

ORDINANCE NO. 17-03

AN ORDINANCE FOR REGULATION AND CONTROL OF 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 within the Town is necessary and expedient for the promotion of health and safety within the Town;

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. 17-03 is hereby adopted.

SECTION I. CONTROL REQUIRED:

A. Dogs at large Prohibited:

1. All dogs shall be kept under restraint. At all times owners must confine dogs within their homes or within pens, kennels or fences, unless they are controlled on a leash or confined to a vehicle and confined in such a way as to prevent the animal from exiting the vehicle. It shall be unlawful for the owner or keeper of any dog to permit such dog to be at large in the Town. If a dog is found to be at large in the Town, the owner or keeper shall be presumed to have violated this section.

2. All female dogs in heat shall be kept inside a building or within a fence or other enclosure which limits the dog to a particular confined area so that the dog cannot come into contact with a male dog except for planned breeding. When allowed outdoors to relieve itself, the dog shall be under restraint and under observation of its owner or keeper.

4. Nothing herein shall limit the powers of the Town and the Police Officer to impound and destroy a dog running at large as provided under §A.C.A. 14-54-1102.

B. Disturbance of the Peace and Quiet Prohibited:

1. Each owner or keeper of a dog 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 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 the Police Officer of a previous complaint at least once within the preceding twelve (12) months.

C. Public Nuisance Prohibited:

1. It shall be unlawful for any owner or keeper of a dog to fail to exercise proper care and control of his pet animal so as to have it become a public nuisance. For the purpose of this section, a public nuisance includes:

- (a) A dog 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 or which urinates or defecates upon private property not owned or exclusively occupied by the owner or keeper or upon public property if the feces deposited by the pet animal are not immediately removed by the owner or keeper.

- (b) A dog at large that jumps on, or attempts to heard 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.

2. Pursuant to A.C.A. 5-62-125:

- (a) A person commits the offense of unlawful dog attack if:

- (1) 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;

- (2) The person negligently allows the dog to attack another person; and

- (3) The attack causes the death of or serious physical injury to the person attacked.

- (b) The offense of unlawful dog attack is a Class A misdemeanor.

- (c) In addition to any penalty imposed under this section, the court or jury may require the defendant to pay restitution under A.C.A. § 5-4-205 for any medical bills of the person attacked for injuries caused by the attack.

D. Improper Care or Cruelty Prohibited:

1. No owner or keeper of a dog shall fail to provide that dog 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 necessary for the dog's health and well-being, considering the species, breed and type of animal.

2. No person shall beat, cruelly ill-treat, torment, overload, overwork, otherwise abuse or needlessly kill a dog or cause, instigate or permit any dogfight, or other combat between dogs or between dogs and humans, nor shall any person transport or confine a dog in or upon any vehicle in a cruel or reckless manner.

3. No owner or keeper of a dog shall abandon such a dog.

SECTION II. ENFORCEMENT:

A. Enforcement Personnel:

1. 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 of the provisions of this Ordinance as set forth herein.

2. The Town Attorney shall appear on behalf of the Town in all proceedings brought due to any alleged violation of this Ordinance.

3. No person shall knowingly interfere with, impede or obstruct any Police Officer who is attempting to discharge or is in the course of discharging an official duty or fail to obey the lawful order of an Police Officer.

B. Right of Entry Granted:

1. Police Officers are hereby authorized to enter upon any premises, excluding a dwelling unit, in the Town for the purpose of impounding animals which they are authorized herewith to impound, or for any other purpose authorized by the ordinance.

SECTION III. PENALTIES:

A. Liability for violation of Ordinance

1. 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) Any violation of any provision of this ordinance involving bodily

injury to any person by a dog or other pet animal shall be a misdemeanor punishable by a minimum of a \$250.00 fine, and a maximum sentence of twelve (12) months imprisonment or \$1,000.00 fine, or both, for each separate offense.

(b) Any violation of any provision of this ordinance not involving bodily injury to any person by a dog shall be punishable by a fine of not more than \$300.00 or imprisonment in the County jail for not more than 90 days, or both, for each separate offense.

(c) The following violations not involving bodily injury to any person by a dog shall include the following penalties:

i. The penalty for violation of any provision shall be \$50.00 for the first offense, \$100.00 for the second offense, and a minimum of \$150.00 for subsequent offenses.

2. No provision of this Section should be construed to conflict with any penalties for violations contained in any other Section of this Ordinance. Anyone liable for a penalty described in another Section of this Ordinance may also be liable for any penalty described in this Section.

SECTION IV. LIABILITY FOR ACCIDENT OR SUBSEQUENT DISEASE:

The Bergman Town Council, the Police Officer and any Town employees shall not be held responsible for any damage, accident or subsequent disease that may occur in connection with the administration of this Ordinance.

SECTION V. 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.

SECTION VI. CONFLICT

That all Ordinances or parts of Ordinances in conflict herewith shall be repealed and superseded.

SECTION VII. EMERGENCY CLAUSE:

It is determined by the Town Council that the adoption of this Ordinance is immediately necessary to enforce and protect the interests of Bergman citizens, and an emergency is hereby declared and this ordinance shall be in full force and effect from and after passage and publication.

Ordinance No. 17-03

PASSED AND ADOPTED this ____ day of September, 2017.

TOWN OF BERGMAN, ARKANSAS

BY: _____
DANNY FARMER, MAYOR

ATTEST:

DONIA COOK, CLERK AND RECORDER