

Tabled 7/28

ORDINANCE NO. 2011-05

AN ORDINANCE TO REGULATE THE PIT BULL TERRIER BREED OF DOGS, VICIOUS DOGS AND VICIOUS ANIMALS IN THE CITY OF COTTER, BAXTER COUNTY, ARKANSAS, REPEALING ORDINANCE NO. 2002-05.

WHEREAS, the Mayor and City Council of the City of Cotter had found the keeping of other breeds of dogs or animals which are vicious or dangerous is a public nuisance and a serious threat to the health, welfare, and safety of the citizens of Cotter.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTER, ARKANSAS AS FOLLOWS:

**ARTICLE I
PIT BULL DOGS**

Section 1. Definitions. The words, terms, and phrases and their derivations as used in this ordinance, except where the context clearly indicates otherwise, shall have the following meanings:

- (1) "Pit Bull" means and includes any of the following dogs:
 - a. The bull terrier breed of dog;
 - b. The Staffordshire bull terrier breed of dog;
 - c. The American pit bull terrier breed of dog;
 - d. The American Staffordshire breed of dog;
 - e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs, or pit bull terriers; and
 - f. Any dog which has the appearance and characteristics of being predominately of the breeds of dogs known as bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.
- (2) "Predominately" means knowledge through identification procedures or otherwise, or admission by owner, keeper, harbinger, or possessor that a dog is of the pit bull breed. Predominately also means the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.
- (3) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or possessing pit bull or any other dog regardless of breed determined to be vicious, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. Such dog shall be deemed to be harbored if it is fed or sheltered for two (2) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

Section 2. Pit bull restrictions. It shall be unlawful to keep, harbor, own, or in any way possess a pit bull dog within the corporate limits of the City of Cotter.

ARTICLE II VICIOUS DOGS/VICIOUS ANIMALS

Section 1. Definitions. The definitions included in Article I, Section 1, paragraphs three (3) through ten (10) of this Ordinance shall apply to this Article. Additionally, the following words, terms, and phrases, and their derivations as used in this Ordinance, except where the context clearly indicates otherwise, shall have the following meanings:

- (1) "Animal" means any living vertebrate creature, other than human beings, whether wild or domestic, including but not limited to, all livestock and any domestic pet.
- (2) "Bite" means a wound, laceration or puncture inflicted on a person or animal by the teeth of an animal, or an impression or bruise on the skin made by the closure of an animal's teeth, or a seizure made by the teeth of an animal.
- (3) "Dog" means any commonly domesticated canine animal that is a member of the species *canis familiaris*, and includes both the male and female sex of the species.
- (4) "Domestic animal" means any animal that is tame by nature and includes, but is not limited to, dogs, cats, rabbits and livestock.
- (5) "Kennel" means any animal cage or fenced enclosure specifically intended solely for the confinement of dogs, as well as commercial kennels where the building or premises is utilized for the business of charging fees for boarding, breeding, letting for hire or training of animals.
- (6) "Livestock" means, but is not limited to, cattle, sheep, swine, poultry, ostriches, emus, bees, goats, horses, mules, asses, and llamas.
- (7) "Person" means any individual, partnership, firm or corporation, trust, association or other legal entity.
- (8) "Provocation" means teasing, abusing, or assaulting of a dog.
- (9) "Quarantine" means confined in strict isolation inside a secure, locked building, cage, kennel or pen on account of suspected contagion of communicable disease. Isolation shall be required so that the contact between the confined animal and any person or other animal is not possible, and so it can be observed daily under the supervision of a licensed veterinarian or animal control officer.

- (10) "Unprovoked" means action by a dog not in response to the dog being teased, abused or assaulted by any person, or not in response to pain or injury suffered by the dog.
- (11) "Vicious dog/animal" means a dog or any breed or animal which:
- Approaches any person in an aggressive, menacing, or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public property;
 - Has a known propensity, tendency or disposition to attack, inflict injury to or to otherwise endanger the safety of persons or domestic animals;
 - Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or
 - Is trained for the dog fighting or which is owned or kept, primarily or in part, for the purpose of dog fighting.

Section 2. Vicious dogs/animals prohibited. It shall be unlawful for any person to own, keep, harbor, or possess a vicious dog or animal within the corporate limits of the City of Cotter.

Section 3. Impoundment of vicious dogs or animals. Any vicious dog or animal may be taken into custody by the appropriate authorities of the City of Cotter or agents acting on behalf of the City, and impounded. The dog or animal's owner shall be solely responsible for payment of all boarding fees associated with such impoundment in addition to any punitive fines to be paid.

Section 4. Quarantine. Upon demand made by the Chief of Police or his designee, the owner shall ~~owner shall~~ forthwith surrender any dog or animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine which expense shall be borne by the owner.

Section 5. Court proceedings against the owner. If any vicious dog or animal is impounded, the City of Cotter may institute proceedings in District Court charging the owner with violation of this ordinance. Nothing in this section, however, shall be construed as preventing the City or any citizen from instituting a proceeding for violation of this ordinance where there has been no impoundment.

Section 6. Court findings. If a complaint has been filed in District Court against the owner of a dog or animal for violation of this ordinance, the dog or animal shall not be released from impoundment or disposed of except on order of

the Court and payment of all charges and costs incurred under this ordinance, including penalties for violating this ordinance. The Court may, at its discretion, order the dog to be destroyed in a humane manner.

ARTICLE III PENALTIES, REPEALS AND SEVERABILITY

Section 1. Penalties. Any person found violating the provisions of Article I or Article II of this ordinance, upon conviction, shall be fined up to five hundred dollars (\$500.00) for a first offense and up to fifteen hundred dollars (\$1,500.00) for each and every subsequent offense, as well as an additional fine of two hundred fifty dollars (\$250.00) assessed every day the violation continues.

Section 2. Repeals. All ordinances or part of ordinances found to be in conflict with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. Severability. Should any court of competent jurisdiction declare any section, clause, or provision of this ordinance to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect the validity of the other section, clause, or provision of this ordinance.

PASSED AND APPROVED this ____ day of July, 2011.

Peggy Hammack, Mayor

ATTEST:

Sharon Sugg, Recorder/Treasurer