

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
AGENDA
TUESDAY, OCTOBER 11, 2022**

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Tuesday, October 11, 2022 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Eduardo Alicea, Member

1. APPROVAL OF AGENDA
2. APPROVAL OF MINUTES OF SEPTEMBER 12, 2022
3. COMMENTS FROM THE PUBLIC (**3 Minute Rule Applies**)
4. PUBLIC HEARINGS (**5 Minute Rule Applies**)
 - a. Public Hearing/Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager
 - b. Public Hearing/Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager
 - c. Public Hearing/Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. Traci Alvarez, Assistant City Manager
 - d. Public Hearing/Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194. Traci Alvarez, Assistant City Manager
5. REPORTS FROM THE BOARD
6. REPORTS FROM STAFF
7. ADJOURNMENT

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MONDAY, SEPTEMBER 12, 2022**

MINUTES

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held at the City Commission Chambers at 405 W. Third Street, Truth or Consequences, New Mexico, on Monday, September 12, 2022 at 4:00 pm.

CALL TO ORDER: The meeting was called to order by Vice-Chairman Buhler.

ROLL CALL:

Chris Sisney, Chairman - **ABSENT**
Susan Buhler, Vice Chairman
Esther Luchini, Member
Eduardo Alicea, Member

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Lisa Gabaldon, Deputy Clerk

1. APPROVAL OF AGENDA:

Vice-Chairman Buhler made a motion to approve the agenda. Member Alicea seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a. Regular meeting of August 4, 2022.

Member Luchini made a motion to approve the minutes. Vice-Chairman Buhler seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC:

There were no Comments from the public.

5. REPORTS FROM THE BOARD:

No Reports.

6. REPORTS FROM STAFF:

Assistant City Manager Alvarez advised the board that there will be a public hearing at the next meeting and City Attorney Jay Rubin will be present to explain the process.

7. ADJOURNMENT:

There being no further business to come before the Planning & Zoning Commission, Vice-Chairman Buhler adjourned the meeting.

PASSED AND APPROVED ON THIS 11th DAY OF OCTOBER 2022.

Chris Sisney,
Planning & Zoning Commission Chairman



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action –Multi-Animal Special Use Permit for 865 W 4th Avenue

BACKGROUND:

Applicant has submitted an annual renewal application request for 7 Felines. Animal Control and Code Enforcement have inspected the residence and approved the application request.

Per Ordinance 725

It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit. Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit. All applications shall undergo a special use permit process. Permits will be reviewed for renewal annually. No more than seven animals in any combination are allowed for multi-animal permits. Multi-Animal Permit requires annual renewal.

SUPPORT INFORMATION:

Application
Location Map
Ordinance 725

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

Date: August 1, 2022

Applicant: Gentiva Pryor

Property Address: 865 W. 4th Ave. Torc., NM 87901

Phone Number: (575) 440-3082

Phone Number: (575) 440-3083 Business license number (if applicable): _____

Type of license: Kennel Permit X Multi-Animal Permit

Proof of payment, rabies vaccinations, and city animal/business licenses must accompany application

Applicant Signature:

- A Enclosure/fencing type/gates/latches/pens sufficient to prevent escape/proper confinement.
- A Adequate habitat space necessary for each animal's movement.
- A Animal(s) habitat is sanitary, good condition (weatherproofing), ventilated/heated, and accessible.
- A Animal(s) have access to protection from weather.
- A Sufficient fresh clean/sanitary potable water and food/sufficient access for each animal.
- A Property is clean/sanitary and free of hazards/trash/debris and not dangerous to animal(s).
- A Property size is adequate for the number of animal(s) allowing for compliance as noted above.
- A Property has the following conditions that require immediate attention:

Inspected by Officer: Mary Anne Niziac Signature

Date:

Planning and Zoning Commission Meeting Date: _____ () Approved () Disapproved

City Commission Meeting Date: _____ () Approved () Disapproved

City Planning and Zoning Designated Administrator Signature:

Rect# R0021990

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact me at (575) 894-6675 or by email at aatorres@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 23, 2022

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 12/20/2021
Tag No. 85
Exp. Date 12/9/2024

Animal

Name Chaps
Breed Domestic Shorthair
Color Tabby Sex M S/N N
Vaccinated 12/01/2021

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH
CHECK \$5.00 #1753
Receipt No. R00246520

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 12/20/2021
Tag No. 86
Exp. Date 12/1/2024

Animal

Name Stormy
Breed Domestic Long Hair
Color Tabby Sex M S/N N
Vaccinated 12/01/2021

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH
CHECK \$5.00 #1753
Receipt No. R00246520

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 12/20/2021
Tag No. 87
Exp. Date 12/9/2024

Animal

Name Katy
Breed Domestic Shorthair
Color Black & White Sex F S/N S
Vaccinated 12/01/2021

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH
CHECK \$5.00 #1753
Receipt No. R00246520

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 1/26/2022
Tag No. 88
Exp. Date 1/13/2025

Animal

Name Suzie
Breed Domestic Shorthair
Color Black Sex F S/N S
Vaccinated 01/13/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. R00250813

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave.
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 4/18/2022
Tag No. 93
Exp. Date 4/12/2025

Animal

Name Lilly
Breed Domestic Shorthair
Color Black Sex F S/N S
Vaccinated 04/12/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. R00259960

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave.
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 4/18/2022
Tag No. 94
Exp. Date 2/24/2025

Animal

Name Tuxi
Breed Tuxedo
Color Black & White Sex F S/N S
Vaccinated 02/24/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. R00259960

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave.
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 7/20/2022
Tag No. 99
Exp. Date 7/19/2025

Animal

Name Rose
Breed Manx
Color Gray Sex F S/N S
Vaccinated 07/19/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. R00270728

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

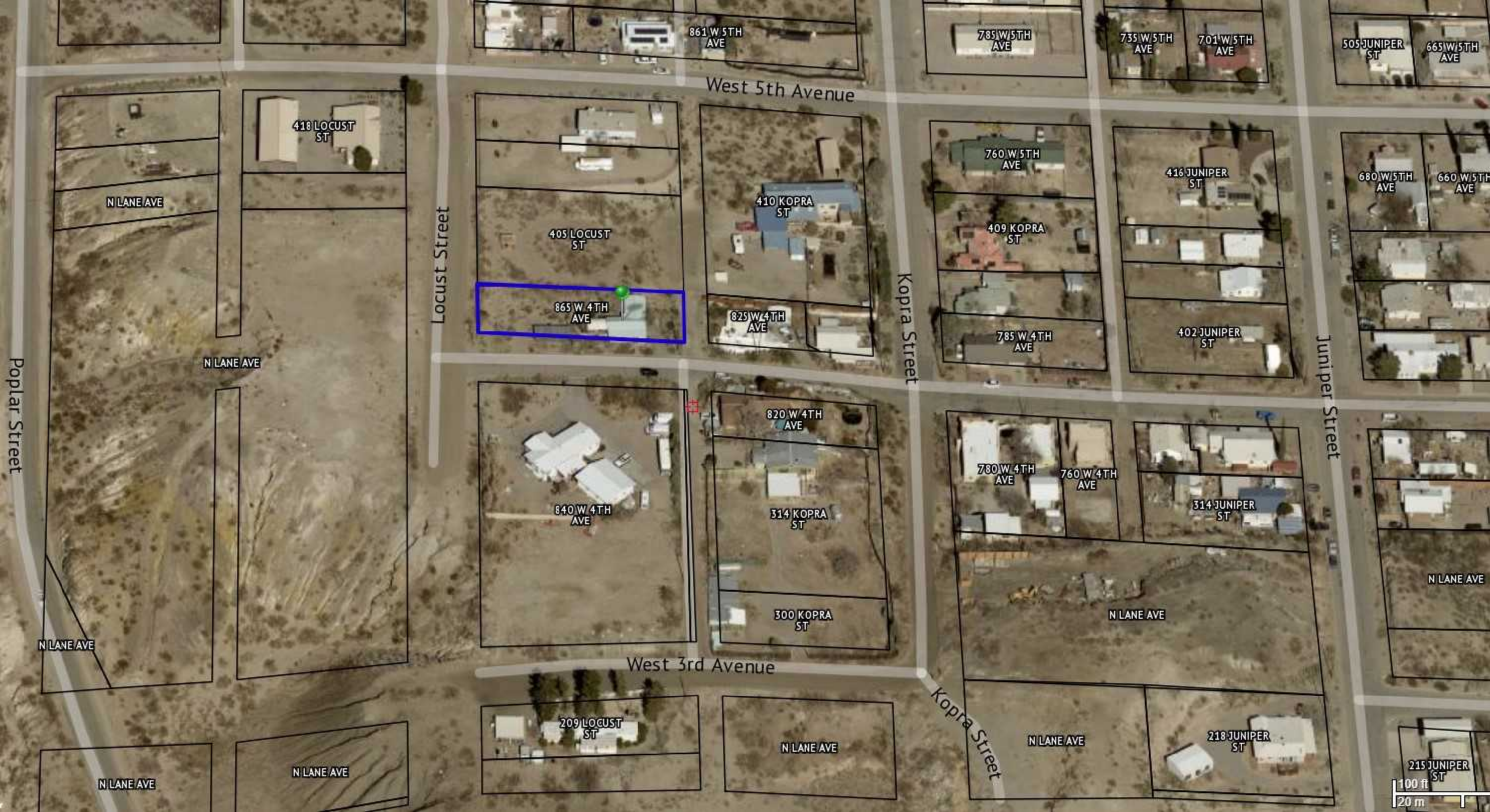
DATE : 8/1/2022 12:53 PM
OPER : CL
TKBY : CL
TERM : 9
REC# : R00271990

ANPND ANIMAL POUND FEES 25.00
SPECIAL PERMIT- PRYOR- KENNEL PERMIT
2
101-1099-34343 -25.00

Check 25.00 REF:1737

APPLIED 25.00
TENDERED 25.00

CHANGE 0.00



861 W 5TH AVE

785 W 5TH AVE

735 W 5TH AVE

701 W 5TH AVE

505 JUNIPER ST

665 W 5TH AVE

418 LOCUST ST

N LANE AVE

West 5th Avenue

Locust Street

405 LOCUST ST

865 W 4TH AVE

410 KOPRA ST

825 W 4TH AVE

Kopra Street

760 W 5TH AVE

409 KOPRA ST

785 W 4TH AVE

416 JUNIPER ST

402 JUNIPER ST

680 W 5TH AVE

660 W 5TH AVE

Juniper Street

N LANE AVE

N LANE AVE

840 W 4TH AVE

820 W 4TH AVE

314 KOPRA ST

300 KOPRA ST

780 W 4TH AVE

760 W 4TH AVE

314 JUNIPER ST

N LANE AVE

N LANE AVE

West 3rd Avenue

209 LOCUST ST

N LANE AVE

Kopra Street

N LANE AVE

218 JUNIPER ST

215 JUNIPER ST

N LANE AVE

N LANE AVE

100 ft
20 m

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date _____ Address _____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action –Multi-Animal Special Use Permit for 300 Osborn Lane

BACKGROUND:

Applicant has submitted an application request for 6 dogs. Animal Control and Code Enforcement have inspected the residence and approved the application request.

Per Ordinance 725

It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit. Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit. All applications shall undergo a special use permit process. Permits will be reviewed for renewal annually. No more than seven animals in any combination are allowed for multi-animal permits.

SUPPORT INFORMATION:

Application

Location Map

Ordinance 725

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

CITY OF TRUTH OR CONSEQUENCES KENNEL/MULTI-ANIMAL PERMIT APPLICATION

Date: 9-13-22
 Applicant: Glenn Gibson
 Property Address: 300 Osborne T or C
 Phone Number: 520-686-0635 Business license number (if applicable): _____
 Type of license: ☐ Kennel Permit ☒ Multi-Animal Permit Initial License ☐ or Renewal ☐

TYPE	GENDER	AGE	BREED	COLOR	NAME	CITY LIC#	EXP DATE	RABIES TAG #	EXP DATE
K9	F	3	Pyrenees mix	golden	Shasta	939	11-9-22	211269	11-9-22
K9	M	1	Collie mix	Brindle	Randy	940	4-18-23	000232	10-9-23
K9	M	4	Collie, Border	Blk/Wh	Dude	941	4-18-23	000233	4-18-23
K9	F	1	Collie, Border	Tan/Wh	Duchess	942	7-12-23	000918	7-12-23
K9	F	1	Pyrenees mix	Blk/Wh	Sophie	944	7-12-23	000919	7-12-23
K9	F	1	Pyrenees mix	Blk/Wh	Roxy	943	7-12-23	920	7-12-23

Proof of payment, rabies vaccinations, and city animal/business licenses must accompany application

Applicant Signature: [Signature]

ON SITE INSPECTION (A=Acceptable or U=Unacceptable)

- ☒ Enclosure/fencing type/gates/latches/pens sufficient to prevent escape/proper confinement.
- ☒ Adequate habitat space necessary for each animal's movement.
- ☒ Animal(s) habitat is sanitary, good condition (weatherproofing), ventilated/heated, and accessible.
- ☒ Animal(s) have access to protection from weather.
- ☒ Sufficient fresh clean/sanitary potable water and food/sufficient access for each animal.
- ☒ Property is clean/sanitary and free of hazards/trash/debris and not dangerous to animal(s).
- ☒ Property size is adequate for the number of animal(s) allowing for compliance as noted above.
- ☒ Property has the following conditions that require immediate attention: _____

Inspected by Officer: Animal Control Mary DiGiacomo Signature: [Signature] Date: 9/21/22
 Date: 9-21-22
 Planning and Zoning Commission Meeting Date: _____ () Approved () Disapproved
 City Commission Meeting Date: _____ () Approved () Disapproved
 City Planning and Zoning Designated Administrator Signature: _____

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact me at (575) 894-6675 or by email at aatorres@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 23, 2022

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 939
Exp. Date 11/9/2022

Animal

Name Shasta
Breed Pyrenees Mix
Color Golden Sex F S/N S
Vaccinated 11/09/2021

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No.

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 940
Exp. Date 4/28/2023

Animal

Name Rowdy
Breed Collie, Border Mix
Color Brindle Sex m S/N n
Vaccinated 04/18/2022

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. _____

Office Use Only:

THANK YOU!

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City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 942
Exp. Date 4/18/2025

Animal

Name Dude
Breed Collie, Border Mix
Color Blk/Wht Sex m S/N n
Vaccinated 04/18/2022

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No.

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 942
Exp. Date 7/12/2023

Animal

Name Dutches
Breed Collie, Border Mix
Color Tan/Wht Sex F S/N S
Vaccinated 07/12/22

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 943
Exp. Date 7/12/2023

Animal

Name Roxy
Breed Collie, Border Mix
Color Blk/Wht Sex F S/N S
Vaccinated 07/12/22

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK _____
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 944
Exp. Date 7/12/2023

Animal

Name Sophie
Breed Great Pyrenees Mix
Color Blk/Wht Sex F S/N S
Vaccinated 07/12/22

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

Traci Alvarez

From: noreply@tylerhost.net
Sent: Monday, October 3, 2022 10:51 AM
To: Torres, Angela
Subject: Receipt #R00276864

CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

DATE : 9/13/2022 12:46 PM
OPER : CL
TKBY : CL
TERM : 9
REC# : R00276864
ANLIC ANIMAL LICENSES
GIBSON-SHASTA-11/9/2022 - ROWDY 4/18/23- DUDE 4/18/2022- DUTCHES - 7/12/23 ROXY-
7/12/2022 SOP 7/23
101-1099-33331 -30.00

ANPND ANIMAL POUND FEES
GIBSON- 300 OSBONE- ANIMAL PERMIT 100.00
101-1099-34343 -100.00

Check 130.00 REF:101



N LANE AVE

N LANE AVE

1601 E 3RD AVE

1670 CABALLO RD

1690 CABALLO RD

1689 E 4TH AVE

Robert Street

1685 CABALLO RD

1720 E 4TH AVE

Caballo Road

300 OSBORN ST

302 OSBORN ST

303 OSBORN ST

308 OSBORN ST

310 OSBORN ST

East 4th Avenue

1740 E 4TH AVE

1760 E 4TH AVE

Osborn Lane

1751 CABALLO RD

402 CHERRY LN

N LANE AVE

309 OSBORN ST

301 OSBORN ST

N LANE AVE

Cherry Lane

210 CHERRY LN

N LANE AVE

305 CHERRY LN

309 CHERRY LN

20 ft
10 m

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
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3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action – Special Use Permit 403 & 405 Magnolia St. for the purpose of Community Center Recovery Meeting Place.

BACKGROUND:

Letter of Consideration dated 9/14/2022 attached. Property is located in the R-3 District.

SUPPORT INFORMATION:

Letter of Consideration
Location Map
Notice of Public Hearing
Purpose for District

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

9/14/2022.

To: Zoning + Planning Committee.
Truth or Consequences, N.M.

From: Kathaleen A. Adkins.
EKA Trust

Re: Applying for Special Use Permit.
403 + 405 Magnolia St., Tor C, NM.

I, Kathaleen A. Adkins, would like to request a "Special Use Permit" for the property I purchased this year. It is located at 403 and 405 Magnolia Street, Truth or Consequences, New Mexico,

This property will be used as a meeting place for people who are in recovery. The property of 403 Magnolia St. will be cleared and made into off-street parking. The property at 405 Magnolia, currently a residential house will become the Community Center to hold 1 hour meetings.

Thank you for your time and consideration of the matter.

Kathaleen A. Adkins
EKA Trust

405 Magnolia St

ALLEY Way

Cinder Block fence

Gate

Swamp Cooler

Metal Gate

1 car Garage

car Port

Metal Gate

Planter Box

Tree

Bush

Tree

Cinder Block Fence

Evergreen

Gate

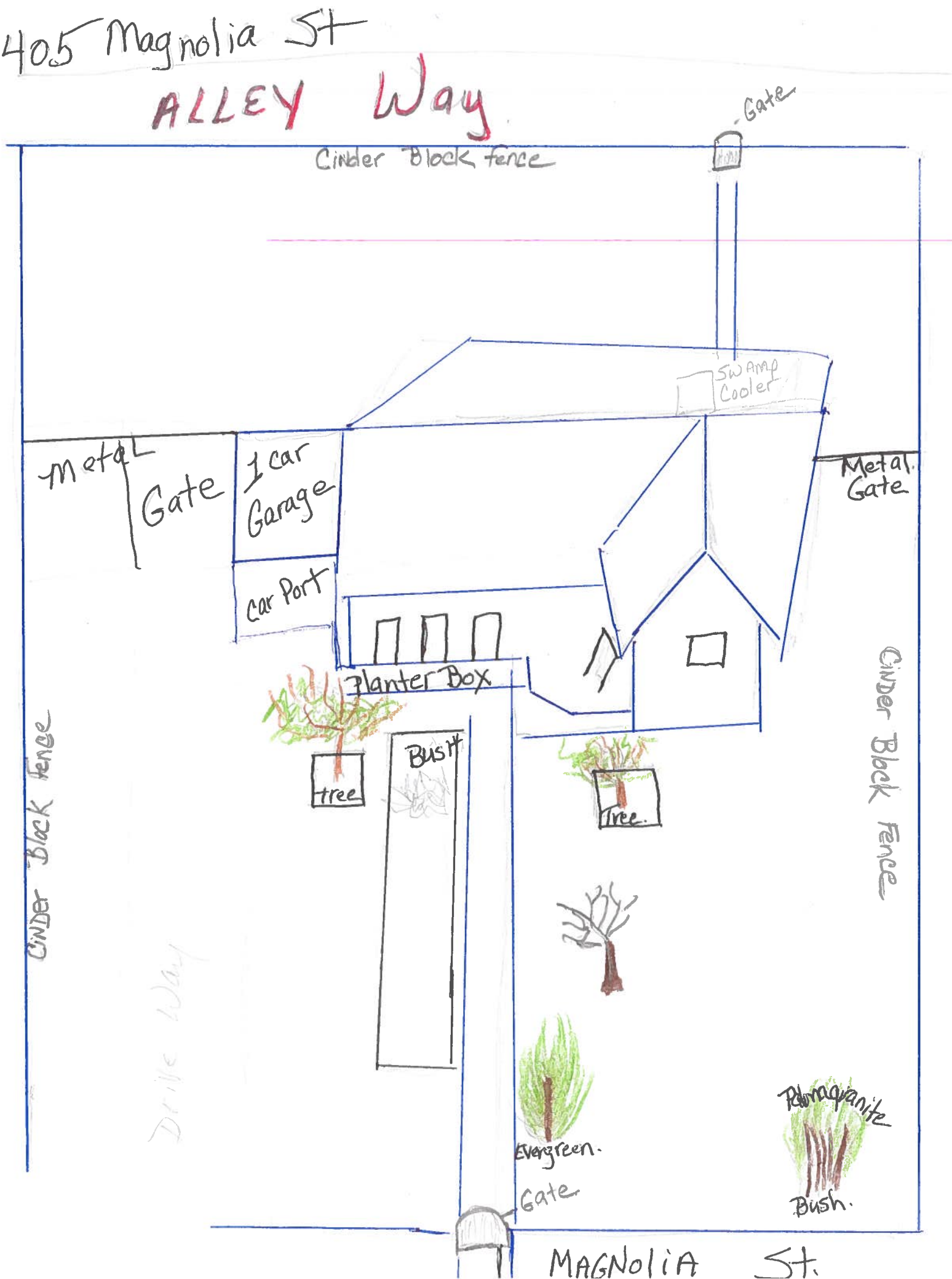
Rhododendron

Bush

MAGNOLIA St.

Cinder Block fence

Drive Way



403 Magnolia ST

Alley Way

Utility Lines

Utility Pole
Utility Pole

Empty Lot

No Buildings

Clear for off-Street Parking

Cinder Block fence

4th St

Magnolia

Magnolia Street

409 N MAGNOLIA
ST

405 N MAGNOLIA
ST

N LANE AVE

East 4th Avenue

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact our Assistant City Manager Traci Alvarez at (575) 952-0565, or by email to talvarez@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel— Friday, September 23, 2022

Sec. 11-9-4. - R-3 High Density Residential District.

- A. **PURPOSE.** The R-3 District is intended to accommodate multiple family dwelling units and accessory structures and uses. The District is intended to maintain and protect high density residential development that is characteristic of apartment, townhouses, condominiums and manufactured home subdivisions. This District also permits one and two family homes, modular homes, and manufactured homes.
- B. **DEVELOPMENT STANDARDS.** Development standards and other requirements are provided in Articles X through XIV.
- C. **R-3 PERMITTED USES:** The following uses are permitted by right in R-3 Districts:
1. Accessory Buildings.
 2. Apartments.
 3. Boarding House.
 4. Condominiums (Residential and Professional).
 5. Child Care Center, Nursery or Similar Use: Play areas shall be in accord with state licensing requirements and enclosed with a solid wall or fence five (5) feet in height.
 6. Construction Yard or Building (Temporary Use): Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a sight-obscuring fence at least six (6) feet in height. However, there shall be no fence or wall more than three (3) feet in total height above street-curb located within the clear sight-triangle of a street intersection as defined in this Code.
 7. Dwellings: Single or multi-family units, apartments, townhouses and condominiums.
 8. Garage or Yard Sale or Similar Use: Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.
 9. Greenhouses (Non-Commercial), Garden Sheds, and Tool Sheds: When detached from the main dwelling, such structures are subject to the provisions of Accessory Buildings.
 10. Home for Handicapped, Disabled, Retarded or Retired: Subject to state requirements of the New Mexico Statutes, Section 3-21-1, Paragraph C, as amended. A minimum of two (2) parking spaces must be provided, in addition to one space for each five (5) persons.
 11. Home Occupation.
 12. Manufactured Home Subdivision.
 13. Manufactured Home Park.
 14. Manufactured Homes.
 15. Kennel (Private, Residential).
 16. Private Club or Lodge: Permitted when used in conjunction with non-profit organizations such as Lions Club, Elks Lodge, and the like. Building(s) shall not be located within one hundred (100) feet of an R-1 or R-2 District. Private clubhouses and game rooms are also permitted when used as a part of an apartment, condominium, or townhouse complex, provided such building(s) shall not be located within fifty (50) feet of an R-1 or R-2 District.
 17. Public Park, Playground, Ball Field and Tennis Courts.
 18. Real Estate Office (Temporary): Permitted only when used in conjunction with a residential subdivision provided such use shall be discontinued upon the completion of the development or within three (3) years from date of permit, whichever is sooner.

19. Storage (Recreational Vehicles): Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.
 20. Swimming Pool (Private): Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.
 21. Tennis Courts (Private for residential use).
 22. Townhouses (Maximum of eight (8) attached units).
- D. *R-3 SPECIAL USES.* The following uses require a public hearing and approval of the City Commission after a recommendation by the Planning and Zoning Commission. Provisions for special use permits are stated in Section 11-5-6 of this Code.
1. Athletic Clubs and Bathhouses.
 2. Barber and Beauty Shops.
 3. Bed and Breakfast Inn.
 4. Church.
 5. Community Building (Public or Private).
 6. Gas Regulating Station (Public or Private Utility).
 7. Golf Course and Country Club.
 8. Halfway House and Quasi-Institutional Houses.
 9. Offices in Historical Structures.
 10. Offices: Offices which provide health services such as medical, chiropractic, or rental and certain professional offices which have a low traffic volume such as attorneys or accountants, provided such offices maintain the residential character of the neighborhood where they are located.
 11. Residential Vehicle Park.
 12. School (Public, Private, or Parochial).
 13. Swimming Pool (Public or Commercial).
 14. Telephone Exchange Station.
 15. Television and Radio Towers, and all other Free-standing Towers (Private Use): Towers shall have manufacturer's specifications to withstand a 75 mph wind and shall be constructed to meet New Mexico Building Code standards.

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action – Summary Plat Amendment 719 Palo Verde

BACKGROUND:

Applicant wishes to eliminate the lot line separating his 2 parcels. This amendment does not have the effect to significantly alter the impacts on utilities, drainage, or traffic.

SUPPORT INFORMATION:

Plat Survey
Map Location
Notice of Public Hearing

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

SHEET 2 OF 2
SEE SHEET 1 OF 2 FOR SURVEYOR'S CERTIFICATE,
ACKNOWLEDGEMENTS, AND APPROVAL BLOCK.

Survey map of Sparks Tract, 0.92 acres, showing its location relative to West Eighth Street, Lot 10, Block 2, Brown Addition, and Lot 10, Block 1, Brown Addition. The map includes bearings and distances for all boundaries, as well as features like a house at 719 Palo Verde Drive, a metal carport, a building, and a corrugated metal fence. It also shows the stacked R/R tie border and the old boundary line.

Boundaries and Distances:

- North Boundary (West Eighth Street):**
 - From West Eighth Street to Building: Basis of Bearing $N 89^{\circ}58'00'' E$, 138.07' (138.00').
 - From Building to Corrugated Metal Fence: $S 89^{\circ}43'54'' E$, 129.03' ($S 89^{\circ}28'53'' E$, 129.44').
 - From Corrugated Metal Fence to Lot 10, Block 1: $S 00^{\circ}03'20'' E$, 150.15' ($S 00^{\circ}14'07'' E$, 150.65').
- East Boundary (Lot 10, Block 1):** $N 89^{\circ}25'07'' W$, 130.16' ($N 89^{\circ}26'50'' W$, 137.96').
- South Boundary (Lot 10, Block 2):** $S 89^{\circ}57'16'' W$, 137.96' ($S 89^{\circ}58'00'' W$, 3297.26').
- West Boundary (Lot 10, Block 2):** $N 00^{\circ}09'02'' E$, 150.03' ($N 00^{\circ}13'00'' E$, 150.00').

Internal Features and Notes:

- House:** 719 Palo Verde Drive (hatched area).
- Metal Carport:** Located within the tract.
- Building:** Located near the north boundary.
- Corrugated Metal Fence:** Located along the east boundary.
- Stacked R/R tie border:** Located along the south boundary.
- Old boundary line:** Dashed line separating Sparks Tract from formerly TRACT A.
- Formerly 0.475 acre tract:** Located within Sparks Tract.
- Formerly TRACT A:** Located to the east of Sparks Tract.
- Alley:** alley not built (between Lot 10, Block 2 and Lot 10, Block 1).
- Unnamed street:** unnamed street not built (between Lot 10, Block 1 and Lot 10, Block 1).

Survey Information:

- SPARKS TRACT:** 0.92 acres.
- Portion of TRACT B:** Jeff E. Dornbush & Wendy S. Nine.
- Plat of Survey:** filed 8/26/1998 in Plat of Survey Book 1 #1768.

Michael A. & Linda E. Sparks
Sec 33, T13S, R4W
Unplatted portion of Brown Addition

SUMMARY REPLAT OF SPARKS TRACT (formerly a 0.475 acre tract and "TRACT A" situate in the SW1/4NW1/4 of Section 33, Township 13 South, Range 4 West NMPM in the unplatted portion of the Brown Addition to Hot Springs), TRUTH OR CONSEQUENCES, SIERRA COUNTY, NEW MEXICO

SHEET 1 OF 2

The replat of tracts as shown and designated on Sheet 2 of 2 is in accordance with the wishes and desires of the undersigned, to wit:

Linda E. Sparks 8-09-22
Linda E. Sparks Date

COUNTY OF SIERRA)
STATE OF NEW MEXICO)

The foregoing instrument was acknowledged before me this 9th day
of August, 2022, by Linda E. Sparks

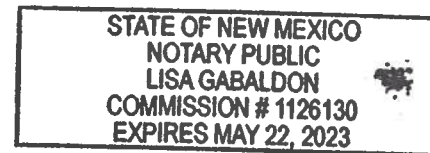
Lisa Gabaldon
NOTARY PUBLIC

05/22/2023
MY COMMISSION EXPIRES

The replat of tracts as shown and designated on Sheet 2 of 2 is hereby approved

Mayor, City of Truth or Consequences, NM

Date



The replat of tracts as shown and designated on Sheet 2 of 2 is in accordance with the wishes and desires of the undersigned, to wit:

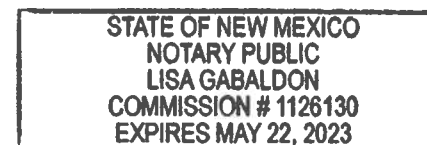
Michael A. Sparks 8/9/22
Michael A. Sparks Date

COUNTY OF SIERRA)
STATE OF NEW MEXICO)

The foregoing instrument was acknowledged before me this 9th day
of August, 2022, by Michael A. Sparks.

Lisa Gabaldon
NOTARY PUBLIC

05/22/2023
MY COMMISSION EXPIRES



SURVEYORS CERTIFICATE

I, Jeff L. Richter, a duly Licensed Professional Surveyor No. 13984, do hereby certify that this Summary Plat and the actual survey on the ground upon which it is based were performed by me or under my direct supervision; that I am responsible for this survey and that this survey meets the Minimum Standards for Surveying in New Mexico; and that it is true and correct to the best of my knowledge and belief.

Jeff L. Richter 8-9-2022
Jeff L. Richter #13984 Date

RICHTER LAND SURVEYING

614 BROADWAY, P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575 894-2348

22015

INDEXING INFORMATION FOR COUNTY CLERK

Michael A. & Linda E. Sparks
Sec 33, T13S, R4W
Unplatted portion of Brown Addition

Palo Verde Drive

801 PALO
VERDE DR

800 YUCCA
ST

801 YUC
ST

Yucca Street

West 8th Street

719 PALO
VERDE DR

1212 W 8TH
AVE

1122 W 8TH
AVE

N LANE

N LANE AVE

N LANE AVE

N LANE AVE

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
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*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact our Assistant City Manager Traci Alvarez at (575) 952-0565, or by email to talvarez@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 16, 2022

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date _____ Address _____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

ORDINANCE NO. 725

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES, BE AMENDED BY AMENDING CHAPTER 3 PERTAINING TO ANIMALS:

Chapter 3. ANIMALS shall be amended in its entirety to read as follows:

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 Truth or Consequences Police Department and the Animal Control Officer.

(Code 1962, § 6-2-3; Ord. No. 436, § 1, 5-13-96; Ord. No. 532, § 1, 10-14-03)

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 any animal unattended and with no provision of food, water or shelter for more than twenty-four (24) hours on one's premises or to dump or leave off any animal on property other than one's own without permission, regardless of age or condition.

Adoption means to take by choice and assume responsibility for proper care in accordance with this Ordinance.

Adequate food means access to and the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each animal in good health, to include:

1. Easily accessible to each animal
2. Prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal
3. Provided in a clean and sanitary manner
4. Placed so as to minimize contamination by excrement and pests

Adequate living area means adequate space, shade, and shelter ~~for exercise~~ suitable to the age, size, species and breed of animal.

Adequate Shade means provision of and access to either man made or natural shade suitable for species, age, condition, size and type of each animal.

Adequate Shelter means provision of and access to shelter that is suitable for species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry.

Adequate space to prevent overcrowding means having sufficient space to allow animals restrained together to be able to move freely, turn around and lie down.

Adequate water means constant access to a supply of unfrozen, potable water, provided in a sanitary manner suitable for species, in sufficient amounts to maintain good health.

Animal means any vertebrate member of the animal kingdom, excluding the human species, including but not limited to wild animals, domesticated animals, and livestock.

Animal Shelter or Shelter 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 or recognized by the City for the purpose of maintaining care and custody of animals.

Animal Control Officer means any person designated by the Police Chief to enforce animal control laws, orders, ordinances and regulations.

Animal fighting paraphernalia means equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to:

1. instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp instrument,
2. items to train and condition animals to fight including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open dog's jaws, performance enhancing drugs or substances, or food or water additives.

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.

Bait animal means any animal used to train and/or condition other animals to fight and are exposed to attack by other animals used or trained to be used in fighting or to make the attacking animal more confident and aggressive.

Bite means any puncture, tear, scratch or wound of the skin inflicted by the teeth of an animal.

Breeder means any person involved in the controlled breeding of animals. Breeders are subject to City of Truth or Consequences Kennel Permit requirements.

Canine Hybrid means any offspring which results from the breeding of a domestic species or breed of canine with any wild species or breed of canine, such as 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 purpose of this chapter. An animal shall not be classified to be a canine hybrid based strictly on its appearance.

Care means responsibility for or attention to health, well-being, and safety.

Collar means a strap made of leather or other strong material or a harness that is worn around the neck/torso of an animal to which a current rabies vaccination and city animal registration tag can be affixed.

Confined or Confinement means restriction of an animal at all times by an owner or keeper in an escape proof building or other enclosure away from other animals and the public.

Continually means a duration that continues over a long period of time but with intervals and interruptions.

Emergency measures means any action taken by animal control or its designated agents to preserve the health and life of an animal or human being, including but not limited to entering vehicles or premises, with probable cause and/or exigent circumstance, and impounding an animal to prevent present or imminent suffering to the animal, a human being, or another animal.

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

Enclosure means an area completely surrounded by a wall, fence, or animal pen of sufficient height and strength to contain the animal(s) within.

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

Estray or Stray means any animal found running at large or unattended beyond the boundaries of the premises of the owner.

Feline Hybrid means any offspring which results from the breeding of a domestic species or breed of feline with any 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 purpose of this chapter. An animal shall not be classified to be a feline hybrid based strictly on its appearance.

Feral Animal means 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. Any feral animal that by physical aspect and behavior are deemed to be un-owned and have been trapped for the purpose of improving public health and limiting reproduction.

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

Heat, Estrus or Season means a regularly recurring state of estrus during which the female animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

Immediate control means direct physical control over an animal by the owner/responsible party 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.

Household means one or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel.

Kennel area means a secure space within which an animal is housed that is of sufficient height and strength to contain the animal within and provide sufficient room for the animal to comfortably move around within the structure.

Kennel, commercial means any premises on which a total of five or more dogs or cats, in any combination thereof, 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.

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

Livestock means horses, cattle, pigs, sheep, goats, fowl, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined by the city manager as agricultural.

Owner/responsible party means a person 18 years of age or older or the parent or guardian of a person under 18 years of age who owns, harbors, keeps an animal, has one in his/her care, or permits an animal to remain on or about the premises owned or controlled by him/her.

Pet means 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 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.

Potable water means water that can be consumed without concern for adverse health effects.

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

Public nuisance means a situation where an animal owner fails to prevent its animal from urinating, defecating, disturbing the peace, emitting noxious odors or otherwise endangering or offending the well-being of the inhabitants of the City while:

- (1) Trespassing on school grounds, public or private property;
- (2) Being found running at large;
- (3) Damaging private or public property; or
- (4) Barking, whining, or howling in an excessive or continual fashion.

Public Way means an alley, avenue, boulevard, bridge, channel, ditch easement, express freeway, highway, land, parkway, right-of-way, road, sidewalk, street subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

Qualified service animal means:

- A. any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability;
- B. 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;
- C. A qualified service animal does not include a pet, an emotional support animal, a comfort animal, or a therapy animal as defined in NMSA 1978, Section 28- 11- 2(B) (2013).

Quarantine means detention and isolation of an animal in order to observe the animal suspected of contagion.

Responsible person party 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.

Restraint means any of the following:

1. To be under the immediate control of a capable and competent person on a leash or lead; or
2. To be secured by a trolley system confining the animal within the owner' s premises; or
3. To be secured within an escape -proof enclosure within the owner's premises.

Running at large or to run at large means an animal that is free of physical restraint beyond the boundaries of the premises of the owner/responsible party.

Tether means to restrain an animal by means of a runner cable or similar device attached to a running line, pulley or trolley system.

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

Un-weaned means of an infant or other young mammal not accustomed to food other than its mother's milk

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 or animal 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; Ord. No. 532, § 2, 10-14-03; Ord. No. 608, § 1, 8-30-11; Ord. No. 659(1), § 1, 1-13-15)

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

Sec. 3-4. - Service animals.

(a) A person with a disability who is using a qualified service animal, as defined by the American Disability Act (ADA), shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service animal. A person shall not deny an individual with a qualified service animal entry to a building open to the public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying pets entry to that building, public accommodation or common carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may be liable for any damage done by the qualified service animal; provided that persons without disabilities would be liable for similar damage; and

(b) This section does not require a public accommodation or common carrier to permit an owner, trainer or handler using a qualified service animal to have access to a public accommodation or common carrier in circumstances in which the individual's use of the qualified service animal poses a direct threat of significant harm to the health or safety of others.

Credits L. 1989, Ch. 242, § 2; L. 1999, Ch. 262, § 2; L. 1999, Ch. 288, § 2; L. 2005, Ch. 224, § 3, eff. June 17, 2005; L. 2013, Ch. 57, § 3, eff. June 14, 2013.

§ 28-11-3. Admittance of qualified assistance animals, State of New Mexico

(Code 1962, § 6-2-23; Ord. No. 659(1), § 1, 1-13-15)

Editor's note— Section 1 of Ord. No. 659, adopted Jan. 13, 2015, changed the title of § 3-4 from "Dogs trained to assist the blind and hearing impaired allowed in public places" to read as herein set out.

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. When a Law Enforcement Officer or an Animal Control Officer has probable cause to believe that an animal has been cruelly treated, the officer may impound the animal for its protection pending appropriate court proceedings.
- (b) **Work cruelty.** It is unlawful for any person to drive or work any animal cruelly.
- (c) **Animal in a Vehicle.** It shall be unlawful for any owner/responsible party to place or confine an animal in a motor vehicle without allowing cross-ventilation and under no circumstance shall a person confine any animal in any parked, closed vehicle on any public way or private street for any amount of time that would endanger, or create an adverse condition placing at risk the health or well-being of such animal due to temperature, lack of food or potable water or such other conditions as may be reasonably expected that may cause suffering, disability or death. Any animal control or law enforcement officer observing an animal kept in violation of this Section may take emergency measures, as defined by the definitions of this article and impound the animal. In addition to all other defenses and immunities provided by law, any such officer taking emergency measures for the purpose of this Section shall be immune from suit or liability, criminal or civil, caused by or arising from the emergency measures taken.
- (d) **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:
 - (1) **Adequate Food.**
 - (2) **Adequate Water.**
 - (3) **Adequate Shelter.**
 - (4) **Adequate Shade.**
 - (5) **Adequate space**
- (e) No animal shall be left unattended for more than 24 hours.
- (f) No owner or responsible party shall fail to provide necessary grooming of the coat in order to prevent matting, skin irritation, distress or pain, trapping of fecal matter, and loss of the ability to protect the animal from adverse weather conditions. An animal shall not be so dirty that it becomes matted as to provide a home for parasites and insects. No animal shall be allowed to have a foreign object embedded in its hide, fur or skin other than a microchip or a medical device implanted by a licensed veterinarian.
- (g) **Veterinary care.** It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including suffering from starvation, or severe thirst without providing proper veterinary care. An animal shall be afforded immediate veterinary care if it is known or suspected to be ill or injured. No person shall perform procedures such as ear-cropping, de-barking, tail docking on an animal, or otherwise endanger an animals well-being. Procedures completed by a licensed veterinarian in accordance to their standard practices shall not be considered cruelty.

- (h) ***Abandonment.*** It shall be unlawful for any person being the owner/responsible party of a dog, cat, or other domesticated animal or pet to abandon such animal. Abandonment includes dumping of an animal from a moving or stationary motor vehicle. This section shall not apply to voluntary relinquishments to an animal rescue organization, animal control center, animal control officer, licensed veterinarian, or another person.
- (i) ***Poisoning.*** It is unlawful for any person to intentionally or knowingly poisons, or attempts to poison any domestic animal. For purposes of this section, "poison" or "attempt to poison" includes the act of placing food, water, or lure of another sort which contains poison or contains health threatening foreign objects, such as glass or metal, in a location where any animal may be attracted.
- (j) ***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 involuntary absence of the owner or ~~person~~ responsible party for the care of such animal, the Animal Control Officer shall make arrangements for the care of the animal.
- (k) ***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/she 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 themselves 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 Shelter and notifying the Police. Such animal shall be deemed an uncared-for animal within the meaning of subsection (j) of this section. Emergency vehicles are excluded from this provision.
- (l) ***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.
- (m) ***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 Animal Control Officer or designee 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.
- (n) ***Fights.*** It is unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, ~~or~~ fight, or combat between one (1) or more animals or between animals and humans in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal. This includes any animal used as a "Bait Animal" as defined in the definitions of this ordinance.
- (o) ***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.

(p) ***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.

(q) 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; Ord. No. 659(1), § 1, 1-13-15)

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, public park or private business, unless said private business is properly licensed or such person is acting on behalf of the Truth or Consequences Animal Shelter during an adoption event.

(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.

(e) ***Sale of un-weaned animals.*** A person shall not sell, offer for sale, transfer, or adopt a dog, cat, or ferret under eight weeks of age, or a guinea pig, hamster, or rabbit under four 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 breed and species of the animal. Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations or prohibit the sale, transfer, or adoption of an un-weaned animal if accompanied by a nursing female.

(Code 1962, § 6-2-25; Ord. No. 436, § 4, 5-13-96; Ord. No. 532, § 3, 10-14-03)

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 (erethizontidae).
- (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 set by resolution 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. – Multi-Animal Site Permit and Kennel Permit.

- (a) It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit.
- (b) If a business premises is being used for the buying, selling, breeding, training, fostering, rescuing, or boarding of animals, said business shall apply for a kennel permit.

- (c) Animals belonging to visitors who are located within city limits and who stay in a household or lodging establishment longer than 30 days in a calendar year shall be included in the calculation of total animals for said location and the owner of the animal shall be required to comply with all applicable sections contained in this chapter.
- (d) No person shall keep or operate a residential or commercial multi-animal site without a permit issued by the city. All business applicants must have a valid business license issued through the city at the time of application.
- (e) Veterinary hospitals or clinics shall be exempt from the kennel permit licensure requirement of this chapter unless the veterinary hospital or clinic engages in the non-veterinary medical boarding of animals.
- (f) Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit with the police department, describing the location of the site, and the purpose for which it is to be maintained. An initial non-refundable fee, established by resolution, for residential or commercial multi-animal sites must accompany any application to defray the cost of processing the request.
- (g) Upon receipt of payment, the police department shall forward the application to the Planning and Zoning Department. All applications for multi-animal site and kennel permits shall undergo a special use permit process pursuant to the procedure detailed in section 11-5-6 of the City's Planning and Zoning Code.
- (h) An onsite visit of the premises shall occur by the animal control and designated zoning official or administrator prior to a hearing before the City's Planning and Zoning Board to verify compliance with this section and/or other 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.
- (i) All animals listed on the application three months of age or over must be vaccinated for rabies and possess a city animal license tag.
- (j) All multi-animal residential or commercial site permits and kennel permits must be renewed annually at a fee established by resolution.
- (k) There shall not be more than seven animals in any combination thereof for multi-animal residential or commercial site permits. The maximum animal occupancy for kennel permits shall be determined based upon the recommendation of the animal control officer or designated zoning official or administrator to ensure there is adequate space and adequate shelter to ensure sanitary and safe conditions.
- (l) An application may be denied if the applicant or animal owner shows a history of noncompliance with sections contained in this chapter as evidenced by two or more convictions of violations during the preceding 12 months. Any past city permit or license revocations may be considered in decision making process of whether to approve or deny a permit under this section.
- (m) Multi-animal site and kennel permit holders shall allow the animal control officer, police officer, designated zoning official or administrator or other city official to enter and inspect the premises for compliance with this section and/or any other city municipal code or ordinances during normal business hours.

(n) A multi-animal site permit or kennel permit may be revoked when, in the opinion of the designated zoning official or administrator or animal control officer, any one or more the following conditions exist:

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

(2) The number of animals exceeds the number allowed under the permit.

(3) Any other violation listed under this chapter or sections.

(o) In cases where a multi-animal site permit or kennel permit is revoked, the permittee shall be notified in writing via the mailing address listed on their permit application. The revocation letter shall state the reasons said permit has been revoked and the option to file a written appeal with the City Manager or their designee within ten business days of the date listed on the revocation letter. Written appeals shall be hand delivered to City Clerk's Office within the allotted timeframe. The City Manager or their designee may review the appeal and reverse the decision, modify the decision, or deny the appeal and upheld the initial revocation.

(p) If a multi-animal site permit or kennel permit has been revoked, said applicant and/or location of where the permit was issued shall not be allowed to apply or obtain another permit within city limits for a period of at least two years from the date of revocation.

(Ord. No. 395, § 1, 10-26-92; Ord. No. 436, § 7, 5-13-96; Ord. No. 532, § 4, 10-14-03; Ord. No. 609, § 1, 8-30-11; Ord. No. 659(1), § 1, 1-13-15)

Sec. 3-8.2. Sterilization Agreement/deposit for Spaying and neutering of dogs and cats.

- (a) It is the intent of the City for all dogs and cats over the age of 6 months to be spayed/neutered. Therefore, no cat or dog shall be released from the animal shelter to an adopting person unless it has been spayed/neutered or a sterilization agreement has been signed and a sterilization deposit set by resolution has been paid.
- (b) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized within 30 days of the date of adoption for cats/dogs over the age of six months or by 6 months of age for kittens and puppies.
- (c) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the sterilization deposit and impoundment/boarding fees imposed by the shelter and set by resolution, and the owner shall sign an agreement stating he/she will sterilize the animal within 30 days after release or will obtain a breeder permit or its equivalent. The sterilization deposit may be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized within 30 days of release.

(NM Stat § 77-1-20 (2019) History: Laws 1993, ch. 43, § 3

(Ord. No. 393, § 1, 8-24-92; Ord. No. 532, § 5, 10-14-03; Ord. No. 610, § 1, 8-30-11)

Sec. 3-8.3. Female dogs or cats in Estrus (heat) to be confined.

It shall be unlawful for any owner/responsible party to fail to securely confine any un-spayed animal in the state of estrus (heat), in a house, building or proper enclosure, in such a manner that such animal cannot come in contact with another animal except for planned breeding, and such that the animal does not create a nuisance by attracting other animals. When outside on the property of the owner, for metabolic waste elimination, the animal must be physically restrained with a hand-held leash.

Owners/responsible party who do not comply may be ordered to remove the animals in estrus (heat) to a boarding kennel, veterinary hospital or animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner/responsible party of the animal. Failure to comply with the removal order shall be a violation of this Section and the animal shall then be impounded as prescribed in this Title.

(Ord. No. 436, § 8, 5-13-96)

Sec. 3-9. – Enforcement and Interference with 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 Police Officer in the performance of their duties.

(Ord. No. 384, § 6-2-28, 7-22-91; Ord. No. 436, § 9, 5-13-96; Ord. No. 532, § 6, 10-14-03; Ord. No. 611, § 1, 8-30-11)

Sec. 3-10. - Reserved.

Editor's note— Section 1 of Ord. No. 612, adopted Aug. 30, 2011, repealed § 3-10, which pertained to fines and fees and derived from Ord. No. 384, § 6, adopted July 22, 1991; Ord. No. 436, § 10, adopted May 13, 1996; and Ord. No. 532, § 7, adopted Oct. 14, 2003.

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, with each conviction carrying a mandatory minimum fine of \$100.00.

(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; Ord. No. 532, § 8, 10-14-03; Ord. No. 613, § 1, 8-30-11)

Sec. 3-12 Deceased Animal Disposal Requirements.

A. Owner responsibility – The owner / responsible party 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 in one of the following ways:

a. Burial of the animal carcass on the owners land under the following conditions:

- The bottom of the burial pit must be at least 3 ft. above the water table.
- If possible, choose a site where the soil is heavier and less permeable.
- Flat areas are best. Avoid areas sloping toward water or arroyos.
- Ensure the pit is sized to allow soil to cover mortalities to a depth of at least 3 ft.

b. Cremation by a licensed facility where the remains can be sealed in an acceptable urn for return to the animal owner or disposed of by the facility.

- The cremation of the carcass will be at the expense of the animal owner.

B. Removal - The Animal Control Officer may remove any animal carcass from the roadway or other public property. The Animal Control Officer and/or T or C Animal Shelter staff shall make reasonable efforts to notify the animal's owner if known in the event of the animal's death.

1) Animal Control Officer may dispose of the animal carcass at the T or C Animal Shelter as authorized after microchip scanning and making reasonable efforts to notify the animal's owner. If an owner is located and request that the Animal Shelter dispose of the carcass, then the owner/responsible party will be responsible for the disposal fee.

2) Animal Control Officer shall turn over any tags or other identification found on an animal carcass to the T or C Animal Shelter.

C. Removal fee - The Animal Control Officer 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 fee.

1) The fee amount shall be established by resolution or

2) The fee amount shall be established by most current rate schedule as provided by the current licensed facility, contracted with the City of Truth or Consequences, for cremation services.

a. This fee schedule is based on the weight of the carcass.

Secs. 3-13 - 3-25. - Reserved.

ARTICLE II. - CONTROL

DIVISION 1. - GENERALLY

Sec. 3-26. - Authority of Animal Control Officers.

(a) The office of animal control officer is hereby created. The chief of police will assign that duty as needed. The animal control officer shall be charged with all duties pertaining to the enforcement of ordinances regulating or controlling animals and fowl within the corporate limits of the city or in areas of other areas of jurisdiction as specified in agreements with other entities.

(b) An Animal Control Officer shall wear a uniform and shall wear a badge identifying such officer as an animal control officer.

(c) It shall be the duty of the animal control officer to take up and impound any animal or fowl authorized to be impounded by this Code or by other ordinances within the specified agreements with other entities.

(d) It shall be the duty of the animal control officer to investigate all reported violations of animal control ordinances and to attempt, when appropriate, to solve such problems through conferences and issuance of citations or complaints filed with the appropriate court.

(Code 1962, § 6-2-4; Ord. No. 436, § 12, 5-13-96; Ord. No. 532, § 9, 10-14-03)

State Law reference— Municipal authority to designate animal control officer, NMSA 1978, § 77-1-15.1B.

Sec. 3-27. - Establishment of Animal Shelter.

There is hereby established an Animal Shelter which shall be located at a location designed by the Commission.

(Code 1962, § 6-2-5)

Sec. 3-28. - Animal Shelter, hours of business.

The Animal Shelter 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, 5-1-3-96)

Sec. 3-29. - Impoundment.

It is the duty of the Animal Control Officer to take up and impound in the Animal Shelter 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 strays; 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/her name and address, a true and complete statement of the circumstances under which the animal was taken, and the 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/her 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 may be 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 Shelter. The Animal Shelter may dispose of stray animals impounded under this section according to their policies and procedures the day after the required impoundment period.
- (d) No dog or cat that has been impounded by the Animal Shelter will be sold for the purpose of breeding or resale.
- (e) 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.

- (f) Animals confined/impounded to the Animal Shelter may be released to the rightful owner or designee after all applicable fees have been paid. Owner shall bear the cost of any expenditure while animal is confined including veterinary services.
- (g) Reserved.
- (h) Fines for violations of this article shall be in accordance with the provisions of section 1-10. In addition, upon a finding of guilt, the City may request that the Municipal Court shall order a defendant to reimburse the Animal Control Shelter or Police Department for any costs associated with apprehending and/or impounding the animal.

(Code 1962, § 6-2-8; Ord. No. 384, § 6-2-8, 7-22-91; Ord. No. 436, § 14, 5-13-96; Ord. No. 614, § 1, 8-30-11)

Sec. 3-31. - Restraint of animals.

- (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 immediate control 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 an animal on his or her premises may use a tether as a means of restraint only if:
 - a. The tethered animal has access to adequate food, water, shade and shelter
 - b. A tether used to restrain a dog shall be at least 12 feet in length. Such tether shall not enable the animal to reach beyond the owner's property.
 - c. A tether used to restrain an animal shall be affixed to a properly fitting collar or harness worn by the animal. A person shall not wrap a chain or tether directly around the neck or other body part of the animal.
 - d. A tether used to restrain an animal 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, strangled or denied access to adequate necessities.

- (3) Voice commands are not an acceptable form of restraint.
- (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) While restrained off premises under the immediate control of the owner or responsible party, the animal must be on a leash that shall enable the handler to maintain control of the animal. The leash shall not exceed six (6) feet in length while the animal is in and around the inhabitants of the city.
 - (2) A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in an open flatbed vehicle shall be crated or restrained upon a non-slick surface and in a manner that prevents the animal from falling out of the vehicle. At no time is an animal allowed to sit or stand in the drivers lap while the vehicle is being operated on any public roadway.
 - (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) Voice commands are not an acceptable form of restraint.
- (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 officer 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.

Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court.

(Code 1962, § 6-2-12; Ord. No. 384, § 6-2-12, 7-22-91; Ord. No. 436, § 15, 5-13-96; Ord. No. 615, § 1, 8-30-11)

Sec. 3-32. - Breaking into Animal Control Center, animal control vehicle.

It is unlawful for any person to break open any pound, center, trap, 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, trap, or vehicle without lawful permission.

(Code 1962, § 6-2-22)

Sec. 3-33. - Seizure of Animals Notice.

- (a) An Animal Control Officer, or designee who reasonably believes that the life or health of an animal to include livestock is endangered due to cruel treatment may apply to the municipal court in the city where the animal is located for a warrant to seize the animal.
- (b) If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within 10 business days unless good cause is demonstrated by the city for a later time and such extension is approved by the municipal court judge.
- (c) Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.
- (d) If the owner of the animal cannot be determined or cannot be located, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.
- (e) At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice if approved by the municipal court judge.
- (f) If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

NM Stat § 30-18-1.1 (1996 through 1st Sess 50th Legis)

Sec. 3-34 Disposition of Seized Animals

- (a) If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

- (b) If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.
- (c) An animal control agency operated by the municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.
- (d) The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay and may conduct periodic reviews of its order. If the posting of security is ordered, the animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.
- (e) If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, animal shelter or animal welfare organization for adoption or humane destruction
- (f) Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed cruelty to animals.
- (g) Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.
- (h) As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

NM Stat § 30-18-1.2 (1996 through 1st Sess 50th Legis)

Sec. 3-35 Costs of Seized Animals

- (a) Upon conviction, a defendant shall be liable for the reasonable cost of boarding the animal and all necessary veterinary examinations and care provided to the animal. The amount of these costs shall be offset by the security posted pursuant to Section 3-36. Unexpended security funds shall be returned to the owner.

- (b) In the absence of a conviction, the seizing agency shall bear the costs of boarding the animal and all necessary veterinary examinations and care of the animal during the pendency of the proceedings, return the animal, if not previously relinquished, and all of the security posted pursuant to Section 3-36.

NM Stat § 30-18-1.3 (1996 through 1st Sess 50th Legis)

Secs. 3-36 - 3-50. - Reserved.

DIVISION 2. - RABIES^[2]

Footnotes:

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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 three years 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 anti-rabies 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.
- (e) Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court.

(Code 1962, § 6-2-9; Ord. No. 527, §§ 1, 2, 7-14-03)

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 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/she has rendered professional treatment to ~~the Chief of Police or~~ an Animal Control Officer within 24 hours of his/her 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 1962, § 6-2-11; Ord. No. 384, § 6-2-11, 7-22-91; Ord. No. 436, § 16, 5-13-96; Ord. No. 616, § 1, 8-30-11)

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 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. 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, a license certificate and tag for each animal shall be issued. If the tag is lost, replacement tags with a cost set by resolution shall be purchased. The license shall expire on the same date as the rabies certificate or one year whichever is greater.

- (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 30 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 set by resolution for each neutered or spayed dog or cat. The annual license fee shall be set by resolution for each unneutered or un-spayed dog or cat. No fee shall be charged for the licensure of qualified service animals that are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons. A fee shall be charged for each dog or cat that has not been spayed or neutered, unless the owner presents a signed statement from a licensed veterinarian stating that spaying or neutering would be a surgical risk for the animal, due to the animal's age or condition.
- (e) Within 5 business days upon change of ownership of any dog or cat, the new owner shall apply for a new license with their personal identifying information.

(Code 1962, § 6-2-14; Ord. No. 384, § 6-2-14, 7-22-91; Ord. No. 436, § 17, 5-13-96; Ord. No. 564, § 1, 11-14-06; Ord. No. 659(1), § 1, 1-13-15)

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 dog or cat 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 license tag, rabies vaccination certificate, or other form of licensing as required under this division.

(Code 1962, § 6-2-21)

(Ord. No. 564, § 1, 11-14-06)

Secs. 3-373- 3-90. - Reserved.

DIVISION 4. - AT LARGE, VICIOUS, NUISANCE

Sec. 3-91. - Running at large.

(a) It is unlawful for any person to allow or permit any animal to run at large in public or on any public street, public alley, public sidewalk, private or public vacant lot, or private 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.

(b) Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to

imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court

(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

~~(Code 1962, § 6-2-16)~~

Sec. 3-392 - 3-93. - Reserved.

Editor's note— Ord. No. 436, § 18, adopted May 13, 1996, repealed § 3-93, which pertained to unenclosed premises and 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 necessary force to repel said attack. After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall turn such animal over to the Animal Control Officer, who shall destroy it humanely.

(Code 1962, § 6-2-18; Ord. No. 505, § 1, 2-11-02; Ord. No. 621, § 1, 11-22-11)

State Law reference— Vicious animals, NMSA 1978, § 77-1-10.

Sec. 3-95. - Disturbing the peace.

It is unlawful for a person owning or having the care, custody or control of an animal to 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.

(Code 1962, § 6-2-19; Ord. No. 617, § 1, 8-30-11; Ord. No. 659(2), § 1, 1-13-15)

Cross reference— Offenses relating to public order and safety, § 8-31 et seq.

Sec. 3-96. - Public nuisance.

- 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. 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 by noxious or offensive odors.
- c. 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.
- d. Feeding animals running at large. A person shall not feed an animal running at large

It is unlawful for the owner of any animal to be in violation of the public nuisance definition and such violation will be punished in accordance with section 1-10.

(Code 1962, § 6-2-20; Ord. No. 436, § 19, 5-13-96; Ord. No. 618, § 1, 8-30-11)

Editor's note— Section 1 of Ord. No. 618, adopted Aug. 30, 2011, changed the title of § 3-96 from "Nuisances on sidewalks, public parks, alleys" to "Public nuisance."

Sec. 3-97. - Dangerous and potentially dangerous dogs.

(a) *Short title.* This section may be known, and will be cited, as the "Dangerous Dog Ordinance".

(b) *Findings and intent.*

- (1) Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.
- (2) No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the City.
- (3) This section will protect the inhabitants of the City.
- (4) This section will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the City.
- (5) This section will assist in providing control over dangerous and potentially dangerous dogs.

(c) *Definitions.*

Animal control authority: The Animal Shelter and Animal Control Officer(s) of the Police Department of the City is charged with addressing animal control issues within the City.

Dangerous dog: A dog that caused a serious injury to a person or domestic animal.

Owner: A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of 18, that person's parent or guardian.

Potentially dangerous dog: A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:

- (1) Causing an injury to a person or domestic animal that is less severe than a serious injury; or
- (2) Chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or
- (3) Acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.

Proper enclosure: Secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or other affixing the animal to a stationary object.

Serious injury: A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

(d) *Exceptions.* A dog will not be declared a dangerous or potentially dangerous dog if:

- (1) The dog is used by a law enforcement official for legitimate law enforcement purposes; or

- (2) The threat, injury or damage sustained by a person or domestic animal is the result of the person or domestic animal:
 - a. Trespassing upon premises occupied by the owner or the dog; or
 - b. Provoking, tormenting, abusing or assaulting the dog, or in the past has repeatedly provoked, tormented, abused or assaulted the dog; or
 - c. Committing, or attempting to commit, a crime; or
- (3) The dog was:
 - a. Responding to pain or injury; or
 - b. Protecting itself or its offspring; or
 - c. Protecting or defending a human being or domestic animal from attack or assault.

(e) *Seizure of dog—Petition to court of competent jurisdiction.*

- (1) If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- (2) If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- (3) After seizure, the animal control authority will impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of subsection (e) of this section.
- (4) After seizure:
 - a. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to subsection (e) of this section; or
 - b. The animal control authority may, within 14 days after seizure of the dog, bring a petition in a court of competent jurisdiction seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within 30 days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to the owner.
- (5) If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within 14 days of seizure of the dog, the court shall immediately order the release of the dog to its owner.
- (6) If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.
- (7) A determination that a dog is not dangerous or potentially dangerous shall not prevent the

animal control authority from making a subsequent application for seizure based on the dog's subsequent behaviors.

(f) *Dangerous and potentially dangerous dogs—Registration required.*

- (1) Upon application, an animal control authority shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:
 - a. The owner is able to keep the dog under control at all times; and
 - b. A license, if applicable, has been issued pursuant to the requirements of the City; and
 - c. The dog has a current rabies vaccination; and
 - d. The owner has a proper enclosure to the dog; and
 - e. The owner has paid an annual fee set by resolution to register a dangerous or potentially dangerous dog.; and
 - f. The dog has been spayed or neutered; and
 - g. The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
 - h. The owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.
- (2) If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section for 36 consecutive months, the owner may request the animal control authority in the City to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.
- (3) An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of subsection (e)(1) of this section, establishes that:
 - a. The owner has paid an annual fee set by resolution, as established by the animal control authority to register a dangerous dog; and
 - b. The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable; and
 - c. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination; and
 - d. When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times; and
 - e. The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
 - f. A clearly visible warning sign with a conspicuous warning symbol indicate there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.
- (4) An animal control authority may order the immediate impoundment or humane destruction

of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section.

(g) *Prohibited acts.*

- (1) It is unlawful for an owner of a dangerous or potentially dangerous dog to:
 - a. Keep the dog without a valid certificate of registration; or
 - b. Violate the registration and handling requirements for the dog; or
 - c. Fail to notify the animal control authority immediately upon:
 1. The escape of the dog; or
 2. An attack by the dog upon a human being or a domestic animal;
 - d. Fail to notify the animal control authority of the dog's death within five business days; or
 - e. Fail to notify the animal control authority within 24 hours if the dog has been sold or given away and to provide the name, address and telephone number of the new owner of the dog; or
 - f. Fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case where there is reason to believe that the dog poses an imminent threat to public safety; or
 - g. Fail to comply with special handling or case requirements for the dog that a court has ordered.
- (2) Whoever violates a provision of subsection (g)(1) shall be charged in the Municipal Court in which the animal is located with a violation of the Dangerous Dog Ordinance, and upon conviction shall be sentenced to a fine not to exceed \$500.00, or 90 days imprisonment, or both fines and imprisonment.

(Ord. No. 546, §§ 1—7, 10-11-05; Ord. No. 619, § 1, 9-27-11)

Editor's note— Ord. No. 546, §§ 1—7, adopted Oct. 11, 2005, set out provisions intended for use as § 3-101. At the editor's discretion, these provisions have been included as § 3-97.

Sec. 3-98. – Safekeeping of animals by the Animal Shelter

Under unforeseen circumstances, a police officer, animal control officer, or animal owner may require an animal to be placed in the care and custody of the Animal Shelter to ensure that the animal is properly cared for. In these situations, the safekeeping of the animal shall only occur for a period of not more than 72 hours at the expense of the owner pursuant to fees established by resolution. The owner shall be responsible for contacting a designated person or organization to pick up the animal from the Animal Shelter and the owner shall provide written authorization to the Animal Shelter as to the responsible person or organization taking custody of the animal. After the initial 72 hour period has expired, the animal is no longer classified as a safe keep and the animal shall be considered abandoned and property of the City unless the owner or designated party notifies the City in writing of a date and time the animal will be picked up, not to exceed an additional 72 hours at the owner's expense. No animal shall be released from the Animal Shelter until all fees are paid in full. Owners who knowingly abandon or fail to arrange for pickup of their animal at the Animal Shelter may be prosecuted under other sections within the Municipal Code.

Sec. 3-99. – Livestock running at large.

It is unlawful for the owners of livestock to willfully allow the livestock to run at large within the city limits. The owners of the livestock are subject to prosecution under this section regardless of the livestock's origination.

As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS. CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:

Section 1. All Ordinances or Resolutions, or parts thereof, inconsistent herewith 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.

Section 2. This Ordinance shall take effect on the 9th day of 2022.

PASSED, APPROVED AND ADOPTED this 9th day of February, 2022.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

BY:


Amanda Forrister- Mayor

ATTEST:


Angela A. Torres- City Clerk



Sec. 11-5-6. - Special Use Permit.

A special use permit may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. A special use permit is required for a special land use, which is not permitted by right within the District wherein it is requested.

A. *Provisions for special use permit.*

1. In making a decision on a Special Use Permit, the Planning and Zoning Commission and the City Commission shall review the following factors and accord each factor the necessary weight on a case-by-case basis.
 - a. The increase in congestion of streets and other rights-of-way;
 - b. Diminishment of safety from fire, panic and other dangers;
 - c. Diminishment to the health and general welfare of the public;
 - d. Degradation of light and air for all properties in the immediate area of the proposed Permit; increases of overcrowding of land and undue concentrations of populations;
 - e. Adverse affects on provisions for transportation, water, sewer, schools, parks and other public facilities or increases in the effects of natural hazards;
 - f. Increases or facilitation of the unlawful use of structures, buildings or land; and
 - g. Promote the use or waste of energy in the use of structures, buildings, and land.
2. Special Use Permits shall not be granted in such cases where the use will result in negative impacts, which substantially outweigh the positive impacts of the purposed use.

B. *Fee.* A non-refundable application fee to be set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following:

1. Location of existing and proposed structures including the dimensions of setbacks;
2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way;
3. Location and treatment of open spaces including landscaping plan and schedule;
4. Lighting;
5. Signage;

A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application.

D. *Public hearing and notice procedure.* A public hearing shall be held by the Planning and Zoning Commission for all special use permits. All property owners shall be notified in accordance with the provisions of Article 7 of this Code.

E. *Review and approval.* The City Commission may deny special use permits, or may grant final approval in accord with certain conditions, with right of appeal in accordance with Article VII of this Code. Approval may also be granted with additional conditions imposed, which are deemed

necessary to insure that the purpose and intent of this Code is met and to protect and provide safeguards for persons and property in the vicinity.

- F. *Time limitation and revocation.* If a special use is not initiated within one (1) year following approval or if a special use is discontinued for a period of one (1) year, said permit shall be automatically revoked. The City Commission may impose a different time limitation on a special use permit. All improvements shall be in accord with the development standards of the District except as otherwise authorized by the special use permit. Significant variation from the approved special use and related improvements shall result in the automatic revocation of the special use permit.
- G. *Re-submittal of application for special use permit.* Application for a special use permit shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon by the City Commission except that an application may be made for a different special use permit on the same parcel of land six (6) months after such previous action has been taken.
- H. *Special use.* Special uses shall not be considered a District boundary change.

Sec. 11-7-2. - Hearings of the Planning and Zoning Commission.

The following applications reviewed by the Planning and Zoning Commission may be done only after a public hearing at which all parties in interest and citizens shall have an opportunity to be heard.

- A. *Requirements of public notice.* A Public Notice for Conditional Use Permits, Special Use Permits, Level III Home Occupation Permits, Annexations, Change of Districting, Variances, or Amendments to this Code, shall state the time and place of the public hearing, shall be published at least fifteen (15) days prior to the date of the hearing in one newspaper of general circulation in the City.
- B. *Requirement of notice to property owners.*
 - 1. Notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners as shown by the records of the County Treasurer, of lots or land within the area proposed to be changed and within one hundred (100) feet, excluding public right-of-way, of the area proposed to be changed. Whenever:
 - i. A change of Districting is proposed for an area of one block or less
 - ii. An application is for a Conditional Use, Special Use, Variance, or Level III home occupation permit.
 - 2. Whenever a change in Districting is proposed for an area of more than one block, the procedure stated in the preceding paragraph shall be following except that property owners shall be advised by first class mail. If a notice by first class mail to an owner is returned undelivered, City staff shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address.
 - 3. Notice shall be mailed not less than fifteen (15) days prior to the required public hearing.
 - 4. Notice of the proposed hearing date, time, and location shall be placed on the subject property fifteen (15) days prior to the required public hearing.
 - 5. Fees and costs: The applicant shall bear the cost of mailing, envelopes and publication of all notices and shall provide the maps and property owner information to the City staff in a timely manner. The City staff shall calculate the costs of mailing and publishing and require payment prior to publishing the notice or sending out the mailed notices. The application form shall specify the manner and format in which the mailing list (property owners) shall be delivered to the City staff. The City staff may charge an additional fee as specified by Commission Resolution for doing the research required to create the property owner list.
- C. *Recommendations of the Planning and Zoning Commission.* Recommendations of the Planning and Zoning Commission shall be made in accordance with the criteria stated in Article II of this Code.
- D. *Report to the City Commission.* The Planning and Zoning Commission shall provide a written recommendation within its minutes and in a special letter to the City Commission on all matters.

Sec. 15-15. - Alternate summary procedure.

A. *Approvals by Planning and Zoning Commission:* The Planning and Zoning Commission may approve or deny the following types of subdivisions:

1. A re-plat of a previously filed subdivision when:
 - a. No more lots are created than exist in the area at the time of the submittal of the replat application; and,
 - b. All lots to be created have direct, legal, unobstructed access to an existing City maintained street;
 - c. All lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;
 - d. The subdivider files with the City a Letter of Credit for funds adequate to pay for connecting the lots to the City's water and wastewater lines, or, pays to the City the City's fees for connecting the lots to the City's water and wastewater lines;
 - e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;
 - f. All new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots;
 - g. All lots to be eliminated or created exist within the area of a single block of lots in a previously platted and filed subdivision; and,
 - h. No vacation of street dedications or utility easements is proposed; or,
 - i. Lots are to be eliminated.
2. The subdivision of previously unsubdivided land when:
 - a. No more than two lots are created;
 - b. Both lots to be created have direct, legal, unobstructed access to an existing City maintained and paved street with curb gutter and sidewalk;
 - c. Both lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;
 - d. The subdivider files with the City a Letter of Credit for funds adequate to pay to connect both lots to the City's water and wastewater lines, or, pays to the City funds for connecting both lots to the City's water and wastewater lines;
 - e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;
 - f. The new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots; and,
 - g. No vacation of street dedications or utility easements is proposed.

B. *Limit on number of summary procedures:* The summary procedure shall be used only once on any one property, or within any group of contiguous or adjacent properties owned by a subdivider, unless the property has been master-planned, legally subdivided, and is zoned for industrial uses, and wherein the streets within those subdivisions have been dedicated to and accepted by the City. No subdivider who has received approval of a subdivision shall utilize the summary procedure to subsequently increase the number of lots within said subdivision.

C. *Elective pre-application procedure:*

1. Prior to filing a summary plat, the subdivider may submit a conceptual plan of the proposed subdivision to the City's Zoning Administrator. The conceptual plan shall provide enough

information for the Zoning Administrator to locate the proposed subdivision and to comprehend its scope and potential impacts. Neither a written application nor an application fee are required for submittal of a conceptual plan.

2. The City's Zoning Administrator shall place the proposed summary subdivision on the next possible agenda of the Planning and Zoning Commission for discussion, when the Planning and Zoning Commission shall consider the proposal with the subdivider or the subdivider's representative and shall indicate changes, if any, that will be required for the submittal process.

D. *Summary plat submittal requirements summary plat submittal requirements are:*

1. Application, signed by all property owners, including all parties having an equitable interest, trustees of an estate and all persons having a specific "power of attorney" in such land;
2. A record of any pending litigation or any final order entered by any court of law regarding the ownership of the subject property;
3. Application fee as established by the City;
4. Documentation from the Sierra County Assessor's Office that the current year's property taxes are paid and that no taxes are owed on the property;
5. A plat conforming to section 15-13.A of this Code; and,
6. Releases by the Public Utilities Advisory Board, and all utility companies which are proposed as providers for the subdivision.

E. *Submittal and review procedures:*

1. Incomplete submittals will not be accepted for review.
2. The subdivider shall submit all required materials to the City's Zoning Administrator.
3. The City's Zoning Administrator shall review all materials, and shall within three working days from the date the application is determined to be complete, request opinions of applicable City departments, other governmental agencies, and utility companies for review, comments and recommendations. City departments shall have ten calendar days in which to review and respond in writing to any such request. Within three working days of receiving any written reports, comments or recommendations from any City department, governmental agency, or utility company, the Zoning Administrator shall make available to the subdivider a copy of such materials.
4. The Zoning Administrator shall have the right to require that the subdivider provide additional information or to make amendments to the plat and supporting information if the Zoning Administrator determines that the information originally submitted by the subdivider was incomplete, incorrect or invalid.
5. The subdivider shall have ten working days in which to make any corrections or additions required by the Zoning Administrator, or to request a postponement of action by the Zoning Administrator for up to 135 days.
6. If a subdivision application does not meet the requirements of this Code within 180 days of its original submittal, the Zoning Administrator shall summarily reject the application and notify the applicant in writing of the reasons for the rejection.
7. At such time as the subdivider meets the requirements of this Code, the subdivider shall provide the Zoning Administrator with a copy of the final plat.
8. At such time as receiving a submittal that meets all requirements of this Code, the Zoning Administrator shall recommend that the Planning and Zoning Commission approve the final plat by consent agenda action during its next regularly scheduled meeting, and the Planning and Zoning Commission shall approve the subdivision by consent agenda action during its next regularly scheduled meeting.

9. The subdivider shall file a signed copy of the final plat in the records of the County Clerk of Sierra County, and shall provide the City with one of the signed copies.
- F. *Divisions for the purpose of mortgage:* Divisions for purposes of mortgage are not allowed. If a property is to be mortgaged it must be done so in its entirety or properly subdivided as required in this chapter.

(Ord. No. 555, 5-23-06)

Sec. 15-16. - Replats.

- A. *Occurrence:* Replatting occurs when changes take place to the layout or number of lots in a filed subdivision plat.
- B. *Creation of lots when the summary subdivision process is not applicable:* When a replat is proposed that does not meet the standards for a summary procedure, the subdivider shall follow the procedures required for approval of preliminary and final plats. The fee schedule for replats shall be as approved by the City of Truth or Consequences.

(Ord. No. 555, 5-23-06)