

ORDINANCE NO 34 OF 2013

AN ORDINANCE AMENDING, REVISING AND RESTATING THE ANIMAL CONTROL ORDINANCE OF THE CITY OF BENTON; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the City Council in Ordinance 20 of 2010 created the city of Benton Animal Control Committee and established the animal control code for the city as well; and

WHEREAS, the committee has recommended revisions to Ordinance 20 of 2010 which are incorporated herein; and

WHEREAS, it is the desire of the city council to accept the recommendations of the committee and modify the animal control code for the city.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Benton, Arkansas.

Section One. The City Council does hereby adopt the City of Benton Animal Control Code which is attached hereto as Exhibit "A" to this ordinance and is incorporated now as if stated word for word.

Section Two. The City Clerk of the city of Benton shall maintain three copies of this ordinance for the public to view and inspect.

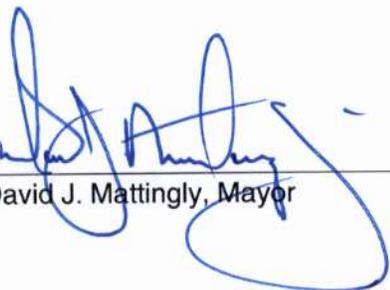
Section Three. Ordinance 20 of 2010 as well as Ordinance 43 of 2007 are hereby repealed.

Section Four. All ordinances which are in conflict herewith are repealed to the extent of such conflict but not otherwise.

Section Five. If any part of this ordinance shall be held void, such parts shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

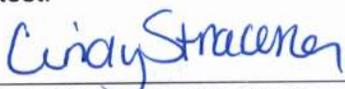
Section Six. Because of the immediate need to make the above and foregoing changes in the existing animal control ordinance and to revise and update the same, an emergency is hereby declared to exist to preserve the peace, health, safety, and welfare and this ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED AND APPROVED this the 24 day of June, 2013.



David J. Mattingly, Mayor

Attest:



Cindy Stracener, City Clerk

TO BE PUBLISHED

EXHIBIT "A"

CITY OF BENTON ANIMAL CONTROL CODE

Section 1. Creation. The Benton Animal Control Committee is hereby created in the City of Benton, Arkansas. The Animal Control Committee shall be composed of three (3) Aldermen, the Animal Control Department Manager, and the Mayor of the City of Benton.

Section 2. Appointment of Committee Members. The Alderman members of the animal control committee shall be appointed by the Council every January.

Section 3. Meeting of Committee. The Animal Control Committee shall hold its initial organizational meeting within the first thirty days after the beginning of each calendar year and thereafter as often as deemed necessary by said committee members.

Section 4. Duties and Powers. The office of the Mayor of the City of Benton shall have full and complete authority to manage, operate, and maintain the Benton Animal Control and Adoption Center, its related properties and utilities. The Animal Control Committee shall serve in an advisory capacity regarding the management and operation of the Benton Animal Control and Adoption Center. The Benton Animal Control Committee shall have full and complete charge of the issuance and collection of City Dog and Cat Licenses, and to promulgate such rules and regulations for their distribution and collection as may be appropriate in connection with the animal control ordinance after approval of the City Council.

In addition, the Animal Control Committee shall have full and complete authority to provide for the enforcement of the Animal Control Ordinance, and shall have the authority to adopt whatever rules and regulations it may deem appropriate for the proper implementation and enforcement thereof. Such rules and regulations must be presented to the City Council for approval prior to implementation.

Section 5. Use of Revenue. All revenue derived from the operation of the Animal Control and Adoption Center and from the sale of City Dog and Cat Licenses shall be used to defray expenses in the operation of the Animal Control and Adoption Center, and to pay the salaries of employees as authorized by the Committee. The Animal Control Fund shall be maintained by the Benton City Treasurer and all disbursements from said fund shall be made upon proper authorization from the Animal Control Department Manager.

Section 6. Purchase of Supplies and Equipment. All purchases made by the Animal Control Department shall be made through the appropriate purchasing procedures as established by the City of Benton, Arkansas.

Section 7. Annual Budget Requests. The Department manager shall prepare and submit the budget for the amount of funds necessary for the maintenance and operation of the Benton Animal Control and Adoption Center, its relative properties and facilities, for the coming year to the Benton City Council Finance Committee prior to the 15th day of September of each year.

Section 8. Signage. The city shall place signs at the entrance to the city on the state highways stating there is a dog leash law in effect within the city limits

Section 9. Definitions. The following words and phrases shall for the purpose of this ordinance have the following meaning:

Animal: Any description of vertebrate, excluding Homo sapiens.

Animal Control Authority: The officers and employees of the Benton Animal Control Department and the City of Benton Animal Control Committee.

Animal Establishment: Any pet shop, kennel, grooming shop, auction, performing animal exhibition, or other facility engaged in the handling of animals, excluding licensed veterinarians and veterinary clinics and hospitals.

Animal Shelter: Any facility designated by the city for the purpose of impounding and caring for animals held under the authority of this ordinance.

At Large: Any animal is at large when off the premises of the owner and not under the control of a responsible person.

Breeder: Any person or entity with a properly issued privilege license by the City, who engages in the commercial breeding of any type of animal.

City: The City of Benton, Saline County, Arkansas and all territory within the corporate boundaries or city limits of Benton, Arkansas.

Control: Any animal shall be considered under control if it is confined to the premises of its owner or is secured by a leash or lead of sufficient strength to prevent it from escaping, or is confined in an automobile when away from the premises of the owner.

Cruel Mistreatment: Any act that causes or permits the continuation of unjustifiable pain or suffering.

Domestic Animals: Dogs, cats, ferrets and birds of the type commonly kept as pets.

Euthanize: To humanely kill an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the federal Drug Enforcement Administration and certified by the Department of Health.

Humane Manner: Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, and wholesome food and water, consistent with the normal requirements and breeding habits of the animal's size, species and breed.

Kennel: Any person who engages in the business of boarding, breeding, buying, grooming, letting for hire, training for a fee, or selling animals.

Knowingly: A person acts knowingly with respect to his or her conduct or the attendant circumstances when he or she is aware that his or her conduct is of that nature or that such circumstances exists. A person acts knowingly with respect to the result of his or her conduct when he or she is aware that it is practically certain that his or her conduct will cause such a result.

Licensing Authority: Any agency or department of the City, or any designated representative including licensed veterinarians, charged with administering the issuance and/or revocation of certificates and licenses under the provisions of this ordinance.

Livestock: Animals kept or raised for use or pleasure, especially farm animals.

Owner: Any person having a right of property or custody of an animal or who keeps or

harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person over which that person has substantial control.

Pens and Enclosure(s): Pens and enclosures shall mean any area, regardless of size, confining or intended to confine or shelter livestock. Pens and enclosures shall include, but are not limited to, fenced pastures and fields, corrals, paddocks, yards, cages, pens, coops, hatches, stables, stalls, chicken houses, barns, sheds, and similar facilities or areas where livestock are kept.

Person: Any individual, corporation, partnership, association, organization or institution commonly recognized by law as a unit.

Private Kennel: Any person, excluding kennels, pet shops and veterinary clinics and hospitals, who keeps, harbors or knowingly permits to remain on or about his premises, more than four (4) dogs or four cats over three (3) months of age.

Restraint: An animal is under restraint if it is controlled by a leash or within a vehicle being driven or parked on a street, or confined on the property of its owner or keeper.

Sterilize: Surgical alteration of an animal through spaying or neutering so that it is incapable of reproduction.

Torture: The knowing commission of physical injury to a dog, cat, or horse by the infliction of inhumane treatment or gross physical abuse, causing the dog, cat, or horse intensive or prolonged pain, serious physical injury, or thereby causing death; and mutilating, maiming, burning, poisoning, drowning, or starving a dog, cat, or horse.

Veterinary Clinic or Hospital: A clinic or hospital operated by a licensed veterinarian.

Vicious Animal: A vicious animal is any animal which causes a wound to any person without provocation on public or private property, or which, while off the property of its owner, kills a domestic animal, or which, unprovoked chases or approaches persons upon the streets, sidewalks or any public or private property other than the owner's property in a menacing fashion or in an apparent attitude of attack. A animal is determined to be vicious by the findings and orders of the Saline County District Court, Benton Division.

Exceptions to Vicious Animal Definition:

1. No animal shall be deemed to be vicious if the threat, wound, injury or damage was caused by any person who, at the time, was assaulting the owner of the animal, committing a willful trespass, or was provoking, tormenting, abusing or assaulting the animal.
2. No animal which at the time of the attack, was responding to pain or injury, or was protecting itself, its offspring or its owner's property, shall be found vicious.
3. No animal shall be found vicious solely due to its physical characteristics.

Wild Animal: A wild animal shall mean lions, tigers, cougars, leopards, bears, wolves, and other non-domestic animals, including hybrids of wild and domestic animals, notwithstanding that their natural wildness may be intermittently dormant.

Section 10. Licensing and Vaccination

General provisions.

(A) No person shall own, keep, or harbor any dog or cat within the city unless such dog or cat is licensed and vaccinated as herein provided.

(B) The licensing authority shall maintain a record of all certificates and licenses issued, and make such records available to the Animal Control Authority.

Rabies Vaccination.

(A) All dogs and cats four (4) months of age within the city shall be vaccinated against rabies at a minimum of once every three (3) years with a triennial vaccine or a minimum of once each year with an annual vaccine. Regardless of the age of the animal at initial vaccination, a booster vaccination should be administered twelve (12) months from the date of initial vaccination. Following the booster, dogs and cats shall be placed on a vaccination schedule according to the labeled duration of the vaccine used. All rabies vaccinations shall be administered by a licensed veterinarian who will issue to the owner a durable metal tag and a certificate of vaccination approved by the Animal Control Authority. Tags must be attached to the collar or harness of the dog or cat and be worn at all times. Tags are not transferable from one dog or cat to another dog or cat.

(B) The Health Officer and the Animal Control Authority may adopt such other rabies control regulations as they deem necessary for the protection of the public health and safety.

Dog and Cat Licenses.

(A) It shall be unlawful for any person to own or possess a dog or cat within the city without first having paid to the city an annual license fee. All dogs and cats four (4) months of age shall be licensed as provided herein. Application for a dog or cat license shall be made to the licensing authority and shall state the name, address, and telephone number of the owner(s), the name, breed, color, age, and sex of the dog or cat. Applicants shall provide proof of current rabies vaccination and pay applicable license fees each year:

\$7.00 per sterilized dog or cat

\$20.00 per unsterilized dog or cat

\$1.00 per sterilized dog or cat owned by any disabled person or anyone 62 years of age or older

(B) Licensing fees shall be waived for registered service dogs and government-owned dogs used for law enforcement. All other licensing and vaccination provisions shall apply.

(C) Application for a license must be made within thirty (30) days after obtaining a dog or cat four (4) months of age or within thirty (30) days of establishing residence in the city. This requirement will not apply to a nonresident keeping a dog or cat within the city for no longer than sixty (60) days.

(D) The licensing authority shall include licensed veterinarians who are hereby empowered to collect the license fee and issue a dog or cat license and a durable metal tag. Dog and cat license receipts shall be collected from such veterinarians by the Animal Control Authority on at least a quarterly basis.

(E) The licensed veterinarian administering rabies vaccinations, issuing license tags and collecting annual license tag fees shall assist the dog or cat owner in the preparation of the dog or cat license application and shall advise such owner of his

obligation to renew the license annually.

(F) Any licensed veterinarian may, in addition to the annual license fee, impose a handling charge of up to two dollars (\$2.00) for the collection of the annual license fee.

(G) Tags must be attached to the collar or harness of the dog or cat and be worn at all times. Tags are not transferable from one dog or cat to another dog or cat.

Section 11. Vicious animals.

(A) Where an animal has caused physical injury to any person or animal or a vicious animal has escaped from its confinement as described in this ordinance or causes a threat to any person or animal, the animal shall be immediately seized and impounded or killed if seizure or impoundment are not possible without risk of serious physical harm or death to any person.

(B) Any animal that kills a person or inflicts serious wounds to a person (including, but not limited to multiple bites, disfigurement, impairment of health or impairment of any bodily function); and continues to exhibit behavior that is consistent with being vicious, shall be impounded by the Animal Control Authority.

(C) The Saline County District Court may authorize on an ex-parte basis that any animal be impounded prior to a trial at the request of the city until the case is concluded. If an animal is so impounded, the owner may request a hearing before the trial date to request that the animal be released. In addition, the city may schedule a hearing before the court to request a determination of whether or not the animal is a vicious animal as defined in this ordinance and/or the humane euthanasia of an animal. The city shall give at least ten (10) days notice to the owner of either request. If upon proof that the proper notice was given to the owner and the owner does not appear for the hearing, the court may proceed without the owner being present.

(D) Any animal determined to be a vicious animal by the Saline County District Court must be registered with the City of Benton as a vicious animal. To facilitate such registration, the owner of such vicious animal must present evidence to the Manager of the Animal Control Division, City of Benton that:

(1) All vicious animals shall be securely confined in an enclosed and locked pen or kennel, except when leashed and muzzled as provided in this ordinance. The pen or structure in which a vicious animal is confined must have secure sides and a secure top attached to the sides. If the pen or kennel has no floor secured to the sides, the ground beneath the gate shall be secured by embedded posts and the sides must be embedded into the ground no less than one foot, unless such pen has a concrete floor in which case the sides need only be embedded two inches deep into the concrete. All structures erected to confine vicious animals must comply with all zoning and building regulations of the city. All structures must be adequately lighted, ventilated and kept in a clean and sanitary condition. The fence shall be of a chain link fencing with a minimum of a ten (10) gauge wire and the minimum of five feet by ten feet. If any vicious animal is taken from its secure enclosure as described in this ordinance it shall be muzzled and restrained by a substantial chain or leash not exceeding six feet in length, and such animal shall be kept under the constant control of its owner or a responsible party.

(2) The owner has public liability insurance in a single incident amount of no less than \$500,000.00 for bodily injury to, or death of any person or persons, or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such vicious animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the City of Benton.

(3) All owners, keepers or persons who harbor vicious animals within the city

shall display in a prominent place on their premises an easily readable sign using the words "Beware of Vicious Animal" and a sign with a symbol warning children of the presence of a vicious dog. In addition, a similar sign is required to be posted on the kennel or pen of such animal. A registration fee of \$1,000.00 per year shall be paid annually by the owner of a vicious animal. Registration of such vicious animal shall be permitted only after proof of the requirements defined in this ordinance is provided to the satisfaction of the Animal Control Authority. Failure to register such vicious animal shall constitute a violation of this ordinance.

(4) The canine has been permanently identified by the animal control department by a microchip which shall be implanted by a veterinarian. The cost of the implant shall be paid by the owner of the canine.

(E) The animal is to remain impounded with Animal Control with daily fees accruing until proof of compliance is given. The dog shall be euthanized after 30 days of the district court's order if proof of compliance of all the requirements is not given to the Manager. The owner is responsible for all fees and fines for any vicious dog confinement regardless of length of time at Animal Control.

(F) No person who owns, possesses, keeps, or harbors a vicious dog shall knowingly allow another person to own, possess, keep, or harbor the same vicious dog without first disclosing that it has been deemed vicious, as well as the requirements associated with vicious dogs. A person who transfers ownership of a vicious dog to another person shall notify the animal control department no later than ten days after the transfer is made.

(G) Benton Animal Control will contact the animal control department located in another city or county to inform of name, address, and phone number of either a new owner of the animal or the new location when a dog the city has deemed vicious is moved from the city to another jurisdiction.

(H) If the animal is impounded awaiting a hearing to determine if it is vicious, visitation will be limited to the owner(s) of the animal and any expert witness used by the owner to determine if the animal is vicious or presents a danger to the public. Photos of the animal may be taken for purposes of evidence in court.

Section 12. Restraint

(A) Maintenance of Premises and Disturbing Noises. An owner of an animal shall maintain his premises in such a manner as not to not violate this Ordinance. Pens or enclosures in which animals are confined or maintained shall be cleaned regularly so that they are kept free from offensive odors which would disturb any person residing within a reasonable distance of said premises; and the animals themselves shall be restrained in such a fashion that noise emanating there from shall not be disturbing to such persons.

(B) Restraint in Transit. It shall be unlawful for any person to transport any animal in an open vehicle without said animal being restrained in such a manner as to prohibit such animal from leaving or being thrown out of the vehicle while in a public place or upon the public streets. If the animal is tethered, it shall be done in a manner as to prevent such animal from exiting the vehicle and from causing harm to said animal or persons. The intent of this section is to ensure that an animal in transit is humanely and adequately restrained within the confines of the transporting vehicle.

(C) Confinement of Dogs.

(1) An owner of a dog, whether vaccinated or unvaccinated, licensed or unlicensed, shall confine such dog within an adequate fence or enclosure or within a house, garage or other building.

(2) Confinement shall be in a manner that poses no harm to the dog including, without limitation:

- a. The use of a collar or harness that is properly fitting and constructed of leather or nylon;
- b. The use of a tether that does not exceed 25 percent of the body weight of the dog; or
- c. The use of a trolley system in an area that does not contain hazards to the dog or deprives the dog of food, water, or shelter.

(3) It shall further be the duty of any owner or keeper of any dog to keep such dog under such control so as to:

- (a) Prevent such dog from becoming a danger to persons or property, or trespassing upon another person's property without that person's permission; and
- (b) Prevent such dog from running at large upon the streets, sidewalks, alleys, parks or other public places of the city.

(4) Confinement to prevent legal access prohibited.

(a) Dogs shall not be confined in any manner for the purpose of preventing legal access to public utility facilities or for the purpose of causing the dog to be provoked by visitors in areas accessible to and commonly used by visitors for legal access to the premises.

(D) Confinement of Cats.

(1) Any cat allowed outdoors must remain on the owner's property, be spayed or neutered, properly licensed, vaccinated and tagged with the owner(s) name, current address and telephone number. It shall be the responsibility of the owner to ensure their cat is not a nuisance to neighbors or neighbors' property.

(2) Cats who roam present a nuisance to the public and are at risk of fatal injury by vehicles, attacks by other animals, or abuse from strangers. Any Benton Police Officer or the Animal Control Authority may seize and cause to be impounded any cat found at large. An animal that is impounded is done so to protect the animal and the public.

(E) Confinement of animals in heat. Every female dog in heat shall be kept confined in a building or secure enclosure or in a veterinary clinic or hospital or in a kennel in such a manner that such female dog cannot come into contact with another dog, except for intentional breeding purposes.

(F) Entry into food stores. It shall be unlawful for any owner to allow his dog to enter any food store, unless the store is considered a pet store which allows the entry of dogs on a regular basis, or place where food is exhibited for sale. Provided, however, that the provisions of this subsection shall not apply to registered dogs serving the blind or deaf or government owned dogs used for law enforcement while such dogs are on duty.

(G) Control of Chickens and Ducks. It shall be unlawful for any person owning or having control of any chickens, ducks, or other fowl within the city to permit them to run at large after notice from the Animal Control Authority that the chickens, ducks, or other fowl are running at large. All pens or enclosures where chickens, ducks, or other fowl are kept shall be not less than 100 feet from any residence or business establishment.

Section 13. Maximum Number of Animals Allowed Per Household

It shall be unlawful for any person to own, keep or harbor at anyone household more than four (4) dogs, cats or any combination of dogs and cats, over the age of eight weeks. This provision shall not apply to proprietors of animal hospitals or veterinarians

when such animals are kept upon the premises of such business. This provision shall not apply to owners of dogs or cats who are breeders of such or are kennel operators who hold a privilege license from the city for such a business. Keeping on the premises more than four dogs/cats over the age of eight weeks without a permit shall be prima facie evidence of a violation of this section.

Citizens of Benton shall have a period of 120 days from the effective date of this ordinance to come into compliance and reduce the number of dogs/cats present.

Section 14. Private Kennels

Residents may apply with the Animal Control Authority for a permit to operate a private kennel as herein defined for the purpose of housing hunting dogs, rescue groups fostering for animal shelters or humane societies. In order to obtain a permit, the citizen must be in compliance with this Ordinance, including, but not limited to, rabies vaccinations, city tags, etc. A person desiring to operate a kennel shall pay a yearly permit fee of \$35.00 beginning January, 2014.

Section 15. Rabid Animals or Animals Suspected of Having Rabies.

(A) Every veterinarian shall report promptly to the health officer or Animal Control Authority all cases of rabies in animals treated by him giving the name and address of the owner; and owners and addresses of any animal(s) bitten by such rabid animal, so far as known.

(B) Any person having knowledge that an animal, domestic or wild, is rabid or suspects an animal of having rabies, or knowledge that an animal has been bitten by a rabid animal, shall promptly report such information, the extent known, to the health officer or the Animal Control Authority.

(C) It shall be the duty of the owner, the Health Department, or the person or agency gaining information that any domestic animal or person has been bitten or is probably infected with rabies, to incarcerate or impound the animal in the institution of some competent veterinarian within this city, or in the Animal Shelter where the animal shall be held for observation for a period of no less than ten (10) days to determine whether the animal is infected with rabies. It shall be at the owner's expense for the necessary cost of boarding such animal during the quarantine period.

Section 16. Cruelty

Prohibited Treatment; Removal of Mistreated Animals; Payment of expenses.

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

- (1) Subject any animal to cruel mistreatment;
- (2) Kill or injure any animal owned by another person without legal privilege or consent of the owner;
- (3) Abandon an animal at a location without providing for the animal's continued care;
- (4) Fail to supply an animal in his or her custody with a sufficient quantity of wholesome food and water, or protection from the weather and veterinary care;
- (5) Fail to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal;

(6) Carry or cause to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner; or

(7) Intentionally poison any animal.

(B) For purposes of this section, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense.

(C) The Animal Control Authority may remove any animal kept or confined under such conditions as defined in this section and may impound such animal pursuant to the provisions of this ordinance.

Exemptions.

(A) This subchapter does not prohibit any of the following activities:

(1) Reasonably acting to protect a person or a person's property from damage;

(2) Injuring or humanely killing an animal on the property of a person if the person is acting as a reasonable person would act under similar circumstances and if the animal is reasonably believed to constitute a threat of physical injury or damage to any animal under the care or control of the person;

(3) Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, 917-101-101 et seq., or engaging in activities by or at the direction of any licensed veterinarian while following accepted standards of practice of the profession, including the euthanizing of an animal;

(4) Rendering emergency care, treatment, or assistance, including humanely killing an animal, that is abandoned, ill, injured, or in distress related to an accident or disaster, or where there appears to be no reasonable probability that the life or usefulness of the animal can be saved, if the person rendering the emergency care, treatment, or assistance is:

(a) Acting in good faith;

(b) Not receiving compensation; and

(c) Acting as a reasonable person would act under similar circumstances;

(5) Performing generally accepted animal husbandry practices;

(6) Performing professional pest control activities in a lawful manner;

(7) Performing generally accepted training for or participating in a rodeo, equine activity, or competitive activity;

(8) Engaging in generally accepted practices of animal identification;

(9) Engaging in the taking of game or fish through hunting, trapping, or fishing, or engaging in any other activity authorized by Arkansas Constitution, Amendment 35, by 9 15-41-101 et seq., or by any Arkansas State Game and Fish Commission regulation promulgated under either Arkansas Constitution, Amendment 35, or statute;

(10) Conducting activities undertaken by research and education facilities or institutions

that are:

(a) Regulated under the Animal Welfare Act, 7 U.S.C. 9 2131 et seq., as in effect on January 1, 2009;

(b) Regulated under the Health Research Extension Act of 1985, Pub. L. No. 99-158; or

(c) Subject to any federal law or regulation governing animal research that is in effect on January 1, 2009; and

(11) Applying generally accepted methods used to train dogs engaged in hunting, field trials, service work, obedience training, or any similar activities authorized by the Arkansas State Game and Fish Commission.

(B) In addition to the exemptions in subsection (a) of this section, this subchapter does not prohibit a person from engaging in or performing conduct that is otherwise permitted under the laws of this state or of the United States, including without limitation agricultural activities, butchering, food processing, marketing, medical activities, zoological activities, or exhibitions.

Section 17. Wild Animals

(A) Prohibitions.

(1) No person may own, possess or have in custody any wild animal in the City of Benton, except that wild animals may be temporarily present within the City under proper supervision for purpose of entertainment or educational shows or displays.

(2) No person may sponsor, promote or train a wild animal to participate in, contribute to the involvement of a wild animal in, or attend as a spectator in any activity or event in which any wild animal engages in unnatural behavior or is wrestled, fought, mentally or physically harassed, or displayed in such a way that the animal is abused or stressed mentally or physically. This prohibition applies to events and activities taking place in either public or private facilities or property, and applies regardless of the purpose of the event or activities, irrespective of whether or not a fee is charged to spectators and regardless of whether or not a permit to own, possess or have custody of a wild animal has been issued as provided herein.

(B) Jurisdiction.

(1) The Animal Control Authority shall enforce the provisions of this section.

(2) Owners of wild animals must identify ownership of wild animals with either a collar with a name plate or other type of proper identification.

(C) Impoundment and Disposal.

(1) The Animal Control Authority is empowered to impound any wild animal being kept, harbored or maintained in violation of this ordinance or of rules and regulations adopted by the Animal Control Committee, and upon conviction of the owner or any other person for violation hereof, the Animal Control Authority may humanely euthanize or otherwise dispose of such wild animal, including but not limited to, donating and transferring ownership of such wild animal to a zoo or other facility deemed appropriate by the Animal Control Authority.

Section 18. Impoundment

(A) Any animal at large or otherwise in violation of the provisions of this ordinance may be impounded in the Animal Shelter in a humane manner for a period of not less than six (6) days; and if within such time, an animal so impounded has not been reclaimed by its owner in accordance with the provisions of this ordinance, such animal shall become the absolute property of the Animal Control Authority which may convey ownership of such animal to any responsible person, on such conditions as the Animal Control Authority may prescribe, or the Animal Control Authority may humanely euthanize such animal.

(B) The Animal Control Authority shall make a reasonable effort to notify the owner of any animal impounded in the Animal Shelter that the animal has been impounded, of the manner by which the animal may be reclaimed and that the animal may be euthanized or become the property of the Animal Control Authority as provided herein if action is not taken by the owner.

(C) Prior to euthanizing an animal at large which carries its owner's address and which is impounded in the Animal Shelter, the Animal Control Authority shall give the owner (5) days notice, of the proposed euthanasia by certified letter, return receipt requested.

(D) Notwithstanding any provision of this ordinance to the contrary, the Animal Control Authority may refuse to release any animal impounded in the Animal Shelter for rabies or contagious disease quarantine or for use as evidence in a criminal prosecution, for such time period as the Animal Control Authority may determine.

(E) Notwithstanding any provision of this ordinance to the contrary, the Animal Control Authority may humanely euthanize any animal impounded in the Animal Shelter upon the written opinion of a licensed veterinarian that euthanasia of the animal is necessary to prevent disease or injury to other animals or to humans due to overcrowding in the animal shelter, the presence or threatened presence of contagious disease, or any other condition.

(F) Notwithstanding any provision of this ordinance to the contrary, the Animal Control Authority may humanely euthanize any animal impounded in the animal shelter when the Animal Control Authority reasonably believes the animal has sustained an injury or disease which will likely result in maiming, prolonged and severe suffering, or death.

(G) A police officer may kill without notice to the owner any dog, cat, or any other animal, domestic or wild, if such animal is reasonably suspected of being rabid.

(H) A police officer may kill any animal without notice to the owner if it is reasonably suspected by the officer to be a vicious or dangerous animal and is putting persons or property in immediate and unreasonable danger.

Section 18. Reclaiming Impounded Animals.

(A) The owner of an animal impounded in the Animal Shelter may reclaim the animal upon presenting evidence satisfactory to the Animal Control Authority of compliance with all provisions of this ordinance, and upon payment of fees and charges as hereinafter provided, credited to the account of the Animal Control Authority, and shall not be in lieu of any fine or penalty otherwise provided by law.

(B) Fees for reclaiming impounded animals are as follows:

(1) Licensed, sterilized, and vaccinated dogs and cats.

First offense \$25.00
 Second offense \$50.00
 Third offense \$100.00
 Subsequent offense \$200.00

An additional fee of \$10.00 shall be added to the fee for reclaiming any dog or cat if the animal's tag(s) is not attached to its collar or harness at the time of impoundment.

(2) Unlicensed, unsterilized, or unvaccinated dogs and cats.

First offense \$50.00
 Second offense \$75.00
 Third or subsequent \$125.00

Subsequent Offense \$300.00

An additional \$115.00 fine shall be levied for second, third and subsequent offences when the dog or cat is unsterilized at the time it is impounded. This additional amount shall be reduced to \$0.00 if proof of sterilization is presented to Animal Control within thirty (30) days of release of impoundment.

(3) Rabbits, poultry and birds, each offense \$40.00

(4) Other animals, each offense \$50.00

(5) Animals impounded for rabies quarantine or for use as evidence in a criminal prosecution, per day \$30.00

(6) In addition to the foregoing fees, the per day board for each day the animal is impounded in the animal shelter \$10.00

(C) The owner of an animal impounded in the animal shelter shall be liable for the foregoing fees and charges, notwithstanding the destruction or adoption of the animal.

(D) Vicious Animals. Any person claiming a vicious animal as defined by this ordinance shall pay expenses for private confinement plus:

1. A reclaim fee of \$1,000.00. If this is the first impounding, the owner shall pay the reclaim fee, which will constitute the registration for owning a vicious animal.

2. In the event that such animal is already registered as vicious, the owner shall pay the \$500 fee in addition to the required annual registration fee.

(E) Any person claiming unvaccinated and unlicensed dogs or cats shall, after payment of the fee assessed herein, and prior to the release of the dogs or cats, pay an additional fee of \$10.00 (or such amount as may then be the current charge of veterinarians for administering such rabies vaccinations to animals) to the animal control and adoption center which shall be evidenced by a receipt that may be taken to a local doctor of veterinary medicine and exchanged for the vaccination of said animal.

Section 19. Adoption of Impounded Animals.

The Animal Control Authority may convey ownership (permit adoption of) any animal

which has become the property of the Animal Control Authority to a responsible person subject to such conditions as may be prescribed by the Animal Control Authority, including, without limitation, the following:

(A) Payment of Ten Dollars (\$10.00) adoption fee and any vaccination, licensing or veterinary costs, including the costs of sterilization (vaccination and sterilization fees shall be paid to the Animal Control Authorities who will issue a receipt which participating local veterinarians will accept as payment for vaccination and sterilization services. At the date of adoption of this Ordinance, the vaccination charge is \$10.00, and the sterilization charge is \$60.00 for females and \$40.00 for males which charges may be adjusted in the future by the Animal Control Authority in consultation with participating veterinarians); and

(B) Evidence satisfactory to the Animal Control Authority that the animal has, or will be, examined by veterinarian and vaccinations against rabies and other diseases administered.

The Animal Control Authority shall not allow the adoption of any animal deemed vicious by this ordinance. The original owner shall be the only person able to reclaim the animal after the owner has met all provisions of this ordinance.

Section 20. Livestock

Horses and Cows.

(A) It shall be unlawful for any person to keep, maintain or permit to run at large within the corporate limits of the city, any cows and/or horses except as provided in this ordinance. The violation of this section is hereby declared to be a misdemeanor. It shall be the duty of the animal control authorities or Benton Police Department to enforce the provisions hereof.

(B) The keeping of horses or cows within the corporate limits of the City is permitted where they are maintained on an enclosed pasture containing one (1) acre for each animal. All pens or enclosures where cows or horses are kept shall be not less than 100 feet from any residence or business establishment; provided, however, that this restriction shall not apply to a residence or business of the livestock's owner.

(C) The keeping of any animal in enclosures as herein provided within the limits of the City shall be under the supervision and control of the proper authorities as mentioned in this Ordinance. Should any of the enclosures not meet the requirements of this Ordinance or become harbors for breeding flies, mosquitoes and rats, or should they become unsanitary, obnoxious, dangerous to public health and/or discomfoting to any of the citizens of the City because of conditions created by keeping of said animals, the properties, upon investigating and finding any such conditions created by keeping of said animals, the Animal Control Authority, upon investigating and finding any such conditions to exist, shall serve written notice on the owners or keeper of the premises as to the conditions thereof by delivering a copy of the notice on the owners or keeper of the premises as to the conditions or keeper, or by posting same in a conspicuous place on the premises, and if within five (5) days after service of notice said owner or keeper has not corrected the conditions the Animal Control Authority is authorized to issue a misdemeanor citation for a per se violation of this section.

(D) Any livestock animal that has to be transported for impoundment, the owner is responsible for all expenses of hauling, boarding, veterinarian fees made payable to Animal Control or the appropriate parties involved. Release of said animal(s) will not be

made until all expenses have been paid.

(E) Owners of livestock must register with Animal Control all horse and cows present in the city. Registration is to include the name, address, type, description of the animal along with a daytime, evening and cell phone number of the owner or person to contact in case the animal is outside of their pasture, pen or enclosure.

Hogs, goats and sheep.

(A) It shall be unlawful for any person to keep any swine including pot-bellied pigs, goats, or sheep within the City or to permit any such animals to run at large within the city; except when in transit, they may be kept for a period not to exceed twenty-four hours in an established stockyard.

Section 21. Sale of Animals.

It shall be unlawful for any person to sell, trade, barter, lease, auction, rent, give away, or otherwise convey ownership, or display for any purpose, any live animal on any parking lot, right-of-way, roadside, garage sale, flea market, swap meet, festival or other area generally accessed by the public within the city limits.

This section shall not apply to any governmentally-owned animal shelter, humane society, animal rescue/welfare group designated as a 501(c)(3) nonprofit organization by the Internal Revenue Service, established businesses whose sole purpose is related to the care and maintenance of pets or entities who hold a valid business license issued by the City of Benton, provided that prior to release of the animal it has been administered all necessary vaccinations and has been spayed or neutered as required by law.

Section 22. Enforcement.

(A) Enforcement. The provisions of this ordinance shall be enforced by the Animal Control Authority and by the City of Benton Police Department.

(B) Interference. No person shall interfere with, hinder or molest the Animal Control Authority in the performance of its duty or seek to release any animal in the custody of the animal control authority, except as herein provided.

(C) Citations. The Animal Control Authority and City of Benton Police Department are hereby authorized to issue a citation to any person for violation of any provision of this ordinance. The citation shall be in a form approved by the Benton District Court, shall designate the offense charged and shall require the person so charged to appear before the Saline County District Court, Benton Division on a date certain to answer the charges therein contained.

(D) Capture. The Animal Control Authority is authorized to employ any equipment it deems necessary to enforce the provisions of this ordinance, including, without limitation, humane wire box traps; and the Animal Control Authority may, subject to conditions it may determine, lend such traps or other equipment to private persons for the purpose of preventing a per se violation of this Ordinance as a result of animals running at large.

(D) Penalties for Violations.

1. Any person who commits the offense of cruelty to animals shall be deemed guilty of

an unclassified misdemeanor, and shall be subject to fines and penalties as prescribed in Arkansas Code Annotated Sec.5-62-103.

2. Any person who commits the offense of aggravated cruelty to a dog, cat, or horse shall be referred for investigation of Arkansas Code Annotated Sec. 5-62-104, which may be a felony offense.

3. Any person violating any other provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100.00 nor more than \$300.00 and if such violation be continued, each day's violation shall be considered a separate offense.

4. Any person violating any provision of this Ordinance as a second offense shall be punished by a fine of not less than \$200.00 nor more than \$500.00; for a third offense the fine shall be not less than \$300.00 nor more than \$600.00. A fourth offense the fine shall be \$800.00 and a ten (10) day jail sentence.

5. Any person violating any vicious animal provision of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 and if such violation be continued, each day's violation shall be considered a separate offense and/or the animal may be humanely euthanized.

6. The Saline County District Court, Benton Division may authorize that any animal be impounded for a certain period of time, further restrained or that the animal be euthanized for (1) a subsequent conviction for violating this ordinance involving the same animal or owner; or (2) the court has found the animal to be vicious as defined by this ordinance. The court may authorize on an ex-parte basis that any animal be impounded prior to a trial at the request of the city until the case is concluded. If an animal is so impounded, the owner may request a hearing before the trial date to request that the animal be released. In addition, the city may schedule a hearing before the court to request the humane euthanasia of an animal by giving at least ten (10) days notice to the owner. If upon proof that the proper notice was given to the owner and the owner does not appear for the hearing, the court may proceed without the owner being present.