

ORDINANCE NO. _____, 2020
(Amendment to Animal Control Ordinance – LMW)

AN ORDINANCE OF THE CITY COUNCIL
CITY OF TEMPLE

WHEREAS, the City of Temple has plenary authority to pass ordinances and regulations providing for the health, safety and general welfare of its citizens; and

WHEREAS, by intergovernmental agreement between the City of Temple and Carroll County, Georgia, animal control within the City limits is accomplished by the Carroll County Animal Control Department; and

WHEREAS, this intergovernmental agreement requires the City of Temple to pass an animal control ordinance that is substantially similar to that of Carroll County, Georgia; and

WHEREAS, on May 6, 2019, the City of Temple did adopt an animal control ordinance that was substantially similar to the one passed by Carroll County; and

WHEREAS, Carroll County has passed certain amendments to its animal control ordinance, and the City of Temple is desirous of passing those same amendments for the purpose of consistency;

NOW, THEREFORE, be it ordained and it is hereby ordained and established by the Mayor and Council of the City of Temple as follows:

Section 1:

Chapter 8 of the Code of Ordinances of the City of Temple, and more specifically that certain animal control ordinance adopted as of May 6, 2019, is hereby amended by deleting the same in its entirety and replacing it with that certain animal control ordinance attached hereto as Exhibit “A” and made a part hereof by reference. Such revised animal control ordinance shall be codified in the discretion of the codifier.

Section 2:

All laws and parts of law in conflict herewith are specifically repealed.

Section 3:

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this enactment are severable, and if any phrase, clause, sentence, paragraph or section hereof shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this enactment, since the same would have been enacted by the City Council without the incorporation herein of any such unconstitutional phrase, clause, sentence paragraph or section.

ADOPTED AND APPROVED by the City Council of the City of Temple at a regular meeting on this the _____ day of _____, 2020. Council Members _____ voting "Aye" and _____ voting "No".

BY: _____
MAYOR, CITY OF TEMPLE

ATTEST:

CITY CLERK, CITY OF TEMPLE

EXHIBIT "A"

_____ . - ANIMAL CONTROL

Sec. _____ . - 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:

Abandoned animal. An animal shall be considered abandoned under the following conditions:

- (1) Any animal placed upon public property or within a public building and left unattended or uncared for;
- (2) Any animal placed upon private property of another without the express permission of the owner, custodian or tenant and left unattended or uncared for; or
- (3) Any animal left on the property of the owner or custodian of such animal for more than 36 hours unattended and without food and water.

Adequate shelter means a protective cover for a pet, appropriate for the species and breed, which will also include the necessary space to maintain the pet in good condition, preventing a significant risk to the pet's health. "Adequate shelter" includes sufficient coverage to protect a pet from severe weather elements that could cause it harm, which includes: (i) reasonable protection to keep a pet dry; (ii) sufficient shade and ventilation to prevent a pet from overheating and/or dehydrating; and (iii) appropriate bedding or resting area to protect from extreme cold temperatures.

Animal means any type of domestic or exotic animal or fowl including, but not limited to, dogs and cats.

Animal establishment means any pet shop, kennel, grooming shop, auction, performing animal exhibition or other facility engaged in the handling of animals, excluding licensed veterinarians and veterinary clinics and hospitals.

Animal nuisance. An animal shall be considered a nuisance if it:

- (1) Damages, soils, defiles or defecates on private property (other than the property of the owner of the animal), or public property and recreational areas;
- (2) Causes unsanitary, dangerous, or offensive conditions;
- (3) Causes a disturbance by excessive barking or other noisemaking;
- (4) Molests, attacks or interferes with persons on public or private property, unless the animal is a guard dog actively performing its duties while confined to the property of the owner or responsible person;
- (5) Chases vehicles;
- (6) Attacks other animals; or
- (7) Runs uncontrolled.

Animal shelter means any facility operated by any governmental entity, humane society or other organization for the purpose of impounding or caring for animals held under the authority of this article or state law.

At large. An animal is considered at large when it is not under control as provided in this article.

Auctions means any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this article. Individual sales of animals by owners are not auctions as defined in this article.

Community cat means an unowned, free-roaming cat that has been marked by surgical ear-tip pursuant to a community cat program or a TNR (Trap, Neuter, Return) program approved and operated by the department.

Cruelty means any act, omission or neglect whereby unjustifiable pain, suffering, maiming or death may be caused or permitted to any animal as defined in this section.

Department or animal control department means the Carroll County Animal Control Department or other department designated by the governing authority.

Feral cat means a cat that is unsocialized to humans and has a temperament of extreme fear of and resistance to contact with humans.

Feral cat caregiver means any person who, in accordance with a community cat program or a TNR program approved and implemented by the department:

- (1) Provides care, including food, shelter or medical needs to the cat; or
- (2) Has temporary custody of the cat.

Humane manner means care of an animal including, but not limited to, adequate heat, ventilation, sanitary shelter, wholesome fresh food and access to fresh, clean, wholesome water at all times, consistent with the normal requirements and feeding habits of the animal's size, species and breed.

Kennel means any premises where any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling animals.

Owner means any person who has title to or the right to possession of an animal, including, but not limited to, the caretaker or custodian of any animal or person harboring or having control of an animal. An animal is deemed in a person's possession if it is fed or sheltered for three consecutive days or more.

Pet shop means any person engaged in the business of buying or selling two or more species of live animals with the intent that they be kept as pets.

Spayed or neutered means incapable of sexual reproduction.

Tether or tethering means the restraint and confinement of an animal by use of a chain or similar restraint device.

Under control. Any animal shall be considered under control if it is confined to the premises of its owner, or is secured by a leash, chain or lead of sufficient strength to prevent it from escaping from its owner when away from the premises of the owner.

Veterinary clinic or hospital means a clinic or hospital operated by a licensed veterinarian.

Vicious or dangerous animal means any animal which constitutes a physical threat to human beings or other animals by virtue of one or more documented, provoked or unprovoked attacks or threats of attack of such severity as to cause property damage, physical injury or significant mental trauma to the victim. Animal attacks on persons or other animals shall be documented by reporting such attacks to the county animal control office.

Sec. _____ - Purpose; scope.

- (a) It is the intent of this article to make animal owners responsible and accountable for the actions, behavior and conditions of their animals.
- (b) Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any federal, state or municipal law.

Sec. _____ - Animal control.

- (a) *Generally.* An animal owners' premises shall be maintained in such a manner as not to constitute either a private nuisance to adjoining property owners or a nuisance to the public generally. Pens or enclosures in which animals are confined or maintained shall at all times be kept and maintained in a proper, clean and sanitary condition so they are kept free from offensive odors which would disturb any person residing within a reasonable distance of the premises. The animals themselves shall be restrained in such a fashion that they shall not disturb such persons by making noise. An animal may be restrained by using a tethering device as defined in this chapter but such tethering area must also be maintained in a proper clean and sanitary condition and the tethered animal must have access to adequate food, water and shelter while on such tether.
- (b) *Livestock or fowl.* It shall be unlawful for any person to have, control or possess any pasture or enclosure for livestock or fowl in any fashion not authorized by the zoning ordinance of the county.
- (c) *Restraint.*
 - (1) *Generally.* An animal owner shall restrain his animal in such a way as to prevent the animal from having access to the property of another person, without the permission of that person. An animal may leave the property of the animal owner when accompanied by the animal owner, but the animal owner must have the animal on a leash and must prevent the animal from having access to the property of another person without the permission of that person, or from attacking, threatening or harassing other persons.

- (2) *Dogs and cats.* An owner of a dog, cat, or any animal shall restrain the animal in such a manner, whether by leash, fence or other appropriate enclosure (fence, pen, etc.), which will ensure that the animal is contained within the boundaries of the property owned or leased by the owner of the animal. In all residentially zoned districts (including subdivisions and mobile home parks and/or subdivisions) dogs, cats or any other animal shall be actively restrained as provided for in this article in order to prevent their leaving the property of their owner, unless the animal is under the direct supervision and control of the owner of the animal or his designee.
- (3) *Attack prevention.* An animal owner shall restrain his animal in such a manner as to prevent the animal from attacking, threatening or harassing any person on the public right-of-way of the roads, streets, highways and sidewalks in the county.
- (4) *Proper tethering device.* An animal may be restrained by a tethering or a tethering device but such tethering area must also be maintained in a proper, clean and sanitary condition and the tethered animal must have access to adequate food, water and shelter while on such tether. A tethering device must be attached to both the animal and the anchor using a swivel or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the animal. The chain or tether must be at least four times the body length of the animal measured from the tip of the nose to the base of its tail. The area where the animal is tethered must be clear of debris and clear of any object that would entangle the chain or tether. The chain or tether must be of adequate size and strength for the animal. Logging chains or such devices are prohibited. A trolley system or a tether attached to a pulley in a cable run is also allowed, provided these listed conditions are met. Chaining or tethering an animal to a vehicle, dog house, tree, or pole will not be permitted.
- (d) *Vicious or dangerous animals.* Any owner of a vicious animal shall confine it within a building or secure enclosure and not release it unless it is securely muzzled and under restraint. Any vicious animal not secured as provided in this article is declared a nuisance and may be impounded pursuant to the provisions of this article and/or confined by the department for a period of 30 days. If an action is brought in any court of competent jurisdiction concerning the attack or attempt to attack by such animal, the period of confinement may be extended until the entry of a final order of disposition in such action. Further, in any prosecution of an owner or a responsible person of any vicious animal for any violation of this article, the court may, upon conviction entered against the owner or responsible person, order that the animal be humanely destroyed.
- (e) *Hunting dogs.* Hunting dogs in the custody of persons hunting in accordance with state game and fish department laws, rules and regulations are exempt from the mandates of this section. The owners of such dogs shall be civilly liable for any damage occasioned by the actions of their dogs.
- (f) *Animals in heat.* Any owner or custodian shall confine any dog or cat in heat.
- (g) *Animals at large.* It shall be unlawful for any person owning or having control of any chickens, ducks, horses, cows, goats, pigs, dogs, cats or any other type of animal, livestock, or other fowl within the county to permit them to run at large or to be a menace or nuisance to that person's neighbors or the public in general. In regard to poultry and/or fowl as referenced in this subsection, same shall be confined in an enclosure, housing or pen of some sort to the extent possible.
- (h) *Stray Cats.* Any stray cat without any traceable form of identification that is impounded or brought to the animal shelter and deemed eligible may be transferred immediately to a community cat program, TNR program, placed for adoption, or disposed of by the department or designee of the County.

Sec. _____, - Impoundment.

Any animal at large or otherwise in violation of the provisions of this article may be impounded in the animal shelter in a humane manner, for a period of not less than three days, in accordance with the following provisions:

- (1) If within that time an animal so impounded has not been reclaimed by its owner in accordance with the provisions of this article, the animal shall become the absolute property of the department, which may convey ownership of the animal to any responsible person or any conditions that the department may prescribe, or the department may humanely destroy the animal.
- (2) An animal control officer may follow an animal that has been seen by that officer running at large onto private property to capture and impound the animal. No injunction, action or claim for damages may be

brought against the department or its officers, agents or employees with respect to actions contemplated in this section.

- (3) The department shall make a reasonable effort to notify the owner of any animal impounded in the animal shelter that the animal has been impounded, the manner by which the animal may be reclaimed, and that the animal shall become the property of the department as provided in this section.
- (4) Following the impoundment of an animal found at large which has on its owner's address, and prior to its destruction the department shall use reasonable care to give the owner five days' notice of the proposed destruction.
- (5) Notwithstanding any provision of this article to the contrary, the department may refuse to release any animal impounded in the animal shelter for rabies, contagious disease quarantine or for use as evidence in a criminal prosecution for any time period as the department may determine.
- (6) Notwithstanding any provision of this article to the contrary, the department may humanely destroy any animal impounded in the animal shelter when the department reasonably believes that destruction of the animal is necessary to prevent disease, injury or overcrowding in the animal shelter, or to prevent the presence or threatened presence of contagious disease, the likelihood of danger or injury to humans or animals or any other condition.
- (7) Notwithstanding any provision of this article to the contrary, the department may humanely destroy any animal impounded in the animal shelter when the animal control department reasonably believes the animal has sustained an injury or disease which will likely result in maiming, prolonged and/or severe suffering or death.
- (8) The department may set all appropriate fees pertaining to the care and impoundment of animals.
- (9) Feral cats, kittens younger than four months, and puppies younger than four months may be impounded for a period of less than three days at the discretion of the department.
- (10) No healthy community cat shall be impounded unless it:
 - (a) Damages the personal or private property of a person or legal entity that seeks its impoundment; or
 - (b) Creates unsanitary conditions, offensive or objectionable odors.

Sec. _____. - Rabies.

- (a) Any person who knows that an animal, domestic or wild, is rabid or suspects an animal of having rabies, or knows that an animal has been bitten by a rabid animal, shall promptly report the information, to the extent known, to the state department of human resources and the department.
- (b) It shall be the duty of the owner, the health department, physicians, hospitals or any other person or agency gaining information that any domestic animal has been bitten or is probably infected with rabies, to impound the animal in the facility of a competent veterinarian within this county, where the animal shall be held for observation for any period of time as may be reasonably necessary to determine whether or not the animal is infected with rabies.

Sec. _____. - Adoption.

The department may convey ownership (permit adoption) of any animal which has become the property of the department to a responsible person subject to conditions prescribed by the department, including, but not limited to, the following:

- (1) Payment of an adoption fee to be set by the Carroll County board of commissioners and any vaccination, licensing or veterinary costs;
- (2) Evidence that the animal has been, or will be, examined by a veterinarian and vaccinations against rabies and other disease administered; and
- (3) Evidence that the animal has been, or will be, neutered or spayed.

Sec. _____. - Cruelty to animals.

It shall be unlawful for any person, either by act or omission, to:

- (1) Overdrive, overload, overwork, torture, beat, mutilate, kill needlessly, carry or confine in a vehicle in an inhumane manner, or otherwise mistreat, any animal;
- (2) Fail to provide any animal with proper food and veterinary care;
- (3) Fail to provide any animal with access to shelter to protect it from all types of weather, 24 hours daily;
- (4) Fail to provide any animal access to good and wholesome fresh water at all times;
- (5) Intentionally poison any animal;
- (6) Allow or promote any fight between animals, or to allow or permit any fight in or upon any premises in that person's possession or under that person's control;
- (7) Allow an animal to be kept in unsanitary conditions; or
- (8) Knowingly or willingly permit or aid in the release of any animal on any property with the intention of abandoning the animal, except for feral cat caregivers or pursuant to a community cat program or TNR program approved and implemented by the department.
- (9) Fail to provide a proper tether device or proper tethering area in accordance with this article.

Sec. _____ - Vaccination.

- (a) All animal owners within the county shall have their animals over three months of age, including both dogs and cats, inoculated for the prevention of rabies.
- (b) The department may adopt any other rabies control regulations as it deems necessary for the protection of public health and safety.
- (c) All regulations of the state department of human resources presently existing or as adopted in the future pertaining to rabies control and vaccination are incorporated in this article by reference as though fully set forth in this article.

Sec. _____ - Animal establishments.

(a) *Permits.*

- (1) *Required.* No person shall operate an animal establishment without first obtaining a permit from the department, nor may any person operate an animal establishment in a manner in violation of any provision of this article.
- (2) *Term.* The license period shall begin with the first day of the calendar year and shall run for one year. Renewal application for permits shall be made 30 days prior to and up to 60 days after January 1 of each year. Application for a permit for a new establishment under the provisions of this article shall be made within 60 days of the start of business or operation.
- (3) *Separate permit required.* Every facility regulated by this article shall be considered a separate enterprise, requiring an individual permit (e.g., two kennels at different locations but owned by the same person shall be considered as two animal establishments).
- (4) *Display.* Permits obtained in accordance with this article shall be displayed in a prominent location on the premises of the animal establishment.

(b) *Application procedure.*

- (1) Each animal establishment shall file an annual permit application with the department within the time periods provided by this article, provided that all preexisting establishments shall have 90 days from November 28, 1995, to file an application.
- (2) The permit application shall be made on a form provided by and available from the department.
- (3) Upon receipt of a completed application, the department shall make an inspection of the facility to ensure that all animals are provided for in a humane manner and that the establishment is in compliance with all provisions of this article. The department shall be permitted to make the inspection at any reasonable time during normal business hours. A nonrefundable inspection fee in an amount set by the Carroll County board of commissioners shall be paid directly to the department prior to the inspection.

- (4) The department shall either issue or decline to issue a permit to the applicant. If a permit is not granted, it shall notify the applicant in writing of the reasons for denial.
 - (5) Any animal establishment denied a permit may not reapply for a period of at least ten days. Each reapplication shall describe any previous denial or revocation. A nonrefundable fee set by the Carroll County board of commissioners shall be paid to the department for reinspection prior to each reinspection.
 - (6) If an applicant is shown to have withheld or falsified any material information on any application, the department may refuse to issue or is entitled to revoke any permit.
- (c) *Revocation of permits.*
- (1) The department may revoke any permit if the person holding the permit refuses or fails to comply with this article, or any other law or regulation governing the protection and keeping of animals, including refusal to allow inspection of the animal establishment as provided in this section.
 - (2) Whenever a permit is revoked for cause, or pending any proceedings to contest such action, the department shall have power of entry to inspect all premises where the animals are being kept and shall notify the owner in writing as to the period of time that reasonably shall be allowed for removal of animals from the premises and shall state the specific reasons for revocation. If any owner shall fail to remove the animals as directed, the department may impound the animals pursuant to the impoundment provisions of this article.
- (d) *Prohibited conduct.* Any animal establishment shall not sell, trade or give away any animal over three months of age unless the animal has been vaccinated as required by this article.
- (e) *Inspection.* The animal control department shall be permitted to inspect any animal establishment and all animals and the premises where the animals are kept at any reasonable time during normal business hours to ensure compliance with all provisions of this article.
- (f) *Standards.*
- (1) All animal establishments shall, in addition to the other requirements of this article, comply with the minimum standards of this subsection. Failure to meet these standards shall be grounds for denial or revocation of a permit. Standards for animal establishments are as follows:
 - a. Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfection.
 - b. Building temperatures shall be maintained at a comfortable level to ensure adequate ventilation.
 - c. Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages.
 - d. Cages are to be of a material and construction that permit cleaning and sanitizing.
 - e. Cage floors shall be of concrete, unless radiantly heated, and shall have a resting board or some type of bedding.
 - f. Runs shall provide an adequate exercise area and protection from the weather. Runs shall have an impervious surface.
 - g. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.
 - h. The food shall be free from contamination, and shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
 - i. All animals shall have fresh water available at all times.
 - (2) All pet shops, including pet shops operated in conjunction with another holding facility, shall, in addition to the other requirements of this article, comply with the minimum standards of this section. Failure to meet these standards shall be grounds for denial of a permit or revocation of a permit. Standards for pet shops are as follows:

- a. Hot water at a minimum temperature of 160 degrees shall be available for washing and disinfection. Cold water shall be easily accessible in all parts of the shop. Fresh water for consumption shall be available to all species of animals at all times. Containers are to be cleaned and disinfected each day.
- b. The room temperature of the shop shall be maintained at a level that is healthy for every species of animal kept in the shop.
- c. 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, turn and stretch out to the animal's full length.

Sec. _____. - Interference with duties of department; right of entry onto property and into vehicles; equipment.

- (a) No person shall interfere with, hinder or molest the department or any other officer in the performance of its duty or seek to release any animal in the custody of the department, except as provided in this section.
- (b) The animal control officers, sheriff's deputies and other enforcement officers of the county are authorized to enter upon any premises or parcel of land for the purpose of seizing and impounding any animal found therein or thereon to be in violation of this article, including but not limited to an animal that has bitten a person within ten days.
- (c) The department may use any force necessary to remove any animal in distress locked in an unattended vehicle. The operator of the vehicle will be charged with cruelty to animals as defined in this article. No injunction or claim for damages may be placed against the department or its officers for this action.
- (d) The animal control department is authorized to employ any equipment it deems necessary to enforce the provisions of this article, including, but not limited to, humane wire box traps; and the department may, subject to conditions it may determine, lend such traps or other equipment to private persons for the purpose of preventing nuisances resulting from animals at large.

Sec. _____. - Disposal of dead animals.

Any dead animal shall be properly disposed of by its owner, either by proper burial or by taking said animal to any place authorized by law to dispose of same within 24 hours after the discovery of the animal by its owner.

Sec. _____. - Enforcement; jurisdiction; summons.

- (a) The provisions of this article shall be enforced by the department, the county sheriff's department and the county codes enforcement office.
- (b) Persons in violation of this article shall be subject to the jurisdiction of the state court or magistrate's court of the county.
- (c) Representatives of the department and officers of the county sheriff's department are authorized to issue a summons to any person for violation of any provision of this article. The summons shall be in a form approved by the county magistrate court, shall designate the offense charged and shall require the person so charged to appear before the county magistrate court on a date certain to answer all charges therein.

Sec. _____. - Records.

It shall be the duty of the department to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into its custody.

Sec. _____. - Penalties for violations.

Any person convicted of a violation of this article shall, upon conviction, be punished as provided in Section 1-13, and/or perform public service work not to exceed 100 hours, or any combination thereof. If such violation is continued, each day's violation shall be a separate offense.