



**AN ORDINANCE AMENDING CHAPTER 93 OF THE CITY OF BESSEMER CITY
CODE OF ORDINANCES AND REGULATIONS IN THE CITY OF BESSEMER
CITY LAND DEVELOPMENT CODE SPECIFIC TO THE CODE OF
ORDINANCES**

WHEREAS, after proper notification a Public Hearing was held before the Bessemer City Council on July 11, 2022 to consider a proposed amendment to the City of Bessemer City Code of Ordinances and Land Development Code.

WHEREAS, after a unanimous vote, the City Council of Bessemer City approved a text change to the City of Bessemer City Code of Ordinances reflected in Chapter 93 of the City of Bessemer City Code of Ordinances.

WHEREAS, after a unanimous vote, the City Council of Bessemer City approved a text change to the City of Bessemer City Land Development Code strictly related to and supplemental to the amendments with Chapter 93: Animals of the City of Bessemer City Code of Ordinances as it pertains to the zoning regulation of animal land usage and placement of ancillary structures on lots as they relate to the housing or keeping of regulated animals.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Bessemer City, that the City of Bessemer City Code of Ordinances is amended to reflect the adopted changes as written below.

1. CHAPTER 93 ANIMALS.
2. LAND DEVELOPMENT CODE CHANGES AS FOLLOWS:

Agricultural Use, Defined as:

“The production of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; rheas, ostrich, emu, livestock, including beef cattle, sheep, swine, llamas, horses, ponies, [NOTE: Horses and ponies must be raised commercially on a horse farm for the purpose of sale to qualify as an “agricultural use” and are distinct from riding stables or boarding facilities, which do not qualify as an “agricultural use”], mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including nuts; vegetables; nursery, floral and ornamental products; or lands devoted to a soil conservation or forestry management program. In addition, an “agricultural use” shall also include land used as pasture or in the commercial production of fish hatcheries or aquaculture. An “agricultural use” shall also include the keeping of livestock for commercial or noncommercial purposes. Livestock includes but is not limited to poultry and hooved animals such as cattle, horses, swine, goats, and sheep. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Other uses which shall not be deemed as “agricultural uses” include (i) zoos and (ii) kennels. For the purposes of this Code, “agricultural uses” are divided into three classes:

CHAPTER 93: ANIMALS

- 93.01 Purpose
- 93.02 Definitions
- 93.03 Adoption of County Animal Ordinance
- 93.04 Administration and Enforcement
- 93.05 City constitutes bird sanctuary
- 93.06 Possession or harboring of wild or exotic animals
- 93.07 Livestock, chickens, or other domestic fowl
- 93.08 Dogs and cats
- 93.09 Animals at street fairs, festivals and parades
- 93.10 Animals prohibited to be at large
- 93.11 Maintenance of stables, pens, coops, and the like; abatement of nuisances
- 93.12 Existing animals
- 93.13 Service Animals
- 93.14 Notice of violation
- 93.99 Penalty

§ 93.01 PURPOSE.

Pursuant to the authority granted by the North Carolina General Assembly, this animal control chapter is enacted to regulate, restrict, or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, or wild animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community, and to carry out any other lawful duties authorized by state laws and applicable ordinances.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14)

Statutory reference:

Authority to regulate, restrict domestic animals, see G.S. § 160A-186

§ 93.02 DEFINITIONS

Unless otherwise specifically provided or unless otherwise clearly required by the context, the following words and phrases shall have the meaning indicated when used in this chapter:

- (A) Administrator. Any person designated by the manager to perform the responsibilities assigned by this chapter to the administrator.
- (B) Animal Ordinance. The ordinance entitled "Animals" as adopted by the Gaston County Board of Commissioners on February 23, 2008, updated on May 28, 2009, May 24, 2012 and November 10, 2020, and including any subsequent amendments thereto by Gaston County in the future.
- (C) Domestic animal. A domesticated or tame animal that is kept as a pet, such as cats and dogs. Livestock and wild animals shall not be regarded as domestic animals.
- (D) Domestic animal pen. An area in which domestic animals are kept which is completely enclosed by a fence on all sides and has an area of no more than 200 square feet.
- (E) Livestock. Horses, mules, cows, pigs, goats, sheep, fowl (such as ducks, guineas, peacocks, turkeys, etc.), rabbits and all other animals that typically are kept primarily for productive or useful purposes rather than as pets. By exception and for purposes of this ordinance, rabbits

kept as pets and not for productive purposes, the keeping of four (4) or less chickens accessory to a residential use, or the having or keeping of a pig commonly referred to as the miniature Vietnamese potbellied pig (*sus scrofa vittatus*) shall not be deemed livestock.

(F) Wild Animal. Any animal which is:

(1) Non-domesticated and normally found in the wild state, particularly those that are feral, aggressive, able to harbor or transmit disease, or dangerous, which, therefore, generally does not live in or about the habitation of humans. Because of its size or vicious propensity or because it is poisonous or for any other substantial reason, a wild animal poses a potential danger to persons, other animals or property; or,

(2) Classified as a wild animal by the North Carolina Wildlife Resources Commission.

§ 93.03 ADOPTION OF COUNTY ANIMAL ORDINANCE.

The Animals Ordinance of the Code of Ordinances of Gaston County, as adopted by the Gaston County Board of Commissioners on February 23, 2008 and updated on May 28, 2009, May 24, 2012 and November 10, 2020, is hereby adopted in its entirety as an ordinance of the City. All subsequent amendments thereto shall likewise effective and enforceable in the city. A copy of said ordinance and all amendments thereto shall be kept on file in the office of the City Clerk.

(Ord. passed 5-14-90; Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14)

§ 93.04 ADMINISTRATION AND ENFORCEMENT

(A) Delegation to County. The City hereby authorizes Gaston County's Animal Care and Enforcement to enforce the provisions of the animal control ordinance within the municipal limits of the City. The City is hereby authorized to enter into an agreement with Gaston County for the enforcement of the ordinance.

(B) Standards within this text which are more specific than the Gaston County Animal Ordinance may be enforced by any employee of Bessemer City charged with the interpretation and /or enforcement of the Bessemer City Land Development Code and/or Code of Ordinances.

§ 93.05 CITY CONSTITUTES BIRD SANCTUARY.

The entire area of this city is hereby created and established as a bird sanctuary, and it shall be unlawful for any person within the city to hunt, kill, trap, or otherwise take any protected bird or to rob the nest of any protected bird in accordance with G.S. § 160A-188.

('75 Code, § 3-6) (Ord. 6, passed 4-15-54; Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

Statutory reference:

Authority, see G.S. § 160A-188

§ 93.06 POSSESSION OR HARBORING OF WILD OR EXOTIC ANIMALS.

It shall be unlawful for any person to possess or harbor within the city any wild or exotic animal dangerous to persons or property or offensive to the senses; provided, that this section shall not apply to any circus or menagerie duly licensed by the city. These wild or exotic animals include, but not are limited to, deer, lions, non-human primates, bats, wolves and wolf hybrids, hyenas, felids, as regulated by the Captive Wildlife Safety Act, bears, elephants, rhinoceros, hippopotamus, exotic wild cattle crocodilians, venomous reptiles, constrictor snakes, raccoons, and skunks.

('75 Code, § 3-1) (Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, § 93.99

Statutory reference:

For state law as to authority of City Council to enact this section, see G.S. §160A-187

§ 93.07 LIVESTOCK, CHICKENS, OR OTHER DOMESTIC FOWL.

- (A) It shall be unlawful for any person to keep any horse, mule, donkey, hog, swine, cow, sheep, equine animals, bovine animals, llamas, alpaca, duck, chicken, turkey, pigeon or similar domesticated fowl, or goat (or similar animals), hereinafter designated livestock within the city limits except:
 - (1) The only swine permitted on any residential lot are pet pigs (not livestock) housed inside a residential structure.
 - (2) Chickens are permitted in accordance with the provisions of the City's Land Development Code. No more than four (4) hens are permitted on any lot within the municipal limits of Bessemer City. Roosters are prohibited and shall not be considered a Class I agricultural use.
 - (3) The provisions of this section shall not be applicable to bona fide farms.
 - (4) For uses designated as a Class I or Class II Agricultural Use and permitted in accordance with the requirements of the Bessemer City Land Development Code.
- (B) A bona fide farm is defined as a farm use that includes the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

§ 93.08 DOGS AND CATS.

- (A) It shall be unlawful for any person or occupants of any residential dwelling to keep more than four dogs, more than four cats, or any combination thereof, if such animals are routinely kept outside. An exception to this would be a kennel use, an approved Class II agricultural use, or a bona fide farm.
- (B) A kennel is an indoor or outdoor place where five (5) or more dogs or other domesticated animals are groomed, bred, boarded, trained, kept, and/or sold either as a principal use or an accessory to a residential use. A current license is required by the State Department of Agriculture to engage in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs and/or cats. The kennel requires a zoning permit, issued by the City, only permitted if meeting the requirements of the Bessemer City Land Development Code.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

§ 93.09 ANIMALS AT STREET FAIRS, FESTIVALS AND PARADES.

- (A) It shall be unlawful for any person that owns or possesses any animal, including dogs or cats, to possess, lead, keep, run or allow such animal to run at large within 150 feet of any street fair, festival or parade sanctioned or permitted by the city.
- (B) This prohibition shall not apply to guide dogs or other guide animals for disabled persons under the control of such person. The prohibition shall not apply to licensed or permitted kennels or to animals legitimately a part of a parade, sanctioned street fair or festival.

- (C) A sanctioned or permitted street fair, festival or parade is an event approved or permitted by the City Council of Bessemer City by resolution. The geographical limitations of the street fair, festival, or parade shall be delineated by the resolution.

(Ord. passed 4-10-17) Penalty, see § 93.99

§ 93.10 ANIMALS PROHIBITED TO BE AT LARGE.

- (A) It shall be unlawful for any person to allow any animal, including any horse, barnyard animal, fowl, cattle or livestock, owned or harbored by said individual, to stray from the resident premises or to run at large within the city.
- (B) Every person owning or having possession, charge, care, custody, or control of any animal shall keep such animal exclusively upon that individual's real property. However, such animal may be off the owner's real property if it is under the direct control of a person and physically restrained by a chain, leash or harness of sufficient strength and condition to effectively restrain the animal and held in the hand of said person. An animal can only be under the physical control of a person if that individual is able to effectively restrain the animal.

('75 Code, § 3-2) (Ord. TC00-2, passed 2-14-00; Am. Ord. passed 7-14-03; Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

§ 93.11 MAINTENANCE OF STABLES, PENS, COOPS, AND THE LIKE; ABATEMENT OF NUISANCES.

It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner as to constitute a public nuisance to neighbors:

- (A) Each stable, pen, domestic animal pen, coop, or other place within the city where any animal or fowl is kept shall be maintained by the keeper at all times in a clean and sanitary condition and free of offensive odors and solid and liquid waste matter and does not threaten the health, safety or welfare of the public.
- (B) Animals shall not disturb the rights, threaten the safety of, or damage a member of the general public or interfere with the ordinary use and enjoyment of their property.
- (C) Animals shall not damage the property of anyone other than its owner, including but not limited to turning over garbage containers, digging or destroying gardens, or defecating upon the property of another.
- (D) The maintenance of the property shall be upkept and in good order based on the number, type, variety, density, and location of the animals on the property. All domestic animal pens and other structures shall be located behind the principal structure on the property.
- (E) Animals on any premises shall be allowed to remain only with adequate housing and protection from the elements, consisting of shelter of sufficient height and strength, constructed for the express purpose of housing animals.

Any place where an animal or fowl is kept which is found to be in violation of this section shall be deemed a public nuisance, subject to abatement by the city at the expense of the person responsible therefor or the owner of the property whereon it exists

('75 Code, § 3-4) (Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

Statutory reference:

Authority, see G.S. § 160A-182

§ 93.09 EXISTING ANIMALS.

The maximum number of animals may not be legally increased as a result of an animal giving birth. Any livestock legally existing on a lot prior to January 1, 2022 that is in nonconformance with this chapter must conform to these regulations within six months.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

§ 93.10 SERVICE ANIMALS.

Service animals as defined by the Americans with Disabilities Act (ADA), Fair Housing Act and North Carolina General Statutes are exempt from the provisions of this chapter.

(Ord. passed 3-10-14)

§ 93.12 NOTICE OF VIOLATION

Upon investigation and finding by a Code Enforcement Officer or an Animal Control Officer that there exists on any city property a violation of this Chapter, the Officer shall issue a notice of violation by first-class mail to the violator as well as the owner of such property if different from the violator. The notice shall state that the alleged violator or property owner shall have a period of up to ten (10) days from the date the notice was received to either correct the situation or appeal the Officer's decision to the Town Manager. The notice required by this division may also be served upon persons either personally or posted conspicuously on the offending property. Depending on the nature of the violation, the Officer may grant one or more extension of time to cure or correct said violation. When a person has failed to comply with a notice of violation as described above, the Officer shall not be required to provide further notice of violation to that person with regard to the same property before taking any of the enforcement actions authorized by § 93.99.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14)

§ 93.99 PENALTY.

- (A) If compliance has not occurred within the period specified above, or if a violation of this chapter is a single, discrete event, a civil penalty in the amount of \$50 shall be issued and either delivered in person to the violator or sent by certified mail. The citation shall direct that the citation be paid to the city collections department within ten days of the date of issuance and shall inform the violator that if this amount is not paid within the allotted time, a civil action can be initiated to collect the citation.
- (B) Each day's continuing violation of any provision of this chapter shall be a separate and distinct offense resulting in a \$50 fee per day until the violation is corrected.
- (C) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.
- (D) A violation of any provision of this chapter shall be a misdemeanor as provided in G.S. § 14-4 and shall subject each such violator to the punishment provided in that section of the General Statutes.
- (E) The Enforcement Officer may enforce this chapter by any one or any combination of the foregoing remedies.

(Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14; Am. Ord. passed 4-10-17)