

**STATE OF GEORGIA
CITY OF DORAVILLE**

ORDINANCE 2021-07

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA, BY PROVIDING FOR COMMUNITY CAT TRAP, NEUTER AND RELEASE PROGRAM; TO PROVIDE FOR ADDITIONAL CHANGES TO THE ANIMAL CONTROL ORDINANCE TO MATCH STATE LAW AND DEKALB COUNTY REGULATIONS; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES

WHEREAS, the Mayor and Council of the City of Doraville is the governing authority charged with making policy directives; and

WHEREAS, Chapter 4 of the City Code provides for animal control procedures and adopts regulations concerning enforcement of animal control within the City of Doraville; and

WHEREAS, the Mayor and City Council find that there are cats roaming in the City that are not individually owned and not registered, and pose a risk of overpopulation; and

WHEREAS, the Mayor and City Council deem it necessary to provide for a community cat program in order to manage the unowned cat population in the City and provide for the public health, safety and welfare of the citizens of the City.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

That the Code of Ordinances, City of Doraville, Georgia, is hereby amended by revising Chapter 4 ("Animals"), Section 4-1 ("Definitions") to add definitions for the terms "Community Cat," "Community Cat Program," "Stray Animal" and "Vicious Animal," delete the definition of "potentially dangerous animal," and revise the definitions of "Owner" and "Dangerous Animal" to read as follows:

"Community Cat" means an unowned, free-roaming cat that has been marked by surgical ear-tip pursuant to the Community Cat Program.

"Community Cat Program" means a comprehensive process whereby unowned free-roaming cats are captured humanely, transported to a veterinarian for evaluation, spay/neuter surgery, rabies vaccination and marking by surgical ear-tip, and returned to the area or location where the cat was captured.

"Dangerous animal" means any animal that, according to the records of an appropriate authority:

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury, provided, however, that a nip scratch or

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abrasion shall not be sufficient to classify an animal as dangerous;

- (2) Aggressively attacks in a manner that causes a person to reasonably believe that the animal poses an imminent threat of serious injury to such person or another person although no such injury occurs; provided, however, that the acts of barking, growling or showing of teeth by an animal shall not be sufficient to classify an animal as dangerous; or
- (3) While off the owner's property, kills a pet animal; provided that no animal shall be classified as dangerous when the death of such pet animal is caused by a dog that is working or training as a hunting dog, herding dog, or predator control dog.

"Owner" means any person, firm, corporation, partnership, association, or other legal entity that owns, harbors, keeps, has lawful possession of, or has control or custody of any animal. An animal shall be deemed to be harbored if it is fed and/or sheltered for three (3) or more consecutive days. Owners include, but are not limited to, operators or managers of stables, kennels, pet shops or other animal care establishments. A cat may be deemed "unowned" if the cat is found on the property of a natural person or legal entity disclaiming ownership of the cat and no traceable form of identification is displayed on the cat.

"Stray Animal" means any animal at large, whether lost by its owner or otherwise, that may be in or on the common areas of apartments, condominiums, trailer parks or other multi-residential premises, any single-family residential property, or any other property or public area without being controlled by a leash, that does not have an identification tag or microchip, and otherwise has no identifiable owner. A Community Cat shall not be classified as a Stray Animal, but a cat which has not become a part of the Community Cat Program is a Stray Animal.

"Vicious animal" means one that inflicts serious injury on a person, or one that causes serious injury to a person resulting from reasonable attempts to escape the animal's attack.

Section 2

That the Code of Ordinances, City of Doraville, Georgia, is further amended by revising Chapter 4, Sections 4-13 ("Dangerous and Potentially Dangerous Animals"), 4-14 ("Exemptions from Classification as a Potentially Dangerous or Dangerous Animal") and 4-16 ("Confinement of Potentially Dangerous or Dangerous Animals") to read as follows:

Sec. 4-13. Dangerous and Vicious Animals.

- (a) If the Police Chief learns of the existence of a dangerous animal or a vicious animal, the Police Chief shall then cause a summons to be issued

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within seventy-two (72) hours requiring the owner of the animal to appear before a judge of the City of Doraville Municipal Court at a date and time certain, no earlier than fifteen (15) days after service, to conduct a hearing as to the appropriate classification of the animal. The summons so issued shall be served on the owner personally. The Police Chief shall also immediately impound the animal believed to be dangerous or vicious.

- (b) The court shall determine after a hearing if the animal is to be classified as a dangerous animal or vicious animal. In making its findings in this regard, the court shall enter a written order notifying the animal's owner and the Police Chief of its decision.
- (c) The appeal of any order of the court concerning the classification of an animal as vicious or dangerous shall be by petition for writ of certiorari to the Superior Court of DeKalb County.
- (d) If the court classifies the animal as dangerous or vicious, and no appeal is filed, the owner shall be required to obtain an annual certificate of registration in compliance with the requirements of Dekalb County, including the provisions of Section 5-12 of the DeKalb County Code. No vicious or dangerous animal shall be released to its owners until such certificate is issued.
- (e) If the owner fails to obtain the certificate of registration as required by Dekalb County, the animal will be euthanized no earlier than thirty-five (35) days after the issuance of the order so classifying the animal. The animal shall not be euthanized if the owner appeals the court's classification order by petition for writ of certiorari to the Superior Court of DeKalb County within thirty (30) days after the order of classification. During the pendency of the appeal and any further appeals, the animal shall not be euthanized, provided that in the event the classification order is upheld at the conclusion of all appeals, the animal shall be euthanized no earlier than thirty-five (35) days after the final order upholding the classification if the owner does not obtain the required certificate of registration within thirty (30) days after the date of the final order of court upholding the classification order. In the event the owner appeals the court's order, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In such event, the animal will be housed at a licensed veterinarian's office or a licensed boarding house and the cost of such detention shall be borne by the owner of the animal. In the event the City appeals the court's order, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In the event of an appeal

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by the City, the animal will be housed in the Dekalb County animal resource center and the cost of such detention shall be borne by the City.

Sec. 4-14. Exemptions from Classification as a vicious or dangerous animal.

An animal shall not be classified as a dangerous animal or vicious animal:

- (a) When the animal bites, attacks or menaces anyone who assaults the animal's owner;
- (b) When the animal bites, attacks or menaces anyone who willfully trespasses, or commits another tort, upon the property of the owner;
- (c) When the animal bites, attacks or menaces anyone who is currently, or has in the past, tormented or abused the animal;
- (d) Where the animal is otherwise acting in defense of an attack from a person or other animal upon the owner or other person;
- (e) Where the animal is protecting or defending its young or another animal; or
- (f) Where a dog is being used by a law enforcement or military officer to carry out official duties; or
- (g) When the animal bites, attacks or menaces anyone who is committing or attempting to commit an offense in violation of O.C.G.A. §16-5-1, et. seq.

Sec. 4-16. Confinement of Dangerous or Vicious Animals.

- (a) Classified animals shall be confined in a classified animal pen.
- (b) The owner of dangerous classified animal must post signs on all means of ingress and egress to the premises where the animal resides. Such signs shall read in letters at least three quarters (3/4) of an inch high: "Dangerous/Vicious Animal On Property." Such signs shall be no smaller than eight and five-tenths (8.5) by eleven (11) inches.
- (c) Whenever outside its classified animal pen, but on the owner's property, a classified animal shall be attended by the owner, muzzled by any means sufficient to prevent the biting of persons or animals, and restrained by a secure collar and leash of sufficient strength to prevent escape. Such leash shall not exceed three (3) feet in length.

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- (d) No classified animal shall be permitted off the property of its owner unless accompanied by the owner, muzzled by any means sufficient to prevent biting of persons or animals and restrained by a secure collar and leash of sufficient strength to prevent escape. Such leash shall not exceed three (3) feet in length. In the alternative, the classified animal when off the owner's property may be contained in a closed and locked cage or crate.
- (e) The owner of a classified animal shall make the animal and the area of confinement available for periodic, unannounced inspections by the police chief or to ensure compliance with the confinement requirements of this section, provided the owner consents to such entry and inspection. If consent is not obtained, the police chief shall obtain an inspection warrant prior to any inspection in accordance with the requirements of state law.

Section 3

That the Code of Ordinances, City of Doraville, Georgia, is further amended by revising Chapter 4, Section 4-24 ("Enforcement Generally") to read as follows:

- (a) The police chief shall enforce the provisions of this Chapter.
- (b) Upon information learned by, or complaint lodged with the police chief that an animal owner is in violation of this chapter, the police chief shall cause a summons to be issued requiring the owner of the animal to appear before a judge of the City of Doraville Municipal Court at a date and time certain, to stand trial for the violation. If a violation has not been personally witnessed by the police chief or other law enforcement officer, a subpoena shall be issued to the person making the complaint, along with any witness(es), to appear on the date and time set for trial, to testify on behalf of the City.
- (c) The police department shall not respond to anonymous complaints of violations of this chapter, unless not responding would endanger the physical safety of an individual, their property, or an animal. If the owner of an animal is unknown or not present, and such animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or is upon another person's property without permission or absent proper restraint, or the safety of its life is threatened, the police department shall, upon complaint made or information provided to the police department, immediately impound the animal and the animal shall be housed at the Dekalb County Animal Resource Center. Once impounded, the animal shall be kept for a period of time as set forth in section 4-26. Thereafter, if the animal is not

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claimed the animal may be disposed of in accordance with the provisions of O.C.G.A. § 4-11-5.1 and O.C.G.A. § 4-5-1 et seq.

- (d) A Stray Cat without any traceable form of identification that is impounded or brought to the animal service center and deemed eligible may be transferred immediately to the Community Cat Program.
- (e) Any Community Cat, or unowned free-roaming cat, that is not healthy in the opinion of qualified City or DeKalb County employees or designees shall be impounded. No healthy Community Cat shall be impounded unless it:
 - (1) Damages the personal or private property of a person or legal entity that seeks it impoundment; or
 - (2) Creates unsanitary conditions, offensive or objectionable odors.

If a healthy Community Cat is impounded pursuant to this subsection (e), upon impoundment, it shall be transferred to a qualified adoption facilitator, adopted or disposed of by the City or its designee. Under no circumstances shall the City house, provide services, or expend funds for any healthy Community Cat other than in due course of transferring said Community Cat as required by the subsection.

- (d) An animal may be euthanized at any time, when, in the judgment of the police chief it is determined that:
 - (1) At the scene of an accident an animal is obviously injured beyond medical help, and no traceable form of identification is displayed on the animal;
 - (2) An animal presented to the Dekalb County Animal Resource Center is obviously injured beyond medical help, or exhibits obvious signs of infectious disease or parasite infestation that would impose a health risk to animals housed in the Dekalb County Animal Resource Center, or that exhibits symptoms of malignancy, without traceable form of identification; or
 - (3) A Stray Cat, brought to the Dekalb County Animal Resource Center in a trap, exhibits signs that it is feral, that cannot be handled safely by the staff after a forty-eight-hour holding period (excluding the date of impoundment) and is not otherwise deemed eligible for the Community Cat Program.

Section 4

That the Code of Ordinances, City of Doraville, Georgia, is further amended by revising Section 4-27 ("Notice to Owner of Impounded Animal") to read as follows:

Sec. 4-27. Notice to Owner of Impounded Animal.

- (a) Upon impounding an animal with identification, the City shall make a prompt and reasonable effort to locate the animal's owner. Upon location thereof, the City shall send to such owner notification of impoundment. For the purpose of this chapter, sufficient notice shall be by phone, hand delivery or United States certified mail to the animal's owner.
- (b) If the impounded animal is not wearing a rabies tag or a tag or microchip identifying the name, address and telephone number of the animal's owner or custodian, DeKalb County may place the animal for adoption or transfer the animal to a qualified adoption facilitator after three (3) business days following impoundment. DeKalb County may dispose of the animal following five (5) business days after it is impounded..
- (c) If the animal is not claimed by the owner or custodian, thereof within five (5) business days after notice of impoundment is mailed or otherwise provided as set forth above, of the City may offer the animal for adoption or transfer the animal to a qualified adoption facilitator, providing the following conditions are met:
 - (1) The animal appears to be in good health;
 - (2) The animal has not been classified as dangerous or vicious;
 - (3) The animal is not known to have bitten a human without provocation or to have bitten a human under circumstances that in the opinion of the Chief of Police make it likely that the animal will bit humans again.

Alternatively, the City may dispose of the animal after five (5) business days.
- (d) In no event shall a lawful owner be allowed to reclaim an animal until all fees required by this Code and/or DeKalb County, as applicable, are paid, including any medical fees incurred due to the health of the animal and its treatment.
- (e) If the owner of the impounded animal cannot be located, then such owner shall be conclusively presumed to have given consent to the

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adoption of the impounded animal, or to have given consent to euthanize the animal in accordance with O.C.G.A. §4-11-5.1 and §4-5-1, et. seq.

Section 5

That the Code of Ordinances, City of Doraville, Georgia, is further amended by adding new section 4-31 ("Sterilization") in Chapter 4 to read as follows:

Sec. 4-31. Sterilization.

- (a) It shall be the duty of the owner of a dog or cat declared to be a classified animal by a court of competent jurisdiction to have the animal sterilized. Such sterilization must be performed by a licensed veterinarian within thirty (30) days of a final order of a court of competent jurisdiction finding that the dog or cat is a classified animal.
- (b) It shall be the duty of the owner and/or qualified adoption facilitator, rescue group or animal shelter to have a dog or cat adopted from the county sterilized. Puppies and kittens must be sterilized by a licensed veterinarian within six (6) months of the date of adoption. Adult dogs and cats must be sterilized by a licensed veterinarian within thirty (30) days of the date of adoption.
- (c) Owners of ferrets must comply with any state law applicable to ferrets.
- (d) Unowned, free-roaming cats shall be vaccinated, sterilized and ear-tipped as part of the Community Cat Program. Cats brought into the Community Cat Program are exempt from registration, licensing and stray animal provisions of this Chapter, 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 Chapter applicable to owned animals.

Section 6

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 7

This Ordinance shall be codified in accordance with state law and the Code of the City of Doraville, Georgia. This Ordinance shall become effective upon adoption.

SO ORDAINED AND EFFECTIVE, this 8th day of February, 2021.

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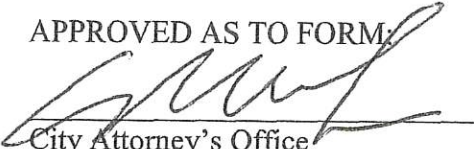
CITY OF DORAVILLE, GEORGIA

Mayor

Waived
First Reading

February 8, 2021
Second Reading

APPROVED AS TO FORM:


City Attorney's Office

ATTEST:


Allison Tarpley, City Clerk

