

BOSQUE FARMS ANIMAL CONTROL ORDINANCE

SECTION 8-1

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8-1-1 SHORT TITLE AND LEGISLATIVE INTENT.

This Ordinance shall be known and may be cited as the Bosque Farms Animal Control Ordinance. It is the intent of the Governing Body that the enactment of this Ordinance will establish procedures that will:

1. Assist in providing control of animals;
2. Protect residents from annoyance and injury by animals;
3. Protect animals from neglect and abuse;
4. Establish certain fees related to the ordinance;
5. Prescribe penalties for violation of this Ordinance; and
6. Provide for the safety, preserving the health, promoting order, comfort and convenience of the municipality and its inhabitants.

The Governing Body further finds that it is not in the best interest of the residents of the Village for owners or keepers of dogs to allow dogs to run at large. It is noted by the Governing Body that the enforcement of this Ordinance may be delegated and/or shared upon the joint cooperation with Valencia County and/or Municipalities within the area defined in the form of a Joint Powers Agreement(s) or other working agreement or upon other sources of funding(s) other than are currently available.

8-1-2 DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein "shall" is always mandatory and not merely directory, the masculine includes the feminine.

- A. "Abandon" means to withdraw protection, support or help with the intent of never again claiming right or interest in.
- B. "Adoption" means to take by choice and assume responsibility for proper care in accordance with this Ordinance.
- C. "Animal" means any vertebrate member of the animal kingdom excluding the human species and those animals under the jurisdiction of the N.M. Department of Game & Fish.
- D. "Animal Control Center (Shelter)" means any establishment authorized by the County of Valencia for the care and custody of impounded animals.
- E. "Animal Control Officer" means the employee(s) of

the Village who has primary responsibility of enforcement of the Animal Control Ordinance.

- F. "Bite" means any puncture, tear, or wound of the skin inflicted by the teeth of an animal.
- G. "Commission" means the Governing Body of the County of Valencia.
- H. "Competent Person" means a person having the capacity to function in appropriate way.
- I. "Confined" means restriction of an animal at all times by an owner or keeper to an escape proof building or other enclosure away from other animals and the public.
- J. "Court" means the Municipal Court of the Village of Bosque Farms, New Mexico.
- K. "Dog" means any various animals of the family Canis familiaris.
- L. "Governing Body" means the Mayor and Council of the Village of Bosque Farms, New Mexico.
- M. "Impoundment" means the taking into custody a stray, vicious animal or an animal alleged to be vicious, by an animal control officer or municipal police officer, and the detention of the animal in an animal control center.
- N. "Kennel" means any establishment or premises where dogs or cats are boarded or kept as a business enterprise.
- O. "Livestock" for the purpose of this ordinance is defined as any cow, dog, cat, domestic fowl, bird, sheep, swine, goats, horses and any other domestic animal.
- P. "Nuisance" means, but is not limited to, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offensive to the environment or people of the Village of Bosque Farms.
- Q. "Owner or Keeper" means a person who owns, has, keeps, harbors, or permits an animal to remain in, on or about his premises.
- R. "Peace Officer" means a civil officer, certified as a peace officer by the New Mexico Law Enforcement Academy, whose duty it is to preserve the public peace.
- S. "Premises" means any parcel of land and the structure(s) thereon.
- T. "Quarantine" means the containment of all animals specified by order of the District Health Officer or the Animal Control Officer upon the private premises of the owner, or under restraint by leash, or within a closed cage or paddock and shall include other measures ordered by the District Health Officer or the Animal Control Officer to control the spread of rabies.
- U. "Running at Large" means to be free of physical restraint or control of a competent person beyond the premises of the owner or keeper.
- V. "Stray Animal" means any animal running at large and unattended.
- W. "Vicious Animal" means any animal which shall bite or in any manner attack or attempt to attack any person or livestock on private or public property within the

Village, except, that any animal that is provoked to attack any person who is unlawfully upon its owner's or keeper's premises, and attacks that person, shall not be deemed a vicious animal.

- X. "Village" means the Village of Bosque Farms, New Mexico.
- Y. "Wild Animal" means any animal of a species that in its natural life is wild by nature and cannot normally be domesticated or controlled.
- Z. "Working Day" means, for the purpose of this Ordinance, Monday through Friday except when these days are observed as holidays.

8-1-3 ANIMAL CONTROL OFFICER.

Subject to the approval of a majority of all members of the Governing Body, the Mayor shall appoint and designate the employee(s) to perform and carry out the duties and responsibilities to the position of Animal Control Officer(s) who shall be concerned primarily with the health and safety of the citizens of the Village as affected by this ordinance. Such person(s) appointed as Animal Control Officers(s) shall normally be the Animal Control Officer(s) of Valencia County, but may also be an employee(s) of the Village of private contractor(s).

8-1-4 ADMINISTRATION OF ORDINANCE.

- (a) The Village Administrator is responsible for the enforcement of this Ordinance. The Animal Control Officers(s) is given primary responsibility for the enforcement of this ordinance. In the event of the Animal Control Officer not being on duty, the regular Police Officer (s) on duty will assume primary enforcement responsibility of this ordinance as defined herein but shall be limited to issuing of warnings and citations and investigation of complaints.
- (b) Reasonable rules and regulations may be prescribed by the Governing Body to carry out the intent and purpose of this Ordinance pursuant to standards created by this Ordinance. There shall be no liability on the part of any Bosque Farms Animal Control Officer(s) or person(s) acting pursuant to this ordinance in the execution of their assigned duties.

8-1-5 ANIMAL CONTROL AUTHORITY.

- (a) Authority of the animal Control Officer and Municipal Police Officer to enter premises.
 - 1. For the purposes of discharging their duties imposed by this chapter, the animal control or municipal police officers are authorized to enter upon any occupied premise if they have reasonable cause to believe a violation of this ordinance has been committed; or if any provisions of this ordinance or any of the law of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals are being violated.
 - 2. If, however, the owner or occupant of any dwelling or premises objects to inspection, as stated in this

section, a warrant for the inspection of the dwelling and premises shall be obtained and presented by the animal control officer or municipal police officer. A search warrant will be obtained from a court of competent jurisdiction prior to inspection, when permission is denied.

- (b) Authority of animal control or municipal police officer to enter private land. For the purpose of discharging their duties imposed by this chapter, the animal control officer, his duly appointed deputies and municipal police officers are authorized and it is declared to be their duty to enter upon private land for the purposes of hot pursuit or for impounding any animal found running at large.
- (c) Any Animal Control Officers(s) shall have the authority to issue a warning citation and/or citations(s) for violation of this ordinance and to perform such other duties as are prescribed herein, for the purpose of discharging his duty imposed by this ordinance.

8-1-6 IMPOUNDING ANIMALS - ANIMAL SHELTER.

- (a) An animal shelter is now provided by Valencia County for the purpose of boarding and caring for animals impounded under the provision of this Ordinance. It shall be the duty of the Animal Control Officer(s) to take up and impound or cause to be impounded any stray animals and/or any animals kept in violation of this Ordinance within the area defined as the Village of Bosque Farms. Any person who retains possession of any animal of which that person is not the owner shall immediately notify the Animal Control Officer of the possession of the animal giving that person's name and address and a true and complete statement of the circumstances under which that person detained the animal along with the precise location where the animal is confined. It is unlawful for any person to confine an animal without notice to the proper authorities and for any person having such animal and refuses to immediately surrender such animal to the Animal Control Officer or proper authority upon demand.
- (b) A stray animal shall be impounded not more than three working days. Following the impoundment period specified in this section, if the stray has not been redeemed by its owner or his agent it shall be destroyed in a humane manner. If notice is given to the owner or his agent, as specified, or if the animal is held for the period specified in this section, then the village or its duly authorized agents shall not be liable to the animal's owner or his agent for the adoption, sale or destruction of the animal impounded.
- (c) Record Keeping. The Animal Control Officer, upon impounding or receiving any animal shall register such animal by entering the species, breed, color, and sex of the animal and the time and place such animal was apprehended, into the registry kept for this purpose. The Animal Control Officer shall maintain a record of all animals which have been in his control and shall

maintain these records for a reasonable period of time, not less than two years. The records shall contain at least the following information.

1. A complete description of the animal, including information of the registry described above.
 2. The manner and date of its acquisition by the Animal Control Officer.
 3. The date and manner of its disposal.
 4. The name, address, and phone number of the person redeeming the animal.
 5. All fees received.
- (d) It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this Ordinance to pay all Valencia County fees to the Village and redeem said animal within the time limits and as per the procedure set by Valencia County Animal Control Center. The Village is not responsible for any actions and/or any damages of any type or nature, which Valencia County or Valencia County Employees or any representatives/agents may or may not take regarding impounded animals.
- (e) Fees charged by Bosque Farms. The Village of Bosque Farms may set and charge a fee separate from any fees and/or charges allocated by Valencia County as outlined herein. Any fees established by the Village of Bosque Farms will be paid at the Village Office and must be paid before release of said animal by Valencia County animal Control Shelter. Such animal(s) shall not be released by the Valencia County Animal Control Center until a proper release form issued by the Village of Bosque Farms is presented to the Valencia County Animal Control Center. Fees to be charged by the Village are as follows: For offenses occurring during Village normal business hours:
1. First offense - Fifteen dollars (\$15.00) impound fee payable to Village of Bosque Farms, plus any Valencia County impound fee. (Rev 8/01)
 2. Second Offense - Twenty-five dollars (\$25.00) impound fee payable to Village of Bosque Farms, plus any Valencia County impound fee.
 3. Third Offense and subsequent offenses - Thirty five dollars (\$35.00) impound fee payable to Village of Bosque Farms, plus any Valencia County impound fee.
- For offenses occurring outside Village normal business hours, including weekends and holidays observed by the Village:
1. First offense - Thirty dollars (\$30.00) impound fee payable to Village of Bosque Farms, plus any Valencia County impound fee.
 2. Second Offense - Fifty dollars (\$50.00) impound fee payable to Village of Bosque Farms, plus any Valencia County impound fee.
 3. Third Offense and subsequent offenses - Seventy dollars (\$70.00) impound fee payable to Village of Bosque Farms; plus any Valencia County impound fee. Rev 8/01

8-1-7 SEVERABILITY

If any section, subsection, paragraph, or phrase, or other portion of this ordinance shall be declared invalid for any reason whatsoever by a Court of competent jurisdiction, then such decision shall not effect the validity or enforceability of the remaining portions of this ordinance.

SECTION 8-2 ANIMAL CONTROL ORDINANCE

8-2-1 VACCINATION OF DOGS AND CATS REQUIRED-CERTIFICATES AND TAGS.

Any person who owns or keeps a dog or cat over the age of three (3) months in the Village, as prescribed by state law shall have the dog or cat vaccinated for rabies as prescribed by regulation of the health and environment department. All antirabies vaccine shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially numbered certificate and tag for each such administration.

8-2-2 VACCINATION OF DOGS AND CATS BROUGHT INTO STATE.

Any dog or cat brought into the state shall be securely confined by the owner or keeper until vaccinated against rabies, which vaccination shall be administered within one (1) week after entry into the Village, as prescribed by state law unless the owner or keeper has a certificate of vaccination issued by a veterinarian in another state or foreign country and such vaccination conforms to the requirements of this state.

8-2-3 NOTICE TO HEALTH OFFICER OF ANIMAL BITE; CONFINEMENT; ANIMAL CONTACT WITH RABID ANIMALS; ANIMAL RABIES QUARANTINE; PROCEDURE FOLLOWING DEATH FROM RABIES.

The Health and Environment Department of the State prescribes regulations for the reporting of animal bites, confinement and disposition of rabies-suspect animals, rabies quarantine and the disposition of dogs and cats exposed to rabies, in the interest of public health and safety.

8-2-4 VICIOUS ANIMALS; RABID OR UNVACCINATED DOGS AND CATS; FAILURE TO DESTROY.

- A. It is unlawful and contrary to this ordinance for any person to keep any animal known to be vicious and liable to attack or injure human beings unless such animal is securely kept to prevent injury to any person.
- B. It is unlawful and contrary to this ordinance to keep any unvaccinated dog or cat or any animal with any symptom of rabies.
- C. It is unlawful and contrary to this ordinance to fail or to refuse to destroy vicious animals or unvaccinated dogs or cats with symptoms of rabies as prescribed by regulation of the health and environment department for the protection of public health and safety.

8-2-5 FAILURE TO KILL PENALTY

It is the duty of any person who is the owner or keeper of any

animal (s) which has been deemed to have acted contrary to this ordinance, has failed and/or refused to destroy such animal (s) as provided by this ordinance shall subject such owner or keeper to a fine of ten dollars (\$10.00) and costs, and each day's failure to comply is a separate offense.

8-2-6 GUIDE DOGS LEADING BLIND-PENALTY FOR REFUSING ADMITTANCE IN PUBLIC PLACES OR FOR CHARGING AN EXTRA ADMISSION.

No person shall debar a guide dog that is trained by a recognized guide dog school to lead a blind person in any place of public accommodation such as a restaurant, hotel, hospital, store, common carrier or any place of public entertainment, such as a theater, swimming pool or any place of public amusement, provided such dog is under the control of a blind person. Blind persons shall not be required to pay any additional charges for their guide dogs, but shall be liable for any damage done to any property by their dogs. Any person violating this section shall be guilty of a misdemeanor and subject to a fine or not more than twenty-five dollars (\$25.00).

8-2-7 VICIOUS ANIMAL-DESTRUCTION PERMITTED

- A. Any peace officer may destroy a vicious animal if it is in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans which will include pursuing, stalking or attempting to attack a human.
- B. Any peace officer may destroy any vicious animal if it is in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans which will include pursuing, stalking, or attempting to attack a human, whether or not the vicious animal wears a rabies tag required by NMSA Section 77-1-9 and Section 77-1-10 (1978 Comp.). There shall be no liability of the peace officer or person (s) acting pursuant to this ordinance in damages or otherwise for such killing.
- C. Dogs killing or injuring humans, livestock or other dogs which do not occur in the presence of the animal control officer or a municipal police officer then the following provisions apply:
 1. The owner or keeper of any dog which kills or injures any human, livestock, or other animals shall be liable for all damages that his dog has caused to the owner of the livestock, or animal which was killed or injured.
 2. Any person having knowledge that a dog has killed or injured humans, livestock, or any other animal, shall report this to the animal control officer or municipal police officer. Upon receiving such a complaint, the animal control officer or the municipal police officer having reason to believe that the dog did injure or kill livestock, or other animals, the dog shall be impounded. A complaint shall be filed an hearing shall then be had within a reasonable time to determine whether the dog did in fact kill or injure livestock, or another animal.
 3. Should the court determine that the dog in question did

in fact kill or injure any human, livestock, or another animal it shall order the animal control officer to have the dog killed in a humane manner.

- D. Killing of Dogs Running in Packs. The animal control officer or municipal police officer are authorized to destroy in a humane manner any stray dogs within the village, which are running in packs who are potentially dangerous to humans, other animals or livestock.

8-2-8 UNLAWFULLY PERMITTING LIVESTOCK UPON PUBLIC HIGHWAY

It is unlawful for any owner or keeper of livestock negligently to permit his livestock to run at large upon any part of a public highway which is fenced on both sides thereof. A motorist using unfenced roads or highways which have livestock warning signs shall use due care to avoid collisions with livestock.

8-2-9 ABANDONMENT OF ANIMALS

It is unlawful for any person to willfully abandon any animal (s) within the Village limits.

8-2-10 CARE AND MAINTENANCE

It is unlawful for any owner or keeper to fail to provide animal with proper food, drink, shelter, or otherwise treat the animal in a cruel or inhumane manner.

Any dog (s) outside the premises of its owner or keepers property boundaries is required to be under the control and care of the owner or keeper at all times.

8-2-11 ANIMAL FIGHTS

It is unlawful for any person to promote, stage, hold, conduct, carry on or attend any game, exhibition, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animals or to train and/or promote any of the activities in this section.

8-2-12 CRUELTY OR PHYSICAL ABUSE OF ANIMALS

It is unlawful for any person to act cruelly toward an animal. Cruelty to animals may be defined as but not limited to:

- a) Torturing, tormenting, depriving of necessary substance, cruelly beating, mutilating, cruelly killing or over-driving any animal or to keep any animal under unsanitary or unhealthy conditions.
- b) Cruelly driving or working any animal when such animal is unfit for labor.

Reasonable force employed to drive off trespassing animals shall not be considered as cruelty to animals.

8-2-13 WILD ANIMALS PROHIBITED

No person shall keep any animal which is defined as wild, except those animals kept in zoological park, veterinary hospital, animal shelter, public laboratory, circus, amusement show, education facility, commercial fur-bearing animal enterprise or in the control of humane society.



8-2-14 POISONING ANIMALS

It is unlawful to poison a domestic animal or to distribute poison or toxicants in any manner with the intent of so poisoning.

8-2-15 NUISANCE

It is unlawful for an owner or keeper to allow any animal (s) to persistently bark, howl or make noise or to be kept or maintained in such numbers as to disturb by noxious or offensive odors or be kept in runs or kennels which are not maintained as to disturb by noxious or offensive odors, to otherwise endanger the health and welfare of the inhabitants of the Village of Bosque Farms.

All complaints filed pursuant to this Section shall be filed in writing with the Animal Control Officer or Bosque Farms Village Office and shall include the name and address of the complainant and name and address of person (s) permitting the nuisance to occur and to continue.

8-2-16 PENALTY

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not to exceed \$300.00 or imprisonment not to exceed ninety days. In addition to such penalties, the Village Attorney shall have the authority to apply to the District Court for the purpose of obtaining an order restraining any person from violating any of the provisions of this Ordinance, or to obtain the necessary relief as may be appropriate.

8-2-17 SEVERABILITY

If any section, subsection, paragraph, or phrase, or other portion of this ordinance shall be declared invalid for any reason whatsoever by a Court of competent jurisdiction, then such decision shall not effect the validity or enforceability of the remaining portions of this ordinance.

SECTION 8-3

ANIMAL CONTROL ORDINANCE

8-3-1 ANIMALS RUNNING AT LARGE

8-3-2 IMPOUNDMENT

8-3-3 CITATIONS, CRIMINAL PROCEEDINGS

8-3-4 PENALTIES, ANIMALS RUNNING AT LARGE

8-3-5 VICIOUS ANIMALS KILLING OR INJURING LIVESTOCK; DAMAGES; VICIOUS ANIMALS TO BE KILLED; APPEALS

8-3-6 SEVERABILITY

8-3-7 REPEAL

8-3-1 ANIMALS RUNNING AT LARGE.

It shall be unlawful for any owner, possessor, or keeper to allow or permit any animal(s) to run at large as defined in 8-1-2, or on any street, alley, sidewalk, vacant lot, public property, other unenclosed place in the Village or private

property without the permission of the owner thereof. Any such animal(s) permitted to be at large in violation of this section is hereby declared to be a nuisance and menace to the public health and safety. Every fierce, dangerous or vicious animal(s), when running at large upon the streets or in any other public place, are hereby declared to be a public nuisance. An animal(s) shall be deemed fierce, dangerous or vicious if it runs after, chases or attempts to bite any person or other animal(s).

8-3-2 IMPOUNDMENT

An animal control officer or municipal police officer may impound any animal(s) found running at large unaccompanied by and not under the control of the owner or handler. Any fee charged shall be paid pursuant to 8-1-5.

8-3-3 CITATIONS, CRIMINAL PROCEEDINGS

Any animal control officer or municipal police officer may issue a citation and/or file a criminal complaint which is sworn to and filed upon the officer's information and belief. Any individual may file a complaint against the owner or keeper of an animal(s) running at large.

The court shall issue a summons to the owner or keeper of said animal(s) for appearance in court and schedule for a hearing on the merits.

8-3-4 PENALTIES, ANIMALS RUNNING AT LARGE

- A) Upon a finding by the municipal court that any animal is running at large, the court shall issue the following penalties:
 First Offense: No less than \$25.00
 Second Offense: No less than \$100.00
 Third and Subsequent Offense:
 No less than \$250.00 per offense.
- B) If the same owner or keeper has more than one animal adjudicated as running at large, then each animal in violation of this ordinance shall be considered a separate offense and distinct offense pursuant to this ordinance.

8-3-5 VICIOUS ANIMALS KILLING OR INJURING LIVESTOCK; DAMAGES; VICIOUS ANIMALS TO BE KILLED; APPEALS

- A) If any vicious animal(s) shall kill or injure any livestock or poultry, the owner or keeper of such vicious animals(s) shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction. It shall be unlawful to keep such vicious animal(s) after it is known that the vicious animal(s) is liable to kill livestock or attack humans, and it shall be the duty of the owner to kill, or have killed, the vicious animal(s) upon order of the court after a finding that the vicious animal(s) has killed or injured livestock without a justifiable and/or legitimate defense and/or reason.
- B) If the same owner or keeper has more than one vicious animal adjudicated as having killed or injured livestock or poultry then each animal in violation of this ordi-

nance shall be considered a separate and distinct offense pursuant to this ordinance.

- C) Any person aggrieved by a decision by this ordinance may file an appeal to the district court within 15 days to obtain the appropriate relief as may be provided by law for the stay and/or appeal of a decision made as provided for by this ordinance.

8-3-6 SEVERABILITY

The provisions of this ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or part thereof, other than the part so declared to be unconstitutional or invalid.

8-3-7 REPEAL

Ordinance number 89-8 is hereby repealed. ADOPTED 8-19-93