

EXHIBIT A - PROPOSED CHAPTER 94: ANIMAL CONTROL

§ 94.01 PURPOSE AND INTENT.

(A) The purpose of this chapter is to protect the health, safety and welfare of the public; promote responsible ownership and humane treatment of animals; provide for orderly enforcement of animal-control laws; protect persons and property from animals running at large or presenting a threat; and establish procedures for impoundment, redemption and lawful disposition of animals.

(B) This chapter shall be administered in a manner consistent with the laws of the State of Arkansas, including applicable laws governing rabies control, cruelty to animals, animals running at large, municipal authority over animals and due process.

(C) Nothing in this chapter shall be construed to authorize the combined Code Enforcement & Animal Control Officer to exercise powers reserved by state law to a certified law-enforcement officer unless the employee is independently qualified and acting in that capacity; authorize unlawful entry upon private property; supersede applicable state animal-cruelty, rabies, wildlife or agricultural laws; or alter the zoning classification of property.

§ 94.02 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply unless the context clearly requires otherwise.

ABANDON or ABANDONMENT. Knowingly or intentionally leaving a domesticated animal without reasonable provision for its continued food, water, shelter, custody and necessary care, or otherwise relinquishing possession of an animal without arranging for its continued care.

ANIMAL. Any live nonhuman vertebrate creature. Unless expressly stated otherwise, provisions imposing duties upon an owner or custodian apply only to domesticated animals, livestock, farm animals, or animals otherwise kept or possessed by a person. Wildlife shall be governed by applicable state and federal law.

APPROPRIATE PLACE OF CUSTODY. An animal shelter, veterinary clinic, rescue organization, foster placement, boarding facility or other location approved by the City or authorized law-enforcement personnel for temporary safekeeping of an animal.

AT LARGE. Off the premises of the owner or custodian and not under the immediate physical restraint or effective control of a responsible person, except as otherwise expressly provided.

BITE. An injury in which the skin of a person or animal is penetrated by the teeth of an animal.

CAT. Any domestic feline animal.

CHIEF OF POLICE. The Chief of the Tontitown Police Department or the Chief's authorized designee.

CODE ENFORCEMENT / ANIMAL CONTROL OFFICER or OFFICER. The City employee assigned to the Tontitown Police Department who performs the combined code-enforcement and animal-control duties authorized by City ordinance, job description, policy and applicable law.

DANGEROUS ANIMAL. An animal that, without justification or provocation: (1) attacks, bites or otherwise causes serious physical injury to a person; (2) attacks and causes serious injury or death to a domestic animal while away from the property of its owner; (3) has previously been finally designated potentially dangerous and thereafter engages in conduct satisfying the criteria for a potentially dangerous animal; or (4) has demonstrated by documented conduct that it presents an immediate and substantial threat of serious physical injury to persons or domestic animals. No animal shall be designated dangerous solely because of breed or appearance.

DOG. Any domestic canine animal.

DUMPING. Releasing, depositing, leaving behind or otherwise discarding an animal on public property, private property without the property owner's consent, a roadway, right-of-way, park, commercial area, rural area or other location for the purpose of avoiding ownership or custody responsibilities.

EFFECTIVE CONTROL. Restraint by leash, lead, enclosure or other physical means, or such immediate control by a responsible person that prevents the animal from approaching, threatening, injuring or interfering with another person, animal or property.

ENCLOSURE. A structure, fence, pen or other physical barrier appropriate to the size, strength and characteristics of the animal and sufficient to prevent escape.

FARM ANIMAL or LIVESTOCK. An animal customarily raised in an agricultural environment, including cattle, horses, mules, donkeys, swine, sheep, goats and similar animals, together with animals defined as farm animals by the Tontitown Zoning Code.

FOWL. Chickens, turkeys, ducks, geese, guinea fowl, peafowl and other domesticated birds customarily raised for eggs, meat, agricultural purposes or outdoor exhibition. The term does not include birds customarily kept indoors as household pets.

IMPOUND or IMPOUNDMENT. The taking of lawful custody of an animal by the City or its authorized agent and placement of the animal in an appropriate place of custody.

LAW-ENFORCEMENT OFFICER. A certified law-enforcement officer having lawful authority within the City of Tontitown.

OWNER or CUSTODIAN. A person who owns, possesses, keeps, harbors, cares for, exercises custody or control over, or knowingly permits an animal to remain on premises occupied or controlled by that person.

POTENTIALLY DANGEROUS ANIMAL. An animal that, without justification or provocation: (1) menacingly approaches or pursues a person in an apparent attitude of attack while at large; (2) bites or attacks a person but does not cause serious physical injury; (3) attacks or injures a domestic animal while away from the premises of its owner; or (4) has on two or more documented occasions engaged in aggressive conduct creating a reasonable apprehension of immediate physical injury.

PROVOCATION. Conduct that would reasonably be expected to cause an animal to defend itself, its owner, its offspring or another person against actual or perceived attack or mistreatment. Provocation does not include the ordinary lawful presence of a person upon public property or private property where that person has a lawful right to be.

RESTRAINT. A leash, lead, enclosure, fence, carrier or other means capable of preventing an animal from leaving the owner's premises or escaping the immediate control of its handler.

SERIOUS PHYSICAL INJURY. Bodily injury creating a substantial risk of death, causing substantial or prolonged impairment, requiring significant medical treatment, causing substantial disfigurement, or otherwise constituting serious physical injury under applicable Arkansas law.

STRAY. An animal whose owner cannot reasonably be identified or located.

SWINE. Any animal of the porcine species, including pigs, hogs, boars, sows, barrows, gilts, miniature pigs and potbellied pigs, regardless of size, breed or purpose for which kept.

VETERINARIAN. A veterinarian licensed to practice veterinary medicine in Arkansas.

§ 94.03 ADMINISTRATION; POLICE DEPARTMENT SUPERVISION.

(A) The combined Code Enforcement & Animal Control Officer shall be assigned to the Tontitown Police Department and shall report to the Chief of Police.

(B) The Chief of Police shall establish the Officer's normal supervisory chain, work assignments, dispatch procedures, officer-safety procedures, evidence procedures and animal-control operating procedures consistent with City ordinance and policy.

(C) The Officer may coordinate with the Planning Department, Building Official, Public Works Department, Recorder-Treasurer, City Attorney, Arkansas Department of Health, veterinarians, shelters, rescue organizations and other governmental or private entities when their technical responsibilities relate to a matter under investigation. Such coordination does not alter the Officer's Police Department reporting relationship.

(D) When a matter involves authority reserved by law to a certified law-enforcement officer, the Officer shall route the matter through the Police Department for action by an authorized law-enforcement officer.

(E) Nothing in this chapter shall be interpreted to transfer statutory duties of another elected official or department to the combined Officer.

§ 94.04 AUTHORITY OF COMBINED CODE ENFORCEMENT & ANIMAL CONTROL OFFICER.

(A) Within the scope of this chapter and applicable law, the Officer is authorized to: (1) investigate complaints concerning violations of this chapter; (2) patrol public property and public rights-of-way for animals unlawfully at large; (3) capture and impound animals when authorized; (4) issue warnings and notices of violation and, when expressly authorized by City ordinance, applicable law, and procedures approved by the court having jurisdiction, issue citations for violations of this chapter; (5) inspect conditions visible from places where the Officer has a lawful right to be; (6) request proof of ownership, rabies vaccination or other information reasonably necessary to investigate a violation; (7) transport animals to an appropriate place of custody; (8) coordinate through the Police Department with public-health officials, veterinarians, shelters and rescue organizations; (9) maintain required records; and (10) perform other code-enforcement and animal-control duties lawfully assigned to the position.

(B) Unless independently qualified and acting as a law-enforcement officer, the Officer shall not exercise arrest authority, execute a search warrant, enter a dwelling without lawful consent or other legal authority, exercise authority specifically reserved by state law to a law-enforcement officer, or represent that the Officer possesses police authority not granted by law.

(C) When circumstances involve suspected criminal animal cruelty, threats to persons, resistance, potentially criminal conduct, execution of legal process or another matter requiring law-enforcement authority, the Officer shall notify the Officer's Police Department supervisor and obtain assistance from an authorized law-enforcement officer.

§ 94.05 OWNER'S GENERAL RESPONSIBILITIES.

Every owner or custodian of an animal shall: (A) exercise reasonable care and control to prevent the animal from violating this chapter; (B) provide food, potable water, shelter and care required by Arkansas law; (C) maintain the premises where the animal is kept in a reasonably sanitary condition; (D) prevent accumulation of animal waste creating a health hazard or unreasonable nuisance; (E) comply with applicable rabies-vaccination requirements; (F) prevent the animal from becoming a public nuisance; and (G) comply with lawful quarantine, impoundment, restraint or dangerous-animal requirements.

§ 94.06 ANIMALS RUNNING AT LARGE.

(A) Dogs. It shall be unlawful for an owner or custodian knowingly or negligently to permit a dog to run at large within the corporate limits of the City.

(B) Livestock. It shall be unlawful for an owner or custodian knowingly or negligently to permit livestock or a farm animal to run at large within the corporate limits of the City.

(C) A dog shall not be considered at large when: (1) on the premises of its owner and confined by a fence, structure or other effective means; (2) restrained by a leash or lead controlled by a responsible person; (3) participating in lawful hunting, training, herding, competition or similar activity while under effective control and otherwise lawful; or (4) engaged in official law-enforcement, search-and-rescue or service-animal duties.

(D) A domestic cat shall not be considered unlawfully at large solely because it is outdoors and away from its owner's property, unless the cat is subject to quarantine or confinement, has been designated dangerous or potentially dangerous, is creating a nuisance prohibited by this chapter, or is otherwise required by law to be confined.

(E) An animal found unlawfully at large may be captured and impounded as provided in this chapter.

§ 94.07 NUISANCE ANIMALS.

(A) It shall be unlawful for an owner or custodian knowingly or negligently to permit an animal repeatedly or persistently to: (1) damage property belonging to another; (2) chase, threaten or interfere with pedestrians, bicyclists or lawful traffic; (3) overturn or disturb garbage containers; (4) trespass upon private property after reasonable notice of recurring trespass; (5) create unsanitary conditions affecting neighboring or public property; (6) bark, howl, crow or make other animal noise with such frequency, duration or intensity as to unreasonably disturb neighboring inhabitants; or (7) otherwise create a recurring condition materially interfering with the ordinary use and enjoyment of neighboring property.

(B) In determining whether animal noise constitutes a violation, consideration may be given to time of day, duration and frequency, proximity to residences, whether noise is continuous or intermittent, circumstances causing the noise, and whether the owner took reasonable corrective steps after notice.

(C) Normal animal sounds associated with lawful agricultural activities in zoning districts where such activities are permitted shall not, standing alone, constitute a violation.

(D) Nothing in this section prevents enforcement under Chapter 91 or other applicable nuisance provisions.

§ 94.08 ANIMAL WASTE AND SANITATION.

(A) A person having custody of a dog or other domestic animal upon public property or private property belonging to another shall promptly remove and properly dispose of solid waste deposited by the animal.

(B) Subsection (A) shall not apply when compliance is prevented by a person's disability.

(C) Premises upon which animals are kept shall be maintained so that accumulation of feces, urine, food waste or other animal waste does not create an unreasonable odor, attract vermin, contaminate drainage or create an unreasonable health hazard.

§ 94.09 RESTRAINT AND TETHERING.

(A) An animal kept outdoors shall be restrained or confined in a manner reasonably sufficient to prevent escape and injury.

(B) No animal shall be tethered by a restraint that is likely to become entangled so as to cause injury; uses a choke, pinch or similar collar as the primary tethering device; is of unreasonable weight in relation to the animal; prevents reasonable access to potable water and appropriate shelter; subjects the animal to a substantial risk of injury; or is otherwise cruel or inhumane.

(C) Temporary tethering under the supervision of a responsible person is permitted when conducted safely.

§ 94.10 MINIMUM CARE; STATE ANIMAL-CRUELTY LAW.

(A) No person shall knowingly fail to provide an animal in the person's custody with care required by Arkansas law, including sufficient wholesome food and water and adequate shelter appropriate to the animal's species and type.

(B) No provision of this chapter reduces or replaces any obligation imposed by Arkansas animal-cruelty law.

(C) When facts reasonably indicate possible criminal cruelty or neglect, the Officer shall report the matter through the Police Department. Any securing, seizure, entry, warrant, arrest or other action that state law assigns to a law-enforcement officer shall be performed by an authorized law-enforcement officer.

(D) Nothing in this section independently authorizes seizure of an animal in a manner inconsistent with Arkansas law.

§ 94.11 ABANDONMENT AND DUMPING OF ANIMALS.

(A) It shall be unlawful for any person to abandon or dump a dog, cat or other domesticated animal within the corporate limits of the City.

(B) It shall be unlawful to transport an animal into the City for the purpose of abandonment or dumping.

(C) It shall be unlawful for an owner or custodian knowingly to leave an animal under conditions presenting a substantial likelihood that the condition of the animal will materially deteriorate without prompt intervention.

(D) The Officer may investigate suspected abandonment or dumping and may capture and impound an abandoned animal when otherwise authorized by this chapter.

(E) When suspected abandonment also constitutes possible cruelty or neglect under Arkansas criminal law, the Officer shall notify a law-enforcement officer. Any animal seized in connection with a suspected violation of Arkansas animal-cruelty law shall be secured, held, noticed and disposed of in accordance with A.C.A. §§ 5-62-106 and 5-62-128, as applicable. Only a law-enforcement officer may exercise the temporary securing authority granted by A.C.A. § 5-62-128.

(F) Each animal abandoned or dumped may constitute a separate violation.

(G) The responsible person shall be liable to the City or entity providing care on behalf of the City for reasonable costs incurred for capture, transportation, impoundment, shelter and necessary veterinary treatment to the extent allowed by law.

§ 94.12 SALE, DISTRIBUTION OR GIVEAWAY OF ANIMALS.

(A) It shall be unlawful for any person to sell, distribute or give away animals from public property or from commercial or industrial zoned lands except as otherwise authorized by this section.

(B) This section shall not apply to: (1) a business operating from a permanent structure, lawfully engaged in such activity and possessing all required City licenses; (2) an animal shelter or bona fide nonprofit animal rescue organization participating in an adoption event with permission of the property owner; (3) a City-sponsored or City-authorized adoption activity; or (4) another activity expressly authorized by law.

(C) Nothing in this section authorizes an animal-related use prohibited by the City's zoning regulations.

§ 94.13 RABIES VACCINATION.

(A) Every owner or custodian shall cause each dog, cat or other animal for which rabies vaccination is required to be vaccinated and maintained in compliance with the Arkansas Rabies Control Act and regulations of the Arkansas State Board of Health.

(B) Upon reasonable request during investigation of a bite, quarantine, impoundment or violation, the owner shall provide available proof of current rabies vaccination.

(C) Failure to possess immediate proof of vaccination shall not by itself establish that an animal is unvaccinated when valid proof can reasonably be obtained from a veterinarian or other lawful record.

(D) Nothing in this section modifies any exemption or requirement established by state law.

§ 94.14 ANIMAL BITES AND REPORTING.

(A) A person bitten by a dog, cat or other animal, the bitten person's family, and any treating physician or veterinarian having knowledge of the bite shall promptly notify the appropriate health authorities, as required by A.C.A. § 20-19-306. The owner or custodian of the animal shall promptly provide identifying, ownership and vaccination information reasonably requested by health authorities, the Police Department or the Officer.

(B) The Officer shall promptly report human bite cases through the Police Department and to appropriate public-health authorities as required by law or departmental procedure.

(C) No owner shall sell, give away, transfer, transport to another area or otherwise dispose of an animal known to have bitten a person until the animal has been released by the health authorities. No person shall conceal, destroy or remove such an animal from lawful confinement or quarantine except as authorized by the health authorities or other lawful authority.

(D) An owner shall comply with lawful directions concerning confinement, observation, quarantine, examination or testing.

§ 94.15 RABIES CONFINEMENT AND QUARANTINE.

(A) Animals involved in a human bite or possible rabies exposure shall be handled in conformity with the Arkansas Rabies Control Act and applicable State Board of Health regulations.

(B) A dog or cat that has bitten a person shall be confined and observed for ten days by a veterinarian, the owner or a public pound, as permitted by A.C.A. § 20-19-307 and directed by the appropriate health authorities.

(C) If the animal has not received a current rabies vaccination, or its vaccination status is unknown, the health authorities, county sheriff's office and municipal police shall act cooperatively to have the animal confined and observed. If no local confinement facility is available, the owner shall make satisfactory arrangements or prepare an approved facility for confinement as required by state law.

(D) If the animal has received a current rabies vaccination and the owner provides proof of that vaccination, the owner may confine and observe the animal, subject to the instructions of the appropriate health authorities.

(E) The veterinarian, owner or public-pound personnel responsible for confinement shall notify the local public-health authorities of the animal's disposition at the termination of confinement.

(F) Confinement of a species other than a dog or cat, including the duration and any testing or disposition, shall be determined in consultation with the Arkansas Department of Health as required by state law.

(G) Confinement and observation expenses shall be allocated as provided by A.C.A. § 20-19-307.

§ 94.16 POTENTIALLY DANGEROUS ANIMALS.

(A) When the Officer or a law-enforcement officer has reasonable grounds to believe that an animal satisfies the definition of a potentially dangerous animal, the Officer may issue a written preliminary designation to the owner.

(B) The preliminary designation shall:

(1) identify the animal;

(2) state the material facts supporting the designation;

(3) state the temporary restrictions applicable pending final disposition;

(4) advise the owner of the right to request an administrative hearing;



(5) state that the hearing request must be submitted in writing to the Chief of Police within ten calendar days after service of the notice; and

(6) explain that the designation will become final if the owner does not submit a timely hearing request.

(C) The notice shall be personally delivered to the owner or sent by certified mail, return receipt requested, to the owner's last known address. If neither method is reasonably practicable, the notice may be posted conspicuously at the premises where the animal is ordinarily kept.

(D) Pending final disposition, the owner shall:

(1) keep the animal securely confined upon the owner's premises;

- (2) keep the animal under physical restraint whenever away from the premises;
- (3) prevent unsupervised contact between the animal and persons or animals outside the owner's household; and
- (4) immediately notify the Police Department if the animal escapes.

(E) If the owner submits a timely hearing request, an administrative hearing shall be held within fifteen business days unless continued for good cause. The hearing shall be conducted by the Chief of Police or another hearing officer designated by the Mayor who did not issue the preliminary designation and did not materially participate in the investigation.

(F) At the hearing:

- (1) the City and owner may present testimony, documents, photographs, recordings, veterinary records and other relevant evidence;
- (2) the owner may be represented by counsel at the owner's expense;
- (3) formal rules of evidence shall not apply, but the hearing officer shall consider only reasonably reliable and relevant evidence; and
- (4) the City shall bear the burden of proving by a preponderance of the evidence that the animal satisfies the definition of a potentially dangerous animal.

(G) Within ten business days after the hearing, the hearing officer shall issue a written decision containing findings of fact, a determination affirming, modifying or rescinding the preliminary designation, and any restrictions imposed under this section.

(H) If the owner does not submit a timely hearing request, the preliminary designation shall become final on the first business day following expiration of the hearing-request period.

(I) Upon final designation, the owner shall:

- (1) maintain the animal in a secure enclosure or other secure confinement approved by the Police Department;
- (2) keep the animal under physical restraint by a responsible person whenever away from the premises;
- (3) maintain current rabies vaccination;
- (4) permanently identify the animal by microchip;
- (5) provide the Police Department with current ownership, location and identifying information;
- (6) post a visible warning sign when required by the final decision; and
- (7) immediately report the animal's escape, transfer, death or permanent relocation.

(J) A final designation remains effective unless rescinded by the City, superseded by a court order, or terminated as provided by this chapter. Nothing in this section prevents an owner from pursuing judicial relief otherwise available under Arkansas law.

§ 94.17 DANGEROUS ANIMALS.

(A) When the Officer or a law-enforcement officer has reasonable grounds to believe that an animal satisfies the definition of a dangerous animal, the Officer may issue a written preliminary dangerous-animal designation.

(B) The notice, service, hearing request and administrative-hearing procedures in § 94.16(B) through (H) shall apply to a dangerous-animal designation.

(C) Pending final disposition, the owner shall securely confine the animal. If the animal cannot safely remain upon the owner's property, the Police Department may seek the owner's voluntary surrender of the animal, lawful impoundment, a warrant, a court order or other relief authorized by law.

(D) The City shall bear the burden of proving by a preponderance of the evidence that the animal satisfies the definition of a dangerous animal.

(E) Unless modified by the final administrative decision for good cause, the owner of an animal finally designated dangerous shall:

- (1) keep the animal in a locked enclosure or other secure confinement approved by the Police Department;
- (2) keep the animal under the physical control of a responsible adult and restrained by a secure leash whenever outside the enclosure;
- (3) muzzle the animal whenever away from the premises if required by the final decision;
- (4) maintain current rabies vaccination;
- (5) permanently identify the animal by microchip;
- (6) post a clearly visible warning sign at each normal entrance to the property;
- (7) prevent the animal from remaining unattended in any location where it can readily contact the public; and
- (8) comply with any additional reasonable safety restriction imposed in the final decision based upon the animal's documented conduct.

(F) The owner shall notify the Police Department within twenty-four hours, or as soon as reasonably practicable, if the animal escapes, bites or attacks a person or animal, dies, is transferred or is permanently relocated.

(G) A final designation does not, by itself, authorize involuntary euthanasia, permanent forfeiture or entry upon constitutionally protected property. When such relief is necessary and the owner does not consent, the City shall proceed through a court of competent jurisdiction or another procedure expressly authorized by state law.

(H) Failure to comply with a final designation or restriction imposed under this section constitutes a violation of this chapter and may result in citation, lawful impoundment or appropriate judicial relief.

§ 94.18 EXCEPTIONS TO DANGEROUS-ANIMAL DESIGNATION.

An animal shall not be designated potentially dangerous or dangerous solely because it injured or threatened a person when: (A) the person was unlawfully entering or remaining upon the property, committing or attempting to commit a criminal offense against a person or property, or engaging in conduct reasonably perceived as presenting an imminent threat to a person; (B) the person was tormenting, abusing or assaulting the animal; (C) the animal was protecting its owner or another person from an actual or reasonably perceived attack; (D) the animal was acting in reasonable defense of its offspring; (E) the animal was being used by a law-enforcement agency in official duties; or (F) the incident resulted from other circumstances constituting legal justification or substantial provocation. Ordinary lawful approach or interaction does not, by itself, constitute provocation.

§ 94.19 IMPOUNDMENT AUTHORITY.

(A) The Officer or a law-enforcement officer may impound an animal when: (1) the animal is unlawfully running at large; (2) the animal is a stray and its continued presence creates a threat to its safety or public safety; (3) the animal is injured, ill or incapacitated and the owner cannot reasonably be located; (4) the animal is subject to lawful quarantine or confinement; (5) the animal is subject to a lawful court order; (6) the animal is abandoned; (7) the animal presents an immediate threat and impoundment is reasonably necessary to remove the threat; or (8) impoundment is otherwise authorized by law or ordinance.

(B) Nothing in this section authorizes entry into a dwelling or constitutionally protected area without consent, warrant, exigent circumstances or other lawful authority.

(C) Impoundment for suspected criminal cruelty shall conform to Arkansas law. When state law reserves securing or seizure authority to a law-enforcement officer, the Officer shall notify the Police Department supervisor and the required action shall be performed by an authorized law-enforcement officer.

(D) Reasonable force appropriate to the circumstances may be used to capture an animal where lawful; humane methods shall be used whenever practicable.

(E) An animal seized under the Arkansas animal-cruelty statutes shall not be treated as an ordinary stray or at-large animal for purposes of notice, redemption, alteration, transfer or disposition. Such an animal shall be governed by A.C.A. § 5-62-106 and other applicable state law.

§ 94.20 IDENTIFICATION AND NOTICE FOLLOWING IMPOUNDMENT.

(A) Upon impoundment, reasonable efforts shall be made to determine ownership, including when practicable examination for tags, scanning for a microchip, review of City records, and other reasonably available identifying information.

(B) If the owner can reasonably be identified, the City or its authorized shelter shall provide notice of impoundment by reasonable means.

(C) Before euthanizing a dog carrying its owner's address, the City shall give the owner at least five days' notice of the proposed euthanasia date by certified mail, return receipt requested, as required by A.C.A. § 14-54-1102. Before that date, the owner may claim the dog by satisfying the lawful redemption requirements and reimbursing the City for the cost of notice and other authorized charges.

(D) Failure to identify an owner after reasonable efforts does not prevent lawful disposition after expiration of the applicable holding period.

(E) The Officer shall maintain a record of the animal's description, place and date of capture, known identification, disposition and, where known, owner.

§ 94.21 REDEMPTION OF IMPOUNDED ANIMALS.

(A) Except when prohibited by law or court order, an owner may redeem an impounded animal during the applicable holding period upon reasonably establishing ownership or lawful custody; paying applicable fees and authorized charges; complying with rabies-vaccination requirements; complying with lawful quarantine requirements; and complying with conditions imposed upon a potentially dangerous or dangerous animal.

(B) The City may require proof of identity from a person claiming an animal.

(C) Redemption does not prevent citation or prosecution for the underlying violation.

(D) Redemption shall not be denied solely because an animal lacks a microchip unless microchipping is otherwise required.

§ 94.22 HOLDING PERIOD AND DISPOSITION.

(A) Except when a different period is required by Arkansas law, court order, quarantine or contract, an impounded stray dog or cat shall be held for not less than five calendar days after impoundment before becoming eligible for adoption, rescue transfer or other lawful disposition. If the owner is identified, no euthanasia shall occur until all notice required by § 94.20 and applicable law has been completed.

(B) The City shall not euthanize an identified dog without providing any notice required by A.C.A. § 14-54-1102.

(C) After expiration of the applicable holding period, an unclaimed animal may be adopted, transferred to a bona fide rescue organization or shelter, placed in foster care, returned to an owner when later identified and otherwise lawful, humanely euthanized when lawful and appropriate, or otherwise disposed of as permitted by law.

(D) Nothing requires the City to euthanize an animal merely because a holding period has expired.

(E) When reasonably practicable, adoption, rescue or other live placement should be favored for healthy and behaviorally suitable animals.

(F) An animal suffering from severe injury or illness may receive emergency veterinary treatment or humane euthanasia when a veterinarian determines immediate action is reasonably necessary to prevent substantial suffering, based upon a written determination by a licensed veterinarian documented in the animal's impoundment record and subject to applicable law.

(G) This section does not govern an animal seized as evidence or under the Arkansas animal-cruelty statutes, an animal subject to quarantine, or an animal held pursuant to court order. Such animals shall be held and disposed of only as provided by controlling law or court order

§ 94.23 IMPOUNDMENT AND CARE COSTS.

(A) The owner of an animal lawfully impounded shall be responsible, to the extent permitted by law, for reasonable expenses incurred for capture, transportation, impoundment, daily boarding, rabies vaccination, veterinary examination, emergency or necessary veterinary care, quarantine, required microchipping and other necessary care attributable to the animal.

(B) The City Council may establish or amend standardized animal-control fees by ordinance. A resolution may be used only when applicable law and an existing ordinance expressly authorize the amount to be fixed or adjusted by resolution.

(C) Extraordinary veterinary expenses may be charged at actual reasonable cost.

(D) Costs imposed under this section are separate from criminal or civil penalties.

§ 94.24 INJURED ANIMALS; EMERGENCY CARE.

(A) When an injured or seriously ill stray animal is found and the owner cannot reasonably be contacted, the Officer may transport the animal to a veterinarian or appropriate place of custody.

(B) Reasonable emergency treatment may be authorized in accordance with City policy and available appropriations.

(C) Nothing obligates the City to authorize extraordinary medical treatment when a veterinarian determines humane euthanasia is appropriate because of catastrophic injury, terminal illness or extreme suffering.

(D) When the owner is subsequently identified, reasonable costs may be recovered as authorized by law.

§ 94.25 ANIMALS IN MOTOR VEHICLES.

(A) No person shall confine an animal in a motor vehicle under environmental or other conditions that the person knows or reasonably should know create an imminent and substantial risk of serious injury or death to the animal.

(B) When the Officer observes an animal apparently in immediate danger and entry into the vehicle may be required, the Officer shall promptly notify sworn Police Department personnel or other emergency personnel as appropriate.

(C) Nothing in this section independently authorizes a civilian Officer to forcibly enter a motor vehicle.

(D) Law-enforcement officers may act pursuant to applicable Arkansas law and other lawful authority.

§ 94.26 SWINE, FOWL, LIVESTOCK AND FARM ANIMALS.

(A) Swine. It shall be unlawful to own, keep, harbor, maintain or permit any swine within the corporate limits of the City, except as part of a lawful agricultural operation located:

1. Within an A-1 Agricultural zoning district;
2. Outside the boundaries of a platted residential subdivision; and
3. In compliance with all applicable zoning, setback, sanitation, nuisance and animal-control requirements.

(B) Fowl. It shall be unlawful to own, keep, harbor, maintain or permit chickens, turkeys, ducks, geese, guinea fowl, peafowl or other domestic fowl within the corporate limits of the City except:

1. As part of a lawful agricultural operation satisfying subsection (A);
2. As hobby chickens lawfully maintained in accordance with § 153.171;
3. For ducks or other fowl maintained by or with the authorization in any City Park;
4. For birds customarily kept indoors as household pets, including parrots, parakeets, cockatiels, canaries and similar birds; or
5. During lawful and continuous transportation through the City in a vehicle or appropriate carrier.

(C) No animal authorized by this section may be kept in a front yard unless expressly permitted by the Tontitown Zoning Code. Enclosures, shelters, pens and waste-storage areas shall comply with all applicable setback and location requirements.

(D) All swine, fowl, livestock and farm animals shall be confined by fencing, an enclosure or another restraint reasonably adequate for the species. An owner shall promptly retrieve any animal that escapes confinement.

(E) Premises upon which swine, fowl, livestock or farm animals are kept shall be maintained so that feces, urine, feed, standing water and other waste do not create an unreasonable odor, attract flies

or vermin, contaminate drainage, or create an unreasonable health or sanitation hazard. Compliance with this subsection does not preclude enforcement under § 94.08, Chapter 91 or another applicable nuisance provision.

(F) Swine, fowl, livestock or farm animals found unlawfully at large may be restrained and impounded as provided in this chapter. Reasonable expenses incurred in capturing, transporting, boarding or caring for the animal may be recovered from the owner to the extent permitted by law.

(G) Nothing in this section authorizes an animal or animal-related land use in a location where it is prohibited by the Tontitown Zoning Code. When interpretation of zoning permissions or land-use status is necessary, the Officer may obtain a determination from the City official responsible for administering the Zoning Code. Such coordination does not alter the Officer's Police Department chain of command.

§ 94.27 FERAL AND COMMUNITY CATS.

(A) A healthy free-roaming cat whose ownership cannot be established shall not automatically be classified as dangerous or a nuisance merely because it is unconfined.

(B) The Police Department's animal-control function may work with shelters, rescue organizations and community programs for humane management of free-roaming cats, including adoption, sterilization, vaccination and return programs where lawful and appropriate.

(C) Nothing in this section prevents intervention involving a sick, injured, dangerous or rabies-suspect cat; excuses an identifiable owner from compliance; or requires the City to establish or fund a trap-neuter-return program.

§ 94.28 MICROCHIPPING.

(A) General microchipping of all dogs and cats is not required by this chapter.

(B) Microchipping shall be required as a condition of continued possession or redemption for an animal finally designated dangerous; an animal finally designated potentially dangerous when ordered by a court or accepted by the owner in writing; or an animal upon a second or subsequent impoundment within a twelve-month period. No animal held as evidence or seized under the Arkansas animal-cruelty statutes shall be microchipped, sterilized or otherwise altered without the owner's written consent or a court order, except for treatment authorized by law.

(C) The owner shall maintain current contact information associated with a microchip required by this section.

§ 94.29 INTERFERENCE WITH ENFORCEMENT.

It shall be unlawful knowingly to: (A) use or threaten physical force to interfere with the lawful capture, transport or custody of an animal, or otherwise knowingly obstruct the lawful performance of duties under this chapter, provided that no conduct protected by the United States Constitution or Arkansas law constitutes a violation; ; (B) release an animal from lawful City custody without authorization; (C) remove or alter a lawful quarantine, dangerous-animal or impoundment notice without authorization; (D) knowingly provide materially false ownership or vaccination information during an official investigation; or (E) conceal or relocate an animal for the purpose of defeating a lawful impoundment, quarantine or court order. Nothing prohibits a person from declining consent to a search, requesting legal counsel, contesting a citation or otherwise exercising a constitutional or statutory right.

§ 94.30 ENTRY UPON PRIVATE PROPERTY.

(A) Nothing in this chapter authorizes entry into a dwelling, enclosed structure or constitutionally protected portion of private property without consent, a valid warrant, exigent circumstances recognized by law or other lawful authority.

(B) The Officer may approach a residence or business by routes reasonably open to members of the public for purposes of contacting an occupant, delivering notice or conducting lawful official business.

(C) The Officer may retrieve an animal from private property with consent of the person lawfully controlling the property or under other lawful authority.

(D) When legal process or law-enforcement action is required, the Officer shall proceed through the Officer's Police Department chain of command.

§ 94.31 ENFORCEMENT; WARNINGS AND CITATIONS.

(A) Violations may be enforced by warning, notice of violation, citation, prosecution, impoundment, court order or other remedy authorized by law.

(B) Except when immediate action is reasonably necessary to protect a person or animal, the Officer may use education or a written warning for a first minor violation when voluntary compliance will adequately protect the public.

(C) No warning is required before enforcement for an animal attack, dangerous animal, abandonment or dumping, cruelty or serious neglect, repeated running at large, violation of quarantine, interference with enforcement, an immediate threat to public safety or a repeat violation.

(D) Each animal involved may constitute a separate violation when appropriate.

(E) A continuing violation may constitute a separate violation for each day it continues, subject to limitations imposed by Arkansas law.

(F) The combined Officer may issue a citation only when expressly authorized by City ordinance, applicable law, and procedures approved by a court having jurisdiction. Nothing in this chapter grants the Officer arrest authority or authority reserved to a certified law-enforcement officer. .

§ 94.32 PENALTIES.

(A) Unless another penalty is specifically provided by applicable state law, a violation of this chapter shall be punishable pursuant to the general penalty provision of the Tontitown Code of Ordinances, § 10.99, and within maximum penalties authorized by Arkansas law.

(B) No fine or continuing-violation penalty imposed under this chapter shall exceed the applicable maximum established by A.C.A. § 14-55-504, as amended.

(C) In addition to a lawfully imposed fine, a court may order restitution or reimbursement of reasonable capture, transportation, impoundment, boarding, veterinary treatment, quarantine and other animal-care costs to the extent authorized by law.

(D) Remedies are cumulative to the extent permitted by law.

§ 94.33 RECORDS.

The Police Department shall maintain or cause to be maintained records sufficient to document animal-control activity, including as applicable complaints received; warnings and citations; animals impounded; location and circumstances of capture; identification and ownership information; bite incidents; vaccination and quarantine information; dangerous-animal cases; veterinary expenditures; redemption, adoption, transfer, euthanasia or other disposition; and fees or costs assessed or collected. Records shall be maintained in accordance with applicable law and City records-retention requirements.

§ 94.34 RELATIONSHIP TO ZONING AND OTHER CITY ORDINANCES.

(A) This chapter regulates animals and animal-related conduct and does not replace zoning regulations governing location, number or land-use characteristics of animals, kennels, animal-care facilities, agricultural operations or hobby chickens.

(B) Sections 153.170 and 153.171 and other applicable provisions of Chapter 153 remain in effect.

(C) When both this chapter and another City ordinance apply, they shall be construed together whenever reasonably possible.

(D) Nothing creates a right to maintain an animal-related land use otherwise prohibited by zoning.

(E) Technical interpretation of a zoning, building or property-maintenance provision remains with the official or body assigned that responsibility by the applicable City ordinance. The combined Officer may enforce such provision to the extent lawfully assigned while remaining under the Police Department's supervisory chain.

§ 94.35 STATE AND FEDERAL LAW; WILDLIFE; SERVICE ANIMALS.

(A) This chapter does not authorize possession, capture, relocation or disposition of wildlife contrary to Arkansas Game and Fish Commission regulations, federal law or state law.

(B) Matters involving protected wildlife shall be referred through appropriate channels to the agency having jurisdiction when necessary.

(C) Nothing in this chapter restricts rights afforded to a person accompanied by a service animal under applicable state or federal law.

§ 94.36 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions.

§ 94.37 CONFLICTS.

All ordinances or portions of ordinances in conflict with this chapter are repealed only to the extent of the conflict.

§ 94.38 EFFECTIVE DATE.

This chapter shall become effective as provided in the ordinance adopting it and applicable Arkansas law.