

**TOWN OF CLAYTON, NEW MEXICO
ORDINANCE NO. 635**

AN ORDINANCE PROVIDING FOR ANIMAL CONTROL, PROVIDING PENALTIES, REPEALING INCONSISTENT AND CONFLICTING PRIOR ORDINANCES INCLUDING ORDINANCES 401 AND 823 AND THAT PORTION OF ORDINANCE 523 SET OUT AS SECTIONS 7-1-1 THROUGH 7-1-9 AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF CLAYTON NEW MEXICO:

Section 1. Definitions. As used in this article, the following words and terms shall unless the context indicates a different meaning, have the meaning given herein.

- (a) "Animal" means any vertebrate excluding man
- (b) "Animal shelter" means any establishment authorized by the municipality for the care and custody of impounded animals.
- (c) "Bite" means a puncture or tear of the skin inflicted by the teeth of an animal.
- (d) "Municipality" means that area lying within the incorporated boundaries.
- (e) "Chief of Police" means the chief of police of the municipality or his or her designated representative.
- (f) "Exotic animal" means an animal which is rare or different from ordinary domesticated animals and is not indigenous to the State of New Mexico.
- (g) "Nuisance" means, but is not limited to, disturbing the peace, emitting noxious or offensive odors, or otherwise endangering or offensive to the environment of the municipality.
- (h) "Keeper" means any person who owns, harbors, keeps, or has control or custody of an animal for more than six days, provided that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.
- (i) "Kennel" means any establishment or premises where dogs or cats are boarded or kept.
- (j) "Person" means any individual, household, firm, partnership, corporation, society, association, and every agent and employee thereof.
- (k) "Quarantine" means to detain or isolate an animal suspected of being infected with rabies.
- (l) "Running at large" means an animal off the premises of the keeper and not under the direct control of a competent person. Direct control means connected by a secure leash not over six feet in length or some other equivalent means of direct control.
- (m) "Stray" or "estrays" means any animal that has no identifiable keeper.
- (n) "Vaccination" means the vaccination of an animal with an anti-rabies vaccine approved by the Secretary of the Health and Environment Department and administered under the supervision of a veterinarian.
- (o) "Veterinarian" means any veterinarian licensed in the State of New Mexico.
- (p) "Vicious animal" means any animal which commits an unprovoked attack

upon a person on private property, or which terrorizes or attacks a person on public property or in a public place.

- (g) "Wild animal" means any animal which is wild by nature and cannot normally be domesticated or controlled.

Section 2. Rabies control.

Annual Vaccination. It is the duty of every person keeping a dog or cat over the age of three months to have such animal vaccinated against rabies. All dogs and cats must be revaccinated annually. Every veterinarian who vaccinates a dog or cat hereunder shall issue to the owner or keeper of the animal a numbered vaccination certificate and tag. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the type of vaccine used, the date of vaccination, and the expiration date of the period of immunity.

Vaccination Certificate. Every person who keeps a vaccinated dog or cat must exhibit his copy of the certificate of vaccination upon the demand of any person charged with the enforcement of this article.

- (c) **Harboring Unvaccinated Animals.** It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein.

Reporting Rabies Suspects. Every veterinarian who makes a clinical diagnosis of rabies and every person who suspects rabies in a domestic or wild animal shall immediately report the same to the Local District Health Office of the Health Services Division of the Health and Environment Department stating precisely when and where such animal was seen and if possible where it may be found.

Human Exposure to Rabies. Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the animal shelter and to the Local District Health Office. Every physician or other health care professional who treats a person for such bite shall report such treatment to the Local District Health Office within twelve hours of such treatment. Such treatment must specify the name and precise location of the person bitten.

- (f) **Quarantine of Rabies Suspects.** Any dog or cat which has bitten a person shall be confined and observed for a period of ten (10) days from the date of the bite at the animal shelter, a veterinary hospital, or an approved kennel; provided, however, that if the animal has a current vaccination for rabies and the area involved is not under quarantine for rabies, the Animal Control Officer may permit quarantine of such animal at the owner's home. Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the Animal Control Officer.

Enforcement of the Quarantine. It is unlawful to remove any dog or cat from enforced quarantine during the period of confinement without consent of the responsible Animal Control Officer.

Wild Animal Bites. Bites inflicted by animals other than dogs and cats must be reported to and discussed with the Local District Health Office for proper disposition.

Section 3. License required.

License. Every keeper of any dog or cat three (3) months of age or older shall procure a license. License fees shall be paid annually not later than March 1 of each year and the full amount shall be paid for any fraction of the licensing year. Upon collection of the license fee by the municipality, a dated and

numbered certificate shall be issued stating the name and address of the owner, rabies tag number, and the animal's description.

Proof of Rabies Vaccination. No dog or cat shall be licensed without proof of rabies vaccination as provided in this article.

- (c) **Certificates and Tags.** The current municipality's license and rabies tags shall be affixed to the licensed dog at all times except when the dog is being kept in an approved kennel, veterinary hospital or training class. The original license and tag and the rabies certificate and tag of all dogs and cats shall be retained by the owner and shall be available for inspection by any person charged with the enforcement of this article.

Loss of License Tag. In the event the original license tag is lost, the keeper shall obtain a duplicate tag from the municipality at a cost of one dollar (\$1.00).

Fee. The annual license fee shall be two dollars (\$2.00) for a neutered dog or cat and shall be three dollars (\$3.00) for a not neutered dog or cat. Guide dogs free.

Section 4. Prohibited activities.

- (a) **False and stolen documents.** It shall be unlawful for any person to transfer any license or rabies tag from one animal to another or to make use of a stolen, counterfeit, or forged license, certificate or tag.
- (b) **Animals Running at Large.** It shall be unlawful for any keeper of a dog or cat or other pet animal to permit such animal to run at large.
- (c) **Noisance.** It is unlawful for a keeper to allow any animal to persistently bark, howl, or make noise or to be kept or maintained in such a manner as to disturb or otherwise endanger the health and welfare of the inhabitants of the neighborhood.
- (d) **Confinement During Estrus.** Any female dog or cat 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. 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.
- (e) **Physical Abuse.** It is unlawful for any person to maliciously kill, maim, torture, mutilate, burn, or to cruelly drive or work any animal.
- (f) **Abandonment of Animals.** It is unlawful to abandon any animal within the municipality.
- (g) **Poisoning.** It is unlawful to poison domestic animals or to distribute poison or toxicant in any manner with the intent of so poisoning.
- (h) **Care and Maintenance.** It is unlawful for any keeper to fail to provide an animal with proper food, drink and shelter, or to carry an animal in or upon any vehicle in a cruel or inhumane manner.
- (i) **Animal Fights.** It is unlawful to cause, instigate, or promote any fight in which two or more animals are engaged for the purpose of injuring, maiming, or destroying themselves or another animal.
- (j) **Premiums and Novelties.** It is unlawful to sell, offer for sale, barter, or give

away any live animal as a premium, prize, award, novelty, or incentive to purchase merchandise; it is unlawful to color, stain or dye any chicken, duckling, or fowl.

- (k) Turtles. It is unlawful to offer for sale, sell, barter or give away turtles except in conformance with appropriate federal regulations.
- (l) Vicious Animal. It is unlawful for any person to keep or harbor any vicious animal.

Section 5. Impoundment

Animal Shelter. A suitable animal shelter shall be provided for the purpose of boarding and caring for animals impounded under the provision of this article.

Impounding Animals. Animals kept in violation of this article and stray animals shall be taken into custody by an animal control officer or other designated official and thereupon impounded.

Right of Entry. Animal control officers, in 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.

Register. The animal control officer, upon impounding or receiving any animal, shall register such animal by entering the breed, color and sex of the animal and the time and place such animal was apprehended into the registry kept for this purpose.

Notice to owner. If the keeper of an impounded animal is known, he or she must immediately be notified. If the keeper of the animal is not known, notice of the impoundment shall be posted in a conspicuous place at the animal shelter for a period of two (2) days.

- (f) Right to Redeem. The keeper of any animal which has been impounded under the provisions of this article shall have the right to redeem the animal upon payment of the impoundment fees, care and feeding charges, veterinary charges, and such other costs as set by the Governing Body.

Time for Redemption. All impounded animals shall be redeemed within two (2) days after impoundment. Any animal not redeemed within the required period shall become the property of the animal shelter and may be placed for adoption upon payment of the license fee, impoundment fees, care and feeding charges, veterinary charges, and such other costs as set by the chief of police or the animal may be humanely destroyed.

Disposition of Impounded Animals Being Held on Complaint. If a complaint has been filed in the municipal court of the municipality against the keeper of an impounded animal for a violation of this article the animal shall not be released except upon order of the court which also may direct the owner to pay any penalties for violation of this article in addition to all impoundment fees, care and feeding charges and veterinary fees.

Section 6. Kennels.

- (a) Restrictions. No person, group of persons, or business entity, in the municipality may own, keep or harbor more than three (3) dogs of three (3) months of age or older, more than three (3) cats of three (3) months of age or older, or more than a total of five (5) dogs and cats in any combination more than three (3) months of age or older without obtaining a kennel license.
- (b) License Required. Persons operating a kennel must obtain a nontransferable

kennel license, which shall be posted in a conspicuous place in the kennel. A kennel license shall expire on December 31 of each year and shall be renewed by February 1 of the following year. No kennel license may be issued without an inspection certificate. The annual kennel license fee shall be six dollars (\$6.00).

- (c) Facilities and Care Applicable to Kennel License. Animal housing facilities must be structurally sound and shall be constructed of non-toxic materials. The facility shall be maintained in good repair and kept clean and sanitary at all times, so as to protect animals from disease and injury. Animals maintained in pens, cages, or runs for periods exceeding twenty-four (24) hours must be provided with adequate space to prevent overcrowding and to permit an adequate exercise according to the requirements of the species. Indoor housing shall be provided with adequate ventilation and temperature control to provide for the animals' comfort and health. Sufficient lighting shall be provided by either natural or artificial means. If outside housing is provided, it must be sufficient to protect the animal from sunlight, rain, snow, or cold weather detrimental to the animal's health. Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals, and debris. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards. Except where indicated for health, animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily and diseased or injured animals must be provided with veterinary care.
- (d) Inspection. Representatives of the Town 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 article.
- (e) Violations, Suspensions and Revocations. A kennel license may be denied, suspended, or revoked upon a determination that the operator of the kennel or pet store is in violation of this article. An opportunity for a hearing on any denial, suspension, or revocation shall be provided at a time and place determined by the Board of Trustees. Based upon the record of such hearing the Board of Trustees 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 article, the license shall be reinstated.
- (f) Exceptions. This section shall not apply to and shall not be construed to require a kennel 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 society.

Section 7 Wild and exotic animals.

- (a) Keeping the following animals is prohibited:
- (1) Wild animals kept in such numbers or 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 the property of human beings, or which constitute a public or private nuisance;

Exotic or wild animals prohibited by federal or New Mexico law or regulation.

- (b) Permit Required. No person shall receive, purchase, own, or keep wild or exotic animals without first applying for and receiving from the Governing Body and from the State of New Mexico Department of Game and Fish a permit to do so. The applicant must provide evidence of knowledge and facilities for the care and feeding of the animals involved. The Chief of Police is permitted to enter the premises of any permittee hereunder at any reasonable time for the purpose of inspection or reinspection to determine compliance with this article. The Governing Body or the Department of Game and Fish may deny, revoke, or suspend a permit for failure to comply with this ordinance. The fee for such a permit shall be five dollars (\$5.00) and shall be renewed annually. A separate permit shall be required for each species of wild or exotic animal.

Section 8. Domestic livestock.

(a) Restrictions.

No person shall keep any domestic livestock, including, but not limited to, horses, cattle, mules, donkeys, burros, swine, goats, sheep or fowl within the municipality without first applying for and receiving from the Board of Trustees a permit to do so when such domestic livestock are to be kept within the following areas of the Town of Clayton:

Shields Heights Addition;

- That portion of the Town west of the railroad tracks south of Harding Street and east of Fifth Avenue and not including the fair grounds;
- That portion of the Town east of the railroad tracks south of Highway 87 and west of Highway 87;
- That portion of the Town east of Highway 87, south of Santa Fe Drive and north of Main Street;
- That portion of Town east of Highway 87, south of main street, west of Seventh Street and North of Aspen Street;
- That portion of Town east of Seventh Street, south of Main Street, west of West Avenue and north of Locust Street;
- That portion of Town east of Highway 87, south of Aspen Street; east of Fifth Street and North of Beech Street;
- That portion of Town east of West Avenue, south of Devoy Street, west of Miera Street and north of School Street;
- That portion of Town north of Guyer Street, east of Miera Street, south of Devoy Street and west of Pinard avenue;
- That portion of the Town south of Gyer Street, east of Miera Street, north of School Street and west of Baca Street.
- The Municipal Airport, Golf Course and Cemetery.

In that portion of the municipality in which a permit is required to keep livestock, no person shall keep any equine or bovine over six (6) months of age on any premises, the overall area of which is less than one-third (1/3) of an acre for each equine or bovine unless the Board of Trustees determines that a lesser area is adequate in a particular circumstance.

- (3) All domestic livestock shall be cared for according to accepted livestock management practice and in such manner as to not create a public nuisance and shall be rendered for property tax purposes to the County Assessor.
- (4) All domestic livestock shall be kept in a secure pen or enclosure which shall be a reasonable distance from any inhabited dwelling, excluding the home of the owner of such animals, or currently used food service establishment, church or school.
- (5) The person in possession or control of a pen or enclosure for domestic livestock shall keep it in such a manner as to control offensive odors, insect breeding and any other conditions affecting the public health.

(b) Running at Large Unlawful.

- (1) It is unlawful for any domestic livestock, including, but not limited to, cattle, horses, mules, donkeys, burros, swine, goats, sheep or fowl, or other animal, to be turned loose, abandoned or to run at large within the limits of the municipality; or for any such animal to be tethered that it may roam across or into any street or public place in said municipality; and it is unlawful for any person to herd or detain such animal in any street, avenue, alley or other public place in said municipality.

The Police shall take up and impound every animal found running at large in violation of the article and shall provide proper care and sustenance for every such animal impounded at the expense of the municipality.

- (3) Within twenty-four (24) hours after any animal has been impounded, the Police shall notify the owner, possessor or keeper of such animal, that the animal has been impounded. If the owner, possessor or keeper of such animal, is not known or if his address cannot be determined, the Police shall cause to be posted in at least two (2) conspicuous public places in the municipality for five (5) consecutive days a notice of impoundment with a description of the animal. Any owner, possessor or keeper of an animal desiring to redeem such animal from impoundment shall pay the municipality the sum of five dollars (\$5.00) as an impoundment fee for each animal, together with the sum of one dollar fifty cents (\$1.50) for each day of impoundment plus the actual cost of feeding and watering each animal impounded.

Any person who shall break or in any manner, directly or indirectly, aid in breaking into the enclosure in which any animal is impounded shall be guilty of a misdemeanor.

Any person who shall willfully or intentionally hinder or obstruct the Police in the discharge of official duty under the provisions of this ordinance, shall be guilty of a misdemeanor.

(c) Sale of Unredeemed Animals.

(1) If any animal impounded shall remain unredeemed for five (5) days after being impounded, the Police shall give five (5) days notice of the time and place when said animal will be sold. Said notice shall be posted in at least two (2) conspicuous public places in the municipality for five (5) consecutive days.

At any time before the sale thereof, any animal impounded may be redeemed upon the payment of the penalties and costs provided for in this article.

The day fixed of the sale of any unredeemed animals shall be the sixth day after the posting of the notice of the sale, except when the same would fall on Sunday, election day or any legal holiday in which case the day of sale will be the next succeeding day. At said sale, the Police shall sell for cash to the highest bidder, the animal advertised, and shall furnish the purchaser a Bill of Sale signed by the Mayor and the Municipal Clerk.

The Police shall keep records of all sale transactions, turn over all money received to the treasurer of the municipality, and furnish a monthly report to the Board of Trustees of the municipality showing all animals impounded and all animals shall be listed individually showing the amount of money collected on each, as well as the disposition of each case.

Section 9. Unlawful to be cruel to animals.

It is unlawful within the limits of the Town of Clayton to torture, torment, deprive of necessary sustenance, cruelly kill or drive any animal, or unnecessarily fail to provide the same with proper food and drink, or cruelly drive or work the same when unfit for labor.

Section 10. Penalties.

Any person who violates any provision of this ordinance shall upon conviction thereof before the Municipal Judge be punished by a fine of not more than \$500.00 or by imprisonment for not more than ninety (90) days or both such fine and

imprisonment.

Section 11. Repeal.

Any portion of any prior ordinance which is in conflict with this ordinance or is inconsistent herewith is repealed on the effective date hereof including all of ordinances 401 and 623 and that portion of ordinance 523 set out at Sections 7-1-1 through 7-1-9.

Section 12. Effective Date.

The effective date of this ordinance shall be July 1, 2004 after its adoption and publication as provided by state statute.


ADOPTED BY THE GOVERNING BODY OF THE TOWN OF CLAYTON, NEW MEXICO this 13th day of January, 2004.



Mayor

(SEAL)

ATTEST:



Municipal Clerk