

AN ORDINANCE PROVIDING FOR ANIMAL CONTROL AND ANIMAL WELFARE; THE CONTROL OF RABIES AND PROVIDING FOR THE PROTECTION OF DEVICES USED BY OWNERS TO LOCATE AND CONTROL SAID ANIMALS.

ARTICLE AUTHORITY

This ordinance is adopted pursuant to North Carolina General Statute 153-A-121, et al and for the purpose of providing for animal control and animal welfare; the control of rabies and providing for the protection of devices used by owners to locate and control said animals by Hoke County.

ARTICLE II. ADMINISTRATION

Sec.1.Definitions.

“Abandon” means to cease providing for the care, control, or maintenance of an animal without the transfer of ownership of such animal.

“Altered” means any cat or dog which has been neutered or spayed.

“Animal shelter” means the premises operated by the county directly or through contract for the purposes of impounding, sheltering, or caring for animals or any other premises operated by another entity with which the county contracts for such purposes.

“Animal control department” means the Hoke County Animal Control Department or such umbrella agency under which animal control activities are performed..

“Animal control officer” means the person or persons employed by the animal control department as its enforcement officer [s] in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this chapter.

“At large” or “running at large” means any animal which is not on the property of its owner, the leased premises of the animal’s owner, or under the actual physical control of a competent person, other than a licensed hunting dog under supervision while engaged in a lawful actual or simulated hunt.

“Confinement” means to secure an animal in a house or by a fence within the boundaries of the owner’s, leaseholder’s, or keeper’s property (I.e., house, fenced yard).

“Exposed to rabies” means any animal that has been bitten by or exposed to any other animal known to have been infected with rabies or any other animal reasonably suspected of being infected with rabies that is not available for laboratory diagnosis.

“Fee Schedule” means any schedule of fees related to the administration of this chapter which may be adopted from time to time by the board of commissioners.

“Fowl” means chickens, guineas, geese, ducks, pigeons, and other avian animals.

“Impoundment” means placing an animal in the animal control vehicle or unit or holding an animal in custody at the animal control shelter.

“Keeper” means any person, acting in the capacity of the owner, or at the owner’s request, who is responsible for the care, welfare, and maintenance of the animal.

“Neuter” means to render a male dog or cat unable to reproduce.

“Nuisance” means the conduct or behavior of any small or large animal, cat, or dog which molests passersby or passing vehicles; attacks other animals, damages private or public property; barks, whines, howls, crows, or makes other noises in an habitual or continuous fashion which annoys the comfort, repose, health or safety of the people in the community; habitually defecates on the property of someone other than the owner; habitually eats or otherwise destroys the plants, shrubs, or similar landscaping on the property of someone other than the owner; or a vicious animal not confined as required by this chapter.

“Owner” shall mean anyone taking care or having custody of an animal, such as by providing food, water, shelter or medical care, but shall not include taking care or having custody of the animal for compensation.

“Restraint” means that an animal is actually physically controlled by leash or tether held by a competent person or within any vehicle, trailer, or other conveyance being driven, pulled, or parked on the street, or confined within the property limits of its owner or keeper.

“Sanitary” means any condition of good odor and cleanliness, which precludes the probability of disease transmission and insect breeding, and which preserves the health of the public.

“Spay” means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce.

“Transfer” means to convey or change ownership from one (1) person to another with or without the exchange of money or other consideration.

“Unaltered” means any cat or dog which has not been neutered or spayed.

“Vaccination” means an injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian or certified rabies vaccinator as defined in G.S. 130A-186.

All other words or phrases used herein shall be defined and interpreted according to their common usage.

Sec. 2. Applicability of state laws to custody of animals.

No person owning or having in his custody any animal shall violate any laws, rules, or regulations of the state applicable thereto. The provisions of this chapter shall govern where the provisions of the rules and regulations of the state are less restrictive than the provisions of this chapter.

Sec. 3. Nuisance animals; complaint procedure for animals which disturb or are a nuisance.

No person shall keep any animal which causes a nuisance as defined herein. Any violation of the section is declared to be a nuisance and as such may be abated by Hoke County after written notice to the owner and the owner's failure to remedy the same within three (3) business days. This remedy of abatement shall be in addition to any other remedy set forth in this article. In the event an animal is seized by the Animal Control Officer and transported to the Animal Shelter, a \$35.00 pick-up fee will be charged to the owner.

Sec. 4. Vaccination required; certificate of vaccination.

(a) No person shall own, keep or harbor any dog or cat unless such dog or cat four (4) months of age or older is vaccinated for rabies by a licensed veterinarian.

(b) Every dog or cat that is adopted from the animal shelter shall be vaccinated by a licensed veterinarian.

Sec. 5. Tag and collar required; removal, nontransferable-able, inspection offense.

(a) The owner's of all dogs and cats four (4) months of age or older shall have the dogs or cats vaccinated against rabies with an approved vaccine administered by a licensed veterinarian. The veterinarian shall issue the owner of the animal a vaccination certificate, and such owner shall retain such certificate until the vaccination is renewed. At the time of the vaccination, a metal tag shall be issued by the veterinarian showing the information required by G.S. 130A-190.

(b) It shall be unlawful for any person other than the owner to remove the collar from the dog or cat.

(c) No person shall use a rabies tag or veterinarian certificate or receipt for any dog or cat other than for that dog or cat to which the rabies tag, veterinarian certificate, or receipt was issued.

(d) Any Animal Control Officer or law enforcement officer may at any reasonable time require an owner to provide proof of rabies vaccination for any animals. Any owner not possessing a current rabies tag, certificate, or receipt for such dog or cat over four (4) months of age may be cited by any animal control officer or law enforcement officer.

Sec.6. Control of animals required, at large, strays, confinement in season.

(a) it is unlawful for any owner or person to:

1. Perform, do or carry out any inhumane or cruel treatment against any animal;

2. Keep, Possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become offensive to a reasonable and prudent person of ordinary tastes and sensibilities, or which constitute or become offensive to a reasonable and prudent person of ordinary tastes and sensibilities, or which constitute or become a health hazard as determined by the animal control director, the inspections director or the Hoke County Environmental Health Supervisor, as appropriate.

(b) No impounded animal shall be returned to its owner until any applicable animal impoundment and boarding, vaccination, and any penalties are paid.

(c) Stray animals shall be treated in the manner provided in this chapter.

(d) Female animals picked up by the animal control department which are in season (heat) shall be kept separate from male animals at all times.

Sec. 7. Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs and cats; exercise area for dogs and cats.

(a) All dogs, cats and other small animals kept as home pets shall be housed, fed and protected from the weather in such a manner as not to create a nuisance.

(b) No person shall willfully or maliciously:

(1) Torture, cruelly beat, injure, maim, mutilate or without good cause destroy or kill any animal belonging to himself or to another;

(2) Deprive any animal of food, drink, or shelter;

(3) Without good cause administer any poison or noxious drug or substance to any animal;

(4) Without good cause expose any drug or substance with the intent that the same shall be taken by an animal, whether such animal be the property of that owner or another person; or

(5) Cause any person to do any of the above acts.

(c) If an animal is found by any Animal Control Officer or law enforcement officer to be in one of the above-described conditions, the officer may issue a notice of violation to the

offender. If the Animal Control Officer or law enforcement officer determines that a confined animal's life is in immediate danger or has been abandoned, the Animal Control Officer or law enforcement officer shall seize such animal if such seizure is not prohibited by applicable law. The Animal Control Officer or law enforcement officer shall leave a notice for the owner advising why the animal has been seized, where the animal has been taken, and shall issue a notice of violation to the owner.

(d) No dog, cat, or any other small animal shall be confined within or on a motor vehicle under such conditions as may endanger the health or well-being of the animal, including, but not limited to, dangerous temperature, lack of food or water.

(e) No person shall abandon or cause to be abandoned any dog, cat, or any other type of animal.

(f) Owners and keepers of dogs, cats, and other small animals shall provide food, shelter, and medical attention to such animals, including, but not limited to, the following:

- (1) Sufficient wholesome food that is nutritious for the species;
- (2) Fresh, potable drinking water;
- (3) Medical attention to relieve such animals from suffering;
- (4) Provide shade from the sun; and
- (5) Shelter to allow the animal to remain dry and protected from the elements.

Such shelter shall be fully enclosed on three (3) sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit, and sturdy enough to block entry of wind or rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.

(g) In addition to the foregoing provisions of this section, it shall be unlawful and constitute a public nuisance for any person to (1) willfully or maliciously overdrive, overload, torture, destroy or kill, or cruelly beat or injure, maim or mutilate, any animal in subjugation or captivity, whether wild or tame, and whether belonging to himself or to another; or (2) deprive any such animal of necessary food, drink, or shelter; or (3) cause, procure or permit any such animal to be so overdriven, overloaded, tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink, or shelter; or (4) willfully initiate, instigate, engage in, or in any way further any act of cruelty. Any Animal Control Officer or law enforcement officer finding an animal so maltreated or abused shall impound the animal, and the charges shall be assessed against the violator as a cost of abatement.

(h) No person shall, at any time, fasten, chain, or tie any dog or cause such dog to be fastened, chained, or tied, in such a manner as to cause or threaten to cause injury to such dog, which such dog is on the dog owner's property or on the property of the dog owner's landlord, unless authorized by an Animal Control Officer or law enforcement officer.

(i) Any dog confined within a fenced yard or run must have an adequate space for exercise.

ARTICLE III. RABIES CONTROL

Sec. 1. Rabies control.

(a) Enforcement authority. The Animal Control Officer and the Hoke County Health Director are authorized to implement any reasonable administrative procedures necessary to enforce said law locally.

(b) Procedures. The Animal Control Officer and the Hoke County Director are also authorized to implement any reasonable administrative procedures necessary to enforce said law locally.

(c) Impoundment term. The impoundment period for animals held pursuant to this section shall be seventy-two (72) hours, excluding Sundays and legal holidays.

(d) Compliance and rabies laws. It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(e) Provisions supplementary to state law. It is the purpose of this section to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by the state.

(f) Vaccination required. It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should the county health director deem it necessary that other pets be vaccinated in order to prevent a threatened rabies epidemic or control an existing rabies epidemic, it shall be unlawful for an owner or keeper to fail to provide vaccination for that pet.

(g) Vaccination schedule. A rabies vaccination shall be deemed current for a dog or cat if the first two (2) doses of vaccine are administered twelve (12) months apart and each subsequent booster dose of vaccine is administered according to the manufacturer's recommended schedule.

(h) Persons to administer. All rabies vaccines shall be administered by a licensed veterinarian or a certified rabies vaccinator.

(i) Owner or keeper to be issued rabies tag. Upon vaccination pursuant to this section, the owner or keeper of the dog or cat that has been vaccinated shall be issued a rabies tag stamped with a number and the year for which issued and a rabies vaccination certificate.

(j) Untagged dog or cat subject to impoundment. In addition to all other penalties prescribed by law, a dog or cat may immediately be impounded in accordance with the provisions of this section if it is found not wearing a currently valid rabies tag. Impounded dog may, at the discretion of the Animal Control Director, be micro-chipped for identification at the expense of the owner. Fee will include cost of chip plus any additional boarding charges.

(k) Unlawful to switch rabies tag. It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

(l) Dogs or cats brought into the county. All dogs or cats shipped or otherwise brought into the territorial jurisdiction of this article, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be vaccinated within one (1) week after entry.

(m) Animals bitten by rabid animal. Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated and returned to the owner or keeper who shall pay for the rabies vaccination in addition to any civil penalties which are imposed.

(n) Health director may declare quarantine. When reports indicate a positive diagnosis of rabies, to the extent that the lives of persons are endangered, the county health director may declare a county-wide quarantine for such period of time as he deems necessary. Once such emergency quarantine is declared, no dog or cat may be taken or shipped from the county without written permission of the county health director. During such quarantine, the persons duly authorized by the county health director may seize and impound any dog or cat empowered to provide for a program of mass immunization by the establishment of temporary confirmed cases of rabies occur during the quarantine period, the county health director in his discretion may extend the quarantine period.

(o) Shipment of head to state lab. If an animal dies while under observation for rabies, the head of such animal shall be submitted to the county health department for shipment to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.

(p) Carcass to be surrendered to health department. The carcass of any animal suspected of dying of rabies shall be surrendered to the county health department. The head of such animal shall be shipped to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.

(q) Unlawful to kill or release animal under observation. It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal under observation for biting a human, or to remove such animal for the county without written permission from the county health director, provided that a licensed veterinarian or the county health director, or other person duly authorized by the county health director, may authorize any animal to be killed for rabies diagnosis.

(r) Unlawful to fail to surrender animal. It shall be unlawful for any person to fail or refuse to surrender any animals for confinement or destruction as required in this section, when demand is made therefore by the county health director, Animal Control Officer or law enforcement officer.

(s) Unlawful to fail to provide proof of vaccination. It shall be unlawful for any person to fail or refuse to provide proof of rabies vaccination for any animal that they own or control when request is made therefore by an Animal Control Officer or law enforcement officer, the county health director or his designee, or any sworn Animal Control Officer or law enforcement officer.

(t) Animals subject to impoundment. Any animal which appears to be lost, stray, unwanted, not wearing a currently valid tax or a currently valid rabies vaccination tag as required by state law or this section, or not under restraint in violation of this section, may be seized, impounded, and confined in a humane manner in an animal shelter. Any dog or cat that has bitten or scratched a human must be quarantined for ten (10) days, either at the home of the dog or cat's owner or keeper, if an Animal Control Officer or law enforcement officer determines that the public health and safety shall be reasonably maintained by such quarantine, or otherwise in a veterinary hospital at such owner or keeper's expense. If such dog or cat is quarantined at its owner's or keeper's home and escapes from its owner's or keeper's property, any animal control officer shall impound such dog or cat and impound it at the animal shelter for ten days; and such owner or keeper shall be subject to a two hundred fifty dollar (\$250.00) civil penalty.

(u) Owner Liable. Impoundment of such animal shall not relieve the owner /keeper thereof from any penalty which may be imposed for violation of this section.

(v) Civil Penalty. In addition to any criminal penalties or injunctive relieve allowed by law, a violation of this section of the ordinance shall subject the person violating the section to a civil penalty in the amount of one hundred dollars (\$100.00) violation.

Sec.2. Disposition of rabid animals.

(a) No person shall fail to refuse to surrender any animal for quarantine or destruction, or the carcass of an animal exposed to rabies, when demand is made by an Animal Control Officer or law enforcement officer. Such refusal shall be a violation of this article.

(b) The county health director shall direct the disposition of any animal found to be infected with rabies.

Sec. 3. Reports of bite cases; report by veterinarian.

(a) Every physician, veterinarian, or other health practitioner shall report to the animal control director the names and addresses of persons treated for bites and scratches that break the skin inflicted by animals, together with such other information as will be helpful in rabies control.

(b) Every licensed veterinarian shall report to the Animal Control Officer and the Hoke County Health Director his diagnosis of any animal observed by him to be a suspect rabid animal.

Sec.4. Records.

The Animal Control Officer shall keep or cause to be kept:

(1) An accurate and detailed record of the licensing, impounding and disposition of all live animals, fowl and domestic birds coming into his custody and any dead dogs or cats picked up that possess rabies tags or county license; and

(2) An accurate and detailed record of all bite cases reported to him with a complete report of the investigation or disposition of each case.

Sec.5. Exemptions from article. The provisions of this ordinance do not apply to:

Hospitals, clinics, other premises operated by licensed veterinarians for the care and treatment of animals and animal shelters are exempt from the provisions of this article, except where duties are otherwise expressly stated.

Sec.6. Interference.

No person shall interfere with, hinder, delay, obstruct or molest any Animal Control Officer or law enforcement officer or authorized representative of the county in the performance of any duty under this article of such person, or seek to release any animal in the custody of an Animal Control Officer or law enforcement officer or the animal shelter, except as provided by law.

ARTICLE IV LEASH LAW

Sec.1. Jurisdiction

The provisions of this article shall be applicable in that portion, or portions, of the County as shown on Exhibit B. It shall not be applicable outside of this jurisdictional territory.

Sec.2. Running at large; owners cited.

Any dog or cat this is not on the property of its owner, the leased premises of the animal's owner, or under the actual physical control of the competent person, other than a licensed hunting dog under supervision while engaged in a lawful actual or stimulated hunt shall be presumed to be running at large. Any animal control officer may impound such animal at the animal shelter.

Sec.3. Impoundment, records, disposition of animals, adoption, licensing of dogs and cats.

(a) Any dog or cat or other small animal kept as a house pet and found running at large may be picked up and immediately impounded in the animal shelter and there confined in humane manner. Dogs and cats and other small animals not claimed by their owner after a five (5) day (new) holding period and the animal shelter's adoption period, exclusive of Sundays and

county-observed holidays. Shall become the property of the animal shelter and may be humanely disposed of at the discretion of the animal shelter.

(b) Small unvaccinated animals, other than dogs or cats, shall be impounded when found running at large and humanely disposed of in accordance with the provisions of this chapter.

(c) An animal control officer, upon receiving any animal for impoundment, shall record or cause to be recorded the description, breed, color and sex of the animal whether or not it is licensed, and the date and time of impoundment. If the animal is licensed or if the owner is known, the officer shall enter the name and address of the owner of the county license or rabies tag number as may be shown on the impoundment records. If the owner is known, the animal control department shall telephone the owner or, if unsuccessful in attempting to telephone such owner, shall mail notice at the address shown on the department's records to notify the owner that unless reclaimed in accordance with this code within seventy-two (72) hours after impoundment, Sundays and county-observed holidays excluded, the animal will be humanely disposed of by the animal shelter. Attempts to contact the owner will be recorded on the reverse of the impoundment record.

(d) At the end of the period prescribed in this section, animals that have not been reclaimed by the owner thereof shall be destroyed, adopted, or otherwise disposed of in a humane manner and as required by law. Any animal which is eligible for adoption may be adopted after the appropriate adoption period but may be humanely disposed of at any time more than seventy-two (72) hours after the initial holding period. Provided, however, in this discretion of the animal control director, a healthy animal that has been well maintained may be retained for an additional period for the purpose of adoption or transferred to an approved local animal adoption or rescue agency.

(e) Before any dog or cat is released for adoption from the animal shelter, the adopting party shall pay such fee(s) as may be prescribed therefore in any fee schedule adopted from time to time by resolution by the board of commissioners.

(f) No employee may adopt an animal from the animal shelter, nor may any employee of the shelter adopt, give away, or sell any animal from the animal shelter except as provided in this chapter, provided, however, any employee may adopt one (1) cat and one (1) dog per employee in any calendar year and such number of other animals as the animal control director may by uniform written policy prescribe.

(g) There is hereby established a grace period of five (5) days beginning on the day of adoption and ending at the close of business on the fifth (or the first business day which falls after the fifth day if such fifth day is a Sunday or legal holiday) day thereafter, during which period an animal adopted from the animal shelter may be returned to the animal shelter without refund for a replacement animal, conditioned solely upon the presentation of written certification of a licensed veterinarian that the adopted animal is in poor health.

Sec.4. Spaying or neutering as condition for release of dogs and cats; extension of time; spaying or neutering required; sterilization agreement; deposits required; use of

forfeited deposits; penalty.

(a) No dog or cat may be released for adoption from the animal shelter unless said animal has been surgically spayed or neutered. Provided, however, such required spay or neuter may be effected by any nonprofit animal welfare, adoption or rescue agency or group certified pursuant to criteria established from time to time by the county manager when such criteria include a requirement of spay or neuter when such organization adopts out the animal. In such case, the shelter shall not charge a fee for such spay or neuter but shall require such organization to remit the license fee to the department no later than the time the animal is adopted out.

(b) Upon a written report from a licensed veterinarian stating that the life or health of an adopted animal may be jeopardized by surgery, the animal shelter supervisor shall grant a thirty (30) day extension of the period within which the spay or neuter surgery would otherwise be required. Further extensions may be granted upon additional veterinary reports establishing the necessity for such extensions.

ARTICLE V MISCELLANEOUS

Sec.1. Protection of animal owner's property.

(a) Owner's property that is affixed or utilized to control or locate the animal during any activity by owner involving said animal shall not be removed without owner's permission.

(b) It shall be unlawful for anyone coming in contact with an animal having an identification collar and other controlling or locating devices to remove, separate or damage in any matter said device.

(c) All animals on their collar shall have the following minimum information: owner's name, address or current telephone number; a number or serial number indicating any device worn by the animal, either affixed to the animal collar an/or the device.

(d) Penalty: up to \$1,000.00 fine or civil penalty for each animal or occurrence.

ARTICLE VI ENFORCEMENT

Sec.1. Enforcement, generally.

(a) The primary responsibility for the enforcement of this chapter shall be vested the office of the Animal Control Officer.

(b) (1) Any person authorized to enforce this article may do so by issuing a notice of violation or civil penalty citation, or by applying to the general court of justice for a temporary restraining order, a preliminary injunction, a permanent injunction or an order to abate a nuisance, as may be appropriate in the circumstances.

(2) Upon information made known to or complaint lodged with the Animal

Control Officer that any owner, possessor, or custodian of any dog or animal is in violation of this chapter, an Animal Control Officer may issue a notice of violation (citation) requiring the owner, possessor or custodian of this dog or animal to pay the stated civil penalty or abate the nuisance specified.

(3) Any State of North Carolina Wildlife Enforcement Officer shall be empowered to enforce any provision of this ordinance consistent with the rules and regulations of the North Carolina Wildlife Commission.

(c) If the owner, possessor or custodian of any dog or animal is not known and this dog or animal is upon the public streets, alleys, sidewalks, school ground or other public places or premises, or another's property without that property owner's permission, in violation of this chapter, the dog or animal may be impounded.

Sec.2. Penalties for violations.

(a) Any violation of this chapter shall subject the offender to a civil penalty to be recovered by the Animal Control Officer in a civil action in the nature of a debt, to include the cost of abating a public nuisance, if the offender does not pay the penalty and the abatement cost within seven (7) days of issuance of a notice of violation. Each day's continuing violation shall be a separate and distinct offense.

(b) A notice of violation shall specify the nature of the violation and the provisions of this chapter violated, and further notify the offender that the civil penalty specified therein shall be paid to the Animal Control Officer within the seven (7) days.

(c) Unless otherwise provided in this chapter, the penalty for a violation of this chapter, except for public nuisance or where specifically stated otherwise, shall be fifty dollars (\$50.00) for a first violation or for a violation more than twelve (12) months after a previous violation. After the first violation, the Animal Control Officer shall have a micro-chip affixed to the animal. For subsequent violations within twelve (12) months of a previous violation, the penalty shall one hundred dollars (\$100.00) for a second violation, and three hundred dollars (\$300.00) for a third or subsequent violation within a twelve-month period. The penalty for a public nuisance shall be one hundred dollars (\$100.00). After the third violation of any type, an adequate means of confinement, established by the Animal Control Officer, shall be in place prior to the animal being returned to its owner.

(d) The penalty for tampering, removing or damaging a control or locating device shall be a fine of \$1,000.00 for the first offense and \$2,000.00 for each and every subsequent conviction.

(e) Other remedies. In addition to assessment of civil penalties, this article may be enforced by any one (1) or more of the remedies set forth in G.S. Chapter 160A or 153A, as applicable.

Sec.3. Severability.

If any section, sentence, clause or phrase of this chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

ARTICLE VII. DANGEROUS ANIMALS

Section 1. Definitions.

For the purposes of this article, the following words and phrases shall have the following meaning:

Attack by a dog: Any assault or battery by a dog upon a person or domestic animal, to include biting, feeling or toppling, tearing of clothing, provoking flight to escape attack, or any other act which could reasonably cause physical injury to the person or domestic animal.

Bite by a dog: Any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal. This does not include playful behavior by a puppy that is welcome and not likely to cause any injury, fear or harm to the person or animal.

Dangerous dog: Any of the following dogs:

- (1) A dog that without provocation has killed or inflicted severe injury on a person; or
- (2) A dog that has been determined as provided herein to be potentially dangerous.
- (3) A dog that is owned or harbored primarily or in part for the purpose of dog fighting, or a dog trained for dog fighting.

Dog: A domesticated animal (*canis familiaris*) of the Canidae family; provided that not wild specie of the Canidae family such as a wolf, fox, or a coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings.

Guard dog: A dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

Law enforcement dog: A dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

Lawful hunt: a hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

Owner: Any person or legal entity that has a possessory property right in a dog, including the harbored or keeper of a dog with the consent of the owner of a dog that has been abandoned by

or escaped the custody of its owner.

Owner's real property: Any real property owned or leased by the owner of the dog, not including any public right of way or a common area of a condominium, apartment complex, or townhouse development.

Potentially dangerous dog: A dog that has been determined, as provided herein, to have:

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

(2) Killed or inflicted severe injury upon a domestic animal when not on the real property of the owner of the dog; or

(3) Attacked a person or approached a person

When unrestrained and not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

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

Vicious dog: A dangerous dog, as defined herein, that after having once committed an act making it a dangerous dog or having been determined hereunder to be a dangerous dog, commits a subsequent attack on a person or domestic animal.

Section 2. Application of ordinance; exceptions.

The provisions of this ordinance do not apply to:

(1) A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;

(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, keeper or harbored, and the damage or injury was to a species or type of domestic animal appropriate to the work of 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 tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

Section 3. Reporting requirements.

A. Report required: (i) An owner, keeper or harbored of dangerous or vicious dog or a dog that has attacked or bitten a person or domestic animal; (ii) a victim of or person witnessing such an attack or biting; (iii) a veterinarian treating a domestic animal for such an attack or biting; or (iv)

a health care professional treating a person for such an attack or biting, shall report the following events to the Animal Control Department within three (3) business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal, or
- (2) The transfer, gift sale, or other conveyance of ownership or possession of a potentially dangerous, dangerous or vicious dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.

B. Report data required: The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the Animal Control Director.

Section 4. Determination that a dog is dangerous, potentially dangerous or vicious.

A. Generally. Upon a complaint, or when he has reasonable suspicion, that a dog is potentially dangerous, dangerous or vicious, the Animal Control Director, and the Animal Control Officers, may make a determination whether or not such dog is dangerous, potentially dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in writing which summarizes the available evidence and which shall be delivered or mailed certified mail, return receipt requested, to the owner. If the determination is made that the suspect dog is dangerous, potentially dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this ordinance and the Director may impose reasonable conditions to maintain the public health and safety. The Director or his designee shall assess appropriate civil penalties if he determines that violations of this article have been established and may elect to pursue other remedies authorized by law.

B. Appeals from determinations. (1) Any party having a direct interest in the matter and aggrieved by any determination as provided in this chapter may within three (3) business days of receiving such determination appeal such determination in writing, within three (3) business days to the Animal Control Board (Board of Health). The ruling of Animal Control Board shall be final, subject only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Hoke County, filed within ten (10) days of the date of the final determination by the Animal Control Board.

(2) Any determination of the Animal Control Director, or designee, under Section 3-28(A) may be appealed to the Animal control Board by filing written objections with the Chairmen of the Animal Control Board within three (3) days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail, return receipt requested, and file it concurrently with the Animal Control Director and the office of Hoke County Attorney. Any decision of the Animal control Board concerning any appeal provided for in this Chapter other than under section 3-28(A) shall be final.

(3) Any appeal hearing before the Animal Control Board shall be conducted as follows:

(i) The hearing shall be subject to the Open Meetings Law, and the notice required thereunder shall be posted and given as applicable;

(ii) The parties may appear pro se or be represented by an attorney;

(iii) Any person adversely affected by the appeal may appear and participate fully in the proceeding;

(iv) Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;

(v) Participants shall be entitled to the right of cross examination;

(vi) The hearing shall be quasijudicial in nature and all testimony shall be under oath;

(vii) The Animal Control Board may affirm, deny or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable, shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.

(ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.

Section 5. Registration required.

A. Generally Any person owning, keeping, or harboring a dog determined as set forth above to be dangerous, potentially dangerous, or vicious may be required to register such dog with the Animal Control Department within five (5) days of such determination or may, in lieu of any hearing, register such dog voluntarily, which such voluntary registration shall constitute an admission and determination that the dog is dangerous, potentially dangerous, or vicious.

B. Relief from civil penalty. Voluntary registration of a dangerous, potentially dangerous, or vicious dog by the owner, keeper or harbored thereof prior to a determination that a dog is dangerous or vicious, or within five (5) days (I) of an event establishing reasonable cause to believe that a dog is potentially dangerous, dangerous or vicious, or (II) of the acquisition of a potentially dangerous, dangerous or vicious dog, whichever later occurs, shall relieve such person from assessment of a civil penalty for any violation of this article occurring between such date, even or acquisition and the date of registration.

C. Permanent identification mark may be required. Each dog registered as set forth above may be assigned a registration number by the Animal Control Department, which shall be affixed to the dog by permanent chip implant, tattoo or some other permanent means by or at the expense of the owner, keeper or harbored of the dog. No person shall remove such identification mark

once it is assigned and affixed.

Section 6. Permit required.

A. Generally. After registration of a potentially dangerous, dangerous or vicious dog, or after a determination that such dog is potentially dangerous, dangerous or vicious, no person shall own, keep or harbor such dog thereafter within the territorial jurisdiction of this chapter without applying for and obtaining permit from the Animal Control Department.

B. Issuance of permit. The Animal Control Department shall issue a permit for a potentially dangerous, dangerous or vicious dog only upon submission of a complete, verified application, payment of the permit fee, and a finding by the director or his designee that required arrangements for housing of the dog and other public health and safety provisions are in effect, and that each dog for which a permit is issued does not pose an unreasonable threat to public health, safety and general welfare if the permittee shall comply with the provisions of this article and the conditions of the permit. Each permit shall be conditioned on continued compliance with the provisions of this chapter and other provisions of law, on continued compliance with and maintenance of the arrangements for housing and safety set forth in the permit application, and any special condition the Director may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of dog concerned.

C. Temporary permits. Following the registration of a potentially dangerous, dangerous or vicious dog or the impoundment of such a dog, upon application therefore and for good cause, the Director may issue a temporary permit allowing the owner, keeper or harbinger of a registered potentially dangerous, dangerous or vicious dog to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Director. A temporary permit also may be issued to allow the transport of a potentially dangerous, dangerous or vicious from the territorial jurisdiction of this ordinance. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Director may deem necessary to protect the public health, safety and welfare consistent with the provisions of this ordinance. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of subparagraph (B).

D. Term of permits and renewal thereof. No permits shall be issued under subparagraph (B) for a term of more than three (3) years but may in the Director's discretion be issued for a shorter period. Permits may be renewed, subject to the same terms and conditions required for initial permits.

E. Revocation of permits. The Director may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the Director deems it necessary to protect the public health and safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this article or with any term, condition or provision of a permit.

F. Inspections. The Director may cause periodic inspections to be made of the premises of a permittee to assure compliance with the provisions of this article and the applicable permit.

G. Insurance. Every person owning, keeping or harboring a dog that has been declared dangerous, potentially dangerous or vicious may be required to purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be one hundred thousand dollars (\$100,000.00) personal injury or property damage, per occurrence. Such person shall cause a certificate or declaration of insurance to be furnished to the Director annually. Every calendar day that required insurance is not in full force and effect shall constitute a violation of this ordinance article.

Section 7. Regulation of dangerous and vicious dogs; security and restraint requirements.

No person shall own, keep or harbor a dangerous, potentially dangerous, or a vicious dog except in compliance with all provisions of this ordinance. The Animal Control Director may require the owner, keeper, harbinger of the dog to be kept under any or all of the following conditions:

1. Dangerous dogs and potentially dangerous dogs.

a. Secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:

(1) In a building with doors, windows, and other exits securely fastened shut under the supervision and control of a responsible adult person capable of such supervision and control.

(2). Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.

(3). While outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

b. That no person owning, keeping, or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the animal shelter, to remove such dog permanently from the territorial jurisdiction of this ordinance, or to provide bona fide exercise necessary for the dog's continued good health. In the event of such removal, such dog shall be securely restrained or enclosed as set forth above for dogs being maintained outside buildings.

c. That such dog shall be sterilized within 30 days of the date the dog was declared dangerous or potentially dangerous by the Animal Control Director, or if the declaration by the Director is timely appealed, then such sterilization shall occur within 30 days of the date that the Animal Control Board determines that the dog is dangerous or potentially dangerous.

2. Vicious dogs.

a. Such dog shall be kept in the care and custody of a veterinarian for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog or

b. In the custody of the animal shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal or

c. Pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the animal shelter as provided herein for a dangerous dog.

3. Any owner of a dangerous, potentially dangerous, or vicious dog may be required erect a sign (2' x 2') on the enclosure housing said dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

Section 8. Impoundment of potentially dangerous, dangerous and vicious dogs.

A. Apprehension and surrender. Upon an initial determination or upon registration of a dog to be dangerous, potentially dangerous, or vicious, or if the Director has reasonable suspicion to believe that a dangerous, potentially danger, or vicious dog is being kept or harbored within the territorial jurisdiction of this ordinance in violation of it or of a permit issued hereunder, Animal Control Officers and law enforcement officers of Hoke County and of any municipality subject to this ordinance shall impound such dog. It shall be a violation of this ordinance to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the animal shelter.

B. Confinement. A dog impounded by or surrendered to an Animal Control Officer or law enforcement officer as provided herein shall be confined in the animal shelter or, upon request of the owner, keeper or harbinger of the dog, or permittee hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Director, subject to the following conditions:

(1) Costs of impoundment. Impoundment shall be at the expense of the owner, keeper or harbinger of the dog, or the permittee. Cost of impoundment at the animal shelter shall be paid by the person liable therefore at the daily rate therefore. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Hoke County or any municipality subject to this ordinance be liable for or pay for impoundment at such private facility or kennel.

(2) Release from impoundment. No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance as provided herein of a permit or temporary permit allowing such release. No such dog shall be released from the animal shelter until cost of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.

(3) Disposition of unclaimed or abandoned dogs. The following dogs impounded at the animal shelter pursuant to this article shall be deemed abandoned and disposed of in accordance with the provisions of this ordinance and the rules and regulations of the animal shelter.

a. Any dog which remains unclaimed by its owner, keeper or harbinger or permittee thereof for a period more than ten (10) days or a period of lawful quarantine, whichever is longer.

b. Any dog claimed by its owner, keeper, or harbinger, which is confined for a period in excess of ten (10) days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Director shall extend such time upon a showing of justifiable delay in such action by the owner, keeper, harbinger or permittee thereof.

Section 9. Violations, penalties, and other remedies.

A. Violations. Each act or conduct prohibited by this article and each failure to comply with a mandatory provision of this article shall constitute a violation. Each day's continuing act or conduct prohibited hereby and each day's continuing failure to comply shall constitute a separate and distinct offense. Violations shall subject the violator to civil penalties and to other remedies allowed by law. For the purposes of assessing civil penalties, violations of this ordinance are classified as follows:

(1) Class I violations:

a. Failure to report an event for which report is required.

b. Failure to register a potentially dangerous, dangerous or vicious dog as required.

c. Any other violation not otherwise classified in this section.

(2) Class II violations:

a. Keeping or harboring a vicious dog within the territorial jurisdiction of this ordinance in violation of this article.

b. Keeping or harboring a vicious dog within the territorial jurisdiction of this ordinance in violation of terms, conditions and provisions of a permit of the housing and restraint requirements of this article.

c. Failure to surrender a potentially dangerous or dangerous dog to an Animal Control Officer or

law enforcement Officer for impoundment as required by this article.

d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored.

(3) Class III violations:

a. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored, when such dog has thereafter committed an attack or a biting.

b. Refusal to surrender a vicious dog to an Animal Control Officer or law enforcement officer for impoundment as required by this article.

c. Failure to maintain insurance as required herein.

B. Civil penalties. The following civil penalties shall be assessed for each class of violation:

(1) Class I violations:

a. One hundred dollars (\$100.00) for the first day of violation.

b. Twenty five dollars (\$25.00) for each subsequent day of a continuing violation.

c. A maximum of one thousand dollars (\$1,000.00) for each continuing violation.

(2) Class II violations:

a. Two hundred fifty dollars (\$250.00) for the first day of violation.

b. One hundred dollars (\$100.00) for each subsequent day of a continuing violation.

c. A maximum of three thousand dollars (\$3,000.00) for each continuing violation.

(3) Class III violations:

a. Five hundred dollars (\$500.00) for the first day of violation.

b. Two hundred fifty dollars (\$250.00) for each subsequent day of a continuing violation.

c. A maximum of seven thousand five hundred dollars (\$7,500.00) for each continuing violation.

C. Other remedies. In addition to assessment of civil penalties, this article may be enforced by any one or more of the remedies set forth in Chapter 160A or 153A, as applicable, of the North Carolina General Statutes.

D. State law violations.

(1) Nothing in this ordinance shall be constructed to prevent an Animal Control Officer or any other person from pursuing remedies under Chapter 67, Article 1A, of the North Carolina General Statutes.

(2) The Director or his designee is designated as the person responsible for making the determination required under section 67-4.1 (c) of the North Carolina General Statutes. In making such determinations, the Director or his designee shall follow the procedure set forth herein for determinations.

(3) The Animal Control Board is designated at the appellate board to hear appeals of determinations made pursuant to N.C.G.S., Section 674.1 (c).

Section 10. Administrative provisions.

A. Responsibility. The Director shall administer and enforce this article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.

B. Citations assessing civil penalties. The Director or any Animal Control Officer shall have authority to investigate alleged or suspected violations of this article and upon the determination by such person, based on observation or other evidence, that a violation has occurred, each such person shall have the authority to issue a written citation for violation of this article and assess a civil penalty in the amount due. Such citation shall be mailed to the violator by an Animal Control Officer, a law enforcement officer, certified mail, return receipt requested, addressed to the last known address of the violator, or shall be personally delivered to the violator or to some responsible person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon execution of a receipt for the certified mail by the violator or his agent in the event of such service. If a civil penalty duly assessed is not paid when due, the Director shall initiate an action in a court of competent jurisdiction to collect such amount due.

C. Authority to enter upon premises. Animal Control Officers shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or apprehend a dog determined to be potentially dangerous, dangerous or vicious or as which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, or to investigate any violation of this article, or to serve a citation upon a person for violation of this article. Notwithstanding the foregoing, any Animal Control Officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-72.2, or otherwise as authorized by law.

D. Authority to immobilize or kill a dangerous or vicious dog.

(1) If in the course of investigating, apprehending or otherwise taking custody a potentially dangerous, dangerous or vicious dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, such dog is not securely restrained and an

Animal Control Officer or law enforcement officer has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, said officer shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.

(2) If a potentially dangerous, dangerous or vicious dog impounded in the animal shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, an Animal Control Officer shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.

(3) An Animal Control Officer may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner, keeper, or harborer.

Section 11. Severability.

If any section, sentence, clause or phrase of this chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

Section 12. Computation of Time.

In computing any period of time prescribed or allowed by this Ordinance, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday when the Hoke County Animal Shelter is closed, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday when the Hoke County Animal Shelter is closed. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

If this Ordinance is in conflict with any other Hoke County Ordinance, this Ordinance shall be followed as to the provisions contained herein.

Adopted August ___ 2007.

James Leach, Chairman
Hoke County Board of Commissioners

Attest:

Linda Revels, Clerk to the Board

