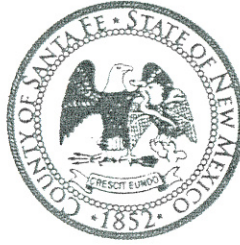


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: April 11, 2017

TO: Board of County Commissioners

FROM: Rachel Brown, Deputy County Attorney *RB*
Cristella Valdez, Assistant County Attorney *CW*

RE: Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 1991-6, as Amended by Ordinance No. 2017-1, to Delay the Effective Date of the Prohibition on Tethering an Unattended Dog Until January 1, 2018, and to Replace Appendix A to Ordinance No. 1991-6 Establishing Fees and Fines

On January 31, 2017, the Board of County Commissioners (Board) adopted Ordinance No. 2017-1, An Ordinance Amending Ordinance No. 1991-6, the Santa Fe County Animal Control Ordinance, to Increase Fees; Prohibit Fixed Point Tethering; Conform Rabies Vaccination Requirements to State Law and Regulations; Set Forth a Process for Revocation of Permits Issued; Incorporate the Dangerous Dog Act, NMSA 1978, §§ 77-1A-1 to -6; and Establish Penalty Provisions that Comport with State Law (Ordinance No. 2017-1). The provisions in Ordinance 2017-1 that prohibit tethering do not go into effect until November 1, 2017.

Staff is now seeking permission to publish title and general summary of an ordinance to postpone the effective date of the tethering prohibition and to replace the current fee schedule. A proposed Ordinance amending Ordinance No. 1996-1, as amended by Ordinance No. 2017-1, is attached hereto as Exhibit A. There are two topics addressed through the proposed ordinance amendment.

First, the proposed ordinance amendment postpones the tethering prohibition effective date to January 1, 2018. On March 14, 2017, through Resolution No. 2017-25, the Board established an Animal Control Ordinance Advisory Committee to develop recommendations regarding further modifications to Ordinance 1991-6 pertaining to barking and the definition of tethering. The Committee would not have enough time to meet and make recommendations regarding those matters before the tethering prohibition goes into effect. The proposed amendment to Ordinance 2017-1 will delay the effective date of the tethering prohibition until January 1, 2018, thereby

affording the Committee time to make recommendations to amend the prohibition before it is effective.

Second, the proposed ordinance amendment would again replace Appendix A, and thereby revise the fees and fines imposed by Ordinance 1991-6. There are two alternate approaches to revising Appendix A.

One, attached hereto as Appendix A-1, would simply reinsert a \$10 fine and fee for a dog owner who fails to timely purchase a license for their animal. The fine and fee provide necessary enforcement mechanisms for licensing requirements.

The other, attached hereto as Appendix A-2 would include the revision proposed for Appendix A-1, and would also revert other fees inadvertently modified in the amendment to their prior levels. Specifically certain fines used to be identified as any amount “up to \$200” or “up to \$300” dollars. In the amendment the judicial discretion in setting the amount was removed and the fines are now an absolute amount of \$200 or \$300 depending on the offense. Additionally, A-2 requires proof of rabies vaccination as part of the penalty for a conviction for not having a vaccinated dog. The proof of vaccination is a mechanism for ensuring the animal does not pose a threat of rabies to the community.

Appendix A-1

1. Reestablishes the \$10 penalty and fine for failure to timely obtain a license.
2. All other provisions in the amendments to Appendix A adopted by Ordinance No. 2017-1 remain in full force and effect.

The result is that impoundment fees remain decreased fees from \$15.00 to \$10.00 for the 1st impoundment. However, fees are increased incrementally with each subsequent impoundment. Further, higher fines than those previously imposed by Ordinance No. 1991-6 for Second and Third Offense Neglect, Care and Maintenance; Second Offense Cruelty, and All other Fines might be assessed. The fine schedule adopted by Ordinance No. 2017 requires the strict assessment of fines for those violations in the amount of \$200 (Second Offense Neglect, Care and Maintenance; Cruelty; and All other Fines) or \$300 (Third Offense Neglect, Care and Maintenance). In contrast, the fines for these violations previously imposed contained the phrase “up to,” and did not require strict enforcement of these fine amounts.

Appendix A-2

1. Reestablishes the \$10 penalty and fine for failure to timely obtain a license.
2. Add the phrase “up to” for fines that are \$200 (Second Offense Neglect, Care and Maintenance; Cruelty; and All other Fines) or \$300 (Third Offense Neglect, Care and Maintenance). The purpose of the phrase “up to” is to grant judicial discretion to assess penalties in amounts less than \$200 or \$300. This judicial

discretion was previously included in Appendix A to Ordinance No. 1991-6 and was inadvertently omitted from Appendix A to Ordinance No. 2017-1. The removal of the discretion was proposed by staff when a full rewrite of the ordinance was proposed because it gives litigants certainty about the cost associated with a conviction.

3. Reinstates the requirement that an individual convicted of having no proof of rabies vaccination provide such proof as part of their penalty.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

ORDINANCE NO. 2017 – ____

**AN ORDINANCE AMENDING ORDINANCE NO. 1991-6, AS AMENDED BY
ORDINANCE NO. 2017-1, TO DELAY THE EFFECTIVE DATE OF THE
PROHIBITION ON TETHERING AN UNATTENDED DOG UNTIL JANUARY 1,
2018, AND TO REPLACE APPENDIX A TO ORDINANCE NO. 1991-6
ESTABLISHING FEES AND FINES**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY THAT ORDINANCE NO. 1991-6, AS AMENDED BY
ORDINANCE 2017-1, IS HEREBY AMENDED AS FOLLOWS:**

Section 1. Appendix A is hereby replaced with the document identified as Appendix A attached hereto as Exhibit 1.

Section 2. Section 10 of Ordinance No. 2017-1 is hereby replaced with the following:

“EFFECTIVE DATE. This Ordinance shall take effect thirty days after it is recorded by the County Clerk, pursuant to NMSA 1978, § 4-37-9, except that Section 3 of this Ordinance shall not take effect until January 1, 2018.”

Section 3. ORDINANCE REMAINS IN EFFECT, AS AMENDED. Except as expressly amended hereby, Ordinance 1991-6, as amended by Ordinance No. 2017-1, remains in full force and effect.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect thirty days after it is recorded by the County Clerk, pursuant to NMSA 1978, § 4-37-9.

PASSED, APPROVED, AND ENACTED this ____ day of _____, 2017, by the Board of County Commissioners of Santa Fe County.

BOARD OF COUNTY COMMISSIONERS

Henry P. Roybal, Chair

ATTESTATION:

Geraldine Salazar, Santa Fe County Clerk

APPROVED AS TO FORM:

Gregory S. Shaffer, County Attorney

APPENDIX A-1

LICENSING FEES	
Altered Dogs	\$10.00 annually
Unaltered Dogs	\$25.00 annually
Fee for Late License and/or Registration	\$10.00
Duplicate Tag	\$5.00
PERMIT FEES	
To operate a cat kennel annually	\$50.00
To operate a Kennel able to house 20 dogs or less	\$50.00
To operate all other Kennels	\$200.00
To keep an exotic animal annually	\$200.00
To keep a potentially dangerous or dangerous dog	\$200.00
IMPOUNDMENT FEES	
1 ST impoundment	\$10.00
2 nd impoundment	\$20.00
3 rd impoundment	\$40.00
4 th impoundment	\$80.00
Subsequent impoundments	The fee shall be double the previous impoundment
FEE FOR RETRIEVAL OF ANIMAL CARCASS BY ACO - \$50.00	
FINES FOR VIOLATIONS OF THIS ORDINANCE	
No License and/or Registration	\$10.00
No Rabies Vaccination	\$15.00 + proof of vaccination
Restraint of Animals/Running at Large/Trespassing/Nuisance/Disturbing the Peace	
1 st Offense in calendar year	\$25.00
2 nd Offense in calendar year	\$60.00
3 rd Offense and each offense thereafter in calendar year	\$100.00
Neglect/Care/Maintenance	

APPENDIX A-1

1 st Offense	\$50.00
2 nd Offense	\$200.00
3 rd Offense and each offense thereafter	\$300.00
Cruelty	
1 st Offense	\$50.00
2 nd Offense	\$200.00
3 rd Offense and each offense thereafter	\$300.00
All Other Fines	\$200.00

- a. In addition to the fines due to the County, the pet owner shall also be responsible for any and all boarding fees accrued at the shelter and the state spay/neuter deposit if applicable

APPENDIX A-2

LICENSING FEES	
Altered Dogs	\$10.00 annually
Unaltered Dogs	\$25.00 annually
Fee for Late License and/or Registration	\$10.00
Duplicate Tag	\$5.00
PERMIT FEES	
To operate a cat kennel annually	\$50.00
To operate a Kennel able to house 20 dogs or less	\$50.00
To operate all other Kennels	\$200.00
To keep an exotic animal annually	\$200.00
To keep a potentially dangerous or dangerous dog	\$200.00
IMPOUNDMENT FEES	
Dogs a. Per Offense b. Boarding cost (per day)	a. \$15.00 b. as set by Animal Shelter
Cats a. Per Offense b. Boarding cost (per day)	a. \$10.00 b. as set by Animal Shelter
Other Animals:	Reasonable impoundment and boarding fees as determined by the A.C.O., depending on the type of animal and care required.
FEE FOR RETRIEVAL OF ANIMAL CARCASS BY ACO - \$50.00	
FINES FOR VIOLATIONS OF THIS ORDINANCE	
No License and/or Registration	\$10.00
No Rabies Vaccination	\$15.00
Restraint of Animals/Running at Large/Trespassing/Nuisance/Disturbing the Peace	
1 st Offense in calendar year	\$25.00
2 nd Offense in calendar year	\$60.00
3 rd Offense and each offense thereafter in calendar year	\$100.00
Neglect/Care/Maintenance	

APPENDIX A-2

1 st Offense	\$50.00
2 nd Offense	Up to \$200.00
3 rd Offense and each offense thereafter	Up to \$300.00
Cruelty	
1 st Offense	\$50.00
2 nd Offense	\$200.00
3 rd Offense and each offense thereafter	Up to \$300.00
All Other Fines	Up to \$200.00

III. Action Items

2. State of New Mexico, ex rel. State Engineer v. R. Lee Aamodt et al., U.S. District Court, District of New Mexico, No. Civ. 66-06639 WJ/WPL.

a. Update on the Implementation of the Aamodt Water Rights Litigation Settlement Agreement and the Design and Construction of the Regional Water System Contemplated by the Settlement Agreement

b. Policy Direction to Staff Regarding the Following Items:

(1) Risks to Santa Fe County of State Not Fully Appropriating its Contribution to the Regional Water System; (2) Risks to Santa Fe County of the Regional Water System Not Being Substantially Complete by June 30, 2024; and (3) Design of the Regional Water System to Deliver Water to the Rest of Santa Fe County. (Public Works Department/Sandra J. Ely)

