

ORDINANCE NO. 08-16-2012 A

**AN ORDINANCE REPLACING TITLE 6, ELKINS MUNICIPAL CODE**

WHEREAS, the current Title 6 was adopted 12-18-2008 and significant changes have taken place including, but not limited to, entering into an animal sheltering contract with Washington County.

WHEREAS, the County is in the process of requiring implementing of a chip/seed, PIT identifier in dogs and/or cats.

WHEREAS, the City desires to pass along to owners who allow their animal to run at large the costs to the City of turning those animals over to the County shelter.

BE IT ORDAINED BY THE CITY COUNCIL OF ELKINS, ARKANSAS That:

Effective with the passage of this Ordinance Title 6 of the Elkins Municipal Code shall read as attached hereto in its entirety.

PASSED AND APPROVED this 18<sup>th</sup> date of October, 2012.

  
L. BRUCE LEDFORD, Mayor

ATTEST:

  
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JASON BATHON, Recorder-Treasurer

**TITLE 6**  
**ANIMALS**

Chapters:

6.04 Animal Control

**CHAPTER 6.04**

**ANIMAL CONTROL**

Sections:

6.04.01	Animal Control Officer
6.04.02	Definitions
6.04.03	Animal Registration and Fee
6.04.04	Prohibited conduct
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6.04.07	Animal Causing Injuries
6.04.08	Penalty
6.04.09	Number of Animals

6.04.01 Animal Control Officer There is hereby created for the City of Elkins the office of Animal Control Officer. Initially this shall not be a full-time position, but rather shall consist of additional duties assigned to one or more city employees. Whether full-time or part-time the Animal Control Officer shall under the supervision of the Chief of Police. The Animal Control Officer shall be appointed on a part-time basis by the Mayor. Any additional compensation shall be approved by the City Council and all training, equipment and supplies shall be provided by line item in the budget under the General Fund section. A full-time Animal Control Officer shall be appointed by the Mayor, subject to confirmation and approval by the City Council. The Animal Control Officer shall have and exercise the powers and duties delegated to him/her by the Mayor or the City Council or the Chief of Police.

6.04.02 Definitions

**Animal** shall mean any dog, cat or domesticated wild creature, however, livestock maintained on a farm are exempt.

**At large** shall be construed to mean not under the control of the owner or a member of his immediate family by fencing, leash, cord, chain or other physical restraining device.

**Livestock** This term shall include horses, cows, sheep, pigs, and other non domesticated creatures kept/maintained by a person within the City.

**Owner** as used herein shall mean a person, partnership, firm or corporation or association which

- A. Professes to own, in the common sense definition, a particular animal or animals;
- B. Exercises primary control and dominion over a particular animal or animals, or
- C. Keeps or owns or occupies real estate which serves as a principal abode or shelter for a particular animal. Presence of an implanted chip/seed, a numbered license on the collar or body of a particular animal registered to an owner, shall be prima facie evidence of ownership.

**Person** as used herein shall mean any natural person, firm, partnership, corporation, limited liability company, unincorporated association or other legal entity.

6.04.03 Animal Registration and Fee

- A. In order to assist the Animal Control Officer, and others, in identifying, locating and controlling animals in the city, it is hereby ordered that each and every animal kept, harbored, maintained or held within the city of Elkins, Arkansas, after the first day of May, 2009, shall be registered with the city by contacting the Animal Control Officer or his/her designee at Elkins City Hall during regular business hours no later than the last day of April each year, or within sixty days of the animal's arrival/birth in Elkins.
- B. Registration shall consist of the name, address and state/federal issued identification number of the owner, any PIT number, if available, as well as a photo of the animal taken by the Animal Control Officer or his/her designee at the time of registration. The registrant must be at least eighteen (18) years old at the time of registration and have a physical address within the city for notices and contact as necessary.
- C. There is hereby levied and shall be collected at the time of registration, an annual fee for each and every animal owned or kept within the City of Elkins, which fee

shall be paid to the Recorder/Treasurer or the city Office Manager.

D. The annual fee shall be as follows:

For each animal registered on or before the last day of April each year (or within 60 days of the animal's arrival/birth in Elkins) the sum of \$5.00 for a neutered animal and the sum of \$15.00 for an un-neutered animal. If paid late, the fine shall increase by \$5.00 in each case.

E. Nothing herein shall preclude prosecution of the owner for violation of this ordinance.

F. The Recorder/Treasurer/Office Manager or designee shall issue a receipt to each person paying the fee provided for in subsection (D) and in addition, he shall issue to each such person a metal tag showing that such fee has been paid for the current year; provided, however, that no such tag shall be issued unless the person paying the fee presents to him a certificate from a licensed veterinarian showing that such animal has been vaccinated within an acceptable period of time prior thereto. A copy of the same shall be retained with the city's records for seven (7) years.

G. It shall be unlawful for the owner of an animal within the city limits to fail to keep the tag required hereby attached to a collar securely fixed around the neck or otherwise securely attached to the body of the animal.

H. Nothing in this subsection shall be construed to apply to any animal under the age of six (6) weeks; provided, however, that the provisions hereof shall be applicable as soon as each such exempt animal reaches the age of six (6) weeks. All animals in the city shall have a current rabies vaccination by a veterinarian licensed by the state. A metal tag or other commonly recognized indicator evidencing such vaccination shall be attached to the harness or collar of every animal in the City. It shall be unlawful for any owner to possess any animal above the age of six (6) months without having such animal vaccinated for rabies; provided that there shall be no prosecution of such owner unless the animal shall have been owned or kept within the city limits for fifteen (15) days.

6.04.04 Prohibited Conduct

A. It shall be unlawful for the owner of any animal or livestock to allow or permit such animal or livestock to run at large upon any street or premises within the corporate limits of the City any time during the calendar year regardless of whether such animal or livestock has been vaccinated or licensed;

B. It shall be unlawful for the owner of any animal to fail to display a city tag and rabies tag on such animal's collar or otherwise attached to the body of the animal;

C. It shall be unlawful for the owner of any animal to fail to pay the registration fee or vaccinate such animal as required by Elkins Municipal Code, or

- D. It shall be unlawful for the owner of any animal to violate the provisions of 6.04.03 hereof.

6.04.05 Enforcement

- A. It shall be the duty of the Animal Control Officer to take into custody all animals in violation of this ordinance or otherwise bring about their capture or return to confinement/containment, and issue citations to such owners who allow their animals to be in violation of any provisions of this ordinance and/or who violate the provisions of 6.04.04 hereof; provided, however, that nothing contained herein shall be construed in such a way as to authorize the Animal Control Officer to make arrests.
- B. Compensation shall be paid to the Animal Control Officer in the manner and amount fixed from time to time by the City Council.
- C. The Animal Control Officer shall have authority to recommend to the City Council such amendments hereto from time to time to effectuate the economical and expedient administration of this ordinance.
- D. As required by circumstances from time to time, the Elkins Police Department shall assist the Animal control Office in carrying out his/her duties to the extent necessary

6.04.06 Impoundment and At-Large Animals

- A. Apprehension of animals The Animal Control Officer may take into custody any animal found running at-large within the corporate limits of the city of Elkins in violation of the terms and provisions of this ordinance and place such animal in a temporary holding facility or turned over to the County to be held in the facility contracted with the City pursuant to the terms of such contract.
- B. Notice to owner Whenever any animal placed in the facility as provided herein carries a city license tag, or an implanted chip/seed, it shall be the duty of the Animal Control Officer to notify the person or the owner to whom the tag was issued if such person or owner can be found, or if there is a PIT number to notify the registered owner thereof, that the animal has been taken up and placed either in the temporary holding facility or turned over to the representatives of the sheltering facility and that the animal will be forfeited to the County after five (5) days and may thereafter destroyed.
- C. Manner of notice Notice shall be given in person, by phone if possible, by a written notice delivered and left in a prominent place at the owner's/registrant's last known address or in writing by certified mail to the last known address of the owner or the person in whose name the animal was registered. No notice of any kind shall be required where the animal impounded is not wearing a license tag or have an implanted chip/seed. However, the Animal Control Officer shall post a picture, description and the approximate time and place of contract with an animal which is placed in the temporary holding facility or turned over to the facility contracted with the City, on the City website.
- D. Right of Redemption Any owner of an animal so impounded shall have the right to redeem the animal at any time during the impoundment period. Upon the payment of the

cost of the sheltering fee then being charged to the City as an impoundment fee for the first pick-up within a calendar year and One Hundred Dollars (\$100.00) for each subsequent pick-up of the same animal within a calendar year, plus Ten Dollars (\$10.00) for each day such animal is maintained in the facility, together with the registration fee on such animal if the same has not been paid and the cost of vaccinating an unvaccinated animal, the animal may be redeemed. If the animal is claimed while it is being held in the temporary holding facility the redemption fee shall be \$15.00 per day plus the registration fee and any required veterinarian expenses.

Such cost shall be paid to the Animal Control Officer who shall remit all such payments to the Recorder/Treasurer or Office Manager, according to generally accepted accounting procedures. For the purpose of this section, the day an animal is delivered to the County sheltering facility shall be counted as the first day of the five (5) day period provided for in 6.04.06(B).

#### 6.04.07 Animals Causing Injuries

- A. Upon the request of any person who has been bitten or injured by any animal within the corporate limits of the City (or by parent or legal guardian of a person so bitten who is under a disability), the Animal Control Officer shall take such animal, if it is reasonably suspected of the biting or causing the injury, into custody and turn it over to the County for quarantine as required by law.
- B. Any animal having rabies or symptoms thereof or suspected of having rabies or which has been exposed to rabies shall be immediately released by the owner or custodian of such animal to the Animal Control officer and he/she shall turn the animal over to the County for quarantine as provided for in subsection (A) above.
- C. When the licensed veterinarian supervising the quarantine of any animal quarantined under subsection (A) or (B) shall issue the certificate provided for by law, the owner of such animal may retake custody of it upon tender to such veterinarian and/or the Animal Control Officer of their customary and reasonable fees and charge for impounding, boarding, lodging, observation and treating; provided, however, that a person who is bitten by an animal while baiting, teasing, or molesting such animal or while trespassing on the premises of the owner or keeper of said animal shall pay all customary and reasonable charges and fees resulting from his request to have said animal confined and quarantined.
- D. If any animal confined under subsection (A) or (B) is not reclaimed by its owner, such animal shall be released by the veterinarian to the Animal Control Officer who shall treat such animal as one found unlicensed and running at large within the corporate limits of the city.
- E. The licensed veterinarian supervising the quarantine of an animal quarantined under subsection (A) or (B) shall promptly report to the office of the Mayor the place of initial confinement and the disposition of the animal at termination of confinement.

6.04.08 Penalty Any person found guilty of violating any provision of this ordinance shall be deemed guilty of a misdemeanor and shall be fined an amount of not less than Ten Dollars (\$10.00) and not more than Five Hundred Dollars (\$500.00).

6.04.09 Restrictions on Ownership of Multiple Animals

- A. From and after the effective date hereof, no person shall keep more than ten (10) animals on any single premises without obtaining first a kennel license.
- B. There is hereby levied a kennel license fee which shall be in the amount of One Hundred Dollars (\$100.00) and shall be renewable annually.
- C. The kennel license shall be printed on forms to be promulgated by the Recorder/Treasurer and shall contain at a minimum the following information:
  - 1. Owner's name
  - 2. Address of the kennel, and
  - 3. Number and types of animals therein confined.
- D. The kennel license shall be prominently displayed at the location of the kennel described on the license.