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**WILKES COUNTY
ANIMAL CONTROL ORDINANCE**

Wilkes County, N.C.

Adopted January 20, 2015

**ANIMAL CONTROL ORDINANCE
WILKES COUNTY, NORTH CAROLINA**

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**ANIMAL CONTROL ORDINANCE
WILKES COUNTY, NORTH CAROLINA**

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

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

ARTICLE I.
ORGANIZATIONAL MATTERS

SECTION 1. TITLE AND PURPOSE OF THIS ORDINANCE.

- (a) Title.** This Ordinance shall be known as the Wilkes County Animal Control Ordinance.
- (b) Purpose.** The purpose of this Ordinance is to:
 - (i)** Protect the people of Wilkes County from dangerous or uncontrolled animals; and
 - (ii)** Protect animals in Wilkes County from cruel or inhumane treatment by their owners and other persons.

SECTION 2. DEFINITIONS. For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning defined herein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future and past tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender include the feminine gender.

- (a) Aggression-Trained Dog.** A dog that has been schooled, trained, or conditioned to bite, attack, or exhibit aggressive behavior toward humans or other domestic animals for any purpose, including but not limited to the security of business property, personal security, or dog fighting.
- (b) Animal.** Every non-human species of animal, wild or domestic, male or female, including but not limited to dogs and cats.
- (c) Animal Control Department.** The Wilkes County Animal Control Department.
- (d) Animal Control Officer.** A County employee designated as a dog warden, animal control officer, animal control official, or other designations that may be used whose responsibility includes animal control.

(e) **Animal Shelter.** Any premises designated by the County for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of this Ordinance or any other County Ordinance or directive or State law.

(f) **At Large.** An animal shall be deemed to be at large when it is off the property of its owner and not under the restraint of a competent person.

(g) **Breeding Kennel.** Any person or group of persons engaged in breeding dogs or cats where five (5) or more litters per year are produced.

(h) **Cat.** A domestic feline.

(i) **County.** The County of Wilkes.

(j) **Dog.** A domestic canine.

(k) **Fenced Enclosure.** Any enclosed area surrounded by a fence which is reasonably adequate to secure an animal so as to prevent it from escaping from property owned or leased by, or under the constructive possession of, the animal's owner.

(l) **Feral Cat.** A feline which is not an identified animal and which is existing in a wild or untamed state.

(m) **Guard Dog.** A dog on premises specifically for the purpose of protecting said premises from any intruder and for attacking a person coming in the vicinity of the dog.

(n) **Identified Animal.** An animal with an identification tag, tattoo, or other marking on which is described the animal owner's name, address, and telephone number.

(o) **Owner.** Any person or group of persons owning, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal. The owner is responsible for the care, actions, and behavior of his animals. This definition shall also apply to the term "ownership" as used in this Ordinance.

(p) **Person.** Any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

(q) **Restraint.** An animal is under restraint within the meaning of this Ordinance if it is (i) completely under the control of a responsible person by means of a chain, leash, or other like device; (ii) on or within a vehicle being driven or parked, and secured in such manner as to prevent the animal from escaping or causing injury to persons approaching or passing by the vehicle; provided, that an animal shall not be deemed to be under

restraint if it is in the back of an open-bed pickup, regardless of whether or not it is secured therein; (iii) within a secure enclosure as defined herein; or (iv) within a fenced enclosure as defined herein. The phrase "other like device" in subdivision (i) above may include an electronic fence for purposes of determining whether an animal is under restraint within the meaning of this subsection (q) as to determinations under Section 1 of Article III of this Ordinance, but shall specifically not include an electronic fence or any other similar device for purposes of determining whether an animal is under restraint within the meaning of this subsection (q) as to determinations under Article IV of this Ordinance.

(r) Secure Enclosure. A structure designed to securely house and restrain a dog that has been determined to be a potentially dangerous dog under Article IV, Section 3(b) of this Ordinance. Said structure shall comply with each and every one of the following requirements:

(i) The structure shall be located on property owned or leased by, or under the constructive possession of, the dog's owner, shall be a minimum size of 15 feet by 6 feet by 6 feet, and shall be enclosed by a floor, walls, and roof. The floor shall consist of a concrete pad at least 4 inches thick. If more than one dog is to be kept in the enclosure, the floor area shall provide at least 45 square feet for each dog. The walls and roof of the structure shall be constructed of chain link fencing of a minimum thickness of 9 gauge, supported by galvanized steel poles at least 2½ inches in diameter. The vertical support poles shall be sunk in concrete filled holes at least 18 inches deep and at least 8 inches in diameter. The chain link fencing shall be anchored to the concrete pad with galvanized steel anchors placed at intervals of no more than 12 inches along the perimeter of the pad. The entire structure shall be freestanding and shall not be attached or anchored to any existing fence, building, or structure. The structure shall have no more than one entrance door, which shall be secured by a child resistant lock that must remain locked at all times except when the dog's owner or an authorized veterinarian enters to feed, water, clean, or treat the dog.

(ii) A perimeter fence shall be constructed around the entire structure, no less than 3 feet from the interior fencing walls of the structure itself. The perimeter fence shall be at least 6 feet in height, shall be of chain link construction with a minimum thickness of 9 gauge, shall be anchored to concrete along the entirety of all four sides in the same manner as the interior fencing walls (except for a single door as specified below), and shall be topped by chain link fencing which shall be of a minimum thickness of 9 gauge and which shall cover the entire area between the top of the perimeter fence and the top of the structure. A single door shall be located in the perimeter fence, on the opposite side from the entrance door to the structure. The door to the perimeter fence shall be secured by a child resistant lock and shall remain locked at all times except when the dog's owner or an authorized veterinarian enters to feed, water, clean, or treat the dog. The door to the perimeter fence shall be locked from the inside before the entrance door to the structure is opened.

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

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

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

SECTION 3. ANIMAL CONTROL COMMITTEE. There is hereby created the Animal Control Committee, the purposes of which shall be to: (a) advise the Wilkes County Animal Control Department; (b) carry out the directives of, perform investigations for, and advise the Wilkes County Board of Commissioners with respect to animal control matters; (c) hear appeals under Article IV below; and (d) carry out such other functions as may be established under this Ordinance. The Animal Control Committee shall be composed of such members as shall be appointed by the Wilkes County Board of Commissioners, which members shall serve at the pleasure of the Board.

ARTICLE II. LOST OR STRAY ANIMALS

SECTION 1. IDENTIFICATION OF DOGS. Every owner of a dog shall provide the same with an identification tag, tattoo, microchip identification, or other marking on which is inscribed the dog owner's name, address, and telephone number.

SECTION 2. IMPOUNDMENT. Any animal which appears to be lost, stray, unwanted, or in imminent danger shall be impounded by the Animal Control Department and confined in the Animal Shelter in a humane manner. Impoundment of such an animal shall not relieve the owner thereof from any penalty which may be imposed for a violation of this Ordinance. An identified animal not appearing to be lost, such as a hunting dog, is not to be impounded under this Section, but may be impounded if permitted by the provisions of another Article within this Ordinance; provided, however, that such animal may be impounded under the provisions of this Section if it appears to be in imminent danger.

SECTION 3. AUTHORITY TO TRANQUILIZE OR DESTROY. An Animal Control Officer may, when attempting to impound an animal under this Article II which cannot otherwise be captured for impoundment, tranquilize said animal or, if attempts to tranquilize and all other reasonable efforts at impoundment have failed, destroy said animal.

SECTION 4. NOTICE TO OWNER. Immediately upon impounding an identified animal, the Animal Control Department shall make reasonable efforts to notify the owner and inform such owner of the conditions under which the animal may be redeemed. Such conditions include, but shall not be limited to, the charging of those fees as are described in Section 5 below. If, after seventy-two (72) hours following impoundment, the owner is unknown or cannot be located, or if the owner has not contacted the Animal Control Department, the animal shall be disposed of in compliance with Section 6(a) below and applicable law.

SECTION 5. REDEMPTION BY OWNER. The owner of an animal impounded under this Article II may redeem the animal and regain possession thereof at any time during the seventy-two (72) hour period after notice of impoundment is given, by complying with all applicable provisions of this Ordinance and paying such redemption fee and daily boarding fee as may have been established by the County.

SECTION 6. DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMALS.

(a) Failure to Redeem. If an impounded animal is not redeemed by the owner within seventy-two (72) hours from the time of impoundment, it may be destroyed in a humane manner or shall become the property of the Animal Shelter and may be offered for adoption to any responsible adult who (i) pays the adoption fee as established by the County, (ii) obtains any necessary rabies vaccination, and (iii) in the sole discretion of the Animal Control Officer is found to be able and willing to comply with the provisions of this Ordinance. As between destruction or adoption of the animal under this subparagraph (a), the preference where reasonably permitted shall be for adoption.

(b) Spaying or Neutering. The Animal Control Department shall require that any adopted dog or cat released from the Animal Shelter be either spayed or neutered within thirty (30) days from the date of adoption or at such time as the dog or cat reaches six (6) months of age, whichever shall occur later

(c) Rabies Quarantine. No impounded animal shall be allowed to be adopted from the Animal Shelter during a period of emergency rabies quarantine as invoked by the Wilkes County Public Health Director.

SECTION 7. REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT. Payment for the required rabies vaccination will be the responsibility of the person redeeming or adopting the animal.

SECTION 8. RABID ANIMALS NOT TO BE REDEEMED OR ADOPTED. Notwithstanding any other provision of this Article II, an impounded animal which appears to be suffering from rabies shall not be redeemed or adopted.

SECTION 9. INJURED, SICK, OR DISEASED ANIMALS. When the owner of an injured, sick, or diseased animal can be located, it shall be his responsibility to provide veterinary care for the animal. In the event the owner cannot be located, the injured, sick, or diseased animal shall be taken to the Animal Shelter and may then be adopted with the agreement that the person adopting the animal will bear the cost of veterinary care, or may be destroyed under the direction of the Animal Control Officer and in a humane manner.

SECTION 10. FERAL CATS. Notwithstanding any other provision of this Article II, a feral cat which has been impounded by the Animal Control Department hereunder may be destroyed in a humane manner at any time after impoundment.

SECTION 11. PENALTY FOR VIOLATION. The penalty for a violation under this Article II shall be as set forth in Article X below.

ARTICLE III.
ANIMALS CREATING A NUISANCE

SECTION 1. ANIMAL AT LARGE CREATING A NUISANCE. The owner of an animal shall not permit the animal to be at large if such animal is creating a public nuisance. If, after investigation of a written complaint as required under Article IX below, the Animal Control Officer determines that an animal is creating or has created a public nuisance while at large, the Animal Control Officer shall notify the owner of the same and shall instruct the owner to keep the animal under restraint at all times. If the Animal Control Officer thereafter determines, upon investigation of a subsequent written complaint under Article IX below, that the animal is or has been at large again while creating a public nuisance, the owner shall be charged with a violation of this Section and the Animal Control Officer may impound the animal and hold and dispose of the same in accordance with the provisions of Article II above. Notwithstanding the foregoing, if upon any investigation the Animal Control Officer determines that an animal which is or has been at large and is or has been creating a public nuisance is not an identified animal, the Animal Control Officer may impound said animal and may hold and dispose of the same in accordance with the provisions of Article II.

SECTION 2. "PUBLIC NUISANCE" DEFINED. For purposes of this Article III, the term "creating a public nuisance" applies without limitation to the following: animals that habitually or repeatedly chase, snap at, attack, or harass persons (including but not limited to pedestrians, joggers, and persons operating vehicles or other modes of transportation) or their pets or farm animals; animals that, whether or not in a mode of attack, habitually or repeatedly disturb, interfere with, or annoy persons or their pets or farm animals, or that habitually or repeatedly enter onto the property of a person who is not the owner of said animal; or animals that tip over garbage cans or damage yards, gardens, flowers, vegetables, or other personal property.

SECTION 3. FEMALE DOG IN ESTROUS. The owner of a female dog shall not permit the dog to be at large during estrous. If, after investigation of a written or verbal complaint as required under Article IX below, the Animal Control Officer determines that a female is or has been at large during estrous, the Animal Control Officer shall notify the owner of the same and

shall instruct the owner to keep the dog within a structure or area reasonably adequate to prevent it from escaping and to prevent other dogs from entering therein for so long as the female remains in estrous. If the Animal Control Officer thereafter determines, upon investigation of a subsequent written or verbal complaint under Article IX below, that the dog is or has been at large again during estrous, the owner shall be charged with a violation of this Section and the Animal Control Officer may impound the dog and hold and dispose of the same in accordance with the provisions of Article II above. Notwithstanding the foregoing, if upon any investigation the Animal Control Officer determines that a female dog which is or has been at large during estrous is not an identified animal, the Animal Control Officer may impound said dog and may hold and dispose of the same in accordance with the provisions of Article II.

SECTION 4. AUTHORITY TO TRANQUILIZE OR DESTROY. An Animal Control Officer may, when attempting to impound an animal under this Article III which cannot otherwise be captured for impoundment, tranquilize said animal or, if attempts to tranquilize and all other reasonable efforts at impoundment have failed, destroy said animal.

SECTION 5. EXCEPTIONS. The provisions of this Article III shall not apply to dogs defined under G.S. §67-4.1(b), nor shall the provisions of this Article III be construed to prevent an animal owner from engaging in a legal sporting activity on the lands of another person provided proper permission has been granted by the owner of the property.

SECTION 6. PENALTY FOR VIOLATION. The penalty for a violation under this Article III shall be as set forth in Article X below.

ARTICLE IV.
DANGEROUS OR VICIOUS DOGS.

SECTION 1. PURPOSE. The purpose of this Article IV shall be to supplement the provisions of the North Carolina General Statutes governing dangerous and vicious dogs, and more specifically G.S. §130A-200 and Article 1A of Chapter 67.

SECTION 2. DETERMINATION OF "DANGEROUS DOG" AND "POTENTIALLY DANGEROUS DOG." Pursuant to G.S. §67-4.1(c), the Director of the Wilkes County Animal Control Department (hereinafter the "Director") or his designee is hereby designated as the person responsible for determining when a dog is a "dangerous dog" or a "potentially dangerous dog" under Article 1A of Chapter 67 of the North Carolina General Statutes. The Animal Control Committee is further designated as the "separate board" which shall hear any appeal from a determination of the Director or his designee. In hearing an appeal, the Animal Control Committee may affirm, reverse, or modify any determination of the Director or his designee. In modifying such determination, the Animal Control Committee may take or order any action or make any determination as may be permitted under the provisions of this Article IV, including any action or determination authorized to be made hereunder by the Animal Control Department or by the Director or his designee.

SECTION 3. IMPOUNDMENT OF "DANGEROUS DOGS" AND "POTENTIALLY DANGEROUS DOGS"; DISPOSITION. In addition to the remedies provided in Article 1A of

Chapter 67 of the North Carolina General Statutes, the Director or his designee shall impound a "dangerous dog" or a "potentially dangerous dog" as defined under G.S. §67-4.1, as follows:

(a) Dangerous Dogs. Following investigation of a complaint under Article IX below and a determination by the Director or his designee that a dog is a dangerous dog as defined under G.S. §§67-4.1(a)(1)a.1. or 67-4.1(a)(1)b., such dog shall be impounded immediately upon delivery to the owner of the written notification as required under G.S. §67-4.1(c), which statute shall apply under this subsection (a) the same as in cases involving potentially dangerous dogs. Such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c). In the event of a final determination that the dog is not a "dangerous dog" under either of said sections, the dog shall be held and disposed of in accordance with the provisions of Article II above; provided, however, that if the final determination includes a finding that the dog is a "potentially dangerous dog" within the meaning of G.S. §67-4.1(a)(2), the dog shall be held and disposed of in accordance with the provisions of subsection (b) below. In the event of a final determination that the dog is a "dangerous dog" under either or both of said sections, the dog shall be destroyed by the Animal Control Department; provided, that in the case of a dog determined to be a dangerous dog under G.S. §67-4.1(a)(1)b., the Animal Control Department may, in its discretion and under such procedures as it deems appropriate, transfer ownership of the dog to a duly qualified non-profit rehabilitation agency or organization, including but not limited to the Humane Society of the United States, the North Carolina Humane Society, the American Society for the Prevention of Cruelty to Animals, or other similar agency or organization holding itself out as qualified to engage in the rehabilitation of dogs held for fighting, upon the execution by said agency or organization of a release of liability in favor of the County.

(b) Potentially Dangerous Dogs. Following investigation of a complaint under Article IX below and a determination by the Director or his designee that a dog is a potentially dangerous dog as defined under G.S. §67-4.1(a)(2), such dog shall be impounded immediately upon delivery to the owner of the written notification as required under G.S. §67-4.1(c). Such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c). In the event of a final determination that the dog is not a "potentially dangerous dog," such dog shall be disposed of in accordance with the provisions of Article II above. In the event of a final determination that the dog is a "dangerous dog" as defined under G.S. §§67-4.1(a)(1)a.1. or 67-4.1(a)(1)b., the dog shall be held and disposed of in accordance with the provisions of subsection (a) above. In the event of a final determination that the dog is a "potentially dangerous dog," such dog shall be disposed of as follows:

(i) *Inflicting Bites on Persons Resulting in Broken Bones or Disfiguring Lacerations or Requiring Cosmetic Surgery or Hospitalization.* Where said final determination is based on one or more of the behaviors described in G.S. §67-4.1(a)(2)a., then, if the owner of the dog is known, said owner may redeem the dog by payment of such redemption fee and daily boarding fee as may have been established by the County; provided, that it shall be an express condition of any such redemption that the owner at all times thereafter keep the dog within a secure

enclosure as defined in Article I, Section 2(r) above. The dog may not be redeemed under this paragraph until the secure enclosure has been completed, inspected, and approved, as provided in Article I, Section 2(r). The Animal Control Department may establish a deadline for completion, not to be less than sixty (60) days, after which, if said secure enclosure is still not sufficiently completed to allow for inspection and approval, the dog may be destroyed by the Animal Control Department. The owner shall at all times be and remain in compliance with the requirements of Article I, Section 2(r), as to any secure enclosure required under this subdivision (i), and upon failure to comply the owner shall be subject to such civil penalties as are permitted under Article X below.

Notwithstanding the foregoing paragraph, the Director or his designee may, in lieu of requiring a secure enclosure as set forth therein, instead require as an express condition of redemption that the owner of the dog keep the dog within a fenced enclosure as defined in Article I, Section 2(k); provided, that the Director or his designee shall have determined, upon a review of all the circumstances of the case and application of such circumstances to those factors enumerated below, that such confinement is reasonably likely to prevent the dog from engaging in any of the prohibited behaviors under G.S. §§67-4.1(a)(1)a.1. or 67-4.1(a)(2)a. The Director or his designee may further establish such additional requirements for said fenced enclosure as may be deemed by the Director or his designee to be reasonably likely to prevent the dog from engaging in any of those prohibited behaviors as stated above, including but not limited to double gating, chain link or other types of fencing, restrictions on whether and/or under what circumstances the dog may be confined inside the residence or vehicle of its owner or otherwise permitted to be outside the fenced enclosure, and any other requirements deemed reasonably likely to prevent the dog from engaging in said prohibited behaviors. The factors to be considered by the Director or his designee in making a determination under this paragraph include:

- (1) The size, breed, and aggressiveness of the dog;
- (2) The severity of the injury inflicted, including whether or not the victim sought and/or received medical treatment for the injury and the extent of such treatment;
- (3) Whether the attack was provoked or unprovoked;
- (4) Whether the dog was on its owner's property when the attack occurred; and
- (5) Any other circumstances which are relevant to a determination as to whether confinement of the dog within a fenced enclosure is reasonably likely to prevent it from engaging in any of the above state prohibited behaviors.

The dog may not be redeemed under this paragraph until the fenced enclosure has been completed, inspected, and approved by the Animal Control Department. The Animal Control Department may establish a deadline for completion, not to be less than thirty (30) days, after which, if said fenced enclosure is still not

sufficiently completed to allow for inspection and approval, the dog may be destroyed by the Animal Control Department. The owner shall at all times be and remain in compliance with the requirements imposed by the Director or his designee as to any fenced enclosure required under this subdivision (i), and upon failure to comply the owner shall be subject to such civil penalties as are permitted under Article X below.

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

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

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

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

Notwithstanding the foregoing paragraph, the Director or his designee may require as an express condition of redemption under this subdivision (ii) that the owner of the dog keep the dog within a fenced enclosure as defined in Article I, Section 2(k). The provisions of subdivision (i) above concerning fenced enclosures, including but not limited to the determination by the Director or his designee to require the same, shall apply under this subdivision (ii).

It shall be a further express condition of redemption under this subdivision (ii) that, within thirty (30) days after redemption, the dog must be spayed or neutered and fitted with microchip identification, at the owner's expense. The Animal Control Department may require written evidence, in the form of receipts or other records from a licensed veterinarian, confirming that this condition has

been satisfied. If the owner of the dog fails to satisfy this condition within the time stated, the Director or his designee shall issue a citation to the owner for such civil penalties as are permitted under Article X below.

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

(iii) If the owner of the dog is not known, or if the owner fails to redeem the dog within seventy-two (72) hours of said final determination, such dog shall be destroyed by the Animal Control Department in compliance with applicable law.

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

(v) If, after redemption of a potentially dangerous dog as set forth in either subdivision (i) or subdivision (ii) above, the Director or his designee makes a determination following investigation of a written complaint pursuant to Article IX below that the dog has not been kept within a secure enclosure by the owner at all times, or has not been kept within a fenced enclosure at all times, or has not been kept under restraint at all times, as the case may be and as ordered by the Director or his designee, and the same constitutes a third offense as to said provision, the dog shall be impounded immediately upon delivery to the owner of the written notification as required under G.S. §67-4.1(c), which statute shall apply under this subdivision (v) the same as set forth elsewhere in this subsection (b). Such dog shall be held at the Animal Shelter pending the resolution of all appeal proceedings under G.S. §67-4.1(c). In the event of a final determination that the owner did not in fact fail to keep the dog within a secure enclosure at all times or within a fenced enclosure at all times or under restraint at all times, as the case may be and as ordered by the Director or his designee, such dog shall immediately be released to its owner in compliance with and under the requirements of subdivision (i) or subdivision (ii) above, whichever is applicable. In the event of a final determination that the owner did in fact fail to keep the dog within a secure enclosure at all times or within a fenced enclosure at all times or under restraint at all times, as the case may be and as ordered by the Director or his designee, the dog shall be destroyed by the Animal Control Department.

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

(vii) In the case of a potentially dangerous dog that has been redeemed under subdivision (i) or subdivision (ii) above on condition that the dog be kept within a fenced enclosure, the owner of the dog may file a petition for modification of any additional requirements ordered by the Director or his designee for such fenced enclosure under the provisions of said subdivisions. A petition under this subdivision (vii) shall be in writing, shall be on a form prescribed by the County, and shall describe in detail the reasons for requesting the modification. The Director or his designee may grant, conditionally grant, or deny the petition. The petition shall be granted or conditionally granted only if the Director or his designee finds in his sole discretion that the fenced enclosure, as modified, remains reasonably likely or reasonably necessary to prevent the dog from engaging in any of the prohibited behaviors under G.S. §67-4.1(a)(1) or (2). Otherwise, the petition shall be denied. The decision of the Director or his designee shall be in writing and, if conditionally granting the petition, shall set out the specific conditions being imposed. No petition for modification under this subdivision (vii) may be filed or considered less than six (6) months after the date of the final determination that the dog is a potentially dangerous dog, nor may any such petition be filed or considered less than six (6) months after the date a previous petition for modification for the same dog was granted, conditionally granted, or denied. An appeal by the owner from a decision to conditionally grant or deny a petition for modification shall be governed by the provisions of G.S. §67-4.1(c), which statute shall apply under this subdivision (vii) the same as set forth elsewhere in this subsection (b).

(c) **Definition of "severe injury."** For purposes of this Section 3, the terms "severe injury" and "severely injure" shall refer to any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization as defined in G.S. §67-4.1(a)(5), and shall further refer to any physical injury which in the discretion of the Director or his designee is determined to be of a nature that makes it likely that the

same dog which inflicted the injury will kill or severely injure again if released from impoundment.

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

SECTION 4. REGISTRATION OF POTENTIALLY DANGEROUS DOGS.

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

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

(i) Sale or Transfer of Dog to New Owner Residing Within County. The sale or transfer of any dog for which a registration is required under subsection (a) shall be subject to prior approval by the Animal Control Department if the new owner resides within the County. In the event the owner of such dog intends to sell or transfer the same, said owner shall first notify the Animal Control Department. Said notification shall include the information as required under subsection (a) above as to the new owner. The Animal Control Department shall have a period of thirty (30) days from receipt of said notification in which to contact the same and investigate and determine whether said new owner has the capability to comply with the requirements of this Ordinance concerning potentially dangerous dogs. As a part of said determination, the Animal Control Department shall, no later than ten (10) days after receipt of notification from the current owner, deliver a copy of this Ordinance to the new owner and request from said new owner a signed written statement, on such form as shall be approved by the Animal Control Department, certifying that said new owner has received such copy and will at all times be and remain in compliance with the requirements of the same. The new owner shall furnish said signed written statement to the Animal Control Department within the thirty (30) day period as set forth above, and shall cooperate with and provide such further information to the Animal Control Department as may be reasonably requested in connection with the proposed sale or transfer of the dog. If the Animal Control Department,

upon timely receipt of said written statement and completion of the investigation required hereunder, determines that the new owner is able and willing to comply with the requirements of this Ordinance, the Animal Control Department shall so notify both the current owner and the new owner in writing within the above stated thirty (30) day period. Thereafter the sale or transfer of the dog may take place, and the new owner shall thereupon be responsible for compliance with the provisions of this Section 4 and for compliance with all other requirements of this Ordinance. If the new owner fails to timely furnish the signed written statement as required herein, the Animal Control Department shall not approve the proposed sale or transfer until such time as the same has been furnished. If the Animal Control Department, upon completion of its investigation, determines that the new owner is not able or willing to comply with the requirements of this Ordinance, or if said new owner refuses to furnish the signed written statement as required hereinabove, the Animal Control Department shall deny the sale or transfer of the dog and shall so notify both the current owner and the new owner in writing, stating the reasons for the denial.

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

(iii) *Bringing Dog into County.* In the event a dog which has been determined by another county or jurisdiction to be a dangerous dog or potentially dangerous dog under Article 1A of Chapter 67 of the North Carolina General Statutes, or under similar provisions of any other applicable statute, ordinance, or law of any other jurisdiction, is sold or transferred to an owner residing within the County, or is brought into the County for any reason (other than temporary veterinary care), the owner to which said dog is being sold or transferred, or the person responsible for bringing said dog into the County, shall immediately notify the Animal Control Department as to the same and shall cause said dog to be registered in accordance with the requirements of this Section 4. Any dog which is registered or required to be registered with the Animal Control Department under this subdivision (iii) shall be deemed to be a dangerous dog or potentially dangerous dog under this Article IV, as the case may be, and the owner of said dog shall comply with all of the applicable requirements hereof within such times as shall be established by the Animal Control Department, but in no event less than thirty (30) days.

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

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

SECTION 5. AUTHORITY TO TRANQUILIZE OR DESTROY. An Animal Control Officer may, when attempting to impound an animal under this Article IV which cannot otherwise be captured for impoundment, tranquilize said animal or, if necessary for the protection of persons or property, destroy said animal.

SECTION 6. VICIOUS DOGS. The provisions of this Article IV shall supplement G.S. §130A-200, and nothing herein shall be construed to limit or abridge the authority of the Director under said statute.

SECTION 7. RABID DOGS NOT TO BE REDEEMED. Notwithstanding any other provision of this Article IV, an impounded dog which appears to be suffering from rabies shall not be redeemed.

ARTICLE IV-A.
INHERENTLY DANGEROUS EXOTIC ANIMALS

SECTION 1. PURPOSE AND AUTHORITY. The purpose of this Article IV-A is to protect the public against health and safety risks that inherently dangerous exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. By their very nature, certain exotic animals are wild and potentially dangerous, do not adjust well to a captive environment, and present a genuine threat to the safety and well-being of the public.

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

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

SECTION 2. DEFINITIONS. For purposes of this Article IV-A the following terms, phrases, words, and their derivations shall have the meaning defined herein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future and past tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender include the feminine gender. These definitions are in addition to, and not in lieu of, those definitions set forth in Article I of this Ordinance; provided, that the scope of this Article IV-A shall be as set forth in Section 3 below.

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

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

(1) **Class Mammalia:**

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

b. Order Carnivora:

(i) Family Felidae (such as lions, tigers, panthers, leopards, jaguars, ocelots, and servals, but not domestic cats);

(ii) Family Canidae (such as wolves and jackals, but not domestic dogs);

(iii) Family Ursidae (all bears);

(iv) Family Mustelidae (such as weasels, martins, and minks, but not ferrets);

(v) Family Procyonidae (such as coatis);

- (vi) Family Hyaenidae (all hyenas);
- (vii) Family Viverridae (such as civets, genets, and mongooses);
- c. Order Edentata (such as anteaters, armadillos, and sloths);
- d. Order Marsupialia (such as kangaroos and wallabies, but not sugar gliders);
- e. Order Perissodactyla (such as rhinoceroses and tapirs, but not horses, donkeys, or mules);
- f. Order Primates (such as lemurs, monkeys, chimpanzees, baboons, gorillas, and all other non-human primates);
- g. Order Proboscidae (all elephants);
- h. Order Rodentia (but not guinea pigs, rats, mice, gerbils, hamsters, prairie dogs, or chinchillas);

(2) Class Reptilia:

- a. Order Squamata:
 - (i) Family Varanidae (only water monitors and crocodile monitors);
 - (ii) Family Iguanidae (only rock iguanas);
 - (iii) Family Boidae (only those whose actual length exceeds eight (8) feet);
 - (iv) Family Colubridae (only boomslangs and African twig snakes);
 - (v) Family Elapidae (such as coral snakes, cobras, mambas, etc.) - all species;
 - (vi) Family Natricidae (only keelback snakes);
 - (vii) Family Viperidae (such as cottonmouths, etc.) - all species;
 - (viii) Family Helodermodidae (such as gila monsters and Mexican beaded lizards);
 - (ix) Family Crotalidae (pit vipers);

(x) Family Atractaspidae (burrowing asps);

(xi) Family Hydrophilidae (sea snakes);

b. Order Crocodilia (such as crocodiles, alligators, caimans, gavials, etc.) – all species.

(3) Class Arachnida:

a. Order Araneae (only spiders which are venomous and which are not indigenous to Wilkes County, but excluding tarantulas);

b. Order Scorpionida (all scorpions).

(c) **Possessor.** Any person who owns, possesses, keeps, harbors, brings into the state, has in one's possession, acts as a custodian for, or has custody or control of an inherently dangerous exotic animal.

SECTION 3. SCOPE OF ARTICLE. The provisions of this Article IV-A shall be the exclusive provisions governing inherently dangerous exotic animals under the Wilkes County Animal Control Ordinance, subject only to Article IX concerning complaints and investigations and Article X concerning penalties and enforcement.

SECTION 4. INHERENTLY DANGEROUS EXOTIC ANIMALS PROHIBITED.

(a) It shall be unlawful and a violation of this Ordinance for any person to own, possess, keep, harbor, bring into the County, have in one's possession, act as a custodian for, or have custody or control of an inherently dangerous exotic animal. The foregoing prohibition shall include, but shall not be limited to, allowing an inherently dangerous exotic animal to remain, lodge, or be fed or be given shelter or refuge within the person's home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises on which the person resides or over which the person has control.

(b) It shall be unlawful and a violation of this Ordinance for any person who violates subsection (a) of this Section 4 to release or abandon an inherently dangerous exotic animal, in such manner as to cause or permit the animal to be at large in the County, for the purpose of evading prosecution under said subsection (a).

SECTION 5. EXEMPTIONS. The provisions of this Article IV-A shall not apply to an inherently dangerous exotic animal under the possession or control of:

(a) An institution accredited by the AZA;

- (b) A duly incorporated non-profit animal protection organization which is housing the inherently dangerous exotic animal at the written request of the Animal Control Department;
- (c) An animal control or law enforcement agency or officers acting under the authority granted hereunder;
- (d) A licensed veterinary hospital or clinic, if the inherently dangerous exotic animal is in its possession for treatment or rehabilitation purposes;
- (e) A licensed or accredited research, medical, or educational institution which is in possession of the inherently dangerous exotic animal for purposes consistent with the nature and mission of the institution;
- (f) A lawfully operated non-resident circus, carnival, or rodeo held within the County for no longer than one (1) continuous period of up to seven (7) days per calendar year; or
- (g) A person transporting the inherently dangerous exotic animal through the County if the animal is at all times maintained within a confinement sufficient to prevent it from escaping or harming anyone.

Notwithstanding the foregoing, any such exempt entity or person from which an inherently dangerous exotic animal escapes or is released for any reason whatsoever (without regard to fault) shall be liable for the costs of capturing said animal as provided in Section 7(a) below.

SECTION 6. ENFORCEMENT OF ARTICLE. The Animal Control Department and its agents and employees, and any law enforcement agency having authority within the territorial jurisdiction of this Ordinance, shall be empowered to enforce the provisions of this Article IV-A.

SECTION 7. IMPOUNDMENT AND/OR DISPOSITION OF INHERENTLY DANGEROUS EXOTIC ANIMALS. The following provisions shall govern the impoundment and/or disposition of inherently dangerous exotic animals present in the County in contravention of this Article IV-A:

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

(b) If an inherently dangerous exotic animal is impounded as set forth above, the possessor must within seventy-two (72) hours of impoundment post a security bond or cash deposit with the Animal Control Department in an amount sufficient to guarantee payment of all reasonable expenses incurred and expected to be incurred in capturing, caring for, providing for, and placing the animal, including but not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days, plus the cost of relocating the animal as set forth hereunder. The security bond or cash deposit shall not prevent the Animal Control Department from relocating the animal at any time; provided, that upon such relocation the Animal Control Department shall recover under the security bond or cash deposit only those sums actually incurred in connection with the above listed expenses; provided further, that the Animal Control Department may in its discretion keep the animal under impoundment for a period of up to sixty (60) days if the possessor has posted a security bond or cash deposit sufficient to cover such period. In all cases the amount of the security bond or cash deposit shall be determined by the Animal Control Department and shall be based on the current rate to feed, provide medical care for, and house the animal, plus the expected cost of relocating the animal, plus costs already incurred for the same and for capturing the animal. The form for security bonds as required herein shall be approved by the Animal Control Department.

(c) If an inherently dangerous exotic animal is impounded as set forth above, the Animal Control Department shall, upon posting of the required security bond or cash deposit by the possessor, attempt to find proper and safe housing for the animal outside the County through placement of the animal with an institution or location accredited by the AZA. If said security bond or cash deposit is not timely posted, or if the possessor of the animal is unknown or cannot be located, the Animal Control Department may nonetheless, in its discretion, attempt to find proper and safe housing for the animal outside the County as stated above; provided, that if the possessor is subsequently identified or located, said possessor shall be liable for all costs of placement and care incurred by the Animal Control Department as set forth in subsection (a) of this Section 7.

(d) The provisions of subsections (b) and (c) of this Section 7 shall not apply in the case of an impounded inherently dangerous exotic animal if:

(1) The impounded animal escaped or was released from an exempt entity or person as set forth in Section 5 above; and

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

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

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

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

(e) If the Animal Control Department determines in its discretion that an inherently dangerous exotic animal cannot be taken up and impounded within the requirements of subsection (a) above, the Animal Control Department may authorize and direct the possessor to retain the animal and, within a fixed period of time not to exceed sixty (60) days, relocate the animal to proper and safe housing outside the County through placement with an institution or location accredited by the AZA. The foregoing provisions shall apply only if the Animal Control Department determines in its discretion that the animal has not caused injury to persons or property and that the possessor has facilities sufficient to safely house the animal and prevent it from escaping or causing such injury during the period when it is being relocated. The decision of the Animal Control Department to proceed under this subsection (e) shall in no way affect the applicability or imposition of civil penalties as to the possessor for violating the provisions of Section 4 above, and during any period of relocation hereunder the civil penalties so imposed shall continue until the possessor presents documentation or other satisfactory proof to the Animal Control Department that the animal has been relocated as required herein.

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

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

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

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

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

SECTION 8. PENALTY FOR VIOLATION. The penalty for a violation under this Article IV-A shall be as set forth in Article X below.

ARTICLE V.
GUARD DOGS AND AGGRESSION-TRAINED DOGS

SECTION 1. GUARD DOGS. Each owner of a guard dog shall comply with the following requirements prior to using the dog as a guard dog within the County:

(a) Registration.

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

(ii) *Sale or Transfer of Dog.* In the event a guard dog for which a registration is required under subdivision (i) is sold or its ownership is transferred to any other person, the selling or transferring owner shall notify the Animal Control Department as to the same immediately upon the happening of such event. Said notification shall include the information as required under subdivision (i) above as to the new owner. If the new owner resides within the County, then as soon as practicable following receipt of said notification the Animal Control Department shall deliver to the new owner a copy of this Ordinance and shall obtain a signed receipt therefore. Thereafter the new owner shall be responsible for compliance with said provisions and with all other applicable provisions of Section 1 of this Article V. If the new owner resides outside the County, then as soon as practicable following receipt of said notification the Animal Control Department shall notify the animal control department of the county of residence of the new owner, by registered or certified letter, return receipt requested, as to the sale or transfer of said dog and as to its designation under this Ordinance as a guard dog, together with such other information as the Animal Control Department may deem appropriate.

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

(b) Identification.

(i) It shall be unlawful and a violation of this Ordinance for any owner of a guard dog to fail to provide said dog with a current rabies tag and special guard

dog tag. A guard dog's owner must provide proof of current rabies inoculation of the dog prior to being issued a special guard dog tag.

(ii) The owner of a guard dog, at the owner's expense, shall cause the same to be provided with microchip identification.

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

(d) **Physical Control.** The owner of a guard dog must ensure that adequate physical control of the guard dog is provided during operational hours to prevent the guard dog from coming in contact with the general public on the premises. If a guard dog bites a person who is not a trespasser, the Animal Control Department Director has the authority to prohibit the dog from acting as a guard dog within the County. It shall be unlawful and a violation of this Ordinance for any owner to use a dog as a guard dog after the Director has prohibited said use.

(e) **Enforcement.**

(i) If the Animal Control Department seizes a guard dog running at large, the dog shall not be returned to its owner until the owner has registered that dog and all other dogs of that owner used as guard dogs within the County and has demonstrated to the Animal Control Department that appropriate corrections have been made to prevent said animals from escaping again.

(ii) The Animal Control Department has the authority to seize and impound guard dogs and issue citations for noncompliance with this section. Impoundment of such dogs shall be governed by the provisions of Article II concerning lost or stray animals unless the dog engages in one or more behaviors invoking the provisions of Articles III or IV, in which event the applicable provisions of such Article shall control. A dog impounded under this subdivision (ii) shall not be eligible for adoption.

SECTION 2. AGGRESSION-TRAINED DOGS. The Animal Control Department has the authority to determine whether any person is engaged in the aggression-training of dogs. If the Department makes such a determination, then said person shall comply with the following requirements:

(a) Registration.

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

(ii) *Sale or Transfer of Dog.* In the event an aggression-trained dog for which a registration is required under subdivision (i) is sold or its ownership is transferred to any other person, the selling or transferring owner shall notify the Animal Control Department as to the same immediately upon the happening of such event. Said notification shall include the information as required under subdivision (i) above as to the new owner. If the new owner resides within the County, then as soon as practicable following receipt of said notification the Animal Control Department shall deliver to the new owner a copy of this Ordinance and shall obtain a signed receipt therefore. Thereafter the new owner shall be responsible for compliance with said provisions and with all other applicable provisions of Section 2 of this Article V. If the new owner resides outside the County, then as soon as practicable following receipt of said notification the Animal Control Department shall notify the animal control department of the county of residence of the new owner, by registered or certified letter, return receipt requested, as to the sale or transfer of said dog and as to its designation under this Ordinance as an aggression-trained dog, together with such other information as the Animal Control Department may deem appropriate.

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

(b) Identification.

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

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

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

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

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

(f) **Enforcement.**

(i) If the Animal Control Department seizes an aggression-trained dog running at large, the dog shall not be returned to its owner until the owner has registered that dog and all other dogs of that owner used as aggression-trained dogs within the County and has demonstrated to the Animal Control Department that appropriate corrections have been made to prevent said animals from escaping again.

(ii) The Animal Control Department has the authority to seize and impound aggression-trained dogs and issue citations for noncompliance with this section. Impoundment of such dogs shall be governed by the provisions of Article II concerning lost or stray animals unless the dog engages in one or more behaviors invoking the provisions of Articles III or IV, in which event the applicable provisions of such Article shall control. A dog impounded under this subdivision (ii) shall not be eligible for adoption.

SECTION 3. LAW ENFORCEMENT AGENCY DOGS. Any dog specifically trained for and used by a law enforcement agency is exempt from the provisions of this Article V.

SECTION 4. PENALTY FOR VIOLATION. The penalty for a violation under this Article V shall be as set forth in Article X below.

ARTICLE VI.
REGISTRATION OF BREEDING KENNELS

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

SECTION 2. PENALTY FOR VIOLATION. The penalty for a violation under this Article VI shall be as set forth in Article X below.

ARTICLE VII.
CRUELTY TO ANIMALS;
EXHIBITION OF ANIMALS

SECTION 1. PURPOSE. The purpose of this Article VII shall be to supplement the provisions of Article 47 of Chapter 14 and Article 4 of Chapter 19A of the North Carolina General Statutes.

SECTION 2. CARE AND TREATMENT OF ANIMALS.

(a) **Adequate Food and Water.** The owner of an animal shall at all times provide said animal with an adequate, fresh, and sanitary supply of food and water.

(b) **Adequate Shelter.** The owner of a non-aquatic animal, other than livestock and other large animals which are normally pastured or otherwise live in the open, shall at all times provide said animal with shelter adequate to reasonably protect it from the elements. Such shelter shall, at a minimum, be sufficient to keep the animal dry, protected from adverse weather conditions, and at a temperature level that is healthful to the animal. Said shelter shall further be kept free of accumulated waste and debris so that the animal can walk or lie down without coming in contact with any such waste or debris, and shall have a suitable method of draining so as to eliminate excess water or moisture.

(c) **Adequate Veterinary Care.** The owner of an animal shall at all times provide said animal with adequate veterinary care and shall take such steps as may be reasonably necessary in order to protect the health of said animal.

(d) **Same – Authority to Remove an Animal.** If an Animal Control Officer finds that an animal is without the appropriate provisions as stated in (a), (b), or (c), then the Animal Control Officer is authorized to direct the owner that such provisions be immediately provided, or the Animal Control Officer has the authority to remove the animal for the well-being of the animal. It shall be unlawful and a violation of this

Ordinance for a person to fail to comply with such order to provide the appropriate provisions after being instructed to do so.

SECTION 3. EXHIBITION OF ANIMALS.

(a) Unlawful Display. It shall be unlawful and a violation of this Ordinance for any person to exhibit, keep, or display pets, animals, birds, or fowl of any kind in any manner without shading said animals from the sun, and providing adequate food, water, and ventilation for their use and comfort.

(b) Flea Markets – Prohibited Conditions. It shall be unlawful and a violation of this Ordinance for any person to exhibit, keep, display, or sell pets, animals, birds, or fowl at any public or private flea market without providing adequate shelter, water, sanitary conditions, shade, and similar provisions.

(c) Same – Authority to Remove an Animal. If an Animal Control Officer finds that an animal is without the appropriate provisions as stated in (a) or (b), then the Animal Control Officer is authorized to direct the person in charge of the premises or having control of the animal(s) or the person having control of the animal(s) at the flea market that such provisions be immediately provided, or the Animal Control Officer has the authority to remove the animal for the well-being of the animal. It shall be unlawful and a violation of this Ordinance for a person to fail to comply with such order to provide the appropriate provisions after being instructed to do so.

(d) Safety and Proper Care of Animals. It shall be unlawful and a violation of this Ordinance for any person to exhibit or to display pets, animals, birds, or fowl in any manner which endangers the animal's safety or which causes the animal to act in a manner unnatural for the particular species, after being instructed by an Animal Control Officer concerning proper care for the animal or what constitutes actions for an animal unnatural for the particular species.

SECTION 4. ACTS OF CRUELTY PROHIBITED. It shall be unlawful and a violation of this Ordinance for any person to violate any of the provisions of Article 47 of Chapter 14 of the North Carolina General Statutes with respect to cruelty to animals.

SECTION 5. IMPOUNDMENT.

(a) Impoundment for Protection of Animal. If the Animal Control Department determines in its discretion that an animal's life is in immediate danger due to a violation of any of the provisions of this Article VII, the Animal Control Department may impound the same. Impoundment under this subsection (a) shall not affect the application or imposition of such penalties as may be authorized under Article X below. An animal impounded hereunder shall be held and disposed of in accordance with the provisions of Article II above; provided, that no right of redemption by the owner shall be allowed if the animal was impounded due to the owner's violation of any of the provisions of this Article VII; provided further, that the owner shall be liable for the costs of impoundment,

boarding, care, and disposition of the animal, as incurred by the Animal Control Department, which costs may be recovered by the County in the form of additional civil penalties as set forth under Article X below.

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

SECTION 6. PENALTY FOR VIOLATION. The penalty for violation under this Article VII shall be as set forth in Article X below.

ARTICLE VIII. **RABIES CONTROL**

SECTION 1. RABIES CONTROL. The owner of every dog and cat over four (4) months of age shall have the animal vaccinated against rabies and shall comply with all of the terms and provisions of Part 6 of Article 6 of Chapter 130A of the North Carolina General Statutes pertaining to rabies control.

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

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

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

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

SECTION 4. EXEMPTION. The requirements of Section 2 above shall not apply to the owner of a dog during such time as said dog is confined within a fenced enclosure (as defined in Article I, Section 2(k) above).

SECTION 5. PENALTY FOR VIOLATION. The penalty for a violation under this Article VIII shall be as set forth in Article X below.

ARTICLE IX.
COMPLAINTS AND INVESTIGATIONS

SECTION 1. VERBAL COMPLAINTS. Any person may make a verbal complaint to the County of a violation of Article II of this Ordinance, or of an animal which appears to be lost, stray, unwanted, or in imminent danger, or of a violation of Section 3 of Article III of this Ordinance, or of a violation of Article VII of this Ordinance, or of a violation of Section 2 of Article VIII of this Ordinance. All such complaints shall be made by telephone to the County Communications Center, or by telephone or in person to the Animal Control Department. Telephone complaints received by the County Communications Center shall be relayed to the Animal Control Department for such action as may be authorized or appropriate under this Ordinance. A person may elect to make a written complaint to the County concerning violations which fall under this Section 1, in which event the requirements of Section 2 hereunder shall be deemed to apply.

SECTION 2. WRITTEN COMPLAINTS. Any person may make a written complaint to the County of a violation of any provision of this Ordinance. All such complaints shall be on a form prescribed by the County. Such complaints shall be presented to the Animal Control Department. The Animal Control Department shall develop a written complaint form and shall maintain copies of the same at all times, which shall be made available upon request to any person. The form shall require such information as shall be deemed sufficient by the Animal Control Officer to permit a sufficient investigation to determine if a violation has occurred, along with any other information deemed appropriate by the Animal Control Officer. The form shall further require the signature of the person making the complaint.

SECTION 3. EMERGENCY COMPLAINTS. Notwithstanding the provisions of Section 2 above, any person may in the case of an emergency make a verbal complaint through the County Communications Center or directly to the Animal Control Department of a violation of this Ordinance which normally would require a written complaint under said Section 2. Such verbal complaint shall, as soon as practicable after response to the emergency, be confirmed by the complainant in writing on the prescribed form.

SECTION 4. INVESTIGATIONS. The Animal Control Department, upon complaint of a violation of this Ordinance as set forth hereinabove, shall conduct such investigation as it shall deem appropriate in determining whether such violation has occurred and whether impoundment of an animal or inherently dangerous exotic animal is appropriate or required under the provisions of this Ordinance. Investigations may include, but are not limited to, the interviewing of witnesses and taking of written statements, inspection of premises where an animal or inherently dangerous exotic animal is owned or held, reasonable examination of a person or property to determine if injury or damage has been inflicted by an animal under the provisions of Articles III or IV, reasonable examination of an animal being investigated, and such other steps as shall be determined to be necessary or appropriate in carrying out investigations of violations of this Ordinance. The Animal Control Department may if necessary request the assistance of the Wilkes County Sheriff's Department in impounding any animal or inherently dangerous exotic animal as permitted under the provisions of this Ordinance.

SECTION 5. FALSE OR UNFOUNDED COMPLAINTS. It shall be unlawful and a violation of this Ordinance for any person to make a verbal or written complaint under this Article IX which such person knows or has reasonable grounds to believe is false, misleading, or unfounded. The penalty for a violation of this Section shall be as set forth in Article X below.

ARTICLE X.
PENALTIES AND ENFORCEMENT

SECTION 1. PENALTIES.

(a) Misdemeanor. Notwithstanding any civil penalties which may be assessed under subsection (b) below, any person violating any of the provisions of this Ordinance may be found guilty of a Class 3 Misdemeanor under G.S. §§14-4 and 153A-123. For a continuing violation, each day's violation shall be deemed to be a separate offense.

(b) Civil Penalties. In addition to, and not in lieu of, the criminal penalties and other remedies provided by this Ordinance or by State law, a violation of the provisions of this Ordinance may subject the offender to the civil penalties hereinafter set forth. The Animal Control Officer shall be authorized to issue a citation to such person, giving notice of the violation. Citations so issued may be delivered in person or mailed by registered or certified mail to the person charged if such person cannot otherwise be readily located. The civil penalty or penalties set forth in the citation must be paid within seven (7) days of receipt of the citation and shall be paid to the Animal Control Department. For purposes of this subsection (b), a citation is deemed received on the date it is delivered to the person charged, or, in the case of registered or certified mail, on the date the return receipt is signed. The Animal Control Department shall forward all such penalties collected to the Finance Department for the County of Wilkes for application as by law provided. If the person charged fails to pay the civil penalty within the time prescribed, the County may recover said penalty by civil action in the nature of debt; or a criminal summons may be issued against such person charging a misdemeanor violation of this Ordinance under subsection (a) above and, upon conviction, such person shall in addition to the penalties prescribed for said misdemeanor violation of this Ordinance be punished as the court prescribes for failure to pay the civil penalties imposed hereby; or the County may pursue both of said remedies, provided there shall only be one recovery for the civil penalty imposed. The civil penalties for a violation of this Ordinance shall be as follows:

(i) Level One. For a violation of any provisions of Article II, Article VI, or any provisions not otherwise set forth in subdivisions (ii), (iii), (iv), or (v) below, the civil penalty shall be Twenty-Five Dollars (\$25.00) for a first offense, Fifty Dollars (\$50.00) for a second offense, and One Hundred Dollars (\$100.00) for a third or subsequent offense.

(ii) Level Two. For a violation of any provisions of Article III, Section 4 of Article IV, Article V, Article VIII, Section 5 of Article IX, or Section 1 of Article

XI, the civil penalty shall be Two Hundred Fifty Dollars (\$250.00) for a first offense and Five Hundred Dollars (\$500.00) for a second or subsequent offense.

(iii) *Level Three.* For a violation of any provisions of Article IV-A, the civil penalty shall be Five Hundred Dollars (\$500.00) and shall further include such additional amount as shall be necessary to reimburse the County for expenses incurred as set forth in Section 7 thereof; provided, that in the case of a continuing violation, the civil penalty shall be Five Hundred Dollars (\$500.00) for the first day of such offense and Two Hundred Fifty Dollars (\$250.00) for each day said offense continues thereafter.

(iv) *Level Four.* For a violation as set forth in Article VII, the civil penalty shall be Two Hundred Fifty Dollars (\$250.00) for a first offense and Five Hundred Dollars (\$500.00) for a second or subsequent offense, and shall further include such additional amount as shall be necessary to reimburse the County for expenses incurred as set forth in Section 5(a) thereof.

(v) *Level Five.* For a violation as set forth in Section 3(b)(i) of Article IV, Section 3(b)(ii) of Article IV, or Section 3(b)(iv) of Article IV, the civil penalty shall be Five Hundred Dollars (\$500.00) for a first offense and One Thousand Dollars (\$1,000.00) for a second or subsequent (if applicable) offense.

For a continuing violation, each day's violation shall be deemed to be a separate offense for purposes of imposing the civil penalties set forth above. In such cases the citation issued by the Animal Control Officer shall state that the offense is continuing and that a separate civil penalty in the applicable amount is assessed for each day the violation continues. The Animal Control Officer shall not thereafter be required to issue a subsequent citation for the same offense, and all civil penalties as set forth in the initial citation shall be paid for such time as the violation continues, with payment in full to be made no later than seven (7) days following receipt of the citation or seven (7) days following the last day of a continuing violation, whichever occurs last.

SECTION 2. ENFORCEMENT. This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, including but not limited to injunctions and orders of abatement.

ARTICLE XI. GENERAL PROVISIONS

SECTION 1. INTERFERENCE WITH ENFORCEMENT OF ORDINANCE. No person shall interfere with, hinder, or molest the Animal Control Officer or any agents or employees of the Animal Control Department, or the Wilkes County Public Health Director or his designee, in their performance of any duties under this Ordinance, nor seek to release any animal in the custody of the same or of the Animal Shelter unless otherwise specifically authorized by law. The penalty for a violation of this Section shall be as set forth in Article X above.

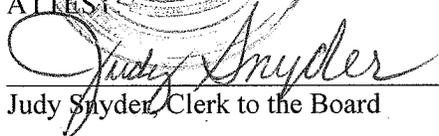
SECTION 2. IMPOUNDMENT AND DESTRUCTION; STATE LAW. All provisions of this Ordinance with respect to the impoundment or destruction of animals shall be subject to the requirements of State law concerning the same, including but not limited to all State statutes and regulations pertaining to rabies control.

SECTION 3. SEVERABILITY. If any part of this Ordinance or any portion or provision hereof, or the application hereof to any person or condition, is held to be invalid, such invalidity shall not affect the remaining parts of this Ordinance or their application to any other person or condition, and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 4. REENACTMENT AND REPEAL OF OTHER ORDINANCES. This Ordinance carries forward by reenactment many of the provisions of the Wilkes County Rabies Control Ordinance (adopted October 22, 1991, and recorded at Book 695, Page 359, Wilkes County Registry); the Wilkes County Animal Control Ordinance (adopted by the Board of Commissioners on June 26, 1995, and recorded at Book 745, Page 483, Wilkes County Registry) as amended under date of April 7, 1997 (recorded at Book 774, Page 577, Wilkes County Registry) and as amended under date of April 20, 2004 (recorded at Book 944, Page 208, Wilkes County Registry); and the Wilkes County Animal Control Ordinance (adopted by the Board of Commissioners on July 5, 2005, and recorded at Book 980, Page 482, Wilkes County Registry). Any provisions of the foregoing which are in conflict with the provisions of this Ordinance, together with any section or part of any other ordinance of Wilkes County or amendment thereto in derogation of or conflict with any of the provisions of this Ordinance, are hereby repealed as of the effective date hereof.

SECTION 5. EFFECTIVE DATE. This Ordinance, as amended, shall be in effect from and after the 1st day of March, 2015.

ON MOTION OF COMMISSIONER DAVID GAMBILL, SECONDED BY COMMISSIONER KEITH ELMORE, THE FOREGOING ORDINANCE WAS READ AND APPROVED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED, PURSUANT TO G.S. §153A-45, ON THE 20th DAY OF JANUARY, 2015, BY A VOTE OF 5 IN FAVOR AND 0 OPPOSED.


ATTEST

Judy Snyder, Clerk to the Board

WILKES COUNTY BOARD OF COMMISSIONERS

By: 
Eddie Settle, Chairman