

**BARROW COUNTY, GEORGIA
ORDINANCE NUMBER ____**

**AN ORDINANCE
BY THE BOARD OF COMMISSIONERS
OF BARROW COUNTY**

An Ordinance of the Barrow County Board of Commissioners to Amend the Barrow County Animal Control Ordinance as it pertains to Dangerous Dogs and Vicious Dogs; to Promote the Public Health, Safety, and Welfare; and for other related purposes.

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

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

WHEREAS, the governing authority of Barrow County, to wit, the Board of Commissioners, desires to exercise its authority in adopting this Ordinance; and

WHEREAS, the Board of Commissioners of Barrow County previously adopted an ordinance regulating animal control which is codified as Chapter 14 of the Barrow County Code of Ordinances; and

WHEREAS, the Georgia General Assembly in 2012 has adopted (in the form of House Bill 685) changes to the state statutes regarding regulation of dangerous dogs and vicious dogs; and

WHEREAS, the Board consequently finds that it is in the public interest to modify the existing Chapter 14 of the Barrow County Code of Ordinances to render it consistent with the above referenced changes under state law.

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED by the Board of Commissioners of Barrow County, Georgia, and it is hereby enacted pursuant to the authority of same that Chapter 14 of the Barrow County Code (hereinafter sometimes referenced as the "Animal Control Ordinance") is hereby modified as follows:

1.

The Code Barrow County Code of Ordinances, Chapter 14, Article II, Division I, Section

14-31 shall be amended by modifying the defined term “fence” to read as follows:

Sec. 14-31. - 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:

Fence means a structure of wire, wood, stone or other materials, including invisible fencing, which is of sufficient height and strength to act as a barrier against the passage of the animal it is intended to enclose.

- (1) A fence does not include an invisible fence if the fence is:
 - a) Turned off or the animal is not wearing a properly operating signaling device;
 - b) Ineffective for any animal that has learned it can cross the fence line;
 - c) Intended to be a means of keeping people or animals out of an enclosed area; or
 - d) Buried in or adjacent to a municipal or county right-of-way.
- (2) An invisible fence is not an acceptable means of control for an animal that is classified as vicious or dangerous, or is in estrus/heat.

2.

The Barrow County Code of Ordinances, Chapter 14, Article II, Division IV, shall be amended in its entirety to read as follows:

Sec. 14-111. - Definitions.

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

Animal control officer means an animal control officer as established in section 14-33, who shall aid in the administration and enforcement of the provisions of this division and who shall serve as dog control officers for purposes of article IV of this division, as contemplated by Title 4, Chapter 8, Article 2 of the Official Code of Georgia.

Board means the animal control board.

Classified dog means any dog that has been classified as either a dangerous dog or vicious dog pursuant to this division.

Dangerous dog means any dog that:

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury; provided, however, that a nip, scratch, or abrasion shall not be sufficient to classify a dog as dangerous under this subparagraph;
- (2) Aggressively attacks in a manner that causes a person to reasonably believe that the dog posed an imminent threat of serious injury to such person or another person although no such injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by a dog shall not be sufficient to classify a dog as dangerous under this subparagraph; or
- (3) While off the owner's property, kills a pet animal; provided, however, that this subparagraph shall not apply where the death of such pet animal is caused by a dog that is working or training as a hunting dog, herding dog, or predator control dog.

Owner means any natural person or any legal entity, including but not limited to, a corporation, partnership, firm or trust owning, possessing, harboring, keeping, or having custody or control of a dangerous dog or vicious dog within the county. In the case of a dog owned by a minor, the term "owner" includes the parents or person in loco parentis with the custody of the minor.

Proper enclosure means an enclosure for keeping a dangerous dog, vicious dog or vicious animal securely confined indoors or in a securely enclosed and locked pen, fence or structure suitable to prevent the entry of another animal or person other than the owner or caretaker. The enclosure must:

- (1) Be designed to prevent the animal from escaping, and
 - (a) If the enclosure is a fence, the fence must be high enough to keep the animal from climbing over and must be secured at the bottom to keep the animal from digging under.
 - (b) If the enclosure is a pen or structure other than a fence, the pen or structure must have secure sides, top and bottom constructed or secured in such a manner to prevent the animal's escape, and be of a height and strength to maintain the animal within it.
- (2) Must provide adequate shelter.
- (3) Must provide adequate space for the animal.

Serious injury means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring multiple sutures, or disfiguring avulsions; requires plastic surgery or admission to a hospital; or results in protracted impairment of health, including transmission of an infection or contagious disease, or impairment of the function of any bodily organ.

Vicious dog means a dog that inflicts serious injury on a person or causes serious injury to a person resulting from reasonable attempts to escape from the dog's attack.

Sec. 14-112. - Exceptions.

The terms "dangerous dog" and "vicious dog" as used in this division shall not include the following:

- (1) Actions that occur while a dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties; and
- (2) A dog that inflicts an injury within the meaning of this division if the injury was sustained by a person who, at the time, was committing a willful trespass or other tort, 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, including, but not limited to, an offense under Title 16, Chapter 5 of the Official Code of Georgia.

Sec. 14-113. - Penalties; confiscation of dangerous dogs.

- (a) The owner of a vicious dog who violates the applicable provisions of section 14-117 or section 14-118 or whose vicious dog is subject to confiscation under subsection 14-119 shall be guilty of a misdemeanor of high and aggravated nature. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$500.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$750.00 shall be imposed.
- (b) The owner of a dangerous dog who violates the applicable provisions of section 14-117 or section 14-118 or whose dangerous dog is subject to confiscation under subsection 14-119 shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for a second conviction a fine of not less than \$150.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$300.00 shall be imposed.
- (c) In addition to the penalties for violations under subsection (c) or (d) of this section, the vicious dog involved shall be immediately confiscated by the animal control officer or by a law enforcement officer or another person authorized by the animal control officer and placed in quarantine for the proper length of time as determined by the county board of health, and thereafter the vicious dog shall be destroyed in an expeditious and humane manner.

Sec. 14-113A. – Applicability of new classifications.

- (a) Any dog classified prior to July 1, 2012 as a potentially dangerous dog in this state shall on and after that date be classified as a dangerous dog under this

division. Any dog classified prior to July 1, 2012 as a dangerous dog or vicious dog in this state shall on and after that date be classified as a vicious dog under this division.

- (b) The owner of any dog referred to in subsection (a) of this section shall come into compliance with all current provisions of this division by January 1, 2013.

Sec. 14-114. - Animal control board.

- (a) There is created and established an animal control board. The purpose of the board shall be to conduct hearings as provided for in section 14-116.
- (b) The board shall consist of three members. All members shall be appointed by the board of commissioners. The terms shall be for two years.
- (c) No member of the board shall participate in a hearing on any matter in which such member previously participated in the classification of the dog at issue.
- (d) In the event of a vacancy during the term of any member by reason of death, resignation or otherwise, the appointment of a successor by the board of commissioners shall be for the remainder of the unexpired term of such member.

Sec. 14-115. - Enforcement officer.

The board of commissioners shall appoint an animal control officer, who shall serve at the pleasure of the board of commissioners. The animal control officer's compensation shall be established from time to time by the board of commissioners.

Sec. 14-116. - Procedure for classifying dangerous dogs and vicious dangerous dogs; notice to owner; hearing.

- (a) The animal control officer, upon receiving a report of a dog believed to be subject to classification as a dangerous dog or vicious dog within the county, shall make such investigations as necessary to determine whether the dog is subject to classification as a dangerous dog or vicious dog.
- (b) Should the animal control officer determine that a dog is subject to classification as a dangerous or vicious dog, the animal control officer shall classify such dog accordingly. The animal control officer shall then within 72 hours of such determination notify the dog's owner of such classification. The notice to the owner shall meet the following requirements:
 - (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 determination;
 - (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 vicious 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 within the allotted time, the animal control officer's determination that the dog is a dangerous dog or a vicious dog will become effective for all purposes under this division; and
 - (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 in subsection (b) of this section, it shall schedule such hearing within 30 days after receiving the request; provided, however, that such hearing may be continued by the animal control board for good cause shown. The board shall notify the dog owner in writing by certified mail of the date, time and place of the hearing. Such notice shall be mailed to the 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. In addition, the board shall receive at the hearing such other evidence and hear such other testimony as the board may find reasonably necessary to sustain, modify or overrule the animal control officer's classification of the dog.
- (d) Within ten days after the date of the hearing, the animal control 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 a vicious dog, the notice shall specify the date upon which that determination is effective. If the determination is that the dog is to be euthanized pursuant to subsection (e) below, the notice shall specify the date by which the euthanasia shall occur.
- (e) A dog that is found, after notice and opportunity for hearing as provided in this section, to have caused a serious injury to a human on more than one occasion shall be euthanized; provided, however, that no injury occurring before July 1, 2012, shall count for purposes of this subsection.

Sec. 14-117. - Registration of dangerous dogs and vicious dangerous dogs; duties of owner.

- (a) It shall be unlawful for any person to have or possess within the county a classified dog without a certificate of registration issued in accordance with the provisions of this division. Certificates of registration shall be nontransferable and shall only be issued to a person 18 years of age or older. No more than one certificate of registration shall be issued per domicile. No certificate of registration shall be issued to any person who has been convicted of two or more violations of this division. No person shall be the owner of more than one vicious dog. No certificate of registration for a vicious dog shall be issued to any person (or to any person residing with such person) who has been convicted (from the time of conviction until two years after completion of his or her sentence) of:

- (1) A serious violent felony as defined in O.C.G.A. § 17-10-6.1;
 - (2) The felony of dog fighting as provided for in O.C.G.A. § 16-12-37 or the felony of aggravated cruelty to animals as provided for in O.C.G.A. § 16-12-4; or
 - (3) A felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in O.C.G.A. § 16-13-31.1.
- (b) The animal control officer shall issue a certificate of registration to the owner of a dangerous dog or vicious dog if the owner presents to the animal control officer or the animal control officer otherwise finds sufficient evidence of:
- (1) A proper enclosure to confine the dangerous dog or vicious dog; and
 - (2) The posting at all entrances to the premises where the dangerous dog or vicious dog is located with at least two (2) clearly visible signs warning that there is a dangerous dog on the property. The owner of a dangerous dog or vicious dog shall receive such signs from the animal control officer at the time the owner pays the annual registration fee as required in subsection (d) of this section.
- (c) In addition to the requirements of subsection (b) of this section, the owner of a vicious dog shall present to the animal control officer evidence of:
- (1) A general or specific policy of liability insurance in the amount of at least \$50,000.00 issued by an insurer authorized to transact business in this state insuring the owner of the vicious dog against liability for any bodily injury or property damage caused by the vicious dog; and
 - (2) A microchip containing an identification number and capable of being scanned injected under the skin between the shoulder blades of the dog.
- (d) Certificates of registration shall be renewed on an annual basis. At the time of renewal of a certificate of registration for a vicious dog, the animal control officer shall verify that the owner is continuing to comply with provisions of this division. Failure to renew a certificate of registration within ten days of the renewal date or initial classification date shall constitute a violation of this division. The owner of a classified dog shall pay an annual registration fee at the time the annual certificate of registration is issued. The annual registration fee shall be in an amount established and amended from time to time by the animal control director, upon the written approval of the chairman of the board of commissioners; provided, however, that the amount of such fees shall be presented within the annual budget approved by the board of commissioners. In the event that the position of animal control director is vacant, the amount of the fee may be established and amended from time to time by the chairman of the board of commissioners; provided, however, that the amount of such fees shall be presented within the annual budget approved by the board of commissioners. Certificates of registration shall be renewed in the month of the initial registration.
- (e) The owner of a classified dog shall notify the animal control officer if the animal is moving to a different address.
- (f) The owner of a similarly classified dog who is a new resident of the state shall register such dog as required by this division within 30 days after becoming a

resident of the state and the county.

- (g) The owner of a classified dog who moves to the county from any other county within the state shall register such dog as required by this division within ten days after becoming a resident of the county.
- (h) The owner of a classified 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 a dangerous 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. A vicious dog shall not be transferred, sold, or donated to any other person unless it is relinquished to a governmental facility or veterinarian to be euthanized.

Sec. 14-118. - Restraint and muzzling of dogs.

- (a) *Vicious dogs.* It shall be unlawful for an owner of a vicious dog to permit the dog to be outside of a proper enclosure unless the dog is muzzled and restrained by a substantial leash not to exceed six feet in length and is under the immediate physical control of a responsible person capable of preventing the dog from engaging any other human or animal when necessary, or is contained in a closed and locked cage or crate. The muzzle shall be made in a manner that will prevent the dog from biting any person but not cause injury to the dog or interfere with its vision or respiration. It shall be unlawful for the owner of a vicious dog to permit the dog to be unattended with minors.
- (b) *Dangerous dogs.* It shall be unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial leash not to exceed six feet in length and is under the immediate physical control of a responsible person capable of preventing the dog from engaging any other human or animal when necessary, or is contained in a closed and locked cage or crate. This subsection shall not prohibit a dangerous dog from working or training as a hunting dog, herding dog, or predator control dog.

Sec. 14-119. - Confiscation of dogs.

- (a) *Classified dogs.* A classified 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 in the case of any violation of this division. A refusal to surrender a dog subject to classification shall be a violation of this division.
- (b) *Disposition of confiscated dogs.* Any dog that has been confiscated under the provisions of subsection (a) shall be returned to its owner upon the owner's compliance with the provisions of this division as determined by the animal control officer and upon payment of reasonable confiscation and housing costs. All fines and charges for services performed by a law enforcement or animal control officer shall be paid prior to owner recovery of the dog. Criminal prosecution shall not be stayed due to owner recovery or euthanasia of the dog. If the owner has not

complied with the provisions of this section within 20 days of the date the dog was confiscated, the dog shall be destroyed in an expeditious and humane manner and the owner may be required to pay the costs of housing and euthanasia.

- (c) A law enforcement officer or animal control officer shall immediately impound a dog if the officer believes the dog poses a threat to the public safety.

3. SEVERABILITY

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

4. CONFLICTING ORDINANCES REPEALED

All ordinances and provisions of the Code which conflict with any part of this Ordinance are hereby repealed.

5. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon passage.

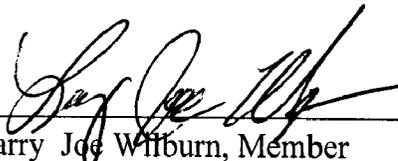
PASSED AND ADOPTED THIS 11th DAY OF December, 2012,

the public health, safety, and welfare demanding it.

BARROW COUNTY BOARD OF COMMISSIONERS

Absent

Daniel Yearwood, Jr., Chairman

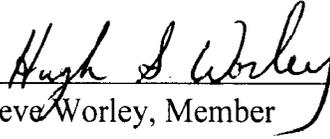


Larry Joe Wilburn, Member

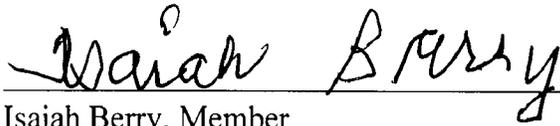
[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]



Eva S. Elder, Member



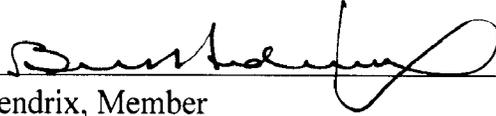
Steve Worley, Member



Isaiah Berry, Member

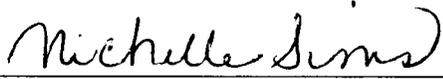


Billy E. Parks, Member



Ben Hendrix, Member

Attest:



Michelle Sims, County Clerk