

ARTICLE II. - VICIOUS ANIMALS

FOOTNOTE(S):

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Editor's note—Nonamendatory Ord. No. 92-34, Arts. 1—14, adopted Oct. 8, 1992, has been included herein as a new Ch. 2.7, Art. II at the discretion of the editor.

Sec. 2.7-21. - Definitions.

Animal owner: 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 of a stray or vicious 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: 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 officer: 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.

(Ord. No. 92-34, Art. 1, 10-8-92; Ord. No. 2002-23, Art. 1, 6-18-02; Ord. No. 2002-28, Art. 1, 7-11-02; Ord. No. 2010-37, Art. 1, 6-10-10)

Sec. 2.7-22. - Permitting animal to go at large; impoundment and restraint.

- (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

(Ord. No. 92-34, Art. 2, 10-8-92; Ord. No. 97-24, Art. 1, 9-12-97; Ord. No. 2001-9, Art. 2, 3-9-01)

Sec. 2.7-23. - Investigation; restraint.

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.

(Ord. No. 92-34, Art. 3, 10-8-92)

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

- (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.

(Ord. No. 92-34, Art. 4, 10-8-92)

Sec. 2.7-25. - Penalty and enforcement.

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 or any individual may institute a civil action to compel compliance with this Article and seek injunctive relief, damages, or other civil sanctions including award of attorney fees and costs.

(Ord. No. 92-34, Art. 5, 10-8-92)

Editor's note— Refer to section 2-21 regarding maximum penalties levied for misdemeanors by the Quorum Court; Class A misdemeanor prohibited by Arkansas law.

Sec. 2.7-26. - Investigation; impoundment.

The animal control officer, deputy sheriff, or other police officer may order any owner to keep any animal covered by this article restrained or impounded, pending investigation.

(Ord. No. 92-34, Art. 6, 10-8-92; Ord. No. 2002-28, Art. 2, 7-11-02)

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 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.

(Ord. No. 92-34, Art. 7, 10-8-92)

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 shall constitute a violation of this article.

(Ord. No. 92-34, Art. 8, 10-8-92)

Sec. 2.7-29. - Reserved.

Editor's note— Ord. No. 2005-24, adopted June 9, 2005, repealed § 2.7-29 in its entirety. Former § 2.7-29 pertained to registration and derived from Ord. No. 92-34, adopted Oct. 8, 1992.

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

The provisions of the Rabies Control Act, Ark. Code. Ann. §§ 20-19-301—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.

(Ord. No. 92-34, Art. 10, 10-8-92)

Sec. 2.7-31. - Costs.

In the event a law enforcement agency, health official or authorized personnel of the Humane Society of the Ozarks are required or requested to investigate a violation of this article and said complaint is substantiated then the reasonable cost of the investigation of such shall be assessed against the 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 owner or possessor of said animal, and failure to do so shall constitute a violation of this Article.

(Ord. No. 92-34, Art. 11, 10-8-92)

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

Any police 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.

(Ord. No. 92-34, Art. 12, 10-8-92)

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.
- (c) All political subdivisions and municipalities which have already enacted ordinances designed to protect citizens from attack or injury inflicted by vicious or exotic wild animals shall be exempt from the application of this Article.

(Ord. No. 92-34, Art. 13, 10-8-92)

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.

(Ord. No. 92-34, Art. 14, 10-8-92)

Sec. 2.7-35. - Stray dogs.

- (a) *Definition.* All dogs 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 who the dog belonged to and how to contact said owner.
- (b) *Impoundment of stray dogs.* The Animal Control Officer of the County Sheriff's Office or any other deputy is authorized to take charge and impound said stray dogs at the owner's expense. Failure to claim said dog within three (3) days shall subject the dog to adoption or euthanasia.
- (c) *Dogs with identifying information; return to owners; and impoundment.* Dogs that have identifying information will be returned to the owner at no cost, unless said owner cannot be contacted within forty-eight (48) hours, at which time said dog shall be subjected to impoundment at the owner's expense. Failure to claim said dog within ten (10) days impoundment shall subject the dog 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 shall be micro-chipped at the expense of the owner.
- (f) The owner of any stray dog that is impounded more than once shall pay double impoundment fees and said dog shall be spayed or neutered at the expense of the owner before being released by the shelter.
- (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.

(Ord. No. 2000-42, Arts. 1—4, 10-13-00; Ord. No 2001-9, Art. 1, 3-9-00; Ord. No. 2009-70, Art. 1, 12-10-09)

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.

(Ord. No. 2001-46, Arts. 1, 2, 7-12-01)

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.

(Ord. No. 2014-43, Art. 1, 7-17-14)

Secs. 2.7-38—2.7-40. - Reserved.

ORDINANCE NO. 2015-91

2015 NOV 23 PM 12:14
COUNTY OF WASHINGTON
1-1-11

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

AN ORDINANCE AMENDING WASHINGTON
COUNTY CODE CHAPTER 2.7, SECTION 35.

WHEREAS, Washington County Code Chapter 2.7, Section 35 provides for the definition of "stray" dogs and the procedures for dealing with such; and,

WHEREAS, the Code section should provide for both dogs and cats; and,

WHEREAS, there is a cost associated with processing stray dogs and cats, and where the owner reclaims such an animal, said cost should be borne by the owner; and,

WHEREAS, these changes make it necessary to change the language of said Code section.

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

ARTICLE 1. Washington County Code Chapter 2.7, Section 35, is hereby amended to read as follows:

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 ~~who~~ whom the dog or cat belonged ~~to~~ 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 ~~forty-eight (48)~~ 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 of 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) ~~The owner of any stray dog that is impounded more than once shall pay double impoundment fees and said dog shall be spayed or neutered at the expense of the owner before being released by the shelter. 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.



MARILYN EDWARDS, County Judge

11/23/15
DATE



BECKY LEWALLEN, County Clerk

Sponsor: Daniel Balls
Date of Passage: November 19, 2015
Votes For: 13 Votes Against: 1
Abstention: 0 Absent: 1