

**ORDINANCE 91-5
ANIMAL CONTROL ORDINANCE
REQUEST FOR AMENDMENT 1**

OF AN ORDINANCE TO CREATE AN ANIMAL CONTROL UNIT; TO REQUIRE CONTROL DOMESTICATED AND WILD ANIMALS; TO PROVIDE FOR CONTROL OF DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR THE DISPOSITION OF IMPOUNDED ANIMALS; TO PROVIDE DEFINITIONS AND PENALTIES; TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Dahlonega Georgia, is authorized by Article IX, Section 2, paragraph 1 of the 1983 Constitution of Georgia to exercise power over animal control:

WHEREAS, pursuant to said authority, the City Council of the City of Dahlonega, Georgia does desire to amend the current Animal Control Ordinance:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dahlonega Georgia, and it is hereby amended by the Authority of same as follows:

SECTION 1. DEFINITIONS

For the purposes of this Ordinance, the following words shall have the meanings set forth below:

- A. **ABANDONED ANIMAL.** Any domesticated animal shall be considered abandoned for the purposes of this chapter which shall have been placed upon public property or within a public building, unattended or uncared for, or upon or within the private property of another, without the express permission of the owner, custodian or attendant of the private property and is unattended or uncared for. Any domesticated animal shall also be considered as abandoned, for the purposes of this chapter, which shall have been upon or within the property of the owner or custodian of the animal for a period of time in excess of thirty-six (36) hours unattended and without proper food and water.

- B. **ANIMAL AT LARGE.** An animal not under restraint.

- C. **ANIMAL UNDER RESTRAINT.** Any domesticated animal is considered under restraint if:
 - 1. It is controlled within the property limits of its owner,
 - 2. It is controlled by a leash,
 - 3. It is at heel or beside a competent person and is obedient to the person's commands,
 - 4. It is within a vehicle being driven or parked on the street.

- D. DANGEROUS ANIMAL. Any animal that, according to the records of an appropriate authority:
1. Has without provocation, inflicted severe injury on a human being on public or private property, or
 2. Aggressively bits, attacks, or endangers the safety of humans without provocation after the animal has been classified as a potentially dangerous animal and after the owner has been notified of such classification.
- E. DOMESTICATED ANIMAL. Animals that are accustomed to living in or about the habitation of people, including, but not limited to, cats, dogs, cows, fowl, horses, swine, domesticated wild animals and/or exotic animals, except animals classified as dangerous or potentially dangerous by the animal control officer.
- F. GUARD DOG. Any dog which has been trained to attack persons or other animals independently or upon oral command; and any dog, which, while not so trained, is reasonably expected to perform as a guardian of the property upon and within which it is located.
- G. OWNER. Any natural person or any legal entity, including but not limited to, a corporation, partnership, firm, or trust, who or which: owns, possesses, harbors, keeps, cares for, feeds, maintains, has custody or control of, or knowingly permits to be harbored or kept or to remain on or about their premises.
- H. POTENTIALLY DANGEROUS ANIMAL. Any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or any animal that when unprovoked:
1. Inflicts injury on a human being on public or private property, or
 2. Chases or approaches a human being upon the street, sidewalks, or any public grounds in a vicious or terrorizing manner in an apparent attitude of attack.
- I. PROPER ENCLOSURE. An enclosure for keeping a dangerous animal or potentially dangerous animal while on the owner's property, securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to keep the animal from escaping. Any such structure shall have a secure top, and if the animal is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed in such a manner as to prevent the animal's escape either from over or from under the fence. If the enclosure does not have a floor, the sides of the enclosure shall be embedded in the ground not less than two feet. Any such enclosure shall also provide protection from the elements for the animal.

- J. ANIMAL ABUSE - PHYSICAL HARM. Any person who causes undue suffering, deprives an injured or sick animal of necessary medical attention, tortures, torments, disfigures, maims, mutilates, kills, beats, bruises, wounds or poisons or exposes any poisonous substance with the intent that the poisonous substance should physically harm any domesticated animal, whether belonging to himself or another, shall be in violation of this Ordinance.
- K. ANIMAL ABUSE - FOOD, EXERCISE AND AIR. Any person who confines any animal and fails to supply it with sufficient quantities of wholesome food and water, or who keeps any animal in an enclosure without wholesome exercise and change of air shall be in violation of this Ordinance.
- L. ANIMAL ABUSE - SHELTER. Any owner, custodian or possessor of any animal kept outdoors who fails to provide shelter with at least a roof, a floor and three sides of adequate size for the animal it is intended for and sufficient to protect said animal from the elements shall be in violation of this Ordinance.
- M. ANIMAL ABUSE – SANITATION. Any owner, custodian or possessor of any domesticated animal who fails to maintain in a clean and sanitary condition and free from extreme and unreasonable objectionable odor for all structures, pens, yards, and areas adjacent thereto, wherein any animal is kept shall be in violation of this Ordinance.
- N. ANIMAL ABUSE – LEAVING IN AUTOS. Any person who transports or leaves unattended, any animal in a vehicle in extreme heat without proper ventilation shall be in violation of this Ordinance.
- O. PUBLIC OR PRIVATE ANIMAL REFUGE. The harboring of unwanted animals, including crossbreeds; who provide food, shelter, and confinement for a group of dogs, a group of cats, or a combination of dogs and cats.
- P. RECORDS OF APPROPRIATE AUTHORITY. Records of any state, county or municipal law enforcement agency; records of any county or municipal animal control agency; records of any city board of health; records of any federal, state, or local court; records of a dog control officer as provided in O.C.G.A. Section 4-8-22, or records of an animal control officer as provided by this Ordinance.
- Q. SEVERE INJURY. Any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.
- R. ANIMAL CONTROL UNIT. City of Dahlonega will continue to utilize the Animal Control Unit vested within the Lumpkin County Sheriff's Office; and it shall be staffed with city personnel as may be authorized by the City Council. The

Animal Control Unit will perform the duties of animal control officer pursuant to O.C.G.A. Section 4-8-22(c), as amended from time to time.

1. An animal control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter. All law enforcement agencies of the governing authority shall cooperate with the animal control officer in enforcing the provisions of this Ordinance.
2. It shall be unlawful to interfere with or fail to cooperate with any animal control officer or other officer acting pursuant to this Ordinance. It shall also be unlawful to take or attempt to take any animal from a city or county vehicle used to transport an animal pursuant to this chapter.

Section 2. DUTIES TOWARDS ANIMALS

- A. **DUTY OF OWNER TO KEEP ANIMALS UNDER CONTROL.** It shall be unlawful for the owner of any domesticated animal, or anyone having a domesticated animal in his possession or control, to permit such domesticated animal to be at large and not under restraint.
- B. **RABIES VACCINATION.** It shall be the duty of any owner or possessor or custodian of any domesticated animal three months of age or older, when said animal is being kept in the City of Dahlonega, to procure current rabies vaccination as required by and in accordance with the Rabies Control Rules and Regulations of the City and to affix to the collar or harness of said animal a current vaccination tag as prescribed by the Georgia Department of Human Resources.
- C. **DISPLAY OF RABIES TAG.** It shall be unlawful for any owner of an animal required to have a rabies vaccination by state law to allow such animal in any area of the jurisdiction of the governing authority without a visible collar which shall have attached, a valid and current rabies vaccination tag as required by the Board of Health. It shall be the duty of each animal owner to provide a collar with a rabies vaccination tag for each animal, except when such animal is participating in an animal show or exhibition.
- D. **LOUD NOISES PROHIBITED.** It shall be unlawful for any person to keep or maintain any domesticated animal or bird that makes, causes to be made, or continues any loud, unnecessary or unusual sound or noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the jurisdiction of the governing authority and which is audible to a person of normal hearing ability more than 100 feet from the point of origin of this sound

- E. ABANDONMENT. It shall be unlawful for the owner of any domesticated animal to knowingly abandon said animal within the unincorporated area of the City of Dahlonega.

Section 3. DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS

1. Pursuant to O.C.G.A. Section 4-8-22 (c) the duties of the Animal Control Officer shall remain vested in the Lumpkin County Sheriff's Office.
2. The Animal Control Officer shall make such investigations and inquiries that may be necessary to identify dangerous animals and dangerous animal owners within the jurisdiction of the governing authority.
3. When a dangerous animal or potentially dangerous animal is classified as such, or when a potentially dangerous animal is reclassified as a dangerous animal, the animal control officer shall notify the animal's owner of such classification.

NOTICES TO THE OWNER SHALL MEET THE FOLLOWING REQUIREMENTS:

1. The notice shall be in writing and either mailed by certified mail to the owner's last known address or hand-delivered to the owners. Such notice shall be complete either upon its mailing, or, if hand-delivered, upon personal receipt.
2. The notice shall include a summary of the animal control officer's findings that formed the basis for the animal's classification or reclassification as a dangerous or potentially dangerous animal.
3. The notice shall be dated and shall state that the owner, within fifteen (15) days after the date shown on the notice, has a right to request a hearing on the animal control officer's determination that the animal is dangerous or potentially dangerous.
4. The notice shall state that the hearing, if requested, shall be before the City Council, or its designee, and shall specify the name of the agency, which shall conduct the hearing.
5. The notice shall state that if a hearing is not requested, the animal control officer's determination that an animal is dangerous or potentially dangerous, will become effective for all purposes under this Ordinance on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and

6. The notice shall include a form to request a hearing before the applicable agency, and shall provide specific instructions on mailing or delivering such request to the agency.

Section 4. LIABILITY OF OWNER OF DANGEROUS OR POTENTIALLY DANGEROUS ANIMAL

1. The notice procedures provided for in this Ordinance are not an essential condition for the enforcement of the provisions of this Ordinance. The owner of a dangerous or potentially dangerous animal is held to know that such animal is dangerous or potentially dangerous if the animal has at any time, displayed any one or more of the behaviors described in Section 1, Items D and H as provided in this Ordinance.

2. It shall be unlawful for the owner of any vicious or dangerous animal to allow the same to run at large, and any person who shall allow such animal to run at large with notice or knowledge of its vicious or dangerous character, shall be punished as prescribed in Section 17 of this Ordinance. It shall be the duty of the city marshal, code enforcement officer, or deputy having knowledge that such animal is at large to immediately impound such animal and hold it under the provisions of Section 12 of this Ordinance.

3. If impracticable to impound a dangerous or potentially dangerous animal due to its viciousness, or the delay or attempt to impound the same be attended with danger, it shall be the duty of the city marshal, code enforcement officer, or county deputy to destroy the animal as humanely and expeditiously as possible.

4. No owner of a dangerous animal shall be held criminally liable under this chapter for injuries inflicted by said owner's animal to any human being while on the owner's property if said owner is in compliance with the provisions of this chapter at the time of the injuries being inflicted.

Section 5. PRESIDING BODY AT HEARINGS ON DANGEROUS OR POTENTIALLY DANGEROUS ANIMAL

Pursuant to O.C.G.A. Section 4-8-22 and 4-8-24, the City Council may conduct hearings provided for in this section, may designate an Animal Control Board to conduct such hearings, or may designate the Board of Health to conduct such hearings. Under no circumstances shall the animal control officer participate in a hearing other than to testify as to the determination that an animal is dangerous or potentially dangerous.

PROCEDURE FOR HEARINGS ON DANGEROUS OR POTENTIALLY DANGEROUS ANIMAL

When the City Council or its designee receives a request for a hearing as provided in Section 3, Item 3 of this Ordinance, it shall schedule such hearing within 30 days after

receiving the request. The City Council or its designee shall notify the animal owner in writing by certified mail of the date, time, and place of the hearing, and such notice shall be mailed to the animal owner at least 10 days prior to the date of the hearing. At the hearing, the owner of the animal shall be given the opportunity to testify and present evidence, and in addition thereto, the City Council or its designee shall receive such other evidence and hear such other testimony as the City Council or its designee may find reasonably necessary to make a determination either to sustain, modify, or overrule the animal control officer's classification of the animal.

NOTICE OF DETERMINATION REGARDING DANGEROUS OR POTENTIALLY DANGEROUS ANIMAL

Within 10 days after the date of the hearing, the City Council or its designee shall notify the animal owner in writing by certified mail of its determination on the matter. If such determination is that the animal is a dangerous animal or potentially dangerous animal; the notice shall specify the date upon which that determination is effective.

Section 6. CERTIFICATE OF REGISTRATION REQUIRED FOR DANGEROUS OR POTENTIALLY DANGEROUS ANIMAL; PROOF OF PROPER ENCLOSURE AND POSTING OF PREMISES

1. It is unlawful for an owner to have or possess within this city, a dangerous animal or potentially dangerous animal without a certificate of registration issued in accordance with the provisions of this Ordinance.
2. Subject to the additional requirements of Section 3 of this Ordinance, the animal control officer shall issue a certificate of registration to the owner of a dangerous or potentially dangerous animal if the owner presents to the animal control officer or the animal control officer otherwise finds sufficient evidence of:
 - A. A proper enclosure to confine the dangerous animal or potentially dangerous animal; and
 - B. The posting of the premises where the dangerous animal or potentially dangerous animal is located with a clearly visible sign warning that there is a dangerous animal on the property and containing a symbol designed to inform children of the presence of a dangerous animal.

Section 7. CERTIFICATE OF REGISTRATION FOR DANGEROUS ANIMAL, PROOF OF INSURANCE OR BOND

The owner of a dangerous or potentially dangerous animal shall also present to the animal control officer evidence of:

- A. A policy of insurance in the amount of at least One Hundred Thousand Dollars per occurrence issued by an insurer authorized to transact business in this state insuring the owner of the dangerous animal against liability for any personal injuries inflicted by the dangerous animal; or
- B. A surety bond in the amount of One Hundred Thousand Dollars or more issued by a surety company authorized to transact business in this state payable to any person or persons injured by the dangerous animal.

Section 8. NOTICE OF ESCAPE, DEATH, OR CHANGE OF OWNERSHIP OF DANGEROUS OR POTENTIALLY DANGEROUS ANIMAL

- A. The owner of a dangerous animal or potentially dangerous animal shall notify the animal control officer within 24 hours if the animal is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the animal has been sold or donated, the owner shall also provide the animal control officer with the name, address, and telephone number of the new owner of the animal
- B. It is unlawful for an owner of a dangerous animal to permit the animal to be outside a proper enclosure unless the animal is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but will prevent it from biting any person. The leash shall not be in excess of 6 feet in length and shall be made of sufficient strength to prevent escape.

Section 9. DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; CONFISCATION; RETURN TO OWNER OR DESTRUCTION

- A. A dangerous animal shall be immediately confiscated by the animal control officer or by a law enforcement officer or by another person authorized by the animal control officer if:
 - 1. The owner of the animal does not secure and maintain the liability insurance or bond required by this section,
 - 2. The animal is not validly registered as required by this Ordinance,
 - 3. The animal is not maintained in a proper enclosure,
 - 4. The premises where the animal is located is not posted as required by this Ordinance,
 - 5. The animal is found outside a proper enclosure in violation of this Ordinance.
- B. A potentially dangerous animal shall be confiscated in the same manner as a dangerous animal if the animal is:

1. Not validly registered as required by this Ordinance,
 2. Not maintained in a proper enclosure or;
 3. Outside a proper enclosure in violation of this Ordinance.
- C. Any animal that has been confiscated under the provisions of this section shall be returned to its owner upon the owner's compliance with the provisions of this chapter and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this Ordinance within 10 days of the date the animal was confiscated, said animal shall be destroyed in an expeditious and humane manner.

**Section 10 DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS;
EXEMPTIONS**

An animal that inflicts an injury upon a person when the animal is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous animal or potentially dangerous animal within the meaning of this Ordinance; if the injury inflicted by the animal was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the animal or had in the past been observed or reported to have tormented, abused, or assaulted the animal or was committing or attempting to commit a crime.

**Section 11. CITATION AND COURT APPEARANCE FOR VIOLATIONS
RELATING TO DANGEROUS OR POTENTIALLY DANGEROUS
ANIMAL**

Upon information known to or upon a complaint lodged with an animal control officer, marshal, code enforcement officer or the sheriff's department, that an animal is dangerous or potentially dangerous, and is not being kept by its owner under restraint in compliance with this Ordinance, the animal control officer or any law enforcement agency employee of the governing authority shall issue a citation for the violation to the owner of the animal to appear before the judge of the Municipal Court of the City of Dahlonega on a day and time certain for a hearing to determine if the animal is dangerous or potentially dangerous as defined herein.

Upon information known to or upon a complaint lodged with an animal control officer, marshal, code enforcement officer or the sheriff's department, that any owner or possessor of a domesticated animal is in violation of this Ordinance, a citation will be issued requiring the owner or possessor of such domesticated animal to appear before the judge of the Municipal Court of the City of Dahlonega. If such violation of this Ordinance has not been witnessed by an

officer or other employee of the governing authority, a subpoena shall be issued to the person making the complaint requiring said person to appear on the day and time set to testify on behalf of the City. In the event that the owner or possessor of any domesticated animal is not known, and such domesticated animal is at large in violation of this Ordinance, upon complaint made to, or information known to the animal control unit or other governing authority, it shall be the duty of the governing authority to immediately take possession of such domesticated animal and impound it according to such rules and regulations now or hereafter prescribed by law or by the Ordinances of the City for the detention, control, and disposition of domesticated animals.

Any owner shall be held to know that such animal was dangerous or potentially dangerous if the animal had at anytime displayed any one or more of the behaviors described in Section 1, Items D and H of this Ordinance.

Section 12. IMPOUNDMENT.

Any animal may be impounded if:

- A. It is not under restraint or is at large,
- B. It does not have a visible collar with valid and current rabies vaccination,
- C. It has been abandoned for 36 hours,
- D. It has bitten or is reasonably suspected of biting another animal or human and is being held for the required quarantine period under the rules and regulations of the Board of Health.

Said animal shall be impounded according to such rules and regulations now or hereafter prescribed by law or by the Ordinances of the governing authority for the detention, control and disposition of animals. All impounded animals except exotic animals and livestock, shall be housed and cared for at the Lumpkin County Animal Shelter and Adoption Center. Impounded exotic animals and livestock will be housed at a facility approved by the governing authority.

Any and all dogs or cats found running at large in violation of this ordinance shall be immediately impounded by the city or its duly authorized officers or agents. In the event that the owner or one in possession of a dog or cat is not known and such dog or cat is upon the streets, sidewalks, public places, and premises of another, any law enforcement officer or agent or employee duly authorized by the city shall be authorized to take possession of such dog or cat and impound it in accordance with the rules and regulations now or hereafter provided by law or by ordinance for the detention, control and disposition of dogs or cats impounded pursuant to such law or ordinance applicable.

Section 13. DISPOSITION OF IMPOUNDED ANIMALS

The animal control officer shall immediately notify the owner of each domesticated animal impounded if the owner of the domesticated animal is known, or can be reasonably ascertained. The owner of any domesticated animal impounded may, within 72 hours of such impoundment, reclaim such domesticated animal by the payment of all charges assessed by the Lumpkin County Animal Shelter for required inoculations as well as processing and boarding the animal. The owner of said animal must also show proof of payment of any fine previously imposed for a violation of this Ordinance prior to receiving the animal.

In the case of a dangerous or potentially dangerous animal, the owner shall show proof of compliance with the duties of owners of dangerous or potentially dangerous animals under this Ordinance.

Section 14. DESTRUCTION OF SUFFERING ANIMALS

While being impounded any animal which is suffering excessively, or any animal which represents a real danger to persons, or other animals, without regard to the period of confinement, shall be destroyed by a licensed professional authorized to conduct euthanasia.

Any law enforcement officer employed within the governing authority is authorized to conduct field euthanasia when an animal is suffering excessively, or when an animal represents a real danger to persons or other animals.

Section 15. GUARD DOGS.

In addition to all other requirements of this Ordinance, any person maintaining a guard animal in an area for the protection of persons or property shall meet the following requirements:

- A. The animal shall be confined to an enclosed area adequate to insure that they will not escape; or
- B. When not securely enclosed, the animal shall be under the absolute control of a handler at all times, muzzled and restrained by a secure leash which is not in excess of six feet in length and which is of sufficient strength to prevent escape.
- C. The owner or other persons in control of the premises upon which a guard animal is maintained shall post warning signs over or next to all exterior doors stating that such an animal is on the premises. At least one such sign shall be posted at each driveway or entranceway to said premises. Such sign shall be in lettering clearly visible from either the curb line or at a distance of 50 feet, whichever is greater, and shall contain a telephone number where some person responsible for controlling such guard animal can be reached 24 hours a day.

D. The owner or custodian shall report to the Animal Control Unit within 24 hours any of the following:

1. escape of the animal,
2. an attack on a human or animal by the guard animal,
3. transfer of ownership of the animal; or
4. death of the animal.

Prior to the placing of a guard animal on any property, the person or persons responsible for the placing shall inform the animal control officer, all law enforcement agencies of the governing authority as well as the fire chief, in writing, of their intention to post said animal, the number of animals to be posted, the location where said animal will be posted, the approximate length of time said animal will be guarding the area, and the breed, sex, age and rabies tag number of said animal. Such notice must be renewed every 12 months.

Section 16. VIOLATIONS - ENFORCEMENT

Any person who commits any offense prohibited by this Ordinance or who fails to comply with any requirement set forth in this Ordinance, as the same exists or as it may hereafter be amended, shall be guilty of a misdemeanor. A citation will be issued for the offense and the offender will be required to appear in the Municipal Court of the City of Dahlonega. Upon conviction, the offender shall be punished by a fine not to exceed \$1,000.00 or by confinement in the county jail not to exceed 60 days; either fine or confinement, or both, is the discretion of the Court. Each day of continuing violation shall constitute a separate offense.

Section 17. SEVERABILITY

If any paragraph, sub-paragraph, sentence, clause, phrase, or any portion of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 18. REPEALER.

All Ordinances, or parts of Ordinances in conflict with the terms of this resolution are hereby repealed; but it is hereby provided, that any Ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose, and provisions hereof, which shall be literally construed to be in favor of the City of Dahlongega is hereby adopted as a part hereof.

ORDAINED THIS 2nd DAY OF FEBRUARY, 2004 BY THE MAYOR AND COUNCIL OF THE CITY OF DAHLONEGA.


MAYOR

ATTEST:


CITY CLERK