

**CHAPTER 4 OF THE  
DURHAM COUNTY CODE OF ORDINANCES  
ANIMALS**

WHEREAS, the North Carolina Legislature has, through Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to counties the power to regulate by ordinance acts, omissions or conditions detrimental to the health safety and welfare of its citizens and the peace and dignity of the county; and

WHEREAS, the Commissioners of the County of Durham, pursuant to their authority granted under Article 6 of Chapter 153A of the North Carolina General Statutes, enacted an Animal Ordinance to regulate acts, omissions and conditions detrimental to the health safety and welfare of its citizens and the peace and dignity of the County; and

WHEREAS, the Commissioners of the County of Durham wish to amend the Animal Ordinance to address concerns of the public health safety and welfare and in furtherance thereof hereby addresses animal waste removal on public and private property by amending Article VI, Animal Nuisance to include section 4-140, entitled Removal of Canine Waste.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH ORDAIN:

- 1) This Chapter 4, of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 4-1. - Authority.

This chapter is established pursuant to the following grants of statutory authority:

- (1) G.S. 153A-121 which delegates to counties the power to regulate by ordinance, acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county.
- (2) G.S. 153A-123 which authorizes counties to levy fines and penalties for violation of its ordinances and allows counties to secure injunctions and abatement orders to further ensure compliance with its ordinances.
- (3) G.S. 153A-127 which authorizes counties to define and prohibit the abuse of animals.
- (4) G.S. 153A-131 which authorizes counties to regulate, restrict or prohibit the possession or harboring of animals which are dangerous to persons or property.
- (5) G.S. 153A-442 which authorizes counties to establish, equip, operate and maintain animal shelters.
- (6) G.S. 153A-153 which authorizes counties to levy an annual license tax on the privilege of keeping dogs and other pets within the county.
- (7) G.S. 130A-192 which authorizes officers to determine if there are any dogs and cats not wearing valid rabies vaccination tags.

- (8) G.S. 67-4.1(ff) which authorizes the designation of a person or board to be responsible to declare a dog dangerous or potentially dangerous.
- (9) G.S. 19A-45 which authorizes counties to appoint one or more animal cruelty investigators.
- (10) G.S. 130A-186 which authorizes the local health director to appoint one or more certified rabies vaccinators.

(Ord. of 6-11-12, § 1)

Sec. 4-2. - Purpose and objective.

This chapter is established for the following purposes and objectives:

- (1) Animal license. To establish rules and procedures for licensing a dog or cat.
- (2) Animal abuse. To define and prohibit the abuse of animals.
- (3) Rabies. To protect citizens and other animals of the county from rabies transmitted by unconfined, uncontrolled or unimmunized dogs, cats or other animals.
- (4) Animals at large. To regulate, restrict and prohibit the running at large of any domestic animals.
- (5) Stray animals. To regulate, restrict or prohibit the keeping of any stray domestic animals.
- (6) Animal nuisance. To regulate animals that may be a nuisance.
- (7) Exotic animals and dangerous animals. To regulate, restrict or prohibit the harboring or keeping or ownership of exotic animals and dangerous animals.
- (8) Impoundment of animals. To regulate and establish procedures for the impoundment and confinement of animals.
- (9) Redemption of impounded animals. To regulate and establish procedures for redeeming animals impounded in the county's animal shelter.
- (10) Destruction of animals. To regulate and establish procedures for destroying diseased, stray, unwanted or unclaimed animals.

(Ord. of 6-11-12, § 1)

Sec. 4-3. - Sheriff of Durham County.

Authority is hereby granted to the Sheriff of Durham County to enforce this chapter pursuant to all the rights, powers, and immunities of the office of the sheriff. This chapter shall be enforced by such employees as shall be determined by the sheriff and funded by the board of county commissioners and shall be appointed and compensated in accordance with the personnel policies of the Durham County Sheriff. The sheriff, his/her deputies or other duly appointed designees and employees, shall have all the powers, authority and immunity granted by the general laws of this state and this chapter to enforce the provisions of this chapter and the laws of this state as they relate to animals and the public health and shall have the responsibility to:

- (1) Enforce all laws of the state and all ordinances of the county pertaining to animals.

- (2) Investigate all reported animal bites.
- (3) Be responsible for the seizure and impoundment, when necessary, of any animal in the county involved in a violation of this chapter or any other ordinance or state law.
- (4) Investigate cruelty or abuse of animals and protect animals within the county from cruelty and abuse.
- (5) Be empowered to seize animals pursuant to the the laws of the state and the ordinances of the county or by order of a court of competent jurisdiction of this state.
- (6) Make legal canvasses of homes, businesses and institutions within the county as necessary for the purpose of ascertaining compliance with this chapter or state statute.
- (7) Comply with record keeping obligations of the laws of this state and county as they pertain to animals.
- (8) Issue notices of violation, assess civil penalties for violations of this chapter and initiate criminal proceedings when authorized by law.
- (9) Inspect property, buildings or dwellings with the consent of the owner or occupant, or by administrative or criminal search warrant or as otherwise permitted by the laws of this state.
- (10) Be empowered to go upon private property to seize animals pursuant to the provisions of this chapter or an order of a court of competent jurisdiction of this state or as otherwise permitted by the laws of this state.

(Ord. of 6-11-12, § 1)

Sec. 4-4. - Same—Sheriff.

The sheriff or his/her designee is hereby designated by the board of commissioners as the person responsible for determining when a dog is potentially dangerous pursuant to G.S. 67-4.1(c). The sheriff or his/her designee is authorized to initiate legal action to enforce this chapter.

(Ord. of 6-11-12, § 1)

Sec. 4-5. - Same—Officers.

All persons employed by the sheriff to enforce the animal control regulations shall be considered officers of the sheriff and shall have the rights, powers and immunities granted under this chapter and by the laws of this state to enforce the provisions of this chapter and the General Statutes of North Carolina as they relate to animal control and animal welfare. Officers shall be classified as nonsworn or sworn as set forth below and shall have all the rights, powers and immunities conferred by this chapter:

- (1) Nonsworn officers are those officers of the sheriff who have not taken or successfully completed the law enforcement education and training course as prescribed by the North Carolina Criminal Justice Education and Training Standards Commission, pursuant to G.S. 17E-7 or as otherwise qualified to serve as a justice officer pursuant to G.S. 17E-8. Nonsworn officers are not authorized to carry on their person any firearms, but are authorized to store at the administrative offices occupied by the sheriff, or carry

in departmental vehicles, firearms approved for use when necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Nonsworn officers are authorized to store drugs, chemicals and equipment at the administrative offices occupied by the sheriff as necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Nonsworn officers shall not have the power of arrest, but shall have all rights, powers and immunities as described in section 4-3.

- (2) Sworn officers are officers appointed by the sheriff who either have a current certification per G.S. 17E-7 or are otherwise qualified to serve as a justice officer pursuant to G.S. 17E-8. These officers are vested with the same rights, powers and immunities granted to nonsworn officers, in addition to the rights, powers and immunities they enjoy as law enforcement officers of this state and of the sheriff.

(Ord. of 6-11-12, § 1)

Sec. 4-6. - Reserved.

Sec. 4-7. - Other officers, committees and boards.

- (a) Animal welfare advisory committee. The animal welfare advisory committee shall advise the board of commissioners and the sheriff with respect to animal welfare concerns. The animal welfare advisory committee shall be composed of seven members appointed jointly by the sheriff and by the board of commissioners to serve at the pleasure of the board of commissioners and the sheriff. The membership of this committee shall consist of at least one member of the board of administrators of the county animal protection society appointed by the board of county commissioners, at least one member who is a licensed veterinarian appointed by the sheriff, and at least one member designated by the county district attorney's office, and at least two members designated by the board of county commissioners and two members designated by the sheriff that are appointed from the general public. Members of the committee may serve two consecutive three-year terms and may resume service on the committee after a hiatus of at least one term. Members of the committee shall not be members of the dangerous dog appeal board during any portion of their term.
- (b) Dangerous dog appeal board. The dangerous dog appeal board is hereby established and designated by the board of commissioners, pursuant to G.S. 67-4.1(c), as the board responsible for hearing the appeal of dog owners who have had their dogs declared dangerous or potentially dangerous. The dangerous dog appeal board shall be composed of two members appointed by the board of commissioners from the general public and three members that are county employees to serve at the pleasure of the board of commissioners. Members of the dangerous dog appeal board shall not be members of the animal welfare advisory committee during any portion of their term.

(Ord. of 6-11-12, § 1)

Sec. 4-8. - Enforcement.

The sheriff or his/her designee and/or the county may take necessary legal steps to enforce this chapter and collect any amount for outstanding costs, fees or penalties assessed pursuant to this chapter. This chapter shall be enforced by imposing the specific sanctions, penalties, fines

and remedies described herein, by seeking injunctive relief, orders of abatement, orders of custody and any other means prescribed by statute or common law. Any violation of this chapter which does not carry a specific sanction, penalty or fine shall be punishable as a general criminal misdemeanor as defined by state law.

(Ord. of 6-11-12, § 1)

Sec. 4-9. - Sanctions and penalties.

(a) Civil penalties. Unless otherwise provided for in a particular section, the sheriff or his/her designee is authorized to assess civil penalties in the following manner:

- (1) A civil penalty of \$50.00 shall be assessed for the first violation of any provision of this chapter.
- (2) A civil penalty of \$100.00 shall be assessed for each second or subsequent violation of this chapter.
- (3) A civil penalty of \$500.00 shall be assessed for violation of any provision of this chapter by a dog that has been declared dangerous or potentially dangerous.
- (4) A civil penalty of \$150.00 shall be assessed for habitual violations, as defined herein, of any provision of this chapter, other than a violation of article VIII.

A civil penalty is due and owing upon assessment. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a civil penalty is not received within five working days of issuance, legal proceedings may be initiated to recover the amount of the penalty.

- (b) Seizure/impoundment. In addition to criminal or civil penalties, the sheriff and his/her designee is authorized to seize or impound an animal for violation of specific provisions of this chapter as set forth herein and in accordance with state law.
- (c) Civil remedies under this chapter are cumulative, supplemental and not exclusive, and are in addition to the fines, penalties and forfeitures set forth in the criminal laws of this state as punishment for violation of the penal laws of this state and any applicable county ordinances. Each day of continuing violation shall constitute a separate violation.

(Ord. of 6-11-12, § 1)

Sec. 4-10. - Interference with officers.

- (a) It shall be unlawful for any person to interfere with, hinder or molest the sheriff or his/her designees while in the performance of any duty associated with enforcement of this chapter. Violations of this section shall be punished criminally.
- (b) It shall also be unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the animal control division, except as otherwise specifically provided in this chapter. Violations of this section shall be punished criminally.

(Ord. of 6-11-12, § 1)

Sec. 4-11. - Method of service and return of notices.

Unless otherwise specified in this chapter, all notices or civil penalties required by this chapter to be sent or delivered shall be made by personal service; certified mail; or affixing the notice to the last known residence and first class mail.

(Ord. of 6-11-12, § 1)

Sec. 4-12. - Appeal procedures.

- (a) Any owner affected by a declaration of dangerous dog shall have the rights of appeal enumerated in G.S. 67-4.1 and pursuant thereto may file a request for appeal with the dangerous dog appeal board at the office of the county clerk to the board, 200 East Main Street, Durham, N.C., 27702.
- (b) All testimony offered at an appeal hearing held pursuant to this chapter shall be given under oath and recorded by tape recording or any other reasonable manner. The hearing shall be open to the public and the person requesting the appeal may be represented by an attorney.
- (c) The sheriff or his/her designee shall have the burden of proving that this chapter has been violated. The person requesting the appeal will be given an opportunity to prove that this chapter has not been violated. The sheriff or his/her designee will be given a final opportunity to clarify any conflicts, ambiguities or inconsistencies created by or arising from the statements or evidence. The dangerous dog appeal board may ask questions at any time during the appeal hearing and may request additional evidence from either party. Any sanctions or penalties imposed shall be enforceable during the pendency of any appeal.

(Ord. of 6-11-12, § 1)

Sec. 4-13. - Definitions.

Abandon means to intentionally, knowingly, recklessly, or negligently leave an animal at a location without providing for the animal's care.

Adequate shelter means an enclosure having at least three solid sides, a roof and a floor, that remains dry inside, is ventilated and has sufficient room for an animal to move about freely and lie down comfortably and promotes the retention of body heat.

Animal means every nonhuman species, both domestic and wild.

At large means any animal found off of the property of its owner and not under restraint, or any animal previously determined to be dangerous or potentially dangerous that is not confined to a secure enclosure while on the property of its owner. This definition shall exclude any dog, which is in a dog park. This definition shall exclude any dog being used by a law enforcement officer while carrying out the law enforcement officer's official duties.

Attended leash means that the tethered dog is in visual range of the responsible party, and the responsible party is located outside with the dog.

Bite means the act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

Board of commissioners means the Durham County Board of County Commissioners.

Cats means any and all domestic felines.

City means the City of Durham, North Carolina.

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

County means Durham County, North Carolina.

Cruelty and cruel treatment means every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully.

Dog park means an area or tract designated by the owner of the property to be a place in which a dog or dogs are not required to be under restraint. The area or tract designated by the owner of the property must be a secured enclosure. The owner of the property shall post in a conspicuous place and manner a sign on the outside of the enclosure, which designates the area or tract as a dog park.

Dogs means any and all domestic canines.

Exotic animal means a species of animal not indigenous to this state. The term specifically does not include animals of a species customarily held in this state as ordinary household pets, animals of a species used in the state as a domestic farm animal, fish, birds, nonvenomous insects, nonvenomous reptiles and species that are deemed inherently dangerous under article XII of this chapter or regulated by the North Carolina Wildlife Resource Commission.

Feral cat means a domestic cat which has adapted to survive in the wild, is homeless and ownerless, and having descended from stray and possible generations of abandoned house pets.

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

Habitual violation means three or more violations of this chapter in the past three years and the most recent violation was within the past 12 months.

Impoundment means possession or seizure of an animal by the sheriff and his/her designees for placement in the county's animal shelter or other appropriate facility.

In estrus means a female animal in what is commonly called "heat".

Livestock shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine as set forth in G.S. ch. 68, art. 3.

Microchip refers to a tiny permanent identification system, implanted under the animal's skin and read by a chip scanner which identifies the owners name and address which is available on regional or national data bases. Implantation is done with an injector that places the chip under the loose skin over the animal's shoulder.

Nuisance means any act of an animal that annoys or disturbs rights and privileges common to the public or enjoyment of private property. The commission on more than one occasion of the following acts shall be evidence of a nuisance:

- (1) Gets into or turns over garbage containers.

- (2) Walks on and/or sleeps on automobiles of another.
- (3) Damages gardens, foliage or other real or personal property.
- (4) Continuously or frequently roams or is found on the property of another.
- (5) Is maintained in an unsanitary condition so as to be offensive to sight or smell.
- (6) Is not confined to a building or secure enclosure while in estrus.
- (7) Chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicle passengers, farm stock, or domestic animals.
- (8) Urinates on private property without the permission of the owner.
- (9) Is diseased or dangerous to the health of the public.
- (10) Is maintained outside less than 15 feet from a public street, road, or sidewalk and poses a threat to the general safety, health, and welfare of the general public.

Owner means any person, group of persons, firm, partnership, or corporation owning, keeping, having charge of or taking care of an animal or allowing an animal to remain on his/her property.

Owner's property means that area described in a deed of conveyance or the area described in a lease. In a situation involving townhomes or condominiums, the common areas will be treated as being owned by the homeowner's association. In a situation involving leased apartments, the common areas will be treated as being owned by the lessor/property owner.

Person means any human being, firm, partnership, or corporation, including any nonprofit corporation.

Pet shop means a business or enterprise, that acquires for the purpose of resale animals bred by others whether as owner, agent or on consignment and sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

Rabies vaccinator means a person appointed and certified to administer rabies vaccine or a licensed veterinarian.

Restraint means a secure enclosure located on the owner's property, attended leash, or electronic device of sufficient strength which allows the owner to maintain control of an animal. Voice command is not recognized as adequate restraint.

Secure enclosure unless otherwise specifically defined herein, means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. A motor vehicle shall not constitute a secure enclosure.

Stray, lost, or unwanted means any animal found within the county wandering at large which does not have identification of an owner.

Tethering means tying out or fastening a dog outdoors on a rope, chain or other type of line for holding a dog. This shall not include tying out or fastening a dog outdoors on an attended leash.

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



Wild animal means any animal that is or once was native to this state or any species of wild bird which naturally occurs or historically occurred in this state, being native or migratory.

Working days means any day of the week excluding Saturday, Sunday and legal holidays. If the last day of the time period specified herein, shall fall on a Saturday, Sunday or legal holiday, then the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

(Ord. of 6-11-12, § 1)

#### Sec. 4-14. - Jurisdiction.

This chapter shall be effective within the corporate limits and extraterritorial jurisdiction of any municipality within the county that shall so agree by appropriate resolution.

(Ord. of 6-11-12, § 1)

Secs. 4-15—4-35. - Reserved.

#### ARTICLE II. - RABIES CONTROL <sup>[2]</sup>

Footnotes:

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**Editor's note**—An ordinance adopted June 24, 2013, §§ 1, 2, amended art. II, entitled "Licensing of Animals and Rabies Control", inasmuch by renaming said article, as set out herein and deleting §§ 4-36—4-38, which pertained to animal licensing and exemptions. Former §§ 4-36—4-38 derived from an ordinance adopted June 11, 2012, § 1.

Secs. 4-36—4-38. - Reserved.

#### Sec. 4-39. - Rabies control.

- (a) Every owner shall comply with the requirements of G.S. 130A-184 et seq., and other applicable state laws concerning rabies control.
- (b) If an owner of an animal fails to produce proof of rabies vaccination or fails to have the animal vaccinated, after having been issued a notice to vaccinate pursuant to G.S. 130A-192, the sheriff and his/her designees may enforce applicable state laws and county ordinances.
- (c) The owner may consent to allow an officer, who is also a certified rabies vaccinator, to vaccinate the animal.
  - (1) The owner shall be responsible for all costs associated with the officer's effort to vaccinate the animal.
  - (2) If an owner fails to pay the costs of having the animal vaccinated, the county may commence legal proceedings to recover these costs.
- (d) Nothing in this article shall be construed to preclude any criminal remedy available under the laws of the State of North Carolina or the United States, or the pursuit by any person, of civil or criminal remedies available under said laws.

(Ord. of 6-11-12, § 1)

Sec. 4-40. - Bites.

- (a) Every owner of an animal that has bitten a human being, or any person bitten by an animal, or any health care worker treating someone who has been bitten by an animal shall comply with the reporting requirements of G.S. 130A-196 or G.S. 130A-198 and other applicable state laws concerning animal bites.
- (b) An animal that is confined to the animal shelter pursuant to the provisions of G.S. 130A-196 or G.S. 130A-198 shall become the property of the county if the owner does not redeem the animal within 24 hours following the last day of the ten-day confinement period required by statute.
- (c) The owner of an animal confined at the animal shelter pursuant to this section shall be responsible for the costs of caring for the animal while at the shelter and all fees shall be paid at the time of redemption.
- (d) Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding medical costs, penalties and fees that have accrued as a result of the animal being confined at the animal shelter.

(Ord. of 6-11-12, § 1)

Secs. 4-41—4-60. - Reserved.

ARTICLE III. - ANIMAL ABUSE

Sec. 4-61. - Exemptions.

This article shall not apply to agencies conducting biomedical research or training, the production of livestock or poultry for sale as a consumer product and the lawful destruction of any animal for the purpose of protecting livestock, poultry or humans.

(Ord. of 6-11-12, § 1)

Sec. 4-62. - General care; prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

- (1) Failure to provide adequate food. All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.
- (2) Failure to provide adequate water. All animals shall have constant access to a supply of clean, fresh, potable water or a supply of clean, fresh potable water provided at suitable intervals. If access is not constant, then adequate amounts of water must be provided at least twice in a 24-hour period. If water is provided at intervals, it must remain in the animal's enclosure for at least one hour during each interval.
- (3) Failure to provide adequate shelter. All animals shall be provided with adequate shelter from the weather at all times. Examples of inadequate shelter include, but are not limited to the following:

- a. Underneath outside steps, decks and stoops.
  - b. Underneath houses.
  - c. Inside or underneath motor vehicles.
  - d. Inside metal or plastic barrels.
  - e. Inside cardboard boxes.
  - f. Inside temporary animal carriers or crates.
  - g. Shelters located in flood-prone areas.
  - h. Shelters surrounded by waste, debris, obstructions, or impediments that may endanger an animal.
- (4) Failure or refusal of any owner in contact with or having knowledge of a sick, diseased or injured animal to provide proper medical treatment for the animal or notify the sheriff and his/her designees of the condition. A sick animal shall go no longer than 24 hours without veterinary care.
- (5) Animal abuse. Examples of animal abuse include, but are not limited to the following:
- a. Allowing a collar, rope, or chain to become embedded in or cause injury to an animal's neck.
  - b. Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.
  - c. Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.
  - d. Intentionally allowing animals to engage in a fight.
  - e. Allowing animals to be kept in unsanitary conditions.
  - f. Allowing animals to be kept in crowded conditions. As to dogs, less than 100 square feet of unobstructed area per each dog weighing 20 pounds or under, less than 200 square feet of unobstructed area per each dog weighing greater than 20 pounds. This subsection shall not apply to licensed boarding facilities, licensed pet stores, veterinary care, and grooming facilities.
  - g. Permitting any exhibit, function, or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. The sheriff and his/her designees may inspect and close down public exhibits of animals which are part of fairs, carnivals, festivals, fundraising events, petting zoos and any other activity or function carried out in the county if it is determined that animals are being cruelly treated, abused or run the risk of causing injury to the public or themselves.
- (6) Tethering of a dog except under the following circumstances:
- a. Tethering for a period not to exceed seven consecutive days while actively engaged in:
    1. Shepherding or herding livestock.

2. Lawful dog activities such as hunting training and hunting sporting events, field and obedience training, field or water training, law enforcement training, veterinary treatment and/or the pursuit of working or competing in these legal endeavors.
  3. Meeting the requirements of a camping or recreational area.
- b. When participating in recognized exempt activities or when a dog is on an attended leash, tethered dogs shall be attended by a responsible person and shall be tethered in a manner that does not cause unjustifiable pain, suffering, or risk of death. 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 ten feet in length with swivels on both ends and which does not exceed ten percent of the dog's body weight. All collars or harnesses used for the purpose of tethering a dog must be made of nylon or leather.
- (7) Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured in an animal carrier or by a harness or other device, such that the animal cannot fall from, jump from or be thrown from the vehicle.
  - (8) Failure or refusal to report injured or killed domestic animals.
    - a. All persons who injure or kill a domesticated animal by running over, into or otherwise coming into contact with such animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately.
    - b. If the owner is unknown, the person who injured or killed the animal shall immediately notify the police department if the injury or death occurred in the city, or the sheriff's office if the injury or death occurred in the county by giving his or her name and address, a description of the animal and the location of the incident.
  - (9) Unless otherwise permitted by law, giving away or offering any animal as a prize, premium or advertising device for or as an inducement to enter any contest, game or other competition involving skill or chance, or auctioning, raffling or otherwise offering as a prize or premium any animal for fundraising or charitable purposes.
  - (10) Displaying any dog or cat on public property for the purpose of selling or giving the animal away. This subsection shall not apply to the display of animals in a pet shop, commercial kennel, veterinarian's office, or display by a nonprofit animal welfare entity organized and operated under § 501(c)(3) of the Internal Revenue Code.

This section 4-62, is not intended, and shall not, in any manner regulate the Durham County Animal Shelter or the care of animals that fall under the exclusive province of federal or state laws.

(Ord. of 6-11-12, § 1)

Sec. 4-63. - Sanctions, penalties, fines, remedies.

Any person who fails, refuses or otherwise violates this article shall be subject to the following sanctions or penalties:

- (1) Pursuant to G.S. 19A-1, 19A-2, 19A-3, and/or 19A-4, an officer may obtain an order to take possession of the animal.
- (2) If the conditions pose an immediate threat to the health or safety of the animal or the public, an officer may summarily seize the animal in accordance with state law, or to terminate an ongoing criminal offense.
  - a. A notice of seizure describing the exigent circumstances warranting the seizure shall be left with the owner or affixed to the premises or other property from whence the animal was seized.
  - b. If the owner fails to redeem the animal within the time limit provided by this chapter, the county may initiate an action in district court for permanent custody of any animal impounded. The costs of caring for the animal pending final determination of court proceedings shall be charged against the owner.
- (3) If it is determined by the officer that the animal is not in immediate danger, or the problem which gives rise to the inadequate treatment or abuse can be corrected within 72 hours, the officer may, in lieu of subsections (1) or (2) above, issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined in subsections (1) or (2) above.
- (4) Notwithstanding the other provisions and sanctions of this article, the officer may issue a civil penalty for violation of any provision of this section in accordance with section 4-9.
- (5) Violation of state law. When it has been determined by the officer that there has been a violation of one or more provisions of state law regarding cruelty to animals, including G.S. 14-360, the officer may initiate a criminal proceedings.
- (6) Failure to report. Failure to report any event for which a report is required under this article shall be subject to a civil penalty as indicated in section 4-9.

(Ord. of 6-11-12, § 1)

Sec. 4-64. - Leaving an animal in a closed vehicle or other enclosure.

Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures that would cause unjustifiable pain and suffering or that is potentially harmful or life threatening to the animal is punishable as a criminal offense.

(Ord. of 6-11-12, § 1)

Secs. 4-65—4-85. - Reserved.

#### ARTICLE IV. - DOGS AT LARGE

Sec. 4-86. - Dogs at large.

It shall be unlawful for any person owning, keeping, possessing or maintaining a dog in this county to intentionally or negligently allow the dog to run at large.

(Ord. of 6-11-12, § 1)

Sec. 4-87. - Sanctions, fines, penalties, remedies.

- (a) An officer may seize and impound the animal, may issue a civil penalty in accordance with section 4-9 and/or enforce any applicable county code provisions and state law violations and remedies.
- (b) Nothing in this article shall prevent a private citizen from bringing an action against the owner of an animal, which has caused injury to the private citizen or his property, for damages or any other loss resulting from an animal being at large.

(Ord. of 6-11-12, § 1)

Secs. 4-88—4-110. - Reserved.

ARTICLE V. - RESERVED

Secs. 4-111—4-135. - Reserved.

ARTICLE VI. - ANIMAL NUISANCE

Sec. 4-136. - Animal creating a nuisance.

It shall be unlawful for any animal to engage in any of the acts listed in section 4-13.

(Ord. of 6-11-12, § 1)

Sec. 4-137. - Sanctions, fines, penalties, remedies.

- (a) An officer may issue a civil penalty in accordance with section 4-9 and/or enforce any applicable county code provisions and state law violations and remedies.
- (b) Nothing in this article shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his property resulting from the animal being a public nuisance.

(Ord. of 6-11-12, § 1)

Sec. 4-138. - Reserved.

Sec. 4-139. - Intentionally or willfully causing animal to violate article.

It shall be unlawful and punishable as a criminal offense for any person to intentionally or willfully cause an animal to be a public nuisance.

Sec. 4-140. – Removal of Canine Waste

- a) Any person owning, harboring, walking, in possession of or in charge of a dog which defecates on public property, public park property, public right-of-way or any private property without the permission of the private property owner, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposed of in a lawful manner.

- b) Any violation of this section shall constitute a non-criminal violation punishable by a fine or a civil penalty in accordance with Article I of this chapter, Section 4-9, entitled: Sanctions and penalties.
- c) The provisions of this section shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability.
- d) Nothing in this article shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his property resulting from the animal being a public nuisance.

(Ord. of 6-11-12, § 1)

Secs. 4-141—4-165. - Reserved.

#### ARTICLE VII. - STRAY OR ABANDONED ANIMALS

Sec. 4-166. - Notification to animal control division.

- (a) Any person who has knowledge of or keeps, feeds, harbors or possesses a stray or abandoned animal must notify the sheriff or his/her designee within 24 hours of having knowledge of the animal or the animal coming into his possession or control.
- (b) Any person required to notify the sheriff or his/her designee under subsection 4-166(a) shall provide the following information to animal control:
  - (1) The name, address and telephone number of the person completing the lost/found report.
  - (2) A description of the animal, including its color, breed, sex and age.
  - (3) The location where the animal was discovered.
- (c) Any person who gives away, sells or allows an otherwise stray or abandoned animal to be adopted without first surrendering said animal to the animal shelter shall have no authority over the animal and ownership shall remain with the previous owner to the extent the previous owner is able to be identified.

(Ord. of 6-11-12, § 1)

Sec. 4-167. - Surrender of stray animals.

- (a) Any person having knowledge of or keeping, feeding, harboring or possessing a stray animal shall surrender the animal upon demand by the sheriff or his/her designee.
- (b) All stray animals surrendered may be taken to the county animal shelter. If the owner does not redeem the animal within five working days, the animal shall become the property of the county and may be disposed of according to this chapter.

(Ord. of 6-11-12, § 1)

Sec. 4-168. - Abandoned animals.

- (a) It shall be unlawful for any person, owner or possessor to abandon an animal for any reason. The sheriff or his/her designee may impound any abandoned animal, including any animal abandoned by reason of eviction made pursuant to G.S. 42-36.2 et al. Notice of seizure shall be posted on the premises from which the animal was seized. It is the owner's responsibility to make a visual inspection of the animal shelter if he has reason to believe that his animal has been impounded at the shelter.
- (b) If an abandoned animal is not redeemed within ten working days of the date of impoundment, the animal shall become the property of the county.

(Ord. of 6-11-12, § 1)

Secs. 4-169—4-190. - Reserved.

ARTICLE VIII. - DANGEROUS AND POTENTIALLY DANGEROUS DOGS

Sec. 4-191. - Determination of dangerousness.

- (a) The sheriff or his/her designee shall determine whether a dog shall be declared dangerous or potentially dangerous pursuant to G.S. 67-4.1.
- (b) The sheriff or his/her designee will issue a written declaration of dangerousness as soon as practicable of the incident necessitating a determination of whether the dog is dangerous or potentially dangerous.
- (c) The owner of an animal which has been declared dangerous or potentially dangerous pursuant to this section has the right to appeal said determination in the manner set forth in section 4-12 of this chapter and as provided by North Carolina General Statutes.

(Ord. of 6-11-12, § 1)

Sec. 4-192. - Confinement and restraint of dangerous or potentially dangerous dogs.

- (a) It is unlawful for an owner or caregiver of a dangerous dog or potentially dangerous dog to violate the confinement requirements G.S. 67-4.2.
- (b) The sheriff or his/her designee may inspect all secure enclosures.
- (c) The owner or caregiver of a dangerous or potentially dangerous dog shall immediately notify the sheriff or his/her designee of any change in address.
- (d) The owner or caregiver of a dangerous or potentially dangerous dog shall notify the sheriff or his/her designee immediately if the dog escapes or is otherwise freed from the secure enclosure or other restraint.
- (e) The owner of a dangerous or potentially dangerous dog shall display sign(s) warning that there is a dangerous dog on the property. The sign(s) shall be conspicuously placed clearly visible from the public right-of-way or property line at an actual or customary point of entry into the premises.

(Ord. of 6-11-12, § 1)



Sec. 4-193. - Transfer of ownership.

The owner of a dog that has been declared dangerous or potentially dangerous shall immediately comply with the requirements of G.S. 67-4.2 concerning transfer of ownership.

(Ord. of 6-11-12, § 1)

Sec. 4-194. - Sanctions, fines, penalties and remedies.

In addition to criminal penalties provided by state law and civil penalties set forth in section 4-9, any person who violates this article shall be subject to the following sanctions and remedies:

- (1) If a dog which has been declared dangerous or potentially dangerous is found at large it shall be seized and impounded. If attempts to seize the dangerous or potentially dangerous dog are unsuccessful, the sheriff or his/her designee may tranquilize or destroy the animal, without prior notice to the owner. The officer shall thereafter make a good faith attempt to notify the owner of the incident.
- (2) If the dog has caused injury to a person or another animal while at large and not confined within a secure enclosure, the sheriff or his/her designee may, in addition to seizing the dog, issue to the owner a notice of intent to destroy the dog.
- (3) If an inspection of the premises where a dog which has been declared dangerous or potentially dangerous is confined reveals that the owner has not complied with state law for confining a dangerous dog, the sheriff or his/her designee may, in addition to criminal sanctions authorized by G.S. 67-4.2, issue a \$500.00 civil penalty in accordance with section 4-9 and may impound the dog at the animal shelter.
- (4) If the impounded dog is not redeemed within five working days the dog shall become the property of the county and shall be disposed of in accordance with this chapter.
- (5) Nothing in this article shall prevent a private citizen from bringing an action against the owner of an animal, which has caused injury to the private citizen or his property, for damages or any other loss resulting from the animal being dangerous or potentially dangerous.

(Ord. of 6-11-12, § 1)

Sec. 4-195. - Microchip requirements for dangerous/potentially dangerous dogs.

All dogs declared dangerous or potentially dangerous pursuant to this article must be permanently identified by a microchip implanted under the dog's skin within 30 days following the final determination of dangerousness and any appeal period allowed by state law. The owner shall supply animal control with the microchip number immediately for their records.

(Ord. of 6-11-12, § 1)

Secs. 4-196—4-220. - Reserved.

ARTICLE IX. - IMPOUNDMENT OF ANIMALS

DIVISION 1. - GENERALLY

Sec. 4-221. - Authority.

- (a) Not inconsistent with the preceding articles of this chapter and excluding feral cats, any healthy animal which appears to be lost, stray or unwanted, or any dog or cat which is impounded pursuant to any provision of this chapter, or any exotic animal which has escaped or poses the danger of escaping may be confined to the animal shelter or any other appropriate facility in a humane manner for a minimum of five working days, unless otherwise specified in this chapter, for redemption by the owner. Any animal not redeemed within five working days shall become the property of the county and shall be disposed of pursuant to this chapter.
- (b) The sheriff or his/her designee may obtain suitable board, maintenance and care from any available source for any impounded animal for which the animal shelter is not equipped to care. Unless otherwise provided herein, the owner of any animal impounded and cared for under any provision of this chapter may redeem the animal upon payment of all fees, costs and penalties authorized by this chapter.

(Ord. of 6-11-12, § 1)

Sec. 4-222. - Feral cats.

A panel of three persons designated by the animal shelter manager shall determine whether a cat suspected of being feral shall be deemed a feral cat within the meaning of this chapter. The panel must unanimously declare the cat to be feral. A feral cat shall be held for three working days for redemption by a possible owner. If the feral cat is not redeemed within three working days it may be euthanized pursuant to this chapter. If the panel cannot agree unanimously that the cat is feral, then the cat must be held for five working days.

(Ord. of 6-11-12, § 1)

Sec. 4-223. - Notice.

A good faith effort shall be made to notify known owners of impounded animals. Instructions on how to determine if an animal has been impounded shall be available at the animal shelter and shall constitute adequate notice to an unknown owner.

(Ord. of 6-11-12, § 1)

Sec. 4-224. - Boarding fees.

The animal shelter is authorized to collect the actual expenses of boarding an impounded, lost or stray animal at the animal shelter or other appropriate facility in the following amounts (per day):

- (1) Boarding fees for dogs .....\$12.00
- (2) Boarding fees for cats .....\$8.00
- (3) Boarding fees for all other domestic animals housed at the shelter .....\$6.00
- (4) Boarding fees for all livestock housed at the shelter .....\$15.00
- (5) Per day boarding fees for all other animals that cannot be housed at the shelter: Actual cost charged by third-party caregiver.

Boarding fees include the costs of food, water and shelter for the animal and do not include costs for transportation, veterinary treatment and other costs. Boarding fees must be paid at the time of redemption and are charged in addition to any other fees, costs and penalties authorized by this chapter. Boarding fees may be changed, from time to time, by the board of commissioners.

(Ord. of 6-11-12, § 1)

Secs. 4-225—4-240. - Reserved.

#### DIVISION 2. - REDEMPTION

Sec. 4-241. - Generally.

An owner of an animal that has been impounded may redeem the animal, except as otherwise provided by this chapter, upon compliance with the provisions of this division.

(Ord. of 6-11-12, § 1)

Sec. 4-242. - Proof and acknowledgment of ownership.

- (a) Any person attempting to redeem an impounded animal shall present proof sufficient to satisfy the sheriff or his/her designee and/or shelter personnel of ownership of the animal. Evidence of ownership may include, but is not limited to the following:
- (1) A valid animal license from Durham County or another county; or
  - (2) A valid rabies tag for the animal; or
  - (3) Ownership documents, pedigree papers, bill of sale, or any other document identifying the person as the owner of the animal; or
  - (4) Photographs of the animal with the person claiming ownership or their immediate family members.
- (b) In addition to the requirements set forth in subsection (1) above, any person attempting to redeem an animal on behalf of an owner shall present proof sufficient to satisfy the sheriff or his/her designee and/or shelter personnel that he/she is acting as an agent for the person claiming ownership.

(Ord. of 6-11-12, § 1)

Sec. 4-243. - Time limits.

Unless otherwise provided by this chapter or state law, any animal impounded at the animal shelter or other appropriate facility must be redeemed within five working days of the date of impoundment. Any person attempting to redeem an animal must appear in person at the animal shelter and make payment of redemption and other applicable costs, fees and penalties within five working days of the date of impoundment.

(Ord. of 6-11-12, § 1)

Sec. 4-244. - Payment of redemption fees and other fees, costs and penalties.

- (a) In addition to any other fees, costs or penalties authorized by this chapter, any person attempting to redeem an impounded animal must pay a redemption fee in the following amount:
- (1) First redemption .....\$25.00
  - (2) Second redemption .....\$60.00
  - (3) Third redemption .....\$95.00
  - (4) Fourth and subsequent redemption .....\$150.00
- (b) Any person attempting to redeem an impounded animal shall be required to pay all costs for transportation, veterinary treatment and other costs associated with the care of the animal, in addition to boarding and redemption fees, all outstanding license and vaccination fees, and all outstanding civil penalties. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding medical costs, penalties and fees that have accrued prior to the animal being surrendered or as a result of the animal being impounded.

(Ord. of 6-11-12, § 1)

Secs. 4-245—4-260. - Reserved.

#### DIVISION 3. - DISPOSITION

Sec. 4-261. - Unredeemed, injured, sick or diseased animals.

- (a) An impounded animal shall become the property of the county without further notice to the owner if the owner fails to pay all amounts due at redemption or if the owner fails to redeem the animal before the time limit for redemption has expired.
- (b) Once the animal becomes the property of the county, ownership shall transfer, by operation of law, to the agency responsible for operating the Durham County Animal Shelter.
- (c) Any animal impounded, which is badly injured, sick or diseased, and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, animal control shall attempt to notify the owner before disposing of such animal; but if the owner cannot be reached readily, and the animal is suffering, animal control may destroy the animal in a humane manner within its discretion.

(Ord. of 6-11-12, § 1)

Secs. 4-262—4-264. - Reserved.

Sec. 4-265. - Disposal of dead animals.

- (a) Domesticated animal. Any person who owns or possesses any domesticated animal that has died shall comply with the requirements of G.S. 106-403 regarding the burial or removal of such animal carcass. When the owner of a dead domesticated animal is unknown, the Durham County Director of General Services may provide for the removal and disposal of any dead domesticated animal located within the limits of the county, but without the limits of the city, pursuant to G.S. 106-403. All costs incurred by the county in the removal of the dead domesticated animal shall be recoverable from the owner of such animal upon

admission of ownership. Nothing in this section shall effect the department of transportation's responsibility to pick up dead animals that lie on the right-of-way.

- (b) Exotic animal. Any person who owns or possesses any exotic animal that has died shall promptly contact the Durham County General Services Department to obtain instructions for disposing of the animal.

(Ord. of 6-11-12, § 1)

Secs. 4-266—4-280. - Reserved.

#### ARTICLE X. - TRAPPING OF DOGS AND CATS

Sec. 4-281. - Permit required.

- (a) It shall be unlawful for any person, organization, agency or institution to trap, by cage or mechanical device, a dog or cat without a permit issued by the sheriff or his/her designee.
  - (1) The sheriff or his/her designee may issue a 30-day permit to any person, organization, agency or institution to install or maintain an approved trap or other mechanical device.
  - (2) A permit issued pursuant to this subsection may be renewable thereafter for 30 days.
- (b) It shall not be a violation of this article for a person to apprehend an animal on his property by hand; however, the person must call animal control within 24 hours of catching the animal.

(Ord. of 6-11-12, § 1)

Sec. 4-282. - Release unlawful.

- (a) It shall be unlawful for any person to release a dog or cat from a trap set by the sheriff or his/her designee or from a trap set by a person who has obtained a permit from the sheriff or his/her designee.
- (b) It shall be unlawful for any person, organization, agency or institution to release any animal within the county where the animal is likely to violate any provision of this chapter.

(Ord. of 6-11-12, § 1)

Sec. 4-283. - Sanctions, fines, penalties, remedies.

- (a) The sheriff or his/her designee may summarily seize any trap or other mechanical device from any person, organization, agency or institution who has failed to obtain a permit as required by this article.
- (b) A violation of this article is punishable as a criminal offense.

(Ord. of 6-11-12, § 1)

Secs. 4-284—4-300. - Reserved.

#### ARTICLE XI. - EXOTIC ANIMALS

Sec. 4-301. - Exemptions.

The following persons, organizations and institutions shall be exempt from the permitting requirements of section 4-302, of this article:

- (1) Any organization duly organized and existing under the laws of the State of North Carolina, which owns or harbors exotic animals for research or educational purposes, provided that, such institution is permitted for such animal by the U.S. Department of Agriculture and continually maintains any necessary permits from applicable state and federal agencies.
- (2) Pet shops that acquire for the purpose of resale exotic animals bred by others whether as owner, agent or on consignment and sells, trades or offers to sell or trade those exotic animals to the general public at retail or wholesale. This permitting exemption shall only apply to those animals that are held out for resale.

(Ord. of 6-11-12, § 1)

Sec. 4-302. - Permit requirements.

Unless exempt pursuant to section 4-301, every owner of an exotic animal, as defined in this chapter, shall be subject to the following regulations:

- (1) Permit required. No owner may keep an exotic animal within the territorial boundaries of the county for more than five days without first obtaining and then maintaining all permits required by the federal government, the state and the county ordinances.
- (2) Application. An owner of an exotic animal must complete an application which may be obtained from the sheriff and his/her designees for each exotic animal kept by the owner. The application, once completed, shall contain the following information:
  - a. Name, address and telephone number of the applicant, and proof of ownership of the animal including the manner that the owner came into possession of the animal and specific origin of the owner's acquisition of the animal.
  - b. If a corporation, the state of incorporation, the address of the principal office and the names and addresses of its officers.
  - c. If other than a cooperation, the name thereof, the location of its office(s) and the names and addresses of its principal officers, directors, trustees or managing officials or partners.
  - d. Statement of the applicant/owner's purpose in keeping the animal.
  - e. The place of origin of the animal or class of animal.
  - f. A description of the animal, including species.
  - g. The address of the premises where the animal will be kept.
  - h. A description of the method, materials and square footage of facilities for confinement of the animal.
  - i. Copies of all federal and state permits and licenses required for the animal.
  - j. A schedule of personnel who will service and maintain the enclosure or confinement facility.

- k. A listing of the applicant's training and experience with animals, especially the species stated on the application.
  - l. A consent form executed by the owner of the property and animal authorizing the sheriff and his/her designees to inspect the premises for compliance during the duration of the permit.
- (3) Inspection and issuance of permit and confinement requirements. Animals must be maintained in secure enclosures that are subject to inspection by the sheriff and his/her designees. The enclosures shall be designed to be escape-proof, bite-proof, and have an operable lock. Enclosures shall comply with article III of this chapter and the laws of this state. Transport containers shall be designed to be escape-proof and bite-proof.
  - (4) Permit period. The permit period shall begin with the fiscal year (July 1) of each year and shall run for a period of one year. Renewal applications for permits shall be made 30 days prior to the start of the fiscal year. An application for a new permit may be filed at any time during the year.
  - (5) Permit fee. The permit fee shall be \$75.00 per animal. This fee may be changed by the board of commissioners from time to time. The fee shall be for the fiscal year or part thereof. The permit fee shall be remitted to the county.
  - (6) Transfer of permits. Permits issued under this article are not transferable.
  - (7) Posting of permit. The owner of an exotic animal shall display the permit in a prominent place on or near the enclosure or confinement facility.
  - (8) Failure to obtain permit. Failure to obtain a permit before possessing or owning an exotic animal in the county will subject the owner to the sanctions, penalties, fines or remedies set forth in section 4-305.
  - (9) Failure to timely renew permit. Failure to renew a permit by June 1 shall subject the owner of an exotic animal to the sanctions, penalties, fines or remedies set forth in section 4-305.
  - (10) Denial of permit. Sheriff and his/her designees may deny or revoke a permit for violation of this article pursuant to the grounds in section 4-303.
  - (11) Reinstatement of permit, reinstatement fee. The sheriff and his/her designees may reinstate a revoked permit after the owner complies with this article and pays a reinstatement fee of two times the original permit fee required in subsection 4-302(5).

(Ord. of 6-11-12, § 1)

Sec. 4-303. - Grounds for denial or revocation of a permit.

The sheriff and his/her designees may refuse to issue, or renew and may revoke a permit to keep, harbor or possess an exotic animal in this county, if one or more of the following conditions exist:

- (1) Misstatement. A material misstatement in the application or renewal application.
- (2) Violation. Violation of any provision of this article.
- (3) Nonpayment of fees. Failure to pay fees or penalties required by this article.

- (4) Failure to maintain license. Failure to obtain or maintain all federal or state licenses or permits concerning the ownership, keeping, harboring or possession of an exotic animal.
- (5) Misrepresentation. Material misrepresentation to the sheriff and his/her designees in connection with owning, keeping, harboring or possessing an exotic animal.
- (6) Inspections. Failure or refusal to allow inspection of the enclosure or confinement facility or the exotic animal.
- (7) Failure to confine or restrain. Failure or refusal to confine or restrain an exotic animal.
- (8) Failure to give notice of escape. Failure or refusal of the owner to immediately notify the animal control division of the escape of an exotic animal.
- (9) Violations of federal or state regulations. Any violation of federal or state regulations issued from time to time to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States, or from one state or possession into any other state or possession.

(Ord. of 6-11-12, § 1)

Sec. 4-304. - Reserved.

Sec. 4-305. - Sanctions, penalties, fines, remedies.

Any person who fails, refuses or otherwise violates this article shall be subject to the following sanctions or penalties:

- (1) Escape of an exotic animal.
  - a. If an exotic animal escapes from its cage, pen or enclosure it may be tranquilized with or without prior notice to the owner.
  - b. If an exotic animal escapes and poses a danger to the health and safety of any person or property, the animal may be destroyed, with or without prior notice to the owner. If the officer does destroy such an animal, he shall make a good faith attempt to notify the owner of the incident.
  - c. If the exotic animal has caused injury to a person or another animal while at large, the officer in addition to seizing the animal, may issue to the owner a notice of intent to destroy the animal.
- (2) Seizure of unpermitted exotic animals. Any exotic animal that the owner does not have a required federal, state or county permit may be subject to seizure in accordance with state law. The costs of confinement shall be charged to the owner.
- (3) Cost of recapturing. The owner of any exotic animal shall reimburse the county for any overtime hours or special costs or expenses incurred by county employees while in the course of or as a result of attempts to recapture an escaped animal.
- (4) Nothing herein shall have the effect of permitting any activity or condition with respect to an animal that is prohibited or more severely restricted by regulations of the North Carolina Wildlife Resources Commission.



- (5) Pursuant to G.S. 19A-1, 19A-2, 19A-3, and/or 19A-4, an officer may obtain an order to take possession of the animal.
- (6) If an immediate threat to the health or safety of the animal or the public is evident, an officer may summarily seize the animal in accordance with state law.
  - a. A notice of seizure describing the exigent circumstances warranting the seizure shall be left with the owner or affixed to the premises or other property from whence the animal was seized.
  - b. If the owner fails to redeem the animal within five days, the county may take custody of the animal. The costs of caring for the animal pending final determination of court proceedings shall be charged against the owner.
- (7) If it is determined by the officer that the animal or public is not in immediate danger, or the problem which gives rise to the violation can be corrected within 72 hours, the officer may issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined in subsections (1) through (6) above.
- (8) Notwithstanding the other provisions and sanctions of this article, the officer may issue a civil penalty for violation of any provision of this section in accordance with section 4-9.
- (9) Second violations. Second violations of this article may be punishable as criminal offenses.
- (10) Nothing in this article shall be construed to preclude any criminal remedy available under the laws of the State of North Carolina or the United States, or the pursuit by any person, of civil or criminal remedies available under said laws.

(Ord. of 6-11-12, § 1)

Secs. 4-306—4-320. - Reserved.

## ARTICLE XII. - INHERENTLY DANGEROUS ANIMALS

Sec. 4-321. - Definition.

The term inherently dangerous animals shall apply to the following animals:

- (1) Any member of the order Felidae (other than domestic house cats);
- (2) Nonhuman primates;
- (3) Bears;
- (4) Wolves;
- (5) Coyotes;
- (6) Any member of the order Crocodilia (crocodiles, alligators, and caiman);
- (7) Any member of the order Helodermidea (gila monsters and beaded lizards); and
- (8) Any crossbreed or hybrid of the animals specified in subsections (1) through (7), above.

(Ord. of 6-11-12, § 1)

Sec. 4-322. - Exemptions.

Subject to section 4-324, the following persons or organizations shall be exempt from the provisions of this article:

- (1) Any organization duly authorized and existing under the laws of the State of North Carolina, that owns or harbors an inherently dangerous animal for research or educational purposes, provided that such institution is permitted for such animal by the U.S. Department of Agriculture and continually maintains any necessary permits from state and federal agencies.
- (2) Any owner who possesses an inherently dangerous animal, pursuant to the American with Disabilities Act (ADA), and uses such animal as a service animal trained to assist the owner with a disability.
- (3) A wildlife rehabilitator licensed by the North Carolina Wildlife Resource Commission who temporarily keeps the animal for rehabilitation when the purpose is to return the animal to the wild.

(Ord. of 6-11-12, § 1)

Sec. 4-323. - Possession or harboring of dangerous animals.

It shall be unlawful for any person, organization or institution to own, keep, maintain, or have under their control any inherently dangerous animal within the territorial boundaries of the county unless exempt under section 4-322.

(Ord. of 6-11-12, § 1)

Sec. 4-324. - Compliance with state and federal regulations and safe confinement.

The confinement of inherently dangerous animals that are exempt under section 4-322, must meet the regulations promulgated by the North Carolina Wildlife Commission, the minimum standards under the Animal Welfare Act and all applicable rules promulgated by the U.S. Department of Agriculture. In addition, all exempt animals shall be confined, restrained and controlled in such a manner so the physical safety of person or property shall not be endangered. The sheriff and his/her designees shall have the right to inspect the premises where an inherently dangerous animal is housed to ensure proper confinement and compliance with applicable state and federal regulations.

(Ord. of 6-11-12, § 1)

Sec. 4-325. - Sanctions, penalties, fines, remedies.

Any person who violates any provision of this article XII may be subject to a civil penalty of \$500.00 per animal. Nothing in this article shall be construed to preclude any criminal remedy available under the laws of the State of North Carolina or the United States, or the pursuit by any person, of civil or criminal remedies available under said laws. A civil penalty is due and owing upon assessment. Surrender or removal of an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being

surrendered or removed from the county. If payment of a civil penalty is not received within five working days of issuance, legal proceedings may be initiated to recover the amount of the penalty.

(Ord. of 6-11-12, § 1)