

ORDINANCE NO. 1841

AN ORDINANCE AMENDING SECTION 10 OF THE EUREKA SPRINGS MUNICIPAL CODE PERTAINING TO ANIMALS, ANIMAL LICENSING, FINES AND FEES

WHEREAS, the City Council of Eureka Springs, Arkansas, has determined that Section 10 of the Eureka Springs Municipal Code should be amended; NOW, THEREFORE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS,
ARKANSAS:**

1. That Section 10-1 shall be amended to add the following definition:

Juvenile means any animal from weaning to seven months of age.

2. That Section 10-1, "Vicious animal" shall be amended to read as follows:

Vicious animal means any animal that when unprovoked: (a) Inflicts bites on a human, domestic animal, or livestock either on public or private property, or (b) chases or approaches a person upon the streets, side-walks, or any public grounds or private property in a menacing fashion or apparent attitude of attack, or (c) any animal with a known propensity, tendency, or disposition to attack unprovoked or to cause injury or otherwise to threaten the safety of humans, domestic animals, or livestock on any public or private property.

3. That Section 10-10, subsections (b), (i), and (j) shall be amended to read as follows:

Section 10-10. Licensing.

- (b) Written application for licenses shall be made to the licensing authority at City Hall within the time limits as provided in this section. The application shall include name and address of applicant, description of the animal, the appropriate fee as enumerated in subsection (j), and rabies certificate issued by a licensed veterinarian or antirabies clinic. For purposes of licensing, the rabies certificate must be current, meaning that it must not be required to be renewed within less than one calendar year.
- (i) The license shall remain in force for a period of twelve (12) months from the date of issuance, expiring on the last day of the twelfth (12th) month. There is no prorating on any license fee. Renewal licenses will retain the original expiration period whether renewed prior to, on, or after their respective renewal month.

(j) Fees:		
Adult Dogs:		
Unaltered.		\$10.00
Altered.		\$3.50
Juvenile Dogs:		\$3.50
Adult Cats:		
Unaltered.		\$10.00
Altered.		\$3.50
Juvenile Cats:		\$3.50

In order to receive the fee advantage for altered dogs and cats, an individual must provide either proof of alteration from a licensed veterinarian or a written statement from a licensed veterinarian that the spay/neuter procedure would be harmful to the animal.

4. That Section 10-13, subsections (a), (d), (e), (g), and (j) shall be amended to read as follows:

Section 10-13. Impoundment and violation notice.

- (a) Unrestrained dogs and nuisance animals shall be taken by the police, animal control officers, or humane officers and impounded in an animal shelter. The animal shelter shall be approved by the City Council and shall contract with the City to provide such services as deemed necessary. The animal shelter shall meet all state regulations and Humane Society guidelines for humane treatment of animals.
- (d) The owner of any dog or cat impounded under this Chapter may redeem said dog or cat within five (5) days from time of impounding by paying the appropriate redemption fee.
 - (1) The first time a dog or cat is impounded within a one year period, the redemption fee is \$25.00; for the second impound within a one year period the redemption fee is \$50.00; for the third and subsequent impounds within a one year period the redemption fee is \$75.00, except that
 - (2) If a dog or cat is wearing a current pet license at the time of the first impound, no redemption fee will be collected. If the dog or cat is licensed but not wearing a current pet license at the time of the first impound, the redemption fee will be abated upon proof of licensing. If the dog or cat is

not licensed at the time of the first impound, the redemption fee will be refunded if the owner licenses the dog or cat within seven (7) days and provides proof of licensing to the animal control officer within fourteen (14) days. Except that, if a dog or cat is unaltered at the time of the first impound, the redemption fees shall not be waived, abated, or refunded.

- (3) If a dog or cat is unaltered at the time of the second or subsequent impounds within a one year period, the owner shall be responsible for a redemption fee of \$25.00 in addition to the redemption fees enumerated in subsection (1).
- (e) In addition to the redemption fee, the redeemer shall pay, as a boarding charge for the caring and keeping of such dog or cat, the sum of \$10.00 per day for each day, including the first and last days, that the animal has been impounded. This boarding charge will be collected for the first time impound whether the animal is licensed or not.
- (g) In addition to or in lieu of impounding an animal found running at large, the animal control officer, humane officer or police officer may issue to the known owner of such animal a citation requiring the owner to appear in Municipal Court or post a cash bond in lieu of appearance. Said cash bond shall be in the amount of \$100.00 and shall be posted at the police department. Any person found guilty of violating this section shall be subject to a fine of not more than \$100.00.
- (j) Fees and boarding charges shall be paid to the Eureka Springs Police Department.

5. That Section 10-13 shall be amended to add the following:

Section 10-13.1, Vicious Animals

Section 10-13.1.1, Procedure for Declaration of Vicious Animal

- (a) The animal control officer shall classify vicious animals. The animal control officer may find and declare an animal to be a vicious animal if the officer has probable cause to believe that the animal falls within the definition set forth in Section 10-1.

The finding must be based upon:

- (1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of Section 10-1; or
- (2) Bite report(s) filed with the animal control officer, any law enforcement officer, or public health official; or

- (3) Actions of the animal witnessed by the animal control officer or any law enforcement officer or humane officer.
- (2) The declaration of vicious animal shall be in writing and shall be served on the owner in one of the following methods:
 - (1) Certified mail to the owner's last known address; or
 - (2) Personally; or
 - (3) If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.
- (3) The declaration shall state at least:
 - (1) The description of the animal.
 - (2) The name and address of the owner of the animal, if known.
 - (3) The whereabouts of the animal if it is not in the custody of the owner.
 - (4) The facts upon which the declaration of vicious animal is based.
 - (5) The availability of a hearing in case the person objects to the declaration, if a request is made within ten (10) days.
 - (6) The restrictions placed on the animal as a result of the declaration of vicious animal.
 - (7) The penalties for violation of the restrictions, including the possibility of destruction of the animal and fining of the owner.
- (4) If the owner of the animal wishes to object to the declaration of vicious animal:
 - (1) The owner may request a hearing by the municipal court by submitting a written request and payment of \$25.00 court fees to the Municipal Court Clerk within ten (10) days of receipt of the declaration, or within ten days of the publication of the declaration.
 - (2) If the Judge of the municipal court finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.
 - (3) If the Judge of the municipal court finds sufficient evidence to support the declaration, the owner may appeal such decision to Circuit Court within thirty (30) days of the date of the municipal court decision.
 - (4) During the entire hearing and appeal process, it shall be unlawful for the owner appealing the declaration of vicious animal to allow or permit the animal to:
 1. Be unconfined on the premises of the owner; or
 2. Go beyond the premises of the owner unless such animal is securely leashed and humanely muzzled or otherwise securely restrained.

Section 10-13.1.2, Permits and Fees

- (a) Following a declaration of vicious animal and the exhaustion of the appeal therefrom, the owner of an animal which has been declared to be vicious shall obtain a permit for such animal from the licensing authority at City Hall, and shall be required to pay the fee for such permit in the amount of \$250.00. In addition, the owner of such vicious animal shall pay an annual renewal fee for such permit in the amount of \$50.00.
- (b) Should the owner of a vicious animal fail to obtain a permit for such animal or to successfully appeal the declaration of vicious animal, the animal control officer is authorized to seize and impound such animal and, after notification to the owner, hold the animal for a period of no more than five (5) days before destruction of such animal.

Section 10-13.1.3, Confinement and Identification of Vicious Animal

- (1) Following a declaration of vicious animal and the exhaustion of the appeal therefrom, it shall be unlawful for the person owning or harboring or having care of such vicious animal to allow and/or permit such animal to:
 - (1) Be unconfined on the premises of such person; or
 - (2) Go beyond the premises of such person unless such animal is securely leashed and humanely muzzled or otherwise securely restrained.
- (2) Animals which have been declared to be vicious animals must be tattooed or have a microchip implanted for identification at the owner's expense. Identification information must be on record with the animal control officer and the Good Shepherd Humane Society Shelter.

Section 10-13.1.4, Notification of Status of Vicious Animal

The owner of an animal that has been declared a vicious animal shall immediately notify the animal control officer when such animal:

- (1) Is loose or unconfined; or
- (2) Has bitten or otherwise injured a human being or attacked another animal or livestock; or
- (3) Is sold or given away or dies; or
- (4) Is moved to another address.

Prior to a vicious animal being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control officer. The new owner shall comply with all of the requirements of this Chapter.

Section 10-13.1.5, Penalty for Violation

Any person who violates a provision of Section 10-13 of this Chapter shall, upon conviction thereof, be found guilty of a misdemeanor, and shall be subject to the penalties

set forth in Section 1-4. In addition, any person found guilty of violating Section 10-13 of this Chapter shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any animal for the protection of the public, and such other expenses as may be required for the destruction of any such animal. Provided, that any vicious animal which is in violation of the restrictions contained in Section 10-13.1.2 of this Code or restrictions imposed as part of a declaration as a vicious animal, shall be seized and impounded. Furthermore, any animal which has been declared to be a vicious animal which attacks a human being, domestic animal, or livestock may be ordered destroyed when, in the court's judgement, such vicious animal represents a continuing threat of serious harm to human beings or domestic animals.

7. That all ordinances or resolutions, and parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.
8. That each of the provisions of this ordinance are severable and the decision of any court having jurisdiction as to the validity of any provision shall not effect the remaining provisions.
9. That this ordinance shall go into and be of full effect thirty (30) days after its passage.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, THIS _____ DAY OF _____, 2000.

APPROVED:

BEAU ZAR SATORI, Mayor

ATTEST:

MARY ANN LEE, City Clerk

CERTIFICATE

The undersigned, City Clerk of the City of Eureka Springs, Arkansas (the City), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 1841, adopted at a regular session of the City Council of the City, held at the regular meeting place of the City Council at 7:00 p.m. on the ____ day of _____, 2000, and that said Ordinance is of record in Ordinance Record Book No. _____ of the City, now in my possession.

GIVEN under my hand and seal this ____ day of _____, 2000.

City Clerk

(SEAL)