

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
AGENDA
MONDAY, DECEMBER 12, 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 Monday, December 12, 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 OCTOBER 11, 2022
3. COMMENTS FROM THE PUBLIC **(3 Minute Rule Applies)**
4. PUBLIC HEARINGS **(5 Minute Rule Applies)**
 - A. Public Hearing/ Discussion/Action: Special Use Permit at 1705 Corzine Street. Applicant wishes to construct 78' x 17' Greenhouse and Accessory Storage Building on property with no existing principle building. *(Sec. 11-10-1. - Accessory Building. A subordinate building, the use of which is incidental to and located on the same lot with the principle building. An accessory building shall not exceed one-fourth (¼) of the use or area of the main business or building).* Traci Alvarez, Assistant City Manager
 - B. Public Hearing/Discussion/Action: Request for a Special Use Permit at 616 N. Caballo Rd. for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager
 - C. Public Hearing/Discussion/Action: Request for a Special Use Permit at 616 N. Caballo Rd. for the purpose of a Kennel Permit. Traci Alvarez, Assistant City Manager
 - D. Public Hearing/Discussion/Action: Request for a Special Use Permit at 103 N. Maple for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager
5. NEW BUSINESS:
 - A. Discussion/Action: Recommendation for Re-appointment of Board Member Chris Sisney
6. REPORTS FROM THE BOARD
7. REPORTS FROM STAFF
8. ADJOURNMENT

**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 was absent

ALSO PRESENT:

Bruce Swingle, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela Torres, City Clerk
Lisa Gabaldon, Deputy Clerk

1. APPROVAL OF AGENDA:

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

2. APPROVAL OF MINUTES:

a. September 12, 2022:

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

3. COMMENTS FROM THE PUBLIC (3 Minute rule applies):

Carl McCleskey, 1751 Caballo Rd, stated that he is there to represent a couple of little old ladies that live in his trailer park in regards to a multi-animal permit for a house directly across the street from him. The ladies are both on oxygen and on hospice, and he would love for them to not have to put up with barking. He has tried to remove the noisy tenants from his trailer park to accommodate them and he would just like for them to have some peace and quiet. This is reference to 300 Osborne. Deputy Clerk Gabaldon advised Mr. McCleskey that he would need to speak on this item during the public hearing and not during public comment.

City Attorney Rubin advised that now is the time to speak about things that are not pertaining to the public hearings.

City Attorney Rubin introduced himself and stated that he thought it would be helpful if he showed up for this meeting. We have new board members and I just want to make a few general comments about public hearings and how we have done them traditionally that work well. The supreme court of New Mexico has decided some time ago, that when you're dealing with land issues, such as variances or special use permits, plat amendments, etc., that you are required to hold a quasi-judicial hearing; it's not a formal trial but you are required to actually have a formal hearing like we're having today and sworn testimony is actually taken. It doesn't necessarily have to be a highly formal process, but we had a procedure that we used in the past, which actually has been very helpful, so let me explain what we have done at past public hearings and hopefully if this commission decides that this is something that you feel comfortable with, then you can adopt that. We usually call upon staff to testify first and it may be Ms. Alvarez who will give a little bit of an introduction as to what the matter is all about. After she testifies, then the commission can ask her questions and anybody who is a party to this transaction can also ask questions. After the staff testifies, then we have proponents and opponents. What I would like to recommend, is to find out when someone is prepared to speak ask them what their interest is in the process. Is this somebody who actually, for example, maybe they're a proponent; maybe it's the person who is actually the applicant, or if they're an opponent, are they someone who is within 300 feet of where the property that's located that is the subject of our case today, or does that person have some financial interest in the outcome of how this matter goes. If someone actually wishes to speak and even if they sign up as a proponent or opponent but they don't really have that interest that I've described, they're really not recognized as a party but they do have the right to testify as a member of the public at the end of the testimony, so again what I'm suggesting is after the staff testifies and we have the proponent testify; after the proponent testifies then the commission can ask questions, the opponents can ask questions, and then we do the same process for the opponents. That's how it works. And at the end, we have the public members that can testify also. I always like to be very careful with these matters when you have proponents and opponents because the case could wind up either in contested to the City Commission level or even wind up sometimes in a court hearing. I happened to take a peek at the sign-up sheet before the Clerk Angela took it, and I saw on the first one that we don't have any opponents, is that correct?

City Clerk Torres answered that is correct, we only have proponents on the first one for 865 W. 4th. For 300 Osborne, we have 1 proponent and 2 opponents. For 403/405 Magnolia, we have a member of the public that would like to speak on that. And then for 719 Palo Verde, we have a proponent on that one.

City Attorney Rubin: In cases when there are opponents, sometimes I would just suggest to the board to maybe shorten the process is that you don't let all of the proponents testify, especially if their talk is going to be cumulative, but since this is our first public hearing with the new board, why don't we go ahead and go through the process and let all of the proponents and opponents who signed up to testify tonight. With that being said, if you have any questions about what I've mentioned.

Chairman Sisney thanked Mr. Rubin.

City Clerk Torres: If there's anybody who signed up as a proponent or an opponent, if you could please stand up so that we can swear everybody in at one time.

Do you swear to tell the truth, the whole truth, and nothing but the truth?

Everyone answered YES.

City Clerk Torres thanked them.

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:

City Clerk Torres: So, we'll start with our first public hearing; it is for a request for a special use permit at 865 W. 4th Ave for the purpose of a multi animal permit. What we're going to do is, I will call on our Assistant City Manager Ms. Alvarez to speak and then after she does her testimony, we will open the public hearing and then we can have our proponents and opponents speak at that time. And everybody will get 5 minutes.

Assistant City Manager Alvarez: Chairman and members of the board, included in your packet you have the new animal ordinance and within there in section 3.8.1 I highlighted the multi animal site permit/kennel permit section. This will be the first time that we've gone through the multi animal permitting process and so because of that, I do want to let you know that, we do have our ACO as well as our code enforcement officer, they'll be here and I'll give them an opportunity to speak shortly. They're the ones that go out for the applications and do the inspections, and I'll let them speak to you in regards to what they look at. They won't necessarily attend every single hearing, but I wanted to give you guys and opportunity to see what they do out in the field so that you're comfortable knowing that when this packet comes to you, everybody has done their due diligence. The first request is for 865 W. 4th; the applicant has submitted an annual renewal application for a request for 7 felines. Per our municipal code, you're only allowed to have 4 animals in any combination thereof or you have to go out for a special use permit. If I could have ACO Digicomo and code enforcement officer Jamie Sweeney, I'm going to let them speak on what they do when they go out to inspect an applicant.

ACO Digicomo: When we go out there, what I do is as an animal control officer, I go out there and I do an inspection. I check for enclosure, fencing type, gates, latches, pens are sufficient so that the animal don't escape. We look at the weather proofing, ventilation, make sure that they have clean, sanitary potable water, food is sufficient and everything is sanitary and clean, free from debris hazards and adequate space for the amount of animals for the space. Just kind of stuff like that; we go out and we check the perimeter and make sure that no one can escape and the conditions and the environment for the animal.

Code Enforcement Officer Sweeney: My job is to enforce everything within the municipal code; that's to include animal control if I need to. So with these checks, we also kind of combine a little bit. So I will go out, she has a list that she goes off of to make that these ok but then I will go out also, because if a yard is dirty it can create even a hazard for the animals; so that may not be on her checklist but that's on my checklist when it comes to the municipal code. So we kind of combine a little bit so if they meet everything on her list, they also need to meet everything within the municipal code that I deal with and we just kind of come together to both do these checks when it comes to that. So, that's what we do together.

ACO Digicomo: They both have to pass on both of our ends before it gets approved.

Code Enforcement Officer Sweeney: So with this one we went over there, she had everything matched up for animal control and she had everything matched for code enforcement, but I even went a step further to make a recommendation because of the area that she lives in, she lives closer to a very isolated desert area and the way she had her nice little set up, the fencing around the little enclosure she had was kind of big for a snake to go through. So I mentioned because she had little cats like to play and they like to hide and so she had these little boxes set up, but my concern was that a snake could get in there and kind of hide in these little crevices and could potentially be a danger to her and her animals. So I even went a step further, we noticed that she had this chicken wire so I was like as a recommendation, I would even put it up. She didn't have to, but she did and she had some wood kind of down and she had said that she wanted to build later on a further fence, not at the time that we were there but somewhere in the future and so I had mentioned that even with the snakes that if she could just set the wood up and she did that; again this was just a recommendation, it wasn't against code. She sent us pictures within a week and she had all of this completed so for us, she passed the inspection.

Chairman Sisney: Thank you

Assistant City Manager Alvarez: Chairman and members of the board, applicant has submitted a completed application, all animals have been licensed per municipal code, and all fees have been paid, and applicant is requesting approval of their special use permit; and with that, we can go proponents and opponents.

City Attorney Rubin: Well, actually I think that the board members first would have the right to ask questions if they wish to.

City Clerk Torres handed the sign-in sheets to Chairman Sisney and advised him to call on each person one by one and then after they have spoken, then we'll ask if there is anyone else that would like to speak that has not signed up.

Chairman Sisney called for Geneva Pryor to come up to the podium.

Geneva Pryor: Hi, I'm Geneva Pryor, I'm the applicant and I have 7 cats. I've had them; I only had 2 and I took on another cat that dumped and her kittens. Six of mine would either have been feral; one would have been a stray, one I got from the pound. I had no intention of getting 7; I have no intention of getting more. I've had 7 for well over a year; they've been under the kennel license and animal control has been inspecting and has always approved the catit but the really nice thing this time is when code enforcement officer, when she came, she realized that I had potentially a snake hazard and nobody had mentioned it and it hadn't occurred to me. The next day I was putting up the chicken wire so there's no chance that a snake could get into the catit and immediately corrected the wood thing; the wood thing is a temporary thing anyway, but I made the corrections immediately because I don't want any threat to my animals. They're confined 100% of the time in my house and in the catit. I have triple latching on the door of the catit; they haven't been off of my property. I have some neighbors here who will tell you that they never see them. The catit is kind of concealed behind the privacy fence and then there's also kind of a drape on it, so you don't see them. They're all neutered, the males, so they don't howl, they don't make noise, you know, they don't bother anybody. They get 100% shots, Leukemia, Rabies always on time. They get vet care; I won't bat an eye at spending \$1000 on a vet bill if necessary for them. They're my family and I'd like to keep them. I'm a business owner in town; I have a home based business, I'm a top rated eBay seller and I'd hate to have to move because you know they're my family and I don't want to have to give them up. They don't bother anybody, you know and I

believe in trying to fix the problem and not make it worse. I don't breed animals and I won't bring in anymore, I have kind of a smallish house. I don't want to take up too many peoples times but just to say that I've always passed the inspections, and if they wanted any little changes, I've always made them and I'll continue to do that. I'll continue to get inspected and I just don't think that there's any reason I shouldn't be able to have them because they're quiet and they bother anybody. Thank you for your time, I appreciate it. A couple of the people who will come up are neighbors and they can speak as to whether the cats have ever been any kind of issue. Thank you very much for your time.

City Attorney Rubin: Ms. Pryor, the board might have some questions for you.

Chairman Sisney: Does anyone have any questions?

Vice-Chairman Buhler: No

Member Luchini: How long have you had this number of cats?

Geneva Pryor: It's a bit over a year; I had the old kennel permit. I took on the mother cat and some of her kittens. She got dumped at the campground in Williamsburg. And for a time, I thought that I was gonna be rehoming them but I just couldn't find homes. And then once I realized that I can't get homes and there's a neighbor that has birds and we didn't want an issue with the cats going over and killing, you know, going after the birds or anything. They were out for a time, but then I quickly got them locked up. It's been, since I had...I had 2 for quite a while, I don't remember how long I had them but, I probably had them for 2-3 years. And then I got the other ones from the Williamsburg campground; it's been well over a year though. I think that I got the kennel license for them back in July or August of last year. And they're ok with being locked up; they don't mind it. And I love having them locked up where I don't worry about coyotes or cars or anything. It's not on my agenda to secretly let them out; it's my agenda to keep them safe and secure.

Chairman Sisney: Next we have Susan Stewart

Susan Stewart: I was here for moral support and didn't know that I had to speak if I signed in. I came in support of Eva. We own the property that is directly across the street from her entire property on 4th and I'd just like to say that there's never been any problem with her cats or anything. I mean, smell, she takes pristine care of them and the catitat is really nice. It's shaded, it's got toys and I mean she takes really good care of them.

Chairman Sisney: Ray Dowe

Ray Dowe: I've known Eva ever since we moved back from Roswell 4 years ago. I walk by her house every day. I've never seen anything detrimental to the cats or to the public or anything. I think she should have the opportunity to do this. Thank God the ranchers don't have to go through this.

Chairman Sisney: Thank you. Any questions?

Member Luchini: not for me.

Chairman Sisney: Does anyone else want to speak on the topic? I think we're good.

City Clerk Torres: So you can close the public hearing and then you can call for a motion unless anybody else, anybody on the panel has anything else they would like to say.

Chairman Sisney: Ok, if no one else wants to speak we will close the public comments.

City Attorney Rubin: Before the commission actually deliberates, let me just mention something in general for these hearings. In your packet, there are actually 2 documents that you can use as a guide; again this matter hasn't been tested. There's a Planning and Zoning Commission finds and facts checklist in your packet, which consists of basically set items that you are to be reviewing, anytime anything comes before you. A lot of this won't be applicable; this one is pertaining to animals. Also in your packet is the animal control ordinance; if you look at section 3-8.1, those are for multi animal site permits and kennel permits. It's good to have those in mind as requirements that applicants have to comply with and satisfy you when you vote. I just wanted to get those before you.

Chairman Sisney: Thank you Mr. Rubin.

City Attorney Rubin: At this point you close the public hearing and the commission can deliberate or a motion can be made.

Chairman Sisney: ok, anymore comments?

Carl McCleskey: Where can the ordinance information be found?

Chairman Sisney: All of this is available on the City website, right?

City Attorney Rubin: Yes, it's part of the packet.

Assistant City Manager Alvarez: And it's all part of the packet that's published out prior to the meeting, a week prior to the meeting. But the, I guess, what specifically were you asking?

Carl McCleskey: I just want to know about the noise with the dogs.

Assistant City Manager Alvarez: I think when we get to that public hearing maybe we can address some of those items as we get to those.

City Manager Swingle: Mr. Chairman and member of the board, just a comment that with your special use permit the criteria that you follow for uses of special permit and kind of following your due diligence, finding of facts, conclusions. A2, special use permits, shall not be granted in such cases where the use will result in negative impacts. That's negative impacts to area residents, neighbors, things of that nature or to the community; which substantially outweighs the positive impacts for the proposed use.

City Attorney Rubin: That is very broad wording so that will encompass a lot of the concerns you may have as to the request or anyone else in the audience.

Chairman Sisney: Ok, if there are no more comments, we'll close the public comments and is there anything to be discussed between the board members?

Vice-Chairman Buhler: No, I don't think so, but I think that you've done a good job though.

Vice-Chairman Buhler made a motion to recommend to the City Commission that we approve Ms. Pryor's special use permit. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

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:

Chairman Sisney: Next item is a special use permit for 300 Osborne Lane and we have someone that was on the wrong page, so we need to add it onto this one.

City Clerk Torres: And you wanted to be a proponent or an opponent?

Carl McCleskey: I'm against it.

City Clerk Torres: Against it? Ok.

Chairman Sisney: In case it wasn't clear before, what this committee does is make a recommendation and it goes to City council, so whatever we recommend can be changed. Do we have any public comments?

City Clerk Torres: So this one is for a request for a special use permit at 300 Osborne for the purpose of a multi animal use permit.

Assistant City Manager Alvarez: Chairman and members of the board, applicant has submitted an application request for 6 dogs located at 300 Osborne Lane. Application has been completed, the inspection has been completed, and all fees have been paid. Once again, we do have ACO and Jamie Sweeney and they can tell you what they look for at the inspection.

Animal Control Officer Digicomo: With my findings out on the property, everything was ok. There was plenty of room for the 6 dogs and they also have a mud room type thing, it's a doggie door that they can go into the mud room for shelter and also the dogs do sleep in the house at night so that shouldn't cause barking at least during the evening. Everything was ok with me onsite.

Code Enforcement Officer Sweeney: I didn't see any code violations with the property. It was a huge lot and the house sits on a very small portion of that. The running room for the dogs is actually bigger than the house. She did have a boat. I recommended that the trailer needed to be updated. The registration was expired. That was the only thing that I pointed out. They come and go and the only barking that we had heard was when we were leaving. They are dogs. They are going to bark when somebody is coming near their lot, but to us it was not in an aggressive manner. The yard was pretty immaculate with that many dogs. She keeps it pretty clean. With 6 dogs she's going to have to be on top of that and it seemed fine when we did our inspection.

Member Luchini: When do you do an inspection?

Code Enforcement Officer Sweeney: We do an inspection in the front. We haven't done any renewals yet so I don't know if we go out for renewals.

Animal Control Officer Digicomo: Geneva Prior was a renewal, but since we have this new system in place now everything is kind of new. So once the applicant sends the information to the City Clerk's Office, they then in turn send us an email and let us know that they are ready for inspection and we do it surprisingly in a sense because we don't want them to be prepared.

Member Luchini: Will there be any subsequent inspections?

Animal Control Officer Digicomo: Every 3 months we go out and inspect on the ACO side whether it is a multi-animal or kennel permit. We have a spread sheet where we keep track of what is going on when we do go out there.

City Clerk Torres: And they have to renew their permit each year.

Assistant City Manager Alvarez: ACO have you received any complaints that have gone through your offices regarding the noise or animals barking?

Animal Control Officer Digicomo: I have received a barking dog complaint on those dogs. I believe it was just one, maybe two.

City Attorney Rubin: I do recommend since this is a contested matter the opponents and proponents should be allowed to ask questions of staff.

Chairman Sisney: So, what happens if we approve it and complaints start coming in?

Code Enforcement Officer Sweeney: I think we can site them and when it comes up to the renewal, we can deny it so if we are getting massive complaints, we can site it within the 3 months for sure, and then when the renewal comes up, we can deny it then.

Assistant City Manager Alvarez: If you look at the animal code there is a section pertaining to revocation. It can be revoked if there is justifiable cause.

Chairman Sisney opened the public hearing.

Proponents:

Kameron Gibson: I am the applicant. They are my dogs. Me and my husband moved into that place 6 or 7 months ago. My grandmother was living there. We have 6 dogs. They are all family. We have the mom and dad and 4 of the puppies that we were never able to re-home. They do bark during the day. There are noise ordinances from 7am to 10pm that they are allowed to bark. They are dogs. They sleep inside at night. We have 6 ft. fencing up and they have never gotten out. They are up to date on all of their shots. We take them to the vet, and there are a couple of them who have special diets because of emergency surgeries and gastric intestinal issues. These dogs are our family. They are all pretty lazy. They run around the house, and they are inside more than not. They are outside when they are outside and when people come around the fence they bark. There are a few people who will walk and run a stick down the fence and get them riled up. There are kids that yell at them when they are on their bikes and

they do get riled up, but they cannot get out. I have 6 ft. fencing up on the inside of the fence that is already around the property.

Member Luchini: Are they spayed and neutered?

Kameron Gibson: They are all fixed, and we do not plan on getting anymore. 6 is enough.

Chairman Sisney: Who is home during the day? If the dogs are going crazy is there anybody to control the dogs.

Kameron Gibson: I am. I work nights. I leave about 2, and normally my husband is home all the time. He is an Elk guide. He does guided hunts. He is gone a lot right now, but he doesn't work so he is normally there every day all day. My daughter right now with me working comes home at 3:30 pm and she takes care of them until I'm back home at midnight.

Opponents:

Bob Signer: I am a member of Desert Springs Lutheran Church. We are directly across the street from the home in question, and I sympathize with the owner. I am a dog lover too. However, what is happening from our perspective is that we have Wednesday night services and of course Sunday morning services. I am the minister at the church right now so I take part in the services. On Wednesday night we have a service that starts at 5:30 pm and we first noticed the dogs a few weeks ago. I understand that they moved into the property recently because we have never heard the dogs before, but on Sunday morning services and the Wednesday night services is what happens is a car drives by and all dogs come out and start barking. One dog can be heard throughout the neighborhood, but 6 dogs at the same time, we can't hear ourselves in our service. It has turned out to be a major disruption to both services. The dogs bark at cars. It will be quiet; a car will drive by and the dogs start barking again. It is random, but very noticeable disruptions to our service and that is our objection to that many dogs being at a residence in a residential area.

Vice-Chairman Buhler: You have a doggie door and they are allowed to go out whenever they want to?

Kameron Gibson: Except for at night. I lock them in because after 10pm I don't want them being loud because there are a lot of people who walk around all hours of the night and when they see people or cars they bark at them so after 10pm my daughter locks the dog door and they are not allowed back out until the morning. They then go back out in the morning when she leaves to get on the bus. If they need to go out and potty at night I will let them out real quick and then they are right back in between those hours.

John Smith: What Bob said is exactly right, but I would like to say that these two officers here are outstanding, but they have an impossible job. You can drive down 3rd street and I can right 100 tickets if I had her job with code enforcement. The weeds and stuff like that. The problem we've got is when you call animal control they are not always on duty. I think that there are only two animal control officers in town and we are shorthanded there and with police officers, and nobody can do anything about it. It continues on. We've got a situation at 1560 E 6th by where he lives and then we go to church and you've got barking dogs at the church. I am like everyone else. I've got 3 dogs and a cat so we are animal lovers and we understand that. We've had problems in our area with a dog that got away and got into one of our dogs and it killed it, but anyway... they later had to put that dog down so we kind of understand the

situation with animals. We are animal lovers, and I have 3 and 1 and that is probably too many 6 to me doesn't make any sense. Why do we have to have 6 dogs? Why do I have to have 3, I suppose you can say the same thing, but mine bark if somebody comes to the door. They don't bark where I am set up, and I probably have more traffic where I live, but they don't bark there so we would just like for you to consider that. We don't want to cause anyone any heartache, but we think 6 dogs are too much.

Member Luchini: How long has this been an issue for you?

John Smith: For me at the church? I don't know? It's been a while. I don't know how long it's been? It has been more than once.

Member Luchini: Do you think months?

John Smith: No, I don't think so. I don't know, but we are noticing it more and I don't know if it's because maybe there is more, there are 6 now. I don't know, but it is a problem.

Kameron Gibson: All 6 dogs have been there as long as we've lived there and that was since May.

Bob Signer: I would say it was about 5 Sundays ago. We didn't notice it at first, but for a month and half or a little bit longer during every service we notice the dogs barking.

Carl McCleskey: My concern is that I have two elderly women by there that are both on oxygen and they are confined to their beds. One is entirely to her bed and the other one can move around her house a little bit. They are both short time lifers. They are on hospice. Maybe one expects to live about 3 months or less and the other one 6 months or less. *(To Kameron)* "I've kicked out my noisy resident's right there that were barking at your dogs making them bark, and I know that." I got rid of him and took that out of the equation right there and we are still having noise issues. She can't sleep or rest at all. I'm sorry but I just feel that human life is more important than the dog's life. I would like to see the two women have the last few months of their lives in peace and quiet. If you issue this and it goes on and you change it in a year or so they are both going to be dead. They are never going to see that.

City Clerk Torres: I received an anonymous phone call today saying that they are opposed to this as well due to the dogs constantly barking. I have received emails as well. City Attorney Rubin how would we handle that?

City Attorney Rubin: I always like to emphasize live testimony, but of course live testimony is always preferable to phone calls or emails, for several reasons because if someone is here appearing live then we can ask questions or there can be cross examination and that is really what the rules contemplate. Nevertheless, I also pointed out that this is not a formal trial so you can deviate the strict rules and it is really a matter of the discretion of the Commission if they want to consider emails or phone calls. However, live testimony is certainly more entitled to more weight than an email or a letter.

The Commission accepted the emails into testimony.

Clerk Torres stated that the emails are opponents in reference to the 403/405 Magnolia item.

Chairman Sisney: ACO what would happen to the dogs if this is not approved?

Animal Control Officer Digicomo: They may have to re-home some to get down to the permitted amount which is 4 animals.

Vice-Chairman Buhler: That would still be a lot of barking. 4 dogs would be a lot of barking too.

Kameron Gibson: They bark. They're dogs.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend to the City Commission to deny the special use permit. There are too many complaints from the neighbors. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

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:

Traci Alvarez, Assistant City Manager: In your packet you have the application for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. There are two lots and the applicant is requesting to use one lot as a parking lot and the other lot has a residence on it that they would like to turn into a Community Center for Recovery Meetings. They have submitted letter explaining their request and wishes as well as a map of the area. I have also included a google map of the area so you can get a good visual.

Chairman Sisney opened the public hearing.

The Commission had concerns that the applicant was not present and questioned if they needed to be there to proceed with the hearing.

City Manager Swingle: It wouldn't be a requirement that they be here, but I personally have a lot of questions on this matter in a residential area that I would really like to get addressed, and if you go forward with the hearing, and I'm not saying that you shouldn't, but all of those questions are going to be unanswered and if they were approved today, it would go to the Commission, and if they don't come back at least to the Commission Meeting, I certainly am going to recommend that this be denied because this is a pretty important issue for a residential area.

Chairman Sisney: Can we table the matter and can we table it and still let the opponents speak.

City Attorney Rubin: I think maybe a combination. You can let the opponents speak since they are here, and after you hear from them you can recess this matter to the next meeting if you wish to do that.

Vice-Chairman Buhler: I think we should move forward.

Traci Alvarez, Assistant City Manager: Under the code for special use permits 11-5-6 c it states that 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. It doesn't say in here that the applicant has to show up. I always recommend it, but it is not required. They have submitted all of the necessary paperwork as well as a statement of what they are wanting to do with the property so my recommendation would be to move forward.

City Attorney Rubin: All proper steps have been taken so I am okay with that.

Proponents:

None.

Opponents:

Rhonda Griego: We moved to T or C two years ago. It is our second home. However, it is turning more into my husband's primary home lately, but we are there 15 to 16 days out of the month and the people who live there across the street are quiet. It is a very quiet neighborhood. If they are going to put recovery meetings and stuff there, it is going to increase our traffic. I can tell you that we are right on the corner and people drive extremely fast down Magnolia and on 4th street. That is going to increase our traffic. We're not there 15 days out of the month so we don't know what will happen if it is a recovery center. I have relatives who run a recovery center for teens in Albuquerque and I know a lot of the things that happen behind the scenes and I don't want to come back here and deal with damage, trash, more traffic than what we already see. I don't want to have to deal with that, and being that we're not there we are going to have to put in security cameras so we can see what is happening because we don't know. That is a big concern, plus there is an elderly lady who lives across the street on the opposite corner of us and she is there by herself, and on the other side of her is the church. I am concerned about that as well. We ran into this in Albuquerque as well by our house for a different situation, but when you say it's going to be one thing it eventually turns into something else. So if it is a community center there are going to be meetings. Will it turn into a recovery home and now people are staying there. We don't know. We know what the intention is now I guess, because we have limited information, but if it is a recovery center we just don't know what it will turn out to be later on.

Orlando Griego: My concern is that I don't know too much about a recovery center and how much traffic is going to be there, and like you said they are going to make another parking lot there. I mean, it's on a residential so it should just stay as residential. The people who are going to start this probably don't live around there so they are not going to have to deal with it, but we are the people who are going to live across from it and who are going to have to deal with it if something goes wrong.

Vice-Chairman Buhler: They listed it as a community center and a community center is for everybody, and that would be everybody who lives around there, and that is not really what it is. It is very strange that they would not be here to speak on their behalf.

City Clerk Torres read the following email: To Whom It May Concern, I will not be able to attend the public hearing on Tuesday, October 11 regarding the special use permit request at 403/405 magnolia. I have lived in that neighborhood since 1983 it has always been a quiet family-oriented neighborhood. I do not believe that a residential neighborhood is the place for a recovery meeting center. It will bring more traffic to the area and unfortunately more prying eyes. We have grandkids that are always playing outside and we are concerned it may be a safety issue with the different people and traffic in the neighborhood. Thank you I'd like to remain anonymous.

City Clerk Torres read the following email: SUBJECT: Special Use Permit. My understanding is the owner of these two lots is asking for a "Special Use Permit" in an established residential area. One lot for a parking lot and the other lot that has a residential building would be used for a Habitual Recovery meeting center. We are unable to make the meeting tonight, 10-11-2022, but would appreciate the following questions to be addressed since we have a home located on Magnolia. 1) Increased traffic, even though a lot would be cleared for parking (City Lot) it can flow over to the street parking and residents parking spaces. 2) Regarding the lot that has a residence will the use ONLY be for a dedicated meeting center? Will the meetings be designated for evening only, day only or both? And how many meetings? 3) Will it be possible the Residence could be used, once meetings have been established, for short term living, such as, week or a month? Or could part of the established parking have something else placed or built on the lot to be of service to the community meetings? 4) Why has a residential area been chosen for this type of meetings? Being a part-time resident at T or C, we are very knowledgeable of vacant land that could be purchased for these types of meetings that a small building/mobile home could be adaptable on and not in an established residential area. We are sure if we had more time to think about this request, we could survey other residents to see what their concerns or questions are. Unfortunately, we were in T or C the week the certified letter was sent to us at our primary residence. If we were able to vote on this Special Use Permit request our Vote would be No. If this request is passed then it would establish a precedence" to view all requests for Special Use Permits in residential areas. We strongly feel there are other areas that could be used for this purpose.

Chairman Sisney closed the public hearing.

Vice-Chairman Buhler made a motion to recommend to the City Commission to deny the special use permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings because we don't really know anything about it. Member Luchini seconded the motion. Roll call vote was taken.

Chris Sisney, Chairman voted nay. He would like to hear more on this item.

Susan Buhler, Vice Chairman voted aye

Esther Luchini, Member voted aye

Motion carried with a 2-1 vote.

**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:**

Traci Alvarez, Assistant City Manager: The applicants wish to eliminate a lot line separating their two parcels at 719 Palo Verde. The amendment does not have the effect to significantly alter any of the utilities, drainage or traffic. In your packet you have the survey that has been submitted showing the elimination of that lot line. There is also a visual on an assessor parcel map that shows the two separated parcels that they would like to conjoin as one. The applicants are in the audience if you have any questions. All adjacent property owners have been notified.

Chairman Sisney opened the public hearing.

Proponents:

Applicants Michael and Linda Sparks: We own two lots. They are almost a half-acre lot and they are zoned R1 which means that we have a 25ft. setbacks, and including the easement it is 37ft. We are wanting to install a carport for an RV and for a car hauler and that is the reason for combining the two lots. You would think with almost a half-acre you would have room, but with the setbacks it makes it almost impossible. The house takes up almost the entire one lot that is on the corner of Palo Verde and 8th and then the adjacent lot is on the other side. We border the street on two sides which makes it a 37 ft. setback and then on the other two sides it is a 25ft. setback.

Opponents:

None.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend approval of the summary plat amendment at 719 Palo Verde. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

5. REPORTS FROM THE BOARD:

Vice-Chairman Buhler: The only thing I have is I think we should all check in when you send us our packet to make sure that we are coming.

6. REPORTS FROM STAFF:

Traci Alvarez, Assistant City Manager: Anytime that we have a public hearing, they do require notification depending on type of public hearing we have to either notify the adjacent property owners within 100ft or 300 ft. of the property.

7. ADJOURNMENT:

Chairman Sisney made a motion to adjourn the meeting. Member Luchini seconded the motion. Motion carried unanimously.

PASSED AND APPROVED ON THIS 14th DAY OF NOVEMBER 2022.

Chris Sisney,
Planning & Zoning Commission Chairman



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-5-2020

ITEM: Discussion/Action – Special Use Permit 1705 Corzine

BACKGROUND:

Applicant wishes to construct 78' x 17' Greenhouse and Accessory Storage Building on property with no existing principle building. Property is located in the T-1 District.

Per Sec. 11.9.9.T_1_Transition District a greenhouse (commercial or non-commercial), garden sheds, and tool shed are allowed when detached from the main dwellings, but such structures are subject to the provisions of Accessory Buildings. (Sec. 11-10-1. - Accessory Building. A subordinate building, the use of which is incidental to and located on the same lot with the principle building. An accessory building shall not exceed one-fourth ($\frac{1}{4}$) of the use or area of the main business or building).

All applicable documents have been received and fees paid. Certified mailings have been sent to all required property owners. P & Z Commission to review the applicable sections of the code and make recommendation based on the Findings of Facts.

SUPPORT INFORMATION:

Parcel Maps
Site Plan
Property Location Maps
Notice of Public Hearing
Applicable Sections of Municipal Code
Findings of Facts Checklist

Name of Drafter: Traci Alvarez	:	Meeting date: 12-12-2022
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	

Sec. 32

Sec. 5

N89°54'W 2651.09'
(USGLC-basis of bearings)

$$\begin{array}{r} \text{T. 13 S. R. 4 W.} \\ \hline \text{T. 4 S. R. 4 W.} \end{array}$$

STATE OF NEW MEXICO
Sierra County (SS)
FILED IN MY OFFICE

NOV 13 1996 #1207

at 1:52 o'clock P. M.
Lupe A. Carras County Clerk
Mary H. H. H. Deputy

PLAT OF SURVEY

of three tracts of land
in the south 1/2 of Tract 9, Corzine Acreage,
in Sec. 5, Tshp. 14 South, Rge. 4 West, NMPM,
in the City of Truth or Consequences, Sierra County,
New Mexico

January 10, 1996
revised: June 21, 1996

Senn & Associates
Professional Land Surveyors

P.O. Box 1190 Truth or Consequences, New Mexico 87901

CERTIFICATE

This is to certify that I am a registered Professional
Land Surveyor, that this plat is prepared from notes
of a survey made by myself or my supervisor
that said survey and this plat are true and correct
to the best of my knowledge and belief.

This platform is for



INDEXING INFORMATION FOR COUNTY CLERK
Naomi & Clarence Gammon Trk 55, Pg 259
Corzine Acreage
Sec. 5, Tshp. 14 South, Rge. 4 West

Year = 2021
Compass
I assigned to
12.350 Mag. N.

Tract 10

Then this
is
True IV

North 1/2
Tract 9

South 1/2
Tract 9

Tract 1
(10493 acres)

3

Corzine Road
(r/w = 56')

Declination
 -12.35° or $-12^\circ 20'$

Tract 8

This tract is subject to easements, restrictions
and reservations of record

④ = found USGLO "brass cap" monument

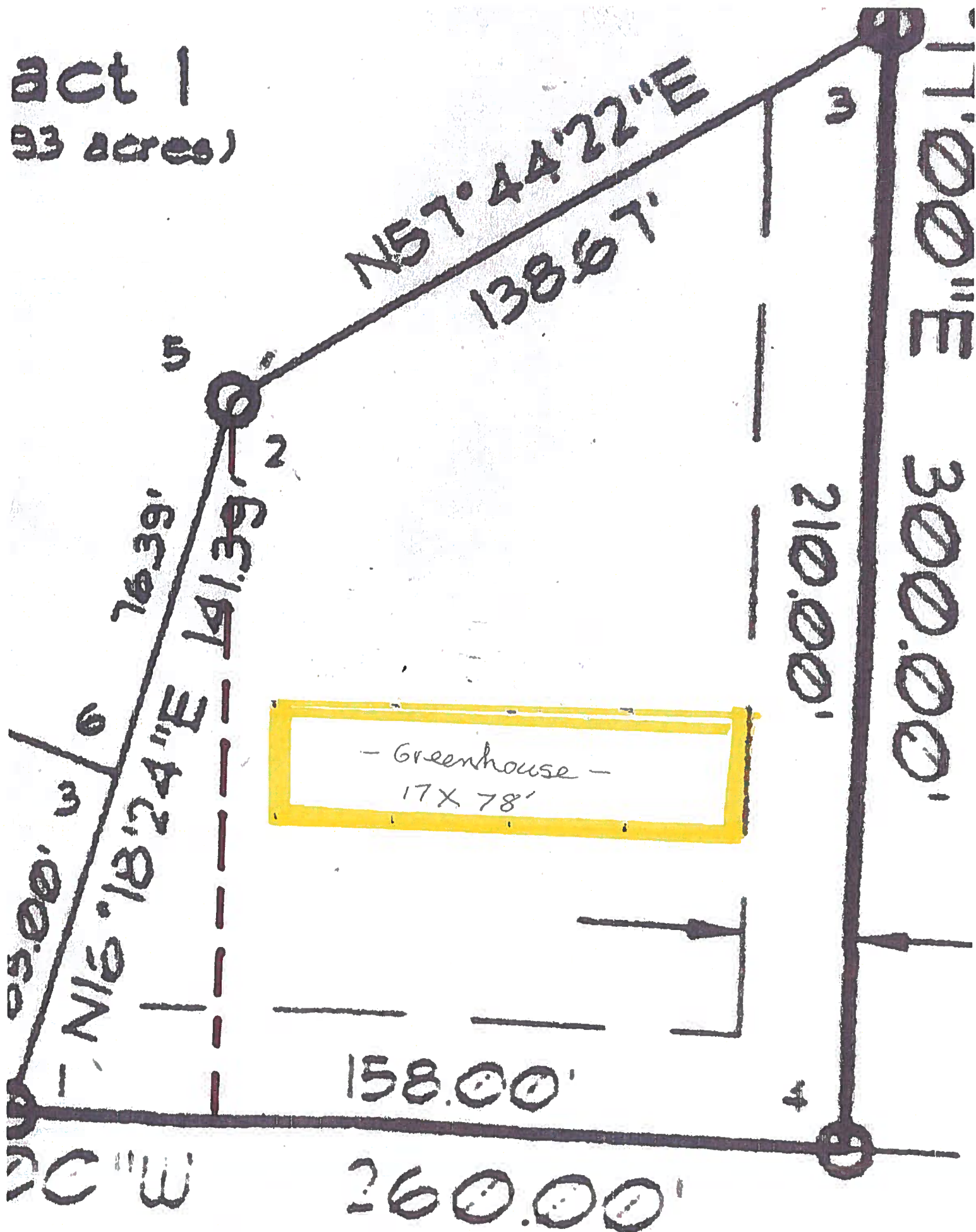
□ = found iron pipe

○ = set rebar w/survcap

reference: Plat of W.H. Corzine Addition to the
City of Hot Springs Sierra County, New Mexico

GET TRACT 8 MAP

act 1
93 acres)



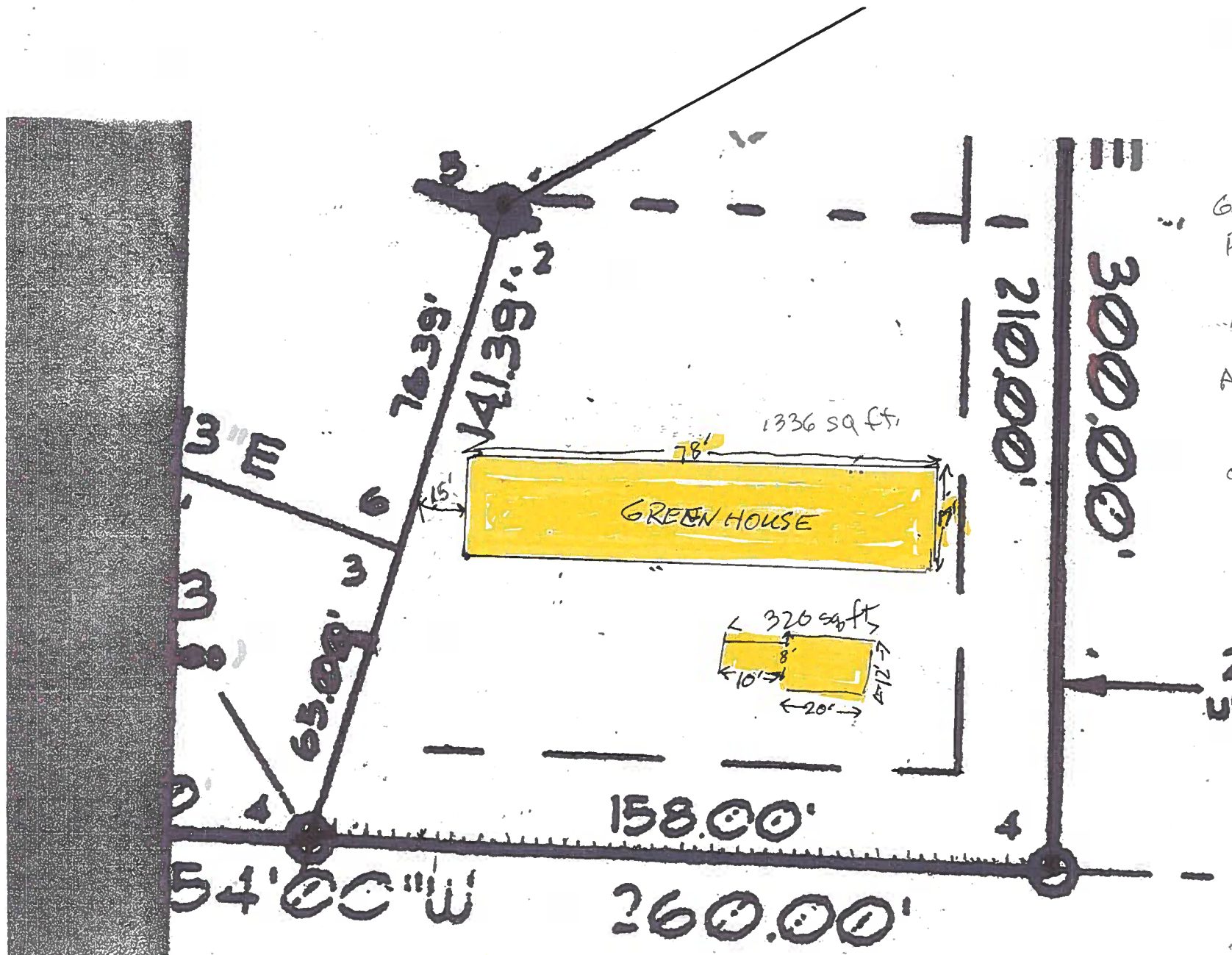


1. NOTE:

Previous (2008) structure
was over the property
line. A

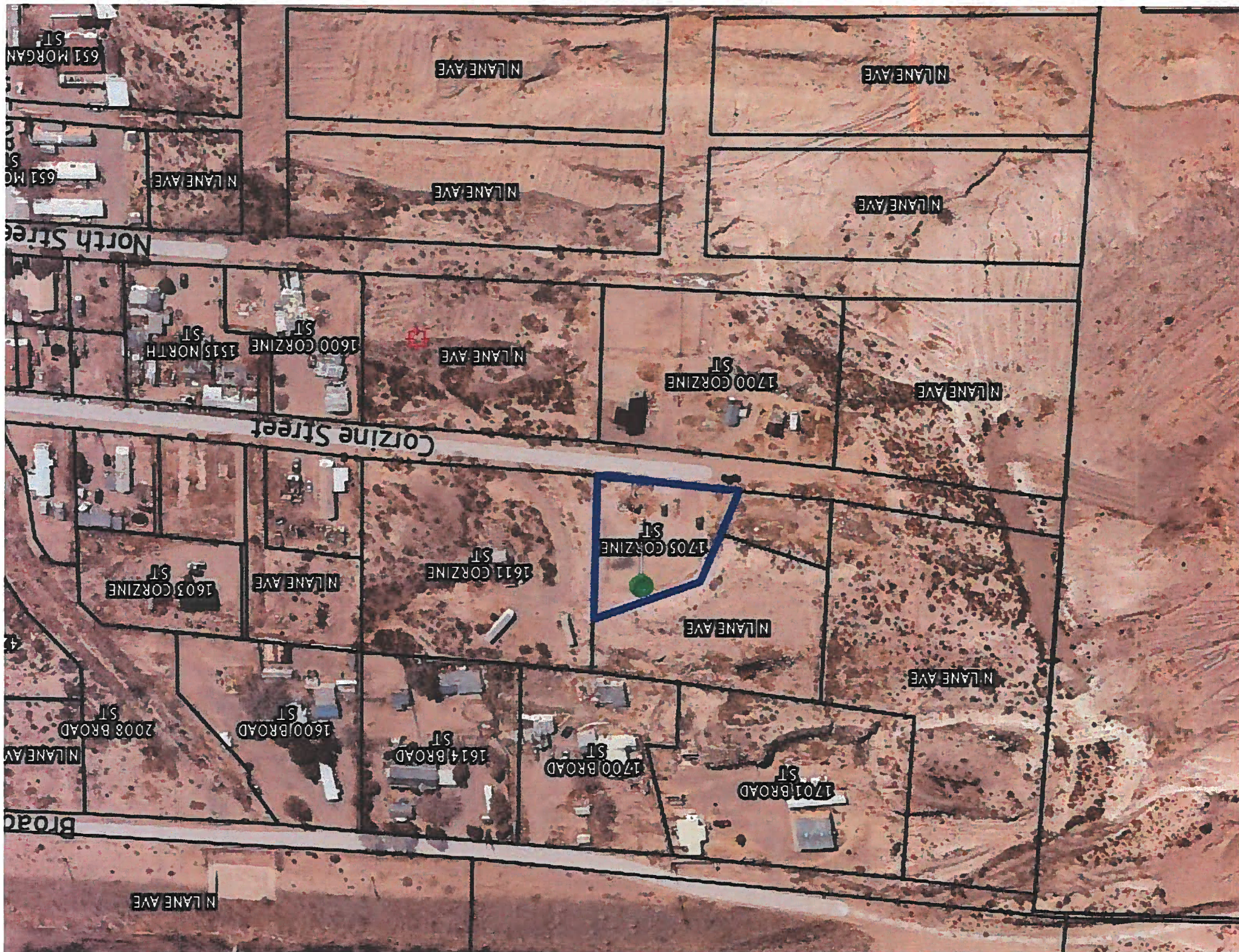
2.

2x



Green House
Principle
Structure
1336 SQ FT.

Auxiliary Structure
permitted (.25 sq ft)
= 326.40
our structure
320 sq ft.





1705 GORZINE ST

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
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 Monday, December 12, 2022 to receive input regarding the following:

1. Public Hearing/ Discussion/Action: Special Use Permit at 1705 Corzine Street. Applicant wishes to construct 78' x 17' Greenhouse and Accessory Storage Building on property with no existing principle building. (*Sec. 11-10-1. - Accessory Building. A subordinate building, the use of which is incidental to and located on the same lot with the principle building. An accessory building shall not exceed one-fourth (¼) of the use or area of the main business or building.*)

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, December 9, 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– Tuesday, November 22, 2022

Sec. 11-9-9. - T-1 Transition District.

- A. **PURPOSE.** The T-1 District is a low density semi-rural residential District comprised primarily of single family frame and manufactured housing units. This is a temporary classification intended to allow development of a predominantly undeveloped area.
- B. **DEVELOPMENT STANDARDS.** Development standards and other requirements are provided in Article 10 through 14 of this Code.
- C. **T-1 PERMITTED USES.** The following uses are permitted by right in the T-1 Districts:
1. Accessory Buildings.
 2. Detached Single Family Dwellings.
 3. Manufactured Housing on individual lots, tied down and skirted according to the provisions in Article 11 of the Comprehensive Planning and Zoning Code with one manufactured housing unit allowed per lot.
 4. Guest Dwellings or accessory living quarters.
 5. All types of Horticulture.
 6. 4-H or FFA animal raising in accordance with other applicable regulations.
 7. Keeping of small animals and fowl in accordance with other applicable regulations.
 8. Keeping of large animals in accordance with other applicable regulations.
 9. Recreational Courts, including but not limited to, tennis and other similar uses.
 10. Home Occupations.
 11. Produce stands for agricultural products.
 12. Greenhouse (commercial or non-commercial), garden sheds, and tool sheds. When detached from the main dwellings, such structures are subject to the provisions of Accessory Buildings.
 13. Private swimming pools five (5) feet from property lines and surrounded with four (4) feet fencing for safety.
 14. Garage or yard sale or similar use. There (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.
 15. 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 permit issued, whichever is sooner.
 16. 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 front or side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.
 17. Television and Radio Towers and all other Free Standing Towers (public or private.) Towers shall have manufacturer's specifications to withstand a 75 mph wind and shall be constructed to meet New Mexico Building Code standards.
 18. The sale of agricultural and farm products, nursery stock, poultry, rabbits, chinchillas, fish, frogs, earthworms and bees.
- D. **T-1 SPECIAL USES.** The following uses require a public hearing and approval of the City Commission:
1. Boarding Houses and Rest Homes.
 2. Cemetery.
 3. Child Care Center (Six (6) or more children).

4. Church.
5. Community and publicly owned recreational centers, clubhouses, and similarly, used buildings and structures open to the public.
6. Manufactured Home Parks.
7. Manufactured Home Subdivision.
8. Recreational Vehicle Park.
9. Schools (Primary, Secondary, Private and Parochial).
10. Veterinary Facilities.

ARTICLE X. - ACCESSORY BUILDINGS

Sec. 11-10-1. - Accessory Building.

A subordinate building, the use of which is incidental to and located on the same lot with the principle building. An accessory building shall not exceed one-fourth ($\frac{1}{4}$) of the use or area of the main business or building.

Sec. 11-10-2. - Temporary Accessory Building.

A maximum of one (1) temporary building which is not attached permanently to a foundation and that does not exceed a maximum of one hundred twenty (120) square feet in gross floor area, and ten (10) feet in height shall be permitted as an accessory building on a lot, provided it is located in the rear yard, and provided such building shall be secured to the ground in a manner approved by the designated Zoning Administrator.

Sec. 11-10-3. - Permanent Accessory Building.

Permanent accessory buildings and structures shall be permanently attached to a slab or foundation and shall be subject to the following provisions:

- A. *Height:* A maximum height of fifteen (15) feet is permitted.
- B. *Accessory Use or Structure:* A subordinate use or structure customarily incidental to and located on the same lot with the principal use or building, and shall not occupy more than thirty percent (30%) of the rear yard.
- C. *Set-back Requirements (All Districts):*
 - 1. *Interior lot:* No less than ten (10) feet from main use or structure and in conformance with the front setback for that district and no less than five (5) feet from the property lines of side and rear yards.
 - 2. *Lots with more than one street frontage:* No less than ten (10) feet from main use or structure, and no less than five (5) feet from the property line of yards without street frontage.
 - 3. *Permanent Accessory Building, Setback Requirements:* Open-sided carports may be adjacent to main use or structures and no closer than five (5) feet from property lines in yards other than the primary front yard. Such carports may not encroach in the clear-sight triangle.

Sec. 11-10-4. - Water Run-Off.

There shall be no water run-off on an adjacent property caused by an accessory building structure. Side gutters may be required by the designated Zoning Administrator.

Sec. 11-10-5. - Use.

An accessory building shall not be used for commercial or dwelling purposes unless approved by the City for Home Occupation uses.

Sec. 11-2-2. - The Planning and Zoning Commission.

- A. *Purpose.* A Municipal Planning and Zoning Commission is hereby established for the purpose of interpretation of this Code, approving certain actions, receiving requests for modifications to this Code and re-zoning, and making recommendations to the City Commission concerning matters pertaining to zoning within the City.
- B. *Administrative review and interpretations.*
1. The Planning and Zoning Commission shall review an administrative action of the designated Zoning Administrator when it is alleged that there is an error in the order, requirement, determination, or refusal made by the designated Zoning Administrator and reverse, affirm, or modify the administrative action.
 2. The Commission shall interpret this Code when the designated Zoning Administrator is in doubt as to the exact meaning of the text.
 3. The Commission shall interpret the Official Planning and Zoning District Map in accordance with the standards set forth in the Comprehensive Planning and Zoning Code when the designated Zoning Administrator is uncertain as to the exact boundary of a District shown on the Official Planning and Zoning District Map.
- C. *Powers and duties.*
1. Recommend to the City Commission either approval, denial or modification of a request for annexation, special use permit, variance, subdivision, zoning, amendment of this Code, or any other land use consideration within the planning and zoning jurisdiction of the City.
 2. Grant final approval or denial of a home occupation or conditional use permit after public meeting, provided there is not an appeal to the City Commission within fifteen (15) days in accordance with Article 7 of this Code.
- D. *Composition of the Planning and Zoning Commission .* The Planning and Zoning Commission shall consist of five (5) members each to be appointed by a simple majority of the City Commission. Eligibility requirements for membership shall be established by the City Commission. Members shall serve staggered terms of two (2) years each. A recording secretary shall be provided to assist the Planning and Zoning Commission by the City. The recording secretary shall not be a member of the Planning and Zoning Commission and shall be only responsible for those duties requested by the Planning and Zoning Commission and approved by the City Manager.
- E. *Organization of the Planning and Zoning Commission.* The Planning and Zoning Commission shall elect a chairman, vice-chairman, and second vice-chairman in July of each year, or as required due to unforeseen vacancies. They shall serve for one (1) calendar year following their elections.
- F. *Voting.* A simple majority vote of a quorum of the Planning and Zoning Commission is required for approval of all Planning and Zoning Commission actions. A quorum requires at least three members of the Commission present.

In order for a vote to be valid on a particular issue, a quorum must actually vote regarding the measure. A member who abstains from voting on an issue is deemed to have not voted on the issue.

- G. *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.

- H. *Report to the City Commission.* The Planning and Zoning Commission shall provide written minutes, with recommendations as necessary, to the City Commission on all matters that are brought before the Commission. Such minutes shall include a statement of the findings of facts that were the basis of any decision or recommendation made by the Planning and Zoning Commission.

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: 12-12-2022

ITEM: Public Hearing/Discussion/Action –Multi-Animal Special Use Permit for 616 N Caballo

BACKGROUND:

Applicant has submitted original application for 7 dogs but application has been amended to reflect 6 dogs on premises. 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: 12-12-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

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

Date: 9/7/22
 Applicant: Serena Byargeon
 Property Address: 6116 N. Caballo Rd. Torc
 Phone Number: 575-497-0148 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
DOG	m	4	Hound	white	Lodie	854	12/30/22		12/30/22
DOG	m	2	Husky/Shep	Brown	Cupid	855	12/30/22		12/30/22
DOG	m	2	Husky/Shep	multi	Eros	853	12/30/22		12/30/22
DOG	m	1 1/2	Boxer/Heeler	Black	Timone	786	8/18/25	1328	8/18/25
DOG	m	1	Dogo Argentino	white	Zues	839	8/18/25		8/18/25
DOG	F	1	Staffy	Brindle	Brenda	837	12/2/22		12/2/22

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

Applicant Signature: Serena Byargeon

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

- 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: Tyler Knoll Signature: Tyler Knoll
 Date: 09/15/22 Jamie Sweeney 9/19/22
 Planning and Zoning Commission Meeting Date: _____ () Approved () Disapproved
 City Commission Meeting Date: _____ () Approved () Disapproved
 City Planning and Zoning Designated Administrator Signature: _____

Rec# R00276276
 mng

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

Date: 9/1/22
Applicant: Sarena Buurgeon
Property Address: 6016 N Caballo Rd
Phone Number: 575-497-0148 Business license number (if applicable): N/A
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
			N		A				

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

Applicant Signature: _____

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

- Enclosure/fencing type/gates/latches/opens 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 ACO: _____ Signature _____ Date _____

Code Enforcement Signature _____ Date _____

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

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

City of Truth or Consequences Kennel/Multi-Animal Permit Information

A kennel permit shall be obtained for any premises being used for buying, selling, breeding, training, fostering, rescuing, or boarding of animals.

- **Kennel Permit Initial Fee: \$100.00**
- **Kennel Permit Annual Renewal Fee: \$25.00 per year**
- **City Business Registration Fee: \$35.00 per year**
- **Animal License Fee: \$5 if the animal is spayed/neutered. \$50 if the animal is not spayed/neutered**

A Multi-Animal Site Permit is 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.

- **Multi-Animal Site Permit Initial Fee: \$100.00**
- **Multi-Animal Site Permit Annual Renewal Fee: \$25.00 per year**
- **Animal License Fee: \$5 if the animal is spayed/neutered. \$50 if the animal is not spayed/neutered**

In order to obtain an Animal Kennel/Multi-Animal Permit, all animals will need be licensed with the City of Truth or Consequences. An animal license may be obtained from the Office of the City Clerk, 505 Sims Street, Truth or Consequences, NM. A current rabies vaccination certificate shall be presented at the time of application for the license. The animal license shall expire on the same date as the rabies certificate or one year whichever is greater. If the animal is spayed/neutered the fee for the animal license will \$5 per animal, and a copy of the spayed/neutered certificate must be presented at the time of licensing. If the animal is not spayed/neutered the animal license fee will be \$50 per animal. This type of license also requires a City Business Registration. The fee for the City Business Registration is \$35 and will be valid until December 31st of each year. A New Mexico Tax ID number (also called a CRS number) is required for all business licenses. You can obtain a CRS number by contacting the state of New Mexico at www.tax.newmexico.gov.

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 Serena Byargeon
Address 616 N. Caballo Rd.
City T or C State NM ZIP 87901
Phone (575) 491-0148

Misc

Date 12/30/2021
Tag No. 854
Exp. Date 12/30/2022

Animal

Name Louie
Breed Pitbull
Color White w/Black spots Sex M S/N N
Vaccinated 12/30/2021

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

Payment

CASH \$5.00
CHECK
Receipt No. R0024754

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 Serena Byargeon
Address 616 N. Caballo Rd.
City T or C State NM ZIP 87901
Phone (575) 491-0148

Misc

Date 12/30/2021
Tag No. 855
Exp. Date 12/30/2022

Animal

Name Cupid
Breed Husky
Color Brown Sex M S/N N
Vaccinated 12/30/2021

Qty	Description
1	Dog License

Unit Price	TOTAL
\$ 5.00	\$ 5.00
TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK

Receipt No. R0024755

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

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

Customer

Misc

Animal

Description

Unit Price	TOTAL
\$ 5.00	\$ 5.00
TOTAL	\$ 5.00

Payment

Office Use Only:

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 Clifford & Serena Byargeon
Address 616 N. Caballo
City T or C State NM ZIP 87901
Phone (575) 497-0148

Misc

Date 9/7/2022
Tag No. 936
Exp. Date 8/18/2025

Animal

Name Timone
Breed Mixed
Color Black & Brown Sex M S/N N
Vaccinated 08/18/2022

Qty	Description
1	Dog License

Unit Price	TOTAL
\$ 5.00	\$ 5.00
TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK

Receipt No. R00276275

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 Clifford & Serena Byargeon
Address 616 N. Caballo
City T or C State NM ZIP 87901
Phone (575) 497-0148

Misc

Date 9/7/2022
Tag No. 937
Exp. Date 8/18/2025

Animal

Name Zues
Breed Dogo Argentino
Color White & Black Sex M S/N N
Vaccinated 08/18/2022

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

Payment

CASH \$5.00
CHECK

Receipt No. R00276275

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 Serena Byargeon
Address 616 N. Caballo Rd.
City T or C State NM ZIP 87901
Phone (575) 497-0148

Misc

Date 12/2/2021
Tag No. 837
Exp. Date 12/2/2022

Animal

Name Brenda
Breed Pitbull
Color Brindle Sex F S/N S
Vaccinated 12/2/2022

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

Payment

CASH \$5.00
CHECK

Receipt No. R00244437

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

*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 Public Hearings during their regular scheduled meeting on Monday, December 12, 2022 to receive input regarding the following:

1. Public Hearing/Discussion/Action: Request for a Special Use Permit at 616 N. Caballo Rd. for the purpose of a Kennel Permit.
2. Public Hearing/Discussion/Action: Request for a Special Use Permit at 616 N. Caballo Rd. 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 aaatorres@torcnm.org.

The agenda may be obtained on Friday, December 9, 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, November 18, 2022

616 N CABALLO RD - Byargeon

owner name	mailing address	city	state	zip
BROWN LLOYD L	PO BOX 653	PLEASENTVILLE	IA	50225
KINGREY KRISTY D	610 N CABALLO RD	T OR C	NM	87901
SOLTERO DANIEL	2025 ANITA DR	LAS CRUCES	NM	88011
WEST OLIN B	785 GIBSON	T OR C	NM	87901

7011 1150 0001 8792 2160

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Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To	Lloyd Brown
Street, Apt. No., or PO Box No.	PO Box 653
City, State, ZIP+4	Pleasantville IA 50225

PS Form 3800, August 2006

See Reverse for Instructions

9590 9402 6382 0303 1152 11



Olin West
785 Gibson
Torrington, NM 87901

3. Service Type
- ☐ Adult Signature
 - ☐ Adult Signature Restricted Delivery
 - ☐ Certified Mail®
 - ☐ Certified Mail Restricted Delivery
 - ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
 - ☐ Signature Confirmation™
 - ☐ Signature Confirmation Restricted Delivery

1. Article Addressed to:
2. Article Addressed to:
3. Article Addressed to:

SENDER: COMPLETE THIS SECTION

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Serena Byargeon
1616 N. Caballo Rd.
Torrington, NM 87901



9590 9402 6382 0303 1153 27

2. Article Number (Transfer from service label)

7011 1150 0001 8792 1590

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Clifford Byargeon*

- ☐ Agent
- ☐ Address

B. Received by (Printed Name)

Clifford Byargeon

C. Date of Delivery

11/17/22

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™

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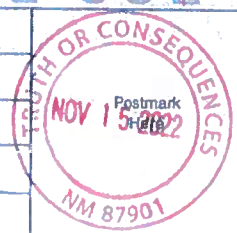
Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$



Sent To

Serena Byargeon

Street, Apt. No., or PO Box No.

1616 N. Caballo Rd.

City, State, ZIP+4

Torrington, NM 87901

PS Form 3800, August 2006

See Reverse for Instructions

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OFFICIAL USE

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Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$



Sent To

Olin West

Street, Apt. No., or PO Box No.

785 Gibson

City, State, ZIP+4

Torrington, NM 87901

PS Form 3800, August 2006

See Reverse for Instructions

1612 2648 1000 0511 TT02

0651 2648 1000 0511 TT02

9590 9402 4460 8248 8900 67



Kristy Kingrey
1210 N. Caballo Rd.
Torrington, NM 87901

1. Article Addressed to:
- Complete items 1, 2, and 3.
 - Print your name and address on the reverse so that we can return the card to you.
 - Attach this card to the back of the mailpiece, or on the front if space permits.

SENDER: COMPLETE THIS SECTION

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel Soltero
2025 Anita Dr.
Las Cruces, NM
88011



9590 9402 6382 0303 1152 04

2. Article Number (Transfer from service label)

7011 1150 0001 8792 2184

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☐ Agent
☐ Address

B. Received by (Printed Name)

DANIEL SOLTERO

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

- ☐ Yes
☐ No



3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation
☐ Signature Confirmation Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

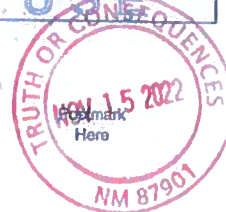
Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$



Sent To

Daniel Soltero

Street, Apt. No., or PO Box No.

2025 Anita Dr.

City, State, ZIP+4

Las Cruces, NM 88011

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$



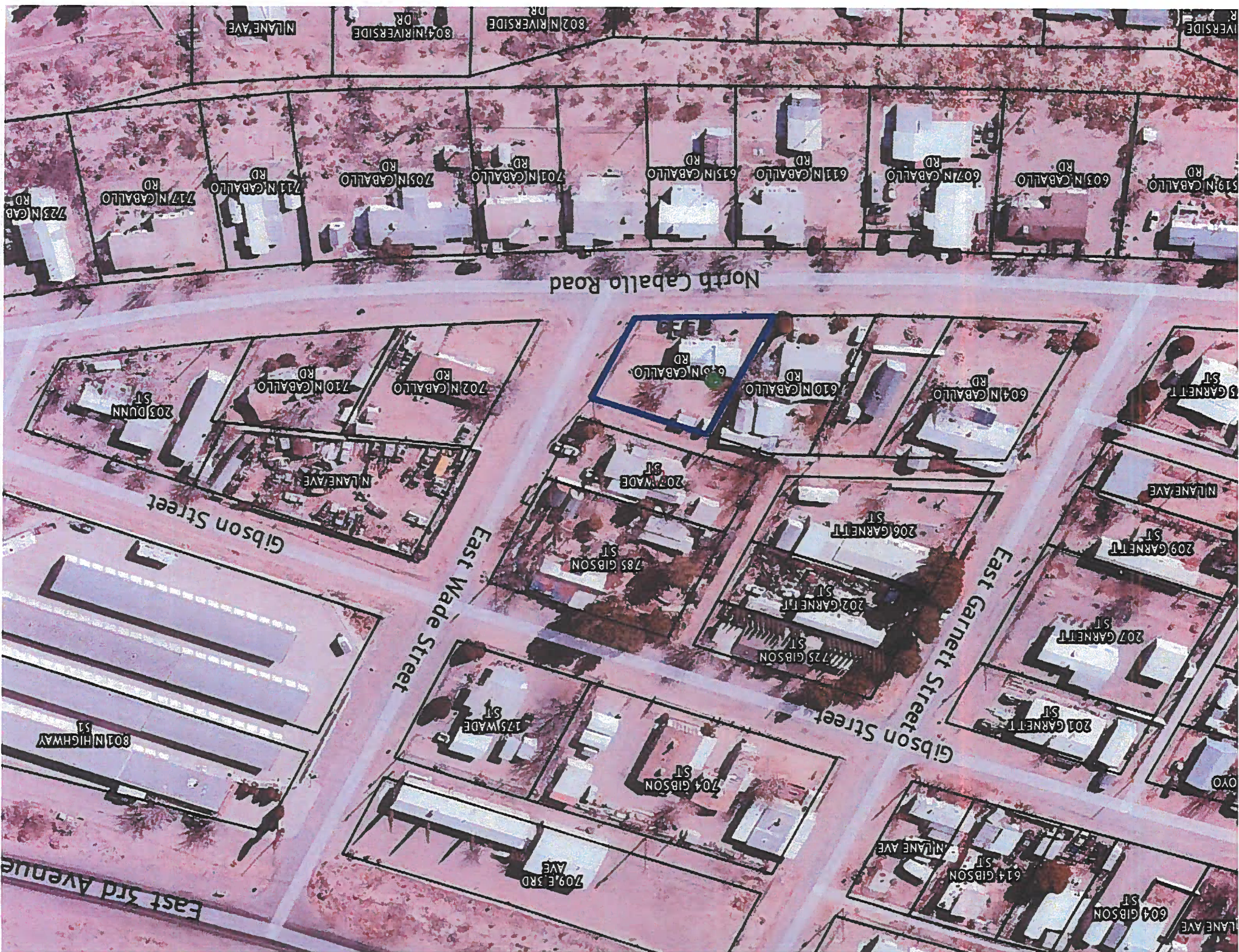
Sent To

Kristy Kingrey
1210 N. Caballo Rd.
Torrington, NM 87901

PS Form 3800, August 2006

See Reverse for Instructions

4460 8248 8900 67





CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 12-12-2022

ITEM: Public Hearing/Discussion/Action –Kennel Special Use Permit for 616 N Caballo

BACKGROUND:

Applicant has an application for Special Use Kennel permit pertaining to fostering of dogs. Applicant has 6 dogs of her own with an active application for Multi Animal Permit. Animal Control and Code Enforcement have inspected the residence and approved the application request allowing for no more than 10 animals to include her personal animals.

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: 12-12-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

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

Date: 9/7/22
 Applicant: Serena Byargeon
 Property Address: 6116 N. Cavallo Rd. Torc
 Phone Number: 575-497-0148 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
#Dog	m	4	Hound	white	Lovie	854	12/30/22		12/30/22
Dog	m	2	Husky/Shep	Brown	Cupid	855	12/30/22		12/30/22
Dog	m	2	Husky/Shep	Multi	Eros	853	12/30/22		12/30/22
Dog	m	1 1/2	Boxer/Weeler	Black	Timone	786	8/18/25	1328	8/18/25
Dog	m	1	Dogo Argentino	White	Zues	839	8/18/25		8/18/25
Dog	F	1	Staffy	Brindle	Brenda	837	12/30/22		12/30/22

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

Applicant Signature: Serena Byargeon

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

- 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: TRICE KNULL Signature: [Signature]
 Date: 09/15/22 Janie Sweeney 9/19/22

Planning and Zoning Commission Meeting Date: _____ () Approved () Disapproved
 City Commission Meeting Date: _____ () Approved () Disapproved
 City Planning and Zoning Designated Administrator Signature: _____

Rec# R00274276
 WMS

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

Date: 9/7/22
Applicant: Sorena Buargeon
Property Address: 1010 N Caballo Rd
Phone Number: 575-497-0148 Business license number (if applicable): N/A
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
			N		A				

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

Applicant Signature: _____

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

- ☐ Enclosure/fencing type/gates/latches/opens 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 ACO: _____ Signature _____ Date _____

Code Enforcement Signature _____ Date _____

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

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

City of Truth or Consequences Kennel/Multi-Animal Permit Information

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- **City Business Registration Fee: \$35.00 per year**
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A Multi-Animal Site Permit is 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.

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- **Animal License Fee: \$5 if the animal is spayed/neutered. \$50 if the animal is not spayed/neutered**

In order to obtain an Animal Kennel/Multi-Animal Permit, all animals will need be licensed with the City of Truth or Consequences. An animal license may be obtained from the Office of the City Clerk, 505 Sims Street, Truth or Consequences, NM. A current rabies vaccination certificate shall be presented at the time of application for the license. The animal license shall expire on the same date as the rabies certificate or one year whichever is greater. If the animal is spayed/neutered the fee for the animal license will \$5 per animal, and a copy of the spayed/neutered certificate must be presented at the time of licensing. If the animal is not spayed/neutered the animal license fee will be \$50 per animal. This type of license also requires a City Business Registration. The fee for the City Business Registration is \$35 and will be valid until December 31st of each year. A New Mexico Tax ID number (also called a CRS number) is required for all business licenses. You can obtain a CRS number by contacting the state of New Mexico at www.tax.newmexico.gov.

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 Serena Byargeon
Address 616 N. Caballo Rd.
City T or C State NM ZIP 87901
Phone (575) 491-0148

Misc

Date 12/30/2021
Tag No. 854
Exp. Date 12/30/2022

Animal

Name Louie
Breed Pitbull
Color White w/Black spots Sex M S/N N
Vaccinated 12/30/2021

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

Payment

CASH \$5.00
CHECK
Receipt No. R0024754

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 Serena Byargeon
Address 616 N. Caballo Rd.
City T or C State NM ZIP 87901
Phone (575) 491-0148

Misc

Date 12/30/2021
Tag No. 855
Exp. Date 12/30/2022

Animal

Name Cupid
Breed Husky
Color Brown Sex M S/N N
Vaccinated 12/30/2021

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

Payment

CASH \$5.00
CHECK

Receipt No. R0024755

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

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

Customer

Misc

Animal

Qty
1

Unit Price	TOTAL
\$ 5.00	\$ 5.00
TOTAL	\$ 5.00

Payment

Office Use Only:

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 Clifford & Serena Byargeon
Address 616 N. Caballo
City T or C State NM ZIP 87901
Phone (575) 497-0148

Misc

Date 9/7/2022
Tag No. 936
Exp. Date 8/18/2025

Animal

Name Timone
Breed Mixed
Color Black & Brown Sex M S/N N
Vaccinated 08/18/2022

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

Payment

CASH \$5.00
CHECK _____

Receipt No. R00276275

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 Clifford & Serena Byargeon
Address 616 N. Caballo
City T or C State NM ZIP 87901
Phone (575) 497-0148

Misc

Date 9/7/2022
Tag No. 937
Exp. Date 8/18/2025

Animal

Name Zues
Breed Dogo Argentino
Color White & Black Sex M S/N N
Vaccinated 08/18/2022

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

Payment

CASH \$5.00
CHECK

Receipt No. R00276275

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 Serena Byargeon
Address 616 N. Caballo Rd.
City T or C State NM ZIP 87901
Phone (575) 497-0148

Misc

Date 12/2/2021
Tag No. 837
Exp. Date 12/2/2022

Animal

Name Brenda
Breed Pitbull
Color Brindle Sex F S/N S
Vaccinated 12/2/2022

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

Payment

CASH \$5.00
CHECK
Receipt No. R00244437

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

*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 Public Hearings during their regular scheduled meeting on Monday, December 12, 2022 to receive input regarding the following:

1. Public Hearing/Discussion/Action: Request for a Special Use Permit at 616 N. Caballo Rd. for the purpose of a Kennel Permit.
2. Public Hearing/Discussion/Action: Request for a Special Use Permit at 616 N. Caballo Rd. 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, December 9, 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, November 18, 2022

616 N CABALLO RD - Byargeon

owner name	mailing address	city	state	zip
BROWN LLOYD L	PO BOX 653	PLEASENTVILLE	IA	50225
KINGREY KRISTY D	610 N CABALLO RD	T OR C	NM	87901
SOLTERO DANIEL	2025 ANITA DR	LAS CRUCES	NM	88011
WEST OLIN B	785 GIBSON	T OR C	NM	87901

7011 1150 0001 8792 2160

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9590 9402 6382 0303 1152 11



Olin West
785 Gibson
Torr, NM 87901

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1. Article Addressed to:

Serena Byargeon
1616 N. Caballo Rd.
Torr, NM 87901



9590 9402 6382 0303 1153 27

2. Article Number (Transfer from service label)

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PS Form 3811, July 2020 PSN 7530-02-000-9053

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☐ Address

B. Received by (Printed Name)

Olin West

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11/15/22

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☐ No

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- ☐ Certified Mail Restricted Delivery
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- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

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- ☐ Signature Confirmation Restricted Delivery

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- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
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- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

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Olin West

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11/15/22

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☐ Address

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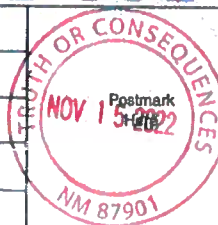
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Serena Byargeon

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1616 N. Caballo Rd.

City, State, ZIP+4

Torr, NM 87901

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0651 2628 1000 0511 1102

9590 9402 4460 8248 8900 67



Kristy Kingrey
 410 N. Caballo Rd.
 T or C, NM 87901

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1. Article Addressed to:

Daniel Saltero
 2025 Anita Dr.
 Las Cruces, NM
 88011



9590 9402 6382 0303 1152 04

2. Article Number (Transfer from service label)

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[Signature]

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

DANIEL SALTERO

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☐ Signature Confirmation
☐ Signature Confirmation Restricted Delivery

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☐ Adult Signature Restricted Delivery
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☐ Certified Mail Restricted Delivery

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☐ Registered Mail™
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☐ Return Receipt for

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[Signature]

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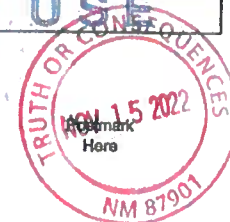
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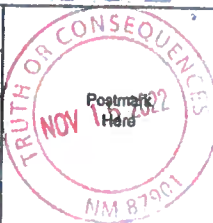
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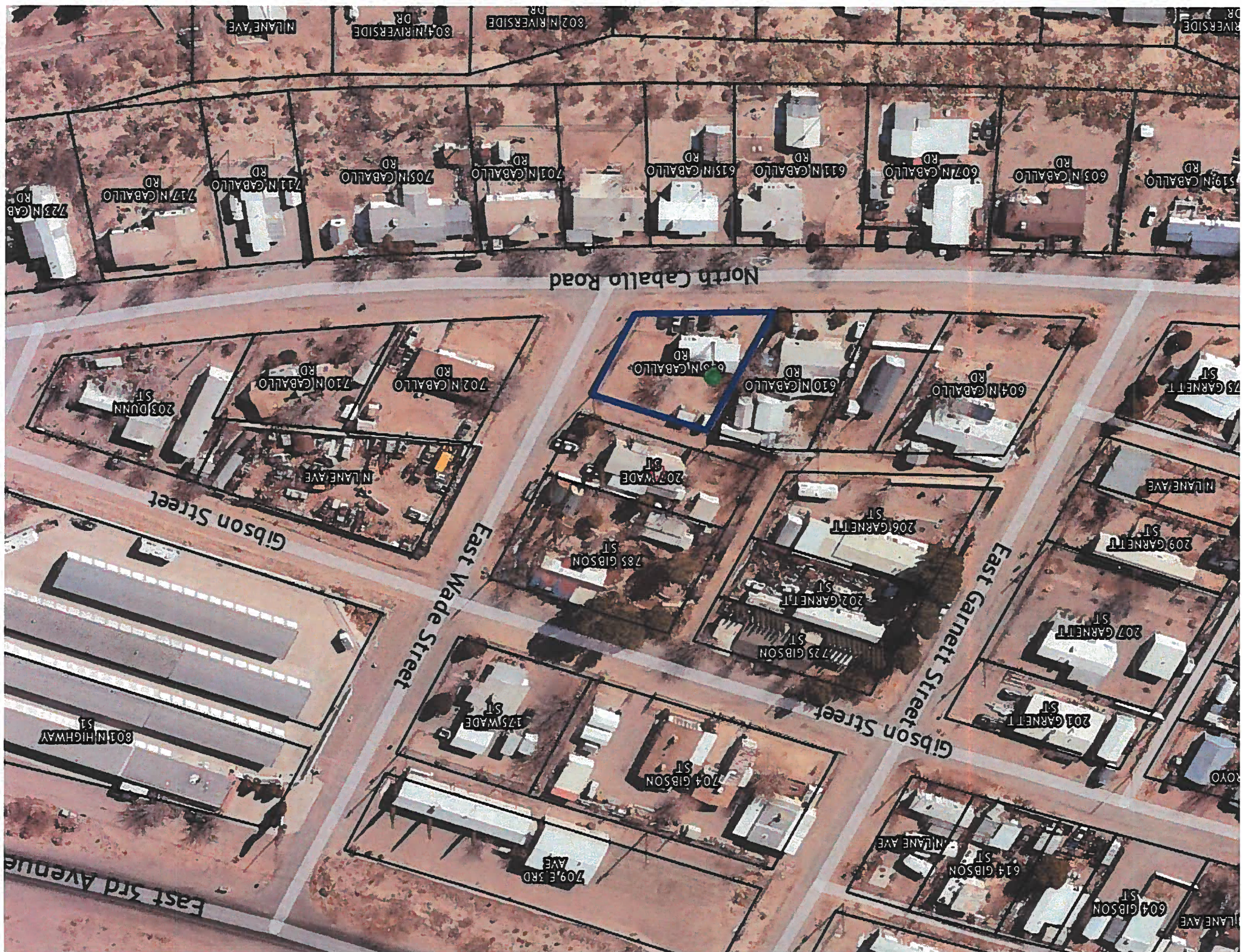
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Kristy Kingrey
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 or PO Box No. 410 N. Caballo Rd.
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CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 12-12-2022

ITEM: Public Hearing/Discussion/Action –Multi-Animal Special Use Permit for 103 N Maple

BACKGROUND:

Applicant has submitted an application request for 7 dogs. Animal Control and Code Enforcement have inspected the residence. Animal Control has approved the area the dogs are housed. Property has multiple code violations and was not approved by Code Enforcement.

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: 12-12-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

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

Date: 9-14-22
 Applicant: Summer Cox
 Property Address: 103 N Maple
 Phone Number: 575-740-8501 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	10	Poodle mix	WHT	Daisy	848	11-19-22	21001921	11-19-22
K9	M	3	Husky	WHT	Mutt/mix	847	1-19-22	1925	11-19-22
K9	M	3	Husky	BLK	Vernon	844	11-19-22	1926	11-19-22
K9	F	2	Chihuahua	BLK/Brown	Baette	849	11-19-22	1931	11-19-22
K9	F	10	Pica	Brindle	Sweet Pea	845	11-19-22	1927	11-19-22
K9	M	1	Hawkeye Husky	WHT	Havoc	873	12-30-22	1836	12-30-22
K9	M	1	Chihuahua	Brindle	Jackie	874	11-19-22	1928	11-19-22

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

Applicant Signature: Summer Cox

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

- N 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.
- Property has the following conditions that require immediate attention: TEATHEEING
- NEEDS IMPROVEMENT

Inspected by Officer: TYLER KNULL Signature: Tyler Knull

Date: 09/15/22 9 Aug 9/15/22

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

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

City Planning and Zoning Designated Administrator Signature: _____

Unacceptable. Several code violations. Was given 2 weeks to clean. After 2 wks, property was not in compliance. After 2 wks went back and was told that they possible were ~~going~~ going to give some animals away

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 Phillip Cox
Address 103 Maple
City T or C State NM ZIP 87901
Phone (575) 740-8501

Misc

Date 12/14/2021
Tag No. 848
Exp. Date 11/19/2022

Animal

Name Daisy
Breed Poodle Mix
Color White Sex F S/N S
Vaccinated 11/19/2021

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

Payment

CASH \$5.00
CHECK
Receipt No. R00245892

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 Phillip Cox
Address 103 Maple
City T or C State NM ZIP 87901
Phone (575) 740-8501

Misc

Date 12/14/2021
Tag No. 847
Exp. Date 11/19/2022

Animal

Name Muttmyer
Breed Husky
Color Beige Sex F S/N S
Vaccinated 11/19/2021

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

Payment

CASH \$5.00
CHECK

Receipt No. R00245892

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 Phillip Cox
Address 103 Maple
City T or C State NM ZIP 87901
Phone (575) 740-8501

Misc

Date 12/14/2021
Tag No. 844
Exp. Date 11/19/2022

Animal

Name Vernon
Breed Husky
Color Tri-Color Sex F S/N S
Vaccinated 11/19/2021

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

Payment

CASH \$5.00
CHECK
Receipt No. R00245892

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 Phillip Cox
Address 103 Maple
City T or C State NM ZIP 87901
Phone (575) 740-8501

Misc

Date 12/14/2021
Tag No. 849
Exp. Date 11/19/2022

Animal

Name Booette
Breed Chihuahua
Color Black w/Brown Sex F S/N S
Vaccinated 11/19/2021

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

Payment

CASH \$5.00
CHECK

Receipt No. R00245892

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 Summer Cox
Address 103 N. Maple
City T or C State NM ZIP 87901
Phone 575-291-9414

Misc

Date 6/12/2017
Tag No. 186
Exp. Date

Animal

Name Sweet Pea
Breed Pug Mix
Color Brindle Sex Female S/N NO
Vaccinated 6-8-2017

Qty	Description	Unit Price	TOTAL
1	Dog Tag	\$ 50.00	\$ 50.00
		TOTAL	\$ 50.00

Payment

CASH \$50.00
CHECK

Receipt No. 63280

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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 Phillip Cox
Address 103 Maple
City T or C State NM ZIP 87901
Phone (575) 740-8501

Misc

Date 2/9/2022
Tag No. 873
Exp. Date 12/30/2022

Animal

Name Havoc
Breed Husky
Color White Sex M S/N N
Vaccinated 11/19/2021

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

Payment

CASH
CHECK \$5.00 CK# 1067
Receipt No. R00252030

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 Phillip Cox
Address 103 Maple
City T or C State NM ZIP 87901
Phone (575) 740-8501

Misc

Date 2/9/2022
Tag No. 874
Exp. Date 11/19/2022

Animal

Name Jeckle
Breed Chihuahua
Color Brindle Sex M S/N N
Vaccinated 11/19/2021

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

Payment

CASH
CHECK \$5.00 CK# 1067
Receipt No. R00252030

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

*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*

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

Publish on the following date:

- Sentinel– Friday, November 18, 2022

103 N.MAPLE -COX

owner name	mailing address	city	state	zip
WILLIAMS JO ANN	602 E 1ST AVE	T OR C	NM	87901
JONES CURTIS D & LUNA CATHY D	P O BOX 434	WILLIAMSBURG	NM	87942
HOOD STORMY ANGEL	103 N MAPLET	T OR C	NM	87901
GIBSON MILAS G	107 N MAPLE	T OR C	NM	87901
HERRERRA ESTEBAN A	PO BOX 523	BERNALILLO	NM	87004

*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*

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

Publish on the following date:

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Restricted Delivery Fee (Endorsement Required)	
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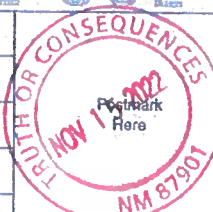
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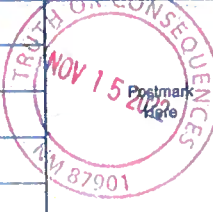
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City, State, ZIP+4[®] Bernalillo, NM 87004

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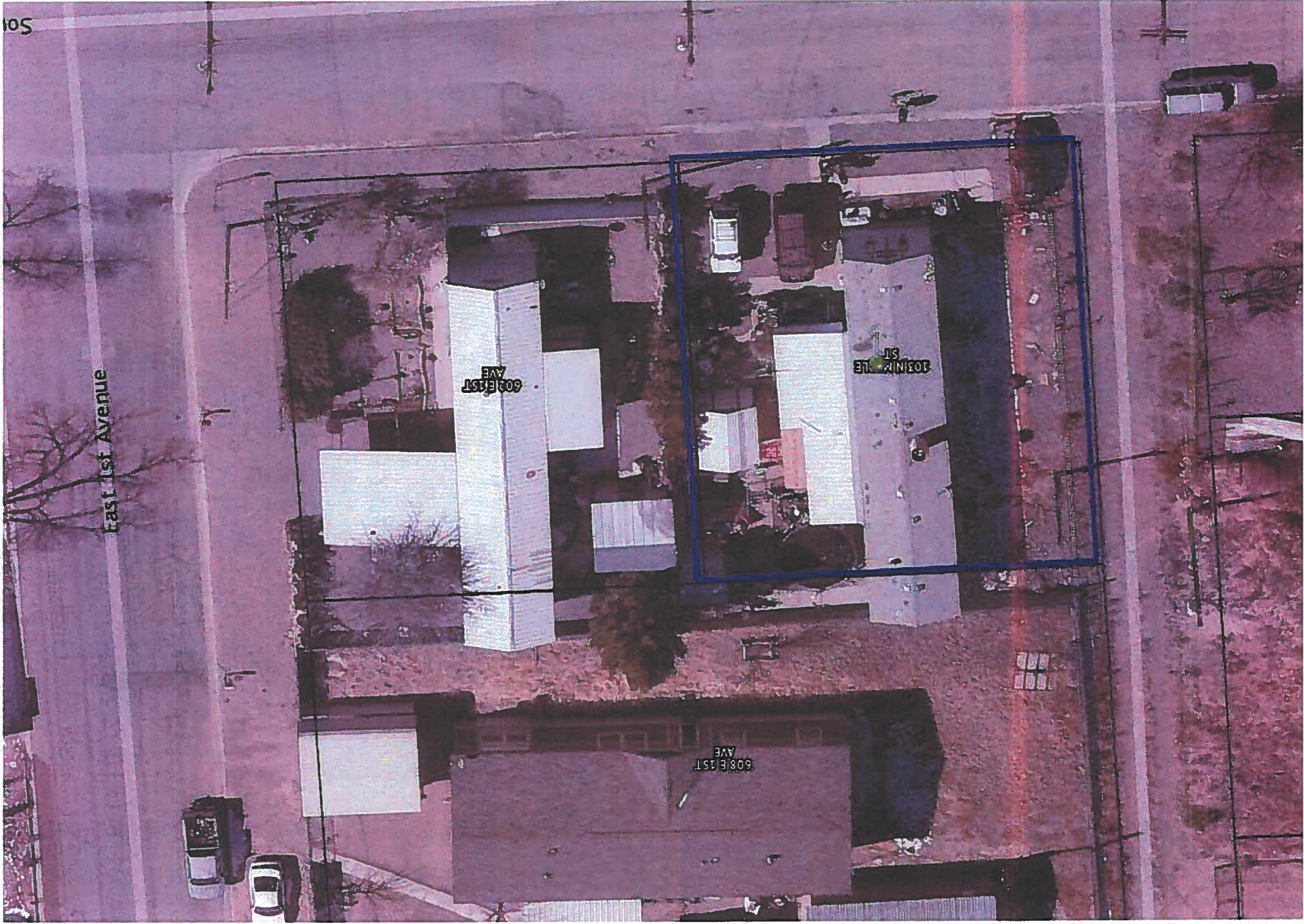


East 1st Avenue

608 E 1ST AVE

608 E 1ST AVE

608 E 1ST AVE





City of Truth or Consequences

City Boards Application

Name: CHRIS SISNEY Address: 952 VEATER
Phone: 740-5802 Email: C SISNEY@CARTHLINK.NET

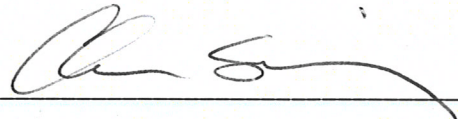
I am interested in serving as a member of one the following Boards:

- | | | |
|--|--|---|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Public Arts Advisory Board | <input type="checkbox"/> Golf Course Advisory Board |
| <input type="checkbox"/> Public Utility Advisory Board | <input type="checkbox"/> Library Advisory Board | <input type="checkbox"/> Recreation Advisory Board |
| <input type="checkbox"/> Lodger's Tax Advisory Board | <input checked="" type="checkbox"/> Planning & Zoning Commission | <input type="checkbox"/> Impact Fee Board |
| <input type="checkbox"/> Other: _____ | | |

My qualifications are:

Current Member of P+Z Board
EXTENSIVE CONSTRUCTION EXPERIENCE

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature:  Date: 7 SEP 22

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

