

2016-001

**AN ORDINANCE TO PROVIDE FOR A COMPREHENSIVE ANIMAL CONTROL  
ORDINANCE FOR THE CITY OF COMMERCE AND FOR OTHER PURPOSES**

The City Council of the City of Commerce, Georgia hereby ordains that the Code of The City of Commerce, Georgia is hereby amended as follows:

Article I and Article II of Chapter 10, Sections 10-1 through 10-41, inclusive, are hereby deleted in their entirety. A New Article I, Chapter 10 is inserted in lieu thereof to read as follows:

**ARTICLE I – ANIMAL CONTROL ORDINANCE.**

**Sec. 10-1. – Title and purpose.**

This Article may be referred to as the “Commerce Animal Control Ordinance.” The purpose of this Article shall be to implement the provisions of O.C.G.A. § 4-8-20 et seq. relating to dangerous dog control (the "act").

**Sec. 10-2. – 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 potable water in adequate supply. Examples of inadequate water include, but are not limited to: snow, ice and rancid/contaminated water.

*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 sworn 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 Commerce Police Department 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 limits of Commerce.

*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 animal from escaping;
- (2) A structure with secure sides 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) 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.

### **Sec. 10-3. - Penalties for violation of article.**

Unless otherwise specified in this article, the following penalties shall apply: any person violating this article may be deemed guilty of violating a city ordinance and may be punished by a fine not to exceed \$1,000.00 and by imprisonment not to exceed six months, or both fine and imprisonment. Each act or omission in violation of this article shall constitute a separate offense. Each day that such violation continues to exist shall constitute a separate offense. In addition to any other penalties allowed by law, the court, as part of the sentence may prohibit the offender from owning, possessing, or having on the offender's premises in City of Commerce any animal during the term of the sentence, may order for the animal to be removed from the city or humanely euthanized, and may order restitution.

### **Sec. 10-4. - Restraint.**

- (a) It shall be unlawful for any owner or possessor of any dog to fail to keep the dog under restraint or control as provided for in this section.
- (b) A dog 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 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 proper 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, or it is off leash and obedient to and under voice command of a competent person who is in the immediate proximity of the dog any time it is not restrained as provided for in subsection (1) or (2) above while on the owner's property.

- (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 dogs who maintain their dogs 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 dog 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 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 dog, 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) Any enforcement officer of the Commerce Police Department shall have the authority to enter onto private or public property for the purpose of ensuring compliance with the provisions of this subsection.
- (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 City of Commerce 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. The fee shall be set by the City Council.
    - 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 Commerce Police Department shall have the authority to enter onto private or public property for the purpose of ensuring compliance with the provisions of this subsection.

- (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.

**Sec. 10-5. - 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.

**Sec. 10-6. - Cruelty to animals**

- (a) It shall be unlawful for any person to commit an act of cruelty towards any animal.
- (b) It shall be unlawful for any person to intentionally train, breed, possess, harbor, keep, have custody or control of an animal for the purpose of animal fighting. It shall be unlawful to be a spectator at or bet on an animal fighting activity. The intentional fighting of dogs, dog and hog, and cocks is expressly prohibited.
- (c) 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.
- (d) 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.

**Sec. 10-7. - 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 resolutions; or
  - (7) Is in heat and not confined within a secure enclosure to prevent unintentional breeding;  
or

- (8) Chases vehicles, bicycles, or people.
- (b) It is unlawful to own or possess a public nuisance animal. Any such public nuisance animal may be impounded and the owner or possessor of the animal charged for a violation of this article.

**Sec. 10-8. - 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 officers of the animal control unit shall notify by mail 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 five days after the mailing of 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 unit 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.

**Sec. 10-9. - Humane disposition.**

- (a) If an animal is not claimed by the owner within five days 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 unit 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 director of the animal control unit. 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.

**Sec. 10-10. - 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 animal 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.

**Sec. 10-11. - Biting animals and quarantine.**

- (a) All dogs and cats known to have bitten or scratched 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 or scratched 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.

- (d) Dogs and cats that are bitten or scratched 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 or scratched 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 constitutes a violation of this section 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.

**Sec. 10-12. - Wildlife.**

All complaints and matters concerning wild animals not of a domestic nature and complaints involving game animals or protected species and/or hunting, shall be forwarded to the Georgia Department of Natural Resources, Game and Fish Division or the U.S. Department of Agriculture, Law Enforcement Division for proper disposition, i.e., compliance, apprehension, control and/or enforcement as may be necessary as provided by state and federal rules and regulations.

**Sec. 10-13. - Dead animals.**

- (a) Officers of the animal control unit are authorized to remove dead animals from public property including public schools, 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. Any dog, cat or small animal carcass to be picked up for disposal by the animal control unit from a private residence must first be contained in a plastic bag and delivered to the right-of-way of the road or street for disposal. 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.

**Sec. 10-14. - Animal license.**

The owner or possessor of each dog or cat residing in the City of Commerce 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.

**Sec. 10-15. - Collar and rabies vaccination tag.**

- (a) It shall be the duty of each dog and cat owner or possessor to provide a collar and tag for each dog and cat, and the 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.

- (b) 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.

**Sec. 10-16. - 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.

**Sec. 10-17. - Vaccines used and time of vaccination.**

- (a) All dogs and cats owned, possessed, harbored or residing within the city limits of Commerce 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 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.

**Sec. 10-18. - 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.

**Sec. 10-19. - Summons.**

- (a) The animal control officer or police officer at his discretion may not impound the animal or livestock found in violation of any section of this chapter, but may return the animal to its owner or possessor and issue or cause to be issued a summons directing the owner or possessor of the animal or livestock to appear before the municipal court on a certain day to stand trial for the violation of this article.
- (b) If a violation of this article has not been personally witnessed by the animal control officer or his authorized representative or other employee of the city, a subpoena may be issued to the person complaining to appear on the day and time set for trial to testify on behalf of the city.

**Sec. 10-20. - Liability of the city, animal control unit, officers and employees.**

The City of Commerce, the animal control unit and its officers and employees shall not be held responsible or liable for any accidents, diseases, injuries, or deaths to any animal while being impounded or boarded at the animal control facility or any facility designated by the animal control unit to house such animal.

**Sec. 10-21. - 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.

**Sec. 10-22. - 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 and such animal shall be deemed neglected.
- (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 and such violation shall be deemed neglected.
- (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.

**Sec. 10-23. - 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 written notice from the animal control unit indicating that such animal or animals are creating a disturbance and advising the owner or individual in possession of the property of some possible solutions to rectify the nuisance. The complainant must provide the officer the address where the animal or animals were located at the time of the offense before any written notice shall be sent. 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 the animal control unit receives a second complaint from the original complainant, he or she will be asked to provide a sworn statement documenting the violations. The original complainant will also be required to obtain a sworn statement from another individual regarding the disturbance. The statements must be from individuals residing at different addresses located near the animal or animals creating the disturbance. Upon receipt of the sworn statements, the animal control unit may issue a citation in accordance with the requirements of this article.
- (5) If the disturbance is not resolved within ten days and the animal control unit receives another complaint from another individual residing at a different address located near the animal or animals creating the disturbance, both complainants will be asked to provide a sworn statement. Upon receipt of the sworn statements, the animal control unit may issue a citation in accordance with the requirements of this article
- (6) 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.
- (7) Any person violating any provision of this subsection may upon conviction be punished by a fine not to exceed \$1,000.00.

#### **Sec. 10-24. - 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 preserved or 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.

#### **Sec. 10-25. - 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.

#### **Sec. 10-26. - 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.

**Sec. 10-27. - Training guard or protection dogs.**

It is unlawful to train a guard or protection dog, unless the trainer holds a state kennel license, a city business license, 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.

**Sec. 10-28. - 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 Commerce 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 Commerce household for one year from the date of conviction.

**Sec. 10-29. - Backyard 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.

**Sec. 10-30. - Exceptions.**

No dog shall be classified as a dangerous dog or potentially dangerous dog as a result of an injury upon a human being inflicted at a time when the dog was being used by a law enforcement officer to carry out the law enforcement officer's official duties. No dog shall be considered a dangerous dog or potentially dangerous dog as a result of an injury inflicted by the dog upon a person who, at the time of injury, was committing a willful trespass or other tort; who was tormenting, abusing or assaulting the dog or had done so in the past; or who was attempting to commit a crime. If the person injured is a child of tender years, the age, understanding, and capacity of such child shall be considered to determine whether such child was capable of committing a willful trespass or other tort or a crime.

**Sec. 10-31. - Classification as dangerous dog or potentially dangerous dog; notice to owner.**

- (a) When an animal control officer classifies any dog as a dangerous dog or a potentially dangerous animal under this article, the dog control officer shall 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 or statutory overnight delivery to the owner's last known address. If a dog has more than one owner, notice to one owner shall be sufficient for purposes of this article. If there is a question as to the

dog's ownership, notice shall be deemed sufficient if sent to the last person who received a citation for the dog or who obtained a license for the dog.

- (2) The notice shall include a summary of the animal control officer's findings that form the basis for the dog's classification as a dangerous or a potentially dangerous dog.
  - (3) The notice shall be dated and shall state that the owner has a right to request a hearing on the classification within 15 days from the date of the notice.
  - (4) The notice shall state that the Chief of Police or his designee shall conduct the hearing.
  - (5) The notice shall state that if the owner does not request such a hearing within 15 days from the date of the notice, the classification of the dog as a dangerous dog or potentially dangerous dog shall be final and conclusive for all purposes.
  - (6) The notice shall include a form to request a hearing before the Chief of Police or his designee and shall provide specific instructions on mailing or delivering such a request.
- (b) When the Chief of Police receives a request for a hearing from an owner, he shall schedule such a hearing within 30 days of receipt of the request. The Chief of Police shall notify the owner in writing by certified mail or statutory overnight delivery of the date, time and place of the hearing; such notice shall be made to the owner at least ten days prior to the date of the hearing. At the hearing, the owner shall be given the opportunity to testify and to present evidence. The Chief of Police shall also receive such other evidence and hear such other testimony as he may find reasonably necessary to make a determination either to sustain, modify or overrule the classification of the dog by the animal control officer. Within ten days of the date of the hearing, the Chief of Police shall notify the owner in writing by certified mail or statutory overnight delivery of its determination on the matter. If the determination is made that the dog is a dangerous dog or potentially dangerous dog, the notice shall specify the date upon which that determination is effective. Unless the Chief of Police determines that a later date is appropriate in a particular case, the effective date of the determination shall be the date of the dog control officer's classification.
- (c) If the identity of the owner of a dog which the animal control officer has classified as a dangerous dog or potentially dangerous dog cannot be determined, the dog shall be immediately confiscated. If the dog's owner claims such a dog, the dog shall be released to its owner, together with a copy of the notice specified in subsection (a) of this section. If the dog remains unclaimed for seven days, the dog shall be destroyed in an expeditious and humane manner. Under no circumstances shall such dog be placed for adoption.

**Sec. 10-32. - Requirements for possession of dangerous or potentially dangerous dog.**

- (a) Any owner of a dangerous or potentially dangerous dog shall be jointly and severally responsible with all other owners of such dog for compliance with the requirements of this section.
- (b) No person shall own, possess, keep, harbor, or have custody or control of a dangerous dog or potentially dangerous dog except in compliance with all of the following requirements:
  - (1) A dangerous dog or potentially dangerous dog shall not be permitted to remain in the city unless it is properly registered with the Animal Control Unit on a form provided by the Animal Control Unit.

- (2) Except under the circumstances otherwise specifically permitted by this article, a dangerous dog or potentially dangerous dog shall at all times be maintained inside a proper enclosure.
- (3) The premises where a dangerous dog or potentially dangerous dog are kept shall be posted with a clearly visible sign warning that there is a dog on the premises which presents a danger to human beings. Such sign shall include a symbol sufficient to convey without words the message that there is a dog on the premises which presents a danger to human beings.
- (4) The owner of a dangerous dog shall maintain 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, 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.
- (5) The dog control officer or his designee shall have the right to inspect randomly and without notice a dangerous dog or potentially dangerous dog which is required to be confined pursuant to this section. Permission of the owner or person in custody of the dangerous or potentially dangerous dog shall not be unreasonably withheld.
- (6) The owner of a dangerous or potentially dangerous dog shall, prior to placing dogs on property, have the dog micro-chip registered, at his/her own expense, and provide the registration number to the animal control unit. The owner shall keep the registration information updated.

**Sec. 10-33. - Notice to dog control officer.**

The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer in person or by telephone within 24 hours of the occurrence of any one of the following events:

- (1) The dog has escaped or has otherwise ceased to be in the custody of the owner for any reason, unless the owner knows such dog to be physically secured and restrained or confined in the custody of another competent adult.
- (2) Such dog has attacked a human being or other animal.
- (3) Such dog has been sold, given, or otherwise transferred to the ownership or possession of another person.
- (4) The dog has died.
- (5) The dog is leaving the City of Commerce.

**Sec. 10-34. - Restraints when outside proper enclosure.**

- (a) 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 properly muzzled and restrained by a substantial leash and is under the physical restraint of a responsible person at all times.
- (b) It shall be 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 leash and is under the restraint of a responsible person at all times.

**Sec. 10-35. - Confiscation and disposition of dogs.**

- (a) If an animal control officer or police officer has probable cause to believe that a dangerous dog or potentially dangerous dog is being harbored in violation of this article, such officer or agent may do one of the following:
  - (1) Order the violation immediately corrected and cite the owner of the dog to appear in court for the violation; or
  - (2) If the violation cannot be immediately corrected and the dog is posing an imminent, serious threat to human beings or other domestic animals, the dog may be seized and impounded, in which case the owner will be cited to appear in court for the violation. At the owner's request and expense, such impoundment may be at a veterinarian or licensed kennel of the owner's choosing. If the dog is later deemed not dangerous or potentially dangerous under this article, it will be released to the owner. However, if the dog is deemed dangerous or potentially dangerous pursuant to this article, it will be released to the owner after payment of any fees and penalties, and upon presentation of proof that the owner has satisfied the requirements set forth in set forth in section 10-32
- (b) Any dog that has been deemed a dangerous dog shall be immediately confiscated by the animal control officer upon the determination that one of the following circumstances exists:
  - (1) The owner of the dog does not have the proper liability insurance or bond required by section 10-32.
  - (2) The dog is not validly and currently registered as required by section 10-32.
  - (3) The dog is not maintained in a proper enclosure.
  - (4) The dog is outside a proper enclosure but not under the restraints required by section 10-34, whether or not such dog is then in the custody or possession of its owner.
- (c) Any dog that has been deemed a potentially dangerous dog shall be confiscated upon the determination that one of the following circumstances exists:
  - (1) The dog is not validly registered as required by section 10-32.
  - (2) The dog is not being maintained in a proper enclosure.
  - (3) The dog is outside its proper enclosure but is not under the restraint required by section 10-34, whether or not the dog is then in the custody or possession of its owner.
- (d) Any dog which has been confiscated under subsections (a), (b) or (c) shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of actual boarding expenses plus reasonable confiscation costs, which shall be \$50.00 upon the first confiscation of any dog, \$100.00 upon the second, and \$200.00 upon the third or subsequent confiscation. If the owner has not complied with the provisions of this article and paid such confiscation costs within 20 days of the date of confiscation, the dog shall be destroyed in an expeditious and humane manner.

**Sec. 10-36. - Report to district attorney and solicitor.**

The dog control officer or other sworn officer shall report to the district attorney the conduct of any owner which the dog control officer believes may constitute a felony under the act. The

dog control officer shall report to the solicitor the conduct of any owner which the animal control officer reasonably believes may constitute a misdemeanor under the act.

This ordinance shall take effect February 1, 2016.

It so ordained this 19 day of January, 2016.

CITY OF COMMERCE

By: Jim Hill III

Attest: Judith Haggler [Seal]  
City Clerk