

**Ann Clark**

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**From:** Joe Testerman  
**Sent:** Tuesday, July 03, 2018 8:32 AM  
**To:** Ann Clark  
**Subject:** Animal Control Firearm Policy  
**Attachments:** Firearms Policy Revised 2016.docx

Ann,

Attached is a copy of our departmental firearms policy.

Thank you,

Joe Testerman – Director of Animal Control

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that might be sent in response to it may be considered public record and as such are subject to request and review by, and disclosure to, third parties.

**Ashe County Department of  
Animal Control  
Firearms (Weapons ) Policy  
Amended 2016**

**Policy**

It is the policy of Ashe County Department of Animal Control that only those firearms and ammunition issued or approved by the Ashe County Commissioners / Ashe County Manager / Animal Control Director may be used or carried while on duty. Procedures for the possession and use of firearms ( sometimes referred to as [weapons]) by Animal Control Officers while in the discharge of their official duties are set forth below. Unless the context indicated otherwise, the terms (firearms) and (weapons) shall include and be limited to shotguns/rifles.

**Procedures**

**I. Carrying Firearms**

A. Animal Control Officers are only permitted to carry their weapon(s) while on duty and in their jurisdiction while performing their duties or actively working calls that may require the use of a firearm. Including but not limited to, Stray Animal Calls, Nuisance or Dangerous Animal Calls, Any Wildlife Call, Any Livestock Call, and Cruelty Calls, or any emergency situation where the use of a firearm may be necessary. Only those weapons and ammunition issued and / are approved by the Ashe County Commissioners / Ashe County Manager / Animal Control Director may be carried by the Animal Control Officer or within any County vehicle

B. Animal Control Officers are not permitted to carry firearms in: County or State buildings including Court house, Law Enforcement Center, Schools, while banking, shopping, or dining. Nothing in this policy should restrict An Officer from performing his duties as required by an emergency situation.

C. Animal Control Officers shall not carry their County issued weapon(s) while off duty

D. Personal weapons and ammunition are not permitted, unless approved by Ashe County Commissioners / Ashe County Manager.

E. Weapons shall be carried in a discreet and responsible manner and shall not be brandished or flaunted.

F. All Firearms carried by an Animal Control Officer, when not in use, shall remain secured in the Officers vehicle. The Officers vehicle is to remain locked at all times while vacant. During times the Officer is taking any type of leave, his or her issued weapon(s) are to be secured in the Firearms safe located at the Animal Control Office.

## ***II. Required Qualifications***

- A. All Animal Control Officers will qualify at least annually, with the weapon(s) they are issued by the County or approved to carry.
- B. Animal Control Officers will qualify within two attempts, or remedial training will be required.
- C. Officers who fail to qualify with the weapon(s) will surrender the issued weapon to the department head or designated representative immediately upon request, following the range session.
- D. Officers who fail to qualify with the weapon(s) on the range course after two attempts will be scheduled for remedial training. At the end of training, The Officer will be given another opportunity to qualify.
- E. All firearms training and qualifications will be performed by a certified firearms instructor. Related training will be done by the most qualified person available.
- F. While at the range the instructor will have staff supervision over all personnel.

## ***III. Improper use of Firearms***

- A. Any Animal Control Officer may be subject to disciplinary action if his or her use of a firearm constitutes:
  - 1. A violation of the Law by the Animal Control Officer;
  - 2. A violation of this policy by the Animal Control Officer;
  - 3. Intentional, reckless or gross disregard for public safety; or
  - 4. Accidental discharge through carelessness or recklessness.

## ***IV. Use of Firearms***

- A. No Animal Control Officer shall use force greater than reasonable and necessary to accomplish a lawful capture, or to protect the Officer or a third party.
- B. Controlled environment ;
  - 1. In a controlled environment the Animal Control Officer shall make reasonable effort to capture the animal and/or locate the owner of the same.
  - 2. Controlled environment is defined as a setting in which it is apparent the animal is not a dangerous animal and is not a treat to the public health or well-being.
- C. Examples of a reasonable effort under section B.1. Include:
  - 1. Capturing the animal with a catch pole.
  - 2. Talking to the neighbors to see if the identity of the animal's owner can be determined.
  - 3. Using chemical immobilization where feasible.

4. Attempt to live trap the animal.
5. All other methods made available and permitted have been utilized.

***D. Nothing herein shall restrict the right of Animal Control Officers to use a firearm in a reasonable and necessary manner as required in an emergency situation.***

## **V. Required Reports**

A. Whenever an Animal Control Officer uses a firearm in any way in connection with the discharge of his or her official duties, other than the firing range, immediate notification to the Animal Control Director is required.

B. The Animal Control Officer shall, after given notification as set forth above, complete a written report prior to the ending their tour of duty. The report will be given to the Director.

C. The Director will review the report and will make the determination as to whether or not the use of the firearm was justified and reasonable under the circumstances and was in compliance with this policy. The Director may conduct such additional investigations into the use of the firearm as is deemed appropriate under the circumstances.

D. If the Director determines that the use of the firearm was not justified, or was unreasonable or otherwise in violation of this policy, appropriate action will be recommended to the County Manager.

E. A summary report of the previous year's (Use of Firearms) will be prepared annually by the Director and presented to the County Manager.

## **VI. Storage of Firearms**

A. All Animal Control Officers will comply with N.C. General Statute 14-315.1, as amended from time to time, concerning the storage of firearms to protect minors. This Statute currently reads as follows:

### ***N.C.G.S 14-315.1 : Storage of firearms to protect minors.***

(a) Any person who resides in the same premises as a minor, owns or possesses a firearm, and stores or leaves the firearm ( i ) in a condition the firearm can be discharged and (ii) in a manner that the person knew or should have known that an unsupervised minor would be able to gain access to the firearm, is guilty of a Class 1 misdemeanor if a minor gains access to the firearm without the lawful permission of a minor's parents or a person having charge of the minor and

the minor:

- (1) Possess it in violation of G.S. 14-269.2 (b) ;
- (2) Exhibits it in public place in a careless, angry, or threatening manner;
- (3) Causes personal injury or death with it not in self defense; or
- (4) Uses it in the commission of a crime.

(b) Nothing in this section shall prohibit an Animal Control Officer from carrying a firearm on his or her body, or placed in such close proximity that it can be used as easily and quickly as if carried on the body.

(c) This section shall not apply if the minor obtained the firearm as a result of an unlawful entry by any person .

(d) "Minor" as used in this section means a person under 18 years of age who is not emancipated.

**Note:** This policy is for internal personnel use only and does not enlarge the liability of an Animal Control Officer or the Animal Control Department in any way. The policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense. Violations of this policy, if proven, can only form the basis of a personnel action by the Animal Control Department. No member or employee of the Ashe County Animal Control Department shall furnish or distribute copies of this policy in any manner whatsoever, or allow or permit the same, without the permission of the Animal Control Supervisor, or of the County Manager, or their designee; provided, however, that the Animal Control Supervisor, or the County Manager, or their designee, shall be required to furnish a copy of this policy upon request in accordance with the requirements of the North Carolina Public records Laws.

***I certify that a copy of this policy was delivered to the below named employee on the date indicated below.***

**Animal Control Director:** \_\_\_\_\_

**Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_

***I acknowledge receipt of a copy of this policy.***

**Employee:** \_\_\_\_\_

**Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_