

**Burke County  
North Carolina**

**An Ordinance Amending the Official Burke County Code of Ordinances, Chapter 6, Animals**

Be it ordained that the Official Burke County Code of Ordinances, Chapter 6, Animals is hereby rescinded and replaced with the following:

- Article I.           General**
- Sec. 6-1.           Definitions**
- Sec. 6-2.           General Duties of Office of Animal Control**
- Sec. 6-3.           Animal Cruelty**
- Sec. 6-4.           Inherently Dangerous Exotics**
- Sec. 6-4.1.        Exotic Mammals and Reptiles**
- Sec. 6-4.2.        Keeping and Control of Dangerous Animals**
- Sec. 6-4.3.        Establishment of Dangerous Animal Appeal Board**
- Sec. 6-4.4.        Requirements for Attack Training Facility**
- Sec. 6-4.5.        Reporting of Dangerous Animals**
- Sec. 6-4.6.        Provisions May Not Apply**
- Sec. 6-5.           Interference with Enforcement of Ordinance**
- Sec. 6-6.           Handling of Stray or Abandoned Animals**
- Sec. 6-7.           Animal Advisory Board**
  
- Article II.          Rabies Control**
- Sec. 6-8.           Compliance with State Law**
- Sec. 6-9.           Inoculation of Dogs, Cats and Ferrets**
- Sec. 6-10.         Report and Confinement of Animals Biting Persons or Showing Rabies Symptoms**
- Sec. 6-11.         Area-Wide Emergency Quarantine**
- Sec. 6-12.         Post Mortem Diagnosis**
- Sec. 6-13.         Unlawful Killing, Releasing, etc. of Certain Animals**
- Sec. 6-14.         Failure to Surrender for Quarantine or Destruction**
  
- Article III.         Impoundment**
- Sec. 6-15.         General**
- Sec. 6-16.         Notice to Owner**
- Sec. 6-17.         Redemption by Owner**
- Sec. 6-18         Adoption or Euthanization of Unredeemed Animals**
- Sec. 6-19.         Procedure with Respect to Redemption or Adoption of Unvaccinated Dog, Cat or Ferret**
- Sec. 6-20.         Suspected Rabid Animals Not to be Redeemed or Adopted**
- Sec. 6-21.         Rescue Requirements**

**Sec. 6-22. Pet Shops****Article IV. Miscellaneous****Sec. 6-23. Zoning and Environmental Health****Sec. 6-24. Enforcement in Municipalities; Restricted****Sec. 6-25. Deceased Animals****Sec. 6-26. Animals Creating a Nuisance****Sec. 6-27. Cat Colonies****Article V. Remedies****Sec. 6-28. General****Article VI. License Tax****Sec. 6-29. General****ARTICLE I. IN GENERAL****Sec. 6-1. Definitions.**

- 1. *Abandon:*** Means to intentionally, knowingly, recklessly, or negligently leave an animal at a location for more than (48) forty-eight consecutive hours without providing for the animal's continued care.
- 2. *Adequate Feed:*** The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.
- 3. *Adequate Shelter:*** That shelter which will keep a nonaquatic animal dry, within reasonable efforts to keep the animal out of the direct path of winds and out of the direct sun, at a temperature level that is reasonable for the current weather. If a concern is registered, the credibility of the report will be determined at the judgement and discretion of the responding Animal Control officers. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. Shelters shall have adequate drainage and shall be free of accumulated waste, feces, trash, debris and/or any other elements, per the discretion of Animal Control officers, that are deemed unsafe to the health and well-being of the animal.

- a. For the purpose of this definition, the following do not constitute adequate shelter:
  - i. Underneath stoops, decks and outside steps
  - ii. Inside or underneath vehicles
  - iii. Metal barrels
  - iv. Cardboard boxes
- 4. Adequate Water:** Constant access to a supply of clean, fresh, drinkable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval. During freezing temperatures, steps must be taken to ensure unfrozen, drinkable water is available at all times.
- 5. Animal:** Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock and reptiles.
- 6. Animal Control Division/Animal Control Officers:** The Division of the Burke County Sheriff's Office that has the responsibility to enforce all laws of North Carolina and all ordinances of Burke County pertaining to animals. Animal Control Officers in the performance of their duties, shall have all the power, authority, and immunity granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the responsibility of and shall be carried out by the Animal Control Officers.
- 7. Animal Shelter:** The facility which is used to house or contain seized, stray, homeless, quarantined, abandoned or unwanted animals which is owned and operated by Burke County for the purpose of caring for them, placing through adoption or euthanizing if necessary.
- 8. Approved Rescue Group:** A nonprofit organization that cares for animals and which has been favorably assessed by the Animal Control Director through the application of written standards.
- 9. At large:** Any animal found off the property of its owner and not under restraint or any animal that has been the subject of a previous at large complaint when found unrestrained whether on or off the property of its owner, or any animal previously determined to be dangerous that is not confined to a secure enclosure while on the property of its owner.
- 10. Attack:** An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner, without the animal having been teased, molested, provoked, beaten, tortured or otherwise harmed.
- 11. Attack Training Facility:** Any person, group of persons, partnership or corporation engaged in boarding, breeding, selling or training dogs or other animals in the mode of attack.

- 12. Bite:** The act of an animal seizing flesh with its teeth or jaws so as to tear, pierce or injure the flesh as to where blood can be seen.
- 13. Boarding Kennel:** Any facility or establishment which regularly offers to the public, the service of boarding animals for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for animals.
- 14. Cat:** Any domesticated mammal of the family Felidae.
- 15. Competent Person:** A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal, to persons, to other animals, including but not limited to domesticated livestock, or to property.
- 16. Confinement:** Means impoundment within the County's Animal Shelter or other appropriate facility.
- 17. Cruelty and cruel treatment:** Every act, omission or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals, as well as acts of teasing, molesting, baiting or trapping, or attempted trapping, of animals unlawfully as outlined in Section 6-3.
- 18. Dangerous Animals:** Any animal that has demonstrated a fierce or dangerous propensity or tendency to do any act which may endanger persons or property and/or any non-domesticated animal indigenous to the State of North Carolina including hybrid animals that are part wild. This would include, but not be limited to, any animal that (1) assaults, bites, attacks, or inflicts serious injury on a human being without provocation on public or private property and/or (2) that has killed or injured a pet or domestic animal without provocation. Exceptions: no animal is dangerous pursuant to this definition if at the time the threat, injury or damage was sustained, the person attacked was teasing, tormenting, abusing or assaulting the animal, or has in the past teased, tormented, abused, or assaulted the animal, or was committing or attempting to commit a crime. However, an animal will be not considered dangerous pursuant to this definition if it has attacked or injured a pet or domesticated animal in defense of an attack by another animal, or if it is protecting or defending its young.
- 19. Dealer:** Any person who is licensed by the U.S. Department of Agriculture as a dealer.
- 20. Dog:** Any domesticated mammal of the family Canid.
- 21. Domesticated Livestock:** Livestock raised for the production of meat, milk, eggs, fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits, and poultry.

- 22. Domestic Animal:** Any of various animals such as dogs, cats, horses, sheep, cattle, goats, hogs, poultry, etc., or domesticated by man so as to live and breed in a tame condition.
- 23. Exhibitor:** Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.
- 24. Exposed to Rabies:** Any person or animal that has bitten, been bitten by or otherwise has come into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.
- 25. Ferret:** Any domesticated mammal belonging to the family Mustelidae.
- 26. Flood prone area:** An area in which two (2) or more inches of standing water are likely to accumulate during a period of normal rainfall.
- 27. Habitual violator:** An animal, owner or any other person that has been cited for violating this Ordinance on three (3) or more occasions in the past three (3) years and the most recent violation was within the past twelve (12) months.
- 28. Harbor:** An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for 24 consecutive hours or more.
- 29. Health Department:** Burke County Health Department.
- 30. Health Director:** Director of the Burke County Health Department.
- 31. Hunting Dog:** A canine used for the purpose of assisting hunters in tracking and retrieving game.
- 32. Impoundment:** Possession or seizure of an animal by the Burke County Animal Control Officer for placement in the County's animal shelter or other appropriate facility.
- 33. In estrus:** The stage of the reproductive cycle in which a female animal can become pregnant.
- 34. Inherently Dangerous Exotic:** Any undomesticated member of the Canidae, Felidae, or Ursidae families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans and which include:
- a. **Canidae:** including any member of the Canid dog family not customarily domesticated by man or any hybrids thereof, including wolf hybrids that are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis Familiaris*).

- b. **Felidae:** including any member of the cat family weighing over (30) thirty pounds not customarily domesticated by man or any hybrids thereof, but not including domestic cats (*Felix Catus*),
  - c. **Urisdae:** including any member of the bear, or caniform, family.
  - d. **Primate:** for the purpose of this Ordinance, Primate will include any member of the Primates family who weighs eight (8) pounds or more.
- 35. Kennel:** An establishment or premises wherein any person engages in a business or keeps or maintains ten (10) or more domesticated animals over four (4) months of age at any one (1) time; or an establishment wherein any person engages in the business or practice of keeping or selling more than one (1) litter of domesticated animals at any one (1) time. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats, and other generally accepted household pets. Litter, for the purpose of this ordinance, shall be defined as the progeny resulting from the breeding of two (2) domesticated animals.
- 36. Neutered:** Any animal that has been operated upon to prevent reproduction.
- 37. Nighttime:** The time from sunset until sunrise.
- 38. Nuisance:** Any act of an animal causing a substantial and unreasonable interference with another's land or his/her use or enjoyment of that land as outlined in Section 6-26.
- 39. Other Local Government Body (Bodies):** The City of Morganton, Town of Valdese, Town of Drexel, Town of Glen Alpine, Town of Hildebran, Town of Long View, Town of Rhodhiss, Town of Connelly Springs, Town of Rutherford College, and City of Hickory.
- 40. Owner:** Any person, group of persons, firm, partnership or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring or allowing the animal to remain on or about their property for more than 72 consecutive hours. In the event that the owner of an animal is a minor, for the purposes of this ordinance, the parent or guardian of such minor shall be considered the owner of that animal.
- 41. Owner's property:** That area described in a deed of conveyance or the area described in a lease. In a situation involving townhouses or condominiums, Animal Control will treat the common areas as being owned by the homeowner's association. In a situation involving leased apartments, Animal Control will treat common areas as being owned by the lessor or property owner. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on the common areas of townhouses, condominiums, or leased apartments, or other public areas shall be treated as being off the owner's property.

- 42. *Pet*:** A domesticated animal kept for pleasure rather than utility.
- 43. *Physical Harm*:** Any injury which is serious enough to require immediate medical attention.
- 44. *Poisonous reptile*:** Any animal that crawls or moves on its belly as a snake or on small short legs as a lizard and has the capability of injecting humans or animals with venom which may cause death or physical injury.
- 45. *Prior complaint*:** Any prior oral or written complaint to Animal Control about a specific animal, or any oral or written complaint about any animals or a specific owner being in violation of any section of this ordinance.
- 46. *Provocation*:** Any act that would reasonably be expected to cause an animal to defend itself, its young, its owner or keeper, or the property of said owner or keeper.
- 47. *Rabies vaccinator*:** A person appointed and certified to administer rabies vaccine pursuant to G.S. 130A-186 or a licensed veterinarian.
- 48. *Restraint*:** An animal is under restraint within the meaning of this ordinance if it is 1) controlled by means of a chain, leash, or other like device; (2) on or within a vehicle being driven or parked; (3) within a secure enclosure; or (4) within the dwelling house of the owner.
- 49. *Sanitized*:** Physically clean and, to a practical minimum, removed of all agents injurious to health.
- 50. *Secure enclosure*:** A fence or structure of adequate height, forming or causing a humane enclosure suitable to prevent the animal from escaping and to prevent the entry of young children.
- 51. *Severe injury*:** Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.
- 52. *Spayed*:** Any female animal that has been operated upon to prevent reproduction.
- 53. *Stray*:** Any dog, cat or ferret found within the County wandering at-large that does not bear evidence of identification of any owner, any dog not displaying a valid rabies tag, or a cat or ferret not displaying a valid rabies tag or having a valid microchip.
- 54. *Tethering*:** To restrain a dog outdoors by means of a rope, chain, wire or product manufactured for the purpose of tethering a dog, one end of which is fastened to the dog and the opposite end of which is connected to a stationary object or to a cable or trolley system. This does not include walking an animal with a handheld leash.

**55. Vaccination:** The administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

**56. Veterinary Hospital:** Any place or establishment which is maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

**57. Wild animal:** Any animal that is not normally domesticated or a domesticated animal that has returned to its natural wild state. A hybrid or any animal, regardless of genetic percentages, shall be deemed a wild animal. Feral/community cats are not considered wild animals.

**58. Working business day:** Any day of the week excluding Saturday, Sunday, and legal holidays. If the last day of the time period specified in this ordinance falls on a legal holiday, the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

## **Sec. 6.2. General Duties of Animal Control.**

### *Authority and Purpose*

This Ordinance is adopted pursuant to the power granted Burke County in N.C. Gen. Stat. § 153A-121, 153A-127, and 153A-442. The overarching goal of this Ordinance is to protect the health, safety and welfare of Burke County residents and the animals residing within the County, regulate and control the conduct, keeping and care of those animals, facilitate as many responsible, lifetime adoptions of abandoned pets as possible and encourage the reuniting of owners to their impounded animals.

1. The Animal Control Division of the Burke County Sheriff's Department shall:
  - a. Enforce and carry out all laws of North Carolina and all ordinances of Burke County pertaining to rabies control.
  - b. Be responsible for the investigation of all reported animal bites, for the quarantine of any dog, cat, or ferret exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practical the occurrence of any such animal bite and the condition of any quarantined animal.
  - c. Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals. Incidents committed by wildlife are not under the jurisdiction of the Animal Control Division



of the BCSD and are to be referred to the NC Wildlife Resources Commission.

- d. Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in Burke County involved in a violation of this or any other County ordinance or state law.
  - e. Investigate cruelty or abuse with regard to animals. Incidents committed against wildlife are not under the jurisdiction of the Animal Control Division of the BCSD and are to be referred to the NC Wildlife Resources Commission.
  - f. Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this Ordinance or applicable state statute.
  - g. Be empowered to issue citations or notices of violation of this Ordinance in such form as the Animal Control Division may prescribe.
  - h. Have employees who are trained to standards established by the State and Animal Control Division.
2. The Burke County Animal Shelter is a public shelter and must be in compliance with all State standards established for public shelters. Burke County Animal Control will only respond to resident complaints when an animal is in severe distress or death is imminent. In circumstances of no severe distress or imminent death, the owner must sign a release in order for the county to take ownership of any animal. Burke County shall operate and maintain a County Animal Shelter for the purpose of impounding or caring for animals held under the authority of state law, this Ordinance or any other county or municipal ordinance. Burke County may contract for the operation of the Animal Shelter as it deems appropriate.
  3. It shall be the duty of Burke County Animal Control Division to keep or cause to be kept accurate and detailed records of:
    - a. Impoundment and disposition of all animals coming into the animal shelter.
    - b. Bite cases, violations and complaints and investigation of same.
    - c. All other records deemed necessary per the NCGS § 132.1.1(e).
  4. Animal Control Officers
    - a. Burke County's Animal Control Officers are sworn deputies with the Burke County Sheriff's Office. They are also designated as Animal Cruelty Investigators. Only Burke County employees shall be designated as an Animal Cruelty Investigator.

- b. Animal Control Officers shall have the following additional powers and duties within Burke County and within any municipality therein that has given prior approval in accordance with applicable law:
  - i. The responsibility for the enforcement of all state and local laws including ordinances, resolutions and proclamations pertaining to the ownership and control of dogs and other animals.
  - ii. To cooperate with the County Health Director and all other municipality law enforcement officers in the County and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of dangerous animals, and any other state law applicable to animals or animal control.
  - iii. To investigate reported or observed animal cruelty or animal neglect, complaints or violations and make written reports of such investigations and, when requested, provide such reports to the District Attorney's office.
  - iv. To investigate reports of observed harassment or attacks by dogs or other animals against people, animals, or domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.

### **Sec. 6-3. Animal Cruelty.**

In addition to what is prohibited by NCGS § 14-360-366, the following shall be prohibited:

1. Chaining or tethering an animal to a stationary object for a period of time or under conditions that are harmful or potentially harmful to the animal. Examples of improper chaining or tethering include, but are not limited to, the following:
  - a. Using a length or weight of a chain or tether that is not appropriate for the size, weight, and age of the animal.
  - b. Using a chain or tether that is less than (10) ten feet in length and does not have a swivel on the end. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar.
  - c. Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.

- d. Using a chain of any type as a primary collar. All collars used for the purpose of chaining or tethering an animal must be made of nylon or leather. Choke chains are intended for training purposes only and are not to be used as a collar. It shall be unlawful to tie an animal using a chain or tether made of exposed wire, rope, twine, cord, or similar material, excluding products manufactured for the sole purpose of tethering.
  - e. When it has been determined that an animal is housed or restrained less than (15) fifteen feet from a public street, road, sidewalk, or right of way, such circumstances constitute a public nuisance. If the animal is not in the street, road, sidewalk, or right of way, the Animal Control Officer shall issue a notice to the owner directing the owner to move the animal. If the animal is found on a public street, road, sidewalk, or right of way and the owner is not at home or refuses to remove the animal from the street, road, sidewalk, or right of way, the animal may be seized and impounded.
2. To intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.
  3. Leaving an animal in an enclosure that is deemed unsafe for the animal. All enclosures should be free of hazards and appropriate for the size and species of the animal.
  4. To color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
  5. For any individual, non-profit, or commercial establishment to separate a dog or cat from its mother until it is seven (7) weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later.
  6. For any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper, except a stray animal may be seized when trying to capture it.
  7. In regards to the Animal Fighting and Baiting regulations as stated in NCGS § 14-362.2., the following exclusions will apply:
    - a. This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.
    - b. This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water.

- c. This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.
8. It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of North Carolina General Statutes § 14-360, 14-362 and 14-363 as the same relate to a dog or dogs, or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal cruelty, fighting and abandonment. The repeal of such law or laws of the State of North Carolina shall have no effect upon this Section, and the acts herein made unlawful shall, in the event of such repeal, be those referred to in said law or laws immediately prior to such repeal.
9. Failure or refusal to report injured domestic animals to Burke County 911 or the animal's owner, if known.
  - a. Any person who injures a domestic animal by way of including, but not limited to, motor vehicle impact, firearm discharge or unforeseen accident.
  - b. Any person who willfully fails to report a severely distressed, sick or injured animal on their property within a timeframe conducive to saving the animal's life.
10. Performing surgical procedures, including cosmetic procedures on any domestic animal, livestock excluded, except by a licensed veterinarian. This includes, but is not limited to, tail docking, ear cropping, castration, de-clawing and dew claw removal.

#### **Sec. 6-4. Inherently Dangerous Exotics.**

1. It shall be unlawful for any person to keep an inherently dangerous exotic within the County.
2. Traveling fairs, circuses, licensed zoos and carnivals shall be exempt from this section.
3. Recapturing: The owner of any inherently dangerous exotic shall reimburse Burke County for all costs incurred while attempting to recapture any escaped inherently dangerous exotic. If the animal is sheltered or euthanized by Animal Control, the owner shall pay all costs.

#### **Sec. 6-4.1. Exotic Mammals and Reptiles.**

1. At no time may any person or persons harbor an inherently dangerous exotic mammal or reptile in Burke County.
2. For the purpose of this Article an exotic mammal or reptile is:

- a. Is not native or indigenous to North Carolina;
  - b. Does not have an established wild population in North Carolina; or
    - c. Is not regulated by the North Carolina State Wildlife Commission.
3. Harboring of any exotic mammal or reptile is any person(s), regardless of ownership, who allows an exotic mammal or reptile to remain, be fed, or to be given shelter or refuge within the person's home, yard, enclosure outbuilding, abandoned vehicle or building, place of business, or any other premise(s) in which the person has control.
4. An inherently dangerous exotic mammal is any member of the canidae, felidae, ursidae, or primate families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans.
- a. Canidae includes any member of the dog (canid) family not customarily domesticated by man or any hybrids of such Canidae thereof including wolf/wolf hybrids, which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis Familiaris*).
  - b. Felidae includes any member of the cat family weighing over thirty (30) pounds not customarily domesticated by man or any hybrids of such felidae, but not including domestic cats (*Felis Catus*).
  - c. Ursidae includes any member of the bear family or hybrids of such ursidae.
  - d. Primate, for the purposes of this Ordinance, includes any member of the primate family who weighs eight (8) pounds or more.
5. An inherently dangerous reptile is any member of the class reptilia which:
- a. Is venomous. A venomous reptile shall include all members of the families:
    - i. Helodermidae (gila monsters and Mexican beaded lizards)
    - ii. Viperidae (vipers)
    - iii. Crotalidae (pit vipers)
    - iv. Atractaspidae (burrowing asps)
    - v. Hydrophilidae (sea snakes)
    - vi. Elapidae (cobras, coral snakes and their allies)
    - vii. As well as any rear-fanged snakes of the family Colubridae that are known to be dangerous to humans including but not limited to:
    - viii. *Dispholidus typos* (boor slang)
    - ix. *Thebtomis kirtiandii* (twig snake)
    - x. *Rhabdophisspp* (keelbacks)

- b. Is a member of the order of crocodylian (crocodiles, alligators and caiman).
6. All exotic mammals or reptiles already in the County prior to this ordinance will be grandfathered, however, if applicable, owners of exotic mammals or reptiles will be required to spay or neuter. All exotic mammals or reptiles that are not spayed or neutered will be in violation of this ordinance. Exotic mammals or reptiles not spayed or neutered will be impounded and euthanized by the Burke County Animal Control.

## 7. Exceptions

This Article does not apply to:

- a. Veterinary clinics in possession of such mammals or reptiles for treatment or rehabilitation purposes.
  - b. Any institution or organization that exists primarily to educate the public in the areas of science and nature which receives or has received financial support from federal, state and/or local governments; which has a paid membership open to and composed of members of the general public; which is directed by a Board of Directors or similar body elected by the membership; and which has been declared a 501(3) exempt organization by the Internal Revenue Service.
  - c. Non-resident circuses for no longer than one (1) seven-day (7-day) period per each separate location where such circus is held within the county per calendar year.
  - d. Non-resident carnivals for no longer than one (1) seven-day (7-day) period per each separate location where such carnival is held within the county per calendar year.
  - e. Non-resident licensed zoos for no longer than one (1) seven-day (7-day) period per each separate location where such licensed zoo is held within the county per calendar year.
  - f. Persons temporarily transporting such mammals or reptiles through the county provided that such transit time shall not be more than twenty-four (24) hours.
8. Disposition of Impounded Inherently Dangerous Exotics
  - a. Any owner of an inherently dangerous exotic who is in violation of this Article will have their exotic mammal or reptile impounded. Whenever possible, the Animal Control Officer shall impound the animal in the presence of its owner or harborer; however, if not practical, the Animal Control Officer may impound such animal consistent with the provisions of this section.

- b. If an exotic is impounded pursuant to this section, the owner or harbinger of the exotic shall be notified by the Animal Control Officer in person or by certified mail.
- c. Any exotic impounded pursuant to this section will be held **seventy-two (72)** hours for the owner to claim pursuant to subsection D of this section. If the exotic cannot be taken safely by the Animal Control Officer, or if proper and safe housing cannot be found for the animal, at the discretion of the Animal Control Officer, he/she can euthanize the animal.
- d. The owner or harbinger of the exotic can reclaim the exotic if the person can satisfy to the Animal Control Director that a safe transfer of the exotic to a location outside of the County is arranged.
- e. All costs of impoundment and care of the exotic will be charged to its owner or harbinger regardless of whether the exotic is claimed by or returned to said owner or harbinger. In the event the exotic is reclaimed, such costs shall be paid in full prior to the owner or harbinger reclaiming the exotic pursuant to this section.

#### **Sec. 6-4.2. Keeping and Control of Dangerous Animals.**

1. The owner of a dog(s) that has been deemed dangerous by Burke County Animal Control Division will be notified in writing to confine the animal or animal(s) in a humane, secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous animal(s) is/are on the premises.
2. The owner shall have (30) thirty days from the date of notification to provide a humane secure enclosure. If no suitable confinement of the animal(s) is available at the owner's residence, or outbuilding, the animal(s) will be confined in the Animal Control Shelter or boarding facility at the owner's expense.
3. An Animal Control Officer is empowered to confiscate the animal(s) and harbor it/them at the owner's expense pending the owner's construction of a humane, secure enclosure. If any dangerous animal(s) is/are confiscated under this provision, the owner of the dangerous dog(s) or animal(s) shall be given written notice at the time of confiscation that if the owner fails to provide a secure enclosure upon the expiration of (30) thirty days from confiscation, Animal Control is authorized to euthanize the animal(s). If the owner constructs a secure enclosure that is approved by Animal Control, the animal(s) may be redeemed within (30) thirty days from confiscation as long as all fees owed to Animal Control for harboring, caring, and maintaining the animal(s) are paid.

#### **Sec. 6-4.3. Establishment of Dangerous Animal Appeal Board.**

There is hereby created a Dangerous Animal Appeal Board to serve as the official appellate body that hears all dangerous dog appeals (per General Statute 67-4.1 Dangerous Dogs). The Appeal Board will convene at the direction of the Burke County Board of Commissioner or its designee. The Appeal Board is to be composed of five (5) members appointed by the Burke County Board of Health and shall serve three (3) year staggered terms. The Appeal Board shall be composed of [at least] one (1) veterinarian licensed to practice veterinary medicine in the State of North Carolina and two (2) members of the general public.

**Sec. 6-4.4. Requirements for Attack Training Facility.**

1. It shall be unlawful for any person, group of persons, partnership or corporation to conduct attack training at any location unless such training is conducted within a secure enclosure in the presence of the owner(s) or trainer(s) at all times.
2. Any dog or animal trained or being trained in a mode of attack is deemed to be dangerous and is subject to all the provisions of this ordinance related to dangerous dogs or dangerous animals.

**Sec. 6-4.5. Reporting of Dangerous Animals.**

The owner of a dangerous animal shall inform the Burke County Animal Control Division as soon as practical, but not later than twenty-four (24) hours after the occurrence of any of the following:

1. An assault, attack, or biting upon any human being committed by any such animal in the Owner's care or control.
2. An attack or biting upon any domestic animal or pet while said animal is off the owner's property.
3. The destruction of or damage to property of another by such animal.
4. The roaming or escape of any animal required to be restrained or confined to a secure enclosure.
5. If the Owner of a dangerous animal wishes to transfer ownership or possession of the dog to another person, the owner shall provide written notice to the authority that made the determination under this section, stating the name and address of the new owner or possessor of the animal before the ownership of the animal is transferred.



6. If the Owner of a dangerous animal plans to relocate and/or change address, the Owner shall provide notice to the authority that made the determination under this ordinance, stating the new address and/or date of relocation prior to the move.

#### **Sec. 6-4.6. Provisions Shall Not Apply.**

The provisions of this section do not apply to:

1. An animal being used by a law enforcement officer to carry out law enforcement duties.
2. An animal being used in a lawful hunt or lawful agriculture purpose.
3. An animal where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to work of the dog.
4. An animal where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

#### **Sec. 6-5. Interference with Enforcement of Ordinance.**

1. It shall be unlawful for any person to resist, obstruct, delay, interfere with, hinder or molest the Animal Control officers or veterinarians in the performance of any duty authorized by this ordinance, or to seek to release any animal in the custody of such agents.
2. It shall also be unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the Animal Control Division, whether it be in the dog box in the back of a truck or in a live trap or any other type of confinement device, except as otherwise specifically provided in this chapter. Anyone in violation of this section will be subject to a one hundred dollar (\$100.00) fine for the first offense, and three hundred dollars (\$300) for each following offense civil citation.
3. It shall be unlawful for any person to file a false report with Animal Control or to provide false information to an officer involving any investigation of any reported violation of this article. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.)
4. It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with Animal Control in order to intimidate or harass any member of the department, animal owner,

business owner or rescue group. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.)

#### **Sec. 6-6. Handling of Stray or Abandoned Animals.**

1. It shall be unlawful for any person, without the consent of the Owner or Keeper, knowingly and intentionally to harbor, feed, keep in their possession by confinement or otherwise any animal that does not belong to him/her, unless he/she has, within 24 hours from the time such animal came into his/her possession, notified Animal Control. This allows Animal Control to have a record of the animal and its location in the event the Owner or Keeper calls or visits the Animal Shelter in search of the animal.
2. Any animal at large may be seized, impounded, and confined in the Animal Shelter and thereafter adopted out or euthanized pursuant to procedures of Animal Control and applicable State law.
3. Impoundment of such an animal shall not relieve the Owner or Keeper thereof from any penalty which may be imposed for violation of this Chapter.
4. Any animal seized and impounded that is badly wounded or diseased and has no identification, may be euthanized pursuant to procedures of Animal Control. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, Animal Control shall attempt to notify the Owner or Keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, Animal Control shall have no liability for euthanizing wounded or diseased animals when such action is taken in accordance with NCGS § 19A-32.1 (b)(2), which is applicable when “the animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.”
5. If a stray animal is not claimed within **seventy-two (72) hours** of the date of impoundment, the animal shall become the property of Burke County and be made available for adoption as allowed by this Ordinance. Owner-surrendered animals may be made available for immediate adoption.
  - a) The Animal Control Director may allow an approved Rescue Group or the individual who found an animal to serve as a foster in the event the animal requires extensive or ongoing veterinary care and the Group or individual has expressed a desire to seek treatment and assume all financial responsibility.

Notification of Animal Control Division applies to the following:

1. Any person who has knowledge of or keeps, feeds, harbors, or possesses a stray or abandoned animal must notify Animal Control within twenty-four (24) hours of having knowledge of the animal or the animal coming into their possession or control.
2. Animal Control must be notified of all stray or abandoned animals prior to adoption or placement. Any person who gives away, sells, or allows an otherwise strayed or abandoned animal to be adopted without first notifying Animal Control shall have no authority over the animal and ownership shall remain with the previous owner to the extent the previous owner is able to be identified.

#### **Sec. 6-7. Animal Advisory Board.**

1. Establishment and Composition of the Burke County Animal Advisory Board. There is hereby created an Animal Advisory Board to advise the County Commissioners, County Manager, and Animal Control Director on matters related to the organization and operation of the Burke County Animal Control Shelter. The Advisory Board shall be composed of seven members appointed by the Board of Commissioners. All members must reside at all times in the County. This Board shall include one member, as defined by the listed parameters, for each of the following seats:
  1. Member of a 501(c)3 animal rescue agency or foster agency
  2. Veterinarian (practicing or retired)
  3. Board of Health member or designee, excluding Health Director
  4. At-large (Pet owner)
  5. Law enforcement officer, excluding Animal Control officers
  6. Member of a 501(c)3 animal rescue agency or foster agency
  7. At-large (Non-pet owner)
2. All bylaws, regulations and rules of procedures of boards and commissions of the county shall be approved by the Board of Commissioners.
3. For the initial terms, three of the members shall be appointed for one-year terms, and four of the members shall be appointed for two-year terms. All subsequent appointments shall be for two-year terms, so that the membership appointments are staggered. Such officers may be reelected for not more than three consecutive terms. Board members shall serve their complete term unless removed for any reason by the Board of Commissioners. In the event of any vacancy on the Board, the Board of Commissioners shall appoint a replacement member.
4. The Board shall select in its first meeting of each calendar year, a chairman, vice-chairman, and secretary. The chairman shall call all regular and any special meetings of the Board, and shall preside at those meetings. In the absence of the chairman, the vice-

chairman shall preside at any regular or called meeting. In the absence of the chairman and the vice-chairman, the secretary shall preside.

5. The Animal Control Director or his/her designee will attend all meetings of the Animal Control Advisory Board, and shall be responsible for the proper advertisement of meetings. He/she also shall serve as the staff resource for the Board in its research and deliberations. However, he/she shall have no vote on any matter coming before the Board unless in the event of a tie due to a recused member on a voting matter.
6. The Animal Control Advisory Board will meet on a quarterly basis for review and discussion of any issue(s) that it deems appropriate regarding operation of the Animal Control Shelter. Additional meetings may be scheduled if requested by the County Commission, County Manager, Animal Control Director, or the Chairman of this Board.
7. The Public Health Director or designee will attend all meetings of the Animal Control Advisory Board; he/she shall also serve as a public health resource for the Board in its research & deliberations. However, he/she shall have no vote on any matter coming before the Board.
8. It shall be the duty of the Chairperson of the various boards and commissions to notify the Clerk to the Board of Commissioners should there be a resignation or any other termination of membership.
9. The Chairpersons shall be responsible for advising the Clerk to the Board of Commissioners of changes of address of their members.
10. Applications for membership to all boards and commissions shall be filed with the Clerk to the Board of Commissioners prior to appointment.
11. No member of any board or commission shall serve more than one unexpired term and four full terms of office consecutively, provided that this provision shall not prevent any person from serving any number of nonconsecutive terms, nor shall it apply to any board or commission whose authorization or bylaws are in conflict with this provision.
12. All boards and commissions of the county shall meet in accordance with their ordinance provisions, adopted and approved bylaws, and the North Carolina Open Meetings Law. Special meetings may be called by the chairperson or by a quorum of members upon 48 hours' notice. It shall be the responsibility of the chairperson to notify the news media and Clerk to the Board of Commissioners of all special meetings.
13. In January of each year, the Chairperson of each board and commission shall be responsible for notifying the Clerk to the Board of Commissioners and the news media of the regular meeting time and place for that particular board or commission for all regular meetings in the calendar year.

14. Regular attendance at board and commission meetings by the members is expected by the Board of Commissioners.
15. No member of any board or commission shall, without good and sufficient reason, fail to attend three consecutive meetings or fail to attend fifty (50%) percent of all the regularly scheduled meetings in one calendar year. Any member who at any time does not comply with this requirement shall be deemed to have abandoned and forfeited membership on such board or commission and the term of office of such absentee shall thereby terminate. It shall be the responsibility of the chairperson to then notify the clerk to the board of commissioners that a vacancy exists on the board or commission.
16. Members shall serve on boards and commissions without compensation, excepting those board and commission members allowed a specified compensation in the authorizing regulations for the board or commission or as approved by laws.

## **ARTICLE II. RABIES CONTROL**

### **Sec. 6-8. Compliance with State Law.**

1. It is the purpose of this Article to supplement applicable state laws by providing for a procedure for enforcement of state laws relating to rabies control in addition to criminal penalties provided by state law.

### **Sec. 6-9. Inoculation of Dogs, Cats, and Ferrets.**

1. Upon complying with this provision ordinance, there shall be issued by the inoculators, to the owner of the animal inoculated, a metallic tab, stamped with the number and year for which issued, and indicating that the animal has been inoculated against rabies.
2. It shall be unlawful for any Owner to fail to provide their dog with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.
  - a. Cats and ferrets shall have the option of either a collar or a microchip to ensure they are outfitted with proper identification. If microchipped, Owners must maintain records of rabies vaccinations and current tag.
3. It shall be unlawful for any person to use for any animal a rabies inoculation tag issued for an animal other than the one using the tag.

### **Sec. 6-10. Report and Confinement of Animals Biting Persons or Showing Rabies Symptoms.**

1. Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel approved by the Animal Control Division, or in the County Animal Shelter, at the expense of the owner.
2. The only home confinement that can be authorized by Animal Control is when (a) the person bitten resides at the same residence, (b) the Owner has a fenced in area in his/her yard, (3) the fenced in area has no entrances or exits that are not locked, and (4) the animal is currently vaccinated against rabies. Proof of vaccination will be required at the time of investigation. If the animal is confined on the Owner's premises, the Animal Control Officer shall revisit the premises for inspection purposes at approximately the middle of the confinement period and again at the conclusion of the confinement period.
3. In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the Burke County Animal Control Shelter.
4. If rabies does not develop within ten (10) days after a dog or cat is quarantined, under this section, the dog or cat may be released from quarantine with the written permission of the Animal Control Director. If the dog or cat has been confined in the County Animal Shelter, the owner shall pay any fines, necessary veterinarian fees and a boarding fee set by and approved by the Burke County Board of Commissioners. Any animal that bites a person that has not been reclaimed within twenty-four (24) hours from the end of the ten (10) day rabies observation quarantine period shall become the property of Burke County and will be euthanized by the Animal Control Division. Animal Control is authorized to initiate legal proceedings to recover the costs of caring for an animal confined at the Shelter pursuant to this section if the animal is not redeemed.
5. In the case of a carnivore or bat, the animal may be euthanized and the head examined for rabies.
6. Upon seizing an animal pursuant to NCGS § 130A-196, Animal Control Director shall leave with the owner or affix to the owner's residence a notice containing the beginning and ending dates of confinement and stating that the owner must redeem the animal within twenty-four (24) hours of the ending date of confinement stated in the notice.

#### **Sec. 6-11. Area-Wide Emergency Quarantine.**

When reports indicate a positive diagnosis of rabies, the Burke County Health Director may order an area-wide quarantine for such period as he/she deems necessary. Upon invoking of such emergency quarantine, no dog, cat, or other carnivore(s) shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no animal may be taken or shipped from the County without written permission of the Animal Control Director. During the quarantine period, local health authorities shall be empowered to organize and coordinate a program of mass

immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

**Sec. 6-12. Post Mortem Diagnosis.**

1. If an animal dies while under observation for rabies, the head of such animal shall be submitted to the Burke County Health Department for shipment to the North Carolina State Laboratory of Public Health for rabies diagnosis.
2. The carcass of any animal suspected of dying of rabies shall be surrendered to the Burke County Animal Control Division. The head of such animal shall be submitted to the Burke County Health Department for shipment to the North Carolina State Laboratory of Public Health for rabies diagnosis ONLY if the animal was involved in a bite. The State Lab will not test specimens if a bite has not occurred.

**Sec. 6-13. Unlawful Killing, Releasing, etc. of Certain Animals.**

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal which has bitten a human, or to remove such animal from the county without written permission from the Animal Control Division.

**Sec. 6-14. Failure to Surrender for Quarantine or Destruction.**

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or euthanization as required in this article when demand is made by the Animal Control Division.

**ARTICLE III. IMPOUNDMENT**

**Sec. 6-15. General.**

Any animal which appears to be lost, stray, unwanted, or which is found not wearing a valid rabies vaccination tag as required by state law or this ordinance, and not under restraint in violation of this ordinance, shall be impounded by the Animal Control Division by any means necessary and confined in the County Animal Shelter in a humane manner. Impoundment of such animal shall not relieve the owner thereof from any penalty which may be imposed for violation of this ordinance. All impounded animals will be scanned for a microchip to aid in the notification of the legal Owner.

**Sec. 6-16. Notice to Owner.**

Immediately upon impounding an animal, the Animal Control Officer shall make reasonable effort to notify the owner and inform such owner of the impoundment. If the owner is unknown or cannot be located, Animal Control shall hold the animal for a minimum of **seventy-two (72) hours** and then make the animal available for adoption, rescue, or, barring extenuating circumstances pursuant to NCGS § 19A-32.1 (b)(2)., euthanization after the five (5) day impoundment period.

#### **Sec. 6-17. Redemption by Owner.**

1. The Owner of an animal impounded under this article may redeem the animal and regain possession thereof within **seventy-two (72) hours** from the time notification of impoundment is given by complying with all applicable provisions of this chapter and paying any necessary veterinary fees and boarding fees set and approved by the Burke County Board of Commissioners.
2. No Owner may be permitted to adopt his/her own animal under the provisions of Article III, in order to reclaim an animal that has been impounded pursuant to state law or this article in order to avoid paying the applicable fees associated.
  - 2.1. The Owner of any animal that is turned over to Animal Control will be able to retrieve the animal after the release form has been signed. The owner will be responsible for paying the twenty-five dollar (\$25.00) handling fee the day that said animal was turned in.

#### **Sec. 6-18. Adoption or Euthanization of Unredeemed Animals.**

1. If an impounded animal is not redeemed by the owner within the period described in Article III of this Ordinance, it shall become the property of Burke County and will be (1) offered for adoption to an approved non-profit rescue/adoption group registered with Burke County's Animal Control Division for domesticated animals only, thus excluding wild animals, or (2) offered for adoption to individuals who have paid the current adoption fees or (3) euthanized in a humane manner after the five (5) day impoundment period, space permitting and barring extenuating circumstances pursuant to NCGS § 19A-32.1 (b)(2).
2. No animal which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the Animal Shelter during a period of emergency rabies quarantine invoked pursuant to Article II of this ordinance, except by special authorization of the Burke County Health Director.
3. Adoption Contract: Any eligible individual or non-profit rescue/adoption group adopting a dog or cat from the Animal Shelter shall be required to sign an adoption contract with the Animal Shelter which states that the Applicant accepts all ownership responsibilities and liabilities associated with the adoption. Spay and neuter will be mandatory for all animals



adopted from the Shelter. Differing Individual Adoption and Rescue Adoption spay/neuter procedures and requirements will be outlined in each applicable Adoption Contract. The purchase of euthanized animals from the Animal Shelter by a duly licensed biological supply company or veterinary researcher shall not be deemed to be an adoption.

4. Exceptions from Adoption Policy:
  - a. The Animal Control Division may refuse adoption of animals to a person less than eighteen (18) years of age.
  - b. Persons who have previously been cited under this ordinance,
  - c. Person/Household that has adopted three (3) animals in a calendar year.
  - d. Animals that exhibit non-person aggressive behavior will be deemed adoptable with full disclosures made to rescues and potential adopters of the aggression type. (i.e. food, territory, small prey, etc)
5. Animals that exhibit fierce, dangerous, or person-aggressive behavior shall not be offered for adoption.
6. Any animal officially surrendered by the owner to Animal Control may be placed for adoption as authorized in this section. No animal will be euthanized prior to the state mandated 3-day impoundment period barring extenuating circumstances as deemed by the Animal Control Director pursuant to NCGS § 19A-32.1 (b)(2), which is applicable when “the animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.”
7. Any animal impounded that is gravely injured or seriously ill and has no identification can be euthanized in a humane manner pursuant to NCGS § 19A-32.1 (b)(2). If the animal has identification, an Animal Control Officer shall attempt to notify the owner before euthanizing; but if the owner cannot be reached readily and the animal is enduring prolonged, unnecessary suffering, the Animal Control Officer may euthanize the animal in a humane manner.

**Sec. 6-19. Procedure with Respect to Redemption or Adoption of Unvaccinated Dog, Cat or Ferrets.**

All dogs, cats or ferrets four (4) months of age or older that leave the Animal Shelter or any animal hospital or veterinary clinic shall be required to have a current rabies vaccination.

**Sec. 6-20. Suspected Rabid Animals Not to be Redeemed or Adopted.**

Notwithstanding any other provision of this article, animals impounded that appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with Article II of this Ordinance.

### **Sec. 6-21. Rescue Requirements.**

Approved Rescue Groups are allowed to pull animals from Burke County Animal Control. Pursuant to G.S. 130A-192 (a), all animals are required to be held for an initial impoundment period of 72 hours. However, in the event that an animal is surrendered to Burke County Animal Control, the animal may be released immediately. Following the initial impoundment period, animals will be held in the Animal Shelter and made available for rescue by an Approved Rescue Group or the general public as long as the health and temperament of the animal determines that it is suitable for rescue/adoption. This determination will be made by the Animal Control Director and the decision will be final.

1. Following the release of an animal(s) to an Approved Rescue, Burke County Animal Control will require that the animal(s) be provided with the appropriate care that includes spay/neuter, updated vaccinations, and health reconditioning (if needed), etc.
2. Quarterly audits will be performed by the Animal Advisory Committee to ensure proper care and recordkeeping of all Approved Rescue Groups/Groups. During each audit, two (2) Approved Rescues will be selected for audit review and required to provide all documentation of applicable vaccinations, spay/neuter, and current location of a random selection of animals they have pulled from Burke County Animal Control. If the audit shows an Approved Rescue Group is not in compliance two (2) times in two (2) consecutive audits due to missing or incorrect documentation or refusal/ failure to provide, their Approved status shall be revoked for a period of twelve (12) months and they may reapply at the conclusion of the revocation period. An additional violation after reinstatement shall result in a twenty-four (24) month revocation and a further violation after two reinstatements shall result in permanent revocation.
3. Rescues must obtain and maintain non-profit, tax-exempt status as a 501(c)3.
4. In order to be considered for approval as an "Approved Rescue Group" by Burke County Animal Control, groups must submit the Burke County Animal Control's Rescue Application, along with 3 letters of reference, one of which must be submitted by a North Carolina Licensed Veterinarian with preference given to Rescues that can also provide references from other North Carolina-based Animal Shelters. Burke County Animal Control will notify the applicant group of its decision to approve or deny the application. If the application is denied, Burke County Animal Control will state any / all deficiencies that resulted in the decision to deny approval of the application.
5. All adoptable animals are available on a first-come, first-serve basis.

6. To ensure that all information is recorded accurately and efficiently, Burke County Animal Control will require that all interaction with approved Rescue Groups must be completed via email at [animalshelter@burkenc.org](mailto:animalshelter@burkenc.org). All phone calls and in-person contact will be referred to the email address.

**Sec. 6-22. Pet shops.**

1. In general. A building or facility located outside city/town limits and the person acquires animals for the purposes of resale, excluding domesticated livestock, that are bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.
2. Standards for Pet Shops. All pet shops subject to this Ordinance, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article must also, comply with the following minimum standards.
  - a. There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
  - b. Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.
  - c. The temperature of the area around the animal enclosures in the shop shall be maintained at a level that is healthful for every species of animals kept in the shop.
  - d. All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, lie down and stretch out to its full length without touching the sides or tops of the enclosure, and floors of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the cage floor.
  - e. All animals under three months of age are to be fed at least two times per 24 hours. Food for all animals shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food for animals shall be served in a clean dish so mounted that the animal cannot readily tip it over, and it shall be removable.

- f. Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day, and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.
  - g. There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to ensure the enclosure is maintained in a clean and sanitary manner.
  - h. All animals must be fed and watered and all cages cleaned every day, including Sundays and holidays.
3. Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this Ordinance, and/or the issuance of an abatement order to comply with the provisions of this Ordinance.
4. Owners or operators of pet shops must apply to the Animal Control for a Pet Shop Permit, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county.
5. Pet Shops shall be subject to inspection by the Department of Agriculture upon registration with Burke County Animal Control.
6. In Burke County, no person may own or operate a Pet Shop outside of any municipal limits unless and until such person satisfies the requirements of this section and has been issued a privilege license if required.

#### **ARTICLE IV. MISCELLANEOUS**

##### **Sec. 6-23. Zoning and Environmental Health.**

Owners, as defined in this ordinance, must be in compliance with all applicable Zoning and Environmental Health ordinances.

##### **Sec. 6-24. Enforcement in Municipalities; Restricted.**

Animal Control Officers shall have no authority to enforce this ordinance within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that Burke

County is empowered to enforce the provisions of this ordinance within that municipality and repeals any inconsistent ordinance.

**Sec. 6-25. Deceased Animals.**

1. It shall be the duty of the owner or person in charge of any animal that dies from cause, and the owner, lessee or person in charge of any land upon which any animal dies, to bury the dead animal to a depth of at least three (3) feet beneath the surface of the ground and 300 feet from ground water source within twenty-four (24) hours after the death of the animal is known, or to otherwise dispose of the animal in a manner approved by the state veterinarian.
2. It shall be unlawful for any person to remove the carcass of a dead animal from his premises to the premises of any other person without the written permission of the person having charge of such premises and without burying such carcass as provided in this section.
3. The Animal Control Office does not pick up any deceased animal from properties or roadways.

**Sec. 6-26. Animals Creating a Nuisance.**

1. The following acts or actions by an owner or possessor of an animal are hereby declared to be unlawful:
  - a. It shall be unlawful for any dog owner to keep a dog that habitually or repeatedly barks in such a manner or to such an extent that it is a public nuisance. "Habitually or repeatedly" is to be defined as three (3) or more times per minute for no less than a fifteen (15) minute period.
  - b. Maintaining animals in an unsanitary environment resulting in offensive odors or danger to the animal or to the public health, safety or welfare, or failing to maintain a condition of good order and cleanliness that reduces the probability of transmission of disease.
  - c. Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.
  - d. Maintaining an animal that is diseased and dangerous to the public health.
  - e. Domestic animal owners shall clean up feces left on private or public property that is not owned by the owner.
  - f. Allowing animals to turn over garbage containers or removes garbage from them.

- g. Allowing animals to damage gardens, foliage or other real property.
  - h. Maintains an animal that chases, snaps at, attacks or otherwise molests pedestrians, bicyclist, motor vehicles, livestock, or domestic animals off the property of the owner.
  - i. Owners of the animal may be issued one (1) warning for an animal nuisance violation per calendar year. Any subsequent instances will be subject to a uniform citation and the applicable fees.
2. Property owners have the right to prohibit domestic animals from being present on their property. If any domestic animal is on a citizen's property and the mere presence of the domestic animal is a nuisance, then the property owner may take the following steps to keep animals off of their property.
- a. Fill out a complaint form provided by Animal Control stating that there is a domestic animal on their property that is creating a nuisance by its mere presence.
  - b. The complainant must identify themselves as the complainants and identify the name and address of the owner of the domestic animal that is creating a nuisance.
  - c. The complaint will be mailed certified receipt or hand delivered by Animal Control to the owner of the domestic animal creating the nuisance.
  - d. After the owner of the domestic animal receives the complaint they have twenty-four (24) hours to ensure that the identified domestic animal in the complaint is not present on the complainant's property.
  - e. If the identified domestic animal in the complaint is found to be present on the complainant's property, the owner of the domestic animal will be in violation of this ordinance.

NOTE: This measure is to give property owners the right to identify specific domestic animals that are creating a nuisance. This does not bind Burke County to keep all animals off of any property. Animal control will not take complaints from complainant's requesting that all domestic animals be kept off their property.

#### **Sec. 6-27. Cat Colonies.**

A cat colony will be defined as three or more cats feeding and living in close proximity not under the direct control of an Owner.

- a. Cat colonies must be registered with Animal Control.
- b. Each colony must have a contact person.
- c. Each colony must have permission from the property owner to house the colony on the premises.
- d. Each contact person will be required to maintain a current and up-to-date log of vaccines and records of all cats in the colony.
- e. Each contact person group is responsible for any and all damages that occur off the property that the colony is located on.
- f. This provision does not pertain to any agency or municipality having its own animal control ordinance.

## **ARTICLE V. REMEDIES**

### **Sec. 6-28. General.**

1. Civil Penalties. Any person, firm or corporation violating any of the provision of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation which shall be paid in full within ten (10) days of the service of the citation by a representative of the Burke County Animal Control Division or any law enforcement officer in accordance with N.C.G.S. 153A-123. If the offender does not pay the penalty within ten (10) days, the county may recover said penalty plus court costs in a civil action in the nature of debt. Failure to correct the violation or violations within the ten (10) days period will result in an additional penalty of fifty dollars (\$50) per violation per day until the violation is corrected. All civil fees are subject to associated legal fees in the collection of delinquent fees.
  - a. Unless otherwise stated in the Burke County Animal Control Ordinance, any person firm, etc., violating any provision of this article shall be subject to (Graduated Penalty \$50, \$100, \$200) with a time frame of one (1) year on the last citation.
    1. First Offense = \$50 Penalty
    2. Second Offense = \$100 Penalty
    3. Third Offense = \$200 Penalty
    4. All offenses after Third = \$200 Penalty per incident
  - b. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-4.1), when unprovoked, attacks, assaults, wounds, bites or otherwise injures or kills a human being, the owner shall pay a three thousand dollar (\$3,000.00) civil penalty. After a ten (10) day waiting period, exclusive of Sundays and holidays, the

owner may reclaim the animal or dangerous dog in injury cases only. Animals that kill a human being will be euthanized when it has been proven through the legal process.

- c. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-4.1), when unprovoked, kills, wounds or assists in killing or wounding any domestic animal or pet, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty. For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of four hundred dollars (\$400.00).
- d. If any dangerous animal or dangerous dog runs at large, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty. For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of three hundred dollars (\$300.00).
- e. Any person in possession of or keeping an inherently exotic within the county in violation of the applicable provisions of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of three hundred dollars (\$300.00).
- f. Violation of the county ordinance for animal cruelty is subject to a first offense fine of \$200 (two-hundred dollars) and a second offense fine of \$300 (three-hundred dollars) if the second offense occurs within one (1) year of the first offense.
- g. If the offender does not pay the full amount of the penalty within ten (10) days, the county may recover all attorney fees in a civil action in the nature of debt.
- h. The owner shall also be responsible for any costs incurred such as a tranquilizer fee, costs of which are at a minimum of fifty (\$50.00) dollars.
- i. The owner shall be responsible for all fees associated with the citation collection.
- j. Failure to pay fees owed to Burke County Animal Control within ten (10) days could result in referral to the North Carolina Debt Setoff Collection Program for collection pursuant to NC Gen. Stat. 105A-2 (6) as well as a local collection assistance fee of fifteen (\$15) dollars.

## 2. Criminal Sanctions

Violation of this chapter shall be a misdemeanor for which a criminal summons may be issued. Any person convicted of such violation shall be punishable as provided in N.C.G.S. 14.4. Each day's violation of this section is a separate offense.

## 3. Injunctive Relief



In addition, enforcement of this ordinance may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

4. Seizure or Impoundment

In addition to criminal or civil penalties, Animal Control is authorized to seize or impound an animal for violation of specific sections of this chapter as set forth in this chapter. If an animal is seized, the Animal Control Officer shall issue a written notice of seizure and leave it with the owner or it may be affixed to the premises from which the animal was seized.

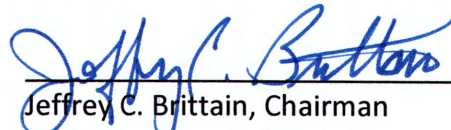
**ARTICLE VI. LICENSE TAX**

**Sec. 6-29. General.**


This ordinance hereby removes the license tax.



Adopted this the 18<sup>th</sup> day of April, 2017.  
(First Reading)  
Adopted this the 16<sup>th</sup> day of May, 2017.  
(Second Reading)  
Effective: August 1, 2017.

  
\_\_\_\_\_  
Jeffrey C. Brittain, Chairman  
Burke Co. Board of Commissioners

Attest:

  
\_\_\_\_\_  
Kay Honeycutt Draughn, CMC, NCMCC  
Clerk to the Board