

ORDINANCE NO. 01

**AN ORDINANCE FOR REGULATION AND CONTROL OF
DOMESTICATED ANIMALS AND UNLEASHED OR
UNRESTRAINED DOGS WITHIN THE TOWN OF BERGMAN
AND THE ENFORCEMENT THEREOF; AND DECLARING
AN EMERGENCY**

WHEREAS, the Bergman Town Council finds that the regulation and the control of dogs and other domesticated animals within the Town is necessary and expedient for the promotion of health and safety within the Town; and

WHEREAS, the Town Council finds that the regulation and control of unleashed or unrestrained dogs within the Town is in the public interest;

THEREFORE, Ordinance No. ____, which amends and replaces Ordinance No. 03-17 is hereby adopted.

I. DEFINITIONS

1. Containment. For the purpose of this Ordinance, containment means an area enclosed by a fence, invisible fence, or other means, or a chain/tether system. A chain/tether must be at least ten (10) feet in length and must be mounted on a cable so as to prevent the animal or the chain/tether from becoming entangled with each other or other objects. It must be attached to a properly fitted collar or harness worn by the animal. It must not weigh more than one-eighth (1/8) of the animal's body weight. Chained/tethered animals must have constant access to shelter and water.

2. Improper Care or Cruelty. For the purpose of this Ordinance, improper care or cruelty includes:

a. Failure of an owner or keeper of a dog or other domesticated animal to provide the animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when necessary, and such other care as is customary and/or necessary for the animal's health and well-being, considering the species, breed, and type of animal.

b. Beating, cruel treatment, torment, overload, overwork, or other abuse of the animal, or the needless killing of the animal.

c. Abandonment of a dog or other domesticated animal.

3. Public Nuisance. For the purpose of this Ordinance, a public nuisance includes:

a. A household having more than three (3) dogs or other domesticated animals.

b. A dog or other domesticated animal which is a safety or health hazard, which damages or destroys the property of another (including garden and flower beds and trees), which creates offensive odors which materially interfere with or disrupt another person in the conduct of lawful activities at such a person's home.

c. A dog or other domesticated animal at large that jumps on, or attempts to injure a person or persons, or that runs after and vocalizes at horses, joggers, pedestrians, bicyclists, or any vehicle being ridden or driven upon the roads or any public grounds or place within the Town.

d. Harboring a dog after the dog has attacked a person as set forth in the definition for Unlawful Dog Attack, below.

4. **Unlawful Dog Attack.** Pursuant to Ark. Code Ann. § 5-62-125, a person commits the offense of unlawful dog attack if:

a. The person owns a dog that the person knows or has reason to know has a propensity to attack, cause injury, or endanger the safety of other persons without provocation;

b. The person negligently allows the dog to attack another person; and

c. The attack causes the death of or serious physical injury to the person attacked.

II. CONTROL REQUIRED

A. Disturbance of the Peace and Quiet Prohibited. Each owner or keeper of a dog or other domesticated animal in the Town shall not permit such dog to disturb the peace and quiet of any person by barking, whining, howling, yowling or making any other noise in an excessive, on-going or untimely fashion. If any dog or other domesticated animal does so disturb the peace and quiet, its owner or keeper shall be deemed guilty of a violation of this section, provided that such owner or keeper shall not be charged with a violation of this section unless they or a member of their household over the age of eighteen (18) years has received a written warning from a police officer of a previous complaint at least once within the preceding twelve (12) months.

B. Public Nuisance Prohibited. It shall be unlawful for any owner or keeper of a dog or other domesticated animal to fail to exercise proper care and control of a pet animal so as to allow it to become a public nuisance.

C. Containment Required. Each dog or other domesticated animal shall be under the control of an owner, leashed, or properly contained at all times. It shall be unlawful for any person to allow their dog or other domesticated animal to run at large within the Town of Bergman. If the owner of such an animal running at large cannot be identified, the animal will be subject to release to a responsible party.

D. Vaccinations Required. Dogs, cats, and other domesticated animals are required to be vaccinated against rabies and other diseases pursuant to Ark. Code Ann. §§ 20-19-301, *et seq.* Failure to vaccinate a dog or other domesticated animal as required by Arkansas law is unlawful.

E. Improper Care or Cruelty Prohibited. It shall be unlawful for any person to subject a dog or other domesticated animal to cruel treatment. It shall be unlawful for any owner or keeper of a dog or other domesticated animal to subject the animal to improper care.

III. ENFORCEMENT

A. Enforcement Personnel. Whenever a police officer has probable cause to believe that a violation of this Ordinance has occurred, the police officer may issue a Citation or Summons and Complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The police officer shall enforce all the provisions of this Ordinance as set forth herein.

B. Right of Entry Granted. Police officers are hereby authorized to enter upon any premises, excluding a dwelling unit, within the Town, for any purpose authorized by this Ordinance.

IV. PENALTIES

Any person found guilty of violating any provision of this Ordinance, whether by acting in a manner declared to be unlawful or by failing to act as required, shall be punished as set forth below.

- (a) The offense of unlawful dog attack is a Class A misdemeanor. In addition to any penalty imposed under this section, the court or jury may require the defendant to pay restitution pursuant to Ark. Code Ann. § 5-4-205 for any medical bills of the person attacked for injuries caused by the attack.
- (b) Any violation of any provision of this Ordinance involving bodily injury to any person by a dog or other pet or domesticated animal shall be a misdemeanor punishable by a minimum of a \$250.00 fine and a maximum of a \$1,000 fine or a maximum of 90 days imprisonment in the County jail, for each separate offense.
- (c) The penalty for violation of any provision of this Ordinance not involving bodily injury to any person by a domesticated animal shall be \$50.00 for the first offense, \$200.00 for a second offense if it occurs within ten (10) days of the first offense but if not, \$75.00; and \$500.00 for any subsequent offense if it occurs within ten (10) days of the second offense, but if not, \$300.00. Each violation of one or more members of a single household shall be counted for the purpose of numbering offenses pursuant to this subsection of this Ordinance.

V. NO LIABILITY FOR ACCIDENT OR SUBSEQUENT DISEASE

Neither the Bergman Town Council or any member of it, nor any police officer, nor any employee of the Town may be held responsible for any damage, accident or subsequent disease that may occur in connection with the administration of this Ordinance.

VI. SEVERABILITY

Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair, or invalidate this Ordinance as a whole or any part thereof other than a part so declared to be invalid.

VII. CONFLICT

All Ordinances or parts of Ordinances in conflict herewith are repealed and superseded.

VIII. EMERGENCY CLAUSE

It is determined by the Town Council that the adoption of this Ordinance is needed without delay in order to protect the interests of Bergman citizens, and an emergency is hereby declared. This Ordinance shall be deemed effective upon its passage and publication.

PASSED AND ADOPTED this 1 day of March, 2022.

TOWN OF BERGMAN, ARKANSAS

BY: *Danny Farmer*
DANNY FARMER, MAYOR

ATTEST:

Donia Cook
DONIA COOK, CITY CLERK