

FIRST READING DATE: August 19, 2013

APPROVAL DATE: September 12, 2013

**HABERSHAM COUNTY
STATE OF GEORGIA**

AN AMENDMENT TO THE ANIMAL CONTROL ORDINANCE OF THE HABERSHAM COUNTY BOARD OF COMMISSIONERS, HABERSHAM COUNTY, GEORGIA, SET FORTH IN THE CODE OF ORDINANCES OF HABERSHAM COUNTY, GEORGIA AS CHAPTER 10 AND ENTITLED "ANIMAL CONTROL" TO PROVIDE FOR ADDITIONAL DEFINITIONS; TO PROVIDE FOR ABANDONMENT OF ANIMALS AND THE IMPOUNDMENT THEREOF; TO PROVIDE FOR CRUELTY TO ANIMALS AND ANIMAL FIGHTING; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR PERMIT FEES; TO PROVIDE FOR VICIOUS ANIMAL REGULATIONS; TO PROVIDE FOR RABIES CONTROL; TO PROVIDE FOR REGULATION OF DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS; TO PROVIDE FOR VIOLATIONS HEREOF; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES

WHEREAS, the duly elected governing authority of Habersham County, Georgia, is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect the public health, safety and welfare of the citizens of Habersham County, Georgia; and

WHEREAS, the duly elected governing authority of Habersham County, Georgia is the Board of Commissioners therefore; and

WHEREAS, the governing authority desires to adopt certain regulatory provisions in regard to animal control, rabies control and dangerous dogs in Habersham County, Georgia by amending its animal control ordinance;

NOW, THEREFORE, THE HABERSHAM COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAME as follows:

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Chapter 10 of the Code of Ordinances of Habersham County is hereby amended by deleting said chapter in its entirety and substituting in lieu thereof the following:

CHAPTER 10 – ANIMAL CONTROL

ARTICLE I. - IN GENERAL

Sec. 10-1. - Definitions.

Sec. 10-2. - Interpretation of chapter; conflicting provisions.

Secs. 10-3—10-30. - Reserved.

Sec. 10-1. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned animal means any domesticated dog or cat that has been placed upon public property or within a public building 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 uncared for. Any domesticated animal shall also be considered abandoned when it has been unattended and without adequate food and water for a period in excess of 36 hours, regardless of where the animal may be found or kept.

Adequate food means a sufficient quantity of noncontaminated 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 dog that is of adequate size and provides adequate protection to maintain the dog in a state of good health and that prevents pain, suffering or significant risk to the animal's health. It should also be clean, dry and compatible with current weather conditions and to the breed of the dog. The structure should be of sufficient size to allow the dog to stand, turn around, lie down and go in and out of the structure comfortably.

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

Adequate water means clear, drinkable water with adequate supply. Examples of inadequate water include, but are not limited to, snow, ice and rancid/contaminated water.

Animal(s) means any domesticated dog and/or cat.

Animal at large means any animal not under restraint or voice control and off the property of its owner. If an animal has no known owner or keeper, then it shall be considered "at large" when on any public or private property.

Animal control department carries the same meaning as the animal control officer.

Animal care and control officer means a person employed by the Habersham County to pick up, restrain or impound animals and who is responsible for discharging such other duties or functions pertaining to animals as may be prescribed by this or any other ordinance, by state law, or by the lawful order of a county official authorized to supervise and direct animal control officers.

Animal control shelter means the facility designated by the board of commissioners of the county for the impoundment, restraint, care, detention and disposition of animals.

Animal establishment means any pet shop, grooming shop, animal auction, kennel, performing animal exhibition or animal shelter except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by governmental agencies or licensed animal dealers regulated by the USDA under the provisions of U.S. Pub. Laws 89544 and 91579.

Animal under restraint means any animal secured by a leash or lead or enclosed by way of fence or other enclosure; or under the control of a responsible and competent person and obedient to that person's commands and the person being present with the animal; or an animal confined within a vehicle, parked, in motion or in a crate or cage or otherwise secured in a pickup.

Appropriate authority means Habersham County, the Habersham County Sheriff's Office, any duly authorized agent thereof, the State of Georgia, any city, any county, or any state or subdivision thereof.

Attack means any biting or attempted biting or other action by an animal that places a person in danger of imminent bodily harm. An attack also means the actual biting of another animal.

Board means Habersham County Board of Health, State of Georgia.

Cat means any age feline of the domesticated type.

Certificate means a certificate of vaccination on a form furnished or approved by the Georgia Department of Human Services.

County means Habersham County, Georgia.

Dangerous dog control ordinance means Article IV of this chapter.

Dog shall mean a dog, of either sex, vaccinated or not vaccinated against rabies.

Domesticated animals means animals that are accustomed to living in or about the habitation of men, including, but not limited to, cats, cows, dogs, fowl, horses, swine, domesticated wild animals and/or exotic animals.

Governing authority means the Habersham County Board of Commissioners.

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

Habitually means an action that lasts for or is repeated over an extended duration.

Health department means the Habersham County Health Department or in the absence of a functioning health department, the Habersham County Board of Health.

Humane manner means care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species and breed.

Kennel is an establishment kept for the purpose of breeding, selling or boarding dogs or cats or engaging in the training of dogs or cats.

Neutered/spayed means rendered permanently incapable of reproduction.

Nuisance means a dog or cat shall be considered a nuisance if it:

- (1) damages, soils or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner;
- (2) causes a disturbance by excessive barking or other noise making;
- (3) chases vehicles or molests, attacks or interferes with persons or other domestic animals on public or private property.

Local government means Habersham County, Georgia.

Owner means any natural person or any legal entity owning, keeping, harboring, possessing or having custody or control or acting as caretaker or custodian of any domesticated animal, having a right of property in an animal or any person who permits an animal to remain on his premises within Habersham County.

Person shall mean any individual, firm, corporation, partnership, municipality, county, society or association.

Rabies vaccination tag shall mean a tag furnished or approved by the Georgia Department of Human Services and which tag shall be worn by the vaccinated dog at all times.

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 an animal control officer as provided for in this division.

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

Vaccinate or inoculate shall mean the injection of a specified dose of anti-rabies vaccine by a veterinarian into the proper site of an animal, such vaccine having the U.S. Department of Agriculture Veterinary Biologies Control Section license number approval stamped on the label of the container and having been approved by the Georgia Department of Human Services.

Vaccine means an injectable material containing killed or attenuated rabies virus, licensed by the United States Department of Agriculture, Veterinary Biologies Section, and approved by the Georgia Department of Human Services. Vaccine used for the purpose of this rule shall be stored at the temperature prescribed on the purchase label. Outdated vaccine shall not be used.

Veterinarian shall mean any person who holds a degree of doctor of veterinary medicine (DVM).

Vicious animal means any animal which constitutes a physical threat to human beings or other animals by virtue of one or more attacks of such severity as to cause physical injury. An animal shall also be considered vicious if it makes an unprovoked attack on human beings or other domesticated animals. The term "vicious animal" shall also mean an animal that because of temperament, conditioning or training has a known propensity to attack, bite or injure other living creatures without provocation.

Sec. 10-2. - Interpretation of chapter; conflicting provisions.

(a)

Where there is a conflict among articles or sections within this chapter, the article or section which is more restrictive shall apply.

(b)

Definitions in one article of this chapter *may be used to define terms in other parts of this chapter unless it is clear from the context that the definition does not apply.*

Secs. 10-3—10-30. - Reserved.

ARTICLE II. - ANIMAL CONTROL

Sec. 10-31. - Running at large prohibited.

Sec. 10-32. - Duty to keep animal under restraint while on property.

Sec. 10-33. - Abandonment of animals.

Sec. 10-34. - Cruelty to animals; fighting animals.

Sec. 10-35. - Animals disturbing the peace.

Sec. 10-36. - Enforcement.

Sec. 10-37. - Commercial guard/security dogs.

Sec. 10-38. - Vicious animals—Precautions to be taken by owners.

Sec. 10-39. - Same—Applicability of article.

Sec. 10-40. - Detention of animals.

Sec. 10-41. - Interference with officer.

Sec. 10-42. - Same—Penalties.

Secs. 10-43—10-70. - Reserved.

Sec. 10-31. - Running at large prohibited.

(a)

It shall be the duty of the owner of any animal or anyone having an animal in his possession to keep the animal under control at all times while the animal is off the real property limits of the owner, possessor or custodian. For the purposes of this section, an animal is deemed under control when it is confined within a vehicle; is secured by a leash or other device held by a competent person; is under voice control or is properly confined within an enclosure with permission of the owner of the property where the enclosure is located.

- (b) No person shall tie, stake or fasten any animal within any street, alley, sidewalk or other public place or in such manner that the animal has access to any portion of any street, alley, sidewalk or other public place.
- (c) Every female dog or cat in heat shall be confined in a building or other enclosure in such manner that such female dog or cat cannot come into contact with a male animal except for planned breeding.
- (d) Every animal shall be restrained or controlled so as to prevent it from chasing vehicles or attacking persons or other domestic animals.
- (e) The owner or custodian of any animal that is proven to be at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the animal and regardless of lack of knowledge of the offense at the time it occurs.
- (f) Any such animal at large may be impounded by the animal control officer or an authorized representative thereof.
- (g) Any animal with no known keeper (e.g., feral cats) shall be considered "at large" and subject to impoundment.

Sec. 10-32. - Duty to keep animal under restraint while on property.

It shall be the duty of every owner of any animal to ensure that it is confined by way of a fence, restraint, or other enclosure including activated invisible fence or in some other physical manner under the control of a competent person so that it cannot wander off the real property limits of the owner, it being the intent of this article that all animals be prevented from leaving, while unattended, the real property limits of their owners.

Sec. 10-33. - Abandonment of animals.

- (a) It shall be unlawful for a person to abandon any domestic animal owned by him. No person shall put out or abandon any dog, cat or other domestic animal on public or private property. It shall be unlawful for anyone to abandon any domesticated animal within the county. Each person who does abandon, permits such abandonment or aids in the abandonment of any domesticated animal shall be in violation of the law and shall be punished as provided in this article.

(b)

It shall be unlawful for any person to abandon or to turn out at large any sick, diseased or disabled animal but such animal shall, when rendered worthless by reason of sickness or other disability, be disposed of by the owner thereof in accordance with the rules and regulations of the state.

(c)

It shall be unlawful for the owner of any animal or fowl that die or are killed within the limits of the county to fail to remove or bury the carcass of such animal within a reasonable time and, in no event, more than 24 hours after its death. All animals buried within the county shall be buried in accordance with regulations of the county board of health, if applicable.

(d)

If the owner, possessor or custodian of an animal is not known and the animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises or property of another without the property owner's permission as prohibited by this section, any law enforcement officer or agent or employee duly authorized by the county shall be authorized to immediately take possession of such animal and impound it in accordance with the rules and regulations provided by law or by ordinance of the county for the detention, control and disposition of animals.

(e)

Once impounded, an animal shall be kept for a period of time as outlined in this article and, thereafter, if the animal is not claimed by anyone after a reasonable effort has been made to locate the owner, possessor or custodian of the animal as provided in this article, the animal may be disposed of in a humane fashion or in accordance with the rules and regulations of the state.

Sec. 10-34. - Cruelty to animals; fighting animals.

No person shall by act, omission or neglect cause unjustifiable physical pain, suffering or death to any domestic animal. This section shall not apply to the killing of animals raised for the purpose of providing food nor does it apply to any person who shall hunt wild animals in compliance with the game and fish laws of the State of Georgia. Furthermore, this section shall not apply to the killing or injuring of animals for humane purposes or in the furtherance of medical or scientific research or in the necessary defense of one's person or personal property.

(a)

Whoever willfully or purposefully kills, abuses, maims or disfigures any domestic animal or willfully or maliciously administers poison to an animal or exposes any poisonous substance with intent that the substance shall be taken and swallowed by a domestic animal shall be in violation of this article.

Cropping, docking and dew claw removal performed by a veterinarian shall not be considered maiming or disfiguring.

(b)

Whoever overloads, overdrives, tortures, torments or deprives a domestic animal of adequate food or beats, mutilates, hobbles or kills any animal or causes such acts to be done, or carries in or upon a vehicle or otherwise any domestic animal in a cruel or inhumane manner, shall be deemed in violation of this article. This section shall not prohibit the hobbling of a domestic animal for legitimate training or approved medical care purposes.

(c)

Whoever confines a domestic animal and fails to supply adequate food, adequate water, or fails to provide the domestic animal with access to adequate space, or abandons any domestic animal to die shall be deemed in violation of this article.

(d)

No person shall:

(1)

Own, possess, keep or train any domestic animal with the intent that such animal shall be engaged in an exhibition of unlawful fighting.

(2)

Build, make, maintain or keep a pit on premises owned by him or occupied by him or allow a pit to be built, made, maintained or kept on such premises for the purpose of an exhibition of animal fighting.

(3)

In any manner encourage, instigate, promote or assist in an exhibition of animal fighting.

(4)

Charge admission to, be an assistant, umpire or participant at or be present as a spectator to any exhibition of animal fighting.

(e)

No owner of any dog contracting distemper or parvo shall allow such dog to remain untreated or fail to take prompt steps to have the dog euthanized.

(f)

Any animal control officer may impound any animal that has been treated in a cruel manner.

Sec. 10-35. - Animals disturbing the peace.

(a)

No owner or keeper of a domestic animal shall allow a domestic animal to annoy or disturb any person not on the premises of the owner or keeper of the animal by unreasonable barking or other noises. For the purpose of this section, unreasonable barking or other noises shall mean barks, bays, cries, howls or other noises that are continuous or incessant for a period of 30 minutes or are intermittent for a period of one hour or more. Barking or noises shall not be considered unreasonable if the domestic animal is responding to a trespass or attempted trespass on private property. This section shall have no application to noises or disturbances made by livestock, poultry or other animals emanating from a legitimate farming operation on property zoned for agricultural use.

(b)

Any person that knowingly keeps, owns, harbors, has custody or control of or acts as custodian of a domestic animal that constitutes a nuisance shall be guilty of an unlawful act and shall be punished as provided in this chapter.

Sec. 10-36. - Enforcement.

Enforcement authority of this chapter shall be vested with the animal control officer or any other duly authorized sheriff's deputy of the county. Enforcement shall be based upon a complaint lodged with the animal control department or the county sheriff's office. In carrying out the duties of this chapter, the animal control department may employ equipment including, but not limited to, control poles, nets, leashes of any construction, chemical capture devices, snakes tongs, oleoresin capsicum aerosols, snake hooks, humane traps, collapsible batons, firearms and metal carrying cages.

Sec. 10-37. - Commercial guard/security dogs.

(a)

It shall be the duty of all persons who keep, use or maintain any guard/security dog to have signs conspicuously posted on the premises where the guard/security dog is located to warn of the presence of the dog. This warning shall consist of a warning sign placed at each entrance and exit to the premises and in a position to be legible from the sidewalk or ground level adjacent to the sign (eye level). If the premises are not enclosed by a wall or fence, a sign shall be placed at every entrance and exit to each structure on the premises in which a guard/security dog is located. Each sign shall measure at least ten inches by ten inches and shall contain block lettering stating "Warning, Guard Dog on Duty." In addition, for dogs rented or leased, the

sign shall set forth the name, address and phone number of the responsible person to be notified during any hour of the day or night.

(b)

It shall be the duty of all persons who keep, use or maintain a guard/security dog to ensure the dog is vaccinated against rabies and licensed as required by state and county laws and ordinances. The dog also must have the current vaccination tag affixed to a collar worn by the dog at all times as required by state and county laws and ordinances.

(c)

It shall be unlawful to transport any guard/security dog in an open bed truck and the vehicle transporting guard dogs shall be identified as to the business owner. It shall be unlawful to transport any guard dog in the county except under the following conditions:

(1)

Each dog shall be placed in separate holding bins.

(2)

Each holding bin shall be enclosed and measure 48 inches long by 18 inches wide by 30 inches high.

(3)

Each holding bin will be adequately ventilated.

(d)

No guard/security dog shall be chained, tethered or otherwise tied to any inanimate object, such as a tree, post or building, outside of its own enclosure.

(e)

A guard/security dog shall be confined by the owner/custodian/harbinger within a building or secure enclosure out of which it cannot climb, dig, jump or otherwise escape of its own volition.

Sec. 10-38. - Vicious animals—Precautions to be taken by owners.

(a)

Vicious animal.

(1)

The words "vicious animal" shall mean any animal which attacks, bites or injures humans, other animals without provocation or which, because of temperament, conditioning or training, has a known propensity to attack, bite or injure other living creatures without provocation; or any animal which constitutes a physical threat to human beings or domesticated animals by one or more attacks without provocation of such severity to cause physical

injury. An animal that bites its owner is exempted from this section, except the mandatory reporting requirement of Section 10-107 shall still apply.

(b)

Exception: An animal is not considered vicious if it attacks, bites or menaces:

(1)

Anyone attacking its owner;

(2)

Unlawful trespassers on the property of its owner;

(3)

Any person or animal that has tormented or abused it;

(4)

If it is defending its young or other animal; or

(5)

Any non-domesticated animal being hunted as part of lawful hunting activities.

(c)

An animal will not be classified as vicious simply by nature of its size, breed, phenotype or other physical characteristics.

(d)

No person owning or having custody or control of any animal known to be vicious shall permit it to run at large or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.

(e)

For owners of vicious animals who maintain their animal out-of-doors, a portion of their property shall be fenced with a perimeter or area fence. Within this perimeter fence the vicious animal must be provided adequate shelter and adequate space. The pen or kennel shall not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides, with a secure top attached to all sides, and the sides must be securely set into the ground or onto a concrete pad or securely attached to a wire bottom, out of which it cannot climb, dig, jump or otherwise escape on its own volition. The gate must be securely locked.

(f)

A warning sign (e.g., BEWARE OF VICIOUS ANIMAL) shall be conspicuously posted denoting a vicious animal is on the premises and if said vicious animal is kept in a secure enclosure such signs will be posted on all four sides of said enclosure. It is the intention of this article to make all persons who have legitimate business at the place where a vicious animal is kept to be fully warned that such vicious animal is present.

(g)

No vicious animal shall be chained, tethered, or otherwise tied to any inanimate object such as a tree, post or building.

(h)

Whenever outside of its enclosure, but on the owner's property, a vicious animal must be attended by the owner and restrained by a secure collar and leash of not more than six feet in length and of sufficient strength to prevent escape.

(i)

It shall be unlawful for any person to cause, permit, accompany or be responsible for any vicious animal on the streets or in any other public place, at any time, unless, in addition to the other requirements of this article, such animal is humanely and securely muzzled and in charge of a competent person to effectively prevent it from biting any person or other animal.

(j)

The owner of any vicious animal which is not confined in a building or secure enclosure or any person who shall release, either willfully or through a failure to exercise due care or control or take such animal out of such building or secure enclosure in a manner which is likely to cause injury to another person or damage to the property of another person, shall be in violation of this article and such animal shall be permanently confined or humanely destroyed.

Sec. 10-39. - Same—Applicability of article (vicious animal provisions).

This article shall apply to all animals, except dogs. Article IV of this chapter, pertaining to dangerous dogs and vicious dogs, shall apply to dogs as defined in that article.

Sec. 10-40. - Detention of animals.

It shall be unlawful for any person to detain or hold the animal of another without notifying the animal control officer or law enforcement agency.

Sec. 10-41. - Interference with officer.

(a)

It shall be unlawful for any person to interfere with, molest, obstruct, hinder or prevent any law enforcement officer or animal control officer in the discharge of their duties as prescribed in this chapter.

(b)

Any person who shall hinder, delay, interfere with or obstruct any law enforcement officer or animal control officer while engaged in capturing, securing or taking to the animal shelter any animal or animals liable to be impounded, or who shall break open in any manner directly or indirectly aid, counsel or advise the breaking open of

any animal control vehicle or other vehicle used for the collecting of any such animals shall be deemed in violation of this chapter.

Sec. 10-42. - Same—Penalties.

Any person who violates any provision of this article shall be, upon conviction, guilty of a misdemeanor and subject to the imposition of a fine of not less than \$50.00 nor to exceed \$1,000.00 or by imprisonment for up to six months (maximum of 60 days in jail with 120 days probated or suspended) or both.

Secs. 10-43—10-69. - Reserved.

ARTICLE III. - IMPOUNDMENT

Sec. 10-70. - The animal care and control department.

Sec. 10-71. - Animal control officer appointment.

Sec. 10-72. - Powers and duties of the animal control officer.

Sec. 10-73. - Interference with the animal control officer.

Sec. 10-74. - Notice to owners of impounded animals; redemption by owner.

Sec. 10-75. - Commencement of period of impoundment.

Sec. 10-76. - Voluntary surrender of animal.

Sec. 10-77. - Fees and requirements for violations and impounds.

Sec. 10-78. - Consequences of animal impounded and not claimed.

Sec. 10-79. - Adoption.

Sec. 10-80. - Authority to destroy injured or diseased animals.

Sec. 10-81. - Fees.

Secs. 10-82—10-100. - Reserved.

Sec. 10-70. – The animal care and control department.

The animal care and control department shall consist of the animal control officer designated as the director of animal care and control department which shall consist of the animal control officer and animal care and control officers – grades 1, 2 and 3.

Sec. 10-71. – Animal control officer appointment.

The county governing authority shall appoint an animal control officer who shall be a P.O.S.T. certified law enforcement officer who shall be designated as the director of the

animal care and control department. The animal control officer shall serve at the pleasure of the governing authority. The animal control officer's compensation shall be established from time to time by the governing authority.

Sec. 10-72. - Powers and duties of animal control officer.

The animal control officer shall be primarily responsible for the enforcement of this article and his duties shall include but not be limited to the following:

- (1)
Cooperation with the county board of health in the enforcement of rabies control regulations and of animal control directives.
- (2)
Cooperation in the promotion of animal control and welfare.
- (3)
Taking up and impounding animals that are in violation of this chapter, using any and all means available which are humane in nature; however, the animal control officer shall be authorized but not required to impound animals or fowl not on the owner's or custodian's property. The animal control officer can, in lieu of impoundment, issue a citation for violations of this chapter,
- (4)
The animal control officer shall be authorized to enter either public or private property to impound any animal which he has reasonable cause to believe is in violation of this chapter.
- (5)
The animal control officer may destroy any animal which presents a threat of immediate harm to public health or safety or other innocent animals and which cannot be taken for impoundment without threat of serious harm to the animal control officer or his agents. The destruction shall be in the most humane method available to the officer on scene.
- (6)
Keeping a record of the number and description of all animals impounded or otherwise taken into custody, showing in detail in the case of each animal a general description by sex, breed and approximate age, together with any identification tag, vaccination tag or other marking, including microchipping and the date of receipt.
- (7)
The animal control officer may designate any animal care and control officer to perform any of the duties of the animal control officer.

Sec. 10-73. - Interference with animal control officer.

It shall be unlawful to take or attempt to take any animal from any vehicle used to lawfully transport such animal, or to take or attempt to take any animal from the animal control impounding areas. It shall also be unlawful for any person to remove or attempt to remove any animal from any trap set by an animal control officer or to disturb, molest or damage any trap set by the animal control officer. Penalties for violation of this section shall be as set forth in Section 10-42 hereof.

Sec. 10-74. - Notice to owners of impounded animals; redemption by owner.

(a)

Any animal seized or impounded under any provision of this article shall be detained in the animal control shelter or any other such facility that the governing authority may so designate.

(b)

Upon receipt of any impounded animal having a microchip or wearing a tag, the animal control officer shall immediately make diligent efforts to ascertain the identity of the animal's owner and shall, within three business days of receipt, telephone the owner to give notice of the impoundment or notify the owner by personal contact or notice attached to the residence of the owner.

(c)

The owner of the impounded animal may, after receiving such notice, regain possession of the animal upon payment of all applicable fees specified in this section. Such redemption shall not affect any criminal liability of the owner which may exist with respect to any violation of this article and shall not preclude proceedings against the owner for the purpose of pursuing sanctions under this article.

Sec. 10-75. - Commencement of period of impoundment.

All periods of impoundment specified in this article shall be deemed to commence at 12:01 a.m. of the day following the date of confinement.

Sec. 10-76. – Voluntary surrender of animal.

Any person not a resident of Habersham County who surrenders an animal to the animal shelter shall pay a fee as required by Section 10-77 hereof.

Sec. 10-77. - Fees and requirements for violations and impounds.

(a)

The fees with respect to services performed, in connection with the enforcement of this article, shall be set by the board of commissioners from time to time. A copy of such fee schedule shall be posted at the headquarters of the animal control officer. Such fees may be changed at any time and from time to time as determined by the board of commissioners.

(b)

The fees established and collected under this article are not penalties but are imposed for the sole purpose of defraying expenses borne by the county for animal control and welfare under this article. Such fees are subject to change at any time. Such fees shall include but not be limited to the following:

(1)

An impounding fee.

(2)

A boarding fee on a per-day basis.

(3)

A rabies inoculation fee, if needed.

(c)

Absent exigent circumstances, in no event shall any animal be redeemed by its lawful possessor, owner or custodian unless those fees established for boarding and/or the administration of necessary medical treatment to the animal are paid.

Sec. 10-78. - Consequences of animal impounded and not claimed.

If for any reason an animal is impounded and not claimed by the owner after proper notification is made, the animal shall be considered abandoned and the following subsections shall apply.

(1)

If the animal is not claimed by the owner within five days of being telephoned or personally contacted or seven days of a notice being left at the owner's residence, the animal shall be deemed abandoned and representatives of the animal control shelter may at their discretion adopt such animal or dispose of such animal in accordance with state law. If the owner cannot be located or no residence of the owner identified, the animal shall be presumed abandoned within seven days of impoundment.

(2)

If any of the time periods in the subsection (1) of this section expire, the owner shall be deemed to have given his consent to the adoption of the impounded animal or to give his consent to the disposal of the animal in a humane fashion in accordance with O.C.G.A. § 4-11-5.1. All rights of

ownership in such animal will immediately cease and the owner shall have no further claims to such animal.

(3)

If an animal is impounded and through its appearance seems to have been abandoned or is stray, such animal will be kept for a period of seven days before it will be considered for adoption or destroyed. The appearance of being abandoned or stray would include, but not be limited to, the following: no collar, tag, brand, microchipping or other identifiable marks, an appearance of being malnourished, excessively dirty or mange-like fur coat or any other condition that would lead the animal control officer to conclude that such animal is a stray.

(4)

Any animal impounded which is found to be diseased or injured and whose ownership is unknown or is relinquished in writing or whose owner cannot be immediately contacted, may be immediately destroyed if in the opinion of a licensed veterinarian the severity of the injury or disease of the animal indicates that euthanasia is a humane course of action.

Sec. 10-79. - Adoption.

Personnel from the animal control shelter may offer for adoption or placement with any person or any organization approved by the county or its agent an animal otherwise scheduled to be disposed of (euthanized) under the provisions of this chapter. No animal impounded shall be released to any person or organization for the purpose of animal experimentation. Any person or organization adopting an animal from the county or the county's designated animal control shelter shall pay the county or the designated animal control shelter for rabies inoculation, necessary medical treatment and any other administrative fees designated by the county.

Sec. 10-80. - Authority to destroy injured or diseased animals.

Any dog, cat or other domestic animal injured upon the public right-of-way is subject to destruction by a competent licensed veterinary authority, animal control officer or duly authorized sheriff's deputy, depending upon the extent of injury to or disease of such animal or, in the alternative, if such animal is not claimed by the owner thereof within a reasonable time, in the interest of humane treatment.

Sec. 10-81. - Records.

It shall be the duty of the animal control department to keep and maintain current and accurate records of all activities and transactions pertaining to the enforcement and impoundment of animals under this chapter. Such records shall include but not be limited to

the name, address and phone numbers of persons filing complaints and owners of the animals impounded. Other information which shall be recorded will be the description and condition of each animal impounded; date, time and circumstances of impoundment. Records shall also be maintained of all fees of any kind collected and any other records deemed proper for accurate accounting of activities.

Secs. 10-82—10-100. - Reserved.

ARTICLE IV. - RABIES CONTROL

Sec. 10-101. – Purposes.

Sec. 10-102. - Rabies control/animal control officer.

Sec. 10-103. - State rabies vaccination tag; county registration required for dogs and cats.

Sec. 10-104. - Dogs to wear collar, rabies vaccination tag; exceptions.

Sec. 10-105. - Reporting.

Sec. 10-106. - Report of animal bites; confinement of biting animals.

Sec. 10-107. - Confinement of dogs or other animals.

Sec. 10-108. - Violations; penalties

Secs. 10-109—10-130. - Reserved.

Sec. 10-101. – Purposes.

The purpose of this article is to prescribe rules for the prevention and control of rabies within the county by providing for the vaccination, tagging, certification of dogs and cats, the confinement of dogs/cats and other animals, to designate the county's rabies control officer, collection of rabies control fees and for other purposes.

Sec. 10-102. - Rabies control/animal control officer.

(a)

The rabies control officer shall be the animal control officer and/or any other designated agent of the county health department.

(b)

Duties of the rabies control officer will include:

(1)

Investigate and maintain a record of animal bites in the county.

- (2) Provide for proper confinement of an animal involved in a bite incident.
- (3) Provide stray animal pickup service.
- (4) All duties required under this article.

Sec. 10-103. - State rabies vaccination tag; county registration required for dogs and cats.

- (a) Every dog or cat three months of age or older shall be vaccinated against rabies. Dogs and cats will be revaccinated one year later. When dogs or cats one year of age or older are vaccinated with vaccines accepted by the state, county or department for providing a three-year duration of immunity, boosters will be required every three years. Otherwise, boosters shall be required annually.
- (b) All dogs are required to wear a collar containing owner information at all times, except as exempted by Section 10-104. Owner information contained in a microchip shall be acceptable to comply with this requirement; but shall not be a replacement for a visible collar. Dogs age three months or older are required to wear a collar and a current rabies tag at all times.
- (c) A \$5.00 fee will be assessed at the time of all rabies vaccinations (cats and dogs) for registration purposes. All dogs and cats shall be registered with the county. If a dog or cat is vaccinated for rabies by a veterinarian outside of the county, it is the responsibility of the owner to register the animal with the county animal control department and pay the appropriate fee. If an owner or custodian of a dog or cat provides written verification that, at the time of rabies vaccination, his dog or cat has been spayed or neutered, such verification shall result in their registration fee being reduced to \$3.00.
- (d) All veterinarians receiving fees under this section shall deliver such fees to the county by no later than the 15th day of the subsequent month after receipt.

Sec. 10-104. - Dogs to wear collar, rabies vaccination tag; exceptions.

The wearing of a rabies vaccination tag is not required for show dogs where the wearing of such tag could damage the coat and dogs when boarded in kennels or veterinary clinics or in an area zoned for agricultural purposes where the owner or custodian of the dog

in question is using the dog for hunting purposes and has on his person a valid hunting license. In the latter case, the owner, custodian or harborer shall have the vaccination certificate in his possession where it may be shown upon demand by any duly constituted authority.

Sec. 10-105. - Reporting.

(a)

The owner or custodian of any animal having signs suggestive of rabies shall confine the animal and immediately notify the animal control officer or the county health department reporting any information regarding any persons bitten or attacked by such animal.

(b)

The animal control officer shall report all known cases of rabies in the county to the county health department.

Sec. 10-106. - Report of animal bites; confinement of biting animals.

(a)

Any person having information that an animal has bitten a person shall immediately report such to the county sheriff's office, the animal control officer or the county board of health.

(b)

If an animal has bitten a person, such animal shall be immediately confined at a facility so designated by the animal control officer or the county health department, including the premises of the owner. The confinement will commence on the date of the bite and such animal will be segregated in isolation, if available, for a period of ten days.

Sec. 10-107. - Confinement of dogs or other animals.

(a)

The animal control officer shall be responsible for enforcement of all regulations pertaining to confinement of dogs or other animals.

(b)

The owner of any dog or other animal as defined in this article shall confine or cause to be confined such dog or animal as prescribed in this section:

(1)

A dog or other animal which has bitten a person (or other animal) shall be confined for a period of ten days following the date of the bite, in accordance with Section 10-134(b), (c), (d) or (e), whichever is applicable.

(2)

A dog or other animal, whether vaccinated or not, having signs suggestive of rabies shall be confined in isolation in a humane and escape-proof enclosure until its death or until its freedom from suspicion of having rabies is established and its release is authorized by an animal control officer.

(3)

A dog or other animal not vaccinated and bitten by a known or suspected rabid animal shall be immediately destroyed or if the owner is unwilling to destroy the exposed animal, strict isolation of the animal in an approved kennel or other confinement area approved by an animal control officer for six months shall be enforced. One month prior to release, the dog shall be vaccinated according to prescribed methods.

(4)

Any dog or other animal which, as evidenced by its rabies vaccination tag, is properly and currently vaccinated for rabies and which is bitten by a known or suspected rabid animal may be revaccinated, confined in an approved manner for 60 days and then released if no signs of rabies are evident.

(5)

Every dog or other animal, whether vaccinated or not, shall be kept in a quarantined area confined at the owner's or custodian's premises during the entire quarantine period unless other provisions deemed adequate to the animal control officer are made.

(6)

Any dog less than three months old may be confined to the owner's premises, provided such permission is granted by the animal control department.

(7)

Any dog brought into the county for a permanent stay from outside the county shall be confined or on leash until vaccinated as provided for by this chapter.

Sec. 10-108 - Violations, penalties

Any person violating any provision of this article shall, upon conviction, be subject to a fine not less than \$50.00 nor to exceed \$1,000.00. Each day a violation continues shall constitute a separate offense.

Secs. 10-109—10-130. - Reserved.

State Law reference— Animal bites, O.C.G.A. § 31-19-4; inoculation of dogs and cats against rabies, O.C.G.A. § 31-19-5

ARTICLE V. - DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS

Sec. 10-131. - Definitions.

Sec. 10-132. - Applicability of provisions.

Sec. 10-133. - Liability of county; liability of owner.

Sec. 10-134. - Investigations by animal control officer; owner's responsibilities.

Sec. 10-135. - Procedures for classification as dangerous dogs or vicious dogs.

Sec. 10-136. - Requirements for possessing classified dogs.

Sec. 10-137. - Restrictions on classified dogs.

Sec. 10-138. - Confiscation of dogs.

Sec. 10-139. - Summons.

Sec. 10-140. - Violations; penalties.

Sec. 10-131. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Classified dog means any dog that has been classified as either a dangerous dog or vicious dog pursuant to this Article.

County animal control board means a board initially consisting of an appointee selected from the county veterinarians, an appointee selected from the county humane society and an appointee selected from the county board of commissioners. Each appointee shall serve a two-year term with the period of each term corresponding to a calendar year and shall be subject to reappointment. During the term of service, an appointee may be removed by the appointing entity with or without cause.

Dangerous dog means any dog that:

(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 a dog as dangerous under this subparagraph;

(2) Aggressively attacks in a manner that causes a person to reasonably believe that the dog posed 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 a dog shall not be sufficient to classify a dog as dangerous under this subparagraph; or

(3) While off the owner's property, kills a pet animal; provided, however, that this subparagraph shall not apply where 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.

Animal control officer means an individual designated by the county governing authority to aid in the administration and enforcement of the provisions of this article.

Mail means to send by certified mail or statutory overnight delivery to the recipient's last known address.

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 a dog within the county. In the case of a dog owned by a minor, the term 'owner' includes the parents or person in loco parentis with custody of the minor.

Proper enclosure means an enclosure on the owner's property for keeping a dangerous dog or vicious dog in a 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, in the case of a vicious dog, a 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.

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.

Vicious dog means a dog that inflicts serious injury on a person or causes serious injury to a person resulting from reasonable attempts to escape from the dog's attack.

Sec. 10-132. -Applicability of provisions.

Any dog classified prior to July 1, 2012 as a potentially dangerous dog in this state shall on and after that date be classified as a dangerous dog under this article. Any dog classified prior to July 1, 2012 as a dangerous dog or vicious dog in this state shall on and after that date be classified as a vicious dog under this article. The owner of any dog referred to in this section shall come into compliance with all current provisions of this article by January 1, 2014.

Sec. 10-133. - Liability of county; liability of owner.

Pursuant to state law, under no circumstances shall the county or any employee or official of the county be held liable for any damages to any person who suffers an injury inflicted by a dog as a result of a failure to enforce the provisions of this article.

Sec. 10-134. - Investigations by animal control officer; owner's responsibilities.

(a) *Duty to investigate.* Upon receiving a report of a dog believed to be subject to classification as a dangerous dog or vicious dog within an animal control officer's jurisdiction, such officer shall make such investigations as necessary to determine whether such dog is subject to classification as a dangerous dog or vicious dog.

(b) *Owner's responsibilities for dog without current valid rabies vaccination.* If a dog, without a current and valid rabies vaccination, bites any person, it shall be the duty of the owner having possession and knowledge of such to arrange for and bear the cost of confinement of such dog in a veterinary hospital for a period of ten days in order to observe the dog for rabies. If the veterinary hospital determines the dog to be rabid, then the dog is to be destroyed in an expeditious and humane manner. If the dog is found to not be rabid, such dog may be claimed upon proof of a current rabies vaccination and an enclosure deemed proper by the animal control officer. When the ten-day observation period is satisfied, the owner of such dog shall have 72 hours to claim such dog.

(c) *Owner's responsibilities for dog with current valid rabies vaccination.* If a dog, with a current and valid rabies vaccination, bites any person, it shall be the duty of the owner, or person having possession of such dog and knowledge of such bite, to confine such dog for a ten-day period in an enclosure deemed proper by the animal control officer.

(d) *Removal from enclosure after confinement period generally.* A dog, which has not been classified a dangerous or vicious dog, may be removed from the proper enclosure restriction after satisfying the requirements of the ten-day confinement period.

(e) *Continued confinement for dangerous or vicious dog.* The owner of a dog, which has been classified a dangerous dog or a vicious dog, must continue confinement of the dog in a proper enclosure as long as the dog is so classified.

(f) *Refusal to comply.* In the event an owner of a dog fails or refuses to abide by this section, the animal control officer is hereby authorized and empowered to confiscate such dog, confine it at the expense of such owner at a veterinary hospital for such time it deems necessary in order to observe whether the dog is rabid. In the event the veterinary hospital determines the dog to be rabid, then such dog is to be destroyed in an expeditious and humane manner.

Sec. 10-135. - Procedures for classification as dangerous dogs or vicious dogs.

(a) *Applicability for enforcement purposes.* Any irregularity in classification proceedings shall not be a defense to any prosecution under this Article so long as

the owner of the dog received actual notice of the classification and did not pursue a civil remedy for the correction of the irregularity.

(b) *Notice requirement.* When an animal control officer determines that a dog is subject to classification as a dangerous dog or vicious dog, the animal control officer shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of the animal control officer's determination and shall state that the owner has a right to request a hearing from the animal control board on the animal control officer's determination within 15 days after the date shown on the notice. The notice shall also provide a form for requesting the hearing and shall state that if a hearing is not requested within the allotted time, the animal control officer's determination shall become effective for all purposes under this Article. No dog shall be classified as a dangerous dog or vicious dog for actions that occur while the dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties. No dog shall be classified as a dangerous dog or a vicious dog if the person injured by such dog was a person who, at the time, was committing a trespass, was abusing the dog, or was committing or attempting to commit an offense under Title 16, Chapter 5 of the Official Code of Georgia.

(c) *Confinement during pendency of hearing or appeal.* During the pendency of any hearing or appeal of a determination that a dog is a dangerous or vicious dog as provided for in this section, the owner of such dog shall cause such dog to be confined at the expense of such owner of such dog, at a veterinary hospital, licensed kennel facility, or in a proper enclosure deemed suitable by the animal control officer.

(d) *Authority of animal control officer to confiscate and confine.* If an owner fails or refuses to abide by subsection (c) of this section, the animal control officer is authorized and empowered to confiscate such animal, confine it at the expense of such owner at a veterinary hospital, kennel facility, or proper enclosure deemed suitable by the animal control officer during the pendency of any hearing or appeal mentioned in the subsection (c) of this section.

(e) *Hearing.* When a hearing is requested by a dog owner in accordance with subsection (b) of this Code section, such hearing shall be scheduled within 30 days after the request is received, provided, however, that such hearing may be continued by the animal control board for good cause shown. At least ten days prior to the hearing, the animal control board shall mail to the dog owner written notice of the date, time, and place of the hearing. At the hearing, the dog owner shall be given the opportunity to testify and present evidence and the animal control board shall receive other evidence and testimony as may be reasonably necessary to sustain, modify, or overrule the animal control officer's determination.

(f) *Notice of determination by animal control board.* Within ten days after the date of the hearing, the animal control board shall mail written notice of its determination on the matter. If such determination is that the dog is a dangerous dog or a vicious dog, the notice of classification shall specify the date upon which that determination shall be effective. If the determination is that the dog is to be euthanized pursuant to subsection (h), the notice shall specify the date by which the euthanasia shall occur.

(g) *Retrieval of dog from veterinary hospital.* After notification from the hearing board that a dog has been determined to be a dangerous or vicious dog, the

owner of such dog shall have three business days within which to pick up his dog from the veterinary hospital, provided the owner is in compliance with all requirements of the Animal Control Ordinance. After such notification, the owner may appeal from any adverse decision rendered by the hearing board in such manner as provided by the laws of the state. Written notification of such an appeal shall be given immediately to the county animal control department.

(h) A dog that is found, after notice and opportunity for hearing as provided in this section, to have caused a serious injury to a human on more than one occasion shall be euthanized; provided, however, that no injury occurring before July 1, 2012 shall count for purposes of this subsection.

Sec. 10-136.- Requirements for possessing classified dogs.

(a) It is unlawful for an owner to have or possess within the county a classified dog without a certificate of registration issued in accordance with the provisions of this section. Certificates of registration shall be nontransferable and shall be issued to a person 18 years of age or older. No more than one certificate of registration shall be issued per domicile.

(b) Subject to the additional requirements of this article, a certificate of registration for a dangerous dog shall be issued if the animal control officer determines that the following requirements have been met:

(1) The owner has maintained an enclosure designed to securely confine the dangerous dog on the owner's property, indoors, or in a securely locked and enclosed pen, fence, or structure suitable to prevent the dangerous dog from leaving such property; and

(2) Clearly visible warning signs have been posted at all entrances to the premises where the dog resides.

(c) Except as otherwise provided in this article, a certificate of registration for a vicious dog shall be issued if the animal control officer determines that the following requirements have been met:

(1) The owner has maintained an enclosure designed to securely confine the vicious dog on the owner's property, indoors, or in a securely locked and enclosed pen, fence, or structure suitable to prevent the vicious dog from leaving such property;

(2) Clearly visible warning signs have been posted at all entrances to the premises where the dog resides;

(3) A microchip containing an identification number and capable of being scanned has been injected under the skin between the shoulder blades of the dog; and

(4) The owner maintains and can provide proof of general or specific liability insurance in the amount of at least \$50,000.00 or the maximum

amount authorized by state law issued by an insurer authorized to transact business in this state insuring the owner of the vicious dog against liability for any bodily injury or property damage caused by the vicious dog.

(d) The owner of a classified dog shall notify the animal control officer within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died or been euthanized, or has been sold or relocated. If the dog has been sold or relocated, the owner shall also provide the animal control officer with the name, address, and telephone number of the new owner of the dog. A vicious dog shall not be transferred, sold, or donated to any other person unless it is relinquished to a governmental facility or veterinarian to be euthanized.

(e) The owner of a classified dog shall notify the animal control officer if the owner is moving out of the county. The owner of a classified dog who moves to the county from another jurisdiction within the State of Georgia shall register the classified dog with the County within ten days of becoming a resident and notify the animal control officer of the jurisdiction from which he or she moved. The owner of a similarly classified dog who is a new resident of the state shall register the dog as required in this section within 30 days after becoming a resident.

(f) Issuance of a certificate of registration or renewal of a certificate of registration by the animal control officer in the county does not warrant or guarantee that the requirements specified in this section are maintained by the owner of a classified dog on a continuous basis following the date of the issuance of the initial certificate of registration or following the date of any annual renewal of such certificate.

(g) An animal control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article. Pursuant to state law, law enforcement agencies, including those of the county and the municipalities within the county, will cooperate with animal control officers in enforcing the provisions of this article.

(h) An annual fee, which may be set from time to time in an amount deemed reasonable by the board of commissioners, in addition to any regular dog licensing fees shall be paid to register classified dogs as required by this Article. Certificates of registration shall be renewed on an annual basis. At the time of the annual renewal of a certificate of registration, an animal control officer shall require evidence from the owner or make such investigation as may be necessary to verify that the classified dog is continuing to be confined in a proper enclosure and that the owner is continuing to comply with other provisions of the Animal Control Ordinance. Failure to renew a certificate of registration within ten days of the renewal date or initial classification date shall constitute a violation of this article.

(i) No certificate of registration shall be issued to any person who has been convicted of two or more violations of this article.

(j) No certificate of registration for a vicious dog shall be issued to any person (or to any person residing with such person) who has been convicted (from the time of conviction until two years after completion of his or her sentence) of:

(1) A serious violent felony as defined in O.C.G.A. § 17-10-6.1;

(2) The felony of dogfighting 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. § 16-13-31.1.

Sec. 10-137. - Restrictions on classified dogs.

(a) It shall be unlawful for an owner of a dangerous dog to permit the dog to be off the owner's property unless:

(1) The dog is restrained by a leash not to exceed six feet in length and is under the immediate physical control of a person capable of preventing the dog from engaging any other human or animal when necessary; or

(2) The dog is contained in a closed and locked cage or crate.

(3) The dog is working or training as a hunting dog, herding dog, or predator control dog.

(b) It shall be unlawful for an owner of a vicious dog to permit the dog to be:

(1) Outside an enclosure designed to securely confine the vicious dog while on the owner's property or outside a securely locked and enclosed pen, fence, or other structure suitable to prevent the vicious dog from leaving such property unless:

(A) The dog is muzzled and restrained by a leash not to exceed six feet in length and is under the immediate physical control of a person capable of preventing the dog from engaging any other human or animal when necessary; or

(B) The dog is contained in a closed and locked cage or crate;
or

(2) Unattended with minors.

(c) No person shall be the owner of more than one vicious dog.

Sec.10-138. - Confiscation of dogs.

(a) A law enforcement officer or animal control officer shall immediately impound a dog if the officer believes the dog poses a threat to the public safety.

(b) A classified dog shall be immediately confiscated by any animal control officer or by a law enforcement officer in the case of any violation of this article. A refusal to surrender a dog subject to confiscation shall be a violation of this article.

(c) The owner of any dog that has been confiscated pursuant to this article may recover such dog upon payment of reasonable confiscation and housing costs and proof of compliance with the provisions of this article. All fines and all charges for services performed by a law enforcement or animal control officer shall be paid prior to owner recovery of the dog. Criminal prosecution shall not be stayed due to owner recovery or euthanasia of the dog.

(d) In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, such dog shall be destroyed in an expeditious and humane manner and the owner may be required to pay the costs of housing and euthanasia.

Sec. 10-139. - Summons.

Upon a complaint lodged with the county animal control department regarding any section of this article, a summons may be issued requiring the owner of any domesticated animal, or any person, firm or corporation violating any of the provisions set forth in this article to appear before the judge of the magistrate court of the county on a day and time certain to answer for the violation of this article. If such violation of this article has not been witnessed by an officer of the county, a subpoena may be issued to the person making the complaint, requiring such person to appear on the day and time of the hearing set by the court to testify on behalf of the county.

Sec. 10-140. -Violations; penalties.

The owner of a classified dog who violates the applicable provisions of this article or whose classified dog is subject to confiscation hereunder shall be guilty of a misdemeanor. The owner of a classified dog who is convicted for a violation of this article shall be punished by a fine of up to \$1000.00 or by imprisonment for up to 60 days or both. The Court may impose a sentence of up to six months but shall suspend at least 120 days in accordance with O.C.G.A. Section 15-10-60(a). Upon revocation of any probation imposed by the Court, the Court may revoke no more than 60 days. For a second conviction hereunder, a fine of not less than \$500.00 shall be imposed and for a third offense or subsequent conviction a fine of not less than \$750.00 shall be imposed.

⁽¹⁵⁾ *State Law reference— Dangerous Dog Control Law, O.C.G.A. § 4-8-20 et seq.*

It is hereby declared to be the intention of the Habersham Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this ordinance are upon their enactment, believed by the board of commissioners to be fully valid, enforceable and constitutional.

It is hereby declared to be the intention of the Habersham Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or

phrase of this ordinance. It is further declared to be the intention of the board of commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.

In the event that any section, paragraph, sentence, clause or phrase of this ordinance 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 board of commissioners that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

-3-

Except as otherwise provided herein, all ordinance or parts of ordinances in conflict with this ordinance are hereby repealed.

-4-

This ordinance shall become effective upon its adoption.

DULY ORDAINED AND ADOPTED this 16 day of September, 2013.

HABERSHAM COUNTY BOARD
OF COMMISSIONERS



Chad Henderson, Chairman

Attest:


Crystal Ward, County Clerk