

## Read and comment: Proposed McDowell Animal Control Ordinance

From McDowell County government

### McDowell County Animal Control Ordinance

#### Article I: General

Section I: Purpose

Section II: Definitions

Section III: Duties of Animal Control Officers

Section IV: Animal Cruelty

Section V: Public Nuisance

Section VI: Keeping of Inherently Dangerous Mammals

Section VII: Keeping of Inherently Dangerous Exotic Animals

Section VIII: Protective measures for confinement of animals

Section IX: Dangerous Canines

Section X: Appeals Board

#### Article II: Rabies Control

Section I: Rabies Control

Section II: Area-wide emergency quarantine

Section III: Postmortem Diagnosis

Section IV: Unlawful killing, releasing of, etc. of certain animals

Section V: Failure to surrender animal for quarantine or destruction

Section VI: Euthanization of feral canines and felines

#### Article III: Impoundment/Enforcement

Section I: Impoundment

Section II: Stray or abandoned animals

Section III: Special circumstances

Section IV: Enforcement

Section V: Severability

Section VI: Conflicting ordinances

Section VII: Revision

## Article I - General

### Section I: Purpose

It is the purpose of this article to regulate ownership and possession of animals; prohibit certain acts, omissions and conditions which interfere with the health, safety and general welfare of the inhabitants of the county and those municipalities coming under the provisions of this ordinance; to make unlawful, acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; to provide for the peace and dignity of residents; and to perform any other duties authorized by applicable local and state laws.

### Section II: Definitions

#### Abandon

1. To forsake, desert, or give up an animal previously under the custody or possession of a person without having secured another owner/keeper; or by failing to make reasonable arrangements for adequate care; or
2. To intentionally, knowingly, recklessly, or negligently leave an animal at a location for more than 24 consecutive hours without providing for the animal's continued care.

#### Abuse

1. Willful injury to or mistreatment of a domesticated animal, but not to include the legal Euthanization of an animal or the slaughtering of animal raised to be used for food or clothing by humane and legal methods.

### Adequate Food

1. The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain the animal's health and well being.

### Adequate Shelter

1. A structure intended for an animal's protection from inclement weather or sun, which consists of at least three sides, a floor and a roof. The structure is to be constructed of durable fiber, wood, plastic, or other non-metallic materials of adequate insulate value that allows an animal to maintain its body heat. Structures for livestock may be constructed of a metallic material with or without a floor. Structures for all animals must be large enough to allow all animals on the premises to be housed, to turn around, lie down, and stretch comfortably. The walls must keep out rain, sleet, wind and snow. This shall not exclude the use of metallic structures used as transportation and temporary shelter.

### Adequate Water

1. Constant access to a supply of water that is clean, fresh, and visibly free of debris and organic materials, provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.

### Adult

1. A person 18 years of age or older, or any persons having been emancipated by a court with jurisdiction over such matters and who has not been judicially declared incompetent.

### Animal

1. Any non-human species that has been domesticated by man.

### Animal Control Officer

1. Any persons designated by the McDowell County Board of Commissioners with the duties and responsibilities of investigating and enforcing the provisions of this ordinance. The animal control officer shall pick up, restrain, impound, sell, offer for adoption and dispose of canines, felines, large animals, or other animals and who is responsible for discharging the duties of the District Board of Health and North Carolina state statutes.

### Animal Cruelty Investigator

1. Persons duly appointed by the McDowell County Board of Commissioners pursuant to G.S. 19A-45 to investigate neglect, abuse or cruelty of animals.

### Animal Control Facility

1. Any premises designated by the county of 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.

### At Large

1. Any animal found off the property of its owner/keeper and not under restraint; or any animal that has been the subject of a previous at large complaint when found unrestrained, whether on or off the property of it's owner/keeper; or any animals previously determined to be dangerous or a nuisance that is not confined in a secure enclosure while on the property of it's owner/keeper.

### Attack

1. An approach to a person by an animal in a vicious, terrorizing or threatening manner or

apparent attitude of attack, without the animal having been teased, molested, provoked, tortured or otherwise harmed by that person.

#### Attack Training Facility

1. Any persons, group of persons, partnership or corporations engaged in boarding, breeding, selling or training of canines or other animals in mode of attack.

#### Bite

1. The act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh as to where blood can be seen.

#### Breeder

1. Any person or establishment that breeds animals for the purpose of resale to the general public or dealers.

#### Canine

1. Any and all domesticated members of the canidae family.

#### Confinement

1. Impoundment within the county's Animal Control Facility or other appropriate facility.

#### Cruelty and cruel treatment

1. Shall include but is not limited to, every act, omission or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals; as well as acts or attempted acts of teasing, molesting, baiting or illegal or inhumane trapping of animals.

#### Dangerous Animal

1. Any animal that demonstrated a fierce or dangerous propensity or tendency to do any act which may endanger persons or property and/or any non-domesticated animal indigenous to the state of North Carolina, including hybrid animals that are part wild. This would include but not be limited to any animal which (1) assaults, bites, attacks or inflicts serious injury on a human being without provocation on public or private property; or (2) which has killed or injured a pet or domesticated animal without provocation. Exceptions: No animal is dangerous pursuant to this definition if at the time the threat, injury, or damage was sustained, the person attacked was teasing, tormenting, abusing, or assaulting the animal, or has in the past teased, tormented, abused or assaulted the animal or was committing or attempting to commit a crime. Nor shall an animal be considered dangerous pursuant to the definition if it has attacked or injured a pet or domesticated animal that has attacked the subject animal or if it is protecting or defending its young; or

2. (A) An animal that:

(I) Without provocation has killed or inflicted severe injury on a person; or

(II) Without provocation has killed or inflicted severe injury on another domestic animal; or

(III) Is determined by the Animal Control Officer to be a potentially dangerous animal and for which there has been no appeal from such a determination under the provisions of this ordinance.

(B) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.

#### Dealer

1. Any person who is licensed by the US Department of Agriculture as a dealer.

#### Department

1. The Animal Control Department.

#### Director

1. The animal control officer of the agency charged with administering and enforcing the provisions of this ordinance.

#### Domestic Animal

1. Any various animals including but not limited to canines, felines, horses, sheep, cattle, goats, hogs, poultry, etc; domesticated by man so as to live and breed in a tame condition; or

2. Any animal that is accustomed to live in or about the habitation of humans including but not limited to , felines, horses, sheep, cattle, goats, hogs, poultry, etc, but not to include any wild animal.

#### Exhibitor

1. Any person who is licensed by the US Department of Agriculture as an exhibitor.

#### Exotic Animal

1. Refers to any living animal as set forth in Article I of this ordinance pertaining to inherently dangerous animals not native to North Carolina.

#### Exposed to Rabies

1. Any person or animal that has bitten, been bitten by, or otherwise comes into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.

#### Feline

1. Any and all domesticated members of the felidae family.

#### Feral Canines

1. A domestic canine, which has adapted to survive in the wild, is homeless and ownerless, and having descended from stray and possibly generations of abandoned house pets.

#### Feral Feline

1. A domestic feline, which has adapted to survive in the wild, is homeless and ownerless, and having descended from stray and possibly generations of abandoned house pets.

#### Flood Prone Area

1. An area in which two or more inches of standing water is likely to accumulate during a period of normal rainfall.

#### Habitual Violator

An animal, owner/keeper or any other person that has been cited for violating any part of this ordinance on (3) three or more occasions in the past (3) three years; and the most recent violation was within the past (12) twelve months.

#### Health Director

1. The director of the McDowell County Health Department.

#### Household

1. Any room or group of rooms located within a building and forming a single habitable unit with facilities that used or intended to be used for living, sleeping, cooking or eating.

#### Impoundment

1. Possession or seizure of an animal by the Animal Control Officer(s) for placement in the county's Animal Control Facility or other appropriate facility.

2. The placement of an animal in the custody of Animal Control by the owner/keeper.

#### In Estrus

1. A female animal in the erotic stage of copulation.

#### Inherently Dangerous Mammal

1. Any live member of the canidae, felidae or ursidae families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans and which include but are not limited to:

(A) Canidae: Including any member of the (Canid) canine family not customarily domesticated by man or any hybrids thereof, but not including domesticated canines (canis familiaris).

(B) Felidae: Including any member of the (Felid) feline family weighing over 15 pounds not customarily domesticated by man, or any hybrids thereof, but not including domesticated felines (felis catus).

(C) Ursidae: Including any member of the bear family, or any hybrids thereof.

#### Inoculation

1. The vaccination of a canine or feline with antirabic vaccine approved by the US Bureau of Animal Industry, the State Department of Agriculture and the State Board of Health, at such time or times as shall be required by state law, the State Department of Environment, Health and Natural Resources, the Commission for Health Services, the State Health Director or the local health director as defined in G.S. 130A-6.

#### Keeper

1. A person having custody of an animal, or who keeps or harbors an animals, feeds or shelters, or who permits an animal to remain on or about any premises occupied or controlled by such person.

#### Kennel

1. Any person, group of persons, partnership or corporation engaged in boarding animals; or  
2. Any premises wherein any person, partnership or corporation is engaged in the business of boarding, breeding, buying, letting for hire, training for a fee or selling canines and felines.

#### Livestock

1. Animals commonly associate with farming including, but not limited to, horses, mules, ponies, llamas, swine, sheep, cattle, goats, chickens, emus, ostriches, and other fowl.

#### Lost, Stray, and Unwanted

1. Any animal found within the county wandering at large which does not bare evidence of identification of any owner/keeper, or any animal whose owner/keeper, if determinable has failed to attach a valid rabies tag.

#### Lot

1. A portion, piece, division or parcel of land, with or without a household, which is identified by a tax map, recorded plot, deed, lease or the like. All contiguous land under common ownership and used for a single purpose shall constitute a lot.

#### Neglect

1. Failure of an owner/keeper of an animal to provide the animal with adequate food, water, shelter, or failure of an owner/keeper of an animal to obtain appropriate veterinary care for the animal in the event of injury or illness.

#### Neutered

1. Any male animal that has been operated upon to prevent reproduction.

#### Nighttime

1. The time from sunset until sunrise

#### Nuisance

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

(A) Turns over garbage containers or removes garbage from them; or

(B) Damages gardens, foliage or other real or personal property; or

(C) Is maintained in an unsanitary condition so as to be offensive to sight or smell; or

(D) Is not confined to a building or secure enclosure while in estrus; or

(E) Chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicle passengers, farm stock or domestic animals; or

(F) Is a dangerous animal as determined by the Animal Control Officer(s); or

(G) Is diseased or dangerous to the health of the public; or

(H) Is housed or restrained fewer than (15) fifteen feet from a property line, public street, road or sidewalk; and in the discretion of the Animal Control Officer(s), poses a threat to the general safety, health and welfare of the general public; or

(I) An animal that is defined as a nuisance by any other section of this ordinance.

#### Owner

1. Any person, group of persons, firm, partnership or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring, or allowing the animal to remain on or about their property for more than 24 consecutive hours. In the event the owner/keeper of an animals is a minor, for the purposes of this ordinance, the parent or guardian of such minor shall be considered the owner/keeper of that animal; or

2. Any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal; or

3. A person who or a legal entity that has a possessory property right in the animal. The "owner/keeper" is responsible for the care, actions and behavior of his animal(s).

#### Owner's/Keeper's Property

1. That area described in a deed of conveyance or the area described in a lease. In a situation involving townhouses or condominiums, Animal Control will treat the common areas as being owned by the Homeowner's Association. In situations involving apartments, Animal Control will treat the common areas as being owned by the lessor or property owner/keeper. A motor vehicle is not a part of the Homeowner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on the common areas of townhouses, condominiums, leased

apartments, or other public areas shall be treated as being off the owner's/keeper's property; or

2. Any real property owned or leased by the owner/keeper of the animal, but does not include any public right-of-way or a common area of a condominium or apartment complex or townhouse development.

#### Performance Canine

1. A canine that is being trained, used in herding, hunting, tracking, or show.

#### Person

1. Any human being, firm, partnership, or corporation, including but not limited to any non-profit corporation

#### Pet

1. A domesticated animal kept for pleasure rather than utility.

#### Poisonous Reptile

1. Any animal that crawls or moves on its belly as a snake or on small short legs as a lizard and has the capability of injecting humans or animals with venom which may cause death or physical injury.

#### Potentially Dangerous Animal

1. An animal that the Animal Control Officer(s) determines to have:

(A) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or

(B) Killed or inflicted severe injury upon a domestic animal when not on the owner's/keeper's real property; or

(C) Approached a person when not on the owner's/keeper's property in a vicious or terrorizing manner in a apparent attitude of attack; or

(D) Is defined as such by any other sections of this ordinance.

#### Prior Complaint

1. Any prior oral or written complaint to Animal Control about a specific animal, or any oral or written complaint about any animals of a specific owner/keeper being in violation of any section of this ordinance.

#### Proof of Ownership

1. Documentation in support of a property right to an animal that includes, but is not limited to, veterinary records, rabies vaccination certificates, licenses, photographs, bill of sale, signed affidavits, breed registries, or written transfers of ownership.

#### Provocation

1. Any action designed to goad, inflame, instigate or stimulate an aggressive or defensive response on the part of an animal, but provocation shall not include any actions on the part of an individual that pertain to the reasonable efforts of self-defense against an unprovoked animal.

#### Rabies Vaccinator

1. A person appointed and certified to administer rabies vaccine or a licensed veterinarian.

#### Restraint

1. An animal is under restraint within the meaning of this ordinance if it is:

(A) Controlled by means of a chain, leash, or other like device; or



(B) Sufficiently near the owner/keeper to be under his direct control and is obedient to that person's commands; or

(C) On or within a vehicle being driven or parked; or

(D) Within a secure enclosure; or

(E) Within the property limits of its owner/keeper.

#### Service Animal

1. Any guide canine, signal canine or other animal individually trained to work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

#### Severe Injury

1. Any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.

#### Spayed

1. Any female animal has been operated upon to prevent reproduction.

#### Stray

1. Any animal that appears lost, homeless, unwanted, and any canine or feline that is not displaying a valid rabies tag unless exempt under state law or this ordinance.

#### Tether

1. A means by which an animal is fastened so that it can range only within a set radius.

#### Vaccination

1. The administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator; or

2. The administration of rabies vaccine as required by law.

#### Vicious Animal

1. An animal that has made an unprovoked attack on a human or that attacks farm stock.

#### Wild Animal

1. Any animal that is not normally domesticated, a hybrid of any animal, regardless of genetic percentages, shall be deemed a wild animal; or

2. Any animal which can normally be found in the wild state, particularly those feral, exotic, dangerous or non-domesticated animals which generally do not live in or about the habitation of humans, including, but not limited to deer, lions, monkeys, raccoons, skunks, squirrels, tigers or snakes.

#### Working Day

1. Refers to any day of the week, including Saturday, Sunday and legal holidays. If the last day of the time period specified in this ordinance shall fall on a legal holiday, the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

#### Zoonotic Disease

1. A disease communicable from animals to humans under natural conditions.

### Section III: General Duties, Authority and Responsibility of Animal Control Officers

1. The Animal Control Officer(s) shall:

- (A) Be a sworn officer and have the power of arrest and responsibility to enforce all laws of North Carolina and all ordinances of McDowell County and shall cooperate with all other law enforcement officers and agencies within the state of North Carolina and McDowell County; and
  - (B) Act as a Rabies Control Officer and is to carry out the provisions of G.S. 130A-185 and 130A-200 including the requirements of the McDowell County Animal Control Ordinance; and
  - (C) Be responsible for making such canvasses of the county, as it is deemed necessary for the purposes of ascertaining that all animals are duly vaccinated against rabies as required by local ordinance or state statute; and
  - (D) To cooperate with local veterinarians and the Health Director with the scheduling and conducting of rabies clinics as required by G.S. 130A-187; and
  - (E) To assist and participate in those functions or activities which will minimize animal suffering and will result in promoting animal welfare; and
  - (F) Have all the powers, authority and immunity granted under this Ordinance and general laws of this state to enforce the provisions of the Ordinance and general statutes of North Carolina; and
  - (G) Except as may be otherwise provided by statutes, local laws or ordinance, no officer, agent, or employee of the county charged with the duty of enforcing the provisions of this Ordinance or other applicable laws shall be personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of such duties unless he/she acts with actual malice; and
  - (H) Declare an animal as potentially dangerous animal if he/she determines that the animal so qualifies as that term as defined by this ordinance or state statute; and
  - (I) Protect animals from neglect or abuse and investigate complaints in violation of this ordinance. Animal Control Officer(s) must meet all educational requirements for Certified Animal Cruelty Investigators but are not appointed to such positions; and
  - (J) Investigate all reported animal bites or other physical human contact with suspected rabid animals; and
  - (K) Operate the County Animal Control Facility; and
  - (L) Be empowered to go upon private property and into the yards of animal owners/keepers to inspect the conditions of animals and their surroundings; and
  - (M) Be empowered to make inspections of buildings or dwellings either with the consent of the owner/keeper or occupant or pursuant to a warrant; and
  - (N) Be empowered to go upon private property to seize animals pursuant to this ordinance or a warrant; and
2. It shall be the duty of the office of Animal Control to keep, or cause to be kept, accurate and detailed records of:
- (A) Impoundment and dispositions of all animals coming into the Animal Control Facility; and
  - (B) Bite cases, violations and complaints, and investigations of same; and
  - (C) All funds belonging to the county that were derived from the operation of the Animal Control Facility; and
  - (D) All other records deemed necessary or required by McDowell County of the state of North Carolina.

## Section IV: Animal Cruelty

1. It shall be unlawful for any person to overdrive, overload, molest, tease, torture, deprive of necessary sustenance, cruelly beat, mutilate, wound, injure, poison, abandon, kill, deprive of necessary medical treatment or otherwise abuse an animal; or cause or procure an animal to be overdriven, overloaded, molested, teased, tortured, deprived of necessary sustenance, cruelly beaten mutilated, wounded, injured, poisoned, abandoned, killed, deprived of necessary medical treatment or otherwise abused; or cause, instigate, or permit any canine fight, cock fight, bull fight, or other combat between animals or animals and humans.

However, the section shall not apply to the following activities:

(A) The lawful taking of animals under the jurisdiction and regulations of the North Carolina Wildlife Resource Commission; or

(B) Lawful activities conducted for the purposes of biomedical research or training for purposes of production and slaughter of livestock, poultry, or aquatic species; or

(C) Activities conducted for lawful veterinary purposes; or

(D) The lawful destruction of an any animal by its owner/keeper, veterinarian, Health Director, third party, or Animal Control officers for the purpose of protecting the public, other animals, property or the public health.

2. It shall be unlawful for any person, persons, firm or corporation to possess any contraband relating to the fighting or training to fight of any animal for the purpose of fighting or selling. Contraband items include, but are not limited to; gaffs, gloves, steroids (without a prescription from a licensed veterinarian), mills, chain training weights, related magazines and videos, trophies, pull ropes, fight pens or rings, break sticks, etc.

### 3. Animal Care

(A) It shall be unlawful for any owner/keeper of any animal to fail to provide his/her animal (s) with adequate food, water, shelter, veterinary care (when needed to prevent suffering), or humane treatment and care.

(B) It shall be unlawful for any person to promote, encourage, engage in or do any act toward the furtherance of any act of cruelty to an animal.

(C) No owner/keeper of an animal shall abandon such animal except to relinquish the animal to the McDowell County Animal Control Facility during normal business hours or to another responsible and willing party. If Animal Control Officer(s) finds that an animal has been abandoned, the animal will be impounded. An animal seized pursuant to this section shall be impounded for a period of (72) seventy-two hours. If the animal is unclaimed by its owner/keeper after being held for (72) seventy-two hours, the animal shall be sold, put up for adoption, humanely euthanized or destroyed.

(D) No person may transport any type of animal in a motor vehicle or in a wagon or trailer pulled by a motor vehicle, or in a truck or the back of a truck, in such a way as to cause pain, suffering, or unreasonable risk of pain or death to the animal. Provided, however, there shall be no prohibition against the humane transportation of horses, cattle, sheep, poultry or other livestock in trailers or other vehicles designed, constructed and adequate for the size and number of animals being transported.

(E) Animals transported in open truck beds on public roads shall be secured by cross-

tethering suitable and acceptable for the sized of the animal(s) in such a manner that they cannot fall or jump over the side; or contained in a properly secured and ventilated cage.

This provision shall not be applicable to;

I. Law enforcement canines while being used for investigation, tracking and similar duties under the supervision of a certified law enforcement officer; or

II. Search and rescue canines while being used for their intended purpose and under the control of a trained handler; or

III. Hunting canines while being used in legal hunt on private property, private roads or public secondary roads; or

IV. Farm canines while being used for agricultural purposes on private property or private roads; or

V. Farm canines while being used for agricultural purposes on secondary roads within one mile of the residence.

(F) It shall be unlawful for any person to place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability or death. After making a reasonable effort to find the driver or owner of a vehicle in which an animal is confined, the Animal Control Officer(s), due to exigent circumstances, may use the least intrusive means to enter the vehicle if necessary to remove the animal, where reasonable cause exists to believe the animal may be suffering or die if not immediately removed. The Animal Control Officer(s) removing the animal shall then impound the animal and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal and where and when the animal may be reclaimed. When the owner of the vehicle cannot be readily located, and if during the removal of the animal from the vehicle, the vehicle is unable to be re-secured, then the Animal Control Officer(s) may have the vehicle impounded by any wrecker service he/she sees fit. All impoundment fees are to be paid by the owner of the vehicle.

(G) It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle causing injury or death.

(H) It shall be unlawful for any person injuring or killing any domestic animal by striking it with an automobile or other vehicle, to fail to notify the owner/keeper of such animal, if ownership information is available. If ownership information is not available, Animal Control of law enforcement must be notified.

(I) It shall be unlawful for any person to sponsor, promote or train a wild or domestic animal to participate in any unnatural behavior in which the animal is wrestled, fought, harassed or displayed in such a way that the animal is abused or stressed. This prohibition applies to events and activities taking place, in either public or private facilities or property in the county and applies regardless of the purpose of the event or activities and whether or not a fee is charged to spectators. The Animal Control Officer(s) shall make the determination that an activity or event comes under this section; provided, however, this section shall in no way apply to zoological parks, performing animal exhibitions or circuses, unless otherwise specified in this ordinance or state statute.

(J) It shall be unlawful for any person to give away any live animal, fish, reptile or bird as a prize or as an inducement to enter any contest, game or other competition; as an inducement to enter a place of amusement; offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade; or sell chances, coupons, or tickets to be redeemed for any live animal, fish, reptile or bird.

(K) It shall be unlawful for anyone to give away, sell or adopt any canine or feline under the age of (6) six weeks old without accompanying its mother or until fully weaned, unless the mother of the canine or feline has died or another medical condition exists that prevents the natural weaning of the animal.

(L) It shall be unlawful for any person to sell, offer for sale, barter or give away chickens, ducklings or other fowl under (3) three weeks of age, or rabbits under (2) two months of age; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, other fowl or rabbits, in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising.

(M) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens, other fowl, or rabbits, or to sell such animals after their natural color has been altered.

(N) It shall be unlawful to tether an animal to a stationary object for a period of time or under conditions that Animal Control Officer(s) deem harmful or potentially harmful to the animal. Tethering may be allowed in certain cases where daily socialization and exercise off the tether can be verified and the animal is not exhibiting health or temperament problems. Examples of improper tethering include, but are not limited to the following:

I. Using a length or weight of tether that is not appropriate for the size, weight and age of the animal. The restraint must be a minimum of four times the length, from the tip of the animal's nose to the tip of the animal's tail, and shall be no less than (10) ten feet.

II. Using tether that does not have swivels on both ends. All tethers must be attached to the animal by means of a property fitting harness or collar.

III. Allowing animal to be tethered such that animal is not confined to the owner's/keeper's property or such that tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.

(O) Every person who owns any pen, lot, kennel, shelter or other place where animals are kept shall maintain the same in a sanitary and humane manner as determined by the Animal Control Officer(s).

(P) All animals shall be provided with adequate shelter from the weather at all times. It shall be within the discretion of Animal Control Officer(s) to determine what constitutes adequate shelter.

(Q) It shall be unlawful for any owner/keeper to fail to keep his/her animal(s) in good health, comfort and veterinary care when needed to prevent suffering and humane care and treatment.

(R) It shall be unlawful for any person in contact with or having knowledge of a sick, diseased or injured animal to fail or refuse to provide proper medical treatment for the animal or notify Animal Control of the condition. A sick animal shall go no longer than (24)

twenty-four hours without veterinary care.

(S) Animal control Officer(s) shall have the authority to inspect any and all circuses, animal exhibitions, open sales and pet stores coming into or established in this county to insure proper and humane treatment of all animals, reptiles, birds or other non-human species. Animal Control Officer(s) shall have the right to inspect any and all circuses, animal exhibitions, open sales and pet stores to determine if there is sufficient protection for the public in the case of an animal escaping. If Animal Control Officer(s) determine that there is insufficient protection for the public or unacceptable treatment of or conditions for the animals, then Animal Control Officer(s) shall have the authority to halt operations of all circuses, animal exhibitions, open sales and pet stores.

## Section V: Public Nuisance

1. It shall be unlawful for the owners/keepers of any animal that has been reported to create a public nuisance and an Animal Control Officer determines, after investigation, that the evidence supports the reports, to allow that animal to run loose off the owner/keeper's real property. In such cases the owner/keeper must correct the nuisance situation immediately by keeping the animal that has been found to be creating a public nuisance on his property at all times, thus the animal is under restraint. For the purpose of this section, public nuisance includes, but is not limited to:

- (A) Unsightly litter, foul or offensive odors of any animal that remain upon or emanate from the property of the owner/keeper; or
- (B) The keeping of any animal, which is frequently at large on the property of others; or
- (C) The keeping, possession or harboring of any animal, which is dangerous to persons or property; or
- (D) Allowing or permitting an animal to damage the property of anyone other than its owner/keeper, including but not limited to turning over garbage containers, or damaging gardens, flowers, or vegetables, or defecating upon the property of another; or
- (E) Maintaining animals in an unsanitary environment, which results in offensive odors or a failure to maintain a condition of good order and cleanliness, which reduces the probability of transmission of disease: or
- (F) Maintaining animals in such a manner and location that animal waste can accumulate and run off onto another person's property or body of water: or
- (G) Maintaining the owners/keepers property in such a manner that it is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of the animals on the property: or
- (H) Maintaining an animal that is diseased and dangerous to the public health through transmission of a zoonotic disease: or
- (I) Failing to confine a female canine or feline which is in the erotic stage of copulation in a secure enclosure in such a manner that will prevent the animal from coming in contact with a male of its species, or attract other animals; provided, however, this section will not be construed to prohibit the intentional breeding of animals within a securely enclosed area on the premises of the owner/keeper of the animal which is being bred: or
- (J) Maintaining an animal(s) that habitually or repeatedly barks, whines, howls, or makes any

other vocal or non-vocal noises including but not limited to crowing, clucking, baying, etc. in such a manner or to such an extent that it is a public nuisance.

2. Upon Receipt of 2 completed nuisance forms signed by residents of McDowell County, each complainant residing in separate dwellings in the vicinity in which the violation and issue occurred, made to the Animal Control Officers, setting forth the nature and the date of act, the apparent owner/keepers of the animal, the address of the said apparent owner/keeper and the description of the animal creating the nuisance, the Animal Control Officers shall investigate the complaint to determine the act complained violates this ordinance.

3. Upon determination by Animal Control Officers that the nuisance complaints are valid, Animal Control Officers, at their own discretion, may issue a verbal warning or written order stating the conditions and proper corrective procedures to remedy the situation.

4. Animal Control Officer (s) may, in their discretion, deem an animal (s) to be a nuisance animal(s) under this section without complaint forms being filed, if the Animal Control Officer (s) determines that the animal(s) meet any of the criteria set forth in any section of this ordinance

#### Section VI- Keeping of inherently dangerous animals.

1. It shall be unlawful for any person to keep an inherently dangerous mammal within the county.

2. Traveling fairs, circuses, and carnival shall be exempt from this section.

3. Recapturing: The owner/keeper of any inherently dangerous mammal shall reimburse McDowell County for all costs incurred while attempting to recapture any escaped inherently dangerous mammal. If the mammal is sheltered or euthanized by Animal Control, the owner/keeper shall also be responsible for these costs.

#### Section VII-Keeping inherently dangerous exotic animals

1. For the purpose of this section an exotic animal is any animal which:

(A) Is not a native or indigenous to North Carolina

(B) Does not have an established wild population in North Carolina; or

(C) Is not regulated by The North Carolina State Wildlife Resource Commission

2. Inherently dangerous exotic animal is any member of the canidae, felidae, or ursidae families, including hybrids thereof, which due to their inherent nature may be considered dangerous to humans.

(A) Canidae- include any member of the canine (candid) family not customarily domesticated by man, or any hybrids of such canidae, thereof, including wolf/wolf hybrids which are a cross between a wolf and a domestic canine, but not including domestic canine, (canis familiaris)

(B) Felidae- include any member of the feline family weighing over (15) fifteen pounds not customary domesticated by man, or any hybrids of such felidae, but not including domestic felines (felis catus).

(C) Ursidae- includes any member of the bear family, or hybrids of such ursidae.

3. Inherently dangerous reptile- is any member of the class reptile which:

(A) Is venomous. A venomous reptile shall include all members of the families:

I Heloermidae (Gila monsters and Mexican bearded lizards); or

II Viperidae (vipers); or

III Crotalidae (pit vipers); or

IV Atractaspidae (burrowing asps); or

V Hydrophilidae (sea snakes); or

VI Elapidae (cobras, coral snakes, and their allies)

(B) As well as any "rear fanged" snakes of the family colubridae that are known to be dangerous to humans including but not limited to:

I Disholidus Typus (boomslang): or

II Thebtornis Kirtlandii (twig snake): or

III Rhabdophisspp (keel backs)

(C) Is a member of the order crocodilian (crocodiles, alligators, and caiman).

4. Owner/keeper of any inherently dangerous exotic mammal or inherently dangerous reptile is any person or persons, regardless of ownership, who allows an inherently dangerous exotic mammal or inherently dangerous reptile to remain, lodge, or to be given shelter or refuge in the persons home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises in which the person resides or over which the person has control.

5. It shall be unlawful for any person or persons to harbor an inherently exotic mammal or inherently dangerous reptile, No person, firm, or corporation, shall keep, maintain, possess or have within the county any venomous reptile or any other wild or exotic animal. This section shall not be construed to apply to zoological parks, performing animal exhibitions, circuses, licensed wildlife rehabilitators or animal control facilities keeping animals for the purpose of education.

6. Exceptions: This article does not apply to:

(A) Veterinary clinics in passion of such animals or reptiles for treatment or rehabilitation purposes: or

(B) Any institution or organization, which exists primarily to educate the public in the areas of science and nature; which receives or has received financial support from federal, state, and/or local governments; which is directed by a board of directors or similar body elected by the membership; and which has been declared a 501 (C) (3) exempt organization by the internal revenue service: or

(C) Non-resident circuses for than (1) one (7) seven day period, per each separate location were such circuses is held within the county, per calendar year: or

(D) Non-resident carnivals for no longer than (1) one (7) seven day period, each separate location where such carnivals is held within the county, per calendar year: or

(E) Persons temporarily transporting such mammals or reptiles through the county, provided that such transit time should not be more than (24) twenty four hours.

7. Impoundment: Disposition of impounded inherently dangerous animals

(A) Any inherently dangerous exotic mammal or inherently dangerous reptile which is kept by any person in contravention of this section may be taken up and impounded by the Animal Control Officer(s) for the protection of health of the animal and/or for the protection of the public. Whenever possible, the Animal Control Officer(s) shall take up and impound



the animal in the presence of its owner/keeper; however, if such is not practical, then the Animal Control Officer(s) may impound such animal consistent with the provisions of this section.

(B) If any animal, mammal, or reptile is impounded pursuant to this section, the owner/keeper of the animal shall be notified by the Animal Control Officer(s) in person or by certified mail.

(C) Any animal impounded pursuant to this section will be held (72) seventy two hours for the owner/keeper to claim, but if the animal can not be taken up safely by the Animal Control Officer(s) or if the proper and safe housing can not be found for the animal, the Animal Control Officer(s) can immediately destroy the animal.

(D) The owner/keeper of the animal can reclaim the animal if the person can satisfy the Animal Control Officer(s) that a safe transfer of the animal to an appropriate location outside of the county has been arranged.

(E) If no owner/keeper can be located or will not claim the animal within (72) seventy two hours after impoundment, the Animal Control Officer(s) may sell, adopt, or euthanize the animal at the discretion of the Animal Control Officer(s).

(F) All costs of impoundment and care of the animal, mammal, or reptile will be charged to its owner/keeper regardless of whether the animal/reptile is claimed by or returned to said owner/keeper; and in the event the animal/reptile is reclaimed, such costs shall be paid in full prior to the owner/keeper reclaiming the animal/reptile.

#### Section VIII: Protective measures for the confinement of animals

1. Circumstances requiring special preventive measures. The Animal Control Officer(s) shall have the authority to take consideration of the following factors :

(A) Nature of the particular animal: The behavior, size, temperament, capacity for inflicting serious injury, the number of animals involved or other such factors which would be relevant to a determination of whether or not additional preventative measures need to be imposed for a particular situation; or

(B) Adequacy of confinement: The adequacy of the enclosure or confinement, if any; or

(C) Immediate surrounding area: The likelihood that the conditions pertaining to the particular animal and the animal's confinement are detrimental to the safety, welfare or peace and tranquility of a reasonable prudent person in the vicinity; or

(D) Children and disabled: minor children, elderly, and disabled people who live in close proximity to the premises occupied by the animal; or

(E) Bite: the animal has bitten a human being or domestic animal without provocation or trespass, and the person bitten does not ordinarily reside on the premises; or

(F) Animals trained for aggressive attack: the animal has been trained for aggressive attacks; or

(G) Attack incidents and reputation: the animal without provocation or a trespass, has approached a person in an apparent attitude of attack or has a reputation for attack without provocation, to cause injury or otherwise endanger the safety of human beings or domestic animals; or

(H) Nuisance animals: animals that have been deemed nuisance animals according to Article

1, Section V of this ordinance.

2. Special preventive measures: if the Animal Control Officer(s) determines that the circumstances require special preventive measures, than the Animal Control Officer(s) shall have the authority to require appropriate, specific measures which might include, but are not limited to the following:

(A) Necessary repairs to a fence or enclosure; or

(B) Measures to ensure that a gate will remain secure; or

(C) A secure fence or any other similar device that would provide greater assurance for the confinement of the animal; or

(D) Requiring the owner/keeper to tattoo or microchip the animal at the owners/keepers expense, if necessary for identification, investigative, or enforcement purposes; or

(E) Posting of "beware of canine/dog" or any other warning signage, which is to be reflective, weatherproof, and such size to be clearly seen by approaching persons, and approved by the Animal Control Officer(s).

3. Written order; if the Animal Control Officer(s) determines that an animal owner/keeper must take specific preventive measures, the Animal Control Officer(s) shall make reasonable efforts to notify the owner/keeper by a written order, stating the reasons that the preventive measures are required, identifying the specific preventive measures that must be implemented, and stating that they have (10) ten days to comply with the order. The Animal Control Officer(s) shall have the authority to allow for reasonable extensions of the time limits based on good faith progress of implementation of the preventive measures, of any approved extensions shall be in writing.

4. Failure to comply with written order: It shall be unlawful for an owner/keeper to fail to comply with the written order to take preventive measures within the designated time for the compliance stated in the written order or any extension thereof. If the owner/keeper fails to comply, the animal can be impounded by the Animal Control Officer(s) and held at the Animal Control facility pending a hearing by a court of competent jurisdiction.

5. Owner's/keeper's challenge to the written order: The owner/keeper may submit in writing a challenge to the Animal Control Officer(s) determination that special preventive measures are required, to the county manager. The county manager must receive the owners/keepers written challenge, within (10) ten days of the date, of the written order. If an appeal from the county manager is deemed necessary, an appeal will be submitted to an appeal board. If an appeal from the board's decision is made to superior court, the county manager may make a written finding concluding that the animal must be confined at the Animal Control facility pending review by the superior court.

6. Immediate impoundment: If the Animal Control Officer(s) determines that the animal has inflicted life threatening injures or killed a human, or the owner/keeper has failed to comply with the preventive measures in the past, the Animal Control Officer(s) may impound the animal immediately and hold it at the Animal Control facility pending a hearing to determine disposition by a court of competent jurisdiction.

7. If the Animal Control Officer(s) determines that an animal has bitten a human being, than the Animal Control Officer(s), in their own discretion, shall have the authority to require the owner/keeper to procure liability insurance in the amount of at least (\$100,000) one hundred

thousand dollars at the owners/keepers expense, to have the animal micro chipped, and to display a sign on the premises warning of the presence of the animal on the premises. The Animal Control Officer(s) may waive any and all of these requirements if the bite is inconsequential, provoked, or inflicted upon a trespasser. The Animal Control Officer(s) shall have the authority to require proof of insurance. The owner/keeper has a duty to notify the Animal Control officer(s) if the animal escapes or if the animal is to be moved to a new address. If the owner/keeper fails to comply with the protective measures required by the Animal Control officer(s), under this subsection, the owner/keeper waives the right to contest the seizure and impoundment of the animal.

#### Section IX: Dangerous animal

1. With regards to dangerous canines or potentially dangerous canines, this county shall adopt the provisions as set forth by the North Carolina General Statute 67-4.1 through 67-4.5 pertaining to dangerous and potentially dangerous canines.
2. It shall be unlawful for any vicious, fierce, or dangerous animal to be kept within the county, unless it is confined within a secure building or enclosure or unless it is seemly muzzled and under control by a competent adult who, by means of a leash, chain, or rope, has such animal firmly under control at all times. The premises on which any animal under this section is confined shall be clearly marked with adequate warning signs.
3. Animal Control Officers may in their discretion, add special protective or preventative measures that go above and beyond State Law requirements.

#### Section X: Establishment of dangerous canine appeal board

##### 1. Appeal Board

(A) There is hereby created an Animal Control appeals board, which shall consist of (5) five representatives appointed by the County Board of Commissioners. Members of this board shall be appointed within (60) sixty days of the adoption of this ordinance. All members shall be appointed for (3) three year terms. Appeals shall be heard by all (5) five members of the board, when all (5) five members can be present, but (3) three members shall constitute a quorum in the event that all (5) five members are not able to be present. To avoid tie votes, all appeals shall be heard by an odd number of members, either (5) five or (3) three members. The members shall be expected to disclose any prior personal involvement they may have had with the case or other conflicts of interest, and recuse themselves accordingly. The Board shall have jurisdiction to hear and determine all appeals from determinations made by the Animal Control Officer(s) in accordance with Sections V, VIII and IX of this article, excluding matters referred to criminal prosecution or civil actions for injunctive relief.

##### 2. Filing of an Appeal

(A) Any owner/keeper of a canine that the Animal Control Officer(s) have deemed dangerous or potentially dangerous may file a written appeal with the County Manager. The person, owner/keeper may appeal the determination by filing written objections with the County Manager within (3) three working days. The County Manager will schedule a preliminary hearing with the owner/keeper within (3) three working days of the filing of the objections.

The County Manager will determine the validity of the objections and determine whether or not the appeal will be presented to the appeal board. If the person, owner/keeper is denied an appearance before the Appeal Board, and that person, owner/keeper wishes for the objections to be heard by the Appeal Board, then said person, owner/keeper shall make a written appeal directly to the chairman of the Appeal Board within (3) three working days. The chairman of the Appeal Board will then schedule a hearing within (10) ten working days. Any appeal from the final decision of the Appellate Board shall be taken to Superior Court of McDowell County by filing notice of appeal and a petition for the review within (10) ten working days of the final decision of the Appellate Board. Appeals from the ruling of the Appellate Board shall be heard DE NOVO before a superior court judge. Any party has the right to have council present before the board to examine and cross-examine witnesses and to have witness's testimony be sworn. The County Attorney/Designee shall preside over all hearings with the board, but shall not be a voting member.

3. Required notification to the Animal Control Officer(s) by owners/keepers of dangerous animals or dangerous canines

(A) The owner/keeper of a dangerous animal or dangerous canine shall inform the Animal Control Officer(s), as soon as possible, but not later than (24) twenty-four hours after the occurrence of any of the following:

- I. An Assault, attack or biting upon any human being committed by any such animal in the owner's/keeper's care or control; or
- II. An attack or biting upon any domestic animal or pet while said animal is off the owner's/keeper's property; or
- III. The destruction of or damage to property of another by such animal; or
- IV. The roaming or escape of any animal required to be retrained or confined to a secure enclosure.

(B) Exceptions

- I. If the owner/keeper of a dangerous canine wishes to transfer ownership or possession of the canine to another person, the owner/keeper shall provide written notice to the authority that made the determination under this article, stating the name and address of the new owner/keeper of the canine before the ownership of the canine is transferred; or
- II. If the owner/keeper of a dangerous canine plans to relocate and/or change address, the owner/keeper shall provide written notice to the authority that made the determination under this article stating the name, address and/or date of relocation prior to this occurrence.

(C) Canines or animals used for sentry or guard

- I. A sign warning that there is a guard or sentry canine or animal on the premises shall be displayed. The owner/keeper shall post a plainly visible sign upon the secure enclosure warning that a dangerous canine or animal is on the premises.
- II. Any person owning, maintaining, or harboring a canine or other animal for sentry or guard purposes must register said canine or animal with the Animal Control Officer(s).

(D) Confiscation of Animals

- I. Any dangerous animal or dangerous canine not kept in accordance with the requirements of this ordinance may be confiscated and impounded by the Animal Control Officer(s) and

harbored at the owner's/keeper's expense until the owner/keeper complies with the requirements set forth in this article.

## Article II – Rabies Control

### Section I: Rabies Control

#### 1. Vaccinations of canines and felines required; Vaccination of other pets.

(A) It shall be unlawful for an owner/keeper to fail to provide current vaccination against rabies for any canine or feline (4) four months of age or older. Should it be deemed necessary by the local Health Director or Animal Control Officer(s) that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for any owner/keeper to fail to provide current vaccination against rabies for that pet.

(B) A licensed veterinarian or a certified rabies vaccinator shall administer all antirabic vaccines. Vaccines purchased over-the-counter and administered by a person not licensed to practice veterinarian medicine to any animals will not be recognized as being properly immunized against rabies.

#### 2. Vaccination tag and certification.

(A) Upon complying with the provisions of subsection (A)1) above, there shall be issued to the owner/keeper of the canine or feline vaccinated, a rabies tag, stamped with the number and the year which the tag is issued, and a rabies vaccination certificate.

(B) It shall be unlawful for an owner/keeper of any canine or feline to fail to provide the canine or feline with a collar or harness to which a current rabies tag, under this section, is securely attached. The collar or harness, with attached tag, must be worn at all times. All owners/keepers of canines or felines must maintain in their possession all vaccination certificates for official proof and documentation of rabies vaccinations.

(C) In addition to all other penalties as prescribed by law, a canine or feline is subject to impoundment in accordance with the provisions of this article if the canine or feline is found not to be wearing a currently valid rabies tag.

(D) 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.

(E) The Animal Control Officer(s) shall canvass the county to determine if there are canines or felines not wearing the required rabies vaccination tag. If a canine or feline is found not wearing the required tag, the Animal Control Officer(s) shall check to see if the owner's/keeper's identification can be found on the animal. If the animal is wearing an owner/keeper identification tag or rabies tag or if the Animal Control Officer(s) otherwise know who the animal belongs to, the Animal Control Officer(s) shall notify the owner/keeper in writing to have the animal vaccinated against rabies and to produce the required rabies vaccination certificate to the Animal Control Officer(s) within (3) three days of notification. If the animal is not wearing an owner/keeper identification tag and the Animal Control Officer(s) do not otherwise know who the owner/keeper is, the Animal Control Officer(s) may impound the animal. Duration of impoundment of these animals shall be (72) seventy-two hours. During this mandatory impoundment, the Animal Control Officer(s) shall make a reasonable effort to locate the owner/keeper of the animal. If the animal is not reclaimed by its owner/keeper

during the mandatory period of impoundment, the animal shall be disposed of in (1) one of the following manners;

I. Return to owner/keeper; or

II. Adopt it as a pet to a new owner/keeper; or

III. Sold to institutions within this state registered by the United States Department of Agriculture or other appropriate agencies of North Carolina Government; or

IV. Put to death by the procedure approved by the American Veterinarian Medical Association, Humane Society of the United States or by the American Humane Association.

The Animal Control Officer(s) shall maintain a record of all animals impounded under this section that shall include the date of impoundment, the length of impoundment, the method of disposal of the animal, and the name of the person or institution to which any animal has been released.

3. Notice to local Animal Control when a canine or a feline has bitten a person; confinement of the animal; release of the animal.

(A) It shall be unlawful for any person, or his parent or guardian if such a person is a minor, that has been bitten by an animal, and the person owning, keeping, harboring or possessing such an animal, to fail to report the bite within (24) twenty-four hours of the bite to the Animal Control Officer(s). It shall be unlawful for any person to fail to inform the Animal Control Officer(s) where the animal is located if the owner/keeper has given the animal away, or caused in any way the animal to be taken from the owner's/keeper's premises.

(B) Every canine or feline which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Control Officer (s), and thereupon, shall be securely quarantined at the discretion of the Animal Control Officer(s) for a period of (10) days; and shall not be released from such quarantine except by written permission from the Animal Control Officer(s).

(C) Canines and felines quarantined under this section may be confined at a veterinary office, boarding kennel approved by the Animal Control Officer(s), or the Animal Control Facility, at the expense of the owner/keeper, provided, however, that if the Animal Control Officer(s) determines that the owner/keeper of an animal which must be quarantined has adequate confinement facilities upon his/her premises, the Animal Control Officer(s) may authorize the animal to be confined on such premises. If the animal is confined on the owner's/keeper's premises, the Animal Control Officer(s) may revisit the premises for inspection purposes at any time during the quarantine period.

(D) In the case of stray canines or felines whose ownership is not known, the canines or felines may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the county Animal Control Facility.

(E) If rabies does not develop within (10) ten days after a canine or feline is quarantined, under this section, the canine or feline may be released from quarantine with the written permission of the Animal Control Officer(s), if the canine or feline has been confined at the Animal Control Facility, the owner/keeper shall pay any fines, necessary veterinary fees, and a boarding set by and approved by the McDowell County Board of Commissioners. Before release of said animal, the owner/keeper shall pre-pay for a rabies vaccine at a veterinarian's office and bring the receipt to the Animal Control Officer(s). The owner/keeper shall then

take that animal immediately to the veterinarian office where the rabies vaccine was pre-paid and have the veterinarian administer the rabies vaccine.

(F) Any animal that has bitten a person and has not been reclaimed within (24) twenty-four hours from the end of the (10) ten day rabies observation quarantine period, shall become the property of the McDowell County Animal Control Facility, and shall be destroyed by the Animal Control Officer(s). Animal Control is authorized to initiate legal proceedings to recover the costs of caring for the animal confined at the Animal Control Facility pursuant to this section, if the animal is not redeemed.

(G) In the case of a carnivore or bat, the animal may be euthanized and the head examined for rabies.

(H) Upon seizing an animal pursuant to G.S. A-196, the Animal Control Officer(s) shall leave with the owner/keeper or affix to the owner's/keeper's residence a notice containing the beginning and ending dates of confinement and stating that the owner/keeper must redeem the animal within (24) twenty-four hours of the ending date of confinement stated in the notice

4. Destruction of an animal bitten by or exposed to a known or suspected rabid animal  
Animal Control Officer(s) shall immediately destroy unvaccinated animals bitten by or exposed to a known or suspected rabid animal.

5. Animals current on rabies inoculation being bitten or exposed to a known or suspected rabid animal.

If an animal has a current and valid rabies inoculation and is bitten by or exposed to a known or suspected rabid animal then that animal must receive a booster rabies inoculation within (72) seventy-two hours of being bitten or exposed. The animal must then be quarantined until the Director or his/her Designee of the North Carolina Department of Epidemiology makes a final decision on the animal's disposition.

6. If an animal has a current and valid rabies inoculation and is bitten by or exposed to a known or suspected rabid animal and the animal does not receive a booster rabies inoculation within (72) seventy-two hours, then that animal is to be destroyed immediately by the Animal Control Officer(s).

## Section II: Area- Wide Emergency Quarantine

1. When reports indicate a positive diagnosis of rabies, the McDowell Health Director may order an area-wide quarantine for such period as he/she deems necessary. Upon invoking such emergency quarantine, no canine or feline or other carnivore shall be taken into the streets or permitted to be in the streets during such a period. During such quarantine, no canine or feline or other carnivore may be taken or shipped from the county without written permission of the Animal Control Officer(s). During the quarantine period, the local Health Authorities shall be empowered to provide for a program of mass immunization by the establishment of temporary Emergency Rabies Vaccination Facilities strategically located throughout the county.

2. In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the McDowell County Health Director.

### Section III: Postmortem diagnosis

1. If an animal dies while under observation for rabies, the specimen of such animal shall be submitted to the McDowell County Animal Control Officer(s) for shipment to the North Carolina State Laboratory of Public Health for rabies diagnosis.

2. The carcass of any animal suspected of dying of rabies shall be surrendered to the McDowell County Animal Control Officer(s). The specimen of such animal shall be submitted to the North Carolina State Laboratory of Public Health for rabies diagnosis.

### Section IV: Unlawful killing, Releasing, Etc. Certain animals

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal which has bitten a human, or to remove such animal from the county without written permission from the Animal Control Officer(s).

### Section V: Failure to Surrender Animals for Quarantine or Destruction

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this article, when the Animal Control Officer(s) make the demand thereof.

### Section VI: Euthanization of feral animals

If in the determination of two or more Animal Control Officers or staff, it appears that an animal is feral and poses a danger to the public and Animal Control Staff, then the Animal Control Officers shall euthanize the animal as soon as possible, without waiting the (72) seventy-two hours holding period. These animals will be euthanized in accordance with all county policies, ordinances, and North Carolina general statues. Animals euthanized under this section will be disposed of in the same manner as all euthanized animals. This section will apply to any and all animals brought into the McDowell County Animal Control Facility, regardless if the animal was brought in by a citizen, private or commercial entities, the Marion City Animal Control, the town of Old Fort or McDowell County Animal Control Officers.

## Article III â€ Impoundment/Enforcement

### Section I: Impoundment

McDowell County Animal Control will not impound felines unless there are special circumstances that may require the Animal Control Officers to impound the feline to prevent injury to persons or property. These special circumstances will be at the discretion of the Animal Control Officers and the decisions made on a case-by case basis. Felines that are lost, stray, or unwanted must be brought to the Animal Control Facility. Animal Control may loan out humane traps for feral felines to be trapped. Those feral felines must be brought to the Animal Control Facility in the humane trap. The Animal Control Officers will remove the feline from the trap.

1. Any animal which appears to be lost, stray, or unwanted, or which is found to be not



wearing a valid rabies vaccination tag, as required by state law or this ordinance, and not under restraint in violation of this ordinance, shall be impounded by the Animal Control Officers by any means necessary and be confined in the Animal Control Facility in a humane manner. Impoundment of such animals shall not relieve the owner/keeper thereof from any penalty which may be imposed for violation of this ordinance.

2. Immediately upon impounding of an animal, the Animal Control Officers shall make reasonable effort to notify the owner/keeper and inform such owner/keeper of the conditions. If the owner/keeper is unknown or cannot be located, Animal Control shall hold the animal for (72) seventy-two hours from the time and date of impoundment. At the end of the (72) seventy-two hour period the may be put up for adoption or be euthanized.

3. The owner/keeper of an animal impounded under this article may redeem the animal and regain possession thereof within (72) seventy-two hours from the time of impoundment, by complying with applicable provisions of this article and paying any necessary veterinarian's fees and a set boarding fee.

4. Destruction or adoption of unredeemed animals

If the owner/keeper does not redeem an impounded animal within the period prescribed in this ordinance, it may be destroyed in a humane manner or shall become the property of the Animal Control Facility and offered for adoption to the first person who pays the adoption fee.

(A) No animal which has been impounded by reason of it being a stray, unclaimed by its owner/keeper, shall be allowed to be adopted from the Animal Control Facility during a period of emergency rabies quarantine invoked pursuant to Article II, Section II of this ordinance, except by special authorization of the McDowell County Health Director.

(B) Adoption contract-any person adopting a canine or feline from the Animal Control Facility shall be required to sign an adoption contract with McDowell County. The purchase of euthanized animals from the Animal Control Facility by a duly licensed biological supply company or veterinary researcher shall not be deemed to be an adoption.

#### I. Adoption

Revised adoption procedures are set forth in McDowell County Animal Control Adoption Policy.

#### II. Boarding fees

Animals subject to impoundment or seizure as set forth in this ordinance or state statute shall be assessed a per day, per animal boarding fee while the animal is being housed at the McDowell County Animal Control facility. Boarding fees are to be set by the McDowell County Commissioners and are subject to change by the approval of the County Commissioners.

(1) In the event that the McDowell County Animal Control Facility is unable to house any animal or reptile, the boarding fee shall be set by the person or facility that is housing the animal or reptile.

(C) Any animals that exhibit fierce, dangerous, or aggressive behavior will not be offered for adoption.

(D) Immediately upon impounding an animal, an Animal Control Officer shall make a reasonable effort to notify the owner/keeper and inform such owner/keeper of the conditions whereby the animal may be redeemed.

(E) The owner/keeper shall pay all required boarding fees and/or veterinary fees in accordance with this ordinance, prior to redeeming an impounded animal.

(F) If an animal is not redeemed by the owner/keeper within (72) seventy-two hours, it may be offered for sale or for adoption or be destroyed in a humane manner.

(G) Any animal impounded, which is badly wounded and/or diseased and has no identification shall be euthanized. If the wounded/diseased animal has identification, an Animal Control Officer shall attempt to notify the owner/keeper before euthanizing such animal; but if the owner/keeper cannot be readily found and the animal is suffering, the Animal Control Officer(s) may euthanize the animal at his/her discretion.

(H) If an animal is officially surrendered by the owner/keeper to the Animal Control Officer(s) it may be put up for adoption; however, it may be euthanized without waiting the (72) seventy-two hours.

(I) The owner/keeper of an animal which dies shall, within (24) twenty-four hours after he/she has learned of its death, bury it on the owners/keepers real property at least (3) three feet beneath the surface of the ground, and not closer than (300) three-hundred feet to any flowing stream or public body of water, or otherwise have it removed from his property. Animal Control shall not remove any dead animals from a person's real property or roadways unless otherwise specified by this article.

## Section II: Stray or Abandoned Animals

### 1. Abandoned Animals

(A) It shall be unlawful for any owner/keeper to abandon any animal for any reason. The Animal Control Officer(s) shall seize any animal or reptile, after posting a written notice to the owner/keeper by reason of a set out, eviction or abandonment of real property, as defined by G.S. 14-361 at the time of the offense.

(B) Notice of seizure shall be posted on the premises from which the animal was seized and for a set out or eviction. It is the owner's/keeper's responsibility to make a visual inspection of the Animal Control Facility if he/she has reason to believe that his/her animal has been impounded at the Animal Control Facility.

(C) If an abandoned animal is not claimed within (72) seventy-two hours of the date of impoundment, the animal shall become the property of the county, to be sold, put up for adoption or euthanized.

### 2. Notification of Animal Control Officers

(A) Any person who has knowledge of or keeps, feeds, harbors, or possesses a stray or abandoned animal must notify the Animal Control Facility within (24) twenty-four hours of having knowledge of the animal or the animal coming into his/her possession or control.

(B) All stray or abandoned animals must be held at the Animal Control Facility for (72) seventy-two hours prior to adoption or placement, unless the Animal Control Officer(s) approve that the animal be kept at the reporting persons residence or any other approved place. Any person, who gives away, sells or allows an otherwise stray or abandoned animal to be adopted without first surrendering the animal to the Animal Control Facility shall have no authority over the animal, and ownership shall remain with the previous owner/keeper to the extent the previous owner/keeper is able to be identified.

(C) Any person who fails to notify Animal Control as specified in this section shall be guilty of a class 3 misdemeanor.

### Section III: Special Circumstances

#### 1. Animals and illegal substances

(A) It shall be unlawful for any person or owner/keeper of any animal, or reptile in any structure, dwelling, building or vehicle used in the manufacturing of or keeping of any illegal substance as defined by Federal and State laws.

(B) If animals are found in such conditions, Animal Control Officers shall post a written notice on the residence or such structure, dwelling, building or vehicle that unless contact with Animal Control is made after the notice is posted, said animals shall be impounded. Any and all boarding fees and veterinary fees must be paid before such owner/keeper may redeem said animals.

#### 2. Owned Animals

(A) Owned animals shall be transported to the McDowell County Animal Control Facility by the owner/keeper of the animal. Animal Control Officer(s) shall not be responsible for the pickup of owned animals, unless otherwise specified in this ordinance.

#### 3. Live Canine Traps

(A) Animal Control Officers shall deliver and pickup live canine traps. Animal Control shall only deliver and pickup live canine traps during normal business hours, Monday thru Friday 8am - 3pm. Live canine traps shall be under the control, responsibility and supervision of the person requesting the trap. It shall be the responsibility of the requesting person to notify Animal Control when a canine is trapped. While said trap is under the control of said person, the trap is the full responsibility of the person requesting said trap and that person shall be responsible for any and all damages to the trap, including loss of the trap.

### Section IV: Enforcement

1. It shall be unlawful for any person to resist, obstruct, delay, interfere with, hinder or molest the Animal Control Officer(s) or veterinarians in the performance of any duty authorized by this ordinance, or to seek to release any animal in the custody of such agents.

2. It shall be unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the Animal Control Officer(s), whether it be in the canine boxes in the back of a truck or in a live trap or any other type of confinement device.

3. Violation of this ordinance in part or in full may subject the violator to criminal as well as civil action. Violation of this ordinance shall be a misdemeanor for which a criminal summons or warrant may be issued. Any violator convicted of such violations shall be punished as provided by G.S. 14-4. Each day's violation of this ordinance is a separate offence. Payment of a fine imposed in criminal proceedings pursuant to this ordinance does not relieve the violator of his/her liability for boarding fees, civil citations or veterinary fees imposed under this ordinance.

#### 4. Penalties

(A) In addition to or in lieu of any criminal charges or warrants, Animal Control Officers are authorized to issue civil citations for any offence or violation of this ordinance. Civil penalty

payments are to be paid to the McDowell County Animal Control at the Animal Control Facility. Payments for civil penalties must be received within (10) ten working days of issuance of a civil citation. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the McDowell County Animal Control Department.

(B) Failure to pay civil penalties

If the offender does not pay the penalty within the (10) ten working day period, the county may recover said penalty plus court costs and attorney fees in a civil action in the nature of a dept.

(C) Civil penalties

I. Any violation or offence under this ordinance may be reason for a written warning, civil citation, criminal charges/warrants, or any combination thereof, at the officers' discretion.

II. A civil penalty of (\$50.00) fifty dollars shall be assessed for the first violation or offense of any section of this ordinance.

III. A civil penalty of (\$100.00) one-hundred dollars shall be assessed for the second violation or offence of this ordinance.

IV. A civil penalty of (\$200.00) two-hundred dollars shall be assessed for the third violation or offence of any section of this ordinance.

V. A civil penalty of (\$500.00) five-hundred dollars shall be assessed for the forth violation or offence of any part of this ordinance.

(D) Civil penalties for dangerous canines

I. If any dangerous canine or animal runs at large, whether on the owners/keepers property or not, the civil penalty shall be (\$200.00) two-hundred dollars. For each subsequent violation or offence, the owner/keeper or said animal or canine shall pay a civil penalty of (\$400.00) four-hundred dollars

Section V: Severability

If any part of this ordinance shall be held invalid, such parts shall be deemed severable, and therefore, shall not affect the remaining parts of this ordinance.

Section VI: Conflicting Ordinances

All other ordinances of McDowell County that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section VII: Revision

This ordinance shall be subject to revision each calendar year from the date of the adopting of this ordinance and can be revised in part or full.