

## **ORDINANCE NO. 2013-18**

### **AN ORDINANCE REGULATING THE KEEPING OF ANIMALS WITHIN THE CORPORATE LIMITS OF THE CITY OF BROOKLAND, ARKANSAS.**

WHEREAS, Ordinance 2005-8 is in need of modification, and upon the passage and effective date of this Ordinance the aforementioned Ordinance (2005-8) is hereby null and of no effect.

WHEREAS, an Ordinance is needed regulating the keeping of animals within the corporate limits of the City of Brookland, Arkansas.

NOW, THEREFORE, the City Council of the City of Brookland, Arkansas does hereby ordain as follows to replace Ordinance 2005-8:

#### **SECTION 1:GENERAL REGULATIONS**

**Section 1.1 Cruelty.** No person shall do any act that causes or permits the continuation of unjustifiable pain or suffering to any animal within the City of Brookland, Arkansas. The offense of cruelty to animals is defined and the punishment is set out in Arkansas Code Annotated Section 5-62-103, which is incorporated herein as if set out word for word.

#### **Section 1.2 Definitions.**

(A) **Domestic animals** when used herein shall include dogs and cats **over three (3) months of age**, both male and female. The burden of proof shall be on the owner to establish the age of the animals.

(B) **Owner** is every person, firm, corporation, association or household, when the parties reside on the same property, keeping or harboring a domestic animal within the corporate limits of the city.

(C) **Running at large.** Running at Large is defined herein to be without enclosure or the tying of an animal to a stationary object not on the owner of the animal's property. Certified Police Canines being utilized by law enforcement personnel in a valid law enforcement function or incident are exempted from the provisions of this ordinance. This restriction may be excepted for Business places, such as feed mills or farms, where good reason can be shown for the necessity of maintaining such animals to destroy rats, mice, or other vermin.

(D) **Dangerous/vicious animal** as the term is used herein means:

- i. Any animal which attacks or bites a human being or domestic animal

without provocation, or

- ii. Any animal for which compelling evidence is presented by an Animal Control Officer or a Brookland Police Officer to show that the animal manifests the disposition to bite, attack or injure a human being or other domestic animal while off the owner's premises, or
- c. Any animal failing a temperament test performed by a certified trained individual.

**Section 1.3 Dangerous/vicious animals.** It shall be unlawful to possess any dangerous animal or vicious animal (of a wild nature) of any kind within the city. Exhibitions or parading of animals, which are ferae naturae (of a wild nature) in the eyes of the law, may be conducted only upon securing a permit from the Chief of Police.

**Section 1.4 Killing of dangerous animals.** The members of the Police Department and any other person in the city are authorized to kill any dangerous animal of any kind when it is necessary for the protection of any person or animals. All killing of animals shall be done by the Brookland Police Department unless a valid need for protection is viable, practical or the person is protecting an individual or animal from immediate danger.

**Section 1.5 Keeping of native and non-native poisonous snakes.** It shall be unlawful for any person to keep any native or non-native poisonous snake within the corporate city limits.

**Section 1.6 Noises.** It shall be unlawful to harbor or keep any animal or fowl which disturbs the peace and quiet by loud, unusual or obnoxious noises at any time of the day or night.

**Section 1.7 Diseased Animals.**

- (a) No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large or to be exposed to any public place wherever the health of humans or animals may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the Animal Control Officer or other proper authority.
- (b) In cases of animals afflicted with a contagious or infectious disease, the Animal Control Officer may secure such animal and take steps to treat the affected premises in order to prevent the communication and spread of the contagious or infectious disease. Steps taken may include, without limitation, contacting the State Department of Health.

**Section 1.8 Interfering, tampering, etc. with the city pound.** It shall be unlawful for any person except the Animal Control Officer and persons authorized by him to

open the gate of the city pound, or to break the lock thereon or to break down, injure, remove, deface or destroy the fence or gate enclosing the pound, or any part thereof or to liberate in any manner any animals placed in the pound.

### **Section 1.9 Limitations and restrictions on keeping of certain domestic animals.**

(A) **Vaccination required.** All dogs and cats from **three (3) months of age** kept in the City of Brookland shall be vaccinated as required by Arkansas state law against rabies and it is made the duty of all owners of dogs and/or cats or persons having the possession or control of dogs and/or cats within the city to have such animals vaccinated with vaccine against rabies in an amount, quantity and quality to be approved by the state veterinarian. It shall be the duty of said owner or person having the control of said dog and/or cat to cause a metal vaccination tag to be securely attached to a collar or harness around the dog or cat's neck and kept there at all times.

(B) **Limitation on number of domestic animals.** It shall be unlawful for any person to own or possess more than five (5) cats and/or dogs over the age of three (3) months. Keeping on the premises of the owner of more than five (5) dogs and/or cats shall be legally sufficient evidence of violation of this section and the burden of proof shall be on the owner to show the ages of such animals. The limitation on the number of dogs or cats is excepted for Business places, such as feed mills or farms, where good reason can be shown for the necessity of maintaining such animals to destroy rats, mice, or other vermin.

(C) **Animal control officer to enforce section.** The animal control officer shall be authorized to enforce this section and shall issue a warning to an owner giving said owner two (2) weeks notice to remove said violation before a citation is issued.

(D) **Exemptions.** Pet stores, veterinary clinics and hospitals shall be excluded from the provisions of this section. Animal rescues with an IRS designated 501(c) (3) tax status shall also be excluded from provisions of this section.

(E) **Penalty.** Any person who violates any provision of Section 1.1 through 1.9 herein shall upon conviction be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each conviction.

## **SECTION 2: DANGEROUS/VICIOUS ANIMALS**

**Section 2.1** If the Animal Control Officer or the Brookland Police Department determine that an animal is dangerous/vicious as defined herein, the Department shall impound the animal and shall notify the owner or custodian of the impoundment and declaration of the animal as dangerous/vicious within forty-

eight (48) hours. If the owner or custodian is unable to be located, written notice shall be posted at the last known address.

If the owner of the animal contests the determination that the animal is dangerous/vicious, the Animal Control Officer or Brookland Police Department shall issue to the owner a citation to appear in the Craighead County District Court for violation of this city ordinance. The animal shall remain in the custody of the Animal Control Officer pending the trial and the owner shall be responsible for boarding fees at a rate of \$20.00 per day.

An owner or custodian found guilty of violating this section shall, in addition to boarding and veterinary fees, be fined no less than \$100.00 and no more than \$1,000.00 plus court costs or imprisoned not more than sixty (60) days or both. In addition, any dangerous/vicious animal which attacks a human being may be ordered destroyed when, in the Court's judgment, such dangerous/vicious animal represents a continuing threat of serious harm to human beings. It shall be an affirmative defense if the intended victim of any attack has made an unlawful entry into the dwelling of the owner.

If an owner or custodian is convicted of a second or subsequent violation of this section, he or she may be imprisoned in the County jail for up to one year.

This section shall not apply to dogs kept and maintained by a police department or law enforcement agency.

### **SECTION 3: DOG AND CAT REGULATIONS**

#### **Section 3.1**

(A) The Animal Control Officer may use humane animal traps to assist in confining dogs and cats running at large.

(B) Whenever any dog or cat in the animal shelter bears a rabies tag or is micro-chipped, it shall be the duty of the Animal Control Officer or city employee to notify the owner or the person to whom the tag was issued, if such person or owner can be found, that the animal has been picked up and placed in the animal shelter and will be destroyed or placed for adoption within five (5) days unless the fee hereinafter prescribed is paid.

**Section 3.2 Dogs to be confined.** From and after the passage of this ordinance, any person owning, possessing or keeping a dog or dogs, whether vaccinated or unvaccinated, licensed or unlicensed, shall confine such dog or dogs within an adequate fence or enclosure or within a house, garage or other building or shall confine such dog or dogs by a trolley system with a leash affixed to the dog's collar and attached to some substantial stationary object adequate to prevent the dog or dogs from running at large.

Underground, electronic fencing will be considered adequate provided the owner posts signs alerting that the system is in use and registers the use with City Hall. All wolf and wolf-dog hybrids shall be contained per Arkansas Code Annotated Section 20-19-404 and meet all other state law requirements.

**Section 3.3 Access to water and shelter.** Any person owning or keeping a dog and/or cat confined outside must provide the dog or cat with access to fresh clean water and an appropriate shelter. The shelter must allow the dog or cat to remain dry and protected from the elements. Such shelter shall be fully enclosed on three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog or cat's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the dog or cat's body heat and large enough to allow the dog or cat to stand and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water is not standing in or around the shelter. The Animal Control Officer or the Brookland Police Department shall have the authority to determine the suitability of a particular shelter should any questions arise and he/she shall make this determination based upon industry standards.

**Section 3.4 Dog pens.** Outdoor dog pens shall be located 25 feet from any dwelling other than the person owning or controlling the dog. There shall be at least 100 square feet in such pen for each dog kept therein which is over six months of age over 20 lbs. Said "pen" shall be constructed of wood, metal or wire in such a fashion and manner of construction as to prevent the animal from escaping and to prevent the animals head from protruding through any section or part thereof.

**Section 3.5 Tethering.** Unless otherwise permitted herein, it shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog or cat to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of rope, chain, strap, or any other physical restraint for the purpose of confinement, except an adult dog age 1 year or over and less than 20 pounds may be so tied for a time period not to exceed 2 hours.

**Section 3.6 Trolley Systems.** A trolley system is a method to confine a dog by tethering the dog to a cable that is no less than fifteen (15) feet in length and elevated seven (7) feet off the ground in a manner that allows the tether to move freely along the length of the cable. Only one animal may be attached to each running cable line or trolley system. It shall be unlawful for any person to confine a dog through the use of a trolley system as follows in any items 1-5:

- 1) For more than 12 consecutive hours or more than 18 total hours in any twenty-four hour period.
- 2) For a puppy under the age of 3 months to be attached to a running cable line or trolley system for more than one consecutive hour or more than 8 hours in a twenty four hour period.
- 3) That is located within 25 feet from any dwelling other than the person owning or

controlling the dog.

- 4) Any tethering system employed shall not allow the dog or puppy to leave the owner's property or;
- 5) In a manner that poses harm to the dog, including without limitation:
  - a) The use of a collar or harness that is ill fitting or constructed of any material other than leather or nylon;
  - b) The use of a tether that exceeds 1/5th of the body weight of the dogs or 10 pounds total weight; or
  - c) The use of trolley system in an area that contains hazards to the dog or deprives the dog of food, water, and shelter.

**Section 3.7 Collar and tag required; disposition of untagged dogs.** All dogs within the corporate limits of the City of Brookland, Arkansas, shall be required to have attached to a collar or harness a rabies tag.

Any dog or cat picked up without a tag or microchip shall be considered to be a stray or abandoned dog or cat for the purposes of this section and may be humanely destroyed or adopted after five working days unless reclaimed by its owner within that period.

**Section 3.8 Running at large.** No person owning, possessing or keeping a dog shall allow the same to run at large within the City of Brookland.

**Section 3.9 Animal control officer; duties.** There is hereby created the position of Animal Control Officer. The Animal Control Officer shall be entitled to additional help as needed. This help may include the Brookland Police Department or any other city employee.

Appointment of the Animal Control Officer shall be by the Mayor, subject to the consent and approval of the Brookland City Council. The Animal Control Officer shall exercise the powers and duties as provided in this ordinance and in addition thereto shall perform such duties as may be delegated to him by the Mayor and/or City Council. He or she shall operate under the authority of the Brookland Police Department but does not have to be a regularly commissioned police officer.

It is hereby made the duty of the Mayor and Animal Control Officer to provide a suitable place to be known and designated as the "City Dog Pound" to carry out the provisions of this ordinance.

**Section 3.10 Public notice.** Immediately after impounding any dog or cat hereunder, it shall be the duty of the pound keeper to enter upon the records of the pound to be kept by him/her for such purposes, the date of impounding, a description of the dog or cat impounded, and a record as to whether or not such dog or cat has been vaccinated and tagged as required by these ordinances. Said record shall be open to the public for the inspection by any interested party.

**Section 3.11 Dogs or cats impounded – how redeemed.** The owner of any dog or cat impounded hereunder may redeem the same by paying all costs, charges and penalties assessed, if any, that have accrued up to the time of making the redemption, including the cost of having the dog or cat vaccinated. Said animal shall be released when all said charges have been paid.

**Section 3.12 Claiming impounded animal.** Any person owning, possessing or keeping an animal which has been impounded may retrieve such animal from the City Pound by payment of a fee of Thirty-Five Dollars (\$35.00). The cost of reclamation shall increase to Fifty Dollars (\$50.00) for the second (2<sup>nd</sup>) offense. Upon the third (3<sup>rd</sup>) offense, the penalty shall be One Hundred Dollars (\$100.00). If the owner makes contact with an Animal Control officer within 4 hours of the animal being impounded and the owner provides proof of a valid rabies vaccination within three days, the reclamation fee will be ten dollars (\$10.00).

Additionally, the Animal Control Officer shall issue a charge of eight dollars (\$8.00) per day for each animal held over twenty-four hours. The reclamation of two or more animals by the same owner or household shall constitute separate charges.

**Section 3.13 Redemption of Animals for adoption.**

No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the person adopting the dog or cat guaranteeing that such animal will be sterilized, and after the adoption fee has been paid. An adopter who fails to comply with the sterilization provision of the agreement shall be guilty of a misdemeanor and a \$500.00 fine.

**Section 3.14 Diseased dogs; disposition.** The Animal Control Officer shall immediately take any injured, ill or diseased impounded dog or cat to a veterinarian who shall examine the dog or cat to determine whether or not the dog or cat has contracted a disease or illness which is infectious or contagious to other animals or humans or is injured to such an extent that the dog or cat will not recover from its injury or is in severe pain. If it is determined by the veterinarian or his agent or employee that the impounded dog or cat had contracted an infectious disease or is so injured or is in severe pain as stated above, the veterinarian or his agent or employee shall immediately and humanely destroy the dog.

**Section 3.15 Rabid Dog or Cat.** Any dog or cat having rabies or symptoms thereof or suspected of having rabies or which has been exposed to rabies shall immediately be released by the owner or custodian of such dog or cat to the police or Animal Control Officer of the City of Brookland for confinement in a veterinary hospital approved by the city for period of time specified by the Arkansas State Health Department or the physician who treats the bite victim, whichever period is longer.

**Section 3.16 Barking and howling.** It shall hereafter be unlawful for any person, firm or corporation to keep on his/her premises, or under his/her control, any dog which by loud and frequent barking and howling shall disturb the peace and quiet of any

person who may reside within reasonable proximity of the place where such dog is kept.

**Section 3.17 Inspection and confinement of certain dogs.** When any dog has bitten, scratched or otherwise attacked a person, that person or anyone having knowledge of such incident shall immediately notify the Chief of Police or Animal Control Officer and such dog shall be confined at a veterinary hospital or clinic at the expense of the owner for a period of ten days (10) as specified by the Arkansas State Health Department or the physician who treats the bite victim. If the owner is able to provide proof of a rabies vaccination by a licensed veterinarian as required by Arkansas state law against rabies, and the victim waives the requirement of confinement at a veterinary hospital or clinic, the animal may be confined, by the owner, and segregated from all other animals for a ten (10) day period. Failure to keep the dog confined will result in impoundment of the animal and a fine of up to Five Hundred Dollars (\$500.00). Every day the dog is not confined, as outlined above, may be deemed a separate violation. At the end of the ten (10) day confinement, if confinement is by the owner, the dog must be made available for inspection by the Animal Control Officer. If necessary the Animal Control Officer can order the animal examined by a licensed veterinarian at the expense of the owner.

**Section 3.18 Condition of pens and premises.** It shall be unlawful for any person, firm or corporation keeping or harboring dogs or cats to fail to keep the premises where such dog(s) or cat(s) are kept free from offensive odors to the extent that such odors are disturbing to any person residing within reasonable proximity of the said premises; and it shall be unlawful to allow premises where dogs or cats are kept to become unclean and a threat to the public health by failing to diligently and systematically remove all animal waste from the premises.

**Section 3.19 Notice of offenses and violations.** The Brookland Police Department or Animal Control Officer are authorized for violation of any portion of this ordinance to give to the offender a notice to appear in District Court, criminal division, located in Craighead County.

**Section 3.20 Extension of time to reduce the number of dogs or cats.** The provisions of Section 1.9 shall be unenforceable for a period of three (3) months from and after the adoption of this ordinance, thereby allowing owners ample time to provide for quartering and care of dogs or cats elsewhere than on owner's premises in the event owner owns five (5) or more dogs or cats covered by this section.

**Section 3.21 Fines.** Any person owning, possessing or keeping a dog or cat contrary to the allowances in this Section, shall be deemed guilty of a misdemeanor and shall upon conviction for the first offense be subject to a fine of Seventy Five Dollars (\$75.00). If that same person is convicted of violation of this Section a second time, said person shall be subject to a fine of One Hundred Dollars (\$100.00); if a person is convicted of a third offense of this Section, that party shall be subject to a fine of Four Hundred Fifty Dollars (\$450.00) and a summons/warrant to appear in court will be issued. Each



subsequent offense shall constitute a fine of Five Hundred Dollars (\$500.00), an issuance of a summons/warrant to appear in court, court costs and potential permanent removal of pet and a mandatory jail time of five (5) days. The fine shall be in addition to all charges imposed upon said party in claiming and retrieving such dog or from Brookland Animal Control.

Any person found guilty of violating this section shall be fined not less than One Hundred Dollars (\$100.00) or more than One Thousand dollars (\$1,000.00) plus court cost or imprisoned not more than sixty (60) days or both. In addition, any vicious animal which attacks a human being may be ordered destroyed when, in the Court's judgment, such vicious animals represent a continuing threat of serious harm to human beings. It shall be affirmative defense if the intended victim of any attack has made an unlawful entry into the dwelling of the owner.

#### **SECTION 4: LIONS**

**Section 4.1 Unlawful to keep.** It shall be unlawful for any person, firm or corporation to keep or harbor a lion, cheetah, tiger, cougar or other large carnivore within the City of Brookland, Arkansas.

**Section 4.2 Defined.** A lion shall be defined as a large carnivorous mammal of the cat family.

**Section 4.3 Penalty.** Any person, firm or corporation who violates Section 4.1 of this ordinance shall be punished by a fine of not more than One Hundred Dollars (\$100.00) plus court cost, or so as the court rules.

#### **SECTION 5: REGULATIONS FOR AGRICULTURAL ZONES**

**Section 5.1 Running at Large.** It shall be unlawful to permit any cattle, horses, swine, sheep, goats or poultry or any other animals of like kind to run at large in the city. It shall further be unlawful to picket or tie any such animal in any of the streets or street right-of-way of the city for the purpose of grazing or feeding same. The owner of any such animal running at large or so picketed or tied shall be deemed guilty of a misdemeanor.

**Section 5.2 Housing.** Any building used for the housing and shelter of livestock shall be no less than 200 feet from any property line. It shall be of sturdy construction and appropriate in height and square footage to house the species and number of livestock it is provided for.

**Section 5.3 Manure Management.** All facilities and/or buildings used to house or stall livestock shall be cleaned every five days. The owners will be responsible for the disposal of all waste. Composting and/or field application of the waste is acceptable.

**Section 5.4 Pest and Odor Management.** Owners of all livestock shall be responsible

for the control and management of flies and odor. If either are deemed to be unacceptable to a City of Brookland representative and a majority of neighbors, the following will be instituted: *The first time it is deemed that a problem arises, the owner will be given a series of actions to comply, i.e. fly traps, predator wasps, and proper composting methods. This plan will be up to the City of Brookland Representative and will be filed at City Hall. If appropriate action is taken within a reasonable length of time, no fine will be assessed.*

**Section 5.5 Fencing Requirements.** All livestock shall be enclosed within an appropriate height and strength fence. Electric fence is permitted.

**Section 5.6 Keeping of Swine.** Swine shall be permitted on properties of two (acres) or more in size.

**Section 5.7 Animal Husbandry.** All livestock will have access to clean water at all times. Wholesome food and adequate medical care will be provided by the owners or caretakers of the animals.

**Section 5.8 Confinement Operations.** No high density, confinement feeding operations, for example, feedlots and poultry production houses, will be permitted within the corporate limits of the city. All operations existing prior to incorporation will be exempt from this regulation.

**Section 5.9 Penalty.** Any person, firm or corporation who violates this Section of this ordinance shall be punished by a fine of not more than Fifty Dollars (\$50.00) plus court cost, or so as the court rules.

**SECTION 6: EMERGENCY CLAUSE.** It is hereby determined by the Brookland City Council that the passage of this ordinance is necessary for the preservation of the public health, safety and welfare of the citizens of Brookland, and that therefore an emergency is declared to exist and this ordinance shall be in full force and effect from and after the date of its adoption.

**APPROVED AND ADOPTED THIS 10th DAY OF September, 2013.**

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Kenneth D. Jones, Mayor

ATTEST:

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Jennifer Foster, Recorder