Chapter 6 ANIMALS[1]

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to forsake a dog or cat in a street, road, or public or private place without providing for the care, sustenance, protection, and adequate shelter of such animal.

Abuse/cruelty means those acts and omissions set forth in section 6-4(a) of this chapter.

Adequate feed means access to and the provision of food which is sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; have enough shade to protect itself from any direct sunlight that is likely to cause overheating or discomfort; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

For the purpose of this definition, the following do not constitute adequate shelter:

(1) Underneath stoops, decks, and outside steps.

(2) Inside or underneath vehicles.

(3) Metal barrels.

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[1]Editor's note(s)—Ord. No. 2020-04 , adopted Aug. 18, 2020, repealed the former Ch. 6, §§ 6-1—6-13, 6-31—6-37, 6-71—6-78, 6-111—6-115, 6-131, and enacted a new Ch. 6 as set out herein. The former Ch. 6 pertained to similar subject matter and derived from Ord. No. 2017-08, §§ 6-1—6-28, adopted May 16, 2017; Ord. No. 2019-11, adopted Aug. 6, 2019; and Ord. No. 2019-14, adopted Nov. 19, 2019.

State law reference(s)—Authority of county to prohibit the abuse of animals, G.S. 153A-127; authority to establish and operate animal shelters, G.S. 153A-442; dogs, G.S. 67-1 et seq.; county authority to levy animal tax, G.S. 153A-153; authority of county to regulate the possession or harboring of dangerous animals, G.S. 153A-131; county authority to prohibit the abuse of animals, G.S. 153A-127.

11-25-5 DRAFT

(4) Cardboard boxes.

Adequate space means sufficient space to allow each animal to (i) easily stand, sit, lie, turnabout, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, adequate space means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

Adequate water means provisions of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Animal means any live, vertebrate creature specifically including, but not limited to, dogs, cats, horses, farm animals, birds, fish, livestock, and reptiles.

Animal services department means the division of Burke County that has the responsibility to enforce all state laws and ordinances of the county pertaining to animals. The animal services department shall have all the power, authority, and immunity granted under this chapter and by the general laws of the state to enforce the provisions of this chapter, and the laws of the state as they relate to the care, treatment, control or impounding of animals.

Animal services director means that person designated by the Burke County Board of Commissioners and the Burke County Manager and where appropriate, his or her designee, charged with the responsibility, discretion and authority to interpret, implement and enforce the animal services programs in Burke County. The animal services director is the person charged with the supervision, administration, and operation of the Burke County Animal Services Center; and who has final determination on the care, treatment, control, impounding, and disposition of animals.

Animal services enforcement officer means an individual employed with the county who is appropriately trained and authorized to investigate, on public or private property, civil infractions relating to animal enforcement or cruelty and to issue citations as outlined in this chapter.

Animal shelter, operated on a managed intake basis and hereinafter called the *animal services center,* means the facility which is used to house or contain seized, stray, homeless, quarantined, abandoned or unwanted animals which is owned and operated by the county for the purpose of caring for them, placing through adoption or euthanizing if necessary.

Approved rescue group means a nonprofit organization that cares for animals and which has been favorably assessed by the county, as further described in Section 6-77 of this ordinance, through the application of written standards and which has obtained 501(c)(3) status.

At large means:

(1) An animal found off the property of its owner and not under restraint; or

11-23-21 DRAFT

(2) 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

(3) Any animal previously determined to be dangerous that is not confined to a secure enclosure while on the property of its owner.

Attack means 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.

Attack training facility means any person, group of persons, partnership or corporation engaged in boarding, breeding, selling, or training dogs or other animals in the mode of attack.

Backyard breeder means an individual whose indiscriminate breeding practices are considered b, with little or misguided efforts toward ethical, selective breeding. This includes: (1) Individuals who allow for the home breeding of more than one female dog at a time; (2) Individuals that do not adhere to good breeding practices and sale practices or do not provide dogs and/or puppies adequate care as defined in this chapter; (3) Individuals who sell, give away, rehome, un-weaned (under eight weeks old) and/or diseased puppies. This definition does not apply to humane societies, rescue groups, foster homes, or shelters. Backyard breeders are not permitted in Burke County.

Bite means 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.

Boarding kennel means: 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.

Cat means any domesticated mammal of the family Felidae.

Cat colony means two or more of free-roaming (homeless, stray, feral, wild or untamed) cats, feeding and living in close proximity not under the direct control of a property owner, and is maintained by a colony caregiver.

Certified rabies vaccinator (CRV) means an individual appointed by the Burke County Health Director that has received at least four hours of training from the state public health veterinarian and received a written certification from the state public health veterinarian indicating they are able to administer vaccines.

Community cat means any free roaming cat that may be cared for by one or more residents of the immediate area who is/are known or unknown; a community cat may or may not be feral. Community cats may be distinguished from other cats by being sterilized, ear tipped and vaccinated for rabies. A community cat may also be defined as a cat "found" outside that is brought to the animal services center and not yet sterilized, ear tipped or vaccinated for rabies.

Community cat program (TNR) means a program designed to eliminate the impoundment of a community cat who is found ear tipped. Caregivers of these cats provide proof of a valid rabies vaccination and sterilization so the cat can be released at the location where it was found or other live outcome placement.

Competent person means 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.

Confinement means impoundment within the county's animal services center or other appropriate facility.

Constricting reptile means any reptile that kills its prey by coiling tightly around it, causing suffocation.

Consultation means to discuss with and reach a decision.

County means Burke County.

Dangerous dog. See section 6-7.

11-23-25 DRAFT

Dealer or *broker* means any person who sells/resells, exchanges, or donates, or offers to sell, exchange, or donate animals to another dealer, pet shop, or research facility. However, that an individual who breeds and raises on his own premises no more than the offspring of five canine or feline females per year, unless bred and raised specifically for research purposes shall not be considered to be a dealer for the purposes of this article. An individual with a valid license through the USDA is exempt from this definition.

Dog means any domesticated mammal of the family Canid.

Domestic animal means any of various animals such as dogs, cats, equines, sheep, cattle, goats, hogs, poultry, etc., domesticated by man to live and breed in a tame condition.

Domesticated livestock means livestock raised to produce meat, milk, eggs, fiber, or used for draft or equestrian purposes, including, but not limited to, cattle, sheep, goats, swine, equines, rabbits, and poultry.

Equine means any horse, pony, mule, donkey, or hinny.

Exposed to rabies means 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.

Exotic animal means any animal, other than a domestic animal, domesticated livestock and wild animals, not native to North Carolina.

Feral cat means a cat (i) that is born in the wild or is the offspring of an owned or feral cat and is not socialized, (ii) is a formerly owned cat that has been abandoned and is no longer socialized.

Ferret means any domesticated mammal belonging to the family Mustelidae.

Flood prone area means an area in which two or more inches of standing water are likely to accumulate during a period of normal rainfall.

Foster means an individual or family that voluntarily takes an animal from the animal services center, or a 501(c)(3) rescue, and provides temporary shelter and care for the animal in a home environment until the animal can be adopted by a new individual or family. A foster must be approved by the animal services department, which shall include execution of the required transfer contract described in Section 6-74(c) of this code.

Good breeding practices means practices implemented by a breeder to ensure the health, safety, and welfare of the animals involved. These include, without limitation, keeping records of the diet of animals, keeping inoculation and parasite control records, providing a health guarantee for each animal being sold or given away, providing a proper whelping box, and providing a play area for puppies.

Habitual violator means an animal, owner or any other person that has been cited for violating this chapter on three or more occasions in the past three years and the most recent violation was within the past 12 months.

Harbor. An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for fourteen consecutive days or more.

Health department means the Burke County Health Department.

Health director means the director of the Burke County Health Department.

Hunting dog means a canine used for the purpose of assisting hunters in tracking and retrieving game.

Imminent hazard means a situation causing immediate threat of death to humans or animals, an immediate threat of serious bodily or injury or an immediate threat of serious adverse health effects to humans or animals if no immediate action is taken.

Impoundment means possession or seizure of an animal by a county animal services enforcement officer for placement in the county's animal service center or other appropriate facility. The animal is considered impounded once it is on an animal enforcement vehicle.

11-15-25 DRAFT

In estrus means the stage of the reproductive cycle in which a female animal can become pregnant.

Inherently dangerous exotic means any mammal or reptile defined as such in section 6-6 of this chapter, which due to their inherent nature, may be considered dangerous to humans.

Keeper means any person or groups of individuals having custody of an animal, or who keeps or harbors an animal, feeds, or shelters, or who permits an animal to remain on or about any premises occupied or controlled by such a person. A keeper shall be legally responsible for ensuring compliance with all sections of this article for any such animal(s) kept on or about their premises.

Kennel means an establishment or premises wherein any person engages in a business or keeps or maintains ten or more domesticated animals over four months of age at any one time; or an establishment wherein any person engages in the business or practice of keeping or selling more than one litter of domesticated animals at any one time. Domesticated animals, for the purpose of this chapter, shall be defined as dogs, cats, and other generally accepted household pets. Litter, for the purpose of this chapter, shall be defined as the offspring resulting from the breeding of two domesticated animals.

Neglect means, concerning an animal of which a person is the owner, keeper, or harborer, (a) depriving an animal of adequate feed, water, shelter, ventilation, light, space, exercise, care or veterinary treatment, (b) keeping an animal in conditions that are unsanitary, (c) not protecting from excessive heat or cold, (d) allowing an animal that is injured, sick, in pain or suffering without providing veterinary care, (e) allowing parasite infestation, (f) allowing a collar to grow into the skin of the animal. Neglect also includes any conduct described as “neglect” in Section 6-4.

Neutered means any male animal that has been operated upon to prevent reproduction.

Nighttime means the time from sunset until sunrise.

Nuisance means any act of an animal causing a substantial and unreasonable interference with another's land or his use or enjoyment of that land, including those acts as outlined in section 6-114.

Other local government body (bodies) means 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.

Owner means any person, group of persons, firm, partnership, or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring and allowing a domesticated animal to remain on or about their property for more than fourteen consecutive days. In the event the owner of an animal is a minor, for the purposes of this chapter, the parent or guardian of such minor shall be considered the owner of that animal.

Owner's property means that area described in a deed of conveyance or the area described in a lease. In a situation involving townhouses or condominiums, animal services enforcement 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.

Pet means a domesticated animal kept for pleasure rather than utility.

Pet shop means any commercial or residential premises, to include any structure incidental thereto and regardless of location, in which animals are kept and offered for retail sale as pets including, but not limited to, pet shops, pet stores and pet departments incidental to department stores, but excludes the occasional selling of animals, and those individuals that have current, valid breeder permits.

Physical harm means any injury which is serious enough to require immediate medical attention.

11-23-21 DRAFT

Poultry means and includes all types and breeds of chickens, ducks, geese, turkeys, pheasants, guineas, and all other kinds of domestic fowl, and includes both sexes and all ages of the same.

Prior complaint means any prior oral or written complaint to animal services enforcement 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 chapter.

Provocation means 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.

Puppy mill means any sized commercial animal establishment that breeds multiple female dogs, of various breeds, often every heat cycle, producing puppies simultaneously and does not adhere to good breeding, care, and sales practices. Puppy mills are commercial operations that: (1) Sell puppies without screening of the purchaser; (2) Sell un-weaned (under eight weeks of age) or diseased puppies; (3) Isolate breeding dogs from human interaction in unhealthy, conditions; (4) House breeding dogs in crates, kennels, trailers, garages, barns, etc., without access to light or exercise or; (5) Do not provide adequate shelter, food, water, space, or veterinary care as defined in this chapter. Puppy mills are not permitted in Burke County.

Restraint. An animal is under restraint within the meaning of this chapter 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.

Sanitized means physically clean and, to a practical minimum, removed of all agents injurious to health.

Secure enclosure means:

(1) A fully fenced pen, kennel or structure with a double security gate that shall remain locked with a padlock or combination lock. Such a pen, kennel or structure must have secure sides, minimum of five feet high, and the director may require a secure top and bottom attached to the sides, or the sides must be embedded in the ground no less than one foot. The structure must be in compliance with the county's zoning ordinance/building code,

(2) A house or garage which shall have a latched door kept in good repair to prevent accidental escape of the dog.

(3) A secure enclosure for a dangerous dog: a fully fenced pen, kennel, or structure at least six feet in height, installed beneath the ground level or in concrete or pavement, or a fabricated structure to prevent digging under it. Either enclosure shall be designed to prevent the entry of children or unauthorized persons and to prevent those persons from extending appendages inside the enclosure and be equipped with a self-closing and self-latching gate. This structure shall remain locked with a padlock or combination lock. A "dangerous dog" sign mandated by the animal services director must be posted at the entry to the owner's or keeper's property and attached to the exterior of the secure enclosure.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Spayed means any female animal that has been operated upon to prevent reproduction.

Stray means any domestic animal found within the county wandering at large that does not bear evidence of identification of any owner, not displaying a valid rabies tag, or having a tattoo, current microchip or any other identification.

1-25-25 DRAFT

Tethering means 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 tShe 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.

Trap, neuter, and return (TNR) program shall mean a nonlethal, humane alternative to deal with the stray cats which are captured, altered and returned back to their location in order to encourage the stabilization of the free-roaming cat population.

Vaccination means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

Venomous reptile means 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.

Veterinary hospital means 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.

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

(Ord. No. 2020-04 , 8-18-2020; Ord. No. 2021-19 , 10-5-2021)

Sec. 6-2. Standards of care.

An owner, keeper or temporary owner of an animal is required to provide their animal(s) with humane care and treatment as follows:

- Access to an adequate supply of fresh air,
- Species-specific food,
- Fresh and clean container of fresh water provided daily in a spill-proof container,
- Daily exercise especially if using a tether to avoid any unwanted behaviors,
- Shelter, as defined in this chapter,
- Access to shade from direct sunlight at all times, and that is large enough for each outdoor pet at one time, and
- Veterinary care when needed to prevent suffering.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-3. Authority and purpose; general duties of animal services enforcement.

(a) This chapter is adopted pursuant to the powers granted Burke County in G.S. 153A-121, 153A-127, and 153A-442. the animal services department is the entity designated by Burke County to carry out these statutory powers and duties: to protect the health, safety and welfare of 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

11-25-25 DRAFT

their impounded animals. The animal services department shall be led by the animal services director and shall consist of animal services enforcement and the animal services center.

(b) The animal services enforcement officers of the animal services department are hereby empowered to perform, and shall perform the following duties:

(1) Enforce and carry out all state laws and all ordinances of the County pertaining to rabies control.

(2) 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.

(3) 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 services department and are to be referred to the state wildlife resources commission.

(4) Be responsible for the seizure and arranging for the impoundment, in consultation with the animal services director, where deemed necessary, of any dog or other animal in the county involved in a violation of this chapter or any other county ordinance or state law. This includes reasonable cause to believe an animal is suffering from treatment that is defined or prohibited as neglect or abuse/cruelty under this ordinance, including Section 6-4 hereof.

(5) Investigate cruelty or abuse regarding animals. Incidents committed against wildlife are not under the jurisdiction of the animal services department and are to be referred to the state wildlife resources commission.

(6) Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this chapter or applicable state statute.

(7) Issue citations or notices of violation of this chapter in such form as the animal services director may prescribe.

(8) Be trained and maintain training to standards established by the state and animal services department.

(c) The county animal services center is a public shelter operated on a managed intake basis for owner surrenders and must be in compliance with all state standards established for public animal shelters. Owners who wish to surrender their animal must contact animal services and schedule an appointment.

(d) Animal services enforcement will only respond to resident calls regarding:

(1) A resident's report of suspected violation of the standards of care,

(2) Violation of the animal ordinance, including bites, nuisance complaints, rabies,

(3) A suspected case of animal abuse/cruelty,

(4) When an animal is in severe distress or

(5) When the animal's death appears imminent.

(e) It shall be the duty of the county animal services employees and the animal services enforcement officers to keep or cause to be kept accurate and detailed records of:

(1) Impoundment and disposition of all animals coming into the animal services center.

(2) Bite cases, violations and complaints and investigation of the same.

(3) All other records deemed necessary per G.S. 132-1.1(e).

11-25-25 DRAFT

(f) Animal services enforcement officers shall have the following additional powers and duties within the county and within any municipality therein that has given prior approval in accordance with applicable law:

(1) The responsibility for the enforcement of all state and local laws regarding the animal ordinance, as well as resolutions pertaining to the ownership and control of dogs and other animals.

(2) To cooperate with the county health director, the animal services employees and all other municipal 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.

(3) To investigate reported or observed animal abuse, 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. Only county animal services enforcement officers shall be designated as animal cruelty investigators.

(4) 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.

(5) Animal enforcement officers and other personnel assigned to enforce this chapter shall have a broad range of power to carry out the provisions of this chapter and discretion in the use of an appropriate remedy for violations. Animal enforcement officers shall have the power to initiate investigations, not only when complaints are received but as a result of their own knowledge and observation of facts and circumstances.

Animal enforcement officers may take notice of facts and information in plain view in automobiles, in the yards surrounding houses and other areas that can be readily observed without intrusive investigations and as a result of those observations may take appropriate enforcement action including the impoundment of animals when violations are observed, or the issuance of any other order permitted hereunder.

With the consent of property owners and individuals apparently in charge of the premises, animal enforcement officers may investigate the conditions and circumstances inside of locked fences, outbuildings, houses, apartment units, condominium units or other buildings and as a result of such investigations may impound animals or take other appropriate enforcement action.

In the event circumstances are not plainly observable or in the event access to enclosed premises is denied, animal enforcement officers may seek the assistance of public safety officers, Burke County Sheriff's deputies and other sworn personnel, obtain administrative search and inspection warrants and conduct other lawful searches and inspections of such premises as authorized by G.S. § 15-27.2.

The animal services director, through his/her authorized designee, shall have the right of entry upon the premises of any place where entry is necessary to carry out the provisions of these rules. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.

(Ord. No. 2020-04 , 8-18-2020; Ord. No. 2021-19 , 10-5-2021)

Sec. 6-4. Mistreatment of Animals

(a) Abuse and Cruelty.

In addition to what is prohibited by G.S. 14-360—14-366, the following shall be prohibited:

11-23-21 DRAFT

(1) Abuse/cruelty to animals is a criminal offense. The animal services enforcement officers shall investigate reported incidents involving cruelty to animals or support investigations by other enforcement agencies when so requested and refer cases where probable cause exists to the district attorney's office for criminal prosecution.

(2) The following acts or omissions shall constitute abuse/cruelty to animals under this article:

a. To intentionally, recklessly, or negligently overload, overdrive, torment, deprive of adequate feed or necessary sustenance (including both food and water), shelter, or medical care, or maliciously mutilate, poison, beat, disfigure or kill any animal or causing the same to be done, or transport in or upon any vehicle unsecured, or otherwise, any animal in a cruel or inhumane manner that jeopardizes the safety of the animal.

b. Confining an animal in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal due to heat, cold, lack of adequate ventilation, or other endangering conditions.

c. Intentionally, recklessly, or negligently committing an act to any domestic animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering or causes the same to be done.

d. To abandon an animal, including to abandon an animal to suffer injury, malnutrition, or illness without veterinary care. However, a Community Act shall be not considered abandoned when returned to a location near the original point of pick-up or other suitable location as part of a community cat management program.

e. 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.

f. Injuring a domestic animal by way of including, but not limited to, motor vehicle impact, firearm discharge or unforeseen accident.

g. 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 dewclaw removal.

h. To color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

i. For any individual, nonprofit, or commercial establishment to separate a dog or cat from its mother until it is eight weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. This does not apply to an animal whose mother is incapacitated for humane or medical reasons and cannot care for the animal.

j. To fail to provide an animal of which one is the owner, keeper, or harborer with adequate feed or adequate water.

j. To fail to provide an animal of which one is the owner, keeper, or harborer with adequate shelter.

k. 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.

l. It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of G.S. 14-360, 14-362 and 14-363 as the same relate to dogs, or to commit any other act made unlawful by any other law of the state relating to animal cruelty, fighting and abandonment. The

1-25-25 DRAFT

repeal of such law or laws of the state 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.

m. Failure or refusal to report a severely distressed, sick or injured domestic animals to the County 911 or the animal's owner, if known.

n. A veterinarian rendering services is exempt from the provisions of this section.

(4) The following acts or omissions shall constitute fighting or baiting under this article:

a. Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting.

b. Owning, possessing, or selling equipment for use in animal fighting or baiting.

c. Owning, leasing, managing, operating, or having control of any property kept or used for animal fighting or baiting.

d. Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals.

e. Performing any service or act to facilitate animal fighting or baiting, including, but not limited to, providing security, refereeing, or handling, or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting.

f. Betting or wagering any money or other valuable consideration on the fighting or baiting of animals.

g. Attending the fighting or baiting of animals.

(5) These provisions shall not apply to any person:

a. Simulating a fight for the purpose of using the simulated fight as part of a motion picture that will be used on television or in a motion picture.

b. Using animals to pursue or take wildlife or to participate in any hunting regulated or subject to being regulated by the rules and regulations of the North Carolina Wildlife and Resources Commission.

c. Using animals to work livestock for agricultural purposes.

d. Simulating bloodless bullfighting; or

e. Using animals to hunt wild hogs or retrieve domestic hogs.

(6) Nothing in this section shall be construed to prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

(7) In regard to the animal fighting and baiting regulations as stated in G.S. 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.

11-25-25 DRAFT

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.

(Ord. No. 2020-04 , 8-18-2020)

(b) Neglect.

(1) Confining an animal without sufficient food, water, or exercise, or abandoning an animal is neglect and is a criminal offense. Animal services enforcement shall investigate reported incidents involving such action or support investigations by other law enforcement agencies when so requested and refer cases where probable cause exists to the district attorney's office for criminal prosecution.

(2) The following acts or omissions shall constitute neglect:

a. Impounding or confining an animal without an adequate quantity of good and wholesome food and water.

b. Keeping an animal in any enclosure without wholesome exercise and change of air.

c. Abandoning any animal that is maimed, sick, infirmed, or diseased.

d. Any act or omission constituting neglect as that term is defined in Section 6-1 of this ordinance.

(3) It is unlawful for the owner, keeper, or harborer of an animal to subject the animal to neglect. Neglect shall include any other act or omission defined as neglect in this chapter, including in Section 6-1 hereof.

(4) A violation of this section shall constitute a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

A violation of this section 6-4 shall constitute a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

Sec. 6-6. Exotic mammals and reptiles.

(a) At no time may any person or persons keep an inherently dangerous exotic mammal or reptile in the county.

(b) For the purpose of this chapter an exotic mammal or reptile:

(1) Is not native or indigenous to the state;

(2) Is native or indigenous to the state, but as a wild mammal or reptile, has the ability to kill or injure its owner or other persons.

(c) As used herein, a harborer of any exotic mammal or reptile is any person, 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 premises in which the person has control.

(d) 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.

(1) 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*).

(2) Felidae includes any member of the cat family weighing over 30 pounds not customarily domesticated by man or any hybrids of such Felidae, but not including domestic cats (*Felis catus*).

11-25-25 DRAFT

(3) Ursidae includes any member of the bear family or hybrids of such Ursidae.

(4) Primate, for the purposes of this chapter, includes any member of the primate family who weighs eight pounds or more.

(e) An inherently dangerous exotic reptile is any member of the class Reptilia which:

(1) Is venomous. A venomous reptile shall include all members of the families:

a. Helodermidae (Gila monsters and Mexican beaded lizards).

b. Viperidae (vipers).

c. Crotalidae (pit vipers).

d. Atractaspididae (burrowing asps).

e. Hydrophilidae (sea snakes).

f. Elapidae (cobras, coral snakes, and their allies).

g. As well as any rear-fanged snakes of the family Colubridae that are known to be dangerous to humans including, but not limited to:

1. *Dispholidus typus* (boomslang).

2. *Thelotornis kirtlandii* (twig snake).

3. *Rhabdophis* spp. (keelbacks).

(2) Is a member of the order of crocodilian (crocodiles, alligators, and caiman).

(3) Is a constricting reptile unless housed in a sturdy and secure enclosure.

Enclosures shall be designed to be escape-proof and shall have an operable lock; labeled clearly and visibly with the scientific name, common name, number of specimens, and owner's identifying information. A constricting reptile shall include all members of the families:

a. Reticulated Python,

b. Burmese Python,

c. Python molurus;

d. African Rock Python,

e. Amethystine Python,

f. Morelia amethistina;

g. Green Anaconda,

h. Any of the above-listed species' subspecies or hybrids.

(f) All exotic mammals or reptiles already in the county prior to the ordinance from which this chapter is derived will be grandfathered.

(g) *Exceptions.* This chapter does not apply to:

(1) Veterinary clinics in possession of such mammals or reptiles for treatment or rehabilitation purposes.

(2) 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

11-25-25 DRAFT

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.

(3) Nonresident circuses, nonresident carnivals, and nonresident licensed zoos for no longer than one seven-day period per each separate location where such a circus is held within the county per calendar year.

(4) Persons temporarily transporting such mammals or reptiles through the county provided that such transit time shall not be more than 24 hours.

(h) *Disposition of impounded inherently dangerous exotics.*

(1) Any owner of an inherently dangerous exotic who is in violation of this chapter will have their exotic mammal or reptile impounded. Whenever possible, the animal services enforcement officer shall impound the animal in the presence of its owner or harborer; however, if not practical, the animal services enforcement officer may impound such animal consistent with the provisions of this section.

(2) If an exotic is impounded pursuant to this section, the owner or harborer of the exotic shall be notified by the animal services enforcement officer in person or by certified mail.

(3) Any exotic impounded pursuant to this section will be held 72 hours for the owner to claim pursuant to subsection (h)(4) of this section. If the exotic cannot be taken safely by the animal services enforcement officer, or if proper and safe housing cannot be found for the animal, at the discretion of the animal services enforcement officer, he can euthanize the animal.

(4) The owner or harborer of the exotic can reclaim the exotic if the person can satisfy to the animal services enforcement officer that a safe transfer of the exotic to a location outside of the county is arranged.

(5) All costs of impoundment and care of the exotic will be charged to its owner or harborer regardless of whether the exotic is claimed by or returned to said owner or harborer. In the event the exotic is reclaimed, such costs shall be paid in full prior to the owner or harborer reclaiming the exotic pursuant to this section.

(i) A violation of this section shall constitute a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-7. Dangerous dogs

(a) *Reporting of dangerous dogs.* The owner of a dangerous dog shall inform the animal services department as soon as practical, but not later than 24 hours after the occurrence of any of the following:

(1) An assault, attack, or biting upon any human being committed by any such dog in the owner's care or control.

(2) An attack or biting upon any domestic animal or pet while said dog 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 dog required to be restrained or confined to a secure enclosure.

(b) As used herein, unless the context clearly requires otherwise, and except as modified in subsection (c) of this section, the term dangerous dog means:

11-25 DRAFT

(1) A dog that:

a. Without provocation has killed or inflicted severe injury on a person;

b. Is owned or harbored primarily or in part for the purpose of dog fighting;

c. Has been trained for dog fighting; or

d. Is determined by the animal services director to have:

1. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization;

2. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or

3. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

(c) The provisions of this chapter do not apply to:

(1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;

(2) A dog being used in a lawful hunt;

(3) A dog 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 the work of the dog; or

(4) A dog 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.

(d) Burke County has designated that the animal services director shall be responsible for determining when a dog has committed any of the acts described in Section 6-7(b)(1)(d). The animal services director making the determination that a dog has committed any of these acts must:

(1) Notify the owner in writing, giving the reasons for the determination, before the dog may be considered to have committed any of the acts described in Section 6-7(b)(1)(d).

(2) The owner may appeal the determination by filing written objections with the appellate board within three business days.

(3) The appellate board shall schedule a hearing within ten business days of the filing of the written objections.

(4) Any appeal from the final decision of such appellate board shall be taken to the superior court by filing notice of appeal and a petition for review within ten days of the final decision of the appellate board. Appeals from rulings of the appellate board shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate board whose ruling is being appealed is located.

(e) *Establishment of dangerous dog appeal board.* There is hereby created a dangerous dog appeal board to serve as the official appellate body that hears all dangerous dog appeals (per G.S. 67-4.1, pertaining to dangerous dogs). The appeal board will convene at the direction of the county board of commissioners or its designee. The appeal board is to be composed of five members appointed by the county board of commissioners who shall serve three-year staggered terms. The appeal board shall be composed of at least one veterinarian licensed to practice veterinary medicine in the state and at least two members of the general public.

11-25-25 DRAFT

(f) *Precautions against attacks by dangerous dogs.*

(1) It is unlawful for an owner to:

a. Leave a dangerous dog unattended on the owner's real property unless the dog is confined in a secure enclosure;

b. Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled with a well fitted basket muzzle or is otherwise securely restrained with a well fitted basket muzzle.

(g) If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. 12-3(6)), the owner shall provide written notice to:

(1) The authority that made the determination under this article, stating the name and address of the new owner or possessor of the dog; and

(2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.

(h) A violation of this section shall constitute a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-8. Requirements for attack training facility.

(a) 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 or trainer at all times.

(b) 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 chapter related to dangerous dogs.

(c) A violation of this section shall constitute a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-9. Interference with enforcement.

(a) It shall be unlawful for any person to resist, obstruct, delay, interfere with, hinder or molest the animal services staff, animal services enforcement officers or veterinarians in the performance of any duty authorized by this chapter, or to seek to release any animal in the custody of such agents.

(b) 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 services enforcement, 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 may be issued a civil citation of $100.00 for the first offense, and $300.00 for each following offense.

(c) It shall be unlawful for any person to file a false report with animal service enforcement or to provide false information to an officer involving any investigation of any reported violation of this chapter. Any person

11-25-25 DRAFT

found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00.

(d) It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with animal services enforcement 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 $500.00.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-10. Handling of stray or abandoned animals.

(a) 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, including strays or abandoned animals, unless he has, within 24 hours from the time such animal came into his possession, notified the Burke County Animal Services Department. This allows animal services to have a record of the animal and its location in the event the owner or keeper calls or visits the animal services center in search of the animal.

(b) It shall be unlawful for any person 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.

(c) Any animal at large that is seized, impounded, and confined in the animal services center, after the mandatory 72-hour hold, may be adopted, transferred to an approved rescue or euthanized pursuant to procedures of the Burke County Animal Services Department and applicable state law.

(d) 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.

(e) Any animal seized and impounded that is badly wounded or diseased and has no identification may be euthanized pursuant to procedures of the animal services department. 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 services shall attempt to notify the owner or keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, the animal services department shall have no liability for euthanizing wounded or diseased animals when such action is taken in accordance with G.S. 19A-32.1(b)(2).

(f) If a stray animal is not claimed within 72 hours of the date of impoundment, the animal shall become the property of the county and be made available for adoption as allowed by this chapter. Owner-surrendered animals may be made available for immediate adoption. When attempting to locate a lost pet, the public may view every animal held at the animal services center anytime the center is open to the public. If the animal services center is housing animals that must be kept apart from the general public for health reasons, public safety concerns, or in order to preserve evidence for criminal proceedings, the animal services center shall make reasonable arrangements that allow pet owners to determine whether their lost pets are among those animals.

(g) The animal services 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.

When conditions make it advisable, the animal services director may allow other animals to be fostered during the 72-hour holding period, so long as such is done in compliance with G.S. § 19A-32.19(d) and (e).

(h) Notification of the animal services department applies to the following:

12-15-21 DRAFT

(1) Animal services 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 services 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.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-11. Animal advisory board.

(a) 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 services director on matters related to the organization and operation of the county animal services department. The advisory board shall be composed of eight 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.

(6) At large (breeder).

(7) At large (pet owner).

(8) At large (large animal owner).

(b) All bylaws, regulations, and rules of procedures of the animal advisory board shall be approved by the board of commissioners.

(c) 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.

(d) The board shall select in its first meeting of each calendar year, a chairperson, vice-chairperson, and secretary. The chairperson shall call all regular and any special meetings of the board and shall preside at those meetings. In the absence of the chairperson, the vice-chairperson shall preside at any regular or called meeting. In the absence of the chairperson and the vice-chairperson, the secretary shall preside.

(e) The animal services director or designee will attend all meetings of the animal advisory board and shall be responsible for the proper advertisement of meetings. The director shall also serve as the staff resource for the board in its research and deliberations. However, the director shall have no vote on any matter coming before the board unless in the event of a tie.

(f) The animal advisory board will meet on a quarterly basis for review and discussion of any issues that it deems appropriate regarding operation of the animal services department. Additional meetings may be scheduled if requested by the board of county commissioners, county manager, animal services director, or the chairperson of this board.

1-25-25 DRAFT

(g) The public health director or designee will attend all meetings of the animal advisory board; the health director shall also serve as a public health resource for the board in its research and deliberations. However, the health director shall have no vote on any matter coming before the board.

(h) It shall be the duty of the chairperson of the board to notify the clerk to the board of commissioners should there be a resignation or any other termination of membership.

(i) The chairperson shall be responsible for advising the clerk to the board of commissioners of changes of address of their members.

(j) Applications for membership to the board shall be filed with the clerk to the board of commissioners prior to appointment.

(k) No member of this board or 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.

(l) This board 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 animal services director to notify the news media and clerk to the board of commissioners of all special meetings.

(m) In January of each year, the chairperson of the board shall be responsible for notifying the clerk to the board of commissioners and the news media of the regular meeting time and place for the board for all regular meetings in the calendar year.

(n) Regular attendance at advisory board meetings by the members is expected by the board of commissioners.

(o) No member of the board shall, without good and sufficient reason, fail to attend three consecutive meetings or fail to attend 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 the board 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.

(p) Members shall serve on the board without compensation.

(Ord. No. 2020-04 , 8-18-2020; Ord. No. 2021-11 , 6-15-2021)

Sec. 6-12. Chaining and tethering.

Except as provided in this section, it shall be unlawful for any person owning or keeping a dog to leave a dog restrained to a stationary object for a period of time or under conditions that are harmful or potentially harmful to the animal.

At no time may a dog remain on an uninhabited property such as a vacant lot or a lot without an occupied domicile.

Any dog less than four months old shall not be tethered.

Under no circumstances shall an unaltered female dog be tethered without direct supervision by the owner or attendant or must be secured in a secondary enclosure.

Only one dog shall be attached to a tether at one time.

The minimum length of the tether shall be ten feet.

11-25-F DRAFT

The tether line shall weigh no more than five percent of the dog's body weight and be made of a substance which cannot be damaged by the dog.

The tether must be attached to the dog with an appropriate harness or buckle-style collar properly fitted with room enough for two fingers to fit between the collar and the dog.

The use of pinch, weighted, or choke collars is prohibited when tethered.

Tethering shall be used for no longer than 14 consecutive hours within a 24-hour period after such time the dog must be released from the restraint to engage in supervised exercise and socialization.

The restraint system shall maintain the dog's freedom of movement and freedom from entanglement, and it shall allow access to food, water, shelter, and shade.

The restraint system shall be affixed to a stationary object which does not permit the dog to travel within five feet of any property line and housed or restrained no closer than 15 feet from a public street, road, sidewalk, or right-of-way, such circumstances constitute a public nuisance. If the animal is on the street, road, sidewalk, or right-of-way, the animal services enforcement 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.

If tethered to a pulley or zip line, the stationary cable that the pulley runs on must be at least ten feet in length, anchored on each end to a stationary object which cannot be moved by the dog, and include stops on each end to prevent the animal from becoming wrapped around the stationary object.

The restraint system shall be situated at least five feet away from any fence to prevent strangulation.

The line attached to the restraint system must allow the dog to move perpendicularly at least ten feet from the stationary cable.

A swivel of proper size and durability shall connect the tether to the pulley or zip line to prevent entanglement.

The clamps attaching the tether to the dog's harness must be of proper size and durability.

In cases where deemed necessary for public safety, written exemptions may be made by the animal services director's discretion for other restraint methods but only after opportunities to verify those methods are needed and that they serve the purpose and intent of this section.

A violation of this section will be documented with written communication to the property owner from Burke County Animal Services Director. After three (3) written warnings, continued violations shall constitutes ~~section shall constitute~~ a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

(Ord. No. 2021-04 , 5-18-2021)

Secs. 6-13—6-30. Reserved.

ARTICLE II. RABIES CONTROL

11-25-25 DRAFT

Sec. 6-31. Compliance with state law.

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.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-32. Inoculation of dogs, cats, and ferrets.

(a) Upon complying with this article, 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.

(b) 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.

(c) Cats and ferrets shall have the option of either a collar or a microchip to ensure they are outfitted with proper identification. If the animal is microchipped, owners must maintain records of rabies vaccinations and current tag.

(d) 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.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-33. Report and confinement of animals biting persons or showing rabies symptoms.

(a) Dogs and cats quarantined under this section shall be confined in the county animal services center, a veterinary hospital, or boarding kennel approved by the director of animal services at the expense of the owner.

(b) The only home confinement that can be authorized by the director of animal services is when (i) the person bitten resides at the same residence; (ii) the owner has a fenced in area in his yard; (iii) the fenced in area has no entrances or exits that are not locked; and (iv) 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 services enforcement 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.

(c) 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 services center.

(d) If rabies does not develop within ten calendar days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine upon written authorization of the health director or the health director's delegate. For purposes of calculating time periods, the date of initial impound is not counted. If the dog or cat has been confined in the county animal services center, the owner shall pay any fines, necessary veterinarian fees and a boarding fee set by and approved by the county board of commissioners. Any animal that bites a person that has not been reclaimed within 72 hours from the end of the ten-day rabies observation quarantine period shall become the property of the county and may be dealt with as set forth in section 6-10. Animal services is authorized to initiate legal proceedings to recover the costs of caring for an animal confined at the animal services center pursuant to this section if the animal is not redeemed.

11-15-25 DRAFT

(e) In the case of a carnivore or bat, the animal may be euthanized, and the head examined for rabies.

(f) Upon seizing an animal pursuant to G.S. 130A-196, the animal services enforcement officer 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 24 hours of the ending date of confinement stated in the notice.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-34. Areawide emergency quarantine.

When reports indicate a positive diagnosis of rabies, the county health director may order an areawide quarantine for such period as the director deems necessary. Upon invoking of such emergency quarantine, no dog, cat, or other carnivores 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 services 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.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-35. Post mortem diagnosis.

(a) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the county health department for shipment to the North Carolina State Laboratory of Public Health for rabies diagnosis.

(b) The carcass of any animal suspected of dying of rabies shall be surrendered to the county animal services director. The head of such animal shall be submitted to the county health department for shipment to the 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.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-36. 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 director of animal services or designee.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-37. 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 director of the animal services department.

(Ord. No. 2020-04 , 8-18-2020)

Secs. 6-38—6-70. Reserved.

11-25-25 DRAFT

ARTICLE III. IMPOUNDMENT

Sec. 6-71. General regulation.

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 chapter, and not under restraint in violation of this chapter, shall be impounded by the animal services department by any means necessary and confined in the county animal services center 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 chapter. All impounded animals will be scanned for a microchip to aid in the notification of the legal owner.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-72. Notice to owner.

Immediately upon impounding an animal, the animal services employees 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 services shall hold the animal for a minimum of 72 hours and then make the animal available for adoption, transferred to a rescue, transferred to a foster or, barring extenuating circumstances pursuant to G.S. 19A-32.1(b)(2), euthanization after the five-day impoundment period.

If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the animal services center in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-73. Reclamation by owner.

(a) The owner of an animal impounded under this article may reclaim the animal and regain possession thereof within 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, boarding, and other applicable fees set and approved by the county board of commissioners.

(b) No owner, family member, friend of or associate may be permitted to adopt his own animal under the provisions of this article 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.

(c) The owner of any animal that is turned over to the animal services department will be able to retrieve the animal after the release form has been signed. The owner will be responsible for paying the $25.00 handling fee the day that said animal was turned in.

(d) The board of commissioners of the county has adopted a fee schedule for this chapter, which is incorporated herein by reference and is kept for public inspection in the office of the clerk to the board and the county animal shelter. The board of commissioners has the authority to change the fee schedule from time to time by resolution, as permitted by N.C.G.S. § 153A-102. Animal owners desiring to keep their animals in an

11-15-21 DRAFT

unaltered state may be required to pay differential fees pursuant to the fee schedule specified in subsection (a) above.

(Ord. No. 2020-04 , 8-18-2020; Ord. No. 2021-04 , 5-18-2021)

Sec. 6-74. Adoption or euthanization of unclaimed animals.

(a) If an impounded animal is not redeemed by the owner within the period described in this article, it shall become the property of the county and may be:

(1) Transferred to an approved rescue group registered with the county's animal services department for domesticated animals only, thus excluding wild animals;

(2) Offered for adoption to individuals who have paid the current adoption fees; or

(3) Transferred to an approved foster. If the animal services center places an animal in foster care, the animal services center may, in writing, appoint the person or organization possessing the animal to be an agent of the center. After the expiration of the minimum holding period, the department may (i) direct the agent possessing the animal to return it to the center, (ii) allow the agent to adopt the animal consistent with the department's adoption policies, or (iii) extend the period of time that the agent holds the animal on behalf of the department. The animal services department may terminate an agency created under this subsection at any time by directing the agent to deliver the animal to the center. The animal services department, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.

(4) Euthanized in a humane manner after the five-day impoundment period, space permitting and barring extenuating circumstances pursuant to G.S. 19A-32.1(b)(2).

(b) 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 services center during a period of emergency rabies quarantine invoked pursuant to article II of this chapter, except by special authorization of the county health director.

(c) *Adoption contract.* Any eligible individual adopting a dog or cat from the animal services center shall be required to sign an adoption contract with the animal services center 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 animal services center.

Any eligible rescue or approved foster accepting an animal from the animal services center shall complete the required transfer contract.

(d) *Exceptions from adoption policy.*

(1) Animal services may refuse adoption of animal to a person less than 18 years of age.

(2) Persons who have previously been cited under this chapter.

(3) Person or household that has adopted three animals in a calendar year.

(4) 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.).

(e) Animals that exhibit fierce, dangerous, or person-aggressive behavior shall not be offered for adoption.

(f) Any animal officially surrendered by the owner to animal services may be placed for adoption as authorized in this section. No animal will be euthanized prior to the state mandated three-day impoundment period or

11-23-21 DRAFT

the county's five-day impoundment period if space is available in the animal services center, barring extenuating circumstances as deemed by the animal services director pursuant to G.S. 19A-32.1(b)(2).

(g) Any animal impounded that is gravely injured or seriously ill and has no identification can be euthanized in a humane manner pursuant to G.S. 19A-32.1(b)(2). If the animal has identification, an animal services employee 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 services enforcement officer certified to euthanize or the animal services employee certified to euthanize may euthanize the animal in a humane manner.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-75. Vaccination required for reclaiming or adopting of unvaccinated dog, cat, or ferrets.

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

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-76. Suspected rabid animals not to be claimed 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 chapter.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-77. Rescue requirements.

Approved rescue groups can pull animals from the county animal services center. 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 county animal services, the animal may be released immediately to an approved rescue group. Following the initial impoundment period, animals will be held in the animal services center and made available for rescue by an approved rescue group or adoption by the general public as long as the health and temperament of the animal determines that it is suitable for rescue or adoption. This determination will be made by the animal services director and the decision will be final.

(1) Following the transfer of an animal to an approved rescue group, county animal services will require that the animal be provided with the appropriate care that includes, but is not limited to, spay/neuter, updated vaccinations, and health reconditioning (if needed), etc.

(2) Random audits will be performed by the county to ensure proper care and recordkeeping of all approved rescue groups. During each audit, two approved rescue groups will be selected for audit review and required to provide all documentation to evaluate the health and welfare of the animals as determined by the county.

If the audit shows an approved rescue group is not in compliance two times in two consecutive audits due to missing or incorrect documentation or refusal or failure to provide documentation, a warning will be issued, and the rescue given ten working days to produce additional documentation. If the rescue fails to produce requested documents or additional information to refute the audit, the animal services director may suspend the rescue's permission to pull animals from the animal services center. Time of suspension will be no less than six months. Re-evaluation of the rescue will be

1.12.25 DRAFT

conducted by the animal services director. A second violation will warrant a 12-month suspension, and any additional violations will mean permanent revocation.

(3) *Suspended rescue appeals process for reinstatement.* A rescue group may appeal this decision to the board of commissioners by written notice delivered to the clerk to the board within three business days after receipt of the director's decision.

(4) To be an approved rescue group, a rescue must meet the definition of the same in Section 6-1 of this ordinance. The group must also submit the county animal services' rescue application, along with three letters of reference, one of which must be submitted by a state licensed veterinarian with preference given to rescues that can also provide references from other North Carolina-based animal shelters. County animal services will notify the applicant group of its decision to approve or deny the application. If the application is denied, county animal services will state any 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. Priority will be given to adoptions by individuals over transfer to approved rescue groups or foster.

(6) To ensure that all information is recorded accurately and efficiently, county animal services will require that all interaction with approved rescue groups must be completed via email at animalservices@burkenc.org. All phone calls and in-person contact will be referred to the email address.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-78. Pet shops.

(a) *In general.* A pet shop is 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.

(b) *Standards for pet shops.* All pet shops subject to this chapter, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article, also, comply with the following minimum standards:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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

11-25-25 DRAFT

shall be served in a clean dish so mounted that the animal cannot readily tip it over, and it shall be removable.

(6) 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.

(7) 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.

(8) All animals must be fed and watered, and all cages cleaned every day, including Sundays and holidays.

(c) Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this chapter, and/or the issuance of an abatement order to comply with the provisions of this chapter.

(d) Owners or operators of pet shops must apply to the North Carolina Department of Agriculture and Consumer Services for a permit and pay any designated privilege tax and receive a permit to own or operate a pet shop in the county.

(e) Pet shops shall be subject to yearly inspections by the department of agriculture. Under the Animal Welfare Act, (02 NCAC 52J.0101, 0103). documentation of veterinarian care in facilities, associated disease control and prevention and vaccination records will be inspected. All animals must be in compliance with North Carolina rabies law.

(Ord. No. 2020-04 , 8-18-2020)

Secs. 6-79—6-110. Reserved.

ARTICLE IV. MISCELLANEOUS

Sec. 6-111. Zoning and environmental health.

Owners, as defined in this chapter, must be in compliance with all applicable zoning and environmental health ordinances.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-112. Enforcement in municipalities; restricted.

Animal services enforcement officers shall have no authority to enforce this chapter within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that the county is empowered to enforce the provisions of this chapter within that municipality and repeals any inconsistent ordinance.

(Ord. No. 2020-04 , 8-18-2020)

11-25-25 DRAFT

Sec. 6-113. Deceased animals.

(a) 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 feet beneath the surface of the ground and 300 feet from groundwater source within 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.

(b) 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.

(c) The animal services enforcement officers do not pick up any deceased animal from properties or roadways.

(d) Euthanized animals shall be disposed of in accordance with chapter 26, Environment, of the Burke County Code. The bodies of euthanized animals shall not be sold.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-114. Animals creating a nuisance.

(a) The following acts or actions by an owner or possessor of an animal are hereby declared to be unlawful:

(1) 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. The term "habitually or repeatedly" is defined as three or more times per minute for no less than a 15-minute period.

(2) 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.

(3) 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.

(4) Maintaining an animal that is diseased and dangerous to the public health.

(5) Domestic animal owners shall clean up feces left on private or public property that is not owned by the owner.

(6) Allowing animals to habitually turn over garbage containers or remove garbage from them.

(7) Allowing animals to habitually damage gardens, foliage, or other real property.

(8) Maintaining an animal that chases, snaps at, attacks or otherwise molests pedestrians, bicyclists, motor vehicles, livestock, or domestic animals off the property of the owner.

(9) Owners of the animal may be issued one warning for an animal nuisance violation per calendar year. Any subsequent instances will be subject to a uniform citation and the applicable fees.

(10) It shall be unlawful for any owner, keeper, or harborer of an animal to permit the animal to be at large if the animal is causing property damage or creates a public safety concern.

(b) 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 their property:

1-25-25 DRAFT

(1) Fill out a complaint form provided by the animal services center stating that there is a domestic animal on their property that is creating a nuisance by its mere presence.

(2) The complainants must identify themselves as the complainants and identify the name and address of the owner of the domestic animal that is creating a nuisance.

(3) The complaint will be mailed certified receipt or hand delivered by an animal services enforcement officer to the owner of the domestic animal creating the nuisance.

(4) After the owner of the domestic animal receives the complaint, they have 24 hours to ensure that the identified domestic animal in the complaint is not present on the complainant's property.

(5) If the identified domestic animal in the complaint is thereafter found to be present on the complainant's property, the owner of the domestic animal will be in violation of this chapter.

Note: This measure is to give property owners the right to identify specific domestic animals that are creating a nuisance. This does not bind the county to keep all animals off any property. The animal services department will not take complaints from complainants requesting that all domestic animals be kept off their property.

(c) It is a violation of this ordinance for a person to engage in activities bringing them within the definition of a backyard breeder, as defined herein.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-115. Cat colonies.

(a) Each cat colony must have a contact person.

(b) Each cat colony must have permission from the property owner to house the colony on the premises.

(c) Each cat contact person will be required to maintain a current and up-to-date log of vaccines and records of all cats in the colony.

(Ord. No. 2020-04 , 8-18-2020)

Sec. 6-116. Community cat management Program

Burke County acknowledges the need to address the permanent presence of community acts living in an outdoor environment, independent of human intervention. Management programs to reduce the uncontrolled reproduction of community acts shall be implemented by the animal services director to provide for the sterilization and return-to-field of all healthy community acts entering the county shelter.

(a) All community cats entering the county shelter shall be counted toward intake statistics and, upon return-to-field, shall be counted as a live-release statistic.

(b) All community cats entering the county shelter shall be examined for temperament to evaluate their candidacy for including in the adoption program.

(c) Animal services will attempt to rehabilitate kittens of community cats that are moderately tame for inclusion in to the adoption program.

Community cats shall be held for the mandatory holding period established by the state and then sterilized, ear-tipped, vaccinated, and returned to the original point of pick-up by an animal services staff person or released to an approved rescue group. However, any community cat determined to be a nuisance by the department shall be relocated to an alternate suitable outdoor location.

11-25-25 DRAFT

Sec. 6-117. Animal(s) creating nuisance prohibited from running at large.

(a) It shall be unlawful for any owner to permit an animal to run at large, if the animal is causing property damage or creates a public safety concern so as to create a public nuisance.

(b) For the purpose of this section, public nuisance includes, but is not limited to, the following:

1) Animals that habitually or repeatedly disturb, interfere with, or annoy human beings while not in the mode of attack; or

2) Animals that damage the property of another, defecate or urinate upon the property of another, tip over garbage pails or damage gardens, flowers or vegetables; or otherwise interfere with the reasonable use of one's property;

3) In the case of a female animal, ones that are not confined in a secure enclosure during estrus; or

4) Dogs that are found to be without restraint, off their owner's property, on a public highway, street, roadway, or sidewalk.

(c) When the animal services director's investigation determines that a violation of this section is supported by evidence, the animal services director will issue the owner, keeper, or harborer a containment order notice, which shall require the owner, keeper, or harborer to comply with specific preventative measures for the containment of an animal or animals on his or her property at all times.

(d) After a containment order notice has been issued to a person, the animal services director, upon finding evidence to support a subsequent violation of this section, including failure to abide by the containment order notice, may issue the owner or keeper a citation with fines and civil penalties as follows:

1) For the first subsequent violation, a fine of one hundred dollars ($100.00) and a civil penalty of one hundred dollars ($100.00);

2) For the second subsequent violation, and any subsequent violation of this section, a fine of two hundred dollars ($200.00) and a civil penalty of two hundred dollars ($200.00);

3) Notwithstanding subsection (2) above, if the nuisance animal is not spayed or neutered, as the case may be, the fines and civil penalties for the second subsequent violation and any subsequent violations shall both be increased to five hundred dollars ($500.00). Once an animal is spayed or neutered, all fines and civil penalties levied in excess of two hundred dollars ($200.00) per fine or civil penalty shall be considered waived.

Secs. 6-118—6-130. Reserved.

ARTICLE V. REMEDIES

Sec. 6-131. General enforcement, order, or other relief.

(a) *Civil penalties.* Any person, firm or corporation violating any of the provision of this chapter shall be subject to the imposition by citation of a civil penalty for each such violation which shall be paid in full within ten days of the service of the citation by a representative of the county animal services department or any law enforcement officer in accordance with G.S. 153A-123. If the offender does not pay the penalty within ten days, the county may recover said penalty plus court costs in a civil action in the nature of debt. Failure to correct the violation within the ten-day period will result in an additional penalty of $50.00 per violation per day until the violation is corrected. All civil penalties are subject to associated legal fees in the collection of delinquent penalties.

11-15-25 DRAFT

(1) Unless otherwise stated in this chapter, any person, firm, etc., violating any provision of this chapter shall be subject to the following penalties with a time frame of one year on the last citation.

a. First offense, warning.

b. Second offense, $50.00 penalty.

c. Third offense, $100.00 penalty.

d. Fourth offense, $200.00

d. All offenses after fourth, $300.00 penalty per incident.

(2) If any dangerous animal or dangerous dog (as defined in G.S. 67-4.1), when unprovoked, attacks, assaults, wounds, bites or otherwise injures or kills a human being, the owner shall pay a civil penalty of $3,000.00. After a ten-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.

(3) If any dangerous animal or dangerous dog (as defined in G.S. 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 civil penalty of $200.00. For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of $400.00.

(4) If any dangerous animal or dangerous dog runs at large, the owner of said animal or dog shall pay a civil penalty of $200.00. For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of $300.00.

(5) Any person in possession of or keeping an inherently exotic within the county in violation of the applicable provisions of this chapter shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of $300.00.

(6) Violation of the county ordinance for animal cruelty is subject to a first offense penalty of $500.00 and a second offense penalty of $1,000 if the second offense occurs within one year of the first offense.

(7) If the offender does not pay the full amount of the penalty within ten days, the county may recover all attorney fees in a civil action in the nature of debt.

(8) The owner shall also be responsible for any costs incurred such as a tranquilizer fee, costs of which are at a minimum of $50.00.

(9) The owner shall be responsible for all fees associated with the citation collection.

(10) Any civil penalty or fees owed to Burke County herein that are unpaid after ten days may be referred to the North Carolina Debt Setoff Collection Program for collection pursuant to G.S. 105A-2(6) as well as a local collection assistance fee of $15.00.

(b) *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 G.S. 14-4. Each day's violation of this Section is a separate offense.

(c) *Injunctive relief.* In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

(d) *Seizure or impoundment.* In addition to criminal or civil penalties, the animal services department 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 services enforcement 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.

(Ord. No. 2020-04 , 8-18-2020; Ord. No. 2021-04 , 5-18-2021)

12-23-25 DRAFT

11-25-25 DRAFT