

CITY OF BELLA VISTA, ARKANSAS

ORDINANCE NO. 2008-01

PROVIDING FOR ANIMAL CONTROL REGULATIONS AND GENERAL PROVISIONS REGARDING ANIMALS, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, REPEALING ORDINANCE NO. 2007-09, AND FOR OTHER PURPOSES

WHEREAS, the City Council deems it advisable to enact new animal control measures for the city, and to provide penalties for the violation thereof, and

WHEREAS, these proposed animal control measures should include provisions for animals at large, licensure of animals, impounding procedures, animals causing a nuisance, and provisions concerning animal cruelty, and

WHEREAS, the currently enacted animal ordinance should be repealed as part of a comprehensive overhaul of city animal control provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: DEFINITIONS

The following words and phrases have the following meanings for the purposes of this ordinance:

(a) *Animal*: Every vertebrate non-human species of animal, wild or domestic, male or female, including, but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians and fish.

(b) *Animal control officer*: Any person appointed by the Chief of Police to perform duties as assigned by the Chief of Police to effectuate this Ordinance.

(c) *Animal Shelter*: Any premises with a written agreement with the city for the purpose of effectuating this Ordinance and used as a shelter for seized, stray, homeless or abandoned dogs. It matters not whether the shelter is owned by the City and operated under the supervision of the Chief of Police or whether it is owned and operated by a humane society, animal welfare group or other designated shelter which has a written contractual agreement with the City.

(d) *Arkansas Rabies Rules and Regulations*: All rules and regulations promulgated by the Arkansas Department of Health, and any and all state law pertaining to or concerning rabies control in animals.

(e) *At large*: Any dog not confined to the premises of the owner, possessor, person keeping or person otherwise responsible for a dog or not under the control of a

person when not on the premises of the owner, possessor, person keeping or person otherwise responsible for a dog.

(f) *Cat*: A member of the feline species (*felis catus* or *felis domesticus*).

(g) *Dog*: A member of the canine species.

(h) *Owner*: Any person or entity owning, keeping or harboring a dog or cat within the City.

(i) *Chief of Police*: The Chief of Police of Bella Vista, Arkansas.

(j) *Vaccination*: The injection of an anti-rabies vaccine in the manner and frequency set forth in state law and administered by a licensed veterinarian.

SECTION 2: THE ANIMAL CONTROL OFFICER

(a) *Appointment and Duties*. The provisions of this Ordinance shall be enforced by the Animal Control Officer. The Animal Control Officer shall be that person or persons designated by the Chief of Police to operate in such capacity. The Animal Control Officer shall have the power of arrest and is hereby authorized to issue citations pursuant to the Arkansas Rules of Criminal Procedure to any person the officer has reasonable cause to believe has violated any provisions of this Ordinance.

(b) *Records and Recordkeeping*. The Animal Control Officer shall complete and keep records of all dogs and cats reported for violations and impoundment.

SECTION 3: LICENSING

(a) All dogs three (3) months old or older in the City must be licensed annually. For any dog brought into the city, the owner shall, within thirty (30) days, have the dog licensed by paying the applicable license fee. All licenses issued shall be valid for a period of one (1) year. The owner shall have ten (10) days from the date of expiration of a license to obtain a new license without penalty.

1. Exceptions.

a. Certified service dogs, such as dogs for the assistance of the blind or deaf, shall not be required to pay an annual city license fee, but shall be granted a license free of charge upon proof of an annual rabies vaccination and certification of the dog's training as a service dog.

(b) Licenses shall consist of a metal tag which shall be affixed to the dog's collar when the dog is outside of the owner's home or other interior structure.

(c) Licenses are non-transferable and non-refundable.

(d) Fees for Annual License.

1. For any spayed or neutered dog, the annual license fee shall be \$10.00.

2. For any dog that has not been spayed or neutered, the annual license fee shall be \$20.00.

3. For any dog, trained and certified as a service dog, such as a dog used for the assistance of the blind or deaf, whether or not spayed or neutered, shall not be required to pay a fee to obtain an annual license, but proof of annual rabies vaccination shall be presented before an annual license may be obtained.

(e) Licenses may be obtained from the city through any method developed by city administration for the selling and disbursement of licenses, including, but not limited to, in person at city offices, via mail, via internet, or through participating veterinarian offices.

SECTION 4: RABIES VACCINATION REQUIRED

(a) All animals that are subject to contracting rabies shall be vaccinated against rabies by a licensed veterinarian in accordance with Arkansas law.

SECTION 5: DOG AND CATS RUNNING AT LARGE

(a) No person owning, possessing, keeping, or otherwise responsible for a dog or cat shall allow it to run at large.

SECTION 6: METHODS OF CONFINEMENT OF DOGS

(a) Any person owning, possessing, keeping or otherwise responsible for a dog shall confine such dog within a fence or enclosure of adequate construction for such purpose, within a structure, or shall confine such dog by a chain, leash, rope or cable affixed to the dog's collar and attached to some immovable object. A dog must be provided adequate food and water. Any area where a dog is confined must be free of debris or other obstructions which may cause the dog to become entangled or injured. In no event shall any device be used which operates to choke a dog (choke chain).

(b) When a dog is confined by chain, leash, rope or cable, the restraint must be at least six (6) feet long and so placed as to prevent the dog leaving the property, as well as to provide adequate room for normal postural adjustments and for exercise. Any area when the dog is confined in such manner must drain so that the dog is not confined to an area of standing water.

(c) All dogs must be provided adequate shelter from weather and temperature extremes and from any other potential hazards.

(d) No dog may be confined on any public property or public place and left unattended.

(e) Voice control methods may be used on dogs while they are on the property of the owner, possessor, keeper or person otherwise responsible for the dog.

All dogs off of the property of the owner, possessor, keeper or person otherwise responsible for the dog, must be restrained by leash and collar or harness.

(f) All premises where dogs are kept shall not become a threat to the public health by the owner, possessor, keeper, or person otherwise responsible for the dog due to the failure to diligently remove dog waste. Premises where dogs are kept shall be kept in a clean and sanitary condition free from excessive refuse or waste.

SECTION 7: GENERAL PROVISIONS

(a) *Diseased or Injured Animals.* No person shall knowingly keep any injured animal without providing proper treatment for such injury. No person shall knowingly keep an animal infected with a communicable disease which may be a health hazard to humans or other animals. A person acts “knowingly” when he is aware that such circumstances exist.

(b) *Abandonment.* No person shall abandon any dog or cat.

(c) *Transportation of Animals.* No person shall transport or cause to be transported any animal in a motor vehicle or trailer unless the animal is enclosed within the vehicle, or enclosed in a portable kennel, crate, or box designed for said purpose. Dogs may be transported in the open bed of a pick up truck provided the dog is humanely secured by means of a cross tether, harness, or both. The transportation of animals by motor vehicle shall be such that the animal may not fall from, be thrown out of, or jump from the motor vehicle or trailer.

SECTION 8: ANIMAL CRUELTY

(a) No person shall subject any animal to cruelty or cruel neglect. For purposes of this section, “cruelty” or “cruel neglect” shall have the same meaning as in the Arkansas Criminal Code.

SECTION 9: IMPOUNDMENT.

(a) Any dog found to be at large within the city may be picked up by the Animal Control Officer and impounded in the Animal Shelter and there confined in a humane manner. Dogs which are not claimed by their owners or an authorized representative identified in writing by the owner within seven (7) days may be destroyed at the discretion of the Animal Shelter in a humane manner.

(b) Prior to the destruction of any dog found running at large, where the dog carries its owner’s address, the Animal Control Officer shall give the dog’s owner at least seven (7) days notice of the date of the proposed destruction of the dog. This notice shall be sent by certified mail, return receipt requested, and shall otherwise conform to Ark. Code Ann. Section 14-54-1102.

(c) The owner of an impounded dog who refuses to claim his animal shall be deemed to have abandoned the dog in violation of this Ordinance.

(d) Upon impounding a dog, the Animal Control Officer shall take reasonable steps to notify the owner of the dog so impounded, and inform him of the condition whereby they may regain custody of such animals. Failure of the Animal Control Officer to give actual notice to a dog owner shall not preclude the Animal Control Officer or the Animal Shelter from taking any action stated in this section.

SECTION 10: RECLAMATION OF DOGS IMPOUNDED BY THE CITY/FEES FOR RECLAIMING

(a) *Reclamation:*

1. For any dog reclaimed by a resident of the City, there shall be no fee assessed for reclamation of said dog for the first impoundment if the dog is licensed by the City. For any second impoundment of a dog reclaimed by a resident of the City, no dog may be reclaimed without first providing proof that the dog has been licensed by the City and paying a reclamation fee of \$25.00. For any third or subsequent impoundment of a dog reclaimed by a resident of the City, no dog may be reclaimed without first providing proof that the dog has been licensed by the City and paying a reclamation fee of \$75.00. For any dog not licensed, a fee of \$10.00 shall be paid, in addition to the cost of the license even on the first impoundment. The burden of proving licensure shall be the responsibility of the person attempting to reclaim the dog.

2. For any dog reclaimed by a non-resident of the City, said person shall pay a reclamation fee of \$75.00 for the second and every subsequent impoundment.

3. Any fees described in this section are in addition to fines or other penalties imposed by a court of law for violation of this Ordinance.

(b) *Record Keeping/Manner of Collection*

1. Complete and accurate records of all dogs impounded along with owner identification, when determined, shall be kept.

2. The Mayor, by contract or otherwise, may provide a method for the orderly collection of fees required by this section.

SECTION 11: NUISANCE DOGS

(a) No person shall own, possess, keep or otherwise be responsible for a dog which causes a nuisance. A dog creates a nuisance when it infringes upon the rights of another animal or person, or:

1. Molests passersby or passing vehicles
2. Attacks other animals

3. Trespasses on school grounds
4. Is at large on more than one occasion within a three (3) month period.
5. Damages property
6. Barks, whines, or howls in an excessive, continuous, or untimely fashion.
7. Causes fouling of the air by odor and thereby creates unreasonable annoyance.
8. Interferes with trash collection or other service personnel, including, but not limited to, meter readers or letter carriers.
9. Defecates on property of a person other than the owner, possessor, keeper or person otherwise responsible for the dog, including, but not limited to parks and trails. It shall not be a violation of this subsection if the owner, possessor, or person otherwise responsible for the dog promptly removes the waste.

(b) For purposes of this section, each day that a violation occurs shall be considered a separate offense, punishable separately.

(c) The fine for a Nuisance Dog, as defined in this section, shall be \$25.00 for the first offense, and \$50.00 for each subsequent offense that shall occur within a twelve (12) month period.

SECTION 12: VICIOUS DOGS—REQUIREMENTS FOR UPKEEP

(a) A dog is a vicious dog for purposes of this section when it, according to the records of the Animal Shelter, Animal Control Officer, or the Police Department:

1. Causes death, serious physical injury or physical injury to a person. For purposes of this subsection “serious physical injury” and “physical injury” shall have the same meanings as provided in the Arkansas Criminal Code, or
2. Attacks or bites a person without provocation. For purposes of this subsection “attack” means to charge at a person and make physical contact with a person in an aggressive manner while not being provoked, whether or not the dog actually bites the person, or
3. On more than one (1) occasion within a twelve (12) month period, while off the property of the owner, possessor, keeper or person otherwise responsible for the dog, and without provocation, kills or injures another animal, or
4. Engages in dog fighting or is owned, kept or trained for the purpose of dog fighting.

(b) A vicious dog:

1. Must be maintained within a kennel or pen, unless it is securely restrained with a leash, chain, rope, cable or other similar device no longer than four (4) feet in length and the dog is muzzled.

2. Must not be kept on a leash, chain, rope, cable or other similar device unless a person eighteen (18) years of age or older is in physical control of the leash, chain, rope, cable or other similar device.

3. Must be maintained on property which contains a sign, readable by the public, which states "Beware of Vicious Dog". An additional identical sign shall be affixed to the pen or kennel of the dog.

4. Must be securely confined indoors or in a securely enclosed kennel, except when leashed and muzzled as provided above. The pen, kennel or structure must have secure sides and a secure top, which is attached to the sides. All structures used must be locked with a key or combination lock when the animals are within the structures. The pen or kennel must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground at a depth of no less than two (2) feet. All structures used to house vicious dogs must also comply with all zoning and building regulations of the city. Kennels must be adequately lighted and ventilated and be kept in a clean and sanitary condition. When confined indoors, no vicious dog may be kept on a porch, patio or in any part of a house or building that would allow the dog to exit on its own volition unless to a kennel or fenced back yard. In addition no such animal may be kept in a building when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure unless they exit to the proper enclosure.

(c) All owners, possessors, keepers or persons otherwise responsible for a vicious dog, must, within ten (10) days of meeting the requirements of being a vicious dog, provide to the City proof of liability insurance for each vicious dog in a single incident amount of \$100,000 for bodily injury or death of any person or damage to any property owned by any person which may be caused by the vicious dog. The insurance policy shall provide that no cancellation shall be made without ten (10) days written notice being provided to the City clerk.

(d) All owners, possessors, keepers or persons otherwise responsible for a vicious dog must, within ten (10) days notify the Animal Control Officer, in writing, of any of the following:

1. The death of the vicious dog.
2. The removal of the vicious dog from the City of Bella Vista.
3. The new address where the vicious dog is located if the vicious dog is moved within the city.

4. The sale or other transfer of ownership of the vicious dog, including the date of sale, the person to whom the vicious dog has been transferred, and if the person to whom the vicious dog has been transferred resides within the City of Bella Vista, the address of the person.

(e) A vicious dog may, in addition to any other penalty, be ordered destroyed by a court of competent jurisdiction if said animal has caused serious physical injury or death to a person. Furthermore, the owner, possessor, keeper or person otherwise responsible for the dog may be ordered to pay restitution to any victim.

(f) The owner, possessor, keeper or person otherwise responsible for a dog which commits any of the acts delineated in subsection 1 of this section, shall be deemed guilty of a misdemeanor, and shall be liable for restitution to the victim of any violation.

SECTION 13: CONDITION OF ANIMAL PEN AND PREMISES GENERALLY

(a) Persons owning, possessing, keeping or otherwise responsible for an animal shall keep the premises where such animal is kept clean, free from offensive odors, and not a threat to public health.

SECTION 14: ROADSIDE SALE OF ANIMALS

(a) No animal may be sold on the roadside in the City of Bella Vista, including any street or highway right of way appurtenant thereto.

SECTION 15: PENALTIES.

(a) Any person violating any provision of this Ordinance which does not have a previously stated fine or penalty structure shall be penalized as follows:

1. A fine of up to \$25.00 for a first offense.
2. A fine of no less than \$25.00, nor more than \$50.00, for any second or subsequent offense.

In addition, a person charged with violation of any provision of this ordinance may be ordered to pay restitution to any victim for injury or property damage as a resulting from the violation.

SECTION 16: CITATIONS

(a) The Animal Control Officer, under the supervision of the Chief of Police, is hereby authorized to issue a citation as defined by the Arkansas Rules of Criminal Procedure to the owner, possessor, keeper, or person otherwise responsible for an animal violating any provision of this Ordinance. The citation shall be in a form as approved by the District Court of Bentonville, Arkansas. Said citation shall designate the offense committed and shall require the person so charged to appear before the District Court of Bentonville, Arkansas to answer the charges therein contained or present said citation at the District Court of Bentonville, Arkansas prior to said court date

for disposition. Should a physical arrest be required for any offense, the Animal Control Officer shall seek the assistance of the Patrol Division of the Bella Vista Police Department to effectuate said arrest.

SECTION 17: REPEALER

Ordinance No. 2007-09 is hereby repealed.

SECTION 18: SEVERABILITY

Should any portion of this Ordinance be declared invalid or unenforceable by any court of competent jurisdiction, said determination shall have no effect on the enforceability of other remaining portions of this Ordinance.

Passed this 24th day of March, 2008.

APPROVED:

/S/ Mayor Frank E. Anderson
March 31, 2008

ATTEST:

/S/ Jane A. Wilms, MMC
City Clerk

Requested by: Mayor Anderson
Prepared by: Jason B. Kelley, Attorney for the City

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