

ORDINANCE NO. 21-873

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE CLARKSVILLE MUNICIPAL CODE, CHAPTER 6 ANIMALS AND FOWL FOR THE CITY OF CLARKSVILLE, ARKANSAS; AND FOR OTHER PURPOSES.

WHEREAS, the intent of the City Council for the City of Clarksville, Arkansas is to amend the Clarksville Municipal code and adopt new animal control regulations and enhance the welfare of animals throughout the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, ARKANSAS, THAT:

Section 1. Chapter 6.03 of the Clarksville Municipal Code (the "Code") is hereby added to the Code and as follows:

"CHAPTER 6.03

OFFENSES AGAINST PUBLIC HEALTH, SAFETY, OR WELFARE

6.03.01 Offenses:

A person commits the offense of cruelty to animals if he or she knowingly:

- (1) Subjects any animal to cruel mistreatment.*
- (2) Kills or injures any animal owned by another person without legal privilege or consent of the owner.*
- (3) Abandons an animal at a location without providing for the animal's continued care.*
- (4) Fails to supply an animal in his or her custody with enough wholesome food and water.*
- (5) Fails to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal; or*
- (6) Carries or causes to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner.*

For purposes of this code, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense. Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than one hundred fifty dollars (\$150) and no more than one thousand dollars (\$1,000);

(2) Either:

- (A) Imprisoned for no less than one (1) day and no more than one (1) year in jail; or*
- (B) Ordered to complete community service; and*

(3)

(A) Both:

- (i) Ordered to complete a psychiatric or psychological evaluation; and*

(ii) If determined appropriate, psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a second offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than four hundred dollars (\$400) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than seven (7) days and no more than one (1) year; or

(B) Ordered to complete no fewer than thirty (30) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a third offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than nine hundred dollars (\$900) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than ninety (90) days and no more than one (1) year; or

(B) Ordered to complete no fewer than ninety (90) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals for a fourth or subsequent offense occurring within (5) five years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class D felony and shall be:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(C) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person.

For the sole purpose of calculating the number of previous offenses under of this section, all offenses that are committed against one (1) or more animals and as part of the same criminal episode are a single offense. As used in this section, "criminal episode" means an act that constitutes the offense of cruelty to animals that is committed by a person against one (1) or more animals within a period of twenty-four (24) hours."

Section 2. Section 6.04.02 is hereby removed from the Code in its entirety.

Section 3. Section 6.04.03 of the Code is hereby amended to read as follows:

"6.04.03 Confinement of Dogs:

An owner of a dog or dogs shall be responsible for safe confinement or tethering of the dog. Confinement is defined as an adequate fence or enclosure or within a house garage, or other ventilated building.

Tethering: *A dog run is defined as an elevated cable run which a leash or connector is affixed to the dog's collar and to the cable run. At all times the dog must have access to cover from the elements and clean drinking water. It shall be the duty of any owner or keeper of any dog to be present to provide overwatch of the dog and to keep such dog under such control as to prevent such dog from becoming a danger to persons or property or trespassing upon another person's property without that person's permission, and prevent such dog from running at large upon the streets, sidewalks, alleys, parks or other public places of the city. (Ord. No. 148, Art. III.)"*

Section 4. Section 6.04.06 of the Code is hereby to read as follows:

"6.04.06 Adoption. The Animal Control Authority may convey ownership (permit adoption) of any dog which has become the property of the Authority as above provided, to any responsible person subject to such conditions as may be prescribed by the Animal Control Authority, including the following:

- A. Payment of all assessed fees and charges, and*
- B. Evidence satisfactory to the Animal Control Authority that the animal will be vaccinated and identified as herein provided. (Ord. No. 148, Art. VI) (Ord. No. 371, Sec. 2.)*
- C. An animal establishment shall not sell, trade or give away any dog or cat over six months of age unless the dog or cat has been licensed and vaccinated as required by city ordinance.*

- D. *City personnel designated by the Mayor or City council shall be permitted to inspect any animal establishment, animals on premises, and the grounds where such animals are kept at any reasonable time during normal business hours to ensure compliance with all provisions.*
- E. *All animal establishments, including animal establishments operated in conjunction with another holding facility, shall, in addition to the other requirements, comply with the minimum standards of this section:*
1. *There shall be available hot water at a minimum temperature of 125 degrees Fahrenheit for washing cages and disinfecting, and with water easily accessible to all parts of the establishment. Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day.*
 2. *The room temperature of the establishment shall be maintained at ambient temperature above 45 degrees Fahrenheit and must not rise above 85 degrees Fahrenheit or IAW the animal welfare act established standards.*
 3. *All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, run and stretch out to its full length. Each cage must be separated in such a manner so that animals, bodily fluids, hair dander, etc. cannot come into physical contact with another animal. All cages must have proper drainage so as there is no runoff of cleaning or disinfecting between cages.*
 4. *Cleaning shall consist of products that are considered standard within the industry for both cleaning and disinfecting of all surfaces within the facility."*

Section 5. Section 6.04.08 of the Code is hereby added as follows:

"6.04.08 Dog and Cat Number Owned. It shall be unlawful for any person, household, or residence to own, keep or harbor more than four dogs or cats, which are 16 weeks old within the corporate city limits, and the burden of proof shall be the owners to show the age of such."

Section 6. Section 6.04.09 of the Code is hereby added and amended to read as follows:

"6.04.09 Breeder's License. It shall be unlawful for any person to engage in the breeding of dogs or cats without a breeder's license. Each breeder will be required to meet the standards of city law for care and limitations on animals. Each breeder shall apply for a breeder's license from city animal services annually and be subject to inspection of the residence as needed. Breeders shall be restricted to single-family residences with adequate outdoor facilities. Breeders shall only breed nationally recognized registered animals."

Section 7. Section 6.04.10 of the Code is hereby added to read as follows:

"6.04.10 Compliance. An animal establishment shall not sell, trade or give away any dog or cat over six months of age unless the dog or cat has been licensed and vaccinated as required by city law.

City animal services shall be permitted to inspect any animal establishment, animals on premises, and the grounds where such animals are kept at any reasonable time during normal business hours to ensure compliance with all provisions."

Section 8. Section 6.04.11 of the Code is hereby added to read as follows:

“6.04.11 Animal Establishment Standards. General. All animal establishments, including animal establishments operated in conjunction with another holding facility, shall, in addition to the other requirements, comply with the minimum standards of State and Federal guidelines for sheltering operations.

Water. There shall be available hot water at a minimum temperature of 125 degrees Fahrenheit for washing cages and disinfecting, and with water easily accessible to all parts of the establishment. Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day.

Room temperature. The room temperature of the establishment shall be maintained at an ambient temperature above 45 degrees Fahrenheit and must not rise above 85 degrees Fahrenheit or IAW the animal welfare act established standards.

Cages and enclosures. All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, run and stretch out to its full length.”

Section 9. Section 6.04.12 of the Code is hereby added to read as follows:

“6.04.12 Nuisance Animals. It shall be unlawful for any person, household, or residence to own or harbor a public nuisance animal. Public nuisance animals shall include, but are not limited to any animal in which by loud or frequent noise may disturb the peace and quiet of any person who may reside within reasonable proximity of the place where the animal is kept. Any claim of excessive noise must be validated by the police department or city animal services. If said claim of excessive noise cannot be witnessed by the police officer or city animal services, the person claiming such nuisance should file an affidavit with the city district court and be required to pay any court costs associated therewith. If the animal owner is found guilty of this offense on three separate occasions, city animal services after the third offense shall impound the offensive animals until a decision of the animal's fate is decided by the city district court.”

Section 10. Section 6.12.01 of the Code is hereby amended to read as follows:

“6.12.01 Horses, Cows, Mules, Goats and Hoofed Livestock.

- A. It shall be unlawful for any person to keep, maintain or permit to run at large within the corporate limits of the city, any cows and/or horses except as provided in this chapter. The violation of this section is hereby declared to be a Class “C” misdemeanor. It shall be the duty of the proper law enforcement official to enforce the provisions hereof.*
- B. The keeping within the corporate limits of the City of Clarksville, Arkansas, of cows, horses, mules, goats, or other large hoofed domestic animals (“Livestock”) shall be allowed subject to the following provisions:*
 - 1. The owner or keeper shall provide one (1) acre of open pasture per two (2) such animals or combination thereof, with a minimum of one (1) acre for first such animal.*
 - 2. The owner or keeper shall maintain a fence which is adequately constructed to safely contain such animals.*

3. *No such animals may be kept within one hundred (100) feet of any residence or business, excluding the residence or business of the person owning or keeping the animal.*
 4. *Livestock shall not be housed or kept in trailers and when being transported must be provided a healthful environment to include:*
 - a. *There shall be available water for washing cages and disinfecting, and with water easily accessible to the trailer.*
 - b. *Fresh water shall be available to all animals at all times.*
 - c. *Containers are to be cleaned and disinfected each day.*
 - d. *The temperature within the trailer shall be maintained at a level that is healthful for every animal kept in the trailer.*
 - e. *All trailers and enclosures are to be kept clean and sanitary. Trailers that transport horses and cows must be of sufficient size that the animal will have room to stand, and stretch out to its full length.*
- C. *The keeping of horses and cows in enclosures as herein provided within the limits of the city shall follow the guidelines established in the Horse protection act and/or animal welfare act. Should any of the enclosures become harbors for breeding flies, mosquitoes and rats, or should they become unsanitary, obnoxious, unhealthful and/ or discomforting to any of the citizens of the city because of conditions created by keeping of said animals, the proper law enforcement official, upon investigating and finding any such conditions to exist, shall serve written notice on the owners or keepers of the premises as to the conditions thereof by delivering a copy of the notice to the owner or keeper, or by posting same in a conspicuous place on the premises, and if within five (5) days after service of notice said owner or keeper has not corrected the conditions, the City Attorney is authorized to institute an action in a court of competent jurisdiction to abate same as a nuisance. (Ord. No. 2011- 630, Sec. 1.)"*

Section 11. Section 6.12.05 subparagraph A. of the Code is hereby amended as follows:

"A. Free range chickens, ducks, guineas, pheasant, quail or other small fowl shall be kept in an area containing a minimum of two (2) acres. No such fowl may be kept within one hundred (100) feet of any residence or business, excluding the residence or business of the person owning or keeping the fowl. The fowl shall be kept in an appropriate pen with a top, bottom, and sides to prevent the fowl from running at large."

Section 12. Section 6.16.01 of the Code is hereby amended as follows:

"6.16.01 Prohibited. Except for established animal business enterprises and city recommended shelters with permanent structures the sale, distribution and giving away of animals from public property and from commercially and industrially zoned land is prohibited. (Ord. No. 2008- 573, Sec. 1.)"

Section 13. Chapter 6.17 of the Code is hereby added to read as follows:

Chapter 6.17.

COMMUNITY CATS

Sections:

6.17.01 Definition

6.17.02 Trap, Neuter, Release (TNR) Program

6.17.01 Definition.

A. *Community cat is defined as any free roaming cat that may be cared for by one or more residents of the immediate area who is/are known or unknown; a community cat may or may not be feral.*

B. *Working cat means any free-roaming cat that may or may not be feral and “works” for its upkeep by hunting vermin, such as rodents and is cared for by an individual or business proprietor.*

6.17.02 Trap, Neuter, Release (TNR) Program.

Trap–neuter–return (TNR) is a type of program through which free-roaming cats are trapped, spayed and neutered, then returned to the outdoor locations where they were found. If those locations are deemed unsafe or otherwise inappropriate, the cats may be relocated (barn/farmyard homes are often considered ideal). Kittens young enough to be socialized and friendly adult cats may be placed in shelters or foster care for eventual adoption into homes as companion animals rather than returned to the outdoors:

A. *Preparation:*

1. *Assess the cats and their environment. Do they appear to be stray or feral; are there kittens and/or nursing mothers; are there ill or injured cats? Plan ahead for the care to be provided after trapping.*
2. *Communicate with neighbors and any caretakers. Build good community relations, working to address the concerns of others.*
3. *Establish a regular feeding schedule. This may involve providing feeding stations and winter shelters.*
4. *Secure a holding/recovery area where the cats can wait for surgery (if not immediate) and recover after surgery.*
5. *Find and coordinate with a veterinarian or clinic to perform the surgery and provide other medical treatment.*
6. *Assemble trapping supplies, including humane traps, newspapers and other useful materials.*
7. *Withhold food (but not water) for about 24 hours before trapping, with the cooperation of caregivers and neighbors.*

B. *Trapping:*

1. *Bait and set the traps in a safe location, using as many traps as there are cats in the colony needing trapping.*
2. *Wait patiently nearby but out of sight, for cats to enter the traps and the traps to close.*

3. Quickly cover each occupied trap with a cover or sheet, which helps to calm the cat within.
4. Check whether each trapped cat is already owned or neutered (ear tip; identification tattoo or microchip; lost pet databases and ads), and take appropriate action.
5. If trap occupants are wildlife, carefully release them.
6. Safely transport the cats in their traps to the clinic or holding area.
7. If a cat is too fearful or savvy of the regular box trap, try alternate traps
8. Neutering: Medical care and socialization:
 - a) Provide extra care for cats not yet ready for surgery. Cats in poor condition may need to receive medical attention, gain weight and strength before surgery. Young kittens may be socialized in foster care, which prevents their becoming feral. Nursing mother cats may be kept with their kittens (and even other orphaned kittens) until the kittens are weaned. "Kittens can be safely spayed or neutered at eight weeks, or as soon as they weigh two pounds (and are healthy).
 - b) When ready, a veterinarian performs spay or neuter surgery and provides other medical attention as needed. Multiple surgeries may be done in high volume clinics.
 - c) During the surgery of feral cats, ear-tipping (removing 3/8 inch or 1 cm from the tip of the left ear; proportionally smaller in a kitten) identifies that the cat has been neutered and treated, when later seen from a distance.
 - d) Vaccinations are provided as arranged in advance. Common vaccines include rabies and FVRCP, "the 'distemper' (panleukopenia) and respiratory virus vaccine".
 - e) Cats found suffering with terminal or untreatable illnesses or injuries are humanely euthanized.
 - f) When the vet deems that the cats are ready to leave the clinic, transport them to the recovery area, and monitor them for at least 24 hours.
 - g) If needed, provide further nursing care (e.g. administering medications; providing recovery time from more complex surgery such as amputation).

C. Returning: The cats go home:

1. If the original colony location is safe, transport the feral cats there and safely release them from their traps or carriers.
2. If the location is not safe for feral cats, make other arrangements for farmyard homes
3. Keep tame cats and kittens in foster care until they are adopted. If there are insufficient resources to foster or shelter, the cats may be returned to outdoor colony locations in the same manner as feral cats.
4. Keep detailed records of the cats assisted, and clean the traps and materials used.

5. *Caregivers monitor the outdoor colony locations, providing food, shelter, and medical care, and watching for any new abandoned cats requiring trapping. Some communities with "Feral Freedom" programs return cats without ongoing monitoring by caregivers."*

Section 14. Chapter 6.18 of the Code is hereby added to read as follows:

CHAPTER 6.18

DEFINITIONS

6.18.01 Definition. *The following terms and definitions shall have the prescribed meanings within the context and meaning of Title 6 of the Clarksville Municipal Code:*

- (1) *"Abandon" means to desert, surrender, forsake, or to give up absolutely.*
- (2) *"Animal" means any living vertebrate creature, except human beings and fish.*
- (3) *"Animal control officer" means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental or political subdivision of the state which is responsible for animal control operations in its jurisdiction.*
- (4) *"Animal husbandry practices":*
- (A) *"Animal husbandry practices" means the breeding, raising, production, and management of animals.*
 - (B) *"Animal husbandry practice" includes without limitation dehorning, docking, and castration.*
- (5) *"Animal identification" means the use of a microchip, tattoo, an ear tag, an ear notch, branding, or any similar technology to identify the owner of an animal and that is generally accepted for the breed, species, and type of animal being identified.*
- (6) *"Appropriate place of custody" means any of the following within this state and, if practicable, within twenty (20) miles of the residence of the owner or other place owned by the owner:*
- (A) *A nonprofit animal shelters.*
 - (B) *An animal pound.*
 - (C) *A location owned or managed by a society incorporated for the prevention of cruelty to animals.*
 - (D) *A location owned or managed by an agency of the state, county, municipality, or other governmental or political subdivision of the state that is responsible for animal control operations in its jurisdiction.*
 - (E) *A location owned or managed by a public or private custodian that provides shelter, care, and necessary medical treatment to an animal; or*
 - (F) *The residence or other place owned by the owner of the animal, if approved by written order of a court of competent jurisdiction*
- (7) *"Competitive activity" means a lawful activity that is generally recognized as having an established schedule of events involving competition of animals or exhibitions of animals.*

(8) "Cruel mistreatment" means any act that causes or permits the continuation of unjustifiable pain or suffering.

(9) "Equine" means a horse, pony, mule, donkey, or hinny.

(10) "Equine activity" means:

(A) Equine participation in equine shows, fairs, competitions, performances, or parades that involve any breed of equine and any of the equine disciplines, including without limitation dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, pulling, cutting, polo, steeple chasing, endurance trail riding and western games, and hunting.

(B) Teaching and training activities of an equine show or rodeo.

(C) Boarding an equine.

(D) Riding, inspecting, or evaluating an equine owned by another person, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine; or.

(E) Any activity that involves riding or hunting.

(11) "Euthanizing" means humanely killing an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the federal Drug Enforcement Administration and certified by the Department of Health.

(12) "Humanely killing" means causing the death of an animal in a manner intended to limit the pain or suffering of the animal as much as reasonably possible under the circumstances.

(13) "Law enforcement officer" means any public servant vested by law with a duty to maintain public order or to make an arrest for an offense.

(14) "Licensed veterinarian" means a veterinarian licensed to engage in the practice of veterinary medicine in Arkansas in accordance with applicable Arkansas laws.

(15) "Livestock" means a horse, mule, bovine animal, goat, sheep, swine, chicken, duck, or similar animal or fowl commonly raised or used for farm purposes.

(16) "Local law enforcement agency" means the police force of a municipality or the office of the county sheriff.

(17) "Owner" means a person that:

(A) Has a right of property or title in an animal.

(B) Keeps or harbors an animal

(C) Has an animal in his, her, or its care

(D) Acts as an animal's custodian.

(E) Knowingly permits an animal to remain on or about any premises occupied by him or her or it;

(18) "Person" means an individual, company, partnership, limited liability company, joint venture, joint agreement, mutual association or other, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other private entity.

(19) "Professional pest control activities" means those activities governed by the Arkansas Pesticide Control Act, § 2-16-401 et seq., and the Arkansas Pest Control Law, § 17-37-101 et seq.

(20) "Rodeo" means an event involving a practice accepted by the Professional Rodeo Cowboys Association on January 1, 2009.

(21) "Torture" means:


(A) The knowing commission of physical injury to a dog, cat, or horse by the infliction of inhumane treatment or gross physical abuse, causing the dog, cat, or horse intensive or prolonged pain, serious physical injury, or thereby causing death.

(B) Mutilating, maiming, burning, poisoning, drowning, or starving a dog, cat, or horse."

Section 15. That all ordinances and parts of ordinances in conflict herewith are repealed to the extent of the conflict.

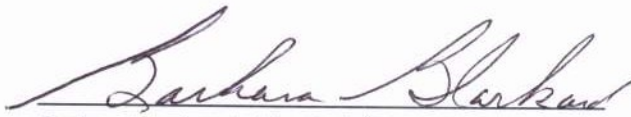
Adopted this 13th day of December, 2021.

APPROVED:



David Rieder, Mayor

ATTEST:



Barbara Blackard, City Clerk/Treasurer