

**ANIMAL CONTROL & ANIMAL WELFARE ORDINANCE
SURRY COUNTY, NORTH CAROLINA**

An Ordinance of the County of Surry Providing for
Animal Control and Related Matters

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

**ARTICLE I
ORGANIZATIONAL MATTERS**

SECTION 1: TITLE AND PURPOSE OF THIS ORDINANCE

- a. Title. This Ordinance shall be known as the Surry County Animal Control & Animal Welfare Ordinance.
- b. Purpose. The purpose of this Ordinance is to:
 - 1) Protect the people of Surry County from dangerous, exotic or uncontrolled animals; and
 - 2) Supplement, not supersede, the North Carolina Rabies Control Statutes; and
 - 3) Insure the humane treatment of animals within the county.
- c. This ordinance shall not apply to animals otherwise regulated by North Carolina or federal law.

SECTION 2: DEFINITIONS

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning defined herein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future and past tense; words in the plural number include the singular number; words in the singular number include the plural number; and words in the masculine gender include the feminine gender.

- a. Abandon: To intentionally, knowingly, or negligently leave an animal at a location for more than (48) consecutive hours without providing for the animal's continued care.
- b. Adequate Food: The provision on a daily basis of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal, as well as maintain the animal in good health and comfort. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and from which agents injurious to health have been removed or destroyed to a practical minimum.
- c. Adequate Shelter: An enclosure which is structurally sound, has a minimum of three sides, is large enough for the animal to turn around, is maintained in good repair, and constructed in such a manner that is water and wind resistant. The enclosure shall not have a metal floor nor be a

metal barrel. An adequate shelter provides some shade from the direct rays of the sun and assures adequate ventilation and light.

- d. Adequate Water: Constant access to a supply of clean, fresh water, provided in a sanitary manner. In near or below freezing temperatures, the water must be changed frequently so as to prevent freezing.
- e. Aggression-Trained Dog: A dog that has been trained or conditioned to bite, attack, or exhibit aggressive behavior toward humans or other domestic animals for any purpose. This includes but not limited to, the security of business property and personal security.
- f. Animal: For the purpose of this Ordinance, any dog, cat, or ferret, as well as exotic animals that may be forbidden under Article X.
- g. Animal Control Department: The Surry County Animal Control Department.
- h. Animal Control Officer (ACO): A County employee designated as a dog warden, rabies control officer, rabies control official, or other designated County representative or agent, whose responsibility includes rabies and animal control.
- i. Animal Shelter: Any premises operated by the County for the purpose of impounding and caring for all animals found running at large, or otherwise subject to impounding in accordance with the provisions of this Ordinance, or any other County ordinance, Directive, or State law.
- j. At Large. An animal shall be deemed to be “at large” when it is off the property of its owner and not under the restraint of a competent person.
- k. Breeding Kennel: Any person or group of persons engaged in breeding dogs or cats, in which five (5) or more litters per year are produced.
- l. Cat: A domestic feline of the genus and species *Felis catus*.
- m. Complaint: A formal allegation against a party, in written or verbal format.
 - 1) Emergency Complaint - Any person may in the case of an emergency make a verbal complaint through the County Communications Center or directly to the animal control officer or the Director or his designee, as appropriate, of a violation of Article III, IV, V, VI or VII above. Such verbal complaint shall, as soon as practicable after response to the emergency, be confirmed by the complainant in writing on the prescribed form.
 - 2) Verbal Complaint - Any person may make a verbal report to the County of a violation of Article II, III and VIII of this Ordinance, All such reports shall be made by telephone to the County Communications Center, or by telephone or in person to the Animal Control Section. Telephone reports received by the County Communications Center shall be relayed to the Animal Control Section or appropriate municipal police for such action as may be authorized or appropriate under this Ordinance.
 - 3) Written Complaint - Any person may make a complaint to the County of a violation of Article IV, V, VI or VII of this Ordinance. All such complaints shall be written and shall be on a form prescribed by the County. Such complaints shall be presented as follows:

- a. **Article IV, V, VI or VII Complaints** - A written complaint of a violation of Article IV, V, VI, or VII shall be presented to the Animal Control Section. The Animal Control Section shall develop a written complaint form and shall maintain copies of the same at all times, which shall be made available for inspection upon request to any person. The form shall require such information as shall be deemed sufficient by the Animal Control Section to permit a sufficient investigation to determine if a violation of Article IV, V, VI or VII has occurred, along with any other information deemed appropriate by the ACO. The form shall further require the signature of the person making the complaint.
- n. **County:** The County of Surry.
- o. **Dog:** A domestic canine of the genus, species, and subspecies *Canis lupus familiaris*
- p. **Fenced Enclosure:** Any enclosed area surrounded by a fence which is reasonably adequate to secure an animal, so as to prevent it from escaping from property owned or leased by, or under the constructive possession of, the animal's owner. This definition includes properly operating radio controlled and wireless controlled underground fence installation.
- q. **Feral Cat:** An unowned cat which is not an identified animal and which is not socialized.
- r. **Ferret:** A domestic mammal of the genus, species, and subspecies *Mustela putorius furo*.
- s. **Guard Dog:** A dog on premises specifically for the purpose of protecting said premises from any intruder, and for attacking a person coming in the vicinity of the dog.
- t. **Identified Animal:** An animal with an identification tag, tattoo, or other marking on which is inscribed the owner's name, address, and telephone number.
- u. **Investigation:** The ACO, Health Director or his designee, upon complaint of a violation of Article II, III, IV V, VI, VII, VIII or XI, shall conduct such investigation, as he shall deem appropriate in determining whether such violation has occurred and whether impoundment of an animal is appropriate or required under the provisions of this Ordinance. Investigations may include, but are not limited to, the interviewing of witnesses and taking of written statements, inspection of premises where an animal is owned or held, reasonable examination of a person or property to determine if injury or damage has been inflicted by an animal under the provisions of this Ordinance, reasonable examination of an animal being investigated, and such other steps as shall be determined to be necessary or appropriate in carrying out investigations of violations of this Ordinance. The animal control officer and the Director or his designee may, if necessary, request the assistance of the Surry County Sheriff's Office or municipal police in impounding any animal as permitted under the provisions of this Ordinance.
- v. **Owner:** Any person, group of persons, firm, association, partnership, corporation, or other entity owning, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal, or allowing the animal to remain on or about their property for (5) days. The owner is responsible for the care, actions, and behavior of his animals. This definition shall also apply to the term "ownership" as used in this Ordinance.

- w. **Person**: Any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.
- x. **Public Nuisance Animal**. As defined in Article IV. Section 2 as any animal that unreasonably annoys humans, endangers the life or health of domestic animals or persons, or substantially interferes with the rights of citizens, other than its owner, to enjoyment of life or property.
- y. **Restraint**. An animal is under restraint within the meaning of this Ordinance if it is:
- 1) on or within a vehicle being driven or parked and secured in such manner as to prevent the animal from escaping or causing injury to persons approaching or passing by the vehicle; provided, that an animal shall not be deemed to be under restraint if it is in the back of an open-bed pickup, regardless of whether or not it is secured therein;
 - 2) within a secure enclosure; or
 - 3) an above ground fence in good repair and/or a properly operating radio controlled or wireless underground fence installation.
- z. **Secure Enclosure**. A structure designed to securely house and restrain a dog that has been determined to be a potentially dangerous dog under Article V, Section 3(b) of this Ordinance. Said structure shall comply with each and every one of the following requirements:
- (i) The structure shall be located on property owned or leased by, or under the constructive possession of, the dog's owner, shall be a minimum size of 15 feet by 6 feet by 6 feet, and shall be enclosed by a floor, walls, and roof. The floor shall consist of a concrete pad at least 4 inches thick. If more than one dog is to be kept in the enclosure, the floor area shall provide at least 45 square feet for each dog. The walls and roof of the structure shall be constructed of chain link fencing of a minimum thickness of 9 gauge, supported by galvanized steel poles at least 2½ inches in diameter. The vertical support poles shall be sunk in concrete filled holes at least 18 inches deep and at least 8 inches in diameter. The chain link fencing shall be anchored to the concrete pad with galvanized steel anchors placed at intervals of no more than 12 inches along the perimeter of the pad. The entire structure shall be freestanding and shall not be attached or anchored to any existing fence, building, or structure. The structure shall have no more than one entrance door, which shall be secured by a child resistant lock that must remain locked at all times except when the dog's owner or an authorized veterinarian enters to feed, water, clean, or treat the dog.
 - (ii) A perimeter fence shall be constructed around the entire structure, no less than 3 feet from the interior fencing walls of the structure itself. The perimeter fence shall be at least 6 feet in height, shall be of chain link construction with a minimum thickness of 9 gauge, shall be anchored to concrete along the entirety of all four sides in the same manner as the interior fencing walls (except for a single door as specified below), and shall be topped by chain link fencing which shall be of a minimum thickness of 9 gauge and which shall cover the entire area between the top of the perimeter fence and the top of the structure. A single door shall be located in the perimeter fence, on the opposite side from the entrance door to the structure. The door to the perimeter fence shall be secured by a child resistant lock and shall remain locked at all times except when the dog's owner or

an authorized veterinarian enters to feed, water, clean, or treat the dog. The door to the perimeter fence shall be locked from the inside before the entrance door to the structure is opened.

(iii) Provided there is no conflict with applicable zoning regulations, a warning sign of at least 120 square inches but no more than 240 square inches shall be visible from each exposure of the perimeter fence which is visible to any adjoining property. Each sign shall have a graphic representation of an appropriate animal such that the dangerousness or viciousness of the animal housed within the structure is communicated to those who cannot read, including young children. In the event of a conflict with applicable zoning regulations, the warning sign shall comply with the requirements of this subdivision (iii) as nearly as shall be practicable under said regulations.

(iv) The owner of the dog shall be responsible for ensuring that the structure and perimeter fence are maintained at all times in such condition as to meet the requirements stated herein.

(v) The structure and perimeter fence shall be inspected and approved by the Surry County Building Inspections Department and an Animal Control Officer for compliance with this Ordinance and any applicable state or local building codes, and the owner shall pay any fees in connection therewith, before the same may be used to house a dog hereunder.

aa. Severe Injury: As defined in Article V, Section 3 of this Ordinance.

bb. Stray: As defined in GS 130A-184: An animal that meets both of the following conditions:
(a.) Is beyond the limits of confinement or lost. (b.) Is not wearing any tags, microchips, tattoos, or other methods of identification

SECTION 3: ANIMAL CONTROL COMMITTEE

There is hereby created the Animal Control Committee, the purpose of which shall be to (i) advise the Surry County Animal Control Section; (ii) carry out the directives of, perform investigations for, and advise the Surry County Board of Health with respect to rabies control and other animal related matters as determined by the Board of Health; and (iii) carry out such other functions as may be established under this Ordinance. The Animal Control Committee shall be composed of five (5) members for two-year rotating terms in compliance with by-laws established and approved by the Surry County Board of Health. The Board shall have the authority and responsibility conferred by said by-laws. Members shall be appointed by the Surry County Board of Commissioners.

ARTICLE II ANIMAL CONTROL PROGRAM

SECTION 1: ANIMAL CONTROL PROGRAM

A. The Animal Control Program of Surry County, hereinafter referred to as the Animal Control Program, is composed of the Health Director, and such employees as shall be determined by the Health Director, utilizing the Surry County Personnel Ordinance for hiring, and the North Carolina Office of Human Resources for qualifying all applicants and potential employees.

SECTION 2: ENFORCEMENT

- A. The Health Director shall designate employees or agents enforcing this Ordinance as Animal Control Officer(s) (ACO). In the performance of said duties, ACO shall have all the powers, authority and immunity granted under this Ordinance and by the general laws of this state to enforce the provisions of this chapter, and the General Statutes of North Carolina as they relate to the care, treatment, control, or impoundment of animals.
- B. Except as may be otherwise provided by statutes, local laws, or ordinances, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties unless he acts with actual malice.
- C. The Animal Control Program shall assist Surry County municipalities experiencing animal control issues. In those areas over which municipal animal control programs are not applicable, the Animal Control Program shall apply, and assist each municipality enforce their regulations.
- D. Except as otherwise specifically provided in this chapter it shall be unlawful for any person to resist, obstruct, delay, interfere with, hinder, or molest Animal Control Officers or veterinarians in the performance of any duty authorized by this Ordinance. It shall be unlawful for any person to seek to release any animal in the custody of the Animal Control Office, or its agents. An animal is in the custody of the Animal Control Office or its agents when it is in the back of an Animal Control vehicle, in a live trap, in any type of confinement device, or otherwise under the physical control of an ACO. Anyone in violation of this section will be subject to a \$100 fine as a first offense, and a \$300 fine for each subsequent civil citation offense.

SECTION 3: GENERAL DUTIES OF ANIMAL CONTROL PROGRAM

The Animal Control Program shall be charged with the responsibility of:

- A. Enforcing, in this county, all state and county laws, ordinances and resolutions relating to the care, custody, and control of animals.
- B. Assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or leashing of dangerous animals, dangerous dogs and exotic animals. Investigate all reported animal bites or other human physical contact of with suspected rabid animals
- C. Investigate allegations of cruelty, neglect, or abuse of animals.
- D. Making such canvasses of the county, as is deemed necessary for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or state statute.
- E. Operate the county animal shelter pursuant to policies of the Surry County Health & Nutrition Center and as defined in NCGS 19A Section 3 & 02 NCAC 52J.
- F. Seize and impound where deemed necessary, any animal involved in a violation of this or any other county ordinance or state law. Animal Control shall seize any animal, including any animal abandoned

by reason of a set out, eviction or abandonment of real property as defined by GS 14-361.1, at the time of offense.

- G. Be authorized to place live-capture animal traps on private property, with the consent of the landowner, or on public property, in order to trap and remove stray, at large, abandoned, or nuisance domestic animals.

SECTION 4: RABIES CONTROL OFFICER

A. Any Animal Control Officer may hereby be designated as the Rabies Control Officer for Surry County and shall have such powers, duties, and responsibilities as are provided by the provisions of the North Carolina General Statutes; however, such powers, duties, and responsibilities as the Rabies Control Officer shall not conflict with or supersede the powers, duties, and responsibilities of the Director of the Surry County Health & Nutrition Center or rabies inspectors appointed under the provisions of the North Carolina General Statutes.

B. If an ACO is deemed a Certified Rabies Vaccinator by the Health Director, the vaccinator shall complete the training course required by the State Division of Public Health; shall vaccinate only at the Surry County Animal Shelter or approved site; shall vaccinate only for business related to the animal control program; and shall not vaccinate personal animals or outside parameters defined by the animal control program.

ARTICLE III LOST OR STRAY ANIMALS

SECTION 1: IDENTIFICATION OF DOGS

Every owner of a dog shall provide the same with an identification tag, tattoo, microchip identification, or other marking on which is inscribed the dog owner's name and address.

SECTION 2: IMPOUNDMENT

Any domestic animal which appears, in the sole discretion of the ACO, to be lost, a stray, unwanted, or in imminent danger shall be impounded by the Animal Control Section and confined in the Animal Shelter as governed by the North Carolina Department of Agriculture. Impoundment of such an animal shall not relieve the owner thereof from any penalty which may be imposed for a violation of this Ordinance.

SECTION 3: AUTHORITY TO TRANQUILIZE OR DESTROY

An ACO may, when attempting to impound an animal under Article III which cannot otherwise be captured for impoundment, tranquilize said animal. If attempts to tranquilize the animal are unsuccessful, and all other reasonable efforts at impoundment have failed, the ACO may destroy said animal.

SECTION 4: NOTICE TO OWNER

Immediately upon impounding an identified animal, the Animal Control Section shall make reasonable efforts, as determined by Health and Nutrition Center policy, to notify the owner and inform such owner of the conditions under which the animal may be redeemed. Such conditions include, but shall not be limited to, the charging of those fees as are described in Section 5 below. If, after 72 business hours, the owner is unknown or cannot be located, or if the owner has not contacted the Animal Control Section, the animal shall then become the property of the Animal Shelter as described in Section 6 (a).

SECTION 5: REDEMPTION BY OWNER

The owner of an animal impounded under this Article may redeem the animal and regain possession thereof at any time during normal business hours within 72 business hours after notice of impoundment is given, by complying with all applicable provisions of this Ordinance and paying such redemption fee and daily boarding fee as may be established by the County.

SECTION 6: DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMALS

- a. Failure to Redeem. If an impounded animal is not redeemed by the owner in compliance with Article III, Section 3, it may be destroyed in a humane manner, or shall become the property of the Animal Shelter, and shall be offered for adoption or rescue, according to North Carolina General Statute 19A-32.1. This includes any responsible adult who (i) pays the adoption fee as established by the County, (ii) obtains any necessary rabies vaccination, and (iii) in the sole discretion of the ACO is found to be able and willing to comply with the provisions of this Ordinance.
- b. Spay/Neutering. Any animal adopted from the Surry County Animal Shelter shall be spayed/neutered within a timeframe prescribed by the Animal Control Officer. Fees for the spaying/neutering of any animal shall be collected at the shelter prior to spay/neutering by a veterinarian.
- c. Rabies Quarantine. No impounded animal shall be allowed to be adopted from the Animal Shelter during a period of emergency rabies quarantine as invoked by the Surry County Public Health Director.

SECTION 7: REDEMPTION OF UNVACCINATED DOG OR CAT

Payment for the required rabies vaccination will be the responsibility of the person redeeming the animal.

SECTION 8: RABID ANIMAL NOT REDEEMED OR ADOPTED

Notwithstanding any other provision of the Article, an impounded animal, which appears to be suffering from rabies, shall not be redeemed or adopted.

SECTION 9: INJURED, SICK, OR DISEASED ANIMALS

When the owner of an injured, sick, or diseased animal can be located, it shall be the owner's responsibility to provide veterinary care for the animal or authorize Animal Control to humanely

euthanize the animal. If the animal is severely injured, sick, or diseased, the animal shall be destroyed in a humane manner under the direction of the ACO.

SECTION 10: PENALTY FOR VIOLATION

The penalty for a violation under this Article III shall be as set forth in Article IX.

ARTICLE IV ANIMALS CREATING A NUISANCE

SECTION 1: ANIMAL CREATING A NUISANCE

The owner of an animal shall not permit the animal to be at large if such animal is creating a public nuisance. If, after adequate investigation of a complaint, the ACO reasonably determines that an animal is creating or has created a public nuisance while at large, the ACO shall notify the owner of the same and shall instruct the owner to keep the animal under restraint at all times. If the ACO thereafter determines, upon investigation of a subsequent complaint, that the animal is or has been at large again while creating a public nuisance, the owner shall receive a written civil citation from the ACO, and the ACO shall instruct the owner to remedy the nuisance. Should the ACO determine that the animal is creating or has created a public nuisance following the 3rd civil citation, the animal at that time shall be impounded and the owner shall be charged with a violation of this Section, and the ACO may apply for a misdemeanor warrant to issue and be served upon the owner.

SECTION 2: "PUBLIC NUISANCE" DEFINED

For purposes of this Article, the term "creating a public nuisance" applies without limitation to the following: animals that habitually or repeatedly chase, snap at, attack, or harass persons (including but not limited to pedestrians, joggers, and persons operating vehicles or other modes of transportation) or their pets or farm animals; animals that, whether or not in a mode of attack, habitually or repeatedly disturb, interfere with, or annoy persons or their pets or farm animals; and animals that habitually or repeatedly enter onto the property of a person who is not the owner of said animal; animals that tip over garbage cans or damage yards, gardens, flowers, vegetables, or other personal property. This Section shall not apply to a dangerous dog, potentially dangerous dog, or vicious dog, as defined under Article V below.

SECTION 3: ESTROUS ANIMAL

It shall be unlawful for any person owning or having possession, charge, custody or control over a female dog or female cat to allow that animal to be at large during its estrous period. If, after investigation of a complaint, the ACO determines that a female is or has been at large during estrous, the ACO shall notify the owner of such animal and shall instruct the owner to keep the animal in such a manner that it will prevent the animal from coming in contact with a male of its species. If the ACO thereafter determines, upon investigation of a subsequent complaint, that the animal is or has been at large again during estrous, the owner shall be charged with a violation of this Section and the ACO may impound the animal and hold and dispose of the same in accordance with the provisions of Article III above. Notwithstanding the foregoing, if upon any investigation the ACO determines that a female animal which is or has been at large during estrous is not an identified animal, the ACO may impound said animal, and may hold and dispose of the same in accordance with the provisions of said Article III.

This Section shall not be construed to prohibit the intentional breeding of animals on the premises of the owners or keepers of the animals involved.

SECTION 4: AUTHORITY TO TRANQUILIZE OR DESTROY

An Animal Control Officer may, when attempting to impound an animal under this Article IV which cannot otherwise be captured for impoundment, tranquilize said animal or, if attempts to tranquilize and all other reasonable efforts at impoundment have failed, destroy said animal.

SECTION 5: EXCEPTIONS

The provisions of this Article shall not apply to dogs defined under G.S. §67-4.1(b), nor shall the provisions of this Article be construed to prevent an animal owner from engaging in a legal sporting activity on the lands of another person provided proper permission has been granted by the owner of the property.

SECTION 6: PENALTY FOR VIOLATION

The penalty for a violation under this Article shall be as set forth in Article below.

ARTICLE V DANGEROUS, POTENTIALLY DANGEROUS, OR VICIOUS DOGS

SECTION 1: PURPOSE

The purpose of this Article shall be to supplement the provisions of the North Carolina General Statutes governing dangerous and vicious dogs, and more specifically G. S. 130A-200 and Article IA of Chapter 67.

SECTION 2: DETERMINATION OF “POTENTIALLY DANGEROUS DOG”

Pursuant to G. S. 67-4.1 (c), the Surry County Public Health Director (hereinafter the “Director”), or his designee, is hereby designated as the person responsible for determining when a dog is a “dangerous dog” or a “potentially dangerous dog” under Article 1A of Chapter 67 of the North Carolina General Statutes. The Animal Control Committee is further designated as the “separate board” as contemplated by G.S. 67- 4.1 (c) which shall hear any appeal from a determination of the Director or his designee pursuant to NCGS 67 -4.2c.

SECTION 3: IMPOUNDMENT OF “DANGEROUS DOGS”; AND ‘POTENTIALLY DANGEROUS DOGS’; DISPOSITION

In addition to the remedies provided in Article 1A of Chapter 67 of the North Carolina General Statutes, the Director or his designee shall impound a “dangerous dog” or a “potentially dangerous dog” as defined under G. S. 67-4.1 (a) (1), as follows:

(a) Dangerous Dogs. In the case of a "dangerous dog" under G.S. §§67-4.1(a)(1)a.1. or 67-4.1(a)(1)b., then, following investigation of a complaint of the same under Article IX below and a determination by the Director or his designee that the dog is a dangerous dog under either or both of said sections, such dog shall be impounded immediately upon delivery to the owner of the written notification as required under G.S. §67-4.1(c), which statute shall apply under this subsection (a) the same as in cases involving potentially dangerous dogs. Such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c). In the event of a final determination that the dog is a "dangerous dog" under either or both of said sections, the dog shall be destroyed by the Animal Control Department.

(b) Potentially Dangerous Dogs. In the case of a "potentially dangerous dog" under G.S. §67-4.1(a)(2), then, following investigation of a complaint, and a determination by the Director or his designee that the dog is a potentially dangerous dog, owner shall receive written notification as required under G.S. §67-4.1(c). In the event of an appeal, such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c). In the event of a final determination that the dog is neither a "dangerous dog," nor a "potentially dangerous dog," such dog shall immediately be released to its owner upon compliance by the owner with all applicable provisions of this Ordinance, and payment of such redemption fee and daily boarding fee as may have been established by the County. In the event of a final determination that the dog is a "potentially dangerous dog," such dog shall be disposed of as follows:

(i) *Inflicting Bites on Persons Resulting in Broken Bones or Disfiguring Lacerations or Requiring Cosmetic Surgery or Hospitalization.* Where said final determination is based on one or more of the behaviors described in G.S. §67-4.1(a)(2)a., then, if the owner of the dog is known, said owner may redeem the dog by payment of such redemption fee and daily boarding fee as may have been established by the County provided, that it shall be an express condition of any such redemption that the owner at all times thereafter keep the dog within a secure enclosure as defined in Article I, Section 2(x) above. The dog may not be redeemed until the secure enclosure has been completed, inspected, and approved, as provided in Article I, Section 2(x). The Animal Control Department may establish a deadline for completion, not to be less than sixty (60) days, after which, if said secure enclosure is still not sufficiently completed to allow for inspection and approval, the dog may be destroyed by the Animal Control Department. The owner shall at all times be and remain in compliance with the requirements of Article I, Section 2(x), as to any secure enclosure required under this subdivision (i), and upon failure to comply the owner shall be subject to such civil penalties as are permitted under Article IX below.

It shall be a further express condition of redemption under this subdivision (i) that, within thirty (30) days after redemption, the dog must be spayed or neutered and fitted with microchip identification, at the owner's expense. Prior to release rabies vaccination shall be current. The Animal Control Department may require written evidence, in the form of receipts or other records from a licensed veterinarian, confirming that this condition has been satisfied. If the owner of the dog fails to satisfy this condition within the time stated, the Director or his designee shall issue a citation to the owner for such civil penalties as are permitted under Article IX below. If, within thirty (30) days after issuance of the citation, the condition still has not been satisfied and the civil penalty paid, the dog shall be destroyed by the Animal Control Department.

Upon redemption under this subdivision (i), the Animal Control Department shall serve upon the owner a notice of final determination which shall state that the dog has

been determined to be a potentially dangerous dog under G.S. §67-4.1(a)(2)a. and that the dog and its owner are subject to all of the requirements hereunder.

If a dog is destroyed pursuant to any of the provisions of this subdivision (i), the owner shall be responsible for payment of such daily boarding fee as may have been established by the County and as shall have accrued between the time of impoundment and the time of destruction.

(ii) *Killing or Inflicting Severe Injury on Domestic Animals When Not on the Owner's Real Property, or Approaching Persons When Not on the Owner's Property in a Vicious or Terrorizing Manner or Apparent Attitude of Attack.* Where said final determination is based on one or more of the behaviors described in G.S. §67-4.1(a)(2)b. or 67-4.1(a)(2)c., then, if the owner of the dog is known, said owner may redeem the dog by payment of such redemption fee and daily boarding fee as may have been established by the County; provided, that it shall be an express condition of any such redemption that the owner at all times thereafter keep the dog in a secure enclosure or under restraint as defined in Article I, Section 2(w) above.

It shall be a further express condition of redemption under this subdivision (ii) that, within thirty (30) days after redemption, the dog must be spayed or neutered and fitted with microchip identification, at the owner's expense. The Animal Control Department may require written evidence, in the form of receipts or other records from a licensed veterinarian, confirming that this condition has been satisfied. If the owner of the dog fails to satisfy this condition within the time stated, the Director or his designee shall issue a citation to the owner for such civil penalties as are permitted under Article IX below.

Upon redemption under this subsection (ii), the Animal Control Department shall serve upon the owner a notice of final determination which shall state that the dog has been determined to be a potentially dangerous dog under G.S. §67-4.1(a)(2)b. or G.S. §67-4.1(a)(2)c., as the case may be, and that the dog and its owner are subject to all of the requirements hereunder.

(iii) If the owner of the dog is not known, shelter staff/director will make individualized determinations as to whether the animal is unadoptable due to temperament. If so determined, dog shall be destroyed by the Animal Control Department after required 72 business hour hold.

(iv) If, after redemption of a potentially dangerous dog as set forth in either subdivision (i) or subdivision (ii) above, the Director or his designee makes a determination following investigation of a complaint that the dog has not been kept within a secure enclosure by the owner at all times, or has not been kept under restraint at all times, as the case may be, the Director or his designee shall issue a citation to the owner for such civil penalties, provided that this subdivision (iv) shall apply only in the case of a first or second offense hereunder, and that in the case of a third offense, subdivision (v) below shall apply.

(v) If, after redemption of a potentially dangerous dog as set forth in either subdivision (i) or subdivision (ii) above, the Director or his designee makes a determination following investigation of a complaint that the dog has not been kept within a secure enclosure by the owner at all times, or has not been kept under restraint at all times, as the case may be, and the same constitutes a third offense as to said provision, the dog shall be impounded immediately. Such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c). In the event of a final

determination that the owner did not in fact fail to keep the dog within a secure enclosure at all times or under restraint at all times, as the case may be, such dog shall immediately be released to its owner in compliance with and under the requirements of subdivision (i) or subdivision (ii) above, whichever is applicable. In the event of a final determination that the owner did in fact fail to keep the dog within a secure enclosure at all times or under restraint at all times, as the case may be, the dog shall be destroyed by the Animal Control Department.

(vi) If, after redemption of a dog deemed to be a potentially dangerous dog as set forth in either subdivision (i) or subdivision (ii) above, the Director or his designee makes a determination following investigation of a separate and new complaint that the dog has engaged in any of the behaviors prohibited under G.S. §67-4.1(a)(1) or (2) following said redemption, the dog shall be impounded immediately upon delivery to the owner of the written notification. Such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c), which statute shall apply under this subdivision (vi) the same as set forth elsewhere in this subsection (b). In the event of a final determination that the dog did not in fact engage in any of said behaviors, such dog shall immediately be released to its owner in compliance with and under the requirements of subdivision (i) or subdivision (ii) above, whichever is applicable. In the event of a final determination that the dog did in fact engage in any of said behaviors, the dog shall be destroyed by the Animal Control Department.

(c) **Definition of "severe injury."** For purposes of this Section 3, the terms "severe injury" and "severely injure" shall refer to any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization as defined in G.S. §67-4.1(a)(5).

(d) **Copy of Ordinance and Proof of Receipt.** Whenever the Director or his designee is required by the terms of this Section 3 to deliver to the owner of a dangerous or potentially dangerous dog the written notification as set forth under G.S. §67-4.1(c), the Director or his designee shall simultaneously deliver to the owner a copy of this Ordinance and shall obtain from said owner a signed receipt as to both.

SECTION 4: REGISTRATION OF POTENTIALLY DANGEROUS DOGS

(a) **Registration Required.** A current registration shall be maintained by the Animal Control Department as to every dog for which a final determination has been issued that the same is a potentially dangerous dog under this article. The owner of said dog is responsible for ensuring that the dog is registered hereunder. Registrations required under this Section 4 shall be made upon issuance of the final determination and shall include the name and address of the owner, identifying information concerning the dog, and such other information as the Animal Control Department may reasonably request. Thereafter the owner shall register the dog annually with the Animal Control Department during the month of January unless the dog has died, has been sold, or its ownership has been transferred to any other person, in which event the provisions of subsection (b) below shall apply.

(b) **Sale, Transfer, or Death of Dog.**

(i) *Sale or Transfer of Dog to New Owner Residing Within County.* The sale or transfer of any dog for which a registration is required under subsection (a) shall be subject to

prior approval by the Animal Control Department if the new owner resides within the County. In the event the owner of such dog intends to sell or transfer the same, said owner shall first notify the Animal Control Department. Said notification shall include the information as required under subsection (a) above as to the new owner. The Animal Control Department shall have a period of thirty (30) days from receipt of said notification in which to contact the same and investigate and determine whether said new owner has the capability to comply with the requirements of this Ordinance concerning potentially dangerous dogs. As a part of said determination, the Animal Control Department shall, no later than ten (10) days after receipt of notification from the current owner, deliver a copy of this Ordinance to the new owner and request from said new owner a signed written statement, on such form as shall be approved by the Animal Control Department, certifying that said new owner has received such copy and will at all times be and remain in compliance with the requirements of the same. The new owner shall furnish a signed written statement to the Animal Control Department within the ten (10) days, and shall cooperate with and provide such further information to the Animal Control Department as may be reasonably requested in connection with the proposed sale or transfer of the dog. If the Animal Control Department, upon timely receipt of said written statement and completion of the investigation required hereunder, determines that the new owner is able and willing to comply with the requirements of this Ordinance, the Animal Control Department shall so notify both the current owner and the new owner in writing within the above stated ten (10) day period. Thereafter the sale or transfer of the dog may take place, and the new owner shall thereupon be responsible for compliance with the provisions of this Section 4 and for compliance with all other requirements of this Ordinance. If the new owner fails to timely furnish the signed written statement as required herein, the Animal Control Department shall not approve the proposed sale or transfer until such time as the same has been furnished.

(ii) *Sale or Transfer of Dog to New Owner Residing Outside County.* In the event the owner of a dog for which a registration is required under subsection (a) above intends to sell or transfer the same to a person residing outside the County, the selling or transferring owner shall notify the Animal Control Department as to the same prior to such sale or transfer. As soon as practical following receipt of said notification the Animal Control Department shall notify the Animal Control Department of the county of residence of the new owner, by registered or certified letter, return receipt requested, as to the sale or transfer of said dog and as to its designation under this Ordinance as a potentially dangerous dog, together with such other information as the Animal Control Department may deem appropriate.

(iii) *Bringing Dog into County.* In the event a dog which has been determined by another county or jurisdiction to be a dangerous dog or potentially dangerous dog under Article 1A of Chapter 67 of the North Carolina General Statutes, or under similar provisions of any other applicable statute, ordinance, or law of any other jurisdiction, is sold or transferred to an owner residing within the County, or is brought into the County for any reason (other than temporary veterinary care), the owner to which said dog is being sold or transferred, or the person responsible for bringing said dog into the County, shall immediately notify the Animal Control Department as to the same and shall cause said dog to be registered in accordance with the requirements of this Section 4. Any dog which is registered or required to be registered with the Animal Control Department under this subdivision (iii) shall be deemed to be a dangerous dog or potentially dangerous dog under this Article V, as the case may be, and the owner of said dog shall

comply with all of the applicable requirements hereof within such times as shall be established by the Animal Control Department, but in no event less than thirty (30) days.

(iv) *Death of Dog.* In the event a dog for which a registration is required under subsection (a) dies, the owner shall immediately notify the Animal Control Department as to the same and shall, within twenty-four (24) hours of said dog's death, present the dog's body for scanning as to the microchip identification required under this Article V. Said scanning may be performed either by a licensed veterinarian or by the Animal Control Department. A licensed veterinarian performing a scan under this subdivision (iv) shall report the results of the same to the Animal Control Department, which shall maintain a written record of all scans performed hereunder for the purpose of verifying the death of potentially dangerous dogs registered pursuant to this Section 4. Payment of all fees and expenses for compliance with the foregoing requirements shall be the responsibility of the dog's owner.

(c) **Penalty for Violation.** The penalty for a violation of any of the requirements under this Section 4 shall be as set forth in Article below.

ARTICLE VI.
AGGRESSION-TRAINED DOGS
(Including, but not limited to, GUARD DOGS)

SECTION 1: AGGRESSION-TRAINED DOGS

The Animal Control Department has the authority to determine whether any person is engaged in the aggression-training of dogs. If the Department makes such a determination, then said person shall comply with the following requirements:

(a) **Registration**

(i) *Registration Required.* A current registration shall be maintained by the Animal Control Department for the aggression-trained dog. The owner of said aggression-trained dog is responsible for ensuring that the same is registered hereunder. Registrations required under this subsection (a) shall be made prior to using the dog as an aggression-trained dog within the County and shall include the name and address of the owner, identifying information concerning the dog, and such other information as the Animal Control Department may reasonably request. Thereafter the owner shall register the aggression-trained dog annually with the Animal Control Department during the month of January unless said dog has died, has been sold, or its ownership has been transferred to any other person, in which event the provisions of subdivision (ii) below shall apply.

(ii) *Sale or Transfer of Dog.* In the event an aggression-trained dog for which a registration is required under subdivision (i) is sold or its ownership is transferred to any other person, the selling or transferring owner shall notify the Animal Control Department as to the same immediately upon the happening of such event. Said notification shall include the information as required under subdivision (i) above as to the new owner. If the new owner resides within the County, then as soon as practicable following receipt of said notification the Animal Control Department shall deliver to the new owner a copy of this Ordinance and shall obtain a signed receipt therefore. Thereafter the new owner shall be responsible for compliance with said provisions and

with all other applicable provisions of Section 2 of this Article VI. If the new owner resides outside the County, then as soon as practicable following receipt of said notification the Animal Control Department shall notify the animal control department of the county of residence of the new owner, by registered or certified letter, return receipt requested, as to the sale or transfer of said dog and as to its designation under this Ordinance as an aggression-trained dog, together with such other information as the Animal Control Department may deem appropriate.

(iii) *Death of Dog.* In the event an aggression-trained dog for which a registration is required under subdivision (i) dies, the owner shall immediately notify the Animal Control Department as to the same.

(b) Identification

(i) It shall be unlawful and a violation of this Ordinance for any owner of an aggression-trained dog to fail to provide said dog with a current rabies tag and special aggression-trained dog tag. An aggression-trained dog's owner must provide proof of current rabies inoculation.

(ii) The owner of an aggression-trained dog, at the owner's expense, shall cause the same to be provided with microchip identification.

(c) Inspection: Said person shall allow the Department to inspect the premises where aggression-training is performed and to observe the training methods and the safety of the facility during the operating hours of the aggression-training facility.

(d) Confinement: Said person shall adequately and safely confine all aggression-trained dogs. The Department has the authority to require all aggression-trained dogs to be confined within a secure fence at least six (6) feet high and, at the discretion of the Department, topped by an anti-climb device.

(e) Signs: Provided there is no conflict with applicable zoning regulations, the owner of any aggression-trained dog and the owner of any premises using an aggression-trained dog must conspicuously post on the premises in plain view of the public a sign that identifies the name, address, and telephone number of the aggression-trained dog's owner and that an aggression-trained dog is present. The sign must be at least 120 square inches in size, but shall not be larger than 240 square inches. In the event of a conflict with applicable zoning regulations, the warning sign shall comply with the requirements of this subdivision (iii) as nearly as shall be practicable under said regulations.

SECTION 2: LAW ENFORCEMENT AGENCY DOGS

Any dog specifically trained for and used by a law enforcement agency is exempt from the provisions of this article; however, upon retirement, aforementioned dogs must be registered with Surry County Animal Control.

SECTION 3: PENALTY FOR VIOLATION

The penalty for a violation under this Article shall be as set forth in Article below.

ARTICLE VII ANIMAL WELFARE

SECTION 1: PURPOSE OF THIS SECTION

It is the purpose of this section to supplement Article 47 of the North Carolina General Statutes, and all other state laws regarding animals for which the Animal Control Division has enforcement authority pursuant to Article II, Section 3.

SECTION 2: CRUELTY TO ANIMALS

It shall be unlawful for any person to abuse, molest, maim, disfigure, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to the health or general welfare any animal, or to cause or procure such action. As used in this section the words "torture", "torment" and "cruelty" include or refer to any act, omission or neglect causing or permitting unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission; nor to prohibit the Animal Control Program or persons duly authorized by the Health Director or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner; nor to prohibit the lawful use of pesticides for control of insects, rodents, or household and farm pests.

SECTION 3: ANIMAL WELFARE

- a. Owners must provide adequate food, shelter, and water as defined in Article I.
- b. Tethering: It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this subsection.
- c. No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a cable trolley system, that allows movement of the restraining device. During periods of tethering that are not unlawful under this subsection, (1) the length of the cable along which the tethering device can move must be at least ten feet; (2) the tethering device must be of such length that the dog is able to move 15 feet away from the cable perpendicularly; and (3) the tethering device must be attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects. During periods of lawful tethering under this subsection, tethers must be made of rope, twine, cord, or similar material with a swivel on one end or must be made of a chain that is at least 10 feet in length with swivels on both ends and which does not exceed 10% of the dog's body weight. All collars or harnesses used for the purpose of the lawful tethering of a dog must be made of nylon or leather. No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness. No person shall tether with a chain or a wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog. No person shall tether with a chain, wire or other device to a dog where the weight of the tethering device and the collar combined exceeds 10% of the dog's body weight. No person shall tether with a chain or wire or other device a dog in such a manner that does not allow the dog access to adequate food, water or shelter. No person shall tether a sick, diseased and/or injured dog.

SECTION 3a: EXEMPTIONS:

Notwithstanding the provisions of this section, a person may tether and restrain a dog under the following circumstances:

- a. Usage of the dog in shepherding or herding livestock, or
- b. Use of the dog in the business of cultivating agricultural products, where the restraining is reasonably necessary for the safety of the dog, or
- c. Use of the dog in lawful hunting activities, or
- d. Use of the dog at a dog training, or performance events, including but not limited to the field trials and obedience trials where tethering does not occur for a period exceeding 7 consecutive days, or
- e. Camping or other recreation where tethering is required by the camping or recreational area where the dog is located, or
- f. Any activity where a tethered dog is in visual range of its owner or keeper, and the owner or keeper is located outside with the dog, or
- g. After taking possession of a dog that appears to be a stray, having first advised Animal Control authorities of the capture of dog, the dog may be tethered or restrained in accordance with these provisions for a period not to exceed 7 days in order to determine the identity of the dog or its owner, or
- h. Walking a dog with a hand-held leash.
- i. In accordance with tethering restrictions in effect within any of the municipalities in Surry County. In the event one or more of the municipalities in Surry County adopts this Animal Control and Animal Welfare Ordinance, its terms shall apply within that/those municipalities.
- j. Up to one year after this ordinance version goes into effect. There will be a one year grace period for owners to comply with Article VII, Section 3b.
- k. In accordance with registration of an exemption application, acceptance of exemption application by Surry County Animal Control, and strict adherence Article VII, Section 3c. Once a Surry County citizen has applied for an exemption to restrain their animal, if deemed acceptable, will be considered an exemption to the no-tethering ordinance rule.

SECTION 4: REGISTRATION OF BREEDING KENNEL

A current registration shall be maintained by the Animal Control Department for each breeding kennel located within the County. The owner or operator of said breeding kennel is responsible for ensuring that the same is registered hereunder. Registrations required under this Section shall be made no later than thirty (30) days following the effective date of this Ordinance and shall thereafter be renewed in January of each year. All registrations shall include the name, address, and telephone number of the owners/operators of the same, the address and physical location of the breeding kennel, and the number of dogs over the age of six (6) months being kept at the breeding kennel as of January 1 of the year for which the registration is made.

SECTION 5: IMPOUNDMENT

(a) Impoundment for Protection of Animal. If the Animal Control Department determines in its discretion that an animal's life is in immediate danger due to a violation of any of the provisions of this Article, the Animal Control Department may impound the same. Impoundment under this subsection (a) shall not affect the application or imposition of such penalties as may be authorized under Article below. An animal impounded hereunder shall be

held for 72 business hours and disposed of in accordance with the provisions of Article III above, provided that no right of redemption by the owner shall be allowed if the animal was impounded due to the owner's violation of any of the provisions of this Article; and provided further, that the owner shall be liable for the costs of impoundment, boarding, care, and disposition of the animal, as incurred by the Animal Control Department, which costs may be recovered by the County in the form of additional civil penalties as set forth under Article IX below.

(b) Authority To Tranquilize Or Destroy. An ACO may, when attempting to impound an animal under this Section 5 which cannot otherwise be captured for impoundment, tranquilize said animal or, if necessary for the protection of persons or property, destroy said animal.

SECTION 6: PENALTY FOR VIOLATION

The penalty for violation under this Article shall be as set forth in Article IX below.

ARTICLE VIII RABIES CONTROL

SECTION 1: RABIES CONTROL

The owner of every dog and cat over four (4) months of age shall have the animal vaccinated against rabies and shall comply with all of the terms and provisions of Part 6 of Article 6 of Chapter 130A of the North Carolina General Statutes pertaining to rabies control.

SECTION 2: RABIES VACCINATION TAGS

It shall be unlawful and a violation of this Ordinance for the owner of any dog to cause or permit the same to fail to wear at all times a valid rabies vaccination tag as required under the provisions of G.S. §130A-190. Pursuant to the authority of G.S. §130A-190(a), this Section 2 shall apply only to dogs and shall not apply to cats or ferrets.

SECTION 3: IMPOUNDMENT OF DOGS NOT WEARING REQUIRED RABIES VACCINATION TAGS.

(a) Duration of Impoundment. The duration of impoundment for a dog impounded by an Animal Control Officer pursuant to G.S. §130A-192 shall be seventy-two (72) hours. At the expiration of said time, if the dog has not been reclaimed by its owner, it shall be disposed of as authorized by G.S. §130A-192.

(b) Impoundment Fee. A dog impounded by an Animal Control Officer pursuant to G.S. §130A-192 shall not be returned to its owner until the owner shall have paid to the Animal Control Shelter such impoundment fee as may have been established by the County.

SECTION 4: PENALTY FOR VIOLATION

The penalty for a violation under this Article VIII shall be as set forth in Article IX below.

ARTICLE IX

PENALTIES AND ENFORCEMENT

SECTION 1: PENALTIES

- A. Misdemeanor. Notwithstanding any civil penalties which may be assessed under subsection (b) below, any person violating any of the provisions of this Ordinance may be found guilty of a Class 3 Misdemeanor under G. S. 14-4 and 153A-123. For a continuing violation, each day's violation shall be deemed to be a separate offense.
- B. Civil Penalties. In addition to, and not in lieu of, the criminal penalties and other remedies provided by this Ordinance or by State law, a violation of any of the provisions of Article II, III, IV, V, VI, VII, or X of this Ordinance may also subject the offender to the civil penalties hereinafter set forth. The ACO shall be authorized to issue a citation to such person, giving notice of the violation. Citations so issued may be delivered in person or mailed by registered or certified mail, return receipt requested, to the person charged if such person cannot otherwise be readily located. The civil penalty or penalties set forth in the citation must be paid within seven (7) days of the receipt of the citation and shall be paid to the Animal Control Section. The Animal Control Section shall forward all such penalties collected to the Finance Office for the County of Surry for application as by law provided. If the person charged fails to pay the civil penalty within the time prescribed, a criminal summons shall be issued against such person charging a misdemeanor violation of this Ordinance under subsection (a) above and upon conviction, such person shall, in addition to the penalties prescribed for said misdemeanor violation of this Ordinance, be punished as the court prescribes for failure to pay the civil penalties imposed hereby. The civil penalties for a violation of this Ordinance shall be as follows:

- i. For a violation of any provisions of Article III, IV, V, VI, VII, or XI, the civil penalty shall be One Hundred Dollars (\$100.00) for a first offense, Two Hundred Fifty Dollars (\$250.00) for a second offense, and Five Hundred Dollars (\$500.00) for a third or subsequent offense.
- ii. For the following specific violations of Article V, the civil penalty shall be the following:

SECTION 4.b(1) – Failure to receive prior approval for sale or transfer of Potentially Dangerous Dog to new owner by current owner, and failure to submit required signed written statement to Animal Control Department within 10 day period by new owner - \$500 fine for seller and buyer (once notified of dog's PDD status) and/or misdemeanor charge.

- iii. For the following specific violations of Article VIII, the civil penalty shall be the following:

SECTION 1.d – Tampering with traps - \$25; Stealing traps replacement at current market value and/or misdemeanor larceny

SECTION 2: ENFORCEMENT

This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

ARTICLE X

REGULATION OF OWNERSHIP, KEEPING AND HARBORING INHERENTLY DANGEROUS EXOTIC ANIMALS

SECTION 1: PURPOSE AND AUTHORITY

The purpose of this Article is to protect the public against health and safety risks that inherently dangerous exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. By their very nature, certain exotic animals are wild and potentially dangerous, do not adjust well to a captive environment, and present a genuine threat to the safety and well-being of the public.

It is a further purpose of this Article to complement those rules already in existence in the State of North Carolina with respect to the regulation of wild animals by the North Carolina Wildlife Resources Commission, which includes animals such as raccoons, skunks, foxes, bats, and others, that present a danger to the safety and well-being of the public through their inherently dangerous nature, through carrying rabies, or otherwise. Accordingly, the County intends to exempt from this Article those animals which are subject to said rules.

For the reasons set forth above, and pursuant to the authority granted in G.S. §§153A-121, 153A-131, and 113-133.1, the County enacts and adopts the regulations set forth herein.

SECTION 2: DEFINITIONS

For purposes of this Article, the following terms, phrases, words, and their derivations shall have the meaning defined herein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future and past tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender include the feminine gender. These definitions are in addition to, and not in lieu of, those definitions set forth in Article I of this Ordinance; provided, that the scope of this Article shall be as set forth in Section 3 below.

(a) **AZA.** The American Zoo and Aquarium Association.

1. Inherently Dangerous Exotic Animal: Any mammal, reptile, or arachnid which is a member of a species that, due to the inherent nature of the species, may be considered dangerous to humans; provided, however, that expressly excluded from this definition are animals which are indigenous to Surry County and which are subject to the requirements for captivity permits under the rules of the North Carolina Wildlife Resources Commission as contained in 15A N.C.A.C. 10H Section .0300 or any successor rules or regulations thereto. Inherently dangerous exotic animals specifically include, but are not limited to, any or all of the following orders and families, whether bred in the wild or in captivity, and any or all hybrids. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

(1) Class Mammalia:

a. Order Artiodactyla (such as hippopotami, giraffes, and camels, but not cattle, swine, sheep, goats, llamas, or alpacas);

- b. Order Carnivora:**
 - (i)** Family Felidae (such as lions, tigers, panthers, leopards, jaguars, ocelots, and servals, but not domestic cats);
 - (ii)** Family Canidae (such as wolves and jackals, but not domestic dogs);
 - (iii)** Family Ursidae (all bears);
 - (iv)** Family Mustelidae (such as weasels, martins, and minks, but not ferrets);
 - (v)** Family Procyonidae (such as coatis);
 - (vi)** Family Hyaenidae (all hyenas);
 - (vii)** Family Viverridae (such as civets, genets, and mongooses);
- c.** Order Edentata (such as anteaters, armadillos, and sloths);
- d.** Order Marsupialia (such as kangaroos and wallabies);
- e.** Order Perissodactyla (such as rhinoceroses and tapirs, but not horses, donkeys, or mules);
- f.** Order Primates (such as lemurs, monkeys, chimpanzees, baboons, gorillas, and all other non-human primates);
- g.** Order Proboscidea (all elephants);
- h.** Order Rodentia (but not guinea pigs, rats, mice, gerbils, hamsters, prairie dogs, or chinchillas);

(2) Class Reptilia:

- a. Order Squamata:**
 - (i)** Family Varanidae (only water monitors and crocodile monitors);
 - (ii)** Family Iguanidae (only rock iguanas);
 - (iii)** Family Boidae (only those whose actual length exceeds eight (8) feet);
 - (iv)** Family Colubridae (only boomslangs and African twig snakes);
 - (v)** Family Elapidae (such as coral snakes, cobras, mambas, etc.) - all species;

- (vi) Family Nactricidae (only keelback snakes);
 - (vii) Family Viperidae (such as cottonmouths, etc.) - all species;
 - (viii) Family Helodermidae (such as gila monsters and Mexican beaded lizards);
 - (ix) Family Crotalidae (pit vipers);
 - (x) Family Atractaspididae (burrowing asps);
 - (xi) Family Hydrophilidae (sea snakes);
- b. Order Crocodilia (such as crocodiles, alligators, caimans, gavials, etc.) – all species.

(3) Class Arachnida:

- a. Order Araneae (only spiders which are venomous and which are not indigenous to Surry County, but excluding tarantulas);
- b. Order Scorpionida (all scorpions).

2. Owner: The term “Owner” shall have the same meaning as defined in **Animal Control Ordinance Article 1 Section 2**. As used with Exotic Animals, Owner also includes one who allows an exotic animal to remain in, be lodged, fed, given shelter or refuge within the Owner’s home, store, yard, enclosure, out-building, abandoned vehicle or building, place of business, or any other premises in which the person resides or over which the person has control.

SECTION 3: PROHIBITION

- a. It shall be unlawful to own, possess, keep, or harbor, bring into the County, have in one's possession, act as a custodian for, or have custody of an inherently dangerous exotic animal within the County; provided, that the Owner of any inherently dangerous exotic animal as defined in this Ordinance who owned, possessed, kept or harbored or be fed or be given shelter or refuge within the person’s home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises on which the person resides or over which the person has control such inherently dangerous exotic animal on or before the effective date of this Ordinance shall remove said animal(s) from the County within one (1) year following the adoption of this Ordinance.
- b. It shall be unlawful and a violation of this Ordinance for any person who violates subsection (a) of this Section 4 to release or abandon an inherently dangerous exotic animal, in such manner as to cause or permit the animal to be at large in the County, for the purpose of evading prosecution under said subsection (a).

SECTION 4: EXEMPTIONS

This Article shall not apply to:

1. Veterinary clinics in possession of such animals for treatment or rehabilitation purposes;
2. Institutions regulated by the USDA;
3. Institutions accredited by the American Zoo and Aquarium Association;
4. Animal control authority or law enforcement officers acting under authority of this Act;
5. Persons temporarily transporting such animals through the County, providing that such transport shall not be longer than 24 hours, and the animal is at all times maintained within a confinement sufficient to prevent it from escaping.
6. Any licensed or accredited research medical institution or educational institution.

Notwithstanding the foregoing, any such exempt entity or person from which an inherently dangerous exotic animal escapes or is released for any reason whatsoever (without regard to fault) shall be liable for the costs of capturing said animal as provided in Section 5(a) below

SECTION 5: ENFORCEMENT OF ARTICLE

The Animal Control Department and its agents and employees, and any law enforcement agency having authority within the territorial jurisdiction of this Ordinance, shall be empowered to enforce the provisions of this Article.

SECTION 6: IMPOUNDMENT AND/OR DISPOSITION OF INHERENTLY DANGEROUS EXOTIC ANIMALS

The following provisions shall govern the impoundment and/or disposition of inherently dangerous exotic animals present in the County in contravention of this Article:

(a) The Animal Control Department may immediately take up and impound an inherently dangerous exotic animal if the Animal Control Department determines in its discretion that it has facilities sufficient to safely house the animal and that the impoundment can be undertaken without injury to persons or property. The possessor is liable for the costs of capture, placement, and care for the inherently dangerous exotic animal from the time the attempt to capture begins or impoundment occurs (whichever happens first) until the time the animal has been relocated to an approved facility as set forth hereunder, or has been returned to the possessor (in the case of an exempt entity or person), or has been destroyed. Said costs may be recovered by the County in the form of additional civil penalties as set forth under Article IX of this Ordinance.

(b) If an inherently dangerous exotic animal is impounded as set forth above, the possessor must within seventy-two (72) hours of impoundment post a security bond or cash deposit with the Animal Control Department in an amount sufficient to guarantee payment of all reasonable expenses incurred and expected to be incurred in capturing, caring for, providing for, and placing the animal, including but not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days, plus the cost of relocating the animal as set forth hereunder. The security bond or cash deposit shall not prevent the Animal Control Department from relocating the animal at any time; provided, that upon such relocation the Animal Control Department shall recover under the security bond or cash deposit only those sums actually incurred in connection

with the above listed expenses; provided further, that the Animal Control Department may in its discretion keep the animal under impoundment for a period of up to sixty (60) days if the possessor has posted a security bond or cash deposit sufficient to cover such period. In all cases the amount of the security bond or cash deposit shall be determined by the Animal Control Department and shall be based on the current rate to feed, provide medical care for, and house the animal, plus the expected cost of relocating the animal, plus costs already incurred for the same and for capturing the animal. The form for security bonds as required herein shall be approved by the Animal Control Department.

(c) If an inherently dangerous exotic animal is impounded as set forth above, the Animal Control Department shall, upon posting of the required security bond or cash deposit by the possessor, attempt to find proper and safe housing for the animal outside the County through placement of the animal with an institution or location accredited by the American Zoo and Aquarium Association (AZA). If said security bond or cash deposit is not timely posted, or if the possessor of the animal is unknown or cannot be located, the Animal Control Department may nonetheless, in its discretion, attempt to find proper and safe housing for the animal outside the County as stated above; provided, that if the possessor is subsequently identified or located, said possessor shall be liable for all costs of placement and care incurred by the Animal Control Department as set forth in subsection (a) of this Section 5.

(d) The provisions of subsections (b) and (c) of this Section 5 shall not apply in the case of an impounded inherently dangerous exotic animal if:

(1) The impounded animal escaped or was released from an exempt entity or person as set forth in Section 3 above; and

(2) In the discretion of the Animal Control Department, the animal can safely be impounded and returned to the exempt entity or person or can safely be recaptured by said entity or person; and

(3) In the discretion of the Animal Control Department, the exempt entity or person has taken reasonably sufficient steps to assure that the animal will not escape or be released in the County again; and

(4) The animal has not previously escaped or been released in the County.

In such event the Animal Control Department shall allow the exempt entity or person to recapture the animal or, if the animal is impounded, shall return the same to the exempt entity or person upon payment in full of all costs of capture as provided hereinabove.

(e) If the Animal Control Department determines in its discretion that an inherently dangerous exotic animal cannot be taken up and impounded within the requirements of subsection (a) above, the Animal Control Department may authorize and direct the possessor to retain the animal and, within a fixed period of time not to exceed sixty (60) days, relocate the animal to proper and safe housing outside the County through placement with an institution or location accredited by the AZA. The foregoing provisions shall apply only if the Animal Control Department determines in its discretion that the animal has not caused injury to persons or property and that the possessor has facilities sufficient to safely house the animal and prevent it from escaping or causing such injury during the period when it is being relocated. The decision of the Animal Control Department to proceed under this subsection (e) shall in no way affect the

applicability or imposition of civil penalties as to the possessor for violating the provisions of Section 2 above, and during any period of relocation hereunder the civil penalties so imposed shall continue until the possessor presents documentation or other satisfactory proof to the Animal Control Department that the animal has been relocated as required herein.

(f) Unless otherwise prohibited by the Federal Endangered Species Act or other applicable Federal or State law, the Animal Control Department may immediately destroy an inherently dangerous exotic animal in a humane manner if:

(1) The Animal Control Department determines in its discretion that the animal cannot be taken up and impounded within the requirements of subsection (a) above, and further determines in its discretion not to proceed under the provisions of subsection (e) above; or

(2) In the event of applicability of subsection (b) above, the possessor of the animal fails to timely post the security bond or cash deposit as required therein; or

(3) In the event of applicability of subsection (c) above, proper and safe housing cannot be found for the animal as set forth therein; or

(4) The animal has escaped or been released from an exempt entity or person but does not fall within the provisions of subsection (d) above.

SECTION 7: PENALTY FOR VIOLATION

The penalty for a violation under this Article shall be as set forth in Article IX above.

ARTICLE XI GENERAL PROVISIONS

SECTION 1: INTERFERENCE WITH ENFORCEMENT OF ORDINANCE

- a. No person shall interfere with, hinder, or molest the Animal Control Officer or any agents or employees of the Animal Control Section, or the Surry County Public Health Director or his designee, in their performance of any duties under this Ordinance, nor seek to release any animal in the custody of the same or of the Animal Shelter unless otherwise specifically authorized by law. The penalty for a violation of this Section shall be as set forth in Article IX above.
- b. No person may conceal any animal from the Animal Control, for the purpose of evading the requirements of this ordinance.
- c. No person may refuse to show proof of a rabies vaccination to any member of the Animal Control Division upon demand.
- d. No person, other than a member of the Animal Control Section, may remove any animal from a live-capture animal trap placed on private or public property by the Animal Control Section. It shall also be unlawful for any person to damage, destroy, move or otherwise tamper with a trap placed by the Animal Control Section on private or public property.

