

*****NOTICE:**

This Ordinance was NOT passed. Was tabled at the Oct, Nov and Dec 2010 meetings....council never made motion for first reading.

ORDINANCE 2010 - 08

AN ORDINANCE REGULATING THE KEEPING OF ANIMALS WITHIN THE CORPORATE LIMITS OF THE CITY OF BROOKLAND, ARKANSAS AND,

WHEREAS, Ordinance 2005-8 is in need of modification, it is ordained upon 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 cruelly treat any animal within the city in any way. Any person who inhumanely beats, underfeeds, overloads or abandons any animal shall be deemed guilty of a misdemeanor.

Section 1.2 Dangerous animals. It shall be unlawful to permit any dangerous animal or vicious animal of any kind to be loose or outside its kennel or pen at anytime, unless securely leashed with a leash no longer than four (4) feet in length and a person over the age of 18 years old shall have physical control of leash. Dangerous animals shall be muzzled according to Section 2.5. 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 1.3 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 1.4 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 1.5 Running at large. It shall be unlawful to permit any cattle, horses, 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 1.6 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 man or beast 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.
- (b) It is hereby made the duty of the Animal Control Officer, to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagious or infectious disease, except in cases where the state or city veterinarian is empowered to act.

Section 1.7 Keeping of swine. It shall be unlawful to keep any live swine within the corporate limits of the city. This section includes pot-bellied pigs.

Section 1.8 Stables, etc. to be kept clean. No person shall cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome.

Section 1.9 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 1.10 Cat regulations.

- (A.) The Animal Control Officer shall not be required to respond to requests to pick up unconfined cats until the person making the request has confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may, upon request by citizen documented complaint, use humane animal traps to assist in confining the cat.
- (B.) Whenever any animal in the animal shelter bears a rabies tag, it shall be the duty of the Animal Control Officer 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 taken 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 1.11 Limitations and restrictions on keeping of certain domestic animals.

(A) Definitions.

- (1) Domestic animals when used herein shall include cats, water fowl, gallinaceous birds which include chickens, guinea, peafowl, pheasants, quail partridges and turkeys, goats, sheep, horses and cattle **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.
- (2) 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.

- (B) **Vaccination required.** All 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 cats or persons having the possession or control of 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 cat to cause a metal vaccination tag to be securely attached to a collar or harness around the cat's neck and kept there at all times.
- (C) **Limitation on number of domestic animals.** It shall be unlawful for any person to own or possess more than five (5) domestic animals except for cattle and horses, at any one time.
- (D) **Restriction on keeping of equine and cows.** It shall be unlawful for any owner to maintain horses or any other equine and cows within the corporate limits of the City of Brookland within one hundred fifty (150) feet of any residence, except that this subsection shall not apply to pasture lands which exceed two (2) acres or more in area.
- (E) **Animal control officer/Brookland Police Department to enforce section.** The animal control officer and/or the Brookland Police Department 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 warrant of arrest is issued.
- (F) **Exemptions.** Pet stores and veterinary 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.
- (G) **Penalty.** Any person who violates any provision of this section shall upon conviction be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each conviction.
- (H) **Dangerous animal** as the term is used in this section means:
1. Any animal which attacks or bites a human being or domestic animal without provocation, or
 2. Any animal for which compelling evidence is presented to show the animal manifests the disposition to bite, attack or injure a human being or other domestic animal while off the owner's premises and without provocation.

SECTION 2: DOGS

Section 2.1 Definitions. The following words and phrases shall for all purposes of this section have the following meanings:

- (a) **Dogs** include animals of all ages, both female and male which are members of the canine or dog family.
- (b) **Owner** means every person, firm partnership or corporation, owning, keeping or harboring a dog within the corporate limits of the city.
- (c) **Vaccination** means an injection of any vaccine for rabies approved by the state veterinarian and administered by a licensed veterinarian or agent of the health office.
- (d) A **vicious animal** as the term is used in this section means:

- (1) Any animal with a demonstrated propensity, tendency or disposition to attack, to cause injury, or to otherwise endanger the safety of human beings or domestic animals; or
 - (2) Any animal, which attacks a human being or a domestic animal on one or more occasions without provocation.
 - (3) Any animal failing a temperament test performed by a certified trained individual.
- (e) **Muzzle** when required by this chapter, a muzzle shall be of appropriate material with sufficient strength to restrain the dog from biting and no such muzzle employed shall be made from any material or maintained on the dog in any manner so as to cut or injure the dog.
- (f) **Collector** means the city revenue collector or his or her duly authorized agent.

Section 2.2 (A.) Vicious animals. It shall hereafter be unlawful for any person to keep within the corporate limits of the City of Brookland, Arkansas, any vicious animal.

Vicious animal means any of the following:

- (1.) Any animal, which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being or domestic animal;
- (2.) Any animal previously determined to be and currently listed as a dangerous animal which, after its owner or custodian has been notified of this determination, continues the dangerous behavior.

Section 2.2 (B.) Severe injury. A severe injury means any physical injury to a human being or domestic animal that results in muscle tears or disfiguring lacerations, or require multiple sutures or corrective cosmetic surgery.

When upon investigation, the Animal Control or Brookland Police Department determines that an animal is vicious; the Department shall impound the animal and shall notify the owner or custodian of the impoundment and declaration of the animal as 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 Animal Control Department's determination that the animal is vicious, the Animal Control Department shall issue to the owner a citation to appear in the Craighead County District Court for maintenance of a vicious animal. The animal shall remain in the custody of the Animal Control Department pending the trial and the owner shall be responsible for boarding fees.

An owner or custodian found guilty of violating this section may be required to pay the costs of boarding and veterinary care for said animal and shall be fined no less than \$100.00 and no more than \$500.00. The animal shall be surrendered to the Department to ascertain whether the animal is rabid or otherwise diseased. Thereafter, the animal shall be euthanized.

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.

It shall be an affirmative defense if the victim or intended victim of any attack has made an unlawful entry into the dwelling of the owner.

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

Section 2.3 Number of dogs. It shall be unlawful for any person, firm or corporation to own, keep or harbor more than **five (5) dogs over three (3) months old** within the corporate limits of the city except that this provision shall not apply to proprietors of dog, hospitals and veterinarians when such dogs are kept upon premises used by such dog hospital and veterinarians as their normal place of business. Keeping on the premises of the owner of more than five (5) dogs 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 dogs.

Section 2.4 Vaccination required. All dogs 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 or persons having the possession or control of dogs 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 to cause a metal vaccination tag to be securely attached around the dog's neck and kept there at all times. *(NOTE: At this time, Arkansas state law requires a dog or cat be vaccinated for rabies every three years.)*

Section 2.5 Dogs to be confined. From and after the passage of this chapter, 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. Trolley system shall be attached to some substantial stationary object adequate to prevent the dog or dogs from running at large.

Section 2.5 (A.) Access to water and shelter. Any person owning or keeping a dog confined outside must provide the dog with access to fresh clean water and an appropriate dog shelter. The dog shelter must allow the dog 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's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the dog's body heat and large enough to allow the dog 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 2.5 (B.) 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 2.5 (C.) Tethering. Unless otherwise permitted under subsection (2.5 D.), it shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog 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 restrain 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 2.5 (D.) 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 1-6:

- 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.) Unaltered dogs kept outside for any period of time, must be in a fenced area of at least 100 square foot per animal. Fenced area 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, or housed indoors.
- 4.) That is located within 25 feet from any dwelling other than the person owning or controlling the dog.
- 5.) Any tethering system employed shall not allow the dog or puppy to leave the owner's property or;
- 6.) 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 2.5 (E.) Fines. Any person owning, possessing or keeping a dog which has been tethered contrary to the allowances in this Ordinance of the City of Brookland, Arkansas, 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 tethered contrary to the permitted allowances in this ordinance of the City of Brookland 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 tethered contrary to the permitted allowances in this Ordinance of the City of Brookland, 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 from Brookland Animal Control.

No person owning, harboring, or having the care of a dangerous animal shall allow or permit such animal to go unconfined on the premises of such person.

No person owning, harboring or having the care of a dangerous animal shall allow or permit such animal to be loose unless it is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such animal may not be leashed to inanimate objects such as trees, posts, buildings, etc. unattended. In addition, all dangerous animals on a leash outside its kennel or pen must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.

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 2.6 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 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 2.7 Running at large. No person owning, possessing or keeping a dog shall allow the same to run at large within the City of Brookland. 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.

Section 2.8 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 shall not 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 and including the construction of a suitable number of individual pens where particular dogs may be kept separate and apart from the remainder.

Section 2.9 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 in a book, to be kept by him for such purposes, the date of impounding, a description of the dog impounded, and a record as to whether or not such dog has been vaccinated and tagged as required by the ordinances of said city. Said pound book shall be open to the public for the inspection of any interested party.

Section 2.10 (A.) Dogs impounded – how redeemed. The owner of any dogs 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 vaccinated and when all said charges have been paid it shall be the duty of the pound keeper to release said animal.

Section 2.10 (B.) Claiming impounded animal. Any person owning, possessing or keeping an animal which has been allowed to run at large and 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 (2nd) offense. Upon the third (3rd) offense, the penalty shall be One Hundred Dollars (\$100.00).

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

Section 2.11 (C.) 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 adopter guaranteeing that such animal will be sterilized, and after the adoption fee has been paid. A receipt will be issued to the adopter and said receipt may be used at the time the animal is sterilized. 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 2.12 Diseased dogs; disposition. The Animal Control Officer shall immediately take any injured, ill or diseased dog to the veterinarian who shall examine the dog or have the agent or employee examine the dog and shall determine whether or not the dog 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 will not recover from its injury or is in severe pain and if it is determined by the veterinarian or his agent or employee that the dog 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 2.13 Dogs suspicion rabid. Any dog or dogs 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 dogs to the police or Animal Control Officer of the City of Brookland for disposal or confinement in 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 2.14 Barking and howling. It shall hereafter be unlawful for any person, firm or corporation to keep on his premises, or under his 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 2.15 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 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 within the past twelve (12) months, and victim waives the requirement of confinement at a veterinary hospital, 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). Everyday 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. The Arkansas Department of Health shall be notified of all dog and cat bites and scratches.

Section 2.16 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 dogs or cats are kept free from offensive dog 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 2.17 Notice of offenses and violations; arrest. The Police Department, Animal Control Officer or persons employed by such departments are authorized for violation of any portion of this chapter to give to the offender a notice to appear in District Court, criminal division, located in Craighead County. Such notice to appear shall state the name and address of the violator and the date of the violation shall contain a statement of the nature of the violation and be signed by the person having knowledge of such violation and who is also a member of one of the departments of the City of Brookland before mentioned. The notice shall contain a printed statement in which the violator promises to appear in the District Court, criminal division, without issuance of any warrant or other process and which statement is to be signed by the violator. Upon failure to sign the agreement to appear, the officer or employee shall swear out a complaint and the usual procedure upon the filing of complaints in the District Court shall govern the arrest and trial of the violator. Upon the violator's signing the agreement to appear and his appearance as set out in the notice, no warrant shall be issued for the arrest of the violator.

Section 2.18 Extension of time to reduce the number of dogs or cats. The provisions of Section 2.3 shall be unenforceable for a period of three (3) months from and after the adoption of this section, 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 2.19 Penalties

- (a) Except as provided by subsection (b) herein, any person violating any portion of this section shall be deemed guilty of a misdemeanor and shall be punished, upon conviction, by assessment of a fine up to **Fifty Dollars (\$50.00)** plus court cost, or as the court so rules.
- (b) Any person owning, possessing or keeping a dog which has been allowed to run at large within the City of Brookland, Arkansas shall be deemed guilty of a misdemeanor and shall upon conviction for the first offense be subject to a fine of **Fifty Dollars (\$50.00)** plus court cost, or as the court so rules. If that same person is convicted of allowing a dog to run loose within the City of Brookland, Arkansas a second time, said person shall be subject to a fine of no less than **Fifty Dollars (\$50.00)** plus court cost or as the court so rules, and may be subject to a fine up to **One Hundred Dollars (\$100.00)** plus court cost, or as the court so rules. If that same person is convicted of a third offense of allowing a dog to run loose within the City of Brookland, Arkansas that person shall be subject to a

fine of not more than **One Hundred Fifty Dollars (\$150.00)** plus court cost or as the court so rules. Each subsequent offense shall constitute a fine of **One Hundred Fifty Dollars (\$150.00)** plus court cost or as so the court rules. The fine shall be in addition to all charges imposed upon said party in claiming and retrieving such dog from the city pound.

Section 3: Lions

Section 3.1 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 3.2 Defined. A lion shall be defined as a large carnivorous mammal of the cat family.

Section 3.3 Penalty. Any person, firm or corporation who violates Section 3.1 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.

APPROVED AND ADOPTED THIS _____ DAY OF _____, 2011.

Kenneth D. Jones, Mayor

ATTEST:

Brandy Settlemoir, Recorder

1st reading: _____
2nd reading: _____
3rd reading: _____