

**CHAPTER 30: ANIMAL CONTROL ORDINANCE**

**BE IT ORDAINED** by the Board of Commissioners, Newton County, Georgia, and by the authority of the same, that Chapter 30 of Division II of the Code of Newton County Georgia, 2001, entitled Animal Control Ordinance is hereby deleted in its entirety and the following Ordinance is adopted in lieu thereof as follows:

**Section 30-001      Animal Control Ordinance****I.      Administration and Definitions.**

- A. The responsibility for the control of animals within the county shall rest with the Newton County Board of Commissioners.
- B. The responsibility for the control of rabies and other zoonos shall rest with the Newton County Board of Commissioners and the Newton County Board of Health.
- C. For the purpose of this ordinance, the following words and phrases shall have the meanings herein ascribed to them, unless clearly indicated to the contrary by the context.
  - (1) **Adequate Food.** The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.
  - (2) **Adequate Shelter.** Any animal restrained outdoors shall be provided with access to adequate shelter to remain dry during rain or snow and protect them from wind, and excessive heat or cold. Shelter size shall be large enough to allow the animal to stand up fully without touching the walls or ceiling and of sufficient width and depth to allow the animal to freely turn around. Sufficient and clean bedding material or other reasonable means of protection from the weather elements shall be provided. When sunlight is likely to cause overheating or suffering, sufficient shade must be provided to allow protection from the direct effects of the sun. The animal's containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any waste or debris, and a suitable method of draining shall be provided to eliminate excess water or moisture.

- (3) **Adequate Water.** A constant access to supply of clean, fresh water provided in a sanitary manner.
- (4) **Aggressive Animal.** Any animal which constitutes a physical threat to human beings or other animals by virtue of one or more attacks of such severity to cause property or physical damage. An animal is also considered to be aggressive if it makes unprovoked attacks on animals or on physical property.
- (5) **Animal.** The term “animal” is defined as any live vertebrate creature, domestic or wild.
- (6) **Animal Control.** The term “Animal Control” shall not be understood to be limited in practice, or interpretation, to the extermination of unwanted or deserted animals in Newton County. In practice it imposes an obligation upon the administrators to also develop and implement an aggressive program promoting responsible pet ownership within Newton County. The program shall include, but not be limited to:
  - (a) The development of an educational program on the need for responsible treatment, ownership, and the need for spaying and neutering of dogs and cats to prevent undesirable and unwanted litters;
  - (b) An active, concerted, and responsible adoption program in conjunction with the Newton Humane Society, which might also include an adoption contract between the parties. All revenues collected by the Animal Control Center will be credited to their account by the county to help defray the implementation of these programs. The additional income shall not reduce this department’s annual budget. Newton County pet owners should be advised that the Animal Control Center was never intended to be a dumping ground and extermination center, to serve irresponsible pet owners at the expense of all taxpayers in the county. The current and increasing trend of the extermination of thousands of pets every year is unacceptable.
- (7) **Animal Control Attendant.** An individual employed either full or part-time by the Department of Animal Control whose duty is to provide humane care for the animals housed in the animal control center.
- (8) **Animal Control Center.** A structure or physical plant, which is constructed or renovated specifically to be the center of the county’s animal control activities. The center will contain facilities for housing

animals in a humane manner, administrative areas for animal control personnel, a clinic and euthanasia room, a cold storage area for animal cadavers, an adoption area, facilities for humane education programs, and other facilities as determined by the Director.

- (9) **Animal Control Officer (ACO).** An individual employed either full or part-time by the Department of Animal Control whose duty is to enforce the county's animal code. The ACO should have the authority to issue citations, be familiar with local and state animal laws, and be sensitive to the needs of animals.
  - (a) **Senior Animal Control Officer.** A full-time employee of the Department of Animal Control whose duty is to supervise and evaluate animal control officers assigned to field duty in addition to normal animal control officer duties.
- (10) **Animal Welfare Agency.** Independent humane agencies such as SPCA's, Animal Welfare Leagues, Humane Societies, etc. The majority of these agencies are dependent on public contributions for sustaining their programs. Many, especially in large cities, operate animal shelters and, often, contract with the local governments to conduct animal control activities and/or house animals. The Humane Society of Newton County is a state approved, incorporated animal welfare agency whose goals include assisting the department of animal control on a voluntary basis.
- (11) **Cat.** The word "cat" shall mean a domestic cat, of either sex, vaccinated or not vaccinated against rabies, registered or not registered in Newton County, Georgia.
- (12) **Director.** The "director" is defined as a full-time animal control officer of the Department of Animal Control whose duty is to administer and manage the county's animal control program. He/she will be responsible to the Chairman, Newton County Board of Commissioners.
- (13) **Dog.** The word "dog" shall mean a domestic dog, of either sex, vaccinated or not vaccinated against rabies, registered or not registered in Newton County, Georgia.
- (14) **Neutered.** The surgical sterilization of a female animal (ovariohysterectomy or spay) or male animal (architectural or castration).
- (15) **Owner.** Any person having a right of property in an animal or any person whom permits an animal to remain on his or her premises.

- (16) **Person.** Any individual, firm, corporation, partnership, municipality, county, society, or association.
- (17) **Rabies Certificate.** A certificate of vaccination on a form furnished or approved by the Georgia Department of Human Resources.
- (18) **Running at Large.** The term "to run at large" or "running at large" means the going upon public or private property by an animal without the owner or person in charge thereof having control over such animal, and includes any animal whatsoever which may be staked, tied or hobbled in any manner as to allow such animal to go or get upon the public streets or sidewalks.
- (19) **Tethered.** An animal attached to a stationary object by a chain, cable or similar device commonly used for the size and type of animal involved. An animal is not considered tethered when the animal is attached to a stationary object as long as the animal is attended at all times by its owner or custodian and is not a public nuisance.
- (20) **Under Control.** Any animal controlled by leash when off the property of the owner, or within the property limits of its owner (or another with the permission of the person in control of the property) and confined by fence or other enclosure or restraint (electronic or physical), or accompanied by its owner.
- (21) **Vaccinate or Inoculate.** The words "vaccinate" and "inoculate" shall mean the injection of a specified dose of antirabic vaccine by a veterinarian or properly supervised animal health technician into the proper site of an animal.
- (22) **Vaccination Tag.** A tag furnished or approved by the Georgia Department of Human Resources and the Newton County Department of Animal Control. This tag will certify the year, county, and vaccination number. The tag shall be worn at all times by the vaccinated animal.
- (23) **Vaccine.** The word "vaccine" shall mean an injectable material containing killed or attenuated rabies virus, licensed by the United States Department of Agriculture, Veterinary Biologies Division and approved by the Georgia Department of Human Resources. Vaccine used for the purpose of immunizing animals against rabies shall be stored at the temperature prescribed on the package label.
- (24) **Veterinarian.** Any person duly licensed to practice veterinary medicine in the State of Georgia.

- (25) **Veterinary Hospital or Clinic.** A place where medical and surgical treatment is administered to animals by or under the supervision of a veterinarian.

## **II. Enforcement and Violations.**

- A. The Director, the animal control supervisor and officers, and other authorized employees of the county shall have all of the powers and authority of police officers to the extent only and no further of enforcing this animal code of law and other laws of the county relating to animals and fowl.
- B. All duly appointed and qualified law enforcement officers and animal control officers and other designated persons are authorized to issue written notices to persons violating this animal code of law or any other laws governing the regulation and/or disposition of animals, which notices shall, among other things describe the violation complained of. Any person violating this code, obstructing qualified animal control personnel, and/or their equipment, or any other laws governing the regulation of animals within Newton County may be issued a citation and summons to appear before a court of competent jurisdiction, and the offending animal may be immediately impounded pending disposition of the citation by the Court.
- C. Except as otherwise provided herein, any person found guilty of violating this Ordinance shall be subject to the following penalties:
- (1) Upon a first violation and conviction, the court shall impose a fine of not less than one-hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000) and/or sixty (60) days imprisonment, in addition to any other penalty or punishment imposed by the court. Imprisonment and/or fine may be substituted with mandatory spay/neuter of the animal by a licensed veterinarian at the expense of the owner, except in circumstances where state law provides for harsher penalties.
  - (2) Upon a second violation and conviction within a twenty-four (24) month period of time, as measured from the date of issuance of previous court summons for which convictions were obtained, the court shall impose a fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000) and/or sixty (60) days imprisonment, in addition to any other penalty or punishment imposed by the court.
  - (3) Upon a third and subsequent violation and conviction within a twenty-four (24) month period of time, as measured from the date of issuance of previous court summonses for which convictions were obtained, the court shall impose a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000) and/or sixty (60) days

imprisonment in addition to any other penalty or punishment imposed by the court.

- (4) Notwithstanding anything to the contrary herein, upon violation and conviction for failure to comply with the microchip requirement of Section VI.D., the court shall impose a fine of one thousand dollars (\$1,000) and/or sixty (60) days imprisonment in addition to any other penalty or punishment imposed by the court.

D. Each act or omission in violation of this Ordinance shall constitute a separate offense. Each day that such violation continues to exist shall constitute a separate offense.

E. 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 Newton 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 destroyed;
- (5) Order restitution to any victim(s).

**III. Humane Treatment of Animals.** No person, corporation or other entity having an animal in its possession and/or control, shall fail to provide said animal adequate food, water, or shelter and adequate protection from the elements. Veterinary care, when needed, to prevent suffering to said animal, shall be provided and, further, said animal, shall be treated with humane care at all times.

A. No person shall beat, ill treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit combat between animals or fowl.

B. No person or corporate entity having an animal in its possession and/or control shall abandon said animal on public or private property. Any person in violation of this section shall receive a fine of not less than five hundred dollars (\$500.00) and not to exceed one thousand dollars (\$1,000) and/or confinement for sixty (60) days.

C. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal. It shall

not be unlawful for a person to expose on his or her property common rat and insect poisons.

- D. No person shall use steel-jawed leghold traps for the trapping of animals without any required written permit obtained from the appropriate state or federal government agency.
- E. As a condition of entering Newton County, all who enter shall be deemed to have consented to such reasonable means or force necessary to cause removal of such animals left unattended in a closed vehicle. A vehicle is considered closed regardless of whether vehicle windows are open. No action at law or equity or claim for or damages shall lie against Newton County or its officers in connection with lawful enforcement of this section.
- F. No animal in the custody of the Newton County Animal Control Center shall be sold, donated, released, or received for any type of research or experiments. Any employee of the county so involved in addition to penalties in Section II shall also be subject to termination.
- G. A leash must restrain any animal that is kept in the back of an open truck or a convertible car. Such a leash must be of the size and length to restrict the animal within the confines of the car or bed of the truck and to prohibit the animal from jumping out over the side or back of such vehicles.
- H. No person shall commit the offense of cruelty to animals by causing death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect. The offense of cruelty to animals is also punishable under state law (O.C.G.A. § 16-12-4).
- I. Any person, corporation or other legal entity violating any of the provisions set forth in Section III shall be subject to fines and/or penalties as stated in Section II.
- J. Any animal treated in violation of the provisions set forth in Section III may be impounded immediately and examined by a veterinarian as soon as possible.

#### **IV. Rabies Control.**

- A. **Rabies Vaccination.** All dogs or cats in Newton County over three (3) months of age will be inoculated annually for rabies with an approved vaccine. All dogs and cats which are brought into the county and which are more than three (3) months of age and which have not been inoculated shall be inoculated within thirty (30) days after their arrival in the county. Any person owning, keeping, harboring, or maintaining a dog or cat in the county who fails or refuses to comply with the vaccination requirements herein set

out shall be deemed guilty of an offense. A certificate of a veterinarian certifying that the vaccine was administered as required by this code, bearing the date and type of vaccine and the identification of the dog or cat by breed, color, and sex and the vaccination tag number and the name and address of the owner, shall be evidence of such vaccination.

- B. Except as provided in subsection (1) below, every animal that has rabies or symptoms thereof, every animal that has been exposed to rabies, and every animal that bites or otherwise attacks any person within Newton County shall be impounded at once and held under observation by the department of animal control for ten (10) calendar days. If its owner desires, such animal may be confined for observation in a veterinary hospital or clinic approved by the Director at the owner's expense for the same period of time as the animal would be confined for observation at the county's animal control center. Upon request, the Director shall approve a veterinary hospital or clinic for such purposes if it is shown that the hospital or clinic is able to properly confine and observe such animals unless there is reason to doubt whether such hospital or clinic will actually do so.
- (1) Any dog or cat that bites or otherwise attacks any person within Newton County while the animal is confined on the owner's premises may be quarantined on the owner's premises for a period of ten (10) calendar days immediately following the date such animal has attacked a person if the animal has a current rabies vaccination at the time the attack occurred, provided that the animal is observed by an ACO at the beginning of the quarantine period, and again ten (10) days later. Said animal shall also be examined by a veterinarian at the end of the quarantine period. The veterinarian shall provide the owner with a written report setting out the results of such examination. The report shall be submitted by the owner to the Director within three (3) days after the examination has been made. Any owner or keeper of an animal that fails to keep the animal confined, fails to have the animal examined by a veterinarian, or fails to provide the animal control department a veterinarian's report of the results of an examination when required to do so under the provisions of this code shall be in violation of this code and subject to fines and penalties as stated in Section II.
- (2) No animal that has rabies shall be allowed at any time on the streets or public ways of the county. No animal that has been suspected of having rabies shall be allowed at any time on the streets or public ways of the county until such animal has been released from observation by the Director or the Director's designee. The owner, keeper or person in charge of any animal that has rabies or symptoms thereof, or that has been exposed to rabies, or that has bitten or otherwise attacked any person within the county shall, on demand, turn over such animal to the Director or any officer acting as his/her representative. The body of any animal



that has died of rabies shall not be disposed of except as directed by the Director. Any person having knowledge of an animal bite is hereby required to report it immediately to the department of animal control or shall be in violation of this code and subject to fines and penalties as stated in Section II.

## **V. Dogs and Cats.**

### **A. Dogs and Cats Running at Large.**

- (1) It shall be the duty of every owner of any dog or cat or anyone having a dog or cat in his possession or custody, to ensure that it is under restraint or control, so that it cannot wander off of the real property limits of the owner, possessor or custodian, it being the intent of this article that all dogs and cats shall be prevented from leaving, while unattended, the real property limits of their owner, possessor or custodian. It is further the intent of this article that, unless Animal Control has a signed running at large complaint on file regarding a specific dog or cat, no dog or cat be impounded and no citations be issued under this section unless the dog or cat is observed off the real property limits of the owner, possess or custodian, either by signed complaint by a witness, or by the animal control officer.
- (2) Hunting dogs and farm/cattle dogs shall be deemed under control while on land with the consent of the owner thereof and engaged in normal hunting or farming activity for the particular type of dog involved.
- (3) All female dogs and cats that have not been spayed and are in heat, must be securely confined in such a way that they not only cannot run loose, but also cannot be reached by other dogs or cats.

### **B. Restraint of Dogs**

- (1) It shall be unlawful for any owner, possessor, or custodian of any dog to fail to keep the dog under restraint or control as provided for in this section.
- (2) Reasonable care and precautions shall be taken to prevent any dog from leaving the real property limits of its owner, possessor or custodian, and ensure that:
  - (a) It is securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump, or otherwise escape of its own volition;

(b) It is securely and humanely restrained by an electronic containment system. If an electronic containment system is used, adequate signage must be placed on the property indicating that the system is in place.

(c) It is securely and humanely tethered as provided in subsection (3).

(3) A dog may be tethered provided that the following conditions are met:

(a) The condition of the tethering area:

- i. Adequate food, water and shelter shall be available within the tethering area.
- ii. The tethering area shall be clear of any debris or obstacles to prevent the tethering line from becoming entangled.
- iii. The tethering area shall allow for the maximum available exercise area and maximum freedom of movement.
- iv. The tethering area must be maintained in a sanitary condition and must provide the dog access to adequate dry ground.

(b) The condition of the tether:

- i. The tether shall be attached to a stationary object that cannot be moved by the animal and shall terminate at both ends with a swivel
- ii. The tether shall be placed to prevent any dog from encroaching upon adjoining property or public right of ways, including sidewalks and roads.
- iii. The tether shall be a minimum of ten (10) feet or three (3) times the length of the dog, as measured from the tip of the nose to the base of the tail, whichever is longer.
- iv. The tether shall be made of a substance which cannot be chewed by the dog.
- v. The tether shall weigh less than 10 per cent (10%) of the weight of the dog being tethered.
- vi. The dog shall be attached to the tether with a properly fitting buckle-type collar or harness made of nylon or

leather; choke, chain, pinch, or prong collars shall not be used to attach a dog to a tether.

- vii. Pulley systems shall be mounted at least four (4) feet and no more than seven (7) feet above ground level.
- (c) Only one dog shall be attached to a single tether; if more than one dog is tethered on a property, the tethers shall be located so that the lines cannot become entangled.
- (d) It shall be unlawful to tether any dog that is sick or injured;
- (e) It shall be unlawful to tether any dog that is under six (6) months of age unless the dog exceeds 20 pounds.

C. **Impoundment of Dogs and Cats.** Where the Director or any animal control staff member either observes or receives a proper citizen complaint of a dog or cat running at large, it shall be the duty of said Director, supervisor or officer(s) to take up and take charge of all dogs or cats found to be running at large as defined in subsection I.C.18 above within the boundaries of Newton County, and to capture and take such animals to the animal control center or other designated place, there to be impounded and detained for a period of three (3) calendar working days. Cat traps will be made available free of charge to citizens of Newton County with nuisance cat complaints. If a dog or cat which has been delivered or admitted to the animal control center is wearing a vaccination tag not more than two (2) years old or any other type of identification, the Director, supervisor or designee shall notify the owners of this animal by telephone, door hanger, or by mail that such animal has been received by the animal control center. The mailing of notice shall be deemed sufficient notice under this section if it is mailed to the owner at the address shown in other types of identifications. Dogs and cats wearing a vaccination tag not more than two (2) years old shall be held in designated pens for the owner for six (6) calendar working days from the date the owner was notified by telephone, door hanger, or notice was mailed to the owner. On the seventh (7) day following such notice, the animal may be placed for adoption or euthanized at the discretion of the Director or his/her designated representative. The Director is authorized to negotiate with other local government agencies for the handling of animals under this code. Any contract, which is the subject to such negotiations, must be approved and its execution authorized by the Board of Commissioners as in other contracts entered into by the county. Dogs or cats, three (3) months of age or older, can be subject to impoundment if said dog or cat does not display a current vaccination.

- (1) **Redemption after Impoundment.** Provided an animal is not infected or reasonably believed to be infected with rabies or any other infections or

contagious diseases, any animal impounded may be redeemed by its rightful owner at the animal control center, after said owner proves ownership beyond a reasonable doubt. The person entitled to redeem said animal shall be entitled to have the animal delivered to them at the animal control center upon presentation of satisfactory evidence of ownership (regulations paper, bill-of-sale, photographs, registration and/or vaccination certificates, etc.), and payment of any applicable impoundment fee, rabies vaccination fee, and boarding fee, in accordance with a fee schedule approved by the Board of Commissioners. In addition, impounded or sick animals will be treated for injury or illness when such treatment is found to be reasonably necessary in the judgment of the Director or supervisor. The owner shall be required to pay the actual cost of any necessary veterinary services. :

- (2) **Adoption of Impounded Animal.** It will be the duty of the Director to offer for adoption to the public, or transfer to rescue agencies licensed by the Georgia Department of Agriculture, after verification, any and all healthy animals impounded in accordance with this code and not redeemed as provided for in code subsection IV.B.1. No animal determined to be dangerous shall be offered for adoption. It shall be unlawful to remove any animals from the animal control center except as provided for in this code.
- (3) **Redemption of Adopted Animal.** The person entitled to redeem the animal will be required to exercise such option within a period of (30) days from the date the animal was adopted, and will be required to reimburse the adopter double the adoption fee, five dollars (\$5.00) per day for the days the animal was held and cared for by the adopter and any verified expense incurred for qualified veterinary services. Any animal not redeemed in accordance with the provisions set forth above shall, after the (30) thirty-day period, become the property and responsibility of the adopter.
- (4) Dogs, cats and other animals taken up and impounded under the terms of this code which are not redeemed or adopted as provided in this code shall be disposed of by the department of animal control. These animals shall be humanely destroyed in the most humane method of euthanasia currently recognized.
- (5) If, in the opinion of the Director or designated employee the release of an impounded animal could impair the health or safety of the public, such animal shall be held at the animal control center or an approved veterinary clinic at the expense of the owner pending a court order disposition.

**D. Surrender of Dogs or Cats.**

Any resident of Newton County may surrender an animal to the Newton County Animal Shelter upon the payment of an adoption-handling fee in accordance with a fee schedule approved by the Board of Commissioners.

In the event more than one litter of puppies or kittens is surrendered by a single owner, , the owner must either qualify for or obtain a kennel license, or have the parents spayed and neutered by a licensed veterinarian at the owner's expense, with proof to be furnished to Newton County Animal Control within thirty (30) days. Failure to comply shall be in violation of this code and subject to a fine of not less than one hundred dollars (\$100.00) and/or imprisonment not to exceed five (5) days. An exception may be made in the case of indigent owner or on an individual basis if confirmed by the Director or Director's designee.

**VI. Dangerous, Vicious and Aggressive Animals.**

**A. Dangerous and Potentially Dangerous Dogs.**

- (1) Dangerous dogs and potentially dangerous dogs shall be investigated, classified, controlled and possessed in strict accordance with the Georgia Dangerous Dog Control Law (O.C.G.A. § 4-8-20), as the same shall be amended from time to time. A copy of the "Dangerous Dog Control Law" is attached hereto as Exhibit "A".
- (2) **Creation of Newton County Animal Control Board.** There is hereby created a Newton County Animal Control Board, which members shall carry out the duties and responsibilities of an animal control board, as outlined in the Georgia Dangerous Dog Control Law (O.C.G.A. § 4-8-20), as the same shall be amended from time to time. The Animal Control Board shall consist of six (6) members who are residents of Newton County and are appointed by the Board of Commissioners: one (1) by each of the five (5) District Commissioners and one (1) member appointed on an at-large basis by the County Commission Chairman. Each member shall be appointed for a term concurrent with that of the appointing Commissioner. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointments. Sitting members may continue to serve until replaced. If a member moves to reside outside Newton County, such member shall be deemed to have resigned from the Commission. Members shall serve at the pleasure of the Board of Commissioners. The Animal Control Board shall elect one of its members to serve as the Chairman. The Chairman of the Animal Control Board shall serve for one year or until re-elected or a successor is elected.

B. **Vicious Dogs.** 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 of vicious dogs in Newton County. A copy of "Mercedes' Law" is attached hereto as Exhibit "B".

C. **Aggressive Animals.**

- (1) The owner of any aggressive animal, other than a dangerous dog, potentially dangerous dog, or vicious dog, who does not confine such aggressive animal in a building or secure enclosure, or any person who shall release, either willfully or through a failure to exercise due care or control, or take such animal out of such building or secure enclosure in a manner which is likely to cause injury to another person or damage to the property of another person, shall be in violation of this ordinance, and such animal shall be permanently confined by the owner or humanely destroyed.
- (2) For purposes of this Section, a secure enclosure shall be defined to mean that the animal is 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 a secure top, and, if the animal 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 from over or from under the fence.
- (3) It shall be unlawful for any person to cause, permit, accompany or be responsible for any aggressive animal on the streets or in any other public place, at any time, unless, in addition to the other requirements of this ordinance, such animal is securely muzzled to effectively prevent it from biting any person or other animal.
- (4) Absent an order from the Court to the contrary, any animal 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 Section 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 \$300.00 upon the third or subsequent confiscation. If the owner has not complied with the provisions of this Section and paid such confiscation costs within twenty (20) days following disposition by the Court, the dog shall be humanely destroyed.

- (5) Nothing in this article shall prevent separate enforcement concerning dangerous dogs, potentially dangerous dogs and vicious dogs under this ordinance.

**D. Microchip Requirement.**

- (1) Any animal labeled as dangerous, potentially dangerous, vicious or aggressive under this Section shall be required to be implanted with a microchip in order to ensure that such animal can be readily identified.
- (2) Proof that the microchip was implanted must be provided to animal control within thirty-six (36) hours of the animal being so designated. If proof is not provided within the specified time frame, the animal must be surrendered to animal control within twenty-four (24) hours or shall be in violation of this code and subject to fines and penalties as stated in Section II.C.

**VII. Livestock and Fowl.** The running at large of horses, mules, other equidae, cattle, sheep, goats, hogs, domestic rabbits, or domestic fowl, or ostrich and emu, or other animals within the limits of Newton County is hereby declared a nuisance and shall be unlawful for the owner or keeper of any such animal or fowl to permit the same to run at large within the county.

- A. It shall be the duty of the Director or Director's designee to take up and take charge of all horses, mules, other equidae, cattle, sheep, goats and hogs found running at large within Newton County, and to capture or contract to capture and take such animals to the animal control center or other designated place, there to be impounded and detained for a period in accordance with state law.
- B. **Redemption of Impounded Livestock.** The owner shall be responsible for the impoundment and boarding fees in accordance with the fee schedule approved by the Board of Commissioners, as well as any reasonable fees for veterinary care and hauling.
- C. If, at the time of the sale of any livestock under the provisions of state law and this code, the owner has not redeemed the same in accord with state law and this code, and no purchaser can be found for the animal, the Director or Director's designee shall cause such animal to be humanely destroyed, and shall deposit the carcass in such place as may be designated for such matter.
- D. It shall be unlawful for any person, other than a duly appointed and qualified law enforcement officer of the county or any authorized employee of the Director, or humane organizations approved by the Director to engage in the impounding of animals. The foregoing restriction shall not apply to stray animals temporarily contained or impounded until the animal's owner can be located and notified. No reward shall be given for impounding, and any

officer authorized to impound animals detected in offering a reward of any kind whatsoever to any person to impound such animals shall be deemed guilty of an offense.

E. When from any cause it may happen that any horse, mule, cow, steer, goat, sheep, dog, cat or other animal within the limits of Newton County shall be so wounded, maimed or injured as to render its recovery hopeless, then it shall be the duty of the Director, or designated Animal Control Officer, to cause it to be humanely destroyed as soon after such injury as possible, and to cause the carcass thereof to be removed to such place as may be set apart for such matter. When the Director has cause to humanely destroy any animal under this code, it shall become his/her duty to at once file a report in writing of such destruction, and such report shall show:

- (1) A description of the animal destroyed, and the name of the owner thereof if known,
- (2) The injury which made destruction necessary, and how same was inflicted, and by whom, if known,
- (3) The names of at least two (2) reliable witnesses, who are conversant with the facts of the injury and the destruction,
- (4) A description of the injury from a veterinarian, if available.

F. It shall be unlawful for any person to (a) stake, tie or hobble any animal whatsoever on any land of which he is not the owner, (b) obstruct any street or sidewalk by hitching or staking out any animal or to permit any animal to be so hitched or staked out that it can go upon or across any street or sidewalk, (c) tie or fasten any animal to any tree, or box around any tree, planted or growing in any street or public place, or to a fence or lamppost which is the property of another, without such other person's consent therefore.

**VIII. Keeping of Wild Animals.** It shall be unlawful within the corporate boundaries of Newton County for any person to possess, keep, permit, suffer, cause, or allow any wild animal within any residence or within three-hundred (300) feet of any residence or building used for human habitation.

A. A "wild animal" shall mean and include any mammal, amphibian, reptile, or fowl which is of a species which is wild by nature, and of a species which, due to size, vicious nature or other characteristic is dangerous to humans. Such animals shall include, but not be limited to lions, tigers, leopards, panthers, bears, wolves, raccoons, skunks, apes, gorillas, monkeys of a species whose average adult size weight is twenty (20) pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, and all forms of poisonous reptiles. The



term "wild animal" as used in this code shall not include gerbils, hamsters, guinea pigs, mice, rabbits, or ferrets.

- B. Any person who violates any provision of this chapter shall upon conviction thereof, be fined in accordance with the provisions of Section II. Each day any person possesses, keeps, and permits suffers causes or allows any wild animal within any residence or within three-hundred (300) feet of any residence or building used for human habitation in violation of this code shall be a separate offense. Further, the keeping of more than one such wild animal in violation of this code shall be a separate offense for each such animal.
- C. The Director or Director's designee shall seize all animals found in violation of this code and impound all such animals at the animal control center or other suitable place. The Director, ACO, or any law enforcement officer within the county may enter any building to seize an animal which is therein in violation of this code upon the consent of an adult occupant of such building or one having the right of possession of such building, or under a warrant.
- D. **Redemption of impounded wild animal.** Upon showing to the Director or his/her delegated authority of clear and convincing proof of right of possession of any such impounded animal; such person may redeem such animal within seven (7) days of the date of impoundment upon payment of the impoundment fee and boarding fee in accordance with the fee schedule approved by the Board of Commissioners, provided:
  - (1) That such animal is not infected or believed to be infected with rabies or any other disease.
  - (2) That such person submits to the Director a sworn affidavit setting out the location where the animal will be kept and that he will not permit, suffer, cause, or allow such animal to be within any residence or within three-hundred (300) feet of any residence in violation of this code. If such animal is not redeemed within seven (7) days of the date of initial impoundment, the Director shall be authorized to destroy such animals in the most humane manner possible.
  - (3) In the event an individual redeems any such animal upon providing the sworn affidavit required above, and such animal upon thereafter is found within a resident or within three-hundred (300) feet of any actual residence or building used for human habitation, in violation of this code, said animal shall be seized and impounded as herein above described in Section VIII.C above.

E. The provisions of this Section VIII shall not apply to animals kept for treatment in a facility operated by a veterinarian licensed in the State of Georgia, animals kept in publicly owned zoos, and animals used for research for teaching purposes by a medical or veterinary school, licensed hospital or non-profit university or college providing a degree program.

**F. Vaccination of Wild Animals.**

- (1) No person shall vaccinate, or attempt to vaccinate, any wild animal as defined in this code against rabies by the use of live virus vaccine.
- (2) Except as provided in subsection (3) below, no person shall possess, keep, permit, or allow any wild animal as defined in this code within the county if such animal has been vaccinated against rabies with the use of live vaccine.
- (3) This section pertaining to the vaccination of wild animals shall not apply to the use of live rabies vaccine for research purposes when such research is conducted by a medical or veterinary school, licensed hospital, or non-profit university providing a degree program.

**IX. Adoption of Animals.**

- A. Newton County Animal Control may offer for adoption any animal unclaimed after six days following notification of impoundment (see subsection V.C) or any animal that has been surrendered to Animal Control by the owner provided each animal offered for adoption is determined by the Director or Director's designee to be of reasonably good health and temperament.
- B. Potential persons who want to adopt an animal must make application for adoption with Newton County Animal Control and meet requirements associated with the humane housing and care of the animal as determined by the Director and by the payment of the required fees.
- C. **Mandatory Sterilization.** Animals adopted from Newton County Animal Control shall be sterilized in strict accordance with the Georgia Spay/Neuter Law (O.C.G.A. § 4-14-1, et seq.), as the same may be amended from time to time.

- X. Issuance of Licenses.** Before a kennel or breeders license is issued by the county, the Animal Control Center shall be required to investigate the petitioner, the location and facilities to determine the legitimacy of the petition and whether the location, facilities and environment are such as will insure against so called puppy mills and provided humane and proper care of the animals. All kennels and breeders shall be registered with the Animal Control Center and Animal Control personnel may make periodic inspections of the animals and facilities. Any

operator of a kennel in the county who fails to obtain a license and/or fails to maintain a registry with the Animal Control Center shall be subject to fines and/or penalties as set forth in Section II.

**XI. Generally**

- A. **Repeal of conflicting provisions.** All ordinances or regulations or parts thereof in conflict herewith are hereby repealed.
- B. **Effective date.** This Ordinance shall be in force and take effect on September 8, 2010.

**SO ORDAINED**, this 7th day of September, 2010.

**Newton County Board of Commissioners**



By: Kathryn G. Morgan  
Kathryn G. Morgan, Chairman

Attest: Jackie Smith  
Jackie Smith, Clerk

**Animal Control Ordinance  
Fee Schedule**

**Redemption of Dogs and Cats:**

1. Impoundment Fee: Thirty-five dollars (\$35.00) per animal impounded. The impoundment fee shall double for each successive impoundment of any animal belonging to one household.
2. Rabies Vaccination Fee: Fifteen dollars (\$15.00) provided the dog or cat has no valid vaccination. The owner will be issued a receipt to take to a participating clinical veterinarian who authorizes the veterinarian to inoculate the animal. The veterinarian will submit the receipt to the animal control department indicating that the vaccine was administered and the number of the vaccination tag issued. The animal control department will send the veterinarian a sum not to exceed fifteen dollars (\$15.00) per animal vaccinated.
3. Boarding Fee: Ten dollars (\$10.00) per animal per day. When a person seeks delivery of an animal on the first regular working day after a Sunday and/or a county holiday, no boarding fee shall be charged for the immediately preceding Sunday and/or holiday unless such Sunday and/or holiday was within the period of quarantine for rabies observation.

**Redemption of Livestock:**

1. Impoundment Fee: Fifty dollars (\$50.00) per animal impounded.
2. Boarding Fee: Fifteen dollars (\$15.00) per animal per day.

**Redemption of Wild Animals:**

1. Impoundment fee: Fifty dollars (\$50.00) per animal impounded.
2. Boarding fee: Ten dollars (\$10.00) per day for animals under thirty (30) pounds; fifteen dollars (\$15.00) per days for animals over thirty (30) pounds but not more than one hundred (100) pounds; or twenty dollars (\$20.00) for animals over one hundred (100) pounds.

**Surrender of Dogs and Cats:**

1. Adult dog: Thirty dollars (\$30.00)
2. Adult cat: Twenty dollars (\$20.00)
3. Litter of puppies or kittens (8 weeks or less): Twenty dollars (\$20.00)

Subsequent litter of puppies or kittens from same owner: Thirty dollars (\$30.00)

## Exhibit A

West's Code of Georgia Annotated Currentness

Title 4. Animals (Refs & Annos)

■ Chapter 8. Dogs (Refs & Annos)

→ Article 2. Dangerous Dog Control

→ § 4-8-20. Short title

This article shall be known and may be cited as the "Dangerous Dog Control Law."

### § 4-8-21. Definitions

(a) As used in this article, the term:

(1) "Dangerous dog" means any dog that, according to the records of an appropriate authority:

(A) Inflicts a severe injury on a human being without provocation on public or private property at any time after March 31, 1989; or

(B) Aggressively bites, attacks, or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification.

(2) "Dog control officer" means an individual selected by a local government pursuant to the provisions of subsection (c) of Code Section 4-8-22 to aid in the administration and enforcement of the provisions of this article.

(3) "Governing authority" means the governing body or official in which the legislative powers of a local government are vested.

(4) "Local government" means any county or municipality of this state.

(5) "Owner" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of a dangerous dog or potentially dangerous dog within this state.

(6) "Potentially dangerous dog" means any dog that without provocation bites a human being on public or private property at any time after March 31, 1989.

(7) "Proper enclosure" means an enclosure for keeping a dangerous dog or potentially 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 a secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog.

(8) "Records of an appropriate authority" means records of any state, county, or municipal law enforcement agen-

cy; 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 provided for in this article.

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

(b) A dog that inflicts an 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 shall not be a dangerous dog or potentially dangerous dog within the meaning of this article. A dog shall not be a dangerous dog or a potentially dangerous dog within the meaning of this article 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.

#### **§ 4-8-22. Jurisdiction and duties of local governments**

(a) Except as otherwise provided by subsection (b) of this Code section, a county's jurisdiction for the enforcement of this article shall be the unincorporated area of the county and a municipality's jurisdiction for such enforcement shall be the territory within the corporate limits of the municipality.

(b) Any county or municipality or any combination of such local governments may contract or enter into agreements with each other for joint dog control services or for the provision of dog control services required by this article and for the separate or joint use of personnel, facilities, and equipment used in the provision of such services.

(c) The governing authority of each local government shall designate an individual to carry out the duties of a dog control officer as provided in this article. One individual may carry out the duties of a dog control officer for more than one local government pursuant to a contract or agreement under subsection (b) of this Code section. The governing authority of a local government may assign the additional duties of dog control officer to any officer or employee of the local government who is subject to the jurisdiction of the governing authority. With the consent of the sheriff, the governing authority of a local government may assign the additional duties of dog control officer to a county sheriff or to a sheriff's deputy. With the consent of the county board of health and the rabies control officer, the governing authority of a local government may assign the additional duties of dog control officer to a rabies control officer appointed under Code Section 31-19-7. A person carrying out the duties of a dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.

(d) The governing authority of a local government may provide by ordinance or resolution for the creation of an animal control board to hold hearings provided for in Code Section 4-8-24. If such an animal control board is created, such board may hear and determine matters provided for in Code Section 4-8-24. An animal control board may be created jointly by two or more local governments under the provisions of subsection (b) of this Code section.

(e) In lieu of conducting the hearings required by Code Section 4-8-24 or creating an animal control board for such purpose as provided in subsection (d) of this Code section, the governing authority of each local government is authorized to designate the local board of health within the jurisdiction of such local government to conduct such hearings. Any board so designated is authorized and shall have jurisdiction to conduct such hearings and determine matters provided for in Code Section 4-8-24.

#### **§ 4-8-23. Investigations upon receiving report of dangerous dog or potentially dangerous dog; notice to owner**

(a) Upon receiving a report of a dangerous dog or potentially dangerous dog within a dog control officer's jurisdic-

tion from a law enforcement agency, animal control agency, rabies control officer, or county board of health, the dog control officer shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article. Any local government shall be authorized but not required to provide by ordinance or resolution for additional duties of a dog control officer in identifying dangerous dogs or potentially dangerous dogs and their owners to carry out the provisions of this article.

(b) When a dog control officer classifies a dog as a dangerous dog or reclassifies a potentially dangerous dog as a dangerous dog, the dog control officer shall notify the dog's owner in writing by certified mail or statutory overnight delivery to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

**§ 4-8-24. Requirements of notice to owner of classification of dog as dangerous or potentially dangerous; hearing**

(a) As applied to the owners of potentially dangerous dogs, the procedures provided for in this Code section must be carried out as a necessary condition for the enforcement of the provisions of this article against such owners. As applied to the owners of dangerous dogs, the procedures provided for in this Code section shall not be an essential element of any crime provided for in this article.

(b) When a dangerous dog or a potentially dangerous dog is classified as such, the dog control officer shall notify the dog's owner of such classification.

(c) 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;

(2) The notice shall include a summary of the dog control officer's findings that formed the basis for the dog's classification as a dangerous or potentially dangerous dog;

(3) The notice shall be dated and shall state that the owner, within 15 days after the date shown on the notice, has a right to request a hearing on the dog control officer's determination that the dog is a dangerous dog or potentially dangerous dog;

(4) The notice shall state that the hearing, if requested, shall be before the governing authority, the board of health, or the animal control board of the respective local government and shall specify the name of the applicable agency which will conduct the hearing;

(5) The notice shall state that if a hearing is not requested, the dog control officer's determination that the dog is a dangerous dog or a potentially dangerous dog will become effective for all purposes under this article on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and

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

(d) When the governing authority, animal control board, or local board of health, whichever is applicable, receives a request for a hearing as provided in subsection (c) of this Code section, it shall schedule such hearing within 30 days after receiving the request. The governing authority or board shall notify the dog owner in writing by certified mail or statutory overnight delivery of the date, time, and place of the hearing, and such notice shall be



mailed to the dog owner at least ten days prior to the date of the hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and present evidence and in addition thereto the governing authority or board shall receive such other evidence and hear such other testimony as the governing authority or board may find reasonably necessary to make a determination either to sustain, modify, or overrule the dog control officer's classification of the dog.

(e) Within ten days after the date of the hearing, the governing authority or board shall notify the dog owner in writing by certified mail or statutory overnight delivery of its determination on the matter. If such determination is that the dog is a dangerous dog or a potentially dangerous dog, the notice shall specify the date upon which that determination is effective.

#### **§ 4-8-25. Registration**

(a) It is unlawful for an owner to have or possess within this state a dangerous dog or potentially dangerous dog without a certificate of registration issued in accordance with the provisions of this Code section.

(b) Subject to the additional requirements of subsection (c) of this Code section for dangerous dogs, the dog control officer of a local government in which an owner possesses a dangerous dog or potentially dangerous dog shall issue a certificate of registration to the owner of such dog if the owner presents to the dog control officer or the dog control officer otherwise finds sufficient evidence of:

(1) A proper enclosure to confine the dangerous dog or potentially dangerous dog; and

(2)(A) The posting of the premises where the dangerous dog or potentially dangerous dog is located with a clearly visible sign warning that there is a dangerous dog on the property.

(B) The Department of Natural Resources shall design a uniform symbol for the purpose of implementing subparagraph (A) of this paragraph no later than July 1, 1989, and shall provide copies of the design to the governing authority of each county and municipality of this state. The sign required to be posted by subparagraph (A) of this paragraph shall conform substantially to the design provided by the Department of Natural Resources pursuant to this subparagraph.

(C) The requirement of subparagraph (A) of this paragraph shall become effective 60 days following the day the uniform design specified in subparagraph (B) of this paragraph is distributed to the governing authority of each county and municipality of the state.

(c) In addition to the requirements of subsection (b) of this Code section, the owner of a dangerous dog shall present to the dog control officer evidence of:

(1) A policy of insurance in the amount of at least \$15,000.00 issued by an insurer authorized to transact business in this state insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or

(2) A surety bond in the amount of \$15,000.00 or more issued by a surety company authorized to transact business in this state payable to any person or persons injured by the dangerous dog.

(d) The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the dog has been sold or donated, the owner shall also provide the dog control officer with the name, address, and tele-

phone number of the new owner of the dog.

(e) The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer if the owner is moving from the dog control officer's jurisdiction. 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 Code section within 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 days after becoming a resident.

(f) Issuance of a certificate of registration or the renewal of a certificate of registration by a local government does not warrant or guarantee that the requirements specified in subsections (b) and (c) of this Code section 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.

(g) A dog control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article. Law enforcement agencies of local governments and the sheriffs of counties shall cooperate with dog control officers in enforcing the provisions of this article.

(h) A local government may charge an annual fee, in addition to regular dog-licensing fees, to register dangerous dogs and potentially dangerous dogs as required in this Code section. Certificates of registration shall be renewed on an annual basis. At the time of the annual renewal of a certificate of registration, a dog control officer shall require evidence from the owner or make such investigation as may be necessary to verify that the dangerous dog or potentially dangerous dog is continuing to be confined in a proper enclosure and that the owner is continuing to comply with other provisions of this article.

#### **§ 4-8-26. Muzzles and restraints**

(a) It is unlawful for an owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person.

(b) It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.

#### **§ 4-8-27. Confiscation and destruction**

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

- (1) Owner of the dog does not secure the liability insurance or bond required by subsection (c) of Code Section 4-8-25;
- (2) Dog is not validly registered as required by Code Section 4-8-25;
- (3) Dog is not maintained in a proper enclosure; or
- (4) Dog is outside a proper enclosure in violation of subsection (a) of Code Section 4-8-26.

(b) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:

(1) Not validly registered as required by Code Section 4-8-25;

(2) Not maintained in a proper enclosure; or

(3) Outside a proper enclosure in violation of subsection (b) of Code Section 4-8-26.

(c) Any dog that has been confiscated under the provisions of subsection (a) or (b) of this Code section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

#### **§ 4-8-28. Violations**

(a) The owner of a dangerous dog who violates the applicable provisions of Code Section 4-8-25 or Code Section 4-8-26 or whose dangerous dog is subject to confiscation under subsection (a) of Code Section 4-8-27 shall be guilty of a misdemeanor of high and aggravated nature. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$500.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$750.00 shall be imposed.

(b) The owner of a potentially dangerous dog who violates the applicable provisions of Code Section 4-8-25 or Code Section 4-8-26 or whose potentially dangerous dog is subject to confiscation under subsection (b) of Code Section 4-8-27 shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for a second conviction a fine of not less than \$150.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$300.00 shall be imposed.

(c) If an owner who has a previous conviction for a violation of this article knowingly and willfully fails to comply with the provisions of this article, such owner shall be guilty of a felony if the owner's dangerous dog attacks or bites a human being under circumstances constituting another violation of this article. The owner of a dangerous dog who is convicted for a violation of this subsection shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 or by imprisonment for not less than one nor more than five years or by both such fine and imprisonment.

(d) An owner who knowingly and willfully fails to comply with the provisions of this article shall be guilty of a felony if the owner's dangerous dog aggressively attacks and causes severe injury or death of a human being under circumstances constituting a violation of this article. The owner of a dangerous dog who is convicted for a violation of this subsection shall be punished by a fine of not less than \$5,000.00 nor more than \$10,000.00 or by imprisonment for not less than one nor more than ten years or by both such fine and imprisonment.

(e) In addition to the penalties for violations under subsection (c) or (d) of this Code section, the dangerous dog involved shall be immediately confiscated by the dog control officer or by a law enforcement officer or another person authorized by the dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and, thereafter, the dangerous dog shall be destroyed in an expeditious and humane manner.

(f) No owner of a dangerous dog shall be held criminally liable under this article for injuries inflicted by said owner's dog to any human being while on the owner's property.

**§ 4-8-29. Construction**

(a) The provisions of this article are in addition to and supplementary of any previously existing laws of this state and shall not be construed to repeal or supersede such previously existing laws.

(b) It is the intention of this article to establish as state law minimum standards and requirements for the control of dangerous dogs and potentially dangerous dogs and to provide for certain state crimes for violations of such minimum standards and requirements. However, this article shall not supersede or invalidate existing ordinances or resolutions of local governments or prohibit local governments from adopting and enforcing ordinances or resolutions which provide for more restrictive control of dogs, including a more restrictive definition of a dangerous dog or potentially dangerous dog, than the minimum standards and requirements provided for in this article.

**§ 4-8-30. Intent of General Assembly as to liability for injury or death caused by dangerous dog or potentially dangerous dog**

It is the intent of the General Assembly that the owner of a dangerous dog or potentially dangerous dog shall be solely liable for any injury to or death of a person caused by such dog. Under no circumstances shall a local government or any employee or official of a local government which enforces or fails to enforce the provisions of this article be held liable for any damages to any person who suffers an injury inflicted by a dog that has been identified as being a dangerous dog or potentially dangerous dog or by a dog that has been reported to the proper authorities as being a dangerous dog or potentially dangerous dog or by a dog that a local government has failed to identify as a dangerous dog or potentially dangerous dog or by a dog which has been identified as being a dangerous dog or potentially dangerous dog but has not been kept or restrained in the manner described in subsection (b) of Code Section 4-8-25 or by a dangerous dog or potentially dangerous dog whose owner has not maintained insurance coverage or a surety bond as required in subsection (c) of Code Section 4-8-25.

END OF DOCUMENT

## **Exhibit B**

West's Code of Georgia Annotated Currentness

Title 4. Animals (Refs & Annos)

▢ Chapter 8. Dogs (Refs & Annos)

→ Article 3. Vicious Dog Control

→ § 4-8-40. Short title

This article shall be known and may be cited as the "Mercedes' Law."

### **§ 4-8-41. Definitions**

As used in this article, the term:

- (1) "Dog control officer" means an individual selected by a local government pursuant to the provisions of subsection (c) of Code Section 4-8-22 to aid in the administration and enforcement of the provisions of Article 2 of this title.
- (2) "Local government" means any county or municipality of this state.
- (3) "Owner" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of a vicious dog within this state.
- (4) "Proper enclosure" means an enclosure for keeping a vicious 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 a secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog.
- (5) "Severe injury" means any physical injury that results in broken bones, disfiguring lacerations requiring multiple sutures or cosmetic surgery, or a physical injury that results in death.
- (6) "Vicious dog" 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.

Such term shall not include a dog that inflicts an 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.

### **§ 4-8-42. Enclosure or restraint required; confiscation and destruction; return to owner**

- (a) It is unlawful for an owner of a vicious dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a leash and is under the physical restraint of a responsible person.

(b) A vicious dog shall be immediately confiscated by the dog control officer or by a law enforcement officer or by another person authorized by the dog control officer if the:

(1) Vicious dog is not maintained in a proper enclosure; or

(2) Vicious dog is outside a proper enclosure in violation of subsection (a) of this Code section.

(c) Any dog that has been confiscated under the provisions of subsection (b) of this Code section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this article within 40 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

#### **§ 4-8-43. Violations: confiscation, quarantine, and destruction**

(a) The owner of a vicious dog who violates Code Section 4-8-42 shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$300.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$500.00 shall be imposed.

(b) If an owner who has a previous conviction for a violation of this article knowingly and willfully fails to comply with the provisions of this article, such owner shall be guilty of a misdemeanor of high and aggravated nature if the owner's vicious dog attacks, bites, causes severe injury, or causes the death of a human being under circumstances constituting another violation of this article.

(c) In addition to the penalties for violations under subsection (b) of this Code section, the vicious dog involved shall be immediately confiscated by the dog control officer or by a law enforcement officer or another person authorized by the dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and thereafter, the vicious dog shall be destroyed in an expeditious and humane manner.

#### **§ 4-8-44. Construction**

(a) The provisions of this article are in addition to and supplementary of any previously existing laws of this state and shall not be construed to repeal or supersede such previously existing laws.

(b) It is the intention of this article to establish as state law minimum standards and requirements for the control of vicious dogs and to provide for certain state crimes for violations of such minimum standards and requirements. However, this article shall not supersede or invalidate existing ordinances or resolutions of local governments or prohibit local governments from adopting and enforcing ordinances or resolutions which provide for more restrictive control of dogs, including a more restrictive definition of a vicious dog, than the minimum standards and requirements provided for in this article.

#### **§ 4-8-45. Sovereign immunity**

Under no circumstances shall a local government or any employee or official of a local government which enforces or fails to enforce the provisions of this article be held liable for any damages to any person who suffers an injury inflicted by a dog that has been identified as a vicious dog or by a dog that has been reported to the proper authorities as being a vicious dog or by a dog which has been identified as a vicious dog but has not been kept or restrained in the manner described in subsection (a) of Code Section 4-8-42.