

**A RESOLUTION BY THE FORSYTH COUNTY BOARD OF COMMISSIONERS
MODIFYING FORSYTH COUNTY ANIMAL CONTROL ORDINANCE, ORDINANCE
11, AS CODIFIED AS CHAPTER 14 OF THE CODE OF FORSYTH COUNTY**

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 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 the County to adopt ordinances preserving the public health, safety, and welfare, and to adopt appropriate measures to enforce those ordinances; and

WHEREAS, Section 12.1 of the County's codified local laws authorizes the County to adopt ordinances exercising the police powers of the State of Georgia; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of Forsyth County, Georgia, the Board of Commissioners of Forsyth County desires to exercise its authority to adopt the amendment attached hereto as Exhibit A; and

WHEREAS, appropriate notice and hearing on the amendments contained herein having been undertaken according to general and local law.

NOW, THEREFORE, the Board of Commissioners of Forsyth County, Georgia hereby ordains as follows:

1. The text of Sections 14-1, 14-32, 14-34, 14-77, 14-81, 14-82, 14-83 of the Forsyth County Code of Ordinances are hereby replaced in their entirety by the text attached hereto as Exhibit A;
2. This Ordinance shall become effective 90 days following date of adoption.

BE IT RESOLVED this _____ day of _____, 2018.

FORSYTH COUNTY BOARD OF COMMISSIONERS

Todd Levent, Chairman

Laura Semanson, Vice Chair

Dennis Brown, Secretary

Cindy J. Mills, Member

Ralph (Pete) Amos, Member

Attest:

Clerk to the Board

Exhibit A

Sec. 14-1. - Definitions.

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

Abandoned animal means any domesticated animal that has been placed upon public property or within a public building or upon or within the private property of another without the express permission of the owner, custodian or tenant of the private property and is unattended or uncared for. Any domesticated animal shall also be considered abandoned when it has been unattended and without adequate food and water for a period in excess of 36 hours, regardless of where the animal may be found or kept.

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

Adequate shelter means a protective covering for a dog that is of adequate size and provides adequate protection to maintain the dog in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. It should also be clean, dry, and compatible with current weather conditions, in addition to the breed of the dog. The structure should be of sufficient size to allow the dog to stand, turn around, lie down, and go in and out of the structure comfortably.

Adequate space means sufficient space for adequate exercise suitable to the age, size, species and breed of animals.

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

Animal(s) means any domesticated animals and fowl.

Animal at large means any animal not under restraint or voice control and off the property of its owner. If an animal has no known owner or keeper, then it shall be considered "at large" when on any public or private property.

Animal care facility means any establishment where the primary business involves the care, treatment, or sale of animals, which shall include, but is not limited to, pet shops, animal shelters, kennels, animal boarding facilities, animal grooming facilities, or animal training facilities.

Animal control department carries the same meaning as the animal control officer.

Animal control officer means a person employed by the Forsyth County Sheriff to pick up, restrain, or impound animals, and who is responsible for discharging such other duties or functions pertaining to animals as may be prescribed by this or any other ordinance, by state law, or by the lawful order of a county official authorized to supervise and direct animal control officers.

Animal control shelter means the facility designated by the board of commissioners of the county for the impoundment, restraint, care, detention and disposition of animals.

Animal under restraint means any animal secured by a leash or lead, or enclosed by way of fence or other enclosure; or under the control of a responsible and competent person and obedient to that person's commands, and the person being present with the animal; or an animal confined within a vehicle, parked, in motion, or in a crate or cage or otherwise secured in a pickup.

Appropriate authority means Forsyth County, the Forsyth County Sheriffs Office, any duly authorized agent thereof, the State of Georgia, any city, any county, or any state or subdivision thereof.

Attack means any biting or attempted biting or other action by an animal that places a person in danger of imminent bodily harm. An attack also means the actual biting of another animal.

Board means Forsyth County Board of Health, State of Georgia.

Cat means any age feline of the domesticated type.

Certificate means a certificate of vaccination on a form furnished or approved by the Georgia Department of Human Resources.

County means Forsyth County, Georgia.

Dangerous dog control ordinance means article IV of this chapter.

Dog shall mean a dog, of either sex, vaccinated or not vaccinated against rabies.

Domesticated animals means animals that are accustomed to living in or about the habitation of men, including, but not limited to, cats, cows, dogs, fowl, horses, swine, domesticated wild animals and/or exotic animals.

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

Guard dog means any dog which has been trained to attack persons or other animals independently or upon oral command.

Habitually means an action or state that lasts for or is repeated over an extended duration.

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

Local government means Forsyth County, Georgia.

Owner means any natural person or any legal entity owning, keeping, harboring, possessing, or having custody or control, or acting as caretaker or custodian of any domesticated animal, having a right of property in an animal, or any person who permits an animal to remain on his premises within Forsyth County.

Person shall mean any individual, firm, corporation, partnership, municipality, county, society, or association.

Rabies vaccination tag shall mean a tag furnished or approved by the Georgia Department of Human Resources and which tag shall be worn by the vaccinated dog at all times.

Records of an appropriate authority means records of any state, county or municipal law enforcement agency, 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 an animal control officer as provided for in this division.

Severe injury means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery, or a physical injury that results in death.

Vaccinate, inoculate shall mean the injection of a specified dose of anti-rabies vaccine by a veterinarian into the proper site of an animal, such vaccine having the U.S. Department of Agriculture Veterinary Biologies Control Section license number approval stamped on the label of the container and having been approved by the Georgia Department of Human Resources.

Vaccine means an injectable material containing killed or attenuated rabies virus, licensed by the United States Department of Agriculture, Veterinary Biologies Section, and approved by the Georgia Department of Human Resources. Vaccine used for the purpose of this rule shall be stored at the temperature prescribed on the purchase label. Outdated vaccine shall not be used.

Veterinarian shall mean any person who holds a degree of doctor of veterinary medicine (DVM).

Vicious animal means any animal which constitutes a physical threat to human beings or other animals by virtue of one or more attacks of such severity as to cause physical injury. An animal shall also be considered vicious if it makes an unprovoked attack on human beings or other domesticated animals. The term "vicious animal" shall also mean an animal that because of temperament, conditioning or training, has a known propensity to attack, bite or injure other living creatures without provocation.

Sec. 14-32. - Duty to keep animal under restraint while on property—No tethering of dogs as primary means of restraint.

- (a) It shall be the duty of every owner of any animal to ensure that it is confined by way of a fence, restraint, or other enclosure including activated invisible fence or in some other physical manner under the control of a competent person so that it cannot wander off the real property limits of the owner, it being the intent of this article that all animals be prevented from leaving, while unattended, the real property limits of their owners.
- (b) The above requirement notwithstanding, it shall be unlawful for the owner of any dog to utilize a tether, chain, cable, rope, or cord as the primary method of restraining a dog, it being the intent of this section that tethering a dog shall be used only as a temporary restraint mechanism. **In no event shall a dog be restrained by a tether, chain, cable, rope, or cord when the dog is not in the physical presence of and attended by the owner or adult custodian. ~~in the owner or adult custodian's line of sight.~~** The prohibition in this subparagraph shall have no application if the dog is in a park or recreational area where the rules of said park or recreational area require the tethering or physical restraint of dogs. **Any tether used to temporarily confine a dog while attended by its owner or custodian must be attached to a properly fitted collar or harness and shall not be wrapped directly around the dog's neck. Any such tether shall not be excessively heavy or weighted so as to inhibit the dog's movement.**

Sec. 14-34. - Cruelty to animals; fighting animals.

No person shall, by act, omission or neglect, cause unjustifiable physical pain, suffering or death to any animal. This section shall not apply to the killing of animals raised for the purpose of providing food, nor does it apply to any person who shall hunt wild animals in compliance with the game and fish laws of the State of Georgia. Furthermore, this section shall not apply to the killing or injuring of animals for humane purposes or in the furtherance of medical or scientific research or in the necessary defense of one's person or personal property.

- a) Whoever willfully or purposefully kills, abuses, maims or disfigures any animal or willfully or maliciously administers poison to an animal or exposes any poisonous substance with intent that the substance shall be taken and swallowed by an animal shall be in violation of this article. Cropping, docking, and dew claw removal performed by a veterinarian shall not be considered maiming or disfiguring.
- b) Whoever overloads, overdrives, tortures, torments or deprives an animal of adequate food or beats, mutilates, hobbles or kills any animal or causes such acts to be done, or carries in or upon a vehicle or otherwise any animal in a cruel or inhumane manner, shall be deemed in violation of this article. This section shall not prohibit the hobbling of an animal for legitimate training or approved medical care purposes.
- c) Whoever confines an animal and fails to supply adequate food, adequate water, or fails to provide the animal with access to adequate space, or abandons any animal to die shall be deemed in violation of this article.
- d) No person shall:
 - 1) Own, possess, keep or train any animal with the intent that such animal shall be engaged in an exhibition of unlawful fighting.
 - 2) Build, make, maintain or keep a pit on premises owned by him or occupied by him, or allow a pit to be built, made, maintained or kept on such premises, for the purpose of an exhibition of animal fighting.
 - 3) In any manner encourage, instigate, promote or assist in an exhibition of animal fighting.
 - 4) Charge admission to, be an assistant, umpire or participant at, or be present as a spectator to any exhibition of animal fighting.
- e) No owner of any dog contracting distemper or parvo shall allow such dog to remain untreated or fail to take prompt steps to have the dog euthanized.
- f) Any animal control officer may impound any animal that has been treated in a cruel manner.
- g) A person who is convicted of animal cruelty as provided in this article may not own, possess, or have on his premises in the 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 time in excess of one year, should circumstances warrant.

Sec. 14-77. - Adoption.

- a) The county sheriff's office or personnel from its designated animal control shelter may offer for adoption or placement with any person or any organization approved by the county or its agent an animal otherwise scheduled to be disposed of (euthanized) under the provisions of this chapter. No animal impounded shall be released to any person or organization for the purpose of animal experimentation. Any person or organization adopting an animal from the county shall pay the county for rabies inoculation, necessary medical treatment, and any other administrative fees designated by the county. **Additionally, any person seeking to adopt an animal from the county shall provide a written certification disclosing any convictions for animal cruelty or animal neglect under any federal, state, or local laws. No animal may be adopted from the county shelter by any person who has been convicted of animal cruelty or animal neglect, whether such conviction is a felony, misdemeanor, or ordinance-based conviction under any federal, state or local law.**
- b) The county will spay or neuter all dogs and cats at or immediately prior to the time of adoption if the animal is approximately 12 weeks of age or older. If a dog or cat to be adopted has not reached 12 weeks of age, the county will allow adoption upon the person or organization seeking to adopt signing a written document guaranteeing that sterilization will be performed by a licensed veterinarian within 30 days of the dog or cat reaching 12 weeks of age. In such event, the owner will be responsible for all costs associated with the spay-neuter procedure. If an owner does not comply with the agreement, upon confirmation of same the dog or cat shall be surrendered to the county upon such terms as are set forth in the agreement and as otherwise required by pertinent animal shelter policies.
- c) The requirement set forth in section 14-77(b) shall not apply if the owner of the dog or cat claims or presents evidence that such dog or cat is the property of such person or organization.

Sec. 14-81. – Regulations as to employees—Animal Handler Permit

- a) **An animal handler permit shall be required for any employee of an animal care facility, provided however that no permit shall be required for any employee working in an agricultural, zoological, scientific field, or a licensed veterinarian or an employee working for a licensed veterinarian.**
- b) **Any person required to obtain an animal handler permit in accord with section 14-81(a) shall secure such permit prior to beginning work at any animal care facility in the county.**
- c) **No animal handler permit shall be issued until such time as the prospective employee has completed the forms furnished by Forsyth County and provided all information considered necessary by the county to make a decision in regard to the employee's request for permission for a permit to work in an animal care facility. The employee-applicant shall make himself available for photographing and such other reasonable background checks and screening as may be required by the county. The employee-applicant shall pay a fee of **\$40.00** to Forsyth County or the Forsyth County Sheriff's Office, as directed, for each search and report. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the employee. The presence of an arrest**

record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt.

- d) **Applying for an animal handler permit shall serve as the applicant's permission and consent for a criminal background check to occur.** The Forsyth County Sheriff's Office shall have a complete and exhaustive search made relative to any criminal record of the employee-applicant. As a prerequisite to the issuance of any permit, the applicant shall furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of Investigation and to the Federal Bureau of Investigation, as specified under Georgia law. Once an application, accompanying documents, and the required investigative and permit fees are filed with the County, the Sheriff's Office shall conduct a criminal investigation of the applicant and prepare a written criminal investigation report detailing all information relating to fingerprinting, criminal history, arrest data, and other matters pertinent to law enforcement. Upon receipt of the fingerprints and the appropriate fees, the Forsyth County Sheriff's Office will transmit both sets of fingerprints [and appropriate fees (unless a satisfactory billing arrangement has been entered into between the county and the state identification bureau)] to the Georgia Bureau of Investigation. The Georgia Bureau of Investigation will compare the subject's fingerprints against its criminal file and, [(1) if no disqualifying conduct is found therein (or) (2) if necessary], submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Federal Bureau of Investigation check will be returned to the Georgia Bureau of Investigation, which will disseminate the state and national results to the Forsyth County Sheriff's Office. Upon completion of the criminal investigation report, the Sheriff's Office shall assemble the tendered application forms and accompanying documents relating to investigation and processing of the application. **The Forsyth County Sheriff's Office will provide duly authorized county staff with information as to whether the criminal background check discovered a disqualifying event. In no event will the nature of the crime be disclosed; just whether the crime is disqualifying under the ordinance.**
- e) No animal handler permit may be issued to an employee-applicant under the following circumstances:
1. An employee-applicant who has been convicted of animal cruelty or animal neglect, whether such conviction is a felony, misdemeanor, or ordinance-based conviction under any federal, state or local law. A conviction under this subparagraph shall not be deemed final until all adjudication is concluded. If a conviction from another jurisdiction is similar in kind and nature to animal cruelty or animal neglect, but different terminology is used, the Forsyth County Sheriff's Office, with the assistance from the Forsyth County attorney, if needed, shall be responsible for determining whether the conviction is disqualifying under this code.
 2. An employee-applicant who fails to provide truthful and correct responses to questions on the animal handler permit application concerning information of past arrests and convictions. **Such employee-applicant shall be disqualified from obtaining an animal handler permit for 180 days from the date the employee-applicant submitted an application with false and/or incorrect responses.**
- f) If it is found that the employee-applicant is not eligible for an animal handler permit, the Forsyth County Sheriff or other authorized county official shall notify the employee-

applicant that the person is not eligible for such employment. In the event the employee-applicant meets the qualifications of this chapter, the Sheriff or other authorized County official shall issue an animal handler permit stating that the person is eligible for employment.

- g) An animal handler permit issued by the county may be revoked if said permit is issued through administrative error or through an error in completing the background investigation. The county and/or the Forsyth County Sheriff may revoke an animal handler permit and demand its surrender, pending a hearing before the Board of Commissioners, if it is discovered that the permittee no longer satisfies the requirements for issuance of an animal handler permit. The county and/or the Forsyth County Sheriff may conduct a new search on any permittee when the Sheriff or his/her designee, or a duly authorized county official, receives information in regard to such permittee that warrants a recheck. If the search reveals evidence that warrants cancellation of the animal handler permit, the employer and permittee will be so notified. It shall be unlawful for the holder of an animal handler permit to refuse to surrender an animal handler permit that has been revoked or cancelled.
- h) No animal care facility shall retain or hire for employment an employee required to hold an animal handler permit to work on the premises unless the employee has confirmed they have been issued and has available for copying a valid animal handler permit. An animal care facility shall make a copy of such animal handler permit and shall maintain a copy on the premises of the animal care facility as evidence that such permit has been duly issued and is valid. An animal care facility may be subject to a citation for allowing an employee to work on the premises where the employee has never been issued an animal handler permit or where such animal handler permit has expired or been revoked.
 - 1. An animal care facility that has a copy of a valid employee animal handler permit on file shall not be subject to a violation for allowing an employee to continue selling and/or handling animals where the permit has been suspended or revoked, **if the animal care facility did not know, or could not have reasonably known, of said suspension or revocation.**
 - 2. An employee that continues to work in an animal care facility when their animal handler permit has been revoked shall be subject to citation.
- i) An animal handler permit shall remain with the permittee irrespective of the animal care facility for which the permittee works. A permittee working in multiple animal care facilities in the unincorporated areas of Forsyth County shall only be required to maintain a single animal handler permit.
- j) All animal handler permits issued hereunder remain the property of Forsyth County and shall be produced for inspection upon demand by any sworn officer of the Forsyth County Sheriff's Office or his/her designee or any duly authorized county official.

Sec. 14-82. – Animal Handler Permits.

- a) Animal handler permits shall be valid for twenty-four (24) months from the date of issue. Animal handler permits may be issued or renewed upon the tendering of an application on forms prepared by the county accompanied by a \$40.00 fee [payment for the background investigation in Sec. 14-81(c)] as well as a \$25.00 fee for the permit. All permit applications shall be subject to an administrative determination that the application is complete and the applicant remains qualified to receive a permit.
- b) An animal handler permit application should be tendered to the county no less than (14) fourteen days prior to the expiration date of the existing permit in order to ensure there is no permitting lapse.
- c) Issuance of an animal handler permit is an administrative function, but the decision to not issue an animal handler permit shall be subject to a hearing before the Board of Commissioners.

Sec. 14-83. – Hearing on denial or revocation.

- a) Upon receipt of a timely appeal (accompanied by a fee of \$250.00 made payable to Forsyth County, Georgia) of a denial of a permit, or upon presentation of evidence to the Sheriff or a duly authorized county official of a violation of this chapter, or upon a showing to the Sheriff or other duly authorized county official of any of the other occurrences set forth in section 14-81 as grounds for revocation of a permit, the Sheriff or other duly authorized county official shall schedule a hearing before the Board of Commissioners and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The Sheriff or other authorized county official shall also state in the written notice in reasonable detail the basis for the denial or the violation or occurrence alleged that forms the basis for the denial or potential revocation.
- b) The Board of Commissioners or their appointee shall have the duty of conducting hearings concerning the denial or revocation of a permit. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing, to include evidence of any conviction for animal neglect or animal cruelty from any court or administrative tribunal. At its discretion, the Board of Commissioners may appoint a special master to conduct said hearing and make findings of fact and conclusions of law and report such findings and conclusions to the Board of Commissioners and to the Sheriff or duly authorized county official.
- c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his/her case, to rebut the allegations made against him/her, and present whatever defenses he/she has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.
- d) At the conclusion of the hearing, the Board of Commissioners shall cause written notification to be delivered to the adverse party of the actions and conclusions of the Board of Commissioners.

- e) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Forsyth County, Georgia, within 30 days of providing written notification to the adverse party of the board's decision.
- f) For purposes of this chapter, notice shall be deemed delivered when personally served or when served by certified mail postage prepaid within three days after the date of deposit in the United States Mail.