ORDINANCE NO. 11-H

AN ORDINANCE AMENDING PORTIONS OF ORDINANCE 11D, 11E, 11F AND 11G AND REPEALINGAND ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE OF THE TOWN OF HURLEY, NEW MEXICO.

PROVIDING FOR ANIMAL CONTROL AND PREVENTION OF CRUELTY TO ANIMALS

SECTION 1. CRUELTY TO ANIMALS PROHIBITED

1. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, beat with a hand, stick, chain, club, or any other object, to mutilate, burn, or scald with any substance, drive over or 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 serious bodily injury to oneself, another person, or another animal.

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

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 use of poisonous substance for the control of vermin of significance to the public health.

2. It is unlawful for any person to fail or refuse 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 manner. Animal waste will be disposed of from the animal owner's property on a daily basis. No person shall allow an animal to defecate upon public property or upon any private property other than the property of the owner of the animal without immediately and thoroughly disposing of the feces in a sanitary fashion. (State Statute No. 90.105, 1979 Code). It is unlawful for any person to willfully or maliciously abandon any animal, either healthy or diseased, within the Town of Hurley.

It is unlawful to leave any animal unattended in any motor vehicle, truck bed, or trailer which could cause injury to the animal because of heat, cold, or otherwise. It is also 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 or body can protrude beyond the boundaries of the motor vehicle, truck bed, or trailer.

Animals must be secured in all vehicles in such a manner as to avoid excessive freedom

of movement while in or on any motor vehicle, truck bed, or trailer that is in motion. This provision is intended to prevent injuries sustained from an animal jumping or accidentally falling out of a moving vehicle, and to aid in the well being of the general public.

Whenever the Animal Control Officer finds any animal that is, or will be, without proper care because of the caretaker's injury, illness, incarceration or other voluntary absence the Animal Control Officer shall impound the animal; and in the event of illness or injury to the animal and, 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.

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

SECTION 2: PROHIBITED ACTS-ANIMAL NUISANCES

1. It shall be unlawful for any person owning or having custody of or possession of horses, cows, goats, sheep, pigs, chickens, waterfowl, pigeons or other livestock animals, or to harbor such animals within the city limits of the Town of Hurley.

2. It shall be unlawful for any person owning or having custody of or possession of an animal to allow an animal to make excessive noise and thereby disturb the peace of others.

3. It shall be unlawful for any person owning or having custody of or possession of an animal to permit any noxious or offensive odors to emanate from the animal or property that disturbs the peace of others.

4. It shall be unlawful for any person to keep or harbor vicious animals within the Town of Hurley.

5. Commissioned officers of the Police Department of the Town of Hurley or the Animal Control Officer are authorized to humanely destroy any animal deemed to be vicious based upon probable and articulated cause and which constitutes a grave physical threat of bodily injury to themselves or to other persons or other animals within the Town of Hurley.

6. Any female animal 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 a boarding kennel or veterinary at the owner's or keepers expense.

7. It is 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.

8. It is unlawful to permit dogs in the streets or public places unless on a secured leash not exceeding ten (10) feet in length and under the immediate physical control of the person having custody thereof.

9. 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"x14" and shall contain black lettering on a white background "WARNING-GUARD 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).

SECTION 3: KENNEL LICENSE / BREEDER'S PERMIT

The definition of a kennel is as follows: Any commercial establishment or premises where there are more than two (2) dogs and two (2) cats, which are at least four (4) months of age or older and are boarded, kept or maintained for any purpose whatsoever, with the exception of state-inspected veterinary hospitals and shelters.

Those persons engaged in hobby breeding shall have no more than two (2) adult animals (male and female). Litters born shall be disposed of within six (6) months after it is determined that they have been weaned from the mother. It shall be unlawful for any person to operate a commercial kennel or pet shop or engage in the business of breeding animals without obtaining a town license for the operation of a business and a professional animal permit. It shall be unlawful for any person to operate a private residential kennel without obtaining an annual permit for the operation thereof. Kennel permits shall be renewed annually on January 1 of each calendar year.

Animals shall be kept in a secured, enclosed or fenced area. Before issuing the permit, the Town Council shall determine that the keeping of the animals shall not endanger the peace, health or welfare of the inhabitants of the town and the permit may be subject to restrictions as to sanitary conditions, number of animals, location of the same and such other conditions deemed necessary.

A kennel license or breeder's permit may be issued by the Town Clerk for the keeping of dogs, cats or combination after the application has been presented and approved by the Governing Body, and the applicant has demonstrated that the applicant can comply with the following conditions:

(a) The owner must be in compliance with the Ordinance pertaining to the number of dogs and cats permitted.

(b) The applicant for the permit must show a plot plan of the premises where the animals are to be kept; identify the numbers of cats and dogs which are proposed to be kept, including the numbers of which are to be kept predominantly indoors and which are to be kept predominantly or entirely outdoors; and identify the number and approximate location of any outdoor shelters on the premises.

(c) The fee for the permit shall be seventy-five dollars ($75.00) per year, in addition to any other fees required by the Town.

(d) Each holder of a breeder's permit shall comply with all provisions of this Section, and shall keep the premises for which the permit is issued free from any obnoxious, offensive or unsanitary condition.

(e) The breeder's permit may be revoked if any of the following conditions exist:

(1) The permittee has violated any Town Ordinances or New Mexico laws relating to the keeping, care or use of any animal;

(2) The permittee has failed to comply with any condition or requirement of the permit or has failed to pay any fee required by this Section;

(3) The permittee refuses to allow inspection, on forty-eight (48) hours written notice, of any animal covered by the permit or the premises in which the animal is kept; or

(4) The permittee has transferred, sold or otherwise disposed of the animal for which a breeding permit was issued.

(f) If, after investigation, the Animal Control Officer or other commissioned law enforcement officer concludes that there is probable cause to believe that one or more of the above grounds for revocation has occurred, he or she shall give written notice of proposed revocation to the permittee. This notice shall be served to the permittee by first class mail or personal delivery, and a copy shall be delivered to the Chief of Police. The notice shall specify the grounds for proposed revocation of the permit and shall specify a time and date for an informal hearing to be held before the Chief of Police or the Chief's designee. The date of the hearing shall be not less that five (5) days after the notice is mailed. After the informal hearing, the permit may be continued in effect, modified, or revoked.

(g) The permittee may appeal the decision of the Chief of Police to the Town Council by written notice of the appeal within five (5) working days of the

decision.

(h) The only exception to this section is that the animals are designated as working animals such as dogs trained for handicapped and impaired people, seeing eye dogs, etc. These animals must be certified and/or licensed as such, and a copy of documents attesting and certifying the animal(s) are registered to work in this capacity will be provided to the Town Clerk to be kept on file.

SECTION 4: ANIMAL CONTROL

The Town Police and the Animal Control Officer have the authority of peace officers to issue citations for violations of this Ordinance and to perform such other duties as are prescribed by this ordinance. Animal Control Officers, in performance of their duties, may enter upon the outside premise of private property for the purpose of apprehending animals running at large and stray animals, and for the purpose of checking the compliance of the licensure requirement for any animal. The Animal Control Officer shall have the authority to issue a citation for any non-compliance with this Ordinance.

The Animal Control Officer shall not use and discharge firearms either to maim or kill any animal within the city limits, unless the officer is certified in the use of firearms, tranquilizers, pepper spray and/or mace, except as otherwise permitted in this Ordinance.

SECTION 5: IMPOUNDMENT FEES, LICENSE FEES

Redemption. Any dog or cat may be redeemed from the pound by the owner or keeper of the animal(s) within the time stated by ordinance, by the payment to the clerk the license fee for the current year, if the animal is required to be licensed, and an impounding fee. The impounding fees shall be charged as follows: During any twelve (12) month period the first impoundment shall be in the amount of $20.00. The second impoundment during any twelve (12) month period shall be $35.00. The third impoundment during any twelve (12) month period shall be and $50.00. And for each additional impoundment during any twelve (12) month period the charge shall be $100.00. In addition to the impoundment charges the owner or keeper of the animal shall pay an additional $3.00 per day for each day, or any portion of a day, in which the animal is impounded and which is prior to notification of the impoundment to the owner or keeper of the animal impounded. Following notice of impoundment to the owner or keeper of the animal the charge per day shall be $4.00 for each day or any portion thereof that the animal is impounded.

Adoption of Impounded Animals. Any impounded animal not claimed by the owner or keeper of the animal within the maximum confinement period of thirty (30) days may be adopted by another person upon payment of required fees provided that the animal is not deemed vicious.

1. Adoption fee shall include licensing fees (within city limits), impound charge plus the costs of spaying and/or neutering, and the fees for any required vaccinations

and other medical treatment provided to the animal.

2. The health of an adopted animal shall not be guaranteed and the adoption fees shall be non-refundable.

License Fees. Dog and cat license shall be issued by the Town Clerk for a fee of $15.00 for each neutered male or spayed female, and $20.00 for un-neutered mail and un-spayed female. Licenses shall expire one year after they are issued.

Savings Clause. If any of these sections, subsections, sentences, clause, or phrases of this Ordinance are for any reason held unconstitutional or invalid, the validity of the remaining portions of the Ordinance shall not thereby be affected since it is the express intent of the Town of Hurly to pass each section, phase, paragraph, and word separately.

Repeal Clause. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

PASSED, APPROVED, AND ADOPTED THIS 2nd DAY OF July 2007.

TOWN OF HURLEY

Ray C. Baca

Ray C. Baca, Mayor

ATTEST:

Annie G. Baca

Annie G. Baca, Town Clerk