



SWAIN COUNTY ANIMAL CONTROL ORDINANCE

I. Purpose of this Ordinance

- a. Protect the public health, safety and welfare of the citizens of Swain County, (N.C.G.S. § 153A-121);
- b. Prevent the abuse, neglect and abandonment of companion animals, (N.C.G.S. § 153A-127);
- c. Enforce regulations regarding the possession or harboring of dangerous or potentially dangerous dogs, (N.C.G.S. § 153A-131);
- d. Protect the public and domestic animals from rabies, (N.C.G.S. § 130A-185); and
- e. Educate the public about the proper care for animals.

II. Jurisdiction of this Ordinance

- a. This ordinance is adopted pursuant to the power granted to Swain County in N.C.G.S. §§ 153A-121, 153A-127, 153A-153, and 153A-442.
- b. This ordinance shall apply to all unincorporated areas of Swain County and to any municipality that adopts this ordinance, but it shall not extend to the Eastern Band of Cherokee Indians' Qualla Boundary, United States National Forests, other federal lands or State of North Carolina Forest Lands, North Carolina Game Lands or Tennessee Valley Authority lands.
- c. Ordinance shall be updated when NC State Law changes.

III. Exclusion of Hunting Dogs and Other Classes of Dogs

While this ordinance applies to all animals, as defined herein, this ordinance shall not be interpreted as restricting persons owning specially trained hunting, working or certified service dogs from using their dogs for hunting, working or service. While this ordinance does not restrict the use of dogs for hunting or training for hunting, said dogs will be used in compliance with applicable statutes, regulations, or ordinances of the State of North Carolina and Swain County and when an active hunting license exists. This ordinance shall not be interpreted as restricting persons from using dogs to guard livestock or premises, herd livestock, or act as certified service or therapy dogs.

IV. Exclusion of Farm Animals

Pursuant to North Carolina General Statute § 153A-145.4. (2015): "Notwithstanding any other provision of law, no county ordinance may regulate standards of care for farm animals. For purposes of this section, 'standards of care for farm animals' includes the following: the construction, repair, or improvement of farm

animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this section, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs (rabbits), ratites (flightless birds), and poultry.

V. **Definitions**

- a. **Abandon:** To cease providing for the care, control or maintenance of an animal, without transferring ownership of that animal, or leaving an animal unattended for more than 24 hours, or abandoning or releasing an animal upon public highways or on public or private lands.
- b. **Adequate Food:** Food that is of sufficient quantity and nutritional value to maintain an animal in good health.
- c. **Adequate Shelter:** An enclosed place that allows an animal to be protected from adverse weather conditions.
- d. **Adequate Water:** Access to sufficient amounts of fresh, clean water provided daily.
- e. **Adoption:** the act of acquiring an animal from the Animal Services Center or other designated animal shelter by someone other than the owner of the animal.
- f. **Adult:** A person who is 18 years of age or older, who has not been declared judicially incompetent.
- g. **Animal:** Every living creature not including humans. Unless otherwise defined in this ordinance, the term animal means dogs, cats, and ferrets.
- h. **Animal Services Center:** A facility operated and maintained by Swain County or its designee for purposes, including but not limited to, sheltering animals lawfully impounded, surrendered or quarantined under the authority of this Ordinance.
- i. **Animal Services Director:** That person designated by Swain County or its designee charged with the responsibility and authority to operate the Animal Services program for Swain County.
- j. **Animal Services Officer:** A person hired by Swain County Government or its designee to enforce all sections of this chapter, applicable state laws and to discharge other duties as set out by the Board of County Commissioners or applicable official.
- k. **County:** The unincorporated areas of Swain County.
- l. **Cruelty, Cruel Treatment, and Abuse:** Any act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals regulated under this ordinance, or otherwise subjecting an animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include the lawful taking of animals or other lawful activities under state law.
- m. **Day:** One 24-hour period.
- n. **Domestic Animal:** Any animal traditionally kept, cared for, sheltered, fed or harbored for use primarily

as a companion animal, including cats, dogs, ferrets, etc.

- o. **Exotic or Wild Animal:** An animal that would be ordinarily confined to a zoo, or one that is not indigenous to the United States, or one that would be ordinarily found in the wilderness of this or any other country or likely cause a reasonable person to be fearful of significant destruction of property or of bodily harm, including but not limited to poisonous reptiles, members of the crocodile family, nonhuman primates weighing greater than 25 pounds, or members of the feline family other than domestic house cats. It does not include wolf-dog cross breeds, foreign rodents such as guinea pigs, small lizards, turtles and frogs or Vietnamese pot-bellied pigs.
- p. **Exposed to Rabies:** An animal or human bitten by or exposed to the saliva or neural tissue of any animal known or suspected to have been infected with rabies.
- q. **General Statutes:** North Carolina General Statutes.
- r. **Keeping or Harboring an Animal:** Keeping, feeding or sheltering an animal, or allowing an animal to remain on property, without proof of ownership, for a period of fourteen (14) days or more. A person who is keeping or harboring an animal does not become the owner but does become subject to the provisions of this chapter.
- s. **Nuisance:** Any animal that disturbs the comfort or safety of any inhabitant in the neighborhood or interferes with any person in the reasonable and comfortable enjoyment of life or property. Animals merely making noise, such as barking or howling, are not subject to being nuisance animals. Animals utilized in production of crops, livestock, poultry, or other agriculture animals are not subject to being nuisance animals. Animals protecting livestock or animals serving as certified therapy or service animals may not be designated as nuisance animals when they are in the course of performing their duties.
- t. **Owner:** Any person or persons, trust, partnership, corporation or any other legal entity owning or having a legal interest in an animal. If a person is under 18 years old and is an owner the head of the household in which such person under 18 resides shall also be an owner. The owner is responsible for the care, vaccination, actions and behavior of his animal.
- u. **Quarantine:** Securely confined and restrained, away from other animals and humans, such as in a kennel or enclosure or on an owner's premises, if deemed suitable by Health Department Director or designee or Animal Services Director.
- v. **Rabies:** A viral infection that may be transmitted to humans through the bite of infected animals such as raccoons, bats and dogs. If left untreated, the disease is almost always fatal for humans.
- w. **Reclaim:** The act of re-acquiring an animal from the Animal Services Center or other designated place by the owner of that animal.
- x. **Reptiles and Amphibians:** Exotic animals that include but are not limited to poisonous reptiles or members of the crocodile family.
- y. **Repeatedly:** More than two times.
- z. **Spay or Neuter:** Procedure by which a male or female dog or cat is made unable to reproduce. A neutered male animal has been surgically altered to prevent reproduction. A spayed female has been surgically altered

to prevent reproduction.

- aa. Stray:** Any animal that is homeless, uncared for or unwanted or that appears to be abandoned or is wandering, that may or may not be wearing a collar with identification or a current rabies tag, and whose owner is not known at the time.
- bb. Uncared-for Animal:** Any animal that is or will be without proper care because of the injury, illness, incarceration or other excusable or involuntary absence of the owner or other person responsible for the care of the animal.
- cc. Veterinarian:** An individual licensed in this state to treat diseases and injuries to animals.
- dd.** All other words or phrases used herein shall be defined and interpreted according to their common usage for this ordinance.

VI. Rabies Control

1. General

- a. It is the purpose of this section to supplement state laws by providing a procedure for the enforcement of state laws contained in Article 6, Part 6 of Chapter 130A relating to rabies control, in addition to the criminal penalties provided by the State of North Carolina.

2. Vaccination Required

- a. Every dog or cat over the age of four months and every ferret over the age of three months located in the County must be vaccinated for rabies pursuant to State Law.
- b. It shall be the duty of the owner of each and every dog, cat or ferret to have the same vaccinated and not permit the period of the immunity of said vaccination to expire. A licensed veterinarian or certified rabies vaccinator shall administer the vaccine. A licensed veterinarian or certified rabies vaccinator, who administers the rabies vaccine to a dog or cat or ferret, shall issue a rabies vaccination tag and vaccination certificate to the owner of the animal, as required by N.C.G.S. 130A-190 *et. seq.*, to indicate that the animal has been inoculated against rabies.
- c. Every animal adopted from the Swain County Animal Services Center or other designated shelter shall be vaccinated against rabies prior to adoption.
- d. When an animal is reclaimed, the owner must show proof that the animal has a current rabies vaccine or one will be provided for the animal at the owner's expense.
- e. Cats are not required to wear rabies tags, as allowed by N.C.G.S. 130A-190(a). Ferrets are not required to wear rabies tags. The owners of dogs, cats or ferrets shall maintain the rabies inoculation certificate as written evidence that the animal has a current rabies inoculation.
- f. An animal control officer or law enforcement officer may, under reasonable circumstances, require an owner to provide proof of rabies vaccination.

3. When Animals Bite People or Show Symptoms of Rabies

- a. To minimize health risks to humans, Chapter 130A of the North Carolina General Statutes and this ordinance create a framework for handling situations in which a person is exposed or

potentially exposed to rabies.

- b. If a physician treats a person for an animal bite, and the offending animal is known to be a potential carrier of rabies, (such as a bat, raccoon, fox, or another animal that is behaving erratically or could be a potential carrier), the physician shall notify the Swain County Health Department within twenty-four hours of treatment. The report must include the bite victim's name, age and sex, as required by N.C.G.S. § 130A-196. The Swain County Health Department Director or designee shall notify the Swain County Animal Services Center of the bite for investigation. Physicians should notify Animal Control Services. Animal Control Services will notify the Swain County Health Department on all potential human exposure to rabies.
- c. Every animal that has bitten a person or any animal that shows symptoms of rabies shall be confined immediately and the incident shall be reported to the Swain County Animal Control Services Center by the victim and/or the owner of the animal, as required by N.C.G.S. § 130A-196.
- d. If currently vaccinated, the animal shall be securely quarantined for a ten-day period at the Animal Services Center or at a Veterinarian's Office. With written permission of the Animal Center Director or designee, the animal may be quarantined on the owner's premises, in a place that can accommodate the quarantine. The Animal Services Director or her designee shall monitor the quarantined animal.
- e. When an animal is found wandering at-large and has bitten a person or shows signs of rabies but has an identified owner and a current vaccination, that animal shall be quarantined at the Animal Services Center or at a Veterinarian's Office for a ten-day period. With written permission of the Animal Center Director or designee, the animal may be quarantined at another suitable location, such as on the owner's premises, in a place that can accommodate the quarantine. The Animal Services Director or her designee shall monitor the quarantined animal.
- f. When an animal is found wandering at large, who has bitten a person or who shows signs of rabies, that animal shall be immediately seized and impounded at the Animal Services Center and quarantined for 10 days. It will be held at the Center for the 72-hour period required by law for strays and then evaluated. During that time, Animal Services Officers will make reasonable attempts to locate the animal's owner. If they are unable to do so within 72 hours of the event or 96 hours if the bite occurred on a weekend or state holiday, the local health director may allow the animal to be euthanized.
- g. The costs of any quarantine shall be the responsibility of the animal's owner. These costs will include a confinement fee set by the Swain County Board of Commissioners and may include the costs of a rabies vaccine, and examination or treatment by a veterinarian.
- h. If symptoms of rabies do not develop within the quarantine period, the animal may be released to the owner with the written permission of the Animal Services Center Director.
- i. Any animal who bites a human or shows symptoms of rabies, other than a dog or cat or ferret, must be euthanized and the head tested for rabies, pursuant to State law.
- j. No owner may fail or refuse to surrender any animal for quarantine as required by this Section, when demand is made by the Animal Services Center Director. The County Director of Public

Health or designee may order the seizure of the animal and its confinement for ten days at the expense of the owner.

4. Animal to Animal Exposure

- i. 2016 NASPHV Rabies Compendium Post-exposure Management Control Measure for Dogs and Cats by Rabies Vaccination Status Category must be followed.

VII. Control of Dangerous Dogs

- a. It shall be unlawful for any owner to keep any potentially dangerous or dangerous animal within the county, unless:
 - i. It is confined within a secure building or fully enclosed pen or other enclosure, on the owner's property. This enclosure shall be examined and approved by the Animal Services Center Director. A wireless fence is not an acceptable substitute for a fully enclosed pen.
 - ii. When the animal is off of the owner's property, it must be securely muzzled and under control by an adult via a leash or chain. Voice control is not suitable control.
- iii. The premises on which any animal under this section is confined shall be clearly marked with a warning sign, which shall contain the name, address and telephone number of owner.

- b. **A Dangerous or Potentially Dangerous Animal** as defined in N.C.G.S. 67-4.1(a)(1) and (2), includes, but is not limited to, any dog in the following categories:
 - i. A dog that approaches a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack;
 - ii. A dog that inflicts a bite on a person, or causes a person to have an injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization;
 - iii. A dog that has killed or inflicted serious injury upon a domestic animal when not on the owner's real property;
 - iv. A dog owned or harbored primarily or in part for the purpose of dog fighting or trained for dog fighting;
 - v. A dog that has, without provocation, killed or inflicted severe injury on a person;
 - vi. A dog that is determined by the staff of the Animal Services Center or pursuant to evaluation and observation to have demonstrated a propensity, tendency or disposition to attack unprovoked, or to otherwise threaten the safety of human beings or domestic animals.

c. Determination that a Dog is Dangerous or Potentially Dangerous

- i. Upon a written complaint by a resident of Swain County, or when the Animal Services Director has reasonable suspicion that a dog is potentially dangerous or dangerous, the Animal Services Director will assign an Animal Services Officer to make an investigation. The results of the investigation shall be in writing.
- ii. After investigation and any other activities deemed necessary by the Animal Services Director, the Director may make a determination that the dog is "dangerous," "potentially dangerous," or a member of neither category.

- iii. The determination must be in writing, setting forth the available evidence, and hand-delivered or sent certified mail to the owner. If the written determination is made that the suspect dog is potentially dangerous or dangerous, the written determination shall order compliance with the appropriate provisions of this ordinance and may impose reasonable conditions to maintain the public health and safety.
- iv. Animal Services employees shall have the ability to inspect the owner's premises, at reasonable times, with notice to the owner, to ensure compliance with state law and this ordinance when a dog is determined to be potentially dangerous or dangerous. If Animal Services employees have made every reasonable attempt to contact owner, employee has right to enter property to ensure compliance with state law and this ordinance.

d. Appeals from Determination

- i. Any party having a direct interest in the matter of the determination that a dog is dangerous or potentially dangerous may, within five (5) business days of receiving the determination, appeal in writing to the Swain County Manager. The appeal must be postmarked or hand-delivered to the Office within the appeal time. Should be 3 days and delivered to who sent the letter.
 - ii. The Appeals Board, appointed pursuant to Chapter 67 of the North Carolina General Statutes, shall schedule a hearing within the next ten business days.
 - iii. The hearing shall be conducted as follows:
 - 1. It shall be subject to the Open Meetings Law
 - 2. Participants may represent themselves or be represented by an attorney
 - 3. Participants may present evidence, offer witnesses, or make statements;
 - 4. Participants shall be entitled to cross-examination;
 - 5. All testimony will be under oath.
 - 6. The Appeals Board shall announce its decision at an open meeting and render it in writing.
 - iv. If the dog is affirmed to be dangerous or potentially dangerous, the party having a direct interest in the matter may appeal to the Superior Court of Swain County within ten (10) days of the determination.
 - v. If the owner sells or gives the dog to someone else, he or she must notify the County Animal Services Director in writing about the change and notify the person receiving the dog, in writing of the status of the dog to include name, address and phone number.
- e. The County Animal Services Center shall have no authority to enforce the provisions of this Section relating to dangerous or potentially dangerous dogs if one of the following factors is present:
- i. The dog is being used by law enforcement officer to carry out the law enforcement officer's official duties; or
 - ii. A dog inflicts injury or damage while being used in a lawful hunt or while functioning as a herding dog, while controlling predators on the property or while under control of the owner and performing duties appropriate to said functions; or
 - iii. Where the injury inflicted by the dog was sustained by a person, who at the time of the injury,

was committing a willful trespass or other tort, or was tormenting, abusing or assaulting the dog, or had tormented, abused or assaulted the dog, or was committing or attempting to commit a crime.

VIII. Nuisance Animals

- a. An owner shall not allow an animal to be a repeated public nuisance or a nuisance to neighbors.
- b. When a written complaint, signed by a resident of Swain County describing the nature, place and date of the nuisance activity, the apparent owner of the animal and address, and a description of the animal is made at the Animal Services Center, or if an Animal Services Officer has reasonable suspicion that an animal may be a nuisance animal, and files a written complaint, an Officer will investigate the complaint. (Any person who is elderly or who has a physical disability that prevents that person from traveling to the Animal Services Center to complete a written complaint, can request assistance from the Animal Services Center in order to complete a written complaint.)
- c. An anonymous report of an alleged nuisance animal under this section will be documented but will not be investigated on the basis of the anonymous report alone.
- d. The Officer will provide a written report of the investigation to the Animal Services Director.
- e. If the investigation warrants action, the Animal Services Director will contact the owner and order that the owner correct the nuisance within forty-eight (48) hours -- by whatever means may be necessary to correct the situation.
- f. If repeated complaints are made concerning the same animal, resulting in investigations which find the complaints are justified, the Animal Services Director may take further action as set out below.
- g. It shall be unlawful for a person to fail or refuse to correct the nuisance as required under this ordinance.
- h. In the event the owner of the animal or animals is unknown and cannot be discovered by reasonable means, the animal may be impounded and held, released for adoption or euthanized pursuant to this ordinance.

IX. Animal Care and Treatment

- a. It shall be unlawful for any person to intentionally subject or cause to be subjected any animal to cruel, inhumane or abusive treatment, such as torturing, tormenting, beating, injuring, poisoning or mutilating; to deprive or cause to be deprived any animal of adequate food and water; or to deprive or cause to be deprived an animal of adequate shelter or veterinary care if sick, diseased or injured.
- b. It shall be unlawful for any person to willfully abandon or forsake any animal within the county, when the totality of the circumstances reasonably indicates that the animal is abandoned.
- c. It shall be unlawful for any person to place or confine an animal in a vehicle for such amount of time or under such conditions as to endanger the health or well-being of the animal. These conditions may include extreme temperatures, lack of food or drink, or other conditions as may be reasonably expected to cause suffering, disability or death. The Animal Services Officer shall make a reasonable effort to find the driver of the vehicle in which the animal is confined. After making such an effort, the Officer, in the

presence of a law enforcement officer, may use the least intrusive means to enter the vehicle. This action is allowed, if it is necessary to remove the animal and probable cause exists to believe that the animal's condition in the vehicle is in violation of this subsection. The Officer removing the animal shall then impound the animal and shall leave a written notice on the vehicle of the animal's impoundment, a brief description of the animal and where and when the animal may be reclaimed.

- d. Whenever the Animal Services Center finds that any animal is or will be without proper care because of severe injury, illness, incarceration or other excusable, involuntary absence of the person responsible for the care of that animal, the Animal Control Officer may impound such animal. The animal may be kept for up to ten (10) days, for the benefit of the owner, which can be renewed at the discretion of the Animal Services Director. The owner is responsible for costs incurred.
- e. If an animal is severely injured, sick, or diseased and has a locatable owner, it shall be the owner's responsibility to provide veterinary care for the animal or relinquish ownership of the animal to Swain County so that the Animal Services Center may humanely euthanize the animal. The relinquishing owner shall be responsible for the cost of the euthanasia and disposition of the animal. A severely injured, sick or diseased animal, whose owner cannot be located, shall be humanely euthanized.
- f. Any animal found to have been treated in a manner constituting a violation of this section shall be subject to impoundment by an Animal Services Officer so that suitable care may be provided for such animal.

X. Identification Requirement and Locating Device Protection

- a. It shall be the responsibility of any dog owner to provide the dog with a serviceable collar or harness to which a current identification tag or metal tab that includes the dog's owner's name, address, and telephone number is securely attached. The collar or harness with the attached identification tag must be worn at all times, except during the time the dog is performing at shows, obedience, field or agility trials, tracking tests, schools or other events sanctioned and supervised by a recognized organization, or is engaged in hunting or some other activity in which a collar might endanger the dog's safety.
- b. A dog owner's property that is placed on or utilized to control or locate the animal during any activity shall not be removed without the owner's permission. It shall be unlawful for anyone coming in contact with an animal wearing an identification collar or other controlling or locating devices to remove or separate or damage in any way the collar or device. The penalty for such action shall consist of a fine or civil penalty for each animal or occurrence in the amount of \$500.00

XI. Wild and Exotic Animals

- a. It shall be unlawful to own, possess, keep, or harbor a wild or exotic animal within the County; provided, that a person who owned, possessed, kept or harbored such wild or exotic animal on or before the effective date of this Ordinance shall remove said animal(s) from the County within one (1) year following the adoption of this Ordinance.
- b. This Section shall not apply to: 1. Veterinary clinics in possession of such animals for treatment or rehabilitation purposes; 2. Institutions regulated by the USDA; 3. Registered non-profit humane societies; 4. Animal control or law enforcement officers acting under authority of this Act; 5. Wildlife rehabilitator or

other person licensed by the State of North Carolina; 6. Persons temporarily transporting such animals through the County; 7. Any licensed or accredited educational institution.

XII. Animal Services Center

- a. A Swain County Animal Services Center will be established to serve residents of Swain County, upon appropriation of necessary funds by the Commissioners of Swain County. Swain County Commissioners reserve the right to examine other options for animal services.
- b. The Swain County Animal Services Center shall be staffed by Animal Service Officers, who shall be county employees. The Animal Services Center shall be supervised by an Animal Services Director.
- c. Swain County Animal Services Officers shall not have the power to arrest.
- d. Swain County Animal Services Officers shall not carry firearms.
- e. Swain County Animal Services Officers may carry any non-lethal weapon to defend themselves from aggressive animals.

f. Duties of Swain County Animal Services Officers

- i. Enforce and carry out the sections of this chapter, any other ordinance assigning animal control duties and enforcing all relevant state or federal laws.
- ii. Issue notices of violation, assess civil penalties for violations of this chapter, and issue citations when authorized by law.
- iii. Investigate complaints regarding animals.
- iv. Investigate, in consultation with the Swain County Health Director, or her designee, all reported animal bites; quarantining any dog or cat exposed to or suspected of having rabies for a period of not less than ten days and for reporting to the County Health Director or her designee, as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
- v. Enter and inspect property at reasonable times, if an inspection is necessary to enforce any of the sections of this chapter or other relevant state law regarding animals, but only if consent is freely given by the occupant or owner of the property or if a search warrant is obtained or if some legally recognized emergency circumstances exist, both of which will be determined in conjunction with the Swain County Sheriff's Office.
- vi. Keep, or cause to be kept, accurate and detailed records of:
 - 1. Seizure, impoundment and disposition of all animals coming into the custody of the animal control program.
 - 2. Bite cases, complaints, and violations of this chapter; their investigations and any further action.

3. Any other matters deemed necessary by the Animal Services Director or required by North Carolina or Federal law.
- vii. Be trained to standards to be established by the Animal Services Director.
- viii. Monitor the Animal Services Center to ensure compliance with all county policies and procedures.
- ix. Assist with operations of the Animal Services Center and perform other duties as directed by the Swain County Manager or Center Director.
- x. Every employee of the Center, while performing the respective duties listed above, shall wear any required uniform and badge as determined by the County Manager and Animal Services Director.
- xi. Except as may be otherwise provided by law, 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 duty unless he or she acts with actual malice.
- xii. It shall be unlawful for any person to interfere with, hinder or molest any animal services officer while in the performance of any duty authorized by this chapter or to seek to release any animal in the custody of any of the Animal Services Center, except in the manner as provided in this ordinance.
- xiii. The premises for all animal shelters operated by or for the county shall meet the standards prescribed by N.C.G.S. §153A-442, Section 39 (a).

XIII. RELEASE, RECLAIMING OR ADOPTION OF ANIMALS

- a. An owner of an animal may voluntarily release it to the County Animal Services Center. The owner shall sign a release giving all rights and title to the animal to the Animal Services Center and the animal will become the property of Swain County or its assigns.
- b. Any animal that is impounded shall be held for a period of ten days to allow the owner to reclaim the animal. Any animal that is not reclaimed by its owner within the ten day holding period shall be deemed abandoned and shall become property of Swain County and available for adoption or humane euthanasia.
- c. Any owner of an animal impounded under this ordinance shall have the exclusive right to reclaim the animal during the ten-day holding period, so long as the owner provides proof of rabies vaccination or pays the applicable fee for the vaccination. The reclaiming owner shall be responsible for any fines, costs, or fees for boarding, medical treatment, rabies shots etc.
- d. All animals adopted from the Animal Services Center shall be spayed or neutered prior to adoption.
- e. The Center reserves the right to refuse adoption. The final decision on any adoption remains with

the Director.

- f. A fee schedule for adoption shall be set by the Swain County Board of Commissioners.

XIII. PENALTIES. The following penalties shall pertain to violations of this chapter:

- a. Enforcement of this chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to N.C.G.S. 153A-123(d), (e) (3).
- b. A schedule of civil penalties, costs and fees shall be adopted by the Board of Commissioners and placed on file with the Clerk to the Board of Commissioners, Animal Services Director and County Health Director.
- c. A violation of this chapter may also subject the offender to civil penalties, costs and fees as follows:

OWNER'S OFFENSE	PENALTY
First Offense	Warning
Second Offense	\$25.00
Third Offense	\$50.00 and/or restraint measures
Fourth Offense	\$100.00 and/or restraint measures, including a secure enclosure; seizure/forfeiture of the animal.

- d. Civil penalties may be assessed for each violation of this chapter. The Animal Services Director shall issue to the known owner of any animal, or to any other violator of the provisions of this chapter, a ticket or citation giving notice of the alleged violation and of the warning or the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged, if that person cannot readily be found. This civil penalty shall be paid to the Animal Services Director or his designee within 30 days of receipt of the ticket or citation. These funds shall be turned over to the Swain County Manager.
- e. Each day that an on-going violation continues shall be considered a separate violation from any previous or subsequent violation and each separate violation may be the basis of a citation.
- f. Any person assessed a civil penalty may appeal such penalty by filing a written notice of appeal with the County Manager's Office within thirty days from the date of the assessment. Failure to file a notice of appeal within this period shall constitute a waiver of the right to contest the civil penalty.
- g. The County may apply to the appropriate court for an injunction or order of abatement that would require a violator to correct any unlawful condition relating to this ordinance existing on his/her property.
- h. Failure on the part of the owner of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of this chapter. If an assessed civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty.

XIV. Animal Services Advisory Committee

- a. The Swain County Commissioners shall appoint five (5) members to an Animal Services Advisory Committee who shall report to the Commissioners about the operations and needs of the Animal Services Center.

XV. Severability

- a. If one part of this ordinance is found to be invalid, the remainder of the ordinance will still be in effect.

XVI. Effective Date

- a. This ordinance shall become effective when an animal service center has been established and adequate funds are appropriated for the operation of the center and enforcement staffing.

PASSED AND APPROVED by the County Commissioners of the County of Swain in a meeting held on the _____th day of _____, _____

This the _____th day of _____, _____.

Ben Bushyhead, Chairman
Swain County Commissioners

ATTEST:

Cindi Woodard, Clerk to the Board
Board of Commissioners