



Polkton Police Department

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Polkton, North Carolina 28135

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TOWN OF POLKTON, NORTH CAROLINA

An Ordinance of the Town of Polkton Providing for
Animal Control and Related Matters

*BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF POLKTON IN REGULAR
SESSION ASSEMBLED:*

ARTICLE I ORGANIZATIONAL MATTERS

SECTION 1. TITLE AND PURPOSE OF THIS ORDINANCE.

- a. Title. This Ordinance shall be known as the Town of Polkton Animal Control Ordinance.
- b. Purpose. The purpose of this Ordinance is to:
 - Protect the people of Polkton from dangerous, exotic or uncontrolled animals; and
 - Supplement, not supersede, the North Carolina Rabies Control Statutes; and
 - Insure the humane treatment of animals within the town.
- c. This ordinance shall not apply to animals otherwise regulated by North Carolina or federal law.

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning defined herein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future and past tense; words

in the plural number include the singular number; words in the singular number include the plural number; and words in the masculine gender include the feminine gender.

- a. Adequate Food: The provision on a daily basis of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal, and maintain the animal in good health and comfort. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and from which agents injurious to health have been removed or destroyed to a practical minimum.
- b. Adequate Shelter: A non-metal enclosure which is structurally sound, maintained in good repair and constructed in such a manner that it is water and wind resistant and provides some shade from the direct rays of the sun and assures adequate ventilation and light.
- c. Adequate Water: A constant access to a supply of clean, fresh, water provided in a sanitary manner. In near or below freezing temperatures, the water must be changed frequently so as to prevent freezing.
- d. Animal. Every vertebrate non-human species of animal, wild or domestic, male or female, including but not limited to dogs.
- e. Police Department: The Polkton Police Department
- f. At Large: An animal shall be deemed to be at large when it is off the property of its owner and not under the restraint of a competent person.
- g. Breeding Kennel: Any person or group of persons engaged in breeding dogs where five (5) or more litters per year are produced.
- h. Town: The Town Of Polkton.

- i. Dog: A domestic canine.
- j. Fenced Enclosure: Any enclosed area surrounded by a fence which is reasonably adequate to secure an animal so as to prevent it from escaping from property owned or leased by, or under the constructive possession of, the animal's owner. This definition includes properly operating radio controlled underground fence installation.
- k. Identified Animal: An animal with an identification tag, tattoo, or other marking on which is inscribed the owner's name, address, and telephone number.
- l. Owner. Any person, group of persons, firm, association, partnership, corporation, or other entity 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. This definition shall also apply to the term "own" and "ownership" as used in this Ordinance.
- m. Person: Any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.
- n. Public Nuisance Animal: As defined in Article III. Section 2 as any animal that unreasonably annoys humans, endangers the life or health of domestic animals or persons, or substantially interferes with the rights of citizens, other than its owner, to enjoyment of life or property.
- o. Restraint: An animal is under restraint within the meaning of this Ordinance if it is:
- 1) Controlled by means of a chain, leash, trolley or other like device;

- a. No tie out device shall employ a restraint of less than fifteen (15) feet in length and must have swivels on both ends.
 - b. Any chain, tether, or tie out device must be attached to a dog by means of a properly fitting harness or a buckle-type nylon/leather collar measuring not less than one (1) inch in width.
 - c. Collars used to attach a dog to a tie out device shall not be a choke type.
- 2) on or within a vehicle being driven or parked and secured in such manner as to prevent the animal from escaping or causing injury to persons approaching or passing by the vehicle; provided, that an animal shall not be deemed to be under restraint if it is in the back of an open-bed pickup, regardless of whether or not it is secured therein; or
 - 3) an above ground fence in good repair and/or a properly operating radio controlled underground fence installation.

ARTICLE II ANIMAL CONTROL PROGRAM

SECTION 1 ANIMAL CONTROL PROGRAM

The Animal Control Program of Polkton, hereinafter referred to as the Animal Control Program, is composed of the Polkton Police Department, and such employees as shall be determined by the Town Council.

SECTION 2 ENFORCEMENT

The Chief of Polkton Police Department shall oversee enforcement of this ordinance in conjunction with North Carolina State laws as they relate to this ordinance.

SECTION 3 GENERAL DUTIES OF ANIMAL CONTROL PROGRAM OF THE POLICE DEPARTMENT

- a. The Animal Control Program shall be charged with the responsibility of:
- b. Enforcing, in this town, all state laws, town ordinances and resolutions relating to the care, and control of animals.

- c. Investigate allegations of cruelty to, neglect, or abuse of dogs, and other animals

ARTICLE III ANIMALS CREATING A NUISANCE

SECTION 1. ANIMAL CREATING A NUISANCE.

The owner of an animal shall not permit the animal to be at large and or be a public nuisance. If, after adequate investigation of a written complaint, as required under Article VI below, the Police Officer reasonably determines that an animal is at large or creating or has created a public nuisance, the Officer shall notify the owner of the same and shall instruct the owner of the complaint. If the Officer thereafter determines, upon investigation of a subsequent complaint under Article VI below, that the animal is or has been at large or creating a public nuisance, the owner shall receive a written civil citation from the Officer, and the Officer shall instruct the owner to remedy the nuisance. Should the Officer determine that the animal is creating or has created a public nuisance or has been at large following the 3rd civil citation, the Officer may continue to write civil citations or the Officer may apply for a misdemeanor warrant to issue and be served upon the owner.

SECTION 2. "PUBLIC NUISANCE" DEFINED. For purposes of this Article III, the term "creating a public nuisance" applies without limitation to the following: animals that habitually or repeatedly chase, snap at, attack, or harass persons (including but not limited to pedestrians, joggers, and persons operating vehicles or other modes of transportation) or their pets; animals that, whether or not in a mode of attack, habitually or repeatedly disturb, interfere with or annoy persons or their pets, or excessively makes disturbing noises including but not limited to; repeated or continued howling, barking, whining or other utterances causing unreasonable annoyance; or that habitually or repeatedly enter onto the property of a person who is not the owner of said animal; or animals that tip over garbage cans or damage yards, gardens, flowers, vegetables, or other personal property.

SECTION 3. ESTROUS ANIMAL

It shall be unlawful for any person owning or having possession, charge, custody or control over a female dog during this time not in a secure enclosure as to prevent contact with a male of the same species. This Section shall not be construed to prohibit the intentional breeding of animals on the premises of the owners or keepers of the animals involved.

SECTION 4. ANIMAL AT LARGE

It shall be unlawful for an animal to be at large off the property of its owner and not under the restraint of a competent person over the age of sixteen.

SECTION 5. PENALTY FOR VIOLATION. The penalty for a violation under this Article III shall be as set forth in Article VII below.

ARTICLE IV ANIMAL WELFARE

SECTION 1. PURPOSE OF THIS SECTION.

It is the purpose of this section to ensure proper treatment of all animals in this jurisdiction as outlined in NCGS# 160A-182.

SECTION 2. CRUELTY TO ANIMALS

It shall be unlawful for any person to abuse, molest, maim, disfigure, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to the health or general welfare any animal, or to cause or procure such action. As used in this section the words "torture", "torment" and "cruelty" include or refer to any act, omission or neglect causing or permitting 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 of the Police Department or other authorized personnel.

SECTION 3. ANIMAL WELFARE

- a. Owners must provide adequate food, shelter, and water as defined in Article I.
- b. Dogs continuously maintained on a restrictive chain, rope or other kind of tether shall be deemed to be improperly confined. However, tethering may be acceptable in certain cases where adequate daily socialization and exercise off the tether have been afforded and verified. Owners restraining animals must follow the provisions as defined in Article I.

SECTION 4. BREEDING KENNEL. It shall be unlawful for any person or group of persons engaged in breeding dogs where five (5) or more litters per year are produced.

SECTION 5. PENALTY FOR VIOLATION. The penalty for violation under this Article VII shall be as set forth in Article VII below.

ARTICLE V REGISTRATION AND RABIES

SECTION 1. REGISTRATION AND RABIES CONTROL. The owner of a dog shall register the dog with town hall every year by April 1st at a cost set forth by the town council yearly. **There shall be "No Limit" of registered domestic animals per property and it shall be the responsibility of said property owner/renter to be in compliance with in thirty days from the inception of this ordinance.** The owner of every dog over four (4) months of age shall have the animal vaccinated against rabies and shall comply with all of the terms and provisions of Part 6 of Article 6 of Chapter 130A of the North Carolina General Statutes pertaining to rabies control.

SECTION 2. REGISTRATION AND RABIES VACCINATION TAGS. It shall be unlawful and a violation of this Ordinance for the owner of any dog to cause or permit the same to fail to wear at all times a valid registration tag and a rabies vaccination tag as required under the provisions of G.S. §130A-190. Pursuant to the authority of G.S. §130A-190(a), this Section 2 shall apply **to all dogs.**

SECTION 3. PENALTY FOR VIOLATION. The penalty for a violation under this Article V shall be as set forth in Article VII below.

ARTICLE VI REPORTS, COMPLAINTS, AND INVESTIGATION

SECTION 1. REPORTS, COMPLAINTS.

Any person may make a verbal complaint through the County Communications Center or directly to town hall of a violation of Article III, IV and V above. Such verbal complaint shall, as soon as practicable after response to the complaint, be confirmed by the complainant in writing on the prescribed form.

SECTION 2. WRITTEN COMPLAINTS.

Any person may make a complaint to the Town of Polkton a violation of Article III of this Ordinance. All such complaints shall be written and shall be on a form prescribed by the Town. Such complaints shall be presented as follows:

The Police Department shall develop a written complaint form and shall maintain copies of the same at all times, which shall be made available for inspection upon request to any person. The form shall require such information as shall be deemed sufficient by the Police Department to permit a sufficient investigation to determine if a violation of Article III has occurred, along with any other information deemed appropriate by the Officer. The form shall further require the signature of the person making the complaint and be able to be viewed by the owner of said animal involved.

ARTICLE VII PENALTIES AND ENFORCEMENT

SECTION 1. PENALTIES.

- a. Misdemeanor. Notwithstanding any civil penalties which may be assessed under subsection (b) below, any person violating any of the provisions of this Ordinance may be found guilty of a Class 3 Misdemeanor under G. S. 14-4 and 160A-175. For a continuing violation, each day's violation shall be deemed to be a separate offense.

- b. Civil Penalties. In addition to, and not in lieu of, the criminal penalties and other remedies provided by this Ordinance or by State law, a violation of any of the provisions of Article III, IV and V of this Ordinance may also subject the offender to the civil penalties hereinafter set forth. The officer shall be authorized to issue a citation to such

person, giving notice of the violation. Citations so issued may be delivered in person or mailed by registered or certified mail, return receipt requested, to the person charged if such person cannot otherwise be readily located. The civil penalty or penalties set forth in the citation must be paid within seven (7) days of the receipt of the citation and shall be paid to Town Hall. If the person charged fails to pay the civil penalty within the time prescribed, a criminal summons shall be issued against such person charging a misdemeanor violation of this Ordinance under subsection (a) above and upon conviction, such person shall, in addition to the penalties prescribed for said misdemeanor violation of this Ordinance, be punished as the court prescribes for failure to pay the civil penalties imposed hereby. The civil penalties for a violation of this Ordinance shall be as follows:

- I. For a violation of any provisions of Article III, IV, V or VIII the civil penalty shall be One Hundred Dollars (\$100.00) for a first offense, Two Hundred Fifty Dollars (\$250.00) for a second offense, and Five Hundred Dollars (\$500.00) for a third or subsequent offense.

SECTION 2. ENFORCEMENT.

This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

ARTICLE VIII REGULATION OF OWNERSHIP, KEEPING AND HARBORING INHERENTLY DANGEROUS EXOTIC ANIMALS

SECTION 1: PURPOSE AND AUTHORITY. The purpose of this Article VIII is to protect the public against health and safety risks that inherently dangerous exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. By their very nature, certain exotic animals are wild and potentially dangerous, do not adjust well to a captive environment, and present a genuine threat to the safety and well-being of the public

It is a further purpose of this Article VIII to complement those rules already in existence in the State of North Carolina with respect to the regulation of wild animals by the North Carolina Wildlife Resources Commission, which includes animals such as raccoons, skunks, foxes, bats, and others, that present a danger to the safety and well-being of the public through their inherently dangerous nature, through carrying rabies, or otherwise. Accordingly, the Town intends to exempt from this Article VIII those animals which are subject to said rules.

For the reasons set forth above, and pursuant to the authority granted in NCGS 160A-174, the Town enacts and adopts the regulations set forth herein.

SECTION 2. DEFINITIONS For purposes of this Article VIII the following terms, phrases, words, and their derivations shall have the meaning defined herein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future and past tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender include the feminine gender. These definitions are in addition to, and not in lieu of, those definitions set forth in Article I of this Ordinance; provided, that the scope of this Article VIII shall be as set forth in Section 3 below.

(a) AZA. The American Zoo and Aquarium Association.

1. Inherently Dangerous Exotic Animal: Any mammal, reptile, or arachnid which is a member of a species that, due to the inherent nature of the species, may be considered dangerous to humans; provided, however, that expressly excluded from this definition are animals which are indigenous to Polkton and or Anson County and which are subject to the requirements for captivity permits under the rules of the North Carolina Wildlife Resources Commission as contained in 15A N.C.A.C. 10H Section .0300 or any successor rules or regulations thereto. Inherently dangerous exotic animals specifically include, but are not limited to, any or all of the following orders and families, whether bred in the wild or in captivity, and any or all hybrids. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

(1) Class Mammalia:

- a. Order Artiodactyla (such as hippopotamuses, giraffes, and camels, but not cattle, swine, sheep, goats, llamas, or alpacas);
- b. Order Carnivora:
 - i. Family Felidae (such as lions, tigers, panthers, leopards, jaguars, ocelots, and servals, but not domestic cats);
 - ii. Family Canidae (such as wolves and jackals, but not domestic dogs);
 - iii. Family Ursidae (all bears);
 - iv. Family Mustelidae (such as weasels, martins, and minks, but not ferrets);
 - v. Family Procyonidae (such as coatis);
 - vi. Family Hyaenidae (all hyenas);

- vii.** Family Viverridae (such as civets, genets, and mongooses);
- c.** Order Edentata (such as anteaters, armadillos, and sloths);
- d.** Order Perissodactyla (such as rhinoceroses and tapirs, but not horses, donkeys, or mules);
- e.** Order Primates (such as lemurs, monkeys, chimpanzees, baboons, gorillas, and all other non-human primates);
- f.** Order Proboscidea (all elephants);
- g.** Order Rodentia (but not guinea pigs, rats, mice, gerbils, hamsters, prairie dogs, or chinchillas);

(2) Class Reptilia:

- a.** Order Crocodylia (such as crocodiles, alligators, caimans, gavials, etc.) – all species.
- b.** Order Squamata:
 - (i)** Family Varanidae (only water monitors and crocodile monitors);
 - (ii)** Family Iguanidae (only rock iguanas);
 - (iii)** Family Boidae (only those whose actual length exceeds eight (8) feet);
 - (iv)** Family Colubridae (only boomslangs and African twig snakes);
 - (v)** Family Elapidae (such as coral snakes, cobras, mambas, etc.) – all species;
 - (vi)** Family Natrixidae (only keelback snakes);

- (vii) Family Viperidae (such as cottonmouths, etc.) - all species;
- (viii) Family Helodermodidae (such as gila monsters and Mexican beaded lizards);
- (ix) Family Crotalidae (pit vipers);
- (x) Family Atractaspidae (burrowing asps);
- (xi) Family Hydrophilidae (sea snakes);

(3) Class Arachnida:

- a. Order Araneae (only spiders which are venomous and which are not indigenous to Polkton or Anson County, but excluding tarantulas);
- b. Order Scorpionida (all scorpions).

2. Owner: The term "Owner" shall have the same meaning as defined in **Animal Control Ordinance Article 1 Section 2**. As used with Exotic Animals, Owner also includes one who allows an exotic animal to remain in, be lodged, fed, given shelter or refuge within the Owner's home, store, yard, enclosure, out-building, abandoned vehicle or building, place of business, or any other premises in which the person resides or over which the person has control.

SECTION 3: PROHIBITION

- a. It shall be unlawful to own, possess, keep, or harbor, bring into the Town, have in one's possession, act as a custodian for, or have custody of an inherently dangerous exotic animal within the Town; provided, that the Owner of any inherently dangerous exotic animal as defined in this Ordinance who owned, possessed, kept or harbored or be fed or be given shelter or refuge within the person's home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises on which the person resides or over which the person has control such inherently dangerous exotic animal on or before the effective date of this Ordinance shall remove said animal(s) from the Town within one (1) year following the adoption of this Ordinance.
- b. It shall be unlawful and a violation of this Ordinance for any person who violates subsection (a) of this Section 4 to release or abandon an inherently dangerous exotic animal, in such manner as to cause or permit the animal to be at large in the Town, for the purpose of evading prosecution under said subsection (a).

SECTION 4 : PENALTY FOR VIOLATION. The penalty for a violation under this Article VIII shall be as set forth in Article VII above.

**ARTICLE IX
GENERAL PROVISIONS**

SECTION 1. SEVERABILITY.

If any part of this Ordinance or any portion or provision hereof, or the application hereof to any person or condition, is held to be invalid, such invalidity shall not affect the remaining parts of this Ordinance or their application to any other person or condition, and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 2. SUPERSEDES ALL PREVIOUS ORDINANCES. This ordinance supersedes any and all Animal Control Ordinance as set forth in the Town of Polkton Ordinance Book adopted prior to the effective date of this ordinance.

SECTION 3. EFFECTIVE DATE.

This Ordinance shall take effect and be in force upon adoption by the Town Council of Polkton.

Adopted by the Town Council of Polkton this the _____ day of _____, 2013.

ATTEST: TOWN COUNCIL OF POLKTON

Clerk to the Board

Mayor Pro Tem

