



MEMORANDUM
Office of the City Attorney

Legistar No. 991309

Phone: 334-5011/Fax 334-2229
Box 46

October 23, 2000

TO: Mayor and City Commission

DATE: ~~October 9, 2000~~

FROM: City Attorney

~~FIRST READING~~
SECOND READING

SUBJECT: Ordinance No. 0-00-117

An ordinance of the City of Gainesville, Florida, relating to keeping of animals; amending section 5-2 of the Code of Ordinances to permit the city to file suit to abate a public nuisance caused by one or more animals kept in a dwelling unit and amending the list of animal behaviors that can constitute a public nuisance; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

At its meeting of September 25, 2000, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance relating to the abatement of nuisances created by one or more animals.

Prepared by:



Patricia M. Carter,
Sr. Assistant City Attorney

Approved and
Submitted by:



Marion J. Radson,
City Attorney

MJR:PMC:sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

Ordinance No. 0-00-117

An ordinance of the City of Gainesville, Florida, relating to keeping of animals; amending section 5-2 of the Code of Ordinances to permit the city to file suit to abate a public nuisance caused by one or more animals kept in a dwelling unit and amending the list of animal behaviors that can constitute a public nuisance; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Section 5-1 of the Code of Ordinances of the City of Gainesville is amended to read as follows:

Section 5-2. Animals as a public nuisance.

(1) No owner or keeper of any animal shall permit the animal to become a public nuisance. The following can become shall be considered a public nuisance and the owner or keeper of the animal can be cited for any instance of:

(a) An animal found to be at large more than three times in a six-month period.

(b) An animal damaging, or depositing fecal matter on, the property of others.

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1 (c) An animal molesting or biting any person, unless that person is trespassing
2 on the property of the owner or keeper of the animal or that person provokes the
3 animal, a pedestrian or bicyclist.

4 (d) An animal creating odors that are detectable and offensive to a person of
5 reasonable sensibilities on nearby property, or attracting flies detected on nearby
6 properties.

7 (e) An animal attacking another domestic animal.

8 (f) An animal making sounds that are a violation of Chapter 15 of this
9 Code (Noise).

10 (2) Repeated instances of violations of subsection (1) adversely affect the rights of
11 nearby residents to the quiet enjoyment of their property and therefore constitute a public
12 nuisance. To this end:

13 (a) If there are two or more citations given for violation of any of the
14 subsections (1)(a) through (f) within a 12-month period on the same premises, the
15 city attorney, if there are reasonable grounds for the action, is authorized to seek
16 an injunction in the name of the City from the appropriate court to abate the
17 nuisance.

18 (b) Adjudication of guilt, withholding of adjudication, or plea of no contest
19 (including, but not limited to, payment of fine) in a 12-month period for two
20 violations of any of the subsections (1)(a) through (f) on the same premises, plus a
21 third such citation within the 12-month period, shall be presumptive evidence of a
22 public nuisance. However, the judge may find a public nuisance without such
23 presumptive evidence based on other evidence presented.

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1 (c) The judge may fashion an injunction that will abate the particular nuisance
2 being found, up to and including removal of one or more animals from the
3 premises.

4 (d) This remedy shall be in addition to any other penalties provided by this
5 Code of Ordinances or the Alachua County ordinance on Animal Control.

6 **Section 2.** . It is the intention of the City Commission that the provisions of Section 1 of
7 this ordinance shall become and be made a part of the Code of Ordinances of the City of
8 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
9 renumbered or relettered in order to accomplish such intentions.

10 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
11 or unconstitutional by any court of competent jurisdiction, then said holding shall in no
12 way affect the validity of the remaining portions of this ordinance.

13 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
14 such conflict hereby repealed.

15 **Section 5.** This ordinance shall become effective immediately upon final adoption.

16 **PASSED AND ADOPTED** this _____ day of _____, 2000.

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ATTEST:

PAULA M. DeLANEY
MAYOR

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

27 This Ordinance passed on first reading this _____ day of _____, 2000.

28 This Ordinance passed on second reading this _____ day of _____, 2000.