New Business #14

COUNTY AGENDA REQUEST

Department:	Commissioners	Presenter(s):	Commissioner Allen McCarty
Meeting Date:	Thursday, January 9, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of Commissioner Allen McCarty's request to redefine the word "kennel" in the Fayette County Code of Ordinance to match the State of Georgia's definition of the word.

Background/History/Details:

Commissioner McCarty would change Fayette County's Code of Ordinances' definition of "kennel" to mirror the definition adopted by the State of Georgia.

What action are you seeking from the Board of Commissioners?

Approval of Commissioner Allen McCarty's request to redefine the word "kennel" in the Fayette County Code of Ordinances to match the State of Georgia's definition of the word.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	No

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

Floyd Jones

From: Dennis S. Dutton
Sent: Wednesday, August 29, 2012 4:12 PM
To: Floyd Jones
Subject: Number of animals kept shall be limited to three (3.)

Floyd:

Animals are defined in the County Ordinance as only domestic dog and domestic cat. This excludes fish, pet birds such parrots, cockatiels, etc. It also states in the definition that number of animals kept shall be limited to three. Then we back into the ordinance's interpretation by regulating owners of more than three animals (dogs and/or cats) as meeting the Conditions of an Animal Hospital, Kennel, and/or Veterinary Clinic. I have attached the various excerpts from the Zoning Ordinance dealing with the number of animals in a household. See below:

ARTICLE III. DEFINITIONS

Sec. 3-1.

Animal. For the purpose of this ordinance, the word animal shall mean either a domestic dog (canis familiaris) or domestic cat (felis catus.) It shall not include livestock (see *Livestock*.) The number of animals kept shall be limited to three (3.)

ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES, TRANSPORTATION CORRIDOR OVERLAY ZONE, AND COMMERCIAL DEVELOPMENT STANDARDS

Sec. 7-1. Conditional Use Approval.

B. *Conditional Uses Allowed*:

4. *Animal Hospital, Kennel (Commercial or Non-Commercial) and/or Veterinary Clinic*. (Allowed in A-R, C-C, C-H, and M-1 Zoning Districts):
All structures, pens, runs, or enclosures shall not be located closer than 300 feet from any A-R or residential zoning district.

5. *Animal Hospital and/or Veterinary Clinic. (excludes commercial and non-commercial kennel)* (Allowed in O-I Zoning District):
All structures shall not be located closer than 55 feet (30 foot buffer and 25 foot setback) from any A-R or residential zoning district. No outside activity (runs, pens, or enclosures) or boarding is allowed except during the convalescent period.

I hope this helps. Call me if you need answers.

Thanks,

Dennis S. Dutton
Zoning Administrator
Fayette County Planning & Zoning Department

8. Director of Community Development Pete Frisina will discuss how the Zoning Ordinance relates the number of animals allowed; and the issue of beekeeping.

Director of Community Development Pete Frisina discussed the Zoning Ordinance that relates to the number of animals allowed, and he also spoke about beekeeping issues that had recently arisen in the County. Mr. Mike Maxwell, a local beekeeper in Fayette County, also spoke to the Board.

Mr. Frisina reported that the first round of amendments to the current Zoning Ordinance had been accomplished on December 9, 2010, and they encompassed issues that the County was trying to find agreement with, but he was asked by the Board to remove the two issues currently under consideration, and to return to the Board to get direction on how the Board wanted staff to address the numbers of permitted animals and, more recently, issues related to beekeeping.

He explained that the current Zoning Ordinance permits a set number of dogs and cats that can be kept on a residential lot, and basically it states that any resident in an R district, be it R-40 or R-20, is limited to three dogs and cats. He continued that in areas zoned as A-R, C-C, C-H, and M-1, where a kennel being the criteria used for everything, including a commercial kennel all the way to someone owning four dogs or four cats. He reported that the initial recommendation was to do away with the limitations on cats and only deal with dogs since "kennels" are more readily associated with dogs than cats. He asked if it was the Board's desire to continue to regulate the number of cats that can be kept in a residential zoning district, and if that is the Board's desire it needs to be stated outright, because kennels need to be dealt with as kennels. He continued that when the issue is pets, the County has seen situations where a person says they have four dogs, and they do not have pens or runs since the dogs are kept in the house, and the County is required to say that the house has to meet the setback. He spoke about surrounding communities and counties, and how they handle the issue, including some that regulate pets based on the nuisance they could cause without regard to the actual numbers of cats or dogs located at a residence.

Commissioner Hearn asked if a person resided in A-R zoning, how many pigs could a person own. Mr. Frisina replied the number of pigs were unregulated. Commissioner Hearn clarified that he could have 40 pigs on his property if he lived in A-R zoning but he would be limited to three dogs if he could not meet the 300-foot setback. Commissioner McCarty asked if he could have unlimited numbers of pigs without the 300-foot setback, and Mr. Frisina replied there were no setback requirements for pigs.

Commissioner Horgan said he agreed with Mr. Frisina, to separate the cats from the dogs in the ordinance. Commissioner Brown added that it was "kind of bizarre" to put cats or dogs in a zoning ordinance, since they should be regulated in their own separate ordinance, but that commercial kennels should be regulated under zoning and there should be dictation concerning what type of zoning classification they should be placed in. He thought classifying someone who lives in a single-family dwelling as having to have a kennel was far-fetched and that language should be removed. He suggested that there be a dog and cat ordinance, and then a commercial kennel ordinance. Commissioner Horgan also favored the City of Fayetteville's approach of regulating pets on a nuisance basis instead of a numerical basis. Commissioner McCarty suggested removing the "noncommercial kennel" language from the current Zoning Ordinance as well. Commissioner Hearn also favored not regulating pets based on their numbers, but rather on their nuisance. Discussion followed.

The Board suggested that the Ordinance should separate requirements placed on dogs from requirements placed on cats. The Board further thought that commercial kennels should be regulated under Zoning, that it was "far-fetched" to required a single-family dwelling to be a kennel, and that the language concerning noncommercial kennels be removed with animals regulated under a dog and cat ordinances. The Board also considered that regulating pets and animals based on a nuisance factor, rather than a numerical factor may be the best approach to consider. The Board also considered removing the term "kennel" from residential zoning.

The Board directed Mr. Frisina to prepare a recommendation that address its suggestions concerning regulating dogs and cats, and to return to the Board at a later date.

The secondary area of concern was about regulations on beekeeping in Fayette County. He explained that the County's ordinance does not mention bees or beekeeping at all, but under Section 5-3, the County looks at uses or classes of uses, and in researching bees and beekeeping, they are regulated by the Department of Agriculture. He explained his thinking that bees are related to agriculture and therefore would be allowed in A-R districts, but would not be allowed in a residential districts since they are not agricultural districts. He said the two situations that drew the County's attention was based on citizens' complaints within residential subdivisions. He acknowledged that beekeeping is becoming a very popular hobby, but that the bees cause problems that generate complaints. He asked the Board for direction on how to address this issue. He informed the Board that one of the complaints involved a resident who told his neighbors that he would put a beehive in his one-acre residential lot so the neighbors called the County; one of whom complained about his son being highly allergic to bees. The second incident involved bees swarming around a person's pool for a good portion of a day.

Commissioner Frady commented that bees were beneficial to the County since they pollinate the plants, and Commissioner Horgan suggested that regulations on beekeeping be determined on the size of a person's property, and not based on the zoning district they reside in.

Mr. Mike Maxwell, a beekeeper in Fayette County, addressed the Board about his understanding of the Zoning Ordinance. He suggested that since beekeeping is not explicitly prohibited from the R-40 zoning. He spoke about why he was cited over his honeybees, and he asked the Board to specify or create an exception for a certain amount of bees. He suggested that the Board conduct a hearing to listen to beekeepers discuss what types of hives would be appropriate for different sized lots. Discussion followed.

Concerning beekeeping, the Board considered regulations could be written based on the size of the beekeeper's property. The Board further suggested creating a committee of local beekeepers, for the committee to include Planning and Zoning staff, and for the committee to study the beekeeping issue with the view of presenting a draft ordinance before the Board. A copy of the request, identified as "Attachment 8", follows these minutes and is made an official part hereof.

Adult Day Care Facility. Adult day care facilities shall include any building, or portion thereof, used to house four (4) or more adults requiring care, maintenance, and supervision for part of a day.

Agriculture. The raising of soil crops, including forestry and landscape planting materials, and/or livestock in a customary manner on lots of land at least five (5) acres in size, including all associated activities.

Aircraft. Any machine, whether heavier or lighter than air, used or designated for navigation of, or flight in the air.

Aircraft Landing Area. Areas designed for safe landing and departures, including runways and heliports.

Aircraft Hangar. A fully enclosed structure with operational doors designed to store aircraft and the associated equipment or supplies needed for the operation and maintenance of the aircraft.

Airplane. A fixed-winged aircraft that is supported in flight by dynamic reaction of the air against its wings.

Alteration. Any construction or renovation to an existing structure, other than repair.

Amphitheater. An open-air facility primarily used for entertainment purposes, commonly with tiers of seats facing a performance stage.

Animal. For the purpose of this ordinance, the word animal shall mean either a domestic dog (canis familiaris) or domestic cat (felis catus.) It shall not include livestock (see *Livestock*.) The number of animals kept shall be limited to three (3).

Animal, Wild. This shall include any species or family or breed (including hybrids) of wild animals listed by the Georgia Department of Natural Resources (DNR) as being wild per OCGA Title 27, Chapter 5 as presently stated and as hereafter amended.

Antenna. A device used to transmit and/or receive radio-frequency signals, microwave signals, or other signals transmitted to or from other antennas.

Apiary. A place where honeybees and beehives are kept. (Adopted 07/28/11)

Aquaculture. The hatching, raising, and breeding of fish and/or aquatic plants for food or fiber.

Artist Studio. A structure accommodating the practice of the full spectrum of the arts including, but not limited to: fine arts, visual arts, and performing arts.

Athletic Facility. An area designated for athletic activity.

Automobile Service Station. A land use where gasoline, oils, greases, batteries, tires, and general automobile accessories may be provided, but where no part of the premises is used for the storage or dismantling of wrecked or junked vehicles.

Auxiliary Structure. A structure which is allowed incidental and secondary to a residence.

Junk/Auto Grave Yard. Property used for outdoor storage, keeping, abandonment, sale or resale of junk, including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Junked Automobile. (see *Vehicle, Abandoned)*

Kennel. Any location where any combination of animals are kept in excess of three (3) shall be deemed to be a kennel. This definition does not include a location where one (1) litter of dogs or cats of not more than six (6) months of age are kept.

Kindergarten. (see *School, Private*)

Landscape Areas. A maintained area of grass and/or ornamental planting materials.

Livestock. Animals including, but not limited to: horses, cattle, goats, sheep, pigs, pot bellied pigs, chickens, ducks, geese, mules, rabbits, emu/ostrich, buffalo, chinchilla, fox, mink or other fur-bearing animal, and llamas. This term shall be deemed to specifically exclude domestic dogs and domestic cats.

Loading Space. Space logically and conveniently located for pick-up and delivery service, scaled to the vehicles expected to be used, and accessible to such vehicles at all times.

Lot. A tract of land of varying size which is designated as a single unit of property.

Lot, Corner. A lot located at the intersection of two (2) streets.

Lot Depth. The distance between the front and rear lot lines.

Lot, Interior. A lot which has frontage on only one (1) street.

Lot, Landlocked. A lot of record having no frontage on a street.

Lot, Through. A lot, other than a corner lot, having frontage on more than one (1) street.

Lot Width, Minimum. The minimum distance between side lot lines either measured in a straight line parallel to the street right-of-way or tangent and perpendicular to the mid-point of the right-of-way in the case of the turn around portion of a cul-de-sac along the front minimum building line (see graphic.)

TITLE 4. ANIMALS
CHAPTER 11. ANIMAL PROTECTION
ARTICLE 1. GENERAL PROVISIONS

O.C.G.A. TITLE 4 Chapter 11 Article 1 (2011)

TITLE 4 Chapter 11 Article 1 NOTE

§ 4-11-1. Short title

This article shall be known and may be cited as the **"Georgia Animal Protection Act."**

§ 4-11-2. Definitions

As used in this article, the term:

(1) "Adequate food and water" means food and water which is sufficient in an amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal's health from a lack of food or water.

(1.1) "Animal control officer" means an individual authorized by local law or by the governing authority of a county or municipality to carry out the duties imposed by this article or imposed by local ordinance.

(2) "Animal shelter" means any facility operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(3) "Equine" means any member of the Equidae species, including horses, mules, and asses.

(4) "Humane care" of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

(5) "Kennel" means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for a fee or compensation.

(6) "Person" means any person, firm, corporation, partnership, association, or other legal entity, any public or private institution, the State of Georgia, or any county, municipal corporation, or political subdivision of the state.

(7) "Pet dealer" or "pet dealership" means any person who sells, offers to sell, exchanges, or offers for adoption dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets in this state. However, a person who sells only animals that he or she has produced and raised, not to exceed 30 animals a year, shall not be considered a pet dealer under this article unless such person is licensed for a business by a local government or has a Georgia sales tax number. The Commissioner may with respect to any breed of animals decrease the 30 animal per year exception in the foregoing sentence to a lesser number of any animals for any species that is commonly bred and sold for commercial purposes in lesser quantities. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute the veterinarian as a pet dealer, kennel, or stable under this article.

(8) "Secretary of Agriculture" means the secretary of the United States Department of Agriculture.

(9) "Stable" means any building, structure, pasture, or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and a fee is charged for maintaining such equines or for the use of such equines.

§ 4-11-3. Licenses for pet dealers and kennel, stable, or animal shelter operators; requirement; issuance; application

(a) It shall be unlawful for any person to act as a pet dealer or operate a kennel, stable, or animal shelter unless such person has a valid license issued by the Commissioner of Agriculture. Any person acting without a license in violation of this subsection shall be guilty of a misdemeanor.

(b) The Commissioner shall license pet dealers and kennel, stable, and animal shelter operators under the applicable provisions of Chapter 5 of Title 2, the "Department of Agriculture Registration, License, and Permit Act."

(c) Licenses shall be issued for a period of one year and shall be annually renewable. The Commissioner may establish separate classes of licenses, including wholesale and retail licenses. The Commissioner shall fix fees for licenses so that the revenue derived from licenses shall approximate the total direct cost of administering this article. The Commissioner may establish different fees for the different classes of licenses established, but the annual fee for any such license shall be at least $50.00 but shall not exceed $400.00. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(d) Applications for licenses shall be on a form furnished by the Commissioner and, together with such other information as the Commissioner shall require, shall state:

(1) The name of the applicant;

(2) The business address of the applicant;

(3) The complete telephone number of the applicant;

(4) The location of the pet dealership, kennel, stable, or animal shelter;

(5) The type of ownership of the pet dealership, kennel, stable, or animal shelter; and

(6) The name of the owner or, if a partnership, firm, corporation, or other entity, the name of the partners or stockholders.

(e) Notwithstanding the provisions of subsection (c) of this Code section, the license fees fixed pursuant to subsection (c) of this Code section shall be increased by 100 percent for the renewal of any license which is not renewed within ten days following the expiration date of the license or for the issuance of a new license to any person who has failed to apply for a license within ten days following the date on which written notice of the need for such license has been given to such person by the Commissioner or his authorized representative.

§ 4-11-4. Display of licenses

A license must be prominently displayed at each place of business of a pet dealer and at each kennel, stable, and animal shelter in this state.

§ 4-11-5. Licensing of bird dealers

Any person licensed by the department as a bird dealer shall not be required to obtain a license under this article if such person does not deal in animals other than birds. If, however, a licensed bird dealer sells, offers to sell, exchanges, or offers for adoption dogs, cats, fish, reptiles, or other animals (other than birds) customarily obtained as pets, then such dealer shall be required to obtain a license under this article in addition to his bird dealer's license.

§ 4-11-5.1. Euthanasia of dogs and cats by animal shelters or facilities operated for collection of stray, neglected, abandoned, or unwanted animals

(a) Except as provided in subsection (b) of this Code section, the use of sodium pentobarbital or a derivative of it shall be the exclusive method for euthanasia of dogs and cats by animal shelters or other facilities which are operated for the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference:

(1) Intravenous injection by hypodermic needle;

(2) Intraperitoneal injection by hypodermic needle; or

(3) If the dog or cat is unconscious, intracardial injection by hypodermic needle.

(b) Notwithstanding subsection (a) of this Code section, any substance which is clinically proven to be as humane as sodium pentobarbital and which has been officially recognized as such by the American Veterinary Medical Association may be used in lieu of sodium pentobarbital to perform euthanasia on dogs and cats, but succinylcholine chloride, curare, curariform mixtures, or any substance which acts as a neuromuscular blocking agent may not be used on a dog or cat in lieu of sodium pentobarbital for euthanasia purposes.

(c) In addition to the exception provided for in subsection (b) of this Code section, in cases of extraordinary circumstance where the dog or cat poses an extreme risk or danger to the veterinarian, physician, or lay person performing euthanasia, such person shall be allowed the use of any other substance or procedure that is humane to perform euthanasia on such dangerous dog or cat.

(d) Under no circumstance shall a chamber using commercially bottled carbon monoxide gas or other lethal gas or a chamber which causes a change in body oxygen by means of altering atmospheric pressure or which is connected to an internal combustion engine and uses the engine exhaust for euthanasia purposes be permitted.

(e) A dog or cat may be tranquilized with an approved and humane substance before euthanasia is performed.

(f) Euthanasia shall be performed by a licensed veterinarian or physician or a lay person who is properly trained in the proper and humane use of a method of euthanasia. Such lay person shall perform euthanasia under supervision of a licensed veterinarian or physician. This shall not be construed so as to require that a veterinarian or physician be present at the time euthanasia is performed.

(g) No dog or cat may be left unattended between the time euthanasia procedures are first begun and the time death occurs, nor may its body be disposed of until death is confirmed by a qualified person.

(h) The supervising veterinarian or physician shall be subject to all record-keeping requirements and inspection requirements of the State Board of Pharmacy pertaining to sodium pentobarbital and other drugs authorized under subsection (b) of this Code section and may limit the quantity of possession of sodium pentobarbital and other drugs authorized to ensure compliance with the provisions of this Code section.

§ 4-11-5.2. Microchip reader defined; contacting owner of microchipped pet

(a) As used in this Code section, the term "microchip reader" means a device designed to read microchips at 125 kHz, both encrypted and nonencrypted, 128 kHz, and 134.2 kHz, and which is ISO 11784 and 11785 compliant.

(b) When any dog, cat, or other large animal traditionally kept as a household pet is brought to an animal shelter or other facility operated for the collection and care of stray, neglected, or abandoned animals, the operator of the facility shall, if the owner of the animal is not known, within 24 hours or as soon as possible scan for the presence of an identifying microchip through the use of a microchip reader. If a microchip is found, the operator shall make a reasonable effort to contact the owner of the animal. Prior to euthanizing a dog, cat, or other large animal traditionally kept as a household pet, any facility referred to in this subsection shall again scan for the presence of an identifying microchip through the use of a microchip reader.

(c) Shelters and facilities and their employees and the Department of Agriculture shall not be liable for failing to detect a microchip or failing to contact the owner of the animal. Shelter personnel shall not be required to scan any animal they deem to be too vicious or dangerous to permit safe handling.

§ 4-11-6. Applicability of article to nonresidents; consent to jurisdiction; service

Any person who is not a resident of this state but who engages in this state in any activities for which a license is required by this article shall be subject to this article as to such activities. Each nonresident applicant for a license required by this article shall be required as a condition of licensure to execute a consent to the jurisdiction of the courts of this state for any action filed under this article; and service of process in any such action shall be by certified mail or statutory overnight delivery by the Commissioner.

§ 4-11-7. Grounds for refusal to issue or renew or suspension or revocation of licenses

The Commissioner may refuse to issue or renew or may suspend or revoke a license on any one or more of the following grounds:

(1) Material misstatement in the application for the original license or in the application for any renewal license under this article;

(2) Willful disregard or violation of this article or of any rules or regulations issued pursuant to this article;

(3) Willfully aiding or abetting another in the violation of this article or of any regulation or rule issued pursuant to this article;

(4) Allowing a license issued under this article to be used by an unlicensed person;

(5) A violation of any law of this state or rule of the Commissioner related to the disposition of, dealing in, or handling of dogs, cats, equines, and other animals;

(6) Making substantial misrepresentations or false promises in connection with the business of a licensee under this article;

(7) Pursuing a continued course of making misrepresentations or false promises through advertising, salesmen, agents, or otherwise in connection with the business of a licensee under this article;

(8) Failure to possess the necessary qualifications or meet the requirements of this article for the issuance or holding of a license; or

(9) Failure to provide proper facilities.

§ 4-11-8. Denial, suspension, or revocation of license for violation of article; applicability of "Georgia Administrative Procedure Act."

The Commissioner is authorized to deny, suspend, or revoke any license required by this article, subject to notice and a hearing, in any case in which he finds that there has been a violation of this article or any rule or regulation adopted pursuant to this article. All proceedings for denial, suspension, or revocation of a license shall be conducted in conformance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

§ 4-11-9. Inspections

The Commissioner or his designated agents are authorized to enter upon any public or private property at any time for the purpose of inspecting the business premises of any pet dealer or any animal shelter, kennel, or stable and the dogs, cats, equines, or other animals housed at such facility to determine if such facility is licensed and for the purpose of enforcing this article and the rules and regulations adopted by the Commissioner pursuant to this article.

§ 4-11-9.1. Quarantine of animal, premises, or any area by Commissioner

(a) In the control, suppression, prevention, and eradication of animal diseases, the Commissioner or any duly authorized representative acting under his authority is authorized and required to quarantine an animal, premises, or any area when he shall determine that animals in such place or places are infected with a contagious or infectious disease, that the unsanitary condition of such place or places might cause the spread of such disease, that the animal has or has been exposed to any contagious or infectious disease, or that the owner or occupant of such place or places is not observing sanitary practices prescribed under the authority of this article or any other law of this state.

(b) The Commissioner or his duly authorized representative is authorized to issue and enforce written or printed stop sale, stop use, or stop movement orders to the owners or custodians of any animals, ordering them to hold such animals at a designated place, when the Commissioner or his duly authorized representative finds such animals:

(1) To be infected with or to have been exposed to any contagious or infectious disease;

(2) To be held by a person who is required to be licensed under this article and whose license has expired;

(3) To be held by a person who is required to be licensed under this article and who has failed to obtain a license within ten days of the date on which written notice of need to obtain a license was given to such person by the Commissioner or his authorized representative; or

(4) To have been held in violation of this article,

until the law has been complied with and such animals have been released, in writing, by the Commissioner or the violations have been otherwise legally disposed of by written authority.

(c) It shall be unlawful for any person to sell, use, or move any animal in violation of any quarantine or stop sale, stop use, or stop removal order issued under this Code section.

§ 4-11-9.2. Inspections; impoundment of animals; exceptions

(a) At any time there is probable cause to believe that a violation of this article or any rule or regulation adopted pursuant to this article has occurred, the Commissioner, his or her designated agent, or an animal control officer who is an employee of state or local government may apply to the appropriate court in the county in which the animal is located for an inspection warrant under the provisions of Code Section 2-2-11.

(b) Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce the provisions of this article and Code Sections 16-12-4 and 16-12-37.

(c) The Commissioner, his or her designated agent, an animal control officer who is an employee of state or local government, or any sheriff, deputy sheriff, or other peace officer is authorized to impound any animal:

(1) That has not received humane care;

(2) That has been subjected to cruelty in violation of Code Section 16-12-4;

(3) That is used or intended for use in any violation of Code Section 16-12-37; or

(4) If it is determined that a consent order or other order concerning the treatment of animals issued pursuant to this article is being violated.

(d) Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection (c) of this Code section, a licensed accredited veterinarian approved by the Commissioner or a veterinarian employed by a state or federal government and approved by the Commissioner, shall, at the request of the Commissioner, his or her designee, an animal control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine the condition or treatment of the animal.

(e) The provisions of this Code section and Code Sections 4-11-9.3 through 4-11-9.6 shall not apply to scientific experiments or investigations conducted by or at an accredited college or university in this state or research facility registered with the Commissioner or the United States Department of Agriculture.

§ 4-11-9.3. Caring for an impounded animal

(a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.

(b) Any person impounding an animal under this article or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court that is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

(c) Any person impounding an animal under this article shall be authorized to return such animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner, in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

(1) Such animal shall be given humane care and adequate and necessary veterinary services;

(2) Such animal shall not be subjected to cruelty; and

(3) The owner shall comply with this article.

(d) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney. An agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.

§ 4-11-9.4. Notification of owner; custody of animal

(a) It shall be the duty of any person impounding an animal under this article to notify the owner of such animal immediately upon impoundment. Such notice shall state the name and business address of the person impounding the animal, the name and address of the state or local government agency having custody of the animal, a description of the animal, the reason why the animal was impounded, and a statement of the time limits for the owner to respond and request a hearing as provided in Code Section 4-11-9.5. The notice shall be provided by personal service or by registered mail, certified mail, or statutory overnight delivery sent to the last known address of the owner. Service of the notice which complies with subsection (b) of Code Section 9-11-5 shall in all cases be sufficient. If the owner of such animal is unknown or cannot be found, service of the notice on the owner shall be made by posting the notice in a conspicuous place at the location where the animal was impounded and by publishing a notice once in a newspaper of general circulation in the county where the animal was impounded.

(b) An animal impounded pursuant to this article is deemed to be in the custody of the state or local government agency responsible for enforcement of this article within said county or municipality.

§ 4-11-9.5. Failure to respond; right to hearing; care; crime exception

(a) If the owner of an animal impounded pursuant to this article fails to respond in writing within five business days of the date the notice of impoundment was served, or, if the owner is unknown or could not be found within 30 days of publication of the notice of impoundment, the impounded animal may be disposed of pursuant to Code Section 4-11-9.6.

(b) (1) If the owner of an animal impounded pursuant to this article refuses to enter into a consent agreement with the government agency having custody of the animal that such animal will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within five business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within 30 days of the date of publication of the notice of impoundment. Such request for hearing shall be served upon the government agency having custody of the animal. If no hearing is requested within the time limits specified in this paragraph and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

(2) Within 30 days after receiving a written request for a hearing, the government agency having custody of the animal shall hold a hearing as is provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If the animal is in the custody of an agency of local government which has, by local law or ordinance, established a procedure for hearing such matters, the body designated in such local law or ordinance shall conduct the hearing required by this Code section. If the local government does not have a hearing procedure, the government agency having custody of the animal may refer the matter to the Office of State Administrative Hearings. If the animal is in the custody of the Department of Agriculture, the Commissioner or his or her designee shall conduct the hearing. The hearing shall be public and all testimony shall be received under oath. A record of the proceedings at such hearing shall be made and maintained by the hearing officer as provided in Code Section 50-13-13.

(3) The scope of the hearing shall be limited to whether the impounding of the animal was authorized by subsection (c) of Code Section 4-11-9.2.

(4) The hearing officer shall, within five business days after such hearing, forward a decision to the person who impounded the animal and the government agency having custody of the animal.

(5) If the hearing officer finds that the animal was improperly impounded, the animal shall be returned to the owner and the cost incurred in providing reasonable care and treatment for the animal from the date of impoundment to the date of the order shall be paid by the impounding agency.

(6) If the hearing officer finds that the animal was lawfully impounded, the hearing officer may:

(A) Recommend that the government agency having custody of the animal dispose of the animal as provided in Code Section 4-11-9.6; or

(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

(i) Such animal shall be given humane care and adequate and necessary veterinary services;

(ii) Such animal shall not be subjected to mistreatment; and

(iii) The owner shall comply with this article.

(c) The provisions of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner or disposed of without the approval of the prosecuting attorney.

§ 4-11-9.6. Disposal of impounded animal

(a) The government agency having custody of an animal impounded pursuant to this article which is not returned to the owner as provided in Code Sections 4-11-9.3 and 4-11-9.5 may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids, or, if in the opinion of a licensed accredited veterinarian or a veterinarian employed by a state or federal government and approved by the Commissioner such animal has a temperament or condition such that euthanasia is the only reasonable course of action, by humanely disposing of the animal.

(b) Any proceeds from the sale of such animal shall be used first to pay the costs associated with the impoundment, including, but not limited to, removal of the animal from the premises, shelter and care of the animal, notice, hearing, and disposition of the animal. Any funds remaining shall:

(1) If the owner is unknown or cannot be found, be paid into the state treasury if the animal was impounded by the Commissioner or his or her designated agent or into the treasury of the local government if the animal was impounded by the sheriff, a deputy sheriff, another law enforcement officer, or an animal control officer; or

(2) If the owner is known, be paid to the owner.

(c) The government agency responsible for conducting the sale shall keep a record of all sales, disbursements, and distributions made under this article.

§ 4-11-9.7. Notice and reporting required for certain animal diseases

(a) The Commissioner is authorized to declare certain animal diseases and syndromes to be diseases requiring notice and to require the reporting thereof to the department in a manner and at such times as may be prescribed by the Commissioner. The department shall require that such data be supplied as is deemed necessary and appropriate for the prevention and control of certain diseases and syndromes as are determined by the Commissioner. All such reports and data shall be deemed confidential and shall not be open to inspection by the public; provided, however, that the Commissioner may release such reports and data in statistical form, for valid research purposes, and for other purposes as deemed appropriate by the Commissioner.

(b) Any person, including, but not limited to, any veterinarian or veterinary diagnostic laboratory and practice personnel and any person associated with any pet dealer, kennel, animal shelter, or stable, submitting reports or data in good faith to the department in compliance with this Code section shall not be liable for any civil damages therefore.

§ 4-11-10. Unlawful acts by licensed persons

It shall be unlawful for any person licensed under this article or any person employed by a person licensed under this article or under such person's supervision or control to:

(1) Commit a violation of Code Section 16-12-4, relating to cruelty to animals;

(2) Fail to keep the pet dealership premises, animal shelter, kennel, or stable in a good state of repair, in a clean and sanitary condition, adequately ventilated, or disinfected when needed;

(3) Fail to provide humane care for any animal; or

(4) Fail to take reasonable care to release for sale, trade, or adoption only those animals that appear to be free of disease, injuries, or abnormalities.

§ 4-11-11. Shipment of animals into state without certificates of health

It shall be unlawful for any person to ship any animal, other than equines, livestock, birds, cold-blooded animals, and rodents, into this state for the purpose of resale unless such animal is accompanied by a U.S. interstate or international certificate of health.

§ 4-11-12. Cooperation with federal government

The Commissioner may cooperate with the United States Secretary of Agriculture in carrying out Public Law 89-544, commonly known as the Animal Welfare Act, as amended by Public Laws 91-579 and 94-279, and the rules and regulations issued by the Secretary of Agriculture under that act. The Commissioner may promulgate regulations to facilitate cooperation and avoid any unnecessary duplication or conflict of activities by the department and the Secretary of Agriculture in regulating the activities or areas covered by this article and Public Law 89-544. The regulations may be in addition to other regulations authorized by this article.

§ 4-11-13. Animals raised, kept, or maintained for human consumption

The provisions of this article shall not apply to any person who raises, keeps, or maintains animals solely for the purposes of human consumption.

§ 4-11-14. Rules and regulations

The Commissioner is authorized to promulgate and adopt rules and regulations necessary or appropriate to carry out this article.

§ 4-11-15. Injunctions and restraining orders

In addition to the remedies provided in this article or elsewhere in the laws of this state and notwithstanding the existence of an adequate remedy at law, the Commissioner or, where authorized by the local governing authority, the city or county attorney is authorized to apply to the superior court for an injunction or restraining order. The court shall for good cause shown grant a temporary or permanent injunction or an ex parte or restraining order, restraining or enjoining any person, partnership, firm, corporation, or other entity from violating and continuing to violate this article, any rules and regulations promulgated under this article, Code Section 16-12-4, or Code Section 16-12-37. Such injunction or restraining order shall be issued without bond and may be granted notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.

§ 4-11-15.1. Abandonment of domesticated animal

Notwithstanding the provisions of Code Section 4-11-13, it shall be unlawful for any person knowingly and intentionally to abandon any domesticated animal upon any public or private property or public right of way. This Code section shall not be construed as amending or otherwise affecting the provisions of Chapter 3 of this title, relating to livestock running at large or straying.

§ 4-11-16. Penalties

(a) Except as otherwise provided in Code Section 16-12-4 or 16-12-37, any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3; provided, however, that if such offense is committed by a corporation, such corporation shall be punished by a fine not to exceed $1,000.00 for each such violation, community service of not less than 200 hours nor more than 500 hours, or both.

(b) Each violation of this article shall constitute a separate offense.

§ 4-11-17. Filing a report regarding animal cruelty; immunity

(a) Notwithstanding Code Section 24-9-29 or any other provision of law to the contrary, any licensed veterinarian or veterinary technician having reasonable cause to believe that an animal has been subjected to animal cruelty in violation of Code Section 16-12-4 or an act prohibited under Code Section 16-12-37 may make or cause to be made a report of such violation to the Commissioner, his or her designee, an animal control officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in any judicial or administrative proceeding concerning the care of an animal.

(b) Any person participating in the making of a report pursuant to this Code section or participating in any administrative or judicial proceeding pursuant to this article or Title 16 shall, in so doing, be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided such participation pursuant to this Code section or any other law is made in good faith.

§ 4-11-18. Article cumulative; does not prohibit enactment and enforcement of local ordinances by municipal or county governing authority

This article shall be cumulative and shall not prohibit the enactment and enforcement of local ordinances by a municipal or county governing authority on this subject which are not in conflict with this article; provided, however, that a municipal or county governing authority shall be required to provide timely written notice to the department of any enforcement action taken pursuant to such an ordinance against an operator licensed under this article who is alleged to be in violation of such local ordinance. The department shall be notified of the initiation of any such local enforcement action and of the final conclusions or ultimate outcome of any such action.

Georgia

West's Code of Georgia Annotated. Title 4. Animals . Chapter 11. Animal Protection. Article 1. General Provisions.

4-11-2. Definitions.

As used in this article, the term:

(1) "Adequate food and water" means food and water which is sufficient in an amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal's health from a lack of food or water.

(1.1) "Animal control officer" means an individual authorized by local law or by the governing authority of a county or municipality to carry out the duties imposed by this article or imposed by local ordinance.

(2) "Animal shelter" means any facility operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(3) "Equine" means any member of the Equidae species, including horses, mules, and asses.

(4) "Humane care" of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

(5) "Kennel" means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for a **fee or compensation**.

(6) "Person" means any person, firm, corporation, partnership, association, or other legal entity, any public or private institution, the State of Georgia, or any county, municipal corporation, or political subdivision of the state.

(7) "Pet dealer" or "pet dealership" means any person who sells, offers to sell, exchanges, or offers for adoption dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets in this state. However, a person who sells only animals that he or she has produced and raised, not to exceed 30 animals a year, shall not be considered a pet dealer under this article unless such person is licensed for a business by a local government or has a Georgia sales tax number. The Commissioner may with respect to any breed of animals decrease the 30 animal per year exception in the foregoing sentence to a lesser number of any animals for any species that is commonly bred and sold for commercial purposes in lesser quantities. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute the veterinarian as a pet dealer, kennel, or stable under this article.

(8) "Secretary of Agriculture" means the secretary of the United States Department of Agriculture.

(9) "Stable" means any building, structure, pasture, or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and a fee is charged for maintaining such equines or for the use of such equines.

Laws 1986, p. 628, § 1; Laws 1990, p. 328, § 1; Laws 1990, p. 1650, § 1; Laws 2000, p. 754, § 4.

GEORGIA ANIMAL PROTECTION ACT

4-11-1. Short title.

This article shall be known and may be cited as the "Georgia Animal Protection Act."

4-11-2. Definitions.

As used in this article, the term:

(1) "Adequate food and water" means food and water which is sufficient in amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animars health from a lack of food or water.

(2) "Animal shelter" means any facility operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(3) "Equine" means any member of the Equidae species, including horses, mules, and asses.

(4) "Humane care" of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animars size, species, and breed.

(5) "Kennel" means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for a fee or compensation.

(6) "Person" means any person, firm, corporation, parlnership, association, or other legal entity, any public or private institution, the Stale of Georgia, or any county, municipal corporation, or political subdivision of the state.

(7) "Pet dealer" or "pet dealership" means any person who sells, offers to sell, exchanges, or offers for adoption dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets in this state. However, a person who sells only animals that he has produced and raised, not to exccc'J 30 animals a year, shall not be considered a pet dealer under this article unless such a person is licensed for a business by a local government or has a Georgia sales tax number. The Commissioner may with respect to any breed of animals decrease the 30 animal per year exception in the foregoing sentence to a lesser number of any animals for any species which is commonly bred and sold for commercial purposes in lesser quantities. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute the veterinarian a pet dealer, kennel, or stable under this article.

(8) "Secretary of Agriculture" means the Secretary of the United States Department of Agriculture.

(9) "Stable" means any building, structure, pasture, or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and a fee is charged for maintaining such equines or for the use of such equines.

4-11-3. Licenses for pet dealers and kennel, stable, or animal shelter operators; requirement; issuance; application.

(a) It shall be unlawful for any person to act as a pet dealer or operate a kennel, stable, or animal shelter unless such person has a valid license issued by the Commissioner of Agriculture. Any person acting without a license in violation of this subsection shall be guilty of a misdemeanor.

(b) The Commissioner shall license pet dealers and kennel, stable, and animal shelter operators under the applicable provisions of Chapter 5 of Title 2, the "Department of Agriculture Registration, License, and Permit Act."

(c) Licenses shall be issued for a period of one year and shall be annually renewable. The Commissioner may establish separate classes of licenses, including wholesale and retail licenses. The Commissioner shall fix fees for licenses so that the revenue derived from licenses shall approximate the total direct cost of administering this article. The Commissioner may establish different fees for the different classes of licenses established, but the annual fee for any such license shall be at least $25.00 but shall not exceed $200.00.

(d) Applications for licenses shall be on a form furnished by the Commissioner and, together with such other information as the Commissioner shall require, shall state:

(1) The name of the applicant;

(2) The business address of the applicant;

(3) The complete telephone number of the applicant;

(4) The location of the pet dealership, kennel, stable, or animal shelter;,

(5) The type of ownership of the pet dealership, kennel, stable, or animal shelter;, and (6) The name of the owner or, if a partnership, firm, corporation, or other entity, the name of the partners or stockholders.

(e) Notwithstanding the provisions of subsection (c) of this Code section, the license fees fixed pursuant to subsection (c) of this Code section shall be increased by 100 percent for the renewal of any license which is not renewed within ten days following the expiration date of the license or for the issuance of a new license to any person who has failed to apply for a license within ten days following the date on which written notice of the need for such license has bccn given to such person by the Commissioner or his authorized representative.

4-11-4. Display of licenses.

A license must be prominently displayed at each place of business of a pet dealer and at each kennel, stable, and animal shelter in this state.

4-11-5. Licensing of bird dealers.

Any person licensed by the department as a bird dealer shall not be required to obtain a license under this article if such person does not deal in animals other than birds. If, however, a licensed bird dealer sells, offers to sell, exchanges, or offers for adoption dogs, cats, fish, reptiles, or other animals (other than birds) customarily obtained as pets, then such dealer shall be required to obtain a license under this article in addition to his bird dealer's license.

4.11-5.1. Euthanasia of dogs and cats by animal shelters or faciliUes operated for collection of stray, neglected, abandoned, or unwanted animals.

(a) Except as provided in subsection (b) of this Code section, the use of sodium pentobarbltal or a derivative of it shall be the exclusive method for euthanasia of dogs and cats by animal shelters or other facilities which are operated for

the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference:

(1) Intravenous injection by hypodermic needle;

(2) Intraperitoneal injection by hypodermic needle; or

(3) Intracardial injection by hypodermic needle.

(b) Notwithstanding subsection (a) of this Code section:

(1) A chamber using commercially bottled carbon monoxide gas which was used on July 1, 1990, for euthanasia of dogs and cats by any animal shelter or other facility may continue to be used for such. purposes by such animal shelter or facility if such animal shelter or facility notifies the Commissioner of Agriculture, in writing, on or before August 1, 1990, that such a chamber was in use by such animal shelter or facility on July 1, 1990. However, a chamber which causes a change in body oxygen by means of altering atmospheric pressure or which is connected to an internal combustion engine and uses the engine exhaust for euthanasia purposes shall not be permitted under any circumstances; and

(2) Any substance which is clinically proven to be as humane as sodium pentobarbital and which has been officially recognized as such by the American Veterinary Medical Association may be used in lieu of sodium pentobarbital to perform euthanasia on dogs and cats, but succinylcholine chloride, cursm, curariform mixtures, or any substance which acts as a neuromuscular blocking agent may not be used on a dog or cat in lieu of sodium pentobarbital for euthanasia purposes.

(c) In addition to the exceptions provided for in subsection (b) of this Code section, in cases of extraordinary circumstance where the dog or cat poses an extreme risk or danger to the veterinarian, physician, or lay person performing euthanasia, such person shall be allowed the use of any other substance or procedure that is humane to perform euthanasia on such dangerous dog or cat.

(d) A dog or cat may be tranquilized with an approved and humane substance before euthanasia is performed.

(e) Euthanasia shall be performed by a licensed veterinarian or physician or a lay person who is properly trained in the proper and humane use of a method of euthanasia. Such lay person shall perform euthanasia under supervision of a licensed veterinarian or physician. This shall not be construed so as to require that a veterinarian or physician be present at the time euthanasia is performed.

(f) No dog or cat may be left unattended between the time euthanasia procedures are first begun and the time death occurs, nor may its body be disposed of until death is confirmed by a qualified person.

(g) The supervising veterinarian or physician shall be subject to all record-keeping requirements and inspection requirements of the State Board of Pharmacy pertaining to sodium pentobarbital and other drugs authorized under subsection (b) of this Code section and may limit the quantity of possession of sodium pentobarbital and other drugs authorized to ensure compliance with the provisions of this Code section. , (h) This Code section shall not apply to any animal shelter or other facility located in a county having a population of 25,000 or less according to the most recent United States decennial census.

4-11-6. Applicability of article to nonresidents; consent to jurisdiction; service.

Any person who is not a resident of this state but who engages in this state in any activities for which a license is required by this article shall be subject to this article as to such activities. Each nonresident applicant for a license required by this article shall be required as a condition of licensure to execute a consent to the jurisdiction of the courts of this state for any action filed under this article; and service of process in any such action shall be by certified mail by the Commissioner.

4-11-7. Grounds for refusal to issue or renew or suspension or revocation of licenses.

The Commissioner may refuse to issue or renew or may suspend or revoke a license on any one or more of the following grounds:

(1) Material misstatement in the application for the original license or in the application for any renewal license under this article;

(2) Willful disregard or violation of this article or of any rules or regulations issued pursuant to this article;

(3) Willfully aiding or abetting another in the violation of this article or of any regulation or rule issued pursuant to this article;

(4) Allowing a license issued under this article to be used by an unlicensed person;

(5) A violation of any law of this state or rule of the Commissioner related to the disposition of, dealing in, or handling of dogs, cats, equines, and other animals;

(6) Making substantial misrepresentations or false promises in connection with the business of a licensee under this article;

(7) Pursuing a continued course of making misrepresentations or false promises through advertising, salesmen, agents, or otherwise in connection with the business of a licensee under this article;

(8) Failure to possess the necessary qualifications or meet the requirements of this article for the issuance or holding of a license; or

(9) Failure to provide proper facilities.

4-11-8. Denial, suspension, or revocation of license for violation of article; applicability of "Georgia Administrative Procedure Act."

The Commissioner is authorized to deny, suspend, or revoke any license required by this article, subject to notice and a hearing, in any case in which he finds that there has been a violation of this article or any rule or regulation adopted pursuant to this article. All proceedings for denial, suspension, or revocation of a license shall be conducted in conformance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

4-11-9. Inspections.

The Commissioner or his designated agents are authorized to enter upon any public or private property at any time for the purpose of inspecting the business premises of any pet dealer or any animal shelter, kennel, or stable and the dogs, cats, equines, or other animals housed at such facility to determine if such facility is licensed and for the purpose of enforcing this article and the rules and regulations adopted by the Commissioner pursuant to this article.

History

(Code 1981, § 4-11-9, enacted by Ga. L. 1986, p. 628, § 1; Ga. g 1990, p. 328, § 1.)

4-11-9.1. Quarantine of animal, premises, or any area by Commissioner.

Statute text

(a) In the control, suppression, prevention, and eradication of animal diseases, the Commissioner or any duly authorized representative acting under his authority is authorized and required to quarantine an animal, premises, or any area when he shall determine that animals in such place or places are infected with a contagious or infectious disease, that the unsanitary condition of such place or places might cause the spread of such disease, that the animal has or has been exposed to any contagious or infectious disease, or that the owner or occupant of such place or places is not observing sanitary practices prescribed under the authority of this article or any other law of this state.

(b) The Commissioner or his duly authorized representative is authorized to issue and enforce written or printed stop sale, stop use, or stop movement orders to the owners or custodians of any animals, ordering them to hold such animals at a designated place, when the Commissioner or his duly authorized representative finds such animals:

(1) To be infected with or to have been exposed to any contagious or infectious disease;

(2) To be held by a person who is required to be licensed under this article and whose license has expired;

(3) To be held by a person who is required to be licensed under this article and who has failed to obtain a license within ten days of the date on which written notice of need to obtain a license was given to such person by the Commissioner or his authorized representative; or

(4) To have been held in violation of this article, until the law has been complied with and such animals have been released, in writing, by the Commissioner or the violations have been otherwise legally disposed of by written authority.

(c) It shall be unlawful for any person to sell, use, or move any animal in violation of any quarantine or stop sale, stop use, or stop removal order issued under this Code section.

4-11-10. Unlawful acts by licensed persons.

It shall be unlawful for any person licensed under this article or any person employed by a person licensed under this article or under his supervision or control to:

(1) Commit a violation of Code Section 16-12-4, relating to cruelty to animals, when such violation occurs on the premises of or is related to the operation of the pet dealership, animal shelter, kennel, or stable for which the license has been issued or any other such facility operated by the same person;

(2) Fail to keep the pet dealership premises, animal shelter, kennel, or stable in a good state of repair, in a clean and sanitary condition, adequately ventilated, or disinfected when needed;

(3) Fail to provide adequate food and water;,

(4) Fail to provide adequate and humane care for any dog, cat, equine, or other animal at such facility; or

(5) Fail to take reasonable care to release for sale, trade, or adoption only those animals which appear to be free of disease, injuries, or abnormalities.

4-11-11. Shipment of animals into state without certificates of health.

It shall be unlawful for any person to ship any animal, other than equines, livestock, birds, cold-blooded animals, and rodents, into this state for the purpose of resale unless such animal is accompanied by a U.S. interstate or international certificate of health

4-11-12. Cooperation with federal government.

The Commissioner may cooperate with the United States Secretary of Agriculture in carrying out Public Law 89-544, commonly known as the Animal Welfare Act, as amended by Public Laws 91-579 and 94-279, and the rules and regulations issued by the Secretary of Agriculture under that act. The Commissioner may promulgate regulations to facilitate cooperation and avoid any unnecessary duplication or conflict of activities by the department and the Secretary of Agriculture in regulating the activities or areas covered by this article and Public Law 89-5A.A.. The regulations may be in addition to other regulations authorized by this article.

4-11-13. Animals raised, kept, or maintained for human consumption.

The provisions of this article shall not apply to any person who raises, keeps, or maintains animals solely for the purposes of human consumption.

4-11-14. Rules and regulations.

The Commissioner is authorized to promulgate and adopt rules and regulations necessary or appropriate to carry out this article.

4-11-15. Injunctions and restraining orders.

In addition to the remedies provided in this article or elsewhere in the laws of this state and notwithstanding the existence of an adequate remedy at law, the Commissioner is authorized to apply to the superior courts for an injunction or restraining order. Such courts shall have jurisdiction and for good cause shown shall grant a temporary or permanent injunction or an ex parte or restraining order, restraining or enjoining any person, partnership, firm, corporation, or Other entity from violating and continuing to violate this article or any rules and regulations promulgated under this article. Such injunction or restraining order shall be issued without bond and may be granted notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.

4-11-16. Violations of article, rules, and regulations a misdemeanor.

Any person, partnership, firm, corporation, or other entity violating any of the provisions of this article or any rule or regulation of the Commissioner adopted pursuant to this article shall be guilty of a misdemeanor.