

**ORDINANCE No. 2150**

**AN ORDINANCE TO AMEND CHAPTER 6.04 OF THE EUREKA SPRINGS MUNICIPAL CODE**

WHEREAS, the City of Eureka Springs (“the City”) currently recognizes the need to Control dogs within the City; and,

WHEREAS, the City Council believes that Chapter 6 of the Municipal Code needs Changes to more effectively deal with this issue

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS:

**Section 1.** That the following terms and definitions should be added to Section 6.04.01 of the Municipal Code:

1. Abandon To desert, forsake or give up absolutely and knowingly doing so an animal on public or private property
2. Animal Control Officer An officer employed by or under contract with an agency of the state, county, municipality or other governmental or political subdivision of the state who is responsible for animal control operations in its jurisdiction and approved by the City Council who shall exercise the powers prescribed by this chapter
3. At Large Not under the physical control of the animal’s owner or harbinger, or his authorized representative, either by leash, trolley system or enclosure. An animal intruding upon or damaging the property of another person or upon public property, trespassing on school grounds, harassing passersby or passing vehicles, or interfering with refuse collection, harassing meter readers, and not under the control referred to herein shall be deemed “at large.” An animal within an automobile or other vehicle shall not be deemed running “at large” if the animal is physically confined by the vehicle. An animal shall not be considered “at large” when properly leashed or in an enclosure as defined herein.
4. Dangerous Animal Any animal which, when unprovoked, approaches in a manner of attack any person or domesticated animal upon the streets, sidewalks or other public ground or place
5. Dog A canine of either sex, including one neutered or sterilized
6. Enclosure A fence, pen or structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping. Owners confining dogs by means of an enclosure must provide a minimum space of 100 square feet (10 x 10) per dog six (6) months of age or older.
7. Harbor(er) To provide or one who, for a period of three (3) days or more keeps and cares for an animal or provides premises to which the animal returns
8. Humane Officer Animal Control Officer

9. License A permit and numbered animal tag issued by the City to indicate that an animal is vaccinated against rabies in accordance with City ordinance and that the owner or harborer has remitted to the City the levied permit fee

10. Restrained Any animal secured by a leash and under the physical control of the owner/harborer

11. Tether A rope, chain or cable of appropriate strength that is firmly anchored to the bed of an open-bed pickup truck or similar vehicle in at least two places. Tether is to be used to restrain the animal and is to be fastened to the animal by means of a harness or collar and to be the appropriate length as to afford the animal freedom to move about the vehicle, but to restrict the animal to a set radius to prevent it from reaching either side or the rear of the vehicle so the animal cannot be thrown from, fall from or jump from the vehicle.

**Section 2.** That the following definition should be substituted for the definition of Vicious Animal in Section 6.04.01 of the Municipal Code:

Vicious Animal (A) Any animal which, without provocation, bites or attacks a human being or domestic animal on public or private property excluding the animal owner's private property and enclosures when properly restrained; or

(B) Any animal owned or harbored primarily or in part for the purpose of animal fighting; or any animal trained for animal fighting

(C) Any animal with a known propensity, tendency or disposition to attack unprovoked or to cause injury, or otherwise threaten the safety of humans, domestic animals on any public or private property

**Section 3.** That the following should be added to Section 6.04.01 of the Municipal Code:

1. Notwithstanding the definition of Vicious Animal, no animal shall be declared vicious if the person attacked or bitten by said animal was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

And

2. No animal shall be declared vicious if a domestic animal was bitten or attacked or said animal was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

**Section 4.** That Section 6.04.02 of the Municipal Code is hereby amended to read as Follows:

Penalties (A) Whenever in this chapter an act is prohibited or is made or declared to be unlawful or to be an offense or a misdemeanor, or whenever in such chapter the doing of an act is required, or the failure to do any act is declared to be unlawful and no specific penalty is provided therefore, the violation of any such provision of this chapter shall be punished by a fine of not more than \$500.00 or double that sum for each repetition of such offense or violation; provided no penalty shall be greater or less than the penalty provided for under the laws of the state. If the

violation of the chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed \$250.00 for each day that the same is unlawfully continued.

(B) Any person who resides in the City convicted of violating or who pleads guilty to state law ACA section 5.62.101, Cruelty to Animals, may lose the privilege of owning animals with the city limits for up to one year in addition to applicable fines assessed.

(C) Any person violating or failing to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined a sum not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). Each day's violation shall be considered a separate offense.

(D) Any animal determined to be a vicious animal by the District Court shall, after thirty (30) days of the entry of judgment ordering the animal destroyed, be humanely put to death unless the owner shall have made provision to keep the animal outside the corporate limits of the City. All costs of maintaining the animal shall be charged to the owner if he is convicted of maintaining a vicious animal within the corporate limits of the City.

**Section 5.** That Section 6.04.06(A) of the Municipal Code is hereby amended to read as follows: (A) It shall be unlawful to permit any animal to run at large within the City.

Section 6. That Section 6.04.06 of the Municipal Code is hereby amended to add the following subsections:

(D) It shall be unlawful for the owner or person having charge of any dog to permit or allow such dog to be without proper restraint while on public property or at public events.

(E) The term "permit" shall include failure of the owner or person having charge of said animal to physically restrain them. The Animal Control Officer shall be authorized to enter onto private property for the purpose of impounding an animal found running at large.

(F) Every female dog in heat or estrous (coming into the next cycle for breeding purposes) shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

**Section 7.** That Section 6.04.08(B) of the Municipal Code is hereby amended to read as follows:

(B) If not revoked under any of the provisions of this chapter, licenses for dogs and cats shall be for a period of three (3) years from date of issuance ending December 31 of applicable year that coincides with the three (3) year rabies vaccination certificate. There is no pro rating of any license fee.

**Section 8.** That Section 6.04.08(H) of the Municipal Code is hereby amended to include the following: The licensing authority will send renewal notices ninety (90) days prior to the expiration month.

**Section 9.** That Section 6.04.08(I) of the Municipal Code is hereby deleted.

**Section 10.** That the fees in Section 6.04.08(J) of the Municipal Code are hereby adjusted as follows:

Dogs: Unaltered: \$30.00 Spayed/Neutered: \$10.00  
Cats: Unaltered: \$30.00 Spayed/Neutered: \$10.00

**Section 11.** That Section 6.04.10 of the Municipal Code is hereby amended to read as follows:

**6.04.10 Restraint**

A. When on public property where other people might be/are present, leashes shall be of sufficient strength and a maximum length of six (6) feet.

B. All dogs shall be properly restrained when outside of any appropriate enclosure or on public property.

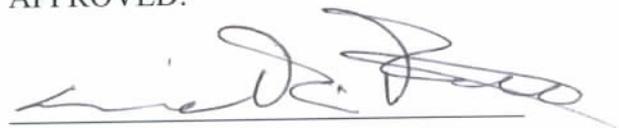
C. It shall be illegal to maintain any vicious dog or cat within the corporate limits of the City, regardless of whether or not it is kept under restraint by its owner.

**Section 12.** All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 13. That in the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance, Code, code section or chapter as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance, Code, code section or chapter shall remain in effect.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EUREKA  
SPRINGS, ARKANSAS, THIS 27<sup>th</sup> DAY OF FEBRUARY, 2012.**

APPROVED:



Morris Pate, Mayor

ATTEST:

  
Ann Armstrong, City Clerk/Treasurer

Aldermen voting "Aye" – James DeVito, Parker Raphael, Ken Pownall, and Dean Kirkpatrick  
Absent: Lany Ballance and Butch Berry