

# **ASHE COUNTY, N.C. ORDINANCE**

## **CHAPTER 90: ANIMALS**

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## **GENERAL PROVISIONS**

### **\*90.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDON.** To forsake, desert or give up an animal previously under the custody or possession of a person without having secured another owner or custodian or by failing to make reasonable arrangements for adequate care.

**ADEQUATE FOOD.** The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain the animal's health and well being. Food shall be provided in a suitable and sanitary container.

**ADEQUATE WATER.** Constant access to a supply of water that is clean, fresh and visibly free of debris and organic material, provided in a suitable manner and at suitable intervals, not to exceed 24 hours.

**ADEQUATE SHELTER.** The owner of non-aquatic animals, other than livestock and other large animals which are normally pastured or otherwise live in the open, shall at all times provide said animal with shelter adequate to reasonably protect it from the elements. Such shelter shall, at a minimum, be sufficient to keep the animal dry, protected from adverse weather conditions. Said shelter shall further be kept free from accumulated waste or debris so the animal can walk or lie down without coming into contact with such waste or debris, and shall have a suitable method of draining so as to eliminate excess water. The shelter is to be constructed of durable fiber, wood, plastic or other non-metallic materials of adequate insulative value that allow an animal to maintain its body heat. The shelter should contain sufficient space for the animal to move around, stand or lie down, and is deemed appropriate by the Animal Control Officer.

**ANIMALS.** All living vertebrates, domestic and non-domestic, but not including humans.

**ANIMAL CONTROL DIRECTOR.** Employee of the county that is responsible for the management of the Animal Control department, including enforcement of County and State laws pertaining to animal and rabies control. Works under the direct supervision of the County Manager. Works with Health Director or his or her designee.

**ANIMAL CONTROL OFFICER / CRUELTY INVESTIGATOR.** Employee of the county, empowered to enforce all County and State laws pertaining to animal and rabies control. Works under the direct supervision of the Animal Control Director.

~~**ANIMAL CONTROL OFFICER.** Employee of the county and empowered to enforce all state laws and local ordinances pertaining to animals.~~

**ANIMAL SHELTER.** Any premises designated by the county for the purposes of impounding and caring for all animals in accordance with the provisions of this chapter.



**Dangerous Dogs:**

- a. "Dangerous dog" means a dog that:
  1. Without provocation has killed or inflicted severe injury on a person; or
  2. Is determined by the person ~~or Board~~ designated by the county ~~or municipal~~ authority responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subdivision (2) of this subsection.
- b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- b. "Potentially dangerous dog" means a dog that the person or Board designated by the county or municipal authority responsible for animal control determines 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 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.
- c. "Owner" means any person or legal entity that has a possessory property right in a dog.
- d. "Owner's real property" means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.
- e. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization. The provisions of this Article do not apply to:
  1. A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
  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 or keeper, 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 committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.
  5. The County Manger ~~or municipal~~ shall designate a person ~~or a Board~~ to be responsible for determining when a dog is a "potentially dangerous dog" and the Board of Commissioners shall act as an appellate Board or designate a separate Board to hear any appeals. The person ~~or Board~~ making the determination that a dog is a "potentially dangerous dog" must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this Article. The owner may appeal the determination by filing written objections with the appellate Board within three days. The appellate Board shall schedule a hearing within 10 days of the filing of the objections. Any appeal from the final decision of such appellate Board shall be taken to the superior court by filing notice of appeal and a petition for review within 10 days



of the final decision of the appellate Board. Appeals from rulings of the appellate Board shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate Board whose ruling is being appealed is located.

**DANGEROUS DOG.** A dog that:

- a. without provocation has killed or inflicted severe injury on a person; or
- b. is determined by the person or board designated by the county authority responsible for Animal Control personnel to be potentially dangerous due to the dog having exhibited one or more of the behaviors stated under Potentially Dangerous Dog [NCGS 67-4.1(2)]
- c. Is determined to be "Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting" [NCGS 67-4.1]

**POTENTIALLY DANGEROUS DOG.** A dog that:

- a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or
- b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
- c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

**HEALTH DIRECTOR.** Health Director of the County Health Department.

**IMPOUNDMENT.** Secure custody of any animal by a person or shelter duly authorized by the county.

**KEEPER.** A person having custody of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

**KENNEL.** Any premises wherein a person boards, lets for hire, trains for fee, breeds, buys or sells cats or dogs. This shall not include the ownership of dogs or cats which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five dogs or cats per year are sold by such owner.

**OWNER.** A person having the right of property to an animal.

**RABIES EXPOSURE.** Animal exposed by another animal suspected of or known to have rabies. (Ord. Passed 9-20-95; Amended 3-3-97)

**STRAY ANIMAL.** Any domesticated animal that meets the following conditions.

- a. Is beyond the limits of confinement or lost.
- b. Is not wearing any form of identification.
- c. No owner known.

**TETHER.** A means by which an animal is restrained or fastened so it can only range only within a set radius.



**\*90.02 CRUELTY TO ANIMALS.**

(A) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon, or subject to conditions detrimental to its health or general welfare of any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission; nor to prohibit the Department or veterinarians or duly authorized person from destroying dangerous, unwanted, or injured animals in a humane manner.

(B) It shall be unlawful for any owner or keeper to fail to provide his animal(s) with proper **adequate food, adequate water, and adequate shelter** and protection from the weather, sufficient and wholesome food and water to keep his animal(s) in good health and comfort, and the opportunity for vigorous daily exercise. Veterinary care shall be provided when needed to prevent suffering.

(C) Any person injuring or killing a domestic animal by striking it with an automobile or other vehicle, shall make reasonable effort to notify the owner of the animal, and shall notify this Department of Animal Control or the Ashe Animal Clinic.

(D) Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse, abandons the animal(s), is guilty of a misdemeanor punishable as provided by a fine of up to \$500.

(E) It shall be unlawful to tether an animal to a stationary object for a period of time or under conditions that an Animal Control Officer deems harmful or potentially harmful to the animal. Tethering may only be allowed if there is no sign of obvious neglect. Examples of improper tethering include, but not limited to the following:

1. Using a length or weight of tether that is not appropriate for the size, weight and age of the animal. An appropriate restraint must be a minimum of ten feet in length.
2. Using tether that does not have swivels on both ends. All tethers must be attached to the animal by means of a properly fitting harness or collar of not less than one inch wide made of nylon or leather.
3. Tethering an animal allowing said animal to leave the owners real property or such that the tether can become entangled and prevent the animal from moving about freely, lying down, or having access to adequate food, adequate water, or adequate shelter.

(F) It shall be unlawful for any person to leave an animal within a closed car, truck, or other vehicle for such duration or at such temperatures as an Animal Control Officer shall, in his/her sole discretion, deem to be harmful or potentially harmful to the animal.

(G)(E) All investigations and related procedures of cruelty charges, will be at the discretion of the County Animal **Control Officer** / Cruelty Investigator. (Ord. Passed 9-20-95) Penalty, see \*90.99

**\*90.03 CONFINEMENT AND CONTROL OF VICIOUS OR DANGEROUS DOMESTIC ANIMALS.**

It shall be unlawful for any person to keep any vicious, fierce, or dangerous domestic animal within the county unless **deemed in compliance with this section**; it is confined within a secure building or enclosure, or it is securely muzzled and under restraint by means of a leash, chain or



rope, and firmly in the grasp and under control at all times of the owner or keeper. After receiving a written and detailed complaint regarding an incident or complaint of a "dangerous or potentially dangerous animal" the Animal Control Department shall investigate. Special preventative measures shall be taken by the Animal Control Officers for the confinement and control of dangerous / potentially dangerous animals upon consideration of the following factors:

- a. The presence of a victim or potential victim that in the opinion of the department is unable to defend themselves, such as children, elderly, or handicapped.
- b. Prior documented complaints regarding human attacks/ bites, or attacks on other animals when not on owners real property.
- c. Prior attack-dog training or aggression training.
- d. Threat or open display of attack by an animal.

The Animal Control department shall have the authority as promulgated under [NCGS 67-4.5 / 130A200] to require appropriate and specific preventative measures, including impoundment, to ensure public safety. Such preventive measures may be required at the discretion of the Animal Control Officer during the investigation of a dangerous animal complaint or subsequent display of dangerous animal behavior by the animal within the jurisdiction of Ashe County.

The Animal Control Officer or his/her designee shall determine if an animal is "dangerous" or "potentially dangerous" The person making the determination will notify the owner or keeper in writing and cite the reason for the determination.

#### Dangerous dog:

a. A dangerous dog is an animal that:

1. Has killed or inflicted severe injury on a person.
2. Is determined, by the person or designated by the County Manager authority to be responsible for the Animal Control, to be potentially dangerous because the dog has engaged in behaviors listed in subsection [b] of this subsection.
3. Is determined to be a dog owned or harbored primarily or in part for the purpose of dog fighting or a dog trained for dog fighting.

b. Potentially Dangerous dog means a dog that the person designated by the County Manager to have authority responsible for the Animal Control determines to have:

1. Inflicted a bite on a person that resulted in broken bones, disfiguring lacerations, cosmetic surgery or hospitalization.
2. Killed or inflicted severe injury on a domestic animal when not on the owners real property.
3. Approached a person, when not on the owners property, in a vicious or terrorizing manner in an apparent additude of attack.

c. Special preventative measures shall be taken by the Animal Control Officer for any dog deemed dangerous or potentially dangerous.

1. Any dog determined to be potentially dangerous shall be delivered within 24 hours to the Ashe County Animal Shelter and there it shall be held until a secure fenced area a minimum of 6 feet high, 10 feet long and 10 feet wide, with the fencing set in the ground in such a way that the dog cannot dig out, is erected, the enclosure will be inspected by the Animal Control Department before the dog is released. The owner will pay all boarding fees and fines applicable. This enclosure shall be completed and the dog claimed within **14 days** or the dog may be destroyed.



2. The owner will post the entrance of the property where the potentially dangerous dog is kept with a sign that is legible from the road or sidewalk with notification that a potentially dangerous dog is kept on the property.

3. It shall be unlawful for any owner to:

a. Leave a potentially dangerous dog unaccompanied on the owner's real property unless the dog is confined indoors or inside a secure enclosure.

b. Permit a potentially dangerous dog to go outside the secure enclosure unless the dog is leashed and muzzled or is otherwise securely restrained under the control of a responsible adult.

c. Transfer ownership of a potentially dangerous dog without having notified the Animal Control Department in writing 10 days prior to the transfer of ownership. The person receiving ownership of the dog shall have a secure enclosure prior to taking possession of the dog.

d. Transfer ownership of a potentially dangerous dog without having notified in writing the person taking ownership of the dog regarding the dog's dangerous behavior and the determination of the dog as potentially dangerous.

4. The Board of County Commissioners shall act as or appoint an appeals board to review "dangerous" or "potentially dangerous" designations upon request of the owner or keeper. The Board of County Commissioners shall specify the number, qualifications, length of term, and compensation, if any, for the Appeals Board.

Owners shall have three (3) business days from the time of notification that the dog has been deemed dangerous to file an appeal in writing with to the Appeals Board County Manager stating the reasons why such a designation is unwarranted. The County Manager will forward the appeals request to the Appeals Board, and a hearing will be scheduled within ten (10) days of the filing. The designation of an animal as "dangerous" shall be upheld unless overturned by the Appeals Board. Any appeal of the Appeals Board's final decision will be filed with the Superior Court, pursuant to NCGS 67-4.1(c).

5. Animals deemed "dangerous" or "potentially dangerous" that are found to be in violation of prescribed confinement shall be subject to apprehension or seizure and impoundment at the Animal and Control facility at the owner's expense until released by a court of competent jurisdiction or may be humanely destroyed in accordance with Section V, 5F of this ordinance. In addition, the owner of the animal will be subject to a civil penalty of \$100.00.

6. ~~Protection for Law Enforcement / Property Owners:~~

a. ~~Nothing withstanding in this ordinance shall imply that a dog used by law enforcement be deemed dangerous or potentially dangerous during the lawful use of said dog.~~

b. ~~Property owners shall not be held criminally liable or charged or fined in the event their dog bites or attacks a person that has came onto the dog owners property uninvited, illegally, trespassing, or to conduct some form of criminal activity.~~

(Ord. Passed 9-20-95) Penalty, see \*90.99

#### 90.04 NUISANCE.

All nuisance complaints are required to be filed in person by the complainant and complainant must be willing to go to court if criminal charges are filed. Complaints regarding the nature of aggressive animals running at large off the owners or keepers property may be received of the phone or by email and can be investigated in effort to protect the public.

(A) An animal or group of animals shall be considered a nuisance if:

- (1) Private or public property is damaged.
- (2) Animal(s) interfere with, or attack person(s) or other animals.
- (3) *Animal(s) that habitually or repeatedly makes noises or other sounds that tend to annoy, disturb, or frighten citizens.*  
*(Repealed 11/03/03)*
- (4) Animal(s) chase, ~~snap at~~ or harass pedestrians, bicyclists, or vehicles.
- (5) By virtue of number is offensive or dangerous to public health, safety, and welfare.
- (6) Animal(s) are diseased or dangerous to public health.

(B) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance or to maintain a nuisance created by any animals or animals, as defined in division (A)(1) through (6) above of this section.(Ord. Passed 9-20-95) Penalty, see \*90.99

(C) Upon receipt of a written, detailed, and signed complaint to the county by any resident(s) that any person is maintaining a public nuisance as defined in this chapter, the county shall notify the owner or keeper of the offending animals that a complaint has been received and that an investigation has been initiated. A report of the findings of the investigation to be reduced to writing by the investigating animal control officer.

(D) If the written findings indicate a violation, the ~~Animal Control Officer~~ department supervisor of the Sheriff shall cause the owner or keeper of the animal or animals in question to be notified in writing, and ordered to abate such nuisance within 48 hours by whatever means necessary.

(E) If any person receiving notice in the manner hereinabove described shall fail or refuse to abate the nuisance upon the issuance of such order within the specified time, the department supervisor or Sheriff may cause the animal or animals in question to be apprehended and impounded in accordance with the provisions of \*90.05.

(F) Within ~~3 business days~~ ~~10 days of the notice of violation~~ the 48 hour period mentioned in subsection (D) above, the owner of the nuisance animal may appeal the findings of the department supervisor or Sheriff to the County Manager by giving written notice of appeal to stay the abatement of the nuisance until a final determination by the Board of Commissioners.

(G) If the owners shall so request, the animal or animals may be redeemed pursuant to the provisions of \*90.50. If no redemption is made by the owner within the time specified, then the animal shall be disposed of in accordance with the provisions of \*90.08 hereunder. (Amended Ord. Passed 6-15-98) Penalty, see \*90.99



**\*90.05 IMPOUNDMENT.**

(A) Any animal which appears to be: lost, stray or unwanted, or not wearing a valid tax tag (dog) and vaccination tag where required, or any other violation of this chapter, may be seized, impounded, and confined in a humane manner at an animal shelter.

(B) Reasonable effort shall be made to identify the owner or keeper of the animal, and to inform such owner or keeper of the conditions whereby the animal may be redeemed.

(C) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter. (Ord. Passed 9-20-95) Penalty, see \*90.99

(D) Domesticated animals with or without tags shall be impounded for no less than three weekdays. (Amend. Ord. Passed 6-15-98) Penalty, see \*90.99

**\*90.06 STRAY ANIMALS.**

(A) It shall be unlawful for any person in the county to knowingly and intentionally harbor, keep in possession by confinement, or otherwise allow an animal or animals to remain on his property, unless the person has, within 72 hours from the time such animal came into his possession, notified the Animal Control Department. Upon receiving such notice, the Animal Control Department shall take such animal and place it in an animal shelter and deal with it as provided by this chapter.

(B) It shall be unlawful to refuse to surrender any such stray to the Animal Control Department on demand. (Ord. Passed 9-20-95) Penalty, see \*90.99

**\*90.07 NON-DOMESTIC ANIMALS.**

No person shall possess or harbor any non-domestic animal(s) which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section shall not apply to bona fide circuses, petting zoos, and other traveling commercial animal exhibitions of limited duration.

(Ord. Passed 9-20-95) Penalty, see \*90.99

**\*90.08 HUMANE DESTRUCTION OF ANIMALS.**

(A) Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means and has been deemed vicious, stray, or a public nuisance, may be humanely destroyed at the discretion of the Animal Control Department.

(B) Notwithstanding any other provision of this chapter, any animal seized or impounded which is badly wounded, diseased (not a rabies suspect), or unweaned, and is not displaying any identification, and cannot be identified after reasonable inquiry, shall be destroyed immediately in a humane manner.

If the animal has identification, the Department shall attempt to notify the owner or keeper of the situation. If the owner cannot be readily reached, the department, in consultation with the veterinarian will use its discretion whether or not the suffering animal should be destroyed in a humane manner.

(Ord. Passed 9-20-95) Penalty, see \*90.99

(C) At the end of the minimum time period indicated herein, unclaimed animals shall be deemed abandoned and shall be disposed of in a humane manner.

(Amend. Ord. Passed 6-15-98) Penalty, see \*90.99

**VACCINATION AND PRIVILEGE TAX TAG  
REQUIREMENTS**

**\*90.20 VACCINATION OF DOGS, CATS AND OTHER PETS.**

(A) It shall be unlawful for an owner or keeper to fail to provide a current vaccination against rabies (hydrophobia) for any dog or cat ~~three~~ **four** months of age or older. **Any dog or cat adopted or redeemed from the Ashe County Animal Shelter that does not have proof of a current rabies vaccination shall be vaccinated by Ashe County Animal Control's Certified Rabies Vaccinators or a rabies voucher must be purchased by the adoptor or owner, and said animal should be vaccinated within a 72 hour period.**

Should it be deemed necessary by the District Health Director or the Board of County Commissioners that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.

(B) A rabies vaccination shall be deemed current for a dog or cat if the first two doses of vaccine are administered 12 months apart and each subsequent booster dose of vaccine is administered according to the North Carolina State Law.

(C) All **rabies** ~~anti-rabies~~ vaccines shall be administered by a licensed veterinarian or a certified rabies vaccinator.

(Ord. Passed 9-20-95; Amended 3-3-97) Penalty, see \*90.99

**\*90.21 VACCINATION TAG AND CERTIFICATE.**

(A) Upon complying with the provisions of \*90.20 of this chapter, there shall be issued to the owner or keeper of the dog or cat vaccinated, a rabies tag stamped with a number and the year of issue and a rabies vaccination certificate.

(B) It shall be unlawful for an owner or keeper to fail to provide dogs with a collar or harness to which a current rabies tag will be attached. Collar or harness with attached tag must be worn at all times with the following exceptions:

- (1) Confinement in an enclosure on owner's premises.
- (2) Animal shows.
- (3) Obedience trials.
- (4) Tracking tests.
- (5) Field trials.
- (6) Training schools or events sanctioned by a recognized organization.
- (7) Supervised hunting.

NOTE: Cats are not required to display tags, as long as written evidence of tax and inoculation can be furnished to the Animal Control Officer immediately upon request. *A lifetime privilege tax tag is also available, and remains effective for the lifetime of the animal. Lifetime tags are nontransferable between owners or animals.*

(C) All dogs or cats shipped or otherwise brought into this county, except for exhibition purposed where dogs or cats are confined and not permitted to run at-large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after



vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that the dog or cat is apparently free from rabies and has not been exposed to same and that the animal has received a proper dose of rabies vaccine not more than six months prior to the date of issuing the certificate.

(D) It shall be unlawful for any person to use for any other animal a rabies vaccination tag not intended for that animal.

(E) In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter if the dog or cat is found without a current rabies tag, or proof of vaccination. (Ord. Passed 9-20-95) Penalty, see \*90.99

**\*90.22 PRIVILEGE ~~LIFETIME~~ TAX TAG FOR DOGS AND CATS.**

(A) It is the purpose of this section to supplement state law by providing a procedure for the enforcement of laws requiring dogs to wear a privilege tax tag.

(B) It shall be unlawful for any dog or cat owner or keeper to fail to provide his dog or cat with a privilege tax tag to be issued ~~annually~~ by the county, and to take such action as necessary to insure that the privilege tax tag is worn by the dog or cat at all times except for the exceptions cited in \*90.21 (B)(1) through (6). (See NOTE in \*90.21). A lifetime privilege tax tag ~~is also available, and~~ remains effective for the lifetime of the animal. Lifetime tags are non-transferable between owners or animals.

(C) Tax tags can be obtained from the County Tax Department and the County Animal Shelter. The tag will be of such color, shape, or texture to insure easy identification of the year of issue. The tag will contain a number or other designation, and a record will be kept of the person to whom the tag has been issued.

(D) In addition to all other penalties prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter, if the dog or cat is found not wearing a current tag.

(E) It shall be unlawful for any individual moving into the county who owns or keeps dogs or cats to fail to obtain a valid rabies tag and privilege tax tag within ten days of moving into the county.

(F) This provision shall not apply to bona fide licensed and certified kennels until such time as the animals located therein reach the age of four months.

(G) **Lifetime** Privilege tax tags are at a cost of \$2 per tag for both dogs and cats. ~~Lifetime privilege tax tags are at a cost of \$10 per tag for both dogs and cats.~~

(Ord. Passed 9-20-95; Am. Ord. Passed 5-6-02) Penalty, see \*90.99

***RABIES AND ANIMAL BITE MANAGEMENT***

**\*90.35 ANIMAL BITES.**

(A) When a person has been bitten by an animal suspected of or having rabies, it shall be the duty of such person, or his legal parent or guardian (if such person is minor), and the owner or keeper, to notify the Department of Animal Control immediately and give their name and address; and the owner or keeper having such animal in his possession or under his control shall immediately secure and confine the animal for ten days at the expense of the owner in such place as designated by the Department. It shall be the duty of every physician, after his first professional attendance upon a

person bitten by any animal suspected of or having rabies, to report the incident to the Department of Animal Control, and shall include in the report the name, age, sex of victim, and precise location of bite wound. Report shall be conveyed not later than 24 hours from time of the incident.

(B) If the owner of, or a person who has in his possession or under his control, an animal suspected of or having rabies refuses to confine the animal as required by this chapter or G.S.\*130A-196, the Animal Control Department may order the seizure of the animal and its confinement for not less than ten days in such a place as the Department of Animal Control designates.

(C) Law enforcement agencies investigating animal bites shall report such bites immediately to the Department of Animal Control and give the names and addresses of person(s) bitten and owner of animal.

(D) In a case where the animal's keeper or owner is not known, the suspected animal shall be kept for the supervised confinement period at the Ashe Animal Clinic: **County Animal Shelter**.

(E) Badly wounded, diseased, or suffering animals, which are suspected of having rabies, may be humanely destroyed and the head forwarded for examination, at the discretion of a veterinarian: the Health Director his or her designee.

#### **Wildlife Bites**

(A) Any person bitten by a wild animal suspected of rabies shall report all information as required in 90.35(A) of this ordinance. The wild animal, if obtained, shall be released to the Animal Control Department for shipment to the North Carolina Division of Health Services for diagnosis.

(B) Any animal without a valid rabies vaccination bitten by a wild animal shall be treated as stated in 90.36(B) of this ordinance in the event the wild animal cannot be contained or capture for rabies diagnosis., (Ord. Passed 9-20-95) Penalty, see \*90.99

#### **\*90.36 DESTRUCTION OR CONFINEMENT OF ANIMAL ~~EXPOSED TO BITTEN BY A~~ KNOWN RABID ANIMAL.**

Animals not vaccinated against rabies which are exposed by a known rabid animal shall be immediately destroyed unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of ~~six~~ **four** months at the owner's expense. If the animal has a current rabies vaccination, the animal **shall receive immediate veterinary care and receive a booster rabies vaccination within 96 hours of exposure and then can be allowed to return to the owners control and observed for 45 days. If the animal has been vaccinated but expired with appropriate documentation the animal shall receive immediate veterinary care and receive a booster rabies vaccination within 96 hours of exposure and then can be allowed to return to the owners control and observed for 45 days.**

1. Appropriate documentation: A rabies certificate or official veterinary record validating that the animal has received a USDA- licensed rabies vaccine at least once previously, and if a single vaccination, the animal was vaccinated at least 28 days prior to the exposure date.(NCGS 130A-185 and 130A-197)

2. If rabies booster or vaccination in delayed, Local Health Director may consider increasing observation period (case by case) or quarantine period (from 4 to 6 months), considering severity of exposure, length of delay in vaccination, current health statis, and number of prior rabies vaccines and lapses



3. Owner observation: under the owner's strict supervision and control ( leash walk, fenced yard, no travel or boarding unless approved by the Local Health Director, no outings at dog parks or other parks, ect.) there should be no contact with animals or people other than the owner (caretaker) until the Local Health Director has released the animal from the 45 day observation period. Per 2016 NASPHV Rabies Compendium Post Exposure Management Control Measures For Dogs and Cats by rabies status category. shall be re-vaccinated and returned to the owner or keeper. (Ord. Passed 9-20-95; Amended 3-3-97)

**\*90.37 UNLAWFUL KILLING OR RELEASING OF CERTAIN ANIMALS.**

It shall be unlawful for any person to kill or release any animal under observation for rabies, or any animal under observation where a human has been bitten. The animal may not be removed from the county without written permission from the District Health Director, or the Department of Animal Control. (Ord. Passed 9-20-95) Penalty, see \*90.99

**\*90.38 FAILURE TO SURRENDER ANIMAL FOR CONFINEMENT OR DESTRUCTION**

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this chapter when demand is made therefore by the Department of Animal Control. The District Health Director or the Department of Animal Control may authorize any suspected rabid animal to be destroyed for rabies diagnosis, at the discretion of the County Veterinarian. Health Director or his or her designee. (Ord. Passed - - 87) Penalty, see \*90.99

**\*90.39 POST-MORTEM DIAGNOSIS.**

(A) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the department for shipment to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.

(B) The carcass of any animal suspected of or dying of rabies shall be surrendered to the Department of Animal Control for shipment to the laboratory section of the North Carolina Division of Health Services.

**\*90.40 AREA-WIDE EMERGENCY QUARANTINE.**

(A) When reports indicate a positive diagnosis of rabies where human lives may be endangered, the District Health Director may declare an area-wide quarantine for a period he/she deems necessary. Under emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the District Health Director. During such quarantine the Health Director, law enforcement officers, and Animal Control Officers may seize any dog or cat found running at-large in the county until the quarantine is lifted. During the quarantine period, the Health Director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccinations facilities in the county.

(B) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the District Health Director. (Ord. Passed 9-20-95) Penalty, see \*90.99

***ANIMAL SHELTER OPERATIONS***

**\*90.50 REDEMPTION OF ANIMAL BY OWNER OR KEEPER.**

(A) The owner or keeper of an animal impounded under this chapter may redeem the animal and regain possession thereof within 72 hours after notice of impoundment is posted as required by this

chapter, and by complying with all applicable provisions of this chapter and paying all applicable fee or fines as set by shelter policy and the Animal Control Department.

(B) No animal owner or keeper may be permitted to adopt his own animal under the provisions of this chapter, but he must comply with the provisions of this chapter in order to reclaim an animal that has been impounded pursuant to state law or this chapter.(Ord. Passed 9-20-95)

**\*90.51 REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.**

(A) Unless proof of a current rabies vaccination can be furnished, **Any dog or cat adopted or redeemed from the Ashe County Animal Shelter that does not have proof of a current rabies vaccination shall be vaccinated by Ashe County Animal Control's Certified Rabies Vaccinators or a rabies voucher must be purchased by the adoptor or owner, and said animal should be vaccinated within a 72 hour period.**~~every person who either adopts or redeems a dog or cat at the animal shelter will be given a "proof of vaccination notice" at the time of redemption or adoption. This notice will be stamped with a date stating the maximum time limit allowed to take the dog or cat to the veterinarian of their choice for a rabies vaccination. The time limit for dogs and cats four months old and older will be 72 hours, weekends and holidays excluded. For animals younger than four months, the time will vary.~~

(B) **"The rabies voucher" if issued**~~"proof of vaccination notice"~~ will be completed by the veterinarian and returned to the Animal Control Office by the animal owner or keeper.

(C) Person(s) adopting a dog or cat will be required to purchase a privilege tax tag.

(D) Payment for all veterinary services will be the responsibility of the owner or keeper.

(Ord. Passed 9-20-95)

(E) It is required each animal be spayed or neutered, at owner's expense, to aid in the stray animal population. (Ord. Passed 9-20-95; Amended 6-15-98)

**\*90.52 ADOPTION OR DESTRUCTION OF OWNER-SURRENDERED ANIMALS.**

(A) Any animal surrendered by its owner to the Animal Control Department may be immediately placed for adoption, or humanely destroyed when:

- (1) The owner directs, in writing, that the animal be placed for adoption or humanely destroyed; and
- (2) The owner affirmatively represents in writing that he or she is in fact the legal owner of said animal; and
- (3) The owner agrees that he or she will indemnify and hold the Animal Control Department or county harmless for fees, by reason of the destruction of, or placement for adoption of, said animal; and
- (4) The owner transfers ownership of said animal to the Animal Control Department and releases the department from any and all future claims with respect to said animal.

(B) Upon receiving aforementioned assurances, the Animal Control Department may rely on the same and place said animal for adoption, or destroy said animal, as it see fit. (Ord. Passed 9-20-95)

**\*90.53 ADOPTION OR DESTRUCTION OF UNREDEEMED ANIMALS.**



(A) If an impounded animal is not redeemed by the owner or keeper within the period specified in \*90.50(A), it may be destroyed in a humane manner, or shall become the property of the animal shelter and offered to a responsible citizen willing to comply with prescribed adoption procedures.

(B) During periods of emergency rabies quarantine invoked pursuant to this chapter, no animal shall be adopted if it is a stray unclaimed by its owner or keeper, except by special authorization from the Health Director. (Ord. Passed 9-20-95)

**\*90.54 PERMIT REQUIREMENTS FOR RESALE OF ANIMALS.**

(A) It shall be unlawful for any person to collect any dog or cat for the purpose of resale on a regular basis unless a permit for the same has been obtained from the Animal Control Department in accordance with the provisions of this section and unless such permit shall remain unsuspended and un-revoked.

(B) The Animal Control Department may revoke any permit if the person(s) holding the permit refuses or fails to comply with this chapter, the regulations promulgated by the Animal Control Department, or any law governing the protection and keeping of animals. (Ord. Passed 9-20-95)

***ADMINISTRATION AND ENFORCEMENT***

**\*90.65 CREATION OF ANIMAL CONTROL DEPARTMENT.**

There is hereby created an Animal Control Department, hereinafter "Department", for the county, which shall be composed of such employees as shall be determined in the manner authorized by the Board of County Commissioners. The employees shall be employed and compensated as prescribed in the County Employee Handbook.

(Ord. Passed 9-20-95)

**\*90.66 RESPONSIBILITIES OF ANIMAL CONTROL DEPARTMENT.**

(A) The Department will be comprised of elements of the existing agencies of the **Environmental Services Department**, the District Health Department, and the Sheriff's Department, along with other law enforcement agencies, it shall be their duty in local cooperation, to collaboratively enforce all laws of North Carolina and all ordinances of the county pertaining to disease prevention.

(B) The Department is responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat involved in or suspected of having rabies, and for reporting investigation results to the District Health Director as soon as practicable.

**CHAPTER 50: ANIMALS**

(C) The Department shall have the responsibility for investigating cruelty to abuse cases involving animals.

(D) The Department will be responsible for the seizure and impoundment where deemed necessary, of any dog or other animal in the county involved in a violation of this chapter or state laws.

(E) The Department will ~~make such canvasses of~~ **patrol** the county as necessary ~~for the purpose of ascertaining~~ **to monitor** compliance with this chapter or state laws.

(F) The Department may be responsible for the operation of a county operated animal shelter.

(G) The Department is empowered to issue notices of violation of this chapter as the Board of Commissioners may prescribe.



- (H) The Animal Control Officers shall keep, or cause to be kept, accurate and detailed records of:
- (1) Seizure, impoundment, and disposition of all animals coming into the custody of the Department.
  - (2) Bite cases, violations, complaints, and all investigations of the aforementioned.
  - (3) All fee belonging to the county which were collected for redemptions, tags, sales, violations, and other.
  - (4) Any other matters deemed necessary by the County Manager.
- (Ord. Passed 9-20-95)

**\*90.67 INTERFERENCE WITH ANIMAL CONTROL DEPARTMENT.**

It shall be unlawful for any person to interfere with, hinder, or molest the employees of the Animal Control Department and its officers, or to seek to release any animal in the custody of such persons, except as otherwise specifically provided. (Ord. Passed 9-20-95) Penalty, see \*90.99

**\*90.68 VIOLATIONS.**

(A) Enforcement of this chapter may be by appropriate equitable remedy, injunction, or order of abatement issuing from a court of competent jurisdiction pursuant to G.S.\*153A-123(d) and (e).

(B) In addition to, and not in lieu of the criminal penalties and other sanctions provided by this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth.

- (1) Such civil penalties may be recovered by the county in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the prescribed time following the issuance of notice for such violation.
- (2) Such notice shall include:
  - (a) State upon its face the amount of the penalty if such penalty be paid within 72 hours from and after the issuance of the notice and the late fee (\$1 per day) if paid more than 72 hours after its issuance.
  - (b) Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of \$25, together with the cost of the action to be taxed by the court.
  - (c) Further provide that such offender may answer the notice by mailing the notice, and stated penalty to the Animal Control Department at its mailing address, or by making payment to the Animal Control Department at the appropriate address, and that upon payment, such case or claim and right of action by the county will be deemed compromised and settled.
  - (d) State that such penalties must be paid within 72 hours from issuance of such notice. Such notice shall further state that if such notice of violation is not paid within 72 hours, court action by filing a civil complaint for collection of such a penalty may be taken.

(C) The Animal Control Department is authorized to accept such payments in full and final settlement of the claim or claims, right or rights of action which the county may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation or violations.

(D) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person, or may be mailed by certified mail to the person at his last known address. (Ord. Passed 9-20-95)

**\*90.99 PENALTY.**

(A) The violation of any provision of this chapter shall be a misdemeanor, and any person convicted of such violation shall be punishable as provided in G.S.\*14-4.

(B) Each day's violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of his liability for taxes or fees imposed under this chapter.

(C) The civil penalties for violation of this chapter are as follows:

**CHAPTER 90: ANIMALS**  
***Offense Fine***

| <b><i>Offense Section</i></b>  | <b><i>1<sup>st</sup> Offense</i></b> | <b><i>2<sup>nd</sup> Offense</i></b> | <b><i>3<sup>rd</sup> Offense</i></b> |
|--|--------------------------------------|--------------------------------------|--------------------------------------|
| <b><i>Cruelty to Animals</i></b>   | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               | <b><i>\$500.00</i></b>               |
| <b><i>Allowing dangerous dog to run<br/>at large off owners property</i></b> | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               | <b><i>\$500.00</i></b>               |
| <b><i>Harboring non-domestic<br/>Animal</i></b>                              | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               | <b><i>\$500.00</i></b>               |
| <b><i>Interfearing with Animal<br/>Control Officer</i></b>                   | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               | <b><i>\$500.00</i></b>               |
| <b><i>Failure to Surrender</i></b>   | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               | <b><i>\$500.00</i></b>               |
| <b><i>Nuisance</i></b>   | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               | <b><i>\$500.00</i></b>               |
| <b><i>Rabies Violation<br/>Failure to vaccinate</i></b>                      | <b><i>\$50.00</i></b>                | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               |
| <b><i>County Tax Tag Violation</i></b>                                       | <b><i>\$50.00</i></b>                | <b><i>\$100.00</i></b>               | <b><i>\$250.00</i></b>               |

**Cruelty to Animals \$100.00**

**Release of Vicious Animal \$100.00**

**Harboring Non-Domestic Animal \$100.00**

**Interfering with Animal Control Officer \$100.00**

**Failure to Surrender \$100.00**

**Nuisance \$100.00**

**No Rabies Tag Displayed \$ 50.00**

**Failure to Vaccinate \$ 50.00**

**County Tax Tag Violation \$ 50.00**



The penalty shall be paid within 72 hours from and after issuance of the notice by the prescribed manner.

(D) In Addition to the penalty prescribed in division (C) above, a \$1 per day penalty shall be imposed in all those cases in which the above penalty has not been paid within the authorized 72-hour period.

(E) Should it become necessary to institute a civil action to collect any penalty hereunder, then the violation shall also be subject to an additional penalty of \$25.

(F) All penalties paid to the Animal Control Department or as may be recovered in a civil action in the nature of debt as herein provided shall be paid into the General Fund of Ashe County to the Finance Officer. (Ord. Passed 9-20-95; Am. Ord. Passed 11-1-99)