

Excerpts from
**DE KALB COUNTY, GEORGIA
AN ORDINANCE FOR DOGS
1987**

Presented to the De Kalb County Chief Executive Officer and Board of Commissioners,
April 1987, by the Study Group appointed by the County.

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1987
AN ORDINANCE FOR DOGS
DE KALB COUNTY, GEORGIA

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I. INTRODUCTION

What Stimulated De Kalb County Into Action

On the evening of November 21, 1986, three pit bulls attacked and killed Billy Gordon, a four-year-old boy while he was walking in the backyard of a nearby neighbour. The three pit bulls (two bitches and one male) were placed in the custody of the De Kalb County Animal Shelter pending direction of the court. The owner of these dogs, Mr. Hayward Tumipseed, under a provision of Georgia State Law, was charged with involuntary manslaughter through reckless conduct, a state felony. He was tried and, due to his history of repeated violations in allowing the dogs to run at large, was convicted on February 26, 1987 and sentenced to serve five years, with five years' probation. The dogs were euthanized the following day.

As a result of this incident, the citizens of De Kalb and the elected Board of Commissioners shared the concern that the existing dog ordinance may not be sufficient to address the needs of the County. Further, there was the strong concern expressed about dogs that run loose, that bite or attack, and about owners who do not obey the County's leash ordinance.

On January 13, 1987 the county held a public hearing to consider three new dog ordinances which focused attention on defining a "vicious" dog, the keeping of pit bull dogs, and owning of a breed that had been defined as "vicious."

The public hearing served to bring forward public sentiment and many citizens voiced strong objections to the wording, language, and requirements of the proposed ordinances. The Commissioners agreed to defer taking action on the three new proposed ordinances for ninety days in order to allow a study group time to study and investigate the matter and make appropriate recommendations.

Purpose and Direction of Study Group

The study group was selected from a larger group of interested citizens. Eleven knowledgeable persons were appointed by the De Kalb County Commission after January 13, 1987. The Study Group charge was to make recommendations about vicious/dangerous dogs and the proposed and current dog ordinances. The study group charge included the responsibility to study the three new proposed ordinances and to also develop and make specific recommendations to the Commissioners at their Work Session on March 17, 1987.

The Study Group Members

Dr. Carmen Battaglia, Chairman
Ernestine Bonhart

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II. BACKGROUND

Historical Background

In a historical sense the people of the south and the State of Georgia have always been supportive of animal laws. This is understandable given the fact that Georgia has been nestled in a rural and agricultural environment dependent upon animals since the Civil War. As the demographic features of the south began to change, the focus of growth in the south began to

shift toward Atlanta and its five metropolitan counties. During the past 25 years these five counties which make up what today is called Metropolitan Atlanta have shown remarkable growth. The small rural neighbourhoods of Atlanta and De Kalb have become large well groomed subdivisions surrounded by major shopping centres, interstates and highways, and growing populations.

Growth of a Community

Today, Atlanta's metro area boasts a population of some two million people with De Kalb County providing about 25% of the total population. De Kalb County encompasses 269 square miles and ranks second in population when compared to its four sister counties which comprise Metropolitan Atlanta. De Kalb has grown by about 100/000 residents in the past decade/ and the total population increased from approximately 415/000 in 1975 to approximately 515/000 in 1986, an increase of twenty-four percent (24%).

De Kalb County's dog population has grown as well. De Kalb's residents/ like most Americans/ share a great affection for man's best friend. De Kalb's statistics are like the rest of the nation which indicate that 38% of U.S. homes now own dogs/ while 28% own cats. The combined total number of pet dogs (49 million) and cats (50 million) in the U.S. far exceeds the number of children under 18 (62 million) according to the 1984 census. Whether young couples prefer having cats and dogs over children may be a growing phenomenon in the United States that is not well understood. It is clear/however/ that there is a growing interest in owning dogs and cats/ and that they have become the preferred pet of Americans.

The Dog as "Man's Best Friend"

Americans ... and De Kalb citizens all... are devoted to their family pets. A special section in the 2/18/87 *De Kalb News/Sun* entitled "Today's Family" devoted two full pages to "The Family Pet." In that article/ by Ches Hudgins/ it began: "One thing that has not changed about today's family/ the families of the 80's still have a place for that old friend/ the family pet." In a parallel study of eleven states by the University of Maryland it was found that eighty-seven percent (87%) of pets are considered members of the family/ forty-nine percent (49%) are given people names/ twenty-five percent (25%) of the pet owners celebrate their pets' birthdays/ and ninety-nine percent (99%) of the owners reported that they talk to their pets. Much research has been done on the meaning of this behaviour by so many citizens. Studies at the University of Maryland and the University of

Pennsylvania show that pet ownership provides many health benefits/ particularly in the area of stress reduction. The trend toward greater involvement by pet owners with their animals is yet another growing phenomenon. The increased growth in pet ownership/dog show entries/ obedience trials/ and the closeness of the pet/owner relationship is a fact that must be considered in developing laws/ ordinances and restrictive covenants that affect dogs. Unduly harsh laws and punitive ordinances have generally not been accepted by the public primarily because they do not work in practice.

The Need for Animal Control

The need for a means to regulate the keeping of dogs in urban areas is well documented and was aptly expressed by one California court which ruled that: "Whatever may be said about the affection which mankind has for a faithful companion/ modern city conditions no longer permit dogs to run at large." As populations grow and become more urban/ the need for better controls/ reasonable restraints/ and improved dog ordinances became apparent. In many of the rural areas throughout Georgia which have not yet enacted leash laws/ there still prevails a way of life different from the populated areas. According to Bill Garrett, of the Atlanta

Humane Society/Fulton County Animal Control/ there is a "Dodge City" approach to animal control in rural Georgia. If dogs prove troublesome/ they are shot. According to Linda Lanoue of the rural Gilmer-Fannin Counties Regional H.S./ as quoted in a 1/13/87 *Atlanta Constitution* article: "Where dogs are being a nuisance/ people usually take matters into their own hands and shoot the dogs." In 1985/ the Mayor of Wadley / near Augusta/ issued a shoot-to-kill order to combat that small community's stray dog problem/ and offered police officers a \$3-per-head-dog bounty. The order was later rescinded because of its punitive nature.

Neighbouring Fulton County (population 650/000) reported that it had achieved a good deal of success with its Animal Control problems during the past decade. Management of Animal Control was contracted out to the Atlanta Humane Society and Director Bill Garrett reported that they impounded 12/000 dogs in 1986, which is a significant reduction from the 35/000 dogs that were impounded in 1974. In 1986 Fulton County had 521 reported dog bites/ out of an estimated dog population of 150/000. Director Garrett attributes much of their success to: (1) Strict enforcement

of the leash law/ with good cooperation of the courts via fines for offenders/ and (2) an effective spay/neuter adoption program in which ninety-five percent (95%) of area veterinarians participate.

III. DEKALB COUNTY

De Kalb County has benefited from the experiences of other communities and has approached animal control via a leash law enacted over ten years ago that requires all animals to be "under restraint" and secured by leash/ or fence/ or other enclosure.

Animal Control - Budget

In 1986 the De Kalb County Animal Shelter reported that they impounded 7,797 dogs of which 3,994 (51%) were euthanized. Dogs adopted totalled 1,672 and the number of dogs reclaimed by their owners was 1,291. Current policy obligates the shelter to hold pets for seven days in order for owners to reclaim them. A study by county officials shows that of the animals reclaimed by their owners/ about eighty percent (80%) are claimed within 48 hours of their impoundment.

Organisationally/ De Kalb County Animal Control is a division under the Department of Public Safety and receives its support from the general funds category. The citizens of De Kalb govern themselves vis-a-vis a Chief Executive Officer and a seven-member Board of Commissioners who are empowered to oversee the health/welfare and safety of its citizens. On an annual basis the county determines its goals and priorities and then conducts mid-year reviews in order to track spending and revenues. The budgetary process serves as its check and balance. De Kalb County has four sources of income: Taxes, Enterprise (water, sewer/ De Kalb Airport)/ Special Revenues (grants/ etc) and Internal Service. These sources of income are used to support six major budget categories under which all county activities fall. For example, the budget for Animal Control 1985 - 1987:

	<u>Income</u>	<u>Budget</u>
1985	\$103,000	\$656,000
1986	\$106,000	\$680,000
1987	\$134,000	\$879,000

10-Year Decline in Dog Bites

The following statistics indicate that leash laws / when enforced / *do* work. In De Kalb County, while the resident population grew a full twenty-four percent (24%) from 1975 to 1986, the reported **dog bite incidents actually declined by a whopping fifty-four (54%)**. From 1,011 reported dog bites to 1975, to 472 bites in 1986.¹ This decline in reported bites has been steady over the decade, with 615 reported in 1980 and 573 in 1985. Since one-third of reported bites involved the dogs' owners or other family members, only 315 dogs (using 1986 figures) / out of over 100,000 dogs in De Kalb County, bit members of the general public. This fractional 3/10ths of one percent figure (.003) clearly indicates that leash laws can be made to work and that there are many other factors ... such as bicycles, skateboards, boats, pools, automobiles, cigarette smoking, and drugs, etc ... that present a far greater threat to children / and the general public, than do dogs.

While more can be done, a risk-free society may be impossible to achieve, even though the figures *do* indicate that significant progress *has* been made during the past decade with respect to animal control.

Responsibility

Most experts believe that the problems of dog bites ... can only be solved when dog owners become responsible for the care and control of their animals. Those who choose to own, train or keep aggressive dogs, and those who have and own attack dogs, or known biters, and those not safe to be around the play of children have an added responsibility. For this group of owners, stronger laws are needed to address the care, maintenance and control of these animals.

According to figures provided to the Study Committee by Ms. Connie McClung of Animal Control.

IV. LEGAL ISSUES

The number of dog bites in De Kalb County has declined by 54% over the past decade largely due to the current leash law and the enforcement efforts of Animal Control. Similar statistics have been reported elsewhere. For example / New York City reported 10,000 bites in 1984 / and 40/000 bites in 1980. Other tragedies involving dogs have occurred and cities / counties / and states have usually responded to the more severe problems through legislation.

Historically / the first reaction of legislators responding to the more serious incidents involving fatalities is often an attempt to regulate the problem by way of legislation of the so-called "vicious" dog. Cities in Florida / Ohio / New Mexico / Arkansas / Massachusetts / Rhode Island/ Alaska and Maryland among others/ have all passed / or proposed such legislation as an approach to the "vicious" dog. Nearly all of these efforts / for one reason or another / have proved unenforceable. Most of this kind of legislation has been successfully / challenged in the courts and ruled unconstitutional. Others have been repealed because they were found too vague and unenforceable. Others are still in litigation / or are undergoing revision.²

Fourteenth Amendment - Due Process

Most of the challenges are based on violations of the Fourteenth Amendment to the United States Constitution involving due process issues / or the right to own property. Dogs are considered personal property / and the law of the land protects citizens and their property from attempts to deprive a person of property without due process. In the courts / dog owners have been successful in keeping their property on the grounds that the Fourteenth Amendment protects them. The Fourteenth Amendment provides that definitions in law should be clear and precise / and should not lead to arbitrary and unfair enforcement.

In successful challenges / the issue of clear and precise definitions vs. Vagueness has been a key factor. Laws and ordinances that attempt to deal with "vicious" dogs because of their breed (particularly the pit bull) / or because of such ambiguous factors as: size / physical nature / capabilities / propensity / or property damage, have proven difficult to enforce because of the challenge that such words are vague particularly as they pertain to the question of: *How* is the determination of a specific breed or

temperament determined / and *who* is going to be given the responsibility for making the determination.

² Article by Dr. Randall Lockwood / Director of higher education for The Humane Society of the United States in the Winter, 1986 HS News and reprinted in *Community Animal Control*, March/April 1986. Also the *Cincinnati Law Review* and the *National Law Journal*, November /1986.

Other attempts to write language that avoids the problems of vagueness by using overinclusive words and definitions have also not been successful. In general, these legal efforts have been determined to be unconstitutional. Other approaches have been challenged on the grounds that they are underinclusive and fail to recognise the well-documented fact that / under certain circumstances and provocation's (such as territoriality, possessiveness, chase instinct, fear, pain / defensiveness, and overexcited rough play / to name a few), *any* dog can bite and *all* dogs have the potential to bite or cause harm.

Dogs' Potential to Do Harm

In 1982, a published report covering the five-year period from May 1975 to April 1980, found the following breeds responsible for a total of 73 fatal attacks on humans:

Mixed breeds (15), German Shepherds (16), Huskies (9), St. Bernards (8), Pit Bull Terriers (6), Great Danes (6), Malamutes (5), Golden Retrievers (3), Boxers (2), Dachshunds (2), Doberman Pinschers (2), Collies (2), Rottweiler (1), Basenji (1), Chow Chow (1), Labrador Retriever (1), and Yorkshire Terrier (1).

This five-year study clearly makes note of the fact that statistics could not be used to document the dangerousness of any one breed, or the comparison of one breed to another.

The data shows that it is impossible to know how many dogs of a given breed are in the general canine population at any given time.³ As the popularity of a breed increases so are the chances for a similar increase in the number of dog bites for that breed. Therefore, without specific data on the numbers of purebred and mixed dogs in a community, it is impossible to know how "dangerous" any specific breed of dogs might be, therefore, most analysts of these problems agree that when legislation is focused on

the dog it usually fails *because most communities find themselves with tough laws that are vague, unenforceable, confusing and costly to administer*. More significantly, by focusing attention on tough definitions and dogs which are defined as "vicious," the major point, in fact, is missed ... *that most biting dogs are usually not under supervision or are running loose*.

Most Bites Could Be Prevented

On the national level, there seems to be general consensus among experts who have examined the problem of dog bites and legislation. The *best solutions* have focused on the *real* problem - that of irresponsible ownership. "Most dog bites could be avoided if dogs did not run loose"... This often repeated phrase was carefully examined by the De Kalb County Study Group. What was found was that the successful efforts to solve this problem have focused on the irresponsibility of dog ownership. The Group concluded that the owners of dogs that do harm must be held accountable legally, morally and financially. The Georgia Court decision on February 26, 1987, found Hayward Turnipseed guilty of involuntary manslaughter because of his reckless,

³**1984 Cincinnati Law Review, Vol. 53, Pg. 1077.**

irresponsible conduct in not keeping his dogs confined. The offence was not in owning the dogs/ but in the reckless management of them.

Rising Crime Rates

It goes without saying that there are two sides to every issue. And so it is with dog ownership. In a climate of rising crime rates, citizens feel the need to own dogs for reasons of both protection and companionship. A 22.6% increase in major crimes in De Kalb County in 1986, which included armed robbery, burglary/ aggravated assault, rape and homicide serves to make the point that citizens perceive a need to own dogs for protection ...

Leash Laws

It may well be considered unconstitutional (Fourteenth Amendment) to deprive citizens of their right to own protective dogs which they feel will help protect their homes and families. On the other hand, each community has a right.. -to enforce their leash laws. On the other hand, if owners obeyed the leash law, little enforcement would be necessary and dog bites would be almost non-existent, except perhaps for the stray animal that comes into the County from another area or is abandoned by its owner.

Georgia Legislation

In 1985, the Georgia Legislature passed a statute that threw out the old "one free bite" tradition and provided instead for civil liabilities for owners of animals that cause injuries to others. In 1987, the Georgia Senate passed a bill which addressed the "reckless conduct" of the owner.

Dog Fighting

Another area of enforcement that most experts feel would reduce the number —and severity — of dog bites, relates to the "sport" of dog fighting. Although a felony in 31 states (including Georgia since 1982) and a misdemeanor in the remaining 19, the crime is by no means eradicated. There are strong indications that individual dogs that have been trained or maintained for fighting purposes have been responsible for some of the more serious, much publicised, attacks.

Dogs trained or maintained for dog fighting present a far greater threat to the public safety than do dogs in general. Although all dogs have the potential and capability to bite, the severity of the attack by a dog trained or maintained for fighting is much greater. While most dogs that bite will bite and then back off, dogs trained to fight are conditioned to bite and to hold and stake victims, until lifeless in the fight ring. For these and other humane reasons, dog fighting is a crime. The public's best interest is well-served by these laws when and where they are rigorously enforced.

Summary

Throughout history only one animal has earned the title "Man's Best Friend." Dogs are useful and valuable inhabitants of our communities. They serve man as companions and playmates; as hunters and as protectors of home and family; as detectors of drugs and bombs; and as eyes for the blind and ears for the deaf. But whatever may be said about man's affection for his faithful companion and servant, modern urban and suburban living environments dictate that dog ownership entails certain responsibilities. Laws focusing on so-called "vicious" dogs have most often proved difficult or impossible to enforce, and have usually been ruled unconstitutional by the courts. Historically, however, these same courts, and local communities, have strongly supported: (1) the enforcement of leash laws, (2) heavy fines and penalties — both civil and criminal — for irresponsible ownership, and (3) better enforcement of felony laws against dog fighting.

The dog bite problem in most communities is not a major threat to public safety. Developing laws and ordinances which do not violate the constitutional rights of responsible dog-owning citizens seems to work best when the focus of attention is on the irresponsible owner, and when the text and language of the law, ordinance or statute are clear, concise, reasonable and brief. Long and complicated laws are difficult to enforce and comply with and have the tendency to control and regulate too much.

V. RECOMMENDATIONS

Expand enforcement of the dog ordinance. Staff to include a specialist in cruelty investigation and education.

Establish and implement educational programs providing special education activities for all groups of citizens (Teachers, Pet Store Owners, Nurseries and Neighbourhood Groups).

Encourage Dog Clubs, Pet Owners and others to form a coalition for civic purpose (education and prevention activities).

Establish an Ad hoc committee to review the due process, progressive fines, repeat offenders, and effectiveness of the ordinance.

VI. AN ORDINANCE FOR DOGS IN DE KALB COUNTY

The committee proposed two new definitions. They are "Dangerous Animal" and "Abused Dog." The Dangerous Dog definition ... replaces the Vicious Dog definition in the current ordinance. The "Abused Dog" definition is new because an abused dog can become a dangerous animal.

Rationale for choice of "Dangerous Dog" vs. "Vicious Dog"

"Dangerous" dog is a *broader term* than "vicious" dog. "Vicious" implies *only* that harm is done by *biting*, and implies malicious intent. *Dangerous*, on the other hand/recognises the fact that a dog can cause serious bodily harm without malicious intent, and by means other than biting. For example:

(1) A very large, friendly dog can run loose down the block at full speed to greet a very frail/ elderly person. His wild/ friendly jump up on the person in greeting them can/ knock them down, causing fractured bones, or other serious harm, and yet there was no viciousness intended.

(2) The same situation could apply to a smaller dog that ran loose and wildly greeted a small toddler, causing the toddler to fall over, hitting its head on the concrete, and suffering a concussion.

(3) Another dog, large or small, friendly or not, may be running loose and chasing after vehicles. A startled motorist could swerve to avoid hitting the dog, have an accident, and suffer serious injuries. Or the same dog could be chasing bicyclists, or joggers, causing falls and injuries. In all of the above examples, serious bodily harm (or fatalities) could have occurred due to the dogs' assaults, and yet there was no "vicious" intent.

The seriously injured party does not care, furthermore, what the dog's *intent* was. The fact is that the dog's dangerous behaviour caused serious bodily harm. The intent of the Committee in recommending the proposed Ordinance Amendments is to ensure that all dogs displaying dangerous behaviour, however motivated, be restrained from causing bodily harm to the general public. The enforcement provisions proposed for the ordinance is perhaps one of the more important features to consider. The approach used was to provide conditions for keeping a "dangerous animal" ON the owner's property and OFF the owner's property. The enforcement section is new and makes enforcement more practical. The new provisions allow the staff from the shelter to take action when a "dangerous dog" or its

owner are in violation of the ordinance. Further, these new provisions allow the County to confine the animal at the owner's expense until the owner proves to the Court that the dog can be returned to the owner who has proper facilities to maintain the "dangerous animals." The following recommendations include proposed definitions and amendments to the current ordinance as well as suggested additions and replacements to current ordinance language with regard to dangerous animals.

Dangerous Animal: Any animal which constitutes a physical threat to human beings or other domestic animals by virtue of a known propensity to endanger life by an unprovoked assault or bite so as to cause serious bodily harm. An animal trained, owned or harboured for the purpose, primarily or in part, of animal fighting. EXCEPTIONS: An animal shall not be deemed dangerous if: 1) it bites, attacks or menaces (a) anyone assaulting the owner, or (b) a trespasser on the property of the owner/ or (c) any person or other animal who has tormented or abused it, or 2) it is otherwise acting in defence of an attack from a person or other animal upon the owner or other person or 3) it is protecting or defending its young or other animal.

Abused Animal: 1) Any animal which is mistreated, beaten, tormented or teased, or 2) is deprived of water or food or shelter, or 3) is kept under unsanitary conditions, or 4) abandoned, or 5) is trained for fighting other animals.

Duty of All Animal Owners to Be Responsible Owners: It shall be the duty of every owner of any animal, or anyone having any animal in his possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property, and animals from injuries or damage which might result from their animals' behaviour, regardless of whether such behaviour is motivated by mischievousness, playfulness, or ferocity. In the event that the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of this ordinance are complied with.

Duty to Keep Animal Under Restraint While ON Property:

It shall be the duty of every owner of any animal, or anyone having any animal in his possession or custody, to ensure that the animal is kept under restraint and that reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor or custodian, and that:

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

(B) it is securely and humanely restrained by chain, cable and trolley, or other tether of sufficient strength to prevent escape, or

(C) it is on leash and under the control of a competent person, or is off leash and obedient to that person's commands *and* that person is present with the animal any time it is not restrained as provided for in (A) or (B) above.

Additional requirements for precautions to be taken by owners of dangerous animals:

(1) Whenever outside of its enclosure as provided for in (A) above, but is on the owner's property, a dangerous dog must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent escape.

(2) No dangerous animal shall be chained, tethered, or otherwise tied to any inanimate object, such as a tree, post, or building, outside of its own enclosure as provided for in

(A) above.

(3) In addition to the requirements in (A) above, for owners of dangerous animals who maintain their animal out-of-doors, a portion of their property should be fenced with a perimeter or area fence. Within this perimeter fence, the dangerous 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; a secure top attached to all sides; the sides must either be buried two feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked. Failure to keep any animal confined or under restraint as provided for in this Section shall be unlawful and shall be punishable as hereinafter provided.

Duty to Keep Animal Under Restraint While OFF Property:

It shall be the duty of the owner of any animal or anyone having an animal in his possession to keep the animal under restraint and control at all times while the animal is off of the real property limits of the owners, possessor or custodian.

For the purposes of this section, an animal is deemed under control when:

- (A) it is securely confined within a vehicle, parked or in motion, or
- (B) it is properly confined within a secure enclosure with the permission of the owner of the property where the enclosure is located, *or*
- (C) it is securely restrained by a leash or other device held by a competent person.

Additional requirements for precautions to be taken by owners of dangerous animals:

Except when being transported in, and securely confined within, a vehicle, no dangerous animal shall be permitted off the property of his owner except when it is:

- (A) attended by his owner, *and*
- (B) is restrained by secure collar and leash (not to exceed 6' in length); both collar and leash to be of sufficient strength to prevent escape, *and*
- (C) muzzled by any means sufficient to prevent biting other persons or domestic animals. Failure to keep any animal under restraint or control as provided for in this section shall be unlawful and shall be punishable as hereinafter provided.

Enforcement of Restrictions on Dangerous Animals:

In the event that a law enforcement agent of De Kalb County has probable cause to believe that a dangerous animal is being harboured in violation of this ordinance he may:

- (1) order the violation immediately corrected and cite the owner or keeper to appear in court for the violation, *or*
- (2) if the violation cannot be immediately corrected *and* the animal is

posing an *imminent* serious-threat to human beings or other domestic animals, the animal may be seized and impounded, in which case the owner or keeper 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 court rules that the animal is not dangerous as defined, it will be released to the owner. If the court rules that it is dangerous as defined, the animal will be released to the owner after payment of any fees and penalties, *and* upon presentation of proof that the animal will now be kept restrained or confined as specified in this ordinance. If the owner or keeper of an alleged dangerous animal impounded for violation of this ordinance, presents proof that the animal will now be kept in compliance with this ordinance, the animal will be released upon payment of any fees and penalties due.

Abandonment or Abuse of Animals:

It shall be unlawful for anyone to knowingly abandon or abuse any domesticated animal within the county. Each person who does abandon or abuse knowingly, or willingly permits this abandonment or abuse or aids in the abandonment or abuse of any domesticated animal shall be in violation of the law and shall be punished as hereinafter provided. Each offence shall be punished with a fine of the maximum amount allowable by law.

Severability: If any section, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

Penalties for Violation and Repeat Offenders:

Any person violating the terms of this chapter or rules and regulations promulgated pursuant thereto shall be punished by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the common jail of the county for a period not to exceed thirty (30) days or both per offence. Repeat offenders of provisions relating to dangerous dogs will be given an opportunity to fully explain why a violation has been repeated. The judge will consider such explanation in determining progressive penalties.