

FORSYTH COUNTY, GEORGIA
AN ORDINANCE
BY THE BOARD OF COMMISSIONERS
OF FORSYTH COUNTY

An Ordinance of Forsyth County, Georgia to amend the Code of Ordinances of Forsyth County, Ordinance No. 11 regarding Animal Control; to provide for severability; and to provide for an effective date.

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

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

WHEREAS, the Board of Commissioners of Forsyth County adopted the “Animal Control Ordinance of 1989” on December 27, 1988, Ordinance Number 11, and same was amended February 24, 1992, to be titled the “Forsyth County Dog Control Ordinance”, and was further amended on November 8, 1993, and was further amended on March 11, 2002 and renamed the “Forsyth County Animal Control Ordinance,” and the same is subject to amendment; 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 in amending the Code of Ordinances of Forsyth County regarding Animal Control, and to implement and adopt rules and regulations governing the proper method by which an owner or custodian can restrain an animal; and to implement and adopt rules and regulations governing minimum standards to be utilized for the housing and caring of animals; and

NOW THEREFORE, be it ordained and resolved by the Board of Commissioners of Forsyth County, Georgia, that Ordinance No. 11 of the Code of Ordinances of Forsyth County (the “Ordinance”) shall be amended as follows:

AMENDMENTS

(1) General Provisions, Section 11-1 (codified as Sec. 14-1) of the Animal Control Ordinance shall be deleted in its entirety and shall be replaced with the following:

“Sec. 11-1. Definitions (also found at beginning of Article I, Article III, Article IV).”

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

Adequate shelter means a protective covering for a 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 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 Sheriff's Office, any duly authorized agent thereof, the State of Georgia, any city, any county, or any state or subdivision thereof.

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

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 Biologics 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 Biologics 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."

(2) Article I, Section 11-4 (codified as Section 14-32) of the Ordinance shall be deleted in its entirety and shall be replaced with the following:

“Sec. 11-4. 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 Ordinance that tethering a dog shall be used only as a temporary restraint mechanism. 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.

(3) Article I, Section 11-6 (codified as Section 14-34) of the Ordinance shall be deleted in its entirety and shall be replaced with the following:

“Sec. 11-6. 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.”

(4) Article I, Section 11-10 (codified as Section 14-38) of the Ordinance shall be deleted in its entirety and shall be replaced with the following:

“Sec. 11-10. Vicious animals – Precautions to be taken by owners.

(a) Vicious animal.

- (1) The words "vicious animal" shall mean any animal which attacks, bites or injures humans, other animals without provocation; or which, because of temperament, conditioning or training, has a known propensity to attack, bite or injure other living creatures without provocation; or any animal which constitutes a physical threat to human beings or domesticated animals by one or more attacks without provocation of such severity to cause physical injury. An animal that bites its owner is exempted from this section, except the mandatory reporting requirement of Section 11-66 shall still apply.

(b) Exception: An animal is not considered vicious if it attacks, bites or menaces:

- (1) Anyone attacking its owner;
- (2) Unlawful trespassers on the property of its owner;
- (3) Any person or animal that has tormented or abused it;

- (4) If it is defending its young or other animal; or
 - (5) Any non-domesticated animal being hunted as part of lawful hunting activities.
- (c) An animal will not be classified as vicious simply by nature of its size, breed, phenotype or other physical characteristics.
- (d) No person owning or having custody or control of any animal known to be vicious shall permit it to run at large, or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.
- (e) For owners of vicious animals who maintain their animal out-of-doors, a portion of their property shall be fenced with a perimeter or area fence. Within this perimeter fence the vicious animal must be provided Adequate Shelter of Adequate Space. The pen or kennel shall not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides, with a secure top attached to all sides, and the sides must be securely set into the ground or onto a concrete pad or securely attached to a wire bottom, out of which it cannot climb, dig, jump or otherwise escape on its own volition. The gate must be securely locked.
- (f) A warning sign (e.g., BEWARE OF VICIOUS ANIMAL) shall be conspicuously posted denoting a vicious animal is on the premises and if said vicious animal is kept in a secure enclosure such signs will be posted on all 4 sides of said enclosure. It is the intention of this article to make all persons who have legitimate business at the place where a vicious animal is kept to be fully warned that such vicious animal is present.
- (g) No vicious animal shall be chained, tethered, or otherwise tied to any inanimate object such as a tree, post or building.
- (h) Whenever outside of its enclosure, but on the owner's property, a vicious animal must be attended by the owner and restrained by a secure collar and leash of not more than six feet in length and of sufficient strength to prevent escape.
- (i) It shall be unlawful for any person to cause, permit, accompany or be responsible for any vicious animal on the streets or in any other public place, at any time, unless, in addition to the other requirements of this article, such animal is humanely and securely muzzled and in charge of a competent person to effectively prevent it from biting any person or other animal.
- (j) The owner of any vicious animal which is not confined in a building or secure enclosure, or any person who shall release, either willfully or through a failure to exercise due care or control, 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 article, and such animal shall be permanently confined or humanely destroyed.”

All remaining portions of the Code of Ordinances of Forsyth County shall continue in full force and effect, and shall remain unaffected by this amendment.

SEVERABILITY

It is the express intent of the Forsyth County Board of Commissioners that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

CONFLICTING ORDINANCES REPEALED

Any and all Ordinances or parts of Ordinances in conflict herewith shall be, and the same are, hereby repealed to the extent of such conflict.

EFFECTIVE DATE

This Ordinance shall become effective immediately upon passage.

PASSED AND ADOPTED this ___ day of _____, 2009, the public health, safety, and welfare demanding it.

FORSYTH COUNTY BOARD OF COMMISSIONERS:

Charlie Laughinghouse, Chairman

Jim Harrell, Vice Chairman

Patrick B. Bell, Secretary

Brian Tam, Member

Jim Boff, Member

Attest:

Clerk to the Board