

ORDINANCE 2018-09

AN ORDINANCE BY THE GOVERNING AUTHORITY FOR THE CITY OF STONE MOUNTAIN, GEORGIA TO AMEND CHAPTER 4 ANIMALS OF THE STONE MOUNTAIN CODE OF ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE, TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

PART I

The Council of the City of Stone Mountain hereby ordains that CHAPTER 4 ANIMALS of *The Code of the City of Stone Mountain, Georgia* be amended as follows:

1. To deleted Chapter 4 Animals in its entirety;
2. To replace Chapter 4 Animals as follows:

Sec. 4-1. - Definitions.

For the purposes of this chapter, certain terms and words are hereby defined. Where words or terms are not herein defined but, are defined in other applicable sections of this Code or state law, now and as they may be amended hereafter, those words shall have the meaning as defined therein. As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Abandonment means the intentional or complete forsaking of any animal by its owner, without making reasonable arrangements for the adequate care and custody of the animal to be assumed by another person or the failure to return and resume responsibility of an animal at the designated time as arranged with the care giver. Abandonment also means the act of placing an animal on public property or within a public building, unattended or uncared for, or on or within the private property of another without the express permission of the owner, custodian or tenant of the private property. An animal shall also be considered abandoned when it has been unattended and without adequate and proper food and water for a period in excess of thirty-six (36) hours, regardless of where such animal may be found or kept.

Adequate care means exhibiting attention to the needs of an animal, including but not limited to, the provision of food, water, shelter, sanitary, safe and healthy conditions, and adequate and timely veterinary medical attention necessary to maintain good health for the specific age, size, species, and breed of animal or to prevent suffering.

Adequate food means sufficient quantity of non-contaminated and nutritionally healthy sustenance that is appropriate to the species, breed, size, age and health of the animal, or at the direction of a licensed veterinarian; which is sufficient to prevent starvation, malnutrition, or risk to the animal's health. Garbage, spoiled, rancid, or contaminated food is not adequate food.

Adequate shelter means a protective covering for a domestic animal that provides adequate space and protection to maintain the animal in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four (4) sides, a constructed floor, and a roof with a door opening. It should also be clean, dry and compatible with current weather conditions, in addition to age, size, species and condition of the animal. The structure should be of sufficient size to allow the animal to stand, turn around, lie down and go in and out of the structure comfortably. To be adequate, some type of bedding that is quick drying, such as hay or pine straw, must be provided to maintain comfortable temperatures within the structure during times when the ambient, outside temperature is below thirty-two (32) degrees Fahrenheit. In addition, the structure shall include a heavy plastic or rubber flap to cover the door and/or window openings during the months of December through March or when the ambient, outside temperature is below thirty-two (32) degrees Fahrenheit. From April through November, the structure shall either be shaded or moved out of direct sunlight. If the shelter is made of wood, it shall be raised at least two (2) inches off the ground to prevent seepage or rotting. Examples of inadequate shelter include, but are not limited to, lean-tos, metal or plastic drums, boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient protection from the elements.

Adequate water means clean, fresh, potable water sufficient to prevent dehydration and properly sustain health presented in a clean dish, free from contamination. Examples of inadequate water include, but are not limited to, snow, ice and rancid/contaminated water.

Animal means every living vertebrate except a human being.

Animal at large means any animal moving without physical restraint and not on its owner's property.

Animal enforcement officer means any person authorized by the governing authority or by law to enforce the provisions of this chapter.

Animal service center means the facility designated by the governing authority for the detention of animals in DeKalb County.

Apiary shall mean a place where bees and beehives are kept, especially a place where bees are raised for their honey.

Beekeeper shall mean a person who owns or has charge of one or more colonies of bees.

Classified animal means any animal that has been classified as either a dangerous or vicious animal pursuant to this chapter or comparably classified by the State of Georgia, or by any court, hearing officer, or authorized government agency of any other state, county or municipality.

Classified animal pen means a padlocked pen, as that term is defined in this chapter, made entirely of industrial gauge fencing with a door or gate equipped with a working lock. The classified animal pen must contain adequate shelter, as that term is defined in this chapter, but must also contain a minimum one hundred (100) square foot area outside the adequate shelter.

Colony or hive shall mean an aggregate of bees consisting principally of workers, but having, when perfect, one queen. It additionally refers to combs, honey and the receptacle inhabited by the bees.

Community cat means an unowned, free-roaming cat that has been marked by surgical ear-tip pursuant to the community cat program.

Community cat program means a comprehensive process whereby unowned free-roaming cats are captured humanely, transported to a veterinarian for evaluation, spay/neuter surgery, rabies vaccination and marking by surgical ear-tip, and returned to the area or location where the cat was captured.

Cruelty means causing death or unjustifiable pain or suffering to any animal by an act, omission, or neglect. Cruelty also includes transporting an unrestrained animal in an open-air vehicle or in the trunk of any vehicle or leaving an animal unattended in a closed vehicle without proper ventilation or temperature control where the outside air temperature is seventy (70) degrees Fahrenheit or above. Cruelty also means allowing or causing any animal to train for or engage in an animal fight operated for sport, entertainment or gaming purposes. Routine medical procedures by a licensed veterinarian shall not be regarded as cruelty.

Dangerous animal means any animal that, according to the records of an appropriate authority:

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury, provided, however, that a nip, scratch, or abrasion shall not be sufficient to classify an animal as dangerous;
- (2) Aggressively attacks in a manner that causes a person to reasonably believe that the animal poses an imminent threat of serious injury to such person or another person although no such injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by an animal shall not be sufficient to classify an animal as dangerous; or
- (3) While off the owner's property, kills a pet animal; provided that no animal shall be classified as dangerous when the death of such pet animal is caused by a dog that is working or training as a hunting dog, herding dog, or predator control dog.

Dog Control Officer, as authorized and defined by O.C.G.A. §4-8-22 is any officer of the City tasked with enforcing the animal ordinances of the City. This shall include any officer of DeKalb County tasked with enforcing animal ordinances.

Electronic animal confinement system shall mean a commercially produced, functioning and professionally installed electronic fence which utilizes an invisible electrically generated perimeter, in which the animal within the perimeter wears an electronic collar that produces an electric shock when the animal approaches or exceeds the perimeter.

Euthanasia means the legal act of putting an animal to death using humane methods, recommended by the American Veterinary Medical Association Panel on Euthanasia and approved by the Georgia Department of Agriculture, as defined by Georgia law in the Georgia Animal Protection Act, as may hereinafter be amended.

Fence means any structure of wire, wood, stone or other material, which is of sufficient height and strength to act as a barrier against passage of the animal it is intended to enclose. A fence must be sufficient to prevent the animal from being able to jump, dig, or escape from confinement.

Garbage means all refuse matter/effluent, either animal or vegetable by-product from a restaurant, kitchen, or meat/poultry processing establishment; spoiled/rancid food and refuse accumulation of animal, fruit, or vegetable matter, liquid or otherwise, that is normally discarded.

Guard dog means a dog trained to attack persons or other animals independently or upon oral command; or a dog that, while not so trained, is reasonably expected to perform as a guardian of its owner and/or the property upon which the dog is located.

Hazardous animal means an animal that may be harmful to humans or other animals by virtue of its ability to produce poison or, due to its size and feeding habits, could prey on humans as a food source. Hazardous animals include, but are not limited to, pit vipers (genus *Crotalidae*), coral snakes (genus *Micrurus*), poisonous spiders, frogs, large reptiles, Nile monitors, caiman, alligators, crocodiles, and large constricting snakes greater than ten (10) feet in length.

Hive – see *Colony*

Identification means any tag, tattoo, microchip, or other type of marking that can be used to locate an animal's owner.

Kennel means any location where boarding, caring for and keeping of more than a total of three dogs or cats or other small animals or combination thereof is carried on, including, but not limited to the raising, breeding, caring for or boarding of dogs, cats or other small animals for commercial purposes.

Kennel, noncommercial means any location where the owning, boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs or cats or other small animals or combination thereof is carried on, not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

Law enforcement agency means any division of the Stone Mountain Police Department or other governmental agency with law enforcement powers operating within the City limits of Stone Mountain.

Neglect means endangering an animal's health by failing to provide or arrange to provide the animal with food or drink if the animal is dependent upon a person for the provision of food or drink, or the act of restraining an animal in a manner that endangers the animal's life or health. Other acts considered to be neglect include, but are not limited to:

- (1) Failing to provide adequate care or seek veterinary care for an injury or illness that seriously endangers the life or health of an animal; or
- (2) Leaving an animal outside and exposed to excessive heat or cold without providing the animal with adequate shelter or protection from the heat or cold or exposing an animal to unsanitary conditions.

Official Certificate of Veterinarian Inspection Health Certificate ("OCVI Health Certificate") means a legible certificate issued by an accredited veterinarian either on an official

form of the State of Georgia or an equivalent official form of the United States Department of Agriculture.

Open-air vehicle means the cargo area of any pickup truck that is not covered by a permanent attached utility cover or any convertible vehicle with its top down.

Owner means any natural person or any legal entity, including but not limited to a corporation, partnership, firm, or trust, owning, possessing, harboring, keeping, or having custody or control of an animal. In the case of an animal owned by a minor, the term "owner" includes the parents or person in loco parentis with custody of the minor. A cat may be deemed "unowned" if the cat is found on the property of a natural person or legal entity disclaiming ownership of the cat and no traceable form of identification is displayed on the cat.

Pen means a pad locked, fenced area within a perimeter fenced area that has secure sides that are buried two (2) feet into the ground or sunken in concrete and a secure top.

Pest is an animal, insect, or arachnid that is invasive or troublesome to plants or animals, human or human concerns, livestock, or human structures.

Police chief means the police chief of the Stone Mountain Police Department or designee(s).

Primary means first or highest in rank; principal.

Proper enclosure means any structure or device used to restrict an animal to a limited amount of space such as a fenced area, electronic animal confinement system, building, house, pen, or other device or structure out of which an animal cannot climb, dig, jump, or otherwise escape.

Qualified adoption facilitator, rescue group and animal shelter means an organization offering animals for adoption so long as the organization is licensed as a shelter by the State of Georgia; or if not incorporated in Georgia, is a non-profit organization under section 501(c)(3) of the Internal Revenue Code; and has the express mission/business function of facilitating the sterilization and adoption of homeless and unwanted animals. A copy of the state license or the Internal Revenue Service letter of non-profit designation shall be provided to a City officer upon request.

Records of an appropriate authority means records of any state, county, or municipal law enforcement agency; records of any county or municipal animal control agency; records of any county board of health; or records of any federal or state court.

Secondary means of second rank; not primary.

Serious injury means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring multiple sutures, or disfiguring avulsions; requires plastic surgery or admission to a hospital; or results in protracted impairment of health, including transmission of an infection or contagious disease, or impairment of the function of any bodily organ.

Severe injury means a physical injury that results in broken bones, significant puncture wounds, disfiguring lacerations requiring multiple sutures or cosmetic surgery or significant medical procedures or a physical injury that results in death.

Spay/neuter certificate means documentation that certifies that the animal listed therein has been sterilized as of the date of surgery.

Sterilized animal means an animal that has been surgically or chemically altered by a licensed veterinarian in order to render the animal incapable of reproduction.

Stray animal means any animal at large, whether lost by its owner or otherwise, that may be in or on the common areas of apartments, condominiums, trailer parks or other multi-residential premises, any single-family residential property, or any other property or public area without being controlled by a leash, that does not have an identification tag or microchip, and otherwise has no identifiable owner. A community cat shall not be classified as a stray animal, but a cat which has not become a part of the community cat program is a stray animal.

Targeted Grazing is the application of a specific kind of livestock at a determined season, duration, and intensity to accomplish defined vegetation or landscape goals.

Tethered means an animal attached to a stationary object by a chain, cable or similar device commonly used for the size and type of animal involved. An animal is not considered tethered when the animal is attached to a stationary object, as long as the owner or custodian is physically within reach of the animal. Any tethering device used to tether an animal must be at least ten (10) feet in length.

Unsanitary conditions means an animal living space, shelter, or exercise area contaminated by health hazards, irritants, pollutants, items, or conditions that endanger or pose a risk to an animal's health.

Veterinary medical attention means care or supervision by a properly licensed practitioner of veterinary medicine as defined by Georgia law, sufficient to maintain an animal in a state of good health and prevent pain and suffering by an animal.

Vicious animal means one (1) that inflicts serious injury on a person, or one (1) that causes serious injury to a person resulting from reasonable attempts to escape the animal's attack.

Sec. 4-2. - General responsibilities of owners.

- (a) It shall be the duty of every owner of an animal to take all necessary steps and precautions to protect other people, property, and other animals from injury or damage resulting from such animal's behavior, including, but not limited to, chasing, biting, or otherwise jeopardizing the safety or welfare of the public, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.
- (b) If the owner of an animal is a minor, the parent or guardian of such minor shall be responsible to ensure full compliance with the requirements of this chapter.

Sec. 4-3. - Keeping animal under restraint while on owner's property.

- (a) It shall be the duty of every owner of an animal to ensure that the animal is kept under restraint, and that precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner.

- (b) It shall be the duty of every owner of an animal to ensure that the animal is securely and humanely enclosed within a proper enclosure as a means of primary restraint. Such enclosure must be securely locked at any time the animal is left unattended. When outside the proper enclosure but on the owner's property, it shall be the duty of every owner of an animal to ensure that the animal is humanely secured by a leash or lead and under the control of a responsible and competent person; or off leash but under the direct control of a responsible and competent person who is physically present with the animal, provided that such animal is obedient to that person's command.
- (c) Any dog that is housed outside of its owner's house shall be housed in a proper enclosure that complies with the provisions of this Code. The owner shall also ensure that the proper enclosure contains at least one hundred (100) square feet of open space.
- (d) Tethering of any animal is prohibited, except as provided in this section.
- (e) As a secondary means of restraint to a proper enclosure, a dog may be attached to a running cable line or trolley system providing that:
- (1) A running cable line or trolley system is set inside a proper enclosure;
 - (2) Only one (1) dog may be attached to each running cable line or trolley system;
 - (3) No dog may be attached to a running cable line or trolley system for more than twelve (12) hours in a twenty-four-hour period;
 - (4) No dog may be attached to a running cable line or trolley system between the hours of 10:00 p.m. and 6:00 a.m.;
 - (5) Tethers and cables attaching the animal to the running cable line or trolley system must be made of a substance which cannot be chewed by the animal and shall not weigh more than five (5) percent of the body weight of the animal tethered;
 - (6) A running cable line or trolley system must have a swivel installed at each end and be attached to a stationary object that cannot be moved by the animal;
 - (7) The running cable line or trolley system must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level;
 - (8) The length of the tether from the running cable line or trolley system to the animal's collar should allow access to the maximum available exercise area and allow the animal free access to food, water, and shelter;
 - (9) Be attached to a properly fitted harness or collar not used for the display of a current rabies tag and other identification; and with enough room between the collar and the dog's throat through which two (2) fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering an animal to a running cable line or trolley system; and
 - (10) Be tethered at sufficient distance from any other objects to prohibit the tangling of the cable, from extending over an object or an edge that could result in injury of strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal access to the fence.

- (f) If an electronic animal confinement system is used to confine an animal, it shall:
- (1) Provide a properly fitted and working signal device that will be worn by the animal to be enclosed.
 - (2) Contain permanent and prominently displayed signs at twenty-five (25) feet intervals around the entire perimeter of the electronic animal confinement system. The signs shall be no smaller than six (6) inches square, and shall read: "Caution—Electronic Animal Confinement System" or similar verbiage.

Sec. 4-4. - Duty to restrain while off owner's property.

It shall be the duty of any person to keep an animal under restraint and control at all times while the animal is off the real property limits of the owner. Such areas shall not include city parks that are specifically designated as off leash areas.

Sec. 4-5. - Animals at large.

It shall be unlawful for the owner of an animal to allow it to run at large unattended on or about the streets, rights-of-way, and highways of Stone Mountain; in any city park, except in city parks that are specifically designated as off leash areas; unattended on or about the common property of any apartment complex or condominium community; or on the property of another person without permission of the owner of that property.

Sec. 4-6. - Abandonment.

It shall be unlawful for anyone to knowingly abandon, or to aid in the abandonment of, any domesticated animal on any property located in the City of Stone Mountain.

Sec. 4-7. - Neglect.

It shall be unlawful for any owner to neglect an animal.

Sec. 4-8. - Cruelty to animals.

- (a) It shall be unlawful for any person to commit an act of cruelty towards any animal, except that a person may:
- (1) Defend his person or property, or the person or property of another, from injury or damage being caused by an animal; or
 - (2) Kill any animal causing injury or damage to any livestock, poultry or pet animal.
- (b) The method used for killing the animal shall be as humane as possible under the circumstances. A person who humanely kills an animal under the circumstances indicated in subsection (a) of this section shall incur no penalty for such death.
- (c) This section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society, or veterinarian.

Sec. 4-9. - Required permanent identification.

It shall be the duty of every animal owner who has been convicted, in a court of competent jurisdiction, of abandonment, cruelty or neglect of an animal, or who owns a classified animal, to have the animal permanently identified by insertion of a microchip by a licensed veterinarian. Said chip must be registered with the manufacturer's chip registry.

Sec. 4-10. - Dangerous and vicious animals.

- (a) If a dog control officer learns of the existence of a dangerous animal or vicious animal, that officer shall then cause a summons to be issued within seventy-two (72) hours requiring the owner of the animal to appear before a judge of the Stone Mountain Municipal Court or DeKalb County Magistrate Court, as specified below, at a date and time certain no earlier than fifteen (15) days after service, to conduct a hearing as to the appropriate classification of the animal. The summons so issued shall be served on the owner personally. The officer shall also immediately cause the impoundment the animal believed to be dangerous or vicious.
- (b) The court shall determine after a hearing if the animal is to be classified as a dangerous animal or vicious animal. In making its findings in this regard, the court shall enter a written order notifying the animal's owner, the dog control officer, and the police chief of its decision.
- (c) The appeal of any order of the court concerning the classification of an animal as vicious or dangerous shall be by petition for writ of certiorari to the superior court of DeKalb County.
- (d) If the court classifies the animal as dangerous or vicious, and no appeal is filed, the owner shall be required to obtain from the police chief an annual certificate of registration in compliance with the requirements of this chapter. No vicious or dangerous animal shall be released to its owners until such certificate is issued by the police chief.
- (e) If the owner fails to obtain the certificate of registration within thirty (30) days of the issuance of the order classifying the animal as dangerous or vicious, the animal will be euthanized no earlier than thirty-five (35) days after the issuance of the order so classifying the animal. The animal shall not be euthanized if the owner appeals the court's classification order by petition for writ of certiorari to the superior court of DeKalb County within thirty (30) days after the order of classification. During the pendency of the appeal and any further appeals, the animal shall not be euthanized, provided that in the event the classification order is upheld at the conclusion of all appeals, the animal shall be euthanized no earlier than thirty-five (35) days after the final order upholding the classification if the owner does not obtain the required certificate of registration within thirty (30) days after the date of the final order of court upholding the classification order. During the pendency of any such appeal by the owner, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In such event, the animal will be housed at a licensed veterinarian's office or a licensed kennel and the cost of such detention shall be borne by the owner of

the animal. In the event the county appeals the court's order, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable.

Sec. 4-11. - Exemptions from classification as a dangerous or vicious animal.

An animal shall not be classified as a dangerous animal or vicious animal:

- (1) When the animal bites, attacks or menaces anyone who assaults the animal's owner;
- (2) When the animal bites, attacks or menaces anyone who willfully trespasses, or commits another tort, upon the property of the owner;
- (3) When the animal bites, attacks or menaces anyone who is currently, or has in the past, tormented or abused the animal;
- (4) Where the animal is acting in defense of an attack from a person or other animal upon the owner or other person;
- (5) Where the animal is protecting or defending its young or another animal;
- (6) Where the animal is being used by a law enforcement or military officer to carry out official duties; or
- (7) When the animal bites, attacks or menaces anyone who is committing or attempting to commit an offense in violation of Georgia codes listed in O.C.G.A. Title 16, Chapters 5 and 6.

Sec. 4-12. - Certificate of registration.

(a) The owner of a classified dangerous or vicious animal must be eighteen (18) years old or older; annually obtain a certificate of registration for the animal from DeKalb County Animal Services (DCAS); and, pay any applicable fee for that registration. At the time of renewal, DCAS shall verify that the owner is continuing to comply with all applicable provisions of this chapter. The requirements of this section apply to any classified animal living in the City of Stone Mountain.

(b) Certificates of registration are nontransferable and no more than one (1) certificate of registration shall be issued per domicile. The certificate of registration shall be issued to the owner upon receipt of all of the following:

- (1) Written evidence that the animal is permanently identified by insertion of a microchip by a licensed veterinarian. Said chip must be registered with the chip parent company and the police chief within thirty (30) days of an order classifying the animal as dangerous or vicious or within such later time as specified by a court of competent jurisdiction or within thirty (30) days of the conclusion of any appeal of a court's order that upholds the classification of an animal as dangerous or vicious;
- (2) A copy of a current policy of insurance in the minimum amount of fifty thousand dollars (\$50,000.00) issued by an insurer authorized to transact business in the State of Georgia, insuring the owner of a dangerous animal, and seventy-five thousand dollars

(\$75,000.00) insuring the owner of a vicious animal, against liability for any personal injuries or property damage inflicted by the dangerous animal or vicious animal; or a copy of a current surety bond in the foregoing respective amounts issued by a surety company authorized to transact business in the State of Georgia, payable for property damage or personal injury caused by the dangerous or vicious animal;

- (3) Written or photographic proof that the animal will be confined in a classified animal pen; and
 - (4) Written evidence that the animal has been sterilized by a licensed veterinarian.
- (c) The owner of a classified animal shall notify the police chief within twenty-four (24) hours if the animal dies. If the animal dies, the body must be available for microchip scanning to provide positive identification of the dangerous animal or vicious animal. A vicious animal shall not be transferred, sold or donated to any other person unless it is relinquished to a governmental facility or a veterinarian to be euthanized. If a dangerous animal is sold or given to another person, the current owner listed on the most current certificate of registration must provide the police chief with the name, address, and telephone number of the new owner within thirty (30) days of the sale or transfer of such animal. New owners of dangerous animals are subject to all requirements of this Code upon transfer of such animal and such new owner must register the animal in his or her name within thirty (30) days of the sale or transfer of the animal to such new owner.
- (d) The owner of a classified animal must notify the police chief in writing within fifteen (15) days after changing his/her address. Such written notice shall provide the owner's new address and telephone number. The owner shall promptly obtain a new certificate of registration reflecting the new address if such address is located within the county.
- (e) The owner of a classified animal shall notify the police chief in writing within seventy-two (72) hours after moving a classified animal into the county. Such written notice shall provide the address and telephone number of the owner and the owner shall obtain a certificate of registration for the animal within seventy-two (72) hours after moving into the county.
- (f) No certificate of registration shall be issued to any person who has been convicted of two (2) or more violations of this chapter. No person shall be the owner of more than one (1) vicious animal. No certificate of registration for a vicious animal shall be issued to any person who has been convicted of:
- (1) A serious violent felony as defined in O.C.G.A. § 17-10-6.1;
 - (2) The felony of dog fighting as provided for in O.C.G.A. § 16-12-37 or the felony of aggravated cruelty to animals as provided for in O.C.G.A. § 16-12-4; or
 - (3) A felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in O.C.G.A. §§ 16-13-31 and 16-13-31.1 from the time of conviction until two (2) years after completion of his or her sentence. The restrictions imposed by this subsection also apply to any person residing with such convicted person.

Sec. 4-13. - Confinement of dangerous or vicious animals.

- (a) Classified animals shall be confined in a classified animal pen.
- (b) The owner of a classified animal must post signs on all means of ingress and egress to the premises where the animal resides. Such signs shall read in letters at least three-quarters ($\frac{3}{4}$) of an inch high: "Dangerous/Vicious Animal on Property." Such signs shall be no smaller than eight and five-tenths (8.5) by eleven (11) inches.
- (c) Whenever outside its classified animal pen, but on the owner's property, a classified animal shall be attended by the owner, muzzled by any means sufficient to prevent the biting of persons or animals, and restrained by a secure collar and leash of sufficient strength to prevent escape. Such leash shall not exceed three (3) feet in length.
- (d) No classified animal shall be permitted off the property of its owner unless accompanied by the owner, muzzled by any means sufficient to prevent the biting of persons or animals, and restrained by a secure collar and leash of sufficient strength to prevent escape. Such leash shall not exceed three (3) feet in length. In the alternative, the classified animal when off the owner's property may be contained in a closed and locked cage or crate.
- (e) The owner of a classified animal shall make the animal and the area of confinement available for periodic, unannounced inspections by a dog control officer to ensure compliance with the confinement requirements of this chapter, provided that the owner consents to such entry and inspection. If consent is not obtained, the dog control officer shall obtain an inspection warrant prior to any inspection in accordance with the requirements of state law.

Sec. 4-14. - Transportation of animals in open air vehicles.

If transporting an animal in an open-air vehicle, the owner is responsible for securing the animal so as to prevent the animal from escaping out of the vehicle, getting tangled, or extending over the edge of the vehicle such that injury or strangulation of the animal could result while the vehicle is in motion. For classified animals the requirements of this section are in addition to the requirements outlined in section 4-13.

Sec. 4-15. - Hazardous animals.

No person shall own, keep, harbor, house, or permit to be kept, harbored or housed, a hazardous animal within the City of Stone Mountain, unless granted prior written approval from the police chief. Written approval may be granted upon presentation of photographic proof that the animal will be kept adequately restrained or confined as is common for the species, and proof that the animal is covered in the liability insurance of the owner. Issuance of written approval incurs no liability on the part of the City or any of its officials and employees.

Sec. 4-16. - Guard dogs.

It shall be the duty of the owner of a guard dog to display in a prominent place on their premises, and at each entrance or exit to the area where such dog is confined, a sign which reads, in letters at least three-quarters (3/4) of an inch high, "Guard Dog," and lists the name and contact number of the owner of the dog in same size type. Such signs shall be no smaller than eight and five-tenths (8.5) by eleven (11) inches.

Sec. 4-17. - Rabies tag; rabies vaccination and animal registration.

- (a) The requirements of this section only apply to owners of dogs, cats or ferrets, provided the dog, cat or ferret is three (3) months old or older.
- (b) The process for verification of rabies vaccinations and registration of dogs, cats or ferrets set forth in this section shall be set by the governing authority of DeKalb County, Georgia.
- (c) It shall be the duty of any owner of any dog, cat, or ferret to obtain a current rabies vaccination from a licensed veterinarian periodically as ordered by the veterinarian.
- (d) After vaccination, it shall be the duty of any owner of any dog, cat or ferret to register each inoculated animal with the DeKalb County in a manner and fee schedule set by the governing authority of DeKalb County.
- (e) It shall be the duty of any owner of a dog, cat, or ferret to provide a collar or harness for such animal. The collar or harness, together with the rabies inoculation tag, shall be worn by the animal at all times.

Sec. 4-18. – Reclamation of animals from DeKalb County Animal Services

An owner reclaiming an impounded animal shall be do so by process and procedures set forth in the policy of DeKalb County Animal Services (DCAS).

Sec. 4-19. - Enforcement generally.

- (a) Upon information learned by, or complaint lodged with, a dog control officer that an animal owner is in violation of this chapter, the dog control officer shall cause a summons to be issued requiring the owner of the animal to appear before a judge of the Stone Mountain Municipal Court, at a date and time certain, to stand trial for the violation. If a violation has not been personally witnessed by the dog control officer or other law enforcement officer, a subpoena shall be issued to the person making the complaint, along with any witness(es), to appear on the date and time set for trial, to testify on behalf of the county.
- (b) A dog control officer may respond to anonymous complaints of violations of this chapter. If the owner or custodian of an animal is unknown or not present, and such animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or is upon another person's property without permission or absent proper restraint, or is a classified animal as to which the registration, confinement or insurance requirements have not been met, the police shall immediately impound the animal in a facility designated for

the detention of animals. Thereafter, if the animal is not claimed, the animal may be disposed of in a humane fashion in accordance with the provisions of O.C.G.A. § 4-11-5.1 et seq.

- (c) Any stray cat without any traceable form of identification that is impounded or brought to the animal service center and deemed eligible may be transferred immediately to the community cat program. The City, its officials, and those administering the community cat program shall be free of liability arising from this program.
- (d) Any community cat or unowned, free-roaming cat that is not healthy in the opinion of qualified animal service center employees or designees shall be impounded. No healthy community cat shall be impounded unless it:
 - (1) Damages the personal or private property of a person or legal entity that seeks its impoundment; or
 - (2) Creates unsanitary conditions, offensive or objectionable odors.

If a healthy community cat is impounded pursuant to this subsection (e), upon impoundment, it shall be transferred to a qualified adoption facilitator or disposed of by the county or its designee.

- (e) An animal may be euthanized when it is determined that:
 - (1) At the scene of an accident an animal is injured beyond medical help, and no traceable form of identification is displayed on the animal;
 - (2) An animal presented to the animal service center without traceable form of identification is injured beyond medical help, or exhibits obvious signs of infectious disease or parasite infestation that would impose a health risk to animals housed in the animal service center; or
 - (3) A veterinarian has determined from all the circumstances that it would be inhumane not to euthanize a particular animal.
- (f) The judge of any superior court of competent jurisdiction within the state may order the euthanasia of an animal if the court finds, after notice and opportunity for hearing, that the animal has seriously injured a human or presents a danger to humans not suitable for control under this chapter and:
 - (1) The owner or custodian of the animal has been convicted of a violation of any state criminal law and the crime was related to such animal; or
 - (2) Any local governmental authority has filed with the court a civil action requesting the euthanasia of the animal.
- (g) A judge of the municipal or the superior court shall order the euthanasia of any animal if the court finds, after notice and the opportunity for hearing, that the animal has caused a serious injury to a human on more than one (1) occasion in the previous three years.

Sec. 4-20. - Right of entry.

A police officer or citizen may use any reasonable force necessary to remove any animal locked in a closed vehicle, domicile, building, or other enclosure if the animal exhibits distress, including but not limited to, excessive panting or drooling, seizures, state of unconsciousness, or hyperactivity. If property is damaged during such removal, neither the citizen, police officer, the police department, nor the City shall be liable for any damage caused.

Sec. 4-21. - Notice to owner of impounded animal.

- (a) Upon impounding an animal with identification, the impounding officer shall make a prompt and reasonable effort to locate the animal's owner.
- (b) When an impounded animal is released to the animal service center, the procedures for release or disposition of the animal shall be done in compliance with policies of the DeKalb County Animal Services (DCAS) or the governing authority of DeKalb County.

Sec. 4-22. - Ownership.

- (a) It shall be unlawful for any person to abandon, sell, trade, swap or give away animals within the real property limits of buildings or surrounding grounds belonging to the City of Stone Mountain.
- (b) It shall be unlawful for any person to give away or sell any animal on any public roadway in the City of Stone Mountain.

Sec. 4-23. - Sterilization.

- (a) It shall be the duty of the owner of a dog or cat declared to be a classified animal by a court of competent jurisdiction to have the animal sterilized. Such sterilization must be performed by a licensed veterinarian within thirty (30) days of a final order of a court of competent jurisdiction finding that the dog or cat is a classified animal.
- (b) Unowned, free-roaming cats may be vaccinated, sterilized and ear tipped as part of the community cat program. Cats brought into the community cat program are exempt from registration, licensing, and stray animal provisions of this chapter, shall not be deemed abandoned when returned to the location where captured, and as necessary and appropriate, may be exempt from other provisions of this Code applicable to owned animals.

Sec. 4-24. - Limitation on ownership.

- (a) Any person who has been convicted of cruelty, neglect or abandonment of an animal as provided in this Code or state law, and has relinquished ownership of said animal, shall not be allowed to own a pet in their household in the City for five (5) years measured from the date of conviction.

- (b) Any person who has been convicted of failure to keep an animal under restraint while on owner's property as provided in this Code, or has been ordered by a court to meet additional confinement requirements and has not complied with the court's order, shall not be allowed to own a pet in their household in the City for five (5) years measured from the date of conviction or court order.

Sec. 4-25. - Violations and enhanced penalties.

- (a) Any person who does anything prohibited or fails to do anything required by this chapter, upon citation by an officer authorized to enforce this chapter and conviction of the violation in a court of competent jurisdiction may be subject to fine and/or imprisonment in accordance with Section 1-11 of this Code. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) A classified animal shall be immediately impounded by any City police officer, code enforcement officer, or DeKalb County animal enforcement officer if such animal or its owner has violated any of the requirements of this chapter. Any animal, whether classified or not, may be impounded if such officer believes the animal poses a threat to the public.
- (c) The owner of a classified animal shall notify the police chief as soon as the owner discovers that the animal is on the loose, unconfined, or has attacked a human or another animal, and failure to so notify the police chief shall be a violation of this chapter by the owner of the animal.
- (d) It shall be a violation of this chapter for any person to possess within the City a classified animal without a certificate of registration issued in accordance with the provisions of this chapter.

Sec. 4-26. - OCVI health certificate required.

- (a) The owner of any cat or dog, sterilized or unsterilized, that is sold, or exchanged for valuable consideration is required to give the new owner a current, valid OCVI health certificate at the time of exchange or sale. The OCVI health certificate must be available for review by potential new owners at the time any dog or cat is offered for sale or exchange, for valuable consideration. A current OCVI health certificate must be presented to any animal control officer upon request for review.
- (b) Qualified adoption facilitators, rescue groups, and animal shelters are exempt from the requirements of this section.
- (c) Each animal found to be without an OCVI health certificate shall be considered a separate violation of this section by the owner of the animal. Animals shall not be subject to impoundment for violations of this section.

Sec. 4-27. - Classifications of animals in previous ordinances or jurisdictions.

Any animal classified dangerous or vicious prior to the adoption of this chapter, or classified by any other jurisdiction in the State of Georgia as a dangerous animal, shall be so classified as a

vicious animal under this chapter.

Sec. 4-28. - Limitation of liability and classification.

Any irregularity in classification proceedings shall not be a defense to any prosecution under this chapter so long as the owner of the animal received actual notice of the classification and did not pursue correction of the irregularity. Under no circumstances shall the City or any of its elected officials, employees, or officers be held liable for any damages to any person who suffers an injury inflicted by an animal as a result of a failure to enforce the provisions of this chapter.

Sec. 4-29. - Location of kennels, structures or property used as boarding or breeding kennels.

- (a) All structures or property used as boarding or breeding kennels shall be located and activities conducted at least one hundred (100) feet from the property line of any property zoned or used for residential purposes.
- (b) All noncommercial kennels shall be located on a site of not less than one (1) acre. All structures or property used as a noncommercial kennel shall be located at least one hundred (100) feet from the property line of any property zoned or used for residential purposes.

Sec. 4-30. – Prohibited Animals

- (a) The keeping of hogs or pigs in the city is prohibited.
- (b) It shall be unlawful to purchase, sell, own, possess, harbor or breed skunks, foxes, prairie dogs, raccoons, coyotes, wolves, hybrid wolves, any hybrid animal that is part wild animal, exotic cats or any other wildlife unless licensed by the respective federal or state department of agriculture to possess such animal.

Sec. 4-31. - Keeping of livestock.

Any person who keeps horses, mules, cattle, or other livestock within the corporate limits of the city shall carry the following restrictions:

- (1) Livestock shall be permitted on parcels, or adjoining assemblage of parcels, totaling at least two acres in size. Livestock are not permitted in parcels zoned as, or adjacent to parcels zoned as, “*Village Center Mixed-use.*”
- (2) All livestock shall be maintained at least one hundred (100) feet from the property line of any other property zoned or used for residential purposes.
- (3) There shall be a minimum of 5,000 square feet of fenced lot area not covered by the principal building or structure for each livestock animal.
- (4) All pastures must be kept in a sanitary condition.

- (5) Live slaughter shall be prohibited.

Sec. 4.32. - Keeping of fowl and small domesticated animals—General regulations.

Small domesticated animals, such as rabbits and guinea pigs and fowl, such as chickens, ducks, geese, guineas, turkeys and the like may be kept within the City subject to the following regulations:

- (1) All such animals shall be provided with adequate and sanitary housing. Such houses, hutches, pens, stables, sheds, stalls and enclosures wherein domesticated animals, poultry or other fowl are kept shall have a solid floor as may be approved by a code compliance officer. All such houses, hutches, pens, stables, sheds, stalls and enclosures, wherever located, shall have a minimum floor space of four square feet per animal or bird over one month old.
- (2) All houses, hutches, pens, stables, sheds, stalls or enclosures where such livestock, poultry or other fowl are kept shall not be nearer to any houses wherein human beings reside, other than the residence of the person who is the owner of such animals, than a distance equal to the width of the lot upon which the animals are kept, or a minimum distance of 75 feet should the lot be 75 feet or more in width.
- (3) Every person owning or keeping chickens or any other domestic fowl in the city is hereby required to keep such fowl and chickens under fence and not allow such chickens or fowl to run on any property other than his own.
- (4) No such animals shall be kept in parcels zoned as “*Village Center Mixed-use*,” except as a permitted use.
- (5) Keeping of male chickens, or roosters, is prohibited.
- (6) Live slaughter shall be prohibited.

Sec. 4-33. - Same—Sanitary requirements.

It shall be unlawful for any person owning or having control of the use of any house, hutch, pen, stable, stall or enclosure or other place where domesticated animals, poultry or fowl are kept to allow the same to become filthy or unsanitary. Every person who owns or keeps such domesticated animals, poultry or fowl shall maintain in connection therewith a bin, pit or container in which the manure from such animals, poultry or fowl shall be placed pending removal. Such bin, pit or container shall be provided with covers or other devices, sufficient to prevent the ingress and egress of flies and other insect pests. All persons controlling such places where domesticated animals, poultry or fowl are kept shall remove all manure from such bins, pits or containers before the same shall become malodorous or unsanitary. However, any such person may use such manure upon his premises for the purpose of enriching his own ground.

Sec. 4-34. - Same—Drainage of pens and other areas.

All places wherein livestock, poultry or fowl are kept shall have adequate drainage sufficient to prevent standing water in yards or pens. Drainage from pens shall not enter storm water drains, streams, or lakes.

Sec. 4-35. - Same—Use of lime or other chemicals required.

All yards or pens wherein livestock, poultry or fowl are kept shall be regularly covered with lime or other suitable chemical agents, as may be approved by the county health officer, to prevent bad odors or nuisances to neighbors.

Sec. 4-36. - Diseased animals.

It shall be unlawful for any person to have or keep within the City any animal, poultry or fowl infected with a disease, infestation, or condition which may contaminate people, other animals, poultry, or fowl.

Sec. 4-37. – Hoarding of Animals.

It shall be unlawful for any person to collect animals and fail to provide them with humane/adequate care; fail to dispose dead animals properly; or collect, house, or harbor animals in filthy, unsanitary conditions that constitute a health hazard to the animals being kept, and/or to the animals, residents, or residents of adjacent property.

Sec. 4-38. - Breeders.

It is unlawful for any person who does not hold a license from the Georgia Department of Agriculture to breed an animal if they are required by the Georgia Department of Agriculture to be licensed.

Sec. 4-39. - Beekeeping.

The purpose of this section is to establish sound beekeeping practices, so as to avoid issues that may otherwise be associated with the keeping of bees in an urban setting.

(a) Notwithstanding compliance with any other section of this chapter, it shall be unlawful for any beekeepers to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

(b) Beekeeping is permitted provided the following requirements are met:

- (1) Licensing requirement for commercial beekeepers. The Georgia Bee Law, O.C.G.A. § 2-14-40, requires that all beekeepers selling bees, queens, nuclei, etc. be licensed by the Georgia Commissioner of Agriculture. All other beekeepers (e.g. hobbyists, pollinators, honey producers) are not required to be licensed, but are subject to inspection by the Department of Agriculture.
- (2) Fencing of flyways. Where a colony is located within 25 feet of a property line, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a suitable flyway barrier in the vicinity of the apiary. Colonies should have the hive opening facing inward or toward the center of the property on which they are located.
- (3) Water. Each beekeeper shall ensure that a convenient source of water is available to the bees at all times.
- (4) Non-commercial colony densities. It shall be unlawful to keep more than the following number of non-commercial colonies on any parcel within the city:
 - (A) Less than one-half acre: two colonies;
 - (B) More than one-half acres but less than one acre tract size: four colonies;
 - (C) One acre or larger tract size: six colonies.
- (5) Bees shall not be kept in parcels zoned as “*Village Center Mixed-use*,” except as a permitted use.

Sec. 4-40 - Targeted Grazing

The temporary keeping of goats and sheep on property otherwise not zoned for livestock, for the sole purpose of targeted grazing of vegetation, is permitted in the City of Stone Mountain under the following conditions:

- (a) Target grazing may only be performed by an experienced goat and/or sheep herding vendor on any parcel, except those zoned as “*Village Center Mixed-use*.”
- (b) Property owner or herding vendor shall secure a permit from the City Clerk prior to commencement of grazing. Before a permit shall be granted, the City Clerk shall ensure the property owner or herding vendor has at least \$250,000.00 of general liability insurance to cover the targeting grazing activity. The permit request shall specify the location of grazing, the number of grazing animals, the number of guard animals, the duration of the grazing activity, 24-

hour contact information for the applicant, and a copy of the certificate of insurance. The fee for a permit shall not exceed ten dollars (\$10.00).

(c) Grazing animals are allowed to graze a parcel or portion thereof for no more than 28 continuous days. The City may halt grazing activity before 28 days if, in the opinion of a public officer, the grazing is negatively affecting erosion, other environmental factors, or public safety.

(d) Grazing treatments for any parcel or portion thereof shall not occur within 45 days of a previous treatment. No more than three (3) grazing treatments are allowed on a parcel or portion thereof in a calendar year.

(e) Property owners or herding vendors shall install temporary pens or electric fencing to encompass the area to be grazed in order to contain the animals. Warning signs should be placed at least every fifteen (15) feet to warn of the animals and/or shock hazard. No tethering of animals is permitted.

(f) Property owner or herding vendor shall ensure that objects or vegetation deemed harmful to the animals is removed prior to grazing treatment.

(g) Property owner or herding vendor shall provide sufficient fresh water and any supplemental nutrition the animals may require.

(h) The treatment area must be checked at least daily and kept cleaned or treated to ensure the odor of animal waste does not create a nuisance to other nearby residents or businesses.

Sec. 4-41. – Fishing and the keeping of fish.

Fishing and the keeping of fish in ponds or lakes shall be regulated by the Georgia Department of Natural Resources.

Sec. 4-42 – 4-49 – Reserved

Sec. 4-50. – Animal Nuisances

(a) The owner or person that is the custodian of animals or fowl shall be responsible for correcting and abating any nuisance that may arise from the keeping of said animals.

(b) It shall be unlawful for any person who possesses, harbors, or is in charge of any animal not to immediately remove excrement deposited by any animal upon the common thoroughfares, streets, sidewalks, trees, lawns, playground areas, parks, squares, and upon

other public premises and the failure to remove said excrement shall be deemed a public nuisance and is prohibited.

Sec. 4-51. – Animal Noise Disturbance

No person shall allow any animal or fowl which howls, barks or emits audible sounds that are unreasonably loud or disturbing and which are of such character, intensity and duration as to disturb the peace and quiet of the neighborhood. For the purpose of this article, for example, "barking dog" shall mean a dog that barks, bays, cries, howls intermittently for sufficient time and noise level to be observed by law enforcement or recorded by a citizen, day or night, regardless of whether the dog is physically situated on or upon private property; provided, however, that dog shall not be deemed a "barking dog" for purposes of this regulation, if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property.

Sec. 4-52. - Liability of City and County.

Pursuant to state law, under no circumstances shall the City or any employee or official of the City, or any person tasked with enforcement of animal ordinances in DeKalb County, be held liable for any damages to any person who suffers an injury inflicted by a animal as a result of a failure to enforce the provisions of this article.

PART II

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III

This ordinance shall become effective on the _____ day of _____, 2018

This ordinance was proposed by Council Member _____ with a motion to adopt. Thereafter, the motion was seconded by Council Member _____. _____ Council Members voted in favor of the motion and _____ Council Members voted against the motion.

Mayor Patricia Wheeler

Alicia Daniels, Assistant City Clerk

Approved as to form: _____
City Attorney Joe Fowler

First read: _____ Second read: _____

DRAFT