

**TRANSYLVANIA COUNTY  
ANIMAL CONTROL ORDINANCE**

**SECTION 3-1. DEFINITIONS.**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*Animal:* A living creature, domestic or non-domestic, but does not include humans.

*Animal Shelter:* Any premises designated by the Health Director for the purpose of impounding and caring for animals.

*At Large:* An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.

*Bite:* Any penetration of the skin by teeth constitutes a bite exposure.

*Commercial Animal Establishment:* Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition, or kennel.

*Exposed to rabies:* An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

*Grooming Shop:* Any establishment, whether operated separately or in connection with another business enterprise which provides hair and nail clipping, bathing, and other cosmetic services for animals.

*Humane Society:* Transylvania County Humane Society and its representatives.

*Impoundment:* Any animal in custody of a person or animal shelter duly authorized by the Local Health Director.

*Keeper:* A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

*Kennel:* Any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five (5) dogs per year are sold by such owner.

*Local Board of Health:* Transylvania County Board of Health.

*Local Health Department:* Transylvania County Health Department.

*Local Health Director:* Health Director of the Transylvania County Health Department, or designee.

*Nuisance:* An animal or group of animals shall be considered a nuisance if it:

- (1) damages, soils, or defiles private or public property; or
- (2) interferes with, molests, or attacks persons or other animals; or
- (3) is repeatedly at large; or
- (4) causes unsanitary, and offensive conditions including interrupting the tranquility of the community; or
- (5) chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles; or
- (6) is diseased.

*Owner:* Any person or legal entity having a possessory property right in an animal. The head of a household shall be deemed to be the owner in respect to any dog or dogs, owned, kept, or harbored on the premises by any person residing in said household.

*Person:* Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

*Pet:* Any animal kept for pleasure rather than utility.

*Pet Shop:* Any commercial establishment whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

*Restraint:* Any animal shall be considered under restraint if it is within the real property limits of its owner, or secured by a leash or lead, or confined.

*Riding School or Stable:* Any place which has available for hire, boarding and/or riding instruction any horse, pony, donkey, or burro.

*Security Dog:* Any dog used, kept or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog, or watch dog.

- (1) *Patrol dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.
- (2) *Sentry dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively without command.
- (3) *Watch dog:* A dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.

*Stray:* Any unregistered or unlicensed dog or cat deemed to be at large.

*Suspected of having rabies:* An animal which does not have a current vaccination against rabies in accordance with Section 3-9, or which has bitten a person. Any animal bitten or scratched by a wild carnivorous mammal (including a bat) and the wild animal is not available for testing.

*Unregistered dog or unlicensed dog:* A dog which is not listed on the owner's current tax billing statement or registered in accordance with Section 3-10, and/or a dog which does not have affixed to it a rabies vaccination tag.

*Veterinary Hospital:* Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animal(s).

**SECTION 3-2. AGENCY AUTHORITY AND RESPONSIBILITY.**

(A) Authority is hereby granted to the Local Board of Health to establish and maintain an animal control program, to employ animal control officers and such other employees as shall be deemed necessary by the Local Board of Health, through the Local Health Director, and to appoint and compensate animal control officers and other such employees in accordance with the personnel policies of Transylvania County and the Office of State Personnel.

(B) The employees of the animal control program shall:

- (1) Have the responsibility along with law enforcement agencies to enforce the laws of North Carolina and the ordinances of Transylvania County in fulfilling this program.
- (2) Enforce and carry out all laws of North Carolina and all ordinances of Transylvania County pertaining to rabies control.
- (3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat involved and suspected of having rabies, for a period of not less than ten (10) days, and for reporting to the Local Health Director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
- (4) Be responsible for the operation of the animal shelter.
- (5) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or cat in Transylvania County involved in a violation of this or any other county ordinance or state law.
- (6) Investigate cruelty or abuse with regard to animals.
- (7) Make such canvasses of the county, including the homes in the county, as necessary for the purpose of ascertaining compliance with this ordinance or state statute.
- (8) Keep, or cause to be kept, accurate and detailed records of:
  - a. Seizure, impoundment, and disposition of all animals coming into the custody of the animal control program.
  - b. Bite cases, violations and complaints, and investigation of same.
  - c. All monies belonging to the Local Health Department and/or county which were derived from fees, penalties, license tags, sales of animals, or other sources.
  - d. Any other matters deemed necessary by the Local Health Director.

- (9) Be empowered to issue notices of violations of this ordinance in such form as the Local Health Director may prescribe.
- (10) Have the authority to seize, impound and humanely destroy animals determined to be dangerous in accordance to Section 3-4 of this ordinance. (Amendment of 3/22/96)

**SECTION 3-3. CRUELTY TO ANIMALS.**

(A) 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 produce 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 taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission; nor to prohibit the Animal Control Officers or persons duly authorized by the Local Health Director or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner; or to prohibit the lawful use of animals in scientific research; or legitimate pest control activities.

(B) It shall be unlawful for any owner or keeper to fail to provide his animal or animals with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his animal or animals in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.

(C) It shall be unlawful for any person to sell or offer for sale, barter or give away within the county baby chickens, baby ducklings or other fowl under six (6) weeks of age or rabbits under (8) weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings other fowl or such rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes other than for pet or novelties.

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

**Section 3-4. CONTROL OF DANGEROUS DOGS OR POTENTIALLY DANGEROUS DOGS.**

(A) An owner of a dangerous or potentially dangerous dog shall take precautions against attacks by such dogs which may result in serious bodily injury to a person. Determination of a dangerous or potentially dangerous dog shall be in accordance with G.S. 67-4.1. A board designated by Transylvania County Commissioners shall be responsible for determining when a dog is a potentially dangerous dog. This board shall be composed of a practicing veterinarian and two public citizens. ~~The Local Board of Health will serve as the Appellate Board to hear any appeals.~~ Final decisions by the Appellate Board may be appealed to the Superior Court of Transylvania County. (Amended 5/13/96; 4/12/10)

(B) It shall be unlawful for any person to keep any vicious or dangerous domestic animal within the county unless it is confined within a secure building or enclosure, or it securely muzzled and under restraint by means of a leash, chain or rope and firmly under control at all times.

(C) Once the animal has been determined dangerous by the review board according to Section 3-4(A), any subsequent violation of Section 3-4(B) may result in the animal being seized and impounded.

Thereafter, the Local Health Director may determine if the dog should be destroyed and, if so determined, then the animal owner shall have ten (10) working days to appeal the decision to the Superior Court of the County. (Amendment of 3/22/96)

(D) Furthermore, the owner, having been determined to have subsequently violated Section 3-4(B) may be enjoined and/or prohibited from owning or possessing dogs of a potentially dangerous breed in the future. Dogs of a potentially dangerous breed are dogs which exhibit the genetic characteristics and/or traits of the following breeds:

Akita	Australian Shepherd	
Blue Heeler	Bouvier	
Bulldog	Chow	
Dalmatian	Doberman	
German Shepherd	Husky	
Malamute	Malinos	
Mastiff	"Pit Bull" (Staffordshire, American Terrier)	
Rottweiler	Shar Pei	
Wolf Hybrid		(Amendment of 5/13/96)

### **SECTION 3-5. ANIMALS CREATING NUISANCE PROHIBITED.**

(A) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance, or to maintain a nuisance created by an animal or animals. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701.

(B) Compliance shall be required as follows:

- (1) When an animal control officer, law enforcement officer, or person duly authorized by the Local Health Director observes a violation of this ordinance, the owner or keeper will be provided written notification of such violation and be given 48 hours from time of notification to abate the nuisance.
- (2) Upon receipt of a written detailed and signed complaint being made to the Local Health Director by any person or persons that any other person is maintaining a nuisance as defined in this ordinance, the Local Health Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
- (3) If the written findings indicate that the complaint is justified, then the Local Health Director or person duly authorized by the Local Health Director, shall cause the owner or keeper of the animal or animals in question to be so notified in writing, and ordered to abate such nuisance within forty-eight (48) hours by whatever means may be necessary. In the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be posted for forty-eight (48) hours at the animal shelter. If after 48 hours the owner or keeper of the animal or animals remains unknown, the animal may be impounded or humanely destroyed.

(C) It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this

ordinance.

### **SECTION 3-6. BARKING DOGS.**

It shall be unlawful for any person to own, keep, or have within the county any dog that habitually or repeatedly barks or makes other sounds that tend to annoy or disturb citizens so as to interrupt the sleep or tranquility of neighbors on a regular basis. An animal control officer shall make this determination based on an investigation and the complaint must be jointly signed by complainant and the investigating officer.

### **SECTION 3-7. LURING, ENTICING, SEIZING, MOLESTING, OR TEASING AN ANIMAL.**

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

### **SECTION 3-8. COMPLIANCE WITH, SUPPLEMENTAL TO STATE RABIES LAWS.**

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

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

### **SECTION 3-9. VACCINATION OF DOGS, CATS, AND OTHER PETS.**

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

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

(C) All antirabic vaccine shall be administered by a licensed veterinarian or a certified rabies vaccinator.

### **SECTION 3-10. VACCINATION TAG AND CERTIFICATION.**

(A) Upon complying with the provisions of Section 3-9 of this ordinance, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with the number and the year for which issued, and a rabies vaccination certificate.

(B) It shall be unlawful for any dog or cat owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar

or harness, with attached tag, must be worn at all times.

(C) In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this ordinance if the dog or cat 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) All dogs or cats shipped or otherwise brought into the county from a state other than North Carolina, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that said dog or cat is apparently free from rabies and has not been exposed to same and that said dog or cat has received a proper dose of rabies vaccine within the past twelve months prior to the date of issuing the certificate.

### **SECTION 3-11. NOTICE TO LOCAL HEALTH DIRECTOR WHEN PERSON BITTEN, CONFINEMENT OF ANIMAL.**

(A) When a person has been bitten by a dog or cat, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the same in his possession or under his control, to notify the Local Health Director or person duly authorized by the Local Health Director immediately and give their names and addresses; and the owner or person having such animal in his possession or under his control shall immediately securely confine it for ten (10) days at the expense of the owner in such place as may be designated by the Local Health Director. It shall be the duty of every physician, after his first professional attendance upon a person bitten by an animal known to be a potential carrier of rabies, to report to the Local Health Director the name, age and sex of the person so bitten, and precise location of the bite wound, within twenty-four (24) hours after first having knowledge that the person was bitten. Non-bite exposures, as defined by the Center for Infectious Diseases, CDC (MMWR 1991;40:1-6), should be reported to the Local Health Director and post-exposure treatment should be consistent with the Advisory Committee on Immunization Practices (ACIP) recommendations (MMWR 1991;No. RR-3:1-16). If the owner of or a person who has in his possession or under his control an animal having rabies or suspected of having rabies refuses to confine the animal as required by this ordinance or by G.S. 130A-198, the Local Health Director may order seizure of the animal and its confinement for ten (10) days in such place as the Local Health Director designates.

(B) Law enforcement agencies investigating animal bites, shall report such bites immediately to the Local Health Director or person duly authorized by the Local Health Director and give the names and addresses of persons bitten and the owner of the animal.

(C) Animals confined per (a) above shall not be released from confinement except by permission from the Local Health Director.

(D) Animals confined per (a) above shall be confined at the expense of the owner or keeper.

(E) In the case of an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this ordinance at the animal shelter.

(F) Injured, diseased, or suffering animals which are suspected of having rabies may be humanely destroyed immediately and the head forwarded for examination.

**SECTION 3-12. DESTRUCTION OR CONFINEMENT OF ANIMAL BITTEN BY A KNOWN RABID ANIMAL.**

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated and returned to the owner or keeper.

**SECTION 3-13. AREA-WIDE EMERGENCY QUARANTINE.**

(A) When reports indicate a positive diagnosis of rabies to the extent that lives of persons are endangered, the Local Health Director may declare an area-wide quarantine for such period as he deems necessary. Upon invoking of such emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the Local Health Director. During such quarantine, the Local Health Director, law enforcement officers, or persons duly authorized by the Local Health Director may seize and impound any dog or cat found running at large in the county. During the quarantine period the Local Health Director 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 Local Health Director.

**SECTION 3-14. POSTMORTEM DIAGNOSIS.**

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

(B) The carcass of any animal suspected of dying of rabies shall be surrendered to the Local Health Department. The head of such animal shall be shipped to the Laboratory Services Division of the North Carolina Department of Environment, Health and Natural Resources for rabies diagnosis.

**SECTION 3-15. FAILURE TO SURRENDER ANIMAL FOR CONFINEMENT OR DESTRUCTION.**

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

**SECTION 3-16. IMPOUNDMENT.**

(A) Any animal which appears to be lost, stray or unwanted, or not wearing a currently valid rabies vaccination tag, as required by state law or this ordinance, or not under restraint in violation of this ordinance, may be seized, impounded, and confined in a humane manner in an animal shelter.

(B) Impoundment of such an animal shall not relieve the owner or keeper thereof from any

penalty which may be imposed for violation of this ordinance.

**SECTION 3-17. NOTICE TO OWNER OR KEEPER.**

(A) Upon impounding an animal, other than owner surrendered, injured, diseased, or unweaned animals, notice of such impoundment shall be posted for a minimum of five calendar days, beginning with the time the animal enters the animal shelter, or until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.

(B) Such notice shall be prominently displayed at the animal shelter, and the time and place of the taking of such animal.

**SECTION 3-18. REDEMPTION BY OWNER OR KEEPER GENERALLY.**

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

(B) The owner or keeper of animal(s) impounded shall be required to pay the following redemption fees:

- (1) pick-up charge(s) when animal(s) is transported by Animal Control Officers; and
- (2) daily boarding charges, when animal(s) is impounded at the animal shelter for more than 48 hours. No daily boarding charges are assessed for the first 48 hours of impoundment;
- (3) other expenses incurred, such as veterinary medical care.

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

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

**SECTION 3-19. ADOPTION OF IMPOUNDED DOGS AND CATS.**

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

(B) All animals adopted from Transylvania County Animal Shelter shall be required to be spayed or neutered as specified below. All dogs or cats over 6 months of age shall be spayed or neutered by licensed veterinarian within 30 days of the date of the Adoption/Medical contract. All puppies or kittens under 6 months of age shall be spayed or neutered within 30 days after the animal becomes 6 months of age.

(C) The Transylvania County Board of Health shall establish uniform fees for adoption.

(D) An adopting party shall not be required to pay any boarding or redemption fee for adopting a dog, and shall not be required to pay the normal applicable rabies license fee for the first year. Rabies fee is included in the adoption fee.

(E) All adopting parties shall be required to pay the adoption fee set out in paragraph (c) prior to the possession of the animal. Payment of this fee shall entitle the adopting party to visit any participating Transylvania County veterinarian and receive for the adopted animals the medical services listed in the Adoption/Medical contract.

(F) Payment for said services by the County to the local veterinarian shall be processed by the Animal Shelter upon receipt of a completed and signed Adoption/Medical contract, which will be provided by the Animal Shelter for each animal that is adopted.

(G) The County shall agree to provide an exchange for any animal that requires major medical treatment or dies of natural causes within 30 days from the date of adoption under the following conditions only:

- (1) Any major medical treatment must be certified as being necessary by a licensed veterinarian;
- (2) In the event that the adopted animal dies during the 30 days following adoption, the adopting party must present satisfactory evidence (e.g., the carcass of the animal or a veterinarian's certification) of the date of the death of the animal;

(H) The request for an exchange must be made within 30 days from date of the adoption contract.

(I) The adopting party must bring the animal to a licensed veterinarian in accordance with the provisions of this chapter within 10 working days of the execution of the adoption contract.

### **SECTION 3-20. DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMAL GENERALLY.**

(A) If an impounded animal is not redeemed by the owner or keeper within the period prescribed in Section 3-18 it may be destroyed in a humane manner or shall become the property of the animal shelter(s) and offered for adoption to a responsible adult who is willing to comply with this ordinance and with policies promulgated by the Transylvania County Board of Health.

(B) No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this ordinance, except by special authorization of the Local Health Director.

### **SECTION 3-21. PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.**

(A) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a rabies vaccination notice at the time of the redemption or adoption. This notice will be dated and will indicate 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 ten working days (Sundays and holidays excluded). For puppies and kittens under four (4) months, the time limit will vary according to their age.

(B) The rabies vaccination notice will be completed by the veterinarian and returned to the animal shelter.

(C) Payment for rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal and is payable to the Transylvania County Animal Shelter.

**SECTION 3-22. IMMEDIATE PLACEMENT FOR ADOPTION OR DESTRUCTION OF OWNER SURRENDERED ANIMALS.**

(A) Any animal surrendered by its owner to the Animal Control Division of the Local Health Department may be immediately placed for adoption or humanely destroyed by the Animal Control Division of the Local Health Department when:

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

(B) Upon receiving said assurances, the Local Health Department may rely on the same and place said animal for adoption, or destroy said animal, as deemed appropriate. The waiting periods provided in Sections 3-17 and 3-18 shall not apply to immediate adoption or destruction as provided for in this section.

**SECTION 3-23. DESTRUCTION OF INJURED, DISEASED, OR UNWEANED ANIMALS.**

Notwithstanding any other provision of this ordinance, any animal seized and impounded which is injured, diseased (not a rabies suspect), or unweaned and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the local Health Department shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be readily reached, and the animal is suffering, the Local Health Department may destroy the animal at its discretion in a humane manner.

**SECTION 3-24. DESTRUCTION OF ANIMALS WHICH CANNOT BE SEIZED BY REASONABLE MEANS.**

Notwithstanding any other provision of this ordinance, an animal which cannot be seized by reasonable means may be humanely destroyed as set forth in G.S. 130A-192, by order of the Local Health Director or person duly authorized by the Local Health Director.

**SECTION 3-25. INJURING ANIMALS, NOTICE REQUIRED.**

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

**SECTION 3-26. KEEPING STRAY ANIMALS; REQUIREMENTS, FAILURE TO SURRENDER.**

(A) It shall be unlawful for any person in the county knowingly and intentionally to harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any animal which does not belong to him, unless he has, within seventy-two (72) hours from the time such animal came into his possession, notified the Local Health Director or Animal Control Officer. The Local Health Director or designee shall within 7 days but no sooner than 4 days after receiving notification, unless the person requests earlier pickup, take such animal, place it in the animal shelter and deal with it as provided by local policy. Notwithstanding the foregoing, if the Local Health Director has a report from such animal's owner that the animal is lost, the animal may be picked up immediately by the Animal Control Officer.

(B) It shall be unlawful for any person to refuse to surrender any such stray animal to the Local Health Director or Animal Control officer upon demand.

**SECTION 3-27. SECURITY DOGS, PERMIT REQUIRED.**

(A) It shall be unlawful to keep, maintain, or use any dog in the county for the purpose of protecting any commercially or industrially used property or person on such property unless a permit for the same shall have been obtained from the Local Health Director in accordance with the provisions of this section and such permit shall remain unsuspended and unrevoked.

(B) It shall be unlawful to keep, maintain, or use any patrol or sentry dog in the county for the purpose of protecting any residentially used property or person on such property unless a permit for the same shall have been obtained from the Local Health Director in accordance with the provisions of this section and unless such permit shall remain unsuspended and unrevoked.

(C) The Transylvania County Board of Health shall promulgate regulations for the issuance of permits for security dogs and for the compliance with this provision of this ordinance and applicable laws. The Transylvania County Board of Health may amend such regulations from time to time as deemed desirable for public health and welfare.

(D) The Local Health Director may revoke any permit if the person holding the permit refuses or fails to comply with this ordinance, the regulations promulgated by the Transylvania County Board of Health, or any law governing the protection and keeping of animals.

**SECTION 3-28. COMMERCIAL ANIMAL ESTABLISHMENT.**

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

agency of the United States Government.

**SECTION 3-29. NONDOMESTIC ANIMALS PROHIBITED.**

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

**SECTION 3-30. INTERFERENCE WITH ENFORCEMENT.**

It shall be unlawful for any person to interfere with, hinder or molest the employees of the Transylvania County Health Department or Animal Control Officers or persons duly authorized by this ordinance, or to seek to release any animal in the custody of such persons, except as otherwise specifically provided.

**SECTION 3-31. PENALTY FOR VIOLATION.**

(A) The violation of any provision of this ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in G.S. 14-4. Each day's violation of this ordinance 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 or fees imposed under this ordinance.

(B) In addition, enforcement of this ordinance may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 153A-123 (d) and (e).

(C) In addition to and not in lieu of the criminal penalties and other sanctions provided in this ordinance, a violation of this ordinance may also subject the offender to the civil penalties hereinafter set forth.

- (1) Such civil penalties may be recovered by Transylvania County in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the prescribed time following the issuance of notice for such violation.
- (2) Such notice shall, among other things:
  - a. Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus the cost of the action to be taxed by the Court.
  - b. Further notice that such offender may answer the said notice by mailing notice and stated penalty to the Local Health Director, Transylvania County Health Department at its mailing address, or by making payment to the Local Health Director, Transylvania County Health Department or Transylvania County Animal Shelter at the appropriate address, and that upon payment, such case or claim and right of action by Transylvania County will be deemed compromised and settled.
  - c. State that such penalties must be paid within 72 hours from issuance of such notice.

Such notice shall further state that if such notice of violation is not paid within said 72-hour period, court action by the filing of a civil complaint for collection of such penalty shall be taken.

- (3) The Local Health Director is authorized to accept such payments in full and final settlement of the claim or claims, right or rights of action which Transylvania County may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation or violations.
- (4) The civil penalty for violation of this ordinance is determined by the Transylvania County Board of Health and approved by the Transylvania County Board of Commissioners. Said penalty shall be paid within 72-hours from and after the issuance of the notice referred to above.
- (5) The notice of violation referred to herein may be delivered to the person violating the provisions of this ordinance in person, or may be mailed to said person at his last known address.
- (6) All penalties paid to the Local Health Director or as may be recovered in a civil action in the nature of debt as herein provided shall be paid into the general fund of Transylvania County.

**SECTION 3-32. REPEAL OF FORMER ORDINANCE.**

(A) All County Animal Control Ordinances enacted on or before the effective date of this Ordinance and not included in this ordinance or recognized and continued in force by reference therein are repealed.

(B) The repeal provided in (a) above shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

**SECTION 3-33. EFFECTIVE DATE OF ORDINANCE.**

This ordinance shall be in full force and effect on and after December 12, 1994.

This ordinance adopted this 12th day of December, 1994.

/s/ R. H. Masengill  
Chairman, County Commissioners

ATTEST:

/s/ Sandra P. Jameson  
Clerk to the Board