

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES FOR THE PURPOSE OF **AMENDING AND READOPTING THE BARTOW ANIMAL CONTROL ORDINANCE; REGULATING TETHERING OF ANIMALS; REGULATING MAXIMUM NUMBER OF ANIMALS; AMENDING RELATED PROVISIONS FOR VIOLATIONS; AMENDING VICIOUS ANIMAL PROVISIONS;** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 4TH DAY OF JUNE, 2008.

WHEREAS, Bartow County previously adopted an Animal Control Ordinance on November 8, 1989, and amended it from time to time; and readopted it in its entirety on April 6, 2005; and further amended in on October 4, 2006; and

WHEREAS, the Commissioner deems it in the best interest of the citizens of Bartow County to substantially revise, amend and readopt the Animal Control Ordinance in order to regulate the care, control and protection of animals, persons and property in Bartow County and to promote the general health, safety and welfare; and

WHEREAS, the Humane Society and various researchers have determined that it is inhumane to tether animals, in that it leads to aggression, risks to the animal's well-being and safety, and risks to passers-by; and, the County Animal Control Department has determined that multiple animals on small lots can constitute a nuisance to neighbors; and

WHEREAS, the County Animal Control Department has recommended the following restrictions be adopted, based on their experience in enforcing animal control regulations and protecting animals in the County as well as to minimize the nuisance that can arise from multiple animals on small lots;

NOW THEREFORE BE IT ORDAINED AND IT HEREBY IS ORDAINED, by virtue of the authority vested in the Commissioner by law that the "Bartow County Animal Control Ordinance" is amended as indicated below. The Ordinance is also readopted in its entirety, as amended, as attached hereto and incorporated by reference herein.

Amendments:

I. Existing Article II, Section 201 is amended by adding the following definition:

Tether means any chain, cord, cable, rope, leash, wire, tie out, running cable line, trolley system, or similar device designed to restrain an animal, which is attached to a stationary object or objects and is also attached directly to the animal, or to a collar, harness, halter, or similar device attached to the animal's body. "*Tethering*" means to restrain an animal with a tether. See Sec. 301(H).

Chicken Coop means any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, or similar birds, containing twenty (20) or less chickens. A chicken coop is not a "major livestock enclosure" as long as it contains only 20 or less

chickens.

Livestock Enclosure means any structure, building, shelter, or other facility used for keeping, raising, feeding, sheltering or otherwise maintaining livestock. Fenced grazing land and fenced pasture for horses, cattle and other grazing animals shall not be included in this definition. A “*major livestock enclosure*” is any structure designed to hold, or holding, more than eight livestock animals. A “*minor livestock enclosure*” is any structure designed to hold, or holding, less than eight livestock animals.

II. *The definitions for “livestock shelter,” “inside cat,” “inside dog,” “outside cat,” and “dairy or cattle barn” are deleted.*

III. *The definition of “livestock” in Sec. 201 is deleted and replaced with the following:*

Livestock means all animals of the equine (Family: Equidae), bovine (Family: Bovidae), or swine (Family: Suidae) type (or similar animals), including but not limited to, goats, sheep, mules, horses, hogs, pigs, and cattle; all poultry, including chickens, roosters, hens and similar birds; other birds raised or kept such as pigeons; other grazing animals; all ratites, including, but not limited to, ostriches, emus, and rheas; non-traditional livestock including, but not limited to, bison, deer, buffalo, alpaca and llamas; and other similar animals raised for profit or use, but not including dogs or cats. Livestock shall also include, but not be limited to, definitions under O.C.G.A. § 4-4-1.1 for “livestock” and O.C.G.A. § 4-4-80 for “poultry.”

IV. *Article III, Section 304, is deleted and replaced by the following:*

Section 304 **MAXIMUM NUMBER ANIMALS PERMITTED**

A. Dogs. The following restrictions apply to the maximum number of dogs that may be possessed or kept on any residential property, based on the area of the lot. Other applicable regulations, including the Bartow County Zoning Ordinance, shall still apply and should be consulted for restrictions on location of shelters and enclosures and other restrictions. “Kennels,” as defined therein, are regulated under the Zoning Ordinance; see Sec. 306(C).

1. Larger than 2.0 acres. On any residential property that is larger than two acres (2.0 acres), there shall be no restriction on the number of dogs allowed to be possessed or kept, provided all other applicable provisions of this Ordinance are obeyed. However, any such property that contains more than six dogs shall be required to maintain those animals in an enclosure at least 100 feet from the nearest property line.

2. Larger than 1.0 acre but equal to or less than 2.0 acres. On any residential property that is larger than one acre (1.0 acre), but equal to or less than two acres (2.0 ac), regardless of the designated zoning of said property, it shall be unlawful to possess or keep more than six dogs.

3. Equal to or less than 1.0 acres. On any residential property that is equal to or less than one acre (1.0 acres), it shall be unlawful to possess or keep more than three dogs.

4. Multi Family Units. For any dwelling unit in a multi-family development (e.g., apartment, condominium, townhome, mobile home parks, duplex, triplex, quadraplex or similar) it shall be unlawful to possess or keep more than three dogs. The overall acreage of the development or property shall not control.
- B. Cats. The following restrictions apply to the maximum number of cats that may be kept on any residential property, based on the area of the lot. Other applicable regulations, including the Bartow County Zoning Ordinance, shall still apply and should be consulted for restrictions on location of shelters and enclosures and other restrictions.
1. Larger than 2.0 acres. On any residential property that is larger than two acres (2.0 acres), there shall be no restriction on the number of cats permitted provided other provisions of this Ordinance are obeyed..
 2. Equal to or less than 2.0 acres. On any residential property that is equal to or less than two acres (2.0 acres), it shall be unlawful to possess or keep more than six cats.
 3. Multi Family Units. For any dwelling unit in a multi-family development (e.g., apartment, condominium, townhome, mobile home parks, duplex, triplex, quadraplex or similar) it shall be unlawful to possess or keep more than six cats. The overall acreage of the development or property shall not control.
- C. Other Provisions. The limits on dogs and cats are independent. For example, a 1.5 acre parcel would allow up to six dogs and up to six cats. For litters of offspring, see Sec. 305.
- D. Livestock. The following restrictions apply to the maximum number of livestock animals that may be kept on any property, based on the area of the lot. Other applicable regulations, including the Bartow County Zoning Ordinance, shall still apply and should be consulted for restrictions on location of shelters and enclosures and other restrictions. Nothing in these provisions shall authorize keeping of livestock in zoning districts where livestock are not permitted.
1. Larger than 10.0 acres. On any property that is larger than ten acres (10.0 acres), there are no restrictions in this Ordinance as to the number of livestock that may be kept. Other applicable provisions as to type, adequate shelter, humane care, and so forth must be obeyed. Furthermore, the Bartow County Zoning Ordinance contains restrictions for setback, and certain livestock uses require a conditional use permit (e.g., chicken houses).
 2. Larger than 2.0 acres but equal to or less than 10.0 acres. On property that is larger than two acres (2.0 acres) but equal to or less than ten acres (10.0 acres), limited numbers of livestock animals are permitted. No more than eight (8) livestock animals total shall be permitted on property in this size range or no more than twenty (20) chickens; if both chickens and other livestock animals are kept, no more than eight (8) animals total shall be permitted. Further, either a single chicken coop, or a single minor livestock enclosure for up to 8 animals, may be erected for housing livestock, but not both.
 3. Equal to or less than 2.0 acres. On any property that is equal to or less than two acres (2.0 ac), it shall be unlawful to possess or keep any livestock.

- E. Definitions. For purposes of this Section, “residential property” shall mean any property zoned to a residential classification under the Bartow County Zoning Ordinance, or any property containing or authorized to contain residential dwelling units (single or multi-family). “Possess or keep” shall mean owning, maintaining or raising, or otherwise keeping such animals on the premises.

V. *Article III, Section 301 is deleted and replaced with the following:*

Section 301 RESTRAINT AND CONFINEMENT; LEASH LAW

- A. Animals at Large. It shall be unlawful for the owner of any animal, or anyone having an animal in his possession and custody, to allow it to run at large unattended on or about the streets and highways of the unincorporated and incorporated limits of the county, or on the property of another person or of the person in possession of such property, except for dogs being used in hunting in accordance with state game and fish department laws, rules and regulations.
- B. Animals on Own Premises. It shall be the duty of every owner of any animal or anyone having an animal in his possession or custody, to ensure that it is enclosed by way of a fence or other enclosure or restrained by a chain or leash, or in some physical manner under control by a competent person, so that it cannot wander off of the real property limits of the owner, possessor or custodian, except as provided in this article, it being the intent of this article that all animals shall be prevented from leaving, while unattended, the real property limits of their owner, possessor or custodian. An “invisible fence” electronic restraint/shock collar shall be a permissible restraint for dogs. Voice command shall be a permissible restraint, but to qualify as voice command the person must be 1) outside with the animal, 2) in close proximity to the animal, and 3) the animal must be demonstrably responsive to voice commands. A person inside a structure shall not be considered under this ordinance to have voice command over an animal that is outside. Close proximity shall mean within a distance where the animal can respond to spoken (not shouted) commands.
- C. Animal off Premises. It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under control at all times while the animal is off the real property limits of the property of the owner, possessor or custodian. For the purposes of this section, an animal is deemed under the control when it is confined within a vehicle, whether parked or in motion; is secured by a leash or other device held by a competent person; or is properly confined within the enclosure with permission of the owner of the property where the enclosure is located. Voice command shall be a permissible method of animal control, but to qualify as voice command the person must be 1) outside with the animal, 2) in close proximity to the animal, and 3) the animal must be demonstrably responsive to voice commands. A person inside a structure shall not be considered under this ordinance to have voice command over an animal that is outside. Close proximity shall mean within a distance where the animal can respond to spoken (not shouted) commands.
- D. Tethering on Public Property. No person shall tie, stake or fasten any animal within any street, alley, sidewalk or other public place or in such manner that the animal has access to any portion of any street, alley, sidewalk or other public place.

- E. Dogs in Heat. Every female dog in heat shall be confined in a building or other enclosure in such manner that such female dog cannot come into contact with another animal except for planned breeding.
- F. Every animal shall be restrained and controlled so as to prevent it from molesting passersby, chasing vehicles, or attacking persons or other animals.
- G. Public Nuisance Animal. Maintaining a public nuisance animal, as defined in Section 201, is prohibited.
- H. Tethering.
 - 1. Animals may only be tethered under the following circumstances:
 - (a) a person restraining an animal with a tether shall attach the tether to a properly fitting collar or harness worn by the animal. A person may not use choke collars, pinch collars, prong collars or similar devices, nor may a person wrap a tether directly around an animal's neck;
 - (b) a person may not restrain an animal with a tether in a manner that does not allow the animal to access necessary shelter and water;
 - (c) the length of the tether should be no less than five (5) times the length of the animal, measured from the tip of the animal's nose to the base of its tail. In any event, a person may not restrain an animal with a tether less than ten (10) feet in length;
 - (d) the animal must be tethered in a safe manner and not in a fashion that subjects the animal to tangling and choking risks; and
 - (e) a person restraining an animal with a tether shall ensure that the area in which the animal is confined is free of garbage, fecal matter, or other debris that can cause harm to the animal.

VI. *Section 703(I) is added as follows:*

- I. Additional Penalties. The magistrate court and superior court shall be authorized to impose additional penalties for violation of this Ordinance at its discretion, to include the following:
 - 1. Confinement up to 60 days in the Bartow County Jail.
 - 2. Training and/or pet education classes. The Department shall maintain a list of approved training and/or pet education classes for obedience training and for education of pet owners. No training requirement costing more than \$250 shall be imposed.
 - 3. Community service up to 240 hours.
 - 4. For vicious animal convictions, the person may be required to relinquish control of the animal in question to Animal Control and the animal will be dealt with in the discretion of the Department.

VII. *Section 502(A) is deleted and replaced with the following:*

Section 502 **VICIOUS ANIMALS; HEARING PROCEDURES**

- A. Vicious Animals. Vicious animals, as defined below, shall be immediately confiscated and held by the Animal Control officer, and dealt with under the provisions detailed below.
1. Definitions.
“Vicious animal” means any animal, including but not limited to dogs, that
 - a. severely injures a person or another animal, or
 - b. makes an unprovoked attack on animals or persons, or
 - c. intentionally attacks physical property in an effort to cause harm to a person or other animal, or
 - d. constitutes a physical threat to persons or other animals by virtue of an attack of such severity or intensity as to cause severe physical or property damage.
 2. Exceptions. An animal shall not be considered a vicious animal within the meaning of this section if 1) it inflicts injury upon a person when the animal is being used by a law enforcement officer carrying out official duties; or 2) if the injury inflicted by the animal was sustained by a person who was i) committing a willful trespass or other tort; ii) was tormenting, abusing or assaulting the animal; iii) had in the past been reported to have tormented, abused or assaulted the a animal; or iv) was committing or attempting to commit a crime.
 3. Confiscation. The owner of any animal that has been confiscated as a vicious animal shall be given notice of the confiscation pursuant to paragraph (B) below. If an owner is unknown or cannot be found, notice shall be made by posting the notice in a conspicuous place at the location where the animal was confiscated. If no owner comes forward, the animal shall be kept for five days, and then may be disposed of by Animal Control.

VIII. *Section 306(C) is added as follows:*

- C. Zoning Requirements. Kennels for maintaining more than eight dogs are also regulated by the Bartow County Zoning Ordinance, which requires a conditional use permit and a minimum of ten acres of land, among other requirements. See Zoning Ordinance, Sec. 7.1.9. Prior to erecting such a structure, the applicant shall check with the Zoning Department and secure necessary permission.

IX. *The following definitions replace existing definitions in Sec. 201, which are deleted and replaced with the following:*

Cat means any domestic cat (*felis domesticus*), male or female, of pure or mixed breed.

Dog means any domestic dog (*canis familiaris*), male or female, of pure or mixed breed.

X. *Sections 602(A)(9) and (10) are deleted and replaced with the following:*

9. Any animal that is vicious, or that the animal control officer reasonably believes constitutes and immediate threat to public safety, pursuant to Section 502;
10. Any animal charged under Sec. 503 or in violation of Sec. 504; any animal that is charged with being potentially dangerous, or dangerous where the Animal Control officer determines that there is an immediate threat to public health and safety;

BE IT FURTHER ORDAINED that the existing Bartow County Animal Control Ordinance, as amended by the foregoing amendments, is readopted in its entirety as attached hereto and incorporated herein by reference.

BE IT FURTHER ORDAINED that all Resolutions and Ordinances in conflict herewith are hereby repealed provided, however, that any portion of said Resolutions or Ordinances not in conflict herewith shall remain in full force and effect. The foregoing amended provisions shall be effective July 1, 2008.

SO ADOPTED this day of 4th day of June, 2008.

ATTEST:

BARTOW COUNTY, GEORGIA

Kathy Gill, County Clerk

Clarence Brown, Commissioner

BARTOW COUNTY
ANIMAL CONTROL ORDINANCE

ADOPTED June 4, 2008

Prepared by
the Bartow County Animal Control Department, and
Peter Olson, Attorney for Bartow County

BARTOW COUNTY ANIMAL CONTROL ORDINANCE

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**ARTICLE I
TITLE AND PURPOSE**

Section 101 TITLE

This Ordinance shall be known as the “Bartow County Animal Control Ordinance.”

Section 102 PURPOSE AND INTENT

The purpose of this Ordinance is to provide for the humane treatment of animals by regulating the care and control of animals within Bartow County; to provide for the classification of dangerous dogs and potentially dangerous dogs; to provide for the investigation of cruelty to animals; to provide for emergency procedures pertaining to sick or injured animals; to provide appropriate restrictions on the keeping of animals, including number and minimum land area; to provide standards for the care and treatment of animals; to provide for enforcement of these provisions; and to promote the public health, safety and general welfare of the citizens of Bartow County by restricting nuisances, and preventing unwholesome, unhealthy or unsanitary living conditions for animals.

**ARTICLE II
DEFINITIONS**

Section 201 DEFINITIONS

When used in this Ordinance, the following words, terms, and phrases, and their derivations shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Abandoned means to leave an animal with no intent to continue to provide care or shelter for the animal, or no intent to return and reclaim the animal. Intent to abandon can be inferred if an animal is left unattended for more than twenty four hours.

Adequate food and water means food and water which is sufficient in amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal’s health from a lack of food or water.

Animal means any live creature, both domestic and wild, except humans. “Animal” also includes fowl, fish and reptiles.

Animal Control means the Animal Control Department of Bartow County.

Animal Control Director means the official who is the head of the Bartow County Animal Control department, or his or her designee.

Animal Control Officer means an employee of Animal Control designated to administer and enforce the requirements contained within this Ordinance.

Animal Shelter means the Bartow County Animal Shelter or other facility operated by a government entity, where animals impounded under the terms of this Ordinance shall be kept.

Animal Shelter, Private means any facility operated for the purpose of harboring stray, homeless, abandoned or unwanted dogs, cats, and other animals, which facility is operated, owned or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection and humane treatment of animals. Private Animal Shelter also means a facility for the care and keeping of animals, rehabilitation of animals, or for providing other treatment and humane care to animals, without fee or compensation or not on a commercial basis. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute a private animal shelter.

Anti-climbing device means angle metal braces at least 12 inches long, securely attached to the top of a fence with at least three (3) strands of equally separated barbed wire stretched between them. All anti-climbing devices shall extend inward at an angle of not less than forty-five (45) degrees nor more than ninety (90) degrees when measured from the perpendicular. Other designs may be approved by the Animal Control Director.

At Large means that an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

Building means any structure intended for shelter, housing, or enclosure of persons, animals, chattels or property, and usually having a roof supported by columns or by walls.

Cat means any domestic cat (*felis domesticus*), male or female, of pure or mixed breed.

Chicken Coop means any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, or similar birds, containing twenty (20) or less chickens. A chicken coop is not a "major livestock enclosure" as long as it contains only 20 or less chickens.

Commissioner means the sole Commissioner of Bartow County.

Contagious Disease means any sort of illness, sickness, virus or infection that is communicable to other persons or animals.

County means Bartow County, Georgia. For the purposes of this Ordinance only, it

shall also mean and include any Participating Municipality, as the same is defined by this Ordinance.

Custodian means a person in whose care or supervision an animal is placed. It shall also mean any person who cares for a stray dog or cat or abandoned animal.

Dangerous Dog means any dog that, according to the records of an appropriate authority, inflicts a severe injury on a human being without provocation on public or private property; or any dog that 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.

Disposition means adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal in accordance with O.C.G.A. § 4-11-5.1. "Disposition" also includes placement or sale of an animal to the general public.

Dog means any domestic dog (*canis familiaris*), male or female, of pure or mixed breed.

Domestic Animal means dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, chickens, turkeys, confined domestic hares and rabbits, pheasants, and other birds and animals raised and/or maintained in confinement.

Enclosure means a pen or other structure designed to hold an animal and capable of preventing the animal enclosed from escaping the boundaries of the enclosure.

Enclosure, Livestock: see "Livestock Enclosure."

Enclosure, Secure or Secure 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 pen or structure shall have secure sides and a secure top. Any pen, structure or fenced area shall be lockable by a keyed or combination lock. If the dog is enclosed within a fence, the bottom of the fence shall be secured to the ground in such a manner as to prevent the dog's escape. The fence shall be topped with anti-climbing devices sufficient to prevent the dog from escaping over the top, or the enclosure shall have a secure top. The fence shall be a minimum of six feet high for any dog exceeding 23 inches in height, and shall be a minimum of four feet high for any other dog. Any secure enclosure shall also provide protection from the elements for the dog.

Equine means any member of the Equidae species, including horses, mules, and asses.

Exotic Animal means any live alligator, crocodile, cayman, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary domestic animals or household pets sold by commercial pet shops, or required for traditional farm animals. *Exotic Animal* also means those animals as defined in Chapter 5 of Title 27 of the Official Code of Georgia Annotated.

Governing Authority means the governing authority of Bartow County.

Guard or Attack Dog means a dog trained to attack on command or to protect persons or property, and who will cease to attack upon command.

Humane Care means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, sufficient wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed, veterinary care needed to prevent suffering and prevent or treat disease, and any other treatment needed to prevent suffering.

Impoundment means the taking into custody of an animal by any law enforcement officer, Animal Control Officer, or any authorized representative thereof.

Kennel means any establishment, other than an Animal Shelter, where dogs or cats are maintained for boarding, holding, training, breeding, or similar purposes for a fee or compensation. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute a kennel. See Section 306.

Litter means the offspring at one birth of an animal.

Livestock means all animals of the equine (Family: Equidae), bovine (Family: Bovidae), or swine (Family: Suidae) type (or similar animals), including but not limited to, goats, sheep, mules, horses, hogs, pigs, and cattle; all poultry, including chickens, roosters, hens and similar birds; other birds raised or kept such as pigeons; other grazing animals; all ratites, including, but not limited to, ostriches, emus, and rheas; non-traditional livestock including, but not limited to, bison, deer, buffalo, alpaca and llamas; and other similar animals raised for profit or use, but not including dogs or cats. Livestock shall also include, but not be limited to, definitions under O.C.G.A. § 4-4-1.1 for "livestock" and O.C.G.A. § 4-4-80 for "poultry."

Livestock Enclosure means any structure, building, shelter, or other facility used for keeping, raising, feeding, sheltering or otherwise maintaining livestock. Fenced grazing land and fenced pasture for horses, cattle and other grazing animals shall not be included in this definition. A "major livestock enclosure" is any structure designed to hold, or holding, more than eight livestock animals. A "minor livestock

enclosure” is any structure designed to hold, or holding, less than eight livestock animals.

Notice means the manner of making affected persons aware of proceedings under this Ordinance. Whenever a provision of this ordinance requires notice upon an animal owner, notice shall be accomplished by personally service to the owner of the animal or by certified mail to the animal owner’s last know address, unless the provision expressly requires another form of notice. If the animal owner or their address is not known, notice shall be accomplished by conspicuously posting the notice information at the location the animal was picked up and at the Animal Shelter.

Outside dog means a dog that lives outside generally, or a dog that sleeps outside or in the yard, a doghouse or similar shelter.

Owner means any natural person or legal entity including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping or having custody of an animal.

Participating Municipality means any municipality in Bartow County which by Ordinance or resolution agrees to participate in the County’s animal control program as set forth in this Ordinance through an intergovernmental agreement and which agrees to share the expenses of said program.

Person means any person, firm, corporation, partnership, association, or other legal entity, any public or private institution, the State of Georgia, or any county, municipal corporation, or political subdivision of the state.

Pet Dealer means any person who sells, offers to sell, exchanges, or offers for adoption, any of the following animals: dogs, cats, birds, fish, reptiles or other animals customarily obtained as pets in this state. A person who sells only animals that he has produced and raised, not to exceed one litter per household per year, shall not be considered a pet dealer; however, selling more than one litter, either from the same animal or different animals, in the same year shall make the seller a pet dealer. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not make the veterinarian a pet dealer.

Pet Dealing means acts such as selling, offering to sell, exchanging, or the offering for adoption, any of the following animals: dogs, cats, birds, fish, reptiles or other animals customarily obtained as pets in this state. Selling only animals that a person has produced and raised, not to exceed one litter per household per year, shall not be considered pet dealing; however, selling more than one litter, either from the same animal or different animals, in the same year shall constitute pet dealing.

Potentially Dangerous Dog means any dog that, without provocation, bites a human being on public or private property or acts in a threatening or aggressive manner

towards a person that places said person in reasonable apprehension of immediately receiving a violent injury.

Private Animal Shelter: See, “Animal Shelter, Private.”

Public Nuisance Animal means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term “public nuisance animal” shall include, but not be limited to:

- (a) Any animal that is repeatedly found running at large;
- (b) Any dog or cat in any section of a park or public recreation area, unless the dog or cat is controlled by a leash or similar physical restraint;
- (c) Any animal that damages, soils, defiles or defecates on any property other than that of its owner;
- (d) Any animal that continuously (exceeding fifteen continuous minutes) or repeatedly (numerous times totaling fifteen minutes over the course of one hour) howls, barks, whines or makes other disturbing noises that can be heard from within any adjacent or nearby residential structure owned by anyone other than the animal owner;
- (e) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (f) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;
- (g) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- (h) Any animal that attacks or injures a domestic animal or pet;
- (i) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored; or
- (j) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

Records of an Appropriate Authority means records of any state, county, or municipal law enforcement agency; records of Animal Control; records of any county board of health; records of any federal, state, or local court; or records of an Animal Control Officer provided for in this article.

Residential Structure means a structure designed, arranged, or used for living quarters for one or more persons, that is lawfully constructed and permitted under all applicable zoning ordinances and building codes.

Responsible Person means a person of sufficient strength and capability to restrain and manage the animal under their control.

Sanitary means a condition of good order and cleanliness to minimize the possibility of disease transmission.

Sanitary shelter means an animal enclosure in good order, clean, without an accumulation of waste, garbage or feces on the property, and that does not expose the animals sheltered within to disease, diseased animals, dangerous or hazardous conditions, or other threats to animal health and welfare.

Secure Enclosure: see “Enclosure, Secure.”

Severe Injury means any physical injury that results in (1) broken bones; (2) disfiguring lacerations requiring multiple sutures; (3) cosmetic surgery; or (4) a physical injury that results in death.

Sexually mature animal means any dog or cat that has reached the age of 180 days or six months or more.

Stable means any building, structure, pasture or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and; (a) a fee is charged for boarding, holding, training, breeding, lodging, or other similar purposes for such equine; or (b) a fee is charged for riding, pulling vehicles, or other similar purposes.

Stray Cat means any cat without a collar and with of rabies vaccination attached, and that is not claimed by anyone as its owner.

Stray Dog means any dog without a collar with proof of rabies vaccination attached, and that is not claimed by anyone as its owner.

Sterilization means the surgical removal of the reproductive organs of a dog or cat in order to render the animal unable to reproduce.

Structure means anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Tether means any chain, cord, cable, rope, leash, wire, tie out, running cable line, trolley system, or similar device designed to restrain an animal, which is attached to a stationary object or objects and is also attached directly to the animal, or to a collar, harness, halter, or similar device attached to the animal's body. "*Tethering*" means to restrain an animal with a tether. See Sec. 301(H).

Unattended means left without direct human supervision or control.

Under Restraint means that an animal is secured by a leash, lead under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's property.

Wild Animal means any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds. *Wild Animal* shall also mean those animals as defined in Chapter 5 of Title 27 of the Official Code of Georgia Annotated.

Wild Carnivore means any meat-eating Wild Animal (as defined above), including, but not limited to, members of any species in the order *carnivora*, the order *primates*, or the class *reptilia* if the species eats meat as a part of a normal diet.

ARTICLE III GENERAL PROVISIONS

Section 301 RESTRAINT AND CONFINEMENT; LEASH LAW

- A. Animals at Large. It shall be unlawful for the owner of any animal, or anyone having an animal in his possession and custody, to allow it to run at large unattended on or about the streets and highways of the unincorporated and incorporated limits of the county, or on the property of another person or of the person in possession of such property, except for dogs being used in hunting in accordance with state game and fish department laws, rules and regulations.

- B. Animals on Own Premises. It shall be the duty of every owner of any animal or anyone having an animal in his possession or custody, to ensure that it is enclosed by way of a fence or other enclosure or restrained by a chain or leash, or in some physical manner under control by a competent person, so that it cannot wander off of the real property limits of the owner, possessor or custodian, except as provided in this article, it being the intent of this article that all animals shall be prevented from leaving, while unattended, the real property limits of their owner, possessor or custodian. An

“invisible fence” electronic restraint/shock collar shall be a permissible restraint for dogs. Voice command shall be a permissible restraint, but to qualify as voice command the person must be 1) outside with the animal, 2) in close proximity to the animal, and 3) the animal must be demonstrably responsive to voice commands. A person inside a structure shall not be considered under this ordinance to have voice command over an animal that is outside. Close proximity shall mean within a distance where the animal can respond to spoken (not shouted) commands.

- C. Animal off Premises. It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under control at all times while the animal is off the real property limits of the property of the owner, possessor or custodian. For the purposes of this section, an animal is deemed under the control when it is confined within a vehicle, whether parked or in motion; is secured by a leash or other device held by a competent person; or is properly confined within the enclosure with permission of the owner of the property where the enclosure is located. Voice command shall be a permissible method of animal control, but to qualify as voice command the person must be 1) outside with the animal, 2) in close proximity to the animal, and 3) the animal must be demonstrably responsive to voice commands. A person inside a structure shall not be considered under this ordinance to have voice command over an animal that is outside. Close proximity shall mean within a distance where the animal can respond to spoken (not shouted) commands.
- D. Tethering on Public Property. No person shall tie, stake or fasten any animal within any street, alley, sidewalk or other public place or in such manner that the animal has access to any portion of any street, alley, sidewalk or other public place.
- E. Dogs in Heat. Every female dog in heat shall be confined in a building or other enclosure in such manner that such female dog cannot come into contact with another animal except for planned breeding.
- F. Every animal shall be restrained and controlled so as to prevent it from molesting passersby, chasing vehicles, or attacking persons or other animals.
- G. Public Nuisance Animal. Maintaining a public nuisance animal, as defined in Section 201, is prohibited.
- H. Tethering.
 - 1. Animals may only be tethered under the following circumstances:
 - (f) a person restraining an animal with a tether shall attach the tether to a properly fitting collar or harness worn by the animal. A person may not use choke collars, pinch collars, prong collars or similar devices, nor may a person wrap a tether directly around an animal’s neck;
 - (g) a person may not restrain an animal with a tether in a manner that does not allow the animal to access necessary shelter and water;

- (h) the length of the tether should be no less than five (5) times the length of the animal, measured from the tip of the animal's nose to the base of its tail. In any event, a person may not restrain an animal with a tether less than ten (10) feet in length;
- (i) the animal must be tethered in a safe manner and not in a fashion that subjects the animal to tangling and choking risks; and
- (j) a person restraining an animal with a tether shall ensure that the area in which the animal is confined is free of garbage, fecal matter, or other debris that can cause harm to the animal.

Section 302 KEEPING OF EXOTIC OR WILD ANIMALS

- A. Exotic or Wild Animals Unlawful. It shall be unlawful for anyone to own, harbor, or permit at large any exotic animal or wild animal within the unincorporated areas of Bartow County without the written permission of the Director of Animal Control who may impose upon the owner reasonable conditions of confinement to assure the protection and safety of the general public. Such conditions shall be imposed pursuant to and in relation to the threat posed by the species to other animals and to humans from attacks, bites, disease, nuisance, noise, odor or any similar harm. Any such exotic or wild animal permitted must comply with the minimum distance requirements of Section 303. If a question arises as to the status of an animal as Domestic or Exotic, the Animal Control Director shall make the determination.
- B. Wild Carnivores Not Permitted. No wild carnivores (including but not limited to, tigers, cheetahs, pumas, leopards, jaguars, lynx, bobcats, mountain lions, wolves, foxes, bears, raccoons, weasels, badgers, skunks, mongooses, and hyenas) shall be kept as pets nor for any other purpose in Bartow County.

Section 303 NUISANCES

- A. Public Nuisance Prohibited. It shall be unlawful for any person to keep any animal on any property located within the unincorporated limits of Bartow County when the animal is kept in such condition to constitute a public nuisance animal, as defined by Section 201, or to constitute a menace to public health or safety.

Section 304 MAXIMUM NUMBER ANIMALS PERMITTED

- A. Dogs. The following restrictions apply to the maximum number of dogs that may be possessed or kept on any residential property, based on the area of the lot. Other applicable regulations, including the Bartow County Zoning Ordinance, shall still apply and should be consulted for restrictions on location of shelters and enclosures and other restrictions. "Kennels," as defined therein, are regulated under the Zoning Ordinance; see Sec. 306(C).
 - 1. Larger than 2.0 acres. On any residential property that is larger than two acres (2.0 acres), there shall be no restriction on the number of dogs allowed

to be possessed or kept, provided all other applicable provisions of this Ordinance are obeyed. However, any such property that contains more than six dogs shall be required to maintain those animals in an enclosure at least 100 feet from the nearest property line.

2. Larger than 1.0 acre but equal to or less than 2.0 acres. On any residential property that is larger than one acre (1.0 acre), but equal to or less than two acres (2.0 ac), regardless of the designated zoning of said property, it shall be unlawful to possess or keep more than six dogs.
3. Equal to or less than 1.0 acres. On any residential property that is equal to or less than one acre (1.0 acres), it shall be unlawful to possess or keep more than three dogs.
4. Multi Family Units. For any dwelling unit in a multi-family development (e.g., apartment, condominium, townhome, mobile home parks, duplex, triplex, quadraplex or similar) it shall be unlawful to possess or keep more than three dogs. The overall acreage of the development or property shall not control.

B. Cats. The following restrictions apply to the maximum number of cats that may be kept on any residential property, based on the area of the lot. Other applicable regulations, including the Bartow County Zoning Ordinance, shall still apply and should be consulted for restrictions on location of shelters and enclosures and other restrictions.

1. Larger than 2.0 acres. On any residential property that is larger than two acres (2.0 acres), there shall be no restriction on the number of cats permitted provided other provisions of this Ordinance are obeyed..
2. Equal to or less than 2.0 acres. On any residential property that is equal to or less than two acres (2.0 acres), it shall be unlawful to possess or keep more than six cats.
3. Multi Family Units. For any dwelling unit in a multi-family development (e.g., apartment, condominium, townhome, mobile home parks, duplex, triplex, quadraplex or similar) it shall be unlawful to possess or keep more than six cats. The overall acreage of the development or property shall not control.

C. Other Provisions. The limits on dogs and cats are independent. For example, a 1.5 acre parcel would allow up to six dogs and up to six cats. For litters of offspring, see Sec. 305.

D. Livestock. The following restrictions apply to the maximum number of livestock animals that may be kept on any property, based on the area of the lot. Other

applicable regulations, including the Bartow County Zoning Ordinance, shall still apply and should be consulted for restrictions on location of shelters and enclosures and other restrictions. Nothing in these provisions shall authorize keeping of livestock in zoning districts where livestock are not permitted.

1. Larger than 10.0 acres. On any property that is larger than ten acres (10.0 acres), there are no restrictions in this Ordinance as to the number of livestock that may be kept. Other applicable provisions as to type, adequate shelter, humane care, and so forth must be obeyed. Furthermore, the Bartow County Zoning Ordinance contains restrictions for setback, and certain livestock uses require a conditional use permit (e.g., chicken houses).
 2. Larger than 2.0 acres but equal to or less than 10.0 acres. On property that is larger than two acres (2.0 acres) but equal to or less than ten acres (10.0 acres), limited numbers of livestock animals are permitted. No more than eight (8) livestock animals total shall be permitted on property in this size range or no more than twenty (20) chickens; if both chickens and other livestock animals are kept, no more than eight (8) animals total shall be permitted. Further, either a single chicken coop, or a single minor livestock enclosure for up to 8 animals, may be erected for housing livestock, but not both.
 3. Equal to or less than 2.0 acres. On any property that is equal to or less than two acres (2.0 ac), it shall be unlawful to possess or keep any livestock.
- E. Definitions. For purposes of this Section, “residential property” shall mean any property zoned to a residential classification under the Bartow County Zoning Ordinance, or any property containing or authorized to contain residential dwelling units (single or multi-family). “Possess or keep” shall mean owning, maintaining or raising, or otherwise keeping such animals on the premises.

Section 305 **ANIMAL BREEDING; PET DEALERS**

- A. Breeding Restrictions. It shall be unlawful for any person to breed animals on non-agriculturally zoned property, except as specifically permitted in this Ordinance. However it shall be permissible for any household to have one litter per year (total, not per animal). In instances where a new litter causes a violation of Section 304, the new litter shall be exempt from the provisions of Section 304 for up to twelve weeks from the date of birth. Any more than one litter per household per year shall make such person a pet dealer.
- B. Livestock Breeding Restrictions. Persons breeding livestock shall comply with applicable State regulations and laws. Livestock shall not be bred on non-agriculturally zoned property, nor on any agricultural property under five acres in size.

- C. Operations Requiring Licensing. It shall be unlawful for any person to act as a pet dealer or operate a kennel, stable or private animal shelter unless such person has a valid license issued by the Georgia Department of Agriculture, pursuant to O.C.G.A. § 4-11-1 et seq., and applicable state regulations.
- D. Care of Operations. It shall be unlawful to fail to keep the pet dealership premises, breeding operation, animal shelter, kennel or stable in a good state of repair, in a clean and sanitary condition, adequately ventilated, or disinfected when need.
- E. Impoundment of Animals from Unlicensed Operations. Animals kept by or at any unlicensed pet dealer, private animal shelter, stable, or kennel are subject to immediate impoundment, at the owner's expense.

Section 306 **KENNELS; SHELTERS AND DOG HOUSES**

- A. Kennel and Dog Enclosure Requirements. All kennels or other enclosures to house more than three dogs constructed or maintained in Bartow County after May 1, 2005 shall meet the following requirements:
 1. They shall be built on a concrete slab, contain a drainage system that drains to an approved septic system or sewer line, and shall be totally enclosed and roofed. Chain-link animal runs are permitted as long as they are roofed.
 2. They shall be well-ventilated, and provide heat and running water to the animals.
 3. They shall contain runs with facilities and size sufficient to provide a humane care for the animals. No more than two dogs per run shall be permitted, except for dogs or puppies under 15 pounds, of which no more than four shall be permitted in the same run. Runs shall contain a minimum area equal in square feet to one-half the weight of the dog(s) living within the run, or be at least 30 square feet (i.e., 5X6), whichever is greater. For example, a 100 pound dog shall require a run of a minimum of 50 square feet (i.e., 5X10). A run containing one 100 pound dog and one 80 pound dog shall be a minimum of 90 square feet ($180/2=90$). Four 10-pound dogs shall require the minimum 5X6 run.
 4. The minimum height of all runs shall be sufficient for the dog to stand comfortably, head up, and they shall be of sufficient width for all dogs to turn around and lie down.
 5. All kennels must also comply with any requirements of the applicable zoning ordinance.
 6. Offices and facilities of licensed veterinarians, licensed groomers, and the County Animal Shelter are exempted from these requirements.

7. For requirements pertaining to dogs classified as dangerous or potentially dangerous under this Ordinance, see Section 504.

- B. Shelter and Dog House Requirements. Outside dogs shall be provided a dog house or similar structure for shelter (such as a garage). Shelters and dog houses shall be of sufficient height for the dog to stand comfortably, head up, and shall be of sufficient width for the dog to turn around and lie down. To qualify as a shelter or dog house, the structure shall consist of at least 3 sides and a roof, with a floor constructed off the ground to allow for unobstructed drainage and ventilation. For standard dog houses of under 15 square feet in area, no more than one animal per dog house is permitted, except litters for twelve weeks. For multiple dog shelters (such as garages), at least 30 square feet per dog is required. Shelters and dog houses must also allow free access to a yard area of at least 80 square feet per dog.
- C. Zoning Requirements. Kennels for maintaining more than eight dogs are also regulated by the Bartow County Zoning Ordinance, which requires a conditional use permit and a minimum of ten acres of land, among other requirements. See Zoning Ordinance, Sec. 7.1.9. Prior to erecting such a structure, the applicant shall check with the Zoning Department and secure necessary permission.

**ARTICLE IV
PROVISIONS RELATING TO THE HUMANE CARE OF ANIMALS**

Section 401 VIOLATIONS RELATING TO CARING FOR ANIMALS

- A. Failure to Provide Humane Care. It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal humane care.
- B. Animal Suffering. It shall be unlawful for any owner or custodian of any animal to permit the animal to live in conditions that cause suffering to the animal, or to directly cause any suffering of an animal.
- C. Abandonment. It shall be unlawful for the owner or custodian of any animal to abandon such animal on any street, road highway or public place, or on private property when not in the care of another person.
- D. Unattended Animals. It shall be unlawful for the owner or custodian of any animal to leave such animal in any location unattended for longer than 24 hours. It shall be unlawful to keep or board animals on property that is not residentially occupied, or is otherwise commercial property that is the location of an operating business, such that the property is visited daily during the week and at least once on the weekend.
- E. Accumulation of Waste Matter. It shall be unlawful for any owner or custodian of any animal to permit the accumulation of waste matter from animals to collect and

remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others. It shall be unlawful to allow animal waste matter to run off into any river, stream, lake, pond or other watercourse in Bartow County, or to run off onto any other person's property.

- F. Failure to Provide Adequate Shelter. It shall be unlawful for any owner or custodian of any animal to fail to provide adequate shelter from the elements for that animal, as appropriate to the species. Providing adequate shelter requires providing sufficient food and water, disposing of waste, providing sufficient temperature control (whether heat, ventilation, or cooling) to prevent suffering by the animal, and not maintaining conditions conducive to disease and infection. In respect to dogs, adequate shelter means at least a dog house or shelter meeting the requirements of Section 306(B). For example, tethering a dog outside during summer without shade or water would be a violation of this section, as well as potentially Sections 401(A) and (B).
- G. Unsanitary, Dangerous or Offensive Conditions. It shall be unlawful for any owner or custodian of any animal to permit or cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.
- H. Rabies Tag. Dogs and cats shall wear current, valid rabies tags attached to their collars at all times, except when removal is necessary for cleaning, grooming or other veterinary care. It shall be unlawful for any owner or custodian of a dog or cat to allow the animal to be outdoors without wearing a collar with a current rabies tag showing that the animal has been inoculated for rabies within one year of any such time as the rabies tag may be checked.
- I. Proper Disposal. It shall be unlawful for any owner or custodian of any animal to fail to properly dispose of that animal upon its death. Proper disposal means in a method provided by the Georgia Code at O.C.G.A. § 4-5-5, and includes burning, incineration, burial or rendering of the carcass within 24 hours after death or discovery. Dead animals that are buried must be buried at least three feet below the ground level, have not less than three feet of earth over the carcass, and must not contaminate ground water or surface water.
- J. Separate Violation Per Animal. Each animal kept in violation of this Section shall count as a separate violation.

Section 402 **SICK, INJURED, OR CONTAGIOUS ANIMALS**

- A. Impoundment of Sick or Injured Animals. In any situation deemed appropriate by the Animal Control Officer involving a sick or injured animal whose owner cannot be located and the condition of such animal is such that death or great suffering to the

animal is likely, the Animal Control Officer may take custody of such animal and may secure veterinary services for such animal. The owner of such animal shall be responsible for reimbursement of all expenses related to treatment and boarding of the animal.

- B. Destruction of Sick or Injured Animals. Any sick or injured animal, deemed by a licensed veterinarian to be suffering to such an extent that the humane destruction of the animal is appropriate and the owner of the animal cannot be located, shall be humanely destroyed by the veterinarian in accordance with O.C.G.A. § 4-11-5.1.
- C. Infected or Contagious Animals. Any animal impounded by the Animal Control Officer that is, in the opinion of a licensed veterinarian, infected with a disease likely to cause death or great suffering to the animal, or which is a contagious disease, or which will likely spread to other animals, shall be isolated and the owner of such animal shall be notified. If the owner cannot be located or the owner fails to take immediate steps to remove the animal from impoundment, the infected animal shall be humanely destroyed in accordance with O.C.G.A. § 4-11-5.1.
- D. Reimbursement. The owner of the animal shall be responsible for reimbursement to the County for all expenses involving the boarding, treatment and destruction of any such animal.

Section 403 **CRUELTY TO ANIMALS**

- A. Cruelty to Animals. It shall be unlawful for any person to willfully or maliciously strike, beat, abuse, intentionally run down with a vehicle; or to cause or inflict unnecessary pain, injury, suffering or death to an animal through any act, omission or willful neglect, except that reasonable force may be used to prevent injury to person or property, as authorized by Georgia law, O.C.G.A. § 4-8-5. “Willful neglect” means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.
- B. Poisoning. No person, except a licensed veterinarian for humanitarian purposes, shall intentionally administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. This provision is not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.
- C. Investigation. The Animal Control Officer shall investigate complaints pertaining to cruelty to animals. The Animal Control Officer may request the assistance of the Sheriff’s Department or the appropriate law enforcement officers of a participating municipality.
- D. Necessary Pain. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal

veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, failure to employ the most humane method reasonably available shall constitute cruelty to animals, and shall be unlawful.

ARTICLE V DANGEROUS ANIMALS

Section 501 RESTRAINT OF GUARD OR ATTACK DOGS

- A. Confine Guard or Attack Dog. Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other secure enclosure. Any such enclosure shall be completely surrounded by a fence at least six (6) feet in height and shall be topped with an anti-climbing device. The areas of confinement shall all have gates and entrances thereto securely closed and locked, and all fences properly maintained and escape proof.

- B. Government Exemption. The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.

Section 502 VICIOUS ANIMALS; HEARING PROCEDURES

- A. Vicious Animals. Vicious animals, as defined below, shall be immediately confiscated and held by the Animal Control officer, and dealt with under the provisions detailed below.
 - 1. Definitions.

“Vicious animal” means any animal, including but not limited to dogs, that

 - a. severely injures a person or another animal, or
 - b. makes an unprovoked attack on animals or persons, or
 - c. intentionally attacks physical property in an effort to cause harm to a person or other animal, or
 - d. constitutes a physical threat to persons or other animals by virtue of an attack of such severity or intensity as to cause severe physical or property damage.

 - 2. Exceptions. An animal shall not be considered a vicious animal within the meaning of this section if 1) it inflicts injury upon a person when the animal is being used by a law enforcement officer carrying out official duties; or 2) if the injury inflicted by the animal was sustained by a person who was i) committing a willful trespass or other tort; ii) was tormenting, abusing or assaulting the animal; iii) had in the past been reported to have tormented, abused or assaulted the a animal; or iv) was committing or attempting to commit a crime.

 - 3. Confiscation. The owner of any animal that has been confiscated as a vicious animal shall be given notice of the confiscation pursuant to paragraph (B) below.

If an owner is unknown or cannot be found, notice shall be made by posting the notice in a conspicuous place at the location where the animal was confiscated. If no owner comes forward, the animal shall be kept for five days, and then may be disposed of by Animal Control.

- B. Notice. The notice of confiscation of a vicious animal shall be dated and shall state that the owner, within five (5) days after the date shown on the notice, has a right to request a hearing from the Animal Control Board. The Animal Control Board shall determine if the vicious animal shall be destroyed or shall instead be classified as a dangerous dog. The notice shall state that if no hearing is timely requested, the animal shall be destroyed.
- C. Hearing. If a hearing is requested by the owner, the hearing before the Animal Control Board shall be scheduled within thirty (30) days from the date of request, to determine if the animal should be destroyed. The owner shall be provided notice of the date, time, and place for said hearing, shall state the factual basis for the confiscation and the purpose of the hearing (that the dog shall either be destroyed or classified as dangerous). The notice shall be delivered to the owner, either personally or via certified mail, at least five days prior to hearing. At said hearing, the owner of the confiscated dog shall have the right to present testimony and evidence as to why the dog should not be destroyed. The Animal Control Board, after receiving all pertinent testimony and evidence on the matter, shall decide whether the dog shall be destroyed, or whether it shall be classified as a dangerous dog. If the Animal Control Board decides that said animal should be destroyed, the animal shall be humanely destroyed any time after five (5) business days after the date of the decision of the Animal Control Board in accordance with O.C.G.A. § 4-11-5.1.
- D. Decision. If the Animal Control Board decides the animal should not be destroyed, and classifies the dog as dangerous, the owner must comply with all the requirements of this Ordinance, after which the animal will be returned to the owner. If the owner fails to meet said requirements within ten (10) days following the decision of the Animal Control Board classifying the dog as a dangerous, the dog shall be humanely destroyed in accordance with O.C.G.A. § 4-11-5.1.
- E. Fees and Costs. The owner of the animal confiscated under the provisions of this section shall pay a fee of \$100.00, and reimburse Bartow County for all costs of housing, feeding, and any medical treatment of said dog during impoundment.
- F. Non-Dog Vicious Animals; Exotic or Wild Animals. If the vicious animal is not a dog, and therefore classification and procedures under the dangerous dog section are not applicable, the hearing, if requested, shall be to determine if the animal shall be destroyed or if any other option to spare the animal's life exists. Any such option shall involve restrictions at least as severe as on a dangerous dog, and shall prevent the public from any contact with the animal, such as donation to a zoo.

Section 503 **DANGEROUS DOG CLASSIFICATION**

- A. Confiscation. If an Animal Control officer has reason to believe that a dog has either severely injured a person, bitten a human being, or acted in a threatening or aggressive manner towards a person that placed said person in reasonable apprehension of immediately receiving a violent injury, may be confiscated to determine whether said dog should be classified as a dangerous dog or potentially dangerous dog. An Animal Control officer may also confiscate any dog that 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.

- B. Classification by Animal Control. The Animal Control officer shall make a determination whether the dog shall be classified a dangerous dog or a potentially dangerous dog after it has been confiscated, pursuant to the criteria below. The owner be given notice of the classification pursuant to paragraph (C) below. If an owner is unknown or cannot be found, notice shall be made by posting the notice in a conspicuous place at the location where the animal was confiscated. If no owner comes forward, the animal shall be kept for five days, and then may be disposed of by Animal Control.
 - 1. Dangerous Dogs. A dog may be classified as a dangerous dog if the Animal Control officer has reason to believe the dog has inflicted a severe injury on a human being without provocation on public or private property. Furthermore, any dog that 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) can be reclassified as a dangerous dog.

 - 2. Potentially Dangerous Dogs. A dog may be classified as a potentially dangerous dog if the Animal Control officer has reason to believe that the dog, without provocation, has bitten a human being on public or private property; or has reason to believe that the dog has acted in a threatening or aggressive manner towards a person that placed said person in reasonable apprehension of immediately receiving a violent injury.

- C. Notice of Determination. 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, and notice shall be complete upon mailing;

 - 2. The notice shall include a summary of the Animal 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 classification of the dog as a dangerous dog or potentially dangerous dog;
 4. The notice shall state that the hearing, if requested, shall be before the Bartow County Animal Control Board;
 5. The notice shall state that if a hearing is not requested, the classification of the dog as a dangerous dog or a potentially dangerous dog will become effective for all purposes under this Ordinance 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 and shall provide specific instructions on mailing or delivering such request Animal Control.
- D. Hearing. When the Animal Control Board receives a request for a hearing as provided in paragraph (C), it shall schedule such hearing within 30 days after receiving the request. The 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 Animal Control officer's classification of the dog.
- E. Decision. Within ten days after the date of the hearing, the Animal Control 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.
- F. Exemptions. 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.

Section 504 **REQUIREMENTS FOR POSSESSING DANGEROUS OR POTENTIALLY DANGEROUS DOGS.**

- A. Unlawful without Certificate. It is unlawful for an owner to have or possess within this county a dangerous dog or potentially dangerous dog without a Certificate of Registration issued in accordance with the provisions of this Section.

- B. Requirements for Certificate. The Animal Control Officer shall issue a Certificate of Registration to the owner of such dog if the owner presents to the Animal Control Officer or the Animal Control Officer otherwise finds sufficient evidence of:
 - 1. A secure enclosure to confine the dangerous dog or potentially dangerous dog, which shall remain locked when the dog is inside and its owner or other responsible person is not present. The secure enclosure must further be a minimum of 100 square feet, and must also meet the definition of a “secure enclosure” contained in Section 201. The secure enclosure must be located at least ten feet from all property lines;

 - 2. 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 which sign shall substantially conform to the design provided by the Georgia Department of Natural Resources;

 - 3. 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 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.

- C. Notification Requirements. The owner of a dangerous dog or potentially dangerous dog shall notify Animal Control immediately or as soon as possible, and in no case later than 24 hours after the event, if the dog is on the loose, is unconfined, or has attacked a human. Animal Control shall be notified within one week of the death, sale, or donation of the dog. If the dog has been sold or donated, the owner shall also provide Animal Control with the name, address, and telephone number of the new owner of the dog. The owner shall be required to notify the new recipient of the dog of its classification.

- D. Moving. The owner of a dangerous dog or potentially dangerous dog shall notify Animal Control if the owner is moving from the address shown on the registration and provide Animal Control with the new address. The owner of a dangerous dog or potentially dangerous dog who is a new resident of the county shall register the dog as required in this Section within thirty (30) days after becoming a resident.

- E. Investigation and Compliance. The Animal Control Officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this Section. Law enforcement agencies of the municipalities and County shall cooperate with the Animal Control Officers in enforcing the provisions of this Section.
- F. Fees. An annual fee of \$100.00 shall be charged to register dangerous dogs and potentially dangerous dogs as required in this Section. Certificates of Registration shall be renewed on an annual basis. At the time of the annual renewal of a Certificate of Registration, the Animal 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 Ordinance.
- G. Issuance of a Certificate of Registration or the renewal of a Certificate of Registration by Bartow County does not warrant or guarantee that the requirements specified in this 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.
- H. Restraint when Outside Enclosure. It is unlawful for an owner of a dangerous dog or potentially dangerous dog to permit the dog to be outside a secure 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.
- I. Prohibited near Schools. It is unlawful for any dangerous or potentially dangerous dog to be kept at any location within 300 feet of a public or private elementary, middle or high school, and no Certificate of Registration shall be issued to any owner of a dangerous or potentially dangerous dog residing within 300 feet of public or private elementary, middle or high school.
- J. Confiscation of Dogs; Grounds; Disposition.
1. Confiscation. A dangerous dog or potentially dangerous dog shall be immediately confiscated by the Animal Control Officer or by a law enforcement officer or by another person authorized by the Animal Control Officer if the:
 - (a) Dog is not validly registered;
 - (b) Dog is not maintained in a proper secure enclosure;
 - (c) Dog is outside a secure enclosure in violation of the restrictions of paragraph (H) of this section; or

- (d) The Owner of the dog does not secure the liability insurance or bond (applies to dangerous dogs only).
- 2. Return. Any dog that has been confiscated under the provisions of this Section shall be returned to its owner upon the owner's compliance with the provisions of this Section and upon the payment of reasonable confiscation costs, including an impoundment fee of \$100.00, boarding costs of \$15.00 per day, and all actual veterinary care costs. In the event the owner has not complied with the provisions of this Section within twenty (20) days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner in accordance with O.C.G.A. § 4-11-5.1; provided however, upon a showing for good cause, the Director of Animal Control may extend said time, up to an additional fifteen (15) days, upon the payment by the owner of the per diem boarding costs for said dog.
- 3. Repeat Offenders. Upon second conviction for a knowing and willful violation of any provision of Section 504 by the owner of a dangerous dog, or if a dangerous dog attacks or bites a human being as a result of a knowing and willful violation by the owner of a dangerous dog of any provision of Section 504, the dangerous dog involved shall be immediately confiscated by Animal Control 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.

**ARTICLE VI
IMPOUNDMENTS, HEARINGS, APPEALS**

Section 601 ANIMAL CONTROL BOARD

- A. Members. The Animal Control Board shall consist of six (6) members and two (2) alternates, appointed by the Commissioner, who are empowered to sit on the Board in the absence of any member of the Board. The Board shall be divided into two (2) panels of three (3) members and one (1) alternate. The panels shall alternate hearing days.
- B. Terms. The terms of the members shall be three (3) years and until a successor is appointed; provided that the initial terms of the members may be for less than three (3) years so that the terms of the members of the Board will be staggered. The Board existing on the date of amendment of this Ordinance shall continue in office pursuant to its members' prior appointments.
- C. Compensation. Members shall be paid a per diem amount equal to that per diem paid members of the Bartow County grand jury for each day of attendance.

- D. Hearings. The Animal Control Board shall conduct hearings when requested by the owner of a dog which has been classified as a dangerous dog or a potentially dangerous dog; a dog which has been confiscated as vicious; in disputes involving the requirements imposed by an Animal Control Officer for the ownership and care of a wild or exotic animal and in disputes involving the proper calculation of costs and fees.
- E. Quorum. Two (2) members of the Board shall constitute a quorum. A decision shall be rendered by a majority vote of the members present.
- F. Continuance. The panel hearing a matter within the jurisdiction of the Board shall have the authority to continue or reschedule a hearing to a day and time certain. Said hearing may be continued or rescheduled by the action of one (1) member of the panel in the event there is no quorum.

Section 602 **IMPOUNDMENT**

- A. Impoundment. In addition to any other remedies provided in this Ordinance, the Animal Control Officer may seize and impound at the Animal Shelter any of the following animals, at any location including private animal shelters, kennels, stables, veterinary offices, private residences, public property, or other places where violations are found:
 1. Any dog or cat without a valid rabies tag and identifying tag, in violation of Section 401(H);
 2. Any animal at large, or improperly kept, confined or restrained as required by Sections 301, 302, 306, or 501;
 3. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased or has been arrested or evicted from his regular place of residence and there is no other person who will take custody of the animal;
 4. Any public nuisance animal or any animal considered a nuisance or danger to the public, in violation to Sections 201, 303 or 402(C);
 5. Any animal exceeding the limitation on possession animals, in violation of Section 304;
 6. Any animal that the animal control officer reasonably suspects of having rabies;
 7. Any animal in violation of any quarantine or confinement order issued by the Bartow County Board of Health or the Public Health Director;
 8. Any unattended animal that is ill, injured or otherwise in need of care, pursuant to Sections 401 or 402;

9. Any animal that is vicious, or that the animal control officer reasonably believes constitutes and immediate threat to public safety, pursuant to Section 502;
 10. Any animal charged under Sec. 503 or in violation of Sec. 504; any animal that is charged with being potentially dangerous, or dangerous where the Animal Control officer determines that there is an immediate threat to public health and safety;
 11. Any animal that a court of competent jurisdiction has ordered impounded or destroyed;
 12. Any animal that is reasonably believed to have been subjected to cruelty, in violation of Section 403;
 13. Any animal that has been used to commit the offense of dogfighting, pursuant to O.C.G.A. § 16-12-37;
 14. Any animal that has not received humane care, in violation of Section 401;
 15. Any stray dog or stray cat; or
 16. Any dog or cat that bites such that skin is broken shall be immediately impounded and quarantined for ten days for observation.
- B. Citation. The Animal Control Officer or law enforcement officer may also, in lieu of or in addition to impoundment, issue to the owner a notice of violation, or citation. Such notice will cite the owner to appear on a date certain before the Magistrate Court of Bartow County as provided in this Ordinance.
- C. Animals-at-large. Any person finding an animal at large upon his property may remove the same to the Animal Shelter or hold the animal in his own possession, and as soon as possible, notify Animal Control. The property owner shall provide a description of the animal and the name of the owner, if known. Animal Control shall dispatch an Animal Control Officer to take possession of the animal as soon as possible.
- D. Outsourcing Services. Any Animal Control Officer or other designated person who seizes and impounds an animal that cannot be housed at the Animal Shelter shall be authorized to contract with and arrange transportation of the animal to a private farm or other appropriate facility which agrees to accept and humanely care for such animal. The disposition of the animal shall be handled in the same manner as though the animal were confined at the Animal Shelter except that, in addition to the fees charged for redemption, the owner shall also pay the actual transportation and boarding costs incurred while said animal was impounded.

- E. Livestock at Large. Any Animal Control Officer or other person who discovers or is notified of livestock (as that term is defined in O.C.G.A. § 4-3-2) running at large, shall notify the Sheriff of Bartow County. The seizure, impoundment and disposition of such livestock shall be in accordance with the provisions of Chapter 3 of Title 4 of the Official Code of Georgia Annotated.

Section 603 **NOTICE OF IMPOUNDMENT; PROCEDURES**

- A. Specific Impoundments. Impoundment for violation of Section 401(A)(failure to provide humane care) or Section 403 (cruelty to animals) of this Ordinance, or for violations of O.C.G.A. § 16-12-4 (cruelty to animals) or § 16-12-37 (dogfighting), shall be subject to the following procedures:
1. Veterinary Determination. A licensed accredited veterinarian approved according to O.C.G.A § 4-11-9.2(d) shall examine and determine the condition or treatment of the animal prior to impoundment.
 2. Notice. Notice shall be provided to the owner and shall include the description of the animal, the location where the animal was impounded, the reason for impoundment, the citation number if a citation was issued, the name and business address of the Officer impounding the animal, the name and business location of the Animal Shelter, the hours during which the animal can be reclaimed, and fees to be charged to the owner. The notice shall state that the failure to claim the animal or request a hearing as hereinafter provided, within five (5) business days following the date notice was provided may result in the disposition of the animal. The notice shall be delivered personally or by certified mail, return receipt requested. If an owner is unknown or cannot be found, notice shall be made by posting the notice in a conspicuous place at the location where the animal was impounded. In addition, if the owner is unknown, notice shall be published once in a newspaper of general circulation in the county.
 3. Appeal Hearing. If an animal is impounded pursuant to Sections 401(A) or 403, and the owner thereof refuses to enter into a consent agreement with the Animal Shelter that such animal will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within five (5) business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within thirty (30) days of the date of publication of the notice of impoundment in a newspaper of general circulation in the county. Hearing shall be in accordance with Sec. 604. Such request for hearing shall be served upon the Animal Shelter. If no hearing is requested within the time limits herein specified and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived. For impoundments under state charges, see paragraph (C) below.

4. Consent Agreement. Prior to release of an animal impounded under these provisions, the owner must enter into a consent agreement providing that, among other things, the animal will be given humane care and veterinary treatment, the animal will not be subject to mistreatment or illegal activity; and the owner will comply with all terms of this Ordinance. Animal Control may specify additional terms as required.
- B. Impoundment for Other Reasons. Impoundments for reasons other than specified in Sec. 603(A) shall be subject to the following procedures.
1. Determination. The Animal Control Officer shall make a determination whether the animal should be impounded under this Ordinance.
 2. Notice. Notice shall be provided to the owner and shall include the description of the animal, the location where the animal was impounded, the reason for impoundment, the citation number if a citation was issued, the name and business address of the Officer impounding the animal, the name and business location of the Animal Shelter, the hours during which the animal can be reclaimed, and fees to be charged to the owner. The notice shall state that the failure to claim the animal or request a hearing as hereinafter provided, within five (5) business days following the date notice was provided may result in the disposition of the animal. The notice shall be delivered personally or by certified mail, return receipt requested. If an owner is unknown or cannot be found, notice shall be made by posting the notice in a conspicuous place at the location where the animal was impounded.
 3. Reclaim Animal. The owner of an impounded animal, unless otherwise specified in this Ordinance, shall have the option to pay the violation fines and impoundment fines and retrieve the dogs, once the condition or circumstance causing the impoundment has been cured or corrected. Owners shall have no more than five (5) days from the date of notice to cure or correct the violation, or the dogs shall be deemed unclaimed; this time limit may be extended by Animal Control, to no more than twenty (20) days. Return to the owner upon payment of fees shall not be an option for animals that are a threat to public safety or health, require quarantine, or where impounded for cruelty, inhumane treatment, dog-fighting, other illegal action, vicious attacks, or other circumstances requiring a hearing under this Ordinance.
 4. Appeal Hearing. The animal owner may request, in writing, a hearing within five (5) business days of the date the notice of impoundment was served on such owner or being posted in the case of abandoned dogs. Hearings shall be in accordance with Sec. 604. Such request for hearing shall be served upon the Animal Shelter. If no hearing is requested within the time limits herein specified and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

5. Consent Agreement. Prior to release of an animal impounded under these provisions, the owner must enter into a consent agreement providing that, among other things, the animal will be given humane care and veterinary treatment, the animal will not be subject to mistreatment or illegal activity; and the owner will comply with all terms of this Ordinance. Animal Control may specify additional terms as required.
- C. Criminal Matters; Bond. The provisions of paragraphs (A)(4) or (B)(5) of this Section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney and Animal Control. If dogs are impounded for violation of O.C.G.A. § 16-12-4 (cruelty to animals) or 16-12-37 (dogfighting), they shall not be returned to the owner until the case is completed, or unless otherwise ordered by the Court. In such cases, the owner shall be required to post a surety bond for the costs of impoundment of the dog for the duration of the proceeding, in the amount of \$2,500 per animal impounded, or shall release the animals to Animal Control for disposal. The surety bond shall be issued by a surety company authorized to transact business in this state, or the bond may be paid in cash. If bond is not posted within thirty days of impoundment, Animal Control shall apply to the Court for permission to dispose of the animal prior to trial of the criminal case as provided by law.
 - D. Owners Liable for Fees. In the event an animal is not claimed from impoundment and is therefore destroyed or the animal otherwise dies, and the owner is known, the owner shall still be responsible for the impoundment charges, including boarding fees and veterinary care costs, for the period the animal was held.

Section 604 **APPEAL HEARINGS ON IMPOUNDMENTS**

- A. Procedures. Within thirty (30) days after receiving a written request for a hearing, the Animal Control Board shall hold a hearing following the procedures established in this Ordinance:
 1. The scope of the hearing shall be limited to whether the impounding of the animal was authorized under this Ordinance or state law;
 2. If the Board finds that the animal was improperly impounded, the animal shall be returned to the owner and the costs incurred in providing reasonable care and treatment for the animal from the date of impoundment to the date of the order shall not be charged to the owner. If the animal is impounded under contract with a third party, the Animal Shelter shall pay for such costs of boarding and treatment;
 3. If the Board finds that the animal was lawfully impounded, the Board may (a) recommend the shelter dispose of the animal in accordance with this Section or (b) unless, in a prior administrative or legal action, the owner has been found to

have failed to provide humane care to an animal, committed cruelty to animals, or engaged in dog fighting in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the Animal Shelter.

Section 605 **RETURN OF ANIMAL TO OWNER**

- A. Return of Animals-at-Large. If the name of the owner of an animal found at large is known or can be obtained with reasonable dispatch, and there are no other violations of this Ordinance, the Animal Control Officer shall return the animal to the residential address of the owner. If there is no one present, the officer shall impound the animal and leave written notice of whom the owner must contact to reclaim the animal. The owner shall be cited for violation of this Ordinance.

- B. Return of Animals with Violations. If an animal is impounded for a violation, and the procedure for return is not otherwise specified in this Ordinance, or a hearing is not otherwise requested or required, the animal shall be returned once all fees for the violation and impoundment are paid, and the conditions necessitating the impoundment have been cured or corrected, if applicable.

- C. Impoundment Fees. An owner reclaiming an impounded animal shall pay a \$30.00 impoundment fee plus a fee of \$15.00 for each day the animal is impounded as a boarding fee if impounded at the shelter (or the actual costs of impoundment if impounded off-site), and the actual veterinary costs for care of the animal.

- D. Second Impoundment. An owner reclaiming an impounded animal for a second impoundment within one year shall pay a \$60.00 impoundment fee, plus a fee of \$15.00 for each day the animal is impounded as a boarding fee (or the actual costs of impoundment if impounded off-site), plus any actual veterinary costs for care of the animal.

- E. Third and Subsequent Impoundment. An owner reclaiming an impounded animal for a third or subsequent impoundment within one year shall pay a \$120.00 impoundment fee, plus a fee of \$15.00 for each day the animal is impounded as a boarding fee (or the actual costs of impoundment if impounded off-site), plus any actual veterinary costs for care of the animal.

Section 606 **UNCLAIMED ANIMALS**

- A. Disposal of Unclaimed Animals. Except as provided below, after five (5) business days any animal unclaimed by its owner, after such owner has been notified of the impoundment of such animal or the conclusion of proceedings before the Animal Control Board, shall be placed for adoption, humanely destroyed in accordance with O.C.G.A. § 4-11-5.1.

- B. Disposal of Animals Without Known Owners. Except as provided below, after five (5) business days any animal whose owner cannot be ascertained, shall be placed for adoption, or humanely destroyed in accordance with O.C.G.A. § 4-11-5.1.
- C. Disposal of Animals Without Known Owners for Certain Specific Violations. If the animal has been impounded pursuant to Section 603(A) of this Ordinance and if the owner is unknown or could not be found within thirty (30) days of publication of the notice of impoundment, the Animal Shelter may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids. If in the opinion of a licensed accredited veterinarian or a veterinarian employed by the state or federal government any animal impounded pursuant to this Ordinance has a temperament or condition such that euthanasia is the only reasonable course of action, the Animal Shelter shall dispose of the animal in accordance with O.C.G.A. § 4-11-5.1.
- D. Owners Liable for Fees. In the event an animal is not claimed from impoundment and is therefore destroyed or the animal otherwise dies, and the owner is known, the owner shall still be responsible for the impoundment charges, including boarding fees and veterinary care costs, for the period the animal was held.

Section 607 STERILIZATION OF DOGS AND CATS PLACED FOR ADOPTION

- A. Sterilization Required. Every sexually mature dog or cat placed for adoption by the Animal Shelter or a humane society shall be sterilized by a licensed veterinarian within thirty (30) days of the adoption.
- B. Costs. All costs of sterilization incurred by the Animal Shelter or a humane society shall be included in any fees charged by the Animal Shelter or humane society for such animal.
- C. Written Agreement. Every person adopting a dog or cat shall enter into a written agreement at the time of the adoption with the Animal Shelter or humane society guaranteeing that sterilization will be performed by a licensed veterinarian within thirty (30) days after the acquisition of such animal in the case of an adult animal or within thirty (30) days of the sexual maturity of the animal in the case of an immature animal. Failure to comply with this agreement shall be a violation for each day beyond thirty (30).
- D. Evidence Required. Any person acquiring an animal from the Animal Shelter or humane society, which animal is not sterile at the time of acquisition, shall submit to the Animal Shelter or humane society a signed statement from the licensed veterinarian performing the sterilization required by Section 607(A) within seven (7) days after such sterilization attesting that such sterilization has been performed.

- E. List of Veterinarians. The Animal Shelter or humane society shall maintain and furnish to any person acquiring an animal a current list of veterinarians who have notified the Animal Shelter or humane society that they are willing to perform sterilization and the cost for such procedures.

Section 608 **VARIANCES AND APPEALS**

- A. Variances. Variances may be granted by Animal Control in cases where undue hardship would result from the strict enforcement of this Ordinance and where the protection of the health and well being of the citizens of Bartow County can be achieved with reasonable mitigating actions. Hardships created by action of the applicant shall not be considered as a justification for a variance. Denial of a request for a variance may be appealed to the Animal Control Board by filing a notice of appeal specifying the grounds for appeal with the Animal Control Board within 15 days of the denial.
- B. Notice of Variance Appeal. Persons who appeal to the Animal Control Board the denial of a variance from any requirement of this ordinance shall notify adjacent property owners of their application for a variance and the time and location of the hearing on the variance appeal. Adjacent property owners shall be determined by the records of the Tax Assessor, on the date of the application for variance.
- C. Appeals. Any person aggrieved by any decision of an Animal Control Officer or other enforcement officer as it pertains to the classification of a dog, a confiscation of a vicious dog, status as or requirements for maintaining wild or exotic animals, or the calculation of costs may appeal the same to the Animal Control Board by filing an appeal with the Board on forms furnished by Animal Control, within five (5) days of receiving notice of the decision.
- D. Abandonment of Appeal. Any person who files an appeal but who, after receipt of notice of the hearing, fails to appear at said hearing shall be deemed to have abandoned the appeal and the decision of the Animal Control Officer shall be affirmed.
- E. Fees for Boarding. The owner filing an appeal shall pay the additional daily boarding fees as established in this Ordinance during the pendency of the appeal. Failure to pay the fees and costs assessed against the owner, if affirmed by the Board, shall constitute an abandonment of any claim to the animal and will result in the animal being placed for adoption or euthanized.
- F. Finality. All decisions of the Board are final.

**ARTICLE VII
ORDINANCE VIOLATIONS**

Section 701 ENFORCEMENT

- A. Authorization. Animal Control Officers and law enforcement officers of the various jurisdictions within the County shall be enforcement officials for this Ordinance. These officials shall have the authority to act on behalf of the County and the participating municipalities and the Animal Control Board in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful action as required to enforce the provisions of this Ordinance. It shall be a violation of this Ordinance to interfere with any Animal Control Officer or other enforcement official in the performance of his duties.

- B. Citations upon Affidavit. Upon the sworn affidavit of any citizens alleging a violation of this Ordinance, an Animal Control Officer or law enforcement officer may issue a citation to the owner of the animal requiring the owner to appear before the Magistrate Court of Bartow County for an adjudication of the complaint on a date and time certain.

- C. Citation Requirements. Citations issued hereunder shall be pursuant to O.C.G.A. Section 15-10-63, and shall be personally served upon the person accused. Each citation shall state the time and place at which the accused is to appear for trial.

- D. Interference with Officer. It shall be a violation of this Ordinance to interfere with, hinder, disrupt, or obstruct an Animal Control officer in the performance of his or her duty or the enforcement of this Ordinance. See also, O.C.G.A. § 4-1-6 for state felony charge for obstruction.

Section 702 SEARCH AND SEIZURE WARRANTS; INSPECTION WARRANTS

- A. Search and Seizure Warrants; Inspection Warrants. Animal Control Officers may apply for search and seizure warrants, or inspection warrants pursuant to O.C.G.A. § 2-2-11 when they reasonably believe a violation of Sections 401(A) or 403 of this Ordinance is occurring. The Officer shall apply to a judge of magistrate court only upon cause and with an affidavit particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is to be made. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. Cause shall be deemed to exist if there is reason to believe that a condition of nonconformity with the provisions of Sections 401(A) or 403 exists with respect to the particular place, dwelling, structure, premises or vehicle.

Section 703 VIOLATIONS AND PENALTIES; REMEDIES

- A. Violations. It shall be a violation of this Ordinance to:

1. Fail to comply with any provision of this Ordinance;
2. Fail to comply with any lawful order of an Animal Control Officer or law enforcement officer unless such order is lawfully stayed or reversed; or
3. Fail to pay costs imposed by the Animal Control Officer unless payment thereof is lawfully stayed.

B. Multiple Animals. When multiple animals are in violation of this Ordinance or are maintained in circumstances that violate this Ordinance, each animal shall constitute a separate violation, or in the alternative, a higher fine shall be imposed on the single violation. In addition, multiple violations on the same animal shall result in a higher fine.

C. Penalties. Any person violating the terms of this Ordinance or rules and regulations promulgated pursuant thereto, may be punished by civil penalty, or by criminal citation and fine, not to exceed \$1000.00. Separate offenses shall be deemed to be committed on each day during or on which a violation occurs or continues. Each animal shall constitute a separate offence, and each violation of a specific provision of this ordinance shall constitute a separate offense.

D. Fines; Minimum Fine Amounts. The following fines may be imposed pursuant to magistrate court criminal citation or superior court civil action. The minimum fines imposed under this ordinance shall be as listed below and shall be imposed as the minimum fine for listed violations. A higher fine may be imposed at the discretion of the Court. Maximum fines shall be \$1,000. Higher minimum fine levels shall be imposed for second violations and third and subsequent violations, or for multiple violation circumstances, or aggravating circumstances, as detailed below:

1. Table Of Fines

<u>Particular Offense</u>	<u>Fine Amounts Level: I; II; III</u>
For violation of Sections 401(A) or 403, inhumane care or cruelty:	\$250; \$500; \$750
For violation of any other provision of this ordinance (other than specifically discussed above):	\$150; \$300; \$450

2. Level I. Fines of Level I are the minimum required for the first violation of this ordinance.

3. Level II. Fines of Level II are the minimum required for the second violation of this ordinance, and they shall also be imposed when one animal is subject to two or more citations (e.g., a dog with no rabies tag, also running loose). Level II fines shall also be imposed when two or more animals are the subject of one citation (e.g., two dogs running loose).
 4. Level III. Fines of Level III are the minimum required for the third or subsequent violation of this ordinance. Level III fines shall be imposed when an animal is subject to aggravating circumstances, such as extreme cruelty.
 5. Repeat Citation. Level II and Level III fines shall be imposed when the same person is cited for further violations of any sort under this ordinance, whether they be for the same offense or a different offense, or the same animal or different animals, provided they occur on a separate day.
- E. Procedure; Citations; Civil Actions. The Animal Control office may issue criminal citations to be heard in magistrate court with or without a prosecuting attorney as designated by the County Attorney. The County Attorney or other attorney as designated by the County may bring a civil action in superior court for civil fines, attorney's fees, injunctive relief to enjoin violations and prohibit future violations, and all other relief necessary to enforce this ordinance, including mandamus or abatement of nuisance. The County shall be entitled to its attorney's fees for any successful action brought in superior court. Civil penalties may be imposed pursuant to citation issued by the Animal Control Officer and heard in Magistrate Court with or without a prosecuting attorney.
- F. Restitution. Restitution for any injury inflicted on another by violation of this Ordinance may also be sought as relief and ordered by the magistrate or superior court, including recovery of costs incurred by the County for testing, housing, feeding and other costs.
- G. Continuing Civil Penalty. In the event that an injunction or other equitable relief is instituted against a person under this Ordinance, and in addition to any finding of contempt by the superior court, the continued violation of the Ordinance shall result in the accrual of a civil penalty at the rate of at least \$250 per day so long as the violation continues. A higher rate may be imposed by the Court.
- H. Notice of Felony Issues. Under O.C.G.A. § 4-8-28(c), repeated violations of the dangerous dog provisions can constitute a felony if the owner's dangerous dog attacks or bites a human being under circumstances constituting another violation of the provisions and such felony can 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. Under O.C.G.A. § 4-8-28(d), an owner who knowingly and willfully fails to comply with the dangerous dog provisions 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 the provisions. 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. Such charges shall be referred to the District Attorney.

- I. Additional Penalties. The magistrate court and superior court shall be authorized to impose additional penalties for violation of this Ordinance at its discretion, to include the following:
1. Confinement up to 60 days in the Bartow County Jail.
 2. Training and/or pet education classes. The Department shall maintain a list of approved training and/or pet education classes for obedience training and for education of pet owners. No training requirement costing more than \$250 shall be imposed.
 3. Community service up to 240 hours.
 4. For vicious animal convictions, the person may be required to relinquish control of the animal in question to Animal Control and the animal will be dealt with in the discretion of the Department.

ARTICLE VIII LEGAL PROVISIONS

Section 801 PARTICIPATING MUNICIPALITIES

Any municipality within the County may by reciprocal Ordinance or resolution participate in a “Joint Animal Control Program” with the County utilizing the County’s Animal Shelter, the Animal Control Officer and Animal Control Board. Such reciprocal Ordinances or resolutions must provide for animal control requirements at least as stringent as the County’s. Participating municipalities must provide funding for its share of operational expenses of the animal control program and Animal Shelter on a per capita basis, based upon the 1990 census and adjusted after each subsequent census.

Section 802 SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the

Commissioner to provide for separable and devisable parts and he does hereby readopt any and all parts hereof as may not be held invalid for any reason.

Section 803 CONFLICT WITH OTHER ORDINANCES

To the extent any provision of this Ordinance conflicts with any provision of an applicable zoning ordinance or any other ordinance, statute or law, the stricter requirement shall control.

Section 804 REPEALER

Upon its effective date, this Ordinance replaces the prior Animal Control Ordinance, adopted April 6, 2005, and amended October 4, 2006, which in turn replaced the Ordinance adopted July 14, 1999, and amended thereafter. In the event all of this Ordinance is struck down as void, unconstitutional or invalid, including therefore this provision, that prior ordinance shall be considered to not have been repealed and shall therefore still be in effect. In the event the prior ordinance is declared void, unconstitutional or invalid, the next prior ordinance shall be considered to not have been repealed, and shall therefore still be in effect; and so on.

SO ADOPTED this 4th day of June, 2008, to be effective July 1, 2008, the public health, safety, and general welfare demanding. Until July 1, 2008, the prior Ordinance shall remain in effect.

ATTEST:

BARTOW COUNTY, GEORGIA

by: _____
Kathy Gill, Clerk

by: _____
Clarence Brown, Commissioner