

Ordinance to Regulate
Wild and Dangerous Animals

Watauga County, N.C

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ARTICLE I

INTRODUCTION

Section 1. General Purpose. The following regulations are for the purpose of promoting public health, safety, and general welfare of the citizens of Watauga County, and to ensure the protection of citizens by regulating the control of wild, non-domestic, and dangerous animals within the County. This ordinance shall not repeal any other existing ordinance not incompatible with the provisions of this ordinance.

Section 2. Legal Authority. This ordinance is adopted under the general ordinance authority granted to counties by the General Assembly of North Carolina. (General Statutes 153A-121 *et seq.*, and other pertinent statutes and amendments thereto).

Section 3. Territorial Coverage. Pursuant to N.C.G.S. § 153A-122, this ordinance shall apply to all areas of unincorporated Watauga County which are not within the extraterritorial planning jurisdictions of any municipalities. All municipalities, their respective corporate limits, and extra-territorial jurisdiction shall be exempted from the ordinance, unless they choose to adopt this ordinance or some form thereof.

ARTICLE II

REGULATED WILD OR DANGEROUS ANIMALS

Section 1. Definitions. The following definitions shall be used for the purposes of interpreting this ordinance. For terms not defined below, the common usage of the term shall prevail.

Animal means any live creature, both domestic and wild, excluding humans. Animal includes fowl, fish, and reptiles.

Animal Control Officer means an employee of the County, designated by the County Manager to administer and enforce the requirements of this ordinance. Animal Control Officer includes, but is not limited to, deputies of the Watauga County Sheriff's Office.

Hybrid means any animal which contains any mix or percentage of a wild animal, or a mix or percentage of members of the canidae, felidae, or ursidae families.

Inherently Dangerous Animal means 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 and 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.

Owner means any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to, any animal controlled by this ordinance. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days.

Wild Animal means any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lynx, alligator, crocodile, cayman, bear, sea mammal, poisonous snake, or any other warm blooded animal that can normally be found in the wild state. Wild animal also means any animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals. The term “wild animal” does not include domestic dogs, domestic cats, farm animals, rodents, and captive-bred species of common cage birds.

Section 2. Regulations and Standards Imposed.

A. Keeping of Inherently Dangerous Animals. It shall be unlawful for any person to keep an inherently dangerous animal within the County. The Animal Control Officer shall order the removal of any inherently dangerous animals owned or harbored by anyone in possession of such animals within the County.

B. Keeping of Wild Animals. It shall be unlawful for anyone to own or harbor a wild animal. The Animal Control Officer shall order the removal of any wild animals owned or harbored by anyone in possession of such animals within the County.

C. Exemptions. Traveling fairs, circuses, carnivals which are licensed by the United States Department of Agriculture (USDA) shall be exempt from this section, provided the duration of such presence shall be limited to a duration not to exceed fourteen (14) days annually within the boundaries of Watauga County. Additionally, all non-profit animal sanctuaries licensed by the United States Department of Agriculture (USDA) shall be exempt from this section. All entities exempt pursuant to this section shall maintain liability insurance upon all animals within their control in the amount of not less than one million dollars (\$1,000,000.00) at all times.

D. Recapturing. The Owner, including those allowed to possess such animals pursuant to the exemption stated above, of any inherently dangerous animal or wild animal shall reimburse the County for all costs incurred while attempting to recapture any escaped inherently dangerous animal or wild animal. If the animal is sheltered or euthanized by the Animal Control Officer or his designee, the Owner shall also pay these costs.

ARTICLE III

PERMIT REQUIRED

Standards for Permit. Any person or organization wishing to bring either wild animals or inherently dangerous animals into the County pursuant to Article II, Section 2 shall first obtain a permit from the Watauga County Animal Control Officer for the period in which

the animals are to be present within the County. Before issuing the permit, the Owner shall provide the Animal Control Officer with the dates requested for the animals to be present, the type of animals to be present, their numbers, and proof of licensure by the United States Department of Agriculture to possess such animals. The Owner must also maintain and provide the County with proof of liability insurance in the amount of at least one million dollars (\$1,000,000.00).

ARTICLE IV

APPEALS

Section 1. Board of Commissioners. The Watauga County Board of Commissioners, as established by N.C.G.S. § 153A-25 *et seq.* shall hear all appeals, and all challenges to the decision or interpretation of the Animal Control Officer.

Section 2. Powers of Board of Commissioners. The Board shall have the following powers to hear, decide and review appeals from any order, requirement, decision, or determination made by the Animal Control Officer in the performance of his duties.

Section 3. Administration. The Board may adopt rules of procedures and regulations for the conduct of its affairs.

Any person who receives a notice of violation, or order to remove, abate, or remedy a violation of this ordinance may, within five business days of the day the notice was received, submit a written appeal to the Board of County Commissioners. The appeal notice shall specifically state the reasons for the appeal with a copy of the notice of violation attached thereto. The County Manager shall schedule a hearing for the next regular Board of County Commissioner's meeting and notify the appellant, and the Board of County Commissioners upon the hearing shall render a decision upholding, denying or modifying the notice of violation. Accrual and imposition of the civil penalties shall be stayed pending the appeal. If the decision of the Animal Control Officer is affirmed, accrual and imposition shall resume. Any appeal not filed within five business days of the day notice was received shall be considered not timely. Upon decision of the Board, the Clerk to the Board shall serve the Appellant with the decision of the Board by certified mail.

All meetings of the Board shall be open to the public. The Board shall keep a record of its meetings, including of the vote of each member on every question, a fair and accurate summary of the evidence submitted to it, the documents (or accurate copies thereof) submitted to it and of all official actions. The Board shall give due notice of matters coming before it.

In presenting an appeal, the appellant shall bear the burden of proof, which shall be by the greater weight of the evidence.

All Evidence presented to the Board of Commissioners shall be sworn.

The person acting as Chairman of the Board is authorized to administer oaths to any witnesses in any matter coming before the Board.

Requests for interpretations and appeals for review of decisions of the Animal Control Officer shall be filed with the Clerk to the Board, as agent for the Board.

It shall be the responsibility of the Clerk to the Board to notify, by regular mail with adequate postage, thereon the appellant of the disposition which the Board makes of any matter before it.

It shall be the responsibility of the Animal Control Officer to issue a permit in accordance with the Board's action on an appeal if a permit is authorized by Board action.

Section 4. Quorum and Vote Required. A quorum of the Board, necessary to conduct any business of the Board, shall consist of three-fifths of the total membership of the Board.

The concurring vote of a simple majority of the total membership of the Board shall be necessary in order to:

- (a) Reverse any order, requirement, decision or determination of the Animal Control Officer; or
- (b) Decide in favor of the applicant any matter upon which it is required to pass by this Ordinance.

Section 5. Application of Interpretation Power. An appeal from an order, requirement, or decision of the Animal Control Officer shall be decided by the Board duly supported by competent evidence. In exercising this power, the Board shall act in a prudent manner so that the purposes and intent of the Ordinance shall be served. No decision shall have the effect of varying the terms of the Ordinance or permitting as a matter of right any use otherwise limited or prohibited hereunder.

Section 6. Appeal Stays Further Proceedings. An appeal to the Board of Commissioners from a decision or determination of the Animal Control Officer stays all proceedings in furtherance of the decision or determination appealed from, except as provided in Section 8, during the pendency of the appeal.

Section 7. Exceptions to Stay of Action. An appeal to the Board of Commissioners of a decision or determination of the Animal Control Officer shall not stay proceedings in furtherance of the decision or determination appealed from, if the Animal Control Officer certifies either:

- (a) That a stay would cause imminent peril to life or property; or
- (b) That the situation subject to the appeal presents a danger to the community in securing the possession of the animal, and therefore a stay of his decision would seriously interfere with enforcement of this Ordinance.

In each instance, the Animal Control Officer shall set forth in the certificate facts to support its conclusion.

Section 8. Appeals of Board Actions. Every decision of the Board shall be subject to review at the instance of any aggrieved party in the Superior Court by proceedings in the nature of a petition for writ of certiorari. Such proceedings in the Superior Court shall be initiated within thirty (30) days of the filing of the decision with the Clerk to the Board of

Commissioners or the delivery of the notice to the Appellant, whichever is later. Appeals not filed within this thirty (30) day period are not timely. The Superior Court is authorized to stay enforcement of this ordinance during the pendency of an appeal from the decision of the Board of Commissioners upon a hearing and the posting of a bond sufficient to the Court which will adequately protect the interests of the County.

ARTICLE V

ENFORCEMENT AND PENALTIES

Section 1. Administration and Enforcement. The Animal Control Officer shall be responsible for the administration and enforcement of this ordinance. Any person wishing to file a complaint alleging an animal to be in violation of this ordinance shall do so by written complaint on a form to be prepared by the Animal Control Officer. An incomplete complaint form shall not be considered a valid complaint by the Animal Control Officer. However, nothing in this section shall prevent action on behalf the Animal Control Officer without receiving a written complaint in the event exigent circumstances require immediate action on the part of the Animal Control Officer.

If the Animal Control Officer shall determine that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation within ten (10) working days. In the event the violation poses an imminent threat, in the opinion of the Animal Control Officer, to the life, safety, or property of any individual, the Animal Control Officer may take such actions to correct the violation immediately and thereafter provide written notice to the owner of the violation.

Section 2. Conflict with Other Laws. Wherever the provisions or application of this ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions or application this ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

Section 3. Penalties. Any person, firm, corporation, or owner who violates any provision of any article of this ordinance; or who shall violate or fail to comply with any order made hereunder; or who shall continue to maintain a violation after having received written notice from the Animal Control Officer to correct the violation, shall be guilty of a Class 3 misdemeanor as provided by N.C.G.S. § 14-4 and shall be punishable by a fine not to exceed five hundred (\$500.00) dollars, or imprisonment not to exceed twenty days. Each day such violation shall be permitted to exist shall constitute a separate offense. Notice of violation shall be sufficient if directed to the owner, or the agent of the owner, or left at his known place of residence or place of business.

In lieu of or in addition to the criminal penalties outlined above, each person violating this ordinance shall be subject to a civil penalty, under N.C.G.S. 153A-123(c),

in the amount of \$100.00 per day. No penalty shall be assessed prior to notice to the violator. For every day a violator is in violation of this ordinance, it shall be considered a separate offense. Notice shall be deemed received for each day of continuing violation that the condition which violates this ordinance continues to exist. If the violator does not pay such penalty within 30 days of notification of its assessment by written citation it and any subsequently accruing penalty may be recovered by the County in a civil action in the nature of a debt. Any contest of said penalty shall be by appropriate action taken in the General Court of Justice for Watauga County.

Section 4. Severability Clause. Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part hereof other than the part so declared to be unconstitutional or invalid.

Section 5. Ordinance Amendments. This Ordinance may be amended by the Board of Commissioners following a public hearing on the proposed changes. The Board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

To become effective the 1st day of April, 2004.

Watauga County Board of Commissioners
James Coffey, Chairman

ATTEST:

_____ (SEAL)
Anita Fogle, Clerk to the Board