

Chapter 6

ANIMALS*

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Chapter 6

ANIMALS

ARTICLE I. IN GENERAL

Sec. 6-1. Appointment of an Animal Control Officer.

The city manager shall appoint an animal control officer as authorized in Section 31 of the Charter.

(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-2. Enforcement by Police Department

All police officers of the city shall have all of the powers and authority that is vested in the animal control officer and shall, in his absence or in case of emergency, perform all the duties of the animal control officer.

(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-3. Penalties.

Unless otherwise provided for by specific section of this chapter, any person violating the provisions of this chapter shall be punished as provided in Chapter 1, "General Provisions", section 1-9 "General Penalty".

(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-4. Prosecution.

The animal control officer shall be empowered to initiate any prosecution pursuant to the provisions of the chapter against any owner or custodian of a dog or other animal for violating the provisions of this chapter. A prosecution may also be instituted against any owner or custodian of a dog or other animal upon the receipt of a complaint filed by a citizen with the animal control officer.

(Ord. No. 2066, Section 1, 8-7-00)

Section 6-5 - Definitions

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

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

Adequate food. means sufficient quantity of non-contaminated and nutritionally healthy sustenance that is appropriate to the species, breed, size, age and health of the animal, or at the direction of a licensed veterinarian, which is sufficient to prevent

starvation, malnutrition, or risk to the animal's health. Garbage, spoiled, rancid, or contaminated food is not adequate food.

Adequate shelter. means a protective covering for an animal that is of adequate size and provides adequate protection to maintain the animal in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four sides with a door opening, a constructed floor, and a roof. It should also be clean, dry and compatible with current weather conditions, in addition to age, size, species and condition of the animal. The structure should be of sufficient size to allow the animal to stand, turn around, lie down and go in and out of the structure comfortably. To be adequate, some type of bedding that is quick drying, such as hay or pine straw, must be provided to maintain comfortable temperatures within the structure during times when the ambient, outside temperature is below freezing. In addition, the structure shall include a heavy plastic or rubber flap to cover the door and/or window openings during the months of November through March. From April through October, the structure shall either be shaded or moved out of direct sunlight. If the shelter is made of wood, it shall be raised at least two inches off the ground to prevent seepage or rotting. Examples of inadequate shelter include, but are not limited to, lean-tos, metal or plastic drums, boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient protection from the elements.

Adequate space. means a sufficient safe space for adequate exercise suitable to the age, size, species and breed of animal. For dogs, adequate space means an enclosure with a minimum of 150 square feet per dog.

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

Animal control board. means the Zoning Board for the City of Elberton or any board constituted and appointed by the Mayor and City Council to perform the duties of the animal control board under this article.

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

Animal control officer. means an employee of the animal control unit duly empowered under the legal authority of the city to enforce the rules and regulations of this article.

Animal control unit. means the division of animal control within the department of police services responsible for the enforcement of this article.

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

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

Dogs' running at-large. means any dog not under immediate control, not on a leash, not at heel, not beside a competent person, not in a vehicle driven or parked, or not confined within the property limits of his owner. Hunting and tracking dogs are under the control of the owner when hunting with the landowner's permission.

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

Guard or protection dog. means any dog trained for the purpose of protecting individuals from assault and/or preventing property loss or damage.

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

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

Necessary veterinary care. means veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuation, tremors, swelling, broken bones, open wounds, inability to eat or drink, blistering, irregular or abnormal breathing, partial or total paralysis, abnormal discharge or bleeding, mange, or other signs of health problems.

Owner. means any person, firm, corporation, partnership, association, and/or other legal entity, who or which owns, possesses, harbors, keeps, feeds, maintains, or knowingly causes or knowingly permits an animal to be harbored or kept, or has an animal in his care, or who permits an animal to remain on or about his premises. Without limiting the generality of the foregoing, any adult at whose residence a dangerous dog or potentially dangerous dog is kept or found shall be presumed to be an owner of such dog and shall have the burden of rebutting such presumption. If an animal has more than one owner, any one of such owners may be prosecuted for violations whether or not any other owners are also prosecuted.

Police officer. means any law enforcement officer empowered to make arrests or cause to be issued summonses in the City of Elberton.

Potentially dangerous dog. means any dog with a known propensity, tendency or disposition to make unprovoked attacks, cause injuries or otherwise threaten the safety of any human being. Potentially dangerous dog shall also mean any dog which, when unprovoked, inflicts a bite upon a human being or chases or approaches a human being on any public property in a vicious or terrorizing manner in an apparent attitude of an attack.

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

- (1) A structure which is suitable to prevent the entry of young children and to prevent the dog from escaping;
- (2) A structure with secure sides and a secure top attached to all sides;
- (3) A structure whose sides are so constructed at the bottom so as to prevent the dog's escape by digging under the sides. The sides must either be buried two feet into the ground or sunken into a concrete pad;
- (4) A structure which provides appropriate protection from the elements for the dog. The structure must contain adequate shelter inside it;

(5) A structure which is inside a perimeter or area fence;

(6) The gate to the structure shall be of the inward-opening type and shall be kept locked except when tending to the animal's needs such as cleaning the kennel or providing food and water.

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

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

Severe injury. means any injury which results in a broken bone, lacerations severe enough to require multiple sutures or to render cosmetic surgery necessary or appropriate, or death.

Tethered. means an animal attached to a stationary object or pulley system by a chain, rope, cable or similar device. This shall not include using a leash for walking purposes.

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

Sections 6-6 – 6-29. Reserved.

ARTICLE II. Duties, Powers and Prohibitions Relating to Control of Animals.

Section 6-30. Restraint, Running at large prohibited; Duty of owner or custodian.

(a) It shall be unlawful for any owner or possessor of any dog or cat to fail to keep the dog or cat under restraint or control as provided for in this section.

(b) A dog or cat is considered not under restraint or control when it is running at large, whether wearing a collar and tag or not. Reasonable care and precautions shall be taken to prevent the dog or cat from leaving the real property limits of its owner, possessor, or custodian, and to ensure that:

(1) It is securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition, and that such enclosure is securely located at any time the animal is left unattended; or

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

(3) It is on a leash and under the control of a competent person.

(c) It shall be unlawful to tether an animal outdoors, except when all of the following conditions are met:

(1) The owner or adult custodian of the animal must be outside with the animal and the animal must be visible to the owner, except that an animal may be tethered outdoors unattended not more than one hour in any 24-hour period. No animal may be tethered unattended between the hours of 10:00 p.m. and 6:00 a.m.;

(2) Only one animal may be attached to each tethering system;

(3) Any tethering device used to tether an animal must be at least ten feet in length and shall not allow the animal to come within five feet of the edge of the property line of the property upon which such animal is tethered;

(4) Tethers must be made of a substance which cannot be chewed by the animal and shall not weigh more than five percent of the body weight of the animal;

(5) The tether must have a swivel installed at each end and be attached to a stationary object that cannot be moved by the animal;

(6) The tether must be at least ten feet in length and mounted no more than seven feet above the ground level;

(7) The length of the tether from the running cable line or trolley system to the animal's collar should allow access to the maximum available exercise area and allow the animal free access to food, water, and shelter;

(8) The animal must be attached to the tether by a properly fitted harness or collar with enough room between the collar and the animal's throat through which two fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering an animal;

(9) The tethering system must be a sufficient distance from any other objects or animals to prohibit the tangling of the cable, to prohibit the cable from extending over an object or an edge that could result in injury or strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal from having access to the fence;

(10) The animal is not outside during extreme weather, including, but not limited to extreme heat or near freezing temperatures, or thunderstorms;

(11) The animal is at least six months of age; and

(12) The animal is not sick or injured.

(d) The following additional precautions shall be taken by the owners, possessors, or custodians of vicious animals:

(1) In addition to the requirements in subsection (b)(1) herein, owners of vicious animals who maintain their animals out-of-doors shall fence a portion of their property with a second perimeter or area fence. Within this perimeter or area fence, the vicious animal must be humanely confined

inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides and a secure top attached to all sides. The sides must either be buried two feet into the ground or sunken into a concrete pad. The gate to the kennel shall be inward-opening and shall be kept locked except when tending to the animal's needs such as cleaning the kennel or providing food and water.

(2) Whenever the vicious animal is outside of its enclosure as provided for in this subsection, but on the owner's property, it must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent escape. The leash shall be no longer than ten feet and the vicious animal must be kept at least 15 feet within the perimeter boundaries of the property unless the perimeter boundary is securely fenced.

(3) Maintain at all times either a policy of insurance or surety bond in a minimum amount of \$1,000,000.00 to cover claims for any personal injuries inflicted by the vicious animal, which policy or surety bond shall be issued by an insurer or surety, as the case may be, authorized to transact business in this state.

(4) Except when being transported to a licensed veterinary facility, dangerous and vicious animals shall not be allowed off the property of the owner. Should transport to veterinary care be needed, the vicious animal shall be securely and humanely confined within a vehicle. Movement of the vicious animal from the residence of owner to and from the transporting vehicle and to and from the veterinary facility shall be conducted with the vicious animal securely leashed by a leash no longer than six feet in length and muzzled by a muzzle or device constructed so as to prevent the vicious animal from biting.

(e) Guard or protection dogs:

(1) Owners or custodians of any guard or protection dog must confine all such dogs within a perimeter fence and meet the following conditions

(a) The fence shall be sufficient to prevent the dog's escape, with all points of ingress and egress securely locked at all times.

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

(c) The owner or custodian shall, prior to placing dogs on property, have the dog(s) microchip registered, at his/her own expense, and provide the registration number to the animal control unit. There shall be a fee for each guard or protection dog for the first year or any part thereof that the dog is in the City of Elberton and a renewal fee for each dog every year thereafter as set forth in the schedule of fees and charges. The renewal fee shall be paid by January 30 of each year.

(d) The owner or custodian shall report to the department of police services within 24 hours of any of the following:

- (1) Escape of the dog;
- (2) An attack on a human or animal by the dog;
- (3) Transfer of ownership of the dog;
- (4) Death of the dog;

(2) Any enforcement officer of the department of police services shall have the authority to enter onto private or public property for the purpose of ensuring compliance with the provisions of this subsection (d).

(3) A guard or protection dog shall be deemed under control only when restrained by the collar provided for in this section and a secure leash not to exceed six feet in length. The leash shall be of sufficient strength to prevent escape.

(f) Dogs found running at-large or in violation of this section may be immediately impounded by officers of the animal control unit or any police officer. The officers may pursue the dog onto private property to effect capture of such dog.

Section 6-31 - Abandoned Animals

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

Section 6-32 -Transient Dogs and Cats

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

Section 6-33 - Cruelty to Animals

Any person who abuses an animal, or aids another person in abusing an animal or causes or permits an animal to abuse another animal, by acting or failing to act, shall be in violation of this chapter. Cruelty to an animal includes but is not limited to:

- (1) Willful neglect as defined by this chapter;
- (2) Failure to provide reasonable remedy or relief for any injured or diseased animal;
- (3) Overloading, overdriving;
- (4) Beating, torturing, tormenting or mutilating;
- (5) Abandonment;
- (6) Killing any animal or causing the same to be done;
- (7) Failure to maintain adequate care;
- (8) Failure to provide adequate food;
- (9) Failure to provide adequate water;
- (10) Failure to provide adequate shelter;

- (11) Failure to provide adequate bedding;
- (12) Failure to provide adequate primary enclosure;
- (13) Failure to provide adequate exercise;
- (14) Failure to provide adequate space;
- (15) Failure to maintain sanitary conditions;
- (16) Failure to provide adequate ventilation;
- (17) Failure to provide adequate temperature control;
- (18) Hoarding or collecting animals as defined by this chapter;
- (19) Owning, managing, obtaining, confining or caring for any number of animals in an animal mill as defined by this chapter; or
- (20) Otherwise treating any animal in a cruel or inhumane manner;

(b) Exceptions:

(1) Licensed veterinarians who perform surgery or euthanasia and animal control officers who euthanize animals under the direction of animal control per the guidelines of the Georgia Veterinary Medical Association, Georgia Department of Agriculture, and this article shall not be guilty of cruelty to animals. Animal control officers and law enforcement officers taking the life of an injured animal by use of a firearm in order to relieve pain and suffering of the animal shall not be guilty of cruelty to animals.

(2) A person shall not be guilty of cruelty when the person is protecting his life, the life of another person or animal that is being attacked by an animal that is attempting to severely harm or kill him or another person or animal provided that the person being attacked is not committing a crime or is not aggravating or inciting the animal to attack, and has not aggravated, injured, abused, or assaulted the animal in the past.

Section 6-34 - Public Nuisance Animal

- (a) A public nuisance animal shall mean and include any animal that:
- (1) Is repeatedly found at-large; or
 - (2) Damages the property of anyone other than the owner; or
 - (3) Is vicious; or
 - (4) Attacks without provocation; or
 - (5) Creates unsanitary conditions or offensive and objectionable odors in enclosures or surroundings and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept; or
 - (6) An animal which is not being kept in conformity with city zoning regulations and laws; or
 - (7) Is in heat and not confined within a secure enclosure to prevent unintentional breeding; or
 - (8) Chases vehicles, bicycles, or people.
- (b) Any such public nuisance animal may be impounded and the owner or possessor charged for a violation of this article.

Section 6-35 - Adoption

- (a) The animal control unit or its designee may offer for adoption any animal unredeemed or unclaimed by the owner after five days or, if the animal is voluntarily surrendered to the animal control unit by the owner of the animal, the animal may be offered for adoption immediately. All persons adopting animals shall be over 18 years of age and shall provide adequate and humane care, feeding, shelter and protection from the weather and veterinary treatment as required. Any person adopting an animal shall not use the animal for breeding, fighting or profit and shall not engage in any research involving the use of the animal or supply the animal to any individual or institution which may use the animal in research. The frequency with which animals may be adopted and placed in any household may be restricted.
- (b) Any person adopting an animal from the City of Elberton Animal Control

Unit shall pay an adoption fee in an amount stated in the City of Elberton schedule of fees. Charges may also include all or part of the costs of an examination and rabies inoculation and all or part of the costs associated with neutering or spaying dogs and cats.

(c) Any person adopting an intact animal shall cause to have the animal spayed or neutered (sterilized) within a period specified as follows, within 30 days from the date of adoption for animals over the age of six months or within the first six months of age for sexually immature animals. Any adopted animal not sterilized within the time specified may be reclaimed by animal control. If an animal becomes pregnant after the time specified for the animal to be spayed, the owner may receive a citation for violating this article.

Section 6-36 - Disposition of Impounded Animals

(a) Any animal, seized or impounded by an animal control officer, or any officer empowered to act by law shall be detained at the animal control facility. The animal control officer shall notify, in writing, the owner of such animal, if known, or can be reasonably ascertained, that the animal has been impounded. The owner of any animal impounded may, within forty eight (48) hours after receiving the notice, reclaim the animal by the payment of an impoundment fee plus a boarding fee for each day the animal was impounded; and the cost of rabies vaccination if the animal has not been vaccinated within the prescribed time period. These fees, as applicable, shall also apply to biting animals held for rabies observation at the animal control facility.

(b) If any animal seized or impounded by the animal control division evidences advanced symptoms of contagious, infectious or fatal diseases, is seriously ill or severely injured, the animal control unit shall seek the services of a licensed veterinarian who will determine whether to treat the animal or humanely euthanize the animal; or in the absence of an available veterinarian, the animal control officer may concur with a superior on duty, in addition to writing a complete report on the reason for euthanization. This action may be taken to control the spread of disease or to eliminate any further pain and suffering of an animal. Every attempt will be made to stabilize an owned animal to afford the owner the opportunity to pick up the animal.

(c) For any animal that is impounded for law enforcement purposes, at the

owner's request and expense, such impoundment may be at a veterinary or licensed kennel of the owner's choosing provided that the owner cannot cause the animal to be released from the boarding facility without the approval of the prosecuting officer or agent.

Section 6-37 - Humane Disposition

(a) If an animal is not claimed by the owner within forty eight (48) hours of notice to the owner, or an animal of unknown ownership is not adopted within five days of impoundment, then it shall be the duty of the animal control department to euthanize the animal in as humane and painless a manner as possible. An animal deemed to be highly desirable for adoption may be kept beyond the five-day limitation, provided that the animal does not evidence any apparent signs of illness, injury, contagious or infectious diseases and that space is available to house the animal, at the discretion of the animal control officer. Animals may be released to approved rescue groups or to approved foster homes authorized to accept animals if not claimed or adopted as provided. Animals shall not be provided to any public or private institution, animal dealer or other individual who may use or supply the animal for research purposes.

(b) Any animal which is suffering excessively or any animal which represents a real danger to persons or other animals, without regard to the period of confinement as provided for in subsection (a) of this section, shall be destroyed by officers of the animal control unit in as humane a manner as possible.

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

(d) An animal may be euthanized at anytime, when, in the judgment of the animal control officer or responding police officer, it is determined that:

(1) At the scene of an accident an animal is obviously injured beyond medical help, and no traceable form of identification is present on the animal, or the animal is a wild animal;

(2) An animal is presented to the animal control unit that is obviously injured beyond medical help, or exhibits obvious signs of infectious diseases or parasite infestation that would pose a health risk to animals

housed in the animal control shelter, or that exhibits symptoms of malignancy, without traceable forms of identification; or

(3) A cat or dog, presented to the animal control unit that exhibits signs that it is a feral animal that cannot be handled safely by the staff.

Section 6-38 - Vicious Animals; Dogs and Cats

(a) It shall be unlawful for any person to cause, permit, accompany or be responsible for the presence of any vicious dog or cat on the streets or public places of the city or allow the animal to run on the premises of another at any time, unless and in addition to the other requirements of this article such dog or cat shall be securely muzzled to effectively prevent it from biting any person or other animal. A vicious animal shall be immediately confiscated by an animal control or law enforcement officer if the vicious animal is not maintained in a proper enclosure; or if the vicious dog is outside a proper enclosure in violation of this article. Upon impounding a vicious animal for any reason, the animal control unit may for reasons of public safety, retain the animal at the impoundment facility until disposition by the appropriate court.

(b) Any animal 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 article and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

Section 6-39 - Biting Animals and Quarantine

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

(b) In accordance with the rules and regulations promulgated by the state department of public health, all pets or wild animals, other than a dog or cat, known to have bitten a person, or any animal which cannot be held for a rabies observation

period, shall be euthanized and a lab specimen of brain tissue sent to the state department of epidemiology for testing and control of rabies.

(c) Unvaccinated or unwanted animals bitten by a known potentially rabid animal shall be euthanized immediately. If the owner of the unvaccinated animal is unwilling to have the animal euthanized, upon approval of the animal control unit, the exposed animal shall be placed in quarantine for six months and vaccinated one month prior to being released. The owner or possessor is responsible for quarantining the exposed unvaccinated animal in strict compliance with the policies and procedures of the animal control unit and county board of health.

(d) Dogs and cats that are bitten by a known or potentially rabid animal that are current on their vaccinations shall be re-vaccinated immediately, confined, and observed for 45 days. Confinement must be coordinated with and approved by the animal control unit.

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

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

Section 6-40 - Removal of fecal deposits required.

(a) It shall be unlawful for any person who harbors, possesses or is in charge of a domestic animal, either restrained or unrestrained, or who harbors or is in charge of any animal to fail to remove excrement deposited by such animal on any property other than the property of the owner of the animal.

(b) Animal excrement shall be removed and disposed of in a sanitary manner.

(c) The provisions of this section shall not apply to an animal providing service to the handicapped.

Section 6-41 - Regulation of livestock.

(a) It shall be unlawful to maintain livestock inside the corporate limits of the city including but not limited to horses, mules, ponies, donkeys, cows, calves, hogs, pigs, goats, sheep, lambs, chickens and other fowl unless a property is in excess of one acre excluding the dwelling lot as follows:

(1) Horses, mules, ponies, donkeys, cows, calves, hogs, pigs, goats, sheep, lambs or other large animals will be limited to two per acre and two for each additional acre.

(2) Chickens and other fowl will be limited to 12 per acre and 12 for each additional acre.

(3) Animal or fowl quarters and quarters meaning where the animal has access, whether a fence, shelter or both shall be at least 100 feet from any dwelling and a minimum of 7 feet from adjoining property lines.

(4) Temporary housing of animals by circuses and other events using animals are exempt, except cleaning up the manure.

(b) Once a week manure will be placed in a single pile or heap and an effective disinfectant known to prevent the breeding of flies and disease germs shall be administered to the single pile or heap.

(c) Person riding horses or other animals being moved through the city will be required to clean up the manure.

(d) Abatement of a nuisance or health hazard in relation to livestock occurs under the authority of section 6-34 of the Code.

(e) These restrictions are not limited to the animals listed in subsection (a) of this section, but may be added to at the discretion of animal control officer or city manager in any and all situations involving animals.

Section 6-42 – Dead Animals

(a) The City and its designated agents shall have the power to remove dead animals from public property, parks and roadways. Carcasses on private property must be disposed of by the animal or property owner or possessor in accordance with state laws and regulations. It shall be unlawful for any person to dispose of a dead animal, its parts, or blood on the land of another without the permission of the owner of the land. It shall be unlawful for any person to dispose of a dead animal in a well or open pit of any kind, on private or public land. All dead livestock, including horses, cattle and any other large animal must be disposed of by the animal owner or property owner/possessor in accordance with state and local regulations.

(b) This subsection shall not prohibit the city from contracting with a private waste disposal company for the disposal of dead animals within the city.

Section 6-43 – Vaccination of Dogs and Cats

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

Section 6-44 – Vaccines used and time of vaccination

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

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

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

Section 6-45 – Certificate of vaccination

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

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

Section 6-46 – Vaccination Certificates and Tags

(a) The owner, possessor or harbinger of each dog or cat residing in the city of Elberton must obtain and possess a current rabies vaccination certificate from a licensed veterinarian showing that the animal has been vaccinated against rabies. Upon vaccination, veterinarians shall be responsible for issuing a metal tag with a vaccination and identification number. Tags must be renewed within 30 days of the expiration date of the vaccination.

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

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

Section 6-47 - Interference with animal control officers

It shall be unlawful to interfere with any animal control officer or other officer empowered to act by law, or to take or attempt to take any animal from the city vehicle used to transport the animal, or to take or attempt to take any animal from the animal control facility, or by any other method which would block or hinder any officer referred to in this section from performing his duties. It shall also be unlawful for any person to relocate, alter, or interfere with the operation of any device, trap, equipment or item belonging to the City of Elberton's animal control unit.

Section 6-48 - Animal Neglect

(a) Any animal or livestock owner or possessor who fails to provide adequate

drink, adequate food, adequate space, adequate shelter, sanitary conditions, necessary veterinary care, and/or who causes unnecessary suffering of any animal or livestock shall be deemed in violation of this section.

(b) It shall be unlawful to leave animals unattended in a parked vehicle without proper ventilation to prevent the animal from suffering physical distress from heat exhaustion.

(c) Any animal control officer or other officer empowered to act by law may impound any animal found to be neglected, as defined by this section. See Section 6-51- Right of Entry.

Section 6-49 – Duty of Animal Owners to be Responsible Owners

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

(b) It shall be a violation of this article for an owner or an individual in possession of the property upon which the animal or animals are located at the time of the offense to allow the animal or animals to make any vocalizations which are plainly audible to a person of ordinary hearing ability not located on the same property as the animal or animals making such vocalizations for more than 15 minutes without interruption or more than 30 minutes if the vocalization is intermittent.

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

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

(3) Upon notification of a complaint concerning such vocalizations, the owner or individual in possession of the property upon which the animal or animals are located shall be given a warning for the first complaint by officers either from the animal control unit or the police department responding to the complaint. The officers shall notify the owner or individual in possession of the property that such animal or animals are creating a disturbance and should advise the owner or individual in

possession of the property of some possible solutions to rectify the nuisance. The responding officers shall complete an incident report detailing the complaint and identifying witnesses and complainants for future reference. The responding officers should also make every attempt to stop and try to listen to the vocalizations in order to give first hand testimony if needed. The owner or individual in possession of the property shall then have ten days to resolve the disturbance.

(4) If the disturbance is not resolved within ten days and a second complaint is received the responding officers or the animal control unit may issue a citation in accordance with the requirements of this article. Sworn statements, voluntarily given, should be obtained, or direct testimony at trial should be required pursuant to properly issued subpoenas by charging officers.

(5) The original complaint will remain on file and active for a period of 30 days following the ten-day resolution period. If no further complaints are made during the 30-day period, the complaint shall expire and the process begins again.

(6) Any person violating any provision of subsection 6-49 (b) may upon conviction be punished by a fine not to exceed \$1,000.00.

Section 6-50 - Hoarders

It shall be unlawful for any person to collect animals and fail to provide them with humane/adequate care, collect dead animals that are not properly disposed of as required by this article, or collect, house, or harbor animals in filthy, unsanitary conditions that constitute a health hazard to the animals being kept, and/or to the animals or residents of adjacent property.

Section 6-51- Right of Entry

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

Section 6-52 - Animals transported in vehicles

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

Section 6-53 – Training Guard or Protection Dogs

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

Section 6-54 – Limitation on Ownership

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

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

Section 6-55- Back Yard Breeders

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

Section 6-56 – Removal of Feral Cat Colonies and Feral Dog Packs

The animal control officer has the right to immediately seize and remove all or parts of any feral cat colony or feral dog pack for public safety and public health concerns, including rabies, other zoonotic disease epidemics, and certain animal-to-animal diseases as identified by the animal control officer. The method of removal may be in the form of trapping or extermination that shall be designed to be as humane as possible under the circumstances as allowed by the OCGA 16-12-4, (f), (2).

Section 6-57 – Prohibition on Feeding Stray and Feral Animals

(a) Feral and stray animals constitute public safety, health, and environmental risks to domesticated animals, wildlife, and persons. It is a violation of this section for any person to feed or harbor feral or stray animals.

(1) Exception: A person may feed or harbor a feral or stray animal if there is a good faith effort to humanely capture the animal for the purpose of surrender to the animal control unit within 72 hours of capture.

Sections.6-58 – 6-59. Reserved.

ARTICLE III. DANGEROUS AND VICIOUS DOGS

Sec. 6-60. Designation of Enforcement Officer and Animal Control Board.

(a) The animal control officer is the designated official for the enforcement of this article.

(b) The zoning board of adjustments and appeals is designated as the animal control board for the city.

(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-61. Classification as a Dangerous Dog or Potentially Dangerous Dog.

(a) Upon receiving a report of a dangerous dog or potentially dangerous dog as defined in this chapter, the animal control officer shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article.

(b) When the animal control officer classifies a dog as a dangerous dog or reclassifies a potentially dangerous dog as a dangerous dog, the animal control officer shall notify the dog's owner as follows:

(1) The notice shall be in writing and mailed by certified mail to the owner's last known address.

(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 animal control officer's determination that the dog is a dangerous dog or potentially dangerous dog.

(4) The notice shall state that the hearing, if requested, shall be before the animal control board.

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

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

(c) When the animal control board receives a request for a hearing as provided for in this article, it shall schedule a hearing within 30 days after receiving the request. The board shall notify the dog owner in writing by certified mail 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 hearing. At the hearing, the dog owner shall be given the opportunity to testify and present evidence and in addition thereto, the board shall receive such other evidence and hear such other testimony as the board may find reasonably necessary to make a determination either to sustain, modify, or overrule the animal control officer's classification of the dog. Within ten days after the date of the hearing, the governing authority or board shall notify the dog owner, in writing, by

certified mail of its determination on the matter. If such determination is that the dog is a dangerous dog or potentially dangerous dog, the notice shall specify the date upon which that determination is effective.(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-62. Issuance of a Certificate of Registration.

(a) An owner of a dangerous dog or potentially dangerous dog must have a certificate of registration issued by the animal control officer on an annual basis.

(b) An owner of a dangerous dog or potentially dangerous dog may be issued a certificate of registration, when the animal control officer finds sufficient evidence of the following:

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

(2) A clearly visible warning sign as prescribed by the State of Georgia posted on the premises where the dangerous dog or potentially dangerous dog is lodged or kept.

(3) Policy of insurance in the amount of at least \$15,000.00 issued by an insurer authorized to transact business in Georgia insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog.

(4) A surety bond in the amount of \$115, 000.00 or more issued by a surety company authorized to transact business in Georgia payable to any person or persons injured by the dangerous dog.

(c) A certificate of registration will not be issued until a registration fee is paid as set from time to time by the mayor and council.

(d) A copy of the certificate of registration and all case information relating to a designation of dangerous dog or potentially dangerous dog will be kept on file in the office of the city clerk and by the animal control officer.

(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-63. Responsibilities of the owner of a dangerous dog or potentially dangerous dog.

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

(b) The owner of a dangerous dog or potentially dangerous dog shall notify the animal control officer if the owner is moving from the animal control officer's jurisdiction. The owner of a dangerous dog or potentially dangerous dog who is a new resident of Elberton and has moved from another state shall register the dangerous dog within 30 days after becoming a resident of Elberton. The owner of a dangerous dog or potentially dangerous dog who moves from another jurisdiction in Georgia into Elberton shall register the dangerous dog or potentially dangerous dog within ten days after becoming a resident.

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

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

(Ord. No. 2066, Section I, 8-7-00)

Sec. 6-64. Reasons for immediate Confiscation; Destruction of Dog.

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

- (1) Dog does not have a valid certificate of registration,
- (2) Owner of the dog does not secure the required liability insurance and/or surety bond,
- (3) Dog is not maintained in a proper enclosure, and

(4) Dog is outside a proper enclosure in violation of Section 6-63(c)

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

(1) Dog does not have a valid certificate of registration,

(2) Dog is not maintained in a proper enclosure, and

(3) Dog is outside a proper enclosure in violation of Section 6-63(d)

(c) Any dog that has been confiscated shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner. (Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-65. Penalties.

The owner of a dangerous dog or potentially dangerous dog in violation of this article is subject to the penalties enacted by the State of Georgia in the Official Code of Georgia 4-8-28.

(Ord. No. 2066, Section 1, 8-7-00)

Secs. 6-66 – 6-99. Reserved.

ARTICLE IV. BIRD SANCTUARY

Sec. 6-100. City designated as a Bird Sanctuary.

The entire area embraced within the corporate limits of the City of Elberton is hereby designated as a bird sanctuary.

(Ord. No. 2066, Section 1, 8-7-00)

Sec. 6-101. Prohibited activities.

It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner within the corporate limits any bird or wild fowl, or to rob bird nests or wild fowl nests by persons or domestic animals; provided, however, if starlings or similar birds are found to be congregating in such numbers and in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, then in such event the proper health authorities shall meet with the representative of either the Audubon Society Bird Club, the Garden Club or the Humane Society, or as many of said clubs as are found to exist in Elberton, after having given at least three days actual notice of the time and place of said meeting to the representatives of said clubs. If as a result of said meeting no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by the city manager, in consultation with the animal control officials, chief of police, or health authorities of the city or the county.

(Ord. No. 2066, Section 1, 8-7-00)