

ORDINANCE NO 200

**AN ORDINANCE REPEALING ORDINANCE NO. 188 OF THE ORDINANCES OF GARFIELD, ARKANSAS, KNOWN AS THE ANIMAL CONTROL MEASURES; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Garfield, Arkansas, desires to enact and impose animal control measures regarding the regulations and requirements for vicious animals and animals running at large as set out in this ordinance; and

**WHEREAS**, the City of Garfield currently contains no provisions for the regulations and requirements regarding animals, and it is deemed necessary and desirable that to provide such provisions.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Garfield, Arkansas, the following:

**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 an animal without demonstrated or apparent intent to recover or resume custody.

**Animal-** Any living creature, domestic or wild such as, but not limited to: Dog, Cat, Skunk, Raccoon, Opossum, Armadillo, Cow, Horse, Donkey, ect.

**Animal Control Representative-** Any animal control officer, police officer, local law enforcement officer, code enforcement officer, or person authorized to enforce the animal control regulations.

**Animal Shelter-** Any premises with a written agreement with the City for the purpose of effectuating this ordinance and used as shelter for seized, stray, homeless, abandoned or unwanted animals. It matters not whether the shelter is owned by the City 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 agrees to accept seized animals or has a written contractual working agreement with the City.

**At Large-** Failure to have under the control of a competent person by the owner of the animal, either by leash, cord, rope, chain, or other physical control of an animal, or under restraint when off the premises of the owner.

**City-** The City of Garfield, 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.

**Nuisance Animals-** are any animals which infringe upon the rights of another animal or person, or:

- a) Chase's passersby or passing vehicles;
- b) Attack other domestic animals;
- c) Trespass on school grounds;
- d) Are repeatedly at large;
- e) Damage private or public property;
- f) Bark, whine, or howl in an excessive, continuous, or untimely fashion;
- g) Cause fouling of the air by odor and thereby create unreasonable annoyance;
- h) Interfere with refuse collection or other service personnel;
- i) Defecate on property other than property owned by their owner, keeper or harbored while at large or while under restraint, with the exception of persons with legal guide dogs.

**Owner-**

(A) An owner is any person that:

- (1) Has a right of property or title in the animal;
- (2) Keeps or harbors an animal;
- (3) Has an animal in his or her care;
- (4) Acts as the animal's custodian; or
- (5) Knowingly permits an animal to remain on or about any premises occupied by him or her.

(B) In addition to (A)(2) and (A)(5) only, the person must keep, harbor, or knowingly permit an animal to remain on or about any premises occupied by such person for a period of seven (7) consecutive days to be deemed 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 an animal 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 an animal, 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 dog fighting, or any dog trained for dog fighting.

SECTION 2. AT LARGE: PROHIBITED: It shall be unlawful for any person to abandon any animal dead or alive.

SECTION 3. LEASH RESTRAIN AND CLEAN UP: It shall be unlawful for any person to walk their animal without a leash. It shall be unlawful for any person to not clean up their animal's waste while walking your animal.

#### Section 4. Identification Collar

It shall be the duty of the owner or keeper of every dog or cat within the city to possess an identification collar or tag stating the owner's name, address, and phone number along with the rabies vaccination.

#### Section 5. Number of animals allowed upon premises: exceptions

It shall be unlawful and a public nuisance for any person in charge of a residence to, keep or allow to be kept more than four dogs or four cats on one premises within the corporate limits of the city. This provision shall not apply to persons who holds a business permit from the city for operation of a home-based breeding business relating to dogs or cats, or representatives of rescue organizations who have provided their 501© with the City recorder-treasurer, providing such persons shall be subject to provisions for humane and sanitary living conditions, that their operations shall not be a nuisance to the neighbors and that they shall be subject to periodic inspections by the animal control personnel to determine that the conditions listed in this section are being satisfactorily met.

#### Section 6. Nuisance animals

In the case of animals causing a noise problem, prolonged barking, howling or the making of other sounds common to its species, causes undue annoyance to individuals residing in the neighborhood shall be deemed to constitute a nuisance. Noise from an animal which is sustained for periods of more than thirty (30) minutes or which occurs between the hours of 10 p.m. and 6 a.m., which noise would annoy or disturb a person of normal sensibilities is found to be a nuisance. After the owner of such animals has been duly notified first verbally then received a citation as the second notice that the problem needs correcting, and such correction has not been put in place, nuisance animals can then be

impounded, and a notice left at the owner's residence to provide the owner with instructions for reclaiming the animal. These regulations are in addition to any other regulations contained in this ordinance regarding noise limitations.

For purposes of this section, each day that a violation occurs shall be considered a separate offense, and if a separate citation is issued for each offense, each such separate offense may be punished separately.

#### SECTION 7. VICIOUS DOGS:

- A. It shall be unlawful for any person to keep within the City 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 City Council by filing a petition with the City Recorder/Treasurer, although said appeal shall not stay the implementation of said determination.

SECTION 8. UNLAWFUL DOG ATTACK: Per A.C.A 5-62-125, a person commits the offense of unlawful dog attack if:

- 1. The person owns a dog that the person knows or has reason to know has a propensity to attack, cause injury, or endanger the safety of other persons without provocation.
- 2. The person negligently allows the dog to attack another person; and
- 3. The attack causes the death of or serious physical injury to the person attacked.

The offense of unlawful dog attack is a Class A misdemeanor.

SECTION 9. INCIDENTS OF DOG BITES TO HUMANS: As required by the Arkansas Rabies Control Act, all incidents of persons being bitten by any animal shall immediately be reported to the County Health Department. The impounding facility shall confine and observe the biting animal and remain in contact with the County Health Department.

SECTION 10. PREVENTION OF SPREAD OF RABIES: When, in the judgement of the animal control representative, an incident of rabies within the City arises, further restrictions may be instituted to contain any outbreak.

SECTION 11. 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 12. ENFORCEMENT: For the purpose of discharging the duties imposed by this chapter and enforcing its provisions, any animal control representative is empowered to:

- A. 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.
- B. While in pursuit of any animal at large, may enter upon or pass through any enclosed property for the purpose of apprehending that animal.

SECTION 13. PENALTIES AND FINES: The owner of any animal or the parent or legal guardian if the owner is a minor is liable for property damages and injuries inflicted by his animal, while off the owner's property, whether or not such animal has been declared dangerous or vicious.

- A. Any person violating or aiding in or abetting the violation of any portion of this ordinance or forging any certificate, permit or making any misrepresentation in any matter prescribed by this ordinance, or resisting, obstructing, or impeding any authorized animal control representative in enforcing this ordinance or refusing to produce for inoculation any animal in his/her possession shall be deemed guilty of a misdemeanor.
- B. Upon conviction of a violation arising under Section 5, the convicted person shall be fined no more than \$250.00 plus restitution 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 (1<sup>st</sup>) offense: any sum not less than \$25.00 not more than \$200.00 plus restitution owed.
  - b. Second (2<sup>nd</sup>) offense: any sum not less than \$25.00 nor more than \$200.00 plus restitution owed.
  - c. Third (3<sup>rd</sup>) or any subsequent offense: any sum not less than \$25.00 nor more than \$250.00 for each day that the same is unlawfully continued plus restitution owed.
- D. In addition to the foregoing penalties, upon conviction, the owner of the vicious animal shall within thirty (30) days, euthanize said animal or permanently remove the animal from the City. If after the expiration of thirty (30) days, said animal has not been removed or euthanized, the animal control representative may seize said animal for euthanization or removal from the City. If the animal is removed from the City, the animal control representative must obtain permission from recipient jurisdiction to transfer the animal to that jurisdiction.

SECTION 14. 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 15. EMERGENCY CLAUSE: Whereas, it is necessary to preserve the public peace, health, safety, and welfare of the citizens of Garfield, Arkansas, an Emergency is hereby declared to exist, this ordinance shall take effect immediately on its passage and approval.

Passed and approved this 12<sup>th</sup> day of October, 2020.

APPROVED: Gary Blackburn  
Gary Blackburn, Mayor

ATTEST:

Christal Allen  
Christal Allen, Recorder/Treasurer