



MEMORANDUM

To: Mayor and City Councilors
From: Rich Olson, City Manager
Date: July 22, 2013
Re: Consideration – Adoption of Unified Animal Control Ordinance

BACKGROUND:

Pasquotank County adopted a Dangerous Dog Ordinance in December 2005. The ordinance has been modified several times since 2005, the latest change occurring in 2012. The City adopted a Dangerous Dog Ordinance in March 2012. The City's ordinance has been amended once, which occurred in August 2012. The City and County ordinances are almost the same with the major difference being that the Board of County Commissioners acts as the Animal Control Board for Pasquotank County. The City has a three-person board consisting of a City Councilor, a City resident who is also a dog owner and a representative of the SPCA. The County and City definitions of "potentially dangerous do", "dangerous dog" and "vicious dog" are basically the same. However, the City has incorporated a progressive threat level. The City's ordinance has multiple references to the Elizabeth City Police Department, while the Sheriff's Department is contracted with to provide animal control services.

City and County staff would like each respective governing body to adopt identical ordinances and delegate the authority to hear cases concerning dogs to a unified Animal Control Board.

ANALYSIS:

Attached, please find a re-write of the City and County Dangerous Dog Ordinances into one ordinance, which would need to be adopted by each governing body. City staff has provided a comparison of the new ordinance to both the City and County ordinances in an add/delete format. The major difference between the existing ordinances is the creation of a five-person Animal Control Board. Two members of the Board would be appointed by the City and two members of the board would be appointed by the County. The fifth member would be jointly appointed by both bodies upon a recommendation of the SPCA Board of Directors. Since this is a quasi-judicial board, we have set the quorum requirement at three (3) members. The revised ordinance deletes the term

“Police Department” and “Sheriff’s Department” and utilizes a definition of “Law Enforcement Agency”, which could mean either agency. We have utilized the City’s definition of “potentially dangerous dog” but have deleted the threat level. The County’s definition of “vicious dog” was used. The “dangerous dog” definition was changed to reflect a combination of both definitions. The County addresses “lawful hunt” but this definition does not apply in the City, since we do not allow hunting inside the City’s corporate limits. All other changes are minor.

STAFF RECOMMENDATION:

By motion, call for a Public Hearing by the City Council on August 12, 2013 at 7:30 p.m. to receive comment regarding the repeal of the City’s current Dangerous Dog Ordinance and the adoption of the proposed new Dangerous Dog Ordinance, as presented upon like action by Pasquotank County.

RCO/vdw

CHAPTER 91. DANGEROUS DOGS

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91.01 Definitions.

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

Animal Control Board: The Animal Control Board shall ~~be the Pasquotank County Board of Commissioners~~ consist of five (5) members; two (2) appointed by the City of Elizabeth City City Council; two (2) appointed by the Pasquotank County Board of Commissioners; and one (1) member shall be a representative of the SPCA of Northeastern North Carolina recommended by the SPCA Board of Directors and jointly appointed by each governing body. Three members of the Animal Control Board shall constitute a quorum for the purposes of this ordinance.

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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, provoking flight to escape attack, or any other act which could reasonably cause physical injury to the person or domestic animal.

Bite by a dog: Any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

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; or~~

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(2) ~~A dog that has been determined as provided herein to be potentially dangerous.~~

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(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.~~

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Dangerous Dog: A dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriff's Department or Police Department) after a sustained investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

(1) Without provocation on public or private property, including the owner's property, has killed or inflicted serious bodily injury on a person;

(2) Without provocation on public or private property, including the owner's property, has killed or inflicted severe injury to another dog or other domesticated animal; or

(3) Is a dog trained for dog fighting or is being used or has been used for the purpose of dog fighting.

~~Dog: A domesticated animal (canis familiaris) of the Canidae family; provided that no wild specie of the Canidae family, such as a wolf, fox, or coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings. A domesticated animal (canis familiaris) of the Canidae family; provided also that a wild specie of the Canidae family, such as a wolf, fox, or coyote, shall be considered a dog for purposes of this ordinance.~~

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

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 or public property with the consent of the owner or custodian of the property by a person with a valid license (if 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, including the harbinger or 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.

Owner's real property: Any real property owned or leased 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, as provided herein, to have:~~

~~(1) — Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or~~

~~(2) — Killed or inflicted severe injury upon a domestic animal when not on the real property of the owner of the dog; or~~

~~(3) — Attacked a person or approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.~~

Potentially Dangerous Dog: A potentially dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriff's Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

(1) Inflicted injury to a domesticated animal that required veterinary care or bit any person, without provocation, so as to cause a laceration or abrasion requiring medical care.

(2) Chases or approaches a human upon the streets, sidewalks or any public or private property in a menacing or threatening manner and in an apparent attitude of attack, when such human is conducting himself/herself peacefully and lawfully and is not provoking the dog; or

(3) Engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or custodian of the dog.

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Severe injury: Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Sheriff's Department: Any member of the Pasquotank County Sheriff's Department including, but not limited to the Sheriff, Animal Control Officers, Deputies, or other personnel within the department.

Law Enforcement Agency: Shall mean the Pasquotank County Sheriff's Office or the City of Elizabeth City Police Department or any other agency, which has jurisdiction within the City or County.

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Territorial jurisdiction of the City of Elizabeth City and Pasquotank County: All territory within the boundaries of the County of Pasquotank, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this article in such areas.

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Vicious dog: A dangerous dog, as defined herein, that after having once 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.

91.02 Application of ordinance; exceptions.

The provisions of this ordinance do not apply to:

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

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91.03 Reporting requirements.

A. *Report required:* (i) An owner, keeper or harbinger of a dangerous or vicious dog or a dog that has attacked or bitten a person or domestic animal; (ii) a victim of or person witnessing such an attack or biting; (iii) a veterinarian treating a domestic animal for such an attack or biting; or (iv) a health care professional treating a person for such an attack or biting, shall report the following events to the Sheriff's Department within three (3) business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal,
or
- (2) The transfer, gift, sale, or other conveyance of ownership or possession of a potentially dangerous, dangerous or vicious dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.
 - a.) If a dog is caused to be moved into Pasquotank County from any jurisdiction (whether it be a municipality, county or other local government), which has caused that dog to be

classified as potentially dangerous, dangerous or vicious (or some other similar classification), or an animal so classified elsewhere is situate within Pasquotank County at any time, that dog must be reported as required hereunder to the Sheriff's Department. The Sheriff or his designee shall review the case and classification of the previous jurisdiction and, if appropriate, cause the owner or person in possession of said dog to register the dog within the County as potentially dangerous, dangerous or vicious.

B. *Report data required:* The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the Sheriff.

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

A. *Generally.* Upon a complaint, or when he has reasonable suspicion, that a dog is potentially dangerous, dangerous or vicious, the Sheriff's Department shall make a determination whether or not such dog is dangerous, potentially dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in a writing which summarizes the available evidence and which shall be delivered or mailed certified mail, return receipt requested, to the owner. If the determination is made that the suspect dog is dangerous, potentially dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this ordinance and the Sheriff's Department may impose reasonable conditions to maintain the public health and safety. The Sheriff's Department shall assess appropriate civil penalties if he determines that violations of this article have been established and may elect to pursue other remedies authorized by law.

B. *Appeals from determinations.*

Any party having a direct interest in the matter and aggrieved by any determination as provided in this chapter may within ~~three five~~ (35) business days of receiving such determination appeal such determination in writing, within ~~three five~~ (35) business days to the Animal Control Board. The ruling of Animal Control Board shall be final, subject only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Pasquotank County, filed within ten (10) days of the date of the final determination by the Animal Control Board.

Any determination of the ~~Sheriff's Department Law Enforcement Agency~~ under Section 91.04(A) may be appealed to the Animal Control

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Board by filing written objections with the Chairman of the Animal Control Board within three (3) days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail—return receipt requested, and file it concurrently with the Sheriff and the Office of the Pasquotank County Attorney. Any decision of the Animal Control Board concerning any appeal provided for in this Chapter other than under Section 91.04(B) shall be final.

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 applicable;
- (ii) The parties may appear pro se or be represented by an attorney;
- (iii) Any person adversely affected by the appeal may appear and participate fully in the proceeding;
- (iv) Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
- (v) Participants 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 participant shall be entitled to transcribe the proceeding at his own cost;
- (viii) The Animal Control Board may affirm, deny, or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable, shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.
- (ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (x) The Animal Control Board may order that a vicious dog be euthanized.

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91.05 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 Department within five (5) days of such determination or may, in lieu of any hearing, register such dog voluntarily, which such 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 or vicious, or within five (5) days (I) of an event establishing reasonable cause to believe that a dog is potentially dangerous, dangerous or vicious, or (II) of the acquisition of a potentially dangerous, dangerous or vicious dog, whichever later occurs, shall relieve such person from assessment of a civil penalty for any violation of this article occurring between such date, event or acquisition and the date of registration.
- C. *Permanent identification mark required.* Each dog registered as set forth above shall be assigned a registration number by the Sheriff's Department, which shall be affixed to the dog by permanent chip implant, tattoo or some other permanent means by or at the expense of the owner, keeper or harbinger of the dog. No person shall remove such identification mark once it is assigned and affixed.

91.06 Permit required.

- A. *Generally.* After registration of a potentially dangerous, dangerous or vicious dog, or after a determination that such dog is potentially dangerous, dangerous or vicious, no person shall own, keep or harbor such dog thereafter within the territorial jurisdiction of this chapter without applying for and obtaining a permit from the Sheriff's Department.
- ~~B. *Issuance of permit.* The Sheriff's Department shall issue a permit for a potentially dangerous, dangerous or vicious dog only upon submission of a complete, verified application, payment of the permit fee, and a finding by the Sheriff's Department that required arrangements for housing of the dog and other public health and safety 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 general 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 chapter 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 Department may deem reasonably necessary to protect the~~

~~public health, safety and welfare in view of the particular circumstances and history of the dog concerned.~~

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B. Issuance of permit. The Sheriff's Department shall immediately issue a permit for a potentially dangerous, dangerous or vicious dog only upon submission of a complete, verified application, payment of the permit fee, and a finding by the Animal Control Officer assigned to the case that required arrangements for housing of the dog and other public health and safety 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 general 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 article 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 Department may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog concerned.

C. Cost of Permit. A permit fee of \$100.00 shall be imposed to all owners who register a dog that is deemed as potentially dangerous, dangerous or vicious. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Department for the Animal Control Program.

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DE. Temporary permits. Following the registration of a potentially dangerous, dangerous or vicious dog or the impoundment of such a dog, upon application therefor and for good cause, the Sheriff's Department may issue a temporary permit allowing the owner, keeper or harbinger of a registered potentially dangerous, dangerous or vicious dog to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Sheriff's Department. A temporary permit also may be issued to allow the transport of a potentially dangerous, dangerous or vicious dog from the territorial jurisdiction of this ordinance. 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 Department may deem necessary to protect the public health, safety and welfare consistent with the provisions of this ordinance and shall be valid for a period not to exceed thirty (30) days after issuance. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of subparagraph (B).

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DE. Term of permits and renewal thereof. No permit shall be issued under subparagraph (B) for a term of more than three (3) years but may in the Sheriff's Department's discretion be issued for a shorter period. Permits

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may be renewed, subject to the same terms and conditions required for initial permits.

EF. *Revocation of permits.* The Sheriff's Department 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 Department deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) 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 article or with any term, condition or provision of a permit.

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FG. *Inspections.* The Sheriff's Department shall cause periodic inspections (usually quarterly unless there is reasonable cause for more frequent inspections) to be made of the premises of a permittee to assure compliance with the provisions of this article and the applicable permit. Notice to permittee or occupant of premises must be given before completing any periodic inspection of the premises.

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H. *Inspection Fee.* The owner of a potentially dangerous, dangerous or vicious registered dog shall be imposed a \$25.00 inspection fee per inspection. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Department for the Animal Control Program.

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GI. *Insurance.* Every 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, per occurrence. Such person shall cause a certificate or declaration of insurance to be furnished to the Sheriff's Department annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this ordinance article.

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91.07 Regulation of potentially dangerous, dangerous and vicious dogs; security and restraint requirements.

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No person shall own, keep or harbor a dangerous, potentially dangerous, or a vicious dog except in compliance with all provisions of this ordinance, including:

- (1) *Dangerous dogs and potentially dangerous dogs.* Dangerous dogs and potentially dangerous dogs shall be subject to the following regulations:

- a. Such dog 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 secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.
 3. While outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- b. No person owning, keeping, or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the County Animal Shelter, ~~or to remove such dog permanently from the territorial jurisdiction of this ordinance, or to provide 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 above for dogs being maintained outside buildings.
- c. Notwithstanding the foregoing, no person shall keep or harbor within the territorial jurisdiction of this ordinance a dangerous dog that has killed a person, 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 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 the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal, or

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3. Pending appeal as herein provided of the determination that the dog is dangerous, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein.
- (2) *Vicious dogs.* No person shall keep or harbor a vicious dog within the territorial jurisdiction of this ordinance, except as follows:
- a. 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 the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog.
 - b. In the custody of the County Animal Shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal
 - c. 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.
- (3) *Signage.* Any owner of a dangerous, potentially dangerous, or vicious dog shall erect a weatherproof sign (2' x 2') on the enclosure housing said dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!
(252) xxx-xxxx

All letters must be at least 3 inches vertically and clearly visible from all four sides of the property. In addition, if the owner has a phone the owner's phone number must be placed on the sign.

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91.08 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 Department has reasonable suspicion to believe that a dangerous, potentially dangerous, or vicious dog is being kept or harbored within the territorial jurisdiction of this ordinance in violation of it or of a permit issued hereunder, the Sheriff's Department of Pasquotank County and of any municipality subject to this ordinance shall impound such dog. It shall be a violation of this ordinance 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 Department as provided herein shall be confined in the County Animal Shelter or, upon request of the owner, keeper or harbinger of the dog, or a permittee hereunder, 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 therefor at the daily rate therefore. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefor pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Pasquotank County or any municipality subject to this ordinance be liable for or pay for impoundment at such private facility or kennel.

(2) *Release from impoundment.* No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance as provided herein of a permit or temporary permit allowing such release. No such dog shall be released from the County Animal Shelter until costs of 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 impounded at the County Animal Shelter pursuant to this article 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 thereof for a period more than ten (10) 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 (10) 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 Department shall extend such time upon a showing of justifiable delay in such action by the owner, keeper, harbinger or ~~permitter~~ permittee thereof.

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91.09 Violations, penalties and other remedies.

A. *Violations.* Each act or conduct prohibited by Chapter 91 and each failure to comply with a mandatory provision of Chapter 91 shall constitute a violation. Each day's continuing act or conduct prohibited hereby and each day's continuing failure to comply shall constitute a separate and distinct offense. Violations shall subject the violator to civil penalties and to other remedies allowed by law. For the purposes of assessing civil penalties, violations of Chapter 91 are classified as follows:

(1) *Class I violations:*

- a. Failure to report an event for which a report is required.
- b. Failure to register a potentially dangerous, dangerous or vicious dog as required.
- c. Any other violation not otherwise classified in this section.

(2) *Class II violations:*

- a. Keeping or harboring a vicious dog within the territorial jurisdiction of this ordinance in violation of this article.
- b. Keeping or harboring a dangerous dog within the territorial jurisdiction of this ordinance in violation of 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 Department for impoundment as required by this article.
- d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and 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 and harbored, when such dog has thereafter committed an attack or a biting.

- b. Refusal to surrender a vicious dog to the Sheriff's Department for impoundment as required by this article.
- c. Failure to maintain insurance as required herein.

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

(1) *Class I violations:*

- a. One hundred dollars (\$100.00) for the first day of a violation.
- b. Twenty-five dollars (\$25.00) for each subsequent day of a continuing violation.
- c. A maximum of one thousand dollars (\$1,000.00) for each continuing violation.

(2) *Class II violations:*

- a. Two hundred fifty dollars (\$250.00) for the first day of a violation.
- b. One hundred dollars (\$100.00) for each subsequent day of a continuing violation.
- c. A maximum of three thousand dollars (\$3,000.00) for each continuing violation.

(3) *Class III violations:*

- a. Five hundred dollars (\$500.00) for the first day of a violation.
- b. Two hundred fifty dollars (\$250.00) for each subsequent day of a continuing violation.
- c. A maximum of seven thousand five hundred dollars (\$7,500.00) for each continuing violation.

C. *Other remedies.* In addition to assessment of civil penalties, this chapter may be enforced by any one or more of the remedies set forth in Chapter 160A or 153A, as applicable, of the North Carolina General Statutes.

D. *State law violations.*

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

(2) The Sheriff's Department is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Sheriff's Department shall follow the procedure set forth herein for determinations.

(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.

91.10 Administrative provisions.

A. *Responsibility.* The Sheriff's Department shall administer and enforce this article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.

B. *Citations assessing civil penalties.* The **Sheriff's Department Law Enforcement Agency** shall have authority to investigate alleged or suspected violations of this article and upon the determination by such person, based on observation or other evidence that a violation has occurred, each such person 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 Department, 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 person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon execution of a receipt for the certified mail by the violator or his agent in the event of such service. If a civil penalty duly assessed is not paid when due, the Sheriff's Department shall initiate an action in a court of competent jurisdiction to collect such amount due.

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C. *Authority to enter upon premises.* The **Sheriff's Department Law Enforcement agency** shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to (I) conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or (II) apprehend a dog determined to be potentially dangerous, dangerous or vicious or as which there is reasonable suspicion to

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believe is potentially dangerous, dangerous or vicious, or (III) to investigate any violation of this article, or (IV) to serve a citation upon a person for violation of this article. Notwithstanding the foregoing, the Sheriff's Department 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 otherwise as authorized by law.

D. *Authority to immobilize or kill a dangerous or vicious dog.*

(1) If in the course of investigating, apprehending or otherwise taking custody a potentially dangerous, 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 Department 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 Department shall have 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 risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Sheriff's Department 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 Department may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner, keeper, or harbinger.

City's Ordinance

PART II
CODE OF ORDINANCES
CHAPTER 6
ARTICLE III. DANGEROUS DOGS

Definitions

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

~~*Animal Control Board:* The Animal Control Board shall consist of a representative of the SPCA of Northeastern North Carolina, a City of Elizabeth City Councilmember, and a City of Elizabeth City resident who is also a dog owner.~~

Animal Control Board: The Animal Control Board shall consist of five (5) members; two (2) appointed by the City of Elizabeth City City Council; two (2) appointed by the Pasquotank County Board of Commissioners; and one (1) member shall be a representative of the SPCA of Northeastern North Carolina recommended by the SPCA Board of Directors and jointly appointed by each governing body. Three members of the Animal Control Board shall constitute a quorum for the purposes of this ordinance.

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, provoking flight to escape attack, or any other act which could reasonably cause physical injury to the person or domestic animal.

Bite by a dog: Any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

Dangerous Dog: A dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriffs Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

- (1) Without provocation on public or private property, including the owner's property, has killed or inflicted serious bodily injury on a person;
- (2) Without provocation on public or private property, including the owner's property, has killed or inflicted severe injury to another dog or other domesticated animal; or
- (3) Is a dog trained for dog fighting or is being used or has been used for the purpose of dog fighting.

~~For the purposes of this article, Dangerous Dogs are defined as a Threat Level 2.~~

Dog: A domesticated animal (*canis familiaris*) of the *Canidae* family; provided also that a wild specie of the *Canidae* family, such as a wolf, fox, or coyote, shall be considered a dog for purposes of this ordinance.

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

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

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.

Owner: Any person or legal entity that has a possessory property right in a dog, including the harborer or 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.

Owner's real property: Any real property owned or leased 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.

~~*Police Department:* Any member of the Elizabeth City Police Department including, but not limited to the Chief of Police, Police Officers, or other personnel within the department. The Elizabeth City Police Department contracts with the Pasquotank County Sheriff's Office to provide animal control services to its residents; therefore, for the purpose of this article, Police Department is also defined as any member of the Pasquotank County Sheriff's Office including, but not limited to the Sheriff, Animal Control Officers, Deputies, or other personnel within the department.~~

Potentially Dangerous Dog: A potentially dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriffs Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

- (1) Inflicted injury to a domesticated animal that required veterinary care or bit any person, without provocation, so as to cause a laceration or abrasion requiring medical care.

(2) Chases or approaches a human upon the streets, sidewalks or any public or private property in a menacing or threatening manner and in an apparent attitude of attack, when such human is conducting himself/herself peacefully and lawfully and is not provoking the dog; or

(3) Engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or custodian of the dog.

~~For the purposes of this article, potentially dangerous dogs will be defined as a Threat Level 1.~~

~~*Serious/severe injury:* Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.~~

~~Law Enforcement Agency: Shall mean the Pasquotank County Sheriff's Office or the City of Elizabeth City Police Department or any other agency, which has jurisdiction within the City or County.~~

~~*Territorial jurisdiction of City of Elizabeth City:* All territory within the boundaries of the City of Elizabeth City, North Carolina.~~

~~*Territorial jurisdiction of the City of Elizabeth City and Pasquotank County:* All territory within the boundaries of the County of Pasquotank, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this article in such areas~~

~~*Threat Level:* Measurement system used to define the degree of risk/harm associated with potentially dangerous dogs, dangerous dogs, and vicious dogs. Threat levels, for the purpose of this article, will be defined in ascending order with "1" being the least threat of risk/harm and "3" being the most threat of risk/harm.~~

~~*Vicious Dog:* A vicious dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriffs Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:~~

- ~~(1) A dangerous dog, as defined herein, that after having once 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 other dog or domestic animal;~~

~~(2) Any individual dog that has a trait, characteristic, or known and established reputation of viciousness, dangerous, or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or special equipment.~~

~~For the purposes of this article, vicious dogs will be defined as a Threat Level 3.~~

~~-Vicious dog: A dangerous dog, as defined herein, that after having once 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.~~

Sec. 6-51. Application of ordinance; exceptions.

The provisions of this ordinance do not apply to:

~~(1)~~ (1) A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;

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(2) A dog being used in a lawful hunt

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~~(32)~~ A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, keeper or harborer, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or

~~(34)~~ A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

~~(45)~~ A dog which has caused a severe injury or other bodily harm on a person, however ~~the Sheriffs Department or Police Department~~ Law Enforcement Agency finds the injuries are the result of extenuating circumstances.

Sec. 6-52. Reporting requirements.

A. *Report required:* (i) An owner, keeper or harborer of a dangerous ~~(Threat Level 2)~~ or vicious dog ~~(Threat Level 3)~~ or a dog that has attacked or bitten a person or domestic animal; (ii) a victim of or person witnessing such an attack or biting; (iii) a veterinarian treating a domestic animal for

such an attack or biting; or (iv) a health care professional treating a person for such an attack or biting, shall report the following events to the Sheriffs Department within three (3) business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal;
or
- (2) The transfer, gift, sale, or other conveyance of ownership or possession of a potentially dangerous, dangerous or vicious dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the city, or its death.

a.) If a dog is caused to be moved into the City of Elizabeth City from any municipality or county, which has caused that dog to be classified as potentially dangerous, dangerous or vicious (or some other similar classification), or an animal so classified elsewhere is situate within the City of Elizabeth City at any time, that dog must be reported as required hereunder to the Sheriff of Pasquotank County. The Sheriff or his designee shall review the case and classification of the previous jurisdiction and, if appropriate, cause the owner or person in possession of said dog to register the dog within the City as potentially dangerous, dangerous or vicious.

- B. *Report data required:* The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the ~~Sheriffs Department~~Sheriff.

Sec. 6-53. Determination that a dog is potentially dangerous, dangerous, or vicious.

- A. *Generally.* Upon a complaint, or when the Sheriffs Department or ~~Police Department~~ has established reasonable suspicion that a dog is potentially dangerous, dangerous or vicious, the Animal Control Officer assigned to such case and the Sheriff or his designee shall make a determination whether or not such dog is potentially dangerous, dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in a writing which summarizes the available evidence and which shall be delivered or mailed certified mail, return receipt requested, to the owner. If the determination is made that the suspect dog is potentially dangerous, dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this ordinance and the Sheriffs Department ~~or Police Department~~ may impose reasonable conditions to maintain the public health and safety. The Sheriffs Department ~~or Police Department~~ may assess appropriate civil penalties as set forth herein if it determines that violations of this

article have been established and may elect to pursue other remedies authorized by law.

B. *Appeals from determinations.*

~~Any party having a direct interest in the matter and aggrieved by any determination as provided in this article may within five (5) business days of receiving such determination appeal such determination in writing to the Animal Control Board. Any party having a direct interest in the matter and aggrieved by any determination as provided in this chapter may within five (5) business days of receiving such determination appeal such determination in writing, within five (5) business days to the Animal Control Board.~~ The ruling of Animal Control Board shall be final, subject only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Pasquotank County, filed within ten (10) days of the date of the final determination by the Animal Control Board.

Any determination of the ~~Sheriffs Department or Police Department Law Enforcement Agency~~ under Section 6-53(A) may be appealed to the Animal Control Board by filing written objections with the City of Elizabeth City within five (5) days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail—return receipt requested, and file it concurrently with the Sheriffs Department. Any decision of the Animal Control Board concerning any appeal provided for in this Article other than under Section 6-53(B) shall be final.

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 applicable;
- (ii) The parties may appear pro se or be represented by an attorney;
- (iii) Any person adversely affected by the appeal may appear and participate fully in the proceeding;
- (iv) Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
- (v) Participants 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 participant shall be entitled to transcribe the proceeding at his / her own cost;
- (viii) The Animal Control Board may affirm, deny, or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable, shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.
- (ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (x) The Animal Control Board may order that a vicious dog be euthanized.

Sec. 6-54. Registration required.

- A. *Generally.* Any person owning, keeping, or harboring a dog determined as set forth above to be potentially dangerous, dangerous, or vicious shall register such dog with the Sheriffs Department within five (5) days of such determination or may, in lieu of any hearing, register such dog voluntarily, which such voluntary registration shall constitute an admission and determination that the dog is potentially dangerous, dangerous, or vicious.
- B. *Relief from civil penalty.* Voluntary registration of a potentially dangerous, dangerous, or vicious dog by the owner, keeper or harbinger thereof prior to a determination that a dog is dangerous or vicious, or within five (5) days (i) of an event establishing reasonable cause to believe that a dog is potentially dangerous, dangerous or vicious, or (ii) of the acquisition of a potentially dangerous, dangerous or vicious dog, whichever later occurs, shall relieve such person from assessment of a civil penalty for any violation of this article occurring between such date, event or acquisition and the date of registration.
- C. *Permanent identification mark required.* Each dog registered as set forth above shall be assigned a registration number by the Sheriffs Department, which shall be affixed to the dog by permanent microchip implant, tattoo or some other permanent means at the expense of the owner, keeper or harbinger of the dog. Any permanent identification mark (i.e. tattoo, etc.) shall be affixed on the dog's ear or lower lip. No person shall remove such identification mark once it is assigned and affixed.

Sec. 6-55. Permit required.

- A. *Generally.* After registration of a potentially dangerous, dangerous or vicious dog, or after a determination that such dog is potentially dangerous, dangerous or vicious, no person shall own, keep or harbor such dog thereafter within the territorial jurisdiction of this article without applying for and obtaining a permit from the Sheriffs Department.
- B. *Issuance of permit.* The Sheriffs Department shall immediately issue a permit for a potentially dangerous, dangerous or vicious dog only upon submission of a complete, verified application, payment of the permit fee, and a finding by the Animal Control Officer assigned to the case that required arrangements for housing of the dog and other public health and safety 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 general 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 article 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 Sheriffs Department ~~Police Department~~ may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog concerned.
- C. *Cost of Permit.* A permit fee of \$100.00 shall be imposed to all owners who register a dog that is deemed as potentially dangerous, dangerous or vicious. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Department for the Animal Control Program.
- D. *Temporary permits.* Following the registration of a potentially dangerous, dangerous or vicious dog or the impoundment of such a dog, upon application therefor and for good cause, the Sheriffs Department may immediately issue a temporary permit allowing the owner, keeper or harbinger of a registered potentially dangerous, dangerous or vicious dog to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Sheriffs Department. A temporary permit also may be issued to allow the transport of a potentially dangerous, dangerous or vicious dog from the territorial jurisdiction of this ordinance. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Sheriffs Department may deem necessary to protect the public health, safety and welfare consistent with the provisions of this ordinance and shall be valid for a period not to exceed thirty (30) days of issuance. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of subparagraph (B).

- E. *Term of permits and renewal thereof.* No permit shall be issued under subparagraph (B) for a term of more than three (3) years but may in the Sheriffs Department's discretion be issued for a shorter period. Permits may be renewed, subject to the same terms and conditions required for initial permits.
- F. *Revocation of permits.* The Sheriffs Department may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If an officer of the Sheriffs Department ~~or Police Department~~ deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) 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 article or with any term, condition or provision of a permit.
- G. *Inspections.* The Sheriffs Department shall cause periodic inspections (usually quarterly unless there is reasonable cause for more frequent inspections) to be made of the premises of a permittee to assure compliance with the provisions of this article and the applicable permit. Notice to permittee or occupant of premises must be given before completing any periodic inspection of the premises.
- H. *Inspection Fee.* The owner of a potentially dangerous, dangerous or vicious registered dog shall be imposed a \$25.00 inspection fee per inspection. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Department for the Animal Control Program.
- I. *Insurance.* Every person owning, keeping or harboring a dog that has been declared potentially dangerous, 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, per occurrence. Such person shall cause a certificate or declaration of insurance to be furnished to the Sheriffs Department annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this ordinance article.

Sec. 6-56. Regulation of potentially dangerous, dangerous, and vicious dogs; security and restraint requirements.

No person shall own, keep or harbor a potentially dangerous, dangerous or a vicious dog except in compliance with all provisions of this ordinance, including:

~~A. Potentially dangerous and dangerous dogs. Potentially dangerous and dangerous dogs, which are defined as Threat Levels 1 and 2 accordingly, shall be subject to the following regulations:~~

(A) Dangerous dogs and potentially dangerous dogs. Dangerous dogs and potentially dangerous dogs shall be subject to the following regulations

- (1) Such dog shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:
 - a. 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.
 - b. Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.
 - c. While outside a building or enclosure described above, securely restrained with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (2) No person owning, keeping, or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the County Animal Shelter, or to remove such dog permanently from the territorial jurisdiction of this ordinance. In the event of such removal, such dog shall be securely restrained or enclosed as set forth above for dogs being maintained outside buildings.
- (3) Notwithstanding the foregoing, no person shall keep or harbor within the territorial jurisdiction of this ordinance a dangerous dog that has killed a person, except as follows:
 - a. 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 the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog;

- b. In the custody of the County Animal Shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal; or
- c. Pending appeal as herein provided of the determination that the dog is dangerous, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein.

B. 2) Vicious dogs. No person shall keep or harbor a vicious dog within the territorial jurisdiction of this ordinance, except as follows: Vicious dogs. No person shall keep or harbor a vicious dog, defined as a Threat Level 3, within the territorial jurisdiction of this ordinance, 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 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 the provisions of this ordinance or lawful instructions of the person owning 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. *Signage.* Any owner of a potentially dangerous, dangerous or vicious dog shall erect a weatherproof sign (2' x 2') on the enclosure housing said dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!
(252) xxx-xxxx

All letters must be at least 3 inches vertically and clearly visible from all four sides of the property. In addition, if the owner has a phone the owner's phone number must be placed on the sign.

Sec. 6-57. Impoundment of potentially dangerous, dangerous and vicious dogs.

- A. *Apprehension and surrender.* Upon an initial determination or upon registration of a dog to be potentially dangerous, dangerous or vicious, or if the Sheriffs Department has reasonable suspicion to believe that a potentially dangerous, dangerous or vicious dog is being kept or harbored within the territorial jurisdiction of this ordinance in violation of it or of a permit issued hereunder, the Sheriffs Department or municipality subject to this ordinance shall impound such dog. It shall be a violation of this ordinance 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 Sheriffs Department as provided herein shall be confined in the County Animal Shelter or, upon request of the owner, keeper or harborer of the dog, or a permittee hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Sheriffs Department, subject to the following conditions:
- (1) *Costs of impoundment.* Impoundment shall be at the expense of the owner, keeper or harborer of the dog, or of the permittee. Costs of impoundment at the County Animal Shelter shall be paid by the person liable therefor at the daily rate therefore. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefor pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall the City of Elizabeth City or the County of Pasquotank be liable for or pay for impoundment at such private facility or kennel.
 - (2) *Release from impoundment.* No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance as provided herein of a permit or temporary permit allowing such release. No such dog shall be released from the County Animal Shelter until costs of 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 impounded at the County Animal Shelter pursuant to this article 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 that has bitten a human or domestic animal which remains unclaimed by its owner, keeper or harborer or permittee

thereof for a period more than ten (10) days or a period of lawful quarantine, whichever is longer.

- b. Any dog that has bitten a human or domestic animal claimed by its owner, keeper or harbinger, which is confined for a period in excess of ten (10) 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 Sheriffs Department may extend such time upon a showing of justifiable delay in such action by the owner, keeper, harbinger or permittee thereof.

Sec. 6-58. Violations, penalties and other remedies.

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

- (1) *Class I violations:*

- a. Failure to report an event for which a report is required.
- b. Failure to register a potentially dangerous, dangerous or vicious dog as required.
- c. Any other violation not otherwise classified in this section.

- (2) *Class II violations:*

- a. Keeping or harboring a vicious dog within the territorial jurisdiction of this ordinance in violation of this article.
- b. Keeping or harboring a dangerous dog within the territorial jurisdiction of this ordinance in violation of 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 Sheriffs Department for impoundment as required by this article.
- d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and 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 and harbored, when such dog has thereafter committed an attack or a biting.
- b. Refusal to surrender a vicious dog to the Sheriffs Department for impoundment as required by this article.
- c. Failure to maintain insurance as required herein.

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

(1) *Class I violations:*

- a. One hundred dollars (\$100.00) for the first day of a violation.
- b. Twenty-five dollars (\$25.00) for each subsequent day of a continuing violation.
- c. A maximum of one thousand dollars (\$1,000.00) for each continuing violation.

(2) *Class II violations:*

- a. Two hundred fifty dollars (\$250.00) for the first day of a violation.
- b. One hundred dollars (\$100.00) for each subsequent day of a continuing violation.
- c. A maximum of three thousand dollars (\$3,000.00) for each continuing violation.

- (3) *Class III violations:*
 - a. Five hundred dollars (\$500.00) for the first day of a violation.
 - b. Two hundred fifty dollars (\$250.00) for each subsequent day of a continuing violation.
 - c. A maximum of seven thousand five hundred dollars (\$7,500.00) for each continuing violation.
- C. *Other remedies.* In addition to assessment of civil penalties, this article may be enforced by any one or more of the remedies set forth in Article 160A or 153A, as applicable, of the North Carolina General Statutes.
- D. *State law violations.*
 - (1) Nothing in this ordinance shall be construed to prevent the ~~Police Department~~ Sheriff's Department or any other person from pursuing remedies under Article 67, Article 1A, of the North Carolina General Statutes.
 - (2) The Sheriffs Department is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Sheriffs Department shall follow the procedure set forth herein for determinations.
 - (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.

Sec. 6-59. Administrative provisions.

- A. *Responsibility.* The Sheriffs Department shall administer and enforce this article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.
- B. *Citations assessing civil penalties.* The ~~Sheriffs Department or Police Department~~ Law Enforcement Agency shall have authority to investigate alleged or suspected violations of this article and upon the determination by such person, based on observation or other evidence that a violation has occurred, each such person 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 Sheriffs Department ~~or~~

~~Police Department~~ via 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 person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon execution of a receipt for the certified mail by the violator or his agent in the event of such service. If a civil penalty duly assessed is not paid when due, the Sheriffs Department ~~or Police Department~~ shall initiate an action in a court of competent jurisdiction to collect such amount due.

C. *Authority to enter upon premises.* The ~~Sheriffs Department or Police Department~~ Law Enforcement Agency shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to (i) conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or (ii) apprehend a dog determined to be potentially dangerous, dangerous or vicious or as which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, or (iii) to investigate any violation of this article, or (iv) to serve a citation upon a person for violation of this article. Notwithstanding the foregoing, the Sheriffs Department ~~or Police Department~~ 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 otherwise as authorized by law.

D. *Authority to immobilize or kill a dangerous or vicious dog.*

- (1) If in the course of investigating, apprehending or otherwise taking custody a potentially dangerous, 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 Sheriffs Department ~~or Police Department~~ has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, the Sheriffs Department ~~or Police Department~~ shall have 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 risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Sheriffs Department 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.

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- (3) The Sheriffs Department ~~or Police Department~~ may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner, keeper, or harborer.