

AN ORDINANCE TO AMEND, STRIKE OR CHANGE CERTAIN ARTICLES, DIVISIONS AND SECTIONS OF PART II - CODE OF ORDINANCES, CHAPTER 14: ANIMALS; TO REPEAL ALL CONFLICTING ORDINANCES, TO FIX AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Calhoun, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the duly elected governing authority of the City of Calhoun, Georgia is the Mayor and Council thereof; and

WHEREAS, the governing authority deems it essential to the proper protection to both the safety of the municipal citizenry and residents, as well as, animals either owned or found located within the municipal limits; and

WHEREAS, such measures are necessary to provide the public with confidence in their individual safety, as well as, the human and ethical treatment of certain classifications of animals either owned or possessed by municipal residents, or otherwise found or located within the city limits.

NOW, THEREFORE, it is the policy of the city that the present version of CHAPTER 14: ANIMALS presently found as enacted in the Code of Calhoun, Georgia be modified to serve these legislative goals and purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CALHOUN THAT THE CALHOUN CODE OF ORDINANCES, PART II, CHAPTER 14: ANIMALS, SHALL BE MODIFIED, AMENDED OR CHANGED AS FOLLOWS:

SECTION ONE: CHAPTER 14: ANIMALS, ARTICLE I – IN GENERAL, SEC. 14-1. - Definitions be amended to include the following language to add the term “*Tether*” and a legislative meaning for same and to read as follows:

“ *Tether* means any chain, rope, leash, tie out, or wire designed to restrain an animal which is attached to an animal or to an animal’s collar or halter and is also

attached in any manner to one or more stationary objects.”

SECTION TWO: “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-41. - Rabies inoculations required.*” as presently enacted shall be stricken in its entirety and shall be hereby replaced with “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-41. - Rabies inoculations required.*” to read as follows:

“ **Sec. 14-41. Rabies inoculation required.**

(a) All pets over 90 days old within the municipal geographical boundary limits shall be inoculated annually so as to provide immunity from rabies for a period of not less than one year. All inoculations shall be administered by a licensed veterinarian or an authorized representative of the public health department.

(b) All owners, or individuals otherwise in possession, of any and all pets kept, harbored, maintained, or otherwise found located within the municipal geographical boundary limits shall be required to provide any such pet with a collar to which the tag providing proof of the inoculation required by subsection (a) above shall be affixed. It is the exclusive responsibility that any individual subject to this provision shall see that said collar with the proper tag affixed is on the animal at all times said pet might be found outside of the interior of the individual’s home or residence.”

SECTION THREE: “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-42. - Identification tag required; issuance; fee exemption.*” as presently enacted shall be stricken in its entirety and shall be hereby replaced with “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-42. - Tethering.*” to read as follows:

“ **Sec. 14-42. Tethering**

(a) No person shall tie, stake or fasten any animal within any street, alley, sidewalk, right-of-way, adjacent property, or other public place within the city or in such manner that the animal has access to any portion of any street, alley, sidewalk or other public place.

(b) The tether shall be attached to a properly fitted collar and the following shall be prohibited:

- (1) No chain collars, prong collars, or choke collars shall be used in tethering an animal; and
- (2) No tether shall be shorter than either eight feet or five times the

length of the animal (from nose to base of tail), whichever is longer.

- (c) The tether shall be placed in an area to prevent the animal from becoming tangled with anything or another animal in its surrounding area.
- (d) Any tether shall have swivels on both ends and be attached to a properly fitted buckle-type collar or harness worn by the animal.”

SECTION FOUR: “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-43. - Form of identification tag; attachment of identification tag and vaccination tag to collar.*” as presently enacted shall be stricken in its entirety and replaced with “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-43. - Adequate indoor and out of doors shelter standards and requirements; required standards for care of pets.*” to read as follows:

“ **Sec. 14-43. Adequate indoor and out of doors shelter standards and requirements; required standards of care for pets.**

- (a) **Proper Care.** No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
- (b) The animal should have a daily intake of food to maintain the animal’s proper weight and health.
- (c) Potable water shall be available at all times for the animal.
- (d) **Minimum indoor standards.** The minimum standards of shelter for the indoor care of the animal shall include:
 - (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
 - (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (e) All pets must have shelter available when tied or confined while unattended outdoors for any length of time.
- (f) **Dogs.** If a dog is tied or confined unattended outdoors or in an unheated enclosure, a shelter of suitable size to accommodate the dog shall be provided. The

minimum specifications for such shelter shall be constructed and maintained so as to provide sufficient space to allow as follows for the animal:

- (1) Shall allow the dog to turn around freely;
- (2) Shall have at least three sides, a floor and roof;
- (3) Shall keep the dog dry under any and all weather conditions; and
- (4) The shelter shall have suitable drainage, which rapidly eliminates excess water.

(g) **Outdoor Enclosure Space Standards.** Minimum space requirements for outdoor enclosures shall include:

- (1) **Small dogs.** Dogs weighing 20 pounds and under shall have a minimum of 25 square feet enclosure per dog;
- (2) **Medium dogs.** Dogs weighing 21 pounds to 50 pounds shall have a minimum of 50 square feet enclosure per dog;
- (3) **Large dogs.** Dogs weighing 51 pounds and over shall have a minimum of 100 square feet enclosure per dog;
- (4) **Structural strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.”

SECTION FIVE: “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-44. - Record of tags.*” as presently enacted shall be stricken in its entirety and replaced with “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-44. - Impoundment; running at large.*” to read as follows:

“ **Sec. 14-44. Impoundment; running at large.**

(a) **Animals subject to impoundment.** It shall be unlawful for the owner of any animal, or any person having an animal in his custody, to allow it to run at large unattended on or about the streets and highways of the city, or on the property of another person without permission of the owner of that property or of the person in possession of that property.

(b) **Running at large prohibited.**

- (1) It shall be unlawful for any owner of a dog or a person having a dog in his possession or control to permit such dog to be out of control and unattended off the premises of the owner in the corporate limits of the city or upon the property of another person, without permission of the owner of such property or the person in possession thereof.
- (2) A dog is under control if it is controlled by a leash, is at heel or is beside a competent person and obedient to that person's commands, or is within a vehicle being driven or parked on the streets or parking lots, or is within the property limits of its owner or keeper.

(c) An electronic confinement system shall be considered an acceptable enclosure when the equipment is properly maintained and in continuous working order, and the animal to be contained within wears the appropriate electronic collar when within the system perimeters.

(d) ***Dogs running at large.*** As used in this section, the term “running at large” means off the premises of the owner or keeper and not under leash or other physical restraint of the owner or a responsible person. The following shall also be considered to be defined as “running at large” for all purposes under this ordinance:

- (1) All dogs off the premises of the owner of the dog which the city’s agent or employee has reason to believe is a stray dog;
- (2) Any female dog in heat and off the premises of the owner or keeper; and
- (3) Any and all dogs found within the municipal geographical limits that may otherwise reside or be in the ownership of a resident of Gordon County in an area directly adjacent to the city limits or geographical boundaries.

(e) ***Dangerous dogs.*** A dangerous dog shall be immediately confiscated by the dog control officer, or by a law enforcement officer, or by another person authorized by the dog control officer if:

- (1) The owner of the dog does not secure the liability insurance or bond required by the chapter;
- (2) The dog is not validly registered as required by this chapter;
- (3) The dog is not maintained in a proper enclosure; or



(4) The dog is outside a proper enclosure in violation of section 14-72.

(f) **Potentially dangerous dogs.** A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:

(1) Not validly registered as required by this chapter;

(2) Not maintained in a proper enclosure; or

(3) Outside a proper enclosure in violation of section 14-72.

(g) **Notice to owner.** Notice of the impoundment shall be given immediately by certified mail or hand delivery to the owner of the impounded dog, if such owner may be ascertained. Notice shall be mailed to the last known address and is effective upon mailing. If personal delivery to premises, notice is effective when left with a responsible person or affixed to the door.

(h) **Redemption of animal by owner.** Any dog that has been confiscated under the provisions of subsection (e) or (f) 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 confiscation costs. If the owner has not complied with the provisions of this chapter within 20 days of the date the dog was confiscated and/or notice given, whichever last occurs, the dog shall be destroyed in an expeditious and humane manner.

(i) **Disposition of unclaimed animals.** Any dog which has been impounded under provisions of subsection (a) of this section shall be disposed of in the following manner if the owner does not respond within seven (7) days of impoundment or notice of impoundment, whichever event occurs last, and does not comply with subsection (g) of this section:

(1) The dog may be placed in an adoptive home;

(2) The dog may be turned over to a Georgia licensed rescue group;

(3) The dog may be destroyed by such a humane method as the city may deem appropriate.

(j) **Conditions for redemption.** During the seven (7) day period following impoundment under authority of subsection (a) of this section, the owner of the impounded dog may claim such dog and such dog may be redeemed by its owner upon payment by the owner to the city of a penalty as prescribed by the mayor and council if the dog was impounded for a fee prescribed by the mayor and council per day of impoundment to help defray the cost of feeding and maintenance of the dog

during impoundment, and the cost of inoculation for rabies if such dog has not been inoculated within the preceding 12-month period. If the dog has been inoculated within the preceding 12-month period, the owner of such dog shall furnish proof of such inoculation to the satisfaction of the dog control officer or any of his designated agents or representatives.”

SECTION SIX: “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-45. - Removal of tags.*” as presently enacted shall be stricken in its entirety and replaced with “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 1 - GENERALLY, SEC. 14-45. - Public Nuisance by dog.*” to read as follows:

“ **Sec. 14-45. Public nuisance by dog.**

(a) ***Dogs creating nuisance prohibited.*** The owner of any dog which is alleged to create a public nuisance as defined in section 14-1 is subject to the following provisions as to hearings and disposition. If the final determination of the following procedure determines the dog to be a public nuisance, it shall be unlawful to maintain such dog within the city limits.

(b) ***Filing of complaint.*** Any person desiring to file a complaint against the owner of any dog alleged to have created or to be creating a public nuisance shall file the complaint in writing with the city clerk on forms prescribed by the city clerk naming the owner of the dog and describing the dog as to breed, etc., to the best of such person's ability, and it shall be the duty of the city to conduct a hearing on the complaint in accordance with the rules and provisions set out in this section.

(c) ***Hearing; determination by mayor.*** Upon complaint to the city by two or more persons regarding a particular dog that has created, or is creating a public nuisance, the city shall conduct a hearing presided over by the mayor to determine whether such dog is in fact a public nuisance. Notice of the hearing shall be given to the owner of such dog at least ten days prior to the hearing, either by hand delivery or certified mail/return receipt requested. Notice of hearing shall specify the date, time and place of the hearing and a copy of the complaint shall be enclosed. If the mayor, for the same reason, cannot conduct the hearing, it shall then be presided over by the mayor pro tempore. All parties and witnesses shall be sworn and can be examined by all parties, including the presiding officer. Also, any parties may introduce any documentary evidence in addition to testimony of the party and/or witness. At the conclusion of the hearing, the presiding officer shall make the determination as to whether the dog is a public nuisance.

(d) ***Appeals.*** If a dog is determined to be a public nuisance by the mayor, the owner of the dog shall have the right to appeal such decision to the city council as a whole without the mayor at the next regular meeting of the mayor and council held

no earlier than 15 days from the date of receipt of the determination. The owner of a dog determined to be a public nuisance must be notified in writing of the presiding officer's decision within five days of the hearing by certified mail. The owner will then have ten days to notify in writing the city clerk of the request to appeal the mayor's determination to the full council at its next regularly scheduled meeting as provided in this subsection.

(e) **Removal or destruction of dog.** If any dog is determined to be a public nuisance after the complaint is heard in accordance with the provisions of this section, after all appeals of the decision are exhausted, the owner of the dog shall be requested to remove the dog from the city limits within 72 hours of the actual date of the determination. If the owner fails to remove the dog deemed to be a public nuisance, then it shall be the duty of the dog control officer or any officer of the police department to immediately confiscate and impound the dog and then to destroy the dog in an expeditious and humane manner.

Secs. 14-46—14-70. - Reserved.”

SECTION SEVEN: “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 2 - DANGEROUS AND POTENTIALLY DANGEROUS DOGS, SEC. 14-72. - Requirements for possessing dangerous dog or potentially dangerous dog; certificate of registration., Subparagraph (b)(1)*” as presently enacted shall be stricken in its entirety and shall be hereby replaced with “*CHAPTER 14: ANIMALS, ARTICLE II – DOGS, DIVISION 2 - DANGEROUS AND POTENTIALLY DANGEROUS DOGS, SEC. 14-72. - Requirements for possessing dangerous dog or potentially dangerous dog; certificate of registration., Subparagraph (b)(1)*” to read as follows:

“(b) Subject to the additional requirements of subsections (b)(2) and (c) of this section for dangerous dogs, the dog control officer shall issue a certificate of registration to the owner of such dog if the owner presents to the dog control officer or the dog control officer otherwise finds sufficient evidence of:



- (1) A proper enclosure to confine the dangerous dog or potentially dangerous dog as follows:
 - (A) Enclosure shall meet City of Calhoun enclosure space standards as provided in Section 14-43 of this Chapter;
 - (B) Enclosure shall be inside a fence to prevent contact from bystanders;
 - (C) Enclosure shall have a roof to prevent escape; and



- (D) Enclosure shall have a wood or concrete floor to prevent escape.”

SECTION SEVEN: “CHAPTER 14: ANIMALS” to add “ARTICLE III – Enforcement.” to read as follows:

“ **ARTICLE III. - ORDINANCE VIOLATIONS**

Sec. 14-81. Enforcement.

(a) **Authorization.** Animal control officers and law enforcement officers of the various jurisdictions within the city shall be enforcement officials for this chapter. These officials shall have the authority to act on behalf of the city in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful action as required to enforce the provisions of this chapter. It shall be a violation of this chapter to interfere with any animal control officer or other enforcement official in the performance of his duties.

(b) **Citations upon affidavit.** Upon the sworn affidavit of any citizens alleging a violation of this chapter, an animal control officer or law enforcement officer may issue a citation to the owner of the animal requiring the owner to appear before the Municipal Court for the City of Calhoun for an adjudication of the complaint on a date and time certain.

(c) **Citation requirements.** Citations issued hereunder shall be personally served upon the person accused. Each citation shall state the time and place at which the accused is to appear for trial.

(d) **Interference with officer.** It shall be a violation of this chapter to interfere with, hinder, disrupt, or obstruct an animal control officer in the performance of his or her duty or the enforcement of this chapter.

Sec. 14-82. Search and seizure warrants; inspection warrants.

Search and seizure warrants; inspection warrants. Animal control officers may apply for search and seizure warrants, or inspection warrants pursuant to O.C.G.A. § 2-2-11 when they reasonably believe a violation of subsections 14-42, 14-43, 14-44(e) & (f), 14-72 and 14-73 of this chapter is occurring. The officer shall apply to a judge of municipal court only upon cause and with an affidavit particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is to be made. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. Cause shall be deemed to exist if there is reason to believe that a condition of nonconformity with

the provisions of subsections 14-42, 14-43, 14-44(e) & (f), 14-72 and 14-73 exists with respect to the particular place, dwelling, structure, premises or vehicle.

Sec. 14-83. Violations and penalties; remedies.

(a) **Violations.** It shall be a violation of this chapter to:

- (1) Fail to comply with any provision of this chapter;
- (2) Fail to comply with any lawful order of an animal control officer or law enforcement officer unless such order is lawfully stayed or reversed; or
- (3) Fail to pay costs imposed by the animal control officer unless payment thereof is lawfully stayed.

(b) **Multiple animals.** When multiple animals are in violation of this chapter or are maintained in circumstances that violate this chapter, each animal shall constitute a separate violation, or in the alternative, a higher fine shall be imposed on the single violation. In addition, multiple violations on the same animal shall result in a higher fine.

(c) **Penalties.** Any person violating the terms of this chapter or rules and regulations promulgated pursuant thereto, may be punished by civil penalty, or by criminal citation and fine, not to exceed one thousand dollars (\$1,000.00). Separate offenses shall be deemed to be committed on each day during or on which a violation occurs or continues. Each animal shall constitute a separate offence, and each violation of a specific provision of this chapter shall constitute a separate offense.

(d) **Fines; minimum fine amounts.** The following fines may be imposed pursuant to municipal court criminal citation or superior court civil action. The minimum fines imposed under this chapter shall be as listed below and shall be imposed as the minimum fine for listed violations. A higher fine may be imposed at the discretion of the court. Maximum fines shall be one thousand dollars (\$1,000.00). Higher minimum fine levels shall be imposed for second violations and third and subsequent violations, or for multiple violation circumstances, or aggravating circumstances, as detailed below:

(1) **Table of fines.**

Particular offense	Fine amounts		
	Level I	Level II	Level III
Violations of Secs. 14-42, 14-43, 14-44 (e) & (f), 14-72 and 14-73	\$250.00	\$500.00	\$750.00
Violations of all other applicable provisions of Chapter 14	\$150.00	\$300.00	\$450.00

- (2) **Level I.** Fines of Level I are the minimum required for the first violation of this chapter.
- (3) **Level II.** Fines of Level II are the minimum required for the second violation of this chapter, and they shall also be imposed when one (1) animal is subject to two (2) or more citations (e.g., a dog with no rabies tag, also running loose). Level II fines shall also be imposed when two (2) or more animals are the subject of one (1) citation (e.g., two (2) dogs running loose).
- (4) **Level III.** Fines of Level III are the minimum required for the third or subsequent violation of this chapter. Level III fines shall be imposed when an animal is subject to aggravating circumstances, such as extreme cruelty.
- (5) **Repeat citation.** Level II and Level III fines shall be imposed when the same person is cited for further violations of any sort under this chapter, whether they be for the same offense or a different offense, or the same animal or different animals, provided they occur on a separate day.

(e) **Procedure; citations; civil actions.** The animal control office may issue criminal citations to be heard in municipal court with or without a prosecuting attorney as designated by the city attorney. The city attorney or other attorney as designated by the city may bring a civil action in superior court or municipal court as appropriate for civil fines, attorney's fees, injunctive relief to enjoin violations and prohibit future violations, and all other relief necessary to enforce this chapter, including mandamus or abatement of nuisance. The city shall be entitled to its attorney's fees for any successful action brought in superior court. Civil penalties may be imposed pursuant to citation issued by the animal control officer and heard in municipal court with or without a prosecuting attorney.

(f) **Restitution.** Restitution for any injury inflicted on another by violation of this chapter may also be sought as relief and ordered by the magistrate or superior court, including recovery of costs incurred by the city for testing, housing, feeding and other costs.

(g) **Continuing civil penalty.** In the event that an injunction or other equitable relief is instituted against a person under this chapter, and in addition to any finding of contempt by the superior court, the continued violation of the chapter shall result in the accrual of a civil penalty at the rate of at least two hundred fifty dollars (\$250.00) per day so long as the violation continues. A higher rate may be imposed by the court.

(h) **Notice of felony issues.** Under O.C.G.A. § 4-8-28(c), repeated violations of the dangerous dog provisions can constitute a felony. Such charges shall be referred to the district attorney.

(i) **Additional penalties.** The municipal court and superior court shall be authorized to impose additional penalties for violation of this chapter at its discretion, to include the following:

- (1) Confinement up to sixty (60) days jail.
- (2) Training and/or pet education classes. The animal control officer shall maintain a list of approved training and/or pet education classes for obedience training and for education of pet owners. No training requirement costing more than two hundred fifty dollars (\$250.00) shall be imposed.
- (3) Community service up to two hundred forty (240) hours.
- (4) For vicious animal convictions, the person may be required to relinquish control of the animal in question to animal control and the animal will be dealt with in the discretion of the department.”

SECTION NINE: This ordinance shall become effective immediately following enactment by the Mayor and Council of the City unless otherwise changed or amended by additional ordinance as approved by the Mayor and City Council at a later date in accordance with both the municipal charter and the GENERAL PROVISIONS of Chapter 1 of the Code of Calhoun.

SECTION TEN: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION ELEVEN: It is hereby declared to be the intention of the Mayor and Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and if any section, paragraph, sentence, clause, or phrase shall be declared unconstitutional, or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any

of the remaining sections, paragraphs, sentences, clauses, or phrases herein.

SO ADOPTED and **ENACTED** this the ____ day of _____, 2017.

ATTEST:

JAMES F. PALMER, MAYOR
CITY OF CALHOUN, GEORGIA

SHARON NELSON, CITY CLERK

Date of First Reading: _____

Date of Second Reading: _____

Date of Public Reading: _____