

ORDINANCE NO. 06-5

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF POTTSVILLE, ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE REGULATING THE OWNING OR HARBORING OF ANY VICIOUS ANIMAL, OR WILD ANIMAL WHICH MAY ATTACK OR INJURY A PERSON, OR HARASS, WOUND OR KILL DOMESTIC ANIMALS AND POULTRY; TO ESTABLISH EXEMPTIONS FROM SUCH AND TO PROVIDE FOR THE PENALTIES FOR VIOLATION THEREOF AND OTHER MATTERS.

WHEREAS, the problem of uncontrolled and/or vicious animals is a growing problem in the city of Pottsville, Arkansas; and,

WHEREAS, the laws of the state of Arkansas provide for civil remedies for any person harmed by any uncontrolled, dangerous or vicious animal; and,

WHEREAS, there is a need to provide additional criminal sanctions against those who own or harbor said animals:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTTSVILLE, ARKANSAS:

ARTICLE 1 – DEFINITIONS.

Animal: The word “animal” pertains to any animal as set out in Article 1, Definitions.

Animal Owner: Any person having ownership or personal rights in a dog or other animal, or any person who keeps in his care, acts as custodian for, or knowingly permits a dog or other animal to remain on or about any premises occupied by him.

Vicious or Uncontrolled Animal: Any animal that harms physically or inflicts unprovoked bites or attacks human beings, livestock, or poultry, or any animal approaching an individual in such a way as to place that individual in reasonable fear of unprovoked injury or attack whether it occurs upon streets, roads, sidewalks, and public grounds or private property.

Law Enforcement Officer: Any person employed by the city of Pottsville, Arkansas, or State Police, county deputies or any other law enforcement personnel with authority to act in that capacity within the city limits of Pottsville, whose duty is to preserve peace, make arrests or to enforce the law.

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

Proper Enclosures: Means securely confined indoors or in a locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. A proper enclosure does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exist of its own will.

ARTICLE 2 – PERMITTING ANIMALS TO BE UNCONTROLLED OR TO BE AT LARGE, IMPOUNDMENT AND RESTRAINT.

No animal owner or possessor of any animal covered by this ordinance may at any time permit the same to “go at large” to be in a situation, condition, or place where it can inflict or cause to be inflicted or to be a threat of danger to any human being or other animal.

Any such animal known to have harmed physically or inflicted a biting injury of sufficient severity to require medical treatment shall be impounded and observed at the owner’s expense consistent with Section 3 of the Rabies Control Act. (A.C.A. 70-19-301-312)

The owner of such animal known to have inflicted a biting injury upon one or more animals with injury of sufficient severity to require medical treatment or to cause the death of animals, shall reimburse the owner of the animals the medical treatment and/or the fair market value of the dead animals.

A proper enclosure must exist for vicious or potentially dangerous animals or for female animals that are in the estrous cycle (in heat) and could be the cause of male animals becoming vicious while being with her.

Any law enforcement officer who has reasonable grounds to believe that an animal is vicious, uncontrolled or a threat to the safety of humans or other animals shall notify such animal’s owner to properly enclose and/or restrain such animal. If the animal’s owner cannot be located the officer can have such animal impounded at the owner’s expense or kill the animal if capture poses too great a danger to the capturing officer. The owner shall have ten (10) 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 restrain and properly enclose it in any other manner consistent with Article 3.

ARTICLE 3 – INVESTIGATION; RESTRAINT.

Upon a complaint that any animal covered under this Ordinance is being harbored, a law enforcement officer shall investigate such and may require the keeper or owner of such animal to restrain or dispose of such animal in a reasonable manner, consistent with this Ordinance. Reasonable manner may include chaining, posting of warning signs, enclosures, protective barriers, muzzling and destruction or other measure necessary to abate nuisances, unhealthful or inhumane

conditions. Failure to comply with said measures shall be deemed a violation of this Ordinance, unless a court of law finds such measures were unreasonable.

ARTICLE 4 – DUTY OF INDIVIDUAL TO USE PROTECTIVE MEASURES.

Any individual who keeps any animal covered by this Ordinance shall exercise the highest degree of care to protect children, the general public, and other animals from attack.

Appropriate chaining practices, posting of signs, or maintenance of animals within proper enclosures shall meet the standard of care, if such practices reasonably preclude the possibility of inadvertent contact and probable injury in all instances where a child or unsuspecting person or other animal might be put into unintentional contact with the animal.

ARTICLE 5 – PENALTY AND ENFORCEMENT.

Any violation of this Ordinance is deemed a Class A Misdemeanor. A Class A Misdemeanor is punishable by imprisonment of 0-1 year and/or a fine from 0- \$1,000.00. Each day that the violation exists shall be considered a separate offense. Furthermore, any individual may institute a civil action to compel compliance with this Ordinance and seek relief damages, or other civil sanctions including the awarding of attorneys fees and costs accrued by the city of Pottsville.

ARTICLE 6 – INVESTIGATION; IMPOUNDMENT.

A law enforcement officer may order an owner to keep any animal covered by this Ordinance restrained or impounded pending investigation that such animal has attacked, wounded or killed any human being, livestock or poultry.

ARTICLE 7 – 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 unhealthy conditions, or maltreatment, he 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 authority to examine complainant and other witnesses for relevant testimony and to prescribe and counsel corrective measures consistent with Article 3 to the animal owner. If, after a ten (10) days period the owner/keeper fails to comply with the corrective measure ordered by health or government officials then such shall be deemed a violation of this Ordinance, unless a court of law finds that such measures were unreasonable.

ARTICLE 8 – ABANDONMENT OR DUMPING.

This Ordinance also prohibits and makes it illegal for any person to dump or abandon any animal and such action shall constitute a violation of this Ordinance. Any violation of this Ordinance is deemed a Class A Misdemeanor. A Class A Misdemeanor is punishable by

imprisonment of 0-1 year and/or a fine from 0- \$1,000.00.

ARTICLE 9 – INCORPORATION OF STATE LAW.

The provisions of the Rabies Control Act, A.C.A. 20-19-301-312 and that statutes regarding Cruelty to Animals, A.C.A. 5-62-101-120 are incorporated by reference herein and made a part of this Ordinance.

ARTICLE 10 – COSTS.

In the event a law enforcement agency, health official or a humane society is required or requested to investigate a violation of this Ordinance and said complaint is substantiated, then the reasonable cost of the investigation of such shall be assessed against the owner/keeper of the animal. Failure to pay such shall be deemed a violation of this Ordinance. Furthermore, if at any time it becomes necessary to impound or destroy the animal pursuant to this Ordinance, then the cost of such shall be paid by the owner/keeper of said animal, and failure to do so shall constitute a violation of this Ordinance.

ARTICLE 11 – PROOF OF COMPLIANCE WITH RABIES CONTROL ACT.

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

ARTICLE 12 – EXEMPTIONS.

Nothing in this Ordinance 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.

Nothing in this Ordinance 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 Ordinance 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, trades people, 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.

ARTICLE 13 – IMMUNITY.

Any law enforcement officer acting in good faith and exercising due care in enforcing this Ordinance or any provision thereof shall have immunity from civil liability.

ARTICLE 14 – NO ENCROACHMENT ON OTHER OFFICIAL DUTIES.

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

ARTICLE 15 – REPEAL.

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

ARTICLE 16 – SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared severable.

ARTICLE 17 – EMERGENCY CLAUSE.

This Ordinance being necessary for the health, safety and welfare of the citizens of Pottsville, Arkansas, an emergency is declared to exist. This Ordinance shall take effect and be enforced from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 20 DAY OF July, 2006.


JERRY DUVAL, MAYOR
CITY OF POTTSVILLE

ATTEST:


Carolin Hester
City Clerk/Recorder