

ORDINANCE NO. 1363-03-2015

AN ORDINANCE AMENDING CHAPTER 3 ANIMAL CONTROL OF THE CODE OF THE CITY OF GAINESVILLE, TEXAS; AMENDING SECTION 3-1 DEFINITIONS TO CHANGE OR ADD DEFINITIONS OF FERAL ANIMAL, TNR CAREGIVER, TNR PROGRAM CAT AND TRAP-NEUTER-RETURN PROGRAM; AMENDING SECTION 3-8 IMPOUNDMENT TO CLARIFY PROCEDURES FOR TNR CATS AND WILD ANIMALS; AMENDING SECTION 3-10 DISPOSITION OF ANIMALS TO CLARIFY THE DISPOSITION OF TNR CATS; AMENDING SECTION 3-14 ANIMAL NUISANCE TO ALLOW TNR CAREGIVERS TO FEED TNR CATS; AMENDING SECTION 3-20 LIVESTOCK TO ALLOW POULTRY TO BE KEPT IN RESIDENTIAL AREAS; ADDING SECTION 3-31 TO CREATE A TRAP-NEUTER-RETURN PROGRAM; PROVIDING A CONFLICTING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, feral cats currently exist and roam free throughout the City of Gainesville, Texas; and

WHEREAS, the City currently addresses nuisances caused by feral cats through trapping, sheltering, adoption and humane euthanasia; and

WHEREAS, the City recognizes the potential for a well-managed trap-neuter-return (TNR) program as a mechanism to reduce existing feral cat populations and to reduce the euthanasia rate of feral cats; and

WHEREAS, in the interest of instituting a successful program for the TNR it is prudent to develop a program that is designed to reduce the number of feral cats which are euthanized, establishes standards for the management of feral cats, and provides for the minimization and abatement of nuisances caused by feral cats;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS:

SECTION 1.

Chapter 3 "Animal Control", Section 3-1 "Definitions" of the Code of the City of Gainesville is hereby amended to change the definition for "Feral animal" and to add the

definitions for "TNR Program Cat", "TNR Caregiver", and "Trap-Neuter-Return Program" to read as follows:

Sec. 3-1. – Definitions.

Feral animal shall mean a domestic animal, which has returned to its wild state, living on its own and generally avoids human contact.

TNR Caregiver means a person who is permitted in accordance with the City's Trap-Neuter-Return Program Policy to provide care, including, food, shelter or medical care to a TNR Program Cat, such a person shall not be considered the owner or keeper of the TNR Program Cats.

TNR Program Cat means a cat that is abandoned, stray, lost, or feral and cared for by a TNR caregiver pursuant to this ordinance. Moreover, the cat must be neutered or spayed, vaccinated, eartipped and registered with a TNR Sponsor to be considered as a TNR Program Cat.

Trap-Neuter-Return (TNR) Program: A program authorized by the City pursuant to which feral cats are trapped, neutered or spayed, vaccinated, chipped, eartipped, and returned to an approved person.

SECTION 2.

Chapter 3 "Animal Control", Section 3-8 "Impoundment" of the Code of the City of Gainesville is hereby amended to add Section 3-8(e) to read as follows:

Sec. 3-8 Impoundment

(a) The following animals may be impounded:

- (1) Cats or dogs not exhibiting evidence of vaccination or registration.
- (2) Any animal kept under conditions, which can endanger the public or animal health.
- (3) Any animal that has rabies or symptoms of or that a person could reasonably suspect of having rabies or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that required observation for rabies as determined by the animal control officer.
- (4) Any animal running at large.
- (5) Any animal treated in a manner determined to be in violation of V.T.C.A, Penal Code, § 42.09 Animal Cruelty, as amended.

- (6) Any animal in violation of any provision of this chapter.
- (7) Any animal reasonably suspected of having inflicted bodily harm on any human being or animal and that poses a threat to public safety or constitutes a public nuisance.
- (8) Any prohibited animal.
- (9) TNR Program Cats shall not be impounded under this section merely for being at large or not exhibiting evidence of vaccination or registration.

(b) If any animal is found on the premises of any person, that person may confine such animal in a humane manner until the animal control officer impounds such animal. When so notified, it may be impounded by a City of Gainesville Animal Control Officer or Police Officer. This section does not affect a property owner's rights to humanely address nuisance wildlife on the owner's property.

(c) The chief of police or his designee shall select and establish facilities in the city for the impoundment, quarantine, maintenance, and destruction of animals.

(d) Reasonable effort shall be made by the animal control officer to contact the owner of any animal impounded, which is wearing a current vaccination tag, however, the final responsibility for an impounded animal is that of the owner.

SECTION 3.

Chapter 3 "Animal Control", Section 3-10 "Disposition of Animals" of the Code of the City of Gainesville is hereby amended to read as follows:

Sec. 3-10 Disposition of Animals

(a) Except as provided herein, any animal not redeemed within the stated time periods in section 3-9, after impoundment, or release from quarantine, shall become the property of the city and shall at the direction of the animal control officer be placed for adoption, transferred to a bona fide humane society, or humanely destroyed.

(b) Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by a court of competent jurisdiction.

(c) Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide care for the baby may be immediately destroyed to prevent further suffering. Any impounded animal that appears to be suffering from extreme injury or illness may be immediately destroyed to prevent further suffering.

(d) Any owner who no longer wishes responsibility for an animal or believes the animal to be ill or injured may sign a written waiver supplied by the animal control officer

allowing the animal to be adopted or destroyed by the city. The owner of such animal shall be charged a fee, as established by the city council, for this service.

(e) Animals appearing to be feral, uncontrollable, or vicious and not wearing an identification tag, collar or vaccination tag can, at the discretion of the animal control officer or police officer, may be destroyed. TNR Program Cats shall not be destroyed merely for being feral and/or not wearing tags under this section.

SECTION 4.

Chapter 3 "Animal Control", Section 3-14 "Animal Nuisance" of the Code of the City of Gainesville is hereby amended to read as follows:

Sec. 3-14 Animal Nuisance

The following shall be considered a public nuisance and shall be unlawful:

(1) The keeping of an animal in such a manner as to endanger the public health, by the accumulation of animal waste, which causes foul and offensive odors considered to, be a hazard to other animals or human beings.

(2) To permit or allow an animal to defecate upon private or public property other than the property of the owner of said animal; and to fail to remove and dispose of in a sanitary manner any feces left by such animal.

(3) Property not kept free from decaying animal carcasses.

(4) To maintain bees or bee hives in any residential area of the city.

(5) To keep any animal, which causes loud and unusual barking, howling or other noise, that disturbs the peace and quiet of any person of ordinary sensibilities.

a. Each complaint of such a violation is punishable as a separate offense.

(6) For any animal to be running at large in the city limits more than seventy-two (72) hours.

(a) Any animal which is impractical or impossible to capture and is causing property damage, endangering persons or other domestic animals shall be deemed a nuisance and may be destroyed by a trained experienced animal control officer or police officer.

(7) To place or make convenient food or containers of food on any property or city street in the City of Gainesville for the purpose of feeding stray animals. TNR Program Cats may be fed in accordance with City of Gainesville TNR Program Policy by TNR Caregivers.

SECTION 5.

Chapter 3 "Animal Control" Section 3-20 "Livestock" of the Code of the City of Gainesville is hereby amended to read as follows:

Sec. 3-20 Livestock

(a) It shall be unlawful for any person to keep, own, maintain, use or have in their possession or on-premises under their control within the city limits any livestock, except in compliance with the provisions of this chapter and zoning requirements.

(b) It shall be unlawful for any person to keep any swine within the city.

(c) All equine shall be vaccinated in accordance with state law. The health records should be available upon request by an animal control officer or police officer to ensure public health and safety.

(d) All livestock shall be kept in a suitable enclosure. A maximum of one (1) livestock may be kept on a lot of five (5) acres. A ground area of not less than one (1) acre of unobstructed space for each additional livestock shall be required on the site, lot or property. Furthermore, it shall be unlawful for any person to keep more of said animals that can be cared for under sanitary conditions.

(e) The provisions of this subsection shall not apply to commercial farm operations or horse-training facilities on a minimum of fifteen (15) acres located in an agriculture zone as established by the City of Gainesville Zoning Ordinance.

~~(f) Poultry shall not be kept on property of less than five (5) acres and must meet livestock confinement restrictions in this section as well as being located in an agriculture zone as defined in the City of Gainesville Zoning Ordinance.~~

(1) Poultry must be kept indoors, or if outdoors, in a secure pen or enclosed yard. Litter and droppings from these animals must be collected and disposed of in accordance with this chapter; provided, however, that the provisions of this section shall not apply to ducks or other waterfowl inhabiting natural or manmade watercourses or bodies of water.

(2) Roosters are banned within the corporate limits of the city except for areas zoned or designated for agricultural purposes or on a lot of 5 acres or more, and are declared to be nuisances under V.T.C.A., Local Government Code ch. 217 when located in residential districts.

(3) No more than 12 poultry animals are allowed per household.

(4) Ducks, turkeys, geese, guinea fowl and peacocks are prohibited. It shall be unlawful to own or keep ducks, turkeys, geese, guinea fowl or peacocks within the corporate city limits except in agriculture zoned districts, lakes or other natural or manmade watercourses or bodies of water, and public park lands.

(g) Confinement restrictions.

(1) Any enclosure, pen, corral or other restrictive area for livestock or poultry may not be located within one hundred-fifty (150) feet of any other property that is residentially zoned and owned by a different person. Chickens that are allowed in residential zones are exempt from this requirement.

(2) Any enclosure, pen, corral or other restrictive area for livestock must be kept clean of debris, litter and manure.

(3) Confinement restrictions do not apply to grazing areas.

(h) Livestock pens, stables, corrals or enclosures shall be capable of preventing the entry of the general public and capable of preventing the escape of the livestock.

(i) Livestock are prohibited on city streets and city parks. Livestock are however permitted to use city streets or parks during events that have been issued permits for such use.

(j) Livestock currently in the city that does not meet the confinement requirements shall be grandfathered, as long as, the owner of the property registers with the animal control officer within thirty (30) days of the passage of the ordinance from which this chapter derives. The property will be grandfathered only to the extent that the property can be maintained in a sanitary and clean condition with the same type and number of animals on the property. The property will lose its grandfathered status with any change of ownership or the property is found to be unsanitary or unclean.

SECTION 6.

Chapter 3 "Animal Control", Section 3-31 "Community Cat Initiative" of the Code of the City of Gainesville is hereby added to Chapter 3 "Animal Control" to read as follows:

Sec. 3-31 Trap Neuter Release Program

The Police Chief shall develop and administer a Trap, Neuter, and Return (TNR) Program designed to reduce the number of Feral Cats which are euthanized, to establish standards for the management of Feral Cats, and to provide for the minimization and abatement of nuisances caused by feral cats.

SECTION 7. PROVIDING FOR CONFLICTING CLAUSE

That this ordinance shall be cumulative of all other ordinances of the City of Gainesville, Texas and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 8. PROVIDING A SAVINGS CLAUSE

That all rights or remedies of the City of Gainesville, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation,

both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9. PROVIDING FOR SEVERABILITY CLAUSE

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 10. PROVIDING FOR PUBLICATION

That the City Secretary of the City of Gainesville, Texas is hereby directed to publish the caption summarizing the purpose of this ordinance and the penalty for violating this ordinance for two (2) days in the official newspaper of the City of Gainesville, Texas as authorized by V.T.C.A. Local Government Code Subsection 52.013.

SECTION 11. PROVIDING AN EFFECTIVE DATE

This ordinance shall take effect after adoption and publication as required by law.

INTRODUCTION, FIRST READING

INTRODUCED AND READ FOR THE FIRST TIME BEFORE THE CITY COUNCIL OF THE CITY OF GAINESVILLE ON THE 3RD DAY OF MARCH 2015.

6 AYES, 0 NAYS, 1 ABSENCES, AND 0 ABSTENTIONS

ATTEST:

 /s/
CAITLYN HUDDLESTON, CITY SECRETARY

 /s/
RAY NICHOLS, MAYOR PRO TEM

SECOND READING

READ FOR THE SECOND TIME BEFORE THE CITY COUNCIL OF THE CITY OF GAINESVILLE ON THE 17TH DAY OF MARCH 2015.

5 AYES, 1 NAYS, 1 ABSENCES, AND 0 ABSTENTIONS

ATTEST:

 /s/
CAITLYN HUDDLESTON, CITY SECRETARY

 /s/
RAY NICHOLS, MAYOR PRO TEM