INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-355

A CODE ORDINANCE AMENDING CHAPTER 6, ANIMALS, OF THE INCORPORATED COUNTY OF LOS ALAMOS CODE OF ORDINANCES

WHEREAS, Chapter 6 of the Code of Ordinances of the Incorporated County of Los Alamos ("Code") governs Animals; and

WHEREAS, In 2018, residents of the Incorporated County of Los Alamos ("County") raised questions about the current structure and model of County's Animal Shelter and operations, and questioned whether it met the high standards for the humane treatment of the animals and a high level of service to our citizens; and

WHEREAS, On July 18, 2018, the Council of the Incorporated County of Los Alamos ("Council") approved the adoption of the Animal Shelter Ad Hoc Advisory Committee ("Committee"); and

WHEREAS, On June 25, 2019, the Committee presented its report with recommendations to Council. One of the Committee's recommendations included a review and revision of the Animal Code Ordinance to reflect current practices of animal welfare, surrender, seizure, quarantine, and adoption; and

WHEREAS, On December 1, 2020, the Committee presented its Best Practices Guide to Council, which contained high-level recommendations on how animal control ordinances should be written, including provisions regarding cruelty to animals, spay and neuter regulations, and licensing requirements; and

WHEREAS, Revisions to the Code are necessary to accomplish the goals and recommendations of the Committee, including changes to the adoption fee schedule and process. However, much of what was sought to be revised was already included in the Code; the current Code has a prohibition on cruelty to animals and outlines the requirements for sterilization upon adoption and licensing; and

WHEREAS, Council finds the amendments to Chapter 6 address the issues raised by residents and stakeholders and determines that it is in the best interest of the County that the Animal Code be amended as provided below.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS:

Section 1. Section 6-1 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-1. 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:

Attack means dangerous behavior toward any person or other domesticated animal resulting in physical injury.

Bite means a puncture, tear or indentation of the skin inflicted by the teeth of an animal.

Chief of Police means the Los Alamos County Chief of Police or designee. The Chief of Police shall have authority to develop and promulgate rules and policies pertaining to the operation of the Shelter for review and approval by the County Manager.

Dangerous animal means any animal that, without justification, attacks a person or another domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals and livestock. In the case of the animal being a dog, the dog's breed shall not be the sole consideration in determining whether or not it is dangerous.

Designated voice and sight control area means areas appropriately posted after designation by regulation of the parks division to be a voice and sight control area for dogs.

Designated dog-training zone means any area appropriately posted after designation by regulation of the parks division to be a dog-training zone.

Dog pack means three or more dogs running together.

Dog park means any fenced off-leash dog play area designated by parks for that purpose.

Domestic or *pet animal* means any animal commonly kept as a pet in family households in the United States, and any animals commonly kept for companion or commercial purposes or protection or for sale to others for such purposes including, but not limited to dogs, cats, rabbits, rodents, birds, reptiles, fish, and any other species of animals that are sold retained as a household pet but shall not include skunks, and any other species of wild or exotic animal that may be further restricted by law.

Exotic animal means an animal which is rare or different from ordinary domesticated animals and is not indigenous to the state and is not commonly found in pet stores.

Keeper means the owner or any person who keeps or has control or custody of an animal ~~for more than six days~~, provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.

Livestock means animals defined as livestock by the New Mexico Livestock Board.

Menace means the actions of a dog, not on the property of its keeper or person having charge of the dog, that is unprovoked, hostile or dangerous behavior toward a person or a domestic animal by growling, barking or doing some other act likely to cause fear in the person of bodily harm to the person or that person's domestic animal.

Quarantine means to detain or isolate an animal suspected of being infected with rabies.

Shelter means Los Alamos County Animal Shelter.

Stray means any animal without an identifiable keeper.

Unattended dog means not in the physical presence and within sight of a keeper who shall be a person of such age and maturity to be reasonably responsible therefor. An owner or keeper inside an enclosed structure shall not be considered to be in the physical presence of a dog not in the enclosed structure.

Voice and *sight control* means the keeper has the ability to control the dog by voice command and the dog must respond immediately to that command. Further, the dog must remain within sight of the keeper. Even in designated voice and sight control areas in Los Alamos, the dog must be on a leash unless it meets the requirements of voice and sight control.

Wild animal means any animal that is wild by nature and cannot normally be domesticated or controlled; including any animal regulated by the New Mexico Department of Game, the United States Fish and Wildlife, and/or the USDA.

Working dog means any dog, regardless of breed, that is being trained or used for the purpose of guarding, herding detection, search and rescue, dog sports, assistance of people as service dogs, or assistance of the police.

Section 2. Section 6-6 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-6. Unreasonable animal noise prohibited.

(a) ~~No person shall own or keep any animal, licensed or not, which by barking or making of other noises, continuously for more than ten minutes, either day or night, causes annoyance to the neighborhood or to passersby except such noises made by livestock, whether from commercial or noncommercial activities on land which is properly zoned to allow keeping of livestock, and such sounds made in facilities licensed under and in compliance with the provisions of this Code.~~ Except for noises made by livestock, it is unlawful for anyone to own, keep, or harbor any animal that habitually howls, yelps, whines, barks, or makes other noises in a matter which unreasonably disturbs the public peace.

(b) It shall be affirmative defense under this section that the animal was intentionally provoked to make such noise.

Section 3. Section 6-7 of the Code of the Incorporated County of Los Alamos is deleted in its entirety.

~~Sec. 6-7. Impounding.~~

~~Any animal impounded may be redeemed by its owner or keeper under provisions of section 6-15. If the owner or keeper has not claimed the animal within a period of five days, the chief of police or a person designated by him shall notify the owner by mail that the animal will be declared abandoned. Such declaration of abandonment may be made ten days after sending such notice, and the animal may be disposed of under the provisions of section 6-16.~~

Section 4. Section 6-10 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-10. Bites; impounding.

(a) Every case of an animal biting a person shall be reported to the animal control officer who may order the offending animal to be confined at any time during the ten days next following the bite. ~~Confinement shall be at the animal shelter, a veterinary hospital or an approved kennel; provided, however, that if the animal has a current rabies vaccination and the area involved is not under quarantine for rabies, the animal may be confined at the keeper's home. No animal shall be impounded if it has a current rabies vaccination and it is determined that the animal is not a dangerous animal or if it is a working dog and the bite occurred in service as such.~~ No animal shall be placed for adoption during the ten-day period following a bite.

(b) Any expenses incurred by the confinement of such animal shall be assumed by the keeper. ~~If the animal is confined and, after ten days next following the bite, no rabies is found to be present or suspected, the animal may be released to the keeper upon payment of any pickup fees and boarding fees which may be due.~~

~~(c) If at any time during the ten-day period the animal dies, its head shall be submitted to the state scientific laboratory for confirmation of rabies.~~

Section 5. Section 6-12 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-12. Penalty.

The penalty imposed for violation of this article shall include a fine not to exceed $500.00 or imprisonment not to exceed 90 days. Every day of any violation of this section constitutes a separate offense. The municipal judge may suspend, in whole or in part, the execution of sentence or may place the defendant on probation for a period not to exceed one year on terms and conditions the municipal judge deems best to ensure the safety of the public. ~~concerning the disposition of an animal judicially determined to be dangerous, up to and including the animal's removal and banishment from the boundaries of the county or its humane destruction. In no case where an animal has bitten a person shall the animal be destroyed or removed from the jurisdiction of the municipal judge or the animal control officer for a period of at least ten days or until a rabies determination has been made. Section 6-6 shall be strictly complied with.~~

Section 6. Section 6-14 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-14. Impounding of animals at large and strays.

~~(a)~~ It is the duty of any police officer and the animal control officer to impound or arrange for the impoundment of any animal found running at large, in violation of this chapter, and any pet or domestic animal which appears to be abandoned by its keeper or which appears to have become lost. ~~Any citizen shall have the same authority as is granted in this section to a police officer and shall immediately inform a police officer of such impoundment.~~

~~(b) Animal control officers, in performance of their duties, may enter upon accessible private property, for the purpose of apprehending animals running at large and stray animals; provided, however, that except in cases of emergency, private property shall not be deemed to be accessible for this purpose if the property is the interior of a dwelling unit or if reasonable expectations of privacy are otherwise indicated.~~

~~(c) The animal control officer and police officers, upon impounding or receiving any animal, shall register such animal by entering the breed, color and sex of the animal, the license number, if known, and the time and place such animal was apprehended into the registry kept for this purpose.~~

~~(d) If the keeper of an impounded animal is known, a reasonable effort must be made to notify the keeper immediately. If the keeper of the animal is not known or cannot be contacted, notice of the impoundment shall be posted in a conspicuous place at the animal shelter.~~

~~(e)~~ The animal control officer, upon impounding a wounded animal, may procure necessary veterinary care for the animal. Costs of such care shall become the obligation of the keeper.

Section 7. Section 6-15 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-15. Redemption of impounded animals.

All impounded animals shall be redeemed within the times prescribed in Shelter Policy. Unless the animal has been impounded for observation under this chapter, any impounded animal may be redeemed by its keeper immediately upon payment to the county of the applicable fees and costs. ~~of a pickup fee and a boarding fee as prescribed in sections 6-122 and 6-123.~~

Section 8. Section 6-16 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-16. ~~Adoption of u~~Unclaimed animals.

~~All impounded animals shall be redeemed within the times prescribed in this article.~~ Any animal~~, except one impounded under section 6-10,~~ not redeemed within the required period, shall become the property of the animal shelter~~. and may be placed for adoption upon payment of adoption fees as prescribed in this chapter or the animal may be humanely destroyed and properly disposed of. However, no such animal shall be placed for adoption during any quarantine period which may have been imposed by this chapter.~~

Section 9. Section 6-17 of the Code of the Incorporated County of Los Alamos is deleted in its entirety.

~~Sec. 6-17. Unwanted animals.~~

~~The Los Alamos County operated animal will accept any dog or cat, which the keeper no longer wants or cannot keep, and will place such animal for adoption for a period of five days after which time it may be humanely destroyed. The owner or keeper of the animal must be a resident of Los Alamos County.~~

Section 10. Section 6-19 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-19. Cruelty to animals.

(a) It is unlawful for the keeper of any dog, cat or other pet or animal to willfully or through negligence injure or mistreat such pet or animal, by

1) ~~excessive~~ beating, kicking or other physical abuse;
2) failure to provide food, water or veterinary care;
3) failure to provide clean shelter or other areas of confinement of adequate size;
4) exposure to extreme heat or cold;~~, or~~
5) other acts of cruel and inhumane treatment including, but not limited to, the possession of animals in a quantity such that the keeper is unable or fails to provide for the necessary health and wellbeing of the animals and, due to the failure or inability to provide such care, at least one animal experiences death, bodily injury, or other serious adverse health consequence.

(b) It is unlawful for any person to kill or injure any dog, cat or other pet or animal, by shooting, striking, kicking, poisoning or by any other means, except in defense of person or property, or as otherwise provided in this chapter. No person shall intentionally provoke, harass or taunt any dog, cat, pet or other animal which is on the premises of its keeper. However,

nothing in this subsection shall apply to a licensed veterinarian in the use of euthanasia when authorized by the pet's keeper or police officers in the performance of their duty.

(c) It is unlawful for any person to cause, instigate or promote any fight in which two or more animals are engaged for the purpose of injuring, maiming or destroying themselves or another animal.

(d) It is unlawful for any person to sell, offer for sale, barter or give away any live animal as a premium, prize, award, novelty or incentive to purchase merchandise. It is unlawful to color, stain or dye any chicken, duckling or fowl.

(e) It is unlawful for any person to trap, for commercial or recreational use, furbearing animals using strangulation snares, steel-jaw traps or other body-gripping animal traps from all lands owned by the county. This subsection does not apply to trapping performed by government officials carrying out their official duties.

Section 11. A new Section 6-21 of the Code of the Incorporated County of Los Alamos is added as follows:

Section 6-21. Ashley Pond Wildlife Protected Area Designation

The County declares Ashley Pond as a Wildlife Protected Area within Los Alamos County. The recreational area between Trinity Drive / Central Avenue and Oppenheimer Drive / 20th Street is designated as the Ashley Pond Wildlife Protected Area. It is unlawful for anyone, other than the County or other governmental official, to desert, abandon, introduce or dispose of any animal, fish, bird, or reptile into the Ashley Pond Wildlife Protected Area. It is unlawful for any person, other than the County or other governmental official, to remove, catch, injure, maim, or kill any animal from the Ashley Pond Wildlife Protected Area.

Section 12. A new Section 6-22 of the Code of the Incorporated County of Los Alamos is added as follows:

Section 6-22. Purpose

The purpose of this Chapter is to provide for the rescue, rehabilitation and rehome of animals in crisis and to promote the ownership of healthy pets through education, advocacy and enforcement, and to inspire a community where the animal-human bond is celebrated and nurtured.

Section 13. Section 6-52 of the Code of the Incorporated County of Los Alamos is deleted in its entirety.

~~Sec. 6-52. License procedure; certificate.~~

~~No license shall be issued for any dog unless a certificate from a licensed veterinarian is presented to the county by the keeper showing that such animal has been vaccinated for rabies.~~

Section 14. Section 6-53 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 6-53. Dogs and cats brought to the county.

Any dog or cat ~~four~~ three months of age or older brought into the county shall be securely confined by its keeper until vaccinated against rabies, which vaccination shall be administered within one week after entry into the county unless the keeper has a certificate of vaccination issued by a veterinarian outside of the county, and such vaccination conforms to the requirements of this state. The keeper shall provide proof of current valid rabies vaccination certificate when requested by an animal control or police officer.

Section 15. Section 6-83 of the Code of the Incorporated County of Los Alamos is deleted in its entirety.

~~Sec. 6-83. Information.~~

~~Any person applying for a dog license shall furnish the following information on an application form provided by the county: name and address of keeper; and description of dog: breed, name, sex, date of birth, markings, estimated weight, certification, date of last rabies vaccination.~~

Section 16. Section 6-84 of the Code of the Incorporated County of Los Alamos is deleted in its entirety.

~~**Sec. 6-84. Procedure; dogs and cats affixing tags.**~~

~~The keeper shall cause the valid rabies tag to be affixed to the collar or harness of the dog or cat for which it was issued and to be worn there at all times when the animal is off the keeper's premises in accordance with 7.4.2.8 NMAC unless such animal is securely confined in a motor vehicle, or being kept at a kennel, veterinary hospital or training class. Animals participating in training, organized competitions or matches are not required to wear such tags during the time of the training or event. In all cases where the animal is not wearing the tag the keeper must have the tag or current valid rabies vaccination certificate in his or her possession at the time of the event.~~

Section 17. Article III of Chapter 6 of the Code of the Incorporated County of Los Alamos is modified as follows:

ARTICLE III. LICENSE AND ~~PERMIT~~ FEES

Section 18. Section 6-122 of the Code of the Incorporated County of Los Alamos is modified as follows:

Sec. 6-122. Redemption of impounded animals.

Redemption by the keeper of an impounded animal ~~in accordance with section 6-10~~ shall be subject to <u>reimbursement by the keeper for actual costs incurred by the County for pickup, boarding and care, including veterinary expenses.</u> ~~the following fees: pickup fee, $20.00; boarding fee, $5.00 for each calendar day, in whole or in part, of confinement.~~

Section 19. Section 6-123 of the Code of the Incorporated County of Los Alamos is modified as follows:

Sec. 6-123. Redemption of impounded exotic animals.

Redemption by the keeper of an impounded exotic animal shall be subject to reimbursement by the keeper for actual costs incurred by the county for pickup<u>,</u> ~~and~~ boarding<u>, and care, including veterinary expenses</u>.

Section 20. Section 6-124 of the Code of the Incorporated County of Los Alamos is modified as follows:

Sec. 6-124. Adoption of impounded animals.

~~(a) Animals may be adopted from the animal shelter as prescribed in this chapter upon payment of the following:~~

~~(1) $35.00 for cats seven years and older;~~

~~(2) $50.00 for cats six months to seven years;~~

~~(3) $75.00 for cats less than six months;~~

~~(4) $60.00 for dogs seven years and older;~~

~~(5) $75.00 for dogs six months to seven years;~~

~~(6) $100.00 for dogs less than six months.~~

~~(7) Adoption fees may be reduced by half where a determination has been made by animal control division director that adoptability has been compromised by:~~

~~a. The animal's length of stay in the shelter;~~

~~b. The animal's health condition(s); or~~

~~c. The animal is part of a bonded pair, threesome or foursome.~~

~~(b) No unsterilized animal shall be released from the animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in subsections (d) and (e) of this section.~~

~~(c) In addition to the adoption fee charged, a sterilization deposit of $25.00 shall be imposed on the adoption of each unsterilized animal from the animal shelter.~~

~~(d) Unsterilized animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six months of age.~~

~~(e) Unsterilized animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within 30 days of the date of adoption.~~

~~(f) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized within the timeframes provided in subsections (d) and (e).~~

(a) Animals may be adopted from the Shelter as prescribed in this Chapter upon payment of fees charged by the Animal Shelter. These fees shall be established by the County Council through the adoption of a schedule of fees.

(b) Adoption fees may be reduced or waived when a determination has been made by the Chief of Police or designee that adoptability has been compromised by:

1) The animal's length of stay in the Shelter; or

2) The animal's health condition(s); or

3) The animal is part of a bonded pair, threesome or foursome; or

4) Other circumstances impacting the adoption of an animal which stops or hinders a forever home; and

5) Such reduction or waived fees shall be sufficiently documented by Shelter.

(d) An unsterilized animal reclaimed by its owner or keeper shall be released from the Shelter without being sterilized upon payment of the twenty-five dollars ($25.00) for the sterilization deposit and impoundment fees established by the County Council, and the owner shall sign an agreement stating the owner will sterilize the animal within thirty days after release or will

obtain a breeder permit or its equivalent. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.

(e) Unsterilized animals less than six months of age shall be released upon adoption only upon payment of the adoption fee and a sterilization deposit established by County Council and after the adopting person has signed an agreement stating that the adopted animal will be sterilized when it is no older than six months of age.

(f) Unsterilized animals over the age of six months shall be released upon adoption only upon payment of the adoption fee and a sterilization deposit established by County Council and after the adopting person has signed an agreement stating that the animal will be sterilized within 30 days of the date of adoption.

Section 21. Severability. Should any section, paragraph, clause or provision of this Ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 22. Effective Date. This Code Ordinance shall become effective thirty (30) days after publication of notice of its adoption.

Section 23. Repealer. All other ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

PASSED AND ADOPTED this 28th day of May 2024.

INCORPORATED COUNTY OF LOS ALAMOS

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Denise Derkacs,
Council Chair

ATTEST:

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Naomi D. Maestas,
Los Alamos County Clerk