

**ORDINANCE 12 - 12**

**An Ordinance of the Henry County Board of Commissioners Amending Sections of the Code of Henry County as it refers to Animal Care and Control and other related purposes**

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**WHEREAS,** the Board of Commissioners is the Governing Authority of Henry County; and

**WHEREAS** the Board of Commissioners as the governing authority has the responsibility to amend the Code from time to time in order to preserve and promote the public health, public safety, and public welfare of residents of Henry County; and

**WHEREAS,** the Board of Commissioners desires to delegate certain administrative functions to appropriate county staff.

**NOW, THEREFORE IT SHALL BE ORDAINED, AND IT IS HEREBY ORDAINED,** by the Board of Commissioners of Henry County:

I.

The existing Code consisting of Subchapter 1: Animals, Sections 3-4-1 through 3-4-59 shall be deleted in its entirety.

II.

The following shall be inserted as follows:

**ARTICLE I. IN GENERAL**

Section 3-4-1. Purpose; short title.

In order to protect the health and safety of persons and animals in Henry County, to improve and make more safe motor vehicle and pedestrian traffic, to control the incidence and spread of rabies, to prohibit abandonment and other forms of cruelty to animals, to promote the general welfare of the citizens of this county by providing specific regulations concerning the care and treatment of animals and providing for violations of those regulations, and to invest the authority to enforce

those regulations, the Board of Commissioners of Henry County, Georgia, hereby adopts this subchapter, to be known and cited as the "animal control ordinance."

Section 3-4-2. Definitions.

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

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

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

*Adequate shelter* means protective cover appropriate for the species and providing adequate space to maintain the animal in good health, which also prevents pain, suffering or a significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four (4) sides with a door opening, a constructed floor, and a roof. It should also be clean, dry and compatible with current weather conditions, in addition to age, size, species and condition of the animal. The structure should be of sufficient size to allow the animal to stand, turn around, lie down and go in and out of the structure comfortably. Adequate shelter must be compatible with the number of animals on the property.

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

1. Sufficient coverage and insulation to protect an animal from extreme hot and cold temperatures;
2. Sufficient protection from the elements to keep the animal dry;

3. Sufficient shade and ventilation to prevent an animal from overheating and/or dehydrating; and
4. Adequate bedding or resting area suitable for the breed, species, age, size, and medical condition of the animal.

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

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

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

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

- (a) Ongoing infections;
- (b) Infestation of parasites;
- (c) Disease; or
- (d) Any other medical condition/injury where withholding or neglecting to provide such care would:
  1. Endanger the health or welfare of the animal; or
  2. Promote the spread of communicable diseases.

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

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

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

*Animal under restraint* means:

- (a) any animal secured by a leash or lead with a collar, or enclosed by way of a fence or other enclosure
- (b) any animal under the immediate supervision and immediate proximity of a responsible and competent person at least sixteen (16) years of age, obedient to the person's commands, and located within the boundaries of property owned, leased or occupied by the owner (as defined herein); or
- (c) (c) a dog in the act of being trained or used for hunting in conformance with the game laws of the State of Georgia. This definition shall not apply to cats.

*Animals* shall be defined as follows:

- (a) *Domestic animals.* Animals that are accustomed to live in or about the habitation of humans, that are not found naturally in the wild state, including, but not limited to, cats, cattle, dogs, fowl, goats, horses, swine, and various genetically established strains of laboratory/pet animals such as mice, rats, hamsters, gerbils, guinea pigs and rabbits.
- (b) *Feral animals.* Domestic animals which have reverted back to a wild state and do not exhibit traits consistent with their intended use.
- (c) *Native wildlife animals.* A nondomesticated animal which is normally found in the natural state within the confines of Georgia.
- (d) *Non-native or exotic wildlife animals.* A nondomesticated animal which is not normally found in the natural state within the confines of Georgia.

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

*Authority means* an animal control board or local board of health, as determined by the governing authority of a local government.

*Board* means the Animal Control Board.

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

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

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

*Cruelty to Animals means;*

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

(b) Animal hording.

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

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

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

*Dangerous dog means any dog that:*

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury; provided, however, that a nip, scratch, or abrasion shall not be sufficient to classify a dog as dangerous under this subparagraph;
- (2) Aggressively attacks in a manner that causes a person to reasonably believe that the dog posed an imminent threat of serious injury to such person or another person although no such injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by a dog shall not be sufficient to classify a dog as dangerous under this subparagraph; or
- (3) While off the owner's property, kills a pet animal; provided, however, that this subparagraph shall not apply where the death of such pet animal is caused by a dog that is working or training as a hunting dog, herding dog, or predator control dog.

*Disturbing noises* means the owning, possessing or harboring of any animal which frequently, or for continued duration, howls, barks, meows, squawks or makes other sounds which annoy or disturb an ordinary reasonable person of normal sensitivities across a residential or commercial boundary line or within a noise-sensitive area. For the purpose of this article, "barking dog" shall mean a dog that barks, bays, cries, howls or makes any other noise incessantly for a period of fifteen (15) minutes, or barks continuously for one-half ( 1/2) hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" if, at the time the dog is barking making any other noise, a person is trespassing or threatening to trespass upon property in or upon which the dog is situated.

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

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

*Fence* means:

- (a) Structure of wire, wood, stone, or other materials which is of sufficient height and strength to act as a barrier against passage of the animal or animals it is intended to enclose.
- (b) Invisible containment systems in which a collar provides an electric shock which prevents an animal from leaving the property of its owner provided the animal is a dog which is neither classified as vicious or dangerous nor in estrus. If an invisible containment system is in use;
  - (1) A sign must be visibly posted on the property indicating that the system is in place
  - (2) The system must effectively restrain the animal

Dogs which are "vicious" or "dangerous" as herein defined shall be restrained in an enclosure which not only restrains the animal from leaving the owner's property, but also protects persons who may come onto the property from harm. Female dogs in estrus shall be restrained in such a way which can reasonably be expected not attract males of the same species.

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

*Hoarding* means:

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

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

*Inhumane manner* means

- (a) The failure to provide humane care;
- (b) Restraining an animal in such a way that it cannot access food and water or to move about freely in an area of reasonable size considering the size and nature of the animal;
- (c) An act or failure to act which causes death or unjustifiable pain or suffering to an animal

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

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

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

*Owner* means any person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of a dog. In the case of a dog owned by a minor, the term 'owner' includes the parents or person in loco parentis with custody of the minor.

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

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

*Public nuisance* means any animal which:

- (a) Is vicious;
- (b) Causes unsanitary conditions;
- (c) Attacks passersby or passing vehicles;
- (d) Is found repeatedly unrestrained;



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

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

*Records of an appropriate authority* means records of any state, county, or municipal law enforcement agency; records of any county or municipal animal control agency; records of any county board of health; records of any federal, state, or local court; or records of a dog control officer as provided in this article and by the laws of the State of Georgia.

*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.

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

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

- (a) Excessive animal waste;
- (b) Garbage, trash or an outflow of waste;
- (c) Standing water or mud;

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

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

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

*Vicious 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.

#### Section3-4-3. Adoption of article by municipalities within county boundaries.

In accordance with state law, Henry County may enter into agreements with the municipalities located within territorial limits of Henry County to provide animal control services with the corporate limits of such municipality. Pursuant to such agreement, any municipality in the county may adopt this article. Any municipality adopting this ordinance must authorize the enforcement of the municipal ordinance by the Henry County Animal Care and Control Department. Municipal ordinances must provide that the incorporated areas shall be subject to the fees charged by the Henry County Animal Care and Control Department and that all fees charged by the Henry County Animal Care and Control Department shall be retained by the county to defray the cost of operation of the Animal Care and Control Department.

#### Section 3-4-5. Animal care and control department.

This department shall be under the direction of the board of commissioners, by and through the director of the Animal Care and Control Department of the county. Its agents shall be charged with the responsibility of enforcing the animal control ordinance of the county and the operation of the county animal shelter.

#### Section 3-4-6. Enforcement

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

Section 3-4-7. Right of officer to defend himself in performance of duty; interference; right of entry.

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

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

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

#### Section 3-4-8. Dead animals.

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

(b) Carcasses on private property must be disposed of by the animal or property owner or possessor in accordance with state laws and regulations. It shall be

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

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

#### Section 3-4-9. Unlawful acts.

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

- (1) Abandonment of any animal;
- (2) Failure to keep an animal under restraint;
- (3) Failure to provide a collar and display on said collar of the animal a current vaccination tag;
- (4) Failure to provide care for an animal in a humane manner;
- (5) Allowing any animal to become a public nuisance;
- (6) Failure to have any animal vaccinated against rabies;
- (7) Treating any animal in an inhumane manner;
- (8) Keeping a vicious animal, except as authorized by this ordinance; or
- (9) Cruelty to animals.
- (10) Failure to sterilize animals adopted from the Henry County Animal Care and Control shelter as required.

#### Section 3-4-10. Penalties for violations.

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

#### Section 3-4-11. Miniature pigs and miniature goats.

- (a) Only one miniature pig or two miniature goats may be located on any premises and/or property less than three acres in size.
- (b) Animals may be kept outdoors only if;
  - (1) property on which the animal(s) are kept is 1 acre or larger and
  - (2) animal(s) are contained in a fenced enclosure of wire, wood, stone, or other materials which is of sufficient height and strength sufficient for purposes of restraint and protection. Invisible fencing is not suitable for fencing for miniature pigs or miniature goats.
- (c) The miniature pig's tusks, if any, must be removed or trimmed so as not to endanger any person or animal.
- (d) Miniature pigs must have tested negative for Swine Brucellosis and Pseudorabies.
- (e) Male miniature pigs and miniature goats must be neutered.
- (f) Penalties. Any person violating any provision of this section may be punished by a fine not to exceed one thousand dollars (\$1,000.00) and/or imprisonment in the county jail for a term not to exceed sixty (60) days.

Section 3-4-12. Leaving animal confined or unattended in parked car.

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

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

Section 3-4-13. Native and Non Native Wild Animals

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

Section 3-4-14. Prohibited Animals.

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

ARTICLE II. RABIES CONTROL\*

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

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Section 3-4-21. When collar and tag required on a dog or cat.

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

Section 3-4-22. Vaccination and licensing of dogs and cats required.

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

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

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

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

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

#### Section 3-4-23. Rabies cases to be reported.

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

#### Section 3-4-24. Quarantine.

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

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

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

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

"Rabies Suspected"

or

"Rabies--Keep Away From Animals"

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

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

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

### ARTICLE III. IMPOUNDMENT

Section 3-4-31. Impounding authority.

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



Any person who takes into custody an animal running at large in violation of this chapter shall deliver such animal to the animal shelter without fee or charge. However, a person may house the animal for five business days while attempting to locate and/or contact the owner. Once in the custody of the animal shelter, the shelter shall hold and dispose of such animal in the same manner as though such animal had been running at large and impounded by officers of Henry County Animal Care and Control.

Section 3-4-32. Notice to owners of impounded animals.

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

Section 3-4-33. Fees and fines.

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

- (a) The fees established and collected under this chapter and pursuant to the State Dangerous Dog Control Law are not penalties but are imposed for the sole purpose of defraying expenses borne by the County for animal control and welfare under this chapter and are subject to change at any time.
- (b) The personnel of the animal care and control department shall not return to the owner any animal impounded until the owner of said animal has paid fees and charges assessed, and until the owner has prepaid for a rabies tag or tags as required by Georgia law and by county health department rules.
- (c) For all other animals impounded other than dogs or cats, the owner or custodian shall be charged the base fees, plus actual expenses and an additional ten (10) percent of both the base fee and actual expense.

## Article IV. DISPOSITION

### Section 3-4-41. Generally.

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

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

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

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

(e) Henry County Animal Care and Control shall have the exclusive right to dispose of all animals that have been deemed relinquished to Henry County Animal Care and Control in any manner deemed appropriate and in the best interest of the animal and in accordance with this chapter.

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

### Section 3-4-42. RECLAMATION

The owner of any impounded animal may regain possession of the animal upon payment of all applicable fees and compliance with the terms of this chapter. Such redemption shall not affect any criminal liability of the owner, which may exist

with respect to any violation of this chapter and shall not preclude proceedings against the owner for the purpose of pursuing sanctions under this chapter. The following exceptions apply:

- (a) Any animal impounded as a result of cruelty, abuse, neglect, or any other reason defined by this chapter as inhumane treatment may be retained by Henry County Animal Care and Control until such time as the case is disposed of in a court competent to hear such matters.
- (b) Prohibited animals impounded by or come to be in the possession of Henry County Animal Care and Control cannot be reclaimed unless the owner can show proof of proper and current licensure allowing them to have possession of such animal.
- (c) Any animal adopted from the Henry County Animal Shelter that was not sterilized per the adoption agreement may immediately be reclaimed by Henry County Animal Care and Control and the owner may not be permitted to reclaim said animal.
- (d) Any dog deemed dangerous or vicious cannot be reclaimed until such time as the requirements for possessing a dangerous or vicious dog have been satisfied. If such requirements are not met within twenty (20) days of impoundment, the dog shall be deemed permanently relinquished to Henry County Animal Care and Control and will be immediately destroyed.

Section 3-4-43. ADOPTION.

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

(b) Any person adopting an animal from Henry County Animal Care and Control shall pay an adoption fee in an amount stated in the Henry County Animal

Care and Control schedule of fees. This fee includes all or part of the costs of a rabies inoculation.

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

- (1) within 30 days from the date of adoption for animals over the age of 6 months or;
- (2) within the first six months of age for sexually immature animals.

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

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

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

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

#### Section 3-4-44. RESCUE.

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

#### Section 3-4-45. Humane Disposition

If any animal seized or impounded by the Henry County Animal Care and Control Department evidences advanced symptoms of contagious, infectious or fatal diseases, is seriously ill or severely injured, the animal care and control department shall seek the services of a licensed veterinarian who will determine whether to treat the animal or humanely euthanize the animal; or in the absence of an available

veterinarian, the animal control officer may concur with a superior on duty. This action may be taken to control the spread of disease or to eliminate any further pain and suffering of an animal. Every attempt will be made to stabilize an owned animal to afford the owner the opportunity to reclaim the animal.

#### ARTICLE V. VICIOUS DOGS AND DANGEROUS DOGS

##### Section 3-4-51. Exceptions to definitions.

(a) The terms "dangerous dog" and "vicious dog" as defined in this chapter, shall not include the following:

- (1) a dog that is in the act of use by a law enforcement or military officer to carry out the law enforcement or military officer's official duties.
- (2) a dog that inflicts an injury upon a person who, at the time, was committing a willful trespass or other tort, or was tormenting, abusing, or assaulting the dog or had in the past been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime, under Chapter 5 of Title 16 of the Official Code of Georgia Annotated.

(b) No person shall be liable for killing or otherwise performing a cruel action on any dog when such person is;

- (1) defending his or her person or property, or the person or property of another from injury or damage being caused by a dog; or
- (2) defending against injury or damage to any livestock, poultry or pet animal.

##### Section 3-4-52. Animal control board.

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

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

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

Section 3-4-53. Dog control officer.

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

Section 3-4-54. Procedures for classifying vicious dogs and dangerous dogs; notice; hearing.

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

(b) If the dog control officer believes that a dog subject to classification as a dangerous dog or vicious dog poses a threat to public safety, the dog may be immediately impounded and the dog owner shall be responsible for all costs resulting from such impoundment.

(c) When a dog control officer determines that a dog is subject to classification as a dangerous dog or vicious dog, the dog control officer shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of the dog control officer's determination and shall state that the owner has a right to request a hearing from the authority on the dog control officer's determination

within 15 days after the date shown on the notice. The notice shall also provide a form for requesting the hearing and shall state that if a hearing is not requested within the allotted time, the dog control officer's determination shall become effective for all purposes under this article.

(d) 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 authority for good cause shown. At least ten days prior to the hearing, the authority conducting the hearing shall mail to the dog owner written notice of the date, time, and place of the hearing. At the hearing, the dog owner shall be given the opportunity to testify and present evidence and the authority conducting the hearing shall receive other evidence and testimony as may be reasonably necessary to sustain, modify, or overrule the dog control officer's determination.

(e) Within ten days after the hearing, the authority which conducted the hearing shall mail written notice to the dog owner of its determination on the matter. If such determination is that the dog is a 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 Georgia Code Section 4-8-26, the notice shall specify the date by which the euthanasia shall occur.

(f) Judicial review of the authority's final decision may be had in accordance with Georgia Code 131 Section 50-13-19.

(g) The judge in any superior court of competent jurisdiction within this state may order the euthanasia of a dog if the court finds, after notice and opportunity for a hearing as provided by this article, that the dog has seriously injured a human or presents a danger to humans not suitable for control under this article and:

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

(h) A dog that is found, after notice and opportunity for a hearing as provided by this article, 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 3-4-55. Requirements for possessing a vicious or dangerous dog.

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

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

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

(c) Except as provided in subsections (d), (e) and (f) of this Code section, a certificate of registration for a vicious dog shall be issued only if the dog control officer determines that the additional requirements have been met:

- (1) The owner maintains and can provide proof of general or specific liability insurance in the amount of at least \$100,000.00 issued by an insurer authorized to transact business in this state insuring the owner of the vicious dog against liability for any bodily injury or property damage caused by the dog.

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

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

(f) No certificate of registration for a vicious dog shall be issued to any person who has been convicted of:



- (1) A serious violent felony as defined in Georgia Code Section 17-10-6.1;
- (2) The felony of dogfighting as provided for in Georgia Code Section 16-12-37 or the felony of aggravated cruelty to animals as provided for in Georgia Code Section 16-12-4; or
- (3) A felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in Georgia Code Sections 16-13-31 and 16-13-31.1 from the time of conviction until two years after completion of his or her sentence, nor to any person residing with such person.

(g) Certificates of registration shall be renewed on an annual basis. The owner of a classified dog shall pay an annual registration fee at the time the certificate of registration is issued. The annual registration fee shall be in the amount of one hundred dollars (\$100.00). Certificates of registration shall be renewed in the month of the initial registration. At the time of renewal of a certificate of registration for a classified dog, a dog control officer shall verify that the owner is continuing to comply with provisions of this article. Failure to renew a certificate of registration within ten days of the renewal date or initial classification date shall constitute a violation of this article.

(h) The owner of a classified dog shall notify the dog control officer within 24 hours if the dog is on the loose or has attacked a human and shall notify the dog control officer within 24 hours if the dog has died or has been euthanized.

(i) A vicious dog shall not be transferred, sold, or donated to any other person unless it is relinquished for euthanasia to a governmental facility or veterinarian.

(j) The owner of a classified dog who moves from one jurisdiction to another within the State of Georgia shall register the classified dog in the new jurisdiction within ten days of becoming a resident and notify the dog control officer of the jurisdiction from which he or she moved. The owner of a similarly classified dog who moves into this state shall register the dog as required within 30 days of becoming a resident.

(k) Any dog classified prior to July 1, 2012 as a potentially dangerous dog shall on and after that date be classified as a dangerous dog under this article.

(l) Any dog classified prior to July 1, 2012 as a dangerous dog in this state shall on and after that date be classified as a vicious dog under this article.

Section 3-4-56. Restrictions on permitting vicious or dangerous dogs outside of a proper enclosure.

(a) It shall be unlawful for an owner of a classified dog to permit the dog to be outside a proper enclosure unless:

- (1) The dog is muzzled. The muzzle shall be made in a manner that will prevent the dog from biting any person but not cause injury to the dog nor interfere with its vision or respiration.
- (2) The dog is restrained by a leash not to exceed six feet in length and is under the immediate physical control of a person capable of preventing the dog from engaging any other human or animal when necessary; or
- (3) The dog is contained in a closed and locked cage or crate.
- (4) Unattended with minors.

Section 3-4-57. Confiscation of dogs; grounds; disposition.

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

- (1) The dog is not validly registered as required by this article;
- (2) The dog is not maintained in a proper enclosure as defined in the article; or
- (3) The dog is outside a proper enclosure in violation of this article.

(b) In addition, a vicious dog shall be confiscated in the same manner as a dangerous dog if the owner of the dog does not secure the liability insurance required by this article.

(c) Any dog that has been confiscated under the provision of this section shall be returned to its owner upon the owner's compliance with the provisions of

this article as determined by the dog control officer and upon the payment of reasonable confiscation and housing costs. All fines and all charges for services performed by a law enforcement or dog control officer shall be paid prior to owner's recovery of the dog. In the event the owner has not complied with the provisions of this section within twenty (20) days of the date the dog is confiscated, the dog shall be destroyed in an expeditious and humane manner and the owner shall be required to pay the costs of housing and euthanasia.

(d) Criminal prosecution shall not be stayed due to owner recovery or euthanasia of the dog.

#### Section 3-4-58. Violations; penalties.

(a) The owner of a classified dog who violates the applicable provisions of this article or whose classified dog is subject to confiscation under subsection of this article shall be guilty of a misdemeanor of high and aggravated nature.

(b) An owner with a previous conviction for a violation of this article whose classified dog causes serious injury to a human being under circumstances constituting another violation of this article shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one nor more than ten years, a fine of not less than \$5000.00 nor more than \$10,000.00, or both. In addition, the classified dog shall be euthanized at the cost of the owner.

(c) 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.

(d) A refusal to surrender a dog subject to confiscation shall be a violation of this article.

#### Section 3-4-59. General provisions.

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

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

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

III.

All Ordinances or Resolutions, or portions thereof, in conflict with the foregoing provisions shall be, and are hereby, repealed.

IV.

This Ordinance shall take effect immediately upon its adoption.

This \_\_\_\_\_ day of \_\_\_\_\_, 2012

HENRY COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Elizabeth "BJ" Mathis, Chairman

ATTEST:

\_\_\_\_\_  
Shay Mathis, County Clerk