

ORDINANCE NO. 2016-_____

**BE IT ENACTED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:**

**AN EMERGENCY ORDINANCE AMENDING
WASHINGTON COUNTY CODE CHAPTER
2.7 IN REGARD TO DANGEROUS AND
POTENTIALLY DANGEROUS ANIMALS.**

WHEREAS, Washington County Code Chapter 2.7 provides for definitions and procedures in dealing with “vicious animals”, and,

WHEREAS, the term “vicious animals” should be changed to be referred to as “dangerous” animals; and,

WHEREAS, a recent tragic event regarding an animal bite in rural Washington County has caused a need for this section of the Code to be revised and strengthened; and,

WHEREAS, the Quorum Court finds that animal control issues are matters of local concern for Washington County residents, that the vast majority of funds expended on animal control enforcement, spay and neuter, rabies observation, construction and maintenance of the Washington County Animal Shelter, adoption and euthanasia have been and will continue to be from the County General Fund; and,

WHEREAS, animal owners whose animals are designated as “Dangerous” or “Potentially Dangerous” pursuant to this Ordinance should have an opportunity to appeal that designation, and the most logical forum for that appeal process is the County Court, with further opportunity to appeal to Circuit Court as provided by law.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM
COURT OF COUNTY OF WASHINGTON, STATE OF ARKANSAS:**

ARTICLE 1. Washington County Code Chapter 2.7 is hereby amended to read as follows:

ARTICLE II. - VICIOUS DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS

Sec. 2.7-21. - Definitions.

Animal owner: A person or entity that (1) has a right of property or title in an animal; (2) keeps or harbors an animal; (3) has an animal in his, her, or its care; (4) acts as an animal's custodian; or (5) knowingly permits an animal to remain on or about any premises occupied by him or her or it. ~~Any person having ownership or personal rights in an animal or any person who keeps in his care, acts as custodian for, and knowingly permits an animal to remain, for more than thirty (30) days, on or about any premises occupied by him; except that~~ Any person who notifies the Washington County Animal Control Officer or the Washington County Sheriff's Office of a stray or vicious-potentially dangerous or dangerous animal shall not be considered the owner of such animal.

~~Any person who only leaves food out on his or her premises for wild animals shall not be considered the owner of said animal.~~

Exotic wild animals: Any snake or animal of a wild, ferocious, fierce or dangerous species likely to create harm or threat of harm in any place other than zoological parks, aquariums, laboratories, circus or other licensed exhibitory shows; or those not under the direct supervision of licensed commercial dealers, State Game and Fish Management Commissioners, Federal Wildlife Services or U.S. Department of Agriculture.

Livestock: Any members of the equine, bovine, ovine, porcine, and ratite species, and confined domestic hares, rabbits and mink.

~~Pets:~~ Domestic animal: An animal that has been adapted or tamed to live in intimate association with or for the pleasure or advantage of people and includes but is not limited to dogs, cats, birds, rabbits, and hamsters; excluding livestock.

Poultry: All domesticated fowl and domesticated game birds which are kept in captivity.

~~Police~~ Law enforcement officer: A public servant vested by law with a duty to maintain public order or to make an arrest for an offense and includes a civilian animal control officer employed by Washington County. ~~Any person employed or elected by municipality, county and state whose duty it is to preserve peace or to make arrests or to enforce the law.~~

Police work dog: A dog trained to aid law enforcement officers actually used for police work purposes, for the protection of the public, including the investigation of crime and the apprehension of law violators.

~~Vicious animal:~~ Any animal that:

- ~~(1) Without provocation;~~
- ~~(2) Upon the first occurrence;~~
- ~~(3) Attacks or bites a person, livestock, or poultry; and/or~~

~~(4) Approaches a person in a way as to place said person in reasonable fear of unprovoked injury or attack whether it occurs upon streets, sidewalks, public grounds, or private property.~~

~~Or~~

~~Any dog that:~~

~~(1) The owner knew or reasonably should have known had vicious propensities;~~

~~(2) Causes serious injury to a pet.~~

~~In no event shall livestock be considered a vicious animal.~~

Potentially dangerous animal: An animal, regardless of breed, that when unprovoked:

(a) inflicts bites on a human or a domestic animal either on public or private property; or,

(b) chases or approaches a person upon the streets, sidewalks, any public grounds, or otherwise off the owner's property in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

Dangerous animal: An animal, regardless of breed, that

(a) inflicts, either directly or through an unbroken chain of causal events, serious injury on a human being without provocation on public or private property;

(b) kills a domestic animal without provocation while the animal is off the owner's property; or,

(c) has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the animal again aggressively bites, attacks, or endangers the safety of humans.

An animal is not potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the animal owner, or was tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal or was committing or attempting to commit a crime.

Severe injury: Any physical injury that results in one or more of the following:

(a) Fractured bones or teeth;

(b) Disfiguring lacerations requiring multiple sutures, stitching, or cosmetic surgery.

- (c) Loss of consciousness, however temporary or slight;
- (d) Puncture wounds of more than a superficial nature;
- (e) loss of blood requiring transfusion;
- (f) amputation;
- (g) loss of sight in either eye for more than twenty-four (24) hours;
- (h) loss of or substantial degradation in hearing in either ear;
- (i) failure or substantial impairment of an organ;
- (j) skin grafting;
- (k) tendon, ligament or other soft tissue damage requiring surgical repair or physical therapy;
- (l) cardiac arrest;
- (m) respiratory failure;
- (n) cessation of brain function; or
- (o) death.

Sec. 2.7-22. - Permitting animal to go at large; impoundment and restraint. Potentially dangerous animals restricted.

- ~~(a) No animal owner or possessor of any animal covered by this article may at any time permit the same to be in a situation or place where it can inflict injury or be a threat of danger to any human being.~~
- ~~(b) Any such animal known to have inflicted a biting injury upon one (1) or more persons with injury of sufficient severity to require medical treatment shall be impounded and observed at the owner's expense in a way consistent with Section 3 of the Rabies Control Act. (Ark. Code Ann. §§ 20-19-301—20-19-312).~~
- ~~(c) Any police officer who has reasonable grounds to believe that an animal is vicious or uncontrolled or a threat to human safety may impound such animal at the owner's expense or kill the animal if capture poses too great a danger to the capturing officer. The owner shall have three (3) days to pick up said animal and pay the fees accrued therein, or said animal shall become the property of the impounding facility. Furthermore, upon release the owner shall~~

~~be required to muzzle said animal and/or restrain it in any other manner consistent with section 2.7-22~~

- (a) A law enforcement officer shall have the authority to declare and restrict a potentially dangerous animal if the law enforcement officer has probable cause to believe that the animal is potentially dangerous. The declaration must be based upon:
- (1) the written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of potentially dangerous;
 - (2) bite reports filed with law enforcement or health officials;
 - (3) actions of the animal witnessed by any law enforcement officer or health official; or,
 - (4) other substantial evidence.
- (b) Potentially dangerous animals, while on the animal owner's property, shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and shall also provide room for adequate exercise and protection from the elements for the animal. The animal owner shall display signs warning of the dangerous animal along with a symbol for same easily seen by children. The signs displayed shall be easily seen from the public roadway.
- (c) Potentially dangerous animals, while not in a secure enclosure on the animal owner's property, must be securely leashed with a leash no longer than four (4) feet in length and under the physical control of a person 18 years of age or older. When on public property, the animal shall be muzzled in a way that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.
- (d) Potentially dangerous animals must be sterilized and microchipped at the owner's expense at the time the animal has been determined to be potentially dangerous.
- (e) No person may tie or otherwise tether a potentially dangerous animal to any inanimate object, such as trees, posts, mailboxes, or vending machines.
- (f) The County Judge or the County Sheriff may require the owner of the potentially dangerous animal and the animal owner to attend, complete, and pay all costs associated with an accredited obedience/training class or seminar. The Judge or Sheriff shall pre-approve any choice of class by the animal owner, and proof of satisfactory completion of such

training shall be provided to the Judge or Sheriff, even if such type of training has been completed by the animal in the past.

- (g) The owner of a potentially dangerous animal shall immediately notify law enforcement if the animal is loose, unconfined, bites or attacks a person, has been moved to a different address or dies; whereupon the owner must provide proof of death. The potentially dangerous animal may not be sold or given away.
- (h) Failure to comply with all restrictions of this section will result in forfeiture of ownership of the animal to the County.
- (i) An animal owner shall have fourteen calendar days from receipt of a written declaration from a law enforcement officer finding the owner's animal to be "potentially dangerous" to file a written appeal to the County Court, with further appeal to Circuit Court, as provided by law.

Sec. 2.7-23. - Investigation; restraint. Dangerous animals restricted – additional requirements.

~~Upon a complaint that any animal covered under this Article is being harbored, a police officer shall investigate such and may require the keeper or owner of said animal to restrain or dispose of such animal in a reasonable manner consistent with this Article, which shall include chaining, posting of warning signs, enclosures, protective barriers, muzzling 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 article, unless a court of law finds that such measures were unreasonable.~~

- (a) A law enforcement officer shall have the authority to declare and restrict a dangerous animal if the law enforcement officer has probable cause to believe that the animal is dangerous. The declaration must be based upon:
 - (1) the written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of dangerous;
 - (2) bite reports filed with law enforcement or health officials;
 - (3) actions of the animal witnessed by any law enforcement officer or health official; or,
 - (4) other substantial evidence.
- (b) In addition to the provisions and requirements for compliance set forth in section 2.7-22, the owner of a dangerous animal shall comply with the following requirements:

- (1) The animal owner shall present to the County Judge and County Sheriff proof that the owner has procured liability insurance in the amount of at least \$50,000. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the County to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination, or expiration of the liability insurance policy. All costs associated with the insurance must be paid by the insured.
- (2) A dangerous animal may not be outside of a dwelling or locked enclosure unless it is necessary for the owner to obtain veterinary care for the dangerous animal or to comply with commands or directions of a law enforcement officer with respect to the dangerous animal. In such event, the dangerous animal shall be securely muzzled, as set forth in section 2.7-22, and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.
- (c) Upon a finding that such animal is a dangerous animal, the court may order the animal to be euthanized in a humane manner.
- (d) Failure to comply with all restrictions of this section will result in forfeiture of ownership of the animal to the County.
- (i) An animal owner shall have fourteen calendar days from receipt of a written declaration from a law enforcement officer finding the owner's animal to be "dangerous" to file a written appeal to the County Court, with further appeal to Circuit Court, as provided by law.

Sec. 2.7-24. - ~~Duty of individual to use protective measures.~~ Reserved.

- ~~(a) Any individual who keeps any animal covered by this article shall exercise the highest degree of care to protect children and the general public from attack and danger.~~
- ~~(b) Appropriate chaining, posting of warning signs, or maintenance of the animal within enclosures shall meet the standard of care if such practice reasonably precludes the possibility of inadvertent contact and probable injury in all instances where a child or unsuspecting person might be put into unintentional contact with the animal. Under the provisions of this Article, any instance of inadvertent contact, injury or harm shall constitute prima facie evidence of the animal owner's failure to exercise a sufficient degree of protective care.~~
- ~~(c) When public safety requires additional protective measures the animal owner shall provide a protective barrier or other means such as a properly fitted,~~

~~heavy wire, nylon or leather muzzle which the animal cannot remove, together with a strong durable chain which the animal cannot break or remove, or, where such is appropriate, a strong cage with a padlock locked in place or a strong high chainlink fence enclosure constructed so that the animal cannot climb, jump over, dig under or escape from the enclosure. If these measures are deemed insufficient then said animal shall be destroyed.~~

Sec. 2.7-25. - Penalty and enforcement; appeal.

Any violation of this Article is deemed a Class A misdemeanor. Each day that a violation exists shall be considered a separate offense. Furthermore, the County Judge, the County Sheriff, or any individual may institute a civil action to compel compliance with this Article and seek injunctive relief, damages, or other civil sanctions including an award of attorney fees and costs.

Sec. 2.7-26. - Investigation; impoundment.

~~The animal control officer, deputy sheriff, or other police~~ law enforcement officer may order ~~any~~ an animal owner to keep any animal covered by this article restrained or impounded, pending investigation at the animal owner's expense.

Sec. 2.7-27. - Complaints, investigation, corrective measures.

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, they shall have the right to complain to local law enforcement agencies or health officials and such authorities shall investigate the complaint. Such officials shall have full authority to examine ~~complaint~~ the complainant and other witnesses for relevant testimony ~~and to prescribe and counsel corrective measures consistent with section 2.7-23 to the animal owner. If, after a period of ten (10) days, 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 Article, unless a court of law finds that such measures were unreasonable.~~

Sec. 2.7-28. - Abandonment ~~or dumping~~.

~~This Article prohibits and makes it illegal for any person to dump or abandon any animal and such~~ No animal owner or other person may abandon an animal at a location without providing for the animal's continued care. Any such abandonment shall constitute a violation of this article.

Sec. 2.7-29. - ~~Reserved~~. Confinement of animal when person bitten.

- (a) Whenever a law enforcement officer receives information that an animal, whether domestic or livestock, has bitten any person, the law enforcement

officer must have the animal confined and observed in accordance with the provisions of the Rabies Control Act, Ark. Code Ann. §§ 20-19-301 to 20-19-312.

(b) An offending domestic animal must be confined for a period of ten (10) days at the animal owner's expense by a licensed veterinarian, a public animal shelter, or any other animal shelter or boarding facility with rabies quarantine capabilities, at the discretion of the County Sheriff in consultation with the Director of the Washington County Animal Shelter.

(c) The Washington County Animal Shelter is authorized to accept offending cats, dogs, and other domestic animals for confinement at the discretion of the shelter's Director. The Director must take into consideration the shelter's animal population and its ability to quarantine the animal for the requisite ten-day period. The Director is authorized to require payment from the animal owner in advance of up to \$40 per day depending on the estimated cost to quarantine the animal.

Sec. 2.7-30. - Incorporation of State law.

The provisions of the Rabies Control Act, Ark. Code. Ann. §§ 20-19-30—20-19-312 ~~and those statutes regarding cruelty to animals, Ark. Code Ann. §§ 5-62-101—5-62-120~~ are incorporated by reference herein and made a part of this article.

Sec. 2.7-31. - Costs.

~~In the event~~ If a law enforcement ~~officer or agency~~, health official ~~or authorized personnel of the Humane Society of the Ozarks~~ are ~~is~~ required or requested to investigate a violation of this article and ~~said compliant~~ the complaint is substantiated then the reasonable cost of the investigation ~~of such~~ shall be assessed against the animal owner ~~or possessor of the animal~~ by the court. Furthermore, if at any time it becomes necessary to impound or destroy an animal pursuant to this article, then the cost of such shall be paid by the animal owner ~~or possessor of said animal~~, and failure to do so shall constitute a violation of this article.

Sec. 2.7-32. - Proof of compliance with Rabies Control Act.

~~Any police~~ A law enforcement officer investigating a violation of this article shall demand proof of compliance with the Rabies Control Act and failure to produce such shall be deemed a violation of this article.

Sec. 2.7-33. - Exemptions.

(a) Nothing in this article 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 Article precludes a dog from "protecting his 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 Article does not apply when an individual trespasses on an animal owner's 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, tradespeople, servants, 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. Pursuant to Ark. Code Ann. § 20-19-102, any person engaged in raising or owning livestock has the right to protect said animals from dogs, including the killing of such dogs, if necessary, consistent with the provisions of Ark. Code Ann. § 5-62-102 to -5-62-126.~~
- (c) All political subdivisions and municipalities which have already enacted ordinances designed to protect citizens from attack or injury inflicted by vicious potentially dangerous, dangerous, or exotic wild animals shall be exempt from the application of this article.

Sec. 2.7-34. - No encroachment on other official duties.

Nothing in this article shall encroach upon the official duties or activities of the State Game and Fish Commission, the Federal Fish and Wildlife Service, the U.S. Department of Agriculture, circuses, zoological parks, or aquariums, or other licensed exhibitory shows provided all exercise an adequate degree of care.

Sec. 2.7-35. - Stray dogs and cats.

- (a) Definition. All dogs and cats in the rural areas of the County that do not have identifying information affixed to them shall be deemed "stray". Identifying information is defined as any type of information in writing or otherwise that would clearly put a person on notice as to whom the dog or cat belonged and how to contact said owner.
- (b) Impoundment of stray dogs and cats. The Animal Control Officer of the County Sheriff's Office or any other deputy is authorized to take charge and impound said stray dogs and cats at the owner's expense. Failure to claim said dog or cat within three (3) days shall subject the dog or cat to adoption or euthanasia.
- (c) Dogs or cats with identifying information; return to owners; and impoundment. Dogs or cats that have identifying information will be returned to the owner at no cost, unless said owner cannot be contacted within twenty-four (24) hours, at which time said dog or cat shall be subjected to impoundment at the owner's expense. Failure to claim said dog or cat within ten (10) days impoundment shall subject the dog or cat to adoption or euthanasia.

- (d) Violation. This section shall be amendatory to Ordinance No. 92-34 and a violation of this section will be punishable as set out therein.
- (e) Upon the first violation of the ordinance from which this section was derived, said stray dog or cat shall be micro-chipped at the expense of the owner. Any dog or cat impounded more than once shall be spayed or neutered at the owner's expense before being released to the owner. In accordance with State statute, all required vaccinations shall be current before the dog or cat leaves the Shelter.
- (f) Subject to subsection (c) above, the owner of any stray dog or cat to whom said dog or cat is returned shall pay either:
 - (1) \$20 per day to the County, beginning 24 hours after intake, if the animal is spayed or neutered; or,
 - (2) \$200 to the County if the animal is returned, at the owner's option, without being spayed or neutered. Provided, however, that if a dog or cat was spayed or neutered at the time it came into County custody, the return fee provided in Paragraph (f) (1) shall apply.
- ~~(g) Severability clause. If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of the ordinance from which this section was derived is invalid or unconstitutional, that finding in no way affects the validity of the remaining portions of the ordinance from which this section was derived.~~

Sec. 2.7-36. - Notification of exotic wild animals.

- (a) Any person, institution, or organization that chooses to keep and care for exotic wild animals, as defined in section 2.7-21, shall notify the Washington County Animal Control Officer in a manner prescribed by the Sheriff's Office.
- (b) Upon notification of an exotic wild animal being kept in the County, the Animal Control Officer may visit and review the manner of containment of said animals.
- (c) Exotic wild animals must be contained in a manner approved by the U.S. Department of Agriculture, and must be contained in a cage, fence, walled enclosure, building, or any other structure that is of sound construction so as to prevent said animals from escaping.
- (d) Owners or caretakers of exotic wild animals shall post, at the nearest access to a public roadway, at least one (1) notification of such animals and warning against illegal or unsupervised entry on to the property.

- (e) The Animal Control Officer will provide a copy of these regulations to those who submit a notification.
- (f) This section applies only to the unincorporated portions of the County and those incorporated municipalities that do not have the same or a similar ordinance in effect, and it shall be applied to all current and future residents, institutions, and organizations of the County that keep and care for exotic wild animals.

~~Sec. 2.7-37. - Civilian animal control officers.~~

~~Any civilian animal control officer employed by the County is also authorized to enforce section 2.7-21 et seq., and may issue citations for violations of such.~~

~~Secs. 2.7-38—2.7-40. - Reserved.~~

~~Secs. 2.7-38—2.7-40. - Reserved.~~

ARTICLE 2. Severability Clause. If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of the ordinance from which this section was derived is invalid or unconstitutional, that finding in no way affects the validity of the remaining portions of the ordinance from which this section was derived.

ARTICLE 3. Emergency Clause: It is hereby determined that it is the public's best interest for this ordinance to be effective immediately; and the general health, safety and welfare of the citizens are affected by such for the reasons as set out above; therefore, an emergency is declared to exist and this ordinance shall be and is effective from the date of its passage.

MARILYN EDWARDS, County Judge

DATE

BECKY LEWALLEN, County Clerk

Sponsor: Eva Madison and Sue Madison

Date of Passage: _____

Votes For: _____ Votes Against: _____

Abstention: _____ Absent: _____