

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-__

INTRODUCED BY:

Councilor Signe I. Lindell

Councilor JoAnne Vigil Coppler

Councilor Roman “Tiger” Abeyta

Councilor Renee Villarreal

AN ORDINANCE

AMENDING SECTION 5-2 SFCC 1987 TO AMEND THE DEFINITION OF “DOMESTIC ANIMAL”, TO ADD A SECOND DEFINITION FOR “SHELTER”, AND TO DELETE THE DEFINITION FOR “TROLLEY SYSTEM”; AMENDING SECTION 5-5.4 TO REDUCE THE LENGTH OF LEASHES AND TO BAN THE USE OF TROLLEY SYSTEMS; AMENDING SECTION 5-5.6 TO SPECIFY WHERE PET LICENSES CAN BE OBTAINED; CREATING A NEW SECTION 5-5.7 TO ESTABLISH MINIMUM REQUIREMENTS FOR THE OUTDOOR SHELTER OF DOGS IN EXTREME WEATHER; CREATING A NEW SECTION 5-5.8 TO PROHIBIT THE KEEPING OF DOGS OUTSIDE IN EXTREME WEATHER; AMENDING SECTION 5-7.1 TO ALLOW ANIMAL SERVICES OFFICERS TO ENTER PRIVATE PROPERTY TO TAKE-UP AND IMPOUND AN ANIMAL THAT IS IN IMMINENT DANGER OF HARM; AMENDING SECTION 5-7.5 TO HAVE COMPLAINTS OF ANIMALS DISTURBING THE PEACE BE HEARD BEFORE A HEARING OFFICER INSTEAD OF AT MUNICIPAL COURT; AMENDING SECTION 5-7.6 TO REFER TO THE FEES AND FINES TABLE; AND AMENDING SECTION 5-12 TO CODIFY FEES AND FINES

1 **RELATED TO THIS CHAPTER AND TO ADOPT A FRAMEWORK FOR APPEALS TO**
2 **A HEARING OFFICER FOR CIVIL CITATIONS.**

3
4 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

5 **Section 1. Section 5-2 of SFCC 1987 (being Ord. No. 1979-2, § 4-2, as amended)**
6 **is amended read:**

7 As used in this chapter:

8 *Administrator* means the person responsible for the operations of the animal services
9 division.

10 *Animal* means any vertebrate member of the animal kingdom excluding human beings.

11 *Animal services center* means the facility maintained and operated pursuant to the
12 provisions of this chapter.

13 *Animal services officer* means an employee of the city, designated as such by the
14 administrator, who has the authority of a peace officer to issue citations for violations of this
15 chapter and performs such other duties relating to animal services as prescribed by the city
16 manager.

17 *Anti-escape provision* means any housing, fencing, or device which a guard dog cannot
18 go over, under, through or around.

19 *Bite* means a[~~n-actual~~] puncture or tear of the skin inflicted by the teeth of an animal.

20 *Breeder* means any person involved in controlled breeding of animals except those
21 complying with subsection 5-9.5 SFCC 1987 for litter fees. Breeders are subject to the
22 professional animal care permit requirements set forth in subsection 5-6.2 SFCC 1987.

23 *Commercial property* means:

- 24 A. A portion of land, buildings, or land and buildings in the city, zoned
25 for, or utilized for commercial or business uses, including temporary sites; and

1 B. Any vehicle utilized for commercial or business purposes in the city.

2 *Cruelty* means an overt act committed with the intent to harm or needlessly kill an
3 animal or committed out of depraved indifference for the animal's wellbeing, including but not
4 limited to torture, maiming, beating, or otherwise committing violence that causes injury or
5 death.

6 *Dangerous animal* means:

7 A. An animal which, when unprovoked, engages in behavior that requires
8 a defensive action by a person to prevent great bodily harm to a person or
9 domesticated animal provided that the person or the second animal are not on the
10 premises of the owner or person having custody of the first animal; or

11 B. An animal which, when unprovoked, injures a person but the injury
12 does not result in great bodily harm; or

13 C. An animal which, because of its poisonous bite or sting, constitutes a
14 significant hazard to the public.

15 *Dog park* means an official city designated park or portion thereof where dogs can
16 exercise and run off leash in a safe, secure environment within the established limits and
17 boundaries of an official city designated dog park.

18 *Domestic animal* means an animal that is sufficiently tame to live with humans, such as
19 a dog or cat, ~~or one (1) that can be used to contribute to a family's support, such as a cow,~~
20 ~~chicken, or horse].~~

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

22 *Feces* means excrement and other waste matter discharged from the bowels of an
23 animal.

24 *Great bodily harm* means an injury to a person or domesticated animal which:

25 A. Creates a high probability of death; [or]

- 1 B. Results in serious disfigurement; [or]
2 C. Results in loss of any member or organ of the body; or
3 D. Results in permanent or prolonged impairment of the use of any
4 member or organ of the body.

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

7 *Guard dog* means any dog that is utilized to protect commercial property, as defined
8 above.

9 *Guard dog site* means any premises utilizing a guard dog~~[, and which]~~ that has a
10 current guard dog permit.

11 *Handler* means a person who trains dogs for socialization or dog shows or trials or a
12 security person capable of controlling guard dogs.

13 *Handler breeder or hobby breeder* means any person involved in controlled breeding of
14 animals ~~[which]~~ that are approved by a nationally recognized animal breeding organization~~[,~~
15 and are eligible to be so registered. ~~[Animals under the age of three (3) months are not required~~
16 ~~to be registered. Handler breeders or hobby breeders are subject to the professional animal~~
17 ~~permit requirements.]~~

18 *Heat or season* means a regularly recurring state of estrus during which the female
19 animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

20 *Hybrid* means an animal created by breeding animals of different species. For purposes
21 of this article, it includes, but is not limited to, the hybrid offspring of domesticated dogs and
22 wolves, or domesticated dogs and coyotes.

23 *Impound* means to take-up and confine an animal in a humane manner.

24 *Inspection officer* means an animal services officer ~~[and is]~~ authorized by ordinance to
25 conduct inspectorial searches.

1 *Inspection order* means an order issued by a municipal or district court judge.

2 *Inspectorial search* means an entry into and examination of premises for the purpose of
3 ascertaining the existence or nonexistence of conditions dangerous to health or safety or
4 otherwise relevant to the public interest, in accordance with inspection prescribed by this
5 chapter enacted for the promotion of public well-being.

6 *Kennel* means any commercial establishment or premises where ten (10) or more dogs
7 or cats, over three (3) months of age, are boarded, kept, or maintained for any purpose
8 whatsoever, with the exception of state-inspected veterinary hospitals and shelters.

9 *Licensed veterinarian* means a person with a doctor of veterinary medicine degree,
10 licensed to practice in the state.

11 *Livestock* means cattle, horses, mules, donkeys, swine, sheep, or goats.

12 *Neglect* means an overt act involving failure to provide for animal health or safety,
13 including but not limited to failure to provide adequate food, water, shelter, exercise, or
14 necessary veterinary care to an animal or to adequately confine an animal in a manner
15 appropriate to its species, breed, age, and condition.

16 *Nuisance* means, but is not limited to, defecation, urination, disturbing the peace,
17 emitting noxious or offensive odors, or otherwise endangering or offending the well-being of
18 the inhabitants of the city.

19 *Owner of animal* means a person who owns, harbors or keeps, [Ø] knowingly permits
20 an animal to be harbored or kept, [Ø] has an animal in his care, or who permits an animal to
21 remain on or about his premises.

22 *Person* means any individual, household, firm, partnership, corporation, company,
23 society, association, and every officer, agent or employee thereof.

24 *Person in charge* means, for the purpose of inspection, the individual present in an
25 establishment who is the apparent supervisor of the establishment at the time of inspection. If

1 no individual is the apparent supervisor, then any employee present shall be considered the
2 person in charge.

3 *Pet shop* means any commercial establishment or premises or part thereof maintained
4 for the purchase, sale, or exchange of animals of any type, except that the term shall not include
5 livestock auctions.

6 *Playground* means an area where outdoor equipment is placed for children to play on[;]
7 and athletic fields such as baseball, football, soccer fields, handball courts, tennis courts,
8 skateboard parks, etc.

9 *Police dog* means any dog owned by a public agency and used in law enforcement
10 activities under the direction of a handler.

11 *Premises* means a parcel of land and the structures thereon.

12 *Professional animal care business* means a business operated by a person or persons
13 that involves live animals, and includes, but is not limited to, animal rescue, animal shelter,
14 boarding kennel, breeder, grooming parlor, grooming service, commercial kennel, pet day care
15 facility, pet day care [~~service~~], pet sitting [~~service~~], pet store, training facility, dog walking
16 [~~service~~], and circus acts.

17 *Professional animal care permit* means a permit issued by the city of Santa Fe animal
18 services administrator to a [~~person or persons which involves live animals, and includes, but is~~
19 ~~not limited to animal rescue, animal shelter, boarding kennel, breeder, grooming parlor,~~
20 ~~grooming service, commercial kennel, pet day care facility, pet day care service, pet sitting~~
21 ~~service, pet store, training facility, dog walking service and circus acts] a professional animal
22 care business.~~

23 *Quarantine* means to detain or isolate an animal suspected of having a contagious
24 disease.

25 *Restraint* means:

1 A. Confinement within the real property limits of an animal owner where
2 the animal is secured by a leash or lead or is otherwise under the control of a
3 responsible person; or

4 B. Confinement within a vehicle in a manner that prevents an animal
5 from escaping.

6 *Running at large* means not to be confined within a building, shelter, walled or fenced
7 area or secured by a leash, rope, chain, or other restraining device, unless under the direct
8 control of the owner/handler or keeper.

9 *Service animal* means a dog or miniature horse that is individually trained to do work
10 or perform tasks for a person with a disability.

11 *Shelter* means:

12 A. any establishment owned and operated by a non-profit humane
13 organization licensed to do business in the state; or

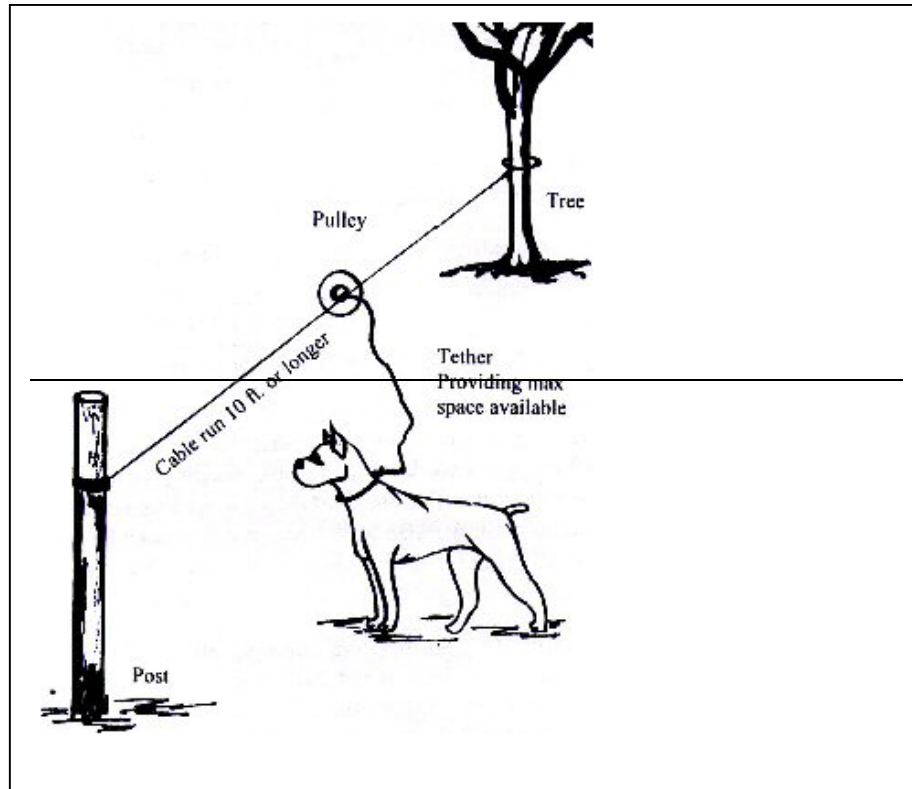
14 B. a structure that is moisture-proof, wind-proof, and of suitable size to
15 accommodate an animal, allowing for freedom of movement to make normal postural
16 adjustments, including the ability to stand, turn around, and lie down with limbs
17 outstretched including, but not limited to, a dog house, shed, barn, private residence, or
18 similar structure.

19 *Stray animal* means any animal found running at large beyond the boundaries of the
20 premises of the owner [~~except~~] unless the animal is within the established limits and boundaries
21 of an official city designated dog park.

22 ~~[Trolley system means a method to confine a dog by tethering the dog to a cable that is~~
23 ~~ten (10) feet or longer with a free moving pulley device attached that will allow the lead to roll~~
24 ~~across it, permitting maximum space for a single dog to move around. See illustration of a~~
25 ~~trolley system, Exhibit A.~~

1 **EXHIBIT A**

2 **Trolley System Illustration**



16 *Unaltered* means not neutered or spayed.

17 *Vaccination* means protection provided against rabies by inoculation with anti-rabies
18 vaccine recognized and approved by the state.

19 *Vermin* means small insects and animals (such as fleas, mice, rats, or gophers) that are
20 sometimes harmful to plants or other animals and that are difficult to get rid of.

21 *Vicious animal* means an animal ~~[which]~~ that kills or causes great bodily harm. It does
22 not include an animal that bites, attacks, or injures a person or second animal~~[, which is]~~
23 unlawfully upon the premises of the owner or person having custody of the first animal. Any
24 animal that has previously been found to be a dangerous animal may thereafter be deemed
25 vicious upon a second or subsequent offense.

1 *Wild or exotic animal* means any animal not normally considered domesticated and
2 shall include, but not be limited to, the following:

3 A. Class reptilia; order phidia, such as racers, boas, water snakes, and
4 pythons, and order loricata, such as alligators, caymans, and crocodiles;

5 B. The following members of the class aves; order falconiforms, such as
6 hawks, eagles, and vultures, and subdivision ratitae, such as ostriches, rheas,
7 cassowaries, and emus;

8 C. Class mammalia; order carnivora; family felidae, such as ocelots,
9 margays, tigers, jaguars, leopards, and cougars, except commonly accepted
10 domesticated cats; family canidae, such as wolves, dingos, coyotes, and jackals,
11 except commonly accepted domesticated dogs; family mustelidae, such as weasels,
12 martins, mink, badgers, except ferrets, family procynnidae, such as raccoons; family
13 ursidae, such as bears; family pinnipedia such as seals, sea lions, and walruses; order
14 marsupialia, such as kangaroos, and common opossums; order edentata, such as
15 sloths, anteaters, and armadillos; order proboscidea, such as elephants; order primata,
16 such as monkeys, chimpanzees, and gorillas; order rodenta, such as porcupines; order
17 ungulata, such as hippopotamuses, giraffes, llamas, antelope, deer, bison, and camels
18 but excluding cattle, swine, sheep, and goats; and order euungulata such as
19 rhinoceroses, tapirs, and zebras but excluding horses, ponies, donkeys, burros, and
20 mules;

21 D. Class chondrichthyes, subclass elasmobranchii such as sharks,
22 stingrays, and skates; and

23 E. Hybrids, which includes the offspring of two (2) animals of different
24 races, breeds, species, varieties, or genera involving any one or more of the animals
25 mentioned in Subsections A-D above.

1 **Section 2. Section 5-5.4 of SFCC 1987 (being Ord. No. 1979-2, § 4-14, as**
2 **amended) is amended to read:**

3 **5-5.4 Restraint of animals.**

4 A. Voice command is not an acceptable form of restraint.

5 B. Except for city permitted events that allow for animals to be present, animals
6 which are not service animals shall not be allowed upon playgrounds or upon the grounds of
7 swimming pools, or within a building, any of which are owned, operated or maintained by the
8 city, nor shall they be allowed upon the premises of public schools, preschool through high
9 school unless permission is obtained from the school official. All animals which are not
10 service animals shall be prohibited in Cathedral Park.

11 C. Animals shall not be allowed upon a public street, alley, easement, city
12 property or other place open to the public or upon any property other than that of the owner of
13 the animal unless properly restrained. Dogs shall be on a secure leash no longer than [~~eight~~
14 (~~8~~)] six (6) feet in length and under the immediate effective physical control of the person
15 having custody thereof. Longer, retractable leashes may be used, provided the person with the
16 dog is capable of controlling the dog. All other animals must be secured in a fashion
17 acceptable for the species of animal. The person having custody shall be a person of such age
18 and maturity to be reasonably responsible therefor and shall be capable of controlling and
19 restraining the animal. A person inside an enclosed structure shall not be considered to be in
20 the physical control of a dog not in the enclosed structure. The provisions of this paragraph do
21 not apply when an animal is participating in a bona fide animal show or training program
22 which has been authorized by the animal services division or is in a city park designated by
23 the governing body as an off-leash exercise ground for dogs. The provisions also do not apply
24 to police canine units unleashed while on public property while acting in a law enforcement
25 activity.

1 D. Animals located upon the property of the owner of the animal shall be
2 restrained in such a manner as to secure the animal, using devices such as a [~~trolley system,~~]
3 kennel, invisible fencing, or inescapable walled or fenced area. Voice command is not an
4 acceptable form of restraint. The animal shall be restrained in such a way as to prevent the
5 animal from reaching outside the perimeter of the property.

6 E. Animals shall not be carried in or upon any vehicle in a cruel, inhumane or
7 unsafe manner. An animal carried in the bed of a truck shall be crated or restrained upon a
8 non-metal mat so it cannot fall or jump from the truck or be strangled.

9 F. [~~A trolley system may be used to restrain an animal upon the owner's~~
10 ~~property, provided the following criteria are met:~~

11 (1) ~~— The device shall be affixed to the animal by use of a non-abrasive,~~
12 ~~comfortably fitted collar or harness.~~

13 (2) ~~— The device shall be at least ten (10) feet long unless such length~~
14 ~~would allow the animal to reach outside the owner's property, in which case it shall be~~
15 ~~no less than eight (8) feet long and elevated four (4) to seven (7) feet off the ground.~~
16 ~~The device shall be fastened so the animal can sit, walk and lie down comfortably and~~
17 ~~shall be unobstructed by objects that may cause the device or animal to become~~
18 ~~entangled or strangled.~~

19 (3) ~~— The animal shall have easy access to adequate shade, shelter, food and~~
20 ~~potable water.~~

21 (4) ~~— The area where the animal is confined shall be kept free of garbage~~
22 ~~and other debris that might endanger the animal's health or safety. Feces shall be~~
23 ~~cleaned up regularly, but no less frequently than twice weekly.~~

24 (5) ~~— The area where the animal is confined shall be kept free of insect infestations~~
25 ~~such as ant hills, wasp nests, or flea, tick and maggot infestations.] It is unlawful to confine a~~

1 domestic animal by the use of a tether, chain, trolley, or similar restraint. Fixed point tethering
2 of any domestic animal to stationary objects is permitted in limited circumstances such as
3 picnics or gatherings in a park or open space, for emergency purposes to permit an individual to
4 render aid to a human or other animal, and only when the owner is immediately present.

5 **Section 3. Section 5-5.6 of SFCC 1987 (being Ord. No. 1979-2, § 4-14, as**
6 **amended) is amended to read:**

7 **5-5.6 - Licenses for dogs and cats.**

8 A. Any person owning, possessing, or harboring any dog or cat three (3) months
9 of age or over shall obtain a license for such animal. Licenses valid for one (1) year, two (2)
10 years, or three (3) years may be obtained from [~~the animal services center or Santa Fe animal~~
11 ~~shelter~~] an organization designated by the administrator. A current rabies vaccination
12 certificate shall be presented at the time of the license purchase. In the event a tag is lost,
13 replacement tags shall be purchased.

14 B. A current license tag shall be affixed to the licensed dog or cat at all times in a
15 reasonable manner, unless the licensed dog or cat is being kept in an approved kennel,
16 veterinary hospital, grooming parlor, is appearing in an approved show, or is being trained;
17 provided, that the person who is training the dog or cat shall have in his personal possession
18 the valid license tag for each dog or cat and shall immediately display such upon request by an
19 animal services officer, or other law enforcement officers.

20 C. Dogs or cats belonging to nonresidents who do not keep the animals within
21 the corporate limits of the city for thirty (30) consecutive days shall be exempt from this
22 section; provided, however, that all the other provisions of this chapter must be complied
23 with.

24 D. The license fees shall not apply to a service animal.

25 **Section 4. A new Section 5-5.7 of SFCC 1987 is ordained to read:**

1 **[NEW MATERIAL] 5-5.7 Care and maintenance of dogs.**

2 For any dog kept outside, all of the following must be provided:

3 A. A shelter accessible to the dog at its will. The shelter shall be made of durable
4 material with a solid, moisture-proof floor that does not permit rain to enter it. The shelter shall
5 not be constructed of metal or any material that readily conducts heat or cold. The shelter must
6 contain a sufficient quantity of suitable, clean bedding material appropriate to local climate
7 conditions and sufficient to protect against cold and dampness. Materials that retain moisture
8 shall not be utilized for bedding.

9 B. One or more areas of shade by natural or artificial means large enough to
10 accommodate the entire body of the dog at one time to provide protection from the direct rays of
11 the sun. The shaded area must be separate and outside of the shelter.

12 C. Easy and constant access to clean water.

13 D. A confined area free of garbage and other debris that might endanger the dog's
14 health and safety. Feces shall be cleaned up regularly, but no less frequently than twice weekly.
15 The confined area shall be kept free of vermin and insect infestations such as ant hills, wasp
16 nests, or flea, tick, and maggot infestations.

17 **Section 5. A new Section 5-5.8 of SFCC 1987 is ordained to read:**

18 **[NEW MATERIAL] 5-5.8 Extreme weather.**

19 A. No dog shall be left outside during any period in which the weather included in a
20 severe weather advisory or warning issued by the National Weather Service is occurring in the
21 area, or if the temperature is below 32-degrees Fahrenheit or above 90-degrees Fahrenheit. This
22 prohibition applies to, but is not limited to, leaving a dog in a securely fenced or electrified yard
23 or in a kennel. The dog may be let outside to relieve itself of feces and other bodily waste as
24 needed.

25 B. Violation of this subsection will constitute an act of neglect and may be subject

1 to immediate animal impoundment pursuant to Section 5-3.3 SFCC 1987 and penalties to the
2 owner as set forth in Table 5-12.1.

3 **Section 6. Section 5-7.1 of SFCC 1987 (being Ord. No. 1979-2, § 4-22, as**
4 **amended) is amended to read:**

5 **5-7.1 - Possession, confinement, and impoundment of animals.**

6 A. No person shall hold or retain possession of any animal of which he is not the
7 owner, without the knowledge or consent of the owner, for more than twenty-four (24) hours
8 without first reporting the possession to the administrator or his designee, giving his name and
9 address, a true and complete statement of the circumstances, a description of the animal, and
10 the precise location where such animal is confined.

11 B. It is unlawful for any person taking up an animal to fail to give the notice
12 required in paragraph A of this section^[5] and for any person having such animal in his
13 possession to fail or refuse to immediately surrender such animal to the administrator or his
14 designee upon demand.

15 C. ~~[A licensed stray animal shall be confined at the animal services center for a~~
16 ~~period of at least seven (7) days during which time the owner shall be notified.]~~ When it
17 confines a licensed stray animal, the animal services center shall notify the owner and house
18 the animal for at least seven (7) days or until the owner retrieves it, whichever occurs first. If
19 identification or notification of the owner is not possible, the animal services center may
20 dispose of the animal, without notice, one (1) day after the required impoundment period and
21 may either place the animal in an adoptive home^[5] or may destroy the animal in a humane
22 fashion, as the administrator may deem proper.

23 D. ~~[An unlicensed stray animal shall be confined at the animal services center for~~
24 ~~a period of at least five (5) days.]~~ The animal services officer shall confine an unlicensed stray
25 animal at least five (5) days before allowing it to be placed for adoption. If the owner does not

1 claim the animal during the five days, then, [Ø]one (1) day after the required impoundment
2 period, the administrator may either place the animal in an adoptive home, or may destroy the
3 animal, in a humane fashion, as the administrator may deem proper.

4 E. The animal services officers [~~have the right to~~] may impound animals that are
5 destroying public or private property or endangering the welfare of any person or animal that
6 is lawfully on public or private rights-of-way. Any animal in violation of this subsection is
7 declared to be a nuisance, a menace to the public health and safety, and shall be impounded.

8 F. A notice of impoundment shall be left when an animal is impounded from
9 private property. An attempt shall be made by the animal services officers to contact the
10 owner.

11 G. No animal that has been impounded by the animal services center shall be
12 adopted-out for the purpose of breeding or sale. Every dog and cat adopted from the center
13 shall be neutered by a licensed veterinarian. A fee for the operation shall be paid to the animal
14 services center or its designee by the person purchasing the dog or cat, prior to the release of
15 the animal.

16 H. In the event animal services is asked to impound [Ø] a stray avian, bovine,
17 equine, ovine, porcine, or caprine, animal services shall turn the animal over to the state
18 livestock board.

19 I. In the event of sickness or injury of [~~the~~] an animal, and upon the advice of a
20 licensed veterinarian, the administrator may take such action as called for to prevent undue
21 pain and suffering including immediate humane euthanasia of the animal.

22 J. It is the responsibility of an owner of an animal legally impounded to pay for
23 boarding and other costs. The city shall establish appropriate fees and procedures for their
24 collection. In addition, the owner shall pay any license fees due, cost of vaccinations, fines
25 imposed or other costs incurred in the care and maintenance of the animal. The animal

1 services center shall not release any animal impounded at the center until all such fees, fines,
2 and costs are paid.

3 K. Dogs or cats shall not be released from impoundment unless properly
4 vaccinated and licensed as set forth in subsections 5-5.1 and 5-5.6 SFCC 1987. Dogs and cats
5 shall be spayed or neutered before the animal is released unless the animal is licensed as an
6 unaltered animal; however, upon the third impoundment the animal shall be neutered before it
7 is released. The owner shall be responsible for all costs incurred and shall pay in full before
8 the animal is released.

9 L. If the administrator determines that an animal is a threat to public safety or
10 that an animal's safety is in jeopardy, the administrator may impound the animal, at the
11 owner's expense, for the time necessary to seek a court order to hold the animal until the case
12 against the owner or caretaker of the animal is heard in municipal court. Any attempt to obtain
13 such a court order shall be made expeditiously. The owner or caretaker of the animal shall be
14 responsible for any and all boarding and medical costs that accrue as a result of such
15 impoundment.

16 M. Animal service officers, in the performance of their general duties, may enter
17 upon private property to take-up and impound any animal that is kept or maintained contrary to
18 this chapter and is in imminent danger of harm, except that animal service officers may not enter
19 a private residence without approval of the occupant or the appropriate authority. Prior to entering
20 private property, an animal services officer shall first attempt to make contact with the owner of
21 the animal.

22 **Section 7. Section 5-7.5 of SFCC 1987 (being Ord. No. 1979-2, § 4-26, as**
23 **amended) is amended to read:**

24 **5-7.5 Animals disturbing the peace.**

25 A. It is unlawful for anyone to own, keep, or harbor any animal ~~[which]~~ that

1 habitually howls, yelps, whines, barks, or makes other noises in a manner which tends to
2 disturb the public peace unreasonably.

3 B. Any person who violates the provisions of this section shall be punished in
4 accordance with ~~[the terms of the city code]~~ Table 5-12.1.

5 C. All complaints filed pursuant to this section shall be made at the animal
6 services office, Monday through Friday, 8:00 a.m. to 5:00 p.m. or to an animal services officer
7 in the field. Complaints shall be in writing on forms provided by animal services, including
8 the complainant's name, address, phone number, and signature as well as the animal owner's
9 name and address. All complainants shall be willing to testify and/or provide documentation
10 regarding the complaint or an animal services officer must have first-hand knowledge of the
11 violation(s) and be able to provide testimony [in municipal court] before a hearing officer.

12 D. Upon receipt of the complaint, animal services shall notify the owner in
13 person and/or in writing of the complaint filed. If the complainant observes a violation of this
14 section again. [T]he complainant may contact animal services a second time and animal
15 services shall notify the [pet] owner again. If no progress is made in resolving the complaint
16 and the complainant contacts animal services a third time for a third violation, animal services
17 shall ~~[submit the written complaint to municipal court]~~ issue a civil citation pursuant to Table
18 5-12.1. A fourth complaint shall result in a second civil citation. A fifth complaint shall result
19 in a third civil citation and the city may deem the animal a nuisance pursuant to Section 10-9
20 SFCC 1987 and file a lawsuit in district court.

21 **Section 8. Section 5-7.6 of SFCC 1987 (being Ord. #1979-2, § 4-27, as amended)**
22 **is amended to read:**

23 **5-7.6 Animal nuisances.**

24 A. It is unlawful for the owner of any animal to permit, either willfully or
25 through failure to exercise due care or control, any such animal to create any nuisance upon a

1 sidewalk, public park, alley or other place open to the public or upon any property other than
2 that of the owner of the animal. The term nuisance shall include any defecation, destruction of
3 property, or disturbing the property of another, including the rubbish or trash of a resident.
4 When an animal defecates in such place, the owner shall remove the feces and dispose of it in
5 a sanitary manner. Anyone walking an animal in a public area shall have in his or her
6 possession a sanitary and disposable means of removing the animal's feces, which must be
7 placed in a refuse container for sanitary removal. ~~[The p]~~ Persons walking in public shall be
8 able to present such means upon request of an animal services officer. The provisions of this
9 paragraph shall not apply to a service animal accompanying any person with a disability.

10 B. Any person keeping animals shall provide adequate and sanitary housing
11 facilities for such animals, and no stagnant water shall be permitted to accumulate. All
12 structures used for the housing of such animals and all yards, cages, and runs provided for
13 them shall be cleaned in a timely manner so as not to cause noxious or offensive odors and to
14 prevent the breeding of insects. Such areas shall be cleaned often enough so as not to cause a
15 health hazard for the animal or interfere with the animal's well-being. Failure to so keep any
16 such animal is hereby declared to be a nuisance and unlawful.

17 C. Violations of this section shall constitute a nuisance and shall subject the
18 owner or person having care or control of the animal to the penalties set forth in ~~[Section 5-~~
19 ~~42]~~ Table 5-12.1 SFCC 1987.

20 **Section 9. Section 5-12 of SFCC 1987 (being Ord. #1979-2, § 4-53, as amended)**
21 **is amended to read:**

22 **5-12 LICENSES AND PERMIT FEES; FINES AND PENALTIES; ~~[AND]~~**
23 **OTHER CHARGES; AND ADMINISTRATIVE HEARINGS.**

24 A. ~~[The governing body shall adopt by passage of a resolution a schedule of~~
25 ~~licensing and permit fees, mandatory fines and penalties for violation of this chapter and other~~

1 ~~charges. The animal services center may establish alternatives to the mandatory fines and~~
2 ~~penalties for first offenses in order to encourage responsible pet ownership. The fines and~~
3 ~~penalties may not be deferred or suspended on second or subsequent offenses.~~

4 B.] Any violation of this chapter ~~[other than those listed in paragraph A. of this~~
5 ~~Section]~~ shall be punished as provided in Table 5-12.1 below or as provided in Section 1-3 of
6 this Code. ~~[Each day this chapter is violated shall be considered a separate offense.]~~ If any
7 person is cited for or convicted of cruelty or mistreatment of an animal, ~~[that]~~ the animal shall
8 be removed from ~~[his]~~ the owner's custody and placed with the administrator.

9
10
11
12
13
14
15
16
17 **[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE 5-12.1		
Type	Fee/Fine¹	
Licensing		
<u>Altered dogs and cats</u>	<u>Licenses shall be obtained pursuant to Section 5-5.6 SFCC 1987.</u>	
<u>Unaltered dogs and cats</u>		
<u>Duplicate tags</u>		
Permits Fees²		
<u>Kennels</u>	<u>\$250 annually</u>	
<u>Grooming service/parlors</u>	<u>\$250 annually</u>	
<u>Pet shops</u>	<u>\$250 annually</u>	
<u>Shelters</u>	<u>\$250 annually</u>	
<u>Guard dog</u>	<u>\$250 annually</u>	
<u>Exotic animals</u>	<u>\$250 annually</u>	
<u>Breeder³</u>	<u>\$125 annually per breeding animal</u>	
<u>Circus and animal acts</u>	<u>\$250 per occurrence</u>	
<u>All other professional animal care businesses</u>	<u>\$100 annually</u>	
<u>Litter</u>	<u>\$25 per litter</u>	
Impoundment Fees		
<u>1st impoundment in 36th month period</u>	<u>\$10</u>	
<u>2nd impoundment in 36th month period</u>	<u>\$20</u>	
<u>3rd impoundment in 36th month period</u>	<u>\$40</u>	
<u>4th impoundment in 36th month period</u>	<u>\$80</u>	
<u>Subsequent impoundments</u>	<u>The fee shall be double the previous impoundment</u>	
Fines for Violations⁴		
<u>Resisting or obstructing an Animal Services Officer (Section 5-3.4)</u>	<u>Up to \$500 and/or 90 days in jail</u>	
<u>No rabies vaccination (Section 5-5.1)</u>		
<u>1st civil citation in 36 month period</u>	<u>\$75 and proof of vaccination</u>	
<u>2nd civil citation in 36 month period</u>	<u>\$150 and proof of vaccination</u>	
<u>3rd civil citation in 36 month period</u>	<u>\$500 and proof of vaccination</u>	
<u>Harboring an animal that has bitten (Section 5-5.3)</u>	<u>\$500 and/or up to 90 days in jail</u>	
<u>Restraint of animals (Section 5-5.4)</u>	<u>Unaltered animal</u>	<u>Altered animal</u>
<u>1st civil citation in 36 month period</u>	<u>\$50</u>	<u>\$25</u>
<u>2nd civil citation in 36 month period</u>	<u>\$100</u>	<u>\$50</u>
<u>3rd civil citation in 36 month period</u>	<u>\$250</u>	<u>\$125</u>
<u>4th civil citation in 12 month period</u>	<u>\$500</u>	<u>\$250</u>
<u>No animal license (Section 5-5.6)</u>		
<u>1st civil citation in 36 month period</u>	<u>\$100</u>	<u>\$25</u>
<u>2nd civil citation in 36 month period</u>	<u>\$200</u>	<u>\$50</u>
<u>3rd civil citation in 36 month period</u>	<u>\$300</u>	<u>\$100</u>
<u>4th civil citation in 36 month period</u>	<u>\$500</u>	<u>\$250</u>
<u>Permit violations (Sections 5-6.2 and 5-6.7)</u>		
<u>1st civil citation in 48 month period</u>	<u>\$100</u>	
<u>2nd civil citation in 48 month period</u>	<u>\$250</u>	
<u>3rd civil citation in 48 month period</u>	<u>\$400</u>	

1	<u>Animals disturbing the peace (Section 5-7.5)</u>	
2	<u>1st civil citation in 48 month period</u>	<u>\$25</u>
3	<u>2nd civil citation in 48 month period</u>	<u>\$50</u>
4	<u>3rd civil citation in 48 month period</u>	<u>\$100. Upon a third citation, the city may deem a nuisance pursuant to Section 10-9 SFCC 1987 and file a lawsuit in district court</u>
5	<u>Nuisance (Section 5-7.6)</u>	
6	<u>1st civil citation in 48 month period</u>	<u>\$100</u>
7	<u>2nd civil citation in 48 month period</u>	<u>\$150</u>
8	<u>3rd civil citation in 48 month period</u>	<u>\$300</u>
9	<u>4th civil citation in 48 month period and subsequent citations</u>	<u>\$500</u>
10	<u>Confining animals in or upon a motor vehicle (Section 5-7.11)</u>	
11	<u>1st conviction in 48 month period</u>	<u>\$100</u>
12	<u>2nd conviction in 48 month period</u>	<u>\$200</u>
13	<u>3rd conviction in 48 month period</u>	<u>\$500 and/or up to ninety (90) days in jail and surrender of animal</u>
14	<u>Cruelty (physical abuse) (Section 5-8.1)</u>	<u>\$500 and/or up to ninety (90) days in jail and surrender of animal</u>
15	<u>Neglect (Sections 5-5.7, 5-5.8, and 5-8.3)</u>	
16	<u>1st civil citation or criminal conviction in 48 month period</u>	<u>\$150</u>
17	<u>2nd civil citation or criminal conviction in 48 month period</u>	<u>\$250</u>
18	<u>3rd civil citation or criminal conviction in 48 month period</u>	<u>\$500 and/or up to ninety (90) days in jail and surrender of animal</u>
19	<u>Abandonment (Section 5-8.4)</u>	<u>\$200</u>
20	<u>Poisoning (Section 5-8.5)</u>	<u>\$500 and/or up to ninety (90) days in jail and surrender of animal</u>
21	<u>Animal fights (Section 5-8.10)</u>	<u>\$500 and/or up to ninety (90) days in jail and surrender of animal</u>
22	<u>Notes:</u>	
23	<u>¹ In addition to the fees and fines due to the city, the pet owner shall also be responsible for any and all boarding fees accrued at a shelter and the state spay/neuter deposit, if applicable.</u>	
24	<u>² Any combination of kennel, grooming parlor, pet shop, or shelter operating as a single business at one location is only required to obtain a single permit. Multiple locations require a permit for each location.</u>	
	<u>³ Any person who breeds animals shall obtain a breeder permit for each animal, an unaltered license for each animal, and a litter permit for each animal from each litter.</u>	
	<u>⁴ Each day a violation occurs after the initial citation shall be considered a separate citation or crime. Failure to pay or contest a citation as specified below within fifteen (15) days of the date of the citation shall result in a late fee equal to the original citation.</u>	

1 B. Civil citations shall be posted on the properties where violations occur in a
2 conspicuous place; delivered in person; or mailed by certified mail, return receipt requested, to
3 the last-known address of the person or persons responsible for the violation, as applicable.

4 C. Form and Contents. Civil citations shall contain the following information:

5 (1) the address where the violation occurred;

6 (2) a description of the specific violation;

7 (3) a statement of whether this is the first, second, third, or subsequent
8 offense;

9 (4) instructions for submitting payment of the civil fine;

10 (5) a statement that within fifteen (15) days of issuance of the civil citation
11 the cited person must either pay the civil fine or submit a written request for hearing;

12 (6) the name and phone number of the administrator; and

13 (7) a copy of this subsection 5-12.

14 D. Request for administrative hearing. If the administrator receives a request for an
15 administrative hearing within fifteen (15) days following the mailing of the notice of citation or
16 surrender of the animal, animal services staff shall schedule a hearing with a hearing officer
17 within five (5) business days from date of receipt of the request. The city manager shall appoint a
18 hearing officer. An amount equal to the civil fine assessed, if applicable, must accompany a
19 request for hearing. The city shall hold the payment as a deposit until the hearing officer makes
20 a decision. The administrative hearing date will be selected based on the hearing officer's
21 schedule and availability. Resident's availability will be accommodated based upon the hearing
22 officer's availability. If the decision of the hearing officer is in favor of the hearing requestor, the
23 administrator will return the animal to the owner of the animal within twenty-four (24) hours. In
24 the event the hearing officer decides to uphold the surrender of the animal and/or the civil
25 citation, then the administrator shall retain custody of the animal and the city shall apply the

1 deposit toward the civil citation. If the hearing officer decides in favor of the requestor, the city
2 shall return the animal and the deposit to the requestor.

3 (4) If an appeal is denied by the hearing officer, the appellant may file an appeal in
4 the first judicial district court, county of Santa Fe, under Rule 1-074 NMRA. If the court rules in
5 favor of the appellant, the administrator will return the animal to the owner of the animal within
6 twenty-four (24) hours and return the deposit, if applicable.

7 (6) Revenue. The revenue generated through civil fines shall be retained by the
8 police department and shall be used exclusively for enforcement of the animal services chapter
9 of the city's code.

10 APPROVED AS TO FORM:

11 _____
12

13 ERIN K. McSHERRY, CITY ATTORNEY