

## Chapter 6

### ANIMALS\*

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**\*Editor's Note** – Ord. No. 2066, Section 1, adopted Aug. 7, 2000, amended chapter 6 in its entirety. Said ordinance provisions are included as Sections 6-1-6-5, 6-30-6-35, 6-670-6-65 and 6-100, 6-101. Formerly, said chapter pertained to similar subject matter. See the Code Comparative Table.

**Cross Reference**-Animals at flea markets prohibited, Section 10-62.

**State Law References**-City's and County's authority to exercise animal control, Ga. Const. Art. 9, Sec. 2, par. 3(a)(3); livestock running at large or straying, O.C.G.A., Section 4-3-1 et seq; permitting dogs in heat to roam or run free, O.C.G.A. Sec. 4-8-6; Dangerous Dog control Law, O.C.G.A. Section 4-8-20 et seq; Georgia Animal Protection Act, O.C.G.A. Section 4-11-1 et seq; control of rabies, O.C.G.A. Section 31-19-1 et seq. cruelty to animals, O.C.G.A. Section 16-12-4; liability of owner or keeper of vicious or dangerous animal for injuries caused by animal, O.C.G.A. Section 512-2-6.

## 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)

#### **Sec. 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:]

*Dangerous dog* means any dog that, according to the records kept by the city:

- (1) Inflicts a severe injury on a human being without provocation on public or private property at any time; or
- (2) Aggressively bites, attacks, or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification;
- (3) A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog.

- (4) A dog shall not be a dangerous dog or a potentially dangerous 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.

*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 within the corporate limits.

*Potentially dangerous dog* means any dog that without provocation, bites a human being on public or private property at any time.

*Proper enclosure* means an enclosure for keeping a dangerous dog or potentially dangerous dog while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and 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.

*Severe Injury* means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.

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

**Secs. 6-6 – 6-29. Reserved.**

## **ANIMALS**

### **ARTICLE II. DOMESTICATED ANIMALS**

#### **Sec. 6-30. Running at large prohibited; Duty of owner or custodian.**

- (a) It shall be unlawful for the owner or custodian of any dog or other animal located within the city to fail to keep such dog or other animals at all times either:
- (1) Confined on the property of such owner or custodian; or
  - (2) On a leash in the custody of a responsible person on the public streets; or
  - (3) In an automobile and in the custody of a person competent by law to drive such automobile; or
  - (4) Tied or secured while riding in a truck.

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

**Sec. 6-31. Impoundment; Procedure for disposition of impounded animals.**

- (a) It shall be the duty of the animal control officer to seize and impound all dogs or other animals found running at large within the corporate limits of the city in violation of this chapter. Any dog or other animal seized and impounded shall be detained for a minimum period of 48 hours and, if not claimed and redeemed by the owner or custodian within such period, shall be disposed of in such manner as the animal control officer shall designate; provided, however, that whenever the name of any person appears on the collar of any dog or other animal seized or impounded, pursuant to the provisions of this chapter, such person, owner or custodian shall be notified of such seizure, in writing, by the animal control officer by notice addressed to him at his last known address and deposited in the United States mail. Diligent inquiry shall be made to ascertain the identity of the owner, and such owned dog or other animal shall not be disposed of until five days after the written notice shall have been given.
- (b) When the name of the owner or the custodian shall not appear on the collar of the dog or other animal, the animal control officer shall make a reasonable investigation and inquiry to ascertain the owner or custodian of such dog or other animal and shall give such owner or custodian the same notice by postcard as provided in subsection (a) of this section. If such investigation fails to reveal the name of the owner or custodian, then such dog or other animal may be disposed of by the animal control officer after a period of 48 hours as provided in subsection (a) of this section.
- (c) Any dog or other animal seized and impounded pursuant to this chapter may be redeemed at any time prior to the disposition of such dog or other animal by the payment of the currently required impoundment fee and any daily maintenance fees as adopted by the mayor and council from time to time.
- (d) The animal control officer shall keep accurate written records showing the final disposition of all dogs or other animals impounded by him under the provisions of this chapter, which records shall be open and available for inspection by a citizen or officer, or agent of the city.

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

**Sec. 6-32. 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.

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

**Sec. 6-33. Keeping barking dogs or crying cats prohibited.**

- (a) It shall be unlawful for any person to keep or harbor any dog which habitually barks, howls, or yelps; any cat which habitually cries or howls; or any other animal which habitually makes noise which would offend a person of ordinary sensibilities to the great discomfort of the peace and quiet of any neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities.
- (b) Whenever a complaint is received that a dog which habitually barks, howls or yelps, a cat which habitually cries or howls; or other animal which habitually makes noise which offends a person of ordinary sensibilities is being kept by any person in the city, the owner or custodian of the animal shall be notified that a complaint has been received and that the owner or custodian shall take whatever steps necessary to alleviate the noise.

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

**Sec. 6-34. Disposition of injured or dead animal lying in streets.**

- (a) The city and its designated agents shall have the power to humanely dispose of dogs or other animals injured and lying in the streets or public ways of the city whenever it shall appear that the animal (is) injured and (is) suffering or (in) great pain.
- (b) The city and its designated agents shall remove dead animals lying in the streets or public ways of the city.

(Ord. 2066, 8-7-00)

**Section 6-35 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 16-32 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 the public works director or city manager in any and all situations involving animals.  
(Code 2006, Ord 2143)

**Secs. 6-36 – 6-59. Reserved.**

## **ANIMALS**

### **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, ha 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.**

(a) 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.**

**ANIMALS**

**ARTICLE IV. BIRD SANCTUARY**

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

(a) 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.**

(a) 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)