

Passed: _____

AN ORDINANCE

No. 2023-21

AN ORDINANCE TO AMEND SECTIONS 4-1-1, 4-1-3, 4-1-5, 4-1-6, 4-1-9, 4-1-11, 4-1-57, 4-1-77, AND 4-1-81, AS WELL AS ARTICLE 2 OF CHAPTER 4-1 OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE AND TO ADD ARTICLE 7 TO CHAPTER 4.1 OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:

SECTION I

Section 4-1-1 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

Sec. 4-1-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned animal means any domesticated animal that shall have been placed upon public property or within a public building, unattended or uncared for, or upon or within the private property of another without the express permission of the owner, custodian or attendant of the private property and is unattended or uncared for. Any domesticated animal shall also be considered as abandoned which shall have been upon or within the property of the owner or custodian of this animal for a period of time in excess of thirty-six (36) hours unattended and without proper food and water.

Animal at large means an animal not under restraint.

Animal control officer.

- (a) Animal control officer means any officer, agent or employee of the city designated by the city council to perform the duties of animal control and enforcement of this article and perform the duties of dog control officer pursuant to OCGA Section 4-8-22(c).
- (b) In the event that the city enters into a governmental agreement with another government agency to provide animal control services, then the animal control officer shall be the individual or individuals so designated by that governmental agreement.

ORDINANCE NO. 2023-21

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include any entity, which is, or is housed on the premises of, a breeder or broker, obtains dogs from a breeder or broker in exchange for payment or compensation, or resells dogs obtained from a breeder or broker and provides payment or compensation to such breeder or broker.

Animal shelter means any facility operated by or under contract for the state, county, a municipal corporation, or a political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

Animal under restraint means any animal, except a dangerous or potentially dangerous animal, that is:

- (1) Controlled within the property limits of its owner;
- (2) Controlled by a leash;
- (3) At heel or beside a competent person and is obedient to the person's commands;
or
- (4) Within a vehicle being driven or parked on the streets.

Community Cat means any stray or feral cat (unowned and free roaming) that has been impounded by the animal control unit and marked by surgical ear-tip in accordance with the Community Cat Program.

Dangerous animal means any animal other than livestock maintained on agricultural property, that, according to the records of an appropriate authority:

- (1) Has without provocation inflicted severe injury on a human being on public or private property; or
- (2) Aggressively bites, attacks, or endangers the safety of humans, domesticated animals or agricultural animals without provocation after the animal has been classified as a potentially dangerous animal and after the owner has been notified of such classification.

Domesticated animals means animals that are accustomed to living in or about the habitation of a natural person, including, but not limited to, cats, dogs, cows, fowl, horses, swine, domesticated wild animals and/or exotic animals, except animals classified as dangerous or potentially dangerous by the animal control officer.

ORDINANCE NO. 2023-21

Exotic animals means any animal not native to the United States or any large native animal not customarily kept in captivity outside zoological gardens. This would include but not limited to large reptiles, predatory birds, toothless mammals, wild hoofed animals, elephants, wild cats, wild dogs, bears, musk bearing carnivores, marsupials and primates.

Guard dog means any dog which has been trained to attack persons or other animals independently or upon oral command and any dog which, while not so trained, is reasonably expected to perform as a guardian of the property upon and within which he is located.

Habitual violator means any owner or member of the same household that are found guilty of violating two or more of the same sections of this chapter more than once in any twelve-month period when the violations for two or more of the same sections occur on separate days.

Hall County Animal Shelter means the animal shelter operated by Hall County, Georgia.

Harbors means providing comfort and safety by providing food, water or shelter for more than 7 days.

Humane Society means the Humane Society of Hall County or any corporation, organization or association existing for the purpose of prevention of cruelty to animals, education for humane treatment of animals or animal adoption for stray animals.

Indiscriminate breeder means someone who is not licensed by the Department of Agriculture, does not have a City of Gainesville business license, intentionally or unintentionally breeds their animals.

Livestock means a horse kept for personal use not for commercial purposes.

Owner means any natural person or any legal entity, including but not limited to, a corporation, partnership, firm or trust owning, possessing, harboring, keeping or having custody or control of a dangerous animal or potentially dangerous animal within this city.

Pet shop means a retail establishment where animals are sold, advertised for sale, exchanged, offered for adoption, bartered or offered for sale, auctioned as pet animals to the public for retail. Such definition shall not include a private residence not generally open to the public, an animal control facility or animal rescue organization as defined.

Potentially dangerous animal means any animal, other than livestock maintained on agricultural property, with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings, or any animal that when unprovoked:

- (1) Inflicts injury on a human being on public or private property;
- (2) Chases or approaches a human being upon the street, sidewalks or any public grounds or the private property of another in a vicious or terrorizing manner in an apparent attitude of attack;

ORDINANCE NO. 2023-21

- (3) Causes the death of another domesticated animal or agricultural animal; or
- (4) On more than one occasion causes injury to another domesticated animal or agricultural animal unless the other domesticated animal or agricultural animal was not under restraint at the time.

Poultry means any domesticated bird kept by humans as a pet or for their eggs including chickens, fowl, hens and bantams not for commercial purposes.

Proper enclosure means an enclosure for keeping a dangerous animal or potentially dangerous animal while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping.

- (1) Any such structure shall have a secure top, and if the animal is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed in such a manner as to prevent the animal's escape either from over or from under the fence;
- (2) If the enclosure does not have a floor, the sides of the enclosure shall be embedded in the ground not less than two (2) feet. Any such enclosure shall also provide protection from the elements for the animal;
- (3) An enclosure shall be required with a minimum of 100 square feet per animal except for an animal transported by vehicle, an animal being boarded in a licensed facility, or any animal under 25 pounds;
- (4) A provision of at least a ten-foot metal chain or metal cable (does not include rope) that cannot become tangled tethered or chained outside. This form of tether shall not be used as a permanent means of restraint.

Public nuisance animal means an animal that is repeatedly found at large, damages the property of another, attacks or bites without provocation or chases vehicles, bicycles or people.

Records of appropriate authority means records of any state, county or municipal law enforcement agency; records of any county or municipal animal control agency; records of any county board of health; records of any federal, state or local court; records of a dog control officer as provided in OCGA Section 4-8-22; or records of an animal control officer as provided by this article.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.

SECTION II

Section 4-1-3 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

ORDINANCE NO. 2023-21

Sec. 4-1-3. – Enforcement.

- (a) The primary responsibility for enforcement of this chapter shall be vested in the animal control unit which may call such other officers and employees of the police department and the code enforcement division of the city as may be necessary for the enforcement of this chapter. Animal control officers may exercise good faith discretion in the implementation and enforcement of the provisions of this article. Enforcement shall be used upon a complaint lodged with an animal control officer or observations made by an animal control officer.
- (b) Upon information known to or a complaint lodged with any officer or member of the animal control unit, the police department, or code enforcement division that any owner or possessor of a domesticated animal is in violation of this chapter, a summons shall be issued requiring the owner or possessor of such domesticated animal to appear before the judge of the municipal court on a day and time certain to stand trial for the violation of this chapter. If such violation of this chapter has not been witnessed by an officer or other employee of the city, a subpoena shall be issued to the person making the complaint requiring such person to appear on the day and time set to testify on behalf of the city. In the event that the owner or possessor of any domesticated animal is not known, and such domesticated animal is at large in violation of this chapter, upon complaint made to, or information known to the animal control unit, it shall be the duty of the unit to immediately take possession of such domesticated animal and impound it according to such rules and regulations now or hereafter prescribed by law, this Code or by the ordinances of the city for the detention, control and disposition of domesticated animals.
- (c) Upon information known to or upon a complaint being lodged with an animal control officer, the police department, or code enforcement division that an animal is dangerous or potentially dangerous and not being kept by its owner under restraint in compliance with this chapter, the animal control officer or the police department shall issue a citation for the violation of this chapter to the owner of the animal to appear before the judge of the municipal court on a day and time certain for a hearing to determine if such animal is dangerous or potentially dangerous. If such violation has not been witnessed by an officer or other employee of the city, a subpoena shall be issued to the person making the complaint requiring such person to appear on the day and time set to testify on behalf of the city.
- (d) Upon finding that the animal is dangerous or potentially dangerous and that the owner knew said animal was dangerous or potentially dangerous, the animal may be impounded by the animal control unit or the police department until such time the owner of the dangerous or potentially dangerous animal provides proof of compliance with the duties of the owner of dangerous or potentially dangerous animals as set forth in section 4-1-57. Any owner shall be held to know that such animal was dangerous or potentially dangerous if the animal had at any time displayed any one (1) or more of the behaviors described in the definition of dangerous or potentially dangerous animal under this chapter.

ORDINANCE NO. 2023-21

- (e) All impounded animals shall be housed and cared for at the Hall County Animal Shelter and/or the Humane Society facilities.
- (f) In the event that the city enters into a governmental agreement with another government agency to provide animal control services, then the primary responsibility for enforcement of this chapter shall be vested in the animal control unit of that agency and the individual or individuals so designated by that governmental agreement.

SECTION III

Section 4-1-5 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

Section 4-1-5. - Vicious animals, running at large prohibited, impounding, killing.

- (a) It shall be unlawful for the owner of any vicious or dangerous animal to allow the same to run at large, and any person who shall allow such animal to run at large with notice or knowledge of its vicious or dangerous character, shall be punished as prescribed in section 1-1-7 of this Code. It shall be the duty of the police officer or code enforcement officer having knowledge that such animal is at large to immediately impound such animal and hold it under the provisions of section 4-1-6.
- (b) If impracticable to impound the animal, or if the delay or attempt to impound the same be attended with danger, it shall be the duty of the police officer or code enforcement officer to kill the animal.
- (c) In the event that the city enters into a governmental agreement with another government agency to provide animal control services, then the primary responsibility for enforcement of this chapter shall be vested in the animal control unit of that agency and the individual or individuals so designated by that governmental agreement.

SECTION IV

Section 4-1-6 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating subsection 4-1-6(a) in its entirety and amending it to read as follows:

Section 4-1-6. - Impounding, redemption, sale of unclaimed animals.

- (a) The chief of police shall cause to be taken up and impounded any and all animals or fowl found running at large in violation of this chapter. Whenever any animal or fowl is impounded and so remains unclaimed for twenty-four (24) hours, the code enforcement officer shall immediately cause notice of the taking up of such animals, or fowl, with description of same, to be posted in at least three (3) conspicuous and public places within the city, with notice that the same will be sold, stating the place and time, not less than five (5) days from the posting of the notice. The owner shall be required to come forward before the sale and claim the same, and such animal or animals, or fowl, shall be delivered

ORDINANCE NO. 2023-21

to the owner upon the payment of the prescribed fees. If such animals are not claimed and fees paid before the sale, then the city marshal shall proceed to sell the same to the highest bidder, for cash, and the proceeds of the sale, after paying the expense incurred, shall be deposited in the treasury of the city, to be refunded to the former owner of the animals or fowl sold, upon proof of ownership when claimed by him, provided the same is claimed within six (6) months.

SECTION V

Section 4-1-9 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

Section 4-1-9. - Dead animal carcasses.

Dead animal carcasses shall be well buried by the occupant of any premises on which they may be. All other carcasses shall be reported to the public works director, his designee or the city marshal and shall not be disposed of otherwise. Such person or the chief of police shall have all carcasses in the streets or in private lots, at once removed out of the city limits and then buried or otherwise disposed of so as not to create a nuisance. All such dead carcasses shall be removed at the expense of the owners of the animal, if known, and the finance director shall collect the fee for the same as provided by law.

SECTION VI

Section 4-1-11 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

Section 4-1-11. - Dying or coloring certain animals and fowl for display, sale, gift, etc., prohibited.

No person in the corporate limits of the city shall sell, offer for sale, or give away, or display living baby chicks, ducklings, fowl, rabbits, or any other animals which have been dyed, colored or otherwise treated so as to impart to them an artificial color.

SECTION VII

Article 2 of Chapter 4-1 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

ARTICLE 2. – POULTRY AND ANIMAL YARDS

Sec. 4-1-31. - Purpose.

It is the intent of this Article to permit certain uses in residential districts which involve the keeping of limited numbers of domestic animals or pets. This article is further intended to minimize problems which may arise from such animal uses and to provide suitable standards for protections of health, safety, welfare and preservation of residential districts from indiscriminate raising of

ORDINANCE NO. 2023-21

animals for personal purposes. These restrictions apply to all residential zoning districts and P-U-D residential zoning districts and shall be subject to all state and local health codes.

Sec. 4-1-32. - Definition.

For the purpose of this article, the term "poultry and animal yard" includes every enclosure, shed or structure used to house live domesticated animals not for commercial purposes.

Sec. 4-1-33. Permitted uses.

- (a) Horses, cows, pigs, ponies, donkeys and other domestic livestock may be kept or bred for home use and enjoyment. Livestock shall be limited to one such animal per two acres and is only permitted within the R-I-A zoning district. No building or structure or shelter shall be located within 200 feet of any property line.
- (b) Domestic pets. Cats, dogs, rabbits or other generally recognized domestic pets may be kept or bred by persons residing on the property for their use and enjoyment.
- (c) The keeping of poultry including chickens, fowl, hens and bantam hens for personal purposes on a residential lot shall be permitted, subject to the following requirements:
 - (1) Shall be permitted only on property that contains a dwelling occupied by the property owner;
 - (2) Shall be for non-commercial, personal use only. The selling of poultry is not permitted;
 - (3) Shall only be permitted as pets or for egg production and shall not be kept for slaughter;
 - (4) The keeping of roosters or bantam roosters is not permitted;
 - (5) The minimum lot size for keeping poultry shall be one-half acre;
 - (6) No more than six poultry shall be permitted on any lot;
 - (7) Shall be kept securely fenced within a rear yard at least 50 feet from any property line;
 - (8) Fencing shall be a maximum of 6 feet in height;
 - (9) Coops for housing poultry shall not exceed 24 square feet in size and 6 feet in height and shall have an architectural pleasing appearance consisting of wood, metal or composite materials and chicken wire;
 - (10) Poultry run space shall not exceed 48 square feet in area separate from the coop;
 - (11) All coops and surrounding areas are to be property maintained and kept clean so as not to become a public nuisance as defined by state law. Coops and feed are to be secured at all times to prevent any potential nuisance with mice or other rodents and pests;

Sec. 4-1-34. - Prohibited uses.

- (a) The keeping of livestock or exotic animals shall not be permitted in the City of Gainesville; provided, however, that in the R-I-A zoning district a personal horse stable may be permitted as a principal use, or an accessory use to the residence, provided that at least two acres of lot area is provided for each horse stabled on the property. No building or structure for shelter of horses shall be located within 200 feet of any property line.

ORDINANCE NO. 2023-21

(b) All commercial breeding and keeping of animals and poultry of any nature is hereby prohibited in all residential zones.

(c) Notwithstanding any provision in this chapter to the contrary, the killing, slaughtering and/or butchering of livestock, fowl or other domestic or farm animals, whether for personal consumption or for resale or gift, is expressly prohibited in all residential districts.

Sec. 4-1-35. - Notice of violation.

Upon the filing of a written complaint with the animal control officer, failure to properly clean and drain such animal yard, run or coop enclosure within ten (10) days after being duly notified by the city shall constitute a violation of this section, and each person shall upon conviction in the municipal court be punished as provided in section 1-1-7 of this Code. The notice described in this section shall be subject to sections 6-9-1 and 6-9-2.

Sec. 4-1-36. - Failure to abate violations.

If the legal owners or the person in possession of the premises on which the violation exists shall fail to abate the violation after conviction in municipal court, then the city, by and through its agents, shall abate the violation, charge the costs thereof to the legal owner of the premises, and the legal owner of the premises shall be required to pay the cost of such abatement to the city.

Sec. 4-1-37. - Penalty.

Any person who violates this article shall be punished as provided in section 1-1-7. Each day such violation exists ten (10) days after receipt of notice of violation shall be considered a separate offense. In addition to any other penalties allowed by law, the court, as part of the sentence, may include conditions mandating the spay and neuter of offender's animals, prohibiting the offender from owning, possessing, or having on the offender's premises any animal. A person determined by the courts to be an "Indiscriminate Breeder" shall be mandated to spay or neuter all of their animals. In the event that the owner cannot afford to do so or would rather surrender their animals to the Hall County Animal Shelter, they shall not own any animals for a period of (2) years.

Secs. 4-1-38 through 4-1-55. – Reserved.

SECTION VIII

Section 4-1-57 of the Code of Ordinances of the City of Gainesville is hereby amended as follows:

Section 4-1-57 is hereby amended by adding a subsection (3) to Section 4-1-57(d) to read as follows:

- (3) Proper enclosures for potentially dangerous, dangerous and vicious animals shall not be constructed within 1 mile of a school, daycare or church and no felon shall own, house, or be in control of a potentially dangerous, dangerous, or vicious animal. Currently housed and in compliance potentially dangerous, dangerous or vicious animals will be grandfathered in if a new school, daycare or church is

ORDINANCE NO. 2023-21

constructed within 1 mile of such existing enclosure, provided no violations occur with such classified animal.

Section 4-1-57 is hereby further amended by replacing the term “confiscated” with “removed” in Section 4-1-57(e)(3) to read as follows:

- (3) Any animal that has been confiscated under the provisions of this section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this article within twenty (20) days of the date the animal was removed, such animal shall be destroyed in an expeditious and humane manner.

SECTION IX

Section 4-1-77 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

Section 4-1-77. – Running at large prohibited.

- (a) It shall be unlawful for the owner of any dog or cat to permit, or anyone having a dog or cat in his possession and control to permit, such dog or cat to be out of control and unattended off the premises of the owner in the city, or upon the property of another person without permission of the owner or person in possession thereof. A public nuisance animal includes any animal that:
 - (1) Is repeatedly found at large;
 - (2) Damages the property of another; or causes injury to a person (not from an aggressive attack);
 - (3) Attacks or bites without provocation;
 - (4) Chases vehicles, bicycles, or people; or
 - (5) Found with no owner's tag, microchip, or other form of owner's information that would aid in returning the animal to the rightful owner.
- (b) Subsection (a) shall not apply to an “animal under restraint” as defined in this chapter.

SECTION X

Section 4-1-81 of the Code of Ordinances of the City of Gainesville is hereby amended by eliminating it in its entirety and amending it to read as follows:

Section 4-1-81. – Indiscriminate breeder.

It shall be unlawful to be an indiscriminate breeder within the jurisdiction of this governing authority.

ORDINANCE NO. 2023-21

SECTION XI

Chapter 4-1 of the Code of Ordinances of the City of Gainesville is hereby amended adding Article 7 to read as follows:

ARTICLE 7. – HALL COUNTY ANIMAL SHELTER

Sec. 4-1-150. – Community Cat Program/Feral Cat Colonies

- (a) The Community Cat Program/Feral Cat Colonies/Barn Cat Program may be focused in the areas of the City where the number of unowned free roaming cats located in such area is high as determined by the Community Cat Program personnel.
- (b) Cats brought into the Community Cat Program are exempt from registration, licensing, and stray animal provisions of this chapter, and shall not be deemed abandoned when returned to the location where captured, and as necessary and appropriate, may be exempt from other provisions of this Code applicable to owned animals.
- (c) Any stray cat without traceable form of identification that is impounded or brought to the animal shelter and deemed eligible by using best practices, may immediately be placed into the Community Cat Program. Healthy, ear-tipped cats shall not be impounded, as they are already considered part of the Community Cat Program.
- (d) Nothing within this subsection shall be construed to authorize individuals to enter upon private property without consent of the property owner to trap and/or release any stray cat.

Sec. 4-1-151.- Restrictions on the sale of dogs and cats.

- (a) A pet shop may not sell, advertise for sale of, exchange, offer for adoption, barter, offer for sale, auction, or otherwise deliver or transfer a cat or dog. Nothing in this chapter shall prevent a pet shop from providing space and appropriate care for cats and dogs owned by an animal control facility or an animal rescue organization and maintained at the pet shop for the purpose of adopting those animals to the public.
- (b) Disclosure- A pet shop that provides space for the adoption of cats and dogs shall post, in a conspicuous location on the cage or enclosure of each such animal, a sign stating the name of the animal control facility or animal rescue organization which owns the dog or cat offered for adoption.

Sec. 4-1-152 – Roadside sales.

- (a) It shall be unlawful for any person to sell, exchange, trade, barter, lease or display for commercial purpose or profit any dog, cat, or domestic rabbit on or in any roadside, public right of way, parkway, median, park, other recreational area, flea market or other outdoor market, or commercial or retail parking lot, regardless of whether access to such location is authorized,

ORDINANCE NO. 2023-21

- (b) This section shall not apply to the adoption of dogs, cats, or domestic rabbits by an animal shelter or animal rescue organization; or the display of dogs, cats, or domestic rabbits as part of a station or city/county fair exhibition, 4-H program or similar exhibition or educational program.

Sec. 4-1-153 – Violations.

- (a) Each failure to post a sign for an individual dog or cat as required by this article shall constitute a separate offense.
- (b) Each dog or cat sold, exchanged bartered, offered for sale, auctioned delivered, or transferred in violation of this article shall constitute a separate offense.
- (c) Each day any violation of this article shall continue shall constitute a separate offense.

SECTION XII

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION XIII

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

SECTION XIV

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville.

W. Samuel Couvillon, Mayor

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this Ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Denise O. Jordan, City Clerk