

STATE OF GEORGIA
CITY OF MCDONOUGH

ORDINANCE NO. 08-12-01

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MCDONOUGH, GEORGIA TITLE 6 ANIMALS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the City of McDonough has entered into an agreement with Henry County for the provision of animal control services within the incorporated areas of McDonough; and

WHEREAS, to better insure efficient enforcement, Henry County has requested all municipalities within the County to adopt more uniform animal control ordinances; and

WHEREAS, the health, safety, welfare, aesthetics and morals of the citizens of the City of McDonough, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCDONOUGH AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. That Title 6 - Animals - of the Code of Ordinances, City of McDonough, Georgia is hereby amended by deleting, in its entirety, the existing Title 6 and adding a new Title 6 to read as follows:

TITLE 6 - ANIMALS

ARTICLE I. IN GENERAL

Section 6.1 Purpose; short title.

In order to protect the health and safety of persons and animals in the City of McDonough, to improve and make more safe motor vehicle and pedestrian traffic, to control the incidence and spread of rabies, to prohibit abandonment and other forms of cruelty to animals, to promote the general welfare of the citizens of this county by providing specific regulations concerning the care and treatment of animals and providing for violations of those regulations, and to invest the authority to enforce those regulations, the governing authority of the City of McDonough, Georgia, hereby adopts this subchapter, to be known and cited as the "animal control ordinance."

Section 6.2 Definitions.

For the purpose of this subchapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Abandoned animal means any animal which shall have been placed upon public property or within a public building unattended and unsupervised or upon or within the private property of another without the express permission of the owner, custodian or tenant of the private property and is unattended or without care. An animal shall also be considered as abandoned, for the purposes of this subchapter, which has been upon or within the property of the owner or custodian of this animal for a period of time in excess of thirty-six (36) hours unattended and without adequate food, water and shelter.

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 protective cover appropriate for the species and providing adequate space to maintain the animal in good health, which also prevents pain, suffering or a significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four (4) sides with a door opening, a constructed floor, and a roof. 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. Adequate shelter must be compatible with the number of animals on the property.

(a) Adequate shelter includes but is not limited to the following:

- 1. Sufficient coverage and insulation to protect an animal from extreme hot and cold temperatures;*
- 2. Sufficient protection from the elements to keep the animal dry;*
- 3. Sufficient shade and ventilation to prevent an animal from overheating and/or dehydrating; and*
- 4. Adequate bedding or resting area suitable for the breed, species, age, size, and medical condition of the animal.*

(b) Materials not suitable for shelters include but are not limited to:

1. *Inadequately insulated containers;*
2. *Plastic kennels or airline type animal shipping crates;*
3. *Metal or plastic drums;*
4. *Abandoned or parked vehicles;*
5. *Uncovered porches or decks;*
6. *Lean-tos;*
7. *Any other structure that fails to provide sufficient protection from the elements.*

Adequate space means a sufficient safe space for adequate exercise suitable to the age, size, species and breed of animal.

Adequate veterinary care – Medical care of an animal from or under the direction of a veterinarian and necessary to maintain the health of an animal based on the age, species, breed, etc., of the animal, or to prevent an animal from suffering from:

- (a) Ongoing infections;*
- (b) Infestation of parasites;*
- (c) Disease; or*
- (d) Any other medical condition/injury where withholding or neglecting to provide such care would:*

1. *Endanger the health or welfare of the animal; or*
2. *Promote the spread of communicable diseases.*

Adequate water means clear, clean, drinkable water in adequate supply.

Examples of inadequate water include, but are not limited to: snow, ice, rainwater and rancid/contaminated water.

Animal control officer means any person designated by the Board of Commissioners by and through the director of the Animal Care and Control Department of Henry County, Georgia, to enforce the provisions of this subchapter.

Animal Shelter means the facilities operated by Henry County for confining animals impounded or surrendered under the provisions of this subchapter.

Animal under restraint means: (a) any animal secured by a leash or lead with a collar, or enclosed by way of a fence or other enclosure (b) any animal under the immediate supervision and immediate proximity of a responsible and competent person at least sixteen (16) years of age, obedient to the person's commands, and located within the boundaries of property owned, leased or occupied by the owner (as defined herein); or (c) a dog in the act of being trained or used for hunting in conformance with the game laws of the State of Georgia.

Animals shall be defined as follows:

(1) *Domestic animals.* Animals that are accustomed to live in or about the habitation of humans, that are not found naturally in the wild state, including, but not limited to, cats, cattle, dogs, fowl, goats, horses, swine, and various genetically established strains of laboratory/pet animals such as mice, rats, hamsters, gerbils, guinea pigs and rabbits.

(2) *Feral animals. Domestic animals which have reverted back to a wild state and do not exhibit traits consistent with their intended use.*

(3) *Native wildlife animals. A nondomesticated animal which is normally found in the natural state within the confines of Georgia.*

(4) *Non-native or exotic wildlife animals. A nondomesticated animal which is not normally found in the natural state within the confines of Georgia.*

(5) *Domestic/wild animals. An established strain of wild animal which is generally used in the fur or pet industry including, but not limited to ranch mink, ferrets and brown and white skunks.*

Board means the Animal Control Board.

Certificate means a certificate or document issued at the time of vaccination for rabies of a dog or cat and bearing thereon the signature of the vaccinator, the vaccination tag number, the name, color, breed and sex of the dog or cat, the name and address of the owner, and the date of the vaccination.

County governing authority means the Board of Commissioners of Henry County, Georgia.

Cruelty to Animals means;

1. *the neglect, an act, or an omission, which causes unjustifiable physical pain, suffering or death to any living animal, including without limitation, the injuring, beating, choking, shooting, stabbing, burning, over working or otherwise physically harming any animal;*

2. *Animal hording.*

3. *leaving an animal unattended in a parked vehicle without proper ventilation such that will prevent the animal from suffering physical distress from dangerous temperatures, lack of food or lack of water.*

This definition does not include the killing of animals raised for the purpose of providing food nor does it apply to any person who hunts wild animals in compliance with the game and fish laws of the state.

Current vaccination tag means a metal tag issued by the Georgia Department of Human Resources, or other state agency, which bears a number showing that it is current for a one-year up to a three-year period for immunization of rabies.

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

- (1) Inflicts a severe injury on a human being without provocation on public or private property at any time after March 31, 1989; or*
- (2) Aggressively bites, attacks, or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification.*

Disturbing noises means the owning, possessing or harboring of any animal which frequently, or for continued duration, howls, barks, meows, squawks or makes other sounds which annoy or disturb an ordinary reasonable person of normal sensitivities across a residential or commercial boundary line or within a noise-sensitive area. For the purpose of this article, "barking dog" shall mean a dog that barks, bays, cries, howls or makes any other noise incessantly for a period of fifteen (15) minutes, or barks continuously for one-half (1/2) hour or

more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" if, at the time the dog is barking making any other noise, a person is trespassing or threatening to trespass upon property in or upon which the dog is situated.

***Dog control officer** means an individual selected by a local government pursuant to the provisions of Official Code of Georgia Annotated Section 4-8-22 to aid in the administration and enforcement of the provisions of this article.*

***Estrus** means a regular period of female dogs and cats in which the animal seeks to mate or breed*

***Fence** means*

(a) structure of wire, wood, stone, or other materials which is of sufficient height and strength to act as a barrier against passage of the animal or animals it is intended to enclose.

(b) invisible containment systems in which a collar provides an electric shock which prevents an animal from leaving the property of its owner provided the animal is a dog which is neither vicious, dangerous, potentially dangerous, nor in estrus. If an invisible containment system is in use;

(1) a sign must be visibly posted on the property indicating that the system is in place

(2) the system must effectively restrain the animal

Dogs which are "vicious," "dangerous" or "potentially dangerous" as herein defined shall be restrained in an enclosure which not only restrains the animal from

leaving the owner's property, but also protects persons who may come onto the property from harm. Female dogs in estrus shall be restrained in such a way which can reasonably be expected not attract males of the same species.

***Guard dog** means any dog which has been trained to attack persons or other animals independently or upon oral command and any dog which, while not so trained, is reasonably expected to perform as a guardian of the property upon and/or within which it is located.*

***Hoarding** means:*

- (a) Collecting animals and failing to provide them with humane/adequate care;*
- (b) Collecting dead animals that are not properly disposed of as required by this chapter; or*
- (c) Collecting, housing, or harboring animals in filthy, unsanitary conditions that constitute a health hazard to the animals being kept, and/or to the animals or residents of adjacent property.*

***Humane manner** means to provide care for an animal to include, but not necessarily limited to, adequate food, water, shelter, space and veterinary care or manner of restraint.*

***Inhumane manner** means*

- (a) the failure to provide humane care;*
- (b) restraining an animal in such a way that it cannot access food and water or to move about freely in an area of reasonable size considering the size and nature of the animal;*

(c) an act or failure to act which causes death or unjustifiable pain or suffering to an animal

***Miniature goat** means a goat which does not exceed forty (40) pounds.*

***Miniature pig** means a pig which does not exceed one hundred (100) pounds*

***Owner** means any person, firm, corporation, partnership, association, and/or other legal entity, who or which owns, possesses, harbors, keeps, feeds, maintains, or acts as custodian of an animal.*

***Person** means an individual, firm, corporation, municipality, society or owner.*

***Potentially dangerous dog** means any dog that without provocation bites a human being on public or private property at any time after March 31, 1989.*

***Proper enclosure** means an enclosure for keeping a vicious animal, dangerous dog or potentially dangerous dog while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog.*

***Public nuisance** means any animal which:*

- (1) is vicious;*
- (2) Causes unsanitary conditions;*
- (3) Attacks passersby or passing vehicles;*

- (4) Is found repeatedly unrestrained;*
- (5) Damages property of others;*
- (6) Excessively produces disturbing noises;*
- (7) Female dog or cat in estrus not confined in a manner which can reasonably be expected to keep away or not attract males of the same species; or*
- (8) Is inimical to the public health, welfare or safety according to the rules and regulations promulgated by the Henry County Board of Health, which rules and regulations are incorporated herein and made a part hereof as if fully set out in this chapter.*

Rescue Group means any individual or entity that houses and cares for rescue animals until permanent homes can be located and that maintains all required federal, state and local licenses/registrations.

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; records of any federal, state, or local court; or records of a dog control officer as provided in this article and by the laws of the State of Georgia.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.

Sterilized means the surgical alteration of an animal rendering that animal unable to produce offspring.

Unsanitary Conditions means animal living space, including shelter and exercise area, contaminated by health hazards, irritants, items or conditions that endanger or pose a risk to an animal's health, including but not limited to:

- (a) Excessive animal waste;
- (b) Garbage, trash or an outflow of waste;
- (c) Standing water or mud;
- (d) Rancid/contaminated food or water;
- (e) Fumes, foul or noxious odors, contaminated air, hazardous chemicals or poisons;
- (f) Decaying materials;
- (g) Uncontrolled parasite or rodent infestation;
- (h) Areas that contain nails, screws, broken glass, broken boards, pits, poisons, sharp implements or other items that could cause injury, illness or death to an animal.

Vaccinate means the proper administration, by a licensed veterinarian, of a specified dose of anti-rabidic vaccine into a dog or cat, such vaccine having the U.S. government license number approval stamped on the label of the vaccine container and having been approved by the state department of human resources, or other state agency.

Veterinarian means any person who holds a license to practice the profession of veterinary medicine in the state.

Vicious animal means an animal whose owner knows or reasonably should know presents a danger to humans or other animals because: (a) it has, without

provocation, bitten or attacked a person or another animal in the past; (b) it has exhibited threatening or vicious conduct or propensities toward humans or other animals; or (c) is owned, possessed, kept, harbored, trained, or maintained for the purpose of fighting. This definition to include "dangerous" and potentially dangerous" dogs.

Section 6.3 Agreement with Henry County to Provide Animal Control Services.

In accordance with state law, the City of McDonough and Henry County may enter into an agreement to provide animal control services with the corporate limits of the City of McDonough. Pursuant to such agreement, the City of McDonough adopts this Chapter. The City of McDonough hereby authorizes the enforcement of this Chapter by the Henry County Animal Care and Control Department. Further, the City of McDonough declares that the incorporated areas of the city shall be subject to the fees charged by the Henry County Animal Care and Control Department and that all fees charged by the Henry County Animal Care and Control Department shall be retained by the county to defray the cost of operation of the Animal Care and Control Department.

Section 6.4 Animal care and control department.

The Animal Care and Control Department shall be under the direction of the Henry County Board of Commissioners, by and through the director of the Animal Care and Control Department. Its agents shall be charged with the responsibility of enforcing the animal control ordinance of the county and the operation of the county animal shelter.

Section 6.5 Enforcement

This subchapter may be enforced by any employee of the Henry County Animal Care and Control Department or any peace officer. Violators may be issued citations as provided by OCGA sections 15-10-62 and 15-10-63.

Section 6.6 Right of officer to defend himself in performance of duty; interference; right of entry.

(a) In the performance of his duties pursuant to the provisions of this subchapter, any animal control officer or any law enforcement officer assisting in enforcing this subchapter may use such force as is necessary to defend themselves from attack by an animal. Provided, however, that all efforts shall be made to impound an animal without undue harm, injury or danger to the animal, the officer, or to other persons and property.

(b) It shall be unlawful for any person to interfere with, hinder or molest an animal control officer or other authorized officer in the performance of their duty, or seek to release any animal in the custody of the animal care and control department.

(c) Any animal control officer is hereby authorized to enter upon any property for the purpose of investigating alleged violations of this chapter, or to seize and impound any animal found to be in violation of this subchapter. The animal care and control department may use any appropriate means necessary to remove an animal in distress locked in a closed vehicle and the operator of the said vehicle shall be charged with cruelty to animals.

Section 6.7 Dead animals.

(a) It shall be the duty of Henry County Animal Care and Control and the County Department of Transportation to remove and dispose of the carcasses of all dead animals found within the rights-of-way of all County roads maintained either totally or in part from County funds. It shall be the duty of the city Public Works Department to remove and dispose of the carcasses of all dead animals found within the rights-of-way of all roads maintained from city funds.

(b) Carcasses on private property must be disposed of by the animal or property owner or possessor in accordance with state laws and regulations. It shall be unlawful for any person to dispose of a dead animal, its parts, or blood on the land of another without the permission of the owner of the land. It shall be unlawful for any person to dispose of a dead animal in a well or open pit of any kind, on private or public land. All dead livestock, including horses, cattle and any other large animal must be disposed of by the animal owner or property owner/possessor in accordance with state and local regulations.

(State law reference – Dead Animals Disposal Act, O.C.G.A. § 4-5-1 et. Seq.)

Section 6.8 Unlawful acts.

Any unlawful act or practice prohibited herein, including but not limited to:

- (1) Abandonment of any animal;*
- (2) Failure to keep an animal under restraint;*
- (3) Failure to provide a collar and display on said collar of the animal a current vaccination tag;*
- (4) Failure to provide care for an animal in a humane manner;*
- (5) Allowing any animal to become a public nuisance;*

- (6) Failure to have any animal vaccinated against rabies;*
- (7) Treating any animal in an inhumane manner;*
- (8) Keeping a vicious animal, except as authorized by this ordinance; or*
- (9) Cruelty to animals.*
- (10) Failure to sterilize animals adopted from the Henry County Animal Care and Control shelter as required.*

Section 6.9 Penalties for violations.

Any person violating any provision of this subchapter may be punished by a fine not to exceed one thousand dollars (\$1,000.00) and/or imprisonment in the county jail for a term for not exceed sixty (60) days.

Section 6.10 Miniature pigs and miniature goats.

The keeping of hogs, hog pens, miniature pigs, or miniature goats is prohibited in the city.

Section 6.11 Leaving animal confined or unattended in parked car.

(a) It shall be unlawful to leave an animal unattended in a parked vehicle without proper ventilation such that will prevent the animal from suffering physical distress from dangerous temperatures, lack of food or lack of water. Employees of Henry County Animal Care and Control or any law enforcement officer shall take such action as is necessary including entry of the vehicle by any reasonable means to remove an animal from such jeopardy and may impound said animal and secure medical treatment for said animal as needed at the owner's or custodian's expense.

(b) Henry County Animal Control officers or any law enforcement officer may take possession of any deceased animal found in any parked vehicle for purposes of determining the cause of death of the animal in question.

All other ordinances, or portions thereof, in conflict with the foregoing, are hereby, and shall be, repealed.

Section 6.12 Native and Non Native Wild Animals

All complaints and matters concerning native and non-native wild animals and complaints involving protected species and/or hunting, shall be forwarded to the Georgia Department of Natural Resources, Game and Fish Division or the U.S. Department of Agriculture, Law Enforcement Division for proper disposition, i.e., compliance, apprehension, control and/or enforcement as may be necessary as provided by state and federal rules and regulations.

Section 6.13 Prohibited Animals.

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 native or non native wild animal unless licensed by the respective federal or state department of agriculture to possess such animal.

Section 6.14 – 6.19 Reserved

ARTICLE II. RABIES CONTROL *

****State law references: Rabies vaccination, Official Code of Georgia Annotated, § 31-19-1.***

Section 6.20 When collar and tag required on a dog or cat.

It shall be the duty of each dog or cat owner, possessor or custodian thereof, to provide a collar for their dog or cat to which a current rabies vaccination tag shall be attached. The collar, together with the tag, shall be worn by the dog or cat at all times, except as provided herein. Failure to comply with this section shall be unlawful and shall be punished as hereinafter provided.

Section 6.21 Vaccination and licensing of dogs and cats required.

(a) The owner or possessor of each dog or cat over three (3) months of age kept, maintained or harbored within the municipalities or the unincorporated areas of Henry County shall apply for and obtain a rabies tag for such dog or cat which shall be affixed to a collar worn by such dog or cat at all times. This provision does not apply to show dogs or cats wherein the wearing of a collar may cause damage to the coat of the animal. Owners of show dogs or cats should have in their possession the rabies tag where it may be produced on demand of animal control personnel.

(b) Any licensed veterinarian shall be authorized to vaccinate dogs or cats against rabies; provided, that at the time of such vaccination he furnish a vaccination tag issued by the Georgia Department of Human Resources, bearing an official serial number to the owner.

(c) It shall be unlawful for any person to attach a vaccination tag or license tag to the collar of any animal for which it was not issued.

(d) A license fee shall be charged for the certificate of registration as required by Chapter 8 of Title 4 of the Official Code of Georgia Annotated for a potentially dangerous dog.

(e) A license fee shall be charged for a certificate of registration as required by Chapter 8 of Title 4 of the official Code of Georgia Annotated for a dangerous dog.

Section 6.22 Rabies cases to be reported.

It shall be the duty of any person knowing of a rabid animal or of an animal showing rabid symptoms, to immediately report such animal to the animal control shelter and give as much pertinent information as possible.

Section 6.23 Quarantine.

(a) Where rabies has been found to exist in any animal, or where its existence is suspected, the animal control director or his/her designee may designate an area within which quarantine of all such animals shall be maintained and all such animals shall thereupon be immediately confined to the premises designated by the animal control director or his/her designee in a manner approved by state and county health officials, whether or not such animal has been vaccinated against rabies.

(b) No animal shall be removed from or brought into a quarantined area or premises without prior approval of the animal control director or his/her designee.

(c) Quarantine ordered by the animal control director or his/her designee shall be maintained for such period as the animal control director or his/her designee deems necessary to protect the public health.

(d) Quarantined areas or premises and areas where rabid animals or animals suspected of rabies remain at large, shall be posted by the animal control director or his/her designee with signs which read as follows:

"Rabies Suspected"

or

"Rabies--Keep Away From Animals"

Such signs shall be conspicuously displayed in a place designated by the animal control director or his/her designee and shall not be defaced or removed except by the animal control director or his/her designee. Signs furnished and approved by the animal control director shall be used.

(e) The owner or custodian of each animal subject to a quarantine invoked by the animal control director or his/her designee under terms of this regulation shall be notified of the quarantine, the particular animals subject thereto, and shall be given such other information as the animal control director or his/her designee deems necessary.

(f) The heads of all animals suspected of having had rabies at time of death shall be submitted to the animal control director or his/her designee for examination by the department of human resources laboratory. When necessary, the animal control director or his/her designee can sacrifice an animal for the purpose of submitting brain tissue for rabies analysis.

Section 6.24-6.29 Reserved

ARTICLE III. IMPOUNDMENT

Section 6.30 Impounding authority.

Henry County Animal Control officers are hereby authorized to impound any vicious dog or guard dog not confined, chained or muzzled as herein provided; any female dog while in estrus not confined within an enclosure which can reasonably be expected to keep away or not attract male dogs; any animal not wearing the rabies inoculation tag required by the statutes of the State of Georgia; any abandoned animal; any prohibited animal and any animal unrestrained in Henry County. The animal shall be confined in the animal shelter or handled as otherwise provided herein.

Any person who takes into custody an animal running at large in violation of this chapter shall deliver such animal to the animal shelter without fee or charge.

However, a person may house the animal for five business days while attempting to locate and/or contact the owner. Once in the custody of the animal shelter, the shelter shall hold and dispose of such animal in the same manner as though such animal had been running at large and impounded by officers of Henry County Animal Care and Control.

Section 6.31 Notice to owners of impounded animals.

(a) Upon impounding any dog or other animal, the Board of Commissioners, by and through the director of the animal care and control department of Henry County, Georgia, or its authorized representative, shall cause to be made a prompt and reasonable effort to locate the animal's owner, possessor or

custodian. Upon location thereof, notification of impounding shall be sent to this owner, possessor or custodian.

Section 6.32 Fees and fines.

The fees with respect to all services and licensing performed in connection with enforcement of this chapter shall be set by the Board of Commissioners from time to time. A copy of such fee schedule shall be posted at the Henry County Animal Shelter and may be changed at any time and from time to time as determined by the Board of Commissioners.

(a) The fees established and collected under this chapter and pursuant to the State Dangerous Dog Control Law are not penalties but are imposed for the sole purpose of defraying expenses borne by the County for animal control and welfare under this chapter and are subject to change at any time.

(b) The personnel of the animal care and control department shall not return to the owner any animal impounded until the owner of said animal has paid fees and charges assessed, and until the owner has prepaid for a rabies tag or tags as required by Georgia law and by county health department rules.

(c) For all other animals impounded other than dogs or cats, the owner or custodian shall be charged the base fees, plus actual expenses and an additional ten (10) percent of both the base fee and actual expense.

Section 6.33-6.39 Reserved

Article IV. DISPOSITION

Section 6.40

(a) Other than those animals impounded for quarantine or animal cruelty, animals shall be kept at the animal shelter for a period of not less than four (4) calendar days, excluding Sunday and county holidays, unless reclaimed by the owner within such period. After such time, the animals shall be deemed permanently relinquished to Henry County Animal Care and Control and may be immediately adopted, destroyed or otherwise disposed of as though it had been impounded.

(b) Wildlife and wild animals as defined by this chapter which have been captured by or come to be in the custody of Henry County Animal Care and Control shall not be deemed impounded and need not be retained for any minimum length of time. Wildlife and wild animals received by Henry County Animal Care and Control will be disposed of in accordance with federal and state guidelines.

(c) Any animal which is voluntarily surrendered to Henry County Animal Care and Control shall be deemed permanently relinquished to Henry County Animal Care and Control and may be immediately adopted, destroyed or otherwise disposed of as though it had been impounded.

(d) Any impounded animal not claimed within four (4) calendar days (excluding Sunday and county holidays) of impound shall be considered relinquished to Henry County Animal Care and Control, in which event all rights of ownership shall vest in Henry County Animal Care and Control and the owner shall have no further claim to such animal.

(e) Henry County Animal Care and Control shall have the exclusive right to dispose of all animals that have been deemed relinquished to Henry County

Animal Care and Control in any manner deemed appropriate and in the best interest of the animal and in accordance with this chapter.

(f) Animals shall not be provided to any public or private institution, animal dealer or other individual who may use or supply the animal for research purposes.

Section 6.41 RECLAMATION

(1) The owner of any impounded animal may regain possession of the animal upon payment of all applicable fees and compliance with the terms of this chapter. Such redemption shall not affect any criminal liability of the owner, which may exist with respect to any violation of this chapter and shall not preclude proceedings against the owner for the purpose of pursuing sanctions under this chapter. The following exceptions apply:

(a) Any animal impounded as a result of cruelty, abuse, neglect, or any other reason defined by this chapter as inhumane treatment may be retained by Henry County Animal Care and Control until such time as the case is disposed of in a court competent to hear such matters.

(b) Prohibited animals impounded by or come to be in the possession of Henry County Animal Care and Control cannot be reclaimed unless the owner can show proof of proper and current licensure allowing them to have possession of such animal.

(c) Any animal adopted from the Henry County Animal Shelter that was not sterilized per the adoption agreement may immediately be reclaimed

by Henry County Animal Care and Control and the owner may not be permitted to reclaim said animal.

Section 6.42 ADOPTION.

(1) Henry County Animal Care and Control may offer for adoption or rescue any animal deemed relinquished to Henry County Animal Care and Control. All persons adopting animals shall be over 18 years of age and shall provide adequate and humane care as required. Any person adopting an animal shall not use the animal for breeding, fighting or profit and shall not engage in any research involving the use of the animal or supply the animal to any individual or institution which may use the animal in research.

(2) Any person adopting an animal from Henry County Animal Care and Control shall pay an adoption fee in an amount stated in the Henry County Animal Care and Control schedule of fees. This fee includes all or part of the costs of a rabies inoculation.

(3) Any person adopting an intact animal shall cause to have the animal sterilized within a period specified as follows;

(a) within 30 days from the date of adoption for animals over the age of 6 months or;

(b) within the first six months of age for sexually immature animals.

(4) Any person adopting an animal shall be given the option to prepay for spay/neuter at the time of adoption and receive a certificate for such service from veterinarians who have agreed to perform such service.

(5) Any adopted animal not sterilized within the time specified may be reclaimed by Henry County Animal Care and Control. If an animal is not sterilized after the time specified on the adoption agreement, the owner may receive a citation for violating this article.

(6) The Animal Control Director or his/her designee shall have the right to refuse adoption to any person or entity who, for any reason, in the discretion of the Animal Control Director or his/her designee, may be deemed unsuitable as an adopter.

(7) No person residing in the same household, nor any corporation, institute or other entity, may adopt more than three (3) animals within any 12 month period; however, nothing shall prohibit Henry County Animal Care and Control discretion to donate more than three (3) animals in a 12 month period, if the donation is in the best interest or welfare of the animal or it is in the best interest of public safety.

(8) Owners may not adopt their impounded animal(s) from the Henry County Animal Care and Control Department to circumvent the paying of reclamation fees.

Section 6.43 RESCUE

Any legally adoptable, unclaimed animal may be donated to animal rescue groups.

Section 6.44 Humane Disposition

If any animal seized or impounded by the Henry County Animal Care and Control Department evidences advanced symptoms of contagious, infectious or fatal

diseases, is seriously ill or severely injured, the animal care and control department shall seek the services of a licensed veterinarian who will determine whether to treat the animal or humanely euthanize the animal; or in the absence of an available veterinarian, the animal control officer may concur with a superior on duty. This action may be taken to control the spread of disease or to eliminate any further pain and suffering of an animal. Every attempt will be made to stabilize an owned animal to afford the owner the opportunity to reclaim the animal.

Section 6.45-6.49 Reserved

ARTICLE V. DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS

Section 6.50 Exceptions to definitions.

The terms "dangerous dog" and "potentially dangerous dog" as defined in this chapter, shall not include the following:

- (1) A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties; and*
- (2) A dog who inflicts an injury within the meaning of this article if the injury was sustained by a person who, at the time, was committing a willful trespass or other tort, or was tormenting, abusing, or assaulting the dog or had in the past been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.*

Section 6.51 Animal control board.

(a) The county governing authority may act as the animal control board for Henry County, Georgia and if so, shall conduct the hearings provided for in this article. The county governing authority may create or establish an animal control board. The purpose of the board shall be to conduct the hearings provided for in this article.

(b) If created or established the board shall consist of five (5) members. All members shall be appointed by the county governing authority. The initial terms of members shall be as follows: One member to serve for one year; two (2) members to serve for two (2) years; and two (2) members to service [serve] for three (3) years. Thereafter, all members appointed to the board by the county governing authority shall be appointed for terms of three (3) years and until their successors are appointed.

(c) No member of the board shall participate in a hearing on any matter in which such member previously participated in the classification of the dog at issue. In the event of a vacancy during the term of any member by reason of death, resignation, or otherwise, the appointment of a successor by the county governing authority shall be for the remainder of the unexpired term of such member.

Section 6.52 Dog control officer.

The county governing authority shall appoint a dog control officer who shall serve at the pleasure of the governing authority. The dog control officer's compensation shall be established from time to time by the governing authority.

Section 6.53 Procedures for classifying dangerous dogs and potentially dangerous dogs; notice; hearing.

(a) The dog control officer, upon receiving a report of a dangerous dog or potentially dangerous dog within Henry County from a law enforcement agency, animal control agency, rabies control officer, or county board of health, shall make such investigations and inquiries with regard to such report as may be necessary to determine the validity of such report and whether the dog should be classified as a dangerous dog or potentially dangerous dog or reclassified as a dangerous dog if previously classified as a potentially dangerous dog.

(b) Should the dog control officer determine that a dog is a dangerous dog or potentially dangerous dog; the dog control officer shall classify such dog accordingly. The dog control officer shall then notify the dog's owner of such classification. The notice to the owner shall meet the following requirements:

- (1) The notice shall be in writing and mailed by certified mail to the owner's last known address;*
- (2) The notice shall include a summary of the dog control officer's findings that formed the basis for the dog's classification as a dangerous or potentially dangerous dog;*
- (3) The notice shall be dated and shall state that the owner, within fifteen (15) days after the date shown on the notice, has a right to request a hearing on the dog control officer's determination that the dog is a dangerous dog or potentially dangerous dog;*

- (4) *The notice shall state that the hearing, if requested shall be before the animal control board;*
- (5) *The notice shall state that if a hearing is not requested, the dog control officer's determination that the dog is a dangerous dog or a potentially dangerous dog will become effective for all purposes on a date specified with the notice, which shall be after the last day on which the owner has a right to request a hearing; and*
- (6) *The notice shall include a form to request a hearing before the animal control board and shall provide specific instructions on mailing or delivering such request to the board.*
- (c) *When the animal control board receives a request for a hearing as provided for in subsection (b) of this section, it shall schedule such hearing within thirty (30) days after receiving the request. The board shall notify the dog owner in writing by certified mail of the date, time and place of the hearing. Such notice shall be mailed to the dog owner at least ten (10) days prior to the date of the hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and present evidence. In addition, the board shall receive at the hearing such other evidence and hear such other testimony as the board may find reasonably necessary to make a determination either to sustain, modify, or overrule the dog control officer's classification of the dog.*
- (d) *Within ten (10) days after the date of the hearing, the animal control board shall notify the dog owner in writing by certified mail of its determination on the matter. If such determination is that the dog is a dangerous dog or a potentially*

dangerous dog, the notice shall specify the date upon which that determination is effective.

Section 6.54 Requirements for possessing a dangerous or potentially dangerous dog.

(a) No one shall have, own, or possess within Henry County a dangerous dog or potentially dangerous dog without a certificate of registration.

(b) The dog control officer shall issue a certificate of registration to the owner of a dangerous dog or potentially dangerous dog if the owner presents to the dog control officer or the dog control officer otherwise finds sufficient evidence of:

(1) A proper enclosure to confine the dangerous or potentially dangerous dog; and

(2) The posting of the premises where the dangerous dog or potentially dangerous dog is located with a clearly visible sign warning that there is a dangerous dog on the property. The owner of a dangerous dog or potentially dangerous dog shall receive such sign from the dog control office at the time the owner pays the annual registration fee as required in subsection (d) of this section.

(c) In addition to the requirements of subsection (b) of this section, the owner of a dangerous dog shall present to the dog control officer evidence of:

(1) A policy of insurance in the amount of at least one hundred thousand dollars (\$100,000.00) issued by an insurer authorized to transact business in this state insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or

- (2) *A surety bond in the amount of at least one hundred thousand dollars (\$100,000.00) or more issued by a surety company authorized to transact business in this state payable to any person or persons injured by the dangerous dog.*
- (d) *The owner of a dangerous dog or potentially dangerous dog shall pay an annual registration fee at the time the annual certificate of registration is issued. The annual registration fee shall be in the amount of one hundred dollars (\$100.00). Certificates of registration shall be renewed in the month of the initial registration.*
- (e) *The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer if the owner is moving from Henry County.*
- (f) *The owner of a dangerous dog or potentially dangerous dog who is a new resident of the State of Georgia shall register such dog as required by the State of Georgia and Henry County.*
- (g) *The owner of a dangerous dog or potentially dangerous dog who moves to Henry County from any other county within the State of Georgia shall register such dog as required by this article within ten (10) days after becoming a resident of Henry County.*
- (h) *The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer within twenty-four (24) hours if the dog is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the dog has been sold or donated, the owner shall also provide the dog control officer with the name, address, and telephone number of the new owner of the dog.*

Section 6.55 Restrictions on permitting dangerous or potentially dangerous dogs outside of a proper enclosure.

(a) It shall be unlawful for an owner of a dangerous dog or potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will prevent it from biting any person but not cause injury to the dog nor interfere with its vision or respiration.

(b) It shall be unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.

Section 6.56 Confiscation of dogs; grounds; disposition.

(a) A dangerous dog shall be immediately confiscated by the dog control officer or by a law enforcement officer or any other person authorized by the dog control officer if:

(1) The owner of the dog does not secure the liability insurance or surety bond required by this article.

(2) The dog is not validly registered as required by this article;

(3) The dog is not maintained in a proper enclosure as defined in the article; or

(4) The dog is outside a proper enclosure in violation of this article.

(b) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if:

- (1) The dog is not validly registered by this article;*
 - (2) The dog is not maintained in a proper enclosure as defined in this article; or*
 - (3) The dog is outside a proper enclosure in violation of this article.*
- (c) Any dog that has been confiscated under the provision of this section shall be returned to its owner upon the owner's compliance with the provisions of this article as determined by the dog control officer and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this section within four (4) days of the date the dog is confiscated, the dog shall be destroyed in an expeditious and humane manner.*

Section 6.57 Violations; penalties.

(a) The owner of a dangerous dog who violated the applicable provisions of this article or whose dangerous dog is subject to confiscation under subsection of this article shall be guilty of a misdemeanor of high and aggravated nature. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than five hundred dollars (\$500.00) shall be imposed and for a third or subsequent conviction a fine of not less than seven hundred fifty dollars (\$750.00) shall be imposed.

(b) The owner of a potentially dangerous dog who violated the applicable provisions of this article or whose potentially dangerous dog is subject to confiscation under this article shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for a second conviction a fine of not less than one hundred fifty dollars (\$150.00) shall

be imposed and for a third or subsequent conviction a fine of not less than three hundred dollars (\$300.00) shall be imposed.

(c) If an owner who has a previous conviction for a violation of this article knowingly and willfully fails to comply with the provisions of this article, such owner shall be guilty of a felony if the owner's dangerous dog attacks or bites a human being under circumstances constituting another violation of this article. The owner of a dangerous dog who is convicted for a violation of this subsection shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars(\$5,000.00) or by imprisonment for not less than one nor more than five (5) years or by both such fine and imprisonment as authorized by Official Code of Georgia Annotated Section 4-8-28(c).

(d) An owner who knowingly and willfully fails to comply with the provisions of this article shall be guilty of a felony if the owner's dangerous dog aggressively attacks and causes severe injury or death of a human being under circumstances constituting a violation of this article. The owner of a dangerous dog who is convicted of a violation of this subsection shall be punished by a fine of not less than five thousand dollars (\$5,000.00) nor more than ten thousand dollars (\$10,000.00) or by imprisonment for not less than one nor more than ten (10) years or by both such fine and imprisonment as authorized by Official Code of Georgia Annotated Section 4-8-28(d).

(e) In addition to the penalties for violations under subsection (c) or (d) of this section, the dangerous dog involved shall be immediately confiscated by the dog control officer or by a law enforcement officer or another person authorized by

the dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and thereafter, the dangerous dog shall be destroyed in an expeditious and human manner.

Section 6.58 General provisions.

(a) If any provision of this article, or the application of this article to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions, or application of such other provisions, of this article which can be given effect without the invalid provision or application. To this end, the provisions of this article are hereby declared to be severable.

(b) All laws and ordinances, or parts thereof, which conflict with the provisions of this article are repealed.

(c) Be it further ordained, that the Chairman of the Board of Commissioners be authorized to sign this article on behalf of the Board of Commissioners of Henry County, Georgia.

Section 6.59 Reserved

ARTICLE VI Bird Sanctuary

Section 6.60 City designated.

The entire area embraced within the corporate limits of the city is designated as a bird sanctuary.

Section 6.61 Molesting, etc. birds--Abatement of nuisance.

It is unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests; provided, however, if starlings or similar birds are found to be congregating in such numbers in a

particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, the health authorities shall meet with representatives of the Audubon Society, bird club, garden club or Humane Society, or as many of said clubs as are found to exist in the city, after having given clubs at least three days actual notice of the time and place of the meeting to the representatives of the clubs. If as a result of the meeting no satisfactory alternative is found to abate such nuisance, the birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under supervision of the chief of police of the city.

Section 6.62-6.69 Reserved

Section 2. This Ordinance shall take effect immediately upon its adoption. All Ordinances in conflict herewith are expressly repealed. It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of McDonough, Georgia, and the sections of this Ordinance may be renumbered, if necessary, to accomplish such intention.

Section 3.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every Section, paragraph, sentence, clause or phrase of this Article is severable from every other Section, paragraph, sentence, clause or phrase

of this Article. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause, or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or Section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

Section 5. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

SO ORDAINED, this 1st day of December, 2008.

[SIGNATURES APPEAR ON FOLLOWING PAGE]