

# Cherokee County Animal Control Ordinance

## ARTICLE I.

### Section 1. Definitions

**Animal Boarding Facility/ Shelter:** Any premises designated by the county for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of this ordinance and may include any animal shelter contracted by the Board of Commissioners.

**At Large:** Any animal shall be deemed to be at large when he is off the property of its owner and not under restraint of a competent person.

**Attack:** An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner or apparent attitude of attack, without the animal having been teased, molested, provoked, beaten, tortured, or otherwise harmed.

**Attack Training Facility:** Any person, group of persons, partnership or corporation engaged in boarding, breeding, selling or training dogs or other animals in mode of attack.

**Dangerous Animal:** Any animal that has 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 dog which has (1) assaulted, bitten, attacked or inflicted serious injury on a human being without provocation on public and/or private property and/or (2) which has killed or injured a pet or domestic animal without provocation.

**Exceptions:** No dog 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 dog, or has in the past teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime. Nor shall a dog be considered dangerous pursuant to this definition if it has attacked or injured a pet or domesticated animal in defense of an attack by another animal or if it is protecting or defending its young.

**Dealer:** Any person who is licensed by the U.S. Department of Agriculture as a dealer.

**Domestic Animal:** Any of various animals as horses, sheep, cattle, goats, hogs, poultry, etc; domesticated by man so as to live and breed in a tame condition.

**Exhibitor:** Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.

**Exposed to Rabies:** An animal has been exposed to rabies within the meaning of this ordinance, if it has been bitten by, or been exposed to, any animal known or suspected to have been infected with rabies.

**Inherently Dangerous Mammal:** Inherently dangerous mammal is 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:

1. **Canidae**, including any member of the dog (canid) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (Canis Familiaris).

2. **Felidae**, including any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*).

3. **Ursidae**, including any member of the bear family, or any hybrids thereof.

**Kennel, Dealer, or Breeder:** Any person, group of persons, partnership or corporation engaged in buying, selling, breeding or boarding animals.

**Neutered:** Any male animal, which has been operated upon to prevent reproduction.

**Owner:** Any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The owner is responsible for the care, actions and behavior of his animals. In the event that the owner of an animal is a minor, the parent or guardian of such minor shall be held liable for non-compliance with the provision of this ordinance.

**Pet:** A domesticated animal kept for pleasure rather than utility.

**Restraint:** An animal is under restraint within the meaning of this ordinance if it is (1) controlled by means of a chain, leash, or other like device; (2) on or within a vehicle being driven or parked; (3) within a secure enclosure; or (4) within the dwelling house of the owner.

**Spayed:** Any female animal, which has been operated upon to prevent conception.

**Stray:** Any dog or cat that appears homeless or unwanted, and any dog that is not displaying a valid rabies tag unless otherwise exempted.

## **Section 2. Establishment and Composition of the Animal Control Program**

A. There is hereby created the Animal Control Program of Cherokee County, hereinafter referred to as The Animal Control Program, which shall be composed of such employees and or officials as shall be determined by the Board of Commissioners.

B. Employees or agents enforcing this chapter shall be designated as animal control officers. In the performance of their duties, animal control officers shall have all the powers, authority and immunity granted under this chapter and by the general laws of this state to enforce the provisions of this chapter, and the General Statutes of North Carolina as they relate to the care, treatment, control or impounding of animals.

C. Except as may be otherwise provided by statutes, local laws or ordinances, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties unless he acts with actual malice.

## **Section 3. General Duties of Animal Control Program**

A. The Animal Control Program shall be charged with the responsibility of:

1. Enforcing, in this county, all state and county laws, ordinances and resolutions relating to the care, custody and control of animals.
2. Assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or controlling of dangerous animals and dangerous dogs.
3. Investigating cruelty or abuse with regards to animals.
4. Making such canvasses of the county as it deems necessary for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or State statute.
5. Acting as liaison for Cherokee County with any animal holding facility and/or animal shelter that the Board of Commissioners shall so designate.

B. It shall be the duty of The Animal Control Program to keep, or cause to be kept, accurate and detailed records of:

1. Impoundment and disposition of all animals coming into the contracted animal control facility.
2. Bite cases, violations and complaints, and investigation of same.
3. All monies belonging to the county which are derived from impoundment fees and penalties.
4. All other records deemed necessary.

C. Any person authorized to act under the Animal Control Program shall be known as the "Animal Control Officer."

#### **Section 4. Cruelty to Animals**

It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful shooting of birds, deer and other game for human food; nor to prohibit an animal's owner, a veterinarian, the Health Director or Animal Control Program agents from destroying dangerous, unwanted or injured animals in a humane manner, nor to prohibit the lawful use of animals in scientific research.

The Cherokee County Board of Commissioners as provided under North Carolina General Statute §19A-45 may appoint animal cruelty investigator(s). An animal cruelty investigator(s) shall have the responsibility for carrying out the defined duties of an animal cruelty investigator as mandated by North Carolina General Statutes. An animal control officer may be requested to accompany the investigator on animal seizures.

## **Section 5. Animals Creating Nuisance**

A. It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner so as to constitute a nuisance.

B. The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages a member of the general public; or interferes with the ordinary use and enjoyment of private or public property. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a nuisance and are therefore unlawful:

1. Maintaining an animal that habitually or repeatedly disturbs, interferes with or annoys human beings.
2. Maintaining an animal that tips over garbage pails or damages gardens, flowers or vegetables.
3. Failing to confine in a building or secure enclosure a female dog while in estrus.
4. Allowing or permitting an animal to bark, whine, howl or yowl in an excessive, continuous or untimely fashion, or to make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.
5. Maintaining an animal that chases, snaps at, attacks or otherwise molests pedestrians, bicyclists, motor vehicle passengers or farm stock or domestic animals.
6. Maintaining an animal that habitually or continuously loiters on public places.
7. Maintaining an animal that is diseased and dangerous to the health of the public unless under the care of a licensed veterinarian.

## **Section 6. Confinement and Control of Inherently Dangerous Mammals**

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

**B. Exemptions** The following shall be exempt from this ordinance:

1. Any nonprofit institution or exhibitor or dealer, which owns or harbors inherently dangerous mammals for research, provided that such institution /facility/premises are licensed by the U.S. Department of Agriculture or Interior.
2. Traveling fairs, circuses and carnivals shall also be exempt from this section.

### **C. Recapturing**

The owner of any inherently dangerous mammal shall reimburse Cherokee County for all cost incurred while attempting to recapture any escaped inherently dangerous mammal. If the animal is sheltered or euthanized by Animal Control, the owner shall also pay these costs.

## **Section 7. Confinement and Control of Dangerous Animals and Dangerous Dogs**

A. It is unlawful for any owner to maintain or harbor unconfined or unrestrained any dangerous dog or animal which (1) bites, inflicts injury, assaults, or otherwise attacks a human being without provocation on public or private property or (2) injures or kills a pet or domesticated animal and

the animal control officer determines after investigation that the report is supported by the evidence. Said dog or animal shall be deemed dangerous.

B. The owner will be notified in writing to confine the dog or animal in a humane secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous dog or animal is on the premises. Said sign shall not be less than one foot by two feet or two square feet in area.

C. The owner shall have 30 days from the date of notification to provide a humane, secure enclosure. The animal deemed "Dangerous" shall be under constant restraint on the owner's property during this period.

D. An agent of the animal control program is empowered to confiscate the dog or animal and harbor it at the owner's expense pending the owner's construction of a humane secure enclosure. If any dangerous animal or dog is confiscated under this provision, the owner of the dangerous dog or animal shall be given written notice at the time of confiscation that if the owner fails to provide a secure enclosure upon the expiration of thirty days from confiscation Animal Control is authorized to dispose of the animal. If the owner constructs a secure enclosure which is approved by Animal Control, and the animal is not being destroyed pursuant to Section 16 B and C, the animal may be redeemed within thirty days from confiscation so long as all fees owing to Animal Control for harboring, caring and maintaining the animal are paid.

E. Dogs or animals trained or being trained in mode of attack are subject to the provision of B, C and D of this section.

### **Section 8. Requirements for Attack Training Facility**

It shall be unlawful for any person, group of persons, partnership or corporation to conduct training in mode of attack for dogs or other animals at any location unless such training is conducted within a secure enclosure.

Such training within a secure enclosure within the meaning of this ordinance if it is performed within (1) a fence or structure of adequate height to prevent the dog or animal from jumping, climbing or otherwise escaping from the enclosure and (2) said training is conducted in the presence of the owner(s) or trainer(s) at all times.

Any dog or animal trained or being trained in mode of attack is deemed to be dangerous and is subject to all the provision of this ordinance relative to dangerous dogs or dangerous animals.

### **Section 9. Confiscation of Animals**

Any dangerous animal or dangerous dog not kept in accordance with the requirements of this chapter, may be confiscated by the animal control officer and harbored at the owner's expense until the owner complies with the requirements of this chapter, or disposed of as provided in Section 8 of this Article.

### **Section 10. Required Notification to Animal Control Program by Owners of Dangerous Animals or Dangerous Dogs**

The owner of a dangerous animal or dangerous dog shall inform the Animal Control Program, as

soon as practicable, but not later than 24 hours, after the occurrence of any of the following:

- (1) An assault, attack or biting upon any human being committed by any such animal in the owner's care or control.
- (2) An attack or biting upon any domesticated animal or pet while said animal is off the owner's property.
- (3) The destruction of or damage to property of another by such animal.
- (4) The roaming or escape of any animal required to be restrained or confined to a secure enclosure.

### **Section 11. Dogs or Animals Used for Sentry or Guard Duty**

Any person owning, maintaining or harboring a dog or other animal for sentry or guard purposes must register said dog or animal with the Animal Control Program.

A sign warning that there is a guard or sentry dog or animal on the premises shall be displayed. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous dog or animal is on the premises. Said sign shall not be less than one foot by two feet or two square feet in area.

### **Section 12. Teasing and Molesting**

It shall be unlawful for any person to tease, bait, or in any way molest any animal not belonging to him or legally under his control.

### **Section 13. Law Enforcement Dogs Excluded**

Any dog used by a law enforcement agency in the investigation of crimes or as otherwise necessary in the enforcement of the law is excluded from requirements of this Chapter with the exception that they are regulated by the provisions of Articles II and III of this Ordinance.

### **Section 14. Interference with Enforcement of Chapter**

It shall be unlawful for any person to interfere with, hinder or molest the Animal Control Program agents or officers or veterinarians in the performance of any duty authorized by this chapter, or to seek to release any animal in the custody of such agents, except as otherwise specifically provided.

### **Section 15. Imposition of Penalties for Violations of Chapter**

A. Except as otherwise provided, any person who violates any provision of this ordinance, shall be fined a civil penalty of one hundred dollars (\$100.00). If the violation is continued, each day's violation shall constitute a separate offense. Payment of said penalties shall be made within ten (10) days. Civil penalties may be assessed by citation and recovered by Cherokee County in a civil action in the nature of a debt.

B. If any dangerous animal or dangerous dog shall, when unprovoked, attack, assault, wound, bite

or otherwise injure or kill a human being, the owner shall pay a five hundred dollar (\$500.00) fine and, after a ten (10) day waiting period exclusive of Sundays and holidays, said dog shall be destroyed by the Animal Control Program. For each owner's subsequent violation said owner shall pay a fifteen hundred dollar (\$1500.00) civil penalty for owning or keeping a dangerous animal or dangerous dog which attacks, assaults, wounds, bites or otherwise injures or kills a human being.

C. If any dangerous animal or dangerous dog shall, when unprovoked, kill, wound or worry or assist in killing or wounding any domestic animal or pet, the owner of said dog shall pay a two hundred fifty dollar (\$250.00) civil penalty and the Animal Control Program is empowered to confiscate and, after the expiration of a ten (10) day waiting period exclusive of Sundays and holidays, may destroy said dangerous dog or animal. For each subsequent violation the owner of said dog or animal shall pay a civil penalty of five hundred dollars (\$500.00).

D. Violation of this ordinance may subject the violator to criminal as well as civil action. In addition to the civil penalties or fees imposed under this ordinance, violation of this chapter shall be a misdemeanor for which a criminal summons may be issued. Any person convicted of such violation shall be punishable as provided in North Carolina General Statute § 14-4. Each day's violation of this section is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, civil penalties or fees imposed under this ordinance.

E. In addition, enforcement of this ordinance may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

## **ARTICLE II. RABIES CONTROL**

### **Section 1. Compliance with State Law, Article as Supplement to State Law**

A. It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

B. It is the purpose of this article to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

### **Section 2. Inoculation of Dogs, Cats and Other Pets**

A. It shall be unlawful for an owner to fail to provide current inoculation against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should it be deemed necessary by the County Health Director, the Board of County Commissioners, or the State Public Health Veterinarian that other pets be inoculated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.

B. A rabies inoculation shall be deemed "current" for a dog and cat if two inoculations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.

### **Section 3. Inoculation Tag**

A. Upon complying with the provision of Section 2 of this Article, there shall be issued to the owner of the animal inoculated a numbered metallic tag, stamped with the number and the year for which issued, and indicating that the animal has been inoculated against rabies.

B. It shall be unlawful for any dog owner to fail to provide the dog with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times pursuant to N.C.G.S. §130A-190, except during the time the dog is hunting or is performing at shows, obedience trials, tracking tests, field trials, schools or other events sanctioned and supervised by a recognized organization.

C. It shall be unlawful for any person to use for any animal a rabies inoculation tag issued for an animal other than the one using the tag.

### **Section 4. Cat Inoculation Tags**

Cats shall not be required to wear the metallic tag referred to in Section 3 of this Article, but the owner of a cat shall maintain the rabies vaccination certificates as written evidence to prove that the cat has a current rabies inoculation.

### **Section 5. Report and Confinement of Animals Biting Persons or Showing Symptoms of Rabies**

A. Every dog or cat which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Control Program and the local health director pursuant to N.C.G.S. §130A-196, and thereupon shall be securely quarantined, at the direction of the Animal Control Program, for a period of ten (10) days, and shall not be released from such quarantine except by written permission from the Animal Control Program.

B. Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel, or county animal shelter, at the expense of the owner; provided, however, that if an animal control officer determines that the owner of an animal which must be quarantined has adequate confinement facilities upon his own premises, the animal control officer may authorize the animal to be confined on such premises. The animal control officer may not authorize the animal to be confined on the owner's premises unless the owner has a fenced-in area in his yard and the fenced-in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. Proof will be required at the time of investigation. If the animal is confined on the owner's premises, the animal control officer shall revisit the premises for inspection purposes at approximately the middle of the confinement period and again at the conclusion of the confinement period.

C. In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the county animal shelter.

D. If rabies does not develop within ten (10) days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine with the written permission of the animal control program. If the dog or cat has been confined in the county animal shelter, the owner shall pay any necessary veterinarian fees and a boarding fee set by the Board of Health and approved

by the Board of County Commissioners.

E. In the case of any carnivore or bat the animal may be euthanized and the head examined for rabies.

### **Section 6. Destruction of Animal Bitten by Rabid Animal**

Unvaccinated animals bitten by a known rabid animal shall be immediately destroyed in a humane manner and as allowed by law. If the animal has a current rabies inoculation, it shall be re-vaccinated and returned to the owner.

### **Section 7. Area-Wide Emergency Quarantine**

A. When reports indicate a positive diagnosis of rabies, the County Director of Public Health may order an area-wide quarantine for such period as he/she deems necessary. Upon invoking of such emergency quarantine, no dog, cat or other carnivores shall be permitted to be at large during such period. During such quarantine, no dog or cat or other carnivore may be taken or shipped from the county without written permission of the Animal Control Program, and the police and sheriff's departments are hereby directed during such emergency, to impound any dog, cat or other carnivore found running at large in the county. During the quarantine period, the Animal Control Program or 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.

B. 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 County Director of Public Health.

### **Section 8. Postmortem Diagnosis**

A. If an animal dies while under observation for rabies, the head of such animal shall be submitted to the Cherokee County Department of Health for shipment to the State Laboratory of Public Health for rabies diagnosis.

B. The carcass of any animal suspected of dying of rabies shall be surrendered to the Animal Control Program. The head of such animal shall be submitted to the Cherokee County Department of Health for shipment to the State Laboratory of Public Health for rabies diagnosis.

### **Section 9. Unlawful Killing, Releasing, etc, of 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 biting a human, or to remove such animal from the county without written permission from the Animal Control Program and the County Director of Health.

### **Section 10. Failure to Surrender Animal 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 demand is made therefore by the Animal Control

Program.

## **ARTICLE III. IMPOUNDMENT**

### **Section 1. Generally**

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 (N.C.G.S. §130A-190) or this ordinance, and not under restraint in violation of this ordinance, shall be impounded by the Animal Control Program and confined in an animal boarding facility in a humane manner. Impoundment of such an animal shall not relieve the owner thereof from any penalty, which may be imposed for violation of this ordinance.

### **Section 2. Notice to Owner**

Immediately upon impounding an animal, the animal control program shall make reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed. If the owner is unknown or cannot be located, notice of such impoundment shall be posted for a minimum of seventy-two (72) hours, or until the animal is disposed of, on a bulletin board at the Cherokee County Administrative Building and Courthouse, and the time and place of the taking of such animal, together with the time and date of posting the notice shall be stated therein.

### **Section 3. Redemption by Owner Generally**

A. The owner of an animal impounded under this article may redeem the animal and regain possession thereof within seventy-two (72) hours after notice of impoundment is given or posted, as required by Section 2 of this Article, by complying with all applicable provisions of this chapter and paying any necessary veterinarian's fee and a boarding fee set by the Board of County Commissioners.

B. The following fee schedule shall apply for redemption of impounded animals:

<u>Redemption by owner</u>	<u>Dogs</u>	<u>Cats</u>
1st impoundment	\$25.00	\$25.00
2nd impoundment	\$50.00	\$50.00
3rd impoundment and subsequent impoundment within a 1-year period	\$100.00	\$100.00

An additional fee of \$2.00 per day for dogs and \$1.00 per day for cats will be charged for each day of keeping the animal in the impoundment facility, including the date of impoundment but not the date of redemption.

### **Section 4. Destruction or Adoption of Unredeemed Animals Generally**

If an impounded animal is not redeemed by the owner within the period prescribed in Section 3 of this Article, it may be destroyed in a humane manner or shall become the property of the Animal

Control Program and given to any animal adoption agency deemed appropriate by the animal control officer (s) who may offer for adoption to any responsible adult who is willing to comply with this ordinance.

### **Section 5.**

#### **Procedure with Respect to Redemption of Unvaccinated Dog or Cat**

- A. Unless proof of a current rabies vaccination can be furnished, every person who redeems a dog or cat at the animal shelter must receive a card from the animal control officer entitled "proof of rabies vaccination card" which must be stamped with a date stating the maximum time limit allowed to take the dog or cat to the veterinarian of such person's choice for rabies vaccination. The time limit for dogs and cats four (4) months and older will be seventy-two (72) hours, with Sundays and holidays excluded. For puppies and kittens under four (4) months, the time limit will vary according to their age.
- B. The "proof of rabies vaccination card" will be completed and returned to the Animal Control Officer by the veterinarian. If this card is not returned to the Animal Control Officer within the time limit specified on the card, an animal control officer will be dispatched to retrieve the dog or cat.
- C. Payment for the rabies vaccination provided for in this section will be the responsibility of the person redeeming the animal.

### **Section 6. Suspected Rabid Animals not to be Redeemed**

Notwithstanding any other provision of this article, animals impounded, which appear to be suffering from rabies shall not be redeemed, but shall be dealt with in accordance with Article II of this ordinance.

### **Section 7. Destruction of Wounded or Diseased Animals**

Notwithstanding any other provision of this article, any animal impounded which is badly wounded or diseased (not a rabies suspect) and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the Animal Control Program shall attempt to notify the owner before disposing of such, but if the owner cannot be reached readily, and the animal is suffering, the Animal Control Program may destroy the animal at its discretion in a humane manner.

### **Section 8. Destruction of Animals Which Cannot be Seized by Reasonable Means**

Now notwithstanding any of the provisions of this ordinance, an animal which cannot be seized by reasonable means may be humanely destroyed by order of the County Health Director or person duly authorized by the County Health Director.

## ARTICLE IV

### Section 1. Severability of Ordinance.

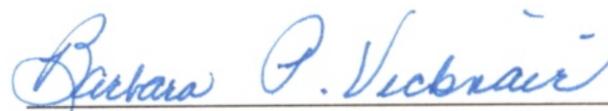
If, for any reason, one (1) or more parts of this Ordinance are held invalid by the courts, such judgment shall not affect the remaining provisions of this Ordinance. The county board of commissioners hereby declares that it would have passed this Ordinance and each section thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid.

### Section 2. State and Federal laws.

This Ordinance will apply except where superseded by state or federal law.

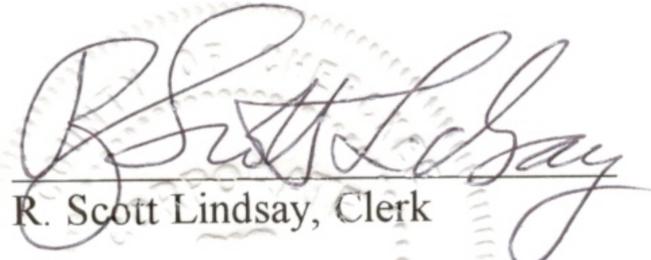
### Section 3. Effective Date

This ordinance is effective October 1, 2001.



Barbara P. Vicknair, Chairman  
Cherokee County Commissioners

Attest:



R. Scott Lindsay, Clerk



**RESOLUTION FOR THE ADOPTION OF AN  
ORDINANCE ACQUIRING THE LICENSING OF DOGS  
AND THE PROHIBITING OF DOGS RUNNING LOOSE  
WITHIN THE CITY LIMITS OF THE TOWN OF  
ANDREWS**

WHEREAS, the Town of Andrews Board of Aldermen have become aware that a problem exists wherein dogs are running loose within the city limits of Andrews, and are destroying property; and,

WHEREAS, the Town of Andrews Board of Aldermen have become aware of instances of dangerous dogs running loose within the Town of Andrews endangering persons and other dogs and pets; and,

WHEREAS, the Town of Andrews Board of Aldermen understand and recognize the importance and benefits of keeping dogs for pets and other purposes; and,

WHEREAS the Town of Andrews Board of Aldermen feel that dogs can be licensed and their roaming restricted in order to protect the citizens and property of the Town of Andrews while at the same time not unduly burdening dog owners or infringing upon their ownership rights; and,

WHEREAS the Town of Andrews Board of Aldermen, after due discussion and consideration, have agreed that an ordinance requiring licensing of dogs and the prohibiting of dogs running loose within the city limits of the Town of Andrews is in the best interest of the Town of Andrews, it's citizens, and the dogs and other pets;

NOW THEREFORE, let it hereby be resolved that the Code of Ordinances, Town of Andrews, North Carolina, is hereby amended by adding a new article, to be numbered Chapter 5, Article 3, which said article reads as follows:

**ARTICLE III - DOG CONTROL AND LICENSING**

Section 1- ALLOWING DOG TO RUN LOOSE IN TOWN OF ANDREWS  
UNLAWFUL

It shall be unlawful for an owner of a dog to allow that dog to run loose within the city limits of the Town of Andrews. For purposes of this Article, to "run loose" shall mean to allow a dog out of doors unless said dog is constrained or restricted in its roaming by a fence, pen, leash, or other such device.

Section 2- ALL DOGS TO BE LICENSED

It shall be unlawful to keep a dog within the city limits of the Town of

Andrews without being validly licensed with the Town of Andrews. Said license shall be kept on each licensed dog, attached to a collar worn by each licensed dog. It shall be unlawful to place a Town of Andrews dog license on any dog other than that particular dog for which that particular Town of Andrews dog license was issued. It shall be the responsibility of each dog owner within the city limits of the Town of Andrews to provide the Town Clerk with the necessary information so that a license for their dog may be issued.

*All spots up to date at time of licensure!*  
Section 3 - TOWN TO ISSUE DOG LICENSE

The Town of Andrews shall issue licenses, in the form of a dog collar tag, for each dog kept within the city limits of the Town of Andrews and may charge a sum of money for each license issued according to a schedule of charges, said schedule to be approved by the Board of Aldermen, said schedule to be kept on file in the Town Clerk's Office. Each dog license shall be valid for one year from the date issued. The charges for said licenses may differ based upon the number of dogs to be licensed per owner, and upon whether or not the dog is spayed or neutered, or upon other conditions as approved by the Board of Alderman. The Board of Aldermen may from time to time enter into agreements or contracts with persons other than Town of Andrews employees to issue licenses and collect charges for said licenses in accordance with this article. Each license issued shall read, on its face, "Town of Andrews" and shall bear numbers and/or letters or a combination thereof which shall be used for identification purposes in accordance with Section 4 of this Article.

Section 4 - REGISTRY OF DOG LICENSES TO BE KEPT BY CLERK

The Town Clerk shall keep a registry of all licensed dogs and said registry shall be indexed by the number of the license issued and shall list the corresponding name, breed and sex of the dog, whether or not the dog has been spayed or neutered, name, address and phone number of the owner of said dog, date issued, and any other information submitted by the owner which may be helpful in identifying the dog and notifying the owner of said dog in accordance with Section 5 of this Article. It shall be unlawful for any person to knowingly give false information concerning this Section to the Town Clerk.

Section 5 - DOGS IN VIOLATION OF SECTION 1 TO BE SEIZED AND OWNER NOTIFIED

Any dog found to be in violation of Section 1 of this Article shall be seized and delivered by the Town of Andrews or its agents, to any designated facility which the Town of Andrews has entered into an agreement with to hold dogs in such circumstances. As soon as is practical, the Town of Andrews, its agent and/or the facility holding said dog, shall consult the registry kept by the Town Clerk and shall identify the dog and shall notify the owner of the dog being held. In circumstances where no license is found on a seized dog, neither the Town of Andrews, its agents nor the facility holding said dog shall be under any duty to notify the owner of said dog, unless other owner identifying information

appears on said dog.

Section 6 - SEIZED DOGS TO BE KEPT IN HOLDING FACILITY UNTIL CLAIMED OR DISPOSED OF

Dogs seized in accordance with Section 5 of this Article shall be held at a designated holding facility until claimed by their owner or otherwise disposed of in accordance with that holding facility's policies. Provided, however, that in no case shall any dog be disposed of, other than being claimed by its owner, until at least three (3) business days have passed after notifying the owner, where a license or other identifying information appears on the dog. Notice to a particular dog's owner shall be by certified mail with proof of receipt thereof by the dog's owner returned to the Town of Andrews, or by virtue of an affidavit filed by a Town of Andrews employee stating that the particular employee has personally served upon the dog owner notice of the dog being seized. In cases where there is no license or other identifying information appearing on the dog, no dog shall be disposed of, other than being claimed by its owner, until at least seven (7) business days have passed after its being seized.

Section 7 - OWNER LIABLE FOR COSTS CHARGED BY HOLDING FACILITY

An owner whose dog is seized and held in a designated holding facility by authority of this Article, shall be liable for the cost of holding said dog and shall reimburse the facility or the Town of Andrews for the cost thereof. The Town of Andrews or the designated facility may require reimbursement of such costs as a prerequisite to the owner reacquiring said dog.

Section 8 - FINES FOR VIOLATION OF THIS ARTICLE

In addition to those charges for reimbursement of the cost of holding a seized dog, persons in violation of Section 1 and/or Section 2 of this Article shall be fined in accordance with the following:

- a. First Violation of Section 1 - fine of ten dollars (\$10.00)  
Second Violation of Section 1 - fine of twenty dollars (\$20.00)  
Each Additional Violation of Section 1 - fine of thirty dollars (\$30.00)
- b. Each Violation of Section 2 - fine of fifty dollars (\$50.00)

Section 9 - DELEGATION TO COUNTY

The Town of Andrews may, from time to time, enter into agreements with Cherokee County for the enforcement and/or administration of a portion or all of this Article.

Section 10 - STATE OF NORTH CAROLINA DANGEROUS DOG LAW

Nothing herein shall prevent or prohibit a dog owner from being charged with a violation of Chapter 67 of the North Carolina General Statutes, dealing

# TOWN OF ANDREWS

## SCHEDULE OF CHARGES FOR DOG LICENSES

Neutered or Spayed Dog - \$5.00 Per Dog

Unneutered or Unspayed Dog - \$7.00 Per Dog

Yearly Renewal - \$1.00 Per Dog

Kennel License - For the fourth dog and each additional dog licensed by a particular owner, the owner shall be entitled to a \$1.00 discount per dog

# AFFIDAVIT OF SERVICE NOTICE OF SEIZURE OF DOG

This affidavit is to certify that I, \_\_\_\_\_, an employee  
(Affiant's name)  
and/or agent of the Town of Andrews, personally served upon \_\_\_\_\_  
(Dog Owner's Name)  
a copy of the "NOTICE OF SEIZURE OF DOG IN VIOLATION OF SECTION 1 OR SECTION  
2 OF TOWN OF ANDREWS DOG CONTROL AND LICENSING ORDINANCE," attached  
hereto. This personal service occurred at \_\_\_\_\_  
\_\_\_\_\_  
(Place of Service)  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ p.m./a.m.

\_\_\_\_\_  
Affiant

Subscribed to and sworn before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Notary Expires:  
\_\_\_\_\_

NOTICE OF SEIZURE OF DOG IN VIOLATION OF  
SECTION 1 OR SECTION 2 OF TOWN OF ANDREWS  
DOG CONTROL AND LICENSING ORDINANCE

To: \_\_\_\_\_  
Name of Dog Owner

\_\_\_\_\_  
Address and Phone Number

Dear \_\_\_\_\_:

Please be advised that your dog, \_\_\_\_\_, has been seized  
(License # and name)  
by the Town of Andrews for the violation of the Town of Andrews Dog Control and Licensing  
Ordinance. You should **IMMEDIATELY** contact the Town Clerk at the Andrews Town Hall  
on Main Street, Monday - Friday from 8:00 a.m. to 5:00 p.m. or by telephone at 828-321-5111 or  
828-321-3113. **YOU MAY HAVE AS LITTLE AS THREE (3) DAYS FROM THE DATE  
THIS NOTICE IS SERVED UPON YOU TO REGAIN POSSESSION OF YOUR DOG.**

\_\_\_\_\_  
Town Clerk  
Town of Andrews

# INFORMATION TO BE COLLECTED AT ISSUANCE OF DOG LICENSE

License Number: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Dog Owner: \_\_\_\_\_

Address of Dog Owner: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

Name of Dog: \_\_\_\_\_ Spayed or Neutered: \_\_\_\_\_

Breed: \_\_\_\_\_ Sex: \_\_\_\_\_ Color of Dog: \_\_\_\_\_

Additional identifying information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Owner Addresses and Phone Numbers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This information shall be entered into a registry kept by the Town Clerk in accordance with  
Section 4 of the Dog Control and Licensing Ordinance.

with dogs and dangerous dogs, and nothing herein shall be construed as preventing a person from being charged and found guilty of both a violation of this Article and a violation of Chapter 67 of the North Carolina General Statutes.

*Jim Dailey* (SEAL)  
JIM DAILEY - MAYOR  
TOWN OF ANDREWS

*John Payne* (SEAL)  
JOHN PAYNE - ALDERMAN  
TOWN OF ANDREWS

*Jim Hutto* (SEAL)  
JIM HUTTO - ALDERMAN  
TOWN OF ANDREWS

*John Paul Jones* (SEAL)  
JOHN PAUL JONES - ALDERMAN  
TOWN OF ANDREWS

*Jake Buchanan* (SEAL)  
JAKE BUCHANAN  
TOWN OF ANDREWS

ATTESTED TO:

*Cheryl Stewart* (SEAL)  
CHERYL STEWART - CLERK  
TOWN OF ANDREWS

NORTH CAROLINA  
CHEROKEE COUNTY

I, *W.R. Stiles*, a Notary Public of the County and State aforesaid, certify that CHERYL STEWART personally came before me this day and acknowledged that she is the TOWN CLERK FOR THE TOWN OF ANDREWS, NORTH CAROLINA, a body politic, and that by authority duly given and as the act of the TOWN BOARD, the foregoing instrument was signed in its name by its MAYOR, JIM DAILEY, sealed with its official seal and attested to by herself as its TOWN CLERK.

WITNESS my hand and official stamp or seal this 3 day of June, 1998.

My Commission Expires: May 24, 2000

*W.R. Stiles*  
Notary Public