

ORDINANCE NO. 103

AN ORDINANCE ESTABLISHING DOG CONTROL MEASURES IN THE TOWN OF AVOCA

WHEREAS, the Town of Avoca, Arkansas, desires to enact and impose dog control measures regarding the regulations and requirements for vicious dogs and dogs running at large as set out in this chapter; and

WHEREAS, the Town of Avoca currently contains no provisions for the regulations and requirements regarding dogs, and it is deemed necessary and desirable that the Code be amended to provide such provisions.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Avoca, Arkansas:

DOGS

Sections:

- Section 1 Definitions
- Section 2 At large; prohibited
- Section 3 Abandonment
- Section 4 Vicious dogs
- Section 5 Incidents to dog bites to humans
- Section 6 Prevention of spread of rabies
- Section 7 Impoundment
- Section 8 Citations
- Section 9 Enforcement
- Section 10 Penalties and fines
- Section 11 Severability
- Section 12 Repeal

Section 1. Definitions For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Abandon To leave, desert, surrender, forsake, or give up absolutely a dog without demonstrated or apparent intent to recover or resume custody.

Animal control representative Any animal control officer, police officer, local law enforcement officer, or person authorized to enforce the animal control regulations and responsible for animal control operations.

Animal shelter Any premises with a written agreement with the town for the purpose of effectuating this ordinance and used as shelter for seized, stray, homeless, abandoned or unwanted dogs. It matters not whether the shelter is owned by the town and operated under the supervision of the Sheriff or whether it is owned and operated by a municipality, humane

society, animal welfare group or other designated shelter which has a written contractual working agreement with the town.

At large Failure to have under the control of a competent person by the owner of the dog, either by leash, cord, rope, chain, or other physical control of a dog, or under restraint when off the premises of the owner. However, a dog shall not be considered to be at large when on the premises of the owner and accompanied by the owner.

Town The Town of Avoca, Arkansas.

Competent person A person who possesses adequate ability and capacity and who is mentally and physically able to properly maintain control of an animal.

Dog A member of the canine species

Euthanizing Humanely killing an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the federal Drug Enforcement Administration and certified by the Department of Health.

Harbor Allowing any animal to habitually remain or lodge or to be fed within a home, store, yard, enclosure or place of business of any other premises in which a person resides or controls, which shall be considered as keeping and maintaining such animal.

Owner

- (A) An owner is any person that:
- (1) Has a right of property or title in a dog;
 - (2) Keeps or harbors a dog;
 - (3) Has a dog in his, her, or its care;
 - (4) Acts as a dog's custodian; or
 - (5) Knowingly permits a dog to remain on or about any premises occupied by him, her or it.
- (B) In addition to (A)(2) and (A)(5) only, the person must keep, harbor, or knowingly permit a dog to remain on or about any premises occupied by such person for a period of seven (7) consecutive days to be deemed an owner. Any person who reports a dog to the animal control representative as being a stray dog within the seven (7) day period shall not be deemed to be an owner.

Person Any individual, company, partnership, association, organization, limited liability company, joint venture, joint agreement, corporation or institution commonly recognized by law as a unit.

Restraint Confinement of a dog to the owner's property or, when off the owner's property, to be under control by leash, cord, rope, chain, or other physical control of a dog, or other recognized control methods. Confinement and recognized control methods shall include, but are not limited to, voice control and/or the use of an invisible fence.

Secure Enclosure Any structure, building, or compound, which confines an animal in an effort to make escape difficult. Any enclosure from which an animal has escaped or which, in the judgment of the animal control representative, is not adequately constructed to prohibit the escape of an animal or that can be altered to do so shall be deemed not qualifying as a secure enclosure.

Tether An item, such as a leash, cord, rope, chain, etc., by which an animal is fastened to limit its range or is a means of restraint.

Vicious Dog Any dog that:

- (A) Has a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals.
- (B) Without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal.
- (C) Is owned or harbored primarily or in part for the purpose of dogfighting, or any dog trained for dog fighting.

Section 2. At large; prohibited It shall be unlawful for any owner of any dog to allow said dog to run at large within the town. Any dog found at large, will constitute a violation of this section. If failure to maintain control of a dog causes any incident to occur, the dog will be considered at large.

Section 3. Abandonment It shall be unlawful for any person to abandon any dog.

Section 4. Vicious Dogs

A. It shall be unlawful for any person to keep within the Town any vicious dog, unless such dog is confined by the owner within a secure enclosure in which all the entrances shall be secured with a key or combination lock which would prevent entrance by any unauthorized person. The owner shall post a sign in a clear and conspicuous manner that reads "Beware of Dog," or "Vicious Dog." Such dog shall not be removed from said enclosure unless tethered and under the physical control of a competent person.

B. 1. When, in the judgment of the animal control representative, a dog is determined to be a vicious dog, written notice shall be issued of such determination to the owner of such dog who shall forthwith comply with the provisions of this section.

2. The owner may appeal said determination within ten (10) days thereof to the Council by filing a petition with the clerk, although said appeal shall not stay the implementation of said determination.
- C. The following dogs shall be specifically exempted from the provisions of this section:
1. Police and other public safety dogs;
 2. Dogs acting to protect its owner's private property or person;
 3. Service dogs acting in the performance of duties for which they were trained.
 4. Stock dogs while being used to work with cattle or other farm animals.

Section 5. Incidents of dog bites to humans As required by the Arkansas Rabies Control Act, all incidents of persons being bitten by dogs shall immediately be reported to the County Health Department. The impounding facility shall confine and observe the biting dog and remain in contact with the County Health Department.

Section 6. Prevention of spread of rabies When, in the judgment of the animal control representative, an incident of rabies within the town arises, further restrictions may be instituted to contain any outbreak.

Section 7. Impoundment

- A. It is the duty of the animal control representative to take custody of any dog found to be at large in the town, and steps shall be taken toward impounding the dog in an animal shelter.
- B. Impounded dogs shall be kept for not fewer than five (5) working days unless reclaimed or suspected of being infected with rabies.
- C. The animal control representative shall attempt to return the dog running at large to the owner. The dog shall be impounded if the owner cannot be located.
- D. The owner of an impounded dog may reclaim the dog upon payment of an impound fee to the contracting impound facility. The said owner is also responsible for restitution of food, shelter or veterinary costs incurred by the retrieved dog as ordered by the court.
- E. The animal shelter facility director shall keep complete and accurate records of care, feeding, veterinary treatment, and disposition of all dogs impounded at the shelter by the town, including restitution which may be owed.
- F. Any dog not reclaimed by its owner within five (5) working days shall become the property of the animal shelter and shall be placed for adoption in a suitable home or humanely euthanized.

Section 8. Citations Any animal control representative is hereby authorized to issue citations for violations of this chapter. Citations may be issued to the owner of the animal or the parent or guardian of the owner if the owner of such animal is eighteen (18) years of age or younger.

Section 9. Enforcement

- A. For the purpose of discharging the duties imposed by this chapter and enforcing its provisions, any animal control representative is empowered to:
1. Enter upon any premises upon which any animal is harbored and to demand and secure the owner's exhibition of such animal with reasonable basis to enter.
 2. While in pursuit of any animal at large, may enter upon or pass through any enclosed property for the purpose of apprehending the animal.

Section 10. Penalties and fines

- A. Any person violating any portion of this chapter shall be deemed guilty of a misdemeanor.
- B. Upon conviction of a violation arising under Section 5, the convicted person shall be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for each offense.
- C. Upon conviction of a violation arising under any other provision of this ordinance, the convicted person shall be fined as follows:
- a. First (1st) offense: any sum not less than **\$110.00** nor more than **\$200.00**;
 - b. Second (2nd) offense: any sum not less than **\$500.00** nor more than **\$750.00**;
 - c. Third (3rd) or any subsequent offense: any sum not less than **\$750.00** nor more than **\$1,000.00**.
- D. In addition to the foregoing penalties, upon conviction, the owner of the vicious dog shall within thirty (30) days, euthanize said dog or permanently remove the dog from the Town. If after the expiration of thirty (30) days, said dog has not been removed or euthanized, the animal control representative may seize said dog for euthanization or removal from the Town. If the dog is removed from the town, the animal control representative must obtain permission from recipient jurisdiction to transfer the dog to that jurisdiction.

Section 11. Severability It is ascertained by the Council that the provisions of this chapter are separate and independent, and if any word, clause, sentence or section shall be declared void by a court of competent jurisdiction, it shall not interfere with the remaining provisions thereof, which can be given effect without the invalid provision(s).

Section 12. Repeal All other ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

Diane Bowen
Diane Bowen, Acting Mayor

ATTEST:

Jay G. King
Jay King, Alderman

3-8-16

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