

TRANSYLVANIA COUNTY ANIMAL CONTROL ORDINANCE

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SECTION 3-1. DEFINITIONS.

The following words, terms, and phrases, whenever used in this ordinance, whether capitalized or not, shall have the meanings specifically ascribed thereto, except where the context clearly indicates a different meaning:

Agricultural Operation: as defined in G.S. 106-701(b); means without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, or livestock/poultry products.

Animal: means every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings or animals defined herein as “Wild” unless otherwise required by law.

Animal Control Officer (ACO): means a county employee with animal control responsibilities.

Animal Services: means the Transylvania County Animal Services Department, and all subparts thereof including without limitation animal control and enforcement and County Animal Shelter operations.

Animal Shelter: as defined in G.S. 19A-23, means any facility used to house or contain seized, stray, homeless, quarantined, abandoned or unwanted animals and which is under contract with, owned, operated, or maintained by a county, city, town, or other municipality, or by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, rehabilitation, or humane treatment of animals. The “County Animal Shelter” as separately defined herein is an animal shelter.

At Large: means any animal off the property of its Owner or Keeper and not under physical restraint.

Bite: means any penetration of the skin by an animal’s teeth, including Wild animals.

Board of Commissioners: means the Transylvania County Board of Commissioners.

Boarding Kennel: as defined in G.S. 19A-23, means a facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats. For purposes of this ordinance only, the foregoing definition shall not include any private residence the owner of which sells no more than five (5) dogs per year which are otherwise maintained within or adjacent to the residential dwelling.

Chief Animal Control Officer (Chief ACO): means the Animal Services Staff Supervisor.

Commercial Animal Establishment: means any Animal Shelter, Boarding Kennel, Dealer, Pet Shop, Grooming Shop, Auction, Riding School or Stable, Zoological Park, circus, or Animal Exhibition.

County Animal Shelter: means any premises designated by the Board of Commissioners for the purpose of serving as a public animal shelter operated by Transylvania County for the benefit of its citizens.

Dangerous Dog: means without limitation any dog defined as such pursuant to G.S. 67-4.1 including: (1) any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; (2) any dog that without provocation has killed or inflicted severe injury on a person; or (3) any dog determined by the Chief ACO to be a “Potentially Dangerous Dog”.

Dangerous Dog Review Committee (DDRC): means the committee duly appointed by the Board of Commissioners of at least three individuals residing in Transylvania County, which may include one law enforcement representative from both Transylvania County and the City of Brevard, and one local veterinarian.

Day: means a period of 24 hours, including Saturdays, Sundays, and holidays.

Dealer: as defined by G.S. 19A-23, means any person who sells, exchanges, or donates, or offers to sell, exchange, or donate animals to another dealer, pet shop, or research facility, provided,

however, that an individual who breeds and raises on his own premises no more than the offspring of five canine or feline females per year, unless bred and raised specifically for research purposes shall not be considered to be a dealer for the purposes hereof

Domesticated: Any animal whose physiology has been determined or manipulated through selective breeding which does not occur naturally in the wild, or which can be vaccinated against rabies with an approved rabies vaccine, and which has an established rabies quarantine observation period.

D/DPD: means a dog that is dangerous and/or potentially dangerous as separately defined herein.

Exposed to rabies: means any animal that has been bitten by, or has potential contact with bodily fluids of any animal known or suspected to have been infected with rabies.

Grooming Shop: means any establishment, whether operated separately or in connection with another business enterprise providing hair and nail clipping, bathing, or other cosmetic services for animals.

Impoundment: means any animal in the custody of a person or animal shelter duly authorized by the Local Health Director, or Chief ACO.

Keeper: means any person having custody or any possessory right of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises owned, occupied or controlled by such person.

Local Board of Health: means the Transylvania County Board of Health.

Local Health Department: means the Transylvania County Health Department.

Local Health Director: means the Health Director of the Local Health Department, or their designee.

Non-Domestic: means not tamed or domesticated

Owner: means any person or legal entity having a possessory property right in an animal.

Person: means any individual, corporation, partnership, association, or other legal entity.

Pet: means any animal kept for amusement, pleasure, or companionship rather than utility.

Pet Shop: as defined in G.S. 19A-23, means a person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

Potentially Dangerous Dog: means without limitation any dog defined as such pursuant to G.S. 67-4.1 including any dog that the Chief ACO determines to have: (1) inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, or (2) killed or inflicted severe injury upon a domestic animal when not on the owners' real property; or (3) approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack. In addition thereto, any dog, whose behavior constitutes a risk of severely injuring or killing a human or domestic animal, or which, by demonstrated behavior, is commonly accepted as dangerous shall be deemed potentially dangerous. A dog declared by the Chief ACO is also a "Dangerous Dog" by definition.

Restraint: means any animal within the real property limits of its owner, secured by a leash or lead, or confined.

Riding School or Stable: means any place which has available for hire, boarding, training or riding instruction any horse, pony, donkey, mule or burro.

Stray: means any unregistered or unlicensed animal deemed to be At Large.

Suspected of having rabies: means any mammal without a current rabies vaccination in accordance with this ordinance, or any mammal that has bitten a human, or any mammal bitten or scratched by a wild mammal (including a bat) if such wild mammal is not available for testing.

Veterinary Hospital: means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and/or treatment of diseases and injuries of animals.

Wild: means an animal living in a state of nature; not tamed or domesticated including but not limited to feral cats.

SECTION 3-2. ANIMAL SERVICES AUTHORITY AND RESPONSIBILITY.

(A) Authority is hereby granted by the Board of Commissioners to the County Manager to establish and maintain an Animal Services program, to employ Animal Control Officers (ACOs) and such other employees as shall be deemed necessary, and to appoint and compensate the same in accordance with the personnel policies of Transylvania County.

(B) Animal Services shall have the following non-exclusive duties and responsibilities to:

1. Enforce the laws of North Carolina and the ordinances of Transylvania County pertaining to animal control, animal cruelty or abuse, animal shelters, and the control of rabies.
2. Investigate all reported animal bites, quarantine any dog or cat involved and suspected of having rabies for a period of not less than ten (10) days, and report to the Local Health Director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
3. Operate the County Animal Shelter in accordance with applicable laws and regulations.
4. Seize and impound, where deemed necessary, any animal in Transylvania County involved in a violation of this or any other county ordinance or state law.
5. Investigate cruelty or abuse with regard to animals.
6. Make such canvasses of the county, including the homes in the county, as necessary for the purpose of ascertaining compliance with this ordinance or state law.
7. Keep, or cause to be kept, accurate and detailed records of all the following:
 - a. Seizures, impoundments, and dispositions of all animals coming into the custody of Animal Services.
 - b. Bite cases, violations and complaints, and investigations of the same.
 - c. All monies belonging to Transylvania County derived from fees, penalties, license tags, sales of animals, and other sources.
 - d. Any other matters as directed by the Board of Commissioners or required by law.
8. Issue citations by and through its ACOs to any person in violation of this ordinance in accordance with the provisions hereof.
9. Place, upon request, County-owned live-capture animal traps on private or public property to trap and remove Stray, At Large, unwanted, or nuisance animals.

SECTION 3-3. CRUELTY TO ANIMALS.

(A) Animal Services is hereby authorized to enforce all state laws related to animal cruelty.

(B) It shall be unlawful for any owner or keeper to fail to provide his animal or animals with proper shelter and protection from the weather, the opportunity for vigorous daily exercise, adequate feed and adequate water as defined within G.S. 19A-23, veterinary care when needed to prevent suffering, and humane care and treatment.

(C) It shall be unlawful for any person to sell or offer for sale, barter or give away within the

county baby chickens, baby ducklings or other fowl under six (6) weeks of age or rabbits under (8) weeks of age as pets, toys, premiums or novelties; provided, however, this section shall not be construed to prohibit the sale thereof in proper facilities by breeders or stores engaged in the business of selling the foregoing for other legitimate purposes.

(D) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

SECTION 3-4. CONTROL OF DANGEROUS DOGS OR POTENTIALLY DANGEROUS DOGS

Except as provided in this section, it shall be unlawful for any person to own or in any way maintain or harbor a dog that has been declared dangerous or potentially dangerous (D/PD).

(A) Process & Appeals:

1. Process for D/PD Declaration

- a. The Chief ACO shall have the authority to declare a dog to be D/PD
- b. The Chief ACO must document such declaration in writing and deliver it in person or by certified or registered mail to the dog's owner or keeper.
- c. The written declaration must summarize the information used to make the decision leading to such declaration, direct compliance with the appropriate provisions of this ordinance and state law, and describe the appeals process.

2. Appeal:

- a. The owner of a dog that has been declared D/PD has the right to properly appeal the initial declaration to the Dangerous Dog Review Committee (DDRC).
- b. To be properly appealed, any request for an appeal there from must be made in writing and must be actually delivered to the DDRC c/o the County Operations Manager, or otherwise mailed thereto bearing a postmark, within 5 days of receipt by the owner of the written declaration from which the appeal is sought.
- c. While the appeal to the DDRC is pending, the owner or keeper of the dog must comply with all provisions of this ordinance pertaining to D/PD dogs except with respect to any tattooing or micro chipping requirements.
- d. The DDRC shall schedule a quasi-judicial hearing within 10 days of receiving the written request for an appeal to determine whether to affirm, remand for further consideration, or overturn the Chief ACO's declaration. The DDRC's decision shall be issued in writing within 10 days of its decision.
- e. Any appeal from the final decision of the DDRC shall be taken to the Transylvania County Superior Court by filing notice of appeal and a petition for review therewith within 10 days of the final decision of the DDRC.
- f. While any appeal to the Transylvania County Superior Court is pending, the owner or keeper of the dog must comply with all

provisions of this ordinance pertaining to D/PP dogs except with respect to any tattooing or micro chipping requirements.

- g. Failure to file any appeal within the applicable deadline shall result in the owner or keeper being deemed to have waived its right to file an appeal, and the owner or keeper shall thereafter immediately comply with all provisions of this ordinance.

- 3. Exceptions: A dog shall not be considered D/PP in the following situations:
 - a. Where used by law enforcement to carry out official law enforcement duties;
 - b. Where used in a lawful hunt;
 - c. Where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was legally working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog;
 - d. Where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(B) D/PP Dog Restrictions: The owner of a D/PP dog may keep the dog only if all the following conditions are satisfied on an ongoing and continuous basis:

- 1. Enclosures and Control Measures:
 - a. The owner must ensure that the dog remains either confined or controlled and muzzled as described below at all times. Failure to comply shall subject the owner to prosecution and/or penalties under this ordinance or state law.
 - i. Confined: The dog may be confined inside the owner's or keeper's residence. Alternatively, the dog may be confined inside a securely enclosed and locked pen with a concrete bottom and secure top. The lock must require a combination or key to open. Both the pen and the lock shall be subject to inspection and approval by Animal Services.
 - ii. Restrained and muzzled: If the dog is not confined as described above, it must be muzzled, restrained on a leash or chain, and controlled by a competent person at all times.
 - b. The owner must immediately post one or more warning signs indicating that a D/PP dog is on the property. The signs must include both a written statement as well as a graphic representation of a dangerous looking dog for illiterate persons or children. The sign must be approved by the Chief ACO and must be at least 120 square inches in size. At least one sign must be posted in a clearly visible manner at each entrance to any residence or enclosure in which the D/PP will be kept or confined at any time.
- 2. Within 10 days of exhausting all available appeals or otherwise within 10 days of the expiration of any applicable appeal deadline, the owner must ensure that the dog is either tattooed on the inside of the right hind leg with an identification

number or micro chipped. The owner must provide the Chief ACO with a signed written statement containing the identification number or micro chip identifier used within 72 hours.

3. ACOs and law enforcement officials may conduct periodic inspections of the owner's property to evaluate compliance with this ordinance. If the owner refuses to permit such inspections, the ACOs in conjunction with law enforcement officials may seek an administrative inspection warrant to conduct a periodic inspection.
4. If the owner transfers ownership or possession of a dangerous or potentially dangerous dog to someone else, the restrictions on the dog shall transfer to the new owner or keeper. Prior to transferring ownership thereof, the owner must obtain a "Transfer of Ownership" form from Animal Services explaining the dog has been declared D/PD and outlining the restrictions placed thereupon. The person assuming ownership must sign the form and the signature must be notarized. The signed and notarized form must be returned to the Chief ACO prior to the animal being transferred to the new owner.

(C) Violations

1. If an owner or keeper of a D/PD dog fails to comply with any requirement in this section:
 - a. They may be charged criminally pursuant to this ordinance, in which event the dog may be immediately impounded, and shall be euthanized in the event of a criminal conviction under this section; and/or
 - b. They may be issued a civil citation and assessed for civil penalties pursuant to this ordinance.
2. If the owner of a D/PD dog impounded under this section is found to not be in violation of this section either criminally or civilly, the dog shall be released from impoundment and all impoundment costs shall be paid by the owner or keeper at the daily rate established by the Board of Commissioners.
3. Any D/PD dog shall not be offered by adoption through any animal shelter.
4. Any dog that kills a person shall be impounded by Animal Services.

(D) D/PD Dog Reporting requirements

1. A report to the Transylvania County Animal Services Office shall be made by contacting the Transylvania County 911 Center within 24 hours of any of the following events by the persons specified herein:
 - a. If any dog attacks or bites a person or domestic animal, it shall be reported by:
 - i. The owner and keeper, if different, of such dog; and
 - ii. Each victims of the attack or bite; and
 - iii. Each witness to the attack or bite; and
 - iv. Each veterinarian treating a domestic animal for the attack or bite; and
 - v. Each healthcare professional treating a person for the attack or

bite.

- b. If there is a change in address, ownership or possession of a D/PD dog, the same shall be reported by the owner or any keeper thereof; or
- c. If a D/PD dog is removed from the territorial jurisdiction of the county, the same shall be reported by the owner or any keeper thereof.

2. Failure to comply with this section may result in criminal prosecution and/or civil remedies including the assessment of penalties as otherwise provided herein.

(E) The owner of any D/PD dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon any person, his property or another animal as per G.S. 67-4.4.

SECTION 3-5. ANIMALS CREATING NUISANCE PROHIBITED.

(A) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701. Each of the following non-exclusive conditions shall constitute a nuisance for purposes of this ordinance:

1. Maintaining animals in an unsanitary environment which results in odors considered excessive to a reasonable person, or which are dangerous to the animal or other animals, or are dangerous to the public health, safety, or welfare, or which constitute a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
2. Maintaining the owner's or keeper's property in a manner that is offensive, annoying or dangerous to the public health, safety, welfare of community because of the number, type, variety, density, or location of animals on the property. This includes but shall not be limited to harboring of wild or feral animals which threaten the public health, safety, and/or welfare.
3. Maintaining an animal that is diseased and/or dangerous to the public health.
4. Harboring, keeping, owning, or possessing an animal which is repeatedly At Large (more than once).
5. Allowing an animal to habitually do any of the following: chasing bicycles or motor vehicles or pedestrians, damage private or public property, turn over garbage cans or deposit feces on another's private property or on public property.

(B) In addition to any other available remedies, if an ACO determines an animal to be a nuisance under this ordinance, then such ACO is authorized to order the owner or keeper to confine such animal in accordance with the Chief ACO's instructions and it shall be unlawful for the owner or keeper to fail to comply with such an order.

(C) Where a nuisance is determined to exist, the owner or keeper shall be notified and ordered to abate said nuisance within 10 days by whatever means necessary. Failure to

comply with this time frame shall constitute a separate offense for each day thereafter the violation continues. No civil penalty shall accrue during that initial 10 day warning period.

- (D) The owner or keeper of an animal that has been declared a nuisance under this section has the right to properly appeal such declaration to the Transylvania County Operations Manager. Any request for an appeal there from must be made in writing and must be actually delivered to the County Operations Manager or otherwise mailed thereto bearing a postmark within 5 days of receipt by the owner or keeper of the written declaration from which the appeal is sought. While any appeal is pending the owner or keeper of the animal to which it pertains must comply with any confinement and/or abatement order received pursuant to this ordinance. The County Operations Manager shall review the request for an appeal and issue a written decision within 30 days of the receipt thereof affirming, remanding for additional consideration, or overruling the decision from which the appeal is sought and summarizing the information used to reach such decision.

SECTION 3-6. LURING, ENTICING, SEIZING, MOLESTING, OR TEASING AN ANIMAL.

It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper.

SECTION 3-7. COMPLIANCE WITH, SUPPLEMENTAL TO STATE RABIES LAWS.

- (A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- (B) It is the purpose of this ordinance to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to any other criminal penalties provided therefore by state law.

SECTION 3-8. VACCINATION OF DOGS, CATS, AND OTHER PETS.

- (A) Should it be deemed necessary by the Local Health Director or the Local Board of Health that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccinations against rabies for that pet.
- (B) All prophylaxis vaccine shall be administered to animals by a licensed veterinarian or a certified rabies vaccinator.

SECTION 3-9. VACCINATION TAG AND CERTIFICATION.

- (A) 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 attached tag, must be worn at all times.
- (B) 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, or to otherwise knowingly create or use a false tag.

SECTION 3-10. NOTICE TO LOCAL HEALTH DIRECTOR WHEN PERSON BITTEN, CONFINEMENT OF ANIMAL.

- (A) When a person has been bitten by a dog or cat, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the same in his possession or under his control, to notify the Local Health Director or person duly authorized by the Local Health Director immediately and give their names and addresses. It shall be the duty of every physician, after his first professional attendance upon a person bitten by an animal known to be a potential carrier of rabies, to report to the Local Health Director the name, age and sex of the person so bitten, and precise location of the bite wound. **Non-bite exposures, as defined by the Center for Infectious Diseases, CDC (MMWR 1991;40:1-6), should be reported to the Local Health Director and post-exposure treatment should be consistent with the Advisory Committee on Immunization Practices (ACIP) recommendations (MMWR 1991;No. RR-3:1-16).** If the owner of, or a person who has in his possession or under his control an animal having rabies or suspected of having rabies refuses to confine the animal as required by this ordinance or by G.S. 130A-198, the Local Health Director may order seizure of the animal and its confinement for ten (10) days in such place as the Local Health Director designates.
- (B) Law enforcement agencies investigating animal bites, shall report such bites immediately to the Local Health Director or person duly authorized by the Local Health Director and give the names and addresses of persons bitten and the owner of the animal.
- (C) Animals confined per (A) above shall not be released from confinement except by permission from the Local Health Director.
- (D) Animals confined per (A) above shall be confined at the expense of the owner or keeper.
- (E) In the case of an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this ordinance at the County Animal Shelter.
- (F) Injured, diseased, or suffering animals which are suspected of having rabies may be humanely destroyed immediately and shall be disposed of as provided within Section 3-14 hereof.

SECTION 3-11. DESTRUCTION OR CONFINEMENT OF ANIMAL BITTEN BY A KNOWN RABID ANIMAL.

Owners of animals not vaccinated against rabies which are bitten by a known rabid animal shall comply with all applicable state laws.

SECTION 3-12. AREA-WIDE EMERGENCY QUARANTINE.

All area wide orders for quarantine shall be consistent with applicable state laws.

SECTION 3-13. POSTMORTEM DIAGNOSIS.

- (A) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the Local Health Department for shipment to the Laboratory Services Division of the North Carolina Department of Environment, Health and Natural Resources for rabies diagnosis.
- (B) The carcass of any animal suspected of dying of rabies shall be surrendered to the Local Health Department. The head of such animal shall be shipped to the Laboratory Services Division of the North Carolina Department of Environment, Health and Natural Resources for rabies diagnosis.

SECTION 3-14. FAILURE TO SURRENDER ANIMAL FOR CONFINEMENT OR DESTRUCTION.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this ordinance, when demand is made by the Local Health Director.

SECTION 3-15. IMPOUNDMENT.

- (A) Any animal which appears to be lost, stray or unwanted, or not wearing a currently valid rabies vaccination tag, as required by state law or this ordinance, or not under restraint in violation of this ordinance, may be seized, impounded, and confined in a humane manner in the County Animal Shelter.
- (B) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this ordinance or state law.
- (C) Animals confined per (A) above shall be confined at the expense of the owner or keeper.

SECTION 3-16. NOTICE TO OWNER OR KEEPER.

- (A) Upon impounding an animal, other than owner surrendered, injured, diseased, or unweaned animals, notice of such impoundment shall be posted for a minimum of 72 hours

prior to disposal thereof unless otherwise required by law, beginning with the time the animal enters the County Animal Shelter, and continuing until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.

(B) Such notice shall include the time and place of the taking of such animal and shall be prominently displayed at the County Animal Shelter.

SECTION 3-17. REDEMPTION BY OWNER OR KEEPER GENERALLY.

(A) The owner or keeper of an animal impounded under this ordinance may redeem the animal and regain possession thereof within 72 hours after notice of impoundment is posted as required by this ordinance by paying any applicable fees as determined by the Board of Commissioners.

(B) The owner or keeper of an impounded animal shall pay the following redemption fees prior to redemption of the animal:

1. pick-up charge(s) when the animal is transported by ACOs; and
2. daily boarding charges, when the animal is impounded at the County Animal Shelter for more than 24 hours. No daily boarding charges are assessed for the first 24 hours of impoundment;
3. other expenses incurred, such as rabies vaccinations and veterinary medical care.

(C) No animal owner or keeper may be permitted to adopt his own animal under the provisions of this ordinance, but he must comply with the provisions of this ordinance in order to reclaim an animal that has been impounded pursuant to state law or this ordinance.

(D) The provisions of this section shall have no application with respect to animals surrendered by the owner or keeper to Animal Services for immediate adoption or destruction as provided for in Section 3-22.

SECTION 3-18. ADOPTION OF IMPOUNDED DOGS AND CATS.

(A) Any person adopting a dog or cat from the County Animal Shelter shall be required to sign an Adoption/Medical contract with the County Animal Shelter (the major provisions of which are outlined below).

(B) All animals adopted from the Transylvania County Animal Shelter will be spayed or neutered prior to adoption unless the health of the animal does not permit such surgery. Individuals adopting an animal that is too young to be altered will be required to pay the fee and sign the contract requiring that the animal be altered prior to the date placed on the adoption form by animal shelter staff.

(C) Bonafide Animal Rescue Groups that pull animals from the shelter accept the responsibility for ensuring that the animal is spayed or neutered prior to adoption or when

age appropriate unless the health of the animal does not permit such surgery. The adoption fee is waived for Bonafide Animal Rescue groups. Animal Rescue Groups are responsible for vaccination fees administered by the Animal Shelter.

- (D) The Board of Commissioners shall establish uniform adoption fees and vaccination fees from time to time applicable to adoption of animals from the County Animal Shelter. All adopting parties shall be required to pay the adoption fee prior to possession of the adopted animal.
- (E) Except as provided within section 3-18 above, an adopting party shall not be required to pay any boarding or redemption fee for adopting a dog.
- (F) The County shall agree to provide an exchange for any animal that for no reason of the adopting party requires major medical treatment or dies of natural causes within 30 days from the date of adoption under the following conditions only:
 - 1. Any major medical treatment must be certified as reasonably necessary by a licensed veterinarian;
 - 2. In the event that the adopted animal dies during the 30 days following adoption, the adopting party must present satisfactory evidence (e.g., the carcass of the animal or a veterinarian's certification) of the date of the death of the animal;
 - 3. The exchange request must be made within 30 days from the adoption contract date.

SECTION 3-19. DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMAL GENERALLY.

- (A) If an impounded animal is not redeemed by the owner or keeper within the period prescribed in Section 3-18 it may be destroyed in a humane manner or shall become the property of the County Animal Shelter and offered for adoption to a responsible adult who is willing to comply with this ordinance and with policies promulgated by the Board of Commissioners.
- (B) No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from any Animal Shelter during a period of emergency rabies quarantine invoked pursuant to this ordinance, except by special authorization of the Local Health Director.

SECTION 3-20. PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.

- (A) Unless proof of a current rabies vaccination can be furnished, every dog or cat adopted or redeemed at any Animal Shelter will be given a rabies vaccination, proof of which shall be provided to the Chief ACO within 72 hours thereof, and payment for which shall be the responsibility of the person redeeming or adopting the animal, except that:

(B) Persons adopting animals less than 4 months of age are required within 10 days of the animal reaching 4 months of age to either obtain the rabies vaccination at the veterinarian of their choice and provide proof thereof to the Chief ACO within 72 hours thereof, or bring the animal to the County Animal Shelter for vaccination.

SECTION 3-21. PLACEMENT FOR ADOPTION OR DESTRUCTION OF OWNER SURRENDERED ANIMALS.

(A) Any animal surrendered by its owner to Animal Services may be placed for adoption or humanely destroyed pursuant to G.S. 130A-192 when:

1. The owner directs in writing that the animal be placed for adoption or humanely destroyed; and
2. The owner affirmatively represents in writing that he or she is in fact the legal owner of said animal; and
3. The owner agrees that he or she will indemnify and hold Transylvania County harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of said animal; and
4. The owner transfers ownership of said animal to Animal Services and releases Transylvania County from any and all future claims with respect to the animal.

(B) Upon receiving said assurances, Animal Services may rely on the same and place said animal for adoption, or destroy said animal, as deemed appropriate.

SECTION 3-22. DESTRUCTION OF INJURED, DISEASED, OR UNWEANED ANIMALS.

Notwithstanding any other provision of this ordinance, any animal seized and impounded which is injured, diseased (not a rabies suspect), or un-weaned and has no identification shall be destroyed in a humane manner as set forth in G.S. 130A-192. If the animal has identification, Animal Services shall attempt to notify the owner or keeper before disposing of such animal.

SECTION 3-23. DESTRUCTION OF ANIMALS WHICH CANNOT BE SEIZED BY REASONABLE MEANS.

Notwithstanding any other provision of this ordinance, an animal which cannot be seized by reasonable means may be humanely destroyed as set forth in G.S. 130A-192, by order of the Chief ACO.

SECTION 3-24. INJURING ANIMALS, NOTICE REQUIRED.

It shall be unlawful for any person injuring an animal to fail to notify immediately the owner or keeper of said animal, or an ACO, or a local law enforcement agency.

SECTION 3-25. KEEPING STRAY ANIMALS; REQUIREMENTS, SURRENDER.

Repealed.

SECTION 3-26. COMMERCIAL ANIMAL ESTABLISHMENT.

This ordinance shall not apply to those specific areas of operation of a commercial animal establishment which are licensed and regulated under Chapter 19A of the General Statutes or by an agency of the United States Government.

SECTION 3-27. NONDOMESTIC ANIMALS PROHIBITED.

No person shall possess or harbor any non-domestic animal or animals which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section shall not apply to bona fide circuses, petting zoos, and other traveling commercial or educational animal exhibits of limited duration.

SECTION 3-28. INTERFERENCE WITH ENFORCEMENT.

- (A) It shall be unlawful for any person to interfere with, hinder or molest the employees of the Local Health Department or Animal Services or persons duly authorized to enforce this ordinance, or to seek to release any animal in the custody of such persons, unless otherwise specifically provided.
- (B) It is unlawful for any person other than an employee of the Animal Services, or persons duly authorized by this ordinance or state law, to remove any animal from a trap or to damage, destroy, or move, or tamper with any trap set by Animal Services.

SECTION 3-29. VIOLATION, ENFORCEMENT, AND PENALTIES

This ordinance may be enforced in accordance with any and all applicable local ordinances or state laws, including but not limited to those set forth in G. S. 153A-123.

- (A) Criminal Enforcement: The violation of any provision of this ordinance shall be a misdemeanor, and any person convicted of such violation shall be punishable as provided in G.S. 14-4 or other applicable law. Each violation of this ordinance (or if a continuing violation, each day in which the violation continues) is a separate offense. Each violation for each animal is a separate offense. Payment of any fine imposed in criminal proceedings pursuant to this section does not affect the liability for fees or civil penalties imposed under this chapter.
- (B) Specific & Equitable Enforcement: This ordinance may be enforced by seeking an injunction or order of abatement against any unlawful condition or activity in violation hereof pursuant to G.S. 153A-123 or other applicable law. Such remedies may be sought in addition to, or together with, any and all other available remedies provided for herein including but not limited to any equitable remedies available which a court of competent jurisdiction deems just and proper.

(C) Civil Penalties. Violations of this ordinance shall subject the offender to civil penalties as set forth hereinbelow in addition to, and independent of, any other criminal or civil remedies provided for herein.

1. Civil citation. Issuance of a civil citation for violation of this ordinance is directed toward and against the owner or keeper in violation hereof for the purpose of affecting the conduct thereof to insure compliance with this ordinance. The issuance of any civil citations hereunder shall not affect the prosecution of any violation hereof as a misdemeanor in addition thereto as otherwise authorized and provided herein.
2. Any civil citation issued hereunder shall:
 - a. Contain a notice of the violation(s) alleged hereunder including a summarization of the activity or conduct constituting such violation(s);
 - b. Identify the specific civil penalty(s) for such violation(s);
 - c. State the date by which any penalty(s) assessed therefore must be paid;
 - d. Direct that payment be made to the County Finance Department; and
 - e. Contain a notice that failure to pay any civil penalty(s) when due is an additional violation of this ordinance for which criminal prosecution may be sought, and that the County may initiate a civil action to collect any unpaid civil penalty(s) together with the costs of such action as provided herein.
3. ACOs and County Law Enforcement Officers may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this ordinance, a civil citation which may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot be readily found. The citation shall impose upon the violator a civil penalty of \$50.00 for each violation hereof, or such other amount for violations of specific provisions of this ordinance as may otherwise be specified herein. The imposed civil penalty shall be paid in full to the County Finance Department within 30 days of receipt of the citation assessing such civil penalty. This civil penalty shall be in addition to any other fees or costs authorized to be charged or collected by this ordinance.
4. In the event any person receiving a citation under this ordinance fails to respond thereto or otherwise fails to pay the civil penalty within the time period prescribed:
 - a. A civil action may be commenced to recover the penalty and any and all costs associated with the collection thereof including but not limited to court costs and reasonable attorneys' fees to the extent allowed by law; and/or
 - b. A criminal summons may be issued against the violator and upon conviction; the violator shall be punished as provided by state law. The Chief ACO is expressly authorized hereunder to initiate small claims actions in the Magistrate's Court of Transylvania County to collect civil penalties and fees assessed under this ordinance and due to the County, and may call on the County Attorney for assistance as needed.
5. Any person who fails to pay a fine within a period of 30 days after receiving a citation shall be deemed to have committed a misdemeanor for violating this ordinance, and a warrant may be issued for the person's arrest. Prosecution under

this section shall require proof of occurrence of underlying facts giving rise to the notice of citation.

6. Each violation of this ordinance (or if a continuing violation, each day in which the violation continues) is a separate offense for which a separate civil citation and/or penalty may be assessed hereunder. Each violation for each animal is a separate offense for which a separate civil citation and/or penalty may be assessed hereunder. Notwithstanding anything to the contrary within this ordinance, each violation of any of the following specifically enumerated provisions of this ordinance shall result in the written warning or civil penalty corresponding specifically thereto being assessed therefore:

Section Violated	Description	Civil Penalty/Fee
3-3(B)	Cruelty to animals	\$500 (per day)
3-4	D/PD Unattended/loose/unrestrained	\$500 (per day)
3-4(B)2	D/PD Failing to Tattoo or Microchip	\$500 (per day)
3-4(B)4	D/PD Failing to present proof of transferee	\$500 (per day)
3-4(D)	D/PD Failing to notify Of certain changes	\$500 (per day)
3-5	Nuisance	First Violation: Written Warning Second Violation: \$50 (per day until abated) Subsequent Violations: \$100 (per day until abated)
3-30	Interfering with enforcement	\$500 (per incident)
3-30(B)	Releasing animal from, tampering, or damaging a County trap	\$100 (per incident)

7. Violations of this ordinance taking place over continuous days for which a separate penalty for each day thereof is assessable shall be capped at ten days per animal per violation unless there is evidence suggesting that the person has tried to interfere with Animal Services or obstruct justice in which event no cap shall apply.

SECTION 3-30. LEGAL STATUS PROVISIONS.

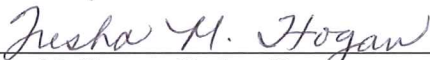
- (A) This ordinance shall be in full force and effect immediately upon its adoption by the Transylvania County Board of Commissioners, and shall amend and supersede any and all previously existing Animal Control Ordinances existing within Transylvania County prior to the adoption hereof.
- (B) If any provision or provisions of this ordinance shall be deemed by a court of law having jurisdiction over such matters to be unenforceable, invalid, or unconstitutional for any reason, such determination shall not affect the validity of this ordinance as a whole or any part hereof that is not specifically determined and declared thereby to be unenforceable, invalid, or unconstitutional.
- (C) Conflict of Laws or Ordinance Provisions:
Whenever the regulations of this ordinance conflict with one another, or with the requirements of any other statute, the more restrictive regulation shall be deemed to control and govern.

This ordinance adopted this 8/26/2013. (Date Approved)



Mike Hawkins, Chair
Transylvania County Board of Commissioners

ATTEST:



Trisha M. Hogan, Clerk to Board

