

**ORDINANCE NO. 1437**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING TITLE 6 OF THE BANNING MUNICIPAL CODE BY ADOPTING BY REFERENCE THE ENTIRETY OF TITLE 6 OF THE BEAUMONT MUNICIPAL CODE, ENTITLED "ANIMALS", RELATIVE TO ANIMAL CONTROL AND REGULATION**

**WHEREAS**, the City of Banning ("City") has established in its municipal code standards which protect the general health, safety and welfare of City residents; and

**WHEREAS**, strict compliance with the provisions of the municipal code, including those provisions which regulate and control the keeping of animals, will enhance the quality of life and help maintain property values in the City; and

**WHEREAS**, the City currently contracts with the City of Beaumont for animal control services; and

**WHEREAS**, the City finds that utilizing the City of Beaumont's ordinances and regulations is efficient and convenient for the animal control enforcement officers who are already familiar with the relevant provisions of the City of Beaumont's ordinance and regulations; and

**WHEREAS**, the City's current animal control regulations, codified in Title 6 "Animals" of the Banning Municipal Code, have not been updated since their adoption in 1965. However, Title 6 "Animals" of the Beaumont Municipal Code was fully revised and updated in 2009 to comply with applicable state laws and regulations pertaining to animal control; and

**WHEREAS**, the City Council is hereby adopting by reference the entirety of Beaumont Municipal Code Title 6 provisions relating to animal control for the purposes of (i) facilitating consistency and ease of enforcement as between the rules that apply to Beaumont and Banning residents who wish to keep animals, and (ii) updating Banning's animal control regulations to bring them into compliance with existing law.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Title 6 of the Banning Municipal Code relating to “Animals” is hereby amended by deleting the existing Title 6 (including Chapters 6.04, 6.08, 6.12, 6.16, 6.20, 6.24, 6.28, 6.32 and 6.36) in its entirety and adopting a new Title 6 to read as follows in its entirety:

“Title 6 -- ANIMALS

Chapter 6.04:

Sections

- 6.04.010 Incorporation by Reference.
- 6.04.020 Definitions; Amendments to Adopted Animal Code.
- 6.04.030 Delegation of Authority to Other Municipality; Interpretation.
- 6.04.040 Roosters, Peacocks and Flocks Prohibited; Amendments.
- 6.04.050 Abandonment; Amendments.
- 6.04.060 Application Requirements; Amendments.
- 6.04.070 Violations – Penalties; Amendments.
- 6.04.080 Failure to Quarantine; Amendments.
- 6.04.090 Deletions.

6.04.010      Incorporation by Reference.

A. Except as otherwise provided in this chapter, the following chapters of that certain document entitled, “Title 6. Animals, Beaumont Municipal Code,” and all appendices, tables, and indices thereto, as the same existed on December 14, 2010, (hereafter “Animal Code”), are hereby adopted by reference and incorporated as if fully set out herein, and the provisions thereof shall be controlling within the limits of the city, pursuant to the provisions of Section 50022.1 *et seq.* of the California Government Code:

- 1. Chapter 6.02. Regulations Generally.
- 2. Chapter 6.04. Dogs and Cats – General Provisions.
- 3. Chapter 6.06. Animal Licenses.
- 4. Chapter 6.08. Seizure or Impoundment of Animals.
- 5. Chapter 6.10. Potentially Dangerous Dogs.
- 6. Chapter 6.12. Dangerous Animals.
- 7. Chapter 6.14. Rabid Animals.
- 8. Chapter 6.16. Kennels, Catteries, and Animal Rescue Facilities.
- 9. Chapter 6.18. Large Animal.
- 10. Chapter 6.20. Apiaries.
- 11. Chapter 6.22. Animal Control Hearings

B. One copy of the Animal Code, described in this Section, has been deposited in the office of the city clerk and shall be at all times maintained by the city clerk for use and examination by the public.

6.04.020      Definitions; Amendments to Adopted Animal Code.

Whenever any of the following names or terms are used in the Animal Code, each such name or term shall be deemed and construed to have the meaning ascribed to it in this section as follows:

- A.      “Animal Services Officer” means any person or entity designated under this Chapter as the animal services officer for the City, including, but not limited to, any Beaumont animal services employee designated to enforce the animal control regulations of this Chapter.
- B.      “City” is the City of Banning.
- C.      “Chief of Police” or “Police Chief” means the Chief of Police for the City of Beaumont.
- D.      “Planning Director” is the Director of the Community Development Department for the City of Banning or his/her designee.

6.02.030      Delegation of Authority to Other Municipality; Interpretation.

Section 6.02.020 of the Animal Code is amended in its entirety to read as follows:

The City reserves the right to delegate its authority over animal control administration and the enforcement of this Title to another duly-authorized and qualified municipality operating an animal control program or contractor. In the event of such a delegation of authority to another municipality or contractor, the provisions, terms and definitions established by this Title shall, to the extent reasonably possible, be construed in maximal consistency with any agreed, written contractual arrangements between the City of Banning and the municipality providing animal control services or the contractor. If this Title cannot be reasonably construed in consistency with a written contractual arrangement between the City of Banning and another municipality providing animal control services or contractor, then the written contract provisions shall control.

6.02.040      Roosters, Peacocks and Flocks Prohibited; Amendments.

Section 6.02.0160 of the Animal Code is amended in its entirety to read as follows:

No person, either as owner, agent or employee, shall keep any roosters, peacocks, or pigeons, doves, ducks, or other birds or fowl, domestic or otherwise within the City of Banning with the exception of the zoning districts in which the fowls are permitted by Chapter 17.40 of the Banning Zoning Code.

6.04.050      Abandonment; Amendments.

Section 6.02.0180 of the Animal Code is amended in its entirety to read as follows:

It is unlawful for any person to knowingly abandon any animal within the City. Any person violating this Section shall bear full costs and expenses incurred by the City, the Department or any other officer or agency designated by the City in the care of said abandoned animal and the person shall reimburse all costs therefore to the agency that incurred said costs as determined by the Animal Services Officer. Abandonment shall include the owner's failure to redeem animals seized or impounded after proper notification of the seizure or impoundment has been issued.

6.02.060      Application Requirements; Amendments.

The first sentence of the third paragraph in Section 6.16.020 of the Animal Code is amended to read as follows:

Notwithstanding any other provision of this Title, the Animal Services Officer is hereby authorized to enter upon and inspect the premises of any kennel or cattery located in the City for the purpose of determining whether such kennel or cattery is in compliance with the provisions of this Title and the conditions set forth in Title 17 "Zoning" of the Banning Municipal Code.

All other provisions of Section 6.02.060 remain unchanged.

6.02.070      Violation-Penalties; Amendments.

Section 6.12.080, Subpart B, of the Animal Code is amended to read as follows:

B. Violation-Penalties. In the discretion of the Enforcement Officer (as that term is defined in Section 1.20.020 of the Banning Municipal Code), any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Banning Municipal Code Chapter 1.20, or shall be guilty of criminal penalties as provided under Banning Municipal Code Chapter 1.28. Each such violation shall be deemed a separate offense.

6.02.080      Failure to Quarantine; Amendments.

Section 6.14.100 of the Animal Code is amended in its entirety to read as follows:

Failure to comply with quarantine requirements or failure to produce an animal for quarantine shall constitute a violation of this Chapter. Persons who violate a home quarantine, fail to produce an animal for quarantine upon demand, or in any other way interfere with rabies investigation, shall, in the discretion of the Animal Services Officer, be administratively cited under Chapter 1.20 of the Banning Municipal Code, or shall be guilty of the criminal penalties as provided under Banning Municipal Code Chapter 1.28, and/or pursuant to Section 121710 of the California Health and/or Safety Code and Section 9701 of the California Food and Agriculture Code, which is punishable by imprisonment in the County Jail for a period not to exceed one year, or by a fine of not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000) per day of violation, or both fine and imprisonment.

6.02.090      Deletions.

The Animal Code is amended by the following technical deletions:

- A.     In Animal Code Section 6.06.130, subpart (d), the phrase “of Beaumont” is deleted.
- B.     In Animal Code Section 6.10.040 the phrase “of Beaumont” is deleted.
- C.     In Animal Code Section 6.16.030 the phrase “of Beaumont” is deleted.”

**SECTION 2.** Those amendments and deletions to the Animal Code set forth in Section 1 hereof are made solely for the purpose of facilitating consistency between the Animal Code adopted by reference herein and the existing Banning Municipal Code, its Titles, provisions and procedures.

**SECTION 3.** Violation of or failure to comply with any of the provisions of the Animal Code shall be subject to those penalty provisions set forth in Attachment “A” hereto. These penalty provisions are so set forth herein to meet the requirements of Government Code Section 50022.4; such penalty provisions are also adopted by reference pursuant to Section 1 without any revisions (unless otherwise specified above) and, therefore, such penalty provisions as printed in Attachment “A” need not be codified in the Banning Municipal Code.

**SECTION 4.** If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portions thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences clauses, phrases or portions thereof be declared invalid or unconstitutional.

**SECTION 5.** This Ordinance shall be in full force and effective 30 days after its passage.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Banning, California, this 8th day of March, 2011.

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Barbara Hanna, Mayor  
City of Banning

**ATTEST:**

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Marie Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, MARIE CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1437 was duly introduced at a regular meeting, on the 22<sup>nd</sup> day of February 2011, and adopted by the City Council of the City of Banning, California, at a regular meeting held on the 8<sup>th</sup> day of March 2011, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Marie Calderon, City Clerk  
City of Banning