

ORDINANCE NUMBER 05-2021-06

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NUMBER 04-2013-02 DATED THE 1ST DAY OF APRIL, 2013, AND ANY OTHER ORDINANCE IN CONFLICT OF THE PROVISIONS OF THIS ORDINANCE, ESTABLISHING POLICIES FOR DOGS AND CATS WITHIN THE CORPORATE LIMITS OF THE CITY OF GENEVA; TO PROVIDE A PENALTY FOR THE VIOLATION OF SAID ORDINANCE AS LAST AMENDED AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GENEVA ALABAMA, AS FOLLOWS:

**ARTICLE I
SHORT TITLE**

Short Title. This Ordinance shall be cited as the “**DOGS and CATS ORDINANCE**”.

**ARTICLE II
PURPOSE**

Purpose. This Ordinance is enacted to establish policies for dogs and cats within the corporate limits of the City of Geneva to promote a healthy environment in which for the citizens and dogs and cats to coexist.

ARTICLE III. DOGS, CATS

Sec. 6-65. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means and includes all members of the canine (dog) family and all members of the feline (cat) family.

Enclosure means the entire housed or fenced area where an animal is confined and also means the area where an animal is tied, chained or tethered.

Owner means any person having control or purporting to have control over an animal; the occupant of the premises where the animal is usually kept or allowed to remain about their premises for a period of three consecutive days or more. The parent or guardian of an owner under 18 years of age shall be deemed the owner as defined herein. If an animal has more than one owner, all persons are jointly and severally liable for all acts or omissions of an owner under this chapter, even if the animal was in the possession of or under the control of a keeper at the time of offense.

Serious injury means a physical injury that creates a substantial risk of death or that causes death, serious or protracted disfigurement, and protracted impairment of health, impairment of

the function of a bodily organ, or requiring a plastic surgery or at the discretion of the director or administrator.

Vicious or *dangerous* means and includes any animal known to have attacked any person or known to have attacked any animal or fowl without provocation or otherwise having exhibited vicious tendencies.

Vicious dog or *Vicious cat* means any dog or cat whose actions according to the records of the animal services officer after investigation, meet at least one of the following:

- (1) On public or private property, including the owner's property, unprovoked aggressively attacks and inflicts serious injury on a person, excluding person engaged in criminal behavior.
- (2) On public or private property, unprovoked aggressively attacks and causes serious injury to another domesticated animal, excluding self-defense.
- (3) A dog trained for dog fighting or is being used or has been used for the purpose of dog fighting.

Sec. 6-66. Dogs at large.

It shall be unlawful for the owner of any dog to allow such dog to be at large (off the owner's property), upon the property of another without the property owner's permission, upon the public streets or rights-of-way unless under the restraint of a leash or chain.

Any unspayed female dog or cat in estrus cycle (heat) shall be confined during such period of time in a house, building or secure enclosure. Such enclosure shall be so that no other dog or cat can gain access to the confined animal, except for intentional breeding purposes.

Sec. 6-67. Vicious Dogs or Cats

It shall be unlawful for the owner or any person to harbor or to keep in the city a vicious dog or cat as defined in Sec. 6-65 unless the same is securely confined or bound in a manner to prevent such dog from biting or attacking a person or another animal.

Sec. 6-68. Right of entry; impoundment of dogs or cats biting humans.

- (a) The animal control officers and members of the police department shall have the right for the protection of the public health, welfare and safety to enter upon any property in the city for the purpose of capturing and impounding any dog found running at-large.
- (b) The animal control officer and members of the police department, upon verified written complaint that a dog or cat has bitten a human being, shall have the right, for the protection of the public health, welfare and safety, to enter upon any property within the city limits for the purpose of capturing and confining the dog under the direct care, custody and control and supervision of a licensed veterinarian for a period of ten days, in accordance with Code of Ala. 1975, §3-7A-9. It shall be unlawful and punishable as a misdemeanor for any person who is the owner or custodian of a dog or cat which has bitten a human being to fail to promptly turn over or deliver such dog or cat to any animal control officer, or members of the police department, upon demand of one of such

persons. Any expense incurred in the handling of any dog or cat under this section shall be borne by the owner or custodian of such dog or cat.

Sec. 6-69. Enclosures.

- (a) Every enclosure in which animals are kept shall be in size not less than 25 square feet per animal or a minimum of four square feet per pound of body weight for each animal kept in such enclosure to a maximum of 100 square feet per animal or as determined by the animal services officer or health officer.

Every enclosure in which animals are kept shall follow these guidelines per animal:

Extra large—Over 26" or over 75 lbs. should have a 10 ft. × 10 ft. enclosure.

Large—Over 20" or under 75 lbs. should have a 7 ft. × 7 ft. enclosure.

Medium—Over 12" or under 50 lbs. should have a 6 ft. × 6 ft. enclosure.

Small—Under 12" or under 20 lbs. should have a 5 ft. × 5 ft. enclosure.

- (b) It shall be unlawful for any person who fails, within five days after the receipt of such notice from the animal services officer or the health officer, to correct the conditions pointed out therein to further keep or maintain such animal within the city and a violation of this ordinance and will be fined according to Sec. 6-83.

Sec. 6-70. Disturbances.

It shall be unlawful for the owner of any animal kept within the city to permit the loud and frequent or continued meowing, barking, howling or yelping of such animal which annoys and disturbs others.

Sec. 6-71. Redemption or adoption of impounded animals.

- (a) Any animal impounded may be redeemed by the owner thereof within seven days upon payment of a daily impoundment fee of \$3.00, plus a penalty fee of \$15.00 and proof of vaccination is required. If any such animal has been previously impounded, the impoundment fee shall be increased by \$10.00 for each subsequent impoundment, not to exceed \$50.00 for any one impoundment. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or other fees as may be established.
- (b) An adoption fee will be assessed at the time of the adoption for dogs and cats to cover the expenses associated with any vaccination or maintenance on each animal. The person adopting each animal will be required within thirty days of adoption to provide proof of having the animal spayed/neutered, along with parvo vaccine/feline distemper and heartworm tested.
- (c) No animal may be redeemed or adopted without compliance with this section.
- (d) Animals transported through rescues are not required to be spayed/neutered.

Sec. 6-72. Destruction of impounded or vicious animal.

- (a) Any animal impounded for a period of at least seven days may be destroyed in a humane manner, under the supervision of the animal services officer.
- (b) Any police officer or other city officer exercising proper authority is authorized to destroy any animal when such animal is found to be vicious or dangerous or for humane purposes.
- (c) A vicious dog or cat allowed by the owner to run at-large becomes a public nuisance and may be killed by any person without liability.

Sec. 6-73. Abandonment.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means to set loose with the intent of avoiding responsibility for custody and care.

It shall be unlawful for a person to abandon any animal on any public or private property in the city.

Sec. 6-74. Tethering.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tethering means something (as a rope or chain) by which an animal is fastened so that it can range only within a set radius.

Tether shall not be less than ten feet in length and shall not allow animals to approach four feet of the owner's property line. It is against the City Ordinance to tether your dog if the following is true: dog is less than six months of age, dog is sick or injured or if your dog is not spayed or neutered unless you are an adult and your dog is in visual range and you are outside with your dog.

Sec. 6-75. Animal curbing requirements.

No person shall knowingly allow an animal which is kept by a person to urinate or defecate upon a public street right-of-way, public or private property, in the city without prior permission of the owner; however, it shall be a defense to said violation if:

- (1) When an animal defecated on property described in the subsection, the animal's owner or keeper immediately shall remove any feces to a waste container.
- (2) It is a service animal.
- (3) If the dog is on official police business.

Sec. 6-76. Quantity of pet animals restriction.

In no event shall any person keep at his or her premises more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the

owners, keepers or others without constituting a nuisance to the occupants or neighboring properties.

Sec. 6-77. Public nuisance.

- (a) For the protection of the public health, every person who keeps any animal or animals on their property within the city shall at all times maintain the premises where the animals are in a sanitary condition to prevent the hatching of fly or insect larvae, to prevent offensive odors emanating therefrom, to permit the animal services officer or health officer to go on the premises at any reasonable time to inspect such premises and to comply with all reasonable requirements and directions given by the animal services officer or health officer pertaining to sanitation, fly or insect larvae control and the prevention of offensive odors.
- (b) Any person, having the care, custody or control of any such premises where any animal is kept confined or in an enclosure, who is given written notice by the animal services officer or health officer pointing out any conditions which exist in violation of this section and who fails to remedy such conditions within five days from the receipt of such notice shall be guilty of a misdemeanor.
- (c) It shall be unlawful for any person to keep within the city any animal that creates offensive odors so that it interferes with the use and enjoyment of adjacent property or neighboring premises.

ARTICLE IV. - MANAGEMENT, HARBORING AND/OR FEEDING OF STRAY, FERAL, OR ABANDONED CATS AND FELINES

Sec. 6-78. - Purpose.

The purpose of this article is to establish policies and protocols to manage stray, feral or abandoned cats in the city, to authorize the humane trapping, collection, adoption and sterilization and/or disposal of said cats and to provide for penalties for violation thereof.

Sec. 6-79. - Definitions.

The following definitions shall apply in the interpretation of this article:

Cat. The terms "stray cat," "feral cat" or "abandoned cat" shall mean any domestic cat that is reasonably believed not to be owned or under the entrusted care of any person. This shall include any animal that appears to be homeless, abandoned, non-socialized, undomesticated or uncared for based upon the behavior or physical condition of the cat and the absence of any collar, tag, microchip, or other means of identifying the name, address, or telephone number of the owner.

Superannuated means incapacitated or disqualified for active duty by advanced age.

Infirm means not physically or mentally strong, especially through age or illness.

Glandered means affected by a contagious disease caused by bacteria and characterized by swellings beneath the jaw and a profuse mucous discharge from the nostrils.

Sec. 6-80. - Specific violations.

- (a) *Keeping or harboring.* It shall be unlawful for any person to keep or harbor at any place within the city any feral cat, regardless of the age or size of any such animal, and regardless of whether or not such animal was born and/or raised in captivity.
- (b) *Feeding.* Except as otherwise provided by this subsection, it shall be unlawful for any person to knowingly feed, offer food, or in any manner provide food to any feral cat on private or public property within the city limits for the purpose of attracting or harboring such animals.

Sec. 6-81. - Exceptions.

The provisions of this section do not apply to any of the following:

- (1) Employees or agents of the city, county, state, and federal government or veterinarians who, in the course of their official duties, have feral cats in their custody or under their management;
- (2) The provision of food to domesticated cats that are household pets and that are owned by or whose care and feeding have been entrusted to the person providing the food;
- (3) The provision of food that is incidental to other lawful activities and that is not intended to attract feral cats as defined herein; and
- (4) The provision of food in connection with the humane trapping of feral cats for the purposes of relocating said animals to nonresidential areas.

Sec. 6-82. - Impoundment of stray, feral, or abandoned cats and felines.

- (a) *Purpose.* The purpose of this section is to authorize the humane trapping, collection, release, adoption and sterilization and/or disposal of feral cats that are reasonably believed not to be owned or under the care of any person and which, by virtue of such status, are deemed to represent an actual or potential threat to the health, safety, and welfare of the public. Nothing herein shall be deemed to prevent the city and its employees or agents from using reasonable discretion in discharging the functions and activities hereby authorized. Nothing herein shall be interpreted or deemed to create or to impose on the city, its agents, employees, persons, or entities acting on behalf thereof any duty, standard of care, or liability to the public generally or to any member thereof with respect to the collection, care, or disposition of cats impounded under authority hereof.
- (b) The city or its representatives, animal control officer, or person serving in like capacity, or such persons or firms as may be designated or employed by the city or with whom the city may contract for such purposes, shall have the authority to trap or collect by humane means and impound any cat or member of the feline family that appears to be stray, abandoned, feral, or non-socialized, or uncared for based upon the behavior or physical condition of the cat, and the absence of any collar, tag, microchip, or other means of identifying the name, address, or telephone number of the owner of the cat.
- (c) A cat that is trapped and impounded pursuant to subsection (b), above, will be held for a minimum period of seven days pursuant to the provisions of Code of Ala. 1975, §3-7A-8 in which notice may be given to the owner, if known and/or to allow the owner to redeem said cat. If the owner redeems the cat, in such instance, the owner shall pay the city or the city's

representative all costs associated with the impoundment including, but not limited to, boarding and required medical treatment.

- (d) If the impounded cat is not redeemed by its owner within the required seven-day detention period or, following the seven-day detention period, the city or its representative may offer the cat for adoption if the cat is deemed adoptable by reasonable means.
- (e) Following the required seven-day detention period, the city or its representative may allow the cat to be released into the general area from which it was trapped subject to the following requirements:
 - (1) The cat is determined by reasonable means to be feral or undomesticated but not suitable for adoption; and
 - (2) The cat is determined by reasonable means to be healthy and without disease or infection of any kind and sociable so as not to pose a danger to itself, a pet or a human; and
 - (3) The cat is sterilized pursuant to the sterilization requirements set forth in the Code of Ala. 1975, § 3-9-2 and other state law governing such practices; and
 - (4) The cat is vaccinated for rabies; and
 - (5) The cat is marked with ear tags, a clipped ear, or other means to identify that said cat has been sterilized.
 - (6) The collection, care, and disposition of any impounded cat shall be subject to state law governing such practices, including but not limited to sterilization requirements set forth in the Code of Ala. 1975, § 3-9-2.
 - (7) Any agent, officer or member of a duly incorporated society for the prevention of cruelty to animals may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for which may appear, in the judgment of two reputable citizens called by him to view the same in his presence, to be superannuated, infirm, glandered, injured or diseased past recovery for any useful purpose pursuant to provisions of Code of Ala. 1975, § 3-1-8.

Sec. 6-83. - Fines and punishment.

Any person violating the provisions of this article shall, upon conviction, be punished pursuant to Alabama law and the following:

- (a) Minimum fines for conviction of violation under Chapter 6, Article III & IV—In general.
 - (1) *First violation.* Shall be a fine of \$15.00; in addition to applicable fees in Sec. 6-71, and no court costs.
 - (2) *Second violation.* For second violation within a 12-month period, shall be a fine of \$25.00, in addition to applicable fees in Sec. 6-71, and no court costs.
 - (3) *For third and all subsequent violations.* For third and all subsequent violations within a 12-month period, mandatory municipal court, upon conviction, shall be a minimum fine of \$50.00 to a maximum fine of \$500.00, in addition to applicable fees in Sec. 6-71, and court costs.

(b) Minimum fines for conviction of violation under Chapter 6, Sec. 6-65 or Sec. 6-67 pertaining to vicious animals. Mandatory municipal court appearance on first violation, upon conviction, shall be a minimum fine of not less than \$200.00 plus court costs nor more than \$500.00 plus court costs, any restitution, and may also be sentenced to not more than three months community service, at the discretion of the city judge.

(c) Unless otherwise specified in this chapter, violations of any section of this chapter are subject to punishment in accordance with Chapter 1, Sec.1-11 of this Code.

Article V

The invalidity or unenforceability of any particular provision of the Ordinance shall not affect any other provision, if any clause, sentence, section or provision of this ordinance is held invalid or inoperative or unenforceable, the remainder of the ordinance shall not be affected thereby.

Article VI

This ordinance shall become effective on publication.

Article VII

The City Clerk is hereby directed to cause this ordinance to be published one time in the Geneva County Reaper, a newspaper of general circulation in the City of Geneva, Alabama.

ADOPTED AND APPROVED on this 3rd day of May, 2021.

The City of Geneva, Alabama

By: David B. Hayes
David B. Hayes, Mayor

ATTEST:

Lisa Johnson
Lisa Johnson, City Clerk