

Chapter 7: ANIMALS

Article

I. ANIMALS – GENERAL

II. ANIMAL CONTROL

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unprovoked bites or attacks human beings, livestock, or poultry, or any animal approaching an individual in such a way as to place that individual in reasonable fear of unprovoked injury or attack whether it occurs upon streets, roads, sidewalks, and public grounds or private property.

- e. Vicious Dog:
 - i. Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places, or
 - ii. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
 - iii. Any dog which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal without provocation on public or private property; or
 - iv. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting;
 - v. Notwithstanding the definition of a vicious dog above, no dog may be declared vicious if any injury or damaged is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime;
 - vi. No dog may be declared vicious if any injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained while teasing, tormenting, abusing, or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- f. Nuisance: an animal shall be considered a nuisance if it damages private property other than the owner's or molests or interferes with persons in the public right-of-way.

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- g. Livestock: Goats, sheep, swine, cattle, horses, mules, domestic fowl, and all other animals kept for commercial or recreational purposes.
 - h. Law Enforcement Officer: Any person employed or elected by township, municipality, County, state, or federal agency, whose duty it is to preserve peace, make arrests or to enforce the law.
 - i. Police Work Dog: A dog trained to aid law enforcement officers and actually used for police work purposes, for the protection of the public, including the investigation of crime and the apprehension of law violators.
 - j. Proper Enclosures: Means securely confined indoors or in a locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own will.
 - k. No owner of, custodian of, or person with authority to control a vicious dog and/or a nuisance dog shall suffer or permit such dog to go unconfined on the premises of any other person's real property or onto a public right-of-way. A vicious dog and/or a nuisance dog is "unconfined", as the term is used in this section, if such dog is not securely confined indoors or confined in a secured enclosed and locked pen or a dog run area upon the premises of said person. Such pen or dog run must also have either side, six (6) feet high or a secure top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one (1) foot. It is the owner's responsibility to ensure the integrity of the confinement. "Beware of Dog" signs must be conspicuously posted on the fence or enclosure to alert the public of the presence of a vicious dog. The minimum size allowance for the sign is 8 ½" X 12".
- 2) PERMITTING ANIMALS TO BE UNCONTROLLED OR TO BE AT LARGE, IMPOUNDMENT & RESTRAINT:
- a. No animal owner or possessor of any animal covered by this Ordinance may at any time permit the same to "go at large" to be in a situation, condition, or place where it can inflict or cause to be inflicted or to be at threat of danger to any human being or other animal.
 - b. No owner of, custodian of, or person with authority to control a vicious dog and/or a nuisance dog shall suffer or permit such dog to go beyond the premises

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of said owner unless the vicious and/or nuisance dog is securely muzzled and restrained with a restraint having a minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length.

- c. No owner of, custodian of, or person of authority or control of any dog shall allow, permit, or authorize that dog to run at large in the unincorporated areas of Pope County without being properly tagged. The owner, custodian, or person of authority or control, of properly tagged dogs that roam the common property of the unincorporated areas of Pope County shall not be in violation of this article.
- d. Any such animal known to have harmed physically or inflicted a biting injury of sufficient severity to require medical treatment, shall be impounded and observed at the owner's expense consistent with Section 3 of the Rabies Control Act (A.C.A. §§ 70-19-301—312).
- e. Any such animal known to have emotionally harmed any person who has been diagnosed by a licensed clinical psychologist or psychiatrist to warrant therapy for such harm, shall be confined in a proper enclosure and the owner of such animal shall pay the cost of the victim's treatment.
- f. The owner of such animal known to have inflicted a biting injury upon one (1) or more animals with injury of sufficient severity to require medical treatment or to cause the death of animals, shall reimburse the owner of the animal(s) for the medical treatment and/or, the fair market value of the dead animals.
- g. If any dog(s), while unconfined and off the owner's, custodian's, or persons of authority to control property, bites or seriously injures a human being or a domestic animal, they are in violation of this article and a "MUST APPEAR" citation shall be issued. The owner, custodian, or person with authority to control, will be brought before a Court of jurisdiction in Pope County, where they must verify the animal has been properly vaccinated according to Arkansas State Law. The Court of jurisdiction shall fine the owner, custodian, or person of authority to control in accordance with this article. All other State or Federal Laws concerning restitution, liability, etc. would remain in force as well.
- h. A proper enclosure must exist for vicious or potentially dangerous animals or for female animals that are in the estrous cycle ("in heat") and could be the cause of male animals becoming vicious while being with her.

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- i. Any law enforcement officer who has reasonable grounds to believe that an animal is vicious, uncontrolled, or a threat to the safety of humans or other animals, shall have grounds to impound the animal immediately, at the owner's expense, on the basis of protecting the health and safety of the general public. The law enforcement agency responsible for the impoundment of said animal shall provide notice to the owner of such animal within five (5) days of impoundment. The owner of said animal may request the return of the animal through the impounding law enforcement agency. The animal may be returned to the owner after payment of any fees or costs accrued related to the impounding of said animal and to the satisfaction of the impounding agency, the owner ensures the animal is restrained and properly enclosed by any manner consistent with Article 3. If the owner fails to provide satisfactory evidence of restraint and enclosure consistent with Article 3 and the animal is not released, the owner may petition a competent Court within fifteen (15) days of impoundment, including the District Court of Pope County, for redress and return of the animal provided said owner is able to prove that the animal does not present a threat to the safety of humans or other animals and that such appropriate measures have been taken and will continue to remain in place to ensure the animal does not pose a risk to the health and safety of humans and/or other animals. In the event the owner is able to prove that the owner is able to provide and maintain appropriate restraints and enclosures consistent with Article 3, the animal shall be returned and the law enforcement agency which impounded said animal shall be responsible for the cost of impoundment of said animal. If the animal's owner cannot be located after reasonable inquiry and search and no one has come forward to claim the animal after fifteen (15) days from the date of capture or the owner fails to take adequate measures to ensure the animal will not pose a threat to the health and safety of humans or other animals and fails to petition a competent Court for redress, the animal shall become the property of the impounding facility. If during an attempted capture of an animal which is believed to be vicious, uncontrolled, or poses a threat to the safety of humans or other animals, a law enforcement officer may kill the animal if the capture poses too great a danger to the capturing officer.
- 3) INVESTIGATION; RESTRAINT:
- a. Upon a complaint that any animal covered under this Ordinance is being harbored, a law enforcement officer shall investigate such and may require the keeper or owner of such animal to restrain or dispose of such animal in a reasonable manner, consistent with this Ordinance. Reasonable manner may include posting of warning signs, use of enclosures, protective barriers, muzzling,

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and destruction or other measures necessary to abate nuisances, unhealthful or inhumane conditions. Failure to comply with said measures shall be deemed a violation of this Ordinance, unless a Court of law finds such measures were unreasonable.

4) DUTY OF INDIVIDUAL TO USE PROTECTIVE MEASURES:

- a. Any individual who keeps any animal covered by this Ordinance shall exercise the highest degree of care to protect children, the general public, and other animals from attack.
- b. Posting of signs, or maintenance of animals within property enclosures shall meet the standard of care, if such practices reasonably preclude the possibility of inadvertent contact and probable injury in all instances where a child or unsuspecting person or other animal might be put into unintentional contact with the animal.

5) PENALTY AND ENFORCEMENT:

- a. Any violation of this Ordinance is deemed a Class "A" Misdemeanor. Each day that the violation exists shall be considered a separate offence. Furthermore, any individual may institute a civil action to compel compliance with this Ordinance and seek relief damages, or other civil sanctions including the awarding of attorney fees and costs accrued by the County.

6) INVESTIGATION; IMPOUNDMENT:

- a. A law enforcement officer may, at the owner's expense, impound any animal that has attacked, wounded, or harmed any human being, livestock, animal, or poultry. The animal shall not be released until a hearing before a court of competent jurisdiction has been held and the court has specified the timing and terms of release.
- b. Failure to comply. It shall be unlawful and a misdemeanor for any owner of an uncontrolled, nuisance, and/or vicious dog to fail to comply with the requirements and the conditions set forth in this section.

7) COMPLAINTS, INVESTIGATION, CORRECTIVE MEASURES AND PENALTIES:

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- a. If any person or groups of persons has knowledge or reasonable grounds to suspect that animal owners are maintaining dogs or other animals in such a manner as to constitute a nuisance by reason of unhealthful conditions, or maltreatment, he or she shall have the right to complain to local law enforcement agencies or health officials, and such authorities shall investigate the complaint.

- b. Such officials have full authority to examine complainant and other witnesses for relevant testimony and to prescribe and counsel corrective measures consistent with Article 3 to the animal owner. If, after a ten (10) day period, the owner/keeper fails to comply with the corrective measures ordered by health or government officials then such shall be deemed a violation of this Ordinance, unless a court of law finds that such measures were unreasonable.

- c. PENALTIES:
 - i. UNCONTROLLED AND/OR NUISANCE ANIMALS: a person found guilty of owning an animal violating the uncontrolled and/or nuisance portion of this Ordinance for the first (1st) time will be ordered to pay a fine of not less than fifty dollars (\$50.00) and no more than two hundred dollars (\$200.00) plus court cost and restitution for any damages caused by the incident and the costs for capture and impoundment of said animal. For the second (2nd) offense within twelve (12) months, a person will pay a fine of not less than two hundred dollars (\$200.00) and no more than five hundred dollars (\$500.00) plus court costs and restitution. For a third (3rd) offense or subsequent offenses within twelve (12) months from the last, the person will pay not less than five hundred dollars (\$500.00) and no more than one thousand dollars (\$1,000.00) plus court costs and restitution.⁴

 - ii. VICIOUS ANIMALS: a person found guilty of owning an animal violating the vicious portion of this Ordinance for the first (1st) time will be ordered to pay a fine of not less than five hundred dollars (\$500.00) and no more than seven hundred fifty dollars (\$750.00) plus court costs and restitution for any damages caused by the incident and the costs for capture and impoundment of said animal. For the second (2nd) offense within twelve (12) months, a person will pay a fine of not less than seven hundred fifty dollars (\$750.00) and no more than one thousand dollars (\$1,000.00) plus

⁴ Ordinance is illegible in part, indicated by the blanks in this section.

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court costs and restitution. For a third (3rd) offense or subsequent offenses within twelve (12) months from the last, the person will pay not less than one thousand dollars (\$1,000.00) and no more than one thousand five hundred dollars (\$1,500.00) plus court costs and restitution. Additionally, the convicting court may, in the court's discretion, order that the dog be humanely destroyed.

- 8) **ABANDONMENT OR DUMPING:** This Ordinance also prohibits and makes it illegal for any person to dump or abandon any animal and such action shall constitute a violation of this Ordinance.
- 9) **INCORPORATION OF STATE LAW:** The provisions of the Rabies Control Act, A.C.A. §§ 20-19-301—312 and those statutes regarding Cruelty To Animals, A.C.A. §§ 5-62-101—120 are incorporated by reference herein and made a part of this Ordinance.
- 10) **COSTS:** In the event a law enforcement agency, health official, or a Humane Society is required or requested to investigate a violation of this Ordinance and said complaint is substantiated, then the reasonable cost of the investigation of such shall be assessed against the owner/keeper of the animal. Failure to pay such shall be deemed a violation of this Ordinance. Furthermore, if at any time it becomes necessary to impound or destroy the animal pursuant to this Ordinance, then the cost of such shall be paid by the owner/keeper of said animal, and failure to do so shall constitute a violation of this Ordinance.
- 11) **PROOF OF COMPLIANCE WITH RABIES CONTROL ACT:** Any law enforcement officer investigating a violation of this Ordinance shall demand proof of compliance with the Rabies Control Act and failure to produce such shall be deemed a violation of this Ordinance.
- 12) **EXEMPTIONS:**
 - a. Nothing in this Ordinance shall apply in any manner whatsoever to the official use of police work dogs trained to aid law enforcement officers. If such dogs are being actively used for police work purposes, protection of the public, investigation of crime, and apprehension of law violators.
 - b. Nothing in this Ordinance precludes a dog from “protecting his/her owner”, or any other person for whom he feels loyalty, from physical attack. It is acknowledged that even a dog may defend against injury or battery. This Ordinance does not apply when an individual trespasses on an animal owner's

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property, however, each dog or other animal owner shall exercise care to make certain that no harm results to an innocent trespasser, such as children, misguided pedestrians, invitees, trades people, business associates, social guests, and friends. It is further acknowledged pursuant to Act 393 of 1987, that any person engaged in raising or owning domesticated animals has the right to protect said animals from dogs, including the killing of such dogs, if necessary.

- c. All political subdivisions and municipalities, which have already enacted Ordinances, designed to protect citizens from attack or injury inflicted by vicious, or wild animals shall be exempt from the application of this Ordinance.
- 13) IMMUNITY: Any law enforcement officer acting in good faith and exercising due care in enforcing this Ordinance or any provision thereof, shall have immunity from civil liability.
- 14) NO ENCROACHMENT ON OTHER OFFICIAL DUTIES: Nothing in this Ordinance shall encroach upon the official duties or activities of the State Game and Fish Commission, the Federal Fish and Wildlife Service, Circuses, Zoological Parks, Aquariums, or other licensed exhibitory show, provided all exercise an adequate degree of care.
- 15) REPEALER: All Ordinances and parts of Ordinances in conflict with this Ordinance, specifically Ordinance No. 2015-050 are hereby repealed.
- 16) SEVERABILITY: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared severable. ([Ord. 2005-063](#), not signed by Judge or Clerk; Am. [Ord. 2008-026](#), passed 06-05-2008; Am. [Ord. 2015-050](#), passed 10-06-2015; Am. [Ord. 2020-038](#), passed 08-04-2020)

Article II. ANIMAL CONTROL

A.C.A. § 5-62-106. Disposition of animal.

(a) (1) Unless otherwise ordered by a Court, for purposes of this subchapter, an animal that has been seized by a law enforcement officer or animal control officer under this subchapter shall remain at the appropriate place of custody for a period of at least fifteen (15) consecutive days, including weekends and holidays, after written notice is received by the owner.

(2) The written notice shall:

(A) Be left at the last known address of the owner; and

(B) Contain a description of the animal seized, the date seized, the name and contact information of the law enforcement or animal control officer seizing the animal, the location of the animal, and the reason for the seizure.

(3) If the owner of the animal cannot be determined, a written notice regarding the seizure of the animal shall be conspicuously posted where the animal is seized at the time the seizure occurs if practicable and a notice shall be published in a local newspaper of general circulation in the jurisdiction where the animal was seized at least two (2) times each week for two (2) consecutive weeks, with the first notice published within three (3) days of the seizure, and no less than at least five (5) days before a hearing conducted under this section

(4)

(A) After written notice is received by the owner or published under subdivision (a)(3) of this section, the owner within fifteen (15) business days may petition the District Court having jurisdiction where the animal was seized to determine the custody of the animal.

(B) If a petition is not filed by the owner within the time period prescribed by this section, the Prosecuting Attorney shall file a petition in the District Court to divest the owner of ownership of the animal and, after a hearing, the District Court may order the animal transferred to an appropriate place of custody, euthanized, or any other disposition the District Court deems appropriate.

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(e) The court shall order an animal seized under this section returned to the owner if the owner:

(1) Filed a petition under subsection (a) of this section;

(2) Paid all reasonable expenses incurred in caring for the animal; and

(3) Is found not guilty of the offense of Cruelty to Animals, §5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, §5-62-104, or the proceedings against the owner have otherwise terminated.

Section

Reserved.