# AN ORDINANCE MAKING REVISIONS TO CHAPTER 6 OF THE BURKE COUNTY CODE OF ORDINANCES CONCERNING ANIMALS

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF BURKE IN REGULAR SESSION ASSEMBLED:

The following changes are hereby made to Chapter 6 of the Burke County Code of Ordinances. These changes shall be considered effective on the date that this ordinance is approved by the Burke County Board of Commissioners. Additions are indicated by underlined text, and deletion are indicated by ~~struck through text~~.

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**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 entirely~~leave~~ an animal in a street, road, or public or private place without providing for the continued care, sustenance, protection, adequate shelter, and adequate feed of such animal. ~~intentionally, knowingly, recklessly, or negligently at a location for more than 48 consecutive hours without providing for the animal's continued care.~~

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

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*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~~ Resource Center; and who has final determination on the care, treatment, control, impounding, and disposition of animals.

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*Animal shelter,* operated on a managed intake basis and hereinafter called the *animal ~~services~~ resource 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. Any remaining references in this Chapter to the *animal services center* shall be considered to refer to the *animal resource center.*

~~*Approved breeder* means any individual who has applied for and secured a breeder's permit from the Burke County Animal Services Department.~~

*Approved rescue group* means a nonprofit organization that cares for animals and which has been favorably assessed by the ~~animal services director~~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.

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*Backyard breeder* means an individual whose indiscriminate breeding practices are considered substandard, 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~~ animal at a time; (2) Individuals ~~with less than nine unaltered female dogs that are at least 12 months of age,~~ that do not adhere to good breeding practices and good sale practices or do not provide ~~dogs~~ animals ~~and/or puppies~~ adequate care as defined in this chapter; (3) Individuals who sell, give away, or rehome, un-weaned (under eight weeks old) and/or diseased ~~puppies~~animals (offspring). This definition does not apply to humane societies, rescue groups, foster homes, or shelters. Backyard breeders are not permitted in Burke County.

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*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~~ resource 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~~, in a cat colony registered with the animal services department~~. 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.

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

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*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.

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*Foster* means an individual or family that voluntarily takes an animal from the animal ~~services~~ resource 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 offspring.

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*Harbor.* An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for ~~24~~ fourteen consecutive days~~hours~~ or more.

*Health department* means the Burke County Health Department.

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

~~*Hobby breeder* is any person with knowledge of their specific breed(s) (i.e. health risks, canine obstetrics, genetics and will make informed decisions before considering a mating). A hobby breeder is one who breeds not more than once within a 12-month period while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can discuss with the breeder the conditions of the dogs or cats. A hobby breeder must obtain a breeder's permit from the Burke County Animal Services Department.~~

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

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

*Neglect* means, concerning an animal of which a person is the owner, keeper, or harborer, (a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment, (b) kept in conditions that are unsanitary, (c) not protected 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.

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*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 ~~72~~ fourteen consecutive

~~hours~~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.

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~~*Potentially dangerous dog.* See section 6-7(b)(2).~~

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*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 animal services 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.

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**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 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~~ resource 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~~ resource 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~~ resource 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).

(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.

**Sec. 6-4. Animal abuse/cruelty and neglect.**

(a) Abuse and Cruelty.

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

(1) Abuse/cruelty to animals is a criminal offense. Tthe 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, or torment an animal, or to deprive any animal of adequate feed or necessary sustenance including both food and water, adequate 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. To maliciously mutilate, poison, beat, disfigure, or kill any animal or cause 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.

c~~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.

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

e~~d~~. ~~Abandoning~~ To abandon an animal, including to abandon an animal to suffer injury, malnutrition, or illness without veterinary care. However, a community cat shall not be 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.

f~~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.

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

h~~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.

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

j~~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.

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

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

m. 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. Provided, however, a stray animal may be seized when trying to capture it.

n. 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 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.

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

p~~m~~. 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.

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.

(b) Neglect.

(1) Confining an animal without sufficient food, water, or exercise is neglect and is a criminal offense and violation of this ordinance. Abandoning an animal is neglect and is a criminal offense and a violation of this ordinance. 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 also 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 any animal to subject the animal to neglect. Neglect shall include any act or omission defined or described as neglect in this chapter, including in Section 6-1 hereof.

~~**Sec. 6-5. Neglect.**~~

**Sec. 6-5. Reserved.**

**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*).

(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 (s~~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. Python reticulatus;~~

b~~c~~. Burmese Python,

c~~d~~. Python molurus;

d~~e~~. African Rock Python,

e~~f~~. Python sebae;

f~~g~~. Amethystine Python,

g~~h~~. Morelia amethistina;

h~~i~~. Green Anaconda,

i~~j~~. Eunectes murinus; or any of their 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~~, 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 chapter. Exotic mammals or reptiles not spayed or neutered will be impounded and euthanized by the county animal services.~~

(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 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.

**Sec. 6-7. Dangerous dogs ~~/ potentially dangerous dog~~.**

(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:

~~(1) *Dangerous dog* means:~~

~~a.~~ (1) A dog that:

a~~1~~. Without provocation has killed or inflicted severe injury on a person; or

b~~2~~. Is owned or harbored primarily or in part for the purpose of dog fighting, or has been trained for dog fighting.~~determined by the person or board designated by the county responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subdivision (2) of this subsection.~~

c. Has been trained for dog fighting; or

~~b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.~~

~~(2) *Potentially dangerous dog* means a dog that the person or board designated by the county responsible for animal control determines to have:~~

d. Has been determined by the animal services director to have:

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

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

3~~c~~. 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 ~~Burke County~~ Animal Services Director~~Enforcement Supervisor~~ shall be responsible for determining when a dog ~~is a "potentially dangerous dog."~~has committed any of the acts described in Section 6-7(b)(1)(d). ~~The Burke County Animal Enforcement Supervisor making the determination that a dog is a "potentially dangerous dog" must~~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 ~~potentially dangerous under this section~~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 ~~health~~ 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.

(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 indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;

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 v~~V~~iolation of this section is a Class 3 misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

**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).

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

(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 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.

**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~~ resource 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~~ resource center, after the mandatory 72-hour hold, may be adopted, transferred to an approved rescue group 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~~ resource center anytime the center is open to the public. If the animal ~~services~~ resource 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~~ resource 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:

(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.

**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~~Public Health Advisory Board 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.

(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.

**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.

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 shall constitute a misdemeanor and shall subject the violator to a fine of five hundred dollars ($500.00).

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**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~~ resource 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~~ resource 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~~ resource 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~~12~~(f~~b~~). Animal services is authorized to initiate legal proceedings to recover the costs of caring for an animal confined at the animal ~~services~~ resource center pursuant to this section if the animal is not redeemed.

(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.

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***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~~ resource 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.

**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~~ resource 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.

**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 and/or the animal resource center. The board of commissioners has the authority to change the fee schedule from time to time, as permitted by N.C.G.S. § 153A-102. Animal owners desiring to keep their animals in an unaltered state may be required to pay differential fees pursuant to the fee schedule specified in subsection (a) above.~~Any animal found off the owner's property, at large, will be issued a warning by Burke County Animal Services. Following this warning, the owner of a non-spayed or unneutered dog or cat shall be subject to an unaltered impounded animal fine in addition to any other fees or fines imposed by this title or state law. All subsequent violations will result in an additional, graduated unaltered animal fine. The unaltered impounded animal fines shall be set by the board of commissioners. For this section, "impounded" shall mean any animal that is impounded in violation of section 6-10.~~

**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 ~~nonprofit~~ rescue~~/adoption~~ 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~~ resource center places an animal in foster care, the animal ~~services~~ resource 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~~ resource 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~~ resource center shall be required to sign an adoption contract with the animal services ~~center~~ department 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~~ resource center.

Any eligible rescue or approved foster accepting an animal from the animal ~~services~~ resource 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 the county's five-day impoundment period if space is available in the animal ~~services~~ resource 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.

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**Sec. 6-77. Rescue requirements.**

Approved rescue groups can pull animals from the county animal ~~services~~ resource 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. Following the initial impoundment period, animals will be held in the animal ~~services~~ resource 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 animal advisory board to ensure proper care and recordkeeping of all approved rescue groups. During each audit, two approved rescues 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 animal advisory board.

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~~ resource center. Time of suspension will be no less than six months. Re-evaluation of the rescue will be 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 department's 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.~~Rescues must obtain and maintain nonprofit, tax-exempt status as a 501(c)(3).~~

~~(5) In order to be considered for approval as an approved rescue group by county animal services, groups must 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~~6~~) 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~~7~~) 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.

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**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 turn over garbage containers or remove garbage from them.

(7) Allowing animals to 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 any animal to permit the animal to be at large.

(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) Fill out a complaint form provided by the animal ~~services~~ resource 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.

(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 in Section 6-1 herein.

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.

**Sec. 6-115. Cat colonies.**

~~(a) Cat colonies should be registered with the animal services.~~

(a~~b~~) Each colony must have a contact person.

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

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

**Secs. 6-116. Community Cat Management Program**

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

**Secs. 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 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;

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).

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. 6-1186—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.

(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~~500.00. 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 $3~~5~~00.00 and a second offense penalty of $~~1,0~~500 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.

--END OF REVISIONS TO CODE—

Adopted this 15th day of December 2025.

Jeffrey C. Brittain, Chairman
Board of Commissioners

ATTEST:

Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board of Commissioners