

AMENDED

ORDINANCE #: 2010 CITY OF HECTOR POPE COUNTY, ARKANSAS

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF HECTOR, POPE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE REGULATING THE OWNING OR HARBORING OF ANY VICIOUS ANIMAL, OR WILD ANIMAL WHICH MAY ATTACK OR INJURE 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 Hector, Arkansas, and:

WHEREAS, the laws of the State of Arkansas provide for civil remedies for any person harmed by an 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 HECTOR, AR POPE COUNTY, ARKANSAS:

ARTICLE 1: DEFINITIONS

(a) As used in this ordinance, the following terms mean:

Animal: The word animal pertains to any animal as set out in Article 1:

Animal: Dogs, Cats, or other domesticated or wild animals kept as pets.

Animal Control Authority: Hector Police Department, law enforcement officer, any person(s) employed or elected by township, municipality, county, state, or federal agency, whose duty it 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.

At Large: An animal off the property of the owner and not under restraint, except when on the private property of someone other than the owner who has permitted the animal to be unrestrained or in a designated dog park

Dangerous/Vicious/Uncontrolled Animal: Any animal that harms physically or inflicts unprovoked bites or attacks human beings, livestock, poultry, or any animal approaching an individual in such a way as to place that 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.

Leash: A tether of no longer than 6 feet used to control a dog.

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.

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 exit of its own will.

Under Restraint: An animal secured by a leash or within the real property limits of its owner or an authorized person.

Section II. Leash Law

(a) All animals within city limits must be under the control of their owner or handler and restrained by a leash when in public areas. The leash should be no longer than 6 feet in length.

(b) All animals within city limits, being a nuisance, constantly running "at large" around the city, causing damage, and/or getting into trash, and/or creating a public disturbance, will be subject to euthanization or placement with a rescue by animal control authority.

(c) Punishment: Violation of the leash law will result in a fine of \$50 for the first offense, \$100 for the second offense, and \$200 for each subsequent offense. With a maximum fine of \$200 per occurrence.

Section III. Vaccination and Rabies Vaccinations

(a) All dogs must receive regular vaccinations in accordance with the schedule recommended by a licensed veterinarian.

(b) Rabies shots are mandatory and should be administered in compliance with state and local laws. Arkansas Code 70-19-301-312

(c) A certificate of vaccination, on a form recommended by the Compendium or containing the same information, shall be issued to the owner of each dog vaccinated for rabies. Each vaccinated dog should have a permanent means of identification.

(d) Punishment: Failure to comply with vaccination requirements will result in a fine of \$100 for each offense.

Section IV. Spaying and Neutering

(a) All dogs must be spayed or neutered.

(b) Punishment: Failure to spay or neuter a dog will result in a fine of \$200.

Section V. Vicious Dog Ordinance

(a) Any dog exhibiting aggressive behavior that poses a threat to public safety shall be classified as a vicious dog.

(b) Vicious dogs will be subject to immediate euthanization, and the owner will be fined \$150. If the animal proves to be a public safety threat, the Hector City Police may use lethal force at their discretion to prevent serious injury or death.

(c) The owner will also be held liable for any damages caused by the dog, as well as the associated euthanasia fees.

(d) Upon the third offense, the owner will be prohibited from owning animals within city limits.

(e) Punishment: Fines for owning a vicious dog without proper precautions will be \$500 for the first offense, \$1000 for the second offense, and a permanent ban on owning animals within city limits for the third offense.

Section VI. Collar and Identification

(a) Every dog must wear a collar with an attached tag displaying up-to-date owner information.

(b) Proof of vaccinations should be readily available upon request.

(c) Punishment: Failure to comply with collar and identification requirements will result in a fine of \$50.

Section VII. Stray Dogs

(a) Stray dogs found within city limits will be captured and announced by the city authorities.

(b) If unclaimed within the legal timeframe specified by city regulations, these dogs will be subject to humane euthanization or placement within a rescue. Stray animals will be subject to rehoming first, then euthanization if rehoming is not available within the 10 day timeframe.

(c) If a stray dog is claimed, the claimant will be responsible for applicable hold fees and fined in accordance with the leash law. Upon the second offense, the owner will be fined and court date set. The owner will be responsible for spaying or neutering the animal, providing proof of the spay or neuter.

(d) Punishment: Failure to claim a stray dog within the specified timeframe will result in a fine of \$100.

(e) Unclaimed animals, captured by the City of Hector, will be euthanized within (10) days of the animal being captured, announced, and unclaimed by a designated veterinarian of the city's choosing.

Section VIII. Interference

(a) No person shall interfere with, hinder, or molest any agent of the City of Hector in the performance of any duty as herein provided.

(b) Any person violating this section shall be deemed guilty of and cited for obstructing governmental operations.

Section IX. Repeal of Conflicting Ordinances

(a) All other ordinances of the City of Hector that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section X. Severability

(a) If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

Section XI. Safety Clause

(a) The City of Hector hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the City of Hector and the inhabitants thereof.

Section XII. - Interference with enforcement.

It shall be unlawful for any person to:

(a) Interfere in any manner with the City of Hector animal control worker while they have in their custody any animal.

(b) Remove from the animal shelter any animal which is in the custody of the animal shelter unless the director or other person in charge of the animal shelter has authorized the release of such animal.

(c) Knowingly obstruct, impair or hinder, directly or indirectly, the lawful performance of enforcement and animal control functions of the director or other appointed animal control officer.

Section XIII - Cruelty to animals.

(a) It shall be unlawful for any person to:

1. Overdrive, overload, overwork, torture, beat, mutilate, kill needlessly, carry or confine in a vehicle in an inhumane manner, or otherwise mistreat, any animal.
2. Fail to provide any animal with proper food, drink, protection from the weather and veterinary care.
3. Abandon any animal.
4. Intentionally poison any animal.
5. Allow or promote any fight between animals, or to allow or permit any such fight in or upon any premises in his possession or under his control.
6. Allow an animal to be kept in unsanitary conditions.
7. Keep or confine an animal in any other capacity than a humane manner.
8. Any owner of a dog, when confining such dog on a chain, shall confine such dog by a chain of at least ten feet, and the chain shall be affixed to the dog's collar and attached to some substantial stationary object adequate to prevent the dog from running at large.

(b) Animal control officers have the authority to remove any animal subject to cruelty and impound such animal(s). The animal(s) shall be humanely euthanized at the owner's expense.

State Law reference— Authority to prevent cruelty to animals, A.C.A. § 14-54-103(7); cruelty to animals, A.C.A. § 5-62-122.

Section XIV: Unlawful Dog Attack

- (a) A person commits the offense of unlawful dog attack if:
- (i) 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;
 - (ii) The person negligently allows the dog to attack another person; and
 - (iii) The attack causes the death of or serious physical injury to the person attacked.
- (b) The offense of unlawful dog attack is a Class A misdemeanor.
- (c) In addition to any penalty imposed under this section, the court or jury may require the defendant to pay restitution under 5-4-205 for any medical bills of the person attacked for injuries caused by the attack.

Copied from Justia Arkansas State Law: 5-62-125

Section XV: Restitution for Unlawful Dog Attack:

- (a)
- (1) A defendant who is found guilty or who enters a plea of guilty or nolo contendere to an offense may be ordered to pay restitution.
 - (2) If the court decides not to order restitution or orders restitution of only a portion of the loss suffered by the victim, the court shall state on the record in detail the reasons for not ordering restitution or for ordering restitution of only a portion of the loss.
- (b)
- (1) Whether a trial court or a jury, the sentencing authority shall make a determination of actual economic loss caused to a victim by the offense.
 - (2) When an offense has resulted in bodily injury to a victim, a restitution order entered under this section may require that the defendant:

(A) Pay the cost of a necessary medical or related professional service or device relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing;

(B) Pay the cost of necessary physical and occupational therapy and rehabilitation;

(C)

(i) Reimburse the victim for income lost by the victim as a result of the offense.

(ii) The maximum that a victim may recover for lost income is fifty thousand dollars (\$50,000); and

(D) Pay an amount equal to the cost of a necessary funeral and related services in the case of an offense that resulted in bodily injury that also resulted in the death of a victim.

(3) When an offense has not resulted in bodily injury to a victim, a restitution order entered under this section may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.

(4)

(A) The determination of the amount of loss is a factual question to be decided by the preponderance of the evidence presented to the sentencing authority during the sentencing phase of a trial.

(B) The amount of loss may be decided by agreement between a defendant and the victim represented by the prosecuting attorney.

(5) If any item listed in subdivision (b)(2) of this section has been paid by the Crime Victims Reparations Board and the court orders restitution, the restitution order shall provide that the board is to be reimbursed by the defendant.

(c)

(1) As used in this section and in any provision of law relating to restitution, "victim" means any person, partnership, corporation, or governmental entity or agency that suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode.

(2) "Victim" includes a victim's estate if the victim is deceased and a victim's next of kin if the victim is deceased as a result of the offense.

(d) A record of a defendant shall not be sealed under the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., until all court-ordered restitution has been paid.

(e)

(1) Restitution shall be made immediately unless prior to the imposition of sentence the court determines that the defendant should be:

(A) Given a specified time to pay; or

(B)

(i) Allowed to pay in specified installments.

(ii) If a court authorizes payment of restitution by a defendant in specified installments, a monthly installment fee of five dollars (\$5.00) shall be assessed on the defendant for making restitution payments on an installment basis in addition to the restitution and other assessments authorized.

(iii) The monthly installment fee under subdivision (e)(1)(B)(ii) of this section shall be remitted to the collecting official to be used to defray the cost of restitution collection.

(iv) [Repealed.]

(2) In determining the method of payment, the court shall take into account:

(A) The financial resources of the defendant and the burden that payment of restitution will impose with regard to another obligation of the defendant;

(B) The ability of the defendant to pay restitution on an installment basis or on another condition to be fixed by the court; and

(C) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.

(f)

- (1) If the defendant is placed on probation or any form of conditional release, any restitution ordered under this section is a condition of the suspended imposition of sentence, probation, parole, or transfer.
- (2) The court may revoke probation and any agency establishing a condition of release may revoke the conditional release if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order.
- (3) In determining whether to revoke probation or conditional release, the court or releasing authority shall consider:
 - (A) The defendant's employment status;
 - (B) The defendant's earning ability;
 - (C) The defendant's financial resources;
 - (D) The willfulness of the defendant's failure to pay; and
 - (E) Any other special circumstances that may have a bearing on the defendant's ability to pay.

(g)

- (1) The court shall enter a judgment against the defendant for the amount determined under subdivision (b)(4) of this section.
- (2) The judgment may be enforced by the state or a beneficiary of the judgment in the same manner as a judgment for money in a civil action.
- (3) A judgment under this section may be discharged by a settlement between the defendant and the beneficiary of the judgment.
- (4) The court shall determine priority among multiple beneficiaries on the basis of:
 - (A) The seriousness of the harm each beneficiary suffered;
 - (B) The other resources of the beneficiaries; and
 - (C) Other equitable factors.
- (5) If more than one (1) defendant is convicted of the crime for which there is a judgment under this section, the defendants are jointly and severally liable for the judgment unless the court determines otherwise.
- (6)
 - (A) A judgment shall require payment to the Division of Community Correction.
 - (B) The division shall provide for supervision and disbursement of funds under subdivision (g)(6)(A) of this section by the division's authorized economic sanction officers.

(h)

- (1) A judgment under this section does not bar a remedy available in a civil action under other law.
- (2) A payment under this section shall be credited against a money judgment obtained by the beneficiary of the payment in a civil action.
- (3) A determination under this section and the fact that payment was or was not ordered or made:
 - (A) Are not admissible in evidence in a civil action; and
 - (B) Do not affect the merits of a civil action.

Copied from Justia Arkansas State Law: 5-4-205 Restitution

Section XV: Permitting Animals to be Uncontrolled or to be at Large Impounded and Restraint:

- (a) 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.
- (b) 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 70-19-301-312.
- (c) Any such animal known to have emotionally harmed any person who has been diagnosed by a licensed clinical psychologist or psychiatrist to warrant therapy for such harm, shall be confined in a proper enclosure and the owner of such animal shall pay the cost of the victim's treatment.

- (d) The owner of such animal known to have inflicted a biting injury upon one or more 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 dead animals.
- (e) 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 case of male animals becoming vicious while being with her.
- (f) 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. 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 (5) 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 this ordinance.

Section XVI: Investigation

- (a) Upon 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 manners may 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 ordinance, unless a court of law finds such measures were unreasonable.

Section XVII: Duty of Individual to Use Protective Measures

- (a) 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.
- (b) Appropriate chaining practices, posting of signs, or maintenance of animals within proper enclosures shall meet the standard care, if such practices reasonable 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.

Section XVIII: Penalty and Enforcement

- (a) Any violation of this ordinance is deemed a Class A Misdemeanor. 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 attorney fees and costs accrued by the county.

Section XIX: Investigation; Impoundment

- (a) 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.

Section XXI: Complaints, Investigation, Corrective Measures

- (a) If any persons 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, he shall have the right to complain to local law enforcement agencies or health officials, and such authorities shall investigate the complaint.
- (b) Such officials have full authority to examine complainant and other witnesses for relevant testimony and to prescribe and counsel corrective measures consistent with ordinance to the animal owner. If, after a (ten) 10 day period, 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 ordinance, unless a court of law finds that such measures were unreasonable.

Section XXII: Abandonment or Dumping

- (a) 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.
- (b) Punishment for dumping or abandonment of animals will result in a fine of \$500 for each occurrence of each animal abandoned or dumped.

Section XXIII: Costs

- (a) 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.

Section XXIV: Exemptions

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

Section XXV: Immunity

- (a) 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.

Section XXVI: No Encroachment on Other Official Duties

- (a) Nothing in this ordinance shall encroach upon the official duties or activities of the State Game and Fish Commission, the Federal Fish and Wildlife Service, Circuses, Zoological Parks, Aquariums, or other licensed exhibitory show, provided all exercise an adequate degree of care.

Section XXVII: Repeal

- (a) All ordinance and parts of ordinances in conflict with this ordinance are hereby repealed.

Section XXVIII: Severability

- (a) 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.

Section XXIX: Emergency

Whereas there is a large number of unvaccinated and unclaimed dogs in the City of Hector, this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and an emergency hereby declared, this ordinance shall be in full force and effect from and after it's passage and publication this _____ (date)