

Title 6 ANIMALS

ORDINANCE 2023-11

Chapter 6.04 GENERAL PROVISIONS

6.04.010 Short title and legislative intent.

This title 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 title 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.

(Ord. No. 2020-11, 11-16-2020)

6.04.020 Definitions.

For the purpose of this title, 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. Singular pronouns may be deemed plural if there is more than one (1) individual being represented.

"Abandonment" means to permanently or temporarily desert or give up interest in the supervision or care of an animal or animals.

"Animal" means any dog or cat or other mammal excluding humans and those controlled by the New Mexico Department of Game and Fish and the New Mexico Livestock Board and poultry.

"Animal control officer" or "A.C.O." means that person employed by the City establishment authorized by the City of Belen to enforce this Ordinance. A police officer of the department may be designated to act in the capacity of A.C.O. shall the A.C.O. not be available.

"Animal control shelter" or "shelter" means any establishment authorized by the city of Belen for the care and custody of impounded animals.

"Bite" means a puncture or tear of the skin inflicted by the teeth of any animal.

"City of Belen" or "city" means city managed areas and includes the land area within the boundaries of the city of Belen or areas agreed upon by a memorandum of understanding.

"Commercial kennel" means any commercial establishment (private or public) of premises where dogs, cats, or other animals are boarded, bred, or kept and is operated by a business.

"Council" means the governing body of the City of Belen.

¹Editor's note(s)—Ord. No. 2020-11, adopted Nov. 16, 2020, repealed the former Tit. 6, Chs. 6.04, 6.08, 6.12, 6.16, 6.20, 6.24, 6.28, and 6.32, and enacted a new Tit. 6 as set out herein. The former Tit. 6 pertained to similar subject matter, and derived from Ord. No. 2016-09, adopted Nov. 21, 2016.

"Court Hold" means court's determination of some matter of law.

"Department" means community preservation or police department.

"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.

"Estray" means any animal which shall be off and away from its home unattended and running at large within the city of Belen.

"Exotic animal" means rare or different from ordinary domesticated animals and is not indigenous to the state of New Mexico that is regulated separately by any state or federal agency.

"Fixed Point Anchor" means a lead is directly off the anchor allowing animal to move, as operating a device off one's harness and or collar

"Hobby kennel" means any person, group of persons or business entities in City of Belen harboring more than a total of (4) dogs and or cats in any combination more than (3) months of age or older. "Impoundment" means the taking into custody a stray, vicious animal or an animal alleged to be vicious, by a municipal regulations specialist or municipal police officer, and the detention of the [animal].

"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 (8) feet.

"Livestock permit" means a permit issued by the M.R.S. to a citizen who resides in the city of Belen and maintains livestock animals on his property within the city of Belen.

"Municipal regulations specialists" or "M.R.S." means that person employed by the City to enforce the sanitary laws of the city of Belen, New Mexico. A police officer of the department may be designated to act in the capacity of M.R.S.

"Owner" means a person who owns, has, keeps, harbors or permits an animal to remain in, on or about his or her premises.

"Pet shop" means any person, partnership, or corporation who is engaged in the buying and selling or grooming of animals for profit.

"Premises" means a parcel of land owned, leased, rented, or controlled by any person, legal or natural. Such parcel of land may include a structure.

"Police officer" means a police officer, which may be designated to act in the capacity of M.R.S.

"Recognized Registry Organization" means an organization that represents canine animal breeders such as American Kennel Club (AKC) and The Kennel Club (UKC)

"Running at large" means being neither confined by an enclosure, physically restrained by a leash, nor under voice or sound control of a competent person when off the premises occupied by the owner.

"Service animal" means an animal which has been trained by a recognized service animal trainer to assist a blind person, a hearing impaired person, or a mobility impaired person. This term shall also include an animal that is deemed necessary by a physician licensed to practice in the state of New Mexico.

"Vaccination" means protection provided against rabies by inoculation with recognize-vaccine recognized and approved by the Health Services Division of the Health and Environment Department of the State of New Mexico, and administrated by or under the supervision of a licensed veterinarian.

"Veterinarian" means a person with a Doctor of Veterinary Medicine degree licensed to practice veterinary medicine in the state of New Mexico.

"Vicious animal" means any animal which shall bite or in any manner attack or attempt to attack any person or animal within the city of Belen except that any animal that bites, attacks, or attempts to attack any person or animal unlawfully upon its owner's or keeper's premises, which is provoked to attack, shall not be deemed a vicious animal.

"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 person 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.

The M.R.S. 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 M.R.S. shall be responsible [to] the community preservation director of the city of Belen.

(Ord. No. 2020-11, 11-16-2020)

6.04.040 Authority of the M.R.S. and/or police officer.

- A. The M.R.S. or police officer shall have the authority to issue citations whenever there is probable cause to believe there exist violations of this title and to perform such other duties as are prescribed herein.
- B. The M.R.S. shall have the authority and is directed to investigate upon probable cause any alleged violation of this title or any law of the state of New Mexico relating to the care, treatment, control and prevention of cruelty to animals. The M.R.S. or police 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, a warrant for the inspection of said premises shall be obtained from a court in New Mexico prior to inspection. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection or investigation.

(Ord. No. 2020-11, 11-16-2020)

6.04.050 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 astray or regarding any supposed violation of this title.

(Ord. No. 2020-11, 11-16-2020)

6.04.060 Violation—Penalty.

Any person who violates any provisions of this title with the exception of section 6.08.010 of this title, shall be deemed guilty of a misdemeanor, and upon conviction of violating this title, 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 title is violated shall be considered a separate offense.

(Ord. No. 2020-11, 11-16-2020)

Chapter 6.08 DOG AND CAT LICENSES

6.08.010 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 M.R.S. for each dog or cat. The M.R.S. 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.
- B. Affixing Tag. 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 two dollars (\$2.00).
- C. Unlawful Use of License Tags. It is unlawful for any person to remove any license tag from one (1) animal to another. It is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his or her control a stolen, counterfeit, or forged animal license tag, rabies, vaccination certificate or other form of licensing as required under this title.
- D. Litter License Permit. Any person who breeds or allows dogs and/ or cats to breed, are required to obtain a litter license per every new litter produced.
- E. Annual License Fee Schedule.
 - 1. For each unneutered male dog\$ 25.00
 - 2. For each unneutered male cat\$ 25.00
 - 3. For each unspayed female dog\$ 25.00
 - 4. For each unspayed female cat\$ 25.00
 - 5. For each neutered male dog\$ 5.00
 - 6. For each neutered male cat\$ 5.00
 - 7. For each spayed female dog\$ 5.00
 - 8. For each spayed female cat\$ 5.00
 - 9. Hobby kennel license\$ 25.00
 - 10. Commercial kennel\$100.00
 - 11. Fowl permit (six (6) or less)\$ 15.00
 - 12. Fowl permit (seven (7) or more, up to fifteen (15))\$ 25.00
 - 13. Livestock permit (goats, sheep, horses, cattle)\$ 50.00

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(Supp. No. 27, 3-22)

14. Litter License Permit Fee \$ 25.00

For each dog or cat certified as a surgical risk for spaying or neutering, the license fee shall be five dollars (\$5.00). 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.

- F. Exemptions. The provisions of this section do not apply to dogs or cats whose owners are nonresidents, 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 guide and therapy dogs or cats purposely trained to assist the disabled when such dogs or cats are actually used by the disabled. Future Farmers of America and any other educational animal programs do not have to obtain said permit requirement.
- G. Nonresidents who keep said animals within the confines of the boundaries of the City of Belen for less than ninety (90) consecutive days shall be exempt from this section; provided, however, that all other provisions of this title must be complied with.
- H. Animals that have a current registered microchip with city of Belen will not be charged a license fee for the life of the animal. Guide and therapy dogs or cats will be licensed by the City of Belen at no charge to the disabled.

(Ord. No. 2020-11, 11-16-2020; Ord. No. 2021-11, 9-20-2021)

Chapter 6.12 ANIMAL CONTROL REGULATIONS GENERALLY

6.12.010 Restraint of animals.

- A. It is unlawful for the owner of an animal to cause, allow, or permit the animal to commit any damage or nuisance to a person, upon the property of any other person, or upon a public street, alley, sidewalk, park or other public place. Dogs and/or cats are permitted on the roadways and public areas in the city only if on a secure leash not exceeding eight (8) feet in length, and in the immediate physical control of the person having custody thereof. This provision does not apply when an animal is taking part in a bona fide animal show (or is a bona fide show animal), nor does it apply to dogs trained for hunting and under the voice control of their owners.
- B. A rope, light weighted chain or cable may be used to restrain an animal, provided the following criteria is met:
 - 1. No dog which is under six (6) months of age, or in heat or estrus, or which is sick or injured may be tethered.
 - 2. Only one (1) dog may be tethered to each trolley, cable run or fixed point anchor.
 - 3. The tether (that portion of the system that runs from the trolley or cable run to the dog's collar or harness) must have swivels on both ends.
 - 4. The tether must be attached to a properly fitting collar or harness worn by the dog. The collar or harness shall be of appropriate size and weight so as not to cause sores or abrasions. Choke collars, prong collars, and pinch collars are prohibited for purposes of tethering a dog to a trolley or cable run.
 - 5. The trolley, cable run, or fixed-point anchor system must be of adequate size and strength and be properly maintained so that it effectively restrains the dog. However, the tether shall weigh no more than one-eighth ($\frac{1}{8}$) of the dog's weight.

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6. The tether must be at least fifteen (15) feet in length and attached to a pulley or trolley mounted on a cable which is also at least fifteen (15) feet in length. The cable shall be mounted no more than seven (7) feet above ground.
 7. The trolley , cable run, or fixed-point anchor system shall not permit the dog to exceed the property boundary line at any time. If so, animal will be deemed running at large. 8. The dog shall be tethered in an area that is unobstructed by objects or other devices that may cause the devise or dog to become entangled or strangled. The trolley or cable run system shall be placed so that it may not extend over an object, edge, or fence that could result in strangulation.
 9. The dog must be able to sit, walk and lie down comfortably. The dog shall have access to proper and sufficient food, portable water, adequate shade, ventilation, and proper shelter.
 10. All feces shall be removed, and the area where the animal is confined shall be kept as required. 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 M.R.S.

(Ord. No. 2020-11, 11-16-2020)

6.12.020 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 Chapter 6.32 of this title.

(Ord. No. 2020-11, 11-16-2020)

6.12.030 Animals on unenclosed premises.

It is unlawful for any person to restrain any animal on any unenclosed premises in such a manner that such an animal may go beyond the property line.

(Ord. No. 2020-11, 11-16-2020)

6.12.040 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 or animal while off its premises. After a judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this title, upon hearing of such complaint, shall in addition to any fine or imprisonment which shall be imposed for violation hereof, order the M.R.S. to have such animal humanely euthanized.

(Ord. No. 2020-11, 11-16-2020)

6.12.050 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.

(Supp. No. 27, 3-22)

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The M.R.S. is to investigate all evidence before a citation is issued.

(Ord. No. 2020-11, 11-16-2020)

6.12.060 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.

(Ord. No. 2020-11, 11-16-2020)

6.12.070 Animals trained to assist the disabled allowed in public places.

Any person owning, operating, or maintaining any public place of business or conveyance into which the general public is invited for any business purposes shall not exclude therefrom any animal which has been trained to assist the disabled, provided such animal be in the company of the disabled person to whom it was trained to assist and must comply with federal standards.

(Ord. No. 2020-11, 11-16-2020)

6.12.080 Keeping of wild and exotic animals.

- A. No person shall keep an animal of a species prohibited or protected by state or federal law.
- B. No person shall keep an animal which is poisonous, dangerous, noxious or naturally inclined to do harm except in 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 title 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.

(Ord. No. 2020-11, 11-16-2020)

Chapter 6.16 RABIES

6.16.010 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 animal shall receive a booster within the twelve-month interval following the initial vaccination. Every domestic dog and cat shall be re-vaccinated against rabies within twelve (12) months if a one-year vaccine is administered or within thirty-six (36) months if a three-year vaccine is administered with a rabies vaccine licensed by the United States Department of Agriculture and administered according to label recommendations. The "Compendium of Animal Rabies Control (CARC)," published by the National Association of Public Health Veterinarians, Inc., shall be the reference for the route of inoculation and the type of vaccine.

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- B. Rabies vaccine shall be distributed through organizations that comply with health and environmental standards applicable to the distribution of rabies vaccine.
 - C. The veterinarian who administers rabies vaccine to a dog or cat shall issue to the owner a serially numbered vaccination certificate containing the name of the veterinarian, the type of vaccine used, the initials of the producer of the vaccine, the name and address of the owner, a description of the dog or cat vaccinated, the date of the vaccination and the expiration date for the period of immunity. The veterinarian shall also furnish the owner with a tag bearing the certificate number and the year of the vaccination. The tag shall be affixed to the vaccinated dog or cat and shall be worn at all times the animal is not on the premises of the owner or otherwise confined. A combination rabies vaccination certificate and city/county license shall be permitted providing the certificate/license contains at least the above required information.
 - D. Approved rabies vaccine shall be administered to the species, by the route and in the amount recommended by the producer of the vaccine and the latest CARC.
 - E. Nothing herein shall prohibit the acceptance and recognition for purposes of compliance with this section of the administration of an approved rabies vaccine by a veterinarian licensed in another state.
 - F. 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 A.C.O.

(Ord. No. 2020-11, 11-16-2020)

6.16.020 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 immediately 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 M.R.S. as to the place where the animal is confined. The owner shall surrender said animal to the M.R.S. upon demand. The M.R.S. shall then deal with the rabid animal pursuant to state law.

(Ord. No. 2020-11, 11-16-2020)

6.16.030 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 M.R.S. within twenty-four (24) hours. The owner of an animal that bites a person shall surrender said animal to the M.R.S., 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 or she has rendered treatment to the police chief of the city of Belen or the M.R.S. within twenty-four (24) hours of his or her 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 M.R.S. 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 M.R.S. The owner of the animal shall bear the cost of confinement. The M.R.S. may consent to confinement on the owner's 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 M.R.S. A person who has custody of an animal that has bitten a person shall immediately

notify the M.R.S. 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 M.R.S. and surrender the animal to the [M.R.S.]. Disposal of the dead animal known to have inflicted the bite within the last ten (10) days shall be done through the M.R.S.

D. Wild animal bites inflicted by animals other than dogs and cats must be reported to the M.R.S.

(Ord. No. 2020-11, 11-16-2020)

Chapter 6.20 KENNELS

6.20.010 Kennels.

- A. No person, group of persons, or business entities in the City of Belen may own, keep or harbor more than a total of four (4) dogs and/or cats in any combination more than three (3) months of age or older, without obtaining a hobby 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 the ordinance codified in this chapter 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 title by natural attrition. Thereafter, those persons, group of persons, business entities shall conform to the limits established by this title.
- B. License Required. Persons operating a commercial kennel must obtain a nontransferable commercial kennel license, which shall be posted in a conspicuous place in the kennel. A commercial kennel license shall be issued annually. No commercial kennel license may be issued without an inspection certificate issued by the M.R.S.
- A commercial kennel license shall be issued annually
 - No commercial kennel license may be issued without an inspection certificate
 - Litter permit license is required for every new litter produced under commercial kennel permit
 - Breeder may own no more than (3) breeding female dogs older than (6) months that are registered with a recognized registry organization
- C. Facilities and Care Applicable to Commercial Kennel License or Hobby 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 an 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 M.R.S. 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 title.

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- E. Violations, Suspensions and Revocations. A kennel license may be denied, suspended or revoked by the M.R.S. upon determination that the operator of the kennel or pet store is in violation of this title. 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 title, the license shall be reinstated.
- F. This section shall not apply to and shall not be construed to require a commercial 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 association.
 5. Hobby kennels which shall comply with subsection A of this section.
- G. Commercial kennels shall comply with the city of Belen comprehensive zoning ordinance.
- (Ord. No. 2020-11, 11-16-2020)

Chapter 6.24 CRUELTY TO ANIMALS

6.24.010 Physical abuse.

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

(Ord. No. 2020-11, 11-16-2020)

6.24.020 Animal cruelty.

The city of Belen hereby incorporates NMSA 30-18-1 as follows: Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

- A. As used in this section, "animal" does not include insects or reptiles.
- B. Cruelty to animals consists of a person:
 1. Negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or
 2. Abandoning or failing to provide necessary sustenance to an animal under that person's custody or control.
- C. As used in subsection B. of this section, "lawful justification" means:
 1. Humanely destroying a sick or injured animal; or
 2. Protecting a person or animal from death or injury due to an attack by another animal.
- D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1, NMSA 1978. Upon a fourth or subsequent conviction for committing

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cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15, NMSA 1978.

- E. Extreme cruelty to animals consists of a person:
 - 1. Intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or
 - 2. Maliciously killing an animal.
- F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15, NMSA 1978.
- G. The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court's judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.
- H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.
- I. The provisions of this section do not apply to:
 - 1. Fishing, hunting, falconry, taking and trapping, as provided in Chapter 17, NMSA 1978;
 - 2. The practice of veterinary medicine, as provided in Chapter 61, Article 14, NMSA 1798;
 - 3. Rodent or pest control, as provided in Chapter 77, Article 15, NMSA 1978;
 - 4. The treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;
 - 5. The use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;
 - 6. Research facilities licensed pursuant to the provisions of 7 U.S.C. § 2136, except when knowingly operating outside provisions governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or
 - 7. Other similar activities not otherwise prohibited by law.
- J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

(Ord. No. 2020-11, 11-16-2020)

6.24.030 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, an adequate amount of 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.

(Ord. No. 2020-11, 11-16-2020)

6.24.040 Uncared for animals.

Whenever the M.R.S. 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 M.R.S. may take up such animal for protective care; and in the event of sickness or injury of the animal, the M.R.S. may take such action as called for to prevent undue pain and suffering including immediate destruction of the animal.

(Ord. No. 2020-11, 11-16-2020)

6.24.050 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 M.R.S. may impound such diseased or painfully crippled animals in accordance with the provisions of this title. All such animals impounded may be destroyed humanely as soon thereafter. In the case of destruction of such animal, the M.R.S. shall be required to give any of the aforesaid notices provided in this title. This section shall not be construed to include veterinary care.

(Ord. No. 2020-11, 11-16-2020)

6.24.060 Abandonment.

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

(Ord. No. 2020-11, 11-16-2020)

Chapter 6.28 DOMESTIC LIVESTOCK

6.28.010 Control of livestock in the city.

The keeping of livestock within the city limits shall comply with the city of Belen comprehensive zoning ordinance.

(Ord. No. 2020-11, 11-16-2020)

6.28.020 Definitions.

Whenever used in this chapter, the following terms shall have the following meanings:

"Person" means and includes all persons, firms or corporations.

"Unit" means 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.

(Ord. No. 2020-11, 11-16-2020)

6.28.030 Commercial feed pens prohibited.

It is 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.

(Ord. No. 2020-11, 11-16-2020)

6.28.040 Number of livestock restricted.

It is 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 less than twenty thousand (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 twenty thousand (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 one hundred (100) feet, at its nearest point, from the dwelling house of any person other than the owner of such livestock and as required by applicable zoning ordinances 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. 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 sixty (60) feet from the nearest residence, the total number or a combination thereof shall not exceed fifteen (15) on any one (1) 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 title.

(Ord. No. 2020-11, 11-16-2020)

6.28.050 Permits required.

Any person wishing to keep livestock in the City of Belen shall apply for and if approved by the M.R.S. or police officer, shall be issued a permit for the keeping of such livestock. Applications shall show the area of land owned or controlled by the applicant, the kind of livestock he or she 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 by the M.R.S. and a record of all permits shall be kept in the office of the M.R.S. It shall be a violation of this title 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 the ordinance codified in this chapter shall have a period of ten (10) days from the effective date of the ordinance codified in this chapter in which to secure such a permit.

(Ord. No. 2020-11, 11-16-2020)

6.28.060 Clean and sanitary conditions required.

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. It is declared to be the duty of the M.R.S. to make inspections of all premises where livestock are kept when the M.R.S. has probable cause to believe that the same are not being maintained in a clean and sanitary condition. If any person is unwilling to keep the premises where livestock is maintained in a clean and sanitary condition, the M.R.S. shall give a notice in writing, advising such person of the unsanitary condition of the premises, and giving 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 fails or refuses to comply with such notice and clean such premises within the period of five (5) days, a fine shall be issued. If

violation continues after ten (10) days then the permit issued shall be cancelled and such-person shall remove his or her livestock from within the limits of the City of Belen.

(Ord. No. 2020-11, 11-16-2020)

6.28.070 Livestock at large in the City.

It is 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.

- A. It shall be the duty of the M.R.S. to provide a safe place for the keeping and caring of animals so taken by him under this chapter, and the M.R.S. shall keep and care for said animals properly and any failure on the M.R.S.'s part to do so will subject the M.R.S. to removal.
- B. Any person who shall find any animal described in this section running at large contrary to the provisions hereof, may take up and deliver the same to the M.R.S.
- C. When any animal mentioned in this section shall be taken by the M.R.S. under the provisions of this chapter, the M.R.S. shall at once give notice thereof to the owner if such owner is known or can by reasonable diligence be ascertained by the M.R.S. If such owner or his agent shall pay all charges as herein provided, the owner shall claim and haul away such animal. In the event such owner shall not appear, or is unknown to such M.R.S. and cannot by reasonable diligence be ascertained, or shall fail or refuse to pay the charges, then the M.R.S. shall deliver said animal to the Valencia County shelter or any shelter designated by M.R.S. for a mandatory seventy-two-hour hold. After the seventy-two-hour hold, the said animal becomes the property of the shelter and the owner may claim the animal there.
- D. If the owner of any animal impounded as above provided shall make affidavit before the municipal judge that he is the owner of such animal describing same, and the same are unlawfully held by said M.R.S. and at the same time execute a bond with two (2) or more good and sufficient sureties 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 or her with the condition that if he or she fails to prove that such animal or animals are unlawfully held by said M.R.S., he or she will pay all costs of such proceedings and will also pay said M.R.S. of such animal or animals; which bond shall be approved by and filed with said municipal judge. Whereupon said M.R.S. 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 judgment against him or her and the sureties on his or her said bond for all costs of such proceedings and in favor of said M.R.S. for all his or her fees chargeable under this chapter, but if said complainant shall recover in said case, the judge shall enter judgment against said M.R.S. for all costs of said proceedings.
- E. Any person who shall hinder, delay, obstruct or break open any confinement facility or vehicle wherein any animals are impounded under the provisions of this chapter, or who shall remove or aid in the removal of any animals so impounded or who shall hinder or delay or obstruct any person driving to the pound any animal or animals under the provisions of this chapter shall upon conviction be punished by a fine of not more than three hundred dollars (\$300.00) or by imprisonment 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.
- F. Any person found guilty of willfully impounding an animal 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 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.

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- G. The provisions of this chapter shall apply to all animals mentioned in this section found running at large contrary to the provisions of this chapter, whether the owner or owners thereof reside within the limits of the City.

(Ord. No. 2020-11, 11-16-2020)

Chapter 6.32 IMPOUNDMENT AND DESTRUCTION

6.32.010 Impounding identifiable stray animals.

- A. It shall be the duty of the M.R.S. and his duly appointed deputies to take up and impound or cause to be impounded any astray animals found in the city of Belen.
- B. As soon as practical after the date of impoundment the M.R.S. shall notify the owner of said animal by phone or written notice. Upon notification, an owner must pick up his or her animal within twenty-four (24) hours. Animals kept by the city of Belen longer than twenty-four (24) hours may be subject to additional boarding fees.

(Ord. No. 2020-11, 11-16-2020)

6.32.020 Impounding non-identifiable strays—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 he 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 M.R.S., 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 or her possession, to fail or refuse to immediately surrender such animal to the M.R.S. upon demand thereof.
- C. Any estray animal shall be confined at an appropriate animal center pending notification of owner or authorized agent if possible, for a period of at least three (3) business days. Such owner may be cited by the M.R.S. 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 as outlined in departmental policy. The license will be held by the city of Belen during which time proof of rabies vaccination must be presented before the license will be released. Owners not returning to show proof of rabies vaccination and pick up their license will be cited by the M.R.S. or police department.
- D. Quarantine/ Court Hold. Any animal cat and/or dog that bites a person shall be placed in a quarantine impound for observation of no less than (10) days or otherwise provided by the Court's order.
- E. It shall be the responsibility of an animal owner redeeming an animal legally impounded under the provisions of this chapter to reimburse the city of Belen for animal boarding. The municipal regulations specialist or any designees by the governing body of the city of Belen shall establish appropriate procedures for collecting fees for those who reclaim animals.
- E1. Any animal seized or placed under an act of court hold investigation will be charged \$50.00 per day until the hold is released by an authorized municipal official or judge.

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(Supp. No. 27, 3-22)

E2. Animal owner will be charged \$50.00 per day, there will be a max of \$150.00 (3 days) charged to the animal owner. If the animal is not claimed by the owner after 3 days, the animal will become the property of Valencia County Animal Shelter.

E3. Any animal suspected of rabies shall be boarded at the regular rate plus six dollars (\$6.00) special handling fee, or all additional costs, whichever is greater. All above fees may be in addition to any fines or citations.

F.. The M.R.S. shall, for a reasonable period 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 M.R.S.;
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.

G.. The M.R.S. 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.

H.. 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 humanely euthanized. Animals which cannot be brought to an animal shelter because of inability of the M.R.S. 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 M.R.S. shall be humanely euthanized by a police officer of the department.

1. The M.R.S. 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 euthanized. The owner shall be given a copy of the destruction order, signed by the owner in the presence of the M.R.S. and signed by a representative of the city.

Animals picked up under this subsection shall not be held for adoption but shall be immediately destroyed by lethal injection, as previously prescribed in this section.

2. The M.R.S. 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 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 presence of the M.R.S., and signed by a representative of the city. Animal carcasses picked up under this subsection 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.

(Ord. No. 2020-11, 11-16-2020)

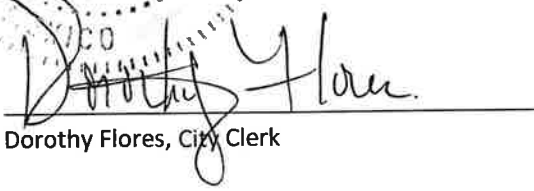
PASSED, APPROVED and DOPED THIS 3RD DAY OF July 2023

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(Supp. No. 27, 3-22)



Steven Holdman, Mayor Pro-Tem



Dorothy Flores, City Clerk