

ORDINANCE NO. 551

AN ORDINANCE AMENDING ORDINANCE NO. 400 AND ORDINANCE NO. 496 REGULATING THE KEEPING OF VICIOUS ANIMALS WITHIN THE CITY LIMITS OF THE CITY OF LONOKE ARKANSAS SETTING FORTH THE PROCEDURES FOR DEEMING AN ANIMAL VICIOUS, BANNING CERTAIN BREEDS OF DOGS, PRESCRIBING THE PENALTIES FOR VIOLATIONS, AND FOR OTHER PURPOSE

WHEREAS, on or about June 10, 1996, the City Council for the City of Lonoke Arkansas (the "City"), enacted Ordinance No. 400 prescribing certain rules and regulations regarding the care and keeping of animals within the City and other matters;

WHEREAS, on or about August 5, 2000, the City Council for the City determined that Ordinance No. 400 did not adequately provide for the regulation of the keeping of "vicious animals" and penalties associated therewith and, thus, enacted Ordinance No. 496 which amended Ordinance No. 400 to better set forth the procedures for deeming an animal vicious and prescribing certain rules and regulations regarding the care and keeping of animals within the City and other matters;

WHEREAS, the City Council for the City has determined that Ordinance No. 400 and Ordinance No. 496 do not adequately provide for the regulation of animals, vicious or otherwise, and that it is in the best interest of the citizens of the City to ban certain breeds of dogs within the City limits of the City and to revise the rules regulating the keeping of certain animals within the City; and

WHEREAS, the City Council for the City desires to amend Ordinance No. 400 and Ordinance No. 496 by providing for a ban of certain breeds of dogs within the City limits of the City and by revising the rules regulating the keeping of certain animals within the City.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONOKE, ARKANSAS:

Section 1: Section 4 of Ordinance No. 400 as amended by Ordinance No. 496 is amended to read as follows:

Section 4.1 It shall hereafter be unlawful for any owner to keep within the corporate limits of the City of Lonoke, Arkansas, any "vicious animal" or any "banned breeds of dogs" as defined herein.

- a. ***Deeming an animal vicious or a member of a banned breed of dogs.*** After investigating an incident involving the possibility of a an animal exhibiting fierce or vicious behavior or being a member of a banned breed of dogs an animal control officer for the City of Lonoke, a Lonoke Police Officer, or any other agent of the City of Lonoke so designated by the Mayor of the City of Lonoke, Arkansas (the "Mayor") to make such a determination (collectively referred to hereafter as the "City Officer") shall deem the animal vicious if the City Officer has determined that the an animal acted in a manner or exhibited the behavior described in Section 1 (l) or declare the animal to be a member of a banned breed of dogs pursuant to Section 4.3. Upon deeming an animal vicious or declaring it to be a member of a banned breed dogs the City Officer shall notify the owner that the animal has been deemed vicious or declared a member of a banned breed of dogs by hand delivering or by mailing a notice by certified mail to the owner. After deeming an animal vicious or declaring it to be a member of a banned breed of dogs, the City Officer shall cause the animal to be apprehended and impound the animal at the animal shelter until a final determination has been made as to the status of whether the dog is vicious or is a member of a banned breed of dogs.
- b. ***Right to appeal decision to deem the animal vicious or a member of a banned breed of dogs.*** If an owner of an animal who has received notice that his or her animal has been deemed vicious or declared to be a member of a banned breed of dogs feels that such a determination was made in error, the owner may appeal the City Officer's decision to the Mayor. An appeal must be made within ten (10) days after receiving the notice by filing a written request for an appeal with the Mayor. Upon receiving an appeal the Mayor shall promptly have a hearing within ten (10) days to determine whether or not to uphold the decision of the City Officer. An appeal from the decision of the Mayor may be made to a court of competent jurisdiction.
- c. ***Release of the animal.*** An animal that has been apprehended pursuant to subsection "a" shall be released after one of the following has occurred:
 1. A final determination has been made that the animal is not vicious and that it is not a member of a banned breed of dogs;

2. The owner signs an affidavit, suitable to the Mayor, acknowledging that the animal is either vicious or a member of a banned breed of dogs, that the owner is not appealing the decision deeming the animal vicious or determining it to be a member of a banned breed of dogs, and that the owner will remove the animal from the corporate limits of the City within seven (7) days of the execution of the affidavit; or
 3. The owner signs an affidavit, suitable to the Mayor, acknowledging that the owner is appealing the decision that the animal is vicious or a member of a banned breed of dogs, that the owner will confine the animal in a manner satisfactory to the Mayor or remove the animal from within the corporate limits of the City pending the outcome of the appeal, and that if after all appeals are exhausted or not otherwise timely made and the determination that the animal is vicious or a member of a banned breed of dogs is upheld or not otherwise overturned the owner will remove the animal within seven (7) days of the final determination on appeal that the animal is vicious or member of a banned breed of dogs or within seven (7) days of the last day to file an appeal of the decision has passed without such appeal being taken.
- d. ***Failure to retrieve impounded animal.*** If a final determination has been made as to whether or not the animal is vicious or member of a banned breed of dogs, the animal shelter or other designated agent for the City shall notify the owner by hand delivery or by certified mail that the animal must be retrieved from the animal shelter within seven (7) days. If the owner of the animal fails to retrieve the animal within seven (7) days the animal shall be humanely destroyed if it has been deemed vicious or a member of a banned breed of dogs or shall be put up for adoption if the animal has not been deemed vicious and is not a member of a banned breed of dogs.
- e. ***Regulation of vicious animals or banned breeds of dogs.*** Once a final determination that an animal has been deemed vicious or that it is a member of a banned breed of dogs after all appeals have been exhausted or otherwise expired the owner shall within seven (7) days from the date of the final determination that an animal is vicious or a member of a banned breed of dogs cause the animal to be removed from the City limits of the City. If the owner fails to remove the animal within the required time then the City may take possession of the animal and destroy it in a humane manner.

- f. ***Violations and penalties.*** It is hereby declared to be unlawful for a person who owns, possesses, keeps, or harbors an animal that as been deemed vicious or a member of a banned breed of dogs pursuant to this or any other City ordinance to fail to follow the requirements for removal of the animal from the corporate limits of he City stated in any section of this ordinance. Any person convicted of violating this section shall be fined not more than \$500.00. If the violation in its nature is continuous in respect to time, the fine shall not exceed more than \$250.00 per day. Additionally, the convicting court may, in the court's discretion, order that the animal to be humanely destroyed.
- g. ***Liability for animals who attacks a human being.*** Any person who owns, keeps, harbors, or possesses any animal that attacks a person causing harm to property or body or exhibits vicious or ferocious behavior towards a person causing fear shall be guilty of a violation. It shall be an affirmative defense to this offense if the dog was provoked or teased. Any person convicted of violating this section shall be fined not more than \$1,000.00. Additionally, the convicting court may, in the courts discretion, order that the animal to be humanely destroyed.

Section 4.2 No person, shall possess, harbor, or maintain care or custody of any animal for the purpose of animal fighting. Nor shall any person train, torment, badger, bait or use any animal for the purpose of causing or encouraging the animal to attack human beings, domestic animals, or livestock. This does not included accredited animal training programs for police use.

Section 4.3

- a. "Banned Breeds of Dogs" are banned entirely and may not be owned or kept within the City of Lonoke, Arkansas. "Banned Breeds of Dogs" are defined as any of the following:
1. American Pit Bull Terrier;
 2. Staffordshire Bull Terrier;
 3. American Staffordshire Terrier;
 4. Any dog whose sire or dam is a dog of a breed which is defined as a banned breed of dog under this section;

5. Any dog whose owner registers, defines, admits, or otherwise identifies said dog as being of a banned breed;
 6. Any dog conforming, or substantially conforming to the breed of American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier as defined by the United Kennel Club or American Kennel Club;
 7. Any dog which is of the breed commonly referred to as "pit bull" and commonly recognizable and identifiable as such;
- b. A banned breed of dog shall not be considered owned or kept in Lonoke, Arkansas, if said dog is only brought into the city to a licensed Doctor of Veterinary Medicine located in Lonoke for the purpose of veterinary care, as is necessary for the completion of said veterinary care, provided, however, that said dog, at all times shall be subject to all applicable restrictions by virtue of said breed of dog also being defined as a vicious animal pursuant to Section 4.1.

Section 2: Section 3 of Ordinance No. 400 is amended to read as follows:

Section 3. An owner of any 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. Dogs shall not be tied or chained to doghouses or other stationary objects but must be in an approved enclosure. At any time the dog leaves the owner's property, without the owner or a responsible person, and properly restrained, or is otherwise not confined in a manner set out herein, it shall be considered at large and in violation of this ordinance. It shall further be the duty of the owner or keeper of any dog to keep such animal under control so as to:

- a. Prevent the 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.

Section 3: Any decision or determination which is required to be made by an animal control officer of the City of Lonoke as set forth in Ordinance No. 400, including a determination as to whether an animal is deemed vicious or a member of a banned breed

of dogs, may also be made by any Lonoke Police Officer or by the Mayor or any agent of the City so designated by the Mayor to make said decision or determination.

Section 4: The provisions of Ordinance No. 400 as amended by Ordinance No. 496 and this Ordinance shall be enforced by an animal control officer of the City of Lonoke, the Mayor, any agent of the City so designated by the Mayor to enforce the Ordinance, or any member of the Lonoke Police Department.


Section 5: If, for any reason, any portion of this ordinance shall be held to be invalid such invalidity shall in no way affect the remaining portions hereof which are valid, but such portions shall be and remain in full force and effect.

Section 6: All ordinance or sections thereof in conflict herewith or hereby repealed.

Passed this 9th day of April, 2007.


WAYNE MCGEE
MAYOR

ATTEST:


CITY CLERK