

## Chapter 6

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## Chapter 6 – Animal Ordinance

### 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 Shelter*: Any suitable weather-proof structure intended to be inhabited by an animal, built in such a way as to have (4) four sides, (1) one side having an ample opening to allow for an entrance for the animal or a structure manufactured for the sole purpose of housing animals. Said structure should have a top and bottom being large enough for the animal to turn around inside. It should have sufficient room for the animal to move about freely and lie down comfortably.
- (3) *Animal*: Any non-human species that has been domesticated by man.
- (4) *Animal Shelter*: Any premises designated by the county for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of this ordinance.
- (5) *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.
- (6) *Attack*: An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner or apparent of attitude of attack, without the animal having been teased, molested, provoked, beaten, tortured or otherwise harmed.
- (7) *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.
- (8) *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.
- (9) *Breeder*: Any person or establishment that breeds animals for the purpose of resale to the general public or dealers.
- (10) *Cat*: Any and all domesticated felines.
- (11) *Confinement*: Means impoundment within the county's animal shelter or other appropriate facility.

- (12) *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 attempted acts of teasing, molesting, baiting or trapping of animals unlawfully.
- (13) *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. In addition, a animal will be considered dangerous pursuant to this definition if it has attacked or injured a pet or domesticated animal in defense of an attack of another animal, or if it is protecting or defending its young.
- (14) *Dealer:* Any person who is licensed by the U.S. Department of Agriculture as a dealer.
- (15) *Dog:* Any and all domesticated canines.
- (16) *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.
- (17) *Exhibitor:* Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.
- (18) *Exotic Animal:* Any living animal as set forth in Article VI of this ordinance pertaining to inherently dangerous exotic animals.
- (19) *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.
- (20) Reserved.: . See amendments to GS 130A-184 in SL 2009-327.
- (21) *Flood prone area:* An area in which (2) two or more inches of standing water is likely to accumulate during a period of normal rainfall.
- (22) *Habitual violation:* An animal, owner or any other person that has been cited for violating this Ordinance on (3) three or more occasions in the past (3) three years and the most recent violation was within the past (12) twelve months.
- (23) *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.

- (24) *In estrus*: A female animal in the erotic stage of copulation.
- (25) *Inherently Dangerous Mammal*: Any live 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 (15) fifteen pounds not customarily domesticated by man or any hybrids thereof, but not including domestic cats (*Felis Catus*).
- (26) *Kennel*: Any person, group of persons, partnership or corporation engaged in boarding or breeding animals for monetary gain.
- (27) *Lost, stray and unwanted*: Any animal found within the county wandering at large that does not bear evidence of identification of any owner, or any animal whose owner, if determinable, has failed to attach a valid rabies tag
- (28) *Neutered*: Any animal that has been operated upon to prevent reproduction.
- (29) *Nighttime*: The time from sunset until sunrise.
- (30) *Nuisance*: Any act of an animal or its owner that annoys or disturbs rights and privileges common to the public or enjoyment of private property.
- (31) *Owner*: Any person, group of persons, firm, partnership or corporation owning, keeping, having custody of 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.
- (32) *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.
- (33) *Person*: Any human being, firm, partnership or corporation, including but not limited to, any non-profit corporation.

- (34) *Pet*: A domesticated animal kept for pleasure rather than utility.
- (35) *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.
- (36) *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.
- (37) *Rabies vaccinator*: A person appointed and certified to administer rabies vaccine pursuant to G.S. 130A-186 or a licensed veterinarian.
- (38) *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.
- (39) *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. For purposes of this definition, a home, mobile home or separate garage do not meet this definition.
- (40) *Severe injury*: Any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
- (41) *Spayed*: Any female animal that has been operated upon to prevent reproduction.
- (42) *Stray*: Any dog or cat that appears to be a stray, homeless or unwanted, and any dog or cat that is not displaying a valid rabies tag unless exempt under Article II, Section III: Inoculation Tag.
- (43) *Vaccination*: The administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.
- (44) *Vicious dog*: A dog that, without provocation and while not on the owner's property, has killed or inflicted serious injury upon a human being such that professional medical treatment is required.
- (45) *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.
- (46) *Working 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.**

- (1) The Office of Animal Control shall be charged with the responsibility of:
  - a. Enforcing, in this county, all state laws, rules and regulations and all county ordinances relating to the care, custody and control of domesticated dogs and cats.
  - b. Assisting in the enforcement of the laws of North Carolina with regard to animals and especially with regard to the vaccination of animals against rabies and the confinement or controlling of dangerous animals and dangerous dogs.
  - c. Investigating cruelty or abuse with regard to all animals.
  - d. Operating, pursuant to policies of the Board of Health, Board of County Commissioners, and the county animal shelter.
  - e. The Burke County Animal Shelter/Animal Control is not a rescue facility. The Burke County Animal Control will only respond when a/n animal is in severe distress or death is imminent. Owner must sign a release in order for the county to rescue the any animal.
  
- (2) It shall be the duty of the Office of Animal Control 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 rabies vaccinations given in the county by veterinarians.
  - d. All other records deemed necessary by the county commissioners or this ordinance.

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

- (1) Animal Cruelty: In addition to what is prohibited by NC State Statute the following shall be prohibited:
  
- (2) 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 than is less than (8) eight feet in length and/or does not have swivels on one 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 not to be used as a collar to tie the animal to a chain or tether made of rope, twine, cord, or similar material.
  - 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 rite of passage constitutes a public nuisance, but the animal is not in the street, road, sidewalk, or rite of passage, 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 rite of passage and the owner is not at home or refuses to remove the animal from the street, road, sidewalk, or rite of passage, the animal may be seized and impounded.
- (3) It is unlawful 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.
  - (4) Leaving an animal in a closed vehicle or other enclosure. It shall be unlawful to leave an animal in a closed vehicle or other enclosure for such duration or at such temperature as an Animal Control Officer deems harmful or potentially harmful to the animal.
  - (5) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

**Sec. 6-4. Keeping of Inherently Dangerous Animal.**

- (1) It shall be unlawful for any person to keep an inherently dangerous mammal 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 mammal shall reimburse Burke County for all costs incurred while attempting to recapture any escaped inherently dangerous mammal. If the animal is sheltered or euthanized by Animal Control, the owner shall pay all costs.
- (4) Any animal already in the county prior to this ordinance will be grandfathered.

**Sec. 6-5. Keeping and Control of Dangerous Animals.**

- (1) The owner of a dog that has been deemed dangerous by the Office of Animal Control will be notified in writing to confine the animal or animal in a humane,

secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous animal is 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 is available at the owner's residence, or outbuilding, the animal will be confined in the Animal Control or boarding facility at the owner's expense.
- (3) An Animal Control Officer is empowered to confiscate the animal and harbor it at the owner's expense pending the owner's construction of a humane, secure enclosure. If any dangerous animal is confiscated under this provision, the owner of the dangerous dog or animal 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. If the owner constructs a secure enclosure, approved by Animal Control the animal 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 are paid.

**Sec. 6-6. 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. 6-7. Requirements for Attack Training Facility.**

It shall be unlawful for any person, group of persons, partnership or corporation to conduct training in a mode of attack for animal at any location unless such training is conducted within a secure enclosure.

Such training within a secure enclosure within the meaning of this ordinance means that it is performed within (1) a fence or structure of adequate height to prevent the dog or animal from jumping, climbing, or otherwise escaping from the enclosure; and (2) said training is conducted in the presence of the owner(s) or trainer(s) at all times.

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. 6-8. Confiscation of Animals.**

The owner of a dangerous animal shall inform the Office of Animal Control as soon as practicable, 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 written notice to the authority that made the determination under this section, stating the new address and/or date of relocation prior to this occurrence.

**Sec. 6-9. Interference with Enforcement of Ordinance.**

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 of any animal in the custody of such agents.

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 Office, 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) for the first offense, and three hundred dollars (\$300) for each following offense civil citation.

**Sec. 6-10. Stray or Abandoned Animals**

Abandoned animals

- (1) Animal Control shall seize any animal, including any animal abandoned by reason of a set out, eviction or abandonment of real property as defined by G.S. 14-361.1 at the time of the offense.
- (2) Notice of seizure shall be posted on the premises from which the animal was seized; for a set out or eviction, notice shall be sent to the last known address or possessor of the animal. It is the owner's responsibility to make a visual inspection of the animal shelter if he has reason to believe that the animal has been impounded at the shelter.

- (3) If an abandoned animal is not claimed within five (5) days of the date of impoundment, the animal shall become the property of the county.

Notification of Animal Control Division

- (4) Any person who has knowledge of or keeps, feeds, harbors, or possesses a stray or abandoned animal must notify the Animal Control within seventy-two (72) hours of having knowledge of the animal or the animal coming into possession or control.
- (5) All stray or abandoned animals must be held at the shelter prior to adoption or placement. Any person who gives away, sells, or allows an otherwise strayed or abandoned animal to be adopted without first surrendering the animal to 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. 6-11. Provisions Shall Not Apply**

The provisions of this ordinance does not apply to:

- (1) A animal being used by a law enforcement officer to carry out law enforcement duties.
- (2) A animal being used in a lawful hunt, or lawful agriculture purpose.
- (3) A 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) A 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.

**ARTICLE II. RABIES CONTROL**

**Sec. 6-20. Compliance with State Law**

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

**Sec. 6-21. Inoculation of Dogs, Cats and other pets**

- (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 animal owner to fail to provide the 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.
- (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. 6-22. 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 Office of Animal Control, or county animal shelter, at the expense of the owner. The Animal Control Officer may not authorize the animal to be confined on the owner's premises unless the owner has a fenced in area in his/her yard, and the fenced in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. Proof 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.
- (2) 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 County Animal Control Office.
- (3) 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 Office. 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 the Burke County Animal Control Office and shall be destroyed by the Animal Control Office. 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.

- (4) In the case of a carnivore or bat, the animal may be euthanized and the head examined for rabies.
- (5) Upon seizing an animal pursuant to G.S. 196-A, Animal Control 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. 6-23. Are-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 deems necessary. Upon invoking of such emergency quarantine, no dog or cat or other carnivores shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, animal ,may be taken or shipped from the county without written permission of the Animal Control Office. During the quarantine period, the local health authorities shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

**Sec. 6-24. 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 Office. 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. Raleigh will not test specimens if a bite has not occurred.

**Sec. 6-25. 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 Office.

**Sec. 6-26. 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 destruction as required in this article when demand is made by the Animal Control Office.

**Sec. 6-27. Reserved**

**Sec. 6-28. Reserved**

**Sec. 6-29. Reserved**

**ARTICLE III. IMPOUNDMENT**

**Sec. 6-30. General**

Any animal which appears to be lost, a stray, or unwanted, or which is found to be 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 Office by any means necessary and confined in an 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.

**Sec. 6-31. 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 conditions. If the owner is unknown or cannot be located, Animal Control shall hold the animal for five (5) days and then put it into the adoption pool or euthanize the animal.

**Sec. 6-32. Redemption by Owner**

- (1) The owner of an animal impounded under this article may redeem the animal and regain possession thereof within five (5) days from the time notification of impoundment is given, as required by Article III, Section IV, 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 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.
- (3) No owner or any said animal that has been turned over to Animal Control will be returned to that owner after the release form has been signed unless the said owner agrees to pay a twenty-five dollar (\$25.00) handling fee the day that said animal was turned in.

**Sec. 6-33. Destruction or Adoption or Unredeemed Animals**

- (1) If an impounded animal is not redeemed by the owner within the period described in Article III, it may be destroyed in a humane manner or shall become the property of Animal Control and offered for adoption by the first such person who pays the adoption fee or transferred to the Burke County Friends for Animals Adoption Shelter or rescue groups approved by the NC Department of Agriculture for domesticated animals only, thus excluding wild animals.
- (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 person adopting a dog or cat from the animal shelter shall be required to sign an adoption contract with the animal shelter, the major provisions of which are outlined in this section. 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:
  - a. The Animal Control Office has the right to refuse adoption of animals to persons less than eighteen (18) years of age.
  - b. Persons who have previously been cited under this ordinance.
  - c. Maximum number of animals adopted to same household is three (3) per calendar year.
- (5) Any animals that exhibit fierce, dangerous, or aggressive behavior will not be offered for adoption.
- (6) Immediately upon impounding an animal, an Animal Control Officer shall make a reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed.
- (7) The owner shall pay all required administrative fees, in accordance with the county fee schedule, prior to redeeming an impounded animal.
- (8) If an animal is not redeemed by the owner within five (5) days, it may be offered for sale or for adoption, or it may be destroyed in a humane manner. Any animal not redeemed or adopted within five (5) days after being taken into custody shall be destroyed in a humane manner by Animal Control.
- (9) Any animal impounded that is badly wounded or diseased and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, an Animal Control Officer shall attempt to notify the owner before disposing of such animal; but if the owner cannot be reached readily, and the animal is suffering, the Animal Control Officer may destroy the animal in his discretion in a humane manner.
- (10) If an animal is officially surrendered by the owner to the Animal Control Officer to be placed in a home or destroyed in a humane manner, it may be disposed of without waiting five (5) days.

**Sec. 6-34. 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. 6-35. 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. 6-36. Reserved**
- Sec. 6-37. Reserved**
- Sec. 6-38. Reserved**
- Sec. 6-39. Reserved**

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

**Sec. 6-40. 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. 6-41. 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. 6-42. Animals Creating a Nuisance**

- (1) The acts or actions by an owner or possessor of an animal are hereby declared to be unlawful. Owners of the animal will be issued one (1) warning on animal nuisance before receiving a citation or fine.:
  - 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. Complaints may be followed up on for dogs that bark habitually or repeatedly.
  - 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. Allows 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, farms stock, or domestic animals.

(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.

(3) Cat Colonies (A group of cats that are managed)

- 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.

**Sec. 6-43. Reserved**  
**Sec. 6-44. Reserved**  
**Sec. 6-45. Reserved**  
**Sec. 6-46. Reserved**  
**Sec. 6-47. Reserved**  
**Sec. 6-48. Reserved**  
**Sec. 6-49. Reserved**

#### **ARTICLE V. REMEDIES**

**Sec. 6-50. 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 Office 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 dangerous mammal within the county shall be in violation of this ordinance and 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. 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.
- g. The owner shall also be responsible for any costs incurred such as a tranquilizer fee, costs of which are at minimum of fifty (\$50.00) dollars.
- h. All fees associated with the citation collection.

(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.

- Sec. 6-51. Reserved**
- Sec. 6-52. Reserved**
- Sec. 6-53. Reserved**
- Sec. 6-54. Reserved**
- Sec. 6-55. Reserved**
- Sec. 6-56. Reserved**
- Sec. 6-57. Reserved**
- Sec. 6-58. Reserved**
- Sec. 6-59. Reserved**

**ARTICLE VI. DANGEROUS EXOTIC ANIMALS**

**Sec. 6-60. General**

- (1) At no time may any person or persons harbor an inherently dangerous exotic mammal or inherently dangerous reptile in Burke County.
- (2) For the purpose of this Article an exotic animal is any animal which:
  - 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 exotic reptile is any person or persons, regardless of ownership, who allows an exotic mammal or exotic reptile to remain, lodge, or be fed or to be given shelter or refuge within the person's home, store, yard, enclosure outbuilding, abandoned vehicle or building, place of business, or any other premises in which the person resides over or which the person has control, or the person has a business to sell animals.
- (4) An inherently dangerous exotic mammal is any member of the canidae, felidae, or ursidae 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 fifteen (15) 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.
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 of:
    - Helodermidae (gila monsters and Mexican beaded lizards)
    - Viperidae (vipers)
    - Crotalidae (pit vipers)
    - Atractaspidae (burrowing asps)
    - Hydrophilidae (sea snakes)
    - Elapidae (cobras, coral snakes and their allies)
    - As well as any "rear fanged" snakes of the family Colubridae that are known to be dangerous to humans including but not limited to:
      - Dispholidus typus (boomslang)
      - Thebtonis kirtlandii (twig snake)
      - Rhabdophis spp (keelbacks)

- b. Is a member of the order of crocodilian (crocodiles, alligators and caiman)
- (6) Harboring of any exotic mammal or exotic reptile is any person or persons, regardless of ownership, who allows an exotic mammal or exotic reptile to remain, lodge, or be fed or to be given shelter or refuge within the person's home, store, yard, enclosure outbuilding, abandoned vehicle or building, place of business, or any other premises in which the person resides over or which the person has control, or the person has a business to sell animals.
- (7) All exotic animals will be grandfathered in to this ordinance, however owners of exotic animals will be required to spay or neuter, all exotic animals that are not spayed or neutered will be in violation of this ordinance. Exotic Animals not spayed or neutered will be impounded and euthanized by the Burke County Animal Control.
- (8) 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(c)(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.
- (9) Disposition of Impounded Animals
    - a. Any inherently dangerous exotic mammal or inherently dangerous reptile which is kept by any person in contravention of this Article may be taken

up and impounded by the Animal Control Officer for the protection of health of the animal and/or for the protection of the public. Whenever possible, the Animal Control Officer shall take up and impound the animal in the presence of its owner or harborer; however, if such is not practicable, the Animal Control Officer may impound such animal consistent with the provisions of this section.

- b. If an animal is impounded pursuant to this section, the owner or harborer of the animal shall be notified by the Animal Control Officer in person or by certified mail.
- c. Any animal impounded pursuant to this section will be held five (5) days for the owner to claim pursuant to subsection D of this section. If the animal cannot be taken safely by the Animal Control Officer or if proper and safe housing cannot be found for the animal, the Animal Control Officer can immediately destroy the animal.
- d. The owner or harborer of the animal can reclaim the animal if the person can satisfy to the Chief Animal Control Officer that a safe transfer of the animal to an appropriate location outside of the county has been arranged.
- e. If no owner or harborer can be located or will claim the animal within five (5) days after impoundment, the Animal Control Officer may sell, adopt or euthanize the animal at the discretion of the Animal Control Officer.
- f. All costs of impoundment and care of the animal will be charged to its owner or harborer regardless of whether the animal is claimed by or returned to said owner or harborer. In the event the animal is reclaimed, such costs shall be paid in full prior to the owner or harborer reclaiming the animal pursuant to this section.

- Sec. 6-61. Reserved**
- Sec. 6-62. Reserved**
- Sec. 6-63. Reserved**
- Sec. 6-64. Reserved**
- Sec. 6-65. Reserved**
- Sec. 6-66. Reserved**
- Sec. 6-67. Reserved**
- Sec. 6-68. Reserved**
- Sec. 6-69. Reserved**

## **ARTICLE VII. LICENSE TAX**

**Sec. 6-70. General**

**This ordinance hereby removes the license tax.**

- Sec. 6-71. Reserved**
- Sec. 6-72. Reserved**
- Sec. 6-73. Reserved**
- Sec. 6-74. Reserved**
- Sec. 6-75. Reserved**
- Sec. 6-76. Reserved**
- Sec. 6-77. Reserved**
- Sec. 6-78. Reserved**
- Sec. 6-79. Reserved**