

First Reading: 06/22/2020

Final Reading: 09/13/2021

ORDINANCE #2020-0655

AN AMENDMENT TO CITY OF BALDWIN ORDINANCE NUMBER 0029-216 [ANIMAL CONTROL] BY DELETING SECTIONS ONE THROUGH FIFTY SIX THEREOF IN THEIR ENTIRETY AND BY INSERTING SIX NEW ARTICLES; TO PROVIDE FOR GENERAL PROVISIONS UNDER ARTICLE I HEREOF; TO PROVIDE DEFINITIONS; TO PROVIDE FOR THE COMPOSITION OF THE HABERSHAM COUNTY ANIMAL CARE AND CONTROL (HCACC); TO PROVIDE FOR THE POWERS AND DUTIES OF HCACC AND ANIMAL CONTROL OFFICERS; TO PROVIDE FOR INTERPRETATION; TO PROVIDE FOR ANIMAL CONTROL UNDER ARTICLE II HEREOF; TO PROHIBIT RUNNING AT LARGE; TO PROVIDE FOR RESTRAINT OF ANIMALS WHILE ON PROPERTY; TO PROHIBIT ABANDONMENT OF ANIMALS; TO PROHIBIT ANIMAL NEGLECT AND CRUELTY TO ANIMALS; TO PROHIBIT ANIMALS DISTURBING THE PEACE; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR REGULATION OF COMMERCIAL GUARD AND SECURITY DOGS; TO PROVIDE FOR REGULATION OF VICIOUS ANIMALS; TO PROVIDE FOR DETENTION OF ANIMALS; TO PROHIBIT INTERFERENCE WITH OFFICERS; TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF ARTICLE II; TO PROVIDE FOR REGULATION OF CONFINEMENT OF ANIMALS IN MOTOR VEHICLES; TO PROHIBIT CERTAIN ANIMALS; TO PROHIBIT BREEDING WITHOUT A LICENSE; TO PROHIBIT HOARDING ANIMALS; TO PROVIDE FOR LIABILITY FOR DAMAGE DONE BY ANIMAL; TO PROHIBIT NUISANCE FEEDING; TO PROHIBIT HABITUAL NUISANCE AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS THEREOF; TO PROVIDE FOR PENALTIES FOR FAILURE TO COMPLY WITH NOTICE FROM ANIMAL CONTROL RELATIVE TO PREMISES; TO PROHIBIT TRAPPING; TO PROVIDE FOR DISPOSAL OF DECEASED ANIMALS; TO PROHIBIT ANIMAL FIGHTING AND ARENAS DESIGNED THEREFOR; TO PROVIDE FOR CONFINEMENT OF FEMALE DOGS AND CATS IN HEAT; TO PROHIBIT MISAPPROPRIATION OF AN ANIMAL; TO PROVIDE FOR MANAGED COMMUNITY CAT PROGRAM; TO PROHIBIT UNAUTHORIZED TETHERING; TO PROVIDE FOR EXPENSES FOR TREATMENT OF DISEASED, INJURED OR ABANDONED ANIMALS; TO PROVIDE FOR IMPOUNDMENT UNDER ARTICLE III HEREOF; TO PROVIDE FOR NOTICE TO OWNERS OF IMPOUNDED ANIMALS AND REDEMPTION BY OWNER; TO PROVIDE FOR THE PERIOD OF IMPOUNDMENT; TO PROVIDE FOR FEES; TO PROVIDE FOR CONSEQUENCES OF ANIMAL IMPOUNDED AND NOT CLAIMED; TO PROVIDE FOR ADOPTION OF ANIMALS; TO PROVIDE FOR DESTRUCTION OF ANIMALS; TO PROVIDE FOR HOLDING OF ANIMALS; TO PROVIDE FOR RECORDS MAINTENANCE; TO PROVIDE FOR MICROCHIP IDENTIFICATION SCAN; TO LIMIT LIABILITY FOR ESCAPE, INJURY OR THEFT; TO PROVIDE FOR RABIES CONTROL UNDER ARTICLE IV HEREOF; TO PROVIDE FOR DELARATION OF PURPOSE UNDER ARTICLE IV; TO

PROVIDE FOR RABIES CONTROL/ANIMAL CONTROL OFFICER; TO PROVIDE FOR REGULATION AND REGISTRATION RABIES VACCINATION FOR DOGS AND CATS; TO PROVIDE FOR EXCEPTIONS; TO PROVIDE FOR OWNER REPORTING; TO PROVIDE FOR REPORTING OF ANIMAL BITES AND THE CONFINEMENT OF BITING ANIMALS; TO PROVIDE FOR CONFINEMENT OF DOGS OR OTHER ANIMALS; TO PROVIDE FOR VIOLATIONS AND PENALTIES UNDER ARTICLE IV; TO PROVIDE FOR DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS UNDER ARTICLE V HEREOF; TO PROVIDE DEFINITIONS UNDER ARTICLE V; TO PROVIDE FOR APPLICABILITY OF PROVISIONS UNDER ARTICLE V; TO LIMIT LIABILITY; TO PROVIDE FOR INVESTIGATIONS BY ANIMAL CONTROL OFFICER; TO PROVIDE OWNER'S RESPONSIBILITIES IN THE EVENT OF A BITE; TO PROVIDE FOR CONFINEMENT OF ANIMALS; TO PROVIDE PENALTIES FOR FAILURE TO COMPLY; TO PROVIDE PROCEDURES FOR CLASSIFICATION AS DANGEROUS DOGS OR VICIOUS DOGS; TO PROVIDE REQUIREMENTS FOR POSSESSING CLASSIFIED DOGS; TO PROVIDE RESTRICTIONS ON CLASSIFIED DOGS; TO PROVIDE FOR CONFISCATION OF DOGS; TO PROVIDE FOR SUMMONS; TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF ARTICLE V; TO PROVIDE FOR APPLICABILITY OF PROVISIONS UNDER ARTICLE VI; TO PROVIDE FOR CONFLICTING ORDINANCES AND CITATION; TO PROVIDE FOR SPECIAL MUNICIPAL PROVISIONS.

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Ordinance Number 0029-216 of the City of Baldwin, Georgia providing regulations to control animals is hereby amended by deleting Sections One through Fifty-Six, each in its entirety, and inserting five new articles as follows:

ARTICLE I. – IN GENERAL

Section 10-1. - Definitions.

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

Abandonment (of an animal) means the act of any person who:

- (1) Places an animal by leaving a domesticated animal unattended for a period of time in excess of 36 hours without food, water, adequate ventilation or shelter on public or private property including, but not limited to, the property of the owner/custodian;

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(2) Places an animal upon public or private property including, but not limited to, the property of the owner/custodian and including, but not limited to, leaving an animal contained in a box, bag, fence, house or other structure or tethered; or

(3) Places an animal in the custody of a state licensed entity or the animal is otherwise legally obtained by an entity such as, but not limited to, an animal shelter, veterinary clinic, grooming facility, boarding facility or pet sitter for treatment, boarding or other care and fails to reclaim the animal within 72 hours of notification or by a written agreed upon time.

Adequate food means a sufficient quantity of non-contaminated and nutritionally healthy sustenance that is appropriate to the species, breed, size, age and health of the animal or at the direction of a licensed veterinarian, which is sufficient to prevent starvation, malnutrition or risk to the animal's health. Garbage, spoiled, rancid or contaminated food is not adequate food.

Adequate shelter means a protective covering for a domestic animal that is of adequate size and provides adequate protection to maintain the domestic animal 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 domestic animal. 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. The shelter should have proper bedding, ventilation, and lighting and afford the animal protection from extreme cold or hot temperatures. Examples of inadequate shelter include, but are not limited to, pet carriers, boxes, porches, decks or material that does not provided sufficient protection from the elements.

Adequate space means:

(1) Sufficient space for adequate exercise suitable to the age, size, species and breed of animal;

(2) Sufficient space during periods of confinement suitable to the age, size, species and breed of animal to permit the animal to turn about freely, stand, sit, lie, move, etc. in a comfortable and normal position; or

(3) For sick or injured animals, confinement as directed by a veterinarian.

Adequate water means clear, drinkable water with sufficient supply. Snow, ice and rancid/contaminated water are not adequate water.

Animal means any domesticated animal that is accustomed to living in or about the habitation of humans including, but not limited to, cats, cows, dogs, fowl, horses, swine, domesticated legal wild animals and/or legal exotic animals.

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 is defined in Sec. 10-2 hereof.

Animal control officer means a person employed by 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. See Sec. 10-3.

Animal control shelter means the facility designated by the Board of Commissioners 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, lead or enclosed by way of fence or other enclosure; under the present control of a responsible and competent adult person and obedient to that person's commands or an animal confined within a vehicle or crate, cage or otherwise secured in a pickup. In the case of a dog possessed by a minor, the term "owner" includes the parents or person in loco parentis with custody of the minor.

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.

Barn Cat Program means a program in which shelters attempt to relocate a feral or free-roaming cat (excluding community cats) to a private owner of a barn or warehouse which can provide a safe area for the feral or free-roaming cat to roam which includes shelter, food and water.

Board means Habersham County Board of Health.

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.

Community Cat means any feral or free-roaming cat without owner identification that has been sterilized, vaccinated and ear-tipped in accordance with the Trap-Neuter-Release program (TNR).

Community Cat Caregiver means any person who, in accordance with the TNR program, provides care including food, shelter or medical care to a Community Cat. A Community Cat Caregiver shall not be considered the owner, harborer, controller or keeper of a Community Cat.

County means Habersham County, Georgia.

Dangerous dog control ordinance means Article V of this chapter.

Dog shall mean a domesticated canine.

Eartip means a mark identifying a feral cat as being in a TNR program; specifically, the removal of approximately ¼ -inch tip of the cat's left ear in a straight line, performed while the cat is under anesthesia, to identify the Community Cat as being sterilized and lawfully vaccinated for rabies.

Feral cat means any cat which is known to live in a wild or semi-wild state without benefit of an owner, a cat which has escaped for a substantial period of time from the care of its owner or is a formerly owned cat that has been abandoned and is existing in a wild state without benefit of domestication. A feral cat is unsocialized to people and typically avoids contact with humans.

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.

Harboring means allowing any animal to remain, lodge or be fed within a home, store, yard, enclosure or a place of business or any other premises in which a person resides or controls.

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

HCACC means Habersham County Animal Care and Control.

Humane care means, but is not limited to, providing: access to wholesome and adequate food of sufficient quantity and quality and potable water of a drinkable temperature consistent with the normal requirements and feeding habits of the animal's size, species and breed; continuous access to an area with adequate space for exercise necessary for the health of the animal; sanitary shelter sufficient to protect the animal from the elements and weather conditions, extreme heat or cold temperatures, adequate ventilation and bedding to protect against cold and dampness suitable for the age, species and physical condition of the animal so as to maintain the animal in a state of good health; adequate lighting for enclosed shelters; routine and emergency veterinary care in order to maintain an animal in a state of good health; proper grooming consistent with the normal requirements of the animal's size, species and breed. When necessary, euthanasia as provided under O.C.G.A. § 4-11-5.1 shall be deemed humane care.

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, licensed through the Georgia Department of Agriculture.

Livestock means all animals of the equine, bovine or swine class, including goats, sheep, mules, horses, hogs, cattle and other grazing animals.

Microchip means a passive transponder which is implanted in an animal by injection and which is a component of the radio frequency identification (RFID) system, which serves as a permanent identification.

Microchip Reader means a device designed to read microchips at 125 kHz, both encrypted and non-encrypted, 128 kHz and 134.2 kHz, and which is ISO 11784 and 11785 compliant.

Necessary veterinary care means veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuation, tremors, swelling, broken bones, open wounds, inability to eat or drink, blistering, irregular or abnormal breathing, partial or total paralysis, abnormal discharge or bleeding, mange, weight loss, lethargy, dehydration or other signs of health problems.

Neutered/spayed means rendered permanently incapable of reproduction by a licensed veterinarian.

Nuisance means a dog or cat that is:

- (1) Running at large;
- (2) Chasing or running after vehicles, bicycles or persons;
- (3) Attacking or interfering with persons or other domestic animals on public or private property;
- (4) Trespassing upon public or private school grounds;
- (5) Trespassing upon private property and interfering with the reasonable use and enjoyment of the property;
- (6) Barking or making objectionable animal noises;
- (7) Damaging the property of another person other than its owner or caretaker including, but not limited to, getting into or turning over garbage containers or damaging gardens, flowers, plants or other real or personal property or defecating on the property of another (without timely removal thereof).
- (8) Causing serious annoyance to a neighboring residence and interfering with the reasonable use and enjoyment of that property.

Owner means any person, firm, corporation, partnership, association and/or any other legal entity, who or which owns, possesses, has custody of, harbors, feeds, maintains or knowingly causes or knowingly permits an animal to be harbored or kept, has an animal in his care or who permits an animal to remain on or about his premises.

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, animal control agency or officer, county board of health or federal, state or local court.

Severe 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.

Sexually mature animal means any dog or cat that has reached the age of 180 days.

Shelter means, generally, adequate protection from the elements and weather conditions suitable for the age, species and physical condition of the animal so as to maintain the animal in a state of good health. Shelter for livestock includes structures or natural features such as trees or topography. Shelter for a dog includes one or more of the following:

- (1) The residence of the dog owner or other individual.
- (2) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog.
- (3) A structure, barn or shed that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (2) that is accessible to the dog.

State of good health means freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

Sterilization means rendering a dog or cat unable to reproduce by the surgical removal of its reproductive organs or by rendering a dog unable to reproduce by intratesticular injection approved by law.

Tether means any chain, cable, tie out or wire designed to restrain an animal which is attached to an animal's collar or halter and is also attached to a stationary object or trolley system.

Trap-Neuter-Release (TNR): A nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, eartipped and then returned to the location where they were originally trapped with a Caregiver. If no Caregiver is available at that location, a caregiver will be located and the feral cat placed via adoption through the Barn Cat Program (BCP).

Trolley system means a method to confine an animal by tethering the animal to a cable which must be attached to two fixed points and be free of hazards, allowing the animal free access to food, water and shelter and confines the animal to the owner's property.

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

- (1) Excessive animal waste;
- (2) Garbage, trash or effluent;
- (3) Standing water or mud;
- (4) Rancid/contaminated food or water;
- (5) Fumes, foul or noxious odors, contaminated air, hazardous chemicals or poisons;
- (6) Decaying materials;
- (7) Uncontrolled parasite or rodent infestation; and
- (8) Areas that contain nails, screws, broken glass, broken boards, pits, poisons, sharp implements or other items that could cause injury, illness or death to an animal.

Vaccinate 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 a properly dated 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.

Veterinarian shall mean any person who holds a degree of doctor of veterinary medicine (DVM) and is licensed by the State of Georgia.

Veterinary care means the medical care of an animal from or under the direction of a veterinarian and necessary to maintain the health of an animal based on the age, species, breed,

etc., of the animal, or to prevent an animal from suffering from any medical condition/injury where withholding or neglecting to provide such care would:

- (1) Endanger the health, well-being or welfare of the animal or
- (2) Promote the spread of communicable diseases.

Vicious animal means any animal which:

- (1) 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;
- (2) It makes an unprovoked attack on human beings or other domesticated animals; or
- (3) Because of temperament, conditioning or training has a known propensity to attack, bite or injure other living creatures without provocation.

Section 10-2. – HCACC

HCACC shall consist of the director of HCACC and Habersham County animal control officer – grades 1, 2 and 3.

Section 10-3. – Powers and duties of HCACC and the animal control officer.

HCACC shall be primarily responsible for the enforcement of this chapter and the duties shall include, but not be limited to, the following:

- (a) Cooperation with the county board of health in the enforcement of rabies control regulations and of animal control directives.
- (b) Cooperation in the promotion of animal control and welfare.
- (c) Taking up and impounding animals that are in violation of this chapter, using any and all means available which are humane in nature; however, any officer shall be authorized, but not required, to impound animals or fowl not on the owner's or custodian's property. Any animal control officer can, in lieu of impoundment, issue a citation for violations of this chapter.
- (d) Any 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.
- (e) Any animal observed by a peace officer or an animal control officer to be in immediate danger may be removed from such situation by the quickest and most reasonable means available in order to prevent further harm, suffering or death of the animal.
- (f) 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. The destruction shall be in the most humane method available to the officer on scene. HCACC shall be under no duty to attempt the confinement or capture of such animal found at large nor shall it have a duty to notify the owner of such animal prior to its destruction. An immediate threat to the safety of any person may include, but not be limited to, a vicious animal, a potentially rabid animal or an attacking animal.

- (g) Keeping a record of the number and description of all animals impounded or otherwise taken into custody, showing in detail as to 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.
- (h) The director may designate any animal control officer to perform any of the duties of the director.

Section 10-4. - 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. 10-5—10-30. - Reserved.

ARTICLE II. - ANIMAL CONTROL

Section 10-31. - Running at large prohibited; duty of owner to keep animal under control.

- (a) It shall be the duty of the owner of any animal to keep the animal under control at all times while the animal is off the real property limits of the owner. For the purposes of this section, an animal is deemed under control when it is confined within a vehicle, is under restraint 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) It shall be unlawful for the owner of any animal to permit the animal to be out of control and unattended off the premises of the owner, or upon the property of another person without permission of the property owner or person in possession thereof.
- (c) An animal within the property limits of its owner shall be under the immediate supervision of a responsible party when invitees are allowed on the property by owner.
- (d) 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.

- (e) The owner of any animal shall restrain or control so as to prevent it from chasing vehicles or attacking persons or other animals.
- (f) The owner 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.
- (g) Any such animal at large may be impounded by the animal control officer.
- (h) Any animal with no known keeper shall be considered "at large" and subject to impoundment.

Section 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 an unattended animal be prevented from leaving the real property limits of its owner's property.

Section 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 animal on public or private property within the county. Each person who does abandon, permits such abandonment or aids in the abandonment of any 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 dies or is 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 board, 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 chapter, 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 for the detention, control and disposition of animals.

- (e) Any animal placed in the custody, or otherwise legally obtained by the HCACC, a veterinarian or other care or boarding facility, which shall be unclaimed by its owner for a period of more than 72 hours after written notice by registered or certified mail if an address is able to be obtained, return receipt requested, to the owner at his last known address, or notice via recorded telephone contact, shall be deemed to be abandoned and may be turned over to the custody of HCACC and/or disposed of as such custodian may deem proper. If the owner cannot be located or no residence of the owner is identified, the animal shall be presumed abandoned after five days of impoundment have elapsed.
- (f) Once impounded, an animal deemed abandoned as set forth in Section 10-33 (e), may be disposed of via adoption, transfer to rescue group or licensed veterinarian or, if in the opinion of the shelter director or a veterinarian that such animal has a temperament or condition such that euthanasia is the only reasonable course of action, humanely disposed of by euthanasia.

Section 10-34. - Animal neglect, cruelty to animals.

- (a) No person shall by act, omission or neglect cause unjustifiable physical pain, suffering or death to any 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.
 - (1) Whoever willfully kills, abuses, maims, disfigures or poisons any animal shall be in violation of this chapter. Cropping, docking and dew claw removal performed by a veterinarian shall not be considered maiming or disfiguring.
 - (2) Whoever:
 - (A) Overloads, overdrives, tortures or torments an animal of adequate food;
 - (B) Beats, mutilates, hobbles or kills any animal;
 - (C) Carries in or upon a vehicle or otherwise any animal in a cruel or inhumane manner; or
 - (D) Causes any such acts to be done shall be deemed in violation of this chapter. This section shall not prohibit the hobbling of an animal for legitimate training or approved medical care purposes.
 - (3) Whoever confines an animal and fails to supply adequate food, adequate water, sanitary conditions, necessary vet care, adequate shelter with access to adequate

space, or causes unnecessary suffering or abandons any animal shall be deemed in violation of this chapter.

- (b) This section shall not prohibit, impede or otherwise interfere with animal husbandry, training techniques, competition, events, shows or practices not otherwise specifically prohibited by law. Specifically this section shall not prevent a person from humanely harming, maiming or killing any animal in defense of person or property, the person or property of another, any livestock, poultry or pet animal or damage being caused by an animal. Furthermore, this section shall not be construed to limit in any way the authority or duty of any law enforcement officer, animal control officer or veterinarian.
- (c) *Mandatory reporting—Veterinarian.* Any veterinarian in this county who is presented with an animal for treatment of injuries or wounds resulting from the reasonable possibility of fighting, abuse or neglect shall file a report with HCACC and cooperate by furnishing the owner's name, address, contact information, dates, description of animal(s) involved and medical information with regards to the incident. Any veterinarian who in good faith makes a report, as required by this section, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

Section 10-35. - Animals disturbing the peace.

- (a) No owner of an animal shall allow an animal to annoy or disturb any person not on the premises of the owner 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 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 owner of an animal in violation of subsection (a) hereof shall be guilty of a nuisance and shall be punished as provided in this chapter.
- (c) No citation shall issue except upon the written complaint of three or more citizens living within 1000 feet of any property upon which such a dog is usually maintained, harbored or kept; or upon receipt of a video recording (of not less than 30 minutes in length) of the violation accompanying the written complaint from one citizen.

Section 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 (except as set forth in **Sec. 10-35**) lodged with HCACC or the Habersham County Sheriff's office. Upon a complaint being lodged regarding any section of this chapter, a summons may be issued requiring the owner of any animal violating any of the provisions set forth in this chapter 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 chapter. If such violation of this chapter 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. Any person who seeks to file a complaint alleging a violation of this chapter must do so in writing and thereby agreeing to cooperate with the HCACC and to testify in open court if necessary. The written complaint shall serve as written documentation of the alleged violation and shall be used in the prosecution thereof. In carrying out the duties of this chapter, the HCACC may employ equipment including, but not limited to, control poles, nets, leashes of any construction, chemical capture devices, snake tongs, oleoresin capsicum aerosols, snake hooks, humane traps, collapsible batons, firearms and metal carrying cages.

Section 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 law. A current vaccination tag must be affixed to a collar worn by the dog at all times as required by law.
- (c) It shall be unlawful to transport any guard/security dog in an open bed or flatbed truck.
- (d) Any vehicle transporting guard dogs shall be identified as to the business owner.
- (e) It shall be unlawful to transport any guard dog in the county except under the following conditions:
 - (1) Each dog must be placed in separate holding bins.
 - (2) Each holding bin shall be enclosed and measure a minimum of 48 inches long by 18 inches wide by 30 inches high.

- (3) Each holding bin must be adequately ventilated.
- (f) 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.
- (g) A guard/security dog shall be confined within a building or other secure enclosure out of which it cannot climb, dig, jump or otherwise escape of its own volition.

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

- (a) *Applicability.* This section 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.
- (b) *Owner Precautions.* An owner of a vicious animal as defined in **Sec. 10-1** hereof shall take the following precautions:
 - (1) *At Large.* 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.
 - (2) *Fencing.* Owners who maintain a vicious animal out-of-doors shall fence with a perimeter or area fence. The kennel shall not share common fencing with the area or perimeter fence. The kennel must have secure sides, with a top attached to all sides and the sides securely set into the ground, on a concrete pad or attached to a wire bottom, out of which the animal cannot climb, dig, jump or otherwise escape on its own volition. The kennel must be securely locked. The kennel as used in this section shall mean a small enclosure or pen.
 - (3) *Warning Sign.* A warning sign (e.g., BEWARE OF VICIOUS ANIMAL) shall be conspicuously posted denoting a vicious animal is on the premises on all four sides of said enclosure. It is the intention of this section 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.
 - (4) *Restraint.* 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.
 - (5) *Muzzling.* 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.

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

(c) *Violations.* 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, shall be in violation of this article. Such animal shall be permanently confined or humanely destroyed.

(d) *Exception.*

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.

(e) *Non-classification.* An animal will not be classified as vicious simply by nature of its size, breed, phenotype or other physical characteristics.

(f) *Exemption of owner.* An animal that bites its owner is exempted from this section, except the mandatory reporting requirement of **Sec. 10-106** shall still apply.

Section 10-39. – [Reserved.]

Section 10-40. - Detention of animals.

It shall be unlawful for any person to detain or hold the animal of another without notifying HCACC. If the animal is presumed stray, and the owner is not currently known, it shall be the responsibility of the finder to notify HCACC. If HCACC is not notified within five days, and no owner is found, the animal will be considered detained by finder and surrendering said animal to HCACC will incur a surrender fee.

Section 10-41. - Interference with officer.

- (a) Upon the receipt of a complaint as set forth in Sec. 10-36, it shall be unlawful for any owner to fail or refuse to permit an animal control officer to investigate such complaint by inspection of the animal and the premises.
- (b) No person shall release, or attempt to release, an animal from the custody of the animal control officer or from a humane trap set by an animal control officer.
- (c) Any person, who by word or act, resists, abuses, molests, obstructs or impedes the animal control officer, uses threatening language or force in order to intimidate, threatens to or attempts to do bodily harm toward such officer while engaged in the enforcement of this chapter or while engaged in the performance of any duty, or in the exercise of such authority, shall be in violation of this chapter.
- (d) It shall be unlawful for any person to knowingly provide false information, a false statement or false representation to an animal control officer or hinder the investigation of any animal control officer discharging or attempting to discharge any legal duty imposed by this chapter.

Section 10-42. - 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 more than \$1,000.00 or by imprisonment for up to six months (a maximum of 60 days in jail with 120 days probated or suspended) or both.

Section 10-43. - Confinement in motor vehicle.

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer or law enforcement officer who has probable cause to believe that this section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or person.

Section 10-44. - Prohibited animals.

It shall be unlawful to purchase, sell, own, possess, harbor or breed skunks, foxes, prairie dogs, raccoons, coyotes, wolves, hybrid wolves, any hybrid animal that is part wild animal, exotic cats or any other wildlife unless licensed by the respective federal or state department of agriculture to possess such animal.

Section 10-45. - Breeding without a license.

- (a) No owner of an animal (whether one or more) shall have more than one litter per household delivered during any 12-month period unless said owner holds the required license from the Georgia Department of Agriculture and a valid business license.

Section 10-46. - Hoarders.

It shall be unlawful for any person to:

- (1) Collect animals and fail to provide them with humane/adequate care;
- (2) Collect dead animals that are not properly disposed of as required by this article; or
- (3) Collect, house or harbor animals in filthy, unsanitary conditions that constitute a health hazard to the animals being kept and/or to the animals or residents of adjacent property.

Section 10-47. - Liability for damage done by animal.

- (a) The owner of an animal which, while off the owner's property, causes injury, death or damage directly or indirectly to any person, livestock, poultry or pet animal or property, shall be liable to the person or owner of the livestock, poultry, pet animal or property for injury, death or damage caused by the animal, including consequential damages.
- (b) This section is cumulative of other remedies provided by law. There is no intent to limit other causes of action which might inure to the owner of any livestock, poultry, pet animal or property.

Section 10-48. - Nuisance feeding.

The feeding of any cat or any wildlife (excluding birds) by hand feeding or the setting out of food to be left attended or unattended, which creates or has the potential to create a hazard to public health or safety is hereby declared to be a nuisance and unlawful. [Managed Community Cat colonies shall be exempt from this section.]

Section 10-49. - Habitual nuisance.

- (a) It shall be unlawful for the owner of an animal to permit the animal, whether willfully or through failure to exercise due care or control, to commit a nuisance habitually:
 - (1) By running at large;
 - (2) By chasing or running after vehicles, bicycles or persons;
 - (3) By attacking persons or other domestic animals on public or private property;

- (4) By trespassing upon public or private school grounds;
 - (5) By trespassing upon private property and interfering with the reasonable use and enjoyment of the property;
 - (6) By barking or making objectionable animal noises;
 - (7) By damaging the property of another person including, but not limited to, getting into or turning over garbage containers, damaging gardens, flowers, plants or other real or personal property or defecating on the property of another (unless timely removed);
 - (8) By causing serious annoyance to a neighboring residence and interfering with the reasonable use and enjoyment of that property;
 - (9) By any other action which is so offensive as to create a nuisance; or
 - (10) By repeated convictions for violation of this chapter.
- (b) For the purpose of this section, "habitually" means at least three separate occurrences within a time period of no more than one year except that barking habitually, or making other objectionable animal noises habitually, means making the sound persistently or continuously for at least 30 minutes occurring at least three separate times within a period of no more than eight hours. For the purposes of this section, "persistently" or "continuously" shall mean non-stop utterances for 30 consecutive minutes with interruption of less than 30 seconds at a time during the said period.
- (c) Each violation of this section shall be punishable by a fine of not less than \$500.00 for the first offense; \$750.00 for the second offense and \$1,000.00 for the third or subsequent offense. A subsequent violation of this section occurring ten or more business days after a previous citation for violation of this section shall be considered a separate and distinct violation.
- (d) An animal found to be a habitual nuisance shall be sterilized and microchipped at the expense of the owner. Owner shall keep the required microchip information current.

Section 10-50. - Failure to comply with notice from animal control relative to premises.

- (a) Any person having charge, custody or control of any premises where any animal is kept given written or verbal notice by an animal control officer advising any conditions that exist in violation of this chapter and who fails to remedy such conditions within the time frame set by the animal control officer shall be in violation of this chapter.
- (b) Any person having charge, custody or control of any premises where any animal kept who has been given written notice by the animal control officer advising of any conditions that exist in violation of the provision of this chapter and who fails to return contact to the animal control department shall be in violation of this chapter.

Section 10-51. - Trapping.

- (a) Except as set forth in **Sec. 10-54**, no person shall set any trap to catch a domestic animal, permit any trap owned by them or in their control to be set to catch any domestic animal or allow a trap set to catch a domestic animal on their property. When a dog or cat is trapped, HCACC shall be notified and such dog or cat shall immediately be delivered to and relinquished to HCACC.
- (b) Any wild animals inadvertently caught by use of a trap shall be the responsibility of the person setting the trap.
- (c) Any death or injury to any domestic animal or wildlife resulting from trapping must be reported to HCACC.

Section 10-52. - Disposal of deceased animal.

- (a) It shall be unlawful for any person who owns or is caring for an animal, which has died or has been killed, to abandon the animal, its parts or blood. Such person shall dispose of a dead animal as provided for in this section. Under no conditions may dead animals be abandoned at any location including, but not limited to, wells or open pits of any kind on public or private land including property of the owner.
- (b) No person shall dispose of an animal, its parts or blood by burial on the land of another without the permission of the owner of the land.
- (c) No person shall abandon a dead animal in his or her possession by leaving the dead animal on the property of another.
- (d) Disposal of animal carcasses by any approved method must be completed within 12 hours after death or discovery of the carcass unless the carcass is properly refrigerated or frozen. Carcasses which are buried must be buried at least three feet below the ground level but not more than eight feet and have not less than three feet of earth cover over the carcass.

Section 10-53. – Animal fighting/Arenas.

- (a) Animal fighting.
 - (1) No person shall own, possess, keep, harbor, train, lend, borrow or handle any dog, cat, bird/fowl or other domestic, feral or wild animal with the intent that such animal shall be engaged in any animal fight/fight training, exhibition of animal fighting or being used as bait for fighting/aggressive animals.
 - (2) No person shall train, assist, umpire/referee or in any way participate in the training of any animal to be used for animal fighting or used as bait or for animal fighting, or torment, badger or bait any animal for the purpose of fighting or blood sport training or any other such activity, the primary purpose of which is the training/conditioning of

animals for aggressive or vicious behavior or animal fights or exhibitions of fighting animals.

- (3) No person shall charge admission to, participate in or be present as a spectator, handler, timekeeper, referee, guard, etc., at any animal fight/battle.
- (4) No person shall profit from any activity connected with any animal fight or exhibition of animals fighting or training, or competitions or matches of fighting animals.

(b) Fighting/training arenas/areas, equipment.

(1) *Arena/areas.* No person shall, for the purpose of any exhibition/occurrence of animal fighting, training for animal fighting, or training of animals to display aggressive behaviors:

- (a) Build, make, maintain or keep a pit or other animal fighting arena or area, whether permanent or portable, on-premises owned or occupied by him;
- (b) Allow a pit or other animal fighting arena or area whether permanent or portable, to be built, made, maintained or kept on his premises; or
- (c) Build, make, maintain or keep a pit or other animal fighting arena or area, whether permanent or portable, on public or private property.

(2) *Equipment.* No person shall:

- (a) Possess, use, sell, give, trade or loan apparatus, paraphernalia, pit supplies, implements, programs, drugs or equipment used to train or condition animals to be aggressive, aggressive animals, game animals or animals used to train other animals to be aggressive.
- (b) Use any animal as bait or as a lure in training dogs for racing or other competitions.

(3) This section shall not apply to the training of domesticated hunting animals.

(c) Violation

- (1) Any animal or item found to be used in violation of subsections (a) or (b) of this section will be immediately confiscated by the HCACC.
- (2) Violation of subparts of (a) or (b) shall be cumulative and shall constitute separate violations.

Section 10-54. – Confinement of female dogs and cats in heat required.

Every such female dog or cat in heat (in estreus) 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. No owner or custodian of any dog in heat shall permit the dog or cat to roam or leave the property of its owner.

State Law reference— Permitting dogs in heat to roam or run free prohibited, O.C.G.A. § 4-8-6.

Section 10-55. – Misappropriation of an animal.

It shall be a violation of this article for any person who, knowing the identity of an animal's owner, without permission of said owner, does any of the following:

- (a) Relinquishes the animal to an animal control officer without notifying the officer of the owner's name and address;
- (b) Relinquishes the animal to an animal control officer and falsely represents himself as the owner of the animal;
- (c) Sells the animal; or
- (d) Gives the animal away.

Section 10-56. - Managed Community Cat Program.

- (a) HCACC or its volunteers, in order to encourage the stabilization of the free-roaming cat population in the county, may:
 - (1) Trap any free-roaming cat in a humane manner;
 - (2) Have the cat surgically sterilized, ear-tipped and vaccinated against rabies by a licensed veterinarian; and release the cat to HCACC for adoption or other disposition in accordance with law, or to a community cat caretaker who will maintain the cat as part of a managed colony of community cats;
 - (3) May return any free-roaming cat impounded by HCACC that bears an appropriate ear-tipping indicating it belongs to a managed colony to its managed colony unless illness or injury present an imminent danger to public health or safety.
 - (4) Exempt all cats that are part of a community cat management program if sterilized, vaccinated against the threat of rabies, and ear-tipped (preferable on the left ear) for easy identification; from the licensing, stray and at-large provisions hereof.

- (5) Empower Community Cat Caregivers to reclaim impounded feral cats without proof of ownership.

(b) TNR

- (1) Any person taking part in TNR activities shall not be deemed to be in violation hereof unless he is reckless or negligent in his actions or violate one of the within provisions.
- (2) No person engaging in TNR shall leave a trap unattended in excess of 24 hours.
- (3) No person shall knowingly leave a trapped cat unattended.
- (4) No person who engages in TNR shall fail to have the left ear of the cat tipped for the purpose of being able to identify whether a cat has been previously altered.
- (5) No person engaging in TNR shall take a cat to an unlicensed veterinarian or perform any surgeries, give any vaccinations or any non-emergency medical treatment themselves or by any other individual that is not a licensed veterinarian.
- (6) No person engaging in TNR shall release a feral cat to any location in which there is not a caregiver.
- (7) No person engaging in TNR shall fail to have the cat altered, ear tipped and given a rabies shot before releasing it.
- (8) A feral cat caregiver who returns a feral cat in conjunction with TNR is not deemed to have abandoned the feral cat.

(c) Community Cat/TNR Education.

HCACC may develop a program to facilitate and promote education concerning feral cats and TNR programs in the county. HCACC may work with local animal welfare and rescue organizations to develop and distribute educational information and to plan events to promote the public education program.

Section 10-57. – Unauthorized Tethering

Unless prohibited hereinafter, no person shall, under any circumstances, tether or otherwise confine any animal in a manner that is contrary to the following:

- (a) No person shall tether or otherwise confine any animal under any of the following circumstances:
 - (1) The animal suffers from a condition that is known by that person to be exacerbated by tethering;

- (2) The animal is tethered in a manner in which it may become entangled with other tethered animals;
 - (3) The tether extends over an object or edge in such a manner that could result in strangulation of or injury to the animal;
 - (4) The animal is tethered in a manner that would allow it to reach within the property of another person, public walkway, or a road;
 - (5) The tether weighs more than $\frac{1}{4}$ of the animal's weight;
 - (6) The animal is sick or injured;
 - (7) The animal is tethered on vacant or abandoned property;
 - (8) The tether has weights attached.
- (b) Humane Tethering includes, but is not limited to, the following:
- (1) The length of the tether must be a minimum of 6 feet, or at least three times the length of the animal measured from the animal's nose to the tip of its tail, whichever is greater.
 - (2) The tether must allow the animal to move in and out of its shelter, to access food and water, and move about to avoid animal waste areas.
 - (3) The tether must provide access to dry ground in case of heavy rains.
 - (4) The animal must be tethered with a properly fitting harness or collar other than the lead or a pinch, prong or choke-type collar; the animal must be attached to the tether by a properly fitted harness or collar with enough room between the collar and the animal's throat through which two fingers may fit.
 - (5) The animal may not be tethered by the wrapping of chain or tether around neck.

Section 10-58. – Expenses for treatment of diseased, injured or abandoned animals.

An owner who reclaims or redeems an animal which has been treated for disease and/or injury while in possession of the animal control facility, prior to release of the animal to the owner, is required to reimburse HCACC for all expenses for treatment and care. Should the owner reimburse the treating veterinarian for such treatment, the owner must provide HCACC with a receipt of such payment before the animal is released to the owner. The payment for the expenses incurred in the treatment of such animals is in addition to the redemption/reclamation fees assessed, which are required to be paid to HCACC.

Section 10-59 – 10-72 – Reserved.

ARTICLE III. – IMPOUNDMENT

Section 10-73. - 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 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 article. 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.
- (d) An animal impounded must be claimed in five days or be subject to adoption or euthanasia.
- (e) An owner must pay an impound fee as described in **Section 10-77** if claimed within the appointed five-day period.
- (f) If not claimed within the five-day period, all impound fees described in **Sec. 10-77** apply including, but not limited to, reimbursement to HCACC for all medical expenses incurred.
- (g) Any impounded animal adopted from HCACC that was not spayed or neutered per the adoption agreement may immediately be seized by HCACC and the owner may not be permitted to reclaim said animal.

Section 10-74. - Commencement of period of impoundment.

- (a) 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.
- (b) Once the period of impoundment has commenced, the fees set forth hereinafter shall be due and payable.

Section 10-75. - 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 offices of HCACC. 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 Habersham County HCACC under this article. 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, as required by O.C.G.A. § 31-19-5.
- (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.

Section 10-76. - 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.

- (a) If the animal is not claimed by the owner within 72 hours of notice being given in accordance with Sec. 10-73, the animal shall be deemed abandoned as set forth in Sec.10-33. HCACC may at its discretion dispose of such animal in accordance with state law.
- (b) If any of the time periods in the subsection (a) of this section expire, the owner shall be deemed to have given his consent to the adoption of the impounded animal or 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 claim to such animal.
- (c) 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 five 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.

Section 10-77. - Adoption.

- (a) Personnel from HCACC may offer for adoption or placement with any person or any organization approved by HCACC 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 HCACC shall pay the designated fees.

(b) Limiting adoptions.

- (1) HCACC reserves the right to refuse to allow any person to adopt an animal in its custody or control.
- (2) Any person convicted of cruelty, neglect, hoarding, animal fighting or abandonment of an animal will not be allowed to adopt an animal from HCACC. For the purpose of this section, a plea of nolo contendere shall be considered a conviction.

(c) *Requirements for sterilization.* Any person adopting an intact animal shall cause to have the animal spayed or neutered (sterilized) within 30 days from the date of adoption for animals over the age of six months or within the first six months of age for sexually immature animals. Failure to sterilize in accordance herein shall constitute a violation of this chapter. Any adopted animal not sterilized within the time specified may also be impounded by HCACC. Such animal may not be reclaimed and the violator shall not be permitted to adopt from HCACC again. No refunds will be given.

Section 10-78. - Destruction of animals due to disease, overcrowding, injury or likelihood of danger or injury to humans or other animals.

Notwithstanding any provisions of this chapter to the contrary, HCACC may humanely destroy any animal impounded in the shelter when HCACC reasonably believes that destruction of the animal is necessary to prevent unnecessary suffering of the animal or to prevent disease or injury to the animals or humans due to (a) overcrowding in the shelter, (b) the presence or threatened presence of contagious disease, or (c) the likelihood of danger or injury to persons or animals. All medical fees incurred are the sole responsibility of the owner of the animal once identified.

Section 10-79. - Holding animals due to quarantine or as evidence in a criminal prosecution.

Notwithstanding any provisions in this chapter to the contrary, HCACC may refuse to release any animal impounded in the shelter or other director approved location for rabies or contagious disease quarantine or for the use as evidence in a criminal prosecution for such time period as HCACC may determine or until released by a court order.

Section 10-80. - Records.

- (a) It shall be the duty of HCACC to keep and maintain current and accurate records of all activities and transactions pertaining to the enforcement and impoundment of animals under this article. 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 and the date, time and circumstances of impoundment.

- (b) Records shall also be maintained of all fees of any kind collected and any other records deemed proper for accurate accounting of activities.

Section 10-81. – Microchip identification scan.

- (a) **When any dog, cat or other large animal traditionally kept as a household pet is brought to the animal shelter, HCACC may, if the owner of the animal is not known, scan for the presence of an identifying microchip through the use of a microchip reader. If a microchip is found, HCACC shall make a reasonable effort to contact the owner of the animal.**
- (b) **HCACC shall not be liable for failing to detect a microchip or failing to contact the owner of the animal.**

Section 10-82. – Escape, injury or theft.

HCACC shall exercise reasonable care to prevent the injury, escape or theft of any animal which is in its custody or which HCACC is attempting to bring into its custody under the provisions of this chapter, but it shall not be responsible for any such occurrence.

Secs. 10-83—10-100. - Reserved.

ARTICLE IV. - RABIES CONTROL

Section 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.

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

- (a) The rabies control officer shall be the designated animal control officer and/or any other designated agent of the 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.

Section 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 HCACC 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 Sec. 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 HCACC 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.

Section 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 or dogs when boarded in kennels, veterinary clinics or in an area zoned for agricultural purposes where the owner 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 shall have the vaccination certificate in his possession where it may be shown upon demand by any duly constituted authority.

Section 10-105. - Reporting.

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

- (b) The rabies control officer shall report all known cases of rabies in the county to the health department.

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

- (a) Any person having information that an animal has bitten a person or domestic animal including, but not limited to, physicians, veterinarians, peace officers, animal control officers, animal welfare groups, clinics, hospitals or any establishments providing health care or animal care services shall immediately report such to the county sheriff's office, HCACC or the health department. Knowingly failing to report such an incident shall be a violation of this article.
- (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 health department, including the premises of the owner. The confinement will be in accordance with Sec. 10-107 hereinafter.

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

- (a) HCACC 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 Sec. 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 a veterinarian.
 - (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, shall be placed in strict isolation in an approved kennel or other confinement area approved by an animal control officer for six months. One month prior to release by the veterinarian, 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 by a veterinarian 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 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 unvaccinated 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.
- (c) *Failure to comply with quarantine.* After reviewing the circumstances of a particular case, the HCACC director may allow the owner to confine the animal on the owner's property. If the owner refuses to confine the animal as required by law, the HCACC director may order seizure of the animal and its confinement for the remainder of the quarantine period at an approved location at the expense of the owner. Any unvaccinated animal with exposure to rabies may be humanely destroyed. Failure to comply with quarantine includes, but is not limited to, allowing animal to run at large, inadequate confinement, unauthorized disposal and removal or relocation of animal. Such failure shall be a violation of this section.

Section 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.

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

Secs. 10-109—10-130. - Reserved.

ARTICLE V. – DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS

Section 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 or seriously injures 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 and is under the control or command of its owner; or no dog may be declared dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
- (4) Because of temperament, conditioning or training, has a known propensity to kill, attack, bite or injure other living creatures without provocation;
 - a. Any dog which, when unprovoked, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public grounds or places;
 - b. Any dog with a known propensity, tendency or disposition to unprovoked attack to cause injury or to otherwise endanger the safety of human beings or domestic animals;
 - c. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private;
 - d. Any dog owned or harbored primarily or in part for the purpose for dog fighting or any dog trained for dog fighting; or
 - e. Any dog owned or harbored, not used for police or military purposes, primarily or in part for the purpose attack or guard training or any dog trained to attack humans; or

- f. Any dog which endangers or threatens to endanger the safety of the residents of the neighborhood.

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

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 or has already been classified as dangerous and attacks or bites a human or pet animal or any dog previously determined to be and currently classified as a dangerous dog or was a potentially dangerous dog prior to January 1, 2012, which, after its owner or keeper has been notified of this determination, continues the behavior described in Sec. 10-131 or is maintained in violation of Sec. 10-136.

Working dog means any dog being used by a law enforcement or military personnel to carry out the law enforcement or military personnel's official duties. No working dog shall be classified as a dangerous dog or vicious dog if the person injured by such dog was a person who, was committing a trespass, was abusing the dog, or was committing or attempting to commit an unlawful act.

Section 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.

Section 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.

Section 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, HCACC 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.

Section 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 HCACC determines that a dog is subject to classification as a dangerous dog or vicious dog, HCACC shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of HCACC's determination and shall state that the owner has a right to request a hearing from the animal control board on HCACC'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, HCACC'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 law enforcement or military personnel to carry out the law enforcement or military personnel'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 HCACC.
- (d) *Authority of HCACC to confiscate and confine.* If an owner fails or refuses to abide by subsection (c) of this section, HCACC 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 HCACC 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 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 HCACC'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 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 this chapter. After such notification, the owner may appeal from any adverse decision rendered by the animal control board in such manner as provided by the laws of the state. Written notification of such an appeal shall be given immediately to HCACC.
- (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.

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

- (a) **Restraint required.** Any dangerous or vicious dog, as determined by HCACC, shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine a dangerous or vicious dog must be locked with a key or combination lock when such animal is within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pens must be embedded in the ground no less than two feet. All structures erected to house dangerous or vicious dogs must comply with all zoning and building regulations of the county. All such structures must be in a clean and sanitary condition. If a dangerous dog is abutting property or an easement, a visible barrier must be included so that the dog cannot harass any person who has a right to be on property adjoining owner's property.
- (b) **Leash and muzzle.** No person shall permit a dangerous or vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length and in control of an adult. No person shall permit a dangerous or vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless an adult person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous or vicious dogs on a leash outside the dog's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (c) **Confinement indoors.** No dangerous or vicious dog may be kept on a porch, patio or any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when the screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- (d) **Signs.** An owners of a dangerous or vicious dog within the county shall display in a prominent place on his premises a sign easily readable by the public indicating that a dangerous or vicious dog is on the premises.

- (e) Insurance. An owner of a dangerous or vicious dog must provide proof to HCACC of public liability insurance in a single-incident amount of \$1,000,000.00 for bodily injury to or death of any person which may result from the ownership, keeping or maintenance of such dog. Such insurance policy shall provide that no cancellation of the policy of the policy will be made unless ten days' written notice is first given to HCACC. An effective insurance policy with the coverage and in the amounts specified in this section must be maintained by the owner at all times.
- (f) Euthanasia authorized. If it shall appear to a court that a dog is dangerous or vicious and that the owner of the dog is willfully allowing the dog to run at large, or has violated any of the provisions of this section, the court may, in addition to the usual judgment, order HCACC to take possession of and euthanize the dog.
- (g) Owner shall enter the dog in a socialization behavior program approved or offered by HCACC.
- (h) Owner must notify HCACC immediately if the dog is on the loose or has attacked a human or pet animal on public or private property and shall notify HCACC within 24 hours if the dog has died or has been euthanized.
- (i) Impoundment. If HCACC has probable cause to believe that a dog determined or acknowledged dangerous or vicious pursuant to this section, and said dog is in violation of this section, said dog may be impounded and held pending the ruling of the court for disposition. The owner of said dog shall be liable for all costs associated with impoundment, including impoundment fees, board fees, medical fee, euthanasia fee and disposal fee.
- (j) An owner who rents property from another where the dog will reside must disclose to the property owner of the classification and provide proof from landlord granting permission to allow dog to live at the location.
- (k) 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. Subject to the additional requirements of this article, a certificate of registration for a dangerous dog shall be issued if HCACC determines that the following requirements have been met:
 - (1) 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 will be confirmed and registered with the HCACC; and
 - (2) The owner of the dangerous dog has written permission of the property owner where the dangerous dog will be kept if applicable.

- (l) Except as otherwise provided in this article, a certificate of registration for a vicious dog shall be issued if HCACC 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 dog must be sterilized by a license veterinarian and certificate of proof must be presented to HCACC, and
 - (5) The owner maintains and can provide proof of general or specific liability insurance in the amount of at least \$500,000.00 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; and
 - (6) The owner of the dangerous dog has written permission of the property owner where the dangerous dog will be kept.
- (m) The owner of a classified dog shall notify HCACC 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.
- (n) Issuance of a certificate of registration or renewal of a certificate of registration by HCACC 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.
- (o) HCACC 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 HCACC in enforcing the provisions of this article.
- (p) 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, HCACC 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 hereof. 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.

- (q) No certificate of registration shall be issued to any person who has been convicted of two or more violations of this article.
- (r) 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 dog fighting as provided for in O.C.G.A. § 16-12-37 or the felony of aggravated cruelty to animals as provided by O.C.G.A. § 16-12-4; or
 - (3) A felony involving trafficking in illegal drugs as provided for in O.C.G.A. § 16-13-31.1.

Section 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 four 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; or
 - (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 four 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.

(2) Unattended with minors.

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

Section 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.

Section 10-139. - Summons.

Upon a complaint lodged with HCACC regarding any section of this article, a summons may be issued requiring the owner violating any of the provisions set forth in this article to appear before a 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.

Section 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 \$1,000.00 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. § 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.

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

Ordinance Number 0029-216 of the City of Baldwin, Georgia providing regulations to control animals is hereby further amended to add new Sections 10-141 and 10-142 of a new Article VI entitled "Applicability, Enforcement, and Other Provisions" as follows:

ARTICLE VI. – APPLICABILITY, ENFORCEMENT, AND OTHER PROVISIONS

Sec. 10-141. - Applicability of Habersham County Animal Control Ordinance and procedures for purposes of enforcement in City of Baldwin, Georgia.

- (a) For purposes of enforcement of this ordinance, any reference to the Habersham County Animal Control Ordinance, set out as Chapter 10 in The Code of Habersham County, Georgia, shall be considered a reference to Ordinance 0029-216 of the City of Baldwin, Georgia.
- (b) Pursuant to the intergovernmental agreement between Habersham County, Georgia and the City of Baldwin, Georgia concerning animal control enforcement in the City of Baldwin, Georgia, the enforcement of this chapter shall be delegated to HCACC and the Magistrate Court of Habersham County until such time as the intergovernmental agreement may be terminated or cancelled pursuant to its terms.
- (c) Until such time as the intergovernmental agreement may be terminated or cancelled pursuant to its terms, all fines and fees collected for violations and enforcement of this chapter shall be the property of Habersham County.
- (d) As used in this chapter and in its' enforcement, the term "county" may be deemed to refer to the City of Baldwin, Georgia as the identity of the entity may in the context require.

Sec. 10-142. – Conflicting Ordinances; Citation of Violations.

- (a) Where there is any conflict between this section and the other sections or articles of this chapter, the other sections and articles shall apply.
- (b) Any violation of Section 10-143 may also be cited as "Section 10-143," "Sec. 10-143," "10-143," "142" or any other reasonable variation thereof.

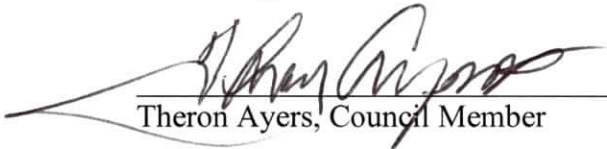
All ordinances or parts of ordinances of the City of Baldwin, Georgia in conflict herewith shall be and the same are hereby repealed in their portions so in conflict.

Approved this 9th day of September 2021.


Approved By Baldwin City Council



Joe Elam, Mayor



Theron Ayers, Council Member



Larry Lewallen, Council Member



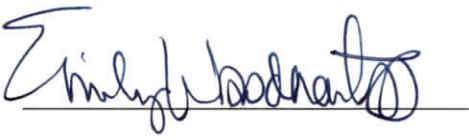
Stephanie Almagno, Council Member



Alice Venter, Council Member



Maarten Venter, Council Member



Emily Woodmaster, City Clerk, CAO