

**AN ORDINANCE OF THE CITY OF CUMMING, GEORGIA FOR THE PURPOSES OF  
REPEALING ITS CURRENT ARTICLE II REGARDING DOG CONTROL, AND  
ENACTING A NEW ORDINANCE FOR THE PURPOSE OF DIRECTING ANIMAL  
CONTROL, CREATING AN ANIMAL CONTROL BOARD, PROVIDING FOR  
SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER  
PURPOSES**

**WHEREAS**, in accordance with Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, and pursuant to O.C.G.A. §36-35-3(a), the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government; and

**WHEREAS**, the Mayor and City Council of Cumming, Georgia (hereinafter “the City”) desire to identify and adopt rules and regulations to protect the public health, safety and welfare; and

**WHEREAS**, Section 47 of the City’s Charter authorizes the City to adopt ordinances exercising police powers; and

**WHEREAS** the Mayor and Council wish to enact certain laws for the safe and humane ownership and care of animals within the City of Cumming;

**WHEREAS**, in the interests of the health, safety, and general welfare of the citizens of the City of Cumming, Georgia, the Mayor and Council desire to exercise their authority to adopt the amendment attached hereto as Exhibit A; and

**WHEREAS**, appropriate notice contained herein having been undertaken according to general and local law.

**NOW, THEREFORE**, the Mayor and Council of the City of Cumming, Georgia hereby ordains as follows:

1. Chapter 6, Article II of the City of Cumming Code shall be repealed and replaced with new Chapter 6, Article II, Sections 16-23 through 16-34 of the City of Cumming Code of Ordinances with the text attached hereto as Exhibit A;
2. A new Chapter 6, Article III, Sections 16-66 through 16-69 of the City of Cumming Code shall be enacted with the text attached hereto as Exhibit B;
3. This Ordinance shall become effective immediately following date of adoption;
4. If any section, provision or clause of any part of this ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall 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 to other circumstances not so held to be invalid. It is hereby declared as the intent that this ordinance would have been adopted had such invalid portion not been included herein; and
5. All laws and parts of laws in conflict with this enactment are hereby repealed.

Adopted and Ordained this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF CUMMING, GEORGIA

\_\_\_\_\_  
Troy Brumalow, Mayor, City of Cumming

\_\_\_\_\_  
Lewis Ledbetter, Councilman

\_\_\_\_\_  
Linda Ledbetter, Councilwoman

\_\_\_\_\_  
Christopher Light, Councilman

\_\_\_\_\_  
Chad Crane, Councilman

\_\_\_\_\_  
Jason Evans, Councilman

Attest:

\_\_\_\_\_  
Jeff Honea, Clerk, City of Cumming, Georgia

## Exhibit A

### Article II – Animal Control

#### Sec. 16-23. - Definitions.

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

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

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

*Adequate shelter* means a protective covering for a dog that is of adequate size and provides adequate protection to maintain the dog in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. It should also be clean, dry, and compatible with current weather conditions, in addition to the breed of the dog. The structure should be of sufficient size to allow the dog to stand, turn around, lie down, and go in and out of the structure comfortably. The structure shall include a roof, provided that an animal services officer may exercise discretion in issuing citations for failure to provide shelter with a roof, if, in the good faith discretion of the animal control officer, the circumstances do not warrant the requirement of a roof.

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

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

*Animal(s)* means any domesticated animals and fowl.

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

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

*Animal services division* carries the same meaning as the animal control officer.

*Animal control officer* means a City of Cumming Code Enforcement Officer or City of Cumming Police Officer, or any other employee of the City of Cumming duly authorized to pick

up, restrain, or impound animals, and who is responsible for discharging such other duties or functions pertaining to animals as may be prescribed by this or any other ordinance, by state law, or by the lawful order of a city official authorized to supervise and direct animal control officers. The foregoing notwithstanding, the enforcement of this ordinance may be the subject of an intergovernmental agreement with Forsyth County, Georgia, whether existing on the date of the adoption of this ordinance or some future agreement, pursuant to which an animal control officer under the definitions in Forsyth County's animal control ordinances shall have jurisdiction and authority to enforce the City of Cumming's animal control ordinances within the City of Cumming.

*Animal control shelter* means the facility designated by the Mayor and Council for the impoundment, restraint, care, detention and disposition of animals, which shall be the Forsyth County Georgia Animal Shelter until a resolution of the City of Cumming changes that designation.

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

*Appropriate authority* means the City of Cumming, the City of Cumming Police Department, the City of Cumming Code Enforcement Officer(s), any duly authorized agent thereof, the State of Georgia, any city, any county, or any state or subdivision thereof. In the event this ordinance is being enforced pursuant to an intergovernmental agreement with Forsyth County, Georgia, this term shall also mean the Forsyth County Sheriff's Office, Forsyth County Code Enforcement, and any duly authorized agent thereof.

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

*Cat* means any age feline of the domesticated type.

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

*City* means the City of Cumming, Georgia.

*County* means Forsyth County, Georgia.

*Dangerous dog control ordinance* means article V of this chapter.

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

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

*Feral animal* means an animal that has escaped from a domestic or captive status and is more or less living as a wild animal, or is born of a feral animal.

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

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

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

*Local government* means the City of Cumming, Georgia.

*Mayor and Council* mean the Mayor and Council of the City of Cumming, Georgia.

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

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

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

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

*Severe injury* means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring 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.

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

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

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

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

Sec. 16-24. - Running at large prohibited.

- (a) It shall be the duty of the owner of any animal or anyone having an animal in his possession to keep the animal under control at all times while the animal is off the real property limits of the owner, possessor or custodian. For the purposes of this section, an animal is deemed under control when it is confined within a vehicle; is secured by a leash or other device held by a competent person; is under voice control; or is properly confined within an enclosure with permission of the owner of the property where the enclosure is located.
- (b) 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.
- (c) Every female dog or cat in heat shall be confined in a building or other enclosure in such manner that such female dog or cat cannot come into contact with another male animal except for planned breeding.
- (d) Every animal shall be restrained or controlled so as to prevent it from chasing vehicles or attacking persons or other domestic animals.
- (e) The owner or custodian of any animal that is proven to be at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the animal and regardless of lack of knowledge of the offense at the time it occurs.
- (f) Any such animal at large may be impounded by the animal control officer or an authorized representative thereof.

Sec. 16-25. - Cruelty to animals; fighting animals.

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

- (a) Whoever willfully or purposefully kills, abuses, maims or disfigures any animal or willfully or maliciously administers poison to an animal or exposes any poisonous substance with intent that the substance shall be taken and swallowed by an animal shall be in violation of this article. Cropping, docking, and dew claw removal performed by a veterinarian shall not be considered maiming or disfiguring.
- (b) Whoever overloads, overdrives, tortures, torments or deprives an animal of adequate food or beats, mutilates, hobbles or kills any animal or causes such acts to be done, or carries in or upon a vehicle or otherwise any animal in a cruel or inhumane manner, shall be deemed in violation of this article. This section shall not prohibit the hobbling of an animal for legitimate training or approved medical care purposes.

- (c) Whoever confines an animal and fails to supply adequate food, adequate water, or fails to provide the animal with access to adequate space or adequate shelter, or abandons any animal to die, or otherwise confines the animal in inhumane conditions shall be deemed in violation of this article.
- (d) No person shall:
  - (1) Own, possess, keep or train any animal with the intent that such animal shall be engaged in an exhibition of unlawful fighting.
  - (2) Build, make, maintain or keep a pit on premises owned by him or occupied by him, or allow a pit to be built, made, maintained or kept on such premises, for the purpose of an exhibition of animal fighting.
  - (3) In any manner encourage, instigate, promote or assist in an exhibition of animal fighting.
  - (4) Charge admission to, be an assistant, umpire or participant at, or be present as a spectator to any exhibition of animal fighting.
- (e) No owner of any dog contracting distemper or parvo shall allow such dog to remain untreated or fail to take prompt steps to have the dog euthanized.
- (f) Any animal control officer may impound any animal that has been treated in a cruel manner.
- (g) A person who is convicted of animal cruelty as provided in this article may not own, possess, or have on his premises in the City of Cumming any animal for one year from the date of conviction. A nolo contendere plea is considered a conviction for the purpose of this section. Nothing in this section shall prohibit the court from imposing a time in excess of one year, should circumstances warrant.

#### Sec. 16-26. - Enforcement.

(a) Enforcement authority of this chapter shall be vested with any animal control officer of the City of Cumming Police Department, who may exercise good faith discretion in the implementation and enforcement of the provisions of this ordinance. Enforcement shall be based upon a complaint lodged with an animal control officer or City of Cumming Police Department, or observations made by an animal control officer.

(b) The foregoing notwithstanding, pursuant to any intergovernmental agreement in place on the date this ordinance is adopted, or any future intergovernmental agreement, enforcement of this ordinance may be made by officers of the Forsyth County Sheriff's Office, or a code enforcement officer of Forsyth County, Georgia, and said enforcement may be based on complaints lodged with any such enforcement personnel or the personnel identified in Sec. 16-26(a).

(c) In carrying out the duties of this chapter an animal control officer may employ equipment, including but not limited to control poles, nets, leashes of any construction, chemical



capture devices, snakes tongs, oleoresin capsicum aerosols, snake hooks, humane traps, collapsible batons, firearms and metal carrying cages.

Sec. 16-27. - Vicious animals—Precautions to be taken by owners.

(a) Vicious animal.

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

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

- (1) Anyone attacking its owner;
- (2) Unlawful trespassers on the property of its owner;
- (3) Any person or animal that has tormented or abused it;
- (4) If it is defending its young or other animal; or
- (5) Any non-domesticated animal being hunted as part of lawful hunting activities.

(c) An animal will not be classified as vicious simply by nature of its size, breed, phenotype or other physical characteristics.

(d) No person owning or having custody or control of any animal known to be vicious shall permit it to run at large, or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.

(e) For owners of vicious animals who maintain their animal out-of-doors, a portion of their property shall be fenced with a perimeter or area fence. Within this perimeter fence the vicious animal must be provided adequate shelter of adequate space. The pen or kennel shall not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides, with a secure top attached to all sides, and the sides must be securely set into the ground or onto a concrete pad or securely attached to a wire bottom, out of which it cannot climb, dig, jump or otherwise escape on its own volition. The gate must be securely locked.

(f) A warning sign (e.g., BEWARE OF VICIOUS ANIMAL) shall be conspicuously posted denoting a vicious animal is on the premises and if said vicious animal is kept in a secure enclosure such signs will be posted on all four sides of said enclosure. It is the intention of this article to make all persons who have legitimate business at the place where a vicious animal is kept to be fully warned that such vicious animal is present.

(g) No vicious animal shall be chained, tethered, or otherwise tied to any inanimate object such as a tree, post or building.

- (h) Whenever outside of its enclosure, but on the owner's property, a vicious animal must be attended by the owner and restrained by a secure collar and leash of not more than six feet in length and of sufficient strength to prevent escape.
- (i) It shall be unlawful for any person to cause, permit, accompany or be responsible for any vicious animal on the streets or in any other public place, at any time, unless, in addition to the other requirements of this article, such animal is humanely and securely muzzled and in charge of a competent person to effectively prevent it from biting any person or other animal.
- (j) The owner of any vicious animal which is not confined in a building or secure enclosure, or any person who shall release, either willfully or through a failure to exercise due care or control, or take such animal out of such building or secure enclosure in a manner which is likely to cause injury to another person or damage to the property of another person, shall be in violation of this article, and such animal shall be permanently confined or humanely euthanized.

Sec. 16-28. - Notice to owners of impounded animals; redemption by owner.

- (a) Any animal seized or impounded under any provision of this article shall be detained in the animal control shelter or any other such facility that the City may so designate.
- (b) Upon receipt of any impounded animal having a microchip or wearing a tag, the animal control officer shall immediately make diligent efforts to ascertain the identity of the animal's owner and shall, within three business days of receipt, telephone the owner to give notice of the impoundment or notify the owner by personal contact or notice attached to the residence of the owner.
- (c) The owner of the impounded animal may, after receiving such notice, regain possession of the animal upon payment of all applicable fees specified in this article. Such redemption shall not affect any criminal liability of the owner which may exist with respect to any violation of this article and shall not preclude proceedings against the owner for the purpose of pursuing sanctions under this article.

Sec. 16-29. - Consequences of animal impounded and not claimed.

If for any reason an animal is impounded and not claimed by the owner after proper notification is made, the animal shall be considered abandoned and the following subsections shall apply.

- (1) If the animal is not claimed by the owner within five days of being telephoned or personally contacted or seven days of a notice being left at the owners residence, the animal shall be deemed abandoned and representatives of the animal control shelter may at their discretion adopt such animal or dispose of such animal in accordance with state law. If the owner cannot be located, or no residence of the owner identified, the animal shall be presumed abandoned within seven days of impoundment.

- (2) If any of the time periods in the subsection (1) of this section expire, the owner shall be deemed to have given his consent to the adoption of the impounded animal or to give his consent to the disposal of the animal in a humane fashion in accordance with O.C.G.A. § 4-11-5.1. All rights of ownership in such animal will immediately cease and the owner shall have no further claims to such animal.
- (3) If an animal is impounded, and through its appearance seems to have been abandoned or is stray, such animal will be kept for a period of five days before it will be considered for adoption or euthanized. The appearance of being abandoned or stray would include, but not be limited to, the following: no collar, tag, brand, microchipping, or other identifiable marks, an appearance of being malnourished, excessively dirty or mangle like fur coat, or any other condition that would lead the animal control officer to conclude that such animal is a stray.
- (4) Any animal impounded which is found to be diseased or injured and whose ownership is unknown or is relinquished in writing, or whose owner cannot be immediately contacted, may be immediately euthanized if in the opinion of a licensed veterinarian the severity of the injury or disease of the animal indicates that euthanasia is a humane course of action.
- (5) Feral and unowned animals which have been captured by or come to be in the custody of the animal services division shall be kept for a period of twenty-four (24) hours before being euthanized or released for adoption, as determined in the discretion of the animal services division.

Sec. 16-30. - Adoption.

- (a) The animal control shelter may offer for adoption or placement with any person or any organization approved by the City or, in the event this ordinance is being enforced pursuant to an intergovernmental agreement with Forsyth County, Georgia, the County, an animal otherwise scheduled to be disposed of (euthanized) under the provisions of this chapter. No animal impounded shall be released to any person or organization for the purpose of animal experimentation. Any person or organization adopting an animal from the animal control shelter shall pay the animal control shelter for rabies inoculation, necessary medical treatment, and any other administrative fees designated by the City. Additionally, any person seeking to adopt an animal from the animal control shelter shall provide a written certification disclosing any convictions for animal cruelty or animal neglect under any federal, state, or local laws. No animal may be adopted from the animal control shelter by any person who, within 10 years from the conviction or plea date, was convicted or pled guilty (to include a plea of *nolo contendere*), to animal cruelty or animal neglect whether such conviction is a felony, misdemeanor, or ordinance-based conviction under any federal, state or local law.
- (b) All dogs and cats will be spayed or neutered at or immediately prior to the time of adoption if the animal is approximately 8 weeks of age and weighing at least two pounds, unless otherwise recommended by a licensed veterinarian.

- (c) The requirement set forth in section 16-30 (b) shall not apply if the owner of the dog or cat claims or presents evidence that such dog or cat is the property of such person or organization.

Sec. 16-31. - Authority to euthanize injured or diseased animals.

Any dog, cat or other domestic animal injured upon the public right-of-way is subject to euthanasia by a competent licensed veterinary authority or animal control officer, depending upon the extent of injury to or disease of such animal, or, in the alternative, if such animal is not claimed by the owner thereof within a reasonable time, in the interest of humane treatment.

Sec. 16-32.- Business License Verification regarding tip line

Any person applying for a City business license to operate an animal care facility shall be required to certify on a form provided by the City that they are familiar with the City of Cumming Police Department, Forsyth County Sheriff's Office, and/or animal services division online and telephonic resources for reporting animal neglect or cruelty and, if observed, will report instances of same. A failure to report an instance of animal neglect or animal cruelty may result in (1) revocation of an existing business license, (2) inability to secure a future business license, (3) a citation for failure to report in violation of the certification to do so.

Sec. 16-33. - State rabies vaccination tag; county registration required for dogs and cats.

- (a) Every dog or cat three months of age or older shall be vaccinated against rabies. Dogs and cats will be revaccinated one year later. When dogs or cats one year of age or older are vaccinated with vaccines accepted by the state, county or department for providing a three-year duration of immunity, boosters will be required every three years. Otherwise, boosters shall be required annually.
- (b) All dogs are required to wear a collar containing owner information at all times, except as exempted by section 14-105. Owner information contained in a microchip shall be acceptable to comply with this requirement; but shall not be a replacement for a visible collar. Dogs age three months or older are required to wear a collar and a current rabies tag at all times.
- (c) A \$5.00 fee will be assessed at the time of all rabies vaccinations (cats and dogs) for registration purposes. All dogs and cats shall be registered with Forsyth County or the City. If a dog or cat is vaccinated for rabies by a veterinarian outside of the Forsyth County, it is the responsibility of the owner to register the animal with the animal services division and pay the appropriate fee. If an owner or custodian of a dog or cat provides written verification that, at the time of rabies vaccination, his dog or cat has been spayed or neutered, such verification shall result in their registration fee being reduced to \$3.00.
- (d) All veterinarians receiving fees under this section shall deliver such fees to the City by no later than the 15th day of the subsequent month after receipt. If enforcement of this ordinance is being accomplished pursuant to an intergovernmental agreement between

the City of Cumming and Forsyth County, Georgia, then such fees shall be remitted to Forsyth County.

Sec. 16-34. - Confinement of dogs or other animals.

- (a) The animal control officer shall be responsible for enforcement of all regulations pertaining to confinement of dogs or other animals.
- (b) The owner of any dog or other animal as defined in this article shall confine or cause to be confined such dog or animal as prescribed in this section:
  - (1) A dog or other animal which has bitten a person (or other animal) shall be confined for a period of ten days following the date of the bite, in accordance with section 16-67(b), (c), (d) or (e), whichever is applicable.
  - (2) A dog or other animal, whether vaccinated or not, having signs suggestive of rabies shall be confined in isolation in a humane and escape-proof enclosure until its death or until its freedom from suspicion of having rabies is established and its release is authorized by an animal control officer.
  - (3) A dog or other animal not vaccinated and bitten by a known or suspected rabid animal shall be immediately euthanized or if the owner is unwilling to euthanize the exposed animal, strict isolation of the animal in an approved kennel, or other confinement area approved by an animal control officer, for six months shall be enforced. One month prior to release, the dog shall be vaccinated according to prescribed methods.
  - (4) Any dog or other animal which, as evidenced by its rabies vaccination tag, is properly and currently vaccinated for rabies and which is bitten by a known or suspected rabid animal may be revaccinated, confined in an approved manner for 60 days, and then released if no signs of rabies are evident.
  - (5) Every dog or other animal, whether vaccinated or not, shall be kept in a quarantined area confined at the owner's or custodian's premises during the entire quarantine period, unless other provisions deemed adequate to the animal control officer are made.
  - (6) Any dog less than three months old may be confined to the owner's premises, provided such permission is granted by the animal services division.
  - (7) Any dog brought into the city for a permanent stay from outside the city shall be confined or on leash until vaccinated as provided for by this chapter.

Sections 16-35 through 16-65 are reserved.

## Exhibit B

### ARTICLE III – Dangerous Dogs and Vicious Dogs

#### Sec. 16-66. - 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:

*Animal control officer* means a City of Cumming Code Enforcement Officer or City of Cumming Police Officer, or any other employee of the City of Cumming duly authorized to pick up, restrain, or impound animals, and who is responsible for discharging such other duties or functions pertaining to animals as may be prescribed by this or any other ordinance, by state law, or by the lawful order of a city official authorized to supervise and direct animal control officers. The foregoing notwithstanding, the enforcement of this ordinance may be the subject of an intergovernmental agreement with Forsyth County, pursuant to which an animal control officer under the definitions in Forsyth County's animal control ordinances shall have jurisdiction and authority to enforce the City of Cumming's animal control ordinances within the City of Cumming.

*Animal shelter* means any facility operated by or under contract for the State of Georgia or any county, municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs; any veterinary hospital or clinic operated by a veterinarian or veterinarians that operates for such purpose in addition to its customary purposes; and any facility 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.

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

*Animal control board* means the Forsyth County Animal Control Board in the event there is an intergovernmental agreement for the enforcement of animal control between the City of Cumming and Forsyth County, Georgia. Otherwise it shall mean a board consisting of (1) a duly licensed Georgia veterinarian having a practice in the City of Cumming that is nominated and approved by the Mayor and Council, (2) an individual nominated and approved by the Mayor and Council with the only qualification being that the individual be an adult resident of the City of Cumming, and (3) a third appointee that is selected by the following methodology; (i) the first and second appointees above shall nominate no less than two and no more than five individuals, (ii) each such nominee shall be an active member of a Forsyth County, Georgia animal rescue organization, and (iii) the pool of nominees shall be presented to the Mayor and Council who shall select one of the nominees as a board member. Terms shall be set by resolution upon the creation of any such board, and following the expiration of those initial terms, reappointments shall occur and those appointed shall serve two-year terms. During the term of service, an appointee may be removed by the Mayor and Council with or without cause.

*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.

*Mail* means to send by certified mail or statutory overnight delivery to the recipient's last known address.

*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 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 custody of the minor.

*Proper enclosure* means an enclosure on the owner's property for keeping a dangerous dog or vicious dog in a locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and, in the case of a vicious dog, a secure top, and if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog.

*Serious injury* means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring 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. 16-67. - Investigations by animal control officer; owner's responsibilities.

- (a) *Duty to investigate.* Upon receiving a report of a dog believed to be subject to classification as a dangerous dog or vicious dog within an animal control officer's jurisdiction, such officer shall make such investigations as necessary to determine whether such dog is subject to classification as a dangerous dog or vicious dog.
- (b) *Owner's responsibilities for dog without current valid rabies vaccination.* If a dog, without a current and valid rabies vaccination, bites any person, it shall be the duty of the owner having possession and knowledge of such to arrange for and bear the cost of confinement of such dog in a veterinary hospital for a period of ten days in order to observe the dog for

rabies. If the veterinary hospital determines the dog to be rabid, then the dog is to be euthanized in an expeditious and humane manner. If the dog is found to not be rabid, such dog may be claimed upon proof of a current rabies vaccination and an enclosure deemed proper by the animal control officer. When the ten-day observation period is satisfied, the owner of such dog shall have 72 hours to claim such dog.

- (c) *Owner's responsibilities for dog with current valid rabies vaccination.* If a dog, with a current and valid rabies vaccination, bites any person, it shall be the duty of the owner, or person having possession of such dog and knowledge of such bite, to confine such dog for a ten-day period in an enclosure deemed proper by the animal control officer.
- (d) *Removal from enclosure after confinement period generally.* A dog, which has not been classified a dangerous or vicious dog, may be removed from the proper enclosure restriction after satisfying the requirements of the ten-day confinement period.
- (e) *Continued confinement for dangerous or vicious dog.* The owner of a dog, which has been classified a dangerous dog or a vicious dog, must continue confinement of the dog in a proper enclosure as long as the dog is so classified.
- (f) *Refusal to comply.* In the event an owner of a dog fails or refuses to abide by this section, the animal control officer is hereby authorized and empowered to confiscate such dog, confine it at the expense of such owner at a veterinary hospital for such time it deems necessary in order to observe whether the dog is rabid. In the event the veterinary hospital determines the dog to be rabid, then such dog is to be euthanized in an expeditious and humane manner.

Sec. 16-68. - Procedures for classification as dangerous dogs or vicious dogs.

- (a) *Applicability for enforcement purposes.* Any irregularity in classification proceedings shall not be a defense to any prosecution under this Article so long as the owner of the dog received actual notice of the classification and did not pursue a civil remedy for the correction of the irregularity.
- (b) *Notice requirement.* When an animal control officer determines that a dog is subject to classification as a dangerous dog or vicious dog, the animal control officer shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of the animal control officer's determination and shall state that the owner has a right to request a hearing from the animal control board on the animal control officer's determination within seven days after the date shown on the notice. The notice shall also provide a form for requesting the hearing and shall state that if a hearing is not requested within the allotted time, the animal control officer's determination shall become effective for all purposes under this article. If an owner cannot be located within ten days of an animal control officer's determination that a dog is subject to classification as a dangerous dog or vicious dog, such dog may be released to an animal shelter or humanely euthanized, as determined by the animal control officer. No dog shall be classified as a dangerous dog or vicious dog for actions that occur while the dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties. No dog shall be classified as a dangerous dog or a vicious dog if the



person injured by such dog was a person who, at the time, was committing a trespass, was abusing the dog, or was committing or attempting to commit an offense under O.C.G.A. Title 16, Chapter 5.

- (c) *Confinement during pendency of hearing or appeal.* During the pendency of any hearing or appeal of a determination that a dog is a dangerous or vicious dog as provided for in this section, the owner of such dog shall cause such dog to be confined at the expense of such owner of such dog, at a veterinary hospital, licensed kennel facility, or in a proper enclosure deemed suitable by the animal control officer.
- (d) *Authority of animal control officer to confiscate and confine.* If an owner fails or refuses to abide by subsection (c) of this section, the animal control officer is authorized and empowered to confiscate such animal, confine it at the expense of such owner at a veterinary hospital, kennel facility, or proper enclosure deemed suitable by the animal control officer during the pendency of any hearing or appeal mentioned in the subsection (c) of this section.
- (e) *Hearing.* When a hearing is requested by a dog owner in accordance with subsection (b) of this Code section, such hearing shall be scheduled within 30 days after the request is received, provided, however, that such hearing may be continued by the animal control board for good cause shown. At least ten days prior to the hearing, the animal control board shall mail to the dog owner written notice of the date, time, and place of the hearing. At the hearing, the dog owner shall be given the opportunity to testify and present evidence and the animal control board shall receive other evidence and testimony as may be reasonably necessary to sustain, modify, or overrule the animal control officer's determination.
- (f) *Notice of determination by animal control board.* Within ten days after the date of the hearing, the animal control board shall mail written notice of its determination on the matter. If such determination is that the dog is a dangerous dog or a vicious dog, the notice of classification shall specify the date upon which that determination shall be effective. If the determination is that the dog is to be euthanized pursuant to subsection (h), the notice shall specify the date by which the euthanasia shall occur.
- (g) *Retrieval of dog from veterinary hospital.* After notification from the hearing board that a dog has been determined to be a dangerous or vicious dog, the owner of such dog shall have three business days within which to pick up his dog from the veterinary hospital, provided the owner is in compliance with all requirements of the animal control ordinance. After such notification, the owner may appeal from any adverse decision rendered by the hearing board in such manner as provided by the laws of the state. Written notification of such an appeal shall be given immediately to the county animal services division.
- (h) 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 October 15, 2018 shall count for purposes of this subsection.

Upon a complaint lodged with the animal services division regarding any section of this article, a summons may be issued requiring the owner of any domesticated animal, or any person, firm or corporation violating any of the provisions set forth in this article to appear before the judge of the City of Cumming Municipal Court on a day and time certain to answer for the violation of this article. If such violation of this article has not been witnessed by an officer of the City, a subpoena may be issued to the person making the complaint, requiring such person to appear on the day and time of the hearing set by the court to testify on behalf of the City.