

## PITT COUNTY DANGEROUS DOG ORDINANCE

WHEREAS, the Pitt County Board of Commissioners has received recommendations from the Pitt County Animal Control Advisory Board for the creation of a local Dangerous Dog Ordinance; and

WHEREAS, the Board of Commissioners finds the same to be in and to promote the public health, safety and welfare,

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

### Section 1. Definitions

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

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

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

**Dangerous dog:** Any of the following dogs:

- A. A dog that without provocation has killed or inflicted severe injury on a person; or
- B. A dog that has been determined as provided herein to be potentially dangerous.

**Dog:** A domesticated animal (*canis familiaris*) of the Canidae family; provided that no wild specie of the Canidae family, such as a wolf, fox, or coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings.

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

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

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

**Owner:** Any person or legal entity that has a possessory property right in a dog, including the harbinger or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

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

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

- A. Killed or inflicted severe injury upon a domestic animal when not on the real property of the owner of the dog; or
- B. Approached a person when unrestrained and not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

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

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

**Vicious dog:** Any of the following dogs:

- A. A dangerous dog, as defined herein, that after having once committed an act making it a dangerous dog or having been determined hereunder to be a dangerous dog, commits a subsequent attack on a person or domestic animal.
- B. A dog that, without provocation, has killed or inflicted severe injury on a person.

## **Section 2. Application of Ordinance; Exceptions**

The provisions of this Ordinance do not apply to:

- A. A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;
- B. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, keeper or harbinger, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
- C. A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

## **Section 3. Reporting Requirements**

- A. *Report required:* (i) An owner, keeper or harbinger of a dangerous dog or a dog that has attacked or bitten a person or domestic animal; (ii) a victim of or person witnessing such an attack or biting; (iii) a veterinarian treating a domestic animal for such an attack or biting; or (iv) a health care professional treating a person for such an attack or biting, shall report the following events to the Animal Control Department within three (3) business days after the event has occurred:
  - 1. Any attack or biting by a dog upon any person or domestic animal, or
  - 2. The transfer, gift, sale, or other conveyance of ownership or possession of a potentially dangerous or dangerous dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.
- B. *Report data required:* The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the Animal Control Director.

#### **Section 4. Determination That a Dog is Potentially Dangerous, Dangerous or Vicious**

- A. *Generally.* Upon a complaint, or when he has reasonable suspicion, that a dog is potentially dangerous, dangerous or vicious, the Animal Control Director or his designee shall make a determination whether or not such dog is potentially dangerous, dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in a writing which summarizes the available evidence and which shall be mailed certified mail, return receipt requested, to both the complainant and the dog owner. If the determination is made that the suspect dog is potentially dangerous, dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this Ordinance and the Director may impose reasonable conditions to maintain the public health and safety. The Director or his designee shall assess appropriate civil penalties if he determines that violations of this Ordinance have been established and may elect to pursue other remedies authorized by law.
- B. *Appeals from determinations.*
1. Any party having a direct interest in the matter and aggrieved by any determination as provided in this Ordinance may within three (3) business days of receiving such determination appeal such determination in writing, within three (3) business days to the Animal Control Board. The ruling of Animal Control Board shall be final, subject only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Pitt County, filed within ten (10) days of the date of the final determination by the Animal Control Board.
  2. Any determination of the Animal Control Director under Section 3-28(A) may be appealed to the Animal Control Board by filing written objections with the Chairman of the Animal Control Board within three (3) days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) business days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail-return receipt requested, and file it concurrently with the Animal Control Director and the Office of the Pitt County Attorney. Any decision of the Animal Control Board concerning any appeal provided for in this Ordinance other than under Section 3-28(A) shall be final.
  3. Any appeal hearing before the Animal Control Board shall be conducted as follows:
    - a. The hearing shall be subject to the Open Meetings Law, and the notice required thereunder shall be posted and given as applicable;
    - b. The parties may appear pro se or be represented by an attorney;
    - c. Any person adversely affected by the appeal may appear and participate fully in the proceeding;
    - d. Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
    - e. Participants shall be entitled to the right of cross examination;
    - f. The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
    - g. Any participant shall be entitled to transcribe the proceeding at his own cost;
    - h. The Animal Control Board may affirm, deny, or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable,

shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.

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

## **Section 5. Registration Required**

- A. *Generally.* Any person owning, keeping, or harboring a dog determined as set forth above to be potentially dangerous or dangerous shall register such dog with the Animal Control Department within five (5) days of such determination or may, in lieu of any hearing, register such dog voluntarily, which such voluntary registration shall constitute an admission and determination that the dog is potentially dangerous or dangerous.
- B. *Relief from civil penalty.* Voluntary registration of a potentially dangerous or dangerous dog by the owner, keeper or harbinger thereof prior to a determination that a dog is potentially dangerous or dangerous, or within five (5) days (I) of an event establishing reasonable cause to believe that a dog is potentially dangerous or dangerous, or (II) of the acquisition of a potentially dangerous or dangerous dog, whichever later occurs, shall relieve such person from assessment of a civil penalty for any violation of this Ordinance occurring between such date, event or acquisition and the date of registration.
- C. *Permanent identification mark required.* Each dog registered as set forth above shall be assigned a registration number by the Animal Control Department, which shall be affixed to the dog by permanent chip implant, tattoo or some other permanent means by or at the expense of the owner, keeper or harbinger of the dog. No person shall remove such identification mark once it is assigned and affixed.

## **Section 6. Permit Required**

- A. *Generally.* After registration of a potentially dangerous or dangerous dog, or after a determination that such dog is potentially dangerous or dangerous, no person shall own, keep or harbor such dog thereafter within the territorial jurisdiction of this Ordinance without applying for and obtaining a permit from the Animal Control Department.
- B. *Issuance of permit.* The Animal Control Department shall issue a permit for a potentially dangerous or dangerous dog only upon submission of a complete, verified application, payment of the permit fee, and a finding by the director or his designee that required arrangements for housing of the dog and other public health and safety provisions are in effect, and that each dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare if the permittee shall comply with the provisions of this Ordinance and the conditions of the permit. Each permit shall be conditioned on continued compliance with the provisions of this Ordinance and other provisions of law, on continued compliance with and maintenance of the arrangements for housing and safety set forth in the permit application, and any special conditions the Director may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog concerned.
- C. *Temporary permits.* Following the registration of a potentially dangerous or dangerous dog or the impoundment of such a dog, upon application therefor and for good cause, the Director may issue a temporary permit allowing the owner, keeper or harbinger of a registered potentially dangerous or dangerous dog to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Director. A temporary permit also may be issued to allow the transport of a potentially dangerous or dangerous dog from the territorial jurisdiction of this Ordinance. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Director may deem necessary to protect the public health, safety and welfare consistent with the provisions of this Ordinance. A temporary

permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of subparagraph (B).

- D. *Term of permits and renewal thereof.* No permit shall be issued under subparagraph (B) for a term of more than three (3) years but may in the Director's discretion be issued for a shorter period. Permits may be renewed, subject to the same terms and conditions required for initial permits.
- E. *Revocation of permits.* The Director may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the Director deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this Ordinance or with any term, condition or provision of a permit.
- F. *Inspections.* The Director shall cause periodic inspections to be made of the premises of a permittee to assure compliance with the provisions of this Ordinance and the applicable permit.
- G. *Insurance.* Every person owning, keeping or harboring a dog that has been declared potentially dangerous or dangerous shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be one hundred thousand dollars (\$100,000.00) personal injury or property damage, per occurrence. Such person shall cause a certificate or declaration of insurance to be furnished to the Director annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this Ordinance.

## **Section 7. Regulation of Potentially Dangerous, Dangerous and Vicious Dogs.**

No person shall own, keep or harbor a potentially dangerous, dangerous or vicious dog except in compliance with all provisions of this Ordinance, including:

- A. *Potentially Dangerous and Dangerous Dogs.* Potentially dangerous and dangerous dogs shall be subject to the following regulations:
  - 1. Such dog shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:
    - a. In a building with doors, windows, and other exits securely fastened shut under the supervision and control of a responsible adult person capable of such supervision and control.
    - b. Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.
    - c. While outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible and competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - 2. No person owning, keeping, or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the animal shelter, to remove such dog permanently from the territorial jurisdiction of this Ordinance, or to provide bona fide exercise necessary for the dog's continued good health. In the event of such removal, such dog shall be securely restrained or enclosed as set forth above for dogs being maintained outside buildings.

3. Such dog shall be sterilized within 30 days of the date that the dog was declared potentially dangerous or dangerous by the Animal Control Director, or if the declaration by the Director is timely appealed, then such sterilization shall occur within 30 days of the date that the Animal Control Board determines that the dog is potentially dangerous or dangerous.
- B. *Signage.* Any owner of a potentially dangerous or dangerous dog shall erect a sign (2' x 2') on the enclosure housing said dog which shall read:

BEWARE OF DOG  
THIS DOG IS DANGEROUS  
STAY AWAY!

- C. *Vicious dogs.* No person shall keep or harbor a vicious dog within the territorial jurisdiction of this Ordinance, except as follows:
1. Pending appeal, in the care and custody of a veterinarian, at the owner's sole expense, for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog.
  2. Pending appeal, in the custody of the animal shelter, at the owner's sole expense, pending disposition in accordance with the provisions of this Ordinance.
  3. Upon exhaustion of all appeals, a vicious dog shall be surrendered to the animal shelter to be humanely disposed of in accordance with the rules and regulations of the animal shelter..

#### **Section 8. Impoundment of Potentially Dangerous and Dangerous Dogs**

- A. *Apprehension and surrender.* Upon an initial determination or upon registration of a dog to be potentially dangerous or dangerous, or if the Director has reasonable suspicion to believe that a potentially dangerous or dangerous dog is being kept or harbored within the territorial jurisdiction of this Ordinance in violation of it or of a permit issued hereunder, Animal Control Officers and law enforcement officers of Pitt County and of any municipality subject to this Ordinance shall impound such dog. It shall be a violation of this Ordinance to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the animal shelter.
- B. *Confinement.* A dog impounded by or surrendered to an Animal Control Officer or law enforcement officer as provided herein shall be confined in the animal shelter or, upon request of the owner, keeper or harbinger of the dog, or a permittee hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Director, subject to the following conditions:
1. *Costs of impoundment.* Impoundment shall be at the expense of the owner, keeper or harbinger of the dog, or of the permittee. Costs of impoundment at the animal shelter shall be paid by the person liable therefor at the daily rate therefore. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Pitt County or any municipality subject to this Ordinance be liable for or pay for impoundment at such private facility or kennel.
  2. *Release from impoundment.* No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance as provided herein of a permit or temporary permit allowing such release. No such dog shall be released from the animal shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.

3. *Disposition of unclaimed or abandoned dogs.* The following dogs impounded at the animal shelter pursuant to this Ordinance shall be deemed abandoned and disposed of in accordance with the provisions of this Ordinance and the rules and regulations of the animal shelter:
  - a. Any dog which remains unclaimed by its owner, keeper or harborer or permittee thereof for a period more than ten (10) days or a period of lawful quarantine, whichever is longer.
  - b. Any dog claimed by its owner, keeper or harborer, which is confined for a period in excess of ten (10) days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Director shall extend such time upon a showing of justifiable delay in such action by the owner, keeper, harborer or permittee thereof.

### **Section 9. Violations, Penalties and Other Remedies**

- A. *Violations.* Each act or conduct prohibited by this Ordinance and each failure to comply with a mandatory provision of this Ordinance shall constitute a violation. Each day's continuing act or conduct prohibited hereby and each day's continuing failure to comply shall constitute a separate and distinct offense. Violations shall subject the violator to civil penalties and to other remedies allowed by law. For the purposes of assessing civil penalties, violations of this Ordinance are classified as follows:
  1. *Class I violations:*
    - a. Failure to report an event for which a report is required.
    - b. Failure to register a potentially dangerous, dangerous or vicious dog as required.
    - c. Any other violation not otherwise classified in this Section.
  2. *Class II violations:*
    - a. Keeping or harboring a vicious dog within the territorial jurisdiction of this Ordinance in violation of this Ordinance.
    - b. Keeping or harboring a dangerous dog within the territorial jurisdiction of this Ordinance in violation of terms, conditions and provisions of a permit or of the housing and restraint requirements of this Ordinance.
    - c. Failure to surrender a potentially dangerous or dangerous dog to an Animal Control Officer or law enforcement officer for impoundment as required by this Ordinance.
    - d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored.
  3. *Class III violations:*
    - a. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored, when such dog has thereafter committed an attack or a biting.
    - b. Refusal to surrender a vicious dog to an Animal Control Officer or law enforcement officer for impoundment as required by this Ordinance.
    - c. Failure to maintain insurance as required herein.

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

1. *Class I violations:*

- a. One hundred dollars (\$100.00) for the first day of a violation.
- b. Twenty-five dollars (\$25.00) for each subsequent day of a continuing violation.
- c. A maximum of one thousand dollars (\$1,000.00) for each continuing violation.

2. *Class II violations:*

- a. Two hundred fifty dollars (\$250.00) for the first day of a violation.
- b. One hundred dollars (\$100.00) for each subsequent day of a continuing violation.
- c. A maximum of three thousand dollars (\$3,000.00) for each continuing violation.

3. *Class III violations:*

- a. Five hundred dollars (\$500.00) for the first day of a violation.
- b. Two hundred fifty dollars (\$250.00) for each subsequent day of a continuing violation.
- c. A maximum of seven thousand five hundred dollars (\$7,500.00) for each continuing violation.

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

D. *State law violations.*

1. Nothing in this Ordinance shall be construed to prevent an Animal Control Officer or any other person from pursuing remedies under Chapter 67, Article 1A, of the North Carolina General Statutes.
2. The Director or his designee is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Director or his designee shall follow the procedure set forth herein for determinations.
3. The Animal Control Board is designated as the appellate board to hear appeals of determinations made pursuant to N.C.G.S., Section 67-4.1(c).

## **Section 10. Administrative Provisions**

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

B. *Citations assessing civil penalties.* The Director or any Animal Control Officer shall have authority to investigate alleged or suspected violations of this Ordinance and upon the determination by such person, based on observation or other evidence, that a violation has occurred, each such person shall have the authority to issue a written citation for violation of this Ordinance and to assess a civil penalty in the amount due. Such citation shall be mailed the violator by an Animal

Control Officer, a law enforcement officer, certified mail, return receipt requested, addressed to the last known address of the violator, or shall be personally delivered to the violator or to some responsible person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon execution of a receipt for the certified mail by the violator or his agent in the event of such service. If a civil penalty duly assessed is not paid when due, the Director shall initiate an action in a court of competent jurisdiction to collect such amount due.

- C. *Authority to enter upon premises.* Animal Control Officers shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to (I) conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or (II) apprehend a dog determined to be potentially dangerous, dangerous or vicious or as which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, or (III) to investigate any violation of this Ordinance, or (IV) to serve a citation upon a person for violation of this Ordinance. Notwithstanding the foregoing, any Animal Control Officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-27.2, or otherwise as authorized by law.
- D. *Authority to immobilize or kill a dangerous or vicious dog.*
1. If in the course of investigating, apprehending or otherwise taking custody a potentially dangerous, dangerous or vicious dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, such dog is not securely restrained and an Animal Control Officer or a law enforcement officer has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, said officer shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.
  2. If a potentially dangerous, dangerous or vicious dog impounded in the animal shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, an Animal Control Officer shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.
  3. An Animal Control Officer may humanely dispose of any dog being investigated under the provisions of this Ordinance at the request of or with the consent of its owner, keeper, or harborer.

### **Section 11. Severability**

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

### **Section 12. Computation of Time**

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

**Section 13. Effective Date**

This revised Ordinance shall become effective July 1, 2011.

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

Adopted this 2<sup>nd</sup> day of May, 2011.

PITT COUNTY, N.C.

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Mark W. Owens, Jr., Chairman  
Board of Commissioners

ATTEST:

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Kimberly W. Hines, Clerk to the Board