

BURKE COUNTY
Animal Control Ordinance

DRAFT

(Including Revisions up to July 19, 2016)

Pending Review
July 19, 2016

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Sec. 6-65. General**ARTICLE I. IN GENERAL****Sec. 6-1. Definitions.**

- (1) **Abandon:** Means to intentionally, knowingly, recklessly, or negligently leave an animal at a location for more than (48) forty-eight consecutive hours without providing for the animal's continued care.
- (2) **Adequate Feed:** The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.
- (3) **Adequate Shelter:** That shelter which will keep a nonaquatic animal dry, within reasonable efforts to keep the animal out of the direct path of winds and out of the direct sun, at a temperature level that is reasonable for the current weather. If a concern is registered, the credibility of the report will be determined at the judgement and discretion of the responding Animal Control officers. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose.
- (4) **Adequate Water:** Constant access to a supply of clean, fresh, drinkable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.
- (5) **Animal:** Means any non-human species that has been domesticated by man.
- (6) **Animal Control Division/Animal Control Officers:** The Division of the Burke County Sheriff's Office that has the responsibility to enforce all laws of North Carolina and all ordinances of Burke County pertaining to animals. Animal Control Officers in the performance of their duties, shall have all the power, authority, and immunity granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the responsibility of and shall be carried out by the Animal Control Officers.
- (7) **Animal Shelter:** A facility which is used to house or contain seized, stray, homeless, quarantined, abandoned or unwanted animals and which is owned and operated by, or under contract with, Burke County.
- (7a) **Community Care Partner:** A not-for-profit corporation or association who cares for stray animals that has been approved by the Animal Shelter Director through the application of written standards.

- (7b) **Class I Kennel:** Any individual, noncommercial, or not-for-profit organization which maintains a physical holding site for animals of any species, excluding domesticated livestock, and houses more than eight (8) but less than 20 animals.
- (7c) **Class II Kennel:** Any individual, noncommercial, or not-for-profit organization which maintains a physical holding site for animals of any species, excluding domesticated livestock, and houses more than 20 animals.
- (8) **At large:** Any animal found off the property of its owner and not under restraint or any animal that has been the subject of a previous at large complaint when found unrestrained whether on or off the property of its owner, or any animal previously determined to be dangerous that is not confined to a secure enclosure while on the property of its owner.
- (9) **Attack:** An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner, without the animal having been teased, molested, provoked, beaten, tortured or otherwise harmed.
- (10) **Attack Training Facility:** Any person, group of persons, partnership or corporation engaged in boarding, breeding, selling or training dogs or other animals in the mode of attack.
- (11) **Bite:** The act of an animal seizing flesh with its teeth or jaws so as to tear, pierce or injure the flesh as to where blood can be seen.
- (12) **Boarding Facility:** 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. Boarding facilities will be held to the same standards as the applicable Class I or Class II Kennels.
- (13) **Cat:** Any domesticated mammal of the family Felidae.
- (14) **Competent Person:** A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal, to persons, to other animals, including but not limited to domesticated livestock, or to property.
- (15) **Confinement:** Means impoundment within the county's animal shelter or other appropriate facility.
- (16) **Cruelty and cruel treatment:** Every act, omission or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals, as well as acts of teasing, molesting, baiting or trapping, or attempted trapping, of animals unlawfully as outlined in Section 6-3.
- (17) **Dangerous Animals:** Any animal that has demonstrated a fierce or dangerous propensity or tendency to do any act which may endanger persons or property and/or any non-domesticated animal indigenous to the State of North Carolina including hybrid animals that are part wild. This would include, but not be limited to, any animal that (1) assaults, bites, attacks, or inflicts serious injury on a human being without provocation on public or private property and/or (2) that has killed or injured a pet or domestic animal without provocation. Exceptions: no animal is dangerous pursuant to this definition if at the time the threat, injury or damage was sustained, the person attacked was teasing, tormenting, abusing or assaulting the

animal, or has in the past teased, tormented, abused, or assaulted the animal, or was committing or attempting to commit a crime. However, an animal will be not considered dangerous pursuant to this definition if it has attacked or injured a pet or domesticated animal in defense of an attack by another animal, or if it is protecting or defending its young.

- (18) **Dealer:** Any person who is licensed by the U.S. Department of Agriculture as a dealer
- (19) **Dog:** Any domesticated mammal of the family Canid.
- (20) **Domesticated Livestock:** Livestock raised for the production of meat, milk, eggs, fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits, and poultry.
- (21) **Domestic Animal:** Any of various animals such as dogs, cats, horses, sheep, cattle, goats, hogs, poultry, etc., or domesticated by man so as to live and breed in a tame condition.
- (22) **Exhibitor:** Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.
- (23) **Exposed to Rabies:** Any person or animal that has bitten, been bitten by or otherwise has come into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.
- (24) **Ferret:** Any domesticated mammal belonging to the family Mustelidae.
- (25) **Flood prone area:** An area in which (2) two or more inches of standing water is likely to accumulate during a period of normal rainfall.
- (26) **Habitual violation:** An animal, owner or any other person that has been cited for violating this Ordinance on (3) three or more occasions in the past (3) three years and the most recent violation was within the past (12) twelve months.
- (27) **Harbor:** An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for 72 consecutive hours or more.
- (28) **Health Department:** Burke County Health Department.
- (29) **Health Director:** Director of the Burke County Health Department.
- (30) **Impoundment:** Possession or seizure of an animal by the Burke County Animal Control Officer for placement in the County's animal shelter or other appropriate facility.
- (31) **In estrus:** A female animal in the erotic stage of copulation.
- (32) **Inherently Dangerous Exotic:** Any undomesticated member of the Canidae, Felidae, or Ursidae families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans and which include:
- (a) **Canidae:** including any member of the Canid dog family not customarily domesticated by man or any hybrids thereof, including wolf hybrids that are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis Familiaris*).

- (b) **Felidae:** including any member of the cat family weighing over (15) fifteen pounds not customarily domesticated by man or any hybrids thereof, but not including domestic cats (*Felix Catus*),
 - (c) **Urisdae:** including any member of the bear, or caniform, family.
 - (d) **Primate:** for the purpose of this Ordinance, Primate will include any member of the Primates family who weighs eight (8) pounds or more.
- (33) **Neutered:** Any animal that has been operated upon to prevent reproduction.
- (34) **Nighttime:** The time from sunset until sunrise.
- (35) **Nuisance:** Any act of an animal causing a substantial and unreasonable interference with another's land or his/her use or enjoyment of that land as outlined in Section 6-38.
- (36) **Other Local Government Body (Bodies):** The City of Morganton, Town of Valdese, Town of Drexel, Town of Glen Alpine, Town of Icard, Town of Long View, Town of Rhodiss, Town of Connelly Springs, Town of Rutherford College, and City of Hickory.
- (37) **Owner:** Any person, group of persons firm, partnership or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring or allowing the animal to remain on or about their property for more than 72 consecutive hours. In the event that the owner of an animal is a minor, for the purposes of this ordinance, the parent or guardian of such minor shall be considered the owner of that animal.
- (38) **Owner's property:** That area described in a deed of conveyance or the area described in a lease. In a situation involving townhouses or condominiums, Animal Control will treat the common areas as being owned by the homeowners 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.
- (39) **Pet:** A domesticated animal kept for pleasure rather than utility.
- (40) **Physical Harm:** Any injury which is serious enough to require immediate medical attention.
- (41) **Poisonous reptile:** Any animal that crawls or moves on its belly as a snake or on small short legs as a lizard and has the capability of injecting humans or animals with venom which may cause death or physical injury.
- (42) **Prior complaint:** Any prior oral or written complaint to Animal Control about a specific animal, or any oral or written complaint about any animals or a specific owner being in violation of any section of this ordinance.
- (43) **Provocation:** Any act that would reasonably be expected to cause an animal to defend itself, its young, its owner or keeper, or the property of said owner or keeper.

- (44) **Rabies vaccinator:** A person appointed and certified to administer rabies vaccine pursuant to G.S. 130A-186 or a licensed veterinarian.
- (45) **Restraint:** An animal is under restraint within the meaning of this ordinance if it is 1) controlled by means of a chain, leash, or other like device; (2) on or within a vehicle being driven or parked; (3) within a *secure* enclosure; or (4) within the dwelling house of the owner.
- (46) **Sanitized:** Physically clean and, to a practical minimum, removed of all agents injurious to health.
- (47) **Secure enclosure:** A fence or structure of adequate height, forming or causing a humane enclosure suitable to prevent the animal from escaping and to prevent the entry of young children.
- (48) **Severe injury:** Any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
- (49) **Spayed:** Any female animal that has been operated upon to prevent reproduction.
- (50) **Stray:** Any dog or cat found within the County wandering at-large that does not bear evidence of identification of any owner, or any dog, cat, or ferret not displaying a valid rabies tag.
- (51) **Tethering:** To restrain a dog outdoors by means of a rope, chain, wire or other type of line for holding a dog. One end of which is fastened to the dog and the opposite end of which is connected to a stationary object or to a cable or trolley system. This does not include walking a dog with a handheld leash.
- (52) **Vaccination:** The administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.
- (53) **Veterinary Hospital:** Any place or establishment which is maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.
- (54) **Wild animal:** Any animal that is not normally domesticated or a domesticated animal that has returned to its natural wild state. A hybrid or any animal, regardless of genetic percentages, shall be deemed a wild animal.
- (55) **Working day:** Any day of the week excluding Saturday, Sunday, and legal holidays. If the last day of the time period specified in this ordinance falls on a legal holiday, the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

Sec. 6.2. General Duties of Animal Control

Authority and Purpose

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

(1) The Animal Control Division of the Burke County Sheriff's Department shall:

- a. Enforce and carry out all laws of North Carolina and all ordinances of Burke County pertaining to rabies control.
- b. Be responsible for the investigation of all reported animal bites, for the quarantine of any dog, cat, or ferret exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practical the occurrence of any such animal bite and the condition of any quarantined animal.
- c. Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals. Incidents committed by wildlife are not under the jurisdiction of the Animal Control Division of the BCSD and are to be referred to the NC Wildlife Resources Commission.
- d. Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in Burke County involved in a violation of this or any other County ordinance or state law.
- e. Investigate cruelty or abuse with regard to animals. Incidents committed against wildlife are not under the jurisdiction of the Animal Control Division of the BCSD and are to be referred to the NC Wildlife Resources Commission.
- f. Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this Ordinance or applicable state statute.
- h. Be empowered to issue citations or notices of violation of this Ordinance in such form as the Animal Control Division may prescribe.
- i. Have employees who are trained to standards established by the State and Animal Control Division.

(2) The Burke County Animal Shelter is not a rescue facility and shall be exempt from Section 6-32 and 6-33 of this Ordinance. Burke County Animal Control will only respond to resident complaints when an animal is in severe distress or death is imminent. In circumstances of no severe distress or imminent death, the owner must sign a release in order for the county to take ownership of any animal. Burke County shall operate and

maintain a County Animal Shelter for the purpose of impounding or caring for animals held under the authority of state law, this Ordinance or any other county or municipal ordinance. Burke County may contract for the operation of the Animal Shelter as it deems appropriate.

- (3) It shall be the duty of Burke County Animal Control Division to keep or cause to be kept accurate and detailed records of:
- a. Impoundment and disposition of all animals coming into the animal shelter
 - b. Bite cases, violations and complaints and investigation of same.
 - c. All other records deemed necessary per the NCGS § 132.1.1(e).
- (4) Animal Control Officers
- a. Burke County's Animal Control Officers are sworn deputies with the Burke County Sheriff's Office. They are also designated as Animal Cruelty Investigators. Only Burke County employees shall be designated as an Animal Cruelty Investigator.
 - b. Animal Control Officers shall have the following additional powers and duties within Burke County and within any municipality therein that has given prior approval in accordance with applicable law:
 1. The responsibility for the enforcement of all state and local laws including ordinances, resolutions and proclamations pertaining to the ownership and control of dogs and other animals.
 2. To cooperate with the County Health Director and all other municipality law enforcement officers in the County and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of dangerous animals, and any other state law applicable to animals or animal control.
 3. To investigate reported or observed animal cruelty or animal neglect, complaints or violations and make written reports of such investigations and, when requested, provide such reports to the District Attorney's office.
 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.

Sec. 6-3. Animal Cruelty.

- (1) In addition to what is prohibited by NCGS § 14-360-363., the following shall be prohibited:
- (2) Chaining or tethering an animal to a stationary object for a period of time or under conditions that are harmful or potentially harmful to the animal. Examples of improper chaining or tethering include, but are not limited to, the following:

- a. Using a length or weight of a chain or tether that is not appropriate for the size, weight, and age of the animal.
 - b. Using a chain or tether that is less than (10) ten feet in length and/or does not have swivels on one end. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar.
 - c. Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.
 - c. Using a chain of any type as a primary collar. All collars used for the purpose of chaining or tethering an animal must be made of nylon or leather. Choke chains are intended for training purposes only and not to be used as a collar to tie the animal to a chain or tether made of rope, twine, cord, or similar material.
 - d. When it has been determined that an animal is housed or restrained less than (15) fifteen feet from a public street, road, sidewalk, or right of way, such circumstances constitute a public nuisance. If the animal is not in the street, road, sidewalk, or right of way, the Animal Control Officer shall issue a notice to the owner directing the owner to move the animal. If the animal is found on a public street, road, sidewalk, or right of way and the owner is not at home or refuses to remove the animal from the street, road, sidewalk, or right of way, the animal may be seized and impounded.
- (3) To intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.
 - (4) Leaving an animal in 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.
 - (5) To color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
 - (6) For any person to sell or offer for sale, barter or give away within the County baby chickens, baby ducklings, or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl or such rabbits in proper facilities with adequate food, water, and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties. **Ref. NCGS § 14-363.1.**
 - (7) For any individual, non-profit, or commercial establishment to separate a dog or cat from its mother until it is seven (7) weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later.
 - (7) 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.

- (8) For any person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal (Class H felony.) A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately. **Ref. NCGS § 14-362.2.**
- (b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.
 - (c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.
 - (d) 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.
 - (e) 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.
 - (f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.
- (9) In order to protect the health and safety of an animal, any animal control officer, animal cruelty investigator appointed under G.S. 19A-45, law enforcement officer, firefighter, or rescue squad worker, who has probable cause to believe that an animal is confined 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 under other endangering conditions, may enter the motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible for the animal. Nothing in this section shall be construed to apply to the transportation of horses, cattle, sheep, swine, poultry, or other livestock. **Ref. NCGS § 14-363.3.**
- (10) It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of North Carolina General Statutes §§ 14-360 and 14-362, as the same relate to a dog or dogs, or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting. The repeal of

such law or laws of the State of North Carolina shall have no effect upon this Section, and the acts herein made unlawful shall, in the event of such repeal, be those referred to in said law or laws immediately prior to such repeal.

Sec. 6-4. Inherently Dangerous Exotics

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

Sec. 6-4.1. Exotic Mammals and Reptiles

- (1) At no time may any person or persons harbor an inherently dangerous exotic mammal or reptile in Burke County.
- (2) For the purpose of this Article an exotic mammal or reptile is:
 - a. Is not native or indigenous to North Carolina;
 - b. Does not have an established wild population in North Carolina; or
 - c. Is not regulated by the North Carolina State Wildlife Commission.
- (3) Harboring of any exotic mammal or reptile is any person(s), regardless of ownership, who allows an exotic mammal or reptile to remain, be fed, or to be given shelter or refuge within the person's home, yard, enclosure outbuilding, abandoned vehicle or building, place of business, or any other premise(s) in which the person has control.
- (4) An inherently dangerous exotic mammal is any member of the canidae, felidae, ursidae, or primate families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans.
 - a. Canidae includes any member of the dog (canid) family not customarily domesticated by man or any hybrids of such Canidae thereof including wolf/wolf hybrids, which are a cross between a wolf and a domestic dog, but not including domestic dogs (Canis Familiaris).
 - b. Felidae includes any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man or any hybrids of such felidae, but not including domestic cats (Felis Catus).
 - c. Ursidae includes any member of the bear family or hybrids of such ursidae.
 - d. Primate, for the purposes of this Ordinance, includes any member of the primate family who weighs eight (8) pounds or more.
- (5) An inherently dangerous reptile is any member of the class reptilia which:
 - a. Is venomous. A venomous reptile shall include all members of the families

of:

- Helodermae (gila monsters and Mexican beaded lizards)
- Viperidae (vipers)
- Crotalidae (pit vipers)
- Atractaspidae (burrowing asps)
- Hydrophilidae (sea snakes)
- Elapidae (cobras, coral snakes and their allies)
- As well as any 'Threat fanged' snakes of the family Colubridae that are known to be dangerous to humans including but not limited to:
- Dispholidus typos (boornslang)
- Thebdomis kirtiandii (twig snake)
- Rhabdophisspp (keelbacks)

b. Is a member of the order of crocodylian (crocodiles, alligators and caiman).

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

(7) Exceptions

This Article does not apply to:

- a. Veterinary clinics in possession of such mammals or reptiles for treatment or rehabilitation purposes.
- b. Any institution or organization that exists primarily to educate the public in the areas of science and nature which receives or has received financial support from federal, state and/or local governments; which has a paid membership open to and composed of members of the general public; which is directed by a Board of Directors or similar body elected by the membership; and which has been declared a 501(3) exempt organization by the Internal Revenue Service.
- c. Non-resident circuses for no longer than one (1) seven-day (7-day) period per each separate location where such circus is held within the county per calendar year.
- d. Non-resident carnivals for no longer than one (1) seven-day (7-day) period per each separate location where such carnival is held within the county per calendar year.
- e. Non-resident licensed zoos for no longer than one (1) seven-day (7-day) period per each separate location where such licensed zoo is held within the county per calendar year.
- f. Persons temporarily transporting such mammals or reptiles through the county provided that such transit time shall not be more than twenty-four (24) hours.

(9) **Disposition of Impounded Inherently Dangerous Exotics**

- a. Any owner of an inherently dangerous exotic who is in violation of this Article will have their exotic mammal or reptile impounded. Whenever possible, the Animal Control Officer shall impound the animal in the presence of its owner or harborer; however, if not practical, the Animal Control Officer may impound such animal consistent with the provisions of this section.
- b. If an exotic is impounded pursuant to this section, the owner or harborer of the exotic shall be notified by the Animal Control Officer in person or by certified mail.
- c. Any exotic impounded pursuant to this section will be held **seventy-two (72)** hours for the owner to claim pursuant to subsection D of this section. If the exotic cannot be taken safely by the Animal Control Officer, or if proper and safe housing cannot be found for the animal, at the discretion of the Animal Control Officer, he/she can euthanize the animal.
- d. The owner or harborer of the exotic can reclaim the exotic if the person can satisfy to the Animal Control Director that a safe transfer of the exotic to a location outside of the County is arranged.
- e. All costs of impoundment and care of the exotic will be charged to its owner or 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.

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

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

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

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

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

It shall be unlawful for any person, group of persons, partnership or corporation to conduct attack training at any location unless such training is conducted within a secure enclosure in the presence of the owner(s) or trainer(s) at all times.

Any dog or animal trained or being trained in a mode of attack is deemed to be dangerous and is subject to all the provisions of this ordinance related to dangerous dogs or dangerous animals.

Sec. 6-4.5. Reporting of Dangerous Animals.

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

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

Sec. 6-4.6 Provisions Shall Not Apply

The provisions of this ordinance do not apply to:

1. An animal being used by a law enforcement officer to carry out law enforcement duties.

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

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

It shall be unlawful for any person to resist, obstruct, delay, interfere with, hinder or molest the Animal Control officers or veterinarians in the performance of any duty authorized by this ordinance, or to seek to release any animal in the custody of such agents.

It shall also be unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the Animal Control Division, whether it be in the dog box in the back of a truck or in a live trap or any other type of confinement device, except as otherwise specifically provided in this chapter. Anyone in violation of this section will be subject to a one hundred dollar (\$100.00) fine for the first offense, and three hundred dollars (\$300) for each following offense civil citation.

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

It shall be unlawful for any person, without the consent of the Owner or Keeper, knowingly and intentionally to harbor, feed, keep in their possession by confinement or otherwise any animal that does not belong to him/her, unless he/she has, within 72 hours from the time such animal came into his/her possession, notified Animal Control.

- (1) Any animal at large may be seized, impounded, and confined in the Animal Shelter and thereafter adopted out or euthanized pursuant to procedures of Animal Control and applicable State law.
- (2) 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.
- (3) Any animal seized and impounded that is badly wounded or diseased and has no identification, may be euthanized pursuant to procedures of Animal Control. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, Animal Control shall attempt to notify the Owner or Keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, Animal Control shall have no liability for euthanizing wounded or diseased animals when such action is taken in accordance with NCGS § 19A-32.1 (b)(2), which is applicable when “the animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.”

- (4) If a stray animal is not claimed within **seventy-two (72) hours** of the date of impoundment, the animal shall become the property of Burke County and be made available for adoption as allowed by this Ordinance. Owner surrendered animals may be made available for immediate adoption.

Notification of Animal Control Division applies to the following:

- (1) Any person who has knowledge of or keeps, feeds, harbors, or possesses a stray or abandoned animal must notify the Animal Control within seventy-two (72) hours of having knowledge of the animal or the animal coming into their possession or control.
- (2) Animal Control must be notified of all stray or abandoned animals prior to adoption or placement. Any person who gives away, sells, or allows an otherwise strayed or abandoned animal to be adopted without first notifying Animal Control shall have no authority over the animal and ownership shall remain with the previous owner to the extent the previous owner is able to be identified.

Sec. 6-8. Animal Control Advisory Board

(A) Establishment and Composition of the Burke County Animal Control Advisory Board. There is hereby created an Animal Control Advisory Board to advise the County Commissioners, County Manager, and Animal Control Director on matters related to the organization and operation of the Burke County Animal Control Shelter. The Advisory Board shall be composed of seven members appointed by the Board of Commissioners. All members must reside at all times in the County. This Board shall include one member from each of the following categories:

- (1) Member from Eastern Burke County (Valdese & East)
- (2) Veterinarian
- (3) Public health Board Member or employee recommended by that Board
- (4) Member at Large
- (5) Law Enforcement Officer
- (6) Member from Western Burke County (Valdese & West)
- (7) Member at Large

(B) 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. 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.

(C) The Board shall select in its first meeting of each calendar year, a chairman, vice-chairman, and secretary. The chairman shall call all regular and any special meetings of the Board, and shall preside at those meetings. In the absence of the chairman, the vice-chairman shall preside at any regular or called meeting. In the absence of the chairman and the vice-chairman, the secretary shall preside. The secretary shall be responsible for taking notes from which the official minutes of the Board may be prepared by the Public Health Director or his/her designee.

(D) The Animal Control Director or his/her designee will attend all meetings of the Animal Control Advisory Board, and shall be responsible for the proper advertisement of meetings. He/she also shall serve as the staff resource for the Board in its research and

deliberations. However, he/she shall have no vote on any matter coming before the Board.

(E) The Animal Control Advisory Board will meet on a quarterly basis for review and discussion of any issue(s) that it deems appropriate regarding operation of the Animal Control Shelter. Additional meetings may be scheduled if requested by the County Commission, County Manager, Animal Control Director, or the chairman of this Board.

(F) The Public Health Director or designee will attend all meetings of the Animal Control Advisory Board; he/she shall also serve as a public health resource for the Board in its research & deliberations. However, he/she shall have no vote on any matter coming before the Board.

ARTICLE II. RABIES CONTROL

Sec. 6-16. Compliance with State Law

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

Sec. 6-17. Inoculation of Dogs, Cats, and Ferrets

- (1) Upon complying with this provision ordinance, there shall be issued by the inoculators, to the owner of the animal inoculated, a metallic tab, stamped with the number and year for which issued, and indicating that the animal has been inoculated against rabies.
- (2) It shall be unlawful for any animal owner to fail to provide the dog, cat, or ferret with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.
- (3) It shall be unlawful for any person to use for any animal a rabies inoculation tag issued for an animal other than the one using the tag.

Sec. 6-18. Report and Confinement of Animals Biting Persons or Showing Rabies Symptoms

- (1) Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel approved by the Animal Control Division, or in the County Animal Shelter, at the expense of the owner. The Animal Control Officer may not authorize the animal to be confined on the owner's premises unless, (a) a family member is bitten, (b) the owner has a fenced in area in his/her yard, (3) the fenced in area has no entrances or exits that are not locked, and (4) the animal is currently vaccinated against rabies. Proof of vaccination will be required at the time of investigation. If the animal is confined on the owner's premises, the Animal Control Officer shall revisit the premises for inspection purposes at approximately the middle of the confinement period and again at the conclusion of the confinement period.

- (2) In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the Burke County Animal Control Shelter.
- (3) If rabies does not develop within ten (10) days after a dog or cat is quarantined, under this section, the dog or cat may be released from quarantine with the written permission of the Animal Control Director. If the dog or cat has been confined in the County Animal Shelter, the owner shall pay any fines, necessary veterinarian fees and a boarding fee set by and approved by the Burke County Board of Commissioners. Any animal that bites a person that has not been reclaimed within twenty-four (24) hours from the end of the ten (10) day rabies observation quarantine period shall become the property of Burke County and will be euthanized by the Animal Control Division. Animal Control is authorized to initiate legal proceedings to recover the costs of caring for an animal confined at the shelter pursuant to this section if the animal is not redeemed.
- (4) In the case of a carnivore or bat, the animal may be euthanized and the head examined for rabies.
- (5) Upon seizing an animal pursuant to NCGS § 130A-196, Animal Control Director shall leave with the owner or affix to the owner's residence a notice containing the beginning and ending dates of confinement and stating that the owner must redeem the animal within twenty-four (24) hours of the ending date of confinement stated in the notice.

Sec. 6-19. Area-Wide Emergency Quarantine

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

Sec. 6-20. Post Mortem Diagnosis

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

Sec. 6-21. Unlawful Killing, Releasing, etc. of Certain Animals

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

Soc. 6-22. Failure to Surrender for Quarantine or Destruction

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

ARTICLE III. IMPOUNDMENT

Sec. 6-26. General

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

Sec. 6-27. Notice to Owner

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

Sec. 6-28. Redemption by Owner

- (1) The owner of an animal impounded under this article may redeem the animal and regain possession thereof within **seventy-two (72) hours** from the time notification of impoundment is given, as required by Article III, Section 6-27, by complying with all applicable provisions of this chapter and paying any necessary veterinary fees and boarding fees set and approved by the Burke County Board of Commissioners.
- (2) No owner may be permitted to adopt his/her own animal under the provisions of Article III, in order to reclaim an animal that has been impounded pursuant to state law or this article.
 - 2.1. The owner of any animal that is turned over to Animal Control will be able to retrieve the animal after the release form has been signed. The owner will be responsible for paying the twenty-five dollar (\$25.00) handling fee the day that said animal was turned in

Sec. 6-29. Adoption or Euthanization of Unredeemed Animals

- (1) If an impounded animal is not redeemed by the owner within the period described in Article III, Sec. 6-27, it shall become the property of Burke County and will be (1) offered for adoption to a non-profit rescue/adoption group registered with Burke County's Animal Control Division and

- inspected by the NC Department of Agriculture for domesticated animals only, thus excluding wild animals, or (2) offered for adoption to individuals who have paid the current adoption fees or (3) euthanized in a humane manner after the mandated 5-day impoundment period barring extenuating circumstances pursuant to NCGS § 19A-32.1 (b)(2).
- (2) No animal which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to Article II of this ordinance, except by special authorization of the Burke County Health Director.
 - (3) Adoption Contract: Any approved individual or non-profit rescue/adoption group adopting a dog or cat from the animal shelter shall be required to sign an adoption contract with the animal shelter, accepting the adoption terms and conditions set forth in the contract. The purchase of euthanized animals from the animal shelter by a duly licensed biological supply company or veterinary researcher shall not be deemed to be an adoption.
 - (4) Exceptions from Adoption Policy:
 - a. The Animal Control Division may refuse adoption of animals to a person less than eighteen (18) years of age.
 - b. Persons who have previously been cited under this ordinance,
 - c. Person/Household that has adopted three (3) animals in a calendar year.
 - d. Animals that exhibit non-person aggressive behavior will be deemed adoptable with full disclosures made to rescues and potential adopters of the aggression type. (i.e. food, territory, small prey, etc)
 - (5) Animals that exhibit fierce, dangerous, or person-aggressive behavior may not be offered for adoption. The Animal Control Director will review such animal(s) on a case by case basis and determine if the animal can be adopted.
 - (6) Any animal impounded that is badly wounded or diseased and has no identification shall be immediately euthanized in a humane manner. If the animal has identification, an Animal Control Officer shall attempt to notify the owner before euthanizing; but if the owner cannot be reached readily, and the animal is suffering, the Animal Control Officer may euthanize the animal in a humane manner.
 - (7) Any animal officially surrendered by the owner to Animal Control may be placed for adoption as authorized in Section 6-29 (1). No animal will be euthanized prior to the mandated 3-day impoundment period barring extenuating circumstances as deemed by the Animal Control Director pursuant to NCGS § 19A-32.1 (b)(2), which is applicable when “the animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.”

Sec. 6-30. Procedure with Respect to Redemption or Adoption of Unvaccinated Dog, Cat or Ferrets.

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

Sec. 6-31. Suspected Rabid Animals Not to be Redeemed or Adopted

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

Sec. 6-32. Class I Kennels

In no event shall any person keep at his or her premises more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owners, keeper or others and without constituting a nuisance to the occupants or neighboring properties. Any resident who operates a registered Class I Kennel on 10 contiguous acres or more which is owned or leased by the resident and which have been zoned agricultural will be exempt from the subsequent housing regulations. This Ordinance declares the mandated registration of the following:

- (1) A Class I Kennel is any establishment where animals of any species (excluding domesticated livestock) are kept for the purpose of breeding, buying, selling, rescue, adoption, grooming or boarding such animals, or for training of dogs for guard or sentry purposes, or for personal enjoyment; and which establishment is so constructed that the animals cannot stray therefrom; and which contains *8 to 20 animals* (excluding domesticated livestock), each of which is four months of age or older. Veterinary Hospitals are excluded from Class I Kennels.
- (2) Standards for Class I Kennels. All noncommercial kennels shall, in addition to other requirements of this article, comply with the minimum standards of this section. The premises at noncommercial kennels shall meet the following standards:
 - a. All enclosures housing animals must provide adequate shelter.
 - b. The food 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.
 - c. All animals shall have fresh potable water available at all times.
 - d. All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
 - e. All areas housing animals shall be free of accumulated or standing water.
 - f. All animals housed shall be provided with proper veterinary care to promote good health.
- (3) Owners or operators of Class I Kennels must register with and maintain an updated Class I Kennel Memorandum of Understanding with Animal Control.
- (4) Kennel Facilities shall be subject to inspection during reasonable hours by an Animal Control Officer upon request. A fee in the amount of \$50.00 shall be assessed against the owners or operators of a Class I Kennel facility for failing to allow an inspection pursuant to this subsection in order to defray costs of repeat travel to the facility.
- (6) Failure to meet the standards set out in this section shall be grounds for the issuance of

a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.

Sec. 6-33. Class II Kennels

In no event shall any person keep at his or her premises more pet animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owners, keeper or others and without constituting a nuisance to the occupants or neighboring properties. Any resident who operates a registered Class II Kennel on 10 contiguous acres or more which is owned or leased by the resident and which have been zoned agricultural will be exempt from the subsequent housing regulations. This Ordinance declares the mandated registration of the following:

- (1) A Class II Kennel is any establishment where animals of any species (excluding domesticated livestock) are kept for the purpose of breeding, buying, selling, rescue, adoption, grooming or boarding such animals, or for training of dogs for guard or sentry purposes, or for personal enjoyment; and which establishment is so constructed that the animals cannot stray therefrom; and which contains 20 or more animals (excluding domesticated livestock), each of which is four months of age or older. Veterinary Hospitals are excluded from Class II Kennels.
- (2) Standards for a Class II Kennel. Shall apply to all commercial kennels, persons or non-profit animal rescue organizations identified as a Class II Kennel, shall, in addition to the other requirements of this article including those 6-36 above, comply with the minimum standards of this subsection. The premises of commercial kennels and Class II Kennels shall meet the following standards:
 - a. Buildings or enclosures must be provided which shall allow adequate protection against extreme weather conditions. Floors of buildings, runs and walls shall be of a nonporous material or otherwise constructed as to permit proper cleaning and disinfecting. Temperatures in animal containments shall be maintained at a level that is healthful for every species of animal in the containment.
 - b. Cages, kennels or runs shall have sufficient space for each animal to sit, stand up, lie down, turn around and stretch out to its full length without touching the sides or tops of the cage, kennel or run. Cages, kennels and runs are to be of a material and construction that permits cleaning and disinfecting, and shall have an impervious surface. Cage, kennel and run floors of concrete shall have a resting board or some type of bedding. Cages, kennels and runs shall provide protection from the weather. All animal quarters are to be kept clean, dry and in a sanitary condition. Cages, kennels and runs shall be structurally sound and maintained in good repair to protect animals from potential physical harm, contain the animals, and restrict the entrance of other animals and people.
 - c. Animals shall not be placed in cages, kennels or runs unless such cages,

kennels or runs are so constructed to prevent animal excreta from entering other cages, kennels or runs.

- d. Sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
- e. Each animal shall be given the opportunity for daily exercise consistent within the reasonable requirements of the animal's size, species, and breed.
- f. Litter boxes shall be provided for cats and kittens.
- g. Food shall not be contaminated and shall be wholesome, palatable, and of sufficient quantity and nutritive value and offered at appropriate intervals to meet the normal daily requirements for the condition, size, and age of the animal. Food for all animals shall be served in a clean container so mounted that the animals cannot readily tip it over or defecate or urinate in it.
- h. Supplies of food and bedding shall be stored in facilities that adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- i. All animals shall have fresh, potable water available at all times. Water containers shall be of a removable type and be mounted or secured so that the animals cannot readily tip them over or defecate or urinate in them.
- j. All food and water containers shall be cleaned and disinfected daily.
- k. All animals must be fed and watered, and all cages and kennels cleaned each day, including Sundays and holidays.
- l. Adequate veterinary care shall be provided as needed for each animal.
- m. Provisions shall be made for the removal and disposal of animal and food waste, bedding and debris.
- n. Facilities such as a washroom, sink or basin shall be provided to maintain cleanliness among animal caretakers and animal food and water containers.
- o. Facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air, either by means of windows, doors, vents or air conditioning, and shall be ventilated so as to minimize drafts, odors, and moisture condensation.
- p. Facilities for animals shall have ample light by natural or artificial means or

both, of good quality and well distributed and as appropriate for each animal's health and well-being. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Enclosures shall be so placed as to protect the animals from excessive illumination.

- q. Every person owning, operating, or maintaining such a facility shall post a notice clearly visible from the ground level at the main entrance to the facility containing the names, addresses and telephone numbers of persons responsible for the facility where they may be contacted during any hour of the day or night.
- (3) Kennel Facilities shall be subject to inspection during reasonable hours by an Animal Control Officer upon request. A fee in the amount of \$50.00 shall be assessed against the owners or operators of a Class II Kennel facility for failing to allow an inspection pursuant to this subsection in order to defray costs of repeat travel to the facility.
 - (4) Failure to meet the standards set out herein shall be grounds for the issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this article.
 - (5) Owners or operators of Class II Kennels must register with and maintain an updated Class II Kennel Memorandum of Understanding with Animal Control.

Sec. 6-34. Pet shops

- (1) In general. A building or facility located outside city/town limits and the person acquires animals for the purposes of resale, excluding domesticated livestock, that are bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.
- (2) Standards for Pet Shops. All pet shops subject to this Ordinance, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article must also, comply with the following minimum standards.
 - a. There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
 - b. Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.
 - c. The temperature of the area around the animal enclosures in the shop shall be maintained at a level that is healthful for every species of animals kept in the

shop.

- d. All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, lie down and stretch out to its full length without touching the sides or tops of the enclosure, and floors of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the cage floor.
 - e. All animals under three months of age are to be fed at least two times per 24 hours. Food for all animals shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food for animals shall be served in a clean dish so mounted that the animal cannot readily tip it over, and it shall be removable.
 - f. Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day, and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.
 - g. There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to ensure the enclosure is maintained in a clean and sanitary manner.
 - h. All animals must be fed and watered and all cages cleaned every day, including Sundays and holidays.
- (3) Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this Ordinance, and/or the issuance of an abatement order to comply with the provisions of this Ordinance.
 - (4) Owners or operators of pet shops must apply to the Animal Control for a Pet Shop Permit, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county.
 - (5) Pet Shops shall be subject to inspection by the Department of Agriculture upon registration with Burke County Animal Control.
 - (6) In Burke County, no person may own or operate a Pet Shop outside of any municipal limits unless and until such person satisfies the requirements of this section and has been issued a privilege license if required.

ARTICLE IV. MISCELLANEOUS

Sec. 6-36. Enforcement in Municipalities; Restricted

Animal Control Officers shall have no authority to enforce this ordinance within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that Burke County is empowered to enforce the provisions of this ordinance within that municipality and repeals any inconsistent ordinance.

Sec. 6-37. Deceased Animals

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

Sec. 6-38. Animals Creating a Nuisance

- (1) Following the acts or actions by an owner or possessor of an animal are hereby declared to be unlawful.
 - a. It shall be unlawful for any dog owner to keep a dog that habitually or repeatedly barks in such a manner or to such an extent that it is a public nuisance. Complaints may be followed up on for dogs that bark habitually or repeatedly.
 - b. Maintaining animals in an unsanitary environment resulting in offensive odors or danger to the animal or to the public health, safety or welfare, or failing to maintain a condition of good order and cleanliness that reduces the probability of transmission of disease,
 - c. Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.
 - d. Maintaining an animal that is diseased and dangerous to the public health.
 - e. Domestic animal owners shall clean up feces left on private or public property that is not owned by the owner
 - f. Allowing animals to turn over garbage containers or removes garbage from them.
 - g. Allows animals to damage gardens, foliage or other real property.

animal control ordinance.

ARTICLE V. REMEDIES

Sec. 6-46. General

(1) Civil Penalties

Any person, firm or corporation violating any of the provision of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation which shall be paid in full within ten (10) days of the service of the citation by a representative of the Burke County Animal Control Division or any law enforcement officer in accordance with N.C.G.S. 153A-123. If the offender does not pay the penalty within ten (10) days, the county may recover said penalty plus court costs in a civil action in the nature of debt. Failure to correct the violation or violations within the ten (10) days period will result in an additional penalty of fifty dollars (\$50) per violation per day until the violation is corrected. All civil fees are subject to associated legal fees in the collection of delinquent fees.

- a. Unless otherwise stated in the Burke County Animal Control Ordinance, any person, firm, etc., violating any provision of this article shall be subject to (Graduated Penalty \$50, \$100, \$200) with a time frame of one (1) year on the last citation.
 1. First Offense = \$50 Penalty
 2. Second Offense = \$100 Penalty
 3. Third Offense = \$200 Penalty
 4. All offenses after Third = \$200 Penalty per incident
- b. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-41), when unprovoked, attacks, assaults, wounds, bites or otherwise injures or kills a human being, the owner shall pay a three thousand dollar (\$3,000.00) civil penalty. After a ten (10) day waiting period, exclusive of Sundays and holidays, the owner may reclaim the animal or dangerous dog in injury cases only. Animals that kill a human being will be euthanized when it has been proven through the legal process.
- c. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-4.1), when unprovoked, kills, wounds or assists in killing or wounding any domestic animal or pet, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty. For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of four hundred dollars (\$400.00).
- d. If any dangerous animal or dangerous dog runs at large, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty. For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of three hundred dollars (\$300.00).
- e. Any person in possession of or keeping an inherently exotic within the county in violation of the applicable provisions of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of three hundred dollars (\$300.00).

- f. Violation of the county ordinance for animal cruelty is subject to a first offense fine of \$200 (two-hundred dollars) and a second offense fine of \$300 (three-hundred dollars) if the second offense occurs within one (1) year of the first offense.
- g. If the offender does not pay the full amount of the penalty within ten (10) days, the county may recover all attorney fees in a civil action in the nature of debt
- h. The owner shall also be responsible for any costs incurred such as a tranquilizer fee, costs of which are at minimum of fifty (\$50.00) dollars.
- i. All fees associated with the citation collection.
- j. Failure to pay fees owed to Burke County Animal Control within ten (10) days could result in referral to the North Carolina Debt Setoff Collection Program for collection pursuant to NC Gen. Stat. 105A-2 (6) as well as a local collection assistance fee of fifteen (\$15) dollars.

(2) Criminal Sanctions

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

(3) Injunctive Relief

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

(4) Seizure or Impoundment

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

ARTICLE VII. LICENSE TAX

Sec. 6-65. General

This ordinance hereby removes the license tax.