

# City of Bayard

## CITY OF BAYARD ORDINANCE NO. 13-2009 ANIMAL CONTROL

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*Hub of the Mining District*

Section A Definitions:

1. "Animal" means any vertebrate member of the animal kingdom excluding man. "Dog" and "Cat" is defined as either sex of the canine or feline species, respectively.
2. "City of Bayard" means that land area within the legal boundaries of the City of Bayard, Grant County, New Mexico.

3. "Animal Control Officer" means a police officer or designated commissioned Employee or a commissioned contract of the City of Bayard with the authority to issue citations or otherwise enforce the provisions of this ordinance.

4. "Bite or Bitten" means an actual puncture or tear of the skin inflicted by the teeth of an animal.

5. "Astray or Running at Large" means any animal at large beyond the Boundaries of the premises of the animals owner or keeper unless the animal is under the physical restraint and immediate control of the animal's owner or keeper and is on a secure leash no more than eight (8) feet in length.

6. "Establishment" means a place of business together with its grounds and equipment.

7. "Premises" are defined as a parcel of land and the structures thereon.

8. Licensing Authority-Any authorized representative of the City of Bayard Authorized to sell licenses and collect fees for impounding or holding animals. This authority is responsible for the keeping of records of licensing, vaccinations, and other activities as directed by the City of Bayard acting through its City Clerk.

9. Any person who own s harbors or keeps, or knowingly causes or knowingly permits any animal to be harbored or kept, or has an animal in his care or who permits an animal to remain on or about his premises for more than six (6) days shall be deemed the "Owner".

10. Nuisance" includes but is not limited to disturbing the peace, emitting Noxious or offensive odors or otherwise endangering or becoming offensive to the environment of the City.

11. " Vaccination" The vaccination of an animal with an anti-rabies vaccine Approved by the director of the health and environment department of the state and administered by or under the supervision of a veterinarian.

12. "Vicious Animal" means any animal which shall bite or in any manner attack, or attempt to attack any person or other animal within the City. Any dog that is harbored or trained for dog fighting will also be deemed a vicious animal.

The only exception is any animal that bites, attacks, or attempts to attack any Person unlawfully upon its owner or keepers premises, or which is provoked to attack shall not be deemed a vicious animal. Any animal determined to be vicious shall be humanely destroyed.

## Section B General Regulations

1. **Control Officer as Peace Officers for issuance of citations.** The City Police and Animal Control Officers have the authority of peace officers to issue citations for violations of this chapter and to perform such other duties as are prescribed by the City Clerk. An animal control officer shall wear a badge, and a name tag identifying him as an animal control officer. The badge shall be returned to the City Clerk upon the termination of his employment.

2. **Right of Entry of Control Officers.** Animal Control officers, in the performance of their duties, may enter upon private property, except a private residence, for the purpose of apprehending animals running at large and stray animals.

3. The provisions of this ordinance shall be enforced by all officers. It shall be a violation to interfere with an officer in the performance of his duties.

4. The City Clerk or his designated agent shall, following notice as required prior to the adoption of ordinances have the power to issue reasonable rules and regulation to carry out the intent and purpose of his ordinance.

5. Officers shall take unrestrained dogs and other animals creating a public nuisance into custody by humane means including the use of cage traps and other means so as to affect capture without risk to the officers or other persons as may be involved.

6. An officer may apprehend on private property a dog whose barking constitutes a public nuisance. However, the officer is required first to determine whether the owner is at home and if so, to give the owner an opportunity to quiet the animal or to otherwise correct the condition causing a nuisance. Officers are not authorized to enter into a private dwelling house without a proper warrant for the purpose of apprehending an animal.

7. The animal control officer 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, and control of and prevention of cruelty to animals, The Animal Control Officer 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 or impoundment of any animal pursuant to law, a warrant for the inspection of said premises and impoundment shall be obtained from a court of competent jurisdiction. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection, investigation, or impoundment.

8. In emergency situations, the Animal Control Officers are hereby authorized to humanely destroy any sick, vicious, or injured animals when such need is indicated and the owner cannot be promptly ascertained or located.

9. A notice of impoundment will be left in each case that an animal is impounded from private property. An attempt will be made by the animal control to contact the owners.

10. Keeping of dogs and cats. Dogs and cats are permitted as follows: Three (3) dogs or Three (3) cats or a combination of either, but not to exceed three total per dwelling unit. It is unlawful for any person to be the owner of, to keep, to cause to be kept, or to assist in keeping more than the maximum number of dogs, cats, or a combination thereof. There are however no number of restrictions on litters up to the age of four (4) months. Dwelling units on which are kept a greater number of dogs or cats as of the effective date of this ordinance shall be exempt from these restrictions provided, however, that no such dwelling unit shall be allowed a greater number of dogs, than are kept on the effective date of this amendment, and provided that as the number of such animals is later decreased the exemption is likewise decreased. Proof of prior ownership may be required for animals that were at the residence prior to the effective date of this ordinance. Such proof may be in the form of vaccination records or licenses for the animal issued by the City of Bayard. Violation of any part of this ordinance by accumulating three (3) or more violations within a twelve month period may be grounds for losing the "grandfather clause" exemption.

11. Dogs secured or enclosed. All dogs when not enclosed on private property shall be secured on a leash no longer than eight feet under the control of a human being. When an owner's dog is not secured on a leash, the owner shall enclose his dog within a fence, high and strong enough to assure that the dog

cannot escape. Each dog so enclosed shall be given ample room in order to provide the dog with adequate exercise space as determined by the City humane officer.

### **Section C Licensing**

1. All dogs within City limits shall be licensed with the City of Bayard. This applies to cats also.

2. No person shall own any dog or cat within the City of Bayard unless the Animal is vaccinated or has a current vaccination and is validly licensed by Another municipality or political subdivision of the State of New Mexico or sister state. Citizens who move within city limits must obtain a license from the City of Bayard.

Temporary visitors shall be exempt form this requirement.

3. Every owner of a dog or cat which has reached the age of three( 3) months shall register such animal by procuring a yearly license which shall be issued for a period of one year.

4. Written application for a license shall be made to the licensing authority which shall include name and address of applicant, description of the animal and currant rabies vaccination certificate issued by a licensed veterinarian. The original licenser receipt and rabies certification shall be retained by the owner until the date of expiration.

5. A license shall be renewed no later than the month of expiration of the current Vaccination period for which the license has been issued.

6. The control of issuing City animal licenses and tags shall be the responsibility of the City Clerk or his/her designated representative, who shall maintain a register containing the following information.

A. Date and number of each license and tag issued; name and address of the owner, type and date of anti-rabies vaccinations.

7. The City Clerk may delegate authority and responsibility to the designated city Representative to assist in the issuance of licenses and tags, and receipt books to the responsible representative and require monthly reports reflecting

the register information pertaining to license and tags sold and an accounting for fees collected.

8. The City Clerk or Animal Control Officer, upon receiving proof of anti-rabies vaccinations, shall issue to the owner a license and serial numbered tag. All license and tags shall be issued for a period of one year.

9. The annual fee for scheduled licenses and tags shall be as follows:\*

Dogs	\$8.00
Cats	\$8.00
Dogs (Neutered/Spayed)	\$3.00
Cats (Neutered/Spayed)	\$3.00
Senior Citizens	\$2.00
Replacement Tag	\$2.00

- Un-neutered/neutered shall include unspayed/spayed.

10. Senior Citizens shall be levied annual license and tag fees of \$2.00 for a dog or cat. To qualify as a senior citizen the person must present proof of age to be 62 years of age or older.

11. If there is a change in the owner of a licensed dog or cat, the new owner may have the current license or tag transferred upon payment of a transfer fee of two dollars (\$2.00).

12. Any guide dog, trained to lead a blind person and any hearing aid dog, trained to aid a deaf person, shall be exempt from the licensing fees of this section, upon proper verification.

13. Site guard dogs or patrol dogs shall not be exempt from the vaccination and Licensing requirements of this section. Additionally, privately owned site Guard dogs or patrol dogs shall be identified to and registered with the Chief of police or his designee who shall insure that the animals training and certificate meets the professional standards. Under no circumstances will a dog, whether privately, commercially or municipally owned, be allowed to be utilized as a site guard dog or as an attended patrol dog within the City of Bayard unless registered with the Chief of police.

14. Unlawful Use of License Tags. It is unlawful for any person to remove any license tag from one animal to another or to remove a license tag from and

astray. It is 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 animal or premises license.

15. Failure to License. Should an owner fail to license his dog or cat, the animal control officer shall mail to him upon receipt of the rabies certificate at the animal control office, a written notice giving the owner ten (10) days from the date of notice to register the animal with the animal control authority. If after ten days an owner fails to license his dog or cat a citation will be issued.

#### Section D License Tags

The tag issued to the owner shall be metallic or plastic tag bearing the license number and year during which it is issued. The shape or color of the tag shall be changed from year to year.

#### Section E Animal Impounding

1. In the event an animal is impounded with the expired license or tag, a new license and tag will be issued by the City Hall prior to the animal being released to its owner. In the event an animal is impounded with an expired rabies vaccination, the animal owner or the person adopting the animal shall insure that the owner delivers the animal to a licensed veterinarian for vaccination and present such proof to City Hall.
2. Except in the case of a vicious animal, the owner of any animal which has been impounded shall have the right to redeem the animal upon the payment of fees for impoundment, care, and feeding charges and other charges as needed to satisfy the provisions of this ordinance.
3. At the end of the minimum confinement period the animal may be destroyed. Any animal may be kept for adoption beyond the minimum confinement period at the discretion of the Animal Control Officer.
4. Any person finding an unattended animal upon their premises may have the animal removed to any private or public animal shelter, which shall take possession of that animal. Pending proper disposition by the Animal Control Officer. If no shelter is available, the person finding the unattended animal on his premises may hold the animal in his possession and expeditiously notify

the Bayard Police or Animal Control Officer of the animal's status, providing the animal's physical description and license or owner identification is available. Any animal turned over to Animal Control by its lawful owner for destruction or adoption will be assessed a \$15.00 service charge.

#### **Section F Animal Bite Incidents:**

- 1. If a person is bitten by an animal, an immediate report shall be given to the person's parent or guardian or the owner of the animal who shall immediately report any bite incident to the Animal Control Officer, District Health Officer or the Bayard Police Department and said bitten person shall seek medical assistance.**
- 2. The owner of the animal will immediately, and at their own expense, confine the involved animal for a period of ten days, at a place designated by the District Health Officer or the Animal Control Officer, dependent upon the animal's vaccination, license status, and any other extenuating circumstances, but in any event, the primary consideration will be the health and well being of the bitten person.**
- 3. Any licensed physician who renders medical assistance to a person bitten by an animal shall report the incident to the District Health Officer or Animal Control officer as soon as possible, but no later than twenty four (24) hours after rendering treatment. Physicians or other medical personnel shall report the name, sex, and address of the person bitten as well as the type and physical location of the bite or any other pertinent information available.**

#### **Section G Prohibited Acts- Animal Nuisances**

- 1. It shall be unlawful for any person owning or having custody or possession of horses, cows, goats, sheep, pigs, or other domesticated animals to harbor such animals within the city limits of Bayard. The harboring of horses, cows, goats, sheep, pigs or other domesticated animals within the city limits shall only be allowed within the government service zone also known as the "Bayard Cemetery Tract" as approved by the City Council by special use permit.**
- 2. It shall be unlawful for any person owning, harboring, or having custody or Possession of any animal to cause or allow such animal being dogs, cats, horses, cows, etc., to commit the following public nuisances:**



- A. Molest passers-by(including pedestrians) or passing vehicles.
- B. Attacks and/or bites humans or other animals.
- C. Trespasses on school grounds.
- D. Running at large.
- E. Damages public or private property
- F. Barks, whines or howls excessively-quiet hours are between 9:00 pm and 7:00 am.
- G. Emits noxious or offensive odors, which includes odors from the owner's yard.

3. Enter into a public building unless such animal is guide dog for a blind or deaf person or a patrol dog on official business.

4. It shall be unlawful for any owner or keeper of an animal to allow his animal to make excessive noise and thereby disturb the peace of others and any person whose rest and peace by the excessive noise of any animal shall have the right to file a complaint against the owner or keeper of such animal. An Animal Noise Form provided by the Animal Control Officer for anyone wanting to pursue a formal complaint will be issued upon request.

5. It shall be unlawful for any owner of an animal to permit any noxious or offensive odors to disturb the peace of others. Owners will be required to clean up any solid waste from their yards before it becomes offensive to others.

6. It shall be unlawful for any person to keep or harbor vicious animals within the City of Bayard.

7. Commissioned Officers of the Bayard Police Department or the Animal Control Officer are authorized to humanely destroy any animal based upon Probable and articulated cause that the animal is vicious and constitutes a Grave physical threat or bodily injury to themselves or other persons within the City of Bayard.

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

9. It shall be unlawful for any person to break open any control office building or vehicle wherein animals are impounded or in any other way assist or remove any animal.

10. It is unlawful to permit dogs in the streets or public places unless on a secured leash not exceeding eight (8) 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 families is allowed upon a public playground or on the premises of a public swimming pool or on a schoolyard or the general public. Exception: The above provisions do not apply when such an animal is in a bona fide animal show or training program authorized by law or appropriate school authority.

11. It shall be unlawful for any owner or person charged with the custody or control of a registered site guard dog to assign or work such dog on private property or public premises unless the premises are posted to warn of a site guard dog. The warning shall consist of signs placed at 50 foot intervals around the perimeter of the premises and at all entrances and exits of the premises. Such signs shall measure at least 10" X 14" and shall contain black lettering on a white background "WARNING DOG ON DUTY" and the cited warning shall be in common usage English and Spanish. Additionally, the sign shall reflect the name, address, and telephone numbers for an absolute 24 hour contact with the unattended site guard dog's owner (s) or handler (s).

12. It shall be unlawful for any owner or person charged with the custody or control of a registered patrol dog in or from a motor vehicle is enclosed or marked to warn of a patrol dog. The warning shall consist of painted or affixed signs on or at the vehicles doors which allow access to or egress by the patrol dog. Such signs shall be readily visible and recognizable from a distance of 25 feet and shall be with a light colored vehicle background. The lettering shall consist of the warning "CAUTION- WORKING PATROL DOG" and the cited warning shall be in common usage language of English and Spanish. Additionally, Bayard Police vehicles shall be marked with "POLICE CANINE", visible from the side and rear at a distance of 100 feet and the police patrol dogs off duty domicile or premises- shall be marked with the warning signs at the entrances and exists to the premises.

#### **Section H Dogs Trained to Assist**

1. It shall be unlawful for any person owning, operating or maintaining any

public establishment or premise, into which the general public is invited for any reason to thwart or exclude any dog identified as an Official Police Patrol Dog while that dog and its accompanying police handler are in the legal execution of their mandated duties or to otherwise maintain the peace.

2. It shall be unlawful for any person owning, operating or maintaining any public establishment or premise, into which the general public is invited for any reason to thwart or exclude there from any dog which is trained to assist any blind or deaf person, provided that the dog is attended by or in the company of a blind or deaf person.

### Section I Cruelty to Animals Prohibited

1. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, beat with a stick, a chain, a club, or other object, mutilate, burn or scald with any substance, drive over or to otherwise cruelly treat or set upon any animal except that reasonable force may be employed to thwart any vicious animal, in self defense of possible bodily harm.

2. It is unlawful for any person to drive or work any animal cruelly or to neglect to provide any animal in their charge or custody, as owner or otherwise, with proper food, drink, shade, care or shelter, or to carry any animal in or upon any vehicle in a cruel or inhumane nature.

3. It is unlawful for any person to willfully or maliciously abandon any animal, either health or diseased, within the City of Bayard.

4. 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 substance. This does not prohibit the licensed the use of poisonous substance for the control of vermin of significance to the public health.

5. It is unlawful to leave any animal unattended in any motor vehicle, truck bed, or trailer unless such animal is confined so that no portion of animal's head can protrude beyond the outer boundaries of the motor vehicle, truck bed, or trailer.

A. Animals must be secured in such a manner as to avoid freedom of movement while any vehicle including but not limited to, a truck bed is in motion. This provision is intended to the prevention of injuries

sustained from an animal jumping or accidentally falling out from a moving vehicle, and to aid in the well being of the general public.

6. Whenever the Animal Control Officer finds any animal that 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 into protective care; and in the event of illness or injury, upon advice of a licensed veterinarian, the Animal Control Officer may take such action as necessary to prevent undue pain and suffering, including immediate destruction of the animal.

7. Operators of motor vehicles shall immediately, upon injuring, striking, maiming, or running down any animal within the City of Bayard, notify the Animal Control Officer or the Bayard Police Department, furnishing sufficient facts relative to such incident.

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

#### Section J Adoption of impounded Animals

I. Any impounded animal not claimed by the owner or owners representative within the minimum confinement period designated herein may be adopted by another person upon payment of required fees provided that the animal is not deemed vicious.

A. The adoption fee shall not exceed twenty dollars (\$20.00). This includes licensing (within city limits), adoption fee, boarding and feeding costs. The responsibility of vaccinations or other health requirement shall be the responsibility of the adoptive party.

B. The health of adopted animals shall not be guaranteed and the adoption fees shall be non-refundable.

#### Section K Destruction of Animals

I. Any animal not claimed or adopted within the maximum confinement period Allowed or which is sick, maimed, or otherwise incapacitated beyond

Reasonable veterinary standards shall be painlessly destroyed by the Animal Control Officer using one of the following methods of humane destruction:

- A. Barbiturates-hypodermic injection
- B. T-61-intravenous injection
- C. Chemical
  - 1. Carbon Dioxide inhalation
  - 2. carbon Monoxide inhalation
  - 3. Chloroform inhalation
- D. Mechanical Emergency
  - 1. Shooting (by control officer only)
  - 2. In emergency cases only by other persons when life threatening to humans, or to prevent suffering by the animal.

**Section L PENALTY, IMPOUNDMENT FEES,G RACE PERIOD,R  
ESTITUTION  
AND SAVINGS CLAUSE**

1. **Penalty Clause.** Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a petty misdemeanor, and upon conviction of violating the ordinance, shall be punished by a fine not exceeding\$ 300.00 and/or imprisonment for a period not exceeding ninety days. Each day this ordinance is violated shall be considered a separate offense.

2. **Restitution.** Notwithstanding any of the foregoing, in the event any damages (property) whether public or private, or causes injury to any person, and such Damage or injury is found to have been an element of the violations of any provision of this ordinance the court may in enforcing this ordinance, 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.

3. **Savings clause.** I f any of these sections, subsections, sentences, clause or phases of this Ordinance are for any reason held unconstitutional or invalid, the validity of the remaining portions of this ordinance shall not thereby be affected since it is the express intent, o f the City to pass each section, phrase, paragraph, and work separately.

4. **Penalties for impounded animals areas follows:**

**A. For redemption of impounded animals within a 12 month period.**

- i. First offense- fifteen dollars (\$15.00)**
- ii. Second offense-thirty dollars( \$30.00)**
- iii. Third Offense- forty dollars (\$40.00)**

**B. If an animal is impounded a fourth time, it shall become the property of the Animal Control Shelter and may be humanely destroyed.**

**C. In addition to the above-scheduled fees, the daily boarding charges for impounded dogs and cats are as follows:**

- i. Two dollars per day**
- ii. Three dollars per day following notice of impoundment to owner**
- iii. Five dollars per day for rabies observation impound.**

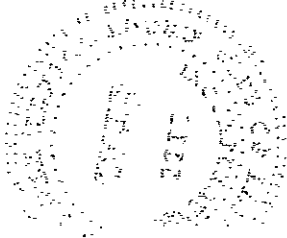
**D. In addition to or in lieu of any other charges the following penalty Assessments are established.**

- i. Running at large "animals disturbing the peace**
  - 1. First offense-Twenty-five Dollars( \$25.00)**
  - 2. Second Offense- Thirty-five dollars (\$35.00)**
  - 3. Third Offense- Forty Dollars (\$40.00)**
- ii. Unlicensed dogs or cats-Fifteen Dollars( \$15.00) plus license fees**
- iii. No rabies vaccination-fifteen dollars( \$15.00) plus cost of vaccination**
- iv. Any other violation of any part of this ordinance or fourth or subsequent violation within a twelve month period will be fined a minimum of fifteen dollars(\$15.00) or at the discretion of the municipal court, however not to exceed \$300.00 dollars.**

**E. Any person aggrieved by any decision of the Animal control officer or the Municipal Court Judge may within five (5) days of receipt of his/her decision give written notice of appeal to the governing body.**

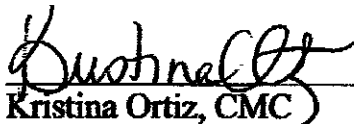
**F. Repeal clause. City Ordinance No. 2-71 and 1 -89 Ordinance and any previously enacted ordinance not repealed herein shall be controlled by this ordinance.**

PASSED, APPROVED AND ADOPTED this 14<sup>th</sup> day of September, 2009.



  
Rodolpho S. Martinez  
Mayor

ATTEST:

  
Kristina Ortiz, CMC  
Clerk Treasurer