

ORDINANCE NO. 17-O-10AA

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AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING CHAPTER 4 (ANIMALS) OF THE CODE OF GENERAL ORDINANCES; ESTABLISHING A CITY ANIMAL ABUSER REGISTRY; PROVIDING FOR DEFINITIONS; PROVIDING FOR ESTABLISHMENT OF AN ABUSER REGISTRY; PROVIDING FOR REGISTRATION REQUIREMENTS; PROVIDING A REGISTRY FOR ANIMAL SHELTERS, PET SELLERS, PRIVATE CITIZENS, OR OTHERS TO VOLUNTARILY CONSULT BEFORE SELLING, TRANSFERING OR OTHERWISE CONVEYING AN ANIMAL TO AN INDIVIDUAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, while the State of Florida has criminalized the cruel treatment of animals and animal abuse, animal cruelty continues to occur in the City of Tallahassee and throughout the State of Florida; and

WHEREAS, the City Commission finds that animal cruelty is a serious problem, resulting in the abuse of many animals each year; and

WHEREAS, on June 22, 2016, the City Commission authorized the formation of an Animal Crimes Task Force (“Task Force”), which would consist of representatives from City and County Animal Control, the State Attorney’s Office, Tallahassee Police Department, Leon County Sheriff’s Office, Leon County Health Department, City Attorney’s Office, City Parks and Recreation Department and other relevant agencies; and

WHEREAS, the Task Force has identified several focus areas to curtail animal abuse within the City and County; and

WHEREAS, an animal abuse registry is one tool the Task Force would like to implement to provide public notice of people convicted of certain animal abuse crimes; and

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1 **WHEREAS**, the City Commission finds that people who have abused animals in the past
2 are likely to do so in the future and studies show that there is near 100% recidivism rate for certain
3 types of abuse such as animal hoarding; and

4 **WHEREAS**, the City Commission recognizes that City residents and their animals need
5 to be protected and that an on-line registry that identifies animal abusers is necessary; and

6 **WHEREAS**, the City Commission has determined that it is in the best interest of the
7 residents of the City and their animals that an animal abuse registry be established identifying
8 individuals residing in the City convicted of certain abuse crimes and strongly encourage the
9 animal shelter, pet seller, or other person or entity to not convey or sell animals to registered
10 persons; and

11 **WHEREAS**, the City Commission finds that it will serve the public health, safety, and
12 welfare of the citizens and animals within the City to create this Animal Abuser Registry for the
13 City.

14 **NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE**
15 **CITY OF TALLAHASSEE, FLORIDA:**

16 Section 1. Section 4-2, of the Code of General Ordinances of the City of Tallahassee,
17 Florida, is hereby amended and shall read as follows:

18 Section 4-2. Definitions.

19 *Abandon* means the act of placing an animal on public property or within a public building,
20 unattended or uncared for, or on or within the private property of another without the express
21 permission of the owner, custodian or tenant of the private property. An animal shall also be

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1 considered abandoned when it has been unattended and without adequate food, water, ventilation
2 or shelter, for a period in excess of 24 hours, regardless of where such animal may be found or
3 kept.

4 *Abuser means any persons eighteen (18) years of age or older, including juveniles tried as*
5 *an adult, who have been convicted of an Abuse Offense.*

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6 *Abuse Offense means the commission of any act that constitutes the criminal offense of:*

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7 *(a) Cruelty to animals under Section 828.12, Florida Statutes;*

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8 *(b) Fighting or baiting animals under Section 828.122, Florida Statutes;*

9 *(c) Killing a dog or cat with the intent to sell or give away its pelt under Section 828.123,*

10 *Florida Statutes;*

11 *(d) Killing or aggravated abuse of horse or cattle under Section 828.125, Florida Statutes;*

12 *(e) Sexual activities involving animals under Section 828.126, Florida Statutes;*

13 *(f) Confinement of animals without sufficient food, water, or exercise or abandonment of*

14 *animals under Section 828.13, Florida Statutes.*

15 *Abuser Registry means the registry established by Ordinance and codified in the Code of**

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16 *General Ordinances of the City of Tallahassee Section 4-13.*

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17 *Animal* means any domesticated animal or any captive wild animal.

18 *Animal control officer* means any person employed or appointed by the city or county who
19 is authorized to investigate and enforce violations relating to animal control or cruelty under the
20 provisions of this chapter.

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1 *Animal services* means the organization or authority designated by the city to enforce
2 animal control ordinances, provide temporary care for stray and surrendered animals and carry out
3 other relevant animal related governmental laws and programs.

4 *Animal shelter* means any facility designated by the city for the purpose of housing and
5 caring for animals held under the authority of this chapter.

6 *At large* means any animal, other than a dog, that is off the premises of the owner, while
7 not under the supervision and control of the owner, or, in the case of dogs, any dog that is not at
8 all times, whether on or off the premises of the owner, under the direct control of the owner.

9 *Attack* means the act by any animal of approaching a domestic animal or a person in such
10 a manner that hostile contact with the other animal or person occurs, or if the act requires a
11 defensive action by any person to prevent bodily injury when such person is conducting himself
12 peacefully and lawfully. Conduct of an animal, such as charging, growling, or chasing in a
13 menacing fashion is considered an attack if a reasonable person believes such conduct threatens
14 the safety and welfare of any person.

15 *Baiting* means to attack with violence, to provoke, or to harass an animal with one or more
16 animals for the purpose of training an animal for, or to cause an animal to engage in, fights with
17 or among other animals.

18 *Bite* means that the skin has been penetrated by an animal's teeth or beak.

19 *Cat* means the domestic cat, *Felis catus*.

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1 *Citation* means a written notice issued to a person by an officer stating that the officer has
2 probable cause to believe that the person has committed a civil infraction in violation of this
3 chapter and that the county court will hear the charge.

4 *Community cat* means any unowned free-roaming cat that may or may not be feral. Any
5 free-roaming cat that does not have traceable identification through a currently registered
6 microchip, rabies tag, or private identification tag shall be considered a community cat. A
7 community cat that has been spayed or neutered and vaccinated against the rabies virus shall be
8 distinguished from other cats by having its ear tipped.

9 *Conviction means, with respect to a person's felony or misdemeanor offense, a*
10 *determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere,*
11 *regardless of whether adjudication is withheld.*

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12 *Dangerous dog* means any dog that according to the records of Tallahassee Animal
13 Services, the Leon County Division of Animal Control, or any law enforcement agency:

14 (1) Has aggressively bitten, attacked or endangered, or has inflicted severe injury on a
15 human being on public or private property; or

16 (2) Has more than once severely injured or killed a domestic animal while off the owner's
17 property; or

18 (3) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained
19 for dog fighting; or

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1 (4) Has, when unprovoked, chased or approached a person upon the streets, sidewalks or
2 any public grounds in a menacing fashion or apparent attitude of attack; provided that such actions
3 are attested to in a sworn statement by one or more persons and dutifully investigated by any of
4 the above-referenced authorities.

5 This definition shall not apply to dogs utilized by law enforcement officers in the
6 performance of their duties.

7 *Direct control* means effective immediate, continuous physical control of a dog at all times
8 such as by means of a leash, lead, kennel, secure fence, or chain of such strength to restrain the
9 dog and controlled by a responsible person capable of restraining the dog, or safe and secure
10 restraint within a building or vehicle. If the controlling person is at all times fully and clearly within
11 unobstructed sight and hearing of the dog, voice control shall be considered direct control when
12 the dog is actually participating in certified training or in an official showing, obedience, or field
13 event. Direct control shall not be required of dogs actually participating in a legal sport in an
14 authorized area or of government police dogs.

15 *Dog* means the domestic dog, *Canis familiaris*, or any of the various other animals of the
16 family *Canidae*.

17 *Ear tip* means the universal sign to identify a community cat that has been spayed or
18 neutered and vaccinated against the rabies virus. The procedure involves removing approximately
19 a quarter inch off the tip of the cat's ear in a straight line cut. It is customarily the left ear and this
20 is done while the cat is anesthetized.

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1 *Electronic fence or an electronic collar* means a fence or collar that controls the movement
2 of a dog by emitting an electrical shock when the animal wearing the collar nears the designated
3 boundary.

4 *Feral animal* means any wild cat or dog, whether it was born in the wild or reverted to a
5 wild state due to abandonment or lack of domestication.

6 *Fowl* means poultry of any kind, including but not limited to chickens, pheasants, guineas,
7 turkeys, peacocks, ducks, and geese.

8 *Impoundment* means impoundment at a shelter or the taking or picking up and confining
9 of an animal by an officer under the provisions of this chapter.

10 *Legal responsibility* means, for the purpose of this chapter, the owner as hereinafter defined
11 shall be considered legally responsible for:

12 (1) The actions of an animal; and

13 (2) The care of an animal.

14 In the absence of written proof of ownership, all adult members of the household shall be
15 considered legally responsible.

16 *Litter* means the offspring produced at one birth by a mammal that normally bears several
17 young during a delivery.

18 *Livestock* means all animals of the equine, bovine, ratite or swine class. This includes goats,
19 sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.

20 *Officer* means any law enforcement officer or any animal control officer.

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1 *Owner* means any person, partnership, corporation or other legal entity owning, harboring,
2 or keeping any animal, or in the case of a person under the age of 18 years of age, that person's
3 parent or legal guardian. This definition shall not apply to any veterinary clinic or boarding kennel.

4 *Person* means any individual (eighteen years of age or older, including, when appropriate,
5 juveniles tried as adults), firm, association, joint venture, partnership, estate, trust, business trust,
6 syndicate, fiduciary, corporation, entity, or any group or combination thereof.

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7 *Pet Seller* means any individual or person, partnership, firm, corporation or other entity
8 which offers animals for sale or is engaged in the sale, exchange, or other transfer of ownership of
9 animals.

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10 *Proper shelter for an outdoor animal* shall include but is not limited to a permanent
11 structure with four sides, a top and a bottom. The structure shall have a waterproof roof, be
12 structurally sound, and shall be sufficiently insulated to protect the animal from the elements, with
13 space to stand up, sit down, turn around and lie down in a normal posture. The structure and
14 surrounding area needs to be free from trash or waste so as not to threaten the physical well-being
15 of the animal. Examples of inadequate shelter include, but are not limited to, lean-tos, metal drums,
16 cardboard boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient
17 protection from the elements.

18 *Registrant* means any individual or person required by this Section to be placed on the
19 City's Abuser Registry.

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20 *Scratch* means that the skin has been penetrated by an animal's claws, horn, or other
21 appendage.

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Service Animal means any dog or miniature horse that has been individually trained to do work or perform tasks for people with disabilities as defined under the Americans with Disabilities Act (ADA).

Severe injury means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

Spayed or neutered means rendered permanently incapable of reproduction by a licensed veterinarian.

Unprovoked means any situation where the victim has been acting peaceful and lawful.

Veterinarian means a person trained and authorized to treat animals medically who is duly licensed and registered by the state under F.S. ch. 474 or the licensing area in which the veterinarian is practicing.

Section 2. Section 4-13 of Chapter 4, of the Code of General Ordinances of the City of Tallahassee, Florida, is hereby created and shall read as follows:

Section 4-13. Animal Abuser Registry. This part shall be known and may be cited as the “City of Tallahassee Animal Abuser Registry.”

(a) The City of Tallahassee shall establish an Animal Abuser Registry that shall contain the names, residence, photo and other related information of certain Abusers living within the City of Tallahassee who are convicted of an Abuse Offense on or after the effective date of this Ordinance. The Abuser Registry will be maintained by the City or its agent, shall be listed on the City’s official website, (available for posting on the websites of other entities) and may contain links to other Abuser Registries that are available, or as they become available in the future, to be used as an

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1 informational resource by Animal Shelters, Pet Sellers, or other Persons or entities located in the
2 City when they sell, exchange or otherwise transfer the ownership of an Animal. The City may
3 promulgate internal policies and procedures, as may be amended from time to time, necessary for
4 the implementation of the Abuser Registry.

5 (b) The Abuser Registry shall contain the Abuser's full legal name, address, date of birth,
6 offenses, conviction date, date the listing will expire from the registry, a photograph taken of the
7 convicted animal abuser as part of the booking process and any other identifying data necessary to
8 properly identify the Abuser and to exclude innocent Persons.

9 (c) The Abuser Registry shall contain the required information about each particular Abuser,
10 for a period of five (5) years following his or her release from incarceration or, if not incarcerated,
11 from the date of the judgment of conviction.

12 (d) The City will attempt to ensure that the information in the Abuser Registry is accurate and
13 complete. However, the City relies on other sources for the information. As a result, the City
14 makes no express or implied guarantee concerning the accuracy or completeness of any of the data
15 in the Registry. Any Person who believes their information is erroneously contained on the Abuser
16 Registry may submit information to the City Director of Parks, Recreation, and Neighborhood
17 Affairs to appeal their inclusion on the Abuser Registry. The Director shall review the information
18 and, within thirty (30) days of receiving the information, shall render a decision in writing on
19 whether the individual is properly listed on the Abuser Registry. If the Director determines the
20 Person should not be listed on the Abuser Registry, the registration information for that Person
21 shall be removed from the Abuser Registry within ten (10) business days following the Director's
22 determination.

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1 Upon notification to the City that the criminal records of a Registrant have been expunged
2 or sealed by the Court or upon the successful appeal of a conviction of an Abuse Offense by a
3 Registrant required to be on the Abuser Registry, the registration information for that person shall
4 be removed from the Abuser Registry within ten (10) business days following notification.

5 (e) Every Registrant shall provide updated information within ten (10) business days of any
6 change in residential address and/or upon any official name change. Failure of the Registrant to
7 provide updated information may result in the issuance of a citation in accordance with Section 4-
8 51, City of Tallahassee Code, and fines assessed in accordance with Section 4-52, City of
9 Tallahassee Code.

10 (f) A Person who has been determined by a court to be unfit to have custody of animals
11 pursuant to Section 828.073, Florida Statutes, shall also be bound by the determinations of the
12 court if that determination was made pursuant to the same underlying facts resulting in the criminal
13 conviction that requires them to register with the City Abuser Registry.

14 (g) Animal Shelters, Pet Sellers, Persons or entities located within the corporate boundaries of
15 the City are strongly encouraged to consult the Abuser Registry before transferring, selling or
16 otherwise conveying ownership of an Animal to determine if the prospective owner is listed on
17 the Abuser Registry. If the prospective owner is listed on the Abuser Registry, Animal Shelters,
18 Pet Sellers, Persons or other entities should exercise caution when evaluating whether to transfer,
19 sell or otherwise convey an Animal to an Abuser, and may voluntarily decline to, transfer, sell or
20 otherwise convey the Animal to the Abuser.

21 (h) Animal Shelters, Pet Sellers, and other Persons or entities are encouraged to take all
22 necessary steps to ensure that an Animal is not transferred to a person listed on the Abuser Registry.

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1 Such steps may include, but are not limited to, posting, when possible, current signage displaying
2 registrants in well-trafficked, highly visible areas for public viewing and in stock/break areas of
3 employees.

4 Section 3. Severability. If any provision or portion of this ordinance is declared by any
5 court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining
6 provisions and portions of this ordinance shall remain in full force and effect.

7 Section 4. Conflict with Other Ordinances and Codes. All ordinances or parts of
8 ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance
9 are hereby repealed to the extent of such conflict.

10 Section 5. Effective Date: This Ordinance shall take effect immediately upon final
11 passage.

12 INTRODUCED in the City Commission on the 5th day of April, 2017.

13 PASSED by the City Commission on the 26th day of April, 2017.
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16 CITY OF TALLAHASSEE

17
18 By: _____
19 Andrew D. Gillum
20 Mayor
21

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22 ATTEST:

23 APPROVED AS TO FORM:
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25 By: _____
26 James O. Cooke, IV
27 City Treasurer-Clerk

By: _____
Lewis E. Shelley
City Attorney

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