

TOWN OF BERNALILLO

Ordinance No. 100

AN ORDINANCE PROVIDING FOR THE CARE AND CONTROL OF ANIMALS WITHIN THE TOWN OF BERNALILLO, NEW MEXICO

WHEREAS, the TOWN OF BERNALILLO, NEW MEXICO, desires to enact an Animal Control Ordinance pursuant to Section 3-18-3, et seq., N.M.S.A. (1978 Compilation); and,

WHEREAS, the Governing Body of the TOWN OF BERNALILLO, NEW MEXICO finds and declares that the health, safety and welfare of the citizens of the TOWN OF BERNALILLO, NEW MEXICO are impaired by the running at large of animals within the TOWN; and,

WHEREAS, the purpose of the Animal Control Ordinance is to protect the health, safety and welfare of the citizens of the TOWN OF BERNALILLO, NEW MEXICO, by regulating the running at large of animals within the TOWN; and,

WHEREAS, the Governing Body of the TOWN has determined it to be in the public interest, and in the interest of public health, safety and welfare of the TOWN to enact an Animal Control Ordinance;

NOW, THEREFORE, be it ordained by the Board of Trustees of the TOWN OF BERNALILLO, NEW MEXICO, that:

SECTION ONE - TITLE

This Ordinance may be cited as the "Animal Control Ordinance".

SECTION TWO - DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein. When not consistent with the context, words used in the singular include the plural. The word "shall" as used herein, is always mandatory and not merely directory. The masculine shall include the feminine.

- A. "Animal" means any vertebrate member of the animal kingdom excluding man.
- B. "Animal Control Officer" means any person designated by the Governing Body of the TOWN OF BERNALILLO as a law enforcement officer who is qualified to perform such duties under the Laws of this State.
- C. "Animal Control Center" or "Shelter" means any pound, lot, premises and/or building authorized by the Board of Trustees of the TOWN OF BERNALILLO, for the care custody [sic] of impounded animals.
- D. "Bite" means an actual puncture or tear of the skin inflicted by the teeth of an animal.

- E. "Board of Trustees" means the Governing Body of the TOWN OF BERNALILLO, NEW MEXICO.
- F. "Mayor" means the Mayor of the TOWN OF BERNALILLO, NEW MEXICO, or his designated representative.
- G. "Town of Bernalillo" means the area lined within the corporate boundaries of the Municipality of Bernalillo.
- H. "Establishment" means a place of business together with its grounds and equipment.
- I. "Enclosed Lot" means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.
- J. "Estray" means any animal found running at large beyond the boundaries of the premises of the owner.
- K. "Kennel" means any commercial establishment or premises where five or more dogs and/or cats or aggregate thereof, over four (4) months of age are boarded, kept, or maintained for any purpose whatsoever, with the exception of state inspected veterinary hospitals, pet shops, grooming parlors, and shelters.
- L. "Licensed veterinarian" is a person with a Doctor of Veterinary Medicine Degree licensed to practice in the State of New Mexico.
- M. "Nuisance" means, but is not limited to defecation, urination, disturbing the peace, emitting noxious or offensive odors or otherwise endangering or offending the well being of the inhabitants of the TOWN OF BERNALILLO.
- N. "The Owner" of an animal is a person who owns, harbors, or keeps or knowingly causes or knowingly permits an animal to be harbored or kept, or as an animal in his care, or who permits an animal to remain on or about his premises.
- O. "Person" means any individual, household, firm, partnership, corporation, company, society, association and every officer, agent or employee thereof.
- P. "Premises" means a parcel of land owned, leased or rented or controlled by a person. Such parcel of land may include a house.
- Q. "Quarantine" is to detain or isolate an animal suspected of contagion.
- R. "Run" or "Running at Large" means an animal off the premises of the owner and not with the direct control of a competent person, and is considered to be running at large.
- S. "Direct Control" means connected by secured leash or some other equivalent means of direct control.
- T. "Off the premises" means beyond the boundaries of the premises of the owner.
- U. "Stray" means any animal which shall be off and away from its home, unattended, without sufficient tags or other identification of ownership, and running at large within the TOWN OF BERNALILLO.
- V. "Vaccination" means protection provided against



rabies by inoculation by anti-rabies approved by the State Veterinarian, and administered by a licensed veterinarian for the purpose of immunizing a dog against rabies.

- W. "Vicious Animal" shall mean any animal which shall bite or in any manner attack or attempt to attack any person within the TOWN OF BERNALILLO, except any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premise, or which is provoked to attack, shall not be deemed a vicious animal.

SECTION THREE - ADMINISTRATION OF ORDINANCE

- A. ANIMAL CONTROL OFFICER:** The Mayor and/or Board of Trustees shall appoint a competent and humane person to the position of Animal Control Officer. The Animal Control Officer shall be concerned primarily with the health and safety of the citizens of the TOWN OF BERNALILLO as it is effected [sic] by animals. The Mayor and/or Board of Trustees shall have the authority to appoint additional deputies as may be necessary.
- B. ADMINISTRATION OF ORDINANCE:** The Animal Control Officer is responsible for the enforcement of this Ordinance. Reasonable rules and regulations shall be prescribed by the Mayor and/or Board of Trustees to carry out the intent and purpose of this Ordinance, pursuant to the standards created by this Ordinance.
- C. AUTHORITY OF ANIMAL CONTROL OFFICER:**
- (1) The Animal Control Officer shall have the authority to issue citations for violations of this Ordinance and to perform such other duties as prescribed herein. For the purpose of discharging his duty imposed by this Ordinance, the Animal Control Officer or his duly appointed deputies are hereby authorized and directed to enter upon any premises for the purpose of inspecting to ascertain if any provision of this Ordinance or any Laws of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals are being violated. If, however, the owner or occupant of any dwelling objects to the inspection as above-stated, a warrant for the inspection of said dwellings or premises shall be in the possession of said officer or deputies. A search or inspection warrant shall be obtained from a Court of competent jurisdiction, prior to inspection.
 - (2) Any Police Officer may impound any animal found running at large unaccompanied by or not under the control of the owner or handler, and further, the peace officer shall destroy the animal if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans. Any peace officer may kill any animal in the act of pursuing or wounding or killing poultry or attacking humans,

whether or not the animal wears a rabies tag as required by the TOWN OF BERNALILLO. There shall be no liability of the peace officer for damages or otherwise, for such killing.

SECTION FOUR - ANIMAL CONTROL AND IMPOUNDING PROCEDURES

- A. ESTABLISHMENT OF ANIMAL CONTROL CENTER OR SHELTER:** There are hereby established, one or more Animal Control Centers or Shelters which shall be located in such numbers and locations as shall be designated by the Mayor and/or Board of Trustees.
- B. IMPOUNDING ANIMALS:** It is the duty of the Animal Control Officer to take up and impound in the Animal Control Center, any stray, estray, or any animal kept or maintained contrary to this ordinance.
- C. IMPOUNDING ESTRAYS, RECORDS TO BE KEPT, REDEMPTION FEES, NOTICE REQUIRED:**
- (1) 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 twenty-four (24) hours without first reporting the possession of such animal to the supervisor of the Animal Control Center, giving his name and address, a true and correct and complete statement of the circumstances under which he took up the animal, a description of the animal, and the precise location where such animal is confined.
 - (2) It is unlawful for a person taking up an animal to fail to give the notice required above, and for any person having such animal to fail to give the notice required above, and for any person having such animal in his possession to fail or refuse to immediately surrender such animal to an Animal Control Officer upon demand thereof.
 - (3) If any stray animal is wearing a license or bears other identification, the animal shall be confined at the Animal Control Center for a period of at least seven (7) days during which time the owner shall be notified. If an stray animal is not wearing a license or other identification, the animal shall be impounded at the Animal Control Center for at least three (3) days. The supervisor of the Animal Control Center may dispose of animals impounded under this section, one (1) day after the required impoundment period and may either place the animal in an adoptive home, sell the animal, or may destroy said animal in a humane fashion, as the supervisor of the Animal Control Center may deem proper.
 - (4) No dog or cat that has been impounded by the Animal Control Center will be sold for the purpose of breeding or resale. Every dog and cat purchased from the Animal Control Center shall be spayed or neutered by a licensed veterinarian. The cost of such operations shall be paid to the TOWN OF



BERNALILLO by the person purchasing the dog or cat. Nothing in this Section shall be construed as applicable to any dog or cat returned to the owner thereof.

- (5) Any stray bovine, equine, ovine, porcine, or caprine animal which cannot be sold or is not claimed may be destroyed. The time and place where the animal is to be destroyed shall be posted for three (3) days in a public place within the TOWN OF BERNALILLO. Any other stray animal not redeemed by its owner or placed with a new owner, may be disposed of by the mayor and/or Board of Trustees, at their discretion.
- (6) The Mayor and/or Board of Trustees is hereby authorized to sell any animal that has come into the custody of the Animal Control Center under the provisions of this Ordinance and to execute a bill of sale to the purchaser. The execution of a bill of sale shall be sufficient to vest title to the animal in the purchaser.
- (7) It shall be the responsibility of an animal owner, prior to redeeming an animal legally impounded under the provisions of the Ordinance, to pay an impoundment fee, care and feeding charges, veterinary charges, and such other charges as set by the Board of Trustees of the TOWN OF BERNALILLO. Said fees may be set forth by the Board of Trustees by Resolution, duly adopted by them at a regularly scheduled meeting, and may be modified from time to time.
- (8) The Animal Control Officer shall maintain a record of all animals in his control and shall maintain these records for a reasonable period of time. The records shall contain at least, the following information:
 - (a) A complete description of the animal.
 - (b) The manner and date of its acquisition by the Animal Control Officer.
 - (c) The date and manner of its disposal
 - (d) The name and address of the purchaser of any animal.
 - (e) All fees received.

SECTION FIVE - OWNER'S DUTIES

A. RABIES VACCINATION: It is the duty of persons owning or keeping a dog or cat or any member of the canine or feline family over the age of three (3) months, to have such animals vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for a period of one (1) year and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a rabies vaccination certificate and tag, each numbered identically. 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 expiration date of the period of immunity.

- B. 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. The person who has knowledge of rabies infection or exposure to rabies shall immediately upon learning of the infection, notify the Mayor of the place where the animal is confined and turn such animal over to him upon demand. 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 the infection, notify the Animal Control Officer as to the place where the animal is confined and shall surrender said animal to the Animal Control Office upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to State Law.
- C. DOG OR OTHER ANIMAL BITING A PERSON:**
 - (1) When any person is bitten by an animal, it is the duty of such person or his parents or guardian and of the owner or keeper of the animal immediately to notify the District Health Officer, except as provided in Sub-Section (2) of this Section, the owner or keeper of the animal immediately and at his own expense, shall confine securely for ten (10) days at a place designated by the District Health Officer. Every physician shall, within twenty-four (24) hours after his first professional treatment upon a person bitten by any animal having or suspected of having rabies, report to the District Health Officer, the name, age, sex and address of the person bitten.
 - (2) If the person bitten is bitten by a dog and if the owner of the dog produces a valid and unexpired certificate of vaccination for the dog as set forth above, evidencing vaccination at least three (3) weeks prior to the bite, then the owner shall be permitted to keep the dog at his own premises for the required period of ten (10) days. Owner confinement shall be permitted by the District Health Officer if he has declared his area of jurisdiction a "rabies free area". No animal may be released from confinement except by a person designated by the District Health Officer.
 - (3) Any dog or cat bitten by an animal known or proven to be rabid, shall be killed immediately by its owner, or by peace officers, provided that any dog or cat which has been vaccinated at least three (3) weeks prior to being bitten shall be confined for ninety (90) days. At the end of the confinement period, the dog or cat shall be released if declared free of rabies by a licensed veterinarian. If, after determined by the veterinarian, the dog or cat develops rabies during the period of confinement, the owner or keeper shall have it killed and properly disposed of.
 - (4) It shall be unlawful for any person to keep any animal known to be vicious and liable to attack and/or injure



human beings, unless such animal is securely kept so as to prevent injury to any person. It shall be unlawful to keep any unvaccinated dog or cat, or any animal which has shown any symptoms of rabies. The animal shall be destroyed in a proper manner and the head shall be immediately sent to a laboratory designated by the District Health Officer.

- (5) Dogs are permitted on the streets of public places of the TOWN OF BERNALILLO only if on a secured leash, not exceeding six (6) feet in length, and under the immediate physical control of the person having custody thereof. No dog, cat or other member of the canine or feline family is allowed upon a public playground, or on the premises of the public swimming pool, or upon a school yard. The provision herein shall exclude "guide dogs" that are trained to lead blind persons.
- (6) Female dogs and cats in mating season are to be confined. Any person in control of his female dog or cat in mating season shall confine said dog or cat as to preclude other dogs or cats from either attracting or being attracted to such female animals.

SECTION SIX - PROHIBITED ACTIVITIES

- A. **ANIMALS RUNNING AT LARGE:** Any person owning or having charge, custody, care or control of any animal shall keep such animal on his premises. No animal shall be at large in or on any street, alley, sidewalk, vacant lot, public property, other unenclosed space in the TOWN OF BERNALILLO, or private property. Any animal found running at large in violation of this section is declared to be a nuisance, a menace to public health and safety, and, if observed by an Animal Control Officer, shall be taken up and impounded as provided by this Ordinance. Notwithstanding any provision herein, cats are not required to be leashed; however, cats shall be confined to the owner's property.
- B. **ENCLOSURE FOR BREEDING ANIMALS:** It is unlawful for any person to let any female animal to any male animal, except within an enclosure so arranged as to obstruct such animal to any male animal, except within an enclosure so arranged as to obstruct such animals completely from the view of all who have no proprietary interest in the breeding of such animals.
- C. **ANIMALS ON UNENCLOSED PREMISES:** It is unlawful for any person to chain, stake out, graze or herd any animal on any unenclosed premises in such a manner that such an animal may go beyond the property line.
- D. **VICIOUS ANIMALS:** It is unlawful for any person to keep or harbor a vicious animal in the TOWN OF BERNALILLO. Any person attacked by a vicious animal while on public property may use reasonable force to repel said attack. After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall destroy it humanely or turn such

animal over to the Mayor Animal Control Officer [sic] for destruction.

- E. **ANIMALS DISTURBING THE PEACE :** It is unlawful for any person to allow any animal in his possession or control to persistently or continuously bark, howl, or make noise common to their species, or otherwise to disturb the peace and quiet of the inhabitants of the TOWN OF BERNALILLO, or to keep or maintain in such a manner as to disturb by noxious or offensive odors, or otherwise endanger the health and welfare of the inhabitants of the TOWN OF BERNALILLO.
- F. **ANIMAL NUISANCES ON SIDEWALKS, PUBLIC PARKS, ALLEYS AND OTHER PLACES OPEN TO THE PUBLIC:** It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to commit any nuisance upon the sidewalk or public park; or upon the floor or wall of any common hall in any multiple dwelling; or upon any entrance way, stairway or wall immediately abutting on a public sidewalk, or upon the floor or wall of any theater, shop, store, office building or other building used in common by the public, or upon any private property other than that of the owners of the animal.
- G. **UNLAWFUL USE OF LICENSE:** It is unlawful for any person to remove any license tag from one animal to another. It shall be unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control a stolen, counterfeit or forged animal license tag, rabies vaccination certificate or other form of licensing as required under this Ordinance.
- H. **BREAKING INTO THE ANIMAL CONTROL CENTER OR ANIMAL CONTROL VEHICLE:** It is unlawful for any person to break open any pound center, or Animal Control Vehicle wherein animals are impounded by the TOWN OF BERNALILLO, or in any other way remove or assist in the removal of any animal from such pound center, or vehicle without lawful permission.
- I. **DOGS TRAINED TO ASSIST THE BLIND OR DEAF ALLOWED IN PUBLIC PLACES:** It is unlawful for any person owning, operating or maintaining any public place of business purpose to debar or exclude therefrom, any dog which has been trained to assist the blind or deaf, provided that such dog be in the company of the blind person whom it has trained to assist in conformation with N.M.S.A. 77-1-14 and 77-1-15, (1978 Compilation), or in the company of the deaf person who it was trained to assist.

SECTION SEVEN CRUELTY TO ANIMALS PROHIBITED

- 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, set upon any animal except that reasonable force may be



employed to drive off vicious or trespassing animals.

- B. WORK CRUELTY:** It is unlawful for any person to drive or work any animal cruelly.
- C. 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 proper food, drink, shade, care of shelter [sic], or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal habitually kept outside shall be provided with a structurally sound, weather-proof enclosure, large enough to accommodate the animal.
- D. ABANDONMENT OF ANIMALS:** It is unlawful for any person to abandon any animal within the TOWN OF BERNALILLO. All animals which are to be abandoned may be turned over to the Animal Control Officer for adoption or to be destroyed in a humane fashion in compliance with this Ordinance.
- E. ANIMAL POISONING:** It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substances. It is not the intent of this Section to prohibit the use of poisonous substances for the control of vermin of significance to the public health.
- F. UNCARED FOR ANIMALS:** Whenever the Mayor or Animal Control Officer find that any animal is or will be without proper care because of injury, illness, incarceration or other voluntary absence of the owner or person responsible for the care of such animal, the Mayor or Animal Control Officer may take upon the advice of a licensed veterinarian [sic], the Mayor or Animal Control Officer may take such action as called for to prevent undue pain and suffering including immediate destruction of the animal.
- G. INJURY TO ANIMALS BY MOTORISTS:** Every operator of a motor or other self-propelled vehicle upon the streets and ways of the TOWN OF BERNALILLO shall immediately upon striking, injuring, maiming or running down any animal, give such aid as is reasonably able to be rendered. In the absence of the owner, he shall immediately notify the Mayor or Animal Control Officer, 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 said person, such operator shall immediately identify himself to the appropriate authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital and notifying the Mayor or Animal Control Officer. Such animal shall be deemed an uncared for animal within the meaning stated by definitions hereinabove. Emergency vehicles are excluded from this provision.
- H. 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.

- I. KEEPING OF DISEASED OR PAINFULLY CRIPPLED ANIMALS:** It is unlawful for any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. The Mayor or Animal Control Officer may impound such diseased or painfully crippled animal in accordance with the provisions of this Ordinance. All such animals impounded may be destroyed humanely as soon thereafter as is conveniently possible. In the case of destruction of such animal, the Mayor or Animal Control Officer shall not be required to give any of the aforesaid notices provided in this Ordinance. This Section shall not be construed to include veterinary hospitals or animals under active veterinary care.
- J. ANIMAL FIGHTS:** It is unlawful for any person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.
- K. FOWL IMPOUNDING CRATES:** 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 furnishing of water to such fowl or birds at intervals not longer than twelve (12) hours. No person shall impound any wild or domestic fowl or birds in a crate, box or other enclosure, if it does not permit each fowl or bird impounded therein to stand in a naturally erect position.
- L. SONG BIRDS KILLING AND ROBBING OF NEST PROHIBITED:** It is unlawful for any person to willfully kill any song bird, or to molest or rob the nest of such bird.

SECTION EIGHT - SALE OF ANIMALS

- A. USE OF PUBLIC PROPERTY:** No animal may be kept in such numbers or in such a way as to constitute likelihood of harm to the animals themselves, to human beings or to the property of human beings, or which constitutes a public or private nuisance.
- B. RABBITS OR FOWL:** No person shall sell, offer for sale, barter, or give away, any baby rabbits or fowl under four (4) weeks of age in any quantity less than six (6). Nothing in this Section shall be construed to prohibit the raising of such 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 confinement 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.

SECTION NINE - WILD OR EXOTIC ANIMALS

A. DEFINITIONS: A “wild or exotic” animal is defined as any animal not normally considered domesticated, and shall include but not be limited to:

- 1). Class Reptilia: Order Philia (such as racers, boas, water snakes and pythons) and Order Loricata (such as alligators, caymans and crocodiles);
- 2). Following members of the Class Aves; Order Falconiforms (such as hawks, eagles, and vultures) and Subdivision Ratitae (such as ostriches, rheas, cassowaries and emus).
- 3). Class Mammalia: Order Carnivora, Family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars), except commonly accepted domesticated cats; the Family Canidae, (such as wolves, dingos, coyotes and jackals), except domesticated dogs; Family Nustelidae (such as weasels, martins, minks, badgers); Family Procynnidae, (raccoon), Family Ursidae (such as bears), and Order Marsupialia, (such as kangaroos and common opossums), Order Edentata (such as sloths, anteaters, and armadillos), Order Proposcidea (elephants), Order Primata (such as monkeys, chimpanzees and gorillas), Order Rodenta (such as porcupines) and Order Ungulata (such as antelope, deer, bison and camels).

B. PROHIBITED EXOTIC ANIMALS:

- 1). Any exotic animal or species prohibited by Federal and/or New Mexico Law.
- 2). Any exotic animal or species when kept in such numbers or in such a way as to constitute likelihood of harm to the animals themselves, to human beings or to the property of human beings, or which constitutes a public or private nuisance.
- 3). Bats.
- 4). Skunks, except those owned by individuals on the effective date of this Ordinance, and provided that an Exotic Animal Permit is obtained for such skunks within sixty (60) days of such effective date.

C. EXCLUSIONS: Notwithstanding the above, a valid zoological park, veterinary hospital, humane society, shelter, public laboratory, circus, sideshow, educational or scientific facility, provided protective devices adequate to prevent such animal from escaping or injuring the public are provided, are excluded from the provisions of Subsections A, B, C, D, E, F, and G of this Section.

D. PROCEDURES FOR APPLYING FOR AND RENEWING AN EXOTIC ANIMAL PERMIT:

- 1). No person shall receive, purchase, own or keep any exotic animal without first applying to and receiving from the Mayor or Animal Control Officer, a permit to do so. Notwithstanding the above, those persons in possession of exotic animal(s) when they become residents of the TOWN OF BERNALILLO

in the future or who possesses said animals when this Ordinance becomes effective have a sixty (60) day period in which to apply for said permit before the penalty provisions or [sic] this Ordinance become applicable.

- 2). No person shall apply for an exotic animal permit without first obtaining any required State or Federal permits.
- 3). The application for a permit shall contain the name of the applicant, his address, the address of the proposed location of the exotic animal(s), which if different from the applicant’s plan for keeping the exotic animal(s), which shall include the species of animal, the number of individuals of each species, and description of the housing facilities, a list of individuals qualified to care for the animal(s) desired or that have agreed to advise or assist the applicant in the proper care and treatment to the said animal and who would be willing to recommend the person applying for the permit, and the list of publications which the applicant has studied in order to qualify for a permit for the said animal(s).
- 4). Upon receipt of the application, the Mayor or Animal Control Officer shall inspect the facilities where the animal(s) is to be housed and shall make whatever other investigation he deems necessary.
- 5). If the Mayor or Animal Control Officer approves the application, the Twenty Five Dollar (\$25.00) initial exotic animal permit fee shall be paid and the permit issued. Whenever, in any given permit year, there are new exotic animals in a collection due to the reproduction of members replaced, the new animals do not require an additional permit during the year, provided the Mayor or Animal Control Officer is notified in writing of the new exotic animal(s) within thirty (30) days of acquisition. Whenever a new exotic animal or collection is added, a new permit must be secured and a new fee shall be due and payable at the time is [sic] issuance of the permit and shall be prerequisite of such issuance.
- 6). Renewal of the Exotic Animal Permit. The Exotic Animal Permit shall be valid for one (1) year, and must be renewed within sixty (60) days thereafter; and, if inspection is required prior to the renewal of the Exotic Animal Permit. The annual fee of renewal is Ten Dollars (\$10.00). If, during the preceding year, more than one initial permit has been issued an applicant, the former permits may be consolidated so that only one renewal permit is required: provided, however, that the renewal date for the consolidated permit shall be the date of the issuance of the earliest initial permit. The Animal Control Officer may deny the application for the renewal for cause.
- 7). Health Requirements. Individuals authorized to



acquire an exotic animal must, within fourteen (14) days of acquisition, submit to the Animal Control Officer, a health certificate from a qualified veterinarian, stating that the animal is in good health and has been vaccinated in accordance with applicable time schedules.

E. HOUSING FACILITIES AND CARE REQUIRED FOR EXOTIC ANIMAL PERMIT:

- 1). Housing shall be sufficiently spacious, ventilated and temperature controlled and shall be kept clean and sanitary at all times.
- 2). The exotic animal(s) shall be provided with proper food, water, and attention.
- 3). The exotic animal(s) shall be kept and cared for in such a way as to not endanger the safety of any person and property.
- 4). The exotic animal permittee must notify the Mayor or Animal Control Officer when changing his residence or location of the exotic animal(s), or selling or otherwise disposing of the exotic animal(s) for which the permit was issued.

F. INSPECTION: Permits issued pursuant to the provisions of this Ordinance shall be surrendered for inspection upon the request of the Mayor or Animal Control Officer. The premises on which an exotic animal is maintained shall be open at any reasonable hour and in a reasonable manner for inspection by the Mayor or Animal Control Officer.

G. IMPOUNDMENT: For failure to have a permit in advance of obtaining an exotic animal or to renew said permit within sixty (60) days of the expiration date, or upon suspension of an exotic animal permit, the Mayor or Animal Control Officer shall have the authority to enter the premises where the exotic is kept, at any reasonable hour, and to impound said animal. The animal shall be surrendered upon demand of the Mayor or Animal Control Officer. Procedures for the reclamation and destruction of impounded exotic animals shall be followed pursuant to the provisions of the Ordinance and for penalties pursuant to this Ordinance. The exotic animal may be returned to its owner if the problem for which it was impounded is corrected within the period allotted by this Ordinance, and all penalties are paid.

H. PENALTIES: The penalties for this Section of the Ordinance are those outlined in SECTION TEN of this Ordinance.

I. ANIMALS EDUCATIONAL: Upon application to the Mayor or Animal Control Officer, the keeping of these prohibited animals may be permitted for educational or scientific purposes, providing there is no conflict with State or Federal regulations. In lieu of licensing each animal, a special animal permit shall be obtained in accordance with this Ordinance.

J. ANIMAL EXHIBITS: No person shall keep, conduct or operate within the TOWN OF BERNALILLO, any traveling animal show, petting zoos, circus, pony rides,

animal acts or miscellaneous animal or reptile exhibits without first obtaining a special animal permit from the Mayor or Animal Control Officer.

Each application for a special animal permit shall be in writing upon a form to be furnished by the Mayor or Animal Control Officer and shall contain such information as the Mayor or Animal Control Officer shall require. The fee for each special animal permit shall be Twenty Five Dollars (\$25.00). All special permits issued by the Mayor or Animal Control Officer shall be for a specific period of time, but not to exceed one (1) year, unless revoke [sic] or suspended, or unless the holder of such permit changes the location of his place of business, or sells, assigns, transfers or otherwise disposes of such business or his interest therein.

Upon the filing of each application hereunder, either for an original permit or renewal thereof, the Mayor or Animal Control Officer shall make such investigation as he deems proper. The mayor or Animal Control Officer shall then issue a permit to the applicant if it is found that:

- 1). The animals, or the conduct or operation of the business for which the permit is requested will not constitute a menace to the health, peace or safety of the community.
- 2). The premises and establishment where animals are to be kept is maintained in a clean and sanitary condition, that animals will not be subject to needless suffering, unnecessary cruelty or abuse; and, the applicant has not had a permit revoked within one (1) year prior to the date of application.

SECTION TEN - PENALTY CLAUSE

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding Three Hundred Dollars (\$300.00) and/or imprisonment for a period of not exceeding ninety (90) days, except that failure to acquire an annual license as required by this Ordinance shall be punished by a fine of, at minimum, Ten Dollars (\$10.00). Each day this Ordinance is violated shall be considered a separate offense.

SECTION ELEVEN - ADDITIONAL OWNER DUTY LICENSE REQUIRED

- (1). Any person owning, possessing or harboring any dog or cat three (3) months of age or over shall obtain a license for each animal. Written application for such license shall be made on such forms as directed by the Mayor or Animal Control Officer and shall state the name, breed, color, age, sex of such animal, and any other information deemed necessary by the Mayor or Animal Control Officer. A current rabies vaccination certificate shall be presented at the time of the application for the license. Upon payment of a license fee the Mayor or Animal Control Officer shall issue a license certificate and tags for each animal. In the event a tag



is lost, replacement tag costing One Dollar (\$1.00) shall be purchased from the Animal control Center. Effective the first of July 1, 1985 all licenses shall be issued concurrently with the rabies vaccination and expire one (1) year from the date of such vaccination. The rabies tag shall also serve as the license tag. Spayed or neutered dogs or cats, shall be eligible for a license which is valid for a lifetime of the animal. Dogs or cats that have been certified as a surgical risk for spaying or neutering shall also be eligible for the lifetime license upon presentation of a certificate from a licensed veterinarian stating that such an operation would endanger said animal's life. The lifetime license shall continue to be valid as long as said animal has a current rabies vaccination certificate, as required by this Ordinance.

- (2). A current license tag shall be affixed to the licensed dog at all times in a reasonable manner unless the licensed dog is being kept in an approved kennel, veterinarian hospital, is appearing in an approved show, or is being trained, proof that the person who is training the dog shall have it in his personal possession, one valid tag for each dog and shall immediately display such upon request by Animal Control Center personnel or regular law enforcement officer.
- (3). Animals belonging to non-residents who do not keep said animals within the corporate limits of the TOWN OF BERNALILLO for thirty (30) consecutive days shall be exempt from this Section; provided, however, that all the other provisions of this Ordinance must be complied with.
- (4). For each non-neutered or non-spayed dog or cat, the annual license fee shall be Four Dollars (\$4.00). All owners or keepers shall have their animals licensed:
 - (a) Within thirty (30) days after the applicant has acquired such animal; or,
 - (b) Within thirty (30) days after such animal has attained the age of three (3) months; or,
 - (c) Within thirty (30) days after the applicant has established residence in the TOWN OF BERNALILLO.

The owner or keeper shall be responsible for proof that the above conditions have been met. Provided, however, that for senior citizens and/or recipients of public assistance, the license fee for nonspayed and non-neutered dogs and cats shall be Two Dollars (\$2.00). To qualify as a senior citizen and/or recipient of public assistance, the person must present proof of age to be sixty-two (62) years or older or a current public assistance medical card. For each neutered or spayed dog or cat, and for each dog or cat which has been certified as a surgical risk, the lifetime license fee shall be Four Dollars (\$4.00). The lifetime license may be issued only upon presentation of a certificate from a licensed veterinarian stating that said animal has been neutered or spayed or that spaying or neutering would be a surgical risk would [sic] endanger the life of the animal. The license fee shall not apply to dogs trained

to assist the blind or deaf.

SECTION TWELVE - SAVINGS CLAUSE

If any of the Sections, Subsections, clauses or phrases of this Ordinance are, for any reason, held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not thereby be effected, since it is the express intent of the TOWN OF BERNALILLO to pass each Section clause, phrase, paragraph and word separately.

SECTION THIRTEEN - REPEALER CLAUSE

Ordinance No. 16, inactive and adopted by the Board of Trustees of the TOWN OF BERNALILLO on December 8, 1948, and other Ordinances and parts thereof that are solely related to animals or the control of same, which are in conflict herewith, are hereby repealed.

SECTION FOURTEEN - REVIVER CLAUSE

In the event that this Ordinance is, for any reason invalid, then the TOWN OF BERNALILLO Ordinance No. 16, pertaining to the licensing of animals and other Ordinances repealed by this Ordinance shall be automatically revived.

SECTION FIFTEEN - EFFECTIVE DATE

The effective date of the Ordinance shall be July 1, 1985.

**ORDINANCE NO. 146
AN ORDINANCE AMENDING ANIMAL
CONTROL ORDINANCE NO. 100**

WHEREAS, the TOWN OF BERNALILLO, NEW MEXICO, enacted an ordinance providing for the care and control of animals within the TOWN OF BERNALILLO, being Ordinance No. 100; and,

WHEREAS, the TOWN OF BERNALILLO, also enacted Ordinance No. 62 adopting the Model Criminal Code Ordinance on General Offenses, Chapter Seven of which also provides for animal control; and,

WHEREAS, it would be more efficient that the provisions of Chapter Seven of the Model Criminal Code Ordinance on General Offenses that are not now covered by Ordinance No. 100 be included therein.

NOW, THEREFORE, be it ordained by the Governing Body of THE TOWN OF BERNALILLO, NEW MEXICO, that:

SECTION ONE

Ordinance No. 100 of THE TOWN OF BERNALILLO is amended to include new sections Sixteen (A) and Sixteen (B), Section 17, Section 18 and to amend Section Five:

SECTION FIVE - OWNER'S DUTIES

SECTION FIVE (C) (2) IS AMENDED AS FOLLOWS:

An animal that has bitten a person shall be confined securely at a place and for a period of time deemed necessary by



the Mayor or his designee. The owner of the animal shall be responsible for and bear the cost of confinement. The Mayor or his designee may consent to confinement on the owner's premises only if the animal has had a rabies vaccination within the year prior to the bite. The confinement premises shall be inspected and approved for such purpose by the Mayor or his designee. The owner of the animal shall enter into an indemnity agreement on a form approved and prescribed by the Mayor or his designee before consent may be given for such confinement.

SECTION SIXTEEN (A) - KENNELS

- (1) **RESTRICTIONS:** No person, group of persons, or business entity in the municipality may own, keep or harbor more than 5 dogs or cats in any combination thereof, more than three months of age or older without obtaining a kennel license.
- (2) **LICENSE REQUIRED:** Persons operating a kennel must obtain a non-transferable kennel license, which shall be posted in a conspicuous place in the kennel. A kennel license shall expire on December 31 of each year and shall be renewed by February 1 of the following year. No kennel license may be issued without an inspection certificate issued by the Animal Control Officer. The annual kennel license fee shall be \$35.00.
- (3) **FACILITIES AND CARE APPLICABLE TO KENNEL LICENSE:** Animal housing facilities must be structurally sound and shall be constructed of non-toxic materials. The facility shall be maintained in good repair and kept clean and sanitary at all times, so as to protect animals from disease and injury. Animals maintained in pens, cages, or runs for periods exceeding 24 hours must be provided with adequate space to prevent overcrowding and to permit an adequate exercise according to the requirements of the species. Indoor housing shall be provided with adequate ventilation and temperature control to provide for the animals' comfort and health. Sufficient lighting shall be provided by either natural or artificial means. If outside housing is provided, it must be sufficient to protect the animal from sunlight, rain, snow, or cold weather detrimental to the animal's health. Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals, and debris. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards. Except where indicated for health, animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily and diseased or injured animals must be provided with veterinary care.
- (4) **INSPECTION:** The Animal Control Officer or his agent shall be permitted to enter, at any reasonable time, for the purpose of inspecting or re-inspecting any kennel or pet shop to determine compliance with this ordinance.

- (5) **VIOLATIONS, SUSPENSIONS AND REVOCATIONS:** A kennel license may be denied, suspended or revoked by the Animal Control Officer upon a determination that the operator of the kennel or pet store is in violation of this ordinance. An opportunity for a hearing on any denial, suspension, or revocation shall be provided at a time and place determined by the Governing Body. Based upon the record of such hearing the Governing Body shall make a finding and shall sustain, modify, or rescind the action considered at the hearing. Any owner of a kennel or pet store whose license has been suspended or revoked may make application for reinstatement of the license. If following inspection, the applicant has complied with the requirements of this ordinance, the license shall be reinstated.
- (6) **EXCEPTIONS:** This section shall not apply to and shall not be construed to require a kennel license for:
 - (a) A veterinary hospital or clinic operated by a licensed veterinarian.
 - (b) A bona fide research institution using animals for scientific research.
 - (c) A publicly owned animal control center or shelter.
 - (d) A bona fide animal shelter operated by an organized humane society.

SECTION SIXTEEN (B) - DOMESTIC LIVESTOCK

- (1) **RESTRICTIONS:**
 - (a) All domestic livestock shall be cared for according to accepted livestock management practice and in such manner as to not create a public nuisance.
 - (b) All domestic livestock shall be kept in a secure pen or enclosure which shall not be less than one hundred yards from any inhabited dwelling, excluding the home of the owner of such animals, or currently used food service establishment, church or school.
 - (c) The person in possession or control of a pen or enclosure for domestic livestock shall keep it in such a manner as to control offensive odors, insect breeding and any other conditions affecting the public health.
- (2) **RUNNING AT LARGE UNLAWFUL:**
 - (a) It is unlawful for any domestic livestock, including, but not limited to, neat cattle, horses, mule, donkeys, burros, swine, goats, sheep or fowl, or other animal, to be turned loose, abandoned or to run at large within the limits of the municipality; or for any such animal to be tethered that it may roam across or into any street or public place in said municipality; and it is unlawful for any person to herd or detain such animal in any street, avenue, alley or other public place in said municipality.
 - (b) The Animal Control Officer shall take up and impound every animal found running at large in violation of this ordinance and shall provide proper care and sustenance for every such animal



impounded at the expense of the municipality.

- (c) Within twenty-four hours after any animal has been impounded, the Animal Control Officer shall notify the owner, possessor or keeper of such animal, that the animal has been impounded. If the owner, possessor or keeper of such animal, is not known or if his address cannot be determined, the Animal Control Officer shall cause to be posted in at least two conspicuous public places in the municipality for (5) consecutive days a notice of impoundment with a description of the animal.
- (d) Any owner, possessor or keeper of an animal desiring to redeem such animal from impoundment shall pay the municipality the sum of \$40.00 dollars as an impoundment fee for the first impoundment, \$50.00 for the second impoundment, \$60.00 for the third impoundment, and \$75.00 for each impoundment thereafter for each animal, together with the sum of (\$5.00) for each day of impoundment plus the actual cost of feeding, boarding, and watering each animal impounded.
- (e) Any person who shall break or in any manner, directly or indirectly, aid in breaking into the enclosure in which any animal is impounded shall be guilty of a misdemeanor.
- (f) Any person who shall willfully or intentionally hinder or obstruct the Animal Control Officer in the discharge of his official duty under the provisions of this ordinance, shall be guilty of a misdemeanor.

(3) SALE OF UNREDEEMED ANIMALS:

- (a) If any animal impounded shall remain unredeemed for five days after being impounded, the Animal Control Officer shall give five days notice of the time and place when said animal will be sold. Said notice shall be posted in at least two conspicuous public places in the municipality for (5) consecutive days.
- (b) At any time before the sale thereof, any animal impounded may be redeemed upon the payment of the penalties and costs provided for in this ordinance.
- (c) The day fixed for the sale of any unredeemed animals shall be the sixth day after the posting of the notice of the sale, except when the same would fall on Sunday, election day or any legal holiday in which case the day of sale will be the next succeeding day. At said sale, the Animal Control Officer shall sell for cash to the highest bidder, the animal advertised, and shall furnish the purchaser a Bill of Sale signed by the Mayor and the municipal clerk.
- (d) The Animal Control Officer shall keep records of all sale transactions, turn over all money received to the Treasurer of the municipality, and furnish a monthly report to the Governing Body of the municipality showing all animals impounded and all animals shall be listed individually showing the

amount of money collected on each, as well as the disposition of each case.

SECTION SEVENTEEN

The TOWN OF BERNALILLO by passage of a Resolution may establish a penalty assessment schedule for violations of provisions of this Ordinance.

SECTION EIGHTEEN

Any other Ordinances and parts thereof that are solely related to animals or the control of same, which are in conflict herewith, are hereby repealed. In the event that this Ordinance is, for any reason invalid, the TOWN OF BERNALILLO Ordinances pertaining to the licensing of animals and other Ordinances repealed by this Ordinance shall be automatically revived.

PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF THE TOWN OF BERNALILLO, NEW MEXICO, THIS 24 DAY OF OCTOBER, 1994.

