

CITY OF BELEN ORDINANCE NO. 1985-3

AN ORDINANCE PROVIDING FOR THE CONTROL AND CARE OF ANIMALS IN THE CITY OF BELEN, NEW MEXICO AND REPEALING ALL ORDINANCES IN CONFLICT THEREIN: SHORT TITLE AND LEGISLATIVE INTENT DEFINITIONS, ADMINISTRATION OF ORDINANCE, AUTHORITY OF ANIMAL CONTROL OFFICER

BE IT ORDAINED BY the Governing Body of the City of Belen, County Of Valencia, State of New Mexico

ARTICLE I: WORDS AND PHRASES DEFINED

SECTION 1. SHORT TITLE AND LEGISLATIVE INTENT

This ordinance shall be known and may be cited as the City of Belen Animal Control Ordinance. It is the intent of the Governing Body that enactment of this ordinance will protect animals from neglect and abuse, protect residents from annoyance and injury, promote the health, safety and welfare of the residents, assist in providing control of animals, and finance the function of licensing and recovery of said animals.

SECTION 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. "ABANDONMENT" means to permanently or temporarily desert and give up all interest in the supervision or care of an animal or animals.
- B. "ANIMAL" means any dog or cat or any vertebrae (excluding man).
- C. "EXOTIC ANIMAL" means rare or different from ordinary domesticated animals and is not indigenous to the State of New Mexico.
- D. "CITY OF BELEN" or "CITY" shall include the land area within the boundaries of the City of Belen.
- E. "ANIMAL CONTROL SHELTER" or "SHELTER" means any pound, lot, premises, or building maintained for the care and custody of animals.
- F. "ESTRAY" shall mean any animal which shall be off and away from its home unattended and running at large within the City of Belen.
- G. "VICIOUS ANIMAL" shall mean any animal which shall bite or in any manner attack or attempt to attack any person within the City of Belen except that any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, which is provoked to attack, shall not be deemed a vicious animal.
- H. "BITE" shall mean a puncture or tear of the skin inflict-

ed by the teeth of any animal.

- I. "OWNER" shall mean a person who owns, has, keeps, harbors or permits an animal to remain in, on or about his premises.
- J. "PREMISES" shall mean a parcel of land owned, leased, rented, or controlled by any person, legal or natural. Such parcel of land may include a structure.
- K. To "RUN" or "RUNNING AT LARGE" is to be free of control beyond the boundaries of the premises of its owner.
- L. "COUNCIL" means the governing body of the City of Belen.
- M. "ENCLOSED LOT" means any parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.
- N. "CONTROL" shall mean leashes.
- O. "VACCINATION" is protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, State of New Mexico Rabies Act of 1959, given in amounts sufficient to provide one (1) year.
- P. "KENNEL" means any hobby or commercial establishment of premises where dogs, cats, or other animals are boarded, bred, or kept.
- Q. "LEASH" means chain, leather strap or cord of sufficient substance to hold under control the animal attached thereto, and shall be no longer than eight feet.
- R. "ANIMAL CONTROL OFFICER" or "A.C.O." means, that person appointed to that position, by the Mayor, or his or her appointed designee. The person designated to act in the capacity of A.C.O. shall be made known to the Governing Body by the originally appointed A.C.O.
- S. "WILD OR EXOTIC ANIMALS" means any animal or species that in their natural life are wild, dangerous, or ferocious and though they may be trained and domesticated will remain dangerous to others and may injure or kill a citizen in the City of Belen. Those animals, however domesticated, shall include but are not limited to:
 1. Dog family (Canidae) All except domesticated dogs, including wolf, fox, coyote, etc.;
 2. Cat family (Felidae) All except the commonly accepted domesticated cats including lions, pumas, panthers, mountain lions, wild cats, etc.;
 3. Bears (Ursidae) All bears including grizzly bears, brown bears, etc.;
 4. Weasels (Mustelidae) All including weasels, martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc.;
 5. Raccoon (Procyonidae) All raccoons including eastern raccoon, desert raccoon, ringtailed cat, etc.;
 6. Primates (Homidae) All sub-human primates.



- 7. Porcupine (Erethizontidae)
- 8. Skunks
- 9. Dangerous Snakes
- 10. Venomous lizards, alligators and crocodiles
- 11. Venomous fish and piranna.

ARTICLE II: ADMINISTRATION OF ORDINANCE

SECTION 1. ANIMAL CONTROL OFFICER

The mayor shall appoint an Animal Control Officer. The A.C.O. shall be concerned primarily with the health and safety of the citizens of the City of Belen as affected by animals, and with the health and safety of animals within the City limits. The A.C.O. shall be responsible to the Chief of Police of the City of Belen.

SECTION 2. AUTHORITY OF THE ANIMAL CONTROL OFFICER

- A. The Animal Control Officer shall have the authority to issue citations whenever there is probable cause to believe there exist violations of this ordinance and to perform such other duties as are prescribed herein.
- B. The A.C.O. shall have the authority and is directed to investigate upon probable cause any alleged violation of this ordinance or any law of the State of New Mexico relating to the care, treatment, control and prevention of cruelty to animals. The A.C.O. shall be authorized to inspect premises within the City limits as necessary to perform his duties. If the owner or occupant of any premises objects to inspection, a warrant for the inspection of said premises shall be obtained from a court of competent jurisdiction prior to inspection. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection or investigation.

ARTICLE III: ANIMAL CONTROL AND IMPOUNDING PROCEDURES

SECTION 1. IMPOUNDING IDENTIFIABLE STRAY ANIMALS

- A. It shall be the duty of the Animal Control Officer and his duly appointed deputies to take up and impound or cause to be impounded any stray animals found in the City of Belen.
- B. As soon as practical after the date of impoundment the A.C.O. shall notify by phone or written notice, the owner of animals impounded. Upon notification, an owner must pick up his animal within twenty-four (24) hours or incur additional boarding fees.

SECTION 2. IMPOUNDING NON-IDENTIFIABLE ESTRAYS, RECORDS TO BE KEPT, REDEMPTION FEES, NOTICE REQUIRED

- A. No person shall, without the knowledge or consent of the owner hold or retain possession of any animal of which is not the owner, for more than twenty-four (24) hours, excluding, Saturdays, Sundays, and holidays, without first reporting the possession of such animal to the A.C.O., giving actual legal notice.
- B. It is unlawful for any person taking up an 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 the A.C.O. upon demand thereof.
- C. Any stray animal shall be confined at an appropriate animal center pending notification of owner or authorized agent, for a period of at least three (3) days. Any owner who claims an unlicensed pet from the appropriate animal control center, must show proof of rabies vaccination on claiming said animal. Such owner may be cited by the A.C.O., and will be required to buy a license from the City of Belen before the impounded animal can be released. If proof of current rabies vaccination cannot be produced, the owner of the impounded animal must purchase a license from the City of Belen and sign an agreement that the animal will receive rabies vaccination within three (3) days. The license will be held by the City of Belen for a three (3) day period, during which time proof of rabies vaccination must be presented before the license will be released. Owners not returning within a three (3) day period to show proof of rabies vaccination and pick up their license will be cited by the A.C.O.
- D. It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this ordinance or any person adopting an animal through the Animal Control Officer, to reimburse the City of Belen for animal boarding. All animals over six months of age being adopted shall be spayed or neutered at the owners expense. Animals being adopted shall be delivered to an animal hospital of owners choice by the A.C.O. for compliance with spaying and neutering requirements. The Animal Control Officer shall establish appropriate procedures for collecting fees for those who adopt animals.
 - 1. A fee of \$5.00 plus \$5.00 per day shall be paid by the owner of any animal seized on the first offense.
 - 2. A fee of \$10.00 plus \$5.00 per day shall be paid by the owner of any animal seized on the second offense.
 - 3. A fee of \$25.00 plus \$5.00 per day shall be paid by the owner of any animal seized on the third offense.
 - 4. A \$15.00 fee shall be paid by any person adopting an animal.
 - 5. Any animal suspected of rabies shall be boarded at the regular rate plus \$6.00 special handling fee, or all additional costs, which ever is greater.

All above fees may be in addition to any fines or citations.
- E. The Animal Control Officer shall, for a reasonable peri-

od of time or as required by state statute, maintain a record of all animals in his control. The records shall contain at least the following information.

1. A complete description of the animal;
 2. The manner and date of its acquisition by the Animal Control Officer;
 3. The date and manner of its disposal;
 4. The name and address of the purchaser of any animal;
 5. All fees received, and;
 6. All medical expenses incurred.
- F. The Animal Control Officer shall keep records of all transactions, turn over all money received to the Treasurer of the City 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.
- G. Destruction of animals: If the animal is unable to be redeemed, sold, or, if certified by a licensed veterinarian as suffering because of sickness or age, then it shall be painlessly destroyed by the A.C.O. by an intravenous or intracardiac injection by a suitable euthanasia solution or sodium pentobarbytol solution in sufficient amount to induce sleep immediately, and to produce death within three (3) minutes. Animals which cannot be brought to an animal shelter because of inability of the Animal Control Officer to extricate or capture an animal which is vicious or infected with any dangerous or incurable disease or in any painfully crippled condition in the opinion of the Animal Control Officer shall be destroyed by shooting by the A.C.O.
1. The Animal Control Officer is empowered to pick up unlicensed puppies or kittens under the age of three (3) months or licensed or unlicensed dogs or cats over three (3) months of age, from the home of their owners who shall be residents of the City, and who have given their permission in writing to have these pets immediately destroyed. The owner shall be given a copy of the Destruction Order, signed by the owner in the presence of the A.C.O. and signed by a representative of the City. Animals picked up under this section of the ordinance shall not be held for adoption but shall be immediately destroyed by lethal injection, as previously prescribed in this section of this ordinance. A fee of \$5.00 will be paid to the City of Belen for each call regardless of the number of animals under the terms of this section of the ordinance.
 2. The Animal Control Officer is empowered to pick up the carcasses of unlicensed puppies or kittens under the age of three (3) months, or licensed dogs or cats over three (3) months of age, from the home of their owners who shall be residents of the City and who have given their permission in writing to have these carcasses picked up by the City of Belen. The owner shall be given a copy of the Disposal Order, signed by the owner, in the pres-

ence of the A.C.O., and signed by a representative of the City. Animal carcasses picked up under this section of the ordinance shall be disposed of by the City in whatever way is determined to be most feasible and in such a manner as to minimize expense to the Animal Control Department and the City. A fee of \$5.00 will be paid to the City of Belen for each carcass picked up under the terms of this section of the ordinance.

ARTICLE IV: OWNER’S DUTIES

SECTION 1. RABIES VACCINATION

- A. It is the duty of all persons owning a cat or dog or any member of the canine or feline family over the age of three (3) months to have such animal vaccinated against rabies. The rabies vaccination shall be given in amounts sufficient to provide immunity from rabies for one year and be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Council may require other animals to receive annual rabies vaccination.
- B. The veterinarian administering any rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and the address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination and the expiration date of the period of immunity.
- C. It is unlawful for the owner or keeper of any dog, cat or other member of the canine or feline family to fail to exhibit a certificate of vaccination upon demand to any Police Officer or the Animal Control Officer.

SECTION 2. RABID ANIMAL

Any 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 shall be confined at once in a secure place by the owner. A person who knows or has reason to know that any animal is infected with rabies or has been exposed to rabies shall immediately upon learning of this notify the Animal Control Officer as to the place where the animal is confined. The owner of said animal shall surrender said animal to the Animal Control Officer upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to state law.

SECTION 3. DOG OR OTHER ANIMAL BITING A PERSON

- A. The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the A.C.O. as soon as possible. The owner of an animal that bites a person shall surrender said animal to the A.C.O., if necessary, to impound said animal for a period of observation of not less than ten (10) days.



- B. A physician who renders treatment to a person bitten by an animal shall report the fact that he has rendered treatment to the Police Chief of the City of Belen or the A.C.O. within twenty-four (24) hours of his first professional attendance. The physician shall report the name, sex and address of the person bitten as well as the type or location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite, if known, and other facts that may assist the A.C.O. in ascertaining the immunization status of the animal.
- C. An animal that bites a person shall be confined securely at a place and for a period deemed necessary by the A.C.O. The owner of the animal shall bear the cost of confinement. The A.C.O. may consent to confinement on the owners premises but only if the animal had current rabies vaccination at the time the bite was inflicted. The premises where the home confinement is to occur shall be inspected and approved for such purposes by the A.C.O. A person who has custody of an animal that has bitten a person shall immediately notify the A.C.O., if the animal shows signs of sickness, abnormal behavior or if the animal escapes confinement. The person having custody of the animal shall notify the A.C.O. and surrender the animal to the A.C.O. Disposal of the dead animal known to have inflicted the bite within the last ten (10) days shall be through the A.C.O.
- D. Wild animal bites inflicted by animals other than dogs and cats must be reported to the A.C.O.

SECTION 4. RESTRAINT OF ANIMALS

- A. All persons owning or having charge, custody, care or control of any animal shall keep such animal restrained to his own premises.
- B. When dogs are out of their premises they must be under leash of not more than eight (8) feet in length and under the control of the owner or his designee.
- C. Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of the owner or his designee and shall be reported to the A.C.O.

SECTION 5. LICENSE REQUIRED

- A. LICENSING REQUIRED: Any person keeping, harboring or maintaining any dog or cat over three (3) months of age, within the City of Belen shall obtain a license from the City Manager’s Office for each dog or cat. The City Manager shall keep a record of all licenses issued and shall issue a tag for each license granted. A current rabies vaccination certificate shall be presented at the time of the application for the license. Licenses shall be issued annually, and shall be renewable during the month of January, and shall expire January 31 of each year.
- B. AFFIXING TAB: A current license tag and rabies tag shall be affixed to the licensed animal at all times in a

reasonable manner. In the event a tag is lost, a replacement tag shall be obtained for a charge of \$1.00.

- C. UNLAWFUL USE OF LICENSE TAGS: 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.
- D. LICENSE FEE SCHEDULE; ANNUAL LICENSE FEE SCHEDULE

1. For each unneutered male dog	\$5.00
2. For each unneutered male cat	\$5.00
3. For each unspayed female dog	\$5.00
4. For each unspayed female cat	\$5.00
5. For each neutered male dog	\$2.00
6. For each neutered male cat	\$2.00
7. For each spayed female dog	\$2.00
8. For each spayed female cat	\$2.00

For each dog or cat certified as a surgical risk for spaying or neutering, the license fee shall be \$2.00. This license will be issued only upon presentation of a certificate from a licensed veterinarian stating that spaying or neutering would be a surgical risk for said animal since, due to the animal’s age or condition, the operation would endanger the life of the animal.

- E. EXCEPTIONS: The provisions of this article do not apply to dogs or cats whose owners are non-residents, temporarily within the City, nor to dogs or cats brought into the City for the purpose of participating in any dog or cat show, nor to seeing eye dogs or cats purposely trained to assist the blind and/or deaf persons when such dogs or cats are actually used by the blind and/or deaf persons.
- F. Animals belonging to non-residents who do not keep said animals within the confines of the boundaries of the City of Belen for ninety (90) consecutive days shall be exempt from this section; provided, however, that all other provisions of this ordinance must be complied with.
- G. Guide dogs or cats will be licensed by the City of Belen at no charge to the legally blind and/or deaf.

ARTICLE V: PROHIBITED ACTIVITIES

SECTION 1. ANIMALS RUNNING AT LARGE

It is unlawful for any person to allow or permit any animals to run at large. Any animal permitted to run at large is in violation of this section and is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded as provided in Article III.

SECTION 2. ANIMALS ON UNENCLOSED PREMISES

It is unlawful for any person to chain or stake out any animal on any unenclosed premises in such a man-

ner that such an animal may go beyond the property line.

SECTION 3. VICIOUS ANIMALS

It is unlawful for any person to keep or harbor a known vicious animal in the City of Belen. Any attack by a vicious animal may be repelled by the use of reasonable force. Every dog shall be deemed fierce, dangerous and vicious that shall in an angry manner run after, chase, bite or attempt to bite any person while off his premises. After a judicial determination that an animal is vicious the court having jurisdiction over the enforcement of this ordinance, upon hearing of such complaint, shall in addition to any fine or imprisonment which may be imposed for violation hereof, order the A.C.O. to have such animal destroyed.

SECTION 4. ANIMALS DISTURBING THE PEACE

It is unlawful for any person to allow any animal to persistently or continuously bark, howl or make noise common to their species, or otherwise disturb the peace and quiet of the inhabitants of the City of Belen or to keep or maintain in such a manner as to disturb by noxious or offensive odors, or otherwise endanger the health, safety and welfare of the inhabitants of the City of Belen. All complaints filed pursuant to this section shall be in writing, giving the name and address of the person(s) permitting the nuisance to occur and continue. The A.C.O. is to investigate all facts before a citation is rendered.

SECTION 5. CONFINEMENT DURING ESTRUS

Any female animal in the stage of estrus (heat) shall be confined to a building or other secure enclosure so that contact with a male animal will be prevented except for intentional breeding purposes. Keepers who do not comply with this section may be required to place such animal in a boarding kennel or veterinary hospital at the keeper's expense.

SECTION 6. ANIMALS TRAINED TO ASSIST THE HANDICAPPED, ALLOWED IN PUBLIC PLACES

It is unlawful for any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purposes to debar or exclude therefrom any animal which has been trained to assist the handicapped, provided such animal be in the company of the handicapped person to whom it was trained to assist in conformance with Section 77-1-14 NMSA, 1978 Comp.

ARTICLE VI: CRUELTY TO ANIMALS PROHIBITED

SECTION 1. PHYSICAL ABUSE

It is unlawful for any person to willfully or maliciously kill, maim, disfigure, burn or scald any animal, except that reasonable force may be employed to drive off vicious or trespassing animals. No person shall tease, harass or provoke an animal in any way.

SECTION 2. WORK CRUELTY

It is unlawful for any person to drive or work any animal cruelly.

SECTION 3. CARE AND MAINTENANCE

It is unlawful for any person to fail, refuse or neglect to provide in his charge or custody, as owner or otherwise, proper food, drink, shade, 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 shelter large enough to accommodate the animal and suitable for the species.

SECTION 4. UNCARED FOR ANIMALS

Whenever the A.C.O. finds 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 A.C.O. may take up such animal for protective care; and in the event of sickness or injury of the animal, upon the advise of a licensed veterinarian, the A.C.O. may take such action as called for to prevent undue pain and suffering including immediate destruction of the animal.

SECTION 5. INJURY TO ANIMAL BY MOTORISTS

Every operator of a motor vehicle or other self propelled vehicle upon the streets and ways of the City of Belen shall immediately upon hitting, striking, maiming or running down any animal give aid as is reasonable to render. In the absence of the owner, he shall immediately notify the A.C.O. furnishing sufficient facts relative to such injury.

SECTION 6. 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 incurable, infectious disease or is in any painfully crippling condition except as is hereinafter provided. The A.C.O. may impound such diseased or painfully crippled animals 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 A.C.O. shall be required to give any of the aforesaid notices provided in this ordinance. This section shall not be construed to include veterinary care.

SECTION 7. KENNELS

A. No person, group of persons, or business entities in the municipality may own, keep or harbor more than a total of four (4) dogs or cats in any combination more than three (3) months of age or older, without obtaining a kennel license. However, those persons, group of persons or business entities in the municipality who have more than a total of four (4) dogs or cats over three (3) months of age on the date this ordinance becomes effective shall license all such dogs and cats and may continue to own, keep or harbor such excess dogs and

cats until such time as their numbers are brought in conformance with this ordinance by natural attrition. Thereafter, those persons, group of persons, business entities shall conform to the limits established by this ordinance.

- B. **LICENSE REQUIRED:** Persons operating a commercial kennel must obtain a nontransferable commercial license, which shall be posted in a conspicuous place in the kennel. A kennel license shall expire on January 31 of each year. No kennel license may be issued without an inspection certificate issued by the A.C.O.
- C. **FACILITIES AND CARE APPLICABLE TO COMMERCIAL KENNEL LICENSE:** Animal housing facilities must be structurally sound and shall be constructed of nontoxic 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 twenty-four (24) hours must be provided with adequate space to prevent overcrowding and to permit adequate exercise according to the requirements of the species. Indoor housing shall be provided with adequate temperature control to provide for the animal's 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 weather detrimental to the animal's health. Provisions shall be made for the removal and proper disposal of animal food, waste, bedding, dead animals, and debris. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors and disease hazards. Animals shall be provided with clean, fresh, sufficient and wholesome food and water, according to their needs. Every animal kept in a kennel must be observed daily and diseased or injured animals must be provided with veterinary care.
- D. **INSPECTION:** The A.C.O. 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.
- E. **VIOLATIONS, SUSPENSIONS AND REVOCATIONS:** A kennel license may be denied, suspended or revoked by the A.C.O. upon 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.
- F. This section shall not apply to and shall not be con-

strued to require a commercial license for:

1. A veterinary hospital or clinic operated by a licensed veterinarian.
 2. A bona fide research institution using animals for scientific research.
 3. A publicly owned animal control center or shelter.
 4. A bona fide animal shelter operated by an organized humane association.
 5. Hobby kennels which shall comply with Paragraph A of this section.
- G. Any animal housing facilities existing or in construction on the effective date of this Ordinance shall have a grace period of thirty (30) days in which to meet any and all provisions of this Article of this ordinance.
 - H. Commercial kennels shall comply with the Belen Comprehensive Zoning Ordinance.

SECTION 8. ANIMAL FIGHTS

It is unlawful for any person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition or contest in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any animal.

SECTION 9. BIRDS, KILLING AND ROBBING NESTS PROHIBITED

It is unlawful for any person to willfully kill any species of birds protected by State and Federal law, or to unnecessarily molest or rob the nest of such bird.

SECTION 10. FALSE REPORTS PROHIBITED

It is unlawful for any person to make a false report to the City of Belen regarding any animal in danger or stray or regarding any supposed violation of this ordinance.

ARTICLE VII: WILD AND EXOTIC ANIMALS

SECTION 1. KEEPING OF WILD AND EXOTIC ANIMALS

- A. No person shall keep an animal of a species prohibited or protected by Title 50, Code of federal regulations or by the State of New Mexico Regulations 17-3-22, NMSA, 1978 Comp. as amended.
- B. No person shall keep an animal which is wild, dangerous, noxious or naturally inclined to do harm except in a zoological park, veterinary hospital, animal shelter, public shelter, public laboratory, circus, amusement show, educational facility, or in the control of the Humane Society. Adequate protection devices shall be provided to prevent any animals from escaping or injuring the public.
- C. Any provisions of this ordinance to the contrary notwithstanding, no person shall keep wild and exotic animals in such a manner as to constitute a likelihood of harm to the animals themselves or to other animals,

or to human beings, or to property of human beings, or which constitutes a public or private nuisance.

SECTION 2. ABANDONMENT

It is unlawful for any person to abandon any animal or animals in the City of Belen.

ARTICLE VIII: DEAD ANIMALS

A. The A.C.O. is authorized to pick up and dispose of all dead animals immediately upon discovery.

ARTICLE IX: DOMESTIC LIVESTOCK

SECTION 1. CONTROL OF LIVESTOCK IN THE CITY The keeping of livestock within the city limits shall comply with the Belen Comprehensive Zoning Ordinance.

SECTION 2. DEFINITIONS

That whenever used in this ordinance, the following terms shall have the following meanings, to-wit;

- A. Unit shall mean and is hereby designated as meaning one of the following classes or groups of livestock to each unit, that is: One (1) cow; one (1) horse; five (5) turkeys; seven (7) geese; ten (10) ducks; four (4) goats; four (4) sheep; one (1) hog; fifteen (15) chickens or rabbits, or any combination thereof.
- B. Person shall mean and include all persons, firm or corporations.
- C. Animal Control Officer shall mean the person designated by the City Council to enforce the sanitary laws of the City of Belen, New Mexico.
 - 1. That from and after the effective date of this ordinance it shall be unlawful for any person to keep or maintain within the limits of the City of Belen, New Mexico, any commercial feed pen or pens for the feeding or fattening of any livestock, poultry or fowl.
 - 2. That from and after the effective date of this ordinance, it shall be unlawful for any person to keep or maintain within the limits of the City of Belen one (1) unit of livestock, as above defined, for 20,000 square feet of land owned or controlled by such person so keeping such livestock, and further, such person shall be entitled to keep and maintain one (1) additional unit of livestock, as above defined, for each additional 20,000 square feet of land owned or under the control of such person; provided however, that the pen or enclosure in which such livestock is kept shall be at least 100 feet, at its nearest point, from the dwelling house of any person other than the owner of such livestock and that such pen shall be fenced in such a manner that the animals shall have access to all the space at all times and shall not be enclosed in any portion thereof except for short periods of time. An

- exception may be made wherein persons desiring to keep chickens, pigeons, or rabbits, and who do not have the amount of space as above mentioned, may do so provided the enclosure be located not less than 60 feet from the nearest residence, the total number or a combination thereof shall not exceed fifteen (15) on any one location, and that pens shall be cleaned twice weekly. Provided, further, that such persons keeping such livestock shall first secure a permit from the City of Belen to keep such livestock as more fully described in this ordinance.
- 3. That from and after the effective date of this ordinance, it shall be necessary that any person keeping livestock in the City of Belen shall apply for and receive from the said City of Belen a permit for the keeping of such livestock. Such person shall make application for such permit at the City Hall in said City, and such application shall show the area of land owned or controlled by the applicant, the kind of livestock he proposes to keep thereon, the location of the pen or enclosure in which such livestock is to be kept, and the distance from such pen or enclosure to the nearest dwelling house of any person other than the applicant. Such permit shall be issued without charge, and a record of all permits shall be kept in the City Hall of said City. It shall be a violation of this ordinance for any person to keep livestock within the limits of the City of Belen without first securing such a permit as herein set out, provided, that all persons owning livestock within the City limits at the time of the effective date of this ordinance shall have a period of ten (10) days from the effective date of this ordinance in which to secure such a permit.
- 4. That any person holding a permit to keep livestock, within the limits of the City of Belen shall be obligated to keep the pens, enclosures and premises clean and in a sanitary condition at all times. To that end, it is hereby declared to be the duty of the A.C.O. to make inspections of all premises where livestock are kept when the A.C.O. has probable cause to believe that the same are not being maintained in a clean and sanitary condition. If the said officer shall find that any person is unwilling to keep the premises where livestock is maintained in a clean and sanitary condition, then it shall be the duty of said A.C.O. to give such person or persons a notice in writing, advising such person or persons of the unsanitary condition of the premises, and giving such person or persons a period of five (5) days from date of such notice to clean the premises and restore the same to a sanitary condition. If the person or persons so receiving such notice fail or refuse to comply with such notice and clean such premises within the said period of five (5) days, a fine shall be issued. If violation continues after ten (10) days then the permit theretofore issued to such

person or persons shall be cancelled and such a person shall remove his livestock from within the limits of the City of Belen.

SECTION C. LIVESTOCK AT LARGE IN THE CITY

It shall be unlawful for any owner to allow horses, cattle, burros, swine, sheep, or goats to run at large or be loose within the limits of the City.

1. It shall be the duty of the A.C.O. to provide a safe place for the keeping and caring of animals so taken by him under this ordinance, and he shall keep and care for said animals properly and any failure on his part to do so will subject him to removal from the office of A.C.O. by the Mayor.
2. Any person who shall find any animal or animals described in Section C of this ordinance running at large contrary to the provisions hereof, may take up and deliver the same to the A.C.O.
3. Any A.C.O. who shall take up any animal named in the ordinance, in a lawful manner as provided herein, shall be entitled to receive therefore the sum of Ten Dollars (\$10.00) per head plus any cost, of maintaining said animal for every animal so taken up and impounded by him, and any animal delivered to by any person as provided in Section C, shall be considered as taken up by the A.C.O.
4. When any animal or animals mentioned in Section C of this ordinance shall be taken by the A.C.O. under the provisions of this ordinance, he shall at once give notice thereof to the owner or owners of such animal or animals if such owner is known or can by reasonable diligence be ascertained by said A.C.O., and if such owner or his agent shall pay all charges against such animal or animals as herein provided, the owner shall claim and haul away such animal or animals; but in the event such owner shall not appear, or is unknown to such A.C.O. and cannot by reasonable diligence be ascertained, or shall fail or refuse to pay the charges, then the said A.C.O. shall after the expiration of twenty-four (24) hours of the time such animal or animals were impounded, post in three conspicuous places within the limits of the City, written or printed notices of the fact of such animal or animals being impounded by him, giving the date when impounded, the description of the animal or animals, and reciting the fact that the owner is unknown, or if known, has not appeared to redeem said animal or animals, or has failed or refused to pay the legal charges thereon, after due notice as herein provided, and that unless said owner or his agent shall within five (5) days from the posting of said notice appear and redeem said animal or animals, the same will be sold to satisfy the cost of taking up care, maintenance, and sale, giving date and place of sale. Said notice shall remain posted for a period of five (5) days and upon the sixth day after the day of posting, if the animal or animals remain unclaimed and the charges unpaid, the A.C.O. shall sell or cause to be sold

- at public sale in the City of Belen, and said animal or animals subject however, to the right of the owner or owners to redeem the same- as herein provided; and said A.C.O. shall pay out the same herein provided; and said A.C.O. shall pay out of the proceeds of said sale all legal charges of taking up, keeping, care and sale of said animal or animals, and the remainder, if any, he shall pay over to the Clerk-Treasurer and take his receipt therefore and the Mayor shall execute and deliver in the name of the City a good and sufficient bill of sale, to the purchaser of any such animal or animals so sold under this ordinance. Provided, however, that the owner of any animal or animals sold under this ordinance may, at any time within sixty (60) days after such sale, by appearing and making satisfactory proof of the ownership of such animal or animals, have the right to redeem such animal or animals from the purchaser thereof by paying the purchase price and a reasonable compensation to such owner not to exceed Three Dollars (\$3.00) per day for the care and maintenance of such animal for the actual time it has been kept by such purchaser, and all bills of sale hereafter executed and delivered by said City to the purchasers of impounded animals sold under this ordinance, shall expressly provide for the right of redemption of the same by the owner, upon his compliance with this ordinance.
5. If the owner of any animal or animals impounded as above provided shall make affidavit before the Municipal Judge that he is the owner of such animal or animals, describing same, and the same are unlawfully held by said Animal Control Officer and at the same time execute a bond with two or more good and sufficient sureties and payable to said A.C.O. in a sum at least double the amount of the value of such animal or animals (current market price) so impounded and claimed by him with the condition that if he fails to prove that such animal or animals are unlawfully held by said A.C.O., he will pay all costs of such proceedings and will also pay said A.C.O. of such animal or animals; which bond shall be approved by and filed with said municipal Judge. Whereupon said A.C.O. shall deliver such animal or animals to said claimant, and said Judge shall set the hearing of said complaint for a time of not more than five (5) days after the day of filing said complaint and bond and on said day shall proceed with the trial of said complaint as in other civil cases; and if complainant fails to recover in said cause the Judge shall enter judgement against him and the sureties on his said bond for all costs of such proceedings and in favor of said A.C.O. for all his fees chargeable under this ordinance, but if said complainant shall recover in said case, the Judge shall enter judgement against said A.C.O. for all costs of said proceedings.
 6. Any person who shall break open any pound wherein any animals are impounded under the provisions of this ordinance, or who shall remove or aid in the removal of

any animals so impounded without having paid all costs, charges and expenses herein provided, or who shall hinder or delay or obstruct any person driving to the pound any animal or animals under the provisions of this ordinance shall upon conviction be punished by a fine of not more than Three Hundred

Dollars (\$300.00) or by imprisonment in the City jail for a period of not more than thirty (30) days or by both such fine and imprisonment at the discretion of the court trying the case.

7. Any person found guilty of willfully impounding an animal or animals for the purpose of gratifying personal spite or malice shall be fined in a sum not more than Three Hundred Dollars (\$300.00), or by imprisonment in the City jail for a period of not more than thirty (30) days, or by both such fine and imprisonment at the discretion of the court trying the case.
8. The provisions of this ordinance shall apply to all animals mentioned in Section C hereof found running at large contrary to the provisions of this ordinance, whether the owner or owners thereof reside within the limits of the City, or without the same.

ARTICLE X: PENALTY, GRACE PERIOD, RESTITUTION, SAVINGS CLAUSE AND REPEALING CLAUSE

SECTION 1. PENALTY CLAUSE

Any person who violates any of the provisions of this ordinance with the exception of Article IV, Section 5E of this ordinance, shall be deemed guilty of a misdemeanor, and upon conviction of violating the ordinance, shall be punished by a fine not exceeding Three Hundred Dollars (\$300.00) and/or imprisonment for a period not exceeding ninety (90) days. Each day this ordinance is violated shall be considered a separate offense.

SECTION 2. GRACE PERIOD

Any violations existing upon the effective date of this ordinance shall have a grace period of thirty (30) days to comply with all provisions of this ordinance.

SECTION 3. RESTITUTION

Notwithstanding any of the foregoing, in the event any animal damages property whether public or private, or causes injury to any person, and such damages or injury if found to have been an element of the violation of any provision of this ordinance, the Municipal Court may, in its discretion suspend any or all fines or incarceration which may have been assessed upon the condition that the defendant make restitution within a reasonable time to the victim of said damage or injury.

SECTION 4. SAVINGS CLAUSE

If any of these sections, subsections, sentences, clauses, or phrases of this ordinance are for any reason held unconstitu-

tional or invalid, the validity of the remaining portions of this ordinance shall not thereby be affected since it is the express intent of the Governing Body to pass each section, phrase, paragraph and word separately.

SECTION 5. REPEALING CLAUSE

This ordinance supercedes and repeals all prior ordinances in conflict therewith.

Passed, adopted, signed and approved this 4th this day of March, 1985.