

ORDINANCE NO. 15-021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS, AMENDING CHAPTER 7, "ANIMALS AND FOWL" OF THE "THE CODE OF THE CITY OF GALVESTON, 1982, AS AMENDED" TO ADDRESS MANDATORY SPAYING AND NEUTERING; PROVIDE REGULATIONS FOR FERAL CATS; PROVIDE PROVISIONS REGARDING MICROCHIP AND LICENSING; UPDATING DEFINITIONS; PROVIDING FOR FEES AND PENALTIES; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of the City of Galveston 1982, as amended (the "City Code") provides various regulations relating to animals; and

WHEREAS, the Animal Control Division of the Galveston Police Department (Staff) has identified a need to update and modify Chapter 7, "Animals and Fowl" to address mandatory spaying and neutering, regulation of feral cats, updating definitions, providing for microchip of animals and providing for fees and penalties; and

WHEREAS, the increased number of feral cats roaming the streets and alleys of Galveston Island has caused significant concern from citizens; and

WHEREAS, a need for preventative measures to deal with the increasing population of feral cats has been brought to the City Council's attention;

WHEREAS, the City of Galveston recognizes that Galveston Island is a nationally ranked birding location and promotes responsible cat ownership practices to ameliorate the destructive impact that feral cats may have on the bird population; and,

WHEREAS, the City of Galveston does not currently have ordinances specifically regulating feral cats; and

WHEREAS, the Galveston Animal Services Committee recommends updating and modifying Chapter 7, "Animals and Fowl" to address mandatory spaying and neutering, regulation of feral cats, updating definitions, providing for microchip of animals and providing for fees and penalties; and

WHEREAS, the City Council of the City of Galveston, Texas, deems it in the public interest to accept the regulations proposed by City Staff.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 7 “Animals and Fowl” of “The Code of the City of Galveston 1982, as amended” is hereby amended to read and provide as follows:

ARTICLE I. - IN GENERAL

Sec. 7-1. - Definitions.

~~*Animal Control Officer means an officer who has responsibility for animal control and is employed by the city or the animal shelter.*~~ *Animal Control Officer or ACO means an officer who is employed or appointed by the City of Galveston who is responsible for animal control and is authorized to investigate violations of laws and regulations concerning animals and to issue citations in accordance with Texas law and this Code.*

Livestock means an animal raised for human consumption or an equine animal.

Microchip means a small radio frequency identification device that is inserted between the shoulder blades of an animal and is inert until activated by a scanner. The microchip provides specific information about an animal's identity.

Owner means any person, firm, corporation, organization, or department who owns or has custody or control of ~~the~~ an animal. An animal is presumed to be owned by any person who feeds, provides water, shelters, or restrains the animal. If the "owner" of an animal is a minor, the parent or guardian of that minor shall be responsible for compliance with animal control ordinances, damages caused by an attack sustained by any person or domestic animal, and any determinations, orders, fines, or civil penalties imposed.

Sec. 7-10. - License—Issuance and tag.

Upon payment of the required fee and presentation of a current rabies vaccination certificate and proof of microchip a license and a license tag shall be issued. An animal may not be licensed that has not been vaccinated in accordance with this article. The license and tag shall be valid for the year of issuance. The fees may be used only to help defray the cost of administering this chapter or the ordinances or rules of the city animal control or police.

Sec. 7-14. – Impoundment - Mandatory Spay/Neuter of Impounded Animals.

- (d) Any dog or cat found to be without a microchip or registration tag attached to a collar worn by the dog or cat is declared to be a stray animal. Stray dogs and cats are declared to by be a public nuisance. Stray dogs and cats shall be impounded for a period of three (3) days 72 hours. After 72 hours the stray dog or cat becomes the property of the animal shelter who after which time the animal shelter may make a humane disposition of each unclaimed stray dog or cat, including making the dog or cat available for adoption. The animal shelter may retain a dog or cat that it wishes to make available for adoption.
- (e)- Any stray dog or cat impounded must be spayed or neutered prior to adoption, in accordance with state law.
- (e) Required; exceptions.
- (1) Any stray dog or cat impounded must be spayed or neutered prior to adoption, in accordance with state law.
- (2) All dogs or cats impounded within the corporate city limits will be spayed/neutered prior to being released to the owner. The cost to spay/neuter the animal shall be paid by the owner along with the impound fees.
- (3) The following animals will not be spayed/neutered as directed under subsection (a):
- a. The animal weighs less than 2 pounds;
- b. A licensed veterinarian certifies that the dog or cat should not be spayed/neutered for health reasons or is permanently non-fertile;
- c. The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work;
- d. Animals picked up for the first time belonging to a breeder that has:
- i. A copy of the animal's health statement; and
- ii. Paid the fee for a first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spay/neutered.
- e. Animals picked up for the first time belonging to an Owner that has:
- i. A copy of the animal's health statement; and
- ii. Paid the fee for a first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spayed/neutered.

Sec. 7-15.1. - Nuisance Animal - Noise

It shall be unlawful for the owner or keeper of any animal to allow the animal to bark, howl, whine or make any sound in such a manner, with such intensity, or with such

continued duration so as to annoy, distress or disturb the quiet, comfort or repose of persons of normal sensibilities within the vicinity of hearing thereof. A violation of this section shall be a class C misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars.

Sec. 7-18.2. – Prohibition of sale of animals in a public place.

- (a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away or convey the ownership of any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place.
- (b) It shall be unlawful for any person to display any animal for a commercial purpose on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.
- (c) This section shall not apply to any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any organization recognized by the animal authority.
- (d) Any animal being conveyed in a manner in violation of this Code shall be subject to seizure and impoundment at the discretion of the authority and subject to applicable codes for disposition of impounded animals.

ARTICLE V. - FEES

Sec. 7-41. - Fees enumerated.

- (b) Impoundment fees shall be collected by the animal shelter:
 - (1) Thirty dollar (\$30.00) impoundment fee plus fifteen dollars (\$15.00) each day with a minimum one day fee. The animal shelter will collect thirty dollars (\$30.00) for rabies vaccinations, if tags are not current, and the appropriate city registration fee (tag to be issued once rabies has been given). If an animal is impounded more than one time from the same owner or address, the impoundment fee shall be increased by ten dollars (\$10.00) for altered animals or twenty-five dollars (\$25.00) for unaltered animals for each offense. Two-Hundred dollars (\$200.00) for first time redemption fee for a breeding animal.

SECTION 3. Chapter 7 “Animals and Fowl” of “The Code of the City of Galveston 1982, as amended” is hereby amended by adding Article VII. “Feral Cats” to read and provide as follows:

ARTICLE VII. FERAL CATS

Sec. 7-43. Definitions.

For the purpose of this Article, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural.

Director means the Chief of Police or Designee.

Department herein means the Police Department of the City of Galveston.

Domesticated Cat means a cat that is socialized to humans and is appropriate as a companion for humans.

Eartipping means straight-line cutting of the tip of the left ear, or V cuts in the ears of a cat while the cat is anesthetized.

Feral Cat means a cat that (a) is born in the wild or is the offspring of an owned or feral cat and which is not socialized; (b) is a formerly owned cat that has been abandoned; ~~or (c)~~ and is no longer socialized.

Nuisance, for purposes of this Article, means conduct by stray or feral cats that cause property damage, injury to persons, or disturb the peace. Stray or feral cats may create a nuisance by (a) habitually or continually howling, crying, or screaming; (b) habitually and significantly destroying, desecrating, or soiling property against the wishes of the owner of the property; or (c) causing significant damage to natural resources.

Sponsor is a person or group approved and authorized by the Animal Shelter or department that agrees to comply with the requirements of this Ordinance for Sponsors and provides written notice to the Animal Shelter or department that it will serve as a Sponsor.

Stray Cat means a cat that is regularly off the property of the owner, is not under the physical control and restraint of the owner, and is not regularly provided with food by its owner.

Sec. 7-44. Responsibilities of Owners of Domesticated Cats.

(a) Owners of domesticated cats shall provide appropriate and adequate food, water, and shelter for their cats.

- (b) The owner of a domesticated cat shall exercise reasonable care to guard against the cat creating a Nuisance.
- (c) An owner shall not abandon a domesticated cat.

Sec. 7-45. Nuisance.

- (a) A stray or feral cat causing a nuisance may be impounded.
- (b) A property owner may take measures to abate a nuisance caused by a stray or feral cat on the owner's private property in a humane manner.

Sec. 7-46. - Congregations of unconfined and unlicensed stray cats and dogs.

- (a) It is unlawful for any person to intentionally cause, suffer or permit the maintenance of an attractive environment for the assembly of a congregation of unconfined and unlicensed stray cats or dogs by the placement of dog food or cat food. For purposes of this section a "congregation of unconfined and unlicensed stray cats or dogs" means any four or more dogs or cats which:
 - (1) May, of their own volition, enter or leave the property on which the food is placed;
 - (2) Are not wearing valid city license tags issued pursuant to this chapter; and
 - (3) Are not part of a trap, neuter, and return program.
- (b) For purposes of this section, "cat food" or "dog food" means any commercially prepared cat or dog food or any other food item or product that is subject to consumption by dogs or cats.
- (c) It is an affirmative defense that the dogs or cats were free-roaming and that the person placed the food solely for the purpose of apprehending the dogs and cats and:
 - (1) Delivering them to the Galveston Island Humane Society;
 - (2) Delivering them to an animal humane organization;
 - (3) Delivering them to a licensed veterinarian for sterilization as part of a trap, neuter and return program; or as part of an approved and monitored program to prevent the estrus cycle in free-roaming females until sterilization; or
 - (4) Obtaining a rabies vaccination and a current license issued by the city for such animals.

Sec. 7-47. Trap Neuter Return (TNR)

Trap, neuter, and return program means a program approved by the director in which feral cats are humanely trapped, evaluated, vaccinated, sterilized, and marked by an identifying notch in the left ear by a veterinarian or other authorized personnel and returned to the trap location or other area approved by the director under the supervision of a sponsor.

The Animal Care and Control Agency may promote:

- (1) The reduction of euthanasia of animals for which medical treatment or adoption is possible; and
- (2) The utilization of trap, spay, neuter or other sterilization techniques and return practices as a means of controlling the feral cat population.

Sec. 7-48. Enforcement.

- (a) The Department or its designee, in order to encourage the stabilization of the Feral Cat population in the City of Galveston, shall have the following rights, which shall be exercised at its reasonable discretion:
 - (1) The right to trap in a humane manner and remove any cats that (a) have not been vaccinated against rabies or which are demonstrating signs of the disease; (b) are not spayed or neutered; or (c) otherwise for public health or public safety concerns.
 - (2) If no issue of public health or safety exists, or if any issues of public health and safety can be addressed by the removal and relocation of the cat to another area, the Department may direct a Sponsor to arrange to have the cat spayed or neutered, eartipped, and vaccinated against rabies by a licensed veterinarian. The Sponsor may then arrange for the cat to be adopted or released.
 - (3) If a Feral Cat is demonstrating (a) signs of having rabies; (b) has a severe illness or injury; or (3) presents a hazard to public health or to its own person, that cat may be humanely destroyed.
 - (4) The Director or designee has the right to remove or to direct a Sponsor to remove a Feral Cat that is creating a nuisance, if, within ten (10) days, the Sponsor failed to adequately resolve a nuisance or to comply with the Director's direction with respect to correcting the nuisance. If the Sponsor fails to correct the nuisance, the Director shall have the right to remove the cat.
 - (5) No cat shall be released into or adjacent to an established nature preserve or in a habitat where known endangered or listed species reside or breed.
 - (6) A report will be provided to City Council on the effectiveness of this Ordinance on the issue of feral cats and making changes, if needed, within two (2) years of adoption of the ordinance.

Sec. 7-49. Penalty.

(a) A person who violates a provision of this Article shall upon conviction be deemed guilty of a Class C misdemeanor and shall be fined a sum not to exceed two hundred dollars (\$200.00) for each offense.

(b) Each day that a violation continues shall constitute a separate offense.

SECTION 4. It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared invalid by a final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION 5. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 6. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 7. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the 26th day of March, 2015, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2015.

Secretary for the City Council
of the City of Galveston