animal, the Animal Control Officer shall make arrangements for the care of the animal.
- (f) Injury by motorists. Every operator of a motor or other self-propelled vehicle upon the streets and ways of the City shall immediately, upon injuring, striking, maiming, or running down any animal, give such aid as is reasonably able to be rendered. In the absence of the owner, he shall immediately notify the Police, furnishing sufficient facts relative to such injury. It is the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive and, upon the arrival of such person, such operator shall immediately identify himself to the appropriate authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital or the Animal Control Center and notifying the Police. Such animal shall be deemed an uncared-for animal within the meaning of subsection (e) of this section. Emergency vehicles are excluded from this provision.
- (g) Hobbling livestock. It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal.
- (h) Keeping of diseased animals. It is unlawful for any person to have, keep, or harbor any animal which is infected with any dangerous disease. The Animal Control Officer may impound such diseased animal in accordance with the provisions of this article. All such animals impounded may be destroyed humanely as soon as is conveniently possible. In the case of destruction of such animal, the Code Enforcement Officer or Animal Control Officer shall not be required to give any of the notices provided in this article. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.
- (i) Fights. It is unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal.
- j) Abandonment. It shall be unlawful for any person to abandon any animal or to cause such abandonment.
- k) Fowl; impounding; crating. It is unlawful for any person to confine any wild or domestic fowl or birds unless provisions are made by each person for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than 12 hours. No person shall impound any wild or domestic fowl or birds in a crate, box or other enclosure, which does not permit



each fowl or bird impounded therein to stand in a naturally erect position.

- (l) Tormenting. It shall be unlawful for any person to willfully torment any and all animals by any means, such as throwing rocks, yelling or giving chase in any manner. No person shall purposely cause a dog to bark unnecessarily or annoy such animal to the point the animal will attempt to attack a person or other animal.
- (m) Songbirds, killing and robbing of nest prohibited. It is unlawful for any person to willfully kill any songbird, or to molest or rob the nest of such bird.

(Code 1962, § 6-2-24; Ord. No. 384, § 6-2-24, 7-22-91; Ord. No. 436, § 3, 5-13-96) **State law reference**—Cruelty to animals, NMSA 1978 § 30-18-1.

SEC. 3-6. SALE.

- (a) Use of public property. No person shall display, sell, or offer for sale, barter, give away, or otherwise dispose of any animal upon any street, sidewalk, or public park.
- (b) Rabbits or fowl. No person shall sell, offer for sale, barter, or give away any baby rabbits under four weeks of age. Nothing in this section shall be construed to prohibit the raising of rabbits and fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his possession.
- (c) Premiums and novelties. No person shall offer as a premium prize, award, novelty, or incentive to purchase merchandise any live animal.
- (d) Turtles. No person shall offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.

(Code 1962, § 6-2-25; Ord. No. 436, § 4, 5-13-96)

SEC. 3-7. WILD ANIMALS PROHIBITED.

- (a) No person shall keep an animal of a species prohibited or protected by Title 50 of the Code of Federal Regulations or by the appropriate state regulations or statutes.
- (b) No person shall keep any animal which is wild, fierce, dangerous, noxious, or naturally inclined to do harm except where 1) adequate protective devices are provided to prevent such animals from escaping or injuring the public, and 2) a proper license is obtained in accordance with section 3-8. If such requirements are met, they may be kept in a zoological park, pet shop, veterinary hospital, animal shelter, public laboratory, circus, amusement show, educational facility, scientific facility, or in the control of a humane society.
- (c) Wild animals prohibited. "Wild animal" means any animal of a species that in its natural life is wild, dangerous, or ferocious and though it may be trained and domesticated will remain dangerous to others and may injure or kill a citizen in the City. Those animals, however domesticated, shall include but are not limited to:
 - (1) Dog family (canidae). All except domesticated

dogs, including wolf, fox, coyote, dingo, etc.

- (2) Cat family (felidae). All except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, wild cats, etc.
- (3) Bears (ursidae). All bears, including grizzly bears, brown bears, black bears, etc.
- (4) Weasels (mustelidae). All, including weasels, martins, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc.
- (5) Porcupine (erehizontidae).
- (6) Venomous snakes.
- (7) Venomous lizards, alligators, and crocodiles.

(Code 1962, § 6-2-26; Ord. No. 384, § 6-2-26, 7-22-91; Ord. No. 436, § 5, 5-13-96) **State law reference**—Sale, purchase, trade and possession of certain animals regulated, NMSA 1978, § 77-18-1.

SEC. 3-8. LICENSING WILD ANIMALS.

- (a) Any person owning a wild animal covered by this section at the time of enactment of this Chapter may license such animal in accordance with law. A fee of \$20.00 shall be charged for such licensing through the City.
- (b) For the purpose of humanely trapping wild animals such as skunks and domesticated dogs or cats which may be a menace to the public, the Animal Control Officer may maintain such traps as are constructed for the purpose of trapping a live animal without serious risk of injury to the trapped animal and which may be placed on private property at the request of the owner thereof. Traps shall be baited only inside the trap and shall be checked not less than twice a day by the Animal Control Officer or the property owner requesting the placement of such traps. All such trapping shall be in conformity with state law.

(Ord. No. 384, § 6-2-27, 7-22-91; Ord. No. 436, § 6, 5-13-96)

SEC. 3-8.1. HARBORING DOGS AND CATS.

- (a) It shall be unlawful for any person to own, possess or harbor more than six (6) dogs or cats, in any combination of dogs and cats, four (4) months of age or older on their premises, where the business of buying, selling, breeding, training or boarding of either dogs or cats is not carried on.
- (b) It shall not be a violation of this section if the said person obtains a special permit from the Animal Control Officer which permits the person to engage in the aforesaid activity. All applications for special permits must meet the following conditions:
 - (1) An initial non-refundable fee of twenty-five dollars (\$25.00) for special permits must accompany an application to defray the cost of processing the request.
 - (2) All special permits must be renewed annually and a fee of ten dollars (\$10.00) shall be assessed.
 - (3) Any application may be denied if the owner or

responsible person shows a history of non-compliance with the city codes concerning animal control as evidenced by a conviction of such ordinance during the past year.

- (c) A special permit may be revoked if, in the judgement of the Animal Control Officer, it is determined that the holder of the permit allows any one (1) or more of the following conditions to exist:
- (1) The realty or the pens are not maintained in a clean and sanitary condition to such an extent that either of them constitute a health hazard or produce noxious odors.
 - (2) The housing structures are considered to be unsafe.
 - (3) The permit holder is in violation of any of the city animal control ordinances.

(Ord. No. 395, § 1, 10-26-92; Ord. No. 436, § 7, 5-13-96)

SEC. 3-8.2. SPAYING AND NEUTERING OF DOGS AND CATS.

- (a) It shall be the responsibility of the person obtaining an unspayed or unneutered, adult dog or cat from the City Animal Shelter, to have the dog or cat spayed or neutered within thirty (30) days of ownership.
- (b) If the animal obtained is a puppy or kitten, the owner can wait until the animal reaches the age of six (6) months before getting it spayed or neutered.

(Ord. No. 393, § 1, 8-24-92)

SEC. 3-8.3. FEMALE DOGS OR CATS IN HEAT TO BE CONFINED.

Owners shall confine their female dogs and cats in heat so that other dogs or cats are not attracted to the animal in heat and can only come in contact with dogs or cats intended to be bred with the animal in heat. (Ord. No. 436, § 8, 5-13-96)

SEC. 3-9. ENFORCEMENT.

- (a) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by the City Manager.
- (b) It shall be a violation of this chapter for any person to interfere, hinder or molest any Animal Control Officer or Code Enforcement Officer in the performance of his duties.
- (c) Persons in violation of this chapter will be issued a written summons to appear in Municipal Court within three working days of the Violation.
- (d) Refusal to sign the summons to appear in Municipal Court shall require the officer to file a criminal complaint before the Municipal Court, which may result in an arrest warrant being issued for the person refusing to sign the summons.

(Ord. No. 384, § 6-2-28, 7-22-91; Ord. No. 436, § 9, 5-13-96)

SEC. 3-10. FINES AND FEES.

- (a) The following fines shall be imposed for the impoundment or citation of any animal under the provisions of

this chapter: (1) First offense within calendar year: \$50.00 (2) Second offense within calendar year: \$100.00 (3) Third offense within calendar year: \$250.00.

- (b) Whenever any animal is impounded, an additional fee of \$5.00 per day shall be charged for feeding and caring for such animal and will be paid to the City Clerk.

(Ord. No. 384, § 6-2-29, 7-22-91; Ord. No. 436, § 10, 5-13-96)

SEC. 3-11. PENALTY FOR VIOLATION OF CHAPTER.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-10. The fines are as follows:

- (1) Failure to obtain the necessary vaccinations as described in section 3-51: \$25.00 and obtain the necessary vaccinations as described in section 3-51: \$50.00 plus obtain the necessary vaccinations.
- (2) Knowingly harboring a rabid animal or one that has been exposed to rabies: \$500.00 maximum.
- (3) Knowingly harboring and/or failing to report a dog or other animal which has bitten a person: \$25.00.
- (4) Failure to confine a female dog or cat during its mating season: \$50.00.
- (5) Failure to restrain an animal in violation of section 3-31:
 - a. First offense: Up to \$50.00 in the discretion of the Municipal Judge.
 - b. Second offense: \$100.00.
 - c. Third offense: \$250.00.
- (6) Failure to obtain license tag: \$50.00 plus obtain license tag.
- (7) Failure to maintain an enclosure for animals while breeding: \$50.00.
- (8) Maintaining animals on unenclosed premises: \$25.00.
- (9) Maintaining or harboring a vicious animal: \$100.00.
- (10) Animals disturbing the peace:
 - a. First offense: Warning.
 - b. Second offense: \$50.00.
 - c. Third offense: \$100.00.
- (11) Animal nuisances on sidewalks, private property, public parks, alleys or other public places: \$25.00.
- (12) Unlawful use of license tags: \$100.00.
- (13) Breaking into Animal Control Center or animal control vehicle: \$200.00.
- (14) Intentional poisoning of animals: \$300.00.
- (15) Tormenting of animals: \$100.00.
- (16) Abandoning animals: \$50.00, plus impoundment fees.
- (17) Possession or harboring of more than six dogs or cats as described in section 3-8.1: \$50.00 and forfeiture of all dogs and/or cats in excess of six (6).
- (18) Failure to provide for the proper spaying or neutering of dogs or cats in excess of six: \$50.00 per animal plus forfeiture of all dogs and/or cats in excess of six.
- (19) Failure to provide for the proper spaying or neutering of dogs or cats as described in section 3-8.2: \$100.00

and forfeiture of said animal.

(Code 1962, § 6-2-30; Ord. No. 384, § 6-2-30, 7-22-91; Ord. No. 394, § 1, 8-24-92; Ord. No. 436, § 11, 5-13-96)

SECS. 3-12-3-25. RESERVED.

**ARTICLE II: CONTROL
DIVISION 1. GENERALLY**

SEC. 3-26. AUTHORITY OF ANIMAL CONTROL OFFICERS. The Code Enforcement Officer, police officers, and animal control officers shall have the authority to issue citations for violations of this chapter and to perform such other duties as are prescribed in this chapter. An Animal Control Officer shall wear a uniform and shall wear a badge identifying such officer as an animal control officer. The Animal Control Officer is hereby designated a Code Enforcement Officer, deputized in accordance with state statutes as they now exist or may hereafter be amended, and he shall not be required to be certified as a regular law enforcement officer. (Code 1962, § 6-2-4; Ord. No. 436, § 12, 5-13-96) **State law reference**—Municipal authority to designate animal control officer, NMSA 1978, § 77-1-15.1B.

SEC. 3-27. ESTABLISHMENT OF ANIMAL CONTROL CENTER. There is hereby established an Animal Control Center which shall be located in a location as shall be designated by the Commission. (Code 1962, § 6-2-5)

SEC. 3-28. ANIMAL CONTROL CENTER, HOURS OF BUSINESS. The Animal Control Center of the City of Truth or Consequences shall be kept open to the general public for the transaction of business during the hours set by the City Manager. (Code 1962, § 6-2-6; Ord. No. 436, § 13, 5-13-96)

SEC. 3-29. IMPOUNDMENT.

It is the duty of the Animal Control Officer to take up and impound in the Animal Control Center any stray or any animal kept or maintained contrary to this chapter, including any animal that is allegedly creating a public nuisance. (Code 1962, § 6-2-7; Ord. No. 384, § 6-2-7, 7-22-91)

State law reference—Municipal authority to impound and dispose of animals running at large, NMSA 1978, § 3-18-3A(3).

SEC. 3-30. IMPOUNDING ESTRAYS; RECORDS; REDEMPTION FEES; NOTICE.

(a) No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of such animal to the animal control officer, giving his name and address, a true and complete statement of the circumstances under which he took up the animal, and the precise location

where such animal is confined.

- (b) It is unlawful for any person taking up an animal to fail to give the notice required in subsection (a) of this section and for any person having such animal in his possession to fail or refuse to immediately surrender such animal to the Animal Control Officer upon demand thereof.
- (c) If an stray animal is wearing a license or other identification, it shall be returned to the owner and a citation issued. If an stray animal is not wearing a license or other identification, the animal shall be confined for a 72-hour period at the Animal Control Center. The Animal Control Officer may dispose of stray animals impounded under this section the day after the required impoundment period.
- (d) No dog or cat that has been impounded by the Animal Control Center will be sold for the purpose of breeding or resale.
- (e) It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this article or a person adopting an animal through the Animal Control Center to reimburse the City for animal boarding or other costs. The offices of the City Clerk/Treasurer shall establish appropriate procedures for collecting such fees.
- (1) A redemption fee of \$5.00 per day shall be paid by the owner of the animal. This may be in addition to any fines or citations.
- (2) A \$10.00 adoption fee shall be paid by any person adopting an animal that has been legally impounded in addition to boarding expense to and including date of adoption.
- (f) The Animal Control Officer shall maintain a record of all animals in the control of the Center and shall maintain these records for not less than one year. The record shall contain at least the following information:
- (1) A complete description of the animal;
- (2) The manner and date of its acquisition by the Center;
- (3) The date and manner of its disposal;
- (4) The name and address of the purchaser of any animal;
- (5) All fees received.
- (g) An animal which continues to be an alleged nuisance may be impounded by the Animal Control Officer until such time as a judgment is made by the Municipal Court.
- (h) Fines for violations of this article shall be in accordance with the provisions of section 1-10.
- (Code 1962, § 6-2-8; Ord. No. 384, § 6-2-8, 7-22-91)

SEC. 3-31. RESTRAINT OF ANIMALS.

(a) All animals shall be kept under restraint. While restrained on the premises of its owner or responsible person, no lead less than eight feet in length shall be used. While restrained off the premises under the immediate control of the owner or responsible person,

no lead greater than eight feet in length shall be used.

- (b) No owner or responsible person shall fail to exercise proper care and control of his animal to prevent it from becoming a public nuisance.
- (c) Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of the owner or a responsible person and the Animal Control Officer may issue a citation to the owner or responsible person or impound the animal, or both.

(Code 1962, § 6-2-12; Ord. No. 384, § 6-2-12, 7-22-91)

SEC. 3-32. CONFINEMENT DURING ESTRUS.

Any female dog or cat in the stage of estrus (heat) shall be confined to a building, kennel, or other secure enclosure so that contact with a male animal of the same species will be prevented except for intentional breeding purposes. Keepers who do not comply with this section shall be required to place such animal in a boarding kennel or veterinary hospital at the keeper's expense.

(Code 1962, § 6-2-13; Ord. No. 384, § 6-2-13, 7-22-91)

SEC. 3-33. BREAKING INTO ANIMAL CONTROL CENTER, ANIMAL CONTROL VEHICLE.

It is unlawful for any person to break open any pound, center, or animal control vehicle wherein animals are impounded by the Animal Control Officer of the City, or in any other way to remove or assist in the removal of any animal from such pound, center, or vehicle without lawful permission.

(Code 1962, § 6-2-22)

SEC. 3-34. STERILIZATION AGREEMENT AND STERILIZATION DEPOSIT.

- (a) No animal shall be released from the animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in subsections (c) and (d) of this section.
- (b) In addition to any adoption fee charged, a sterilization deposit of at least \$25.00 shall be imposed on the adoption of each animal from the animal shelter.
- (c) Animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six months of age.
- (d) Adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within 30 days of the date of adoption.
- (e) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized.
- (f) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the \$25.00 for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an

agreement stating he will sterilize the animal within 30 days after release or will obtain a breeder permit or its equivalent. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.

(Ord. No. 418, § 1, 9-12-94)

SECS. 3-35-3-50. RESERVED.

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- (g) An animal which continues to be an alleged nuisance may be impounded by the Animal Control Officer until such time as a judgment is made by the Municipal Court.
- (h) Fines for violations of this article shall be in accordance with the provisions of section 1-10.

(Code 1962, 36--2-8; Ord. No. 384, § 6-2-8, 7-22-91; Ord. No. 436, § 14, 5-13-96)

SEC. 3-31. RESTRAINT OF ANIMALS.

- (a) All animals shall be contained upon the premises of the owner unless restrained off the premises under the immediate control of the owner or responsible person. While restrained on the premises of its owner or responsible person, no lead less than 25 feet in length shall be used. While restrained off the premises under the immediate control of the owner or responsible person, no lead greater than 12 feet in length shall be used.
- (b) No owner or responsible person shall fail to exercise proper care and control of his animal to prevent it from becoming a public nuisance.
- (c) Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of the owner or a responsible person and the Animal Control Officer may issue a citation to the owner or responsible person or impound the animal, or both.

(Code 1962, § 6-2-12; Ord. No. 384, § 6-2-12, 7-22-91; Ord. No. 436, § 15, 5-13-96)

SEC. 3-32. CONFINEMENT DURING ESTRUS.

Any female dog or cat in the stage of estrus (heat) shall be confined to a building, kennel, or other secure enclosure so that contact with a male animal of the same species will be prevented except for intentional breeding purposes. Keepers who do not comply with this section shall be required to place such animal in a boarding kennel or veterinary hospital at the keeper's expense.

(Code 1962, § 6-2-13; Ord. No. 384, § 6-2-13, 7-22-91)

SEC. 3-33. BREAKING INTO ANIMAL CONTROL CENTER, ANIMAL CONTROL VEHICLE.

It is unlawful for any person to break open any pound, center, or animal control vehicle wherein animals are impounded by the Animal Control Officer of the City, or in any other way to remove or assist in the removal of any animal from such pound, center, or vehicle without lawful permission.



(Code 1962, § 6-2-22)

SEC. 3.34. STERILIZATION AGREEMENT AND STERILIZATION DEPOSIT.

- (a) No animal shall be released from the animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in subsections (c) and (d) of this section.
- (b) In addition to any adoption fee charged, a sterilization deposit of at least \$25.00 shall be imposed on the adoption of each animal from the animal shelter.
- (c) Animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six months of age.
- (d) Adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within 30 days of the date of adoption.
- (e) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized.
- (f) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the \$25.00 for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he will sterilize the animal within 30 days after release or will obtain a breeder permit or its equivalent. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.

(Ord. No. 418, § 1,9-12-94)

SECS. 3-35–3-50 RESERVED.

DIVISION 2. RABIES*

*Cross reference—health and sanitation, Ch.6.

SEC. 3-51. VACCINATIONS.

- (a) It is the duty of all persons owning or keeping a cat or a dog or any member of the canine family over the age of three months to have such animals vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for one year and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Commission may require other animals to receive annual rabies vaccination.
- (b) The veterinarian administering antirabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination, and the expiration date

of the period of immunity.

- (c) It is unlawful for the owner or keeper of any dog, cat, or any other members of the canine or feline family to fail to exhibit its certificate of vaccination upon demand to any police officer or animal control officer.
- (d) It is the duty of all persons who adopt a dog to have such dog vaccinated against rabies, distemper complex, and parvo virus within 48 hours of adoption. It is the duty of all persons who adopt a cat to have such cat vaccinated against rabies and feline distemper complex within 48 hours of adoption.

(Code 1962, § 6-2-9) **State law reference**—Vaccination of dogs and cats against rabies, NMSA 1978, § 77-1-3.

SEC. 3-52. CONFINEMENT OF RABID ANIMAL

An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall be confined at once in a secure place by the owner. A person who knows or who has reason to know that an animal is infected with rabies or has been exposed to rabies shall immediately upon learning of this notify the Animal Control Officer as to the place where the animal is confined and shall surrender the animal to the Animal Control Officer upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to state law.

(Code 1962, § 6-2-10)

SEC. 3-53. BITING DOGS OR OTHER BITING ANIMALS.

- (a) The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Animal Control Officer within 24 hours. The owner of an animal that bites a person shall surrender the animal to an animal control officer, if necessary, to impound such animal for a period of observation.
- (b) A physician who renders professional treatment to a person bitten by an animal shall report the fact that he has rendered professional treatment to the Chief of Police or an Animal Control Officer within 24 hours of his first professional attendance. The physician shall report the name, sex, and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite and other facts that may assist the Animal Control Officer in ascertaining the immunization status of the animal.
- (c) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the animal control officer. The owner of the animal shall bear the cost of confinement.
- (d) A person who has custody of an animal that has bitten a person shall immediately notify the Animal Control Officer.

(Code 19-62, § 6-2-11; Ord. No. 384, § 6-2-11, 7-22-91; Ord. No. 436, § 16, 5-13-96) **State law reference**—Notice to health officer of animal bites, NMSA 1978, § 77-1-6.

SECS. 3-54-3-70 RESERVED.**DIVISION 3. - LICENSING****SEC. 3-71. LICENSE REQUIRED.**

- (a) Any person owning, possessing or harboring any dog or cat three months of age or over shall obtain a license for each animal. Application for such license shall be made as directed by the City Clerk and shall state the name and address of the owner, the name, breed, color, age and sex of such animal and any other information deemed necessary by the City Clerk. A current rabies vaccination certificate shall be presented at the time of application for the license. Upon payment of the license fee, as prescribed in subsection (d) of this section, the City Clerk shall issue a license certificate and tag for each animal. If the tag is lost, replacement tags costing \$2.00 shall be purchased from the City Clerk. The license shall expire one year from date of issuance.
- (b) A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show, or is being trained. Provided that the person that is training the dog shall have in his personal possession the valid license tag for each dog or cat and shall immediately display such upon request of the Animal Control Officer or a regular law enforcement officer.
- (c) Animals belonging to nonresidents who do not keep said animals within the corporate limits of the city for 90 consecutive days shall be exempt from this section, provided, however, that all other provisions of this division be complied with.
- (d) The annual license fee shall be \$5.00 for each neutered male dog or cat, or for each spayed female dog or cat. The annual license fee shall be \$10.00 for each unneutered male dog or cat, or for each unspayed female dog or cat. The license fee shall not apply to dogs trained to assist the blind or hearing impaired.
- (e) Upon change of ownership of any dog or cat, the new owner shall have the current license transferred to his name, within 30 days.

(Code 1962, § 6-2-14; Ord. No. 384, § 6-2-14, 7-22-91; Ord. No. 436, § 17, 5-13-96) **State law reference**—Municipal authority to require licensing of dogs, NMSA 1978, § 77-1-15.1.

SEC. 3-72. UNLAWFUL USE OF LICENSE TAG.

It is unlawful for any person to remove any license tag from one animal to another. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in his possession or under his control a stolen, counterfeit, or forged animal license tag, rabies vaccination certificate, or other form of licensing as required under this division. (Code 1962, § 6-2-21)

SECS. 3-73-3-90 RESERVED.**DIVISION 4. - AT LARGE, VICIOUS, NUISANCE****SEC. 3-91. RUNNING AT LARGE.**

It is unlawful for any person to allow or permit any animal to run at large in or on any street, alley, sidewalk, vacant lot, or public property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded as provided in section 3-30. (Code 1962, § 6-2-15) **State law reference**—Municipal authority to make provision for the seizure of dogs and cats running at large, NMSA 1978, § 77-1-12.

SEC. 3-92. ENCLOSURE FOR BREEDING.

It is unlawful for any person to let any female animal mate to any male animal, except within an enclosure so arranged as to obstruct such animals completely from the view of all who have no proprietary interest in the breeding of such animals. (Code 1962, § 6-2-16)

SEC. 3-93. RESERVED.

Ord. No. 436, § 18, adopted May 13, 1996, deleted the provisions of former § 3-93, which pertained to unenclosed premises as derived from Code 1962, § 6-2-17.

SEC. 3-94. VICIOUS ANIMALS.

It is unlawful for any person to keep or harbor a vicious animal in the City. Any person attacked by a vicious animal may use reasonable force to repel said attack. After a judicial determination that an animal is vicious the owner or keeper of such vicious animal shall destroy it humanely or turn such animal over to the Chief of Police. (Code 1962, § 6-2-18) **State law reference**—Vicious animals, NMSA 1978, § 77-1-10.

SEC. 3-95. DISTURBING THE PEACE.

It is unlawful for any person to allow any animal to persistently or continuously bark, howl, or make noise common to its species or otherwise disturb the peace and quiet of the inhabitants of the City; or to keep or maintain any animal in such manner as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the City. (Code 1962, § 6-2-19) **Cross reference**—Offenses relating to public order and safety, § 8-31 et seq.

SEC. 3-96. NUISANCES ON SIDEWALKS, PUBLIC PARKS, ALLEYS.

It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to defecate on public or private property other than their own, unless said owner immediately cleans up and properly disposes of such defecation. (Code 1962, § 6-2-20; Ord. No. 436, § 19, 5-13-96)



CITY OF TRUTH OR CONSEQUENCES
Ordinance NO 532

AN ORDINANCE AMENDING THE CITY OF TRUTH OR CONSEQUENCES CODE OF ORDINANCES BY AMENDING CERTAIN PROVISIONS OF THE ANIMAL CONTROL ORDINANCE BY AMENDING SECTIONS 3-2, 3-3, 3-6, 3-8.1, 3-8.2, 3-9, 3-10, 3-11, and 3-26.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TRUTH OR CONSEQUENCES:

SECTION 1. Section 3-2, Administration of chapter, of the Code of Ordinances shall be amended to read as follows:

The City Manager is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the Commission to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. Powers to enforce the chapter are delegated to the ~~Code Enforcement Officer~~ Truth or Consequences Police Department and the Animal Control Officer.

SECTION 2. Section 3-3, Definitions, of the Code of Ordinances shall be amended as follows:

Animal Control Center or Center means any pound, lot premises, and/or building maintained by the City for the care and custody of animals. This shall include any private shelter contracted by the City for the purpose of maintaining care and custody of animals.

Animal control officer means any person designated by the City Manager as a ~~law enforcement~~ peace officer, who is qualified to perform such duties under the laws of this state.

Pet means any dog, cat, turtle, caged birds, aquarium fish, iguanas, ~~or~~ caged rodents and caged snakes, pygmy goats and potbellied pigs.

Vicious animal means any animal which bites or in any other manner attacks or attempts to attack any person or animal within the City, except that animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.

All other definitions as set forth in Section 3-3, remain unchanged except where specifically provided above.

SECTION 3. Subsection 3-6(a) of Section 3-6, Sale, of the Code of Ordinances shall be amended to read: (a) *Use of public property.* No person shall display, sell, or offer for sale, barter, give away, or otherwise dispose of any animal upon any street, sidewalk, ~~or~~ public park or private business, unless said private business is properly licensed. All other provisions of Section 3-6 remain unchanged except where specifically provided above.

SECTION 4. Subsection 3-8.1(a) of Section 3-8.1,

Harboring ~~dogs and cats~~ pets, of the Code of Ordinances shall be amended to read: (a) It shall be unlawful for any person to own, possess or harbor more than ~~six (6)~~ four (4) ~~dogs or cats~~ pets, in any combination of ~~dogs and cats~~ pets, four (4) months of age or older on their premises, where the business of buying, selling, breeding, training or boarding of ~~either dogs or cats~~ pets is not carried on. All other provisions of Section 3-8.1 remain unchanged except where specifically provided above.

SECTION 5. Subsection 3-8.2(a), Spaying and neutering of dogs and cats, of the Code of Ordinances shall be amended to read: (a) It shall be the responsibility of the person obtaining an unspayed or unneutered, adult dog or cat from the City Animal Shelter ~~or private shelter contracted by the City,~~ to have the dog or cat spayed or neutered within thirty (30) days of receiving such animal. All other provisions of section 3-8.2 shall remain unchanged except where specifically provided above.

SECTION 6. Subsection 3-9(b) of Section 3-9, Enforcement, of the Code of Ordinances shall be amended to read: (b) It shall be a violation of this chapter for any person to interfere, hinder or molest any Animal Control Officer or Police officer in the performance of their duties. All other provisions of section 3-9 shall remain unchanged except where specifically provided above.

SECTION 7. Subsections 3-10(a) and (b) of Section 3-10, Fines and fees, of the Code of Ordinances shall be amended to read:

- (a) The following fines shall be imposed for the impoundment or citation of any animal under the provisions of this chapter: These fines are in addition to any court costs that may be imposed.
- (1) First offense within calendar year: \$ 50.00 per animal
 - (2) Second offense within calendar year: \$100.00 per animal
 - (3) Third offense within calendar year: \$250.00 Per animal
- (b) Whenever any animal is impounded, an additional fee of \$5.00 per day shall be charged for feeding and caring for such animal and will be paid to the ~~City Clerk~~ Animal Control Center.

SECTION 8. Section 3-11, Subsections 3-11(10a), 3-11(11), 3-11(17) and 3-11(18), Penalty for violation of chapter, of the Code of Ordinances shall be amended to read: Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-10. The fines are as follows: These penalties are in addition to any court costs that may be imposed.

- (1) Failure to obtain the necessary vaccinations as described in section 3/51: \$25.00 and obtain the neces-

sary vaccinations as described in section 3-51: \$50.00 plus obtain the necessary vaccinations.

- (2) Knowingly harboring a rabid animal or one that has been exposed to rabies: \$500.00 maximum.
- (3) Knowingly harboring and/or failing to report a dog or other animal which has bitten a person: \$25.00.
- (4) Failure to confine a female dog or cat during its mating season: \$50.00.
- (5) Failure to restrain an animal in violation of section 3-31:
 - a. First Offense: ~~Up to \$50.00 in the discretion of the Municipal Judge.~~
 - b. Second offense: \$100.00.
 - c. Third offense: \$250.00.
- (6) Failure to obtain license tag: \$50.00 plus obtain license tag.
- (7) Failure to maintain an enclosure for animals while breeding: \$50.00.
- (8) Maintaining animals on unenclosed premises: \$25.00.
- (9) Maintaining or harboring a vicious animal: \$100.00.
- (10) Animals disturbing the peace:
 - a. First offense: ~~Warning \$25.00.~~
 - b. Second offense: \$50.00.
 - c. Third offense: \$100.00.
- (11) Animal nuisances on sidewalks, private property, public parks, alleys or other public places: ~~\$25.00~~ \$50.00.
- (12) Unlawful use of license tags: \$100.00
- (13) Breaking into Animal Control Center or animal control vehicle: \$200.00.
- (14) Intentional poisoning of animals: \$300.00.
- (15) Tormenting of animals: \$100.00.
- (16) Abandoning animals: \$50.00, plus impoundment fees.
- (17) Possession or harboring of more than ~~six four dogs or cats~~ pets as described in section 3-8.1: \$50.00 and forfeiture of all ~~dogs and/or cats~~ pets in excess of ~~six (6) four (4)~~ four (4) .
- (18) Failure to provide for the proper spaying or neutering of dogs or cats in excess of ~~six four~~ four: \$50.00 per animal plus forfeiture of all dogs and/or cats in excess of ~~six four~~ four.
- (19) Failure to provide for the proper spaying or neutering of dogs or cats as described in section 3-8.2: \$100.00 and forfeiture of said animal.
- (20) Cruelty as defined in section 3-5: Up to \$500.00 and/or imprisonment in the discretion of the Judge.

All other provisions of section 3-11 shall remain unchanged except where specifically provided above.

SECTION 9. Section 3-26, Authority of animal control officers, of the Code of Ordinances shall be amended to read: The ~~Code Enforcement Officer~~ Truth or Consequences Police Department, police officers, and animal control officers shall have the authority to issue citations for violations of this chapter and to perform such other duties as are pre-

scribed in this chapter. An Animal Control Officer shall wear a uniform and shall wear a badge identifying such officer as an animal control officer. The Animal Control Officer is hereby designated a ~~Code Enforcement~~ Peace Officer, deputized in accordance with state statutes as they now exist or may hereafter be amended, and he shall not be required to be certified as a regular law enforcement officer.

SECTION 10. Repealer. All Ordinances or Resolutions, or parts thereof, inconsistent therewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution, or part thereof, heretofore repealed.

PASSED, APPROVED AND ADOPTED this 14th day of October, 2003.