

ORDINANCE NO. 63

PERQUIMANS COUNTY ANIMAL CONTROL ORDINANCE

SECTION ONE DANGEROUS DOGS

1.01 Definitions.

For the purposes of this section, the following words and phrases shall have the following meanings:

Attack by a dog: Any assault or battery by a dog upon a person or domestic animal, to include biting, felling or toppling, tearing of clothing or any other act which could reasonably cause physical injury to a person or domestic animal.

Bite by a dog: Any seizing, gripping or grasping by a dog between its jaws of the body of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

County Animal Shelter: The Tri-County Animal Shelter or any other shelter used by Perquimans County to house or shelter animals.

Dangerous dog: Any of the following dogs:

- (1) A dog that without provocation has killed or inflicted severe injury on a person or domestic animal.
- (2) A dog that has been determined as provided herein to be potentially dangerous.
- (3) A dog that is owned or harbored primarily or in part for the purpose of dog fighting, or a dog trained for dog fighting.

Dog: A domesticated animal (*canis familiaris*) of the Canidae family; provided that no wild species of the Canidae family, such as a wolf, fox or coyote, shall be considered a domesticated animal, even though raised by humans in a domestic environment.

Guard dog: A dog trained by a skilled trainer to recognized security standards or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

Imminent hazard: A situation which is likely to cause an immediate threat to human life or animals, an immediate threat of serious physical injury, or an immediate threat of serious adverse health effects if no immediate action is taken.

Keeper: A person having custody of an animal or who keeps or harbors an animal on any premises occupied by that person.

Law enforcement dog: A dog trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

Lawful hunt: A hunt for lawful game conducted on private property with the consent of the owner or custodian of the property by a person with a valid license (if such license is required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

Owner: Any person or legal entity that has a possessory property right in a dog or has control or management of the dog, including the keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner and any person to whom a dog has been transferred.

Owner's real property: Any real property owned, leased or used by the owner of the dog, not including any public right of way or a common area of a condominium, apartment complex, or townhouse development.

Potentially dangerous dog: A dog that has been determined to have:

- (1) Inflicted a bite on a person that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization; or
- (2) Killed or inflicted serious injury on a domestic animal when not on the owner's real property; or
- (3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

Severe injury: A physical injury that either (1) resulted in broken bones or disfiguring lacerations or (2) required cosmetic surgery or hospitalization.

Sheriff's Office: Any member of the Perquimans County Sheriff's Office including, but not limited to the Sheriff, Deputies, Animal Control Officers or other personnel of the Sheriff's Office including any persons or office authorized by the Perquimans County Sheriff to assist in matters related to animal control.

Territorial Jurisdiction of Perquimans County: All territories within the boundaries of the County of Perquimans, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this article in such areas.

Vicious dog: A dangerous dog, as defined herein, that after having committed an act making it a dangerous dog or having been determined hereunder to be a dangerous dog, commits a subsequent attack on a person or domestic animal.

1.02 Exceptions.

The provisions of this ordinance do not apply to:

- (1) A law enforcement dog being used by a law enforcement officer to carry out the law enforcement officer's lawful and official duties or professional responsibilities;
- (2) A dog being used in a lawful hunt;
- (3) A dog where the injury or damage inflicted was sustained by a domestic animal (1) while the dog was on its owner's property or under its owner's control; (2) while the dog was working as a hunting, herding or predator-control dog and (3) the damage or injury was to a species of domestic animal appropriate to the work of the dog;
- (4) A dog where the injury or damage inflicted was sustained by a person who, at the time of the injury (1) was committing a willful trespass or other tort; or (2) was tormenting, abusing or assaulting the dog; or (3) had in the past tormented, abused or assaulted the dog in the past; or (4) was committing or attempting to commit a crime.
- (5) A dog which has caused severe injury or other bodily harm on a person however the Sheriff's Office finds the injuries are the result of extenuating circumstances.

1.03 Determination that a dog is dangerous, potentially dangerous or vicious.

A. *Generally.* Upon a complaint, or upon reasonable suspicion of the Sheriff's Office, that a dog is dangerous, potentially dangerous or vicious, the Sheriff's Office shall make a determination whether or not such dog is dangerous, potentially dangerous or vicious. Any such determination shall be made in writing which shall summarize the available evidence which supports the determination. Such determination shall be hand delivered or mailed

certified mail, return receipt requested, to the owner. If a determination is made that a dog is dangerous, potentially dangerous or vicious, the written determination shall include an order of compliance with the specific and appropriate provisions of this ordinance and the Sheriff's Office may impose reasonable conditions to maintain the public health, safety and welfare.

B. Appeals.

(1) The owner or complaining party aggrieved by any determination made under this chapter may within three business days of receiving such determination appeal such determination to Animal Control Board. The ruling of the Animal Control Board shall be final, subject only as may be provided by law to the Superior Court of Perquimans County. Any such appeals shall be filed within ten calendar days of the date of the final determination by the Animal Control Board. The Animal Control Board shall consist of the director of the Tri-County Animal Shelter, a representative from the SPCA or other similar and appropriate agency and an at-large citizen of Perquimans County appointed by the Perquimans County Board of Commissioners.

(2) Any determination of the Sheriff's Office under Section 1.04A may be appealed to the Animal Control Board by filing written objections with the Animal Control Board within three business days after such determination. The Animal Control Board shall schedule a hearing on such appeal within business ten days of the filing of the written objections. The Animal Control Board shall render its decision as soon as possible after the hearing. The Animal Control Board shall deliver its decision to the parties and any person appearing at the hearing and requesting notice thereof, certified mail, return receipt requested, and files it concurrently with Sheriff and the Perquimans County Attorney. Any decision of the Animal Control Board shall be final.

(3) Any appeal hearing before the Animal Control Board shall be conducted as follows:

(i) The hearing shall be subject to the Open Meetings Law and the notice required thereunder shall be posted and given as may be applicable;

(ii) Parties may represent themselves or be represented by an attorney.

(iii) Any person adversely affected by the appeal may appear and fully participate in the hearing

(iv) Parties may make opening and closing statements, present any evidence, or offer witnesses on their behalf on any relevant issue;

(v) Parties shall be entitled to the right of cross examination;

(vi) The hearing shall be quasi judicial in nature and all testimony shall be under oath;

(vii) Any party shall be entitled to transcribe the hearing at his or her own cost;

(viii) The Animal Control Board may affirm, deny or modify with conditions the determination appealed from.

(ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as soon as possible at or following the appeal hearing. The Animal Control Board decision shall contain findings of fact and conclusion which support its decision.

(x) The Chairman of the Animal Control Board shall have the authority to govern the conduct of the hearing to include but not be limited to the setting of time limits for opening and closing arguments, determination of the order of witnesses and arguments and determination of the admissibility and relevancy of evidence.

1.04 Registration Required.

A. *Generally.* Any person owning, keeping or harboring a dog determined as set forth above to be dangerous, potentially dangerous, or vicious shall register such dog with the Sheriff's Office within five days of such determination or may, in lieu of any hearing, register such dog voluntarily, which said voluntary registration shall constitute an admission and determination that the dog is dangerous, potentially dangerous or vicious.

B. *Relief From Civil Penalty.* Voluntary registration of a dangerous, potentially dangerous or vicious dog by the owner, keeper or harbinger thereof prior to a determination that a dog is dangerous, potentially dangerous or vicious shall relieve such person from assessment of a civil penalty for any violation of this article.

C. *Permanent Identification Required.* Each dog registered as set forth above shall be assigned a registration number by the Sheriff's Office, which shall be affixed to the dog by permanent chip implant, tattoo or some other permanent means at the expense of the owner,

keeper or harborer of the dog. No person shall remove such identification mark once it is assigned and affixed.

1.05 Permit Required.

A. *Generally.* After registration of a dangerous, potentially dangerous or vicious dog or after a determination that a dog is a dangerous, potentially dangerous or vicious dog, no person shall own, keep, or harbor such a dog therein with Perquimans County without applying for and obtaining a permit from the Sheriff's Office.

B. *Issuance of Permit.* The Sheriff's Department shall issue a permit for a dangerous, potentially dangerous or vicious dog upon submission of a complete, verified application, payment of the permit fee and a finding of the Sheriff's Office that required arrangements for the housing of the dog and other public health, safety and welfare provisions are in effect, and that each dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and welfare if the permittee shall comply with the provisions of this article and the conditions of the permit. Each permit shall be conditioned on continued compliance with the provisions of this ordinance and other provisions of law, on continued compliance with and maintenance of the arrangements for housing and safety set forth in the permit application, and any special conditions the Sheriff's Office may deem reasonably necessary to protect the public health, safety and welfare.

C. *Temporary Permits.* Following registration of a dangerous, potentially dangerous or vicious dog or the impoundment of a such a dog, upon application and for good cause shown, the Sheriff's Office may issue a temporary permit allowing the owner, keeper or harborer of a registered dangerous, potentially dangerous or vicious dog to retain possession of such a dog or to confine such a dog at a veterinary facility or kennel approved by the Sheriff's Office. A temporary permit also may be issued to allow the transport of a potentially dangerous, dangerous or vicious dog from Perquimans County. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Sheriff's Office may deem necessary to protect the public health, safety and welfare consistent with the provisions of this ordinance. A temporary permit shall be valid only until the earlier of its expiration or the revocation, issuance or denial of a permit under the provisions of subparagraph (B) hereinabove.

D. *Terms of Permits and Renewals.* No permit shall be issued under the provisions of subparagraph 1.06(B) hereinbelow for a term of more than three years. A permit may, in the Sheriff's Office's discretion, be issued for a shorter period of time. Permits may be renewed subject to the same terms and conditions required for initial permits.

E. *Revocation of Permits.* The Sheriff's Office may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the Sheriff's Office deems it necessary to protect the public health, safety and welfare from any imminent threat or danger, it may, without hearing, suspend any permit or any portion thereof for not more than thirty days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this ordinance or with any term, condition or provision of a permit. Upon revocation of any permit issued, the Sheriff's Office shall have the authority to order the owner, harbinger or keeper of the dog subject to the permit to remove the dog subject to the permit from Perquimans County, North Carolina.

F. *Inspections.* The Sheriff's Office may cause periodic inspections to be made of the premises of a permittee to assure compliance with the provisions of this ordinance and the applicable permit. A permittee shall allow access to the Sheriff's Office to the property where the registered dog is being kept or harbored for the purposes of the Sheriff's Office conducting any inspections which may be required under this subsection. Failure of the owner, keeper or harbinger of a registered dog to allow access to the Sheriff's Office to the property where the registered dog is being kept or harbored shall subject the permittee to a revocation of the permit and removal of the registered dog from the possession of the permittee.

G. *Insurance.* Each person owning, keeping or harboring a dog that has been declared dangerous, potentially dangerous or vicious shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be one hundred thousand dollars (\$100,000.00) personal injury or property damage

coverage, per occurrence. The named insured under such policy shall cause a certificate of insurance to be furnished to the Sheriff's Office annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this ordinance.

1.06 Security and Restraint Requirements.

(A) Dangerous dogs and potentially dangerous dogs shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:

1. In a building with doors, windows and other exits securely fastened shut under the supervision and control of a responsible adult person capable of such supervision and control.
2. Securely kept in a locked enclosure which has secured sides, top and bottom and which is constructed out of material and in a manner which will preclude escape by the dog and entry by children.
3. While outside a building or enclosure described in subparagraph 2 hereinabove, securely leashed with a leash no longer than four feet in length in the hands of a responsible, competent, adult person capable of such control and muzzled by muzzling device sufficient to prevent such dog from biting persons or other animals.

(b) No person shall remove such a dog from the real property where the dog is being kept or harbored except to bring such dog to a veterinarian or to the County animal shelter, to remove permanently the dog from Perquimans County or to provide the dog bona fide exercise necessary for the dog's continued good health. In the event of such removal, such dog shall be securely restrained or enclosed as set forth in subparagraph (1) (a) (3) of this section.

(c) No person shall keep or harbor within Perquimans County a dog that has killed a person, except as follows: when the dog killed a person to protect or defend the home of the owner, harborer or keeper of the dog or when the dog was defending a person from a crime.

(B) *Vicious dogs.* No person shall keep or harbor a vicious dog within Perquimans County, except as follows:

1. In the care and custody of a veterinarian for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog.
2. In the custody of the County Animal Shelter pending disposition in accordance with provisions of this ordinance or the lawful instructions of the person owing or previously keeping or harboring such animal.
3. Pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein for a dangerous dog.

(C) *Warning signs.* Any owner, harborer or keeper of a dangerous, potentially dangerous or vicious dog shall erect a weatherproof sign on the enclosure housing said dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY
252-XXX-XXXX

Any such sign shall have minimum dimensions of two feet by two feet, must be clearly visible, must include the owner's phone number and must have lettering which measures three inches vertically.

1.07 Impoundment of potentially dangerous, dangerous and vicious dogs.

A. *Apprehension and surrender.* Upon an initial determination or upon registration of a dog to be dangerous, potentially dangerous or vicious, or if the Sheriff's Office has reasonable suspicion to believe a dog is dangerous, potentially dangerous or vicious the Sheriff's Office

or any law enforcement officer of any municipality subject to this ordinance shall impound such dog. It shall be a violation of this ordinance for any person to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the County Animal Shelter.

B. *Confinement.* A dog impounded by or surrendered to the Sheriff's Office shall be confined in the County Animal Shelter or, upon request of the owner, keeper or harbinger of the dog, or a permittee, and at such person's expense, at a private veterinary facility or kennel approved by the Sheriff's Department subject to the following conditions:

1. *Costs of Impoundment.* Impoundment shall be at the expense of the owner, keeper or harbinger of the dog, or of the permittee. Costs of impoundment at the County Animal Shelter shall be paid by the person liable under this provision at the normal daily rate. The costs of impoundment at a private kennel or veterinary facility shall be paid by the person liable pursuant to the terms of the agreement between said person and the veterinary clinic or private kennel. In no event shall Perquimans County be liable for the costs of impoundment regardless of the location of the impoundment.

2. *Release from Impoundment.* No dog shall be released from impoundment except upon registration of such dog and issuance of a permit or temporary permit allowing such release. No dog shall be released from the County Animal Shelter until all costs of impoundment and confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.

3. *Disposition of Unclaimed or Abandoned Dogs.* The following dogs shall be deemed abandoned and disposed of in accordance with the provisions of this ordinance and the rules and regulations of the County Animal Shelter:

(a) Any dog which remains unclaimed by its owner, keeper or harbinger or permittee for a period of more than ten days or a period of lawful quarantine, whichever is longer.

(b) Any dog claimed by its owner, keeper or harbinger, which is confined for a period in excess of ten days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Sheriff's Office shall extend such time upon a showing of justifiable delay.

1.08 Violations, Penalties and Other Remedies.

A. *Violations.* Each act or conduct prohibited by this ordinance and each failure to abide by a provision of this ordinance shall constitute a separate violation. Each day's continuing act or conduct prohibited by this ordinance and each day's failure to comply shall constitute a separate and distinct offense. Violations shall subject the violator to civil penalties and other remedies allowed by law. For the purposes of assessing penalties, violations of this ordinance shall be classified as follows:

(1) Class I Violations

- a. Failure to report an event for which a report is required.
- b. Failure to register a dangerous, potentially dangerous or vicious dog as required.
- c. Interfering with or hindering the employees of Perquimans County in the enforcement of this ordinance.
- d. Any other violation of this ordinance which is not otherwise classified.

(2) Class II Violations

- a. Keeping or harboring a vicious dog within the territorial jurisdiction of this article.
- b. Keeping or harboring a dangerous dog within the territorial jurisdiction of this ordinance in violation of the terms, conditions and provisions of a permit or of the housing and restraint requirements of this article.
- c. Failure to surrender a potentially dangerous or dangerous dog to the Sheriff's Office for impoundment as required by this ordinance.

d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept or harbored.

(3) Class III Violations

a. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept or harbored, when such dog thereafter commits a biting of or attack of a person or other domestic animal.

b. Refusal to surrender a vicious dog to the Sheriff's Office for impoundment as required by this ordinance.

c. Failure to maintain insurance as required by the ordinance.

B. *Civil Penalties.* The following civil penalties shall be assessed for each class of violation:

(1) Class I Violations. One hundred dollars for the first day of a violation; Twenty five dollars a day for each subsequent day of continuing violation and a maximum of one thousand dollars for each continuing violation.

(2) Class II Violations. Two hundred fifty dollars for the first day of a violation; One hundred dollars a day for each subsequent day of continuing violation and a maximum of three thousand dollars for each continuing violation.

(3) Class III Violations. Five hundred dollars for the first day of a violation; Two Hundred fifty dollars for each subsequent day of continuing violation and a maximum of seven thousand five hundred dollars for each continuing violation.

C. *Additional Remedies.* In addition to assessment of civil penalties, this ordinance shall be enforced by any one or more of the remedies set forth in Chapter 160A or Chapter 153A of the North Carolina General Statutes.

D. *State Law Violation.*

(1) Nothing in this ordinance shall be construed to prevent the Sheriff's Office or any other person from pursuing remedies under Chapter 67 of the North Carolina General Statutes.

(2) The Sheriff's Office is designated as the entity responsible for making any determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making any such determination, the Sheriff's Office shall follow the procedure set forth in this ordinance.

(3) The Animal Control Board is designated as the appellate board to hear appeals of determinations made pursuant to Section 67-4.1(c) of the North Carolina General Statutes.

1.09 Administrative Provisions.

a. *Responsibility.* The Sheriff's Office shall administer and enforce this ordinance and shall promulgate rules and regulations for the administration and enforcement of this ordinance.

b. *Citations and Assessments of Civil Penalties.* The Sheriff's Office shall have authority to investigate alleged or suspected violations of this ordinance and upon the determination by the Sheriff's Office, based on observation or other evidence that a violation has occurred, the Sheriff's Office shall have the authority to issue a written citation for violation of this article and to assess a civil penalty in the amount due. Such citation shall be mailed to the violator by the Sheriff's Office, certified mail. Return receipt requested, addressed to the last known address of the violator, or shall be personally delivered to the violator or to some responsible adult person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon an execution of a receipt for the certified mail by the violator or his agent in the event of such services. If a civil penalty duly assessed is not paid when due, the Sheriff's Office shall initiate an action in a court of competent jurisdiction to collect such amount due.

c. *Authority to Enter Premises.* The Sheriff's Office shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the cartilage thereof, or any yard or other enclosure to conduct investigations, apprehend any dog subject to this ordinance or to serve a citation upon a person for the violation of this ordinance. The Sheriff's Office shall only make such entry upon consent, pursuant to an administrative search warrant under Section 15-27.2 of the North Carolina General Statutes,

or as otherwise may be authorized by law. However, if an imminent hazard or emergency exists, no warrant is required for entry upon the premises.

d. *Authority to Immobilize or kill a Dangerous or Vicious Dog.*

(1) If in the course of investigating, apprehending or otherwise taking custody of a dangerous, potentially dangerous or vicious dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, such dog is not securely restrained and the Sheriff's Office has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, the Sheriff's Office shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs, or if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.

(2) If a potentially dangerous, dangerous or vicious dog impounded in the County Animal Shelter cannot be cared for or handled without the risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Sheriff's Office shall have the authority without the risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Sheriff's Office shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.

(3) The Sheriff's Office may humanely dispose of any dog being investigated under the provision of this ordinance at the request of or with the consent of its owner, keeper or harbinger.

1.10 Conflicts.

In the event that the provisions of this ordinance are in conflict with the provisions of any other applicable rule, statute, regulation or ordinance which imposes more restrictive regulations than those contained in this ordinance, the more restrictive regulations shall govern.

1.11 Severability

If any section of this ordinance shall be held invalid for any reason, such determination shall not affect the validity or enforceability of the remaining parts, provisions or sections of this ordinance and to that end, the provisions of this ordinance are severable.

ADOPTED THIS 24TH DAY OF AUGUST, 2009.

Mack Nixon, Chairman

ATTEST:

Mary P. Hunnicutt, Clerk to the Board