

## ORDINANCE 242

### AN ORDINANCE GOVERNING THE OWNERSHIP AND CONTROL OF ANIMALS IN THE CITY OF BARLING.

WHEREAS, the City of Barling presently has four Ordinances regarding the care and treatment of animals, or the responsibility therefor;

WHEREAS, presently existing Ordinances do not adequately address the needs of the City of Barling and its residents concerning all animals;

WHEREAS, it is the desire of the City of Barling to have a single, comprehensive Ordinance addressing all issues concerning animals in order to best serve and protect the citizens of the City of Barling;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Barling, Arkansas:

#### *Dogs and Cats*

##### Section

242.01	Definitions
242.02	Licensing of dogs; fees; exemptions
242.03	Tag and collar
242.04	Running at large prohibited
242.05	Dangerous or vicious animals
242.06	Impoundment
242.07	Redemption of impounded animal; fees
242.08	Disposition of nonreclaimed or unwanted animals; euthanization
242.09	Animal adoption

#### *Rabies Control*

242.20	Animal that bites or exhibits symptoms of rabies; procedure
242.21	Emergency powers of Mayor

#### *Humane Treatment*

242.30	Cruelty and neglect
242.31	Authority to remove and impound

#### *Administration and Enforcement*

242.40	Public Service Officer shall enforce; interference with officer prohibited
241.41	Record-keeping requirements
242.98	Penalty
242.99	Conflicts

## ***DOGS AND CATS***

### **§ 242.01 DEFINITIONS.**

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

***PUBLIC SERVICE OFFICER.*** The City Public Service Officer and/or his or her designee, acting under the direction of the Chief of Police, and whose duties include the enforcement of this chapter.

***ANIMAL SHELTER.*** An establishment authorized and maintained for the confinement, maintenance, and safekeeping of animals which come into the custody of the Public Service Officer.

***AT LARGE.*** Any animal shall be deemed to be ***AT-LARGE*** when it is off the premises of the owner, and not under the direct control, custody, charge, or possession of the owner, or other responsible person designated by the owner, either by substantial leash, chain, rope, or cord.

***BITE.*** Any seizure, gripping, or penetration of the skin by the teeth of any animal.

***DANGEROUS ANIMAL.*** See ***VICIOUS ANIMAL.***

***IMPOUNDMENT.*** The reception into custody by the Public Service Officer of any animal.

***OWNER.*** Any person owning, keeping, possessing, harboring, maintaining, or having custody or otherwise having control of an animal within the city.

***PET SHOP.*** Any person, partnership, or corporation, whether operated separately or in connection with another business enterprise (except for a licensed kennel), that buys, sells, or boards any species of animal.

***PROVOCATION.*** Any behavior toward an animal or its owner which is likely to cause a defensive reaction by the animal.

***PUBLIC NUISANCE ANIMAL.*** Any animal that unreasonably annoys humans or substantially interferes with the rights of citizens, other than their owner, to the enjoyment of life or property. ***PUBLIC NUISANCE ANIMAL*** shall mean and include, but is not limited to, any animal that:

- (1) Damages the property of anyone other than its owner.
- (2) Molests, intimidates, or injures pedestrians or passersby.
- (3) Chases vehicles.
- (4) Makes excessively disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to

the premises where the animal is kept or harbored.

(5) Defecates on any public property or on any private property that is not owned by the owner of the animal. It shall not be a violation of this section if the animal owner removes the defecation in a prompt and sanitary manner.

**QUARANTINE.** The confinement of any animal, for observation, in a place designated and for a time specified by the Public Service Officer or his or her designee.

**TORTURE, TORMENT, and CRUELTY TO ANIMALS.** Every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue when there is reasonable remedy or relief.

**UNCONFINED.** While on the premises of its owner or other responsible person having charge, care, custody, or control, the animal is not within a securely enclosed yard, pen, run area, or restrained by a substantial chain, leash, rope, or cord of sufficient strength. The pen, yard or run area must be adequate to prevent escape from that area by the animal.

**VETERINARIAN.** A person duly licensed and registered to practice veterinary medicine in the state.

**VICIOUS ANIMAL.** Any animal shall be deemed to be dangerous or vicious if that animal:

- (1) Has bitten one or more persons without provocation on two separate occasions within a period of six months.
- (2) Kills or causes injury by biting any animal.
- (3) Is declared after a hearing by a city magistrate who makes the determination based upon injury, apprehension, or intimidation of human beings.
- (4) This definition does not apply to any guard animal on private property or a Police dog in the course of its duties.

## **§ 242.02 LICENSING OF DOGS; FEES; EXEMPTIONS.**

(A) No person shall own, keep, or harbor any dog within the city limits unless the dog is licensed.

(B) Before application for a city dog license is made, the owner must present a rabies vaccination certificate signed by a licensed veterinarian, stating the dog owner's name and address, the dog's description, the date of vaccination, the type, serial number, and manufacturer of the vaccine used, and the date for revaccination.

(C) A dog license application shall be made to the City Clerk or his or her authorized designee, for all dogs more than four months of age, that are owned, kept, or harbored within the city for a period of more than 30 days.

(D) A dog license application shall contain the name and address of the dog owner, and

the name, breed, color, age, and sex of the dog.

(E) All dog licenses shall be issued for one year, beginning January 1. Applications for dog licenses may be made prior to and for 90 days after the start of the licensing year without penalty. When the licensing application is made after 90 days into the new licensing year, the applicant shall be assessed a penalty of 50% of the license fee. If the dog did not become subject to licensing until after the start of the licensing year, then no penalty shall be assessed.

(F) Any person who knowingly fails within 15 days after written notification from the Animal Control Officer to obtain a license for a dog required to be licensed may be cited.

(G) The license fee shall be paid to the city at the time the application is made. The license fee schedule shall be as follows:

- (1) Intact dogs/cats - \$15 per .
- (2) Spayed/neutered dogs/cats - \$5 per.
- (3) Dogs/cats ten years of age or older - \$5 per

(H) Upon receipt of the license fee by the city, the applicant shall be given a numbered receipt and a numbered metallic tag.

(I) A person who is legally blind and whose dog is a registered "seeing eye dog," and/or a person who is legally deaf and whose dog is a registered "hearing dog," shall upon application by the owner to the Public Service Officer, and upon presentation of proper proof of the certification, be licensed pursuant to this chapter without payment of fee.

(J) The license fee for persons 62 years old or more shall be \$3 for spayed/neutered dogs/cats or dogs/cats ten years of age or older, and \$13 for intact dogs/cats. No more than four dogs/cats per household shall be licensed at this rate.

(K) A current or valid license issued other than by the city shall not eliminate the need for the license provided above.

(L) In the event that a license tag issued for a dog or cat is lost, or there is a change in ownership of a dog, a replacement tag or license transfer must be obtained upon payment of \$2.

(M) Any person, keeping within the corporate limits of the city, at any time, five or more dogs six months of age or over shall be considered to be operating a dog kennel and the owner or keeper of such dog kennel shall pay an annual license fee of \$25.00 in addition to the dog license fee hereinabove provided for, said annual kennel license fee being payable at the same time and in the same manner as the annual dog license fee. The keeping, on the premises of the owner, of five or more dogs shall be prima facie evidence that said owner is operating a kennel, and the burden of proof shall be on the owner to show that one or more of the five or more dogs is less than six months in age.

### **§ 242.03 TAG AND COLLAR.**

(A) *Annual tags.* Upon complying with the provisions of §242.02 of this chapter, there shall be issued to the owner a numbered metallic tag, stamped with the number and the year for which it is issued. The tag shall be changed from year to year.

(B) *Tag to be worn at all times; exception.* Every owner is required to see that the tag is securely fastened to the dog's chain, collar, or harness which must be worn by the dog at all times unless the dog, accompanied by owner, is engaged in hunting or other sport where a collar might endanger the dog's safety.

(C) *Vaccination of cats; tag required.* Every owner is required to vaccinate his or her cat against rabies and is required to ensure that the tag is securely fastened to the cat's collar or harness, which must be worn by the cat at all times. As an alternative to collars, dog/cat owners may choose to use an implant or tattoo as the means of identification.

(D) It is unlawful:

- (1) For any person to counterfeit or attempt to counterfeit an official dog or cat tag;
- (2) To remove a dog or cat tag from any dog or cat for the purpose of willful and malicious mischief; or
- (3) To knowingly place a specific dog or cat tag upon another dog or cat, unless that tag was issued for that dog or cat.

### **§ 242.04 RUNNING AT LARGE PROHIBITED.**

Every person owning, having charge, care, custody, or control of any animal of any age shall keep that animal exclusively upon his or her own premises. However, the animal may be off the premises while under the control, custody, charge, or possession of the owner, or other responsible person, and restrained by a substantial chain, leash, rope, or cord of sufficient strength to enable the person to control the animal.

### **§ 242.05 DANGEROUS OR VICIOUS ANIMALS.**

(A) Any person having charge, care, custody, or control of a dangerous or vicious animal (see § 242.01 for definition) shall not permit the animal out of the building or secure enclosure unless the animal is under the direct control, custody, charge, or possession of the owner, or other responsible person, either by substantial leash, chain, rope, or cord, and securely muzzled.

(B) Any animal described in division (A) of this section, found at large or unconfined, shall be impounded by the Public Service Officer and may only be redeemed by the owner at the discretion of the Public Service Officer or by authorization from any court having jurisdiction.

(C) Every female dog in heat shall be kept confined in the owner's building or in a veterinary hospital or boarding kennel, in a manner that the female dog cannot come in contact

with a male dog, except for purposes of intentional breeding.

(D) When, in the judgment of a licensed veterinarian or the Public Service Officer, an animal should be destroyed for humane reasons, the animal may not be redeemed.

(E) The Public Service Officer shall destroy a dangerous or vicious animal upon an order of a city magistrate. A city magistrate may issue an order after notice to the owner, if any, and a hearing.

#### **§ 242.06 IMPOUNDMENT.**

(A) *Maintenance of nuisance animals unlawful.* It is unlawful for any person to maintain an animal in a manner that it constitutes a public nuisance, as defined in § 242.01 of this chapter.

(B) *Citation of owner.* When an animal is found unconfined or at large, and the ownership is known to the Public Service Officer, the animal need not be impounded, but the Public Service Officer may, at his or her discretion, cite the owner.

(C) *Stray dogs.* A stray dog found at large shall be taken up by the Public Service Officer and humanely impounded in the animal shelter for not less than 5 business days.

(D) *Stray cats.* Any stray cat found at large shall be taken up by the Public Service Officer and shall be humanely impounded in the animal shelter for not less than 5 business days, unless the cat poses a threat to the public health, safety, and welfare.

(E) *Notification of impoundment.* Immediately upon impounding a stray animal, the Public Service Officer shall make every effort to notify the owner of the impounded animal, and to inform the owner of the conditions whereby they may regain custody of the animal.

(F) *Owner requesting pick-up.* Any owner requesting the Public Service Officer to pick up their animal shall be charged a \$20 fee.

(G) *Animals at public events prohibited; exceptions.* Except as provided in this section, animals shall not be allowed in that portion of a city park in which an event open to the general public and sanctioned by the Park and Recreation Commission is being held. Signs to this effect shall be posted in conspicuous places throughout that area of the park by the organizers of the event. This prohibition applies only during hours scheduled for attendance by the public and only in that portion of the particular city park in which the event is being held. These hours shall be posted on the signs specified above. Exempted from the provisions of this division are specially trained dogs for the visually impaired or otherwise handicapped persons, Police animals in the line of duty, and animals involved in events pertaining to animals. It shall be the responsibility of the organizers of the events to notify all participants and exhibitors, if any, of this requirement and to post the above-mentioned signs. Violators of this division shall be subject to criminal prosecution.

**§ 242.07 REDEMPTION OF IMPOUNDED ANIMAL; FEES.**

(A) The owner shall be entitled to resume possession of any impounded animal, except as provided in cases of certain animals, upon compliance with the licensing provisions of § 242.02 of this chapter or, in the case of a cat, upon verification of the rabies vaccination within 15 days and the payment of the impoundment fees as set in this chapter. At the discretion of the Public Service Officer or his or her designee, the owner of an impounded animal may be summoned into municipal court in answer to a charge of violating this chapter.

(B) Any animal impounded under this chapter may be reclaimed as provided in this chapter and upon payment by the owner to the Public Service Officer the sum of \$15 per animal and the additional sum of \$5 boarding fee, per animal, for each day the animal is impounded. The redemption fees shall be doubled for each additional offense.

**§ 242.08 DISPOSITION OF NONRECLAIMED OR UNWANTED ANIMALS; EUTHANIZATION.**

(A) Any animal impounded under the provisions of this chapter and not reclaimed by its owner within 5 business days may be humanely destroyed by the Animal Control Officer or placed into the custody of some person deemed to be a responsible and suitable owner who will agree to comply with the provisions of this chapter and other regulations as shall be fixed by the city.

(B) Any owner who requests that their animal be disposed of shall be charged a \$20 euthanization fee.

**§ 242.09 ANIMAL ADOPTION.**

(A) Any dog or cat held at the Animal Control Shelter for the prescribed period and not reclaimed by its owner may be released for adoption, based upon its suitability, as determined by the Public Service Officer or his or her designee.

***RABIES CONTROL***

**§ 242.20 ANIMAL THAT BITES OR EXHIBITS SYMPTOMS OF RABIES; PROCEDURE.**

(A) Whenever an animal bites any person, the incident shall be reported to the Public Service Officer, his or her designee, or a peace officer, immediately by any person having direct knowledge.

(B) Any currently licensed and/or vaccinated dog or any currently vaccinated cat that bites any person or another animal shall be impounded and quarantined at the animal shelter by the Public Service Officer, or impounded and quarantined on the owner's premises at the direction of the Public Service Officer, or impounded and quarantined under the control of a veterinarian, at the request of and at the expense of the owner, for a period of not less than ten days.

(C) Any unlicensed dog or unvaccinated dog or cat, that bites any person or another animal, shall be impounded and quarantined in the animal shelter by the Public Service Control Officer, or impounded and quarantined under the control of a veterinarian, at the request of and at the expense of the owner. Any unlicensed dog or unvaccinated dog or cat, that bites any person or another animal, shall be impounded and quarantined for a period of not less than ten days.

(D) Any animal, other than a dog or cat, that bites any person or another animal shall be impounded and quarantined in the animal shelter by the Public Service Officer, or impounded and quarantined under the control of a veterinarian, at the request of and at the expense of the owner. Any animal, other than a dog or cat, that bites any person or another animal shall be impounded and quarantined for a period of not less than 14 days.

(E) Any animal, other than livestock, that exhibits symptoms suggestive of rabies, when captured, shall be impounded and quarantined for observation in the animal shelter or another designated place, until it dies or is no longer showing symptoms suggestive of rabies as determined by a veterinarian. An animal should not be killed unless attempts to capture it would endanger the public health and safety. The killing of an animal should be done in a way as not to damage the brain and render it unfit for laboratory testing.

(F) Any animal not suspected of having rabies, that has been bitten by an animal suspected or proven rabid, shall be destroyed or placed under the observation of a licensed veterinarian or Public Service Officer, at the request of and at the expense of the owner, for a period of ten days.

(G) The Public Service Officer may destroy any animal impounded and quarantined pursuant to this subchapter prior to the termination of the minimum confinement period for laboratory examination for rabies if:

- (1) The animal shows clear clinical signs of rabies; or
- (2) The owner of such animal consents to its destruction.

(H) It is unlawful for a person, other than the Public Service Officer or his or her designee, to destroy or dispose of any animal suspected of rabies or which exhibits any clinical symptoms of rabies as determined by a veterinarian.

#### **§ 242.21 EMERGENCY POWERS OF MAYOR.**

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if deemed necessary, shall issue a proclamation ordering every person owning or keeping a dog or cat to confine it securely on his or her premises unless the dog or cat shall have a muzzle of sufficient strength to prevent its biting any person or other animal. Any unmuzzled dog or cat at large during the time of the proclamation shall be seized and impounded unless noticeably infected with rabies and displaying vicious propensities, in which case it shall be killed by the Public Service Officer without notice to the owner. Dogs or cats impounded during the period of proclamation shall, if claimed within 5 business days, be released to the owner, unless infected with rabies, upon payment of impounding charges provided for in this chapter. If unclaimed after that period, such dog or cat may be summarily destroyed.



## *HUMANE TREATMENT*

### **§ 242.30 CRUELTY AND NEGLECT.**

(A) Any person or establishment that maliciously or negligently kills, maims, or wounds an animal which is the property of another, or who, having charge or custody of an animal as owner or otherwise, overdrive, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal, or subjects an animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses an animal, or who cruelly drives, rides, or otherwise uses the animal when unfit for labor shall be guilty of a misdemeanor.

(B) Any person or establishment that abandons, drops, or leaves an animal on a street, road or highway, in a public place or on private property with intent to abandon, or when the owner fails to claim an animal from a boarding facility or veterinarian within ten days of the date a registered letter is sent to the person from the boarding facility or veterinarian requesting that the owner reclaim the animal shall be guilty of a misdemeanor.

(C) Any person or establishment owning or having care, control, or custody of any animal shall provide:

- (1) The animal daily receives food that is free from contamination and is of sufficient quantity and nutritive value to maintain the animal in good health.
- (2) That potable water is accessible to the animal at all times, either free flowing or in a clean receptacle.
- (3) Except for livestock, all animals have convenient access to natural or artificial shelter throughout the year. Any artificial shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and of sufficient size to permit the animal to enter, stand, turn around, and lie down in a natural manner.
- (4) The animal receives care and medical treatment for debilitating injuries, parasites, and diseases sufficient to maintain the animal in good health and minimize suffering.
- (5) The animal is given adequate exercise space, either:
  - (a) Within an enclosure that shall be constructed of material, and in a manner to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition; or
  - (b) On a tie out, consisting of a chain, leash, wire cable, or similar restraint attached to a swivel or pulley. A tie out shall be so located as to keep the animal exclusively on the secured premises. Tie outs shall be so located that they cannot become entangled with other objects. Collars used to attach an animal to a tie out shall not be of a choke type. No tie out shall employ a restraint which is less than ten feet in length
- (6) Except for livestock, the animal has access to adequate ventilation and is protected from temperature extremes at all times. In this connection, it is unlawful

for any person to keep any animal in a vehicle or other enclosed space in which the temperature is either so high or so low, or the ventilation is so inadequate as to endanger the animal's life or health. The Public Service Officer, his or her designee or a peace officer is authorized to use whatever force is reasonable and necessary to remove any animal from a vehicle or other enclosed space, whenever it appears that the animal's life or health is endangered by extreme temperatures or lack of ventilation within the vehicle or other enclosed space. Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry, or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.

(D) Any person who, when operating a motor vehicle, strikes a domestic animal shall stop at once and render the assistance as may be possible and shall immediately report the injury or death to the animal's owner. In the event the owner cannot be ascertained and located, the operator shall at once report the accident to the Public Service Officer, his or her designee, or a local peace officer.

#### **§ 242.31 AUTHORITY TO REMOVE AND IMPOUND.**

(A) If the Public Service Officer, his or her designee, or a peace officer has issued a citation or complaint for a violation of this section, and reasonably believes that the violation will continue, the officer is authorized and empowered to remove and impound the animal.

(B) The Public Service Officer, his or her designee, or a peace officer are authorized and empowered to remove and impound any animal in plain view and suffering from immediate life-threatening exigent circumstances. The Public Service Officer, his or her designee, or a peace officer shall not be held liable for damages to property caused by the use of reasonable force to remove an animal from a vehicle or other enclosed space under the circumstances.

(C) The owner of any animal removed and impounded under the provisions of § 242.40 of this chapter shall be liable for any damage, impoundment, boarding, or veterinarian fees incurred in connection therewith.

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 242.40 PUBLIC SERVICE OFFICER SHALL ENFORCE; INTERFERENCE WITH OFFICER PROHIBITED.**

- (A) The provisions of this chapter shall be enforced by the Animal Control Officer.
- (B) The Public Service Officer of the city, his or her designee, or a peace officer shall:
  - (1) Be charged with enforcing all of the provisions of this chapter.
  - (2) Be authorized to stop and detain a person as is reasonably necessary to investigate any actual or suspected violations of this chapter .
  - (3) Serve a copy of the complaint for any alleged violation of this chapter

(C) It shall be unlawful for any person to interfere with the Public Service Officer, his or her designee, or a peace officer in the enforcement of the provisions of this chapter. Interference with the Public Service Officer, his or her designee or a peace officer is a misdemeanor.

**§ 242.41 RECORD-KEEPING REQUIREMENTS.**

(A) It shall be the duty of the Public Service Officer to keep, or cause to be kept, accurate and detailed records of the licensing, impoundment, spay/neuter and disposition of all animals coming into his or her custody.

(B) It shall be the duty of the Public Service Officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him or her and the investigation of same.

(C) It shall be the duty of the Public Service Officer to keep, or cause to be kept, accurate and detailed records of all revenues and expenditures, which records shall be open to inspection at reasonable times by persons responsible for similar records of the city and shall be audited by the city annually in the same manner as other city records are audited.

**§ 242.98 PENALTY.**

Unless otherwise provided, any person who does not comply with this chapter shall be guilty of a misdemeanor with a fine not to exceed \$100 per offense. Each violation of this ordinance shall be treated as a separate offense.

**§ 242.99 CONFLICTS.**

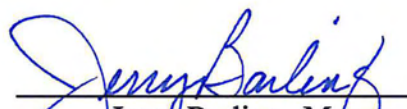
All other Ordinances in conflict with this Ordinance are generally and specifically repealed. Ordinance No. 120, 127, 172, and 193 are hereby specifically repealed in their entirety.

**PASSED AND APPROVED** this 11th day of March, 1997.

**APPROVED:**

**ATTEST:**

  
  
Sharon Stockton, City Clerk

  
Jerry Barling, Mayor