

AN ORDINANCE FOR THE CONTROL, REGULATION, AND DISPOSITION OF DOGS

WHEREAS, in accordance with the laws of the State of Georgia, including but not limited to Title 4, Chapter 8, Article 2 of the Official Code of Georgia, it is necessary and appropriate for the County of Madison, Georgia, herein "County", to establish and promulgate certain standards and regulations to require control of dogs; to provide for enforcement; to provide for the disposition of impounded dogs; to provide definitions and penalties; and for other purposes; and

WHEREAS, the Board of Commissioners of Madison County, Georgia desires to adopt a Dog Control Ordinance pursuant to said authority;

BE AND IT IS HEREBY ORDAINED AS FOLLOWS:

Section 1. Definitions

The following words, terms, and phrases shall have the meanings ascribed to them in Georgia Law, except where context clearly indicates a different meaning.

Cat: Any feline that is owned as a pet, whether indoor or outdoor, must have a current rabies vaccination.

Classified Dog: Any dog that has been classified as either a dangerous dog or vicious dog pursuant to this Ordinance.

Dangerous Dog: Any dog that:

(A) 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;

B) 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

(C) 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. For purposes hereof, this exception applies when a dog which is actually working livestock, guarding livestock from predators, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, assisting in rescue efforts, or being trained for any of these purposes.

Dog at Large: A dog which is not a "Dog under Restraint".

Dog Control Officer: Any person so designated by the Board of Commissioners to perform the duties of enforcing this ordinance and to perform the duties of Dog Control

Officer. Wherever this ordinance makes any reference to "Dog Officer," such reference shall be construed to mean any person designated as a Dog Control Officer hereunder.

Dog Control Ordinance: This Ordinance may be referred to by such short title.

Dog under Restraint: A dog is considered under restraint if:

1. it is within the property limits of its owner or on property where its presence is expressly permitted by the property owner; or
2. it is controlled on a leash not exceeding ten feet in length and under the control of the person holding such leash; or
3. it is participating in a hunting activity allowed by Georgia Law and is not otherwise in violation of this ordinance. For purposes of this subsection, there shall be no violation of this ordinance where any dog is participating in a hunting activity and crosses the property of another, unless such property has been posted with signs prohibiting hunting in accordance with state law or such property is within a residential subdivision; or
4. it is within a vehicle either parked or in transit; or
5. it is a guide or service dog as described in O.C.G.A. section 30-4-2.

Feral Dog: Any dog that does not meet the specifications set forth in the Owned Dog or Stray Dog classification.

Guard Dog: Any dog which has been trained by a recognized training facility to attack persons or other animals independently or upon command and any dog which, while not so trained, is reasonably expected to perform as a guardian of the property upon and within which it is located. A recognized training facility shall be deemed to mean any person, partnership, company or corporation holding a state kennel license for either of the above purposes.

Humane Care: includes but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and Adequate Food and Adequate Water, consistent with the normal requirements and feeding habits of the dog's or cat's size, species and breed.

Kennel: an establishment for breeding, selling, training or boarding Dogs or Cats.

Leash: a cord or strap designed for and of sufficient strength to hold a dog in check.

Nuisance: a Dog shall be defined as a nuisance if it:

- Soils or defecates on public roads, walks or recreation areas, or on private property other than the Owner's, unless such waste is immediately removed and properly disposed of by the Owner; or
- Chases vehicles or molests attacks or interferes with persons or other domestic animal on public or private property or otherwise causes any damage to any property, private or public.

Owned Dog: a dog will be considered owned if any of the following are present:

- Someone claiming and having proof of Ownership

- Active microchip.
- Collar with current identification or current rabies tag.
- Signs of recent care, health, training and/or disposition.
- Meets *Stray Dog* criteria and has resided in the care of a person for more than 72 hours without that person having made a report of stray dog to Madison County Dog Control.

Owner: 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. 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: An enclosure for keeping a vicious dog or dangerous dog securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and which prevents the dog from escaping. Any such pen or structure shall have secure sides and 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.

Records of Appropriate Authority: Records of any federal, state, county, or municipal law enforcement agency, dog control agency, board of health, court, or records of a dog control officer as provided by this ordinance.

Serious injury: 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.

Stray Dog: a dog will be considered stray in the absence of signs of an Owned Dog and has any of the following present:

- Any sign that the dog has received adequate care in the past but is not being cared for currently.
- Characteristics consistent with being adequately socialized in the recent past.
- Collar without current identification or current rabies tag.

Veterinarian: any person who holds a license to practice veterinary medicine in the State of Georgia.

Vicious Dog: 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.

Section 2. Duty of Owner to Keep Dogs under Restraint.

It shall be unlawful at any time for the owner of any dog, or anyone having a dog in their possession or control, to permit such dog to be a *dog at large* within the unincorporated area of Madison County.

Nothing in this Ordinance shall be construed as prohibiting a person or persons from conducting hunting, training, or field trial competition activities with dogs in the legal manner provided for in Georgia law.

Section 3. Dog Control Officer.

Pursuant to O.C.G.A. §4-8-22(c), the duties of the Dog Control Officer shall be vested in any person so designated by the Board of Commissioners of Madison County. The duty of the Officer shall be to enforce the Dog Control Ordinance and any other ordinances identified by the County.

Section 4. Duties of the Dog Control Officer.

It shall be the duty of the Dog Control Officer(s) to make such investigations and inquiries as may be necessary to identify vicious and dangerous dogs and the owners thereof within the unincorporated areas of the county and to otherwise enforce the provisions of this ordinance. These officers shall be vested with the authority to issue citations for violations of this Ordinance, and may also call upon such other officers, constables and employees of the Magistrate's Office or the Sheriff's Department of Madison County as may be necessary for the enforcement of this Ordinance.

Dog Control Officers shall be authorized to enforce the provisions of this Ordinance upon receipt of a credible report of a violation of this Ordinance, in written or oral form, from a law enforcement officer, 911 dispatcher, board of health, rabies control officer, or citizen. Appropriate records of complaints and the results of the ensuing investigation shall be kept by the officer.

Dog Control Officers may enter onto private property to carry out their duties under this Ordinance under the following circumstances: (a) with permission of the property owner or other person in lawful possession of the property; (b) with and in accordance with a warrant lawfully issued by the Magistrate Court of Madison County; or (c) without permission or warrant only if such entry is necessary because of an immediate endangerment to human life or an imminent threat of the destruction of evidence. All impounded dogs shall be housed and cared for at a facility designated for such purpose by the County.

It shall also be the responsibility of the Dog Control Officer(s) to enforce O.C.G.A. § 4-8-20 through § 4-8-33 relating to dangerous and vicious dogs.

Section 5. Identification and Inoculation of Dogs and Cats.

It shall be unlawful for any person to own, possess or maintain any dog or cat that does not have a current rabies inoculation and all such dogs shall wear a securely attached collar about its neck displaying such current rabies tag and owner identification and contact information. The owner of any dog or cat shall be prepared to present documentation of current rabies inoculation. No person shall vaccinate animals against rabies unless permitted to do so under applicable Georgia Law.

It shall be the duty of any person bitten by any animal, domestic or wild, reasonably suspected of being rabid immediately to notify the County board of health. It shall be the duty of the owner, custodian, or person having possession and knowledge of any animal which has bitten any person or animal or of any animal which exhibits any signs of rabies to notify the County board of health and to confine such animal in accordance with rules and regulations of the County board of health.

Section 6. Implementation of State Law Regarding Vicious and Dangerous Dogs.

A. Exceptions. No dog shall be classified as a vicious dog or dangerous 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 vicious dog or a dangerous 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 Chapter 5 of Title 16.

B. Enforcement Generally.

- (1) A person carrying out the duties of dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.
- (2) Any county or municipality or any combination of such local governments may enter into agreements with each other for the consolidation of dog control services.

C. Procedures.

- (1) For purposes of this Code section, the term:
 - (a) Authority means the Madison County Dog Control Board.
 - (b) Mail means to send by certified mail or statutory overnight delivery to the recipient's last known address.
- (2) Upon receiving a report of a dog believed to be subject to classification as a vicious dog or dangerous dog within a dog control officer's jurisdiction, the dog control officer shall make such investigations as necessary to determine whether such dog is subject to classification as a vicious dog or a dangerous dog.
- (3) When a dog control officer determines that a dog is subject to classification as a vicious dog or dangerous dog, the dog control officer shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of the dog control officer's determination and shall state that the owner has a right to request a hearing from the authority on the dog control officer's

determination within 7 (seven) 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 dog control officer's determination shall become effective for all purposes under this article.

a. If an owner cannot be located within ten days of a dog control officer's determination that a dog is subject to classification as a vicious dog or dangerous dog, such dog may be released to an animal shelter or humanely euthanized, as determined by the dog control officer.

(4) When a hearing is requested by a dog owner in accordance herewith, such hearing shall be scheduled within 30 days after the request is received; provided, however, that such hearing may be continued by the authority for good cause shown. At least ten days prior to the hearing, the authority conducting the hearing 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 authority conducting the hearing shall receive other evidence and testimony as may be reasonably necessary to sustain, modify, or overrule the dog control officer's determination.

(5) Within ten days after the hearing, the authority which conducted the hearing shall mail written notice to the dog owner of its determination on the matter. If such determination is that the dog is a vicious dog or a dangerous 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 O.C.G.A. Section 4-8-26, the notice shall specify the date by which the euthanasia shall occur.

(6) Judicial review of the authority's final decision may be had in accordance with O.C.G.A. section 15-9-30.9.

D. Immediate Impoundment.

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

Said article is further amended by revising Code Section 4-8-30, relating to payment of costs for recovery, as follows:

(1) A vicious dog or dangerous dog shall be immediately confiscated by any dog 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.

(2) The owner of any dog that has been confiscated pursuant to this article may recover such dog upon payment of all reasonable confiscation and housing costs and proof of compliance with the provisions of this article, unless such confiscation is deemed to be in error by a dog control officer, an authority, as defined in Code Section 4-8-23, or a probate court. All fines and all charges for services performed by a law enforcement or dog 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.

(3) In the event the owner has not complied with these within 14 days of the date the dog was confiscated, such dog shall be released to an animal shelter, as such term is defined in O.C.G.A. Section 4-14-2, or euthanized in an expeditious and humane manner. The owner may be required to pay the costs of housing and euthanasia.

E. Court-Ordered Euthanasia.

The judge of any superior court of competent jurisdiction within this state may order the euthanasia of a dog if the court finds, after notice and opportunity for hearing as provided by O.C.G.A. Section 4-8-23, that the dog has seriously injured a human or presents a danger to humans not suitable for control under this article and:

- (1) The owner or custodian of the dog has been convicted of a violation of any state criminal law and the crime was related to such dog; or
- (2) Madison County has filed with the court a civil action requesting the euthanasia of the dog.

F. Euthanasia After Multiple Serious Injury.

A dog that is found, after notice and opportunity for hearing as provided by O.C.G.A. Section 4-8-23, 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.

G. Certificates of Registration.

(1) It shall be unlawful for an owner to have or possess within this state 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 only be issued to a person 18 years of age or older. No more than one certificate of registration shall be issued per domicile.

(2) Unless otherwise specified by this section, a certificate of registration for a dangerous dog shall be issued if the dog control officer determines that the following requirements have been met:

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

(3) Except as provided in subsections (5) and (6) of this section, a certificate of registration for a vicious dog shall be issued if the dog control officer determines that the following requirements have been met:

- (a) 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;
- (b) Clearly visible warning signs have been posted at all entrances to the premises where the dog resides;
- (c) 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
- (d) The owner maintains and can provide proof of general or specific liability insurance in the amount of at least \$50,000.00 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 dog.

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

- (5) No person shall be the owner of more than one vicious dog.
- (6) No certificate of registration for a vicious dog shall be issued to any person who has been convicted of:
 - (a) A serious violent felony as defined in O.C.G.A. Section 17-10-6.1;
 - (b) The felony of dog fighting as provided for in O.C.G.A. Section 16-12-37 or the felony of aggravated cruelty to animals as provided for in Code Section 16-12-4; or
 - (c) A felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in O.C.G.A. Sections 16-13-31 and 16-13-31.1 from the time of conviction until two years after completion of his or her sentence, nor to any person residing with such person.
- (7) Certificates of registration shall be renewed on an annual basis. At the time of renewal of a certificate of registration for a vicious or dangerous dog, a dog control officer shall verify that the owner is continuing to comply with provisions of this article. 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.

H. Notice of Certain Events; Transfer; Moving From Jurisdiction.

- (1) The owner of a classified dog shall notify the dog control officer within 24 hours if the dog is on the loose or has attacked a human and shall notify the dog control officer within 24 hours if the dog has died or has been euthanized.
- (2) 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.
- (3) The owner of a classified dog who moves from one jurisdiction to another within the State of Georgia shall register the classified dog in the new jurisdiction within ten days of becoming a resident and notify the dog control officer of the jurisdiction from which he or she moved. The owner of a similarly classified dog who moves into this state shall register the dog as required in O.C.G.A. Section 4-8-27 within 30 days of becoming a resident.

I. Restrictions on Classified Dogs.

- (1) It shall be unlawful for an owner of a dangerous dog to permit the dog to be off the owner's property unless:
 - (a) 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
 - (b) The dog is contained in a closed and locked cage or crate; or
 - (c) The dog is working or training as a hunting dog, herding dog, or predator control dog.
- (2) It shall be unlawful for an owner of a vicious dog to permit the dog to be:
 - (a) 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 structure suitable to prevent the vicious dog from leaving such property unless:
 - (i) 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
 - (ii) The dog is contained in a closed and locked cage or crate; or
 - (b) Unattended with minors.

(3) A person who violates subsection (2) of this section shall be guilty of a misdemeanor of high and aggravated nature.

(4) An owner with a previous conviction for a violation of this article whose classified dog causes serious injury to a human being under circumstances constituting another violation of this article shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one nor more than ten years, a fine of not less than \$5,000.00 nor more than \$10,000.00, or both. In addition, the classified dog shall be euthanized at the cost of the owner.

(5) 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.

J. Confiscation and Euthanasia in the Event of Violation.

(1) A vicious or dangerous dog shall be immediately confiscated by any dog control officer or by a law enforcement officer in the case of any violation of this Section 6 of the Ordinance. A refusal to surrender a dog subject to confiscation shall be a violation of this Section 6.

(2) The owner of any dog that has been confiscated pursuant to this Section 6 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 dog 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.

(3) Said article is further amended by revising Code Section 4-8-30, relating to payment of costs for recovery, as follows:

(a) A vicious dog or dangerous dog shall be immediately confiscated by any dog 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.

(b) The owner of any dog that has been confiscated pursuant to this article may recover such dog upon payment of all reasonable confiscation and housing costs and proof of compliance with the provisions of this article, unless such confiscation is deemed to be in error by a dog control officer, an authority, as defined in Code Section 4-8-23, or a probate court. All fines and all charges for services performed by a law enforcement or dog 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.

(c) In the event the owner has not complied with the provisions of this Section 6 within 14 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.

K. No Liability.

Under no circumstances shall a local government or any employee or official of Madison County or any other local government be held liable for any damages to any person who suffers an injury inflicted by a dog or cat as a result of a failure to enforce the provisions of this Ordinance.

L. Violation as Misdemeanor.

Except as otherwise specified in this Section 6, any person who violates any provision of this Section 6 shall be guilty of a misdemeanor.

M. Dogs Classified Prior to July 1, 2012.

- (1) Any dog classified prior to July 1, 2012, as a potentially dangerous dog shall on and after that date be classified as a dangerous dog under this Section 6.
- (2) Any dog classified prior to July 1, 2012, as a dangerous dog or vicious dog shall on and after that date be classified as a vicious dog under this Section 6.
- (3) The owner of any dog referred to in subsections (1) or (2) above shall come into compliance with all current provisions of this Section 6 by January 1, 2013.

Section 7. Dog Control Board.

(A) Pursuant to O.C.G.A §§ 4-8-22 and 4-8-24, there is hereby established a Dog Control Board composed of seven members. Each County Commissioner and the Chairman of the Board of Commissioners shall appoint one person to serve, such appointment being subject to confirmation by majority vote of the Board of Commissioners, and the six persons so appointed shall select and confirm the seventh member by majority vote of the Dog Control Board. The Dog Control Board shall elect its own Chairman, Vice-Chairman, and Secretary, and may establish reasonable bylaws and rules of operation.

(B) No monies or contracts shall be expended by or entered into by the Dog Control Board without the previous consent of the Local Government.

(C) Any person shall furnish his/her name, address and telephone number when for any reason contacting the Dog Control Board, the Dog Control Officer or any employee of the Local Government or of a constitutional officer of Madison County, Georgia regarding any matter governed under this Ordinance.

Section 8. Annual Registration Fee for Classified Dogs.

An annual registration fee in the amount of \$100.00 shall be charged by Madison County, in addition to any regular dog licensing fees, to defray the cost to register the classified dog as required in this Ordinance.

Section 9. Guard Dogs.

It shall be the duty of the owner, tenant, or custodian of any property on which a guard dog is kept for security purposes to post a notice in a conspicuous location on such property. Such notice shall consist of the words "Warning-Guard Dog", and shall be in clearly distinguishable block letters not less than five inches in height and one inch in width and containing a symbol designed to inform children of the presence of a guard dog. If a guard dog is confined within a fenced area, such notice must be conspicuously posted at every entrance and exit of such fence.

Section 10. Impoundment of Dogs; Voluntary Surrender of Dogs.

(A) A dog that is at large or otherwise in violation of this Ordinance may be impounded by the Dog Control Officer, in accordance with guidelines and policies to be propounded by the supervising Dog Control Officer.

(B) A person owning or having a dog in his custody and control and who no longer has the means or will to properly care for said dog may voluntarily surrender the dog to the Madison County Dog Control Officer, for a fee of \$35.00, due at the time of surrender. To be valid, the surrender of a dog must be accompanied by the written certification and statement of surrender form as provided by the Madison County Dog Control Officer and may be humanely euthanized immediately at the discretion of the Dog Control Officer.

(C) Notwithstanding anything herein to the contrary, the Dog Control Officer may, upon receipt of a report that a dog has inflicted serious injury to a human being (defined herein as an injury requiring medical attention), and upon determining that the dog should be classified as vicious or dangerous, impound the dog and retain custody of the dog during the pendency of the notice and hearing process set forth herein. The owner of the dog shall be responsible for all expenses incurred in caring for the dog while so impounded. The decision to impound shall be based upon, among such other factors as the Dog Control Officer reasonably deems relevant, the probability of danger to humans and of the dog's escape or other disappearance during the pendency of the notice and hearing process.

Section 11. Impoundment of Dogs Trained For Fighting.

(a) Any dog that is found within the boundaries of Madison County that has been trained or is currently being trained to fight to potentially injure another animal for amusement or gain in violation of O.C.G.A. §16-12-37 may be impounded by the supervising Dog Control Officer or his designated agent.

(b) It shall be the duty of the supervising Dog Control Officer, or his designated agent, impounding a dog under this section to notify the owner of such dog immediately upon impoundment. Such notice shall state the name and business address of the person impounding the dog, the reason why the dog was impounded, and a statement of the 30 day time limit for the owner to respond and request a hearing. The notice shall be provided by personal service, registered mail or certified mail. If the owner of such dog is unknown or cannot be found, service of the notice on the owner shall be made by posting the notice in a conspicuous place at the location where the dog was impounded and by publishing a notice once in a newspaper of general circulation in the county where the dog was impounded.

(c) If the owner of a dog impounded fails to respond in writing within five business days of the date the notice of impoundment was served, or, if the owner is unknown or could not be found within 30 days of publication of the notice of impoundment, the impounded dog may be disposed of as provided in O.C.G.A. §4-11-9.6.

(d) If the owner of a dog impounded refuses to enter into a consent agreement with Madison County Code Enforcement/Dog Control that such dog will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within 5

business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within 30 days of the date of publication of the notice of impoundment. If no hearing is requested within the time limits specified in this paragraph and the failure to request such hearing is due in whole or in part of the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

(e) Within 30 days after receiving a written request for a hearing, the Madison County Dog Control Board shall hold a hearing as to whether the impoundment of dog was authorized under O.C.G.A. §4-11-9.2(c). The hearing shall be public and all testimony shall be received under oath. A record of the proceedings at such hearing shall be made and maintained by the Madison County Dog Control Board.

(f) The scope of the hearing shall be limited to whether the impounding of the dog was authorized under O.C.G.A. §4-11-9.2(c).

(g) If the Dog Control Board finds by preponderance of the evidence that the dog was improperly impounded, the dog shall be returned to the lawful owner and the care and maintenance of the dog while impounded shall be paid by the Madison County Code Enforcement/Dog Control.

(h) If the Dog Control Board Court finds by preponderance of the evidence that the dog was properly impounded, it shall make findings as required by O.C.G.A. §4-11-9.52(b)(6).

(i) If the dog was impounded due to it being an object or instrumentality of a crime, the dog shall not be returned to the owner or disposed of without the approval of the prosecuting attorney.

Section 12. Redemption of Impounded Dogs.

(A) It shall be the duty of the Dog Control Officer to notify the owner, if known or reasonably ascertainable, of every dog impounded, by telephone or by mail, as quickly as possible after the impoundment. The owner of any impounded dog may claim and take custody of the dog within three days of such impoundment and by paying an impoundment fee of \$25.00 plus payment of a daily boarding fee of \$10.00 for each day of impoundment, and the cost of a rabies inoculation if the dog does not display a current rabies tag or if the owner cannot provide proof of rabies inoculation.

(B) If the owner reclaiming the dog pursuant to item (A) above presents proof, either at the time of reclamation or within three days of reclamation, that the dog has been spayed or neutered, the impoundment and boarding fees referenced in item (A) shall be waived or refunded, up to a maximum of \$35.00.

Section 13. Disposition of Dogs and Cats.

The Dog Control Officer or the officer's designee shall be authorized to dispose of any dog or cat in accordance with state law and in as humane and painless a manner as possible, or to donate any dog or cat to a public or non-profit institution or agency (for purposes other than

experimentation), if such a dog or cat has remained unclaimed within the prescribed time period of three days (or no less than ten days in the case of dog or cat that has inflicted physical injury on a person or other animal), or if it has been injured and is suffering or in great pain and such dog or cat does not display an identification tag and no determination of the owner can be made from a reasonable investigation. The disposal of any dog or cat as provided herein does not relieve the owner of any liability for any violation of this Ordinance. If the owner of the dog or cat is known or reasonably ascertainable, but for any valid reason cannot be reached within the prescribed period, the Dog Control Officer shall be authorized to hold the dog or cat until such a time as the owner can be reached.

Section 14. Dog Care, Nuisance, Feral Dogs, Cruelty, Humane Care, Dead Dog or Cat Disposal.

(A) No person shall permit any dogfight, cockfight, bullfight, or any other combat between animals or between animals and humans.

(B) No owner of a dog or cat shall not abandon any dog or cat or dead dog or cat.

(C) Any feral dog may be captured and may immediately become the property of Madison County. The feral dog may be humanely disposed of immediately at the discretion of the Dog Control Officer. If the feral dog can not reasonably and/or safely be captured, then reasonable means may be used to ensure the public safety, including but not limited to immediate destruction of the dog. The Dog Control Officer shall have discretion in determining whether a dog is a feral dog or is a domesticated dog with an owner.

(D) No dog may be permitted to be a Nuisance.

(E) It shall be unlawful for any person to work a dog who is lame, starved or in a famished condition, or to overload, whip, beat, maim, bruise, deprive of food, torture, or abuse, in any manner, any dog.

(F) It shall be unlawful for any person to cause unnecessary pain, suffering, or the inhumane death of any living dog or cat, either by an overt act or by any omission or neglect.

(G) It shall be unlawful for an owner of a dog or cat to fail to provide that dog or cat with Humane Care.

(H) It shall be unlawful for any person within the county who owns or is caring for a dog or cat that has died or has been killed to abandon the dog or cat, its parts, or blood.

(I) The Owner may dispose of the body by burning, incineration, burial, rendering, or any method using appropriate disposal technology. Disposal of dog or cat carcasses by an appropriate method must be completed within 12 hours after death or discovery of the carcass. Carcasses which are buried must be buried at least three feet below the ground level and have not less than three feet of earth over the carcass.

(J) Any person convicted for a violation of this Section shall be guilty of a misdemeanor.

Section 15. Defense of Person or Property

Any person may defend his or her person or property, or the person or property of another, from injury or damage caused by a dog, in accordance with and to the extent permitted by O.C.G.A. § 4-8-5.

Section 16. Records

It shall be the duty of the Dog Control Officer to keep and maintain current and accurate records of all activities and transactions of his position. Such records shall include but not be

limited to incident reports, a description of each dog or cat placed in custody; the date, time, and circumstances of impoundment or receipt of the dog or cat; the date time, and circumstances of the disposition of the dog or cat; all fees of every kind that are collected; any other such records that are deemed proper and necessary to provide an accurate accounting of the enforcement activities. Such records shall be retained for a period of not less than twelve months and shall be open for public inspection at any time during normal business hours.

Section 17. Liability of County Officers and Employees

Madison County, and its officers, agents, and employees shall not be held responsible or liable for any accidents, diseases, injuries or deaths to any dog or cat while being impounded or boarded in association with this ordinance, nor for any action to enforce or failure to enforce the provisions of this ordinance. It is hereby recognized that enforcement of this ordinance requires the application of its provisions to specific factual circumstances, thus entailing the necessary application of discretion and judgment in all matters related hereto.

Section 18. Severability

If any Section, paragraph, or any other part of this Ordinance is declared unconstitutional or invalid by any court of competent jurisdiction, such declaration shall not affect the validity of all other parts of this Ordinance which shall remain in full force and effect as if separately adopted.

Section 19. Repeal

Any existing ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 20. Violations

Except as provided otherwise in Sections 6 and 22 hereof, any person who violates the provisions of this Ordinance shall be issued a citation for that violation to appear before the Magistrate's Court of Madison County and, upon conviction shall be punished as provided in Section 21 of this Ordinance. Such a citation may be issued by a Dog Control Officer based upon his own personal knowledge or upon a sworn written statement of another person who witnessed the violation, in which case the witness shall be subpoenaed to testify for the County in the Magistrate's Court.

Section 21. Penalty for Violations

Except as provided for in Sections 6 and 22 of this Ordinance, any person convicted of a violation of this Ordinance shall be punished by a fine of not less than twenty five dollars (\$25) for the first offense or by confinement in the County jail for a period of one day or by both fine and confinement. Applicable court costs shall be levied in addition to any such fine imposed. A second offense shall be punished by a fine of not less than fifty dollars (\$50) or by confinement in the County jail for a period of two days or by both fine and confinement. Any subsequent

offense may be punished by the maximum amount allowed for the violation of county ordinances by State law.

Section 22. Obstruction of Officer

It shall be unlawful for any person to hinder, harass, interfere, or otherwise obstruct the performance of any Dog Control Officer in the official performance of his duties as provided for in this Ordinance. Any person convicted of a violation of this Section shall be punished by a fine in an amount not to exceed one thousand dollars (\$1,000) plus applicable court costs or by confinement in the county jail for a period not to exceed sixty (60) days or both such fine and confinement as authorized by O.C.G.A 15-10-60 et. seq.

Section 23. Effective Date

This Ordinance shall be effective on July 1, 2014.

Approved by the Madison County Board of Commissioners on the 30th day of June, 2014.


Honorable Anthony Dove, Chairman, Madison County Board of Commissioners

ATTEST:


Rhonda Wooten, Clerk, Madison County Board of Commissioners