

**STATE OF GEORGIA**

**COUNTY OF CHEROKEE**

**ORDINANCE NUMBER 2007 – O – 004**

**AN ORDINANCE** of the Cherokee County Board of Commissioners to Amend the Cherokee County Code of Ordinances; to Amend the Cherokee County Animal Control Ordinance; to Promote the Public Health, Safety, and Welfare; and for Other Related Purposes.

**WHEREAS**, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the county may adopt clearly reasonable ordinances, resolutions and regulations; and

**WHEREAS**, O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protecting and preserving the public health, safety, and welfare of the population of the unincorporated areas of the County; and

**WHEREAS**, the governing authority of Cherokee County, to wit, the Board of Commissioners (the “Board”), desires to exercise its authority in adopting this Ordinance; and

**WHEREAS**, the Board previously adopted an ordinance regulating animals within Cherokee County, which is codified as Chapter 10; and

**WHEREAS**, the Board finds that it is in the public interest to strike the existing Chapter 10 of the Cherokee County Code of Ordinances and replace it with the language contained herein, for purposes of strengthening the regulations and enhancing enforcement opportunities in furtherance of a community that requires humane treatment of animals and protects citizens from the harms that can be caused by certain animals.

**NOW THEREFORE, BE IT ORDAINED** by the Cherokee County Board of Commissioners, and it is hereby enacted pursuant to the authority of same that Chapter 10 of the Cherokee County Code (hereinafter sometimes referenced as the “Animal Control Ordinance” is hereby stricken in its entirety and is replaced with the following:

## CHAPTER 10 - ANIMALS

### ARTICLE I. IN GENERAL

Secs. 10-1--10-25. **Reserved.**

### ARTICLE II. ANIMAL CONTROL GENERALLY

#### Sec. 10-26. 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:

*Abandon* means the act of placing an animal on public property or within a public building, unattended or uncared for, or on or within the private property of another without the express permission of the owner, custodian, or tenant of the private property. An animal shall also be considered abandoned when it has been unattended and without adequate food, water, ventilation or shelter, for a period in excess of 36 hours, regardless of where such animal may be found or kept.

*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 a protective covering for an animal that is of adequate size and provides adequate protection to maintain the animal in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four 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. To be adequate, some type of bedding that is quick drying, such as hay or pine straw, must be provided to maintain comfortable temperatures within the structure during times when the ambient, outside temperature is below freezing. In addition, the structure shall include a heavy plastic or rubber flap to cover the door and/or window openings during the months of November through March. From April through October, the structure shall either be shaded or moved out of direct sunlight. If the shelter is made of wood, it shall be raised at least two inches off the ground to prevent seepage or rotting. Examples of inadequate shelter include, but are not limited to, lean-tos, metal or plastic drums, boxes, abandoned vehicles, porches, decks, or material that does not 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. For dogs, adequate space means an enclosure with a minimum of 150 square feet per dog.

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

*Animal* means any living organism, except a plant, bacterium, or human, which can move voluntarily and has specialized sense organs, included domesticated animals and fowl.

*Animal Control Board* means the board constituted and appointed by the Board of Commissioners to perform the duties of the animal control board under this Chapter.

*Animal control facility* means and includes any vehicle, building, structure, pasture, paddock, pond, impoundment area or premises where any animal is kept or housed by Cherokee County for the purpose of impounding or harboring stray, homeless, abandoned, unwanted, neglected or abused animals.

*Animal control officer* means the County Marshal or his/her designees.

*Cruelty* means causing death or unjustifiable pain or suffering to an animal by an act, an omission, or neglect.

*Dangerous dog* means a classification made by an animal control officer for any dog that has without provocation inflicted severe injury on a human being or another domestic animal or, if such dog has previously been classified as a potentially dangerous dog, has aggressively bitten, attacked or endangered the safety of a human being or domestic animal without provocation. However, no dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime. The definition shall not be construed to include any dog that is part of a governmental organization or a trained guard dog in performance of its duties.

*Dogs' running at large* means any dog not under immediate control, not on a leash, not at heel, not beside a competent person, not in a vehicle driven or parked, or not confined within the property limits of his owner. Hunting and tracking dogs are deemed under the control of the owner when hunting with the landowner's permission. Working farm dogs are deemed under the control of the owner when acting in conjunction with farming operations and/or otherwise under the general command of the owner.

*Domestic animal* means an animal that, through long association with humans, has been adapted to human living conditions.

*Fighting dog* means any dog that is owned, possessed, kept, harbored, trained, or maintained for the purpose of fighting. Fighting dogs are illegal in Cherokee County.

*Guard or protection dog* means any dog trained for the purpose of protecting individuals from assault and/or preventing property loss or damage. A dog shall not be considered a guard or protection dog if it otherwise meets the criteria for being defined as a dangerous dog, potentially dangerous dog, or vicious dog.

*Impoundment* means the act of taking physical possession and control of an animal by an animal control officer or other officer empowered to act by law and transporting it to the animal control facility.

*Livestock* means and includes horses, cows, goats, pigs, or any other hooved animal used for pleasure or profit. Fowl and rabbits are expressly included within this definition.

*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, or other signs of health problems.

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

Without limiting the generality of the foregoing, any adult at whose residence a dangerous dog or potentially dangerous dog is kept or found shall be presumed to be an owner of such dog and shall have the burden of rebutting such presumption.

If an animal has more than one owner, any one of such owners may be prosecuted for violations whether or not any other owners are also prosecuted.

*Police officer* means any law enforcement officer empowered to make arrests or cause to be issued citations or summonses in unincorporated areas of this county

*Potentially dangerous dog* means a classification made by an animal control officer for any dog with a known propensity, tendency, or disposition to make unprovoked attacks, cause injuries, or otherwise threaten the safety of any human being or domestic animal. Potentially dangerous dog shall also mean any dog which, when unprovoked, inflicts a bite upon a human being or domestic animal or chases or approaches a human being or domestic animal on any public property in a vicious or terrorizing manner in an apparent attitude of an attack. A dog shall not be considered a potentially dangerous dog if the attack, injury, or threatening conduct by the dog was sustained by, or targeted at, 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.

*Proper enclosure* means an enclosure that meets all of the following criteria:

- (1) A structure which is suitable to prevent the entry of young children and to prevent the dog from escaping;
- (2) A structure with secure sides and a secure top attached to all sides;
- (3) A structure whose sides are so constructed at the bottom so as to prevent the dog's escape by digging under the sides. The sides must either be buried two feet into the ground or sunken into a concrete pad;
- (4) A structure which provides appropriate protection from the elements for the dog. The structure must contain adequate shelter inside it;
- (5) A structure which is inside a perimeter or area fence;
- (6) The gate to the structure shall be of the inward-opening type and shall be kept locked except when tending to the animal's needs such as cleaning the kennel or providing food and water.

*Provocation* means committing a willful trespass or other tort upon the premises occupied by the owner or possessor of the animal, or teasing, tormenting, or abusing the animal or committing or attempting to commit a crime against a person.

*Sanitary conditions* means an animal living space, shelter, or exercise area that is not contaminated by health hazards, irritants, pollutants, items, or conditions that endanger or pose a risk to an animal's health.

*Severe injury* means any injury which results in a broken bone, lacerations severe enough to require multiple sutures or to render cosmetic surgery necessary or appropriate, puncture wounds that intrude below the surface of the skin, or death.

*Vicious dog*, consistent with O.C.G.A. § 4-8-41(6), means any dog that inflicts a severe injury on a human being without provocation after the owner has notice that the dog has previously bitten or attacked or endangered the safety of a human being; or any dog that is owned, possessed, kept, harbored, trained, or maintained for the purpose of fighting. Such term shall not include a dog that inflicts any injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties. A dog shall not be a vicious dog if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the dog or had in the past been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

**Cross references:** Definitions generally, § 1-2.

**Sec. 10-27. Enforcement and Penalties for violation of Chapter.**

- (a) Any person violating this Chapter may be issued a citation and summons to appear before a court of competent jurisdiction, and the offending animal may be immediately impounded by the Marshal's Office pending disposition of the citation by the Court. Any person violating this Chapter, may be deemed guilty of violating a county ordinance, and may be punished by a fine not to exceed \$1,000.00 and by imprisonment in the common jail of the county not to exceed six months, or both fine and imprisonment, in addition to the more stringent penalties that are provided for under state law for violations of this Chapter.
- (b) Each act or omission in violation of this Chapter shall constitute a separate offense. Each day that such violation continues to exist shall constitute a separate offense.
- (c) In addition to any other penalties allowed by law, the Court, as part of any sentence, may do a combination of any of the following:
  - (1) Prohibit the offender from owning, possessing, or having on the offender's premises in Cherokee County any animal during the term of the sentence;
  - (2) Order that the animal be removed from the County;
  - (3) Order that the animal be surrendered to the County animal control facility;
  - (4) Order that the animal be humanely euthanized;
  - (5) Order restitution to the victim(s).

**Sec. 10-28. Adoption of Chapter by municipalities within county boundaries.**

In accordance with state law, Cherokee County may enter into agreements with the municipalities located within the territorial limits of Cherokee County to provide animal control services within the corporate limits of such municipality.

Pursuant to such agreement, any municipality in the County may adopt this Chapter. Any municipality adopting this Chapter must authorize enforcement by the Cherokee County Marshal's Office. Municipal ordinances must provide that the incorporated areas shall be subject to the fees charged by the Marshal's Office and that all fees charged by the Cherokee County Marshal's Office shall be retained by the County to defray the costs of the Marshal's Office related to animal control.

**Sec. 10-29. Restraint.**

- (a) It shall be unlawful for any owner, possessor, guardian, or custodian of any dog to fail to keep a dog under restraint or control as provided for in this Section.
- (b) A dog is considered not under restraint or control when it is running at large, whether wearing a collar and tag or not. Reasonable care and precautions shall be taken to prevent the dog from leaving the real property limits of its owner, guardian, possessor, or custodian, and to ensure that:
  - (1) It is securely and humanely enclosed within a house, building, fence, pen or other proper enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition; and that such enclosure is securely locked at any time the animal is left unattended; or

(2) It is securely and humanely restrained by an invisible containment system. If using an invisible containment system, a sign must be posted on the property indicating that the system is in place; or

(3) It is on a leash and under the control of a competent person, or it is off leash and obedient to and under voice command of a competent person who is in the immediate proximity of the dog any time it is not restrained as provided for in subsection (1) or (2) above while on the owner's property.

(4) It shall be unlawful for the owner, possessor, guardian or custodian of any animal to restrain or anchor an animal by means of a tether, chain, cable, rope or cord, unless the tether or other restraint is being held by a competent person. An exception shall be made for the limited purpose of allowing the animal's owner, possessor, guardian, or custodian to temporarily restrain the animal by such means to allow the animal's needs to be met, such as the time necessary to clean the animal's living quarters, feed, and water.

(c) In addition to the requirements in Section 10-29(b) (1), the following additional precautions shall be taken by the owners, possessors, guardians, or custodians of guard or protection dogs:

(1) Owners, possessors, guardians or custodians of any guard or protection dog must confine all such dogs within a perimeter fence sufficient to prevent the dog's escape, with all points of ingress and egress securely locked at all times.

(2) A "beware of dog" sign shall be conspicuously displayed on each exterior side of the enclosure for each fifty (50) feet of enclosure, with a minimum of two (2), as well as a sign on each ingress or egress point to the enclosure. Signs shall be a minimum of ten (10) inches high and fourteen (14) inches long.

(3) The owner, possessor, guardian, or custodian shall, prior to placing dogs on the property, have the dog(s) microchip registered, at his/her own expense, and provide the registration number to the Marshal's Office.

There shall be a fee for each guard or protection dog for the first year or any part thereof that the dog is in Cherokee County and a renewal fee for each dog every year thereafter as set forth in the schedule of fees and charges. The renewal fee shall be paid by January 30 of each year.

(4) The owner, possessor, guardian, or custodian shall report to the Marshal's Office within twenty-four (24) hours of any of the following:

(A) Escape of the dog;

(B) An attack on a human or animal by the dog;

(C) Transfer of ownership of the dog;

(D) Death of the dog;

(5) A guard or protection dog shall be deemed under control only when the dog is properly muzzled by a muzzle or device constructed so as to prevent the animal from biting, and the dogs prevent escape. The leash shall be no longer than six (6) feet in length.

(d) Dogs found running at-large or in violation of this Section 10-29 may be immediately impounded by officers of the Marshal's Office or any law enforcement officer.

Any animal that is impounded under this Section shall not be returned to its owner, possessor, guardian, or custodian in any event without strict proof of compliance with the provisions of this Section 10-29.

If the owner, possessor, guardian or custodian has not complied with this provisions of this Section 10-29 within twenty (20) days of the date the dog was impounded or within twenty (20) days of the date of disposition of the charges by the Court if the Marshal's Office has determined to hold the dog pending such disposition, said dog shall be euthanized in an expeditious and humane manner.

- (e) The Marshal's Office or any law enforcement officer may pursue the dog onto private property to effect capture of a dog believed to be in violation of this Section 10-29. Any law enforcement officer or animal control officer shall have the authority to enter onto private or public property for the purpose of ensuring compliance with the provisions of this Section 10-29.

### **Sec. 10-30. Abandoned animals.**

It shall be unlawful for anyone to knowingly abandon or to aid in the abandonment of any animal. An animal relinquished through written agreement with the Marshal's Office, licensed rescue group, licensed shelter, licensed veterinarians, individual, or other entity shall not be deemed abandoned but shall be considered relinquished to the respective entity.

### **Sec. 10-31. Transient dogs and cats.**

Any dog or cat shipped or transported through the County or entering the County only for the purpose of a temporary stay, when such stay shall not exceed fifteen (15) days, shall be exempt from collar, and tag sections of this Article. However, all other provisions of this Chapter are applicable to such transient animals.

### **Sec. 10-32. Cruelty to animals**

- (a) It shall be unlawful for any person to commit an act of cruelty towards any animal.
- (b) It shall be unlawful for any person to intentionally train, breed, possess, harbor, keep, and have custody or control of an animal for the purpose of animal fighting. It shall be unlawful to be a spectator at or bet on an animal fighting activity. The intentional fighting of dogs, dog and hog, and cocks is expressly prohibited.
- (c) Licensed veterinarians who perform surgery or euthanasia and animal control officers who euthanize animals under the direction of the Marshal's Office per the guidelines of the Georgia Veterinary Medical Association, Georgia Department of Agriculture, and this Article shall not be guilty of cruelty to animals.
- (d) A person shall not be guilty of cruelty when the person is protecting his life, the life of another person or animal that is being attacked by an animal that is attempting to severely harm or kill him/her or another person or animal, provided that the person being attacked is not committing a crime or is not aggravating or inciting the animal to attack, and has not aggravated, injured, abused, or assaulted the animal in the past.

### **Sec. 10-33. Public nuisance animal.**

- (a) A public nuisance animal shall mean and include any animal, excluding livestock maintained on properly zoned property, that:
  - (1) Damages the property of anyone other than the owner; or

- (2) Attacks a human or another animal without provocation; or
- (3) Makes any vocalizations for more than fifteen (15) minutes without interruption or more than thirty (30) minutes if the vocalization is intermittent.

These time limits do not apply if the vocalizations are given as a warning to the presence of an intruder.

Officers enforcing this subsection are not required to measure the vocalizations with the use of a sound level meter.

Upon notification of a complaint concerning such vocalizations, the owner of such animal shall be given a written warning indicating that such animal is creating a disturbance, so long as the complainant provides the officer with the address of the owner, and a physical description of the offending animal.

If the disturbance is not resolved within two (2) days or a subsequent complaint is made for such animal by a different individual, who resides at a different location from the first complainant, a court summons shall be issued in accordance with the requirements of this Chapter; or

- (4) Creates unsanitary conditions or offensive and objectionable odors in enclosures or surroundings and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept; or
  - (5) Is in heat and not confined within a secure enclosure to prevent unintentional breeding; or
  - (6) Chases vehicles, bicycles, or people.
- (b) Any such public nuisance animal may be impounded immediately by an animal control officer and the owner, possessor, guardian, or custodian may be charged for a violation of this Section. The animal may remain impounded pending disposition of the charges by the Court.

#### **Sec. 10-34. Adoption.**

(a) The Animal Shelter may offer for adoption any animal unredeemed or unclaimed by the owner after three (3) days or, if the animal is voluntarily surrendered to the Marshal's Office by the owner of the animal, the animal may be offered for adoption immediately. All persons adopting animals shall be over eighteen (18) years of age and shall provide adequate and humane care, feeding, shelter and protection from the weather and veterinary treatment 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.

The frequency with which animals may be adopted and placed in any household may be restricted in the discretion of the Marshal's Office.

(b) Any person adopting an animal from the Cherokee County Animal Shelter shall pay an adoption fee in an amount stated in the Cherokee County Animal Shelter schedule of fees, and charges may also include all or part of the costs of an examination and rabies inoculation and all or part of the costs associated with neutering or spaying dogs and cats.

(c) Any person adopting an intact animal shall cause to have the animal spayed or neutered (sterilized) within a period specified as follows, within thirty (30) days from the date of adoption for animals over the age of six (6) months or within the first six (6) months of age for sexually immature animals. Any adopted animal not sterilized within the time specified may be reclaimed by the Marshal's Office.

If an animal becomes pregnant after the time specified for the animal to be spayed, the owner may receive a citation for violating this Article.

#### **Sec. 10-35. Disposition of impounded animals.**

(a) Any animal, seized or impounded by an animal control officer, or any officer empowered to act by law shall be detained at the animal control facility. The Marshal's Office shall notify the owner of such animal, if known or can be reasonably ascertained, that the animal has been impounded. The owner of any animal impounded may, within three (3) days after notice or attempted notice, reclaim the animal by the payment of an impoundment fee, plus a boarding fee for each day the animal was impounded, and the cost of rabies vaccination if the animal has not been vaccinated within the prescribed time period, unless the Marshal's Office has determined that the animal should be held pending disposition of charges by the Court. These fees, as applicable, shall also apply to biting animals held for rabies observation at the animal control facility.

(b) If any animal seized or impounded by the Marshal's Office evidences advanced symptoms of contagious, infectious or fatal diseases, is seriously ill or severely injured, the Marshal Office 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 Marshal's Office may, upon approval of the Marshal, proceed with euthanization and prepare a complete report on the reason for euthanization.

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.

(c) Upon approval of the Marshal and at the request and expense of the owner, impoundment may be at a veterinary or licensed kennel of the owner's choosing, provided that the owner can demonstrate to the Marshal's Office that the owner cannot cause the animal to be released from the boarding facility without the approval of the Marshal's Office.

#### **Sec. 10-36. Humane disposition.**

(a) If an animal is not claimed by the owner within three (3) days of the mailing of notice to the owner, or an animal of unknown ownership is not adopted within three (3) days of impoundment, then it shall be the duty of the Director of the Animal Shelter to euthanize the animal in as humane and painless a manner as possible.

An animal deemed to be highly desirable for adoption may be kept beyond the three-day limitation, provided that the animal does not evidence any apparent signs of illness, injury, contagious or infectious diseases and that space is available to house the animal, at the discretion of the Director of the Animal Shelter. Animals may be released to approved rescue groups or to approved foster homes authorized to accept animals if not claimed or adopted as provided. 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.

(b) Any animal which is suffering excessively or any animal which represents a real danger to persons or other animals, without regard to the period of confinement as provided for in subsection (a) of this Section, shall be euthanized under the direction of the Director of the Animal Shelter in as humane a manner as possible.

(c) When, in the opinion of the Director of the Animal Shelter, a diseased or injured animal, taken into custody, is in need of immediate treatment, so as to lessen the animal's suffering or to prevent the spread of a communicable disease to other animals, he shall immediately obtain the services of or place the animal with a licensed veterinarian for the purpose of administering necessary treatment.

### **Sec. 10-37. Biting animals and quarantine.**

(a) In accordance with rules and regulations promulgated by the Cherokee County Board of Health, all dogs and cats known to have bitten or scratched a person shall be confined to the animal control facility, veterinarian's hospital, or at a boarding facility approved by the Marshal or under home supervision with the approval of the Marshal for a period of ten (10) days. All expenses incurred for boarding the animal during this period of time shall be paid by the owner or possessor of the biting animal.

(b) In accordance with the rules and regulations promulgated by the state department of public health, all pets or wild animals, other than a dog or cat, known to have bitten a person, or any animal which cannot be held for a rabies observation period, shall be euthanized and a lab specimen of brain tissue sent to the state department of epidemiology for testing and control of rabies.

(c) Unvaccinated or unwanted animals bitten or scratched by a known potentially rabid animal shall be euthanized immediately.

If the owner of the unvaccinated animal is unwilling to have the animal euthanized, upon approval of the Marshal, the exposed animal shall be placed in quarantine for six months and vaccinated one month prior to being released.

The owner or possessor is responsible for quarantining the exposed unvaccinated animal in strict compliance with the policies and procedures of the animal control unit and county board of health and for all costs associated with same.

(d) Dogs and cats that are bitten or scratched by a known or potentially rabid animal that are current on their vaccinations shall be re-vaccinated immediately, confined, and observed for 45 days.

Confinement must be coordinated with and approved by the Marshal.

(e) For purposes of subsections (c) and (d), any animal bitten or scratched by a bat or wild carnivorous mammal including, but not limited to, bobcats, raccoons, foxes, skunks, or coyotes, which are not available for testing, should be considered exposed to rabies.

(f) Failure to comply with the quarantine and/or confinement requirements of this Section, the Marshal's Office, or the county board of health constitutes a violation of this Article and may result in the impoundment of the animal. In that event, the owner or possessor remains responsible for all veterinary, boarding, and other expenses incurred on behalf of the quarantined animal.

**Sec. 10-38. Livestock.**

(a) All livestock shall be properly housed with adequate food and adequate water and confined within a fenced enclosure. The fenced enclosure shall be maintained in such a manner as to keep any average livestock animal from escaping the enclosed compound and causing damage, accidents, or injury to any person or property. Owners of such livestock shall be liable for any damage, accidents, or injuries. Those who provide boarding/pasturing space and/or services for hire shall have the responsibility for enclosure maintenance as described in this paragraph.

(b) No person shall tie, stake or fasten any livestock within any street, highway, road, alley, sidewalk, right-of-way, or other public place within the county or in such manner that the animal has access to any portion of any street, highway, road, alley, sidewalk, right-of-way, or other public place.

(c) Owners or possessors of livestock impounded for violation of this Article or any state and/or federal laws, will be charged in accordance with actual costs of impoundment, plus impounding and boarding fees.

(d) Impounded livestock shall be held for a period of 21 days. If such impounded animals are not claimed by the owner during that period of time, the animals may be given to persons willing to accept them, in the discretion of the Marshal's Office.

**Sec. 10-39. Wildlife.**

All complaints and matters concerning wild animals not of a domestic nature and complaints involving game animals or 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 and as provided by state and federal rules and regulations.

**Sec. 10-40. Dead animals.**

Officers of the Marshal's Office are authorized to remove dead animals from public property.

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.

**Sec. 10-41. Vaccines used and time of vaccination.**

(a) All dogs and cats owned, possessed, harbored, or residing within the limits of the County shall be inoculated for the prevention of rabies by a veterinarian licensed to practice veterinary medicine in the state, using only those vaccines prescribed and/or approved by the state department of human resources.

(b) It shall be unlawful for any person to own, possess, or maintain any dog or cat that does not have a current rabies inoculation. All dogs and cats shall be vaccinated against rabies before and no later than four months of age. Any dog or cat found not vaccinated by four months of age must have the consent of a licensed veterinarian stating the reasons.

(c) Any person keeping, owning, harboring or having any type of animal in his/her possession, excluding dogs and cats, is not required to have the animal vaccinated against rabies but does so at his own risk and assumes all liabilities for adverse actions of the animal.

**Sec. 10-42. Certificate of vaccination.**

(a) Upon administering anti-rabies vaccines, a certificate of vaccination must be issued and signed by the veterinarian administering the vaccine, to provide evidence of vaccination.

(b) Any veterinarian is authorized and required in connection with his practice to issue certificates of vaccination, provided he furnishes one copy to the animal owner, one copy to the Marshal's Office upon request by the Marshal's Office, and one copy is retained by the veterinarian.

**Sec. 10-43. Animal license.**

The owner, possessor, or harbinger of each dog or cat residing in the unincorporated area of the County must obtain and possess a current rabies vaccination certificate from a licensed veterinarian showing that the animal has been vaccinated against rabies.

Upon vaccination, county veterinarians shall be responsible for issuing a metal tag with a vaccination and identification number. Tags must be renewed within 30 days of the expiration date of the vaccination.

**Sec. 10-44. Collar and rabies vaccination tag.**

(a) It shall be the duty of each dog and cat owner or possessor to provide a collar and tag for each dog and cat, and the tag and collar shall be on the animal at all times when the animal is not under the immediate control of the owner or possessor of the animal. Animals participating in organized or controlled competitions are exempt from this Section only for the duration of the competition.

(b) It shall be unlawful for any person to attach a vaccination tag to the collar of any animal for which it was not issued, or to remove such tags from any animal without the consent of its owner or possessor.

**Sec. 10-45. Vaccination of dogs and cats.**

No person who is not licensed to practice veterinary medicine in the state shall vaccinate dogs and cats against rabies.

**Sec. 10-46. Citations; Summons; Subpoenas.**

(a) The animal control officer or County law enforcement officer, at his/her discretion, may choose not to impound the animal or livestock found in violation of any Section of this chapter, but may return the animal to its owner or possessor and issue or cause to be issued a summons directing the owner or possessor of the animal or livestock to appear before a court of competent jurisdiction on a certain day to stand trial for the violation(s) of this Chapter.

(b) If a violation(s) of this Chapter has not been personally witnessed by the animal control officer or a County law enforcement officer, a subpoena may be issued to any witness or the person(s) complaining to appear on the day and time set for trial to testify on behalf of the County.

**Sec. 10-47. Liability of the County, Marshal's Office, officers, and employees.**

The County, the Marshal's Office, and its officers and employees shall not be held responsible or liable for any accidents, diseases, injuries, or deaths to any animal while being impounded or boarded at the animal control facility or any facility designated by the Marshal's Office to house such animal.

**Sec. 10-48. Interference with animal control officers.**

It shall be unlawful to interfere with any animal control officer or other officer empowered to act by law, or to take or attempt to take any animal from the county vehicle used to transport the animal, or to take or attempt to take any animal from the animal control facility, or by any other method which would block or hinder any officer referred to in this Section from performing his/her duties.

**Sec. 10-49. Animal neglect.**

- (a) Any animal or livestock owner or possessor who fails to provide adequate drink, adequate food, adequate space, adequate shelter, sanitary conditions, necessary veterinary care, and/or who causes unnecessary suffering of any animal or livestock shall be deemed in violation of this Section.
- (b) It shall be unlawful to leave animals unattended in a parked vehicle without proper ventilation to prevent the animal from suffering physical distress from heat exhaustion.
- (c) Any animal control officer or other officer empowered to act by law may impound any animal found to be neglected, as defined by this Section.

**Sec. 10-50. Duty of animal owners to be responsible owners.**

It shall be the duty of every owner or custodian of any animal to exercise reasonable care and take all necessary steps and precautions to protect other people, property, and animals from injuries or damage which might result from their animal's behavior. If the owner or custodian of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure compliance with all provisions of this Chapter.

**Sec. 10-51. Hoarders.**

It shall be unlawful for any person to collect animals and fail to provide them with humane/adequate care, collect dead animals that are not properly disposed of as required by this Article, or 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.

**Sec. 10-52. Right of entry.**

A law enforcement officer may use any force necessary to remove any animal locked in a closed vehicle when the ambient temperature is 80 degrees Fahrenheit or above outside the vehicle. If the vehicle is damaged during such removal, the law enforcement officer shall not be liable for any damage to the vehicle.

**Sec. 10-53. Animals transported in vehicles.**

No animal shall be transported on a public road in an open vehicle including an open top vehicle or open truck bed, unless the animal is humanely secured so as to prevent the animal from escaping out of the vehicle, getting tangled, or having the ability to extend over the edge of the vehicle that could result in an injury or strangulation of the animal while the vehicle is in motion. No animal shall be transported in the trunk of a vehicle or under a pick up truck's tonneau cover.

**Sec. 10-54. Training guard or protection dogs.**

It is unlawful to train a guard or protection dog, unless the trainer holds a state kennel license, a county business license, and maintains at all times either a policy of insurance or a surety bond in a minimum amount of \$1,000,000.00 to cover claims for any personal injuries inflicted by the dog or dogs being trained, which policy or surety bond shall be issued by an insurer or surety, as the case may be, authorized to transact business in this state. It is unlawful to train a guard or protection dog on public property, including but not limited to, public parks.

**Sec. 10-55. Limitation on ownership.**

(a) Any person who has been convicted of cruelty, neglect, abandonment or hoarding of an animal as provided in this Chapter or has been required to or voluntarily relinquished ownership of such animal, may not own, possess, or have on his premises in Cherokee County any animal for one year from the date of conviction. A nolo contendere plea is considered a conviction for the purpose of this Section. Nothing in this Section shall prohibit the court from imposing a greater length of time.

(b) Any person who has been convicted of failure to keep an animal under restraint while on the owner's property as provided in this Chapter and has been required to provide additional confinement requirements and has not complied with the court's order, may not be allowed to own a pet in their Cherokee County household for one year from the date of conviction.

**Sec. 10-56. Backyard breeders.**

It is unlawful for any person who does not hold a license from the Georgia Department of Agriculture to breed an animal if they are required by the Georgia Department of Agriculture to be licensed.

### ARTICLE III. DANGEROUS DOG CONTROL\*

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\*State law references: Dangerous Dog Control Law, O.C.G.A. § 4-8-20, *et seq.*

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#### **Sec. 10-71. Title and purpose.**

The purpose of this Article shall be to implement the provisions of O.C.G.A. § 4-8-20, *et seq.* (the “Act”), relating to dangerous dog control, and in some instances, to strengthen the requirements of the Act in furtherance of a community that is safe and secure from the harms of dangerous and potentially dangerous dogs. Nothing contained in this Article shall be deemed to amend or supersede any other ordinances relating to animal control. Violations of this Article shall be punishable as provided in the Act.

#### **Sec. 10-72. Exceptions.**

No dog shall be classified as a dangerous dog or potentially dangerous dog as a result of an injury upon a human being or other animal inflicted at a time when the dog was being used by a law enforcement officer to carry out the law enforcement officer’s official duties. No dog shall be considered a dangerous dog or potentially dangerous dog as a result of an injury inflicted by the dog upon a person who, at the time of injury, was committing a willful trespass or other tort; who was tormenting, abusing or assaulting the dog or had done so in the past; or who was attempting to commit a crime. If the person injured is a child of tender years, the age, understanding, and capacity of such child shall be considered to determine whether such child was capable of committing a willful trespass or other tort or a crime.

#### **Sec. 10-73. Classification as dangerous dog or potentially dangerous dog; notice to owner.**

(a) When the animal control officer classifies any dog as a dangerous dog or a potentially dangerous dog under this Article, the animal control officer shall notify the dog’s owner of such classification. The notice to the owner shall meet the following requirements:

- (1) The notice shall be in writing and mailed by certified mail or statutory overnight delivery to the owner’s last known address. If a dog has more than one owner, notice to one owner shall be sufficient for purposes of this Article.

If there is a question as to the dog’s ownership, notice shall be deemed sufficient if sent to the last person who received a citation for the dog.

- (2) The notice shall include a summary of the animal control officer’s findings that form the basis for the dog’s classification as a dangerous or a potentially dangerous dog.
- (3) The notice shall be dated and shall state that the owner has a right to request a hearing on the classification within 15 days from the date of the notice.
- (4) The notice shall state that the animal control board shall conduct the hearing.
- (5) The notice shall state that if the owner does not request such a hearing within 15 days from the date of the notice, the classification of the dog as a dangerous dog or potentially dangerous dog shall be final and conclusive for all purposes.

(6) The notice shall include a form to request a hearing before the animal control board and shall provide specific instructions on mailing or delivering such a request.

(b) When the animal control board receives a request for a hearing from an owner, it shall schedule such a hearing within thirty (30) days of receipt of the request. The animal control board shall notify the owner in writing by certified mail or statutory overnight delivery of the date, time, and place of the hearing; such notice shall be made to the owner at least ten days prior to the date of the hearing. At the hearing, the owner shall be given the opportunity to testify and to present evidence.

The animal control board shall also receive such other evidence and hear such other testimony as it may find reasonably necessary to make a determination to sustain, modify, or overrule the classification of the dog by the animal control officer. Within ten (10) days of the date of the hearing, the animal control board shall notify the owner in writing by certified mail or statutory overnight delivery of its determination on the matter. If the determination is made that the dog is a dangerous dog or potentially dangerous dog, the notice shall specify the date upon which that determination is effective.

Unless the board determines that a later date is appropriate in a particular case, the effective date of the determination shall be the date of the animal control officer's classification.

(c) If the identity of the owner of a dog which the animal control officer has classified as a dangerous dog or potentially dangerous dog cannot be determined, the dog shall be immediately confiscated.

If the dog's owner claims such a dog, the dog shall be released to its owner, together with a copy of the notice specified in subsection (a) of this Section, upon proof of strict compliance with all provisions of this Chapter. If the dog remains unclaimed for five (5) days, the dog shall be euthanized in an expeditious and humane manner. Under no circumstances shall such dog be placed for adoption. In addition, all fees as described in this Article must be paid before the dog will be released.

#### **Sec. 10-74. Requirements for possession of dangerous or potentially dangerous dog.**

(a) Any owner, possessor, guardian, or custodian of a dangerous or potentially dangerous dog shall be jointly and severally responsible with all other owners, possessors, guardians, or custodians of such dog for compliance with the requirements of this Chapter.

(b) No person shall own, possess, keep, harbor, or have custody or control of a dangerous dog or potentially dangerous dog except in compliance with all of the following requirements:

(1) In addition to the requirements for a proper enclosure set forth in Section 10-29(b)(1), owners, possessors, guardians or custodians who maintain their dangerous or potentially dangerous dog out-of-doors shall fence a portion of their property with a second perimeter or area fence. Within this perimeter or area fence, the dangerous or potentially dangerous dog must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides and a secure top attached to all sides. The sides must either be buried two feet into the ground or sunken into a concrete pad. The gate to the kennel shall be inward-opening and shall be kept locked, except when tending to the animal's needs such as cleaning the kennel or providing food and water.

- (2) It shall be unlawful for the owner, possessor, guardian or custodian of a dangerous or potentially dangerous dog to be outside of its proper enclosure as provided for in Section 10-29(b)(1) and Section 10-74(b)(1), unless the dog is properly muzzled by a muzzle or device constructed so as to prevent the animal from biting, and the dog is attended by the owner, possessor, guardian or custodian, and the dog is restrained by a secure collar and leash of sufficient strength to prevent escape.

The leash shall be no longer than six (6) feet in length and the animal must be kept at least fifteen (15) feet within the perimeter boundaries of the property unless the perimeter boundary is securely fenced.

- (3) The premises where a dangerous dog or potentially dangerous dog is kept shall be posted with a clearly visible sign warning that there is a dog on the premises that presents a danger to human beings. Such signs shall include a symbol sufficient to convey without words the message that there is a dog on the premises which presents a danger to human beings. The signs shall be conspicuously displayed on each side of the enclosure for each fifty (50) feet of enclosure, with a minimum of two (2) signs, as well as a sign on each ingress and egress point to the enclosure. The signs shall be a minimum of ten (10) inches high and fourteen (14) inches long.
- (4) The owner of a dangerous dog or potentially dangerous dog shall maintain at all times either a policy of insurance or a surety bond in a minimum amount of \$1,000,000.00 to cover claims for any personal injuries inflicted by the dog, which policy or surety bond shall be issued by an insurer or surety, as the case may be, authorized to transact business in this state.
- (5) The animal control officer or his designee shall have the right to inspect randomly and without notice a dangerous dog or potentially dangerous dog which is required to be confined pursuant to this Section.
- (6) The owner of a dangerous or potentially dangerous dog shall, prior to placing dogs on property, have the dog micro-chip registered, at his/her own expense, and provide the registration number to the Marshal's Office. The owner shall keep the registration information updated.
- (7) Except when being transported to a licensed veterinary facility, dangerous and potentially dangerous dogs shall not be allowed off the property of the owner.
- (8) Should transport to veterinary care be needed, the animal shall be securely and humanely confined within a vehicle. Movement of the animal from the residence of the owner to and from the transporting vehicle and to and from the veterinary facility shall be conducted with the animal securely leashed by a leash no longer than six (6) feet in length and muzzled by a muzzle or device constructed so as to prevent the animal from biting.

#### **Sec. 10-75. Registration of dangerous dogs and potentially dangerous dogs.**

- (a) No dangerous dog or potentially dangerous dog shall be permitted to remain within the County, unless it is registered in accordance with this Section. In addition to the annual registration fees provided otherwise in this Chapter, the owner of a dangerous dog or potentially dangerous dog shall pay an annual registration fee and shall register such owner's dog as a dangerous dog or potentially dangerous dog according to the classification and determination previously made under this Article.

No dangerous dog or potentially dangerous dog shall be registered unless the owner can provide sufficient evidence that all of the provisions of Section 10-74 have been and are being met.

(b) The registration provided by this Section shall be nontransferable. The registration shall be renewed annually or upon the earlier transfer of ownership or possession of the dog or a change in the location of the dog's primary habitat.

(c) The owner of a dangerous dog or potentially dangerous dog who is a new resident of the State of Georgia shall register the dog as required in this Article within thirty (30) days after becoming a resident.

The owner of a dangerous dog or potentially dangerous dog who moves from one jurisdiction to another within the State of Georgia shall register the dangerous dog or potentially dangerous dog in the new jurisdiction within ten (10) days after becoming a resident.

(d) Issuance of a certificate of registration or the renewal of a certificate of registration by the County does not warrant or guarantee that the requirements of this Article are maintained by the owner of a dangerous dog or potentially dangerous 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.

#### **Sec. 10-76. Transfer of ownership or possession.**

Upon the transfer of ownership or possession of any dangerous dog or potentially dangerous dog, the transferor shall provide the dog control officer with the name, address, and telephone numbers of the new owner of the dog and of the effective date of the transfer.

Any transferee of a dangerous dog or potentially dangerous dog shall be presumed to have notice of the dog's classification as such.

#### **Sec. 10-77. Notice to dog control officer.**

The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer in person or by telephone within 24 hours of the occurrence of any one of the following events:

- (a) The dog has escaped or has otherwise ceased to be in the custody of the owner for any reason, unless the owner knows such dog to be physically secured and restrained or confined in the custody of another competent adult.
- (b) Such dog has attacked a human being or other animal.
- (c) Such dog has been sold, given, or otherwise transferred to the ownership or possession of another person.
- (d) The dog has died.
- (e) The dog is leaving Cherokee County.

#### **Sec. 10-78. Confiscation and disposition of dogs.**

(a) If an animal control officer or police officer has probable cause to believe that a dangerous dog or potentially dangerous dog is being harbored in violation of this Article, such officer or agent may do one of the following:

- (1) Order the violation immediately corrected and cite the owner of the dog to appear in court for the violation; or

(2) If the violation cannot be immediately corrected and the dog is posing a threat to human beings or other domestic animals, the dog may be seized and impounded, in which case the owner will be cited to appear in court for the violation. Upon approval of the Marshal and at the owner's request and expense, such impoundment may be at a veterinarian or licensed kennel of the owner's choosing.

(b) Absent an order from the Court to the contrary, any dog which has been confiscated under this Section shall be returned to its owner only following disposition by the Court on the citation and only then upon the owner's proof of strict compliance with the provisions of this Article and upon the payment of actual boarding expenses, plus reasonable confiscation costs, which shall be \$100.00 upon the first confiscation of any dog, \$200.00 upon the second, and \$400.00 upon the third or subsequent confiscation.

If the owner has not complied with the provisions of this Article and paid such confiscation costs within twenty (20) days following disposition by the Court, the dog shall be euthanized in an expeditious and humane manner.

**Sec. 10-79. Report to district attorney and solicitor.**

The animal control officer shall report to the district attorney the conduct of any owner which the animal control officer believes may constitute a felony under the Act.

The animal control officer shall report to the solicitor the conduct of any owner that the animal control officer reasonably believes may constitute a misdemeanor under the Act.

**Sec. 10-80. Penalties.**

In addition to any other penalty that is available under this Chapter, the owner, possessor, guardian or custodian of a dangerous or potentially dangerous dog who violates this Article shall be subject, at a minimum, to the penalties as set forth in O.C.G.A. § 4-8-28 of the Act, and as such may be amended from time to time.

**ARTICLE IV. VICIOUS DOGS**

**Sec. 10-81. Adoption of State Law.**

O.C.G.A. § 4-8-40, *et seq.*, and as it may be amended from time to time, which is also known as "Mercedes' Law," is hereby adopted as if fully set forth herein for enforcement and regulation by Cherokee County of vicious dogs in Cherokee County.

**SEVERABILITY**

Should any Section, subsection, clause, sentence, phrase, or part of this Ordinance for any reason be held, deemed, or construed to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions thereof and the Board of Commissioners hereby declares that it would have passed this ordinance, each Section, subsection, clause, sentence, phrase, and part thereof irrespective to the fact that one or more Sections, subsections, clauses, sentences, phrases, or parts thereof, be declared unconstitutional or invalid.

**EFFECTIVE DATE**

This Ordinance shall become effective immediately upon adoption.

**SO ORDAINED** this 4th day of September, 2007.