AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS MAKING REVISIONS TO CHAPTER 3, ANIMAL CONTROL, OF THE CODE OF ORDINANCES OF THE COUNTY OF CUMBERLAND, NORTH CAROLINA

WHEREAS, the Cumberland County Board of Commissioners adopted a revised County Animal Control Ordinance in August, 2000, and has amended it from time to time; and

WHEREAS, the Board of Commissioners wishes to revise the Cumberland County Animal Control Ordinance as set forth below, and finds the same to be in the public interest and to promote the public health, safety and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 3, Animal Control, of the Code of Ordinances of the County of Cumberland, North Carolina, is hereby repealed in its entirety, and the following substituted in lieu thereof:

CHAPTER 3
ANIMALS

Art. I. Administration
Art. II. General Provisions
Art. III. Dangerous Dogs.
Art. IV. Rabies and Animal Bites
Art. V. Licenses and Permits for Kennels, Keeping Large/Small Animals
Art. VI. Licensing of Dogs and Cats
Art. VII. Public Hazard Dogs
Art. VIII. Injured Animal Stabilization Fund
Art. IX. Miscellaneous
Art. X. Enforcement

ARTICLE I. ADMINISTRATION

Sec. 3-1. Animal Services Department established.

There is hereby established in the government of the County an Animal Services Department.

Sec. 3-2. Animal Services Director.

The Animal Services Department shall be supervised by the Animal Services Director, who shall be the director of that department, appointed by the county manager.

Sec. 3-3. Functions of Animal Services Department

The Animal Services Department shall have and perform the duties and responsibilities set forth herein, shall enforce the provisions of this chapter and of state law relating to animal control and animal welfare, shall administer and enforce an animal control program within such municipalities within the county as

by interlocal agreement may contract with the contract for such services, and shall maintain and operate the county animal shelter.

Sec. 3-4. Animal Control Board Established.

A. There is established the Cumberland County Animal Control Board.

B. The Animal Control Board shall be composed of seven (7) members to be appointed by the Board of Commissioners. Of the seven members, two shall be residents of the City of Fayetteville appointed by the Board of Commissioners from among the names of four persons nominated by the Fayetteville City Council, that is, two nominations for each set. At least one member shall be a person with knowledge and experience in dog behavior and/or handling, one member shall be ex officio the veterinarian on contract to the Animal Services Department, one member shall have an interest in promoting the goals of the Animal Protection Society or the Humane Society or another such broadly-based and representative organization interested in the care and protection of animals, and the other members shall represent the public at large. The members shall serve staggered two-year terms; four members shall have terms that expire on June 30 in even-numbered years following the year of their initial appointment and three members shall have terms that expire on June 30 of odd-numbered years.

C. The powers and duties of the Animal Control Board shall include:

(1) Hearing appeals from determinations of the Animal Services Director (or his designee) concerning potentially dangerous, dangerous or vicious dogs;

(2) Hearing any other appeals provided for this Chapter concerning determinations of the Animal Services Department;

(3) Providing advice and information to the Animal Services Department;

(4) Upon coordination with the Animal Services Director, making recommendations to the Board of Commissioners or the Fayetteville City Council, as appropriate, for the betterment of the County's animal control program;

(5) In conjunction with the Animal Services Department and the County's Public Information Director, providing for a program of public education, information and outreach concerning responsible pet ownership, animal cruelty, and the County's animal control program; and

(6) Selecting officers of the board, including a chairperson, and adopting rules of procedure; a majority of the board shall constitute a quorum for the transaction of business.

D. The Animal Control Board shall adopt a schedule of regular meetings and post and file it with the Clerk to the Board of Commissioners and otherwise as required by the Open Meetings Law. The Animal Control Board shall schedule as least four quarterly regular meetings annually, at which meetings the Animal Services Director or his delegate shall appear and participate. In addition, the Animal Control Board may hold such special or emergency meetings, upon the call of the chairperson or any three members, as may be appropriate in the circumstances, subject to compliance with the Open Meeting Law.

ARTICLE II. GENERAL PROVISIONS.

Sec. 3-5. Definitions

A. As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

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

“Aggressive Dog” means any dog that attacks a domestic animal or livestock, whether on or off the owner or keeper's property, causing death, debilitating and permanent injury, or injuries, requiring hospitalization, above and beyond minor injuries treatable by first aid.

"Altered" means any cat or dog, which has been neutered or spayed.

"Animal Shelter" means the premises operated by the Animal Services Department 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 Services Department" means the Cumberland County Animal Control Department.

"Animal Services Director" means the Director from time to time of the Animal Control Department, or his designee.

"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 confined 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, currently privilege tax paid, hunting dog under supervision while engaged in a lawful actual or simulated hunt.

"Confinement" means to secure an animal in a locked house, run, enclosure or fenced yard within the boundaries of the owner's, leaseholder's, or keeper's property (i.e., house, fenced yard).

"County Manager" shall mean the duly appointed County Manager of the County of his/her designee.

"Cruelty" means to endanger by any act of omission or commission the life, health or safety of an animal.

"Exposed to rabies" means any animal that has been bitten by or exposed in a manner proven to be able to transmit rabies, 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.

“Harboring” means regularly feeding, sheltering or caring for an animal.

"Impoundment" 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.

"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.

"Kennel" means any place where any combination of eight (8) or more dogs or cats more than six (6) months of age are sheltered, fed and watered.

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

"Livestock" includes, but is not limited to, equine animals, bovine animals, sheep, goats, llamas and swine.

"Nuisance" means the conduct or behavior resulting from any act of omission or commission by the owner or keeper of any small or large animal, cat or dog which molests passersby or passing vehicles, 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; unconfined in season; 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 then the owner.

"Owner" shall mean anyone taking care of 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.

"Permit" means a permit issued by the Animal Services Department or similar agency of any applicable governmental unit having jurisdiction.

"Provoke" or "provocation" means, with respect to an attack by an animal, the animal was hit, kicked or agitated by teasing or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched or squeezed by a person.

"Public Hazard Dog" shall mean a dog that, off its owner's property (or a stray or abandoned dog) and not restrained, approaches a person so as to put such person in reasonable fear of the threat of an imminent attack, when such dog has the apparent ability to carry out such an attack and inflict injury on such person, whether or not it is demonstrated that such dog had an actual intent to attack such person.

"Rat proof” means the state of being constructed so as to effectively prevent entry of rats.

"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.

"Run" means an area used to confine a dog or dogs of a size that complies with Section 3-42 hereof.

"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.

"Stray" means any animal reasonably presumed to have any owner, including but not limited to an animal running at large or not under restraint.

"Tethered" or "tethering" means attaching an animal to a stationary object by means of a chain, cable, rope or similar device.
(Amendment adopted February 2, 2009)

"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.

"Vicious Dog", "Potentially Dangerous Dog", and "Dangerous Dog" shall have the meanings set forth in Section 3-25 hereof.

"Transfer" means to convey or change ownership from one person to another with or without the exchange of money or other consideration.

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

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

Sec. 3-6. 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 then the provisions of this chapter.

Sec. 3-7. Injuring, poisoning or trapping animals prohibited.

A. A person who accidentally or otherwise strikes an animal with an automobile and injures it shall promptly notify the Animal Services Department or any law enforcement agency having jurisdiction.

B. No person shall knowingly expose or give to any animal any poisonous substance, whether mixed with food or not. This provision, however, does not apply to the eradication or population control of certain species of rodents.

C. No person shall set or expose an open jaw type trap, leg hold trap, snare trap or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals, to Animal Control Officers or to persons using humane live capture traps.

Sec. 3-8. Diseased animals, injured or sick animals.

A. Every person owning or having any animal under his charge which he knows or suspects to be sick or injured shall isolate the animal from other animals, shall obtain or provide appropriate treatment for such animal within two business days or may have the animal humanely euthanized; or

B. Any animal which comes into possession of the animal shelter which is terminally injured, sick or exhibiting symptoms of contagious disease may be humanely euthanized by the animal shelter personnel without waiting for the expiration of the period in which such animal may be placed for adoption. Provided, however, that before such sick, diseased or injured animal is euthanized, the animal shelter personnel shall contact the owner, if known, of such animal to determine the disposition of such animal. If the owner indicates that the animal will be reclaimed but fails to reclaim the animal within two business days of such notification, or if the owner of such animal is not known, the sick or injured animal shall be euthanized by the animal shelter personnel. The animal shelter supervisor shall keep a record of such animal, to include breed and sex of the animal, when the animal came into possession of the animal shelter, the type of injury, disease or sickness of such animals, the date the animal was destroyed, and any other information relevant to the health, condition and description of such animal.

Sec. 3-9. Property owner may impound animal.

A. Any person who finds an animal on his property to his injury or annoyance may:

(1) Take such animal to the animal shelter except that stray animals shall be handled as provided by law; or

(2) Retain possession of such animal or fowl and, within one business day, notify the Animal Services Department of this custody, giving a description of the animal and the owner's name, if known. The animal shall be removed from such property in such a manner so as not to cause injury to the animal.

B. It shall be an offense for any person to knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any stray animal which does not belong to him, unless he shall have within one business day from the time such animal came into his possession notified the Animal Services Department of his intention either to: (i) surrender the animal to the animal shelter, or (ii) advertise for five (5) consecutive days such stray animal in the local newspaper with the greatest average daily circulation in the community. If the person possessing such stray animal elects to so advertise and the owner thereof shall not have responded by the tenth (10) day after the date of the first publication, the person so advertising shall be presumed the legal owner of such animal. If the advertisement shall not have been first published within seventy-two (72) hours after so notifying the Animal Services Department, that department shall require that such animal is surrendered to it and it shall be unlawful in such circumstance for any person to refuse to so surrender any such animal.

Sec. 3-10. 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 this section is declared to be a nuisance and as such may be abated by any Animal Control Officer 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 ordinance. Any animal determined to be a nuisance animal will be required to be micro-chipped by Animal Control at the owner's expense. The owner will be required to transport the animal to the Department of Animal Control within 48 hours of the nuisance declaration.

Sec. 3-11. Animal fighting and animal fighting paraphernalia prohibited.

A. No person shall permit or conduct any dog fights, cock fights, or other combat between animals, or between animal and human.

B. It shall be unlawful 1 for any owner or person to keep, own, possess, maintain, control, or use materials used or intended to be used in dog fighting or cock fighting. Such items shall include but are not limited to treadmills; fighting or fight training pit; wooden sticks or handles used or capable of being used to pry open jaws; magazines, photographs, film, or videotapes depicting animal fighting or animal fight training; breeding stands; jaw strengthening devices; spurs; gaffs or slasher cases; gaff or knife gauges; mounting blocks; leather wraps; scabbards and leg or wing bands; training, conditioning, or fight contracts or records; veterinary drugs; suture kits, needles; and syringes and other veterinary supplies used for the administration of veterinary treatment for wounds or injuries from animal fighting or animal fight training.

C. The Animal Services Director shall levy a fine of $1,000 per violation of this section and shall confiscate any animals kept for or involved, or materials used or intended to be used, in such fighting.

(Amendment adopted April 2, 2007)

Sec. 3-12. Keeping of wild or exotic animals.

A. For the purpose of this section, a wild or exotic animal means an animal which is usually not a domestic animal and which can normally be found in the wild state, including, but not limited to lions, tigers, leopards, panthers, wolves, foxes, lynxes or any hybrid of like animals, alligators, crocodiles, apes, foxes, elephants, rhinoceroses, bears, all forms of poisonous snakes, raccoons, skunks, monkeys, bats and like animals.

B. It is unlawful to keep or harbor or breed or sell or trade any wild or exotic animal as a pet, for display or for exhibition purposes, whether gratuitously or for a fee, except as may be licensed by the state Wildlife Resources Commission under its regulations pertaining to wildlife rehabilitators.

C. This section shall not apply to zoological parks, zoos, educational or medical institutions, or circuses that perform in Cumberland County for not more than seven (7) days. If a circus is scheduled to be in Cumberland County for more than seven (7) days, then the circus may apply to the Animal Services Director for an extension permit for a period not to exceed an additional seven (7) days, on such terms as the Animal Services Director shall determine will protect the public health, safety and welfare.

D. The penalty for a violation of this Section 3-12 shall be a $1,000 fine. Upon receiving a citation or notice of violation for violation of this section, the owner or possessor of any such animal shall remove it from Cumberland County within thirty (30) days. Failure to remove such animal

after such citation or notice of violation shall have been served shall subject the owner or possessor to a $500 fine for each subsequent day of violation after such thirty (30) day period, and the Animal Services Department shall be authorized to obtain an administrative search warrant, to seize any such animal[s], and remove it or them from Cumberland County. The owner or possessor shall liable to the County for reimbursement of any expenses incurred by the County in enforcing this section by causing such animal[s] to be removed from Cumberland County.

Sec. 3-13. 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. 3-14. Tag and collar required; removal, nontransferable, inspection, offense.

A. The owners 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 issuer 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. Every owner of a dog or cat shall affix the tag issued by a licensed veterinarian for rabies vaccination to a collar to be worn by the dog or cat at all times while off its owner's premises. 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 any law enforcement officer may at any reasonable time require an owner to provide proof of rabies vaccination for any animals required so to be vaccinated. 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 the Animal Control Officer or law enforcement officer.

Sec. 3-15. 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 a health hazard as determined by the Animal Services Director, the Inspections Director or the Cumberland County Environmental Health Supervisor, as appropriate; or

(3) Permit or negligently allow any domestic animal or livestock to run at large. Any such animal found running at large shall be either:

(i) Impounded by an Animal Control Officer; such animal shall be kept at the animal shelter and may be reclaimed as provided in this chapter; or

(ii) In the discretion of the Animal Control Officer, an animal found at large which is licensed by the county and vaccinated for rabies, except a vicious, dangerous dog or a potentially dangerous dog, as those terms are defined in this chapter, may be released to the custody of the owner. Provided, further, before the animal is released, the owner or a competent person shall agree to and shall sign a release holding the county harmless and assuming full responsibility, at no cost to the county, its officials, agents, or employees for the complete and humane care, feeding and housing of such an animal.

B. No impounded animal shall be returned to its owner until any applicable animal impoundment and boarding, vaccination and/or micro-chipping fees or costs and any penalties are paid.

C. Stray animals shall be treated in the manner provided in this chapter.

D. Every female dog or cat in season (heat) shall be kept confined in such a manner that such female dog or cat cannot come in contact with other animals, except for controlled breeding purposes. Female animals picked up by the Animal Services Department which are in season (heat) shall be kept separate from male animals at all times.

Sec. 3-16. Running at large; owners cited.

Any dog or cat that is not confined as provided in this chapter, and not under the actual physical control or restraint of its owner, leaseholder, or keeper shall be presumed to be running at large. Any Animal Control Officer shall impound such animal at the animal shelter. It shall be a violation of this ordinance for any dog or cat running at large off its owner's or keeper's property to bite any person so as to break such person's skin. A first offense shall subject such owner or keeper to a civil penalty of $250.00. A second offense shall subject such owner or keeper to a civil penalty of $500.00. A third offense shall subject such owner or keeper to a civil penalty of $1,000.00.

Sec. 3-17. Dogs prohibited from park trails.

A. Dogs are prohibited, whether running at large or restrained, from the jogging trails at any county or city park which has an established jogging trail. Dogs may be walked in such parks when on a leash under the control of a competent person.

B. When dogs are found on the jogging trails at any county or city park as prohibited by subsection A of this section and their ownership is known to the authorized representatives of the county, dogs need not be impounded; but the Animal Control Officer may, at his discretion, issue the owner a notice of violation.

Sec. 3-18. 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 shall be picked up and immediately impounded in the animal shelter and there confined in a humane manner. Dogs and cats and other small animals not claimed by their owner after a three day

holding period, exclusive on Sundays and county-observed holidays, shall become the property of the animal shelter and shall 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 and 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 or the county license or rabies tag number as may be shown on the impoundment records. If the owner is known, the Animal Services 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 adopted or otherwise disposed of in a humane manner and as required by law. Any animal which is eligible for adoption may be adopted or humanely disposed of at any time more than seventy-two hours after the statutory holding period. Provided, however, in the discretion of the Animal Services 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. Such dog or cat also shall be issued any required city or county license, as provided for in this chapter, if such dog or cat has not previously been licensed, and vaccinated for rabies, if not affirmatively shown to have a current vaccination.

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 cat and one dog per employee in any calendar year and such number of other animals as the Animal Services 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 of 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. 3-19. Redemption of impounded animals; licensing of dogs and cats.

A. An owner shall be entitled to resume possession of his impounded dog or cat or other small animal kept as a house pet, upon compliance with the vaccination provisions of this code and payment of any applicable impoundment or boarding fees, as well as of any applicable

vaccination or micro-chipping fees. Such dog or cat also shall be issued any required city or county license, as provided for in this chapter, if such dog or cat has not previously been licensed, vaccinated for rabies, if not already micro-chipped. Owners if unvaccinated animals returned to them after impoundment shall have three (3) business days from the time the animal reaches the age of four (4) months in which to have the animal vaccinated against rabies by a licensed veterinarian and return proof of same to the animal shelter. New owners of adopted animals shall have three (3) business days from the time that the animal reaches the age of four (4) months, in which to have the animal vaccinated against rabies and return the proof to the animal shelter. Any owner failing to comply with this provision shall be guilty of an offense.

B. When a law enforcement officer effects an arrest of a person in possession of an animal, who is taken into custody, and no other competent person is immediately present at the scene to take care of an animal, the animal will be impounded for its welfare. The animal will be impounded at the animal shelter until contact can be made with the animal's owner and an appropriate disposition of the animal determined. Once an Animal Control Officer makes contact with the owner, the owner will have seventy-two (72) hours to arrange for the appropriate disposition of the animal. After the seventy-two (72) hour period expires, the animal shall become the property of the animal shelter and may be humanely disposed of s provided in this chapter.

Sec. 3-20. 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 from the animal shelter unless said animal has been surgically spayed or neutered. Provided, however, an animal may be released without being spayed or neutered to an animal rescue group meeting qualifications set by the Animal Services Director, which qualifications shall included a requirement that any such animal rescue group have such animal spayed or neutered prior to adoption from that rescue group.

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.

Sec. 3-21. Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs; exercise area for dogs.

A. All dogs, cats and other small animals kept as house 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 negligently:

(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 other person to do any of the above acts.

C. If an animal is found by any Animal Control Officer to be in one of the above described conditions, the officer may issue a notice of violation to the offender and if he does not, shall issue a notice to the offender warning him that if the animal's condition is not corrected, a citation will be issued. If the Animal Control Officer determines that a confined animal's life is in immediate danger or has been abandoned, the Animal Control Officer shall seize such animal if such seizure is not prohibited by applicable law. The Animal Control Officer shall leave a notice for the owner advising why the animal has been taken, and shall issue a notice of violation to the owner. Upon issuance of a citation, the penalty for a violation of this section shall be One Hundred Dollars ($100.00) for a first violation or for a violation more that twelve (12) months after a previous violation. For subsequent violations within twelve-months of a previous violation, the penalty shall be Two Hundred Fifty Dollars ($250.00) for a second violation, and Five Hundred dollars ($500.00) for a third subsequent violation within a twelve-month period of the first violation.

D. No dog, cat or 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 or 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 to any animal, or any act tendering to produce such cruelty. Any law enforcement officer or Animal Control 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. Anti-tethering.

(1) No pet shall be tethered outdoors unless the keeper or owner of the pet is holding the tether.

(2) It shall be an affirmative defense to a violation of subsection 1 above that the tethering is required to protect the safety or welfare of a person or the dog, if the keeper or owner of the dog remains with the dog throughout the period of tethering.

(3) The provisions of subsection 1 above shall not apply to a temporary tether:

(i) during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity, or

(ii) to a keeper or owner walking a dog with a hand-held leash, or during lawful hunting activities if reasonably necessary for the safety of the dog, or while a dog is actively engaged in shepherding or herding livestock, or

(iii) when meeting the requirements of a camping or recreation facility, or

(iv) when the animal's caretaker is outside and within eyesight of the animal, or

(v) after taking possession of a dog that appears to be a stray dog and after having advised the Animal Services Department of the stray.

4. The provisions of subsection 2 and 3 above shall apply only if:

(i) the tether is not placed directly round the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog, and

(ii) the weight of the tether does not exceed more than 'one-tenth of the dog's body weight, and

(iii) the tether is unlikely to become tangled or twisted, and

(iv) the tether is arranged to be free of any obstacles which may limit the moveable length of the tether, and

(v) the dog is tethered in a manner that permits access to necessary shelter and water.

(Amendment adopted February 2, 2009)

I. No person shall permit a dog owned by such person of under the custody of such person to be off that person's property or leased premises unless such dog is restrained by a leash. Such leash shall be used to control the dog and to prevent the dog from running at large.

J. Any dog confined within a fenced yard or run must have an adequate space for exercise. Provided, further that where dogs are kept or housed on property without a fenced yard and such dogs are kept in an enclosure or run, such enclosure or run shall provide adequate space for exercise. Such an enclosure or run shall be constructed of chain link or similar type of materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure. The top of such enclosure shall be sufficiently covered to provide the dog with adequate shade and protection from the elements.

Sec. 3-22. Dead animal pickup; fees.

A. Dead animals may be picked up from residences by waste/ sanitation haulers as provided by the Cumberland County Solid Waste Department's policies as in effect from time to time.

B. Owners may drop off an animal at the animal shelter provided an impoundment card is signed releasing custody of the animal to the animal shelter. Once the animal is released to the animal shelter, the animal shall become the property of the animal shelter and may be adopted or humanely disposed of as provided in this chapter.

C. Animals will be placed for adoption of humanely disposed of at an owner's request by the animal shelter provided the owner signs an impoundment card releasing custody of the animal to the animal shelter.

Sec. 3-23. Apprehension of wild dogs running loose.

If the Animal Services Director shall determine that:

(a) a dog or dogs are running wild in any unincorporated area; such dogs are feral and do not have an owner, keeper or custodian; such dogs appear not to have been vaccinated for rabies because such dogs are not wearing current and valid rabies tags; such dogs are substantially interfering with the use and enjoyment of property or business, or are harassing or threatening persons; and that such dogs cannot after extraordinary effort be apprehended, or

(b) a wild animal or animals are running wild and appear to be rabid or terminally diseased, present an imminent threat to any person or to livestock or domestic pets, or are harassing and threatening persons, and cannot be apprehended without extraordinary effort,

then the Director shall be authorized to cause deadly force to be used to humanely euthanize said dogs or wild animals. Prior to making such a determination, in case of wild dogs, the Animal Services Director shall have documented that persistent and repeated efforts to apprehend such dogs through use of traps, baited food, and tranquilizer darts have been ineffective. After making such a determination, the Animal Services Director (i) may authorize any Animal Control Officer, that has received the same training and certification in firearms as is required of certified law enforcement officers by the State of North Carolina, and has maintained as current and renewed

such certification as may be required of such law enforcement officers, to apply such deadly force or (ii), in the alternative, he shall be authorized to request assistance from the Sheriff or from appropriate municipal police authorities in order that the application of deadly force shall be effected by a sworn law enforcement officer that has a marksman rating and/or qualification. If such deadly force is proposed to be effected, the Animal Services Director shall take every precaution to assure the safety of persons and property in the area within which the dogs or animals are running wild.

Sec. 3-24. Reserved.

ARTICLE III. DANGEROUS DOGS

Sec. 3-25. Definitions.

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

Attack by a dog: any assault or battery by a dog upon a person or domestic animal, to include biting, felling or toppling, tearing or 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.

Dangerous dog: Any of the following dogs:

(a) A dog that without provocation has killed or inflicted severe injury on a person; or

(b) A dog that has been determined as provided herein to be potentially dangerous; or

(c) 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 no wild specie of the Canidae family, such as a wolf, fox, 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 harborer or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of it owner.

Owner or keeper's real property: Any real property owned or leased by the owner *or keeper 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 had been determined, as provided herein, to have:

(a) Inflicted a bite on a person that required medical care more than first aid, resulted in broken bones or disfiguring lacerations, or required cosmetic surgery or hospitalization; or

(b) A dog that has previously been declared aggressive and which subsequently causes serious injury to a domestic animal when not on its owner's or keeper's real property; or

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

(d) Attacked a person or approached a person in an area of the keeper's property open and accessible to invitees, or when 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.

Territorial jurisdiction of Cumberland County: All territory within the boundaries of the County of Cumberland, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this article in such areas.

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

Sec. 3-26. Application of ordinance; exceptions.

The provisions of this ordinance do not apply to:

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

(b) A dog being used in a lawful hunt;

(c) 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 control of its owner, keeper or harborer, and the damage or injury was to a species or type domestic animal appropriate to the work of the dog; or

(d) 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.

Sec. 3-27. Reporting requirements.

A. Reporting required: (i) An owner, keeper or harborer of a 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 Services 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 Services Director.

Sec. 3-28. 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 Services Director or his designee shall 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 a 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. During the Director's investigation, the Director may require that the suspect animal be impounded at the Department's shelter until completion of the investigation and any appeal.

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. The ruling of Animal Control Board shall be final, subject o only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Cumberland County, filed within ten (10) days of the date of the final determination by the Animal Control Board.

(2) Any determination of the Animal Services Director under Section 3-28(A) may be appealed to the Animal Control Board by filing written objections with the Chairman of

the Animal Control Board within three (3) business 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 Services Director and the Office of the Cumberland 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 quasi-judicial in nature and all testimony shall be under oath;

(vii) Any participant shall be entitled to transcribe the proceeding at his own cost;

(viii) 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.

Sec. 3-29. Registration required.

A. Generally. Any person owning, keeping, or harboring a dog determined as set forth above to be aggressive, dangerous, potentially dangerous, or vicious shall register such dog with the Animal Services 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 aggressive, 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 harborer thereof prior to a determination that a dog is dangerous or vicious, or within (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, event or acquisition and the date of registration.

C. Permanent identification mark required. Each dog registered as set forth shall be assigned a registration number by the Animal Services 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 harborer of the dog. No person shall remove such identification mark once it is assigned and affixed.

Sec. 3-30. 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 a permit from the Animal Services Department.

B. Issuance of permit. The Animal Services 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 the public health, safety and general welfare if the permitee 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 conditions the Director may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the 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 harborer of a registered potentially dangerous or dangerous 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 dog from the territorial jurisdiction if 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 permit shall be issued under subparagraph (B) for a term of more then three (3) years but may in the Director's discretions 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 ant terms, conditions or provisions thereof. If the Director deems it necessary to protect the public health or 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 shall cause periodic inspections to be made of the premises of a permitee 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 shall 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 the required insurance is not in full force and effect shall constitute a violation of this ordinance article.

Sec. 3-31. Regulation of aggressive, potentially dangerous, dangerous and vicious dogs; security and restraint requirements.

A. No person shall own, keep or harbor an aggressive, dangerous, potentially dangerous, or a vicious dog except in compliance with all provisions of this ordinance, including:

(1) Aggressive dogs shall be subject to the following regulations:

(i) While on the real property of the person owning, keeping or harboring it such dogs shall be kept, secured and restrained only in a secured kennel or housing that ensures the dog may not leave the property of the person owning, keeping or harboring the animal.

(ii) Such dog may be taken off the property of the person owning, keeping or harboring only if muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals and while under the affirmative control of a responsible adult maintaining control of the dog.

(iii) A dog determined to be aggressive may not be used or sold for breeding and ownership may not be transferred.

(2) Dangerous dogs and potentially dangerous dogs. Dangerous dogs and potentially dangerous dogs shall be subject to the following regulations:

(i) Such dog shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:

(a) 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.

(b) 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.

(c) 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.

(ii) 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 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.

(iii) Notwithstanding the foregoing, no person shall keep or harbor within the territorial jurisdiction of this ordinance a dangerous dog that has killed a person, except as follows:

(a) 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.

(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 dangerous, in which case the dog shall be kept and secured by the animal shelter as provided herein.

(3) Vicious dogs. No person shall keep or harbor a vicious dog within the territorial jurisdiction of this ordinance, except as follows:

(i) 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.

(ii) 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.

(iii) 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.

(iv) If the Animal Control Board upholds a vicious dog determination, the animal shall be permanently removed from Cumberland County or ownership released to the Department within 24 hours of such final determination.

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

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

Sec. 3-32. 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 dangerous, 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 Cumberland 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. Surrender. Hiding, removing or failing to surrender a vicious, dangerous, or potentially dangerous dog, or impeding any investigation concerning the same shall be a violation of this ordinance.

C. 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 harborer of the dog, or a permitee hereunder, and as 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 harborer of the dog, or of the permitee. Costs of impoundment as 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 Cumberland 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 costs 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:

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

(ii) Any dog claimed by its owner, keeper or harborer, which is confined for a period in excess of ten (10) days, or a period or 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, harborer or permitee thereof.

Sec. 3-33. Violations, penalties and other remedies.

A. Violations. Each act or conduct prohibited by this article and each failure to comply with a mandatory provision 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:

(i) Failure to report an event for which a report is required.

(ii) Failure to register a potentially dangerous, dangerous or vicious dog as required.

(iii) Any other violation not otherwise classified in this section.

(2) Class II violations:

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

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

(iii) 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.

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

(3) Class III violations:

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

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

(iii) 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:

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

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

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

(2) Class II violations:

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

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

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

(3) Class III violations:

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

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

(iii) 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 IA, 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 as the appellate board to hear appeals of determinations made pursuant to N.C.G.S., Section 67-4.1(c).

Sec. 3-34. 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 hhas occurred, each such person shall have the authority to issue a written citation for violation of this article and to assess a civil penalty in the amount due. Such citation shall be mailed 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 or 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:

(1) conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or

(2) 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

(3) to investigate any violation of this article, or

(4) to serve a citation upon a person for violation of this article.

Notwithstanding the foregoing, an Animal Control Officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-27.2, 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 a 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 the 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, and 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 the 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.

ARTICLE IV. RABIES AND ANIMAL BITES

Sec. 3-35. Rabies control.

A. Enforcement authority. The Animal Services Director and the Cumberland County Health Director are authorized to enforce the rabies control provisions in Part 6 of Chapter 130A of the North Carolina General Statutes.

B. Procedures. The Animal Services Director and the Cumberland County Health 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 with rabies law. If 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 crime 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 de 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 yard for which issued and a rabies vaccination certificate.

J. Unlawful for dog or cat not to wear rabies tag. It shall be unlawful for any dog or cat owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with the attached tag, must be worn at all times.

K. Untagged dog or cat such 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.

L. 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.

M. Dogs or cats brought into County. All dogs or cats shipped or otherwise brought into the territorial jurisdiction of this ordinance, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one (1) week after entry, and shall remain confined for two (2) additional weeks after vaccination, unless accompanied by a certificate issued by a licensed veterinarian showing the said dog or cat is apparently free from rabies and has not been exposed to rabies and that said dog or cat has received a proper dose of rabies vaccine not more than six (6) months prior to the date of issuing the certificate.

N. Animals bitten by rabid animal. Animals not vaccinated against rabies which are exposed to rabies 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.

O. 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 County Health Director, the Animal Services Director, law enforcement officers, or other persons duly authorized by the County Health Director or Animal Services Director may seize and impound any dog or cat running at large in the county. During the quarantine period the County Health Director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county. If additional confirmed cases of rabies occur during the quarantine period, the County Health Director in his discretion may extend the quarantine period.

P. 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.

Q. 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.

R. 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 from 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.

S. Unlawful to fail to surrender animal. It shall be unlawful for any person to fail or refuse to

surrender any animal for confinement or destruction as required in this section, when demand is made therefore by the County Health Director of the Animal Services Director.

T. 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 the Animal Services Director or his designee, the County Health Director or his designee, or any sworn law enforcement officer.

U. Animals subject to impoundment. Any animal which appears to be lost, stray, unwanted, not wearing a currently valid tax tag 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 days, either at the home of the dog or cat's owner or keeper, if an Animal Control 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 $250.00 civil penalty.

V. 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.

W. Civil penalty. In addition to any criminal penalties or injunctive relief 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. 3-36. Killing or removing rabid animal prohibited.

A. No person shall fail or 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 ordinance.

B. The County Health Director shall direct the disposition of any animal found to be infected with rabies.

Sec. 3-37. 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 Services Director his diagnosis of any animal observed by him to be a suspect rabid animal.

Sec. 3-38. Records.

The Animal Services Director shall keep or cause to be kept:

(a) 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

(b) 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. 3-39. Exemptions from article.

A. 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.

B. The licensing requirements of this article shall not apply to any dog or cat belonging to a nonresident of the county and kept within the county for less than thirty (30) days; provided all such dogs or cats shall at all times, while in the county, be kept within a building, enclosure or vehicle, or under restraint by the owner.

Sec. 3-40. Interference.

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

ARTICLE V. KENNELS; PET SHOPS

Sec. 3-41. Kennels; sanitary conditions; exception.

A. No person shall own, maintain or operate a kennel unless such kennel meets the standards herein provided.

B. Any person maintaining a kennel, whether for profit or not, shall maintain such kennel in a sanitary condition and shall be subject to the provisions of this chapter. Nonconforming kennels shall be deemed a public nuisance.

Sec. 3-42. Facility standards, space requirements, exceptions.

A. All kennels shall meet the following minimum standards:

(1) The kennel floor shall be solid and durable with a washable foundation of a suitable material, with a smooth surface which shall have one-quarter (1/4) inch of slope per foot of fall for drainage. The drainage shall slope to a cleanout gutter, and all drains shall be connected to the sanitary sewage line.

(2) Each cage shall have sleeping quarters, a lounging area and access to an exercise area with a minimum size as follows: for animals 50 pounds and under, 50 square feet; for animals over 50 pounds but less than 75 pounds, 75 square feet; for animals over 75 pounds up to 125 pounds, 100 square feet; and animals over 125 pounds, 150 square

feet. Sleeping quarters for the animals shall be protected from the weather, and each lounging area shall be individually enclosed by chain link material of at least ten-fourteen (10-14) gauge, and shall have the following minimum dimensions for the number of animals to be accommodated:

Length	Height
12ft.	6ft.
6ft.	3ft.

However cat cages shall be completely enclosed.

(3) At least one cage must be completely enclosed to house female dogs in heat.

B. The provisions of this section shall not apply to kennels operated and maintained by licensed veterinarians. To commercial pet stores where all animals are kept within the establishment, or to animal shelters.

Sec. 3-43. Right of entry for inspection.

Any Animal Control Officer or law enforcement officer shall be permitted at all reasonable times or in the case of exigent circumstances to inspect all kennels and animals therein to the fullest extent allowed by law.

Sec. 3-44. Owners of animals not to create public health or safety nuisance.

Every owner of any animal shall maintain and operate the housing and care of such animals so as not to create a public safety nuisance, as may be determined by an Animal Control Officer.

Sec. 3-45. Keeping of large or small animals.

A. Every owner of any domesticated animal[s] or livestock other than dogs or cats shall:

(1) Confine the same in an enclosure sufficient to prevent their running at large.

(2) Such enclosure shall be maintained in a clean and sanitary condition at all times, and an approved insecticide shall be used as often as deemed necessary by an Animal Control Officer or designee of the Health Director;

(3) Provide a shelter or area of a size sufficient to be conducive to good sanitation practices, and adequate and sanitary drainage for the shelter or area;

(4) Cause the litter and droppings in any stall or enclosure to be collected daily in a container or receptacle of such a type that, when closed it is rat proof and fly tight, and after each such collection shall cause such container or receptacle to be kept closed. At least twice each week, each such keeper shall cause all litter and droppings so collected to be disposed of in a way as not to permit the presence of fly larvae; and

(5) Cause all feed provided to be stored and kept in a rat proof, fly tight building, box, container or receptacle.

B. The premises where any such animals are kept shall be subject to inspection by an Animal

Control Officer or law enforcement officer at any reasonable hour of the day.

Sec. 3-46. Regulations applicable to institutions, hospitals, pet shops and animal shelters.

Animals kept in medical laboratories or educational institutions for medical research, or in veterinary hospitals for treatment, or in animal shelters shall be kept under the same sanitary conditions prescribed by section 3-45 of this article.

Sec. 3-47. Pet shop standards.

A. All pet shops, as defined herein, including pet shops run in conjunction with another holding facility, shall, in addition to the other requirements of this chapter, comply with the minimum standards of this section. Willful failure of the owner or operator to meet these standards shall be grounds for denial or revocation of a license and shall be unlawful.

B. Standards:

(1) Water. There shall be available hot water for washing cages and disinfecting them in accordance with American Veterinary Medical Association standards, and cold water easily accessible to all parts of the shop. Fresh water will be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be mounted to the animal cannot turn them over, and be removable for cleaning.

(2) Room temperature. The room temperature of the shop shall be maintained at a level that is healthful for every species of animal kept in the shop, in accordance with regulations of the North Carolina Department of Agriculture.

(3) Cages and enclosures. All gates and enclosures are to be of a nonporous material for easy cleaning and disinfecting with no mesh floors unless provision is made for a resting surface/shelf. Each cage must be of sufficient size that any animal will have room to stand, turn and stretch out to its full length.

(4) Feeding. All animals under three (3) months old are to be fed at least three (3) times per twenty-four (24) hours. Food for all animals shall be served in a clean dish so mounted that the animals cannot readily tip it over or defecate or urinate therein.

(5) Birds. Each bird must have sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages must be cleaned every day and cages must be disinfected when birds are sold. Parrots and other large birds shall have separate cages from smaller birds.

(6) Bedding. There shall be sufficient clean, dry bedding to meet the needs of each individual animal.

(7) Fish. The temperature of water in which fish are kept shall be maintained at a constant temperature that is healthful.

C. All animals must be fed, watered and cages cleaned every day, including Sundays and holidays.

Sec. 3-48. Cumulative effect of article.

This article shall be cumulative of all other sanitary ordinances or regulations of the County unless in express conflict with the terms of such other ordinances or regulations, in which case the terms of this ordinance shall apply.

Sec. **3-49 - 3-57.** Reserved.

ARTICLE VI. LICENSING OF DOGS AND CATS

Sec. 3-58. License for dogs and cats.

A. It shall be unlawful for any person to own, possess or have under his control three (3) or less dogs or cats, or any combination thereof, over four (4) months of age, without obtaining an annual privilege license for each such animal from the Cumberland County Tax Administrator. Every person owning, possessing or having under their control any dog or cat shall properly list such dog or cat annually with the Cumberland County Tax Administrator during the period January 1 through January 31. Before February 1 in each year, each such animal shall be listed with and the appropriate license obtained from the Cumberland County Tax Administrator. Failure to list as provided herein shall be a violation of this ordinance and shall subject the offender to a civil penalty in the amount of $100.00 per dog or cat not listed annually as provided herein. Each privilege license issued shall cover the period January 1 through December 31 each year. The Tax Administrator may delegate authority to issue such licenses to the Animal Control Department or to licensed veterinarians within the County duly registered for such purpose with the Tax Administrator upon such terms and conditions, including payment of a processing fee, as he deems advisable.

B. It shall be unlawful for any person to own four (4) or more but not more than seven (7) dogs or cats, or any combination thereof, over four (4) months of age without paying the annual fee as provided in the fee schedule adopted from time to time by the Board of Commissioners. Each privilege license issued shall cover the period January 1 through December 31 each year. Provided, however, in any zoning district where the provisions of the Cumberland County Zoning Ordinance limit the number of pets to three or less at a residence, the provisions of said Zoning Ordinance shall control.

C. It shall be unlawful for any person to own eight (8) or more dogs or cats, or any combination thereof, over four (4) months of age without paying the annual fee as provided in the fee schedule adopted from time to time by the Board of Commissioners. Each privilege license issued shall cover the period January 1 through December 31 each year. Provided, however, in any zoning district where the provisions of the Cumberland County Zoning Ordinance limit the number of pets to three or less at a residence, the provisions of said Zoning Ordinance shall control.

Sec. 3-59. Terms of license; exemption.

A. The license issued under this article shall be renewed every year, upon proof of rabies vaccination.

B. County residents who are sixty-five (65) years of age or older may obtain a permanent license for up to three cats or dogs at no cost. County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog.

Sec. 3-60. Issuance of records.

A. Upon issuance of a license, a tag shall be issued for each dog and cat so licensed. The tag shall be of durable material and shall be designed to be easily fastened or riveted to the animal's collar or harness. The tag shall bear a number registered with the Tax Administrator or the Animal Services Department.

B. The County shall maintain records of licensed dogs and cats and such records shall be open to public inspection.

Sec. 3-61. Fastening of tags to collar or harness.

Each person who owns or maintains a dog or cat that is primarily kept, kenneled or otherwise located in the county shall affix to such dog or cat the following identification:

(a) A durable tag securely affixed to a collar or harness which is securely buckled or otherwise securely joined so that it cannot be removed unless unbuckled or unjoined; the tag shall contain the name and address of the owner of the dog or cat or a number registered with the Animal Services Department; or

(b) A legible tattoo permanently imprinted into the skin of the dog or cat at a place on the animal's body that is not obscured by hair; the tattoo shall consist of the number of the permanent North Carolina driver's license held by the owner of the dog or cat or number registered with the Animal Services Department; or

(c) An implanted computer chip capable of being scanned by a chip reader.

Sec. 3-62. License fee in addition to other fees.

The license fee shall be in addition to any fee in the fee schedule under this chapter and any other fines enforced by a court of competent jurisdiction.

Sec. 3-63. Use of revenues collected from license fees.

The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the Animal Services Department, for the cost of administration and enforcement of this chapter, and for costs associated with public education programs and activities.

Sec. 3-64. Transfer of cats and dogs.

A. When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have thirty days to obtain a new privilege license for the animal.

B. When ownership of a vicious, dangerous or potentially dangerous dog is transferred within the county's jurisdiction, the previous owner shall within three (3) business days notify the Animal

Services Department and provide the name and address of the new owner. The new owner shall:

(1) Immediately register the dog with the Animal Services Department.

(2) Ensure the requirements of this chapter for maintaining a vicious, dangerous or potentially dangerous dog are complied with prior to the dog being relocated to the new owner's property.

Sec. 3-65. Non-applicability of article.

The provisions of this article shall not apply to cats or dogs in the custody of a veterinarian, or whose owners are non-residents visiting in the county for a period not exceeding thirty (30) consecutive days.

Sec. 3-66 - 3-69. Reserved.

ARTICLE VII. PUBLIC HAZARD DOGS

Sec 3-70. Definitions.

Any terms used in this Article and not defined herein that are defined in Section 3-5 of this chapter shall have the meanings respectively set forth therein.

Sec. 3-71. Public hazard dog a violation.

It shall be a violation of this Article for any dog to engage in acts, conduct or behavior coming within the definition of a public hazard dog.

Sec. 3-72. Impoundment of public hazard dog.

Any Animal Control Officer shall impound any dog, after investigation and notice to the owner of such dog with an opportunity for the owner to be heard, which he or she determines to have engaged in acts, conduct or behavior coming within the definition of a public hazard dog. The Director or his designee shall issue a notice of impoundment to the owner of such public hazard dog, which shall set forth the facts upon which the Director or his designee has determined the dog to be a public hazard dog, that the owner can reclaim the dog after three days impoundment upon payment of the applicable fees and on such reasonable conditions as the Director may impose to maintain the public health and safety, and that the owner may appeal such determination as set forth in this Article. Such determination shall become a final determination if not appealed as provided in this Article.

Sec. 3-73. Appeal of Animal Services Department Director's determination.

Any person adversely affected by a determination by the Animal Services Director or his designee regarding a dog alleged to be a public hazard dog may appeal such determination as follows:

(a) Any person interested adversely affected by a determination that a dog is a public hazard dog may by written notice given within three (3) business days of such decision appeal such decision to the Animal Control Board. Such written notice shall state the basis for the appeal. The Animal Control Board shall meet as soon as practicable but in no event later than fifteen (15) days following receipt of notice of appeal. Any interested party

may appear before the Animal Control Board and present evidence and be heard. The appealing party shall have the burden of proof on any appeal to the Animal Control Board.

(b) On appeal, the Animal Control Board may by majority vote affirm, reverse or affirm with conditions the determination of the Director or his designee. If the Animal Control Board affirms, or affirms with conditions, the determination that the dog is a public hazard dog, the owner shall be required to the securely confined on the owner's property and would have to be leashed when off the owner's property. The Animal Control Board may impose reasonable and flexible conditions to assure the public health, safety and welfare.

(c) During any period of appeal following the initial decision of the Animal Services Director or his designee, the owner of any dog or that the Director or his designee has determined to be a public hazard dog shall confine and keep custody of such dog in all respects as required by the Article for public hazard dogs.

Sec. 3-74. Application to rescind public hazard dog determination.

An owner of a dog that has been determined to be a public hazard dog may apply to the Animal Control Board after six months from the effective date of the Animal Control Board's decision to have the public hazard dog determination rescinded. The Animal Control Board shall hold a hearing on such application on notice to all appropriate parties, including interested parties who appeared at the initial hearing. The Animal Control Board shall not rescind such public hazard dog determination unless it shall find that: (i) the owner has spayed/neutered the dog, (ii) the dog has successfully concluded a socialization and handling course conducted by a certified dog trainer, (iii) the owner or keeper knows, understands, has complied with and continues to comply with all applicable provisions of this Chapter, and (iv) the dog shall not have engaged in any further "public hazard dog" acts, conduct or behavior.

Sec. 3-75. Animal Control Board decision final.

Any decision of the Animal Control Board under this Article shall be a final decision.

Sec. 3-76 - Any animal identified as a Public Hazard Dog shall be micro-chipped by Animal Control at the owner's expense. The owner will be required to transport the dog to Animal Control for micro-chipping by Department of Animal Control personnel within 48 hours of the declaration.

Sec. 3-77. Reserved.

ARTICLE VIII. INJURED ANIMAL STABILIZATION FUND

Sec. 3-78. Control of injured animals; stabilization fund.

A. Any Animal Control Officer or law enforcement officer is authorized to take possession of any seriously injured dog, cat, wildlife, livestock, bird or other animal which has suffered a painful

and potentially mortal injury and which is found in any location open or accessible to the public, any public or private vehicular right of way, or apparently off the property of its owner. Any such animal which does not have a current rabies tag or identification tag shall be conclusively presumed abandoned for purposes of this section.

B. Any Animal Control Officer or law enforcement officer finding any such animal shall make reasonable efforts to locate the owner of any such animal. If the owner is promptly located, such owner shall immediately undertake to take possession of such animal and provide reasonable veterinary care of the animal or shall authorize such officer to humanely euthanize such animal. Any such owner failing to do so shall be subject to a civil penalty in the amount of one hundred dollars ($100.00). if the owner cannot be promptly located or contacted, such animal officer shall be authorized, in his or her discretion, to (i) humanely euthanize such animal in an emergency situation where safe, humane transport of the animal is not possible, or (ii) promptly transport such animal to a veterinarian participating in the Injured Animal Stabilization Fund for stabilization of such animal's injuries. Every owner of any animal so found shall conclusively be presumed to have irrevocably appointed any such officer, or veterinarian participating in the injured Animal Stabilization Fund, his or her authorized agent for purposes of any such officer or veterinarian taking action under this section. Every such owner also shall be deemed to have released any such officer, or veterinarian participating in the Injured Animal Stabilization Fund, from any cause or action or claim arising out of a related to any action such officer or veterinarian may take under this section, except for actions which constitute gross negligence.

C. Each Animal Control Officer or law enforcement officer acting under this section shall within a reasonable time report to the Animal Services Department the nature and extent of the injuries of each such animal and of his or her disposition thereof. The Animal Services Department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof.

D. There is hereby established the Cumberland County Injured Animal Stabilization Fund, to which contributions, grants, donations, or restitution may be made for the purpose of reimbursing veterinarians agreeing to participate with the Fund in stabilizing the injuries of injured animals transported to them for such stabilization under this section. The Director may solicit or raise funds for such Fund Such Fund shall be administered by a committee which shall include the Cumberland County Finance Officer or his or her designee and a veterinarian designated by the Cumberland County Animal Control Board. Funds shall be disbursed from the Fund by the Finance Officer from time to time under guidelines which shall be mutually agreed-upon from time to time by the said committee and the Cumberland County Veterinarians Association.

E. Any Animal Control Officer or law enforcement officer, or any veterinarian to which an injured animal may be transported under this section for stabilization of injuries, shall be deemed to be an authorized agent of and acting on behalf of Cumberland County and its Animal Services Department pursuant to the authority of this section. Any such officer or veterinarian acting pursuant to this section shall be entitled to all the defenses, immunities and rights afforded by law or available to Cumberland County and its officers, employees or agents.

F. If any owner of an animal transported under this section to a veterinarian participating in the injured Animal Stabilization Fund shall subsequently be identified by the Animal Services Department, he or she shall make restitution to such Fund of the amount disbursed by it to such veterinarian or shall otherwise be subject to a civil penalty in the amount of one hundred dollars ($100.00).

Sec. 3-79 - 3-82. Reserved.

ARTICLE IX. MISCELLANEOUS

Sec. 3-83. Keeping chickens or rabbits - Sanitation requirements.

It shall be unlawful to keep, house or pen chickens or rabbits on premises which fail to meet sanitary standards approved by the Cumberland County Board of Health.

Sec. 3-84. Stables to be kept clean.

Every stable or other place where cattle, horses or animals are kept shall be maintained at all times in a clean and healthful condition.

Sec. 3-85. Grazing animals.

It shall be unlawful for any owner or stake or graze any cow, horse or other animal in any park, cemetery or other public place or near any public sidewalk. This section shall not apply to horses used by any law enforcement agency for mounted patrol.

Sec. 3-86. Disposition of dead animals.

The owner of any animal dying from any cause within the jurisdiction of the county shall cause the same to promptly be buried in a sanitary manner within 24 hours after such owner has knowledge of such death.

Sec. 3-87 Selling live animals in public rights of way and other public property prohibited.

It is unlawful for anyone to sell, auction, trade, barter, and display for commercial purposes or give away any live animal within the right of way of any public highway, public vehicular area, public sidewalk, public property or street within Cumberland County. Anyone who violates this ordinance may be issued a citation for civil penalties or may be cited for criminal misdemeanor violation of this ordinance. The Animal Services Department may immediately take custody of and impound any live animals found being sold in violation of this section. This section shall not apply to any animal welfare organization or humane society qualified under Section 501(c)(3) of the Internal Revenue Code acting pursuant to a no-cost permit issued by the Animal Services Director, which permit may be conditioned on reasonable conditions to assure the health, welfare and safety of the animals being sold, auctioned, traded, bartered, displayed or given away.

Sec. 3-88 - 3-96. Reserved.

ARTICLE X. ENFORCEMENT

Sec. 3-97. Enforcement, generally.

A. The primary responsibility for the enforcement of this Chapter shall be vested the Animal Services Department.

B. Any person authorized to enforce this ordinance 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 retraining order, a preliminary injunction, a permanent injunction or an order to abate a nuisance, as may be appropriate in the circumstances.

C. Upon information made known to or complaint lodged with the Animal Services Department 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 violation (citation) requiring the owner, possessor or custodian of this dog or animal to pay any stated civil penalty and abate the nuisance specified.

D. 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 shall be impounded in accordance with sections 3-16 through 3-19.

Sec. 3-98. Penalties for violations.

A. Any violation of this chapter shall subject the offender to a civil penalty to be recovered by the Animal Services Department 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 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 Services Director at the animal shelter within seven days.

C. Unless otherwise provided in this chapter, the penalty for a violation of this chapter, except for a public nuisance or where specifically stated otherwise, shall be $50.00 for a first violation or for a violation more than 12 months after a previous violation. For subsequent violations within 12 months of a previous violation, the penalty shall $100.00 for a second violation, and $300.00 for a third or subsequent violation within a 12-month period of the first violation. The penalty for a public nuisance shall be $100.00.

D. In addition to the civil penalties prescribed in this section, any violation of this ordinance, also designated as Chapter 3 of the Cumberland County Code, shall also constitute a Class 3 misdemeanor punishable by a fine of $100 or less and imprisonment of not more than 20 days.

Sec. 3-99. Severability.

A. If any section, sentence, clause or phase 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.

B. The Board of Commissioners directs that the Animal Services Department use its best efforts to implement a pilot test eighteen (18) month program to purchase microchips for pet identification and related scanning equipment, to encourage the micro-chipping of pets by owners and of animals adopted or released from the Animal Control Shelter, and to educate the public of the benefits of micro-chipping. The Board further directs the County Manager, the Animal Services Director, and the Cumberland County Animal Control Board to evaluate the Animal Services Department's experience with such pilot test program, the costs and benefits thereof, and report the results thereof back to the Board together with any recommendations which they may deem appropriate.

C. The Board of Commissioners intends, and it hereby ordains, that the provisions of this ordinance shall become and be made part of the Code or Ordinances, Cumberland County, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

D. This ordinance shall become effective upon final adoption as by law provided.

Ordinance adopted January 16, 2007, with amendments as indicated.

NOTE 1: By amendment adopted April 20, 2009, each reference in the ordinance to “Animal Control Department” and “Animal Control Director” was changed to “Animal Services Department” and “Animal Services Director” respectively.

NOTE 2: Minutes of the October 5, 2009, meeting of the Board of Commissioners reflect that the recommendation of the Policy Committee to amend Article III, Dangerous Dogs, in its entirety was not included in the action taken to amend Section 3-98, Enforcement, by adding subsection D. This subsection was further amended by re-adoption on _____ .

NOTE 3: This ordinance has not been codified and was re-formatted by R. Moorefield, County Attorney, on January 5, 2011.

NOTE 4: Section 3.12.C was amended by amendment adopted _____ .