

ORDINANCE NO. 13-23

AN ORDINANCE PROHIBITING THE TRANSFER ANIMALS WITHIN THE CORPORATE LIMITS OF THE CITY OF FORT SMITH; AMENDING ARTICLE IV, SECTION 4-96 OF THE FORT SMITH MUNICIPAL CODE AND SECTION 27-701-3E. OF THE UNIFIED DEVELOPMENT ORDINANCE; AND ESTABLISHING A PENALTY FOR VIOLATION

WHEREAS, the governing body of the City of Fort Smith has determined the prohibitions of this Ordinance are a necessary exercise of the City's police power related to public health, safety, and welfare to assist in the control of an excessive stray animal population in the City of Fort Smith, Arkansas; Now, therefore:

BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas, that:

SECTION 1: Article IV, Section 4-96 of the Fort Smith Municipal Code is hereby amended to read as follows:

“Sec. 4-96. – Transfer of Ownership of Animals Prohibited – Exceptions.

- A. Except as provided in B. of this Section, no person or entity shall sell, trade, offer as gift, or give away any animal at any location in the corporate city limits of Fort Smith. The prohibition of this section shall apply to Transient Merchants licensed pursuant to Article XII of the Municipal Code and to holders of Temporary Use Permits pursuant to Section 27-327 of the Unified Development Ordinance (hereinafter "UDO").
- B. The prohibition set forth in A. shall not apply:
 1. To a retail animal sales business operated from a permanent physical location owned or leased by the business, properly zoned pursuant to the UDO, and holding a properly issued business license;
 2. To a home occupation location which provides animal ownership transfer activities solely from a permanent physical location owned or leased by the home occupation, properly issued a home occupation license after approval pursuant to Section 27-338 of the UDO, and holding a properly issued business license;
 3. Any governmental, for profit, or non-profit entity operating an animal shelter pursuant to agreement with the City of Fort Smith which provides animal ownership transfer activities solely from a permanent physical location properly zoned pursuant to the UDO;
 4. To a kennel licensed and operated pursuant to Section 4-119(a) of the Municipal Code which provides animal ownership transfer activities solely from the permanent

physical location of the kennel;

5. To a person or entity holding and in compliance with a Breeder License issued pursuant to Municipal Code Section 4-145 which provides animal ownership transfer activities solely from a permanent physical location owned or leased by the person or entity, and properly zoned pursuant to the UDO, and,
 6. To a resident of the City of Fort Smith who owns an animal and who transfers ownership of the animal, not in the course of business, because of inability or absence of desire to care for the animal. Any second or subsequent such transfer of ownership of an animal during the period of six (6) months from the date of the initial transfer shall be deemed prima facie proof of acting in the course of business.
- C. No person or entity shall transfer the ownership of animals not prohibited pursuant to A and B above without first causing the animal to receive age appropriate vaccinations by a licensed veterinarian.

SECTION 2: Section 27-701-3 E of the UDO is amended to state as follows:

No keeping or raising of small domestic animals for commercial purposes shall be allowed in residential zones.

SECTION 3: Any violation of the provisions of this Ordinance shall be deemed a misdemeanor and, upon conviction, a fine of not less than six hundred (\$600) dollars and consistent with Section 1-9 of the Municipal Code shall be levied.

SECTION 4: The codifier of the Municipal Code shall codify the provisions of Section 1 as Section 4-96 of the Municipal Code and the provisions of Section 2 as Section 27-701-3 E. of the UDO.

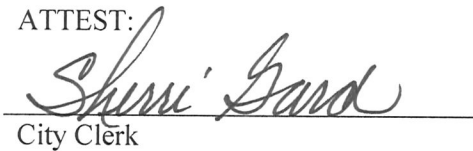
PASSED AND APPROVED this 7th day of February, 2023.

APPROVED:



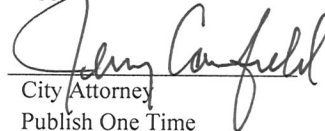
Mayor

ATTEST:



City Clerk

Approved as to form:



City Attorney
Publish One Time